



*From 1847*  
***Benicia General Plan***  
*Into the 21st Century*

BENICIA  
GENERAL PLAN  
FINAL  
ENVIRONMENTAL  
IMPACT REPORT

STATE CLEARINGHOUSE #97122023

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# TABLE OF CONTENTS

I. Introduction .....	1
II. Report Summary .....	3
III. Revisions to the Draft EIR .....	13
IV. List of Commentors .....	37
V. Comments and Responses .....	43



# 1. INTRODUCTION

This document has been prepared in the form of an addendum to the Draft Environmental Impact Report (EIR) for the Benicia General Plan EIR. The Draft EIR identified the likely environmental consequences associated with the project, and recommends mitigation measures to reduce potential significant impacts.

The Final EIR responds to comments on the Draft EIR and makes revisions to the Draft EIR as necessary in response to these comments.

This document, together with the Draft EIR, will constitute the Final EIR if the Benicia City Council certifies it as complete and adequate under the California Environmental Quality Act (CEQA).

## A. ENVIRONMENTAL REVIEW PROCESS

According to CEQA, lead agencies are required to consult with public agencies having jurisdiction over a proposed project, and to provide the general public and project applicant with an opportunity to comment on the Draft EIR. This Final EIR has been prepared to respond to those comments received on the Draft EIR and to clarify any errors, omissions, or misinterpretation of discussion of findings in the Draft EIR.

The Draft EIR was made available for public review on January 9, 1998. The Draft EIR was distributed to local and State responsible and trustee agencies and the general public was advised of the availability of the Draft EIR through public notice posted with the Solano County Clerk as required by law. Two Planning Commission hearings to receive comments on the Draft EIR were held on February 19, 1998 and February 26, 1998. The CEQA-mandated 45-day public comment period on the Draft EIR ended on March 2, 1998.

Copies of all written and oral comments received on the Draft EIR are contained in this report.

This Final EIR will be presented at a Planning Commission hearing at which the Commission will consider recommending that the City Council certify the EIR as

a full disclosure of potential impacts, mitigation measures and alternatives.

Consideration of the proposed project will occur in public hearings before the City of Benicia. If the project is approved, recommended mitigation measures could be required as conditions of that approval, unless the City identifies alternative mitigation measures or makes findings of overriding consideration as to why the mitigation measures are not feasible.

## B. REPORT ORGANIZATION

This Final EIR consists of the following chapters:

- *Chapter I: Introduction.* This chapter discusses the use and organization of this Final EIR.
- *Chapter II: Report Summary.* This chapter is a summary of the findings of the Draft and the Final EIR. It has been reprinted from the Draft EIR with changes made in this Final EIR shown with ~~overstrike~~ and highlighted.
- *Chapter III: Revisions to the Draft EIR.* Corrections based on comments received on the Draft EIR are contained in this chapter, including language that has been added or deleted from the Draft EIR. Highlighted text represents language that has been added to the EIR; text with ~~strikeout~~ has been deleted from the EIR.
- *Chapter IV: List of Commentors.* Names of agencies and individuals who commented on the Draft EIR are included in this chapter.
- *Chapter V: Comments and Responses.* This chapter contains reproductions of the letters received from the public on the Draft EIR. The responses are keyed to the comments which precede them. Comments on the merits of the proposed project are also included, but not formally responded to. Concluding this chapter are the comments made at the Planning Commission Hearings of Thursday, February 19, 1998 and Thursday, February 26 and responses to them.

## 2. REPORT SUMMARY

*This is a summary of the findings of the Draft and Final Environmental Impact Report (EIR). It has been reprinted from the Draft EIR with changes necessitated made in this Final EIR shown with overstrike and highlighted.*

This summary presents an overview of the analysis contained in Chapter 4 of the Draft EIR: Setting, Impacts and Mitigation Measures. CEQA requires that this chapter summarize the following: 1) areas of controversy; 2) significant impacts; 3) unavoidable significant impacts; 4) implementation of mitigation measures; and 5) alternatives to the project.

### A. PROJECT UNDER REVIEW

This Draft Environmental Impact Report (EIR) provides an assessment of the potential environmental consequences of the Benicia General Plan. The General Plan is intended to serve as the principal policy document for guiding future conservation and development of the City. The General Plan includes newly proposed goals, policies and programs which have been designed to implement the community's vision for the City. The policies and programs would be used by the City to guide day-to-day decision-making so there is continuing progress toward the attainment of goals of the Plan. Additionally, the General Plan includes a series of proposed land use designation changes which have been proposed to implement the overall goals and vision of the General Plan. The General Plan is further detailed in Chapter 3 of this the Draft EIR.

### B. AREAS OF CONTROVERSY

There has not been significant controversy regarding the potential environmental impacts of the Benicia General Plan. The community has been extensively involved in the planning process, and has developed the Benicia General Plan to protect environmental quality. The Plan is largely self-mitigating with regard to environmental impacts.

The analysis in this EIR considers several issues of environmental concern in order to ensure the Plan would not result in any significant environmental impacts.

These detailed analyses are contained in Chapter 4 of this the Draft EIR, and the findings of these analyses are summarized in this chapter.

### C. SIGNIFICANT IMPACTS

Under CEQA, a significant impact on the environment is defined as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic and aesthetic significance.

Implementation of the Benicia General Plan has the potential to generate environmental impacts in a number of areas. Impacts to the following environmental topics could be significant without the implementation of mitigation measures, but would be reduced to a less-than-significant level if the mitigation measures recommended in this report are implemented:

- Community Services
- Transportation and Circulation
- Air Quality
- Hazardous Materials

Adoption of the Plan would have relatively few impacts. The Plan has been developed to be largely self-mitigating and it actually lowers development potential in some areas of the City. Thus, only a small number of significant impacts are identified in this EIR.

### D. MITIGATION MEASURES

This Draft EIR suggests specific mitigation measures that would reduce most impacts identified above to less-than-significant levels, as summarized in the table at the end of this summary. The mitigation measures in this Draft EIR will form the basis of a Mitigation Monitoring Program to be implemented in accordance with State law.

### E. UNAVOIDABLE ENVIRONMENTAL IMPACTS

The project is not expected to cause any significant unavoidable environmental impacts under CEQA definitions. All potential impacts can be mitigated to a less-than-significant level with the implementation of the mitigation measures outlined in this EIR.

## F. ALTERNATIVES TO THE PROJECT

This Draft EIR analyzes three alternatives to the proposed General Plan, as follows.

- No Project Alternative
- Land Use Changes Option A
- Land Use Changes Option B

Based on the comparative alternatives analysis contained in this EIR, the proposed General Plan is the environmentally superior alternative. In addition to the Plan alternatives, several alternative policies and programs have been analyzed in the alternatives analysis chapter of this EIR.

## G. SUMMARY TABLE

Table 1 presents a summary of impacts and mitigation measures identified in this report. It has been organized to correspond with environmental issues discussed in Chapter 4 of the Draft EIR.

The table is arranged in four columns: 1) environmental impacts; 2) significance prior to mitigation; 3) mitigation measures; and 4) significance after mitigation. A series of mitigation measures is noted where more than one mitigation may be required to achieve a less-than-significant impact. For a complete description of potential impacts and suggested mitigation measures, please refer to the specific discussions in Chapter 4. Additionally, this summary does not detail the timing of mitigation measures. Timing of implementation is described further in Chapter 4 of the Draft EIR and will be further detailed in the Mitigation Monitoring Program.



Table 1 Summary of Impacts and Mitigation Measures

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
<b>LAND USE</b>			
<i>There are no significant land use impacts</i>			
<b>POPULATION, EMPLOYMENT AND HOUSING</b>			
<i>There are no significant population, employment and housing impacts</i>			
<b>COMMUNITY SERVICES</b>			
SERV-1: New development under the Benicia General Plan could result in an increased demand for police services.	S	SERV-1: The General Plan should be amended to incorporate a policy and/or program intended to maintain police services at an officer-to-population ratio approved by the City Council.	LTS
SERV-2: The General Plan would result in the development and establishment of level of service standards for the City's fire protection services and facilities, Programs 2.11.C, 2.48.A and 4.21.C all call for establishment of similar standards. Assurances are needed that the fire protection standards would be established prior to new development or infill projects so that existing fire protection services are not impaired.	S	SERV-2: Programs 2.11.C, 2.48.A and 4.21.C should be revised to cross-reference each other and to ensure that standards are established prior to any major new development or infill project.	LTS
<b>OPEN SPACE AND RECREATION</b>			
<i>There are no significant open space and recreation impacts</i>			

S = Significant; LTS = Less than Significant

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
<b>TRANSPORTATION AND CIRCULATION</b>			
<p>CIRC-1: Of the 24 intersections studied, 22 would operate below the proposed General Plan standard of LOS C / D under projected buildout conditions. The proposed General Plan allows exceptions to the LOS C standard where measures required to achieve LOS C are unacceptable because of right-of-way needs, impact on neighboring properties, aesthetics, or community character, so this does not constitute a significant impact in all cases.</p>	S	<p>CIRC-1: The City should add the improvements shown in Figure 12 to the GIP and continue its traffic monitoring program as new development allowed by the General Plan takes place and should use the criteria in the General Plan as the basis for deciding whether to implement intersection improvements at intersections where Level of Service drops below C. The improvements that are found to be desirable should be added to the CIP and should be implemented as they become necessary. The improvement list should be revised as necessary based upon actual traffic patterns which develop, physical constraints, and other considerations such as neighborhood impacts, and community character. Whenever possible, the City should consider alternatives to intersection widening, including signalization, aggressive Travel Demand Management programs, rerouting traffic, prohibiting certain turning movements during peak hours, and coordinating traffic signals.</p>	LTS

S = Significant; LTS = Less than Significant

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
<p>CIRC-2: Future traffic volumes under the General Plan indicate the need for four lanes on that Level of Service on segments of the following arterials in order to maintain a minimum of LOS E will fall below the General Plan's proposed standard of LOS C:</p> <ol style="list-style-type: none"> <li>(1) Lake Herman Road east of the I-680 NB ramps;</li> <li>(2) East Second Street between Lake Herman Road and the existing four-lane section;</li> <li>(3) East Second Street between I-780 WB ramps and Military East;</li> <li>(4) East Fifth Street between I-780 WB ramps and Military East;</li> <li>(5) Industrial Way between Lake Herman Road (along new extension) and the I-680 ramps;</li> <li>(6) Bayshore Road between I-680 SB ramp and Industrial Way;</li> <li>(7) Military West between West Fifth and West Second;</li> <li>(8) Military East between East Second and East Fifth;</li> <li>(9) West Seventh Street between Chelsea Hills and Military West; and</li> <li>(10) Park Road between Industrial and Bayshore.</li> </ol> <p>The proposed General Plan allows exceptions to the LOS C standard where measures required to achieve LOS C are unacceptable because of right-of-way needs, impact on neighboring properties, aesthetics, or community character; so this does not constitute a significant impact in all cases.</p>	S	<p>CIRC-2: To the extent that the improvements listed above are not in the GIP, the City should consider adding them to the GIP. The City should continue its traffic monitoring program as new development allowed by the General Plan Update takes place, and should use the criteria in the General Plan as the basis for deciding whether to widen roadway segments from two to four lanes where Level of Service drops below C. The improvements should be added to the CIP (if they are not already on it) and implemented if they are found necessary to be desirable. The improvement list should be revised as necessary based upon actual traffic patterns which develop, physical constraints, and other considerations such as neighborhood impacts and community character. The City should also consider other alternatives such as "spot widening" at congestion points, aggressive Travel Demand Management programs, rerouting traffic, prohibiting certain turning movements during peak hours, and coordinating traffic signals.</p>	LTS

S = Significant; LTS = Less than Significant

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
CIRC-3: The intensification of uses in the Downtown and Arsenal areas may require increased transit service.	S	CIRC-3: The City should work with Benicia Transit to incorporate the effects of the General Plan's land use changes into the Short Range Transit Plan, in particular planning for increased service in the Downtown and Arsenal areas.	LTS

**VISUAL QUALITY AND URBAN DESIGN**

*There are no significant visual and urban design impacts*

S = Significant; LTS = Less than Significant

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
<b>CULTURAL RESOURCES</b>			
<i>There are no significant cultural resources impacts</i>			
<b>GEOLOGICAL AND SEISMIC HAZARDS</b>			
<i>There are no significant geological and seismic impacts</i>			
<b>HYDROLOGY AND WATER QUALITY</b>			
<i>There are no significant hydrology and water quality impacts</i>			
<b>BIOLOGICAL RESOURCES</b>			
<i>There are no significant biological resource impacts</i>			
<b>AIR QUALITY</b>			
AIR-1: The General Plan does not specifically address buffer zones surrounding sources of odor or toxic air contaminants.	S	AIR-1: Goal 4.28 and Policy 4.28.1 should be modified to specifically address toxic air contaminants.	LTS
<b>NOISE</b>			
<i>There are no significant noise impacts</i>			

S = Significant; LTS = Less than Significant

Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
<p><b>HAZARDOUS MATERIALS</b></p> <p>HAZ-1: Development within or adjacent to the eleven areas of concern identified by the Corps of Engineers could encounter unexploded ordnance which could result in construction-related hazards.</p>	<p>S</p>	<p>HAZ-1: The General Plan Update should include a policy and/or program to require site investigation of sites with possible unexploded ordnance prior to development of the properties. Should any unexploded ordnance be discovered, the remediation of the property should be required before grading or construction occurs.</p>	<p>LTS</p>

S = Significant; LTS = Less than Significant

### 3. REVISIONS TO THE DRAFT EIR

This chapter presents specific changes to the text, tables or figures of the Draft EIR that are being made in response to comments made by the public and/or reviewing agencies. In each case, the revised page and location on the page is identified, followed by the textual, tabular or graphical revision.

#### Page 2

*The first full paragraph on this page is hereby amended as follows:*

This EIR is a "program level" EIR that assesses the impacts of the general development patterns that would occur under the proposed General Plan. It is not an EIR on site-specific impacts that could result from development on particular properties in Benicia. It is therefore, of necessity, relatively general in its impact assessments. The City will conduct more specific analysis of environmental impacts and propose necessary mitigation measures for individual development projects that are proposed after General Plan adoption at the time that such projects are proposed. Site-specific analyses will be required for each future development proposal. To the extent necessary, these future analyses will be based on site surveys for environmental resources and constraints; they will also be based on the actual development proposal submitted for the site. Future development applications and analyses will be guided by the goals and policies of the City's General Plan.

Page 25

Table 2 is hereby amended as follows:

Table 2. Proposed Land Use Changes by Category and Acres

EXISTING LAND USE	ACRES	PROPOSED LAND USE	ACRES
1. Low Density Residential	208		
Medium Density Residential	12		
Open Space	130	Open Space	350
2. Business/Professional Offices	169	Open Space	169
3. General Industrial	134	Limited Industrial	119
		Open Space	15
4. General Industrial	272	Limited Industrial	245.0
		Open Space	27.0
5. General Industrial	152	Limited industrial	147.5
		Open Space	4.5
6. General Industrial	123	Limited Industrial	123
7. General Industrial	43.5	Open Space/Marsh	43.5
8. Limited Industrial	4.7	Open Space/Marsh	4.7
9. Open Space	undetermined	Alternative Uses	undetermined
10. Open Space	24	Alternative Uses	24
11. Medium Density Residential	120	Single Family Residential	120
12. Low Density Residential	.79	Community Commercial	.79
13. a. Neighborhood Commercial	1.54	Community Commercial	1.54
b. General Commercial	.47	Community Commercial	.47
c. Neighborhood Commercial	.36	Community Commercial	.36
d. Neighborhood Commercial	.12	Community Commercial	.12
14. Waterfront Commercial	0.5	Downtown Commercial	4.5
Open Space/Parks	4		
15. Commercial (General, Office, Neighborhood)	2.1	Downtown Mixed Use	29.3
Public Residential (Single Family, Multi-family, PUD)	1.2		
	26.0		
16. General Industrial	32	Limited Industrial	32
17. a. Office	11.5	Lower Arsenal Mixed Use	44.0
General Commercial Mixed Commercial	10.5		
Limited Industrial Mixed Commercial	22.0		
b. Business/Professional Office	7.0	Public/Semi Public	7.0
18. a. Neighborhood Commercial	.53	General Commercial	.53
b. Neighborhood Commercial	.42		.42
c. Neighborhood Commercial	.29		.29
19. (none)	--	Establish Urban Growth Boundary	--
20. a. Vallejo Open Space	154	Open Space	154
b. Vallejo Buffer Zone	180	Open Space	180
c. County (Open Space, Marsh / Agriculture, Extensive)	820	Open Space	820
d. County (Agriculture, Extensive)	230	Open Space	230

## Page 34

*The following changes and additions are hereby added to the third full paragraph on the page:*

The General Plan also proposes a series of land use designation changes, as detailed in Chapter 3: Project Description. The net effect of these land use designation changes is summarized in Tables 4 and F-1. In general, these land use designation changes result in a lowering of development potential, a removal of some of the undeveloped industrial designated land in the City, a shifting of land to the two new mixed-use land use designations, and the protection of additional open space.

It is conjectural and therefore inappropriate to determine or project if or where additional growth would occur if it does not occur in Sky Valley. It is possible that it could result in development in areas outside of Benicia that could be considered sprawl, however there is no way of knowing. Large portions could occur in Central Benicia which has a number of housing development sites representing 400 potential housing units. It is also possible that growth could be accommodated in Central areas of other communities such as Fairfield or Vallejo, and will not necessarily be created on the outskirts of existing communities. This may be perceived as an impact, but it is not a significant impact under CEQA, because the impact is conjectural and cannot be proven.

Relatively little developable industrial land would be changed to an open space designation. A total of 47 acres of industrially-designated land which directly abuts residential development would be redesignated for open space use as a buffer. This is the only location where any real development potential would be lost. Twenty-two acres of industrial land in the Arsenal area that would be redesignated for mixed use could still be developed for industrial use under the mixed use designation. Another 48 acres of marsh land, which is currently designated industrial (parcels 7 and 8 on Figure 2 of the EIR), would be redesignated to open space. This is not a real loss since the property is undevelopable and has already been permanently set aside for open space.

*The following amendments are hereby made to the fourth full paragraph on the page:*

None of the land use designation changes would result in incompatible land uses or result in conflicts with established land uses, given the restrictions on mixing of uses and the specific policies that are described below. With regards to land use compatibility, In fact, the land use designation changes would result in the beneficial effect of decreasing the

likelihood that incompatibility would occur since they would provide buffers and increased separations between potentially incompatible uses such as industry and single-family homes.

*In addition, Table F-1, which appears on the following page of this Final EIR, is hereby added to the Draft EIR after page 34.*

**Page 35**

*The first two paragraphs on this page is hereby amended as follows:*

Policy 2.57.1 of the General Plan would allow churches to locate in industrial areas as conditional uses, which is consistent with existing City policy. Program 2.57.A would require the City to establish specific regulations for churches in non-residential zones. Locating churches in industrial zones creates the potential for land use incompatibilities since uses and activities associated with churches, such as religious classes and child care activities, could be incompatible with surrounding industrial activities. For example, people using churches could be exposed to noise or hazardous materials associated with industrial uses. Compatibility of these churches with industrial uses could depend on the hours of operation of church activities compared to that of the industrial activities, although some compatibility issues, such as those related to the storage of hazardous materials, would not be time dependent. This is not considered a significant impact since it is not a change from existing policy.

The encouragement of mixed uses proposed by the General Plan would also have the potential to create land use incompatibilities. For example, residents could be exposed to noise or hazardous materials from industrial operations. Residents in some industrial areas in other cities have requested limitations on industrial activities, even though the industrial uses pre-dated the residences in these areas. However, this issue is adequately addressed by the General Plan since it directs the City to only allow mixed land uses when adequate buffers are established, where there are adequate noise buffers, and where the presence of residents would not significantly constrain existing industrial operations (Policy 2.2.3). Thus no impact is expected.

Table F-1: Buildout Comparison of Existing and Proposed General Plan

LAND USE	EXISTING GENERAL PLAN DEVELOPMENT POTENTIAL	PROPOSED GENERAL PLAN DEVELOPMENT POTENTIAL
<b>Residential (units)</b>		
LDR	1,065	600
MDR	173	48
HDR	<u>477</u>	<u>306</u>
Subtotal	1,715	954
<b>Office/Commercial(sqft)</b>		
Office	3,118,896	174,240
General Commercial	980,100	980,100
Downtown Commercial	174,240	174,240
Waterfront Commercial	<u>174,240</u>	<u>174,240</u>
Subtotal	4,447,476	1,502,820
<b>Industrial (sqft)</b>		
General	7,187,400 <sup>1</sup>	1,045,440
Limited	4,835,160	10,660,874 <sup>1</sup>
Water-related	<u>326,700</u>	<u>326,700</u>
Subtotal	12,349,260	12,033,014
<b>Other Uses (acres)</b>		
Open Space	0	397
Open Space/Marsh	<u>0</u>	<u>5</u>
Subtotal	0	401

- 1: About 4.7 million square feet of this development potential is on the 362 acres of land owned by Exxon. Although Exxon has no plans to develop this land at this point in time, the fiscal impact analysis assumes this land will eventually be developed.

Sources: City of Benicia; Economic and Planning Systems, Inc.

### Page 56

*The first paragraph in the section on Bay and Ridge Trails is hereby amended as follows:*

The San Francisco Bay Trail is a proposed 400-mile network that will circle San Francisco and San Pablo Bays, passing through all nine Bay Area Counties. Benicia is one of the bay area cities that hosts this network of pathways. See Figure 14 on page 100 of the Draft EIR for the routing of the Bay Trail in Benicia.

**Pages 61 through 63**

*The lists of primary roadways on these pages are hereby amended as follows:*

The primary roadway network includes the following east-west roadways:

- Military (East and West)
- West K Street/West J Street
- East E Street
- East H Street
- Southampton Road
- Rose Drive
- Lake Herman Road
- Columbus Parkway/State Park Road
- Cambridge Drive
- Warwick Drive/Seaview Drive
- Hillcrest Avenue
- Solano Drive/Larkin Drive
- Adams Street (private road serving the Port of Benicia)
- Oak Street (private road serving the Port of Benicia)

In the north-south direction, the primary roadway network includes the following roadways:

- Hastings Drive
- Panorama Drive
- W. Seventh Street
- Chelsea Hills Drive
- First Street
- East Second Street
- E Fifth Street
- Park Road
- Industrial Way
- Channel Road
- Turner Drive
- West 5th Street/Sherman Drive
- Bayshore Road (private road serving the Port of Benicia)
- Reservoir Road

*Figure 3 is also amended on the following page to show that Adams Street, Oak Street and Bayshore Road are private.*

**Page 76**

*The second paragraph under the heading "Waterborne Freight" is hereby amended as follows:*

The Port of Benicia, which is operated under a City lease to Benicia Industries (a private company), has a 2,400 foot deep-water pier which provides berthing for three ships. The Port has approximately 750 acres of open storage area (of which about 225 acres are designated Water-Related Industrial) and received 215 ship calls in 1993, primarily automobiles and coke.

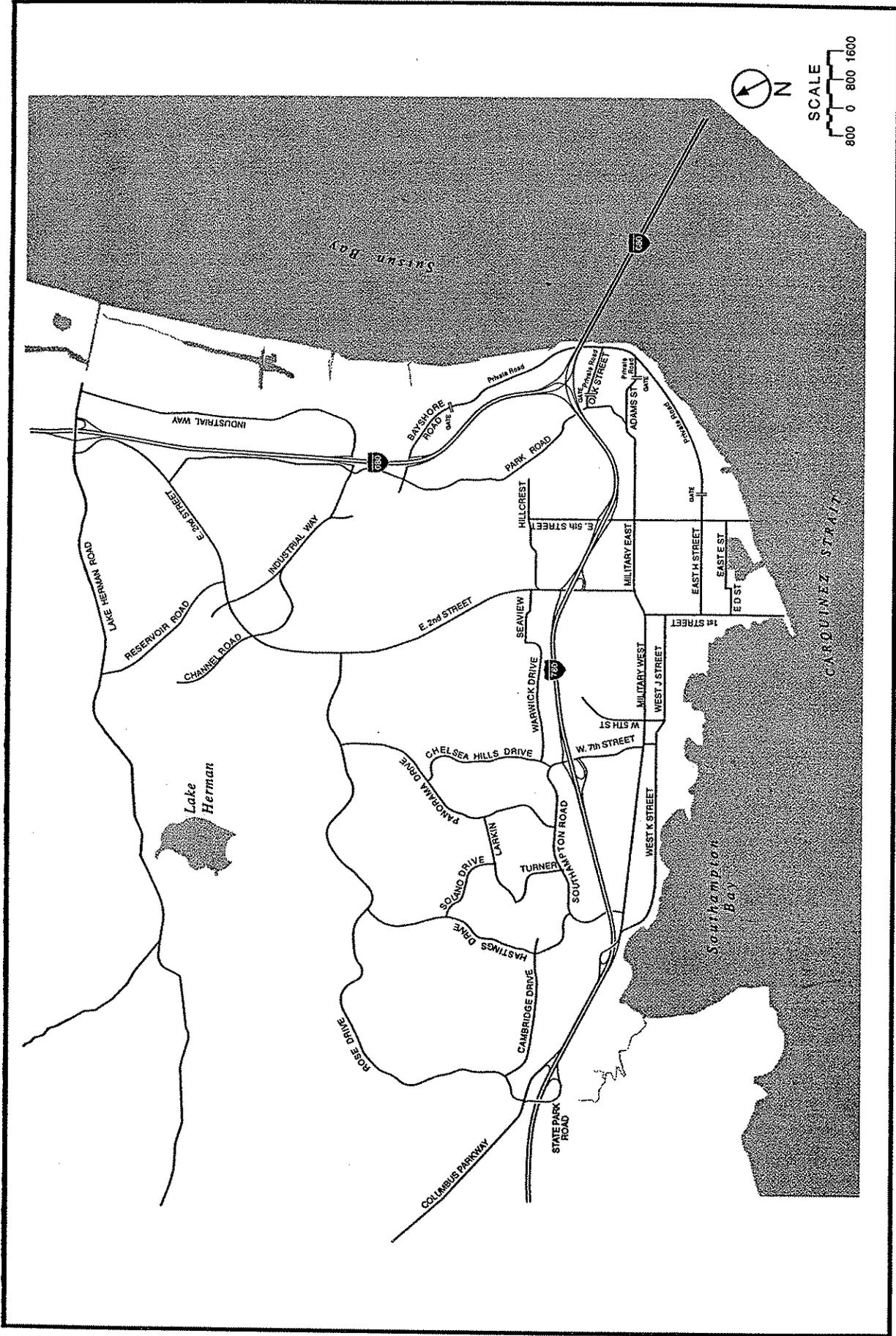
**Page 87**

*Figure 10 is amended on the following page to show that Adams Street, Oak Street and Bayshore Road are private.*

**Page 91**

*Section 5 is hereby amended as follows:*

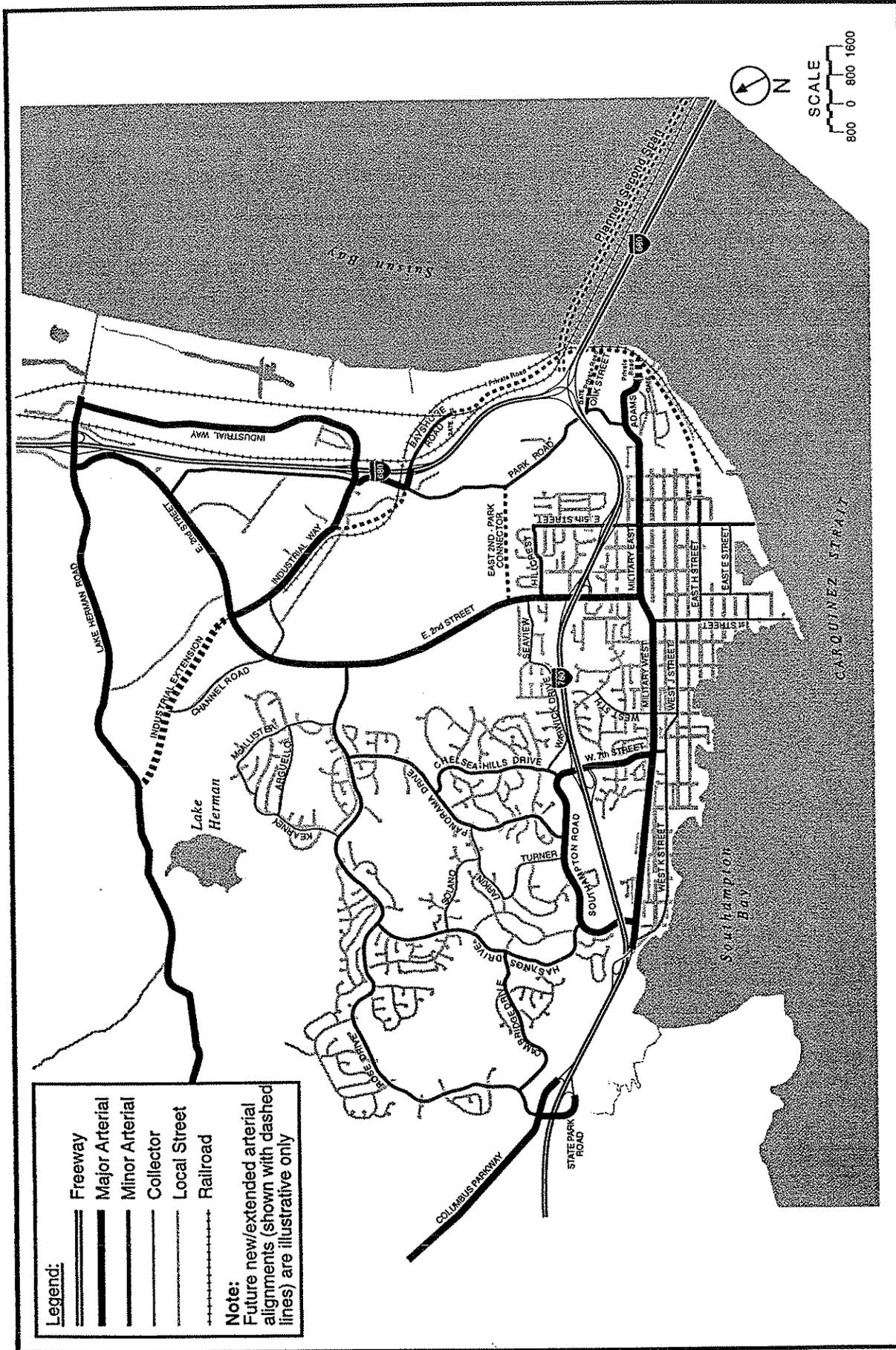
Figure 14 shows the General Plan Bicycle and Multi-Use Trail System. The Update incorporates the recommendations contained in the Benicia Parks, Trails and Open Space Master Plan. It also shows the Bay Trail routing through Benicia, which is described on page 56 of the Draft EIR. The additional bike routes will provide a connected bicycle circulation system on Benicia's arterial-collector system, through and between the northern residential, northeastern industrial, downtown and waterfront areas.



**PRIMARY ROADWAY NETWORK  
EXISTING CONDITIONS**

**FIGURE 3**

**FP** Fehr & Peers Associates, Inc.  
Transportation Consultants



**GENERAL PLAN UPDATE  
 CIRCULATION SYSTEM**

**FIGURE 10**

## Page 99

*The first paragraph is hereby amended as follows:*

The connection would help minimize the impact of truck trips on residential and commercial streets; provide more access opportunities and help better distribute the traffic in this area. The connection also provides for a local access from the arsenal area to the Industrial Park area without having to go onto the freeway.

## Pages 101-102

*Impacts and Mitigation Measures CIRC-1 and CIRC-2 and the text describing their secondary impacts are hereby amended as follows:*

**Impact CIRC-1:** Of the 24 intersections studied, 22 would operate below the proposed General Plan standard of LOS C under projected buildout conditions. The proposed General Plan allows exceptions to the LOS C standard where measures required to achieve LOS C are unacceptable because of right-of-way needs, impact on neighboring properties, aesthetics, or community character, so this does not constitute a significant impact in all cases.

**Mitigation Measure CIRC-1:** The City should add the improvements shown in Figure 12 to the CIP and continue its traffic monitoring program as new development allowed by the General Plan takes place and should use the criteria in the General Plan as the basis for deciding whether to implement intersection improvements at intersections where Level of Service drops below C. The improvements that are found to be desirable should be added to the CIP and should be implemented as they become necessary. and t The improvement list should be revised as necessary based upon actual traffic patterns which develop, physical constraints, and other considerations such as neighborhood impacts, and community character. Whenever possible, the City should consider alternatives to intersection widening, including signalization, aggressive Travel Demand Management programs, rerouting traffic, prohibiting certain turning movements during peak hours, and coordinating traffic signals.

**Impact CIRC-2:** Future traffic volumes under the General Plan indicate the need for four lanes on that Level of Service on segments of the following arterials in order to maintain a minimum of LOS E will fall below the General Plan's proposed standard of LOS C:

- (1) Lake Herman Road east of the I-680 NB ramps;
- (2) East Second Street between Lake Herman Road and the existing four-lane section;
- (3) East Second Street between I-780 WB ramps and Military East;
- (4) East Fifth Street between I-780 WB ramps and Military East;
- (5) Industrial Way between Lake Herman Road (along new extension) and the I-680 ramps;
- (6) Bayshore Road between I-680 SB ramp and Industrial Way;
- (7) Military West between West Fifth and West Second;
- (8) Military East between East Second and East Fifth;
- (9) West Seventh Street between Chelsea Hills and Military West; and
- (10) Park Road between Industrial and Bayshore.

The proposed General Plan allows exceptions to the LOS C standard where measures required to achieve LOS C are unacceptable because of right-of-way needs, impact on neighboring properties, aesthetics, or community character, so this does not constitute a significant impact in all cases.

Mitigation Measure CIRC-2: To the extent that the improvements listed above are not in the CIP, the City should consider adding them to the CIP. The City should continue its traffic monitoring program as new development allowed by the General Plan Update takes place, and should use the criteria in the General Plan as the basis for deciding whether to widen roadway segments from two to four lanes where Level of Service drops below C. The improvements should be added to the CIP (if they are not already on it) and implemented if they are found necessary to be desirable. The improvement list should be revised as necessary based upon actual traffic patterns which develop, physical constraints, and other considerations such as neighborhood impacts and community character. The City should also consider other alternatives to widening such as "spot widening" at congestion points, aggressive Travel Demand Management

programs, rerouting traffic, prohibiting certain turning movements during peak hours, and coordinating traffic signals.

Mitigation Measures CIRC-1 and CIRC-2 could result in widenings of intersections and roadway segments. Such construction projects could have negative visual impacts, since they would result in larger areas of paved roadway and, in many areas, smaller areas of landscaping or open space next to roads. They could also result in the taking of property, localized air quality impacts and increases in traffic noise. However, both mitigation measures provide alternatives to widenings as well, and the General Plan (page 141) recognizes the liabilities that can result from oversizing roads and intersections. Provided that the General Plan guidance is followed and alternatives are implemented where possible, then only minimal visual, air quality, noise, and land use impacts should result.

**Page 116**

*The paragraph at the top of the page is hereby amended to read:*

Seismicity in the Benicia area is related to activity on the San Andreas system of active faults. The principal active faults in the vicinity are the Concord and Green Valley faults. The Green Valley fault, ~~northeast of Benicia,~~ which passes through the northeastern portion of the Planning Area, is the only known active fault within the Benicia Planning Area. It has been included within an Alquist-Priolo Earthquake Fault Zone (see Figure 18) which has been identified and mapped by the State of California and is considered capable of generating a magnitude 6.9 earthquake. Several other major active faults, including the Hayward, Rodgers Creek, and San Andreas, occur within 50 miles of Benicia. These faults are shown on Figure 16. These faults have the potential to generate moderate to severe ground shaking in Benicia.

**Page 118**

*Figure 17 is amended to show the updated boundaries of the Alquist-Priolo Earthquake Fault Zone, as shown on the next page.*

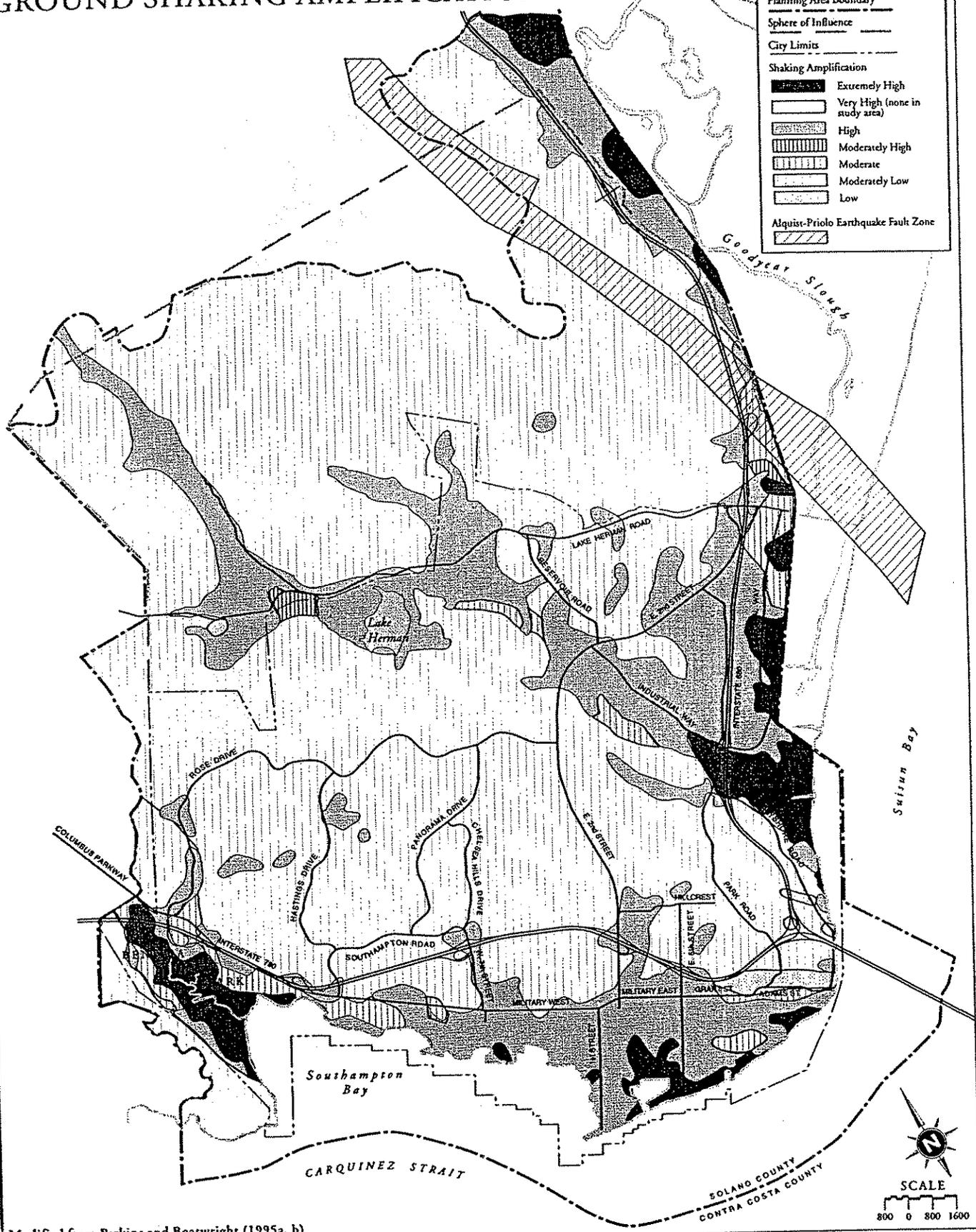
**Page 119**

*Figure 18 is amended to show the updated boundaries of the Alquist-Priolo Earthquake Fault Zone, as shown on the next page.*

# GROUND SHAKING AMPLIFICATION

**LEGEND**

- Planning Area Boundary
- Sphere of Influence
- City Limits
- Shaking Amplification
  - Extremely High
  - Very High (none in study area)
  - High
  - Moderately High
  - Moderate
  - Moderately Low
  - Low
- Alquist-Priolo Earthquake Fault Zone



Modified from Perkins and Boatwright (1995a, b)

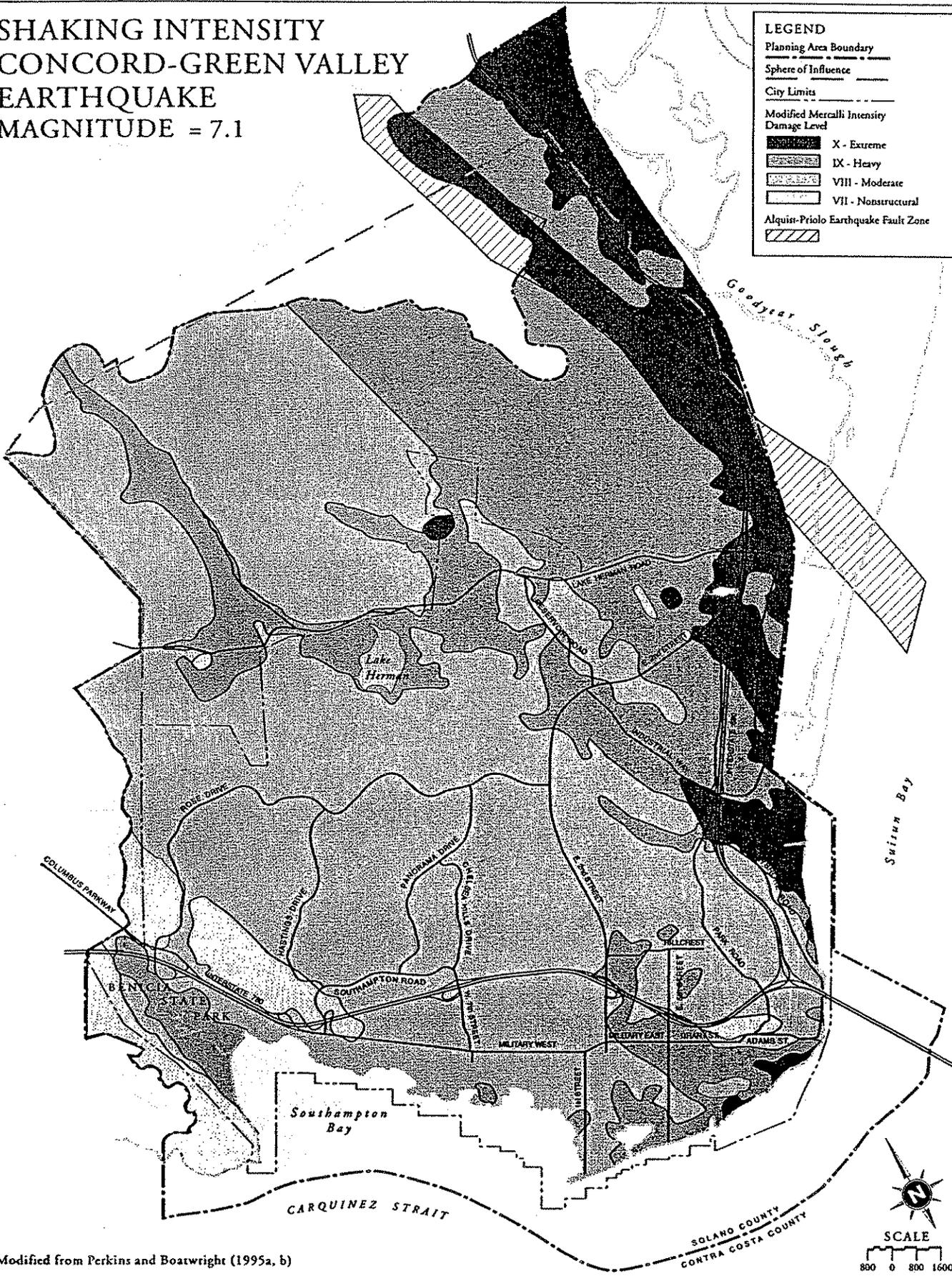
Figure 17



# SHAKING INTENSITY CONCORD-GREEN VALLEY EARTHQUAKE MAGNITUDE = 7.1

**LEGEND**

- Planning Area Boundary
- Sphere of Influence
- City Limits
- Modified Mercalli Intensity Damage Level
  - X - Extreme
  - IX - Heavy
  - VIII - Moderate
  - VII - Nonstructural
- Alquist-Priolo Earthquake Fault Zone



Modified from Perkins and Boatwright (1995a, b)

Figure 18

Page 120

At the end of the section entitled "Seismic Hazards," the following paragraphs are hereby added:

The California Division of Mines and Geology (CDMG) has published a document that details the process of evaluating seismic hazards in California: Special Publication 117, *Guidelines for Evaluating and Mitigating Seismic Hazards in California*. CDMG has also published Open-file Report 96-08, *Probabilistic Seismic Hazard Assessment for the State of California*, that includes a table of fault parameters for most of the faults in California. In addition, CDMG Special Publication 42, *Fault-Rupture Hazard Zones in California*, addresses the hazard of fault rupture in California. These documents are available from the CDMG offices in San Francisco and Sacramento, or from their web page, <http://www.consrv.cs.gov/dmg/>. These documents reference the Uniform Building Code, for use when designing public schools, hospitals, and essential services buildings.

A Probabilistic Seismic Hazards Analysis (PSHA) has been prepared by CDMG for the Benicia City Hall site (CDMG, 1998). That analysis shows that ground accelerations at City hall may be somewhat higher than those included in the UBC.

The 1997 edition of the Uniform Building Code (UBC) contains an updated methodology for use in the evaluation and design of structures in the Planning Area, which is completely within UBC Seismic Zone 4. For example, the Green Valley fault is listed as a UBC Type "B" fault, with a maximum moment magnitude of 6.9, and a fault slip rate of 6 millimeters/year. Therefore, special Near-Source Acceleration and Velocity Factors should be used in the design of all structures within 5 kilometers (approximately 3 miles) of the Green Valley fault.

#### 4. MINERAL RESOURCE ZONES

##### The Surface Mining and Reclamation Act

Finding that, among other things, "the extraction of minerals is essential to the continued economic well-being of the state and to the needs of society," the State of California adopted the Surface Mining and Reclamation Act of 1975. This Act was intended to establish a policy on surface mining and reclamation that assures that adverse environmental impacts are minimized and reclamation completed, while encouraging the continued production

and conservation of minerals.

The Act requires the State Geologist to classify any existing or potential mineral resource site identified by the Office of Planning and Research, subject of a petition to the Board of Mining, or otherwise specified by the Board. There are three classifications: (a) sites containing little or no mineral deposits, (b) sites containing significant mineral deposits, and (c), sites whose significance requires further evaluation. The State Geologist must make these classifications based solely on geological factors and without regard to existing land use and land ownership.

The Act requires that if a site is designated as regionally significant, any land use decisions of a local agency that would affect the site must consider the importance of the mineral to the regional market and not just the importance of the site within the lead agency's area of jurisdiction. In addition, the Act requires local agencies to prepare and adopt mineral resource management policies as part of the jurisdiction's general plan. These policies must:

(a) Recognize mineral information classified by the State Geologist and transmitted by the Board.

(b) Assist in the management of land uses which affect areas of statewide and regional significance.

© Emphasize the conservation and development of identified mineral resources.

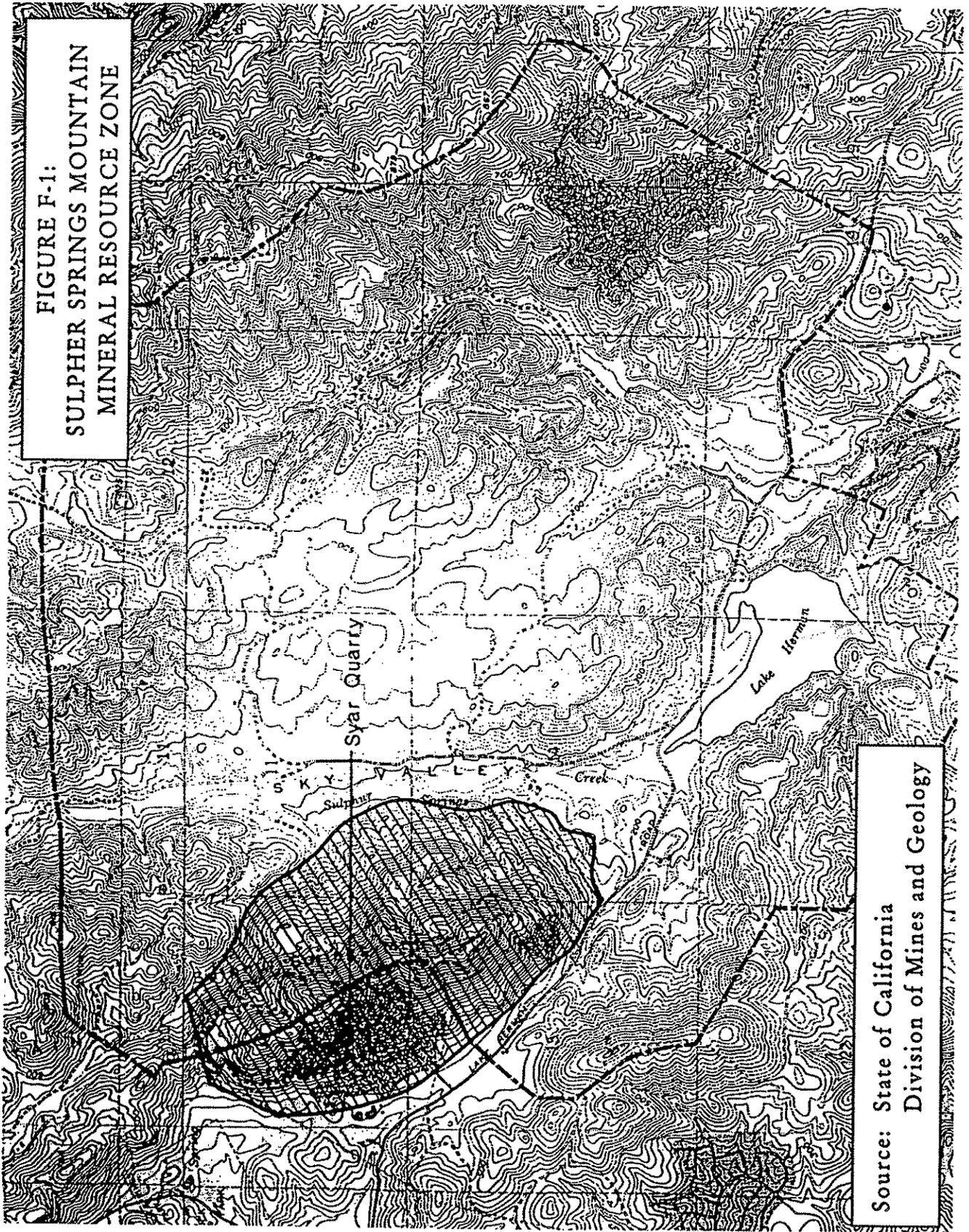
Before adoption, local jurisdictions must submit these policies to the Board for review and comment.

The guidelines adopted by the State Mining and Geology Board to implement SMARA outline the responsibilities of local jurisdictions that contain classified mineral resource sites. These goals call for the protection of classified or designated sites from preclusive or incompatible land uses, in order to encourage mineral production. The policies also call for the control of mining activities to minimize or preclude adverse environmental effects. Incompatible uses, which would require high public or private investment and would prevent mining because of their higher economic value, include high density or high value residential uses, public facilities, and intensive industrial and commercial uses. Compatible uses include

very low density residential, recreation, agriculture and forestry, extensive industrial use, and grazing and open space.

Area Identified as Regionally Significant In 1987, the Mining and Geology Board designated Syar Quarry and most of Sulphur Springs Mountain as an area of regionally significant construction aggregate resources within the North San Francisco Bay Production-Consumption (P-C) Region. The exact area designated, which is referred to as Sector G by the Board, is shown on Figure F1. About one-half of the area designated lies within the planning area and the Benicia Sphere of Influence.

FIGURE F-1:  
SULPHER SPRINGS MOUNTAIN  
MINERAL RESOURCE ZONE



Source: State of California  
Division of Mines and Geology

Figure F-1

**Pages 123-124**

*The last sentence on page 123, which extends onto page 124, is hereby modified as follows:*

Water quality in Carquinez Strait, Suisun Bay, the Sacramento-San Joaquin Delta and the Sacramento and San Joaquin rivers is monitored by the US Bureau of Reclamation and the California Department of Water Resources (DWR) through the Interagency Ecological Program in accordance with the requirements of Water Right Decision 1485, issued in August 1978.

**Page 124**

*The third paragraph on the page is hereby amended as follows:*

Selenium concentrations in Suisun Bay inflows result from agricultural uses well upstream from Benicia in the Central San Joaquin Valley, and, to a lesser varying extent from the Exxon Benicia Refinery and other industrial dischargers in the Bay Area. The relative amounts of selenium contribution from San Joaquin Valley and local industrial sources is influenced by the annual variations in regional stormwater and snowmelt runoff from the Sierra Nevada and export of Delta inflow to southern California via state and federal pumping and conveyance facilities. Data on selenium discharges from the Exxon refinery for 1992 indicated a 12-month rolling average concentration of 1.89 pounds per day. The limit for this constituent cited in the Waste Discharge Requirements for the refinery is 2.07 pounds per day.

**Page 159**

*The third paragraph under "Traffic Noise Levels" is hereby amended as follows:*

The data show that both existing and future traffic noise levels could exceed the proposed General Plan's acceptable limits for existing and proposed uses at some locations. This could occur if new noise-sensitive uses are located inside the 60 dB Ldn roadway noise contours, or if increased noise levels associated with traffic encroach upon existing noise-sensitive land uses or further increase noise levels already in excess of 60 dB Ldn. Examples of such areas include the residential areas that currently encroach onto Interstate 780, residential uses along Southampton Road between Chelsea Hills Drive to Interstate 780, and residential uses along West Seventh Street and the Hillcrest Drive neighborhood that could be bounded by a connector between East Second Street and Park Road.

## Page 168

Figure 23 is amended with a new name and to show the updated boundaries of the Alquist-Priolo Earthquake Fault Zone, as shown on the next page.

## Page 170

The discussion of the Braitto Landfill is hereby revised as follows:

The Braitto Landfill, also known as the Solano County Sanitary Landfill, was located in the hills of northwestern Benicia, in what is now the western portion of the Southampton development. During its operation from 1955 to 1979, the landfill accepted household waste, scrap metal, tannery waste, and some other industrial wastes including sewage sludge. The landfill was comprised of the East Canyon and North Canyon. The East Canyon has been closed and is being maintained by the developer in accordance with Regional Water Quality Control Board requirements. Wastes in North Canyon were to have been moved to East Canyon prior to development of the North Canyon area with homes. A decision was made to leave some wastes in place in ~~the area~~ a small side canyon that is now Blake Court; the area has been closed and is being maintained by the developer in accordance with Regional Water Quality Control Board requirements.

A pocket of waste under part of three lots and a portion of the open space adjacent to Blake Court were identified outside of the closed landfill in Blake Court in 1991. Since then, an investigation of those lots and other subareas within the former North Canyon has taken place. However, it was recently discovered that other areas of residual waste also remained in and near North Canyon. Some of these wastes are hazardous or contain hazardous constituents.

~~Residual wastes have been identified beneath 861 Rose Drive, adjoining lots, and other locations within the former North Canyon area and outlying areas of the landfill. Wastes have been identified in seven areas associated with the North Canyon as well as an area outside of the boundaries of the East Canyon.~~

# MAJOR HAZARDOUS WASTE INVESTIGATION AREAS

**LEGEND**

Planning Area Boundary  
 Sphere of Influence  
 City Limits

① IT Panoche Facility  
 ② Braito Landfill  
 ③ Arsenal (Dashed line indicates boundary only - specific sites are inside this area.)  
 ④ Parcel 2-4a

Alquist-Priolo Earthquake Fault Zone

Note: This figure only shows major areas with identified hazardous material site. This figure is not intended to show the exact location of hazardous material sites within the city. Additionally, there are many sites outside of these area boundaries. For more detail, please refer to the Public Safety Background Report.

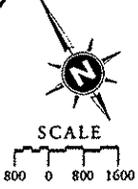
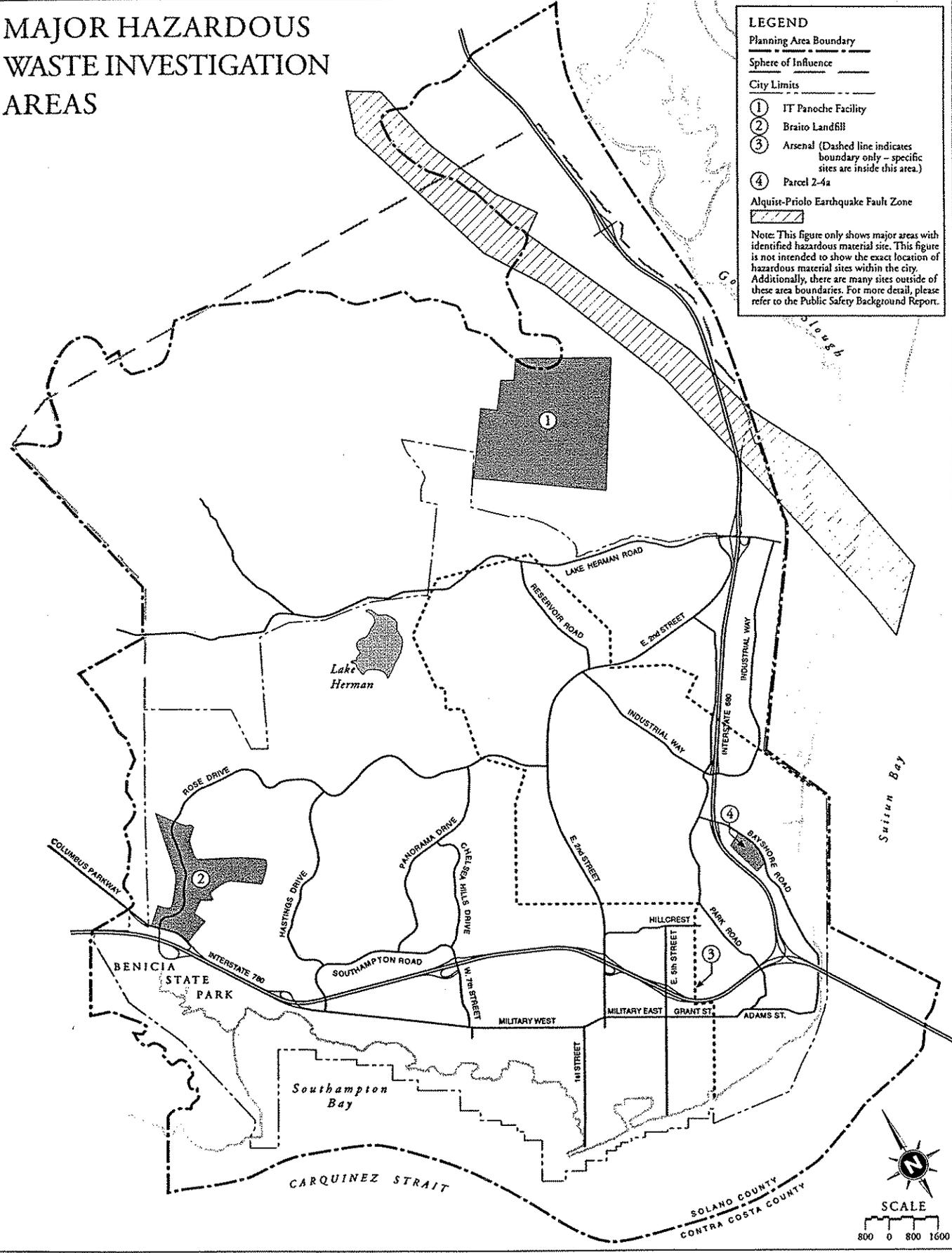


Figure 23

Three areas, including the area outside of the East Canyon, have been remediated to the satisfaction of the regulatory agencies. and The remediation of the area referred to as the Hillside area is still under evaluation. A remedial investigation and feasibility study and baseline risk assessment indicating there is no significant health risk have been completed for the remaining four areas and further actions are being discussed with the regulatory agencies.

Page 171

*The last two paragraphs are hereby revised as follows:*

In 1989, approximately 200145 acres in the northwest portion of the Arsenal were approved for development of 238 approximately 240 single family homes as part of a larger 800-home residential project proposed by the Southampton Company. The EIR for the Southampton development noted the existence of two concrete bunkers left over from the Arsenal use on a portion of the leased property known as the Tourtelot property, and concluded that the bunkers would need to be removed unless an engineering study determined that they could be safely filled. In 1995, while conducting preliminary gradingsite preparation operations on the Tourtelot property, the successor developer, Pacific Bay Homes, found a number of projectiles, some of which appeared to be dummy rounds associated with testing. Several rounds of unexploded live ordnance were also found, however, and development activities were halted pending the results of studies by the Army Corps of Engineers further investigations to determine what additional ordnance might exist in the area.

After the discovery of live ordnance on the Tourtelot property, the Corps of Engineers completed a 1997 In 1997, the Army Corps of Engineers completed a supplement to the previously completed 1994 Archives Search Report. The 1997 supplement indicated found that there is the potential for chemical weapons materials (CWM) were present at the Arsenal during World War II and later, but that though the report does conclude that "it appears unlikely that any of the mustard from mustard bombs was disposed of on any of the Arsenal property... Even though we do not suspect CWM remaining at the Benicia Arsenal, if any suspect items are found during ground disturbing activities, work should be stopped and local law enforcement should [be] contacted." The report identifies eleven areas where there is some potential for residual ordnance, as listed below and mapped in Figure F-2:

*In addition, Figure F-2 is hereby added after page 171 to show the locations of the eleven sites in the Archives Search Report.*

**Page 175**

*The last paragraph, first sentence has hereby been revised as follows:*

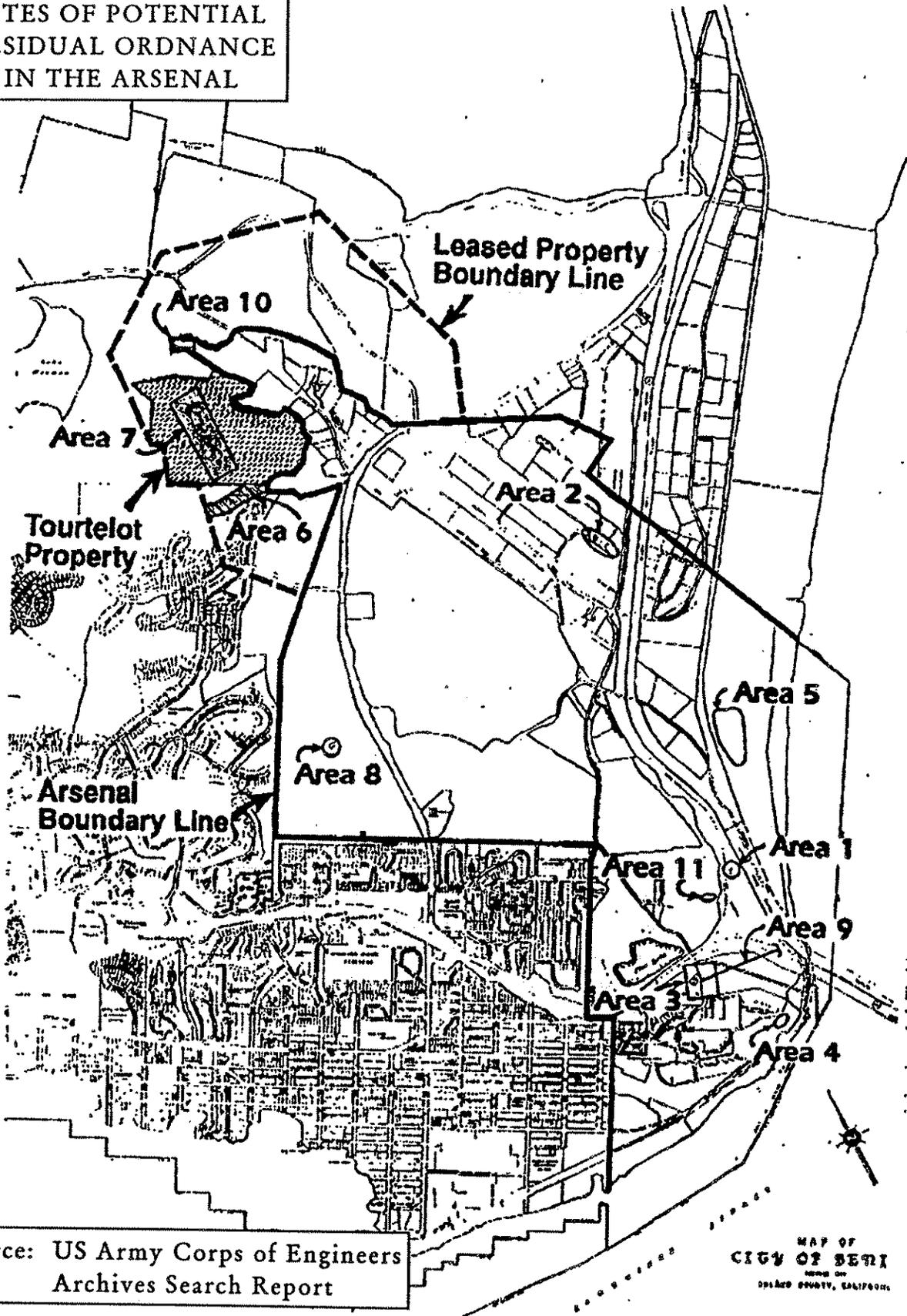
The public could also be exposed to potential health risks if residential or other land uses were allowed adjacent to currently known or future identified hazardous waste sites where potential health risks may exist, unless appropriate remediation and mitigation measures are implemented. These sites include the IT Panoche Facility, Braitto Landfill, the Arsenal, and other hazardous waste sites that could be identified in the future. Although a Multimedia Health Risk Assessment completed by IT Corporation for the IT Panoche Facility found that closure of the facility presents no significant health risk for residential or other land uses, groundwater testing has shown that contaminants are escaping from the IT site. It is conceivable that similar situations could exist at other hazardous waste sites.

**Page 196**

*The last paragraph under 1. Churches and Industrial Zones, is hereby amended as follows:*

The implementation of the above policy and program would prevent churches from establishing in industrial zones, thus removing the potential significant impacts related to their location in these zones. Thus the alternative policy and program are preferred. However, since no significant impact is identified with respect to Policy 2.57.1, there would be no significant environmental benefit from the inclusion of this alternative policy.

SITES OF POTENTIAL  
RESIDUAL ORDNANCE  
IN THE ARSENAL



Source: US Army Corps of Engineers  
Archives Search Report

MAP OF  
CITY OF SERRANO  
SERRANO, CALIFORNIA  
SERRANO COUNTY, CALIFORNIA

Figure F-2

# 4. LIST OF COMMENTORS

## A. WRITTEN COMMENTS

### STATE AND LOCAL AGENCIES

1. Leora S. Elazar, Coastal Program Analyst, San Francisco Bay Conservation and Development Commission. January 27, 1998.
2. Jason Marshall, Assistant Director. Department of Conservation Office of Governmental and Environmental Relations. February 24, 1998.
3. Janet McBride, Bay Trail Project Manager. San Francisco Bay Trail. March 2, 1998.

### CITY COMMISSIONS AND DEPARTMENTS

4. Bradford MacLane, Chair, Economic Development Board, City of Benicia. March 2, 1998.

### CORPORATIONS AND ORGANIZATIONS

5. Kenneth Jensen, Pastor, Northgate Christian Fellowship. February 5, 1998.
6. Fred Newhouse, Community Relations Manager for Exxon Benicia Refinery. February 19, 1998.
7. William C. Robbins III, *Robbins, Palmer & Allen LLP*. Representing Syar Industries. February 24, 1998.

- 
8. S. Lynn Martinez, Legal Services of Northern California. Representing plaintiffs/petitioners of *Winterhawk, et al v. City of Benicia*. February 26, 1998.
  9. Scott D. McKinlay, Senior Vice-President, Granite Management Corporation. February 27, 1998.
  10. Annette O'Connor, Chair, Chamber of Commerce, City of Benicia and Tom Amen, President, Benicia Industrial Park Association. March 2, 1998.
  11. Anne Cronin Moore, *Moore Consulting*. Representing International Technology Corporation and Goodyear Partners. March 2, 1998.
  12. Douglas S. Waltermire, Manager of Environmental Affairs. International Technology Corporation. March 2, 1998.
  13. David McMurtry, Vice-President, International Technology Corporation. March 2, 1998.
  14. C. Jeff Brinton, *Brobeck, Phleger and Harrison, LLP*. Representing Benicia Industries. March 2, 1998.
  15. Paul J. Niebergs, *Ellman, Burke, Hoffman, & Johnson*. Representing Exxon. March 2, 1998.

#### PRIVATE INDIVIDUALS

16. Forrest Deaner. January 22, 1998.
17. Forrest Deaner. January 23, 1998.
18. Forrest Deaner. January 27, 1998.
19. Norma and Forrest Deaner. February 18, 1998.
20. David and Jane Poucher. February 16, 1998.
21. Donald J. Hutchinson. February 16, 1998.

22. Michael J. Anderson. February 17, 1998.
23. Daniel Serna and 34 signators. February 19, 1998.
24. Veronica Bearce and 149 other signators. March 2, 1998.
25. Linda Boone. February 24, 1998
26. Greg Gartrell. March 1, 1998.
27. Bob Berman. March 2, 1998.
28. Steven L. Goetz. March 2, 1998.
29. Bill Ellis. March 2, 1998.
30. Gary Getchell. No date.

## B. PUBLIC HEARING COMMENTS

Two Planning Commission hearings were held on the Draft EIR on February 19, and February 26, 1998. The following individuals made comments at the hearing. The city's notes regarding the comments and responses to them are contained in Chapter 5.

### PLANNING COMMISSION PUBLIC HEARING FEBRUARY 19, 1998

1. Alan Schwartzman, Benicia Chamber of Commerce.
2. Ken Jensen, 711 Larkspur Court.
3. Mike Anderson, 68 La Prenda.
4. Chuck Taylor, Benicia Bible Church.
5. Laurie Grover, Benicia Bible Church.
6. Gary Getchell.
7. Robert Sexton, 6058 Egret Court.
8. Scott Henning, 716 Military East.
9. Paul Lemone, 675 Daffodil.
10. Gary Wayne, 319 East T Street.
11. Dave Ryan, Benicia Bible Church.
12. Don Hutchison, 354 West Seaview.
13. David Poucher.
14. Fred Newhouse, representing Exxon.
15. Les Montoya, 818 Military East.

16. Gary Moss, 362 Lori Drive.
17. Steven Goetz, 347 Goldenslopes Drive.
18. Bob Ellis, 314 Durham, Ct.
19. Bob Berman, 250 West K Street.
20. Jeff Brinton, representing Benicia Industries.
21. Bill Ellis, 462 Vista Court.
22. Jeff Hesseltine, 501 Lupine Court.

**PLANNING COMMISSION HEARING  
FEBRUARY 26, 1998**

Planning Commissioners took turns commenting on the EIR, and their comments are not numbered. See Chapter 5 for the Planning Commission minutes with Commissioners' comments identified. There were no additional public comments on the Draft EIR at this meeting.



## 5. COMMENTS AND RESPONSES

This chapter includes a reproduction of and responses to each letter received during the public review period. Each letter is reproduced in its entirety, and is immediately followed by responses to the comments in it. Letters are categorized by type of commentor, with State and local agencies first, City departments and commissions second, corporations and organizations third, and private individuals fourth. Within each category, letters are arranged in chronological order by the date received. Each comment and response is labeled with a reference number in the margin.

In addition, the chapter includes responses to comments received at the public hearing on the Draft EIR, which was held on February 19, 1998 and February 26, 1998 before the City of Benicia Planning Commission. Twenty-three members of the public commented on the Draft EIR at the February 19 meeting, and Planning Commissioners made comments at the February 26 meeting.

Where the same comments have been made more than once, a response may direct the reader to another numbered comment and response. Where a response requires revisions to the Draft EIR, these revisions are shown in Chapter 3.

**LETTER #1**

STATE OF CALIFORNIA

PETE WILSON, Governor

**SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION**

THIRTY VAN NESS AVENUE, SUITE 2011  
SAN FRANCISCO, CALIFORNIA 94102-6080  
PHONE: (415) 557-3886

January 27, 1998

Planning Department  
City of Benicia

JAN 28 1998

**RECEIVED**

John Bunch, Planning Director  
City of Benicia  
Planning Department  
250 East L St.  
Benicia, CA 94510

**SUBJECT:** Draft EIR for Benicia General Plan Update  
(General Correspondence File)

Dear Mr. Bunch:

Thank you for requesting our comments regarding the Draft EIR for the Draft Benicia General Plan Update. Both the Draft EIR and the Draft General Plan appear to address the comments we made during the Notice of Preparation process. Thus, staff has no further comments at this time.

Thank you again for requesting our input. If you have any questions regarding this letter, please feel free to contact me at (415) 557-8794.

Sincerely,



LEORA S. ELAZAR  
Coastal Program Analyst

LSE/lsc

1-1

**LETTER 1**

**Leora S. Alazar, Coastal Program Analyst, Bay Conservation and Development Commission. January 27, 1998.**

- 1-1: This comment acknowledges that the Bay Conservation and Development Commission (BCDC) received a request for comments on the Draft EIR. The letter states that comments made by BCDC during the Notice of Preparation process were addressed in the Draft EIR and that BCDC has no further comments on the Draft EIR at this time. No response is required.

# LETTER #2

State of California

Planning Department  
City of Benicia

The Resources Agency

## MEMORANDUM

FEB 26 1998

TO: Project Coordinator Resources Agency  
RECEIVED Date: February 24, 1998  
Mr. John Bunch, Planning Director  
City of Benicia  
250 L Street  
Benicia, CA 94510

From: Department of Conservation  
Office of Governmental and Environmental Relations

Subject: Draft Environmental Impact Report (DEIR) for the City of Benicia's  
General - SCH# 97122023

The Department of Conservation's (Department) Division of Mines and Geology (DMG) has reviewed the DEIR for the City of Benicia's General Plan. DMG generates maps and other data related to geologic hazards that may impact the safety and well-being of Californians. DMG also maps and interprets the availability of the state's mineral resources to assist in local land-use planning. The Department offers the following comments for your consideration.

DMG notes that Knox & Associates, your consulting planners, have done a proficient job in the preparation of both the Safety Element, and the Environmental Impact Report (EIR) to implement the new General Plan. Each year DMG reviews the Safety Element of the General Plans of many cities, and was pleased to see that Benicia's draft documents are well-prepared. In the paragraphs below, DMG offers some suggestions for additional scientific content.

1. The Department suggests the use of the Mineral Resource Zone Map (Plates 3.20 and 3.23; extract attached) from the Department's, DMG Special Publication 146 which shows the zone boundaries for MRZ-2(a) for the Syar Quarry on Sulphur Springs Mountain. Figure 3-3 on page 199 does not appear to properly plot MRZ-2, and there is some uncertainty whether this is strictly a hydrologic zone boundary map with two mines plotted on it, or intended to be a full delineation mineral resources. MRZ-1, MRZ-2(a), and MRZ-4 are not shown, nor are these legal designations used in the text.
2. On page 21, it reads that the Syar Quarry is *outside* of the Benicia Sphere of Influence, however, Figure 3-3 shows that the Syar Quarry is *inside*, along with a large amount of MRZ-2 (a known mineral deposit). The Department suggests that since the MRZ-2 boundary is split by the city planning boundary, that the full MRZ-2 limits be shown.

2-1

2-2

Mr. John Bunch  
February 24, 1998  
Page 2

3. The Department suggest the Final EIR include a more complete description of the Surface Mining and Reclamation Act (SMARA). For Policy 3.60.2 on page 212, it is also recommend that the Final EIR include a reference to the Department's Division of Mines and Geology, Office of Mine Reclamation, and the State Mining and Geology Board. It may be beneficial for readers to understand these offices' function with regard to SMARA.
4. In Chapter 4, Section B-1, on page 225, first line, DMG recommends a more direct reference to the Green Valley Fault. This fault is an active fault capable of a Maximum Magnitude 6.9 earthquake and has also been delineated as an Alquist-Priolo Earthquake Fault Zone which passes through the eastern side of the city.
5. DMG has performed a detailed Probabilistic Seismic Hazard Analysis (PSHA) for the City of Benicia's Program 4.16.J (shown on Draft page 248), and to supplement Figure 4.1 with custom ground motion in addition to amplified shaking. The attached figure can be included after Draft page 225, but before Draft page 226 on amplified shaking. The site selected was the Benicia City Hall because it represents the general downtown area and seismic retrofit is planned for older historic buildings in the area. The City Hall site was used as pinpoint of reference where latitude and longitude could be determined. The PSHA models the subgrade of the Benicia downtown area as alluvium which is termed "stiff soil" geologic subgrade in Table 16-J of 1997 Uniform Building Code. Below are the two different levels of earthquake ground motion which were modeled:

**Residential and Commercial Structures (building permit from City of Benicia)  
1997 Uniform Building Code, Chapters 16, 18 and 33**

- Design Basis Earthquake ground motion, 10 percent exceedance in 50 years
- Peak Ground Acceleration = 0.60g
- Spectral Acceleration = 1.54g at 0.3 second natural period

**Public Schools, Hospitals, and Essential Services Buildings (building permit from the State Architect or OSHPD under Title 24) 1995 California Building Code, Chapters 16, 18, and 33 (new 1998 edition scheduled for adoption in July 1989)**

- Upper Bound Earthquake ground motion, 10 percent exceedance in 100 years
- Peak Ground Acceleration = 0.74g
- Spectral Acceleration = 1.93g at 0.3 second natural period

Benicia is encouraged to utilize the seismology information for future planning documents. The coordinates that our geologists used are for the City Hall, located at 250 L Street on alluvial subgrade. The ground motion will be slightly

2-3

2-4

2-5

2-6

## LETTER #2

Mr. John Bunch  
February 24, 1998  
Page 3

- lower on adjacent bedrock that are northwest of City Hall, but may be *higher* in the eastern side of the City because of proximity to the Green Valley Fault. 2-6
6. The 1997 edition of the Uniform Building Code, Chapter 16 Earthquake Regulations, contains many new seismology concepts which would be appropriate to use in the Safety Element. Some of the fault and earthquake parameters in the DEIR for the General Plan need to be updated to reflect the new 1997 UBC data: This information is summarized as follows:
- UBC Seismic Zone = 4, from Figure 16-2 of 1997 UBC
  - Green Valley Fault = 1997 UBC Type "B" Fault, from Table 16-U,  
Maximum Moment Magnitude,  $M_{max} = 6.9$  (from CDMG OFR 96-08)  
Fault Slip Rate =  $6 \pm 3$  millimeters/year (from CDMG OFR 96-08)  
Therefore, special Near-Source Factors apply for Benicia from Tables 16-S and 16-T. 2-7
  - Near-Source Acceleration factor,  $N_a$   
 $N_a = 1.3$  for  $\leq 2$  kilometers distance from Green Valley Fault  
 $N_a = 1.0$  for 5 kilometers distance from Green Valley Fault
  - Near-Source Velocity factor,  $N_v$   
 $N_v = 1.6$  for  $\leq 2$  kilometers distance from Green Valley Fault  
 $N_v = 1.2$  for 5 kilometers distance from Green Valley Fault  
 $N_v = 1.0$  for 10 kilometers distance from Green Valley Fault
7. DMG Special Publication 117, *Guidelines for Evaluating and Mitigating Seismic Hazards in California*, could be referenced. Copies of this report were previously sent to the City, however if needed, it can also be downloaded from DMG's website at <http://www.consrv.ca.gov/dmg/>. This report focuses on three kinds of seismic hazards: strong ground motion, liquefaction, and seismically-induced landslides. All three geologic hazards are present in the Benicia planning area, as well as surface faulting which is explained in DMG Special Publication 42 (new 1997 edition) regarding the Alquist-Priolo Act. 2-8
8. For Figure 4-1, DMG recommends that both the active Green Valley Fault and the ground shaking amplification be shown together, since they are directly related. DMG suggests that the 1993 Vine Hill and 1993 Fairfield South official maps be used. Figure 4-1 utilizes the earlier 1974 Fairfield South and the 1977 Port Chicago quadrangles which were officially replaced with the Vine Hill and Fairfield South maps. Reproducible mylars of the 1993 official maps were sent 2-9  
2-10

## LETTER #2

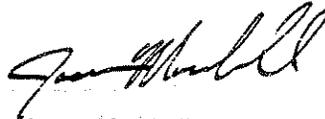
Mr. John Bunch  
February 24, 1998  
Page 4

- by the State Geologist to the Benicia Planning Department in 1993 during the 6-month review and adoption process. | 2-10
9. For Figure 4-2, DMG recommends that the legend in the upper right hand corner be changed from "Special Studies Zone" to the new (post-1994) name which is Alquist-Priolo Earthquake Fault Zone. As noted in #8 above, the zone (as shown) is not the current 1993 version and there are substantial changes to the shape of the zone. Please show the legal fault zone as open-ended and continuing (not closed) at the northern and southern ends. The Green Valley - Concord Fault system is  $66 \pm 7$  kilometers in total length, and the fault length controls the Maximum Moment Magnitude  $M_{max} = 6.9$ . | 2-11
10. On page 227 and 229, Landslides, it is recommended that the text reference DMG Open-File Report 86-17, *Landslide Hazards in the Benicia - Vallejo Area, Solano County, California*, by Edward J. Bortugno. This is a custom set of special large-scale geologic maps (Plates 8-A, 8-B, 8-C, and 8-D) prepared for Benicia. It is suggested that DMG Open File Report 86-17 be named on page 248 under Policy 4.16.2, as the existing geologic hazards map prepared especially for the City of Benicia by DMG. A set of regional landslide maps for the entire Bay Area was released in digital format in December 1997 by the U.S. Geological Survey, Open-File Report 97-745, which is available from their web-site (see attachment for web-site address). | 2-12  
| 2-13
11. Just before the text section on Geologic Hazards ends on page 229, DMG suggests the addition of a brief paragraph about new geologic information for Benicia that is currently available on the World Wide Web. This will strengthen the Safety Element and make it viable for a number of years into the future. Individuals can now download a large amount of digital information for free from both the home page of the DMG and the U.S. Geological Survey. To assist the City of Benicia, DMG has enclosed a one-page list of the Internet addresses for earthquake information in Benicia. | 2-14
12. On page 248, Policy 4.16.5, Public Awareness, there are two excellent booklets on seismic safety for residential structures and commercial businesses available from the California Seismic Safety Commission. Their phone number is (916) 322-4917 or their web-site address is [www.seismic.ca.gov](http://www.seismic.ca.gov). | 2-15
13. In Appendix B, page B-2, it is recommended that the Alquist-Priolo Earthquake Fault Zone and the active Green Valley Fault be plotted on the map that shows "Hazardous Materials Sites in the Planning Area." | 2-16

## LETTER #2

Mr. John Bunch  
February 24, 1998  
Page 5

The Department is pleased to provide this earthquake information to the City of Benicia. Questions regarding seismology and engineering geology can be answered by Senior Engineering Geologist Robert H. Sydnor at (916) 323-4399. If I can be of further assistance, contact me at (916) 445-8733.



Jason Marshall  
Assistant Director

### Attachments

cc: Robert H. Sydnor, Division of Mines and Geology

# LETTER #2

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

DEPARTMENT OF CONSERVATION  
 DIVISION OF MINES AND GEOLOGY  
 801 K Street, Mail Stop 12-31  
 Sacramento, CA 95814-3531  
 phone (916) 323-4399



## Design Response Spectrum for Benicia City Hall

USGS Vallejo 7½-minute Quadrangle  
 Site Coordinates: 38.052°N, 122.153°W

Boore et al. (1994) Class C:

	10% in 50 years	10% in 100 years
PGA →	0.601	0.743
0.10s SA	1.119	1.390
0.15s SA	1.389	1.719
0.20s SA	1.503	1.869
0.30s SA →	1.539 <i>peak</i>	1.930 <i>peak</i>
0.40s SA	1.468	1.857
0.50s SA	1.369	1.737
0.75s SA	1.116	1.424
1.00s SA	0.914	1.183
1.50s SA	0.656	0.843
2.00s SA	0.491	0.629

All values in units of g (=980.665 cm/sec/sec)

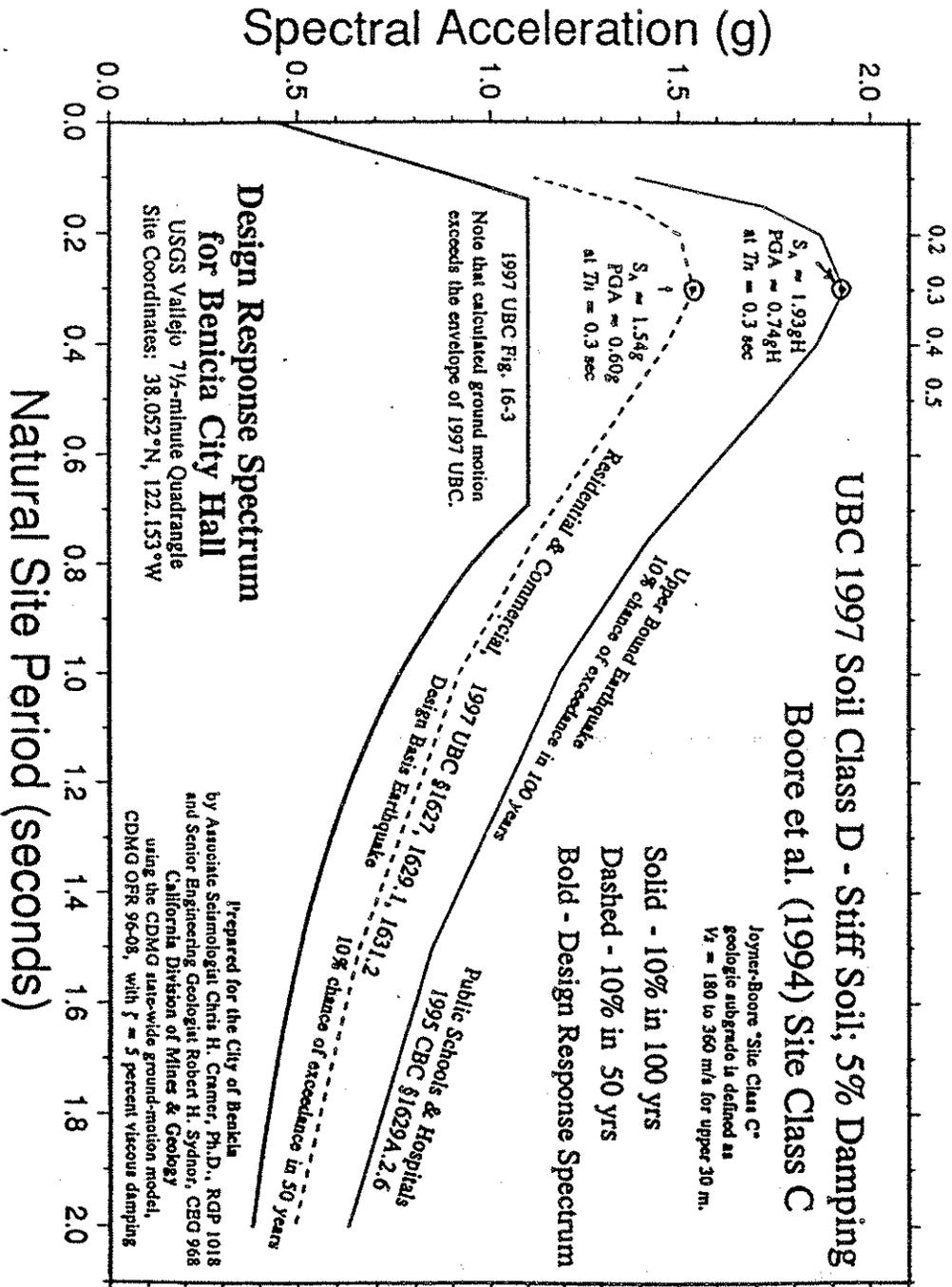
Design Response Spectrum parameters for site:

Site is in UBC97 zone 4

Distance to nearest <sup>HAYWARD FAULT</sup> UBC A fault is greater than 15 km.  
 Distance to nearest <sup>GREEN VALLEY FAULT</sup> UBC B fault is 5.4 km

Ca= 0.44000; Cv= 0.75904

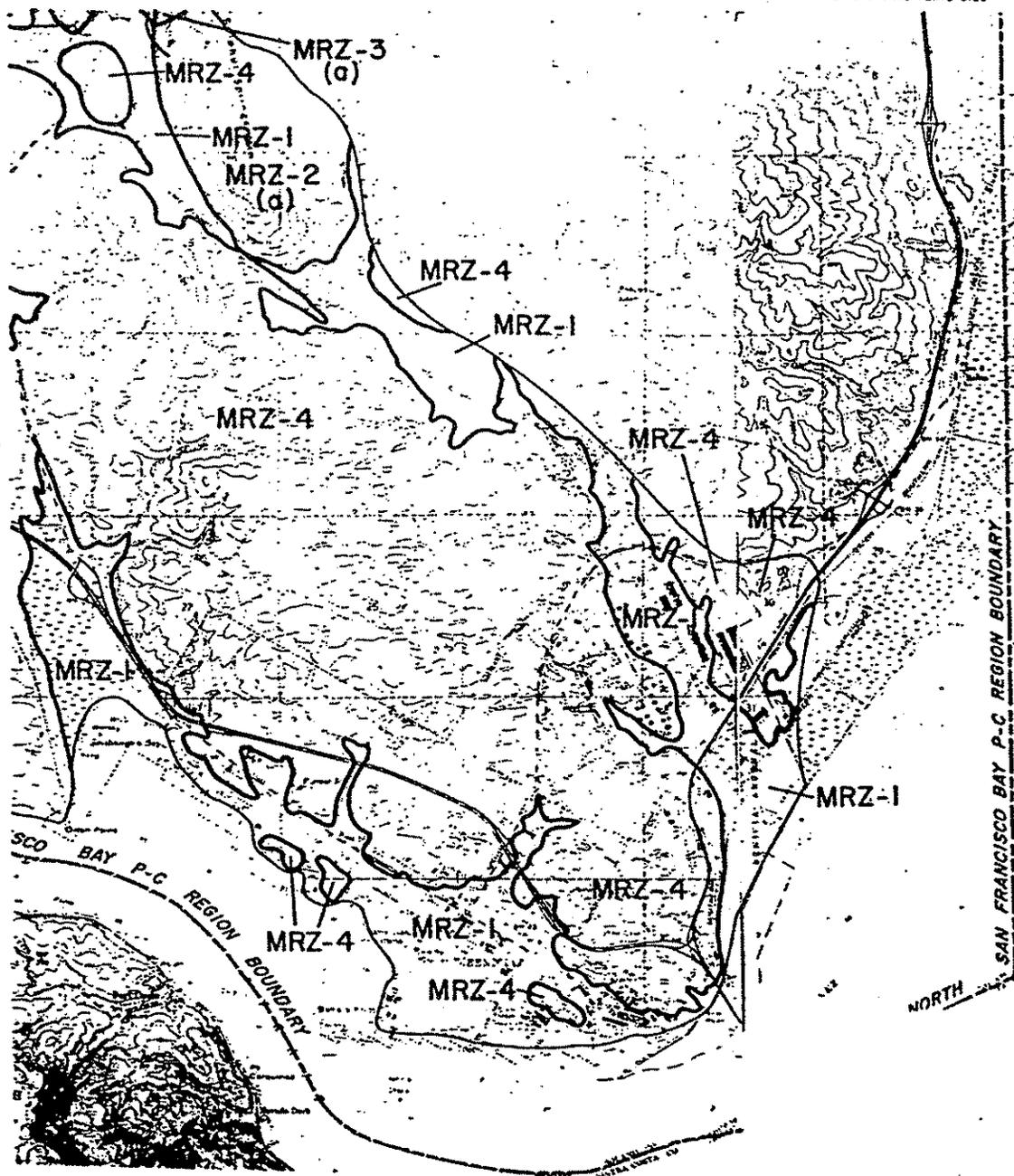
Ts= 0.69004; To= 0.13801



SMARA Mineral Resource Zones for Benicia  
Calif. Div. Mines & Geology Special Publication 146 (1987)

SPECIAL REPORT 146 PLATE 3.20

SPECIAL REPORT 146 PLATE 3.23



## LETTER #2

### Internet Addresses for Earthquake Information in Benicia *for consulting Engineering Geologists, Geotechnical Engineers, Community Planners, Developers, Realtors, City Officials, and Citizens of Benicia* compiled February 1998 by Robert H. Sydnor, Senior Engineering Geologist, CDMG

#### State of California

- California Division of Mines and Geology, Sacramento phone (916) 445-5716  
<http://www.consrv.ca.gov/dmg> (home page)
- CDMG Seismic Hazards Mapping Program, Index of 182 Faults in California  
<http://www.consrv.ca.gov/dmg/shezp/ftindex.html>
- California Strong Motion Instrumentation Program (916) 322-3105  
<http://www.consrv.ca.gov/dmg/smip/> (home page for CSMIP records)
- California Seismic Safety Commission Sacramento (916) 322-4917  
<http://www.seismic.ca.gov/> (home page)
- California Office of Emergency Services, Coastal Regional Branch, Oakland (510) 286-0895  
<http://www.oes.ca.gov/> (home page)
- Association of Bay Area Governments, Oakland (510) 464-7900  
<http://www.abag.ca.gov/> (home page for maps of seismic zoning in the S.F. Bay Area)  
Detailed maps of Benicia are available from ABAG in both paper and digital format.
- California State Government (home page)  
<http://www.ca.gov/> (to find all state agencies)

#### Academia

- Northern California Data Center, University of California, Berkeley  
<http://quake.geo.berkeley.edu/>
- Pacific Earthquake Engineering Research Center  
<http://peer.berkeley.edu/>  
(home page with links to all academic campuses, UC Berkeley, Caltech, UCLA, Stanford, Univ. Washington, Univ. So. Calif., Univ. Calif. San Diego, Univ. Calif. Davis, Univ. Calif. Santa Barbara. PEER is funded by the National Science Foundation and headquartered at Berkeley.)
- National Information Service for Earthquake Engineering  
<http://www.nisee.ce.berkeley.edu/>

#### Federal Government

- U.S. Geological Survey Menlo Park switchboard (650) 853-8300  
<http://www.usgs.gov/> (home page)
- U.S. Geological Survey, National Earthquake Information Center  
<http://www.neic.cr.usgs.gov/>
- U.S. Geological Survey, Recent Earthquakes in California and Nevada  
(Interested persons are invited to visit this web-site immediately after a significant earthquake in California is reported.)  
<http://quake.wr.usgs.gov/recenteqs/>
- U.S. Geological Survey, Frequently Asked Questions About Earthquakes (650) 329-5104 USGS Inquiries  
<http://quake.wr.usgs.gov/more/eqfaq.html>
- U.S. Geological Survey, Earth Science Publications phone toll-free 1-800-USA-MAPS  
<http://internet.er.usgs.gov/fact-sheets/index.html>
- U.S. Geological Survey, Landslide Folio, San Francisco Bay Region (including Benicia)  
<http://wrgis.wr.usgs.gov/open-file/of97-945>  
Digital version of USGS Open-File Report 97-945, containing six parts: Introduction, Shaded Relief Maps, Slides and Earth Flows, Detailed Maps of Landslides, Debris Flow Source Areas, and Rainfall Thresholds.
- Federal Emergency Management Agency  
<http://www.fema.gov> (home page)  
Links to order FEMA publications in earthquake engineering and seismic safety  
FEMA publications, telephone (800) 480-2520 or (303) 555-0123. Ask for a free copy of FEMA Publication #20, Publications Catalog, to order all other FEMA publications

LETTER 2: Jason Marshall, Assistant Director. Department of Conservation Office of Governmental and Environmental Relations. February 24, 1998.

2-1: This letter requests changes to General Plan Figure 3-3, which does not appear in the Draft EIR. Therefore, the figure has not been changed in this Final EIR. The City will consider changing it in the Final General Plan.

In addition, Chapter 3 of this Final EIR includes a new Figure F-1, which shows the areas of the Mineral Resource Zones on Sulphur Springs Mountain that are in Benicia's Planning Area.

2-2: This comment refers to text in the Draft General Plan identifying the Syar Quarry as outside the Planning Area. Since this is a comment on the Draft General Plan, it will be considered separately by the City.

The Draft EIR does not state that the Syar Quarry is outside the Planning Area. Figure F-1 in this FEIR includes a mapping of the Syar Quarry.

2-3: This comment refers to Chapter 3, Section 9 of the Draft General Plan. A more complete description of the Surface Mining and Reclamation Act will be considered for inclusion in Section 9 when the Draft General Plan is considered. Such a description has been added to page 120 of the Draft EIR, as shown in Chapter 3 of this Final EIR.

2-4: This comment requests that Policy 3.60.2 of the Draft General Plan include reference to the Division of Mines and Geology, Office of Mines Reclamation and the State Mining and Geology Board where the policy currently refers to "responsible public agencies." This reference will be considered for inclusion in Policy 3.60.2 when the Draft General Plan is considered.

2-5 The CDMG recommends that a more direct reference to the Green Valley Fault be made on page 225 of the Draft General Plan. Since this is a comment on the General Plan, it will be considered when the General Plan is considered.

In addition, a more complete reference to the Green Valley Fault has been added to the FEIR in Chapter 3.

2-6: The Probabilistic Seismic Hazards Analysis (PSHA) prepared by CDMG is a computer model for a single site, and not an entire planning area, so it is not necessarily appropriate for inclusion in a program level document

- like the Draft General Plan or this EIR. However, in response to this comment, reference to the PSHA and relevant seismic studies and analyses have been added to page 120 of the Draft EIR in Chapter 3 of this Final EIR.
- 2-7: CDMG requests that seismology concepts included in the 1997 edition of the Uniform Building Code, Chapter 16, be included in the Draft EIR. The EIR has been amended to include this information, as shown in Chapter 3 of this document.
- 2-8: The requested text regarding CDMG SP-117 and CDMG SP-42 has been added to the EIR in Chapter 3 of this report.
- 2-9: The Green Valley fault has been added to Figure 17 in the EIR, as shown in Chapter 3 of this document. The Green Valley fault will be considered for addition to Figure 4-1 in the Draft General Plan when the General Plan is considered.
- 2-10: The 1993 mapping of the Alquist-Priolo Earthquake Fault Zone has been added to Figures 17, 18 and 23 of the Draft EIR. Figure 4-1 in the General Plan, which is referenced in the comment, is the same as EIR Figure 17.
- 2-11: This comment refers to Figure 4-2 of the Draft General Plan, which does not appear in the EIR. The City will consider changes to this figure when the General Plan is considered.
- 2-12: This comment refers to information in the Draft General Plan, which does not appear in the EIR. The City will consider changes to this information when the General Plan is considered.
- 2-13: This comment refers to information in the Draft General Plan, which does not appear in the EIR. The City will consider changes to this information when the General Plan is considered.
- 2-14: This comment refers to information in the Draft General Plan, which does not appear in the EIR. The City will consider changes to this information when the General Plan is considered.
- 2-15: This comment refers to information in the Draft General Plan, which does not appear in the EIR. The City will consider changes to this information when the General Plan is considered.

- 2-16: As shown in Chapter 3 of this FEIR, the Alquist-Priolo Earthquake Fault Zone and the Green Valley Fault have been added to EIR Figure 23, which is the same as the referenced Figure B-1. Similar changes to Figure B-1 in the General Plan This comment refers to information in the Draft General Plan will be considered when the General Plan is considered.

# LETTER #3



Planning Department  
City of Benicia

MAR 4 1998

Received March 2, 1998

Mr. John Bunch, Planning Director  
Benicia Planning Department  
250 East L Street  
Benicia, CA 94510

Subject: City of Benicia Draft General Plan and  
Draft Environmental Impact Report

Dear Mr. Bunch:

Thank you for sending the San Francisco Bay Trail Project the above notice. We would like to take this opportunity to provide you with our comments.

The San Francisco Bay Trail is a proposed 400-mile multi-use shoreline trail that traverses nine counties and 42 cities. Currently the Trail is about half complete. The San Francisco Bay Trail Plan, approved in 1990, shows existing and proposed segments in the vicinity of downtown Benicia, the waterfront and marina, along East 2<sup>nd</sup> Street, and connecting to and crossing the Benicia-Martinez Bridge (I-680).

The Draft General Plan refers to the San Francisco Bay Trail (and Plan) three times - on pages 88, 127 (Figure 2-30), and 196.

1. On page 88, Chapter 2 - Community Development and Sustainability, D. Community Services, under the heading "Parks and Recreation Goals, Policies, and Programs," Program 2.49.B states: "Consider adopting as part of the Parks Master Plan: . . . the Bay Trail Plan." We applaud the inclusion of the Bay Trail alignment within your General Plan. Since consistency with adopted local plans is often a criteria for funding allocations, this will give the City of Benicia a competitive advantage in seeking funding. 3-1
2. On page 127, Chapter 2 - Community Development and Sustainability, F. Circulation, Figure 2-30: Bikeways and Multi-Use Trails. The Bay Trail is listed in the Legend and correctly located on the map. However, in the text on pages 126 and 128 (notes included), no specific mention is made of the Bay Trail. 3-2

We suggest a text reference within the Circulation chapter, referring the reader to the more complete description on page 196. 3-3

3. On page 196, Chapter 3 - Community Identity, Section D. Open Space and Conservation of Resources, the San Francisco Bay Trail is described in three paragraphs. Again, a reference back to Figure 2-30 on page 127 will assist the reader. 3-4

## LETTER #3

Mr. John Bunch  
March 2, 1998  
Page 2

4. On page 196 of the General Plan, the Bay Trail "...is to enter Benicia from the south on the new Benicia-Martinez Bridge. As yet, there is no clear plan as to how bicyclists and pedestrians will move from the bridge to the Waterfront Trail [and Bay Trail]." We would like to suggest including a policy or program commitment to coordinate future connections as the planning process for the bridge proceeds.

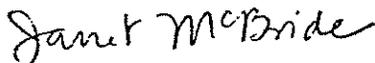
3-5

The Draft Environmental Impact Report (DEIR) includes references to the Bay Trail in the sections on open space and recreation, page 56, and transportation and circulation, beginning on page 61. We suggest the DEIR refer the reader to the text description of the Bay Trail on page 56 and to Figure 14, page 100, in both sections.

3-6

Again, we appreciate the opportunity to comment on the Draft General Plan and Draft Environmental Impact Report. Please keep us apprised of all future developments in this project. Please send documents and details to: Bay Trail Project c/o ABAG, Attn: Janet McBride, P.O. Box 2050, Oakland, CA 94604-2050. If you have questions, need additional information or maps showing the Bay Trail alignment, please call Roger Marshall, Bay Trail staff at (510) 464-7926 or me at (510) 464-7935.

Sincerely,



Janet McBride  
Bay Trail Project Manager

cc: Joe LaClair, BCDC  
Nicholas Salcedo, BCDC

File: Benicia Gen Plan & DEIR

**Letter 3**

Janet McBride, Bay Trail Project Manager. San Francisco Bay Trail. March 2, 1998.

- 3-1: This comment refers to the Draft General Plan. It states that the San Francisco Bay Trail appreciates the inclusion of the Bay Trail in Program 2.49.B. No response is necessary.
- 3-2: This comment refers to the Draft General Plan. It will be considered when the General Plan is considered.
- 3-3: This comment refers to the Draft General Plan. It will be considered when the General Plan is considered.
- 3-4: This comment refers to the Draft General Plan. It will be considered when the General Plan is considered.
- 3-5: This comment refers to the Draft General Plan. It will be considered when the General Plan is considered.
- 3-6: This comment asks that references to the Bay Trail in the Draft EIR in the Transportation and Circulation section refer the reader to Figure 14, on page 100, and to the initial description of the Bay Trail on page 56. It also asks that Figure 14 be referenced on page 56. The FEIR has been amended to reflect these changes in Chapter 3 of this document.

# LETTER #4

March 2, 1998

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

**Subject: General Plan Draft Environmental Impact Report (EIR).**

Dear Mayor and City Council Members:

The Economic Development Board met Thursday, February 26, 1998, and discussed the above document. We have the following comments on the EIR:

- x The EIR, on pages 40 - 42, does not appear to address the outcome of the Winterhawk Lawsuit. We are concerned there is inadequate information to account for the City's fair share of affordable housing. | 4-1
  
- x Allowing churches in the industrial park could have significant environmental impacts on the future economic viability of the Benicia Industrial Park (BIP). The Board concurs churches need areas where such a land use is allowed, however not in the BIP, even by use permit. Board believes the proposed change could cause significant future incompatible land uses. Industrial districts by their very nature have health and safety risks that are incompatible with encouraging assembly activities such as churches. | 4-2
  
- x City should modify the land use designation changes outlined on pages 22 - 27 as follows:
  - 3. Area 4: Do not change the land use designation in the West Channel Road area from Industrial General to Industrial Limited. Leave the existing Channel Road properties as is while continuing to change the land use designation on the balance of the property, which is located adjacent to the existing residential areas. The existing West Channel industrial properties are located in a valley quite a bit lower and farther away than the property located off Rose Drive next to the Pacific Bay Homes development. Also, the City currently has adequate means (i.e., the use permit process) for regulating development in the West Channel area, should a noxious use be proposed. | 4-3
  
  - 5. Area 5: Request the City Council take a closer, intense, look at redesignating all this property from Industrial General to Industrial Limited. The idea is to, perhaps, split the property into 5a and 5b whereby 5b land located adjacent to the residential area would be redesignated to Limited Industrial, and the balance of the property would remain under the current land use designation. | 4-4

## LETTER #4

- Careful consideration should be given to current heavy industrial uses in area #5. If these uses are necessary for the long-term operation of the refinery, those areas should retain a general industrial classification. | 4-4
15. Along First Street, and 150' on each side, the Board believes ground level should remain commercial with residential in the rear of first floor space. Residential uses should be permitted on the ground floor throughout the balance of this zoning district. | 4-5
16. The "Yuba" area should be left as-is (i.e., General Industrial), with no change in land use designation because it will likely provide space for manufacturing uses for the foreseeable future. | 4-6
- 17a. Board suggests the City Council, very carefully, consider land use impacts on adjacent Port operations. It is important to the economic health of the City that the Port remain a viable growing industrial activity in the BIP. While supportive of a broad mixed use lower arsenal designation, the Board sincerely believes this land use designation change should be thoroughly analyzed to ensure that it does not result in future adjacent incompatible land uses. | 4-7
- 17b. Board concern here, is that such land use designation may preclude future commercial use of property. In particular, the renovation and maintenance of the Commandant's Residence may require a commercial use. | 4-8

The Board respectfully requests that further analysis and review be given to the above matters before approving the DRAFT EIR. Particular attention should be given to the economic and fiscal impacts of these proposed land use changes. Also, the Board suggests the City Council and the Planning Commission solicit and consider the input of affected property owners, prior to taking any final action. | 4-9

Finally, the Board is still in the process of reviewing the DRAFT GENERAL PLAN. We anticipate forwarding separate comments on the General Plan in the future. Thank you for the opportunity to comment.

Sincerely,



Bradford MacLane  
Chair

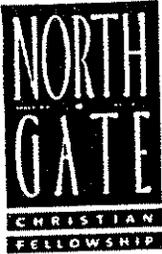
c: City Manager  
Planning Director  
Planning Commission  
Economic Development Board

## LETTER 4

Bradford MacLane, Chair, Economic Development Board, City of Benicia.  
March 2, 1998.

- 4-1: The Stipulated Settlement Agreement ("SSA") that arose out of the Winterhawk lawsuit is currently on appeal. The requirements of the SSA do not have to be addressed unless and until there is a final decision upholding the SSA. "Fair Share" numbers are discussed in Appendix C of the Draft General Plan.
- 4-2: The commentor's statement regarding the future economic viability of the Industrial Park is outside the purview of CEQA, which generally does not address economic impacts.  
Conversely, potential *environmental* impacts related to the siting of churches in industrial areas are already addressed on pages 35 of the Draft EIR. Chapter 3 of this Final EIR adds additional language to the EIR regarding potential compatibility issues
- 4-3: The comment requests that the land use designation for existing developed properties in the West Channel Road area remain General Industrial. The comment is not specific to the EIR, and will be considered when the General Plan itself is considered.
- 4-4: The commentor's request to the City Council regarding land use redesignations in Area 5 is noted. The comment is not specific to the EIR, and will be considered when the General Plan is considered.
- 4-5: The commentor's request that ground-level spaces along First Street be retained with commercial designations is noted. The comment is not specific to the EIR, and will be considered when the General Plan is considered.
- 4-6: The commentor's request that the "Yuba" area remain General Industrial is noted. The comment is not specific to the EIR, and will be considered when the General Plan is considered.
- 4-7: The commentor refers to potential land use impacts on Port operations which could result from proposed land use designation changes in the Lower Arsenal. These impacts are already noted on page 35 of the Draft EIR. More information regarding them is included in Chapter 3 of this Final EIR.

- 4-8: The commentor's concern that redesignating the Commandant's House and Clocktower would preclude future commercial use of the property is noted. The comment is not specific to the EIR, and will be considered when the General Plan is considered.
- 4-9: The commentor requests further analysis regarding the comments in this letter, but it does not appear that the commentor is requesting environmental analysis. The commentor notes particularly that economic and fiscal impacts should be considered; such impacts are outside the purview of CEQA unless they would lead to a direct physical impact. The commentor also asks the Planning Commission and City Council to seek input from affected property owners. No response is required in this CEQA document.



Planning Department  
City of Benicia

FEB 11 1998

RECEIVED

Mr. John Bunch, Planning Director  
Benicia City Hall  
250 West L St.  
Benicia, CA 94510

Re: Comments on General Plan  
and E.I.R.

February 5, 1998

Dear Mr. Bunch:

As the pastor of a church in the city of Benicia I would like to express my concern over the treatment of churches in the Draft General Plan and particularly in the Draft E.I.R. that is about to be presented to the City Council and Planning Commission for adoption.

As I've already made my concerns known to the Mayor I would also like to comment specifically to you for the record.

My concern is over the lack of consideration that has been given to the placement of churches in any of the development that has taken place over the past 10-15 years. The city has doubled in population in this time and at least 4 new churches have been established. Yet no new church buildings have been erected nor has any allowance been made by the developers or city planners for potential church sites.

5-1

Of greater concern is the lack of any pro-active planning for church facilities in the current Draft Plan. Instead of correcting this problem, there appears in fact, to be an effort to place greater restrictions on the ability for churches to purchase land and build facilities.

Most specifically we refer to Draft General Plan Policy 2.57.1: "Allow churches to locate in industrial zones only as conditional uses (i.e. with *limited term* use permits specifying standards and conditions.)" and Alternative Policy & Program of the Draft E.I.R. 2.57.1 and 2.57.A: "Churches are *not allowed* in industrial zones." and "*Remove regulations* that allow churches as permitted use in industrial zones," (italics mine). The Draft E.I.R. concludes that this alternative is the "Preferred Alternative".

5-2

Both proposals (but especially the alternative in the Draft E.I.R) would severely restrict, even deny, any church in Benicia the possibility of a new building. A church of 200-300 attenders would need an estimated 4-5 acres of land to provide for a Sanctuary, classroom space, Fellowship Hall and offices, along with the required parking spaces, driveways, landscaping and set-backs.

5-3

The only place that a usable parcel of land that size can be found in Benicia is in the areas designated on the Draft Land Use Map as industrial zones. The proposed Urban Growth boundary further limits potential sites. If these areas are disallowed where will the churches currently meeting in rented facilities find permanent homes? Where will the churches currently meeting in the industrial parks relocate?

5-4

## LETTER #5

I believe that the Draft General Plan and the Draft E.I.R are based on faulty assumptions regarding churches in industrial zones and that the conclusion stated in the Draft E.I.R. is therefore incorrect

**Assumption #1:** Churches, due to "limited funding" are "attracted to less expensive industrial locations" (Draft General Plan p.98)

The primary consideration for churches locating in industrial zones is *not* financial. While finances may be a consideration, the major issue is one of available space.

Churches require assembly space with unobstructed views. Warehouses offer such large open spaces that can be converted into church sanctuaries. There are no existing structures outside the industrial area which can accommodate such a meeting space.

It is more an issue of *availability* than *affordability*.

5-5

**Assumption #2:** Churches in industrial zones present "conflicts in terms of noise, safety or traffic." (Draft General Plan p.98)

Actually, the experience of the two churches currently meeting in industrial parks have found the opposite to be true. Because churches use their facilities primarily on the weekends or in the evening, there has been no conflicts of this sort. Both churches enjoy good relations with their neighbors and their landlords.

Having people present on the weekends can actually help reduce vandalism and other potential crime in these areas that would otherwise be vacant all weekend.

5-6

**Assumption #3:** Churches in industrial zones "have the potential to constrain the establishment or expansion of adjacent industrial uses." (p. 98)

While this may be a possibility, it is no more so than any other business which may locate in an industrial park. Certainly every business permit issued must consider compatibility with surrounding businesses.

A business that deals primarily with hazardous materials would probably not be allowed next to one that embroidered uniforms, though both would be considered industrial uses and both would be allowed in industrial zones.

The point is that these considerations can be handled on a case-by-case basis, as they can with churches, and do not need to be covered with a blanket policy as proposed in the Draft General Plan and Draft E.I.R.

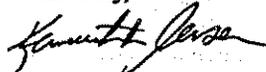
5-7

5-8

I raise these points because I believe that churches provide a very necessary thread in the fabric of a community. To ignore their importance or to summarily deny them the chance to become established and serve from a permanent home base by use of zoning laws ultimately hurts the community and goes against the goal to, "sustain the *common good* of Benicia."

I respectfully request that the E.I.R. be revised to eliminate the preference for Alternative Policy 2.57.1 and Program 2.57.A and that the use of, "limited term" be removed from the Draft General Plan Policy 2.57.1

Sincerely,



Kenneth Jensen  
Pastor

**LETTER 5**

**Kenneth Jensen, Pastor, Northgate Christian Fellowship. February 5, 1998.**

5-1: This comment states a series of concerns regarding planning considerations for church sites. It does not pertain to the analysis in the EIR itself. No response is required.

5-2: This comment refers to both Draft General Plan Policy 2.57.1 and the alternative policy considered on page 196 of the Draft EIR. To the extent that this comment relates to the policy in the Draft General Plan, it is not a comment on the EIR, and no response is appropriate in this document.

This comment points out an error on page 196 of the Draft EIR. The Draft EIR mistakenly states that the alternative Policy 2.57.1 would be environmentally superior to Policy 2.57.1 as it is currently proposed. As noted on page 35 of the Draft EIR, the adoption of Policy 2.57.1 as proposed would not constitute a significant impact, since it is consistent with existing City policy. Therefore, it is incorrect to suggest that the alternative policy would be environmentally superior. Chapter 3 of this Final EIR includes changes to page 196 of the Draft EIR to address this issue.

5-3: According to a survey of existing churches in Benicia conducted by City staff, church site sizes range from 0.22 acres to 3.76 acres. Thus it does not appear that all churches need sites of 4 to 5 acres, as suggested by the commentor.

The City has identified twenty infill sites among those listed on Figure 2-9 of the General Plan that may be suitable for the development of new churches. Most of these sites are zoned residential or commercial. The site numbers are 1, 2, 4, 5, 7, 9, 11, 12, 15, 16, 19, 25, 29, 30, 31, 32, 39, 40, 41, 42. Several of these sites are over three acres in size, so they could accommodate the larger church sizes suggested by the commentor.

5-4: The Draft General Plan does not include a requirement that existing churches in the Industrial Park relocate. Both existing and new churches could continue to operate under a use permit.

5-5: This comment refers to the Draft General Plan and will be considered when the General Plan is considered.

- 5-6: The statement referred to in the Draft General Plan does not attach noise, safety and traffic impacts to churches themselves, but argues that the presence of churches restrains industrial expansion or new industrial development because of the associated noise, safety and traffic impacts of industrial uses. A similar point is already included on page 35 of the Draft EIR, and has been expanded in Chapter 3 of this Final EIR.
  
- 5-7: Please see response 5-6 regarding potential incompatibilities between churches and industrial uses.
  
- 5-8: The proposed General Plan policy would allow for case-by-case consideration of requests for churches in industrial areas, as requested in this comment.

**Exxon Benicia Refinery  
ORAL Comments on Draft EIR for the Proposed General Plan  
City Planning Commission Meeting  
February 19, 1998**

***Introduction***

Good Evening, I'm Fred Newhouse, Community Relations Manager for the Exxon Benicia Refinery. I reside at 816 Bantry Way - here in Benicia.

***Scope of Presentation***

Tonight I'd like to share with you:

The reasons why Exxon is concerned about certain proposals in the General Plan; and

Our specific concerns with the Draft Environmental Impact Report.

We will be providing more detailed comments on the Draft EIR in writing before the March 2 deadline.

***Exxon's Position***

First, I'd like to reiterate a couple of important points that we've expressed throughout the General Plan Update process in order to put our EIR comments in context.

We believe that the City - under the current General Plan, and with existing ordinances - has significant control over what we can and cannot do at the refinery, and with the undeveloped property we own. There are two significant examples of this control:

All of the land considered for redesignation in the Draft General Plan is already subject to a master plan overlay. This master plan requirement is attached to the land, *not to our ownership*.

Under the current zoning restrictions, when we wish to consider a significant addition or modification to our equipment, we currently review the proposal with City staff, get a permit and go through an environmental review as necessary.

**Exxon Benicia Refinery**

**ORAL Comments on Draft EIR for the Proposed General Plan (Continued)**

Our operations are probably the most intensively regulated in the City. On a day-to-day basis, we must answer to at least 30 different agencies, federal, state, county and city. These agencies comprehensively and exhaustively regulate and protect:

- Air quality
- Water Quality
- Plant Safety
- Public Safety
- Transportation

We need to be able to meet *federal and state mandates* to produce cleaner fuels, protect air and water quality and make our operations even better than they are now as new technologies continue to evolve, *as they surely will.*

6-1

This is a *real problem, not a theoretical concern.* Let me give you an example.

Since 1987, we have had 10 different modifications costing a total of ~ \$300 million, all driven by environmental requirements.

For example, as recently as 1996, the State of California mandated cleaner burning grades of gasoline.

To meet this requirement, which did not increase our refining capacity by so much as a drop of crude oil, we had to add processing equipment to our refinery which covered 8 acres of general industrial land and cost \$200 million.

We anticipate similar requirements in the future.

We need *space around our refinery block* to meet these requirements.

The sweeping redesignation of all of Exxon's undeveloped land as proposed in the Draft General Plan will make it extremely difficult and uncertain for us to function in the future. By redesignating adjacent, physically and environmentally appropriate land from General Industrial to Limited Industrial, the Draft General Plan would deny space to meet future requirements.

6-2

These are more specifically, General Plan issues, and we will address them in future hearings and workshops. But they are issues that have contributed to our interest in and concern with the Draft EIR that is before you this evening.

***Why are we Concerned with the DEIR?***

Exxon is like the community in many ways:

6-3

**Exxon Benicia Refinery  
ORAL Comments on Draft EIR for the Proposed General Plan (Continued)**

We want Benicia to be the best place it can possibly be. We've been a part of this community for over 30 years now, and we, too, want clean air and water, peace and quiet, streets that are in good repair, city services that meet everyone's needs -- a good, safe place for our employees to live, work, and raise their children. By the way, approximately 100 Exxon employees and their families live in Benicia.

Without a doubt, the best attributes of Benicia, the ones this Draft General Plan strives to preserve, benefit us all and are worth preserving.

Like you, we believe in good planning for our future. And we agree that planning should include reasonable buffers between the refinery and our residential neighbors. They are as good for us as they are for our neighbors and one of the primary reasons we purchased the land back in 1975 and 1984.

We are an integral part of this community and plan to be here for many years to come. We hope that the citizens and the City leaders recognize Exxon's value to the community and our unique needs to remain viable long term.

Taking all this into consideration, the Draft EIR presents us with concerns in three areas:

1. In the environmental impacts that the Draft EIR indicates would occur if the General Plan is adopted in its current form.
2. With the alternatives present in the Draft EIR.
3. With the Noise section of the Draft EIR.

***Environmental Impacts***

The Draft EIR concludes that the proposed Draft General Plan would not result in any significant environmental impacts because redesignating will reduce the amount of residential and industrial development that otherwise might occur. Apparently, the rationale is that with less development there will be fewer impacts. This may be true in Benicia itself. But it is certainly ***not true for the region as a whole***. Where will the homes and businesses that would otherwise be built in Benicia go, and what will be the impacts of this displacement? The EIR is defective because it does not answer these questions. Indeed, it fails to even ask them!

As workers continue to be displaced because they cannot find or afford a home in Benicia, there will be adverse impacts on our greenbelts, highways and air quality as a consequence of urban sprawl and extended commutes. Exxon workers already experience this problem - about 25% of our workers live in Benicia; the rest must commute here.

6-3

6-4

6-5

## LETTER #6

### Exxon Benicia Refinery ORAL Comments on Draft EIR for the Proposed General Plan (Continued)

Similar impacts would also arise as industrial park businesses find it difficult to expand or as those who might consider moving to Benicia find it impossible to purchase appropriately zoned land.

By reducing the amount of land already devoted to industrial development, land that is adjacent or in close proximity to the existing roads, rail, water and pipeline transportation systems, you would shift industrial development to other areas where it would not otherwise, and maybe should not, occur.

6-6

This could result in the type of leap frog development we all dislike, with adverse impacts on our greenbelts, transportation systems and air quality.

None of the potential adverse impacts of displaced development are analyzed in the Draft EIR. All if these impacts should be identified and fully addressed.

6-7

Furthermore, the Draft EIR fails to acknowledge that a refinery is an enormously expensive and complex facility and is one among a limited number of similar facilities in any given region of the country. For example, the Exxon Benicia Refinery serves all of Northern California and Nevada. We produce ~10% of the gasoline consumed in California. Exxon - Benicia cannot improve its operations through the construction of processing units any where other than at, and contiguous with, the existing refinery block.

6-8

The Draft EIR fails to analyze at all potential adverse effects on Benicia, the region and this part of the country likely to arise from Exxon's inability under the Draft General Plan to meet governmental mandates, or voluntarily pursue more environmentally friendly technologies.

6-9

The Draft EIR must also analyze these potential adverse impacts.

#### **Alternatives**

As I mentioned earlier, the Draft EIR does not consider any number of sensible alternatives to redesignating our land to limited industrial.

We believe there are alternatives to consider in the Draft EIR that allow the General Plan to achieve its goals without negatively impacting our industry which is an important contributor to the City's and region's quality of life.

6-10

Instead of wholesale redesignation, these possible alternatives would take into consideration our need for space to meet technological and governmental mandates.

**Exxon Benicia Refinery  
ORAL Comments on Draft EIR for the Proposed General Plan (Continued)**

We have little or no space left within the original refinery block, and with new mandates, we would have to look at the land next to this area to make needed changes. With the land use designation recommended in the Draft General Plan, this is very problematic, and the Draft EIR does not suggest any other alternatives that would address this issue.

6-10

**Noise**

There are also major deficiencies in the noise section of the Draft EIR. The Draft EIR does not adequately describe current conditions. It does not address what future conditions are likely to exist. And it provides no foundation to demonstrate that the noise element of the Draft General Plan will mitigate noise impacts.

6-11

Consequently, we hired a professional acoustical engineer with extensive experience in the noise regulation field to help assess the reasonableness of the new requirements and to help us identify the significant issues at stake, both for Exxon and the community as a whole. The Draft EIR, for example, does not address potential conflicts between the proposed standards and steps the refinery must take during flaring in order to meet air quality requirements. Overall, our consultant feels that the City must do much more to identify the nature and magnitude of noise concern before it spells out a solution, particularly one with short term noise levels that are, at best, ambiguous. He has also concluded that the proposed guidelines will not accomplish the intent of the General Plan. Subsequently, we ask that you request staff to either revise the short-term noise requirements, provide more realism and clarity, or remove them from the document.

6-12

We will detail these shortcomings in our written comments.

**Conclusion**

We believe it is in the best interests of all of Benicia to preserve the flexibility Exxon needs to continue operating and to be the good corporate citizen many Benicians value and appreciate.

And we think these two documents - the Draft General Plan and the Draft EIR are both tools we can all use to do that.

6-13

Together, the City of Benicia and Exxon have a long, successful history of active dialogue that works to resolve concerns such as these.

We invite, and look forward to, working with City staff, the Commission and the City Council to identify alternatives that address the issues I have touched on this evening, particularly those relating to changing our land use designation, and the noise element.

## LETTER #6

### **Exxon Benicia Refinery ORAL Comments on Draft EIR for the Proposed General Plan (Continued)**

In addition, in the interest of making a positive contribution, we will make our noise consultant available to assist City staff or answer questions at a later date.

Thank you.

**LETTER 6: Fred Newhouse, Community Relations Manager for Exxon Benicia Refinery. February 19, 1998.**

- 6-1: This comment introduces Exxon's role in the community and its position in reviewing the Draft EIR. It also describes existing regulations with which Exxon must conform. No response is necessary.
- 6-2: This comment introduces Exxon's concern with the land use redesignation for its site as proposed in the Draft General Plan. It is not a specific comment on the EIR, and will be considered when the General Plan is considered.
- 6-3: This comment states Exxon's intentions to work with the City toward solutions that benefit the community. This comment does not require a response in this EIR.
- 6-4: This comment outlines Exxon's concerns about the EIR, which are further detailed in comments 6-5 through 6-11 and in comments in Letter 15. Please see responses to those comments for specific responses.
- 6-5: This comment states that the Draft EIR does not consider the impact that reductions in residential and industrial growth in Benicia would have on the region as a whole. The commentor states that limitations on residential growth in Benicia would result in regional environmental impacts such as urban sprawl and extended commutes.

CEQA requires analyses of growth-inducing impacts and cumulative impacts, but these requirements do not incorporate considerations for a complete regional analysis. It is conjectural and therefore inappropriate to determine or project where growth may occur if it does not occur in specific portions of Benicia's planning area. The commentor is correct that it is possible that the residential growth limitations could result in development in areas outside of Benicia that could be considered sprawl. However, it is also possible that this growth could occur in central Benicia, which has the potential to accommodate 400 new housing units, and in other existing urbanized areas. Such development would have beneficial environmental impacts when compared to urban development in Benicia's North Area, where it would require extensive infrastructure extensions, long commute trips, and impacts on visual and biological resources. Since there is no way of knowing exactly where new development outside of Benicia will occur, and since it is quite possible that the development will

occur in areas that are environmentally beneficial relative to the areas from which development would be displaced, it would be inappropriate to identify negative impacts from the redesignation of the lands in question.

- 6-6: This comment suggests that the proposed General Plan would displace future potential industrial development to areas that are environmentally inferior to Benicia's industrial areas. However, it is erroneous to assert that future potential industrial development will be displaced, despite the fact that some lands' industrial designations would be changed. There are two main reasons for this.

First, there are few differences between the uses allowed by the General Industrial and Limited Industrial designations. The uses that would be subject to different permitting requirements from one designation to the other are the "manufacture, assembly and packaging of goods and products from extracted and raw materials" (which includes refinery operations), as well as research and development facilities. This leaves nine other uses with permitting requirements that would remain unchanged in industrial zones. Moreover, it should be noted that expansion of Exxon's core plant and tanks already requires a use permit, which would continue to be the case under the new Limited Industrial designation, so there would be no change in permitting requirements for refinery modifications or expansions under the new land use designation.

Second, the reductions in allowed Floor Area Ratios (FAR)s are in keeping with the types of development actually being built in Benicia and the Bay Area. In the proposed General Plan, allowed FAR's for the General Industrial and Limited Industrial areas would be changed to 0.70 and 0.60, respectively. These FAR's were arrived at by researching projects approved by the City in the industrial areas since 1990, and surveying communities identified as Benicia's main competitors for industrial development. Of the thirty projects approved in Benicia since 1990, only five have had FAR's of 0.40 or greater, and none has exceeded 0.60. The communities that were surveyed for industrial FAR's included Fairfield, Vacaville, American Canyon, Richmond, South San Francisco and Tracy. Of those with such standards, allowed industrial FAR's range from 0.25 to 0.70. Thus the reduction in allowed FARs would be unlikely to inhibit future industrial growth in Benicia, since the FARs would allow development consistent with that already being built in Benicia and in other communities.

Moreover, even if the assertion regarding potential displacement were true, then it would still be impossible to ascertain whether the impacts of such displacement would be positive or negative, since it would be impossible to know where displaced development would occur. This is explained further in the response to comment 6-6, above.

6-7: See responses to comments 6-5 and 6-6, above.

6-8: This comment states that the Draft EIR does not discuss the regional significance of Exxon's Benicia refinery. Information on the regional significance of a specific industrial land use is not particularly relevant for a General Plan EIR.

6-9: This comment states that Exxon can not improve its operations through the construction of processing units anywhere other than at, or contiguous with the existing refinery block, which implies that Exxon may not be able to do so under the proposed General Plan. However, there is no proof offered that this will be the case.

It is important to note that the new Limited Industrial designation proposed in the General Plan would not abut the currently developed Exxon refinery.

Moreover, Exxon could also develop new refinery operations under a use permit within the proposed Limited Industrial designation, which allows for "manufacture, assembly and packaging of goods and products from extracted and raw materials." Under existing regulations, Exxon must already obtain a use permit for expansion of its operations, so this does not constitute a significant change.

Finally, it would be speculative to attempt to predict how much land Exxon might need for future voluntary or mandated plant expansions or improvements. It is conceivable that such expansions or improvements could take more land than Exxon currently owns, in which case Exxon's entire argument would be moot. It is also conceivable that such expansions or improvements would require only the amounts of land that will remain in the General Industrial designation.

6-10: This comment states that the Draft EIR does not consider an adequate range of alternatives to redesignating Exxon's land as Limited Industrial. This assertion is incorrect, however, since pages 179 through 195 of the Draft EIR actually analyze three different alternatives for the Exxon site, including no change in the designation, redesignation to Industrial Park,

and redesignation to Open Space. CEQA requires the evaluation of a range of reasonable alternatives; it does not require the analysis of every conceivable alternative.

- 6-11: The Draft EIR describes the existing noise environment in Benicia based upon a community noise survey, which was contained in the General Plan Noise Background Report, which is hereby incorporated into this EIR by reference. The community noise survey included 12 community noise measurement sites. Four of the sites were monitored continuously for a period of 24-hours, and eight of the sites were short term monitoring sites, which were monitored 3 times during day and night periods. In addition, noise measurements were conducted for industrial facilities, aircraft operation overflights, railroad operations, and roadway traffic. The noise measurement program was consistent with the Office of Planning and Research Guidelines for the Preparation of a General Plan Noise Element.

To the extent possible, the Noise Section of the EIR predicts future noise levels within the community. The EIR predicts future traffic and railroad noise levels. There are no predictive means of determining future industrial types of noise sources. Therefore, there is not a quantitative discussion on the future industrial noise within the community. However, the General Plan does include performance standards for determining land use compatibility which, if adopted, would assist the City in preventing incompatible land uses from encroaching upon one another.

- 6-12 This comment makes general comments regarding the adequacy of specific noise policies in the Draft General Plan, but it does not support the assertions. The City believes that the proposed noise policies are not ambiguous and that they will meet the goals articulated in the General Plan. No change appears necessary based on this general comment.

This comment also suggests that the noise policies might not allow for Exxon and other industrial users to continue its current operations. However, the noise policies regarding non-transportation uses (on Page 274 of the General Plan) would apply to *new* industrial and noise-sensitive uses, but would not apply to existing uses such as Exxon's existing plant.

- 6-13: This comment concludes the letter, re-stating Exxon's interest in working with the City to address concerns related to the General Plan and EIR. No response is required.

**LETTER #7**

**ROBBINS PALMER & ALLEN LLP**

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Planning Department  
City of Benicia

FEB 25 1998

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VIA FAX: (707) 747-8121

ORIGINAL TO FOLLOW

Robert G. Allen  
John S. Boaz  
Thomas V. Bret  
Mark L. Cederborg  
Kenneth G. Hecht, Jr.  
Hubert Lencowski  
Richard G. Logan, Jr.  
Thomas A. Palmer  
John C. Rickson  
William C. Robbins III  
Jennifer L. Sipes  
Christopher P. Swenson

John Bunch, Planning Director  
City of Benicia  
City Hall  
250 East L Street  
Benicia, CA 94510

Re: Syar Industries, Inc.  
Draft Environmental Impact Report, January 1998  
Benicia General Plan

Dear John:

We represent Syar Industries, Inc. and in that capacity are commenting on the above-referenced draft Environmental Impact Report ("DEIR").

Syar Industries, Inc. ("Syar") is an owner and operator of 470 acres in Solano County within Vallejo's sphere of influence, of which 260 acres is permitted by Solano County for the Lake Herman Quarry operations.

Syar owns an additional 1,246 acres in Sky Valley, Solano County (Benicia's Northern Area), most of which is within Benicia's sphere of influence. The 48 acre "Gomez property" was purchased in 1982, the 352 acre "Daniels property" was purchased in March 1988 and 846 acres of the "PG&E property" was purchased in February 1996. These properties were acquired primarily for the eventual expansion of the Lake Herman Quarry operations within the area designated by the State of California as a "mineral resource of regional significance".

Of Syar's holdings within Benicia's sphere of influence, approximately 300 acres are proposed to be used in its expansion of the Lake Herman Quarry. An efficient mining plan for the quarry operation requires continued working eastward from the present face on Sulphur Springs Mountain and lowering the ridgeline on the west side of Sky Valley. To do

7-1

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February 24, 1998

Page 2

so will require a use permit, reclamation plan and environmental impact report approved and certified by Solano County.

State planning law (Government Code §65300 et seq.) requires that a city prepare and adopt a comprehensive, long term, general plan for the physical development of the City, and of any land outside its boundaries which, in the planning agency's judgment, bears relation to its planning. The legislature intends that the General Plan and elements and parts thereof compromise an integrated, internally consistent and compatible statement of policies. The General Plan shall include the following elements (§65302, Emphasis added):

A. A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources . . .

D. A conservation element for the conservation, development and utilization of natural resources, including . . . minerals and other natural resources .

The conservation element is a mandatory element of the General Plan which must also be interpreted in light of the policies contained in the Surface Mining and Reclamation Act of 1975 (Public Resources Code §§2710 et seq. - SMARA).

In adopting SMARA, the California Legislature found and declared that the "extraction of minerals is essential to the continued economic well being of the State and the needs of society" and that it was its intent "to create and maintain an effective and comprehensive surface mining and reclamation policy" to assure that "the production and conservation of minerals are encouraged" (§§2711 and 2712).

The purpose of the legislation was to prevent mineral resources from being lost due to premature development of incompatible land uses (§2790).

After numerous public hearings, the Lake Herman Quarry deposit was, by regulation, designated by the California State Mining and Geology Board as an "area of regional significance" as this term is defined in §2726. By reason of this "designation", Benicia shall establish a "mineral resource management policy", to be incorporated into its General Plan, which will recognize mineral information classified by the state geologists;

7-1

7-2

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February 24, 1998

Page 3

the system of management of land uses which affect areas of regional significance; emphasize the conservation and development of identified mineral deposits; submit its resource management policies to the State Mining and Geology Board prior to adoption; and, prior to permitting a use that would threaten the potential to extract minerals in an area, conduct an evaluation as required by State law (§2762).

7-2

Benicia's land use decisions must be in accordance with its mineral resource management policies and shall, in balancing mineral values against alternative land uses, consider the importance of these minerals to their "market region as a whole" and not just the importance of alternate land uses to Benicia's area of jurisdiction or planning (§2763).

In light of the above facts, the DEIR is insufficient or inaccurate in the following respects:

1. While the draft General Plan (Public Hearing Draft of December 15, 1997 and to which we will comment under separate cover) references the Syar Quarry and the above-mentioned regionally significant mineral resource. However, unless we are mistaken, neither the designated regionally significant resource nor SMARA were mentioned anywhere in the DEIR.

- The DEIR must contain a discussion of the purpose and intent of SMARA, include a map locating the designating regionally significant mineral deposit and address the conservation and development of the identified mineral deposit. While the Draft General Plan referenced the mineral resource zone, it was only identified on Figure 3-3, labeled Hydrology at the top and Hydrology and Mineral Resources at the bottom (this was obviously a hydrology map rather than a "natural resources" map). In addition, the "Syar Quarry" was located on the wrong side of the Planning Area Boundary.

7-3

2. Point Source Pollutants. (page 126) The opening paragraph in this section states:

"Point sources of surface water contamination comprise readily identifiable sites of pollutant dispersal. Typically, such sites include wastewater treatment facilities, hazardous waste storage areas, landfills, mine sites and commercial and industrial operations."

7-4

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February 24, 1998

Page 4

While we do not disagree with the accurateness of this statement, to our knowledge, there are no "mine sites" located within the planning area. However, the statement is of great concern to Syar in light of the inaccuracies contained in the third paragraph of this section which states:

"Syar Quarry discharges untreated and partially treated wash water from its shop equipment and maintenance activities into the principal western tributary to Sulphur Springs Creek. The Quarry has holding ponds on site, which allow for settling out of some contaminants, but these ponds could not be expected to catch all runoff or to hold large amounts of runoff during storms."

7-4

Perhaps the absurdity of this statement is simply reflected by the location of the "X" marking the Syar Quarry on Figure 3-3 in the Draft General Plan document. The permitted Syar Quarry, for which Syar has all required storm drain permits, is not located within the drainage of Sulphur Springs Creek. This fact would be readily ascertained not only by a view of the property, but by a simple analysis of any topographic map. Furthermore, as the permitted Quarry expands to the east, all drainage for the active quarry operation will continue to drain into Vallejo's watershed and only a small portion, if any, from the eastern slope will drain into Sulphur Springs Creek.

7-5

3. Ground Water Quality. (page 127) As discussed above, there is no, nor will there ever be, any direct surface water contamination from the Syar Quarry to Lake Herman or Benicia's groundwater supply.

7-6

4. The DEIR in addressing Visual Quality (page 107) states that land use changes proposed by the General Plan (i.e., eliminating all development in the Northern Area) would also serve greatly to minimize the potential for adverse impacts to visual resources. As noted, most of the future development potential for lands north of Lake Herman Road have been eliminated, which will protect a significant amount of open space land outside the identified Urban Growth Boundary. To additionally restrict any extraction of the regionally significant natural resource within Benicia's planning area is contrary to the purposes of the Surface Mining and Reclamation Act. Instead, the visual impact of an expanded mining operation should be addressed by the City of Benicia, both on and off site, at such time that Syar's use permit is being considered.

7-7

It has always been Syar's goal to conserve and develop the designated regionally significant mineral resource and work with all of the surrounding communities (Vallejo,

**LETTER #7**

**ROBBINS, PALMER & ALLEN LLP**

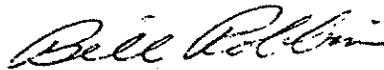
February 24, 1998  
Page 5

Benicia and Solano County) to achieve a "fair balance" between the operation and expansion of the quarry and proposed uses in the surrounding areas. Syar has consistently stated over the years that it intends to seek a permit for the reasonable expansion of the quarry operation into the regionally significant mineral deposit, which area of expansion will include a small portion of the property that Syar owns. Any expansion will proceed from the west to the east with a lowering of Sulphur Springs Mountain. The exact terms of this plan will be addressed by Syar when it makes its application for a use permit from Solano County.

Kindly signify your receipt of this letter by endorse filing and returning the copy in the envelope provided.

Very truly yours,

**ROBBINS PALMER & ALLEN LLP**



William C. Robbins III

WCR:cd

cc: James M. Syar  
Ralston Roberts, Esq.  
Edward M. Schaffnit  
John Perry

## LETTER 7

William C. Robbins III, *Robbins, Palmer & Allen LLP*. Representing Syar Industries. February 24, 1998.

- 7-1: This comment introduces Syar Industries, their holdings in Benicia and the laws and regulations that apply to it. No response is required.
- 7-2: This comment asks that the City of Benicia incorporate a "mineral resource management policy" into the General Plan, due to the fact that the Lake Herman Quarry was designated an "area of regional significance" by the California State Mining and Geology Board. The comment states that land use decisions must be in accordance with this management policy. This comment will be considered when the General Plan is considered.
- 7-3: As noted in the response to comments 2-1, 2-2 and 2-3, page 120 of the Draft EIR has been modified in Chapter 3 of this Final EIR to include the requested discussion and map of the Syar Quarry and the Mineral Resource Zone.
- 7-4: There are two separate quarry sites that comprise the Lake Herman Quarry. The northernmost site currently drains to Blue Rock Springs Creek and into the City of Vallejo. The southernmost site, which is currently inactive, drains to the west fork of Sulphur Springs Creek and eventually to Lake Herman. Moreover, according to the commentor's own written statements, the expansion plans for the quarry will extend operations eastward into/onto the western slopes of Sky Valley, which is drained by the principal, eastern fork of Sulphur Springs Creek. Thus even if it is true that current quarry operations do not drain into Benicia, there is no doubt that the quarry has the capacity to drain to Sulphur Springs Creek and contaminate water in that watershed.
- 7-5: The commentor states that an "X" shown in Figure 3-3 of the Draft General Plan locates the quarry outside of the Sulphur Springs Creek Watershed. However, Figure 3-3 (which does not appear in the draft EIR) actually locates the quarry inside the watershed boundary. Moreover, the figure's delineation of the watershed boundary is not complete on the northern side.
- 7-6: According to the Sky Valley DEIR (Ogden Environmental Services July, 1992), the main Syar Quarry site which drains toward Vallejo was

identified as one of the regional facilities (within one mile of Sky Valley) with potential to impact surface water (See Figure 3-1). No distinction was made in the text as to which quarry site this potential referred to. The DEIR discussion (p. 3-43 to 44), referred specifically to Solano County records citing a complaint issued in January 1991 to Syar Quarry regarding improper disposal of wash water from truck cleaning and shop washing operations. Syar responded to the complaint. This episode makes it clear that a potential exists for such discharges wherever toxic contaminants are used and stored. For example, Table 3-4 identified Syar Quarry as a "site with potential to impact ground water," citing an underground storage tank leak documented in an April 1988 memo from the Solano County Department of Environmental Management. The DEIR reported that the quarry generated 60 gallons of solvents and 1,150 gallons of waste oil per year. Regardless of the level of on-site supervision of these wastes, their presence indicates some, even if a small, potential for unforeseen discharge into surface or groundwaters. Thus, the categorical nature of the comment seems unsupportable.

- 7-7: As noted on page 116 of the General Plan, under General Open Space, the list of allowable Open Space uses includes mineral extraction in State-designated mineral resource areas only. Therefore, designating the Northern Area as Open Space would not restrict mineral resource extraction for the Syar Quarry area. In addition, the City is considering removing the words "or audible" from Policy 3.60.1 in the General Plan, so that this policy no longer precludes expansion of the quarry.

If additional mining on Syar lands inside the City of Benicia is proposed, the City would evaluate its visual impacts prior to approving it, as suggested in the comment.

**LETTER #8**



**Legal Services of Northern California**  
Solano County Office  
1810 Capitol Street • Vallejo • California • 94590  
(707) 643-0054 • (800) 270-7252 • Fax: (707) 634-0144

Planning Department  
City of Benicia

FEB 26 1998

**RECEIVED**

Hand-Delivered

February 26, 1998

City of Benicia Planning Commission  
John Bunch, Planning Director  
City of Benicia Planning Department  
250 East L Street  
Benicia, CA 94510

RE: Planning Commission Public Hearing: February 26, 1998  
Proposed General Plan: Draft EIR

Dear Planning Commissioners and Mr. Bunch:

On behalf of the plaintiffs/petitioners of *Winterhawk, et al. v. City of Benicia*, we submit the following comments with regard to the City's Draft Environmental Impact Report for the proposed General Plan. It is our position that the Draft Environmental Impact Report (DEIR) fails to consider significant environmental impacts and further fails to consider reasonable alternatives or mitigation measures that would avoid or reduce these significant impacts of the proposed General Plan.

The DEIR acknowledges that the proposed General Plan would cause a significant impact related to population and housing if, among other things, it (1) creates population growth rates which would outpace the ability of the City to provide required services or (2) has an adverse effect on the jobs-to-housing ratio which could indirectly increase traffic, air quality emissions and noise. (DEIR, p. 40.) Yet, the DEIR fails to discuss the following significant impacts resulting from the issues more fully discussed below:

- **The proposed General Plan creates population growth rates which would outpace the ability of the City to provide required services.**

*Under the proposed General Plan, the City's social service programs will not be able to serve the increasing number of households who will become homeless because of the lack of affordable housing.*

**8-1**

Since the General Plan fails to make any attempt to meet its fair share numbers and to mitigate the serious affordability problems identified in the General Plan, the proposed General Plan will result in large numbers of Benicia families becoming homeless (including families headed by single mothers, seniors and disabled persons.) There are no policies or programs in the General Plan to mitigate this result. For example, the General Plan does not include any schedule of action for programs designed to promote and facilitate the development of lower income housing. There is no provision for homeless shelters or other emergency shelter services in the General Plan; there is no land adequately zoned by right to meet the needs of the homeless population. In addition to immediate housing needs, there is no analysis of the special needs which people face after becoming homeless: loss of jobs, hunger, lack of public facilities (for personal bathing needs), increased health problems and increased reliance on social service agencies.

8-1

- **The proposed General Plan has an adverse effect on the jobs-to-housing ration which could indirectly increase traffic, air quality emissions and noise.**

*Because of the lack of affordable housing in the City, there will be an increasing number of Benicia workers who will have to commute into the City to work.*

The DEIR acknowledges that there are already significant impacts regarding traffic and circulation. (DEIR, p. 10-11.) The DEIR admits that there is a jobs/housing imbalance which is substantiated by the fact that about "66% of all jobs in Benicia are filled by residents of other Bay Area counties." (DEIR, p. 40.) Much of the existing employment is identified as what is traditionally low-wage jobs. (DEIR, pg. 37.) Nonetheless, the DEIR fails to provide any analysis of how the jobs/housing ratio will become increasingly imbalanced as Benicia workers are forced to move out of the City to find housing they can afford.

8-2

**Discussion**

The DEIR acknowledges that housing affordability remains a problem for those whose incomes are less than the median income. (DEIR, p. 39.)<sup>1</sup> The DEIR confirms that very low income families can only afford to live in studio or one bedroom apartments

8-3

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<sup>1</sup> The area median income is \$47,800 for a family of four. (General Plan, C-11.)

## LETTER #8

--- regardless of the size of their family. (*Id.*) The DEIR verifies that low income households can only afford one and two bedroom apartments. (DEIR, p. 40). Indeed, upon close review, the proposed General Plan concedes that there were only 4 two-bedroom units available for low-income families in 1995.<sup>2</sup> Yet, the DEIR provides no analysis or mitigation measures of the significant impacts created by the existing lack of affordable housing.

8-3

The DEIR acknowledges that the General Plan requires downzoning of 214 acres of medium density residential land (i.e. 12 acres to open space and 202 acres to single family residential). However, even though medium and high density zoning is necessary to meet its increasing regional affordable housing needs, the DEIR fails to analyze the significant impact of the proposed downzoning or to provide any mitigation measures.

8-4

Moreover, the DEIR provides no discussion of the lack of a site analysis in the General Plan. It also fails to discuss the lack of available sites in the City, zoned at appropriate densities, to meet the needs of its lower-income population. This is especially important since there has essentially been no new housing developed for very low and low income families in the City of Benicia since 1986. While the DEIR appears to concede that the City is not meeting its fair share housing goals, it determines that this is a less than significant impact because the fair share housing goals are only "guidelines" and such needs only need to be met for a five year period. (DEIR, p. 41.) The DEIR is wrong: the General Plan must identify adequate sites with appropriate zoning to meet all of its projected fair share housing needs (893 low and very low income units) and these projected housing needs are statutorily valid through the year 2001.<sup>3</sup> Nonetheless, the General Plan projects that the City needs only 163 more low and very low income housing units through the year 2000 --- only 18% of the required 893 units. The DEIR fails to address this impact.

8-5

8-6

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<sup>2</sup> See our letter to the City of Benicia Planning Commission & City Council dated February 11, 1998 re: the Proposed Housing Element Update, Pages 14 & 15 (attached hereto as Attachment B for your convenience.)

<sup>3</sup> For a detailed analysis of this legal requirement, we refer you to (1) Letter from Department of Housing and Urban Development, Division of Housing Policy Development to Mr. Otto Wm. Giuliani dated February 13, 1998 re: Review of the City of Benicia's Draft Housing Element (*See Appendix*); and (2) Letter from Legal Services of Northern California to City of Benicia Planning Commission & City Council dated February 11, 1998 re: Proposed Housing Element Update (*See pages 7-8.*) Both of these letters are attached hereto and incorporated herein.

## LETTER #8

For the above reasons, it is our position that the DEIR ignores significant environmental impacts created by the proposed General Plan. These significant impacts must be sufficiently analyzed and mitigated.

On behalf of our clients, we incorporate into these comments all verbal and written comments made to the City regarding the Draft EIR.

Finally, and pursuant to Public Resources Code §21167(f), we request a copy of subsequent approval or determination of the project.

Very truly yours,

  
S. Lynn Martinez  
Attorney at Law

\slm

cc: Clients  
Heather McLaughlin, City Attorney  
Western Center on Law & Poverty  
California Affordable Housing Law Project

LETTER #8

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY

PETE WILSON, Governor

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

1200 THIRD STREET, ROOM 438  
P.O. BOX 192053  
SACRAMENTO, CA 94153-2053  
(916) 323-3176 FAX (916) 327-2643



February 13, 1998

Mr. Otto Wm. Giuliani  
City Manager  
City of Benicia  
City Hall  
250 East L Street  
Benicia, California 94510

Dear Mr. Giuliani:

RE: Review of the City of Benicia's Draft Housing Element

Thank you for submitting Benicia's draft housing element, received for our review December 31, 1997. As you know, we are required to review draft housing elements and report our findings to the locality pursuant to Government Code Section 65585(b).

We have also received a review of the element from the Solano County Legal Services of Northern California office. We have considered this material pursuant to Government Code Section 65585(c).

Telephone conversations with Mr. Brian Strong and Mr. Nathali Knox, the City's consultants and Mr. John Bunch, the City's Planning Director, on February 11, 1998, assisted our review. This letter and Appendix summarize the results of conversations and our review.

Benicia's housing element was revised to achieve consistency with the City's new General Plan. The new element updates statistics and makes a number of program changes as a result of community input. The element continues to include several programs to facilitate the development of housing for lower income households. However, there are several areas which require revisions to bring the element into compliance with State housing element law (Article 10.6 of the Government Code). For example, the element still fails to include the City's approved share of the regional housing need by income level and fails to identify sufficient sites to accommodate that need. The Appendix contains a more thorough discussion of these and other issues.

We remain committed to working with the City to assist you in developing a housing element that complies with State law and recognizes and addresses local needs and conditions and are available to visit the city to help address any outstanding issues. We appreciate

Attachment: **A**

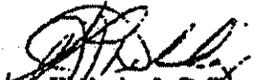
# LETTER #8

Mr. Otto Wm. Giuliani  
Page 2

the cooperation of Messrs. Strong, Knox and Bunch during the course of our review. If you have any questions concerning the above, or would like additional assistance in the revision of your housing element, please contact Camilla Cleary, of our staff, at (916) 323-3185.

In accordance with their requests pursuant to the Public Records Act, we are forwarding a copy of this letter to the individuals listed below.

Sincerely,



Kimberley L. Dellinger  
Deputy Director

cc: John Bunch, Planning Director, City of Benicia  
David C. Early, Design Community Environment  
Naphthali Knox, Consultant, Naphthali H. Knox & Associates Inc.  
Kathleen Mikkelsen, Deputy Attorney General  
Bob Cervantes, Governor's Office of Planning and Research  
Juan Acosta, California Building Industry Association  
Kerry Harrington Morrisoni, CA Association of Realtors  
Marc Brown, California Rural Legal Assistance Foundation  
Rob Wiener, California Coalition for Rural Housing  
Susan DeSantis, The Planning Center  
Dara Schur, Legal Services of Northern Calif.  
David Booher, California Housing Council  
Sue Hestor, Attorney at Law  
Gary Hambly, Building Industry Association  
Gary Binger, Association of Bay Area Governments  
Clark Blasdel, Northbay Economic Development  
S. Lynn Martinez, Legal Services of Solano County

APPENDIX

City of Benicia

The following changes would bring Benicia's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change we cite the supporting section of the Government Code. Where particular program examples or data sources are listed, these are suggestions for your information only. We recognize that Benicia may choose other means of complying with the law.

A. Housing Needs, Resources, and Constraints

1. *Quantify the locality's projected needs for all income levels. The projected need should include the locality's share of the regional housing need (Section 65583)*

As mentioned in our previous reviews, in particular our letter of April 12, 1996, the element should include the City's share of the regional housing need as determined by the Bay Area Association of Governments (ABAG) in the January 1989 Housing Needs Determination plan. Yet, the element includes a revised/updated regional housing needs allocation. The revised needs, generally, were appropriately calculated using ABAG's methodology. However, as previously stated, there is no statutory authority to approve use of these calculations.

We appreciate the City's frustration with the lack of more current, accurate projections. As you know, we have worked with your representative, Senator Maurice Johannessen, and will continue to work with you to try to resolve the problem. You may, however, update the numbers to reflect additions to the stock since 1988. The element should identify the methodology used to estimate the household income groups served by the new development. From discussions in the element, it appears that most development addressed the needs of above moderate-income households.

B. Housing Programs

1. *Include a program which sets forth a five-year schedule of actions Benicia is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, the utilization of appropriate federal and State financing and subsidy programs when available, and the use of the redevelopment agency's Low and Moderate Income Housing Funds (L&M Fund), if available (Section 65583(c)).*

Unlike previous housing elements, this draft fails to identify a target date for implementation (a five year schedule of actions). As stated above, the program should set forth a schedule, "timeline" (Webster) of actions... to implement the program. An implementation target date also demonstrates a commitment by the

## LETTER #8

City to work to address housing need and provides a benchmark from which to evaluate progress. Please refer to your previous housing element for an adequate example of a schedule of program actions.

To facilitate the development of affordable housing, the City provides an additional density bonus to developers taking advantage of State density bonus law. The element should clarify that this City density bonus is triggered by use of State density bonus law and is only available in that situation. This is important since, state density bonus law prohibit the provision of any density bonus that would undermine the provision of density bonuses for lower income households.

- 2. Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, emergency shelters, and transitional housing in order to meet the community's housing goals as identified in subdivision (b). Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

The City has a need to accommodate 893 units for households of lower-income. The element only identifies 3.74 acres available for multifamily high density development, capacity 57 units, 3.82 acres for medium density development, capacity 53 units. The City proposes to accommodate the balance of sites by using mixed use developments, allowing live/work situations, and developing second units.

Even given these programs, the element is unable to demonstrate sites to accommodate its need. There is a shortfall of over 450 units. Therefore, the City should expand its existing sites programs or continue to develop programs to provide the opportunity to accommodate this need. For example, the City could expand its mixed use program to cover additional sites or to allow residential development behind commercial uses, or stand alone residential uses. Other options could include rezoning some medium density sites for higher uses; the maximum density allowed could be increased, perhaps some vacant single family sites near arterials could be zoned for multifamily use. A review of land use designations might show that some non-residential land could be re-designated for residential use.

We will send, under separate cover, additional examples of site programs the City could consider. We would be happy to work with you to find alternative approaches that reflect Benicia's unique conditions and constraints.

For your information, because the land inventory does not identify adequate sites, the element should identify sites that allow multifamily uses by right. The statute

## LETTER #8

specifies that, for purposes of this provision, "use by right," means the use will not require a conditional use permit. This requires zoning regulations to allow multifamily uses by administrative or quasi-judicial interpretation of zoning statutes and other ordinances (and not subject to legislative decision).

3. *If appropriate, include program actions to address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, or development of housing (Section 65583 (c)(3)).*

We note that Program 2.28.D will "amend the City permit fee schedule to the extent that it affects small, attached single-family dwellings" The element also demonstrate that fees per square foot for apartments were also higher than those for single family detached units. The City should consider including apartments in this program.

LETTER #8



Legal Services of Northern California  
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Hand-Delivered

February 11, 1998

City of Benicia Planning Commission  
City of Benicia City Council  
Heather McLaughlin, City Attorney  
250 East L Street  
Benicia, CA 94510

RE: Proposed Housing Element Update (December 15, 1997)

Dear Planning Commission, City Council and Ms. McLaughlin:

On behalf of our clients, we have reviewed the City's proposed "General Plan" update to ensure compliance with the *Winterhawk, et al. v. City of Benicia* Stipulated Judgment and with applicable state law. As you know, the *Winterhawk* plaintiffs and the City intended to structure a settlement agreement which would actually provide much-needed affordable housing to the lower-income community. The parties also designed the settlement terms to compliment the policies and programs set forth in the City's *existing* Housing Element (adopted in 1991) anticipating that, once the City complied with the settlement, the Housing Element would then comply with state law.

First, we note that the City's draft "General Plan" does not include the *specific* elements required under California Government Code §65302. Rather, the City's General Plan includes a mixture of "chapters" or "sections" which the City purports will generally satisfy its general plan requirements under state law. Specifically, with regard to the state-mandated Housing Element, the City designates the following parts of the General Plan to allegedly satisfy its housing element requirements: a portion of Chapter 2 entitled "Residential Land Use", Appendix C which the City states will not be "adopted as policy" and a portion of Chapter 3. (See Draft General Plan, pp. 7-11.) In addition, the City relies on its "Technical Appendix" which is not included or provided as part of its draft General Plan. (*Id.*)

Attachment: **B**

## LETTER #8

Accordingly, please be advised that these comments are only preliminary and additional comments may follow after complete review and analysis of the entire draft General Plan. In addition, these comments do *not* address compliance with the *Winterhawk* settlement agreement with regard to the City's Land Use Element nor does it address the legal adequacy and/or consistency of the General Plan as a whole. Additional comments will also be submitted with regard to these issues.

The comments which follow focus on the interests of not only the *Winterhawk* plaintiffs, but also on the interests of our client community --- including the poorest people in Benicia. As more fully discussed below, our preliminary review reveals that the "housing element" portions of the General Plan fail to comply with both the *Winterhawk* Stipulated Settlement Agreement and state law requirements:

First: The draft General Plan fails to comply, almost entirely, with the Stipulated Settlement Agreement. Although the City is under a court order to make amendments to its Housing Element to incorporate the provisions of the settlement agreement, the draft General Plan ignores almost every provision of the agreement. Furthermore, the draft General Plan deletes many of the significant policies and programs in the 1991 Housing Element which, once implemented, would have actually produced lower-income housing.

Second. State law requires that the City to prepare a schedule of actions to address the housing needs of all of its community. The City states that its "Housing Element" --- which covers the period of 1990 to 2000 --- "present[s] only an *interim* set of goals, policies, and programs, housing numbers and, sites." (Public Hearing Draft, City of Benicia General Plan, p. 52.) In many cases, the Draft General Plan fails to include a program to implement its policies and to achieve its goals. The Draft General Plan further fails to set forth specific objectives and time frames for its implementation programs as required by state law and the Department of Housing and Community Development.

Third. The draft General Plan does not identify sufficient sites for development of enough affordable housing to meet Benicia's fair share. The element needs to be revised to more accurately evaluate available sites and to develop a procedure for insuring that adequate sites will be available.

Four. The City has arbitrarily decreased its fair share needs in violation of state law. Moreover, the quantified housing objectives set out in the draft General Plan fall far short of meeting Benicia's fair share for very low and low income housing --- yet continues to exceed the need for above-moderate income housing. The objectives need to be revised so that the City's priorities --- as dictated by state law --- are in line with the need.

## LETTER #8

Five. The draft General Plan does not adequately address the housing needs of several "special needs groups", including but not limited to, the homeless, large families and families with female heads of households. The City also fails to set forth any strategy to meet the needs of these people.

We have discussed each of these issues in detail below.

### I. Compliance with the *Winterhawk* Settlement Agreement

In almost its entirety, the Draft General Plan fails to comply, as ordered by the Court in February 1997, with the Stipulated Judgment Pursuant to Stipulated Settlement Agreement (hereinafter "Settlement Agreement" or "SSA"). The Settlement Agreement mandates that the City shall implement existing Housing Element programs as well as make amendments to the Housing Element to incorporate the settlement provisions. The draft General Plan fails to comply with the Settlement Agreement in the following manner:

1. The Settlement Agreement provides for rezoning of sufficient sites in the City to accommodate 180 low or very low income multi-family units. These sites are to be selected exclusively from Attachment A of the Settlement Agreement. In addition, the Housing Element must set forth the City's commitments for such rezoning. (See SSA, §III(A)(1).) The Draft General Plan fails to provide for *any* rezoning of sites for multi-family use and fails to include *any* assurances to rezone the properties identified in Attachment A. Furthermore, the Draft General Plan fails to provide *any* policy or action program for rezoning as required by state law. (See also Section II(C)(1) below.)

2. The Settlement Agreement provides that the City shall ensure that adequate land is zoned for 60 lower-income live/work units and 42 lower-income mixed-use (commercial/ residential units). (See SSA, §III(A)(2).) The Draft General Plan does not set forth any policy or program to comply with these requirements. Indeed, in its Summary of Quantified Objectives, the Draft General Plan envisions only 35 lower-income live/work units and *no* mixed-use units through the year 2000. (See Figure 2-8.)

3. The Settlement Agreement requires that the City adopt a revised Density Bonus Ordinance which will permit, in addition to any bonus available under state law, one additional unit for every low-income unit and one and one-half additional unit for every very-low income unit. (See SSA, §III(A)(3).) The Draft General Plan fails to set forth any policy or program for density bonuses as required under the Settlement Agreement.

## LETTER #8

4. The Settlement Agreement requires that the City incorporate both a policy and a program to modify the City's Zoning Ordinance to authorize the modification of residential development standards to promote the development of affordable housing. (See SSA, §III(B)(1).) Although the General Plan sets forth the required policy (Policy 2.28.5), it fails to set forth the program as required under the Settlement Agreement.<sup>1</sup>

5. The Settlement Agreement requires that the City amend its Zoning Ordinance to clarify that the addition of a secondary unit does not trigger a requirement to provide a covered parking space. (See SSA §III(B)(3).) Although the Draft General Plan states that the Zoning Ordinance will be so amended, it does not include an implementation program for this amendment. (See Draft General Plan, p. 60.)

6. The Settlement Agreement requires the City to provide *express authority* for the reduction or waiver of development fees for affordable housing development (including the residential portion of commercial development.) (See SSA, §III(5).) While the Draft General Plan includes a program to "[a]mend the permit fee schedule to the extent it affects small, attached single family dwellings" (Draft General Plan, Program 2.28.D), the General Plan fails to provide express authority for the reduction or waiver of all development fees for all types of affordable housing development.

7. The Settlement Agreement requires that the City design and implement promotional programs for the development of secondary units, live/work units and mixed-use development in residential, commercial and industrial zoned areas. The Settlement Agreement also requires the design and implementation of a promotional program for the rehabilitation of *existing* industrial and commercial buildings into live/work space. In addition, each of these promotional programs included provision for *fee waivers* and *fee reductions*. The promotional programs for such development, rehabilitation and fee waiver/reduction is not include in the Draft General Plan nor does the General Plan specify these designated areas in the Plan. Indeed, the General Plan does not provide for any residential development in industrially-zoned areas. (Draft General Plan, p. 73.)

8. The Settlement Agreement requires the City to adopt an ordinance requiring residential projects containing 10 or more units to contain affordable housing (5% low and 5% very low.) The City has failed to comply with court orders for timely adoption of

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<sup>1</sup> Pursuant to the Settlement Agreement, the "design review" modification program is as follows: "The City will amend its Zoning Ordinance to establish a procedure by which the decision making body is able to reduce certain development standards for any project that constructs affordable housing units..." (See Program 2.06, 1991 Housing Element.)

## LETTER #8

the ordinance. However, when the ordinance is adopted, the City Council may decide *at that time* to allow developers to make in-lieu contributions as delineated in the Settlement Agreement. In the meantime, however, the Affordable Housing Program set forth in the General Plan (*see* Policy 2.29.1) cannot provide for any in-lieu contributions.

If the City Council determines *upon adoption of the ordinance* that it will include provision for in-lieu contribution instead of mandating on-site construction of the required units, the City may allow developers — at the option of the City — to make an in-lieu payment, to provide or assist in the provision of units off-site, dedicate developable land, and/or propose for City consideration another alternative. (*See* SSA, §III(E).)

9. The Settlement Agreement requires the City to make available two vacant City-owned parcels, at no cost, to non-profit housing developers for the development of affordable housing. (*See* SSA, §III(D).) The General Plan fails to set forth any program or policy to address this requirement.

10. The Settlement Agreement requires the City to implement various programs in its 1991 Housing Element. Instead of implementing these programs, the City has elected to delete them from its Draft General Plan. Once implemented (and/or as modified by the Settlement Agreement), these programs will be significant in achieving the much-needed lower-income housing in Benicia. The deleted implementation programs from the 1991 adopted Housing Element include:

<u>Program</u>	<u>Description</u>
2.05	The City will <i>reduce or waive certain development fees</i> , portions of fees or combinations of fees for any project that constructs affordable housing...
2.06	The City will amend its Zoning Ordinance to establish a procedure to <i>reduce certain development standards</i> for any project that constructs affordable housing...
3.01	The City will initiate <i>rezoning</i> of suitable low and medium density <i>residential parcels</i> for high density residential use.
3.02	The City will initiate <i>rezoning of commercial parcels</i> for high density residential use.
3.04	The City will establish a <i>housing trust fund</i> to support affordable housing

## LETTER #8

activities.

- 3.05 The City will investigate establishment of an *equity share program*.
- 3.07 The City will require that low-income housing be affordable to households earning *65% or less of the median income*.
- 3.08 The City will apply for *CDBG funds* to use for the development (i.e. *site acquisition and improvement*) of new low and very low income housing.
- 3.09 The City will use its powers and revenues to assemble parcels and to *sell at reduced costs, or contribute, land* to developers of lower-income housing projects.
- 3.11 The City will investigate establishment of a *real estate transfer tax* as an additional source of funds for the housing trust fund.
- 3.12 The City will annually investigate and apply for State, federal and/or private funds, in particular *HOME funds*, to help construct or leverage the financing of lower-income housing.
- 4.01 The City will encourage the Benicia Housing Authority to *expand its Section 8 Rental Assistance Program*.
- 4.02 The City may use its power to issue *mortgage revenue bonds* to subsidize first time homebuyers.

## II. Compliance with State Law

We appreciate the City's desire to obtain community involvement in the drafting of the City's General Plan.<sup>2</sup> However, it is unfortunate that when drafting the "housing element" portions of the General Plan, the Housing Element Task Force were not apprised of the legal requirements while proceeding with its time-consuming task. As

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<sup>2</sup> We question, however, why the City *selected* the community members who could participate in the Housing Element Task Force. It is our position that true community involvement would include all members of the community who wanted to participate in the Housing Element Task Force.

## LETTER #8

you must know, although cities generally have flexibility in drafting other elements of its general plan, the Housing Element requirements are very specific and must comply with complex and detailed statutory provisions. (See Government Code §§65302(c), 65580, *et seq.*) As you also know, the City faces significant sanctions if its Housing Element is not in compliance with statutory law.

The City's draft "Housing Element" fails to comply with state law in the following manner:

### A. Arbitrary Decrease in Housing Needs

Based on its own calculation of its fair share needs, the City concludes that its regional needs for very low and low income units, as determined by the Association of Bay Area Governments (ABAG), are decreased. (General Plan, p. C-19.) According to ABAG, the City has a regional need of 376 low income units and 517 very low income units through the year 2000. However, based on its own analysis, the City has declared that it has a regional need of only 69 low income units and 94 very low income units. (*Id.*, p. C-21.)

The City's arbitrary decrease of its regional needs of 893 lower income units to 163 lower income units is a transparent attempt to discriminate against lower-income households in Benicia. In addition to possible violations of state and federal fair housing laws, the City's attempt to alter its ABAG-determined housing needs violates the provisions of Article 10.6 of the Government Code. The City *must* include the locality's fair share of the regional housing need as determined by ABAG. (Gov't Code §65583(a).) Once assessed, state law does not permit the locality to arbitrarily modify its housing needs.<sup>3</sup> (Gov't Code §65584.) Although the Housing Element planning period for Benicia has now been extended to 2000, the extension does *not* limit any existing responsibility of the City to adopt a housing element as required under Article 10.6. (*Id.*)

As you are aware, statutory law provides that housing for *every* California family is of vital statewide important and a priority of the highest order. (Gov't Code §65580(a).) Local governments must use their governmental power "to facilitate the improvement and development of housing...[for] all economic segments of the community." (Gov't Code §65580(d).) Accordingly, the City is required to prepare a

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<sup>3</sup> Government Code §65584 provides that a jurisdiction may petition ABAG for a modification of its housing needs once the needs are assessed; however, such petition must be made within 90 days of ABAG's determination.

## LETTER #8

Housing Element which assesses the housing needs of all economic segments of its community — *including the poor* — and to include implementation programs to meet those needs. (Gov't Code §65583; *Buena Vista Gardens Apartments Ass'n. V. City of San Diego* (1985) 175 Cal.App.3d 289.)

The City's arbitrary change of its regional housing needs during the current planning period violates the law. Furthermore, it is clear that the City is attempting to exclude lower-income housing while, at the same time, promote the development of upper-income housing. The City acknowledges that land is in short supply in Benicia. (General Plan, p. C-38.) It concedes that no construction of lower income units occurred as a result of its 1986 Housing Element. (*Id.*, C-40.) Although it fails to include any analysis of its Housing Element adopted in 1991, its 1996 draft Housing Element (which was not adopted) acknowledges that only 20 low and very low income units were constructed in the City between 1988 and 1996. (1996 Draft Housing Element, H-38.) Accordingly, in the past ten years, the City's lower-income housing needs have only been reduced from 893 to 873.

Finally, and most disturbing, is the City's own inconsistencies in its analysis of its housing needs. When the City prepared its 1996 draft Housing Element, it determined *at that time* that its housing needs were reduced to 341 very low income units and 248 low income units. (1996 Draft Housing Element, H-3, H-36 through H-38.) Yet now, *only two years later*, the City has again decreased its 1996 numbers by another 426 units, determining that its lower-income housing needs are only 163 units. Nonetheless, and although the City *exceeded* its ABAG-determined above moderate income units by 1991,<sup>4</sup> its now calculates that it will need another 172 above-moderate income units by the year 2000.

### B. Quantified Objectives (§65583(b)(1).)

Although Benicia's fair share of regional housing needs totals 893 lower-income units, the Draft General Plan sets a negligible lower-income production goals through 2000 for lower-income households: only 293 units. (Draft General Plan, p. 68.) Yet, at the same time, the City anticipates that it will produce 961 private market units for

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<sup>4</sup> In its Housing Element adopted in 1991, the City acknowledged that it was exceeding its above moderate housing needs by 1,884 units. (1991 Housing Element, H-21.) As determined by ABAG, the City had a housing need of 939 above-moderate income units for the planning period. (*Id.*) However, by 1991, the City had already issued 1,022 above-moderate residential permits (exceeding its need by 83 units) and anticipated *further* development of 1,801 more above-moderate units by 1995. (*Id.*)

## LETTER #8

moderate and above-moderate income households in the next two years — even though it has already met the housing needs for these income groups and it acknowledges that available land is scarce in Benicia. The City does not anticipate *any* private market units for very low or low income households by the year 2000.

The City provides quantified objectives without any basis for its conclusion. For example, of the projected 293 lower-income units, 55 units are live/work or secondary units. The City alleges that these units have *already* been developed; however, the City fails to identify where these units are located and how it was determined that they are affordable to lower income households.<sup>5</sup> (*Id.* at p. 69.) The City anticipates that another 58 units will be generated from the Affordable Housing Program but fails to provide any analysis of how it comes to this conclusion. (*Id.* at p. 68.)

The City concludes that the remaining 180 lower-income units are expected to be built pursuant to Program 2.27.C. This program states:

Encourage the Benicia Housing Authority to initiate a local Article 34 election that would allow construction of *specific* additional low- and very-low income housing units.

[Emphasis added.]

Besides the lack of demonstrated commitment (i.e. “Encourage”), the Draft General Plan fails to include any description as to what *specific* type of housing will be allowed and where such housing will be located. As you know, an Article 34 election is only triggered by a limited type of housing development. If an Article 34 election is necessary, the election would only begin the process for development of affordable housing. Yet, the City fails to provide any analysis or explanation to support this program: What does the City mean by *specific*? Does the City anticipate public housing units? Given the NIMBY problem in Benicia, does the City expect an Article 34 vote to pass? Why would it be necessary? How did the City reach the objective of 180 units? Where would these units be located? How will they be funded? Who will develop the units? What will the City’s role be, if any, in the development of these units?

In addition to failing to provide any support for its quantified objectives, the City

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<sup>5</sup> For the past two years, the *Winterhawk* plaintiffs have continually requested that the City provide documentation to confirm the alleged development of live/work or secondary units. However, the City has not yet provided this information.

## LETTER #8

also completely fails to provide *any* quantified housing objectives to meet the housing needs of the homeless, larger low and very low income families and female-headed single parent families. Indeed, the quantified housing objectives set out in the draft General Plan falls far short of meeting Benicia's fair share for very low and low income housing -- - yet continues to exceed the need for above-moderate income housing. The objectives need to be revised (and its objectives supported) so that the City's priorities --- as dictated by state law --- are in line with its need.

### C. Schedule of Actions. (§65583(c).)

State law requires that the City to prepare a schedule of actions to address the housing needs of all of its community. However, the City states that its "Housing Element" --- which covers the period of 1990 to 2000 --- "present[s] only an *interim* set of goals, policies, and programs, housing numbers and, sites." (Public Hearing Draft, City of Benicia General Plan, p. 52, emphasis in original.) The so-called interim schedule of actions does not satisfy state law.

Moreover, in general, the Draft General Plan fails to include any program to implement its policies and to achieve its goals. The Draft General Plan further fails to set forth specific objectives and time frames for its implementation programs. In addition, the City utilizes vague and nonassertive language to avoid any commitment in its policies or implementation programs.<sup>6</sup>

#### 1. Identification of Adequate Sites: (§65583(c)(1)).

The Draft General Plan fails to set forth identification of adequate sites which will be made available through appropriate zoning and development standards to meet the City's regional housing needs. It fails to identify sites which are adequately zoned for multi-family rental housing to meet the housing needs of the City's low and very low income households. Many of the sites identified in the City's Infill Site Inventory (at page 70) may not be suitable for development.<sup>7</sup> (See Solano County Legal Assistance,

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<sup>6</sup> For example, upon instruction by HCD, the City amended its 1991 Housing Element to include language such as "The City shall..." and "The City will..." The Draft General Plan omits this commitment language.

<sup>7</sup> Upon settlement of the *Winterhawk* action, the parties agreed upon a list of non-City owned sites which were suitable for development. These sites are attached to the Settlement Agreement as Attachment A. Pursuant to the Settlement Agreement, Attachment A does not include Sites 3, 10,11,22,23,24,25,27,33, and 38.

## LETTER #8

City of Benicia Infill Site Analysis, March 10, 1993.) In addition, most of the identified sites are located in downtown areas --- even though the City declares that high density housing is not permitted in the downtown area. (See General Plan, p. 46 [”High density” housing is allowed on First Street, but ‘high density’ is not considered compatible elsewhere in Downtown.”]). Other sites are located in existing single family, low-density neighborhoods --- although the General Plan does not permit multi-family housing if such housing is not “consistent” with the existing neighborhood. (See General Plan, Goal and Policies 2.36) The element needs to be revised to more accurately identify and evaluate available sites, to demonstrate that the identified sites will be adequate for multi-family development and to include a program to ensure that sufficient sites will be made available to meet the housing needs of lower-income households.

Even assuming *arguendo* that all these sites were suitable for development, the City identifies sufficient sites to accommodate only 486 units --- although it low and very low income housing needs total 893 units. Moreover, the City acknowledges that it currently has only 3.74 acres zoned for high density<sup>8</sup> and 3.82 acres zoned for medium density with a development potential of 131 units. Since the City fails to identify adequate sites to accommodate its lower income housing needs of 893 units, it is required by law to include a program to provide sufficient sites with zoning that permits owner-occupied and rental multi-family residential use *by right*. (Gov’t Code §65583(c)(1).) The City has failed to include such a program.

Finally, the City must provide an inventory of sites and identify adequate sites that will be made available for transitional housing and emergency shelter for the homeless. (*Id.*) The City has failed to provide any inventory or identification of sites for the homeless or to provide any program which would make adequate sites available to meet the housing needs of the homeless.

### 2. Assist in the Development of Adequate Affordable Housing: (§65583(c)(2)).

The City fails to set forth sufficient programs to assist in the development of affordable housing. Many of its Goals and Policies, such as, among other, 2.31, 2.32 and 2.34.2, fail to state any supporting implementation program. Other programs (indeed

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<sup>8</sup> The City further concedes that its “Housing Element” is inconsistent with its Land Use Plan Map in that some of the land designated for high density residential is, in fact, “actually zoned and used for medium-density housing.” (Draft General Plan, p. 72.) Yet, the Draft General Plan provides no provision for rezoning to remedy this inconsistency.

## LETTER #8

many of the City's policies) fail to demonstrate the City's commitment to affordable housing. (See, for example, Program 2.33.A: "Consider instituting a shared living program..."; Policy 2.30.1: "Consider adopting programs so that affordable housing remains affordable.") The City's vague and incomplete programs, or lack thereof, do not satisfy the statutory requirement of setting forth programs that the City "is undertaking or intends to undertake to implement the policies and achieve the goals and objective of the housing element." (Gov't Code §65583(c).) For example, in its 1991 Housing Element, the City *specifically* set forth the types of funding that the City would pursue to facilitate and promote the development of affordable housing (i.e. tax credits, HOME, etc.) In its update, however, the City only states that it will pursue all federal, state or local funding for affordable housing development but fails to specifically commit to pursuing any specific type of funding. (See Draft General Plan, Program 2.34.C.)

### 3. Remove Governmental Constraints: (§§65583(a)(4) & 65583(c)(3).

The City identified many governmental constraints without setting forth mitigating policies or programs. For example, the City states that it only permits artists to occupy live/work units --- without a mitigating program. There is no provision (or mitigating program) for detached secondary units --- the Draft General Plan provides for only attached units or units built within existing dwellings. (In fact, the Draft General Plan does not analyze the constraint of failing to make any provision for detached secondary units in its General Plan.)

Further, although the City identifies stringent parking requirements for multi-family units, it provides no program to mitigate these costs in order to facilitate the development of lower-income housing. It also acknowledges that its zoning ordinance is inconsistent with state law with regard to manufactured housing and mobilehomes, yet it does not set forth any program to mitigate these inconsistencies. It acknowledges that its development and permit fees create a constraint, however, the Draft General Plan only provides for relaxation of development fees (not permit fees) with regard to small, attached single family homes only.

Finally, the City's design review process --- wherein the Design Review Commission is the sole and final decision-making body for multi-family projects (but not single family development) --- is a severe constraint. In the past, HCD has advised the City to analyze and mitigate this potential and actual governmental constraint. (See Letter from HCD dated April 10, 1992.) The City sets forth any program to mitigate this governmental constraint.

4. Identification, Analysis & Mitigation of Non-Governmental Constraints:  
(§65583(a)(5)).

With regard to non-governmental constraints, the City acknowledges that land is in short supply and therefore, land costs are high. (Draft General Plan, C-40.) It also acknowledges that construction and financing costs is a constraint to affordable housing. (Id.) Yet, the General Plan provides no program to subsidize land costs, to donate parcels or to waive or reduce development or permit fees for affordable housing development. In fact, the City has deleted its programs under the 1991 Housing Element which were intended to mitigate these constraints. (See Section I(10) above.)

Lastly, the City fails to discuss a crucial non-governmental constraint: the widespread neighborhood and community resistance against the development of housing that is affordable to 1/3 of Benicia residents. Rather, the City succumbs to this constraint by diluting its affordable housing implementation programs (even though it has only succeeded in the development of 20 lower income units since 1986) while at the same time, exceeding its above-moderate housing needs.

3. Conserve and improve the condition of the existing affordable housing stock: (§§65583(c)(4) & (6).)

As the City continues to meet its housing needs, it is also losing existing affordable housing stock. For example, the City recently lost 32 lower-income units when it permitted the conversion of a mobilehome park to a custom home subdivision. In addition, the City's subsidized senior housing project, Casa Villarasa, is at risk. It is also our understanding that a large apartment complex --- which accepts Section 8 assistance --- is attempting conversion into moderate income units. Finally, there is no analysis of properties which have been foreclosed upon through the City's rehabilitation program.

The City fails to provide any program designed to conserve existing affordable housing stock as required under Gov't Code §§65583(c)(4), 65583(c)(6). In addition to conservation and rehabilitation of the structural condition of the existing housing stock, the City must also provide programs to conserve the existing affordable housing opportunities in the community, such as maintaining affordability of the existing apartment rental stock and conserving mobilehome parks and affordable apartment complexes. (*Buena Vista Gardens Apartments Ass'n. V. City of San Diego* (1985) 175 Cal.App.3d 289.) The City fails to provide these required programs. In addition, the City fails to provide any analysis of the potential loss of these units as required under §65583(a)(8).

**D. Analysis of Special Housing Needs. (§65583(a)(6).)**

The Draft General Plan does not adequately address the housing needs of several "special needs groups", including but not limited to, the homeless, large families and families with female heads of households. The Draft General Plan concludes that there are no homeless people in Benicia but presents no documentation to support this conclusion. Indeed, the Draft General Plan states that the homeless are more commonly found in larger cities. Yet, the Draft General Plan documents no attempt to contact local agencies, such as the Community Action Council, the Coalition Against Homelessness, the Department of Social Services, the Partnership HealthPlan, local shelters, the Benicia Housing Authority or Legal Services of Northern California, to attempt to determine the actual number of people who have experienced, or are experiencing, homelessness in Benicia.

Second, the Draft General Plan does not provide an analysis of special needs for large families. Yet, the Draft concludes that very low income households --- regardless of size --- can only afford studio or one bedroom apartments.<sup>9</sup> (General Plan, p. C-14.) The Draft also concludes that low income households "had more choice" because "they could afford most of the two-bedroom units and they could afford condominiums as well as apartments." (*Id.*) But upon careful review of the documentation included in the Draft General Plan, it is evident that:

- In 1995, there was only *one* four-bedroom unit available to low-income households. (Figure C-18.)
- In 1995, there were *no* 3 or 4 bedroom units available for very low income families. There were only four 2 bedroom units purportedly affordable for very low income households. (*Id.*)
- In order to rent a 2 bedroom single apartment (as opposed to a 2 bedroom apartment in an apartment complex), a very low income household would have to be able to pay rent of \$637 per month. (Figure C-17.) Yet, only a very low income family of *five* or more members could have an income sufficient to meet that rent. (Figure C-14.)
- The rent for a 2 bedroom unit in an apartment *complex* or a 2 bedroom condominium is \$800 and \$792 per month respectively. (Figure C-17.) Yet, only a very

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<sup>9</sup> In 1995, 78% of all very low income renters overpaid for their housing. (General Plan, p. C-16.)

## LETTER #8

low income family of *nine or more members* could have an income sufficient to meet these rents. (Figure C-14.)

Coupled with an actual vacancy rate of only 2%, the lack of available affordable units for families needing more than one bedroom is significant.

Finally, the Draft General Plan fails to provide any in-depth analysis for female headed single parent households. The Draft General Plan acknowledges that for single parent families needing more than one bedroom, "affordability can be a significant problem." (Draft General Plan, p. C-15.) It further acknowledges that "[f]emale-headed families make up 67 percent of all the families living in poverty in the city" and that such households may generally have increased needs for daycare facilities, children's recreation and public transportation. (*Id.* at p. C-25.)

The Draft General Plan is deficient in its analysis of households with special needs. Moreover, the Draft General Plan fails to provide any *strategy* designed to meet the needs of these households.

In summary, the City's Draft General Plan fails to address significant issues facing poor persons in Benicia and further fails to promote, encourage and facilitate the development of affordable housing for low and very low income households. Significantly, the Draft General Plan does not comply with the court's order to implement the *Winterhawk* Settlement Agreement. Moreover, the Draft General Plan is not in compliance with state law. We again urge the City to reconsider its position both in refusing to comply with the court's order enforcing the settlement agreement and in refusing to draft a Housing Element which complies with state law.

Very truly yours,

LEGAL SERVICES OF NORTHERN  
CALIFORNIA

  
S. Lynn Martinez  
Attorney at Law

\slm  
cc: C. Cleary, HCD  
Clients

## LETTER 8

S. Lynn Martinez, Legal Services of Northern California. Representing plaintiffs/petitioners of *Winterhawk, et al v. City of Benicia*. February 26, 1998.

- 8-1: There is no evidence that the Draft General Plan will result in people becoming homeless. The Draft General Plan does address the fair share numbers and mitigate any affordability problems. For example, a goal of the Draft General Plan is to "Provide housing opportunities for people with special housing needs." The policies and programs following the goal, amplify this goal by focusing on families with lower incomes and homeless, among other groups. For example, Policy 2.33.4. states, "Address the needs of Benicia's homeless." There is no legal requirement that land be zoned to allow by right homeless shelters. See *Hoffmaster v. City of San Diego* (1997) 55 Cal. App. 4th 1098, 1114. The purpose of a General Plan is to address the physical development of the City. See Government Code section 65300.

As required by Government Code section 65583, the Draft General Plan identifies and analyzes existing and projected housing needs and sets forth goals, policies and programs to address those needs.

- 8-2: The commentator states that the General Plan has an adverse effect on the jobs-housing ratio. This is incorrect. The General Plan will improve the jobs-housing ratio. Page 42 of the Draft EIR states, "The proposed reduction in residential development proposed by the General Plan, along with a relative sustainment of commercial and industrial growth, should provide more employment opportunities for Benicia's existing and future residents. This means that development under the proposed General Plan should bring the City's jobs-to-housing ration more in balance. The city's jobs-housing ratio is projected by ABAG to be about 1.0 by 2020. This would be a beneficial effect of the General Plan..."
- 8-3: The issue raised by the commentator is a social issue which has no foreseeable environmental effects. CEQA does not require analysis of social and economic effects unless they would lead to direct physical impacts.
- 8-4: The commentator is incorrect in stating that there are 214 acres of land currently designated for medium-density residential development that would be "downzoned" in the Draft General Plan.

There are 120 acres of land designated for medium-density residential development in Southamton that have already been developed with single-family homes. The proposed General Plan would redesignate this area as single-family, but no change in development in potential would occur, since the land is already developed. The redesignation is proposed only as a means to make land use designations match existing conditions. There would be no loss in potential affordable housing.

In the North Area, there are 12 acres designated for medium-density residential development that would be redesignated as open space. This is a small amount of land, and hence less-than-significant from a CEQA perspective.

The Mixed-Use Land Use designation, of which the City is creating 77.3 acres, would provide an opportunity for additional affordable units. The Lower Arsenal would contain 44-acres of Mixed-Use, which could accommodate additional affordable housing.

- 8-5: The issue raised by the commentor is not a CEQA issue. No response is required.
- 8-6: The commentor is correct that the General Plan calculates a need for 163 very-low- and low-income housing units in Benicia through 2000, and that this differs from ABAG's projected need through 1995. The ABAG projection was made in 1989 based on the assumption that as many as 5,000 housing units could be added in Benicia's North Area. Since that time, the City has changed its plans for the North Area, as witnessed in the proposed General Plan, and there are now no new units proposed in the North Area. Based on this change, ABAG revised its overall projection of Benicia's future growth downward in its *Projections 96* and *Projections 98*.

ABAG has not had funding to similarly revise its fair-share housing allocations. Therefore, the City of Benicia completed its own assessment of fair-share housing allocations, using a methodology identical to ABAG's, to derive its own estimates of fair-share housing through 2000. This new assessment, based on ABAG's revised projection of Benicia's future population, resulted in the lower projection of very-low- and low-income housing need of 163 units. It is the City's position that ABAG would come to similar conclusions if it were to revise its fair-share allocations. Therefore, the City believes that it is correct to use this reduced projection of housing demand as the basis for General Plan affordable housing analysis.

For this reason, the City does not agree that there is a deficiency in the analysis in the General Plan, so it follows that there is no deficiency regarding this matter identified in the Draft EIR. No additional analysis is warranted at this time. Moreover, the issue raised by the commentor is a social issue which has no foreseeable environmental effects. CEQA does not require analysis of social and economic effects unless they would lead to direct physical impacts.



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Senior Vice President

February 27, 1998

Planning Department  
City of Benicia

MAR 2 1998

By Federal Express

John Bunch, Planning Director  
City of Benicia  
Planning Department  
250 East L Street  
Benicia, CA 94510

RECEIVED

Re: Comments on Draft Environmental Impact Report  
Relating to Benicia General Plan

Dear Mr. Bunch:

We are writing on behalf of Granite Management Corporation ("Granite") as well as our affiliates Pacific Bay Homes and FN Projects, Inc. (which owns undeveloped real property in Benicia, as does Granite) to comment on the January 1998 Draft Environmental Impact Report Relating to the Benicia General Plan ("EIR").

1. Inaccurate and Misleading Description of Braitto Landfill. Parts of the description of the Braitto Landfill on page 170 of the EIR are factually incorrect or are misleading. For example, an extensive investigation of the area has not given us any evidence indicating that "residual wastes have been identified beneath 861 Rose Drive". Also, the EIR's description of the investigation of the Braitto Landfill issues may cause confusion. As you know, that investigation has spanned more than seven years and covers a wide geographical area. It is impossible to summarize accurately the scope and results of the investigation in the few sentences that the EIR allows.

To address these shortcomings, we would suggest that the description of the Braitto Landfill on page 170 should be rewritten in the Final EIR as follows:

The Braitto Landfill, also known as the Solano County Sanitary Landfill, was located in the

# LETTER #9

John Bunch, Planning Director  
City of Benicia  
February 27, 1998  
Page 2

hills of northwestern Benicia, in what is now the western portion of the Southampton development. During its operation from 1955 to 1979, the landfill accepted household waste, scrap metal, tannery waste, and some other industrial wastes including sewage sludge. The landfill comprised the East Canyon and North Canyon. The East Canyon has been closed and is being maintained by the developer in accordance with Regional Water Quality Control Board (RWQCB) requirements. Refuse from North Canyon was moved to East Canyon prior to development of the North Canyon area with homes. A decision was made to leave some wastes in place in a small side canyon that is now Blake Court; the area has been closed and is being maintained by the developer in accordance with RWQCB requirements.

9-1

A pocket of waste under part of three lots adjacent to Blake Court was identified in 1991. Since then, an investigation of those lots and other subareas within the former North Canyon has taken place. Three areas have been remediated to the satisfaction of the regulatory agencies. The remediation of an area referred to as the Hillside area is still under evaluation. A remedial investigation and feasibility study and baseline risk assessment indicating there is no significant health risk have been completed for the remaining areas and further actions are being discussed with the regulatory agencies.

2. Identification of Braitto Landfill on Figure 23 is Misleading. The map included as Figure 23 purports to represent "Major Known Hazardous Waste Areas". There is no evidence that any hazardous wastes are present in much of the area identified on Figure 2 as the Braitto Landfill, and the map is accordingly very misleading. Unlike the IT site, the Braitto Landfill was not operated as a hazardous waste landfill. It is misleading to label the closed portions of the former Braitto Landfill as hazardous waste sites. We recommend that the map be eliminated or redrawn. We would be happy to assist in preparing a revised map if you would like.

9-2

John Bunch, Planning Director  
City of Benicia  
February 27, 1998  
Page 3

3. Description of Tourtelot Area of Arsenal is Inaccurate and Misleading. Portions of the description of the Arsenal on page 171 of the EIR are also inaccurate and misleading. For example, the developer was not conducting "grading" operations at the time the ordnance was discovered on the Tourtelot property. There are also inaccuracies regarding the size of the Tourtelot property.

The EIR description mistakenly gives the impression that it was the discovery of ordnance on the Tourtelot property that lead to the Army Corps of Engineers supplementing the 1994 Archives Search Report. It is our understanding that the Corps had always intended to continue to address the issues discussed in the 1994 report and would have supplemented the earlier report even without the discovery of the ordnance.

Additionally, the statement that the Army Corps of Engineers "found that there is the potential for chemical weapons materials (CWM) presence" on the Arsenal is misleading. The Corp's 1997 supplemental report states that "we do not suspect CWM remaining at the Benicia Arsenal". (See page 7-1 of the Corps' 1997 supplemental report.)

To correct the inaccuracies and misleading nature of the description of the Arsenal, we recommend that the last two paragraphs on page 171 of the EIR be rewritten as follows:

In 1989, approximately 145 acres that had been leased to the Army for Arsenal use from 1944 to 1960 (commonly referred to as the Tourtelot property) were approved for development of approximately 240 single family homes as a part of a larger residential project proposed by the Southampton Company. The EIR for the Southampton development noted the existence of two concrete bunkers left over from the Arsenal use on a portion of the Tourtelot property, and concluded that the bunkers would need to be removed unless an engineering study determined that they could be safely filled. In 1995, while conducting preliminary site preparation operations on the Tourtelot property, the successor developer, Pacific Bay Homes, found a number of projectiles, some of which appeared to be dummy rounds associated with testing.

LETTER #9

John Bunch, Planning Director  
City of Benicia  
February 27, 1998  
Page 4

Several rounds of unexploded live ordnance were also found, however, and development activities were halted pending the results of further investigation to determine what additional ordnance might exist in the area.

In 1997, the Army Corps of Engineers completed a supplement to the previously completed 1994 Archives Search Report. The 1997 supplement indicated that chemical weapons materials were present at the Arsenal during World War II and later, but the supplement states that the Army Corps of Engineers does not suspect that chemical weapons material (CWM) remain at the Arsenal. The report identifies areas where there is some potential for residual ordnance, as listed below:

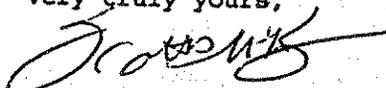
9-3

4. Land Use Compatibility. Page 175 of the EIR states that "The public could also be exposed to potential health risks if residential or other land uses were allowed adjacent to known hazardous waste sites where potential health risks exist, including IT Panoche Facility, Braitto Landfill, the Arsenal, and other hazardous waste sites that could be identified in the future." The Baseline Health Risk Assessment for the former Solano County Sanitary Landfill that was approved by the California Department of Toxic Substances Control found that the site presents no significant health risk for residential or other land uses. Given these findings, it is incorrect and misleading to state in the EIR the public could be exposed to potential health risks if residential or other land uses were allowed adjacent to the former Braitto Landfill.

9-4

If you need clarification or have other questions about our comments, we would be happy to provide additional information. We also reserve the right to submit supplemental comments as appropriate.

Very truly yours,



Scott D. McKinlay

cc: Heather McLaughlin  
City Attorney

## LETTER 9

Scott D. McKinlay, Senior Vice-President, Granite Management Corporation.  
February 27, 1998.

- 9-1: In Chapter 3 of this Final EIR, the section on the Braitto Landfill on page 170 of the Draft EIR has been revised to more accurately reflect the overall conditions at the site. The reference to 861 Rose Drive has been deleted. While the commentor is correct in noting the difficulty in summarizing the extensive investigations that have occurred at this site, the EIR presents an adequate level of information necessary to assess potential effects associated with the proposed General Plan. As noted on page 167 of the Draft EIR, more detailed information is contained in the Public Safety Background Report prepared for the General Plan process, which cites specific investigations conducted at the site and which is hereby incorporated by reference.
- 9-2: The identification of major hazardous waste areas on Figure 23 on page 169 of the Draft EIR is intended to show general areas within the City limits that are undergoing hazardous waste investigations, risk assessments, and remediations under regulatory agency oversight and that are areas of major public concern. The shaded areas on the map are neither intended to identify specific locations of hazardous wastes nor are they labeled as such. In Chapter 3 of this Final EIR, Figure 23 has been re-named "Major Hazardous Waste Investigation Areas" to avoid any confusion.
- 9-3: The description of the Arsenal property on page 171 of the Draft EIR has been modified in Chapter 3 of this Final EIR. However, most of the commentors' suggested corrections are not included. The Army Corps of Engineers report incorrectly identifies the Tourtelot property, which may have led to a misunderstanding on the part of the commentor.
- 9-4: The discussion of land use impacts on page 175 of the Draft EIR has been modified in Chapter 3 of this Final EIR. As noted in the revision, the City believes that there is reasonable evidence that there could be health risks associated with the siting of sensitive uses in proximity to hazardous waste sites in Benicia, despite the results of the Baseline Health Risk Assessment that was completed by Granite Management Corporation. It should be noted, however, that the EIR does not state definitively that health risks do exist; it only states that such risks could exist.

**LETTER #10**

March 2, 1998

Planning Department  
City of Benicia

MAR 2 1998

RECEIVED

Mr. Joe Burek, Chair  
Planning Commission  
City of Benicia  
250 East L Street  
Benicia, CA 94510

Dear Mr. Burek:

The Benicia Chamber of Commerce and Benicia Industrial Park Association welcome this opportunity to comment on the Draft Environmental Impact Report (EIR) for the Draft General Plan. We recognize that this is the first effort to identify potential impacts of the Plan. Before completing its work, we urge the Planning Commission to evaluate all the impacts of the Plan, especially those that could have a major negative effect on the social, economic and financial foundations of our community and prospects for businesses in the years ahead.

As representatives of the business community, we believe that it is important to consider the impacts that this plan will have on social and economic, as well as environmental matters. We believe these are inseparable and essential to the overall quality of life that the entire community endorsed. This continued vitality is important to the success of our members and the fiscal integrity of government. Since significant time and money have been invested on this update effort, we feel that the Planning Commission should take time to carefully consider the social and economic effects the plan would have before making recommendations to the City Council.

10-1

Our review of the draft EIR has led us to several issues that we believe are inadequately or incorrectly addressed in the document. These include the effects of downzoning, land-use changes, no growth policies, additional regulatory oversight, out-dated data, and new noise standards. Following are our comments on these issues.

**Effects of Downzoning**

The negative effects of downzoning are not identified in the EIR. These effects would include limiting opportunities for businesses to address future needs and requirements, reduced employment opportunities for Benicia residents and the stimulation of growth in adjacent areas. The Chamber endorses the conclusion reached earlier by the Benicia Industrial park Association that the General Industria zoning designation has been responsible for the success of the Park and, therefore, should be retained in all areas. No rationale has been presented to justify any other conclusion.

10-2

# LETTER #10

Mr. Joe Burek  
March 2, 1998  
Page 2

## Land Use Changes

In addition to downzoning, the draft EIR fails to address the conflicts arising from changes associated with redesignating parts of the Industrial Park as mixed use. In particular, this applies to the Lower Arsenal areas where a variety of uses are presumed to be desirable. Unfortunately, these areas are immediately adjacent to active industrial/port operations and will, by definition, create conflicts. We find the EIR's failure to identify mitigation for this problem to be a serious deficiency in the document. Any kind of residential use (including live-work) adjacent to industrial uses is undesirable.

10-3

## No Growth Policies

It is apparent that the objective of the draft General Plan is to restrict future community growth. Unfortunately, this objective could have the effect of promoting growth in other areas, particularly in nearby communities such as Vallejo and Fairfield. Have these potential effects on Benicia or those communities been assessed? If so, no indication of that appears in the EIR.

10-4

Additionally, use of an Urban Growth Boundary to preclude growth in the northern area has not been adequately evaluated. What effects will this have on growth in other areas and what guarantee will this provide that the area will not be subject to undesirable development in the future by some other entity. We believe the pros and cons of this approach must be thoroughly evaluated before the City adopts this course of action. We continue to believe that it would be best for the City to maintain control over the area in a way that will ensure that it is either developed appropriately, or protected for all time.

10-5

## Out-Dated Data

In our review of the draft EIR, it became apparent that some data was either out of date or of questionable accuracy. This is particularly true for housing and traffic. The former appears as Association of Bay Area Governments information that has not been updated. Traffic information is based on surveys that were conducted in part during high traffic flows associated with a large construction project in the Industrial Park. As a consequence, they are likely to be misleading and should be re-evaluated.

10-6

10-7

## Noise

The effects of new, short-term noise requirements (as noted in Section 6 and Figure 4-12) are neither identified nor assessed in the draft EIR. We find this to be a serious omission as these

10-8

# LETTER #10

Mr. Joe Burek  
March 2, 1998  
Page 3

criteria were not previously included in the plan. They also are based on very limited (or no) data and are difficult to understand. The data that exist suggest that significant areas in the community already exceed these standards. A thorough evaluation of how these standards would impact development throughout the community needs to be done. This evaluation should also address the costs the study would add to development and what effects this would have. The costs of enforcing the standards has not been assessed. A question has also been raised as to whether the element is consistent with State standards for the preparation of noise elements.

10-8

10-9

10-10

10-11

In conclusion, we appreciate the City's desire to complete this long tedious process as soon as possible. We want to express our appreciation to the members of the community who devoted so much of their time. However, we believe that it is in the best interest of the City and the business community, as well as the community at large, to identify and thoroughly understand how this document will affect us in the decades to come. We look forward to working with you to help make that happen.

Sincerely,

Annette O'Connor, Ph.D.  
Chair, Chamber of Commerce

Tom Amen  
President, Benicia Industrial  
Park Association

cc: John Bunch, Planning Director, City of Benicia  
Tom Campbell, Planning Commission, City of Benicia  
Carey Corbaley, City Council Member, City of Benicia  
Jan Cox-Golovich, City Council Member, City of Benicia  
Stephen Gizzi, City Council Member, City of Benicia  
Otto Giuliani, City Manager, City of Benicia  
Jerry Hayes, Mayor, City of Benicia  
Geoffrey Hannafin, Planning Commission, City of Benicia  
Gary Kalian, Planning Commission, City of Benicia  
Steve Messina, Vice Mayor, City of Benicia  
Gregg Renfrow, Planning Commission, City of Benicia  
Nancy Steele, Planning Commission, City of Benicia  
Cathy Turner, Planning Commission, City of Benicia

## LETTER 10

Annette O'Connor, Chair, Chamber of Commerce, City of Benicia and Tom Amen, President, Benicia Industrial Park Association. March 2, 1998.

- 10-1: This comment introduces the commentors' concerns as members of the business community. It asks that social and economic, as well as environmental, effects of the Draft General Plan be considered. It should be noted that CEQA does not require an analysis of social and economic effects in an EIR unless such impacts would lead to direct physical consequences. No response is necessary.
- 10-2: This comment asks that the effects of "downzoning" on business and employment as a result of land use redesignations from General Industrial to Limited Industrial be addressed. This analysis is included in the response to comment 6-6.
- 10-3: As noted on page 35 of the Draft EIR, mixtures of uses would only be allowed in the Lower Arsenal where appropriate buffers can be established. These buffers would preclude the type of incompatibilities that are referenced in this comment.
- 10-4: Please see responses to comments 6-5 and 6-6.
- 10-5: With regard to the effects of the proposed Urban Growth Boundary on development in other areas, please see responses to comments 6-5 and 6-6.
- With regard to the notion that some other governmental agency might allow undesirable development outside the proposed Urban Growth Boundary, it would be conjectural to try to guess what types of development projects other entities such as Solano County or the City of Vallejo might pursue. Those entities are outside the control of the City of Benicia. Still, most factors seem to indicate that Solano County and the City of Vallejo are likely to respect the City's notion that no urban development should occur in Benicia's North Area. Both the County and the City of Vallejo are signators to the *Tri-City and County Open Space Agreement*, which is described on page 53 of the Draft EIR and which states that the North Area should be maintained as open space. In addition, the cities of Benicia and Vallejo have signed an agreement to maintain the Benicia-Vallejo Open Space Buffer, as described on page 54 of the Draft EIR. Solano County's policies discourage urban development outside of the County's cities, so it would require a change in County policy for the County to approve urban development in the unincorporated portions of

the North Area.

- 10-6: Most of the data from ABAG in the Draft EIR is taken from *Projections '98* and constitutes the most recent data available from that agency. Assessments of housing needs provided by ABAG have not been updated since 1985, due to funding constraints, but they were updated by the City's consultant on behalf of the City in preparation of the General Plan.
- 10-7: The traffic counts which represent existing conditions at most of the intersections were taken in November 1995. No unusual conditions or major construction projects near study intersections are known to have occurred at that time. Lake Herman Road between Reservoir Road and East Second Street was temporarily closed at that time due to roadway repairs. However, existing counts are less than 1,000 vehicles per day on this roadway section, so impacts to adjacent intersections counts would have been minimal.
- 10-8: The short-term noise requirements (hourly  $L_{eq}$  performance standards) proposed in the General Plan Noise Element would be used to assess the appropriateness of new development projects. They would have no effect on existing uses, so no analysis of impacts can be conducted under CEQA. The fact that the commentor believes the requirements to be based on little data and to be difficult to understand is not germane to CEQA analysis.
- 10-9: The standards are intended to reduce potential noise-related conflicts between noise-sensitive uses and industrial or stationary noise sources. The standards are used when evaluating new projects. New projects may be required to include mitigation to reduce noise levels to within acceptable levels. The standards might influence future development, but as noted, they would have no effect on existing development, so no analysis is necessary under CEQA.
- 10-10: There would be no additional costs associated with enforcing the Noise Element *per se*. All of the General Plan will be implemented by City Planning staff within existing budgets. It is conceivable that the City would amend its Noise Ordinance to reflect the provisions in the Noise Element. If this occurs, then some additional enforcement costs might occur, but these would be assessed before a change to the Noise Ordinance is enacted.
- 10-11: The short-term noise level criteria are consistent with noise level criteria

used in numerous general plan noise elements throughout California. In addition, the standards are consistent with the recommended criteria contained within the State of California Office of Noise Control Model Community Noise Control Ordinance, recommended noise control criteria used by the State of Oregon.

# LETTER #11



Planning Department  
City of Benicia

MAR 5 1998

RECEIVED

March 2, 1998

John Bunch, Planning Director  
City of Benicia  
Planning Department  
250 East "L" Street  
Benicia, CA 94510

Re: Comments on the Benicia General Plan Draft EIR

Dear Mr. Bunch,

Moore Consulting represents International Technology Corporation (IT) and Goodyear Partners for the purposes of evaluating and commenting on the Benicia Draft General Plan and General Plan Draft EIR. IT and Goodyear Partners are both owners of land within the Benicia Planning area. Moore Consulting's representation of Goodyear Partners is limited to proposing changes to the Draft General Plan, and related changes to the Draft General Plan EIR, regarding that property in the "North Gateway Mixed Use" designation Moore Consulting is proposing for City consideration.

This letter contains comments concerning the accuracy and adequacy of the Draft EIR. Most of these comments are related to recommendations that the portions of my clients' properties proposed by the Draft General Plan to be within the Urban Growth Boundary be designated "North Gateway Mixed Use" as discussed below instead of "General Open Space" as proposed in the Draft General Plan.

Because it is important to the City for urban design reasons to achieve a new North Gateway area, a land use designation for the area should be adopted with the new General Plan to avoid the uncertainty of the future general plan amendment process. It is very unclear at the present time what kind of General Plan Amendment procedures may be required in the future after the General Plan is adopted. Consequently, it may be difficult for the City to achieve its vision of a new, more attractive North Gateway unless the General Plan establishes the future urban land use designation for this important area.

11-1

A "North Gateway Mixed Use" designation would not change the likely timing of the area's development. The properties would still need to be rezoned and annexed, with provisions made for extensions of public utilities and services. Also, the Draft General Plan and Draft EIR already acknowledge the development potential of the area. Consequently, including a specific urban land use designation in the General Plan would not change any of the impact conclusions of the Draft EIR as shown in the comments below.

11-2

Page 21

Add language concerning the "North Gateway Mixed Use" designation that IT and Goodyear Partners propose be considered for the property owned by IT west of I-680 (approximately 230 acre area #9 on pages 119 and 123 of the Draft General Plan) and the property owned by Goodyear Partners east of I-680 (approximately 24 acre area #10 on pages 119 and 123 of the Draft General Plan). These properties are located in the most northerly area shown for inclusion within the Urban Growth Boundary (UGB) on the Draft General Plan Land Use Map.

IT and Goodyear Partners propose the following "North Gateway Mixed Use" designation. The exact language may be modified, as we have requested assistance from City staff in determining the best language to implement the City's vision of a new North Gateway.

"North Gateway Mixed Use

This category permits a variety of business and recreational uses including light industrial, business and professional office, general and community commercial development including motels, recreational uses including golf course and related ancillary development, and churches, any of which may be a conditional use, in this most northerly portion of the Benicia Planning Area included within the Urban Growth Boundary (UGB). Residential uses and heavy industrial activities are not allowed.

The purpose of this category is to encourage a mix of compatible uses in the North Gateway area on both sides of Interstate 680 in order to achieve a new, well-designed northern entrance for the City of Benicia. "Mixed use" includes the mixing of permitted activities within the same building or within separate buildings on the same site or on contiguous sites. The North Gateway Mixed Use category permits FARs ranging from 0.6 for limited industrial development to 1.2 for general commercial development. Overall development shall not exceed the capacity of the vicinity Lake Herman Road/North Second Street/Lopes Road and Interstate 680 on- and off-ramp intersections.

## LETTER #11

### Page 40

Under 6. Jobs/Housing Balance, add the following: "If the North Gateway area is designated for "Mixed Use" development as proposed by the property owners, the jobs to employed residents ratio would improve due to the provision of more jobs during the life of the General Plan."

### Page 42

Add a new sentence to the end of the first paragraph: "If the North Gateway properties are designated for non-residential Mixed Use, there would be an modest increase in a wide range of job types but no increase in residential population, thereby improving the City's jobs to employed residents ratio."

### Page 44

The Police Impact Discussion and Impact and Mitigation Measures sections adequately evaluate the potential impacts of the property owners' proposed North Gateway Mixed Use designation because the proposed acreage and land uses are similar to those of the former Seeno parcels north of Lake Herman Road which were designated for Commercial and Professional Office use when the ABAG Projections were prepared. Mitigation Measure SERV-1 insures that neither of the two Standards of Significance for police service impact would be triggered by the proposed North Gateway Mixed Use designation.

### Pages 46 & 47

The proposed North Gateway Mixed Use designation would not change the conclusions of the Fire Impact Discussion or Impact and Mitigation Measures sections because the proposed Mitigation Measures SERV-2, incorporating General Plan Programs 2.11.C, 2.48.A and 4.21.C, would apply and insures that neither of the two Standards of Significance for fire service impacts would be triggered by the proposed North Gateway Mixed Use designation.

### Pages 48 & 49

The proposed North Gateway Mixed Use designation would not impact schools as no residential development is proposed or allowed. Consequently, the Standard of Significance for school impacts would not be triggered by the proposed North Gateway Mixed Use designation. In fact, ultimate development of the North Gateway area would fiscally benefit the school district.

### Pages 49 through 52

The Sewer Service and Water Service sections of the EIR adequately evaluate the effects of the proposed North Gateway Mixed Use designation because the sewer and water master planning done by the City to date had considered the development potential of all areas within the City limits, which would include the former Seeno parcels north of Lake Herman Road. The development potential of those parcels was similar to that now proposed for

# LETTER #11

Design standards will ensure the following:

- attractive architectural designs;
- ample landscaping along the freeway and between buildings and development sites;
- edge landscaping which relates to the surrounding marsh and open space areas;
- minimizing disturbance of stream, native oak woodland, marsh and other special habitats;
- allowing reasonable public access to adjacent open space;
- compliance with any requirements of the Alquist-Priolo Special Studies Zone, the Suisun Marsh Preservation Act, and the approved closure plan for the adjacent Panoche facility;
- screening of outdoor storage and similar outdoor activity areas;
- maintaining view corridors to Suisun Bay;
- screening of visible flat roofs and roof top equipment; and
- contour grading techniques in highly visible area."

## Page 26

Modify text for land use change #9 to read as follows:

"West side I-680, south of the northern "Gateway" to Benicia: undeveloped open space (approximately 230 acres per General Plan Land Use Map) with a small, inactive gravel pit on its northern edge. This area would retain its existing General Plan Open Space Designation, but may be redesignated for alternative urban uses in the future. The property owner proposes that the area be redesignated "North Gateway Mixed Use" by the General Plan."

## Page 24

Modify text for land use change #10 to read as follows:

"East side I-680, south of the northern "Gateway" to Benicia: three parcels (24 acres) between Goodyear Road and I-680. This area would retain its existing General Plan Open Space Designation, but may be redesignated for alternative urban uses in the future. The property owner proposes that the area be redesignated "North Gateway Mixed Use" by the General Plan."

## Page 25 Table 2

Modify text of #9 to include "approximately 230 acres" instead of "undetermined" under the ACRES columns and "North Gateway Mixed Use" instead of "Alternative Uses" under the PROPOSED LAND USE column.

## LETTER #11

the North Gateway area. Draft General Plan Goal 2.59 and its implementing policies regarding wastewater and Policy 2.58.3 regarding water insure that the wastewater and water service Standards of Significance would not be triggered by any development, including that which may potentially occur in the proposed North Gateway Mixed Use area.

### Pages 54 through 59

The proposed North Gateway Mixed Use designation would apply to approximately 250 acres, or only 5%, of the Northern Area 5,000 acres of open space. The proposed North Gateway Mixed Use designation does not trigger any of the three Standards of Significance for Open Space and Recreation impacts on page 57 of the Draft EIR. Additionally, the design standards proposed by the North Gateway Mixed Use designation would protect open space and recreation resources.

### Pages 61 through 102

Traffic Engineer George W. Nickleson, P. E., has evaluated the traffic impacts of potential development of the proposed North Gateway Mixed Use area. He has identified ultimate improvements needed at the vicinity intersections, including Lake Herman Road/ Second Street/Lopes Road. Improvements needed at that intersection to serve ultimate proposed North Gateway development are not significantly different from the signalization and lane modifications to that intersection identified by the Draft General Plan and Draft EIR, except as regards the Lopes Road leg of the intersection, which is to be expected, and an additional right turn lane on westbound Lake Herman Road. None of the Standards of Significance for Transportation and Circulation impacts would be triggered by the North Gateway Mixed Use area as all General Plan goals, policies and programs would apply and provisions for adequate transportation and circulation improvements and services would have to be identified prior to annexation to the City. Note that Mr. Nickleson's report is currently being finalized and will be submitted under separate cover for use by the EIR consultant.

### Pages 103 through 108

The Existing Setting portion of the Visual Quality and Urban Design section of the Draft EIR should discuss the visual and urban design rationales for the potential urban development within the UGB along I-680 at the North Gateway area as discussed in length on pages 119 and 120 of the Draft General Plan. The Impact section should discuss the potential difficulty the City may have in achieving its desired urban design intentions for a new, more attractive northern gateway if the future General Plan amendment process is substantially different from that described on page 12 of the Draft General Plan.

The Impact Discussion section adequately assesses the proposed North Gateway Mixed Use designation because none of the Standards of Significance

## LETTER #11

on page 106 of the Draft EIR would be triggered. The North Gateway Mixed Use contains numerous design standards to ensure that there would not be substantial, demonstrable negative aesthetic effects; substantial obstruction of views to the ridges or to Suisun Bay, nor development not in harmony with the surrounding open space. In fact, the EIR should conclude that the North Gateway Mixed Use designation would result in a more aesthetically pleasing northern gateway compared to the existing most northerly development in the City.

### Pages 109 through 113

The Cultural Resources section of the Draft EIR adequately assesses the effects of the North Gateway Mixed Use designation. No archaeological or historic resources are known to exist on the IT or Goodyear Partners properties. The General Plan policies and programs pertaining to archaeological and historic resources identified as mitigation measures in the Draft EIR would apply to the North Gateway properties, insuring that neither of the two Standards of Significance for Cultural Resources impacts would be triggered by the proposed North Gateway Mixed Use designation.

### Pages 115 through 122

The Geologic & Seismic Hazards section of the Draft EIR adequately assesses the effects of the North Gateway Mixed Use designation. General Plan policies and programs serve as mitigation measures; proposed North Gateway Mixed Use design standards require compliance with the Alquist-Priolo Special Studies Zone; and site specific geologic and seismic hazard investigations would be prepared for any future proposed development consistent with City requirements. All of those measures insure that neither of the two Standards of Significance for Geologic and Seismic Hazards would be triggered by the proposed North Gateway Mixed Use designation.

### Pages 123 through 131

Page 131 of the Hydrology & Water Quality section of the Draft EIR already adequately evaluates the potential effects of eventual development in the North Gateway area and makes specific reference to such potential development. This section concludes that General Plan goals, policies and project provide mitigation to avoid significant adverse impacts per any of the Standards of Significance for Hydrology and Water Quality impacts. Additionally, the proposed North Gateway Mixed Use designation's design standards include compliance with the Suisun Marsh Preservation Plan.

### Pages 133 through 145

The Biological Resources section of the Draft EIR adequately evaluates the potential effects of eventual development of the "North Gateway Mixed Use" area. The area is included in Figure 20, Sensitive Biological Resources, on page 135. The westerly portion of the area involves some Coast Live Oak Woodlands and Palustrine/Riverine resources, and the eastern portion may

## LETTER #11

contain some Palustrine/Riverine or other wetland resources. General Plan goals, policies and programs and the proposed design standards for the North Gateway Mixed Use designation would require mitigation of potential impacts to the sensitive habitats known or expected to occur on the North Gateway properties, thereby insuring that none of the Standards of Significance for Biological Resources would be triggered by the proposed North Gateway Mixed Use designation.

### Pages 147 through 154

The Air Quality analysis section of the Draft EIR adequately assess the North Gateway Mixed Use designation because the ABAG projections utilized in the regional Clean Air Plan were based on the previous General Plan's land use assumptions, which assumed significantly more development than would be allowed under the Draft General Plan. Even with the North Gateway Mixed Use designation, the total development potential of the Benicia Planning area would be less than that assumed by the regional Clean Air Plan. Additionally, the proposed North Gateway Mixed Use designation would improve the City's jobs to employed residents ratio, possibly reducing future vehicle miles traveled (VMT).

### Pages 155 through 165

The North Gateway Mixed Use designation would result in no new sensitive receptor uses and not contribute additional traffic along roadways adjacent to residential uses or other sensitive receptors that would change the conclusions of the Draft EIR.

### Pages 167 through 17

The western portion of the proposed North Gateway Mixed Use area is adjacent to the IT Panoche facility. No residential development is proposed in the North Gateway Mixed Use area. Any proposed development would need to consider all provisions of the forthcoming DTSC closure plan for the Panoche facility. The DTSC Plan will require closure provisions to protect human health and the environment. DTSC's closure plan approval is not expected to require any deed restrictions or land use controls on IT's North Gateway lands.

Thank you for this opportunity to comment on the Benicia General Plan Draft EIR. As can be seen from the comments above, no potential significant adverse environmental impacts have been identified that would result from the General Plan including the North Gateway Mixed Use designation proposed by the property owners for area within the UGB on both sides of I-680. Consequently, no significant changes are needed for the General Plan EIR to assess adequately the potential environmental effects of the proposed North Gateway Mixed Use designation.

## LETTER #11

I would be pleased to meet with staff and/or the EIR consultant to discuss these comments further. The Nickelson traffic analysis, which is currently being finalized will be forwarded under separate cover to be considered part of these comments.

Sincerely,



Anne Cronin Moore, AICP

cc: David McMurtry, IT Corporation  
Donald Bruzzone, Goodyear Partners

**LETTER 11**

**Anne Cronin Moore, Moore Consulting. Representing International Technology Corporation and Goodyear Partners. March 2, 1998.**

- 11-1: This comment asks for a clear explanation for what the required General Plan Amendment procedure would be after the General Plan is adopted. The Draft General Plan contains a section called "Amending the Plan" on pages 12 and 13.
- 11-2: The "North Gateway Mixed Use" designation is not part of the proposed project. The remaining comments in this letter analyze this designation in the context of a request that the North Gateway Mixed Use designation be included in the General Plan. The City may consider this information in assessing whether or not to add such a designation to the Draft General Plan. However, no further response or analysis is appropriate in the EIR, since the commentor's proposed designation is not part of the proposed project.



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March 2, 1998

John Bunch, Planning Director  
City of Benicia  
Planning Department  
250 East "L" Street  
Benicia, California 94510

Comments On Environmental Impact Report For The Draft Benicia General Plan

Dear Mr. Bunch:

IT Corporation (IT) has reviewed the City of Benicia's Draft Environmental Impact Report (EIR) prepared by Design, Community & Environment of Berkeley, CA, for the Draft General Plan. As the Company responsible for and committed to the proper closure and long-term maintenance of Panoche waste disposal facility (the Facility), a site referenced and/or discussed in certain sections of the draft EIR, we are providing a number of comments and recommendations for clarification and revision. These comments are limited to IT's evaluation of the discussions of the Facility and its vicinity. We have not at this time provided detailed comments on the Draft General Plan, except to note where further revisions will be recommended to address comments made on references in the draft EIR. Please consider the following in your future revisions to the EIR.

12-1

Page 154 - Reference is made to proposed Policy 4.28.1 in the draft General Plan. While IT will provide appropriate comments on the policy in future correspondence on the draft General Plan, the following should be noted in the EIR with regard to the Panoche facility. The facility operates under permits issued by the BAAQMD which include specific air emissions limits and/or controls. Existing and proposed emission sources are covered under various Authority To Construct and Permit To Operate authorizations issued by the BAAQMD for Plant # 186. IT conducts routine sampling and emissions calculations to verify that the Facility complies with the permit limits established by Condition #14083 of the July 1, 1998 Permit To Operate. The facility has been in compliance with these permit limits.

12-2

The EIR should also reflect the following assessments which have been completed for the Facility. As part of the evaluation of the closure and post-closure plans for the Facility (IT, 1996b), risk assessments were completed for multiple scenarios. The City of Benicia, Bay Area Air Quality Management District (BAAQMD), Department of Toxic Substances Control (DTSC) and DTSC's EIR consultant all had input to the development of these documents (IT 1991, 1993, 1996a and 1997). In fact, additional receptors (hypothetical exposure locations) were added to the inhalation pathway risk assessment at the specific request of the City, to quantify the potential for Facility related activities to impact persons potentially residing within the Paddy Creek Valley and Sky Valley areas (Jonas & Associates Inc., 1991). These assessments included conservative quantification of potential risks from air emissions both during closure and post-closure care of the Facility. The risk assessments (IT 1991 and 1993) and the recently certified EIR (McLaren/Hart 1997) concluded that the health risks from air

12-3

# LETTER #12

INTERNATIONAL TECHNOLOGY CORPORATION

emissions from the Facility, for a person residing at the Facility fence line, will be below the U. S. Environmental Protection Agency's target risk levels. All other risk calculations for people at offsite locations were significantly lower.

The EIR contractor for the Panoche closure review also completed, based on the City's comments on the draft EIR, an assessment of dust related impacts (PM-10) to offsite receptors expected to be present during a closure construction project of as long as six years. Again, the EIR concluded that there were no potential health impacts.

12-3

After closure construction, site activities will be limited to ongoing maintenance and management of recovered groundwater. Air emissions from these activities would be substantially below closure conditions and, as noted in the risk assessments, would have no impact at offsite locations.

Page 175, Final Par. - The first two sentences are overly broad and not supported by evidence in either the draft EIR or draft General Plan, as they relate to the IT Panoche facility. There is no evidence cited to suggest that potential health risks exist at or adjacent to the Panoche facility. Please see earlier comments for more detail on site specific risk assessments.

12-4

Page 177 - The draft General Plan contains Program 4.26A, which advocates "continuing to communicate the City's position that the only acceptable closure plan is a groundwater divide based alternative". The draft EIR should reference the Program 4.26A and find that implementation of this Program would lead to increased air quality impacts. DTSC prepared a comprehensive EIR for the IT Panoche closure project (McLaren/Hart, 1997) which concluded that the groundwater divide based alternatives were not environmentally superior to the 1991 Closure Plan and had greater air emissions. These emissions were quantified, determined to be significant, and could not be mitigated to a level of insignificance.

12-5

Sincerely,



Douglas S. Waltermire  
Manager of Environmental Affairs

gpeirco2.wpd.dsw

**LETTER 12**

Douglas S. Waltermire, Manager of Environmental Affairs. International Technology Corporation. March 2, 1998.

- 12-1: This comment introduces IT Corporation and the company's interest in the Draft EIR. No response is necessary.
- 12-2: Mitigation measure AIR-1 proposes to eliminate an apparent inconsistency between the proposed General Plan and the standards of significance defined by the Bay Area Air Quality Management District described on page 151 of the DEIR. As discussed on page 154, the General Plan does not specifically address buffer zones around sources of toxic contaminants or odors.

Information on a specific industrial source of air pollutants such as the IT Panoche facility is not particularly relevant for a General Plan EIR, and inclusion of details of one facility would imply that similar information on other facilities should also be included. Benicia contains a large number of industrial sources; inclusion of specific information on air quality permits for one or all industrial sources is not appropriate in a program-level EIR for a general plan.

- 12-3: This comment gives background information on possible air quality impacts of the closure and on-going operations at the IT Panoche Facility. The comment does not contradict any information in the Draft EIR, so no response is necessary.
- 12-4: Please see the response to comment 9-4.
- 12-5: The commentor is correct that the EIR on the IT Panoche closure concluded that IT's 1991 closure plan was the environmentally superior alternative. This determination was made entirely on the basis of  $\text{NO}_x$  emissions from construction equipment used during the closure process, which were projected to exceed BAAMQD thresholds of significance for all project alternatives including IT's 1991 plan. Although the exceedances were greater for IT's 1991 plan, DTSC concluded that it was the environmentally superior alternative because a groundwater divide closure would produce more total emissions, albeit spread out over a longer period of time.

The EIR on the IT closure did not identify any significant impacts on

groundwater or surface water because it concluded that groundwater contamination is an existing condition at the site and, since all the project alternatives were intended to prevent future contamination, there would be no impact under CEQA. Nevertheless, DTSC decided to approve a groundwater divide-based closure because, as stated in its CEQA Findings of Fact "...it is necessary to comply with Title 22 regulations." "Releases of additional hazardous constituents from the site after closure have greater potential to occur if the site is not closed in conformance with the DTSC Modified Plan [groundwater divide]. Hazardous constituents at concentrations that occur in the units outside the central groundwater drainage may pose a prolonged threat to public health and the environment."

03/02/98 17:14 510 372 4430

IT CORP MARTINEZ

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March 2, 1998

John Bunch, Planning Director  
City of Benicia  
Planning Department  
250 East "L" Street  
Benicia, California 94510

Comments On Environmental Impact Report For The Draft Benicia General Plan

Dear Mr. Bunch:

These comments on the EIR for the General Plan Amendment are provided by International Technology Corporation (IT) on the proposed Urban Growth Boundary which would significantly affect IT holdings in the Northern Area. We will provide specific comments on the General Plan during the appropriate public comment period, but submit for your consideration the following observations on the EIR.

13-1

The greatest change from the existing General Plan appears to be the limits on growth in the surrounding area. IT believes that the EIR analyses of environmental impacts could be improved in its level of detail and consideration of planning and entitlement requirements necessary before any urban development could proceed under the current General Plan or any alternative plan which contemplated growth in the northern area. The analysis of alternatives appears to have received only cursory attention to such considerations.

The EIR should more clearly recognize in its Alternatives Analysis for all alternatives that any significant development in the northern area would require pre-zoning, annexation, specific plans, and CEQA analysis (EIR) before gaining any approvals. These steps would result in mitigation measures. Therefore, the discussions in the No Project Alternative indicating deterioration are not well founded in the document.

13-2

Specific comments on the No Project alternative;

Population, Employment and Housing- Additional development should include mention of a positive impact because additional residential areas would be available for low income housing. The Sky Valley project, for example, would have required inclusion of specified affordable housing.

13-3

Open Space and Recreation - The EIR states that the proposed General Plan will provide access to open space in northern area. In fact, leaving open space and agricultural use may reduce the potential for parks, trails and trail head access that would be possible under negotiated development agreements which could result in dedication of lands to the City or other public entity.

13-4

Visual Quality and Urban Design -The EIR should consider the beneficial opportunities to

13-5

# LETTER #13

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IT CORP MARTINEZ

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INTERNATIONAL TECHNOLOGY CORPORATION

provide vista views from developed sections of the northern area over the City and waterways. Without some development, the citizens of Benicia may never have access to the private property.

13-5

Hydrology and Water Quality - The EIR should consider urban storm water requirements (detention basins, erosion controls, etc) which, if development were to occur, would serve to mitigate problems or even improve flood protection and erosion control over current conditions. The EIR is confusing in its statement on page 186 that Lake Herman has "already threatened water quality", given its statement on page 125 that the water quality is sufficient to meet water quality standards.

13-6

13-7

Air Quality - There does not appear to be any evidence in the EIR that traffic associated with a northern area development would result in air impacts above the significance thresholds. The prevention of residential development in the northern area would likely cause greater air impacts by leading to development further from employment centers and greater overall traffic.

13-8

The analyses of Alternatives A and B, with respect to the northern area, should also be evaluated in light of these same comments. In addition, the selection of alternatives is not sufficiently broad to provide a reasonable choice and understanding of potential environmental impacts. For a decision as far reaching as the proposed urban growth limits, IT respectfully suggests an objective, comprehensive and thoughtful analysis.

13-9

13-10

Thank you for the opportunity to comment on the EIR. If you have any questions, please call me.

Sincerely,



David C. McMurtry  
Vice President

cc: Dan Curtin, McCutcheon, Doyle, Brown and Enerson

# LETTER #13

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INTERNATIONAL TECHNOLOGY CORPORATION

## References

- IT, 1991, *Multimedia Risk Assessment for Closure and Post-Closure Plans, IT Panoche Facility, Revision 1.0*, prepared for California Department of Health Services and Bay Area Air Quality Management District, IT Project No. ABBC04, August.
- IT, 1993, *200-Foot Buffer Zone County-Mandated Clean Closure Risk Assessment, IT Panoche Facility*, prepared for California Environmental Protection Agency, Department of Toxic Substances Control, IT Project No. APAN01, September
- IT, 1996a, *Supplemental Risk Assessment for Hypothetical Off-Site Groundwater Ingestion (Current Conditions), IT Panoche Facility*, prepared for California Department of Toxic Substances Control, IT Project No. 760340, June.
- IT, 1996b, *Closure and Post-Closure Plans, Revision 2.2, IT Corporation Panoche Facility*, prepared for California Department of Toxic Substances Control, IT Project No. 760340, June
- IT, 1997, *Supplemental Risk Assessment for Hypothetical Off-Site Groundwater Ingestion (Parcel 181-270-030), (Current Conditions), IT Panoche Facility*, prepared for California Department of Toxic Substances Control, IT Project No. 760340, March
- Jonas & Associates Inc., 1990, Letter Report - "Summary of Technical Review of Draft Risk Assessment for Closure of IT Benicia Hazardous Waste Facility", prepared for City of Benicia Planning Department, October
- McLaren/Hart Environmental Engineering Corporation and Jones & Stokes Associates, Inc., 1997, *Final Environmental Impact Report, Closure and Post-Closure Plans, IT Panoche Facility*, prepared for California Department of Toxic Substances Control, December

LETTER 13

David McMurtry, Vice-President, International Technology Corporation.  
March 2, 1998.

- 13-1: The alternatives analysis contained in the Draft EIR is appropriately broad, considering that this is a program-level EIR on a General Plan.
- 13-2: While the commentor is correct that any of the alternatives that would allow for development in the North Area would necessarily require pre-zoning, annexation and additional CEQA analysis, it is not true that these steps would eliminate potential impacts associated with North Area development. Development in the North Area would clearly have more impacts on existing open space, visual and biotic resources in the area than would a no-development alternative, even if development were mitigated through the planning process.
- 13-3: While the No Project Alternative might have allowed for some affordable housing construction in the North Area, it cannot be shown that there would be more affordable housing development possible under the No Project Alternative than is possible under the proposed General Plan. The proposed General Plan identified housing infill sites that are available for affordable housing development, and it also allows for new mixed-use development that can include affordable housing. Moreover, the North Area is not particularly appropriate for affordable housing development since the North Area is isolated from the rest of the city and difficult to reach on transit. Residents of affordable housing in this area could have a hard time reaching jobs or educational facilities. Thus the positive impact of the No Project alternative with regard to affordable housing suggested by the commentor does not appear to be foreseeable.
- 13-4: General Plan Program 2.47.8 states that the City would "Acquire property, development rights, or easements to preserve open space." Designating the northern area as outside the urban growth boundary would assist the City's efforts to establish recreational opportunities in this area. Thus it does not stand to reason that the No Project Alternative would result in more open space access than the proposed General Plan.
- 13-5: The EIR summarizes the existing visual and urban design resources of the City and evaluates the effects of the proposed General Plan. In the analysis of Alternative A, development north of Herman Road is considered from

the perspective of the established community. Favoring potential benefits of views afforded by development north of Herman Road would ignore impacts to the established community. Moreover, the response to comment 13-4 indicates that the City may be able to acquire open space access in the North Area under the proposed General Plan, in which the public would be able to access the views indicated. Thus the beneficial impacts of the No Project Alternative relative to the proposed General Plan do not appear to exist.

- 13-6: The commentor is correct in the assertion that urban stormwater requirements would serve to mitigate many of the potential water quality problems associated with future development land use changes under the No Project Alternative or any other alternative. The Draft EIR states on page 130 that "water quality protection programs and policies included in the General Plan would minimize the future increases in non-point source pollutant loading of stormwater from urban sources and construction sites." However, this does not mean that the No Project Alternative would have the same level of impact on water quality in the North Area as a no development alternative like the proposed General Plan. In fact, there would be fewer water quality impacts, and no need for mitigation at all, if development does not occur in the North Area.
- 13-7: Regarding the assertion that the EIR text is confusing in its description of threatened water quality at Lake Herman, the commentor is referred to page 125 of the Draft EIR. The two statements referred to in the paragraph regarding the status of and influences on Lake Herman water quality are not exclusive. The first recognizes the Regional Water Quality Control Board's (RWQCB) designation of lake Herman as eutrophic, which means its waters are excessively nutrient laden. This is a degraded condition relative to non-eutrophic lake waters, but it does not preclude the use of lake water for the City's potable water supply.
- 13-8: Given the location of the North Area, development there would almost certainly be more automobile oriented than would development in central Benicia that is allowed under the proposed General Plan. While residents of new development in central Benicia would be able to walk, bicycle or take transit to meet some employment, shopping, and entertainment needs, residents of a North Area development would be more dependent on private autos to reach employment, shopping and entertainment destinations. Moreover, their trips to these centers would probably be longer, since they would have to travel into Benicia or other urban centers

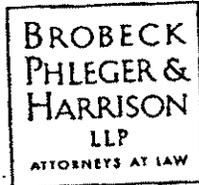
to meet these needs, whereas residents of central Benicia who did choose to drive to local destinations would only need to travel through town. For these reasons, the Draft EIR is correct to assert that there would be more air quality impacts associated with North Area development than with development under the proposed General Plan.

- 13-9: Alternatives A and B, which are described and analyzed on pages 187 to 195 of the Draft EIR, include considerable development in the North Area. They would have more impacts than the proposed project for the same reasons that are described for the No Project Alternative in responses to comments 13-2 through 13-7.
- 13-10: The Draft EIR includes an analysis of three alternatives, with two different alternative amounts of development in the area north of Lake Herman Road. This level of analysis meets the requirements of CEQA. Moreover, the City's General Plan Oversight Committee (GPOC) gave considerable thought to the appropriate level of development in the North Area and came to the solution shown in the Draft General Plan. It would be inaccurate to suggest that the proposed General Plan was derived without objective, comprehensive or thoughtful analysis.

LETTER #14

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March 2, 1998

VIA FACSIMILE & U.S. MAIL

Mr. John Bunch  
Planning Director  
City of Benicia  
Planning Department  
250 East "L" Street  
Benicia, CA 94150

Re: Comments on Draft EIR for Proposed Benicia General Plan

Dear John:

We are writing to convey the comments of Benicia Industries Inc. ("BI") regarding the Draft Environmental Impact Report for Benicia's proposed General Plan ("Draft EIR"). Detailed comments on the Draft General Plan itself will be submitted to the City at a later date.

As discussed below, the Draft EIR has failed to adequately address several important environmental impacts which would result from adoption and implementation of the Draft General Plan. Therefore, the Draft EIR does not comply with the California Environmental Quality Act (Public Resources Code §§ 21000, et seq., hereinafter "CEQA") nor with the CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 et seq., hereinafter "Guidelines"). The Draft EIR must be revised to include additional significant information about, and analysis of, these impacts. The Draft EIR must thereafter be recirculated for public review of that additional information and analysis, pursuant to CEQA Section 21092.1.

14-1

Potential Land Use Incompatibilities and Related Impacts

The Draft EIR (Page 34) states that "None of the land use designation changes would result in incompatible land uses or result in conflicts with established land uses ..., the land use designation changes would result in the beneficial effect of decreasing the likelihood that incompatibility would occur."

14-2

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# LETTER #14

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Mr. John Bunch  
City of Benicia



March 2, 1998  
Page 2

The above statement is inconsistent with a subsequent statement on Page 35 of the Draft EIR which acknowledges that "the encouragement of mixed uses proposed by the General Plan would also have the potential to create land use incompatibilities." In fact, the encouragement of mixed uses and resulting incompatibilities will occur as a result of proposed land use designation changes, for example, the proposed designation of the Lower Arsenal area as "Lower Arsenal Mixed Use".

14-2

The area proposed for Lower Arsenal Mixed Use is surrounded on three sides by lands designated (under both existing and proposed General Plans) as Water-Related Industrial. The area proposed for mixed uses also includes land already occupied by certain industrial uses. Thus, the proposed encouragement of mixed uses in the Lower Arsenal will indeed have the potential to create land use incompatibilities with port and other industrial uses. The Draft EIR (Page 35) summarily dismisses such conflicts by declaring that the Draft General Plan directs the City "to only allow mixed land uses when adequate buffers are established."

14-3

The problem is that nowhere in the Draft EIR are the specific impacts, the buffers, or significant issues related to the establishment of buffers, adequately discussed. For example, with regard to buffers which would be required in conjunction with the Lower Arsenal Mixed Use area, there is no discussion or analysis whatsoever of (1) where such buffers would be located, (2) how extensive they would need to be, (3) whether buffers would, in fact, be feasible in this area and whether they could adequately mitigate potential or anticipated incompatibilities, and (4) what the impacts of designating such buffers would be on Water-Related Industrial lands (i.e., the Port of Benicia).

CEQA requires that both the direct and indirect significant effects of the proposed General Plan be addressed in the EIR. These effects must be clearly identified and described, giving due consideration to both the short-term and long-term effects. Guidelines, Section 15126(a) [Emphasis added]. The EIR must also identify mitigation measures for each significant impact identified. Mitigation measures which are proposed must be feasible. If the inclusion of a particular mitigation measure would itself create new significant effects, these must also be discussed. Guidelines, Section 15126(c).

14-4

The rules regarding mitigation measures apply even when approving projects which are general in nature, such as a general plan. Agencies cannot defer the obligation to formulate and adopt mitigation until a specific development project is proposed. Citizens for Quality Growth v. City of Mount Shasta (1988) 198 Cal.App.3d 433, 442. At the very least, the City must have meaningful information reasonably justifying the expectation that

MAR 02 '98 14:47 FR BROBECK 2

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Mr. John Bunch  
City of Benicia



March 2, 1998  
Page 3

mitigation measures will be effective. See, for example, Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296.

14-4

Conflicts with the San Francisco Bay Area Seaport Plan ("Seaport Plan")

CEQA requires that an EIR discuss any inconsistencies between the proposed action, in this case the proposed General Plan, and adopted plans, including applicable regional plans. Guidelines, Section 15125(b). The Draft EIR (Page 32) correctly states that the Seaport Plan, which serves as the basis for BCDC's San Francisco Bay Plan port policies, is one of the applicable regional plans against which the Draft General Plan policies must be compared. However, the Draft EIR (Page 35) then erroneously concludes that the Draft General Plan is consistent with the Seaport Plan. As discussed below, that is not the case.

The Seaport Plan recognizes that, on a regional level, population growth and attendant pressures, coupled with changes in the shipping industry, make it impractical to find new locations for port development that can supply needed capacity. One of the major goals of the Seaport Plan, therefore, is to "reserve sufficient shoreline areas to accommodate future growth in maritime cargo, thereby minimizing the need for new Bay fill for port development." Seaport Plan, Page 1 [Emphasis added].

14-5

Areas determined to be necessary for future port development are designated as "port priority use areas" and are reserved for port-related and other uses that will not impede development of the sites for port purposes. The Seaport Plan recognizes the Port of Benicia as an active, 3-berth marine terminal and delineates an extensive port priority use area which extends from the waterfront northerly to the I-780 freeway, including the proposed Lower Arsenal Mixed Use area.

Seaport Plan policies applicable to port priority use areas are as follows:

1. Local governments and the Bay Area ports should protect port priority use areas for marine terminals and other directly related port activities through their land use planning and regulatory authority.
2. Within port priority use areas, non-port uses such as public access and commercial recreation development may be allowed provided that the use would not impair existing or future use of the area for port purposes.

# LETTER #14

MAR 02 '98 14:48 FR BROBECK 2

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Mr. John Bunch  
City of Benicia



March 2, 1998  
Page 4

3. Uses that would impair the future use of a port priority use area that is not currently used for port purposes may be allowed only on a finite, interim basis. Interim uses should be of a nature that allows the site to be converted to port use when it is needed for marine terminal development or other port priority use. The length of the interim use period should be determined on a case-by-case basis for each site and proposed use. Factors to be considered in determining the length of the interim use should include, but are not limited to: (1) the amortization period of investments associated with the proposed use; (2) the lead time necessary to convert the site to the designated marine terminal or port use; and (3) the need for the site as measured by the Bay Area volume of the cargo type specified to be handled at that site and the available capacity at other ports in the Bay Area to accept the specified cargo.
4. No Bay fill should be authorized for interim uses that are not water-oriented.

Local governments assist in implementation of the Seaport Plan by protecting the port priority use areas from incompatible development and encroachment by non-maritime related activities through planning and zoning restrictions. The Seaport Plan clearly spells out the responsibility of local governments to actively protect areas (such as the Port of Benicia) which have been designated for port priority uses and marine terminal sites. The Seaport Plan (Page 78) explains that:

"Special zoning for port facilities to restrict these areas to port-related uses and limited interim uses is necessary because: (1) BCDC does not have full control over uses more than 100 feet inland from the Bay; (2) there is no regional port management in the Bay Area to assure that port priority use areas and marine terminal sites are reserved; (3) there may be pressure to use these areas for non-port purposes; and (4) the loss of port priority use areas and marine terminal sites could result either in fill in the Bay at less suitable locations to meet the demand for port facilities in the future, or loss of trade that otherwise might contribute to the regional economy." [Emphasis added.]

14-5

# LETTER #14

MAR 02 '98 14:48 FR BROBECK 2

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Mr. John Bunch  
City of Benicia



March 2, 1998  
Page 5

The potential for negative effects on existing industries from allowing conflicting uses in proximity to the industrial uses is well known. Both the Economic and Fiscal Background Report ("Economic Report") dated February 26, 1996, and the Land Use Background Report ("Land Use Report") dated February 22, 1996, which were prepared by the City's consultants as background for the proposed General Plan, raise these issues.

The Land Use Report observes that expansion of the live/work units in the Arsenal area "could create potential conflicts with existing industrial land uses" (Page 25). It is exactly this type of intrusion of non-port uses into port areas which the Seaport Plan encourages local governments to prevent through their planning and zoning authority.

The Land Use Report also asks whether regulations imposed to protect the intrusive uses could "threaten the economic viability of existing industries" (Page 58). In a presentation to the GPOC on January 8, 1996, the City's economic consultant acknowledged that mixed use developments are popular but noted that such uses are usually found in combination with commercial-type uses, not industrial uses. We would concur with that observation. By their very nature, residential uses and certain other mixed uses are not appropriate in areas set aside for port and port-related uses nor in adjacent areas where the presence of incompatible uses would restrict the full utilization of port lands for water-related industrial uses.

The Economic Report, after considering the potential for land use conflicts, cautioned that the needs of the artist community in the Arsenal "must be considered in the context of the operating needs of the port and Benicia Industries which abuts this area." The Economic Report advises that, before allowing potentially conflicting activities, the City "should weigh carefully the tradeoffs between allowing for these activities and meeting its economic development and fiscal needs and objectives" (Page 83). It should be emphasized that although some of these concerns relate primarily to socio-economic impacts, even those impacts are relevant to the EIR since they also raise the prospect of relocation of port uses to more sensitive shoreline areas, thus indirectly resulting in physical impacts which must be examined in the EIR. "Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project." Guidelines, Section 15131.

In summary, the area proposed for designation as Lower Arsenal Mixed Use is located within the port priority use area designated in the Seaport Plan, and adjacent to existing and proposed port facilities. By encouraging additional non-water-related uses in the port priority use area, including those uses which are incompatible with port uses, the Draft General Plan is clearly inconsistent with the Seaport Plan. These incompatible uses (e.g.,

# LETTER #14

MAR 02 '98 14:48 FR BROBECK 2

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Mr. John Bunch  
City of Benicia



March 2, 1998  
Page 6

live-work units) have been the basis for the City's reluctance to approve certain port-related uses, notwithstanding their consistency with the applicable General Plan and zoning, such as BI's proposed rice storage warehouse, which is proposed to be located southeast of the intersection of Tyler and Polk Streets. Alternatives to the proposed action must be explored which would avoid these impacts and inconsistencies. CEQA Section 21100(b)(4) and Guidelines Section 15002(a)(3).

14-5

### Reduction in Development Potential for Port and Adjacent Industrial Areas

The Draft General Plan proposes to reduce the allowed floor area ratio ("FAR") for the port and adjacent industrial lands within the port priority use area. The FAR for land designated Water-Related Industrial is proposed to be reduced from 1.0 to .07, while the FAR for certain adjacent industrial areas commonly known as the Pine Lake and Yuba properties (which are currently designated as General Industrial and proposed for change to Limited Industrial -- see Land Use Changes #6 and #16 on Pages 24 and 26) will be reduced from 1.0 to 0.6. See Draft EIR, Page 34. At the same time, the Draft General Plan proposes an FAR of 2.0 for the non-water-related uses in the Lower Arsenal Mixed Use area. Draft EIR, Page 21. Not only do the differences in proposed FAR indicate a distinct bias in favor of mixed uses, as opposed to water-related industrial uses, but they also severely curtail the development potential of the port area and its back-up lands. Thus, the likelihood that future port development will be forced to less suitable lands in the Bay area, in direct contradiction to Seaport Plan policies, is significantly increased.

14-6

In any event, the Draft EIR is completely silent in addressing the reasonable foreseeable environmental impacts associated with these reductions in FAR in the port priority use area. Given the sensitive shoreline areas that could be impacted by forcing port development away from the designated port priority use area, a full analysis must be conducted. Although the Draft EIR alleges on one hand that the effect of the reduced FARs "may be minimal", it goes on to say that the reclassifications from General Industrial to Limited Industrial will result in a "drop in rail, truck and waterborne freight transport" (i.e., a reduction in industrial development). Draft EIR, Page 91.

### Public Access Issues

As noted above, one of the Seaport Plan policies applicable to port priority use areas is that public access and commercial recreation should not be allowed if they would impair existing or future use of the area for port purposes. Nevertheless, the Draft General Plan contains proposals contrary to this policy.

14-7

# LETTER #14

MAR 02 '98 14:49 FR BROBECK 2

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Mr. John Bunch  
City of Benicia



March 2, 1998  
Page 7

## Streets

For example, the Draft EIR (Page 86) cites a General Plan proposal to (1) extend Bayshore Road as a public roadway through the port area, and (2) to connect Oak Street and Adams Street to provide public access to Bayshore Road. The discussion on Page 99 of the Draft EIR states that the future public roadway through the port/Arsenal area would more effectively accommodate truck trips in the industrial area and minimize impacts on residential and commercial streets. This is untrue.

Public roadways across Port property, and the resultant increased public access, would: (1) significantly disrupt existing and future Port operations; (2) substantially reduce the value of the remaining Port acreage because of the severance of the property; (3) reduce the area available for water-related industrial uses by devoting land to the road right-of-way; (4) increase potential vandalism and related problems (which would be exacerbated because of the high-value cargos, i.e., automobiles, handled at the Port), thereby necessitating increased lighting and security patrols, at an added cost to BI; and (5) introduce additional public safety and security concerns.

Also, the East H Street/Bayshore Road proposal is inconsistent with prior City positions, and even with other proposed General Plan policies and programs, regarding the issue of public access between Downtown and the Arsenal. Both prior City positions and certain proposed General Plan policies and programs emphasize exploring alternatives to providing access between Downtown and the Arsenal.

For example, when the City considered approval of the Planned Development District for the Historic Arsenal Park, it directed that a study be prepared evaluating the advantages and disadvantages of seven potential alternative secondary access routes to the area. In a memo to the City Manager dated February 7, 1992, the Planning Director concluded that another alternative, not the East H Street connection to Bayshore Road, was the most realistic scenario for a link to the Downtown via East H Street. The most realistic alternative, and the one with the least impact, involved the use of East H Street past East 7th Street to a new road within or paralleling the Exxon easement, north to East K Street, connecting to a new westerly extension of Jackson Street.

With regard to the City's present position, the Draft General Plan states that "the City will investigate alternative alignments, mindful of H Street residents' concerns about through-traffic and Benicia Industries' concerns about Port security." Also, Program 2.78B indicates that the East H Street connection between the Downtown and the Lower Arsenal is only one alternative which may be considered. (See Draft General Plan dated December 15,

14-7

14-8

# LETTER #14

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Mr. John Bunch  
City of Benicia



March 2, 1998  
Page 8

1997, Page 155. Emphasis added). A reasonable range of alternatives must be evaluated now, before committing to an East H Street/Bayshore connection in the General Plan. See CEQA Section 21100(b)(4) and Guidelines Section 15002(a)(3).

14-8

### Trails and Bikeways

Furthermore, as cited on Page 82 of the Draft EIR, the Draft General Plan proposes to incorporate a Parks, Trails and Open Space Master Plan ("Master Plan"). The Master Plan describes and maps the trails and bikeways, both existing and proposed, that will constitute the city's system. Certain segments of these trails and bikeways would introduce public access into the port priority use area which could impair port operations, now and in the future. Not only would the proposals adversely impact the port but they would also adversely affect trail users since they would be exposed to hazards inherent to industrial areas (e.g., rail and trucks traffic moving freight to and from port operations).

14-9

BI's specific concerns include portions of the proposed trail system which would traverse BI's private property. See Figure 14, Page 100, Draft EIR. For example, a portion of one trail/bikeway would cross the Clock Tower overlook point, descending (or ascending, depending on the direction of travel) the face of the cliff, and continuing along Bayshore Road. This area along Bayshore Road is a focal point for industrial truck and rail traffic, which will be increasing as planned port projects are brought on line. The dual concerns of public safety and industrial security mandate that the trail/bicycle route be placed elsewhere.

14-10

BI acknowledges the existing public access arrangement under an approved BCDC permit whereby fishermen may park at a lot located northeasterly of the intersection of Oak Street and Bayshore Road and cross over Bayshore Road and the railroad tracks by foot to a fishing area under the Benicia Bridge. However, there are serious safety problems preventing access from this fishing area along the Union Pacific railroad tracks or along Bayshore Road to an additional public access area which is located over a portion of the levee which separates BI's auto storage facility (known as Area 7) from the Suisun Bay. For that reason, with the concurrence of BCDC, a separate parking area was established by BI nearer to the levee to provide separate and safer access to the levee. It is simply not safe to provide continuous public access through this segment.

14-11

Another segment of the proposed trail in the eastern industrial area is initially proposed to follow the top of the levee northeasterly along BI's existing auto storage facilities and then continue all the way to Lake Herman Road. As noted above, public access is

# LETTER #14

MAR 02 '98 14:50 FR BROBECK 2

415 442 1010 TO 1204#011570\*0011 P.10/12



Mr. John Bunch  
City of Benicia

March 2, 1998  
Page 9

already provided by BI on the levee as far north as, and along, the south side of Sulphur Springs Creek. However, public access stops at this point and is not allowed further north.

14-11

Simply stated, there is no existing public access on the waterfront northward of Sulphur Springs Creek. Nevertheless, the Master Plan to be incorporated into the General Plan proposes to designate an improved community trail continuing from this point all the way to Lake Herman Road. This route goes through sensitive marsh and wildlife habitat.

There are several reasons for not extending the route through this area. For example, in issuing a permit to BI for its auto storage facility north of Sulphur Springs Creek (Permit No. 4-80), BCDC specifically decided against providing public access north of Sulphur Springs Creek. Among other things, BCDC found that "bringing people into close contact with the animals living and using the relatively small wildlife area along the Bay edge will lessen to some extent the wildlife value of the existing and proposed tidal marshlands." Permit No. 4-80, Page 12. We did not see these issues addressed in the Initial Study and Negative Declaration which were prepared for the Master Plan, nor are they addressed in the Draft EIR.

14-12

The Draft EIR (Page 144) infers that the environmental review of specific development, including specific trail alignments, will be addressed in subsequent CEQA reviews. However, CEQA requires that review be conducted at the earliest opportunity (i.e., as soon as meaningful) analysis can be performed. Guidelines 15004(b). The trail alignments in the Master Plan are sufficiently known and described to allow some preliminary analysis of environmental impacts. These impacts can and should be evaluated now. Also, alternative routes should be explored in order to provide a trail between the Arsenal and Lake Herman Road. This should be done prior to committing to the trail alignment as now proposed.

14-13

### View Protection

The adverse impacts of public access on port uses are not limited to proposed physical encroachments alone. They also include impacts related to enhanced "visual access" through the designation of additional view corridors and viewsheds. Several goals, policies and programs of the proposed General Plan are intended to protect vistas and views (e.g., Goals 3.20 and 3.21 and associated programs and policies). See Draft EIR, Page 107. The potential impacts of these goals, policies and programs on the port priority use areas must be examined.

14-14

# LETTER #14

MAR 02 '98 14:50 FR BROBECK 2

415 442 1010 TO 1204#011570\*0011 P.11/12

Mr. John Bunch  
City of Benicia



March 2, 1998  
Page 10

## Miscellaneous Comments

1. The Draft EIR (Pages 172 and 177) refers to eleven areas of concern identified by the Corps of Engineers which may have a potential for residual ordnance. However, it is unclear exactly where these areas are. The Draft EIR should include a map of these eleven areas.

14-15

2. The acreages cited on Page 76 of the Draft EIR are misleading. The Port of Benicia only has approximately 225 acres of open storage area available in the areas designated Water-Related Industrial.

14-16

3. Figures 3 and 10 of the Draft EIR should be revised to clearly indicate that the portions of Bayshore Road, Adams Street and Oak Street line easterly of the marked gates are privately owned. References to these same roads in the text of the Draft EIR should likewise indicate that they are privately owned.

14-17

4. As discussed at Page 162 of the Draft EIR, the General Plan provides specific noise performance standards which will be applied to new developments. The Draft EIR acknowledges that there is a potential for noise-sensitive uses to encroach upon existing or proposed fixed industrial noise sources, but it dismisses such concerns by saying that the General Plan includes "guidance to prevent this situation from occurring". Later in the discussion, it states that "appropriate measures would be taken to reach compatibility". However, nowhere are the vague concepts of "guidance" and "appropriate measures" explained. The Draft General Plan proposes specific land use changes which will have specific noise-related impacts, such as the designation of a mixed use area next to an operating port, in a port priority use area. CEQA requires that at least some analysis of noise impacts be done at this time, in conjunction with the proposed change in land use designation, even though further analysis will likely be done when specific projects are carried out. Appropriate mitigation measures should also be detailed now.

14-18

5. The Draft EIR (Page 192) explains that Alternative B to the proposed General Plan would result in a partial reduction of water-related industry. However, it fails to evaluate the impact of this reduction and to recognize that a reduction in the area designated as Water-Related Industrial will result in a relocation of port-related industrial uses to less suitable shoreline areas with concomitant impacts on sensitive Bay resources, as described elsewhere in this letter.

14-19

# LETTER #14

MAR 02 '98 14:50 FR BROBECK 2

415 442 1010 TO 1204H011570\*0011 P.12/12

Mr. John Bunch  
City of Benicia



March 2, 1998  
Page 11

Please call me if you have any questions regarding these comments.

Very truly yours,

A handwritten signature in cursive script that reads "Jeff Brinton".

C. Jeff Brinton

cc: Mr. Phil Plant

## LETTER 14

C. Jeff Brinton, Brobeck, Phleger and Harrison, LLP. Representing Benicia Industries. March 2, 1998.

- 14-1: This comment states that the EIR does not comply with CEQA. Explanations for this assertion are contained in further comments. As explained in the responses below, the City does not concur with the comment, and does not believe that a revised Draft EIR needs to be recirculated for public comment.
- 14-2: The referenced language on page 34 of the Draft EIR has been changed in Chapter 3 of this Final EIR to more clearly state the results of the analysis that follow below it.
- 14-3: This comment requests more analysis of buffers between land uses in the Lower Arsenal Mixed Use Area. Such analysis is not possible at this time, since the buffers would be determined in response to specific development proposals. The City would address the questions outlined by the commentor at the time that it considered new uses in the Lower Arsenal area.
- It is important to note that General Plan Policy 2.2.3 conditions the continued provision of new live/work spaces in the Lower Arsenal on the "demonstration that adequate buffers exist."<sup>1</sup> If adequate buffers do not exist, then the City would not be able to allow additional live/work spaces in the Lower Arsenal area. Policy 2.2.3 also requires adequate noise buffers and a demonstration that "the presence of residents would not significantly constrain existing industrial operations... ." In this Final EIR, references to these conditions have been added to page 35 of the Draft EIR.
- 14-4: This comment provides background on CEQA requirements for impact analysis and mitigation measures. It does not reference the contents of the Draft EIR, so no response is required.
- 14-5: Page 36 of the Draft EIR discusses the relationship of the Draft General Plan to the *San Francisco Bay Seaport Plan*, and finds that the General Plan is consistent with the *Seaport Plan* because it contains Goals 2.6, 2.7 and 2.8 and their related policies which are specifically aimed at maintaining the Port of Benicia as a vital port area. Based on the comment received from the Bay Conservation and Development Commission (BCD) (reprinted as

<sup>1</sup> Draft General Plan page 32.

Letter 1 in this Final EIR), it appears that BCD found this analysis to be adequate.

Specifically, the General Plan is consistent with the policies for port priority areas in the *Seaport Plan* that are reprinted in this comment. The waterfront areas in the Port would be designated for Water-Related Industrial Use, which allows specifically for port functions. Other areas would be designated for Lower Arsenal Mixed Use, but non-port uses would only be allowed in these areas if "the presence of residents would not significantly constrain existing industrial operations, including the flow of goods and materials."

It should also be noted that the *Seaport Plan* is an advisory document that is not binding on local governments. Although the *Seaport Plan* makes recommendations as to how local governments should administer port lands, land use decisions in the Port of Benicia for areas outside of BCD's 100-foot wide jurisdiction are solely under the purview of the City of Benicia, and are not reviewed or restricted by BCD. Thus even if an inconsistency with the *Seaport Plan* existed, it would not constitute a significant impact that would require mitigation or exploration of feasible alternatives under CEQA.

- 14-6: Please see the response to comment 6-6, which addresses the issue of the effects of new lower FARs in industrial areas. The same analysis holds true in the Water-Related Industrial Designation, where buildings are also built and proposed at FARs far lower than that allowed by the City under existing or proposed regulations. Benicia Industries' recently proposed rice warehouse had an FAR of just 0.40, which would have been well within the proposed FAR of 0.70. It is inaccurate to argue that the changes in allowed FARs would limit industrial potential in the Water-Related Industrial Designation.
- 14-7: The statement on page 99 has been revised as shown in Chapter 3 of this document.
- 14-8: The connection the commentor refers to does appear in the General Plan and is included in the Preliminary Master Circulation Study prepared in 1990. The proposed General Plan and prior City positions do discuss exploring alternative alignments for this connection, but also support the connection itself.

- 14-9: It is inaccurate to state that the proposed General Plan would “incorporate” the Parks, Trails and Open Space Master Plan. Some of the facilities listed in the Master Plan are also included in the proposed General Plan, but the Master Plan is not to be incorporated wholesale into the General Plan.

Figure 2-30 in the Draft General Plan, which is reprinted as Figure 14 in the Draft EIR, shows the proposed bicycle and multi-use trail system. While it is true that one trail in this network would run through the *Seaport Plan*'s “port priority area,” the response to comment 14-5 makes clear that the *Seaport Plan* is not binding on the City. Moreover, the *Seaport Plan* specifically states that public access is an appropriate use even within designated port priority areas, as noted by the commentor in comment 14-5. Most importantly, the proposed trail alignment would run almost exclusively on existing streets, where it would have little potential to conflict with port operations. The far western portion of the trail shown on Figures 2-30 and 14 would connect to the new bicycle and pedestrian facilities to be built on the Benicia-Martinez Bridge, so it would not conflict with port operations.

- 14-10: The alignment shown for the trail/bikeway access traversing Benicia Industries' illustrates the need to connect the Military/Adams bikeway to the new bikeway to be constructed as part of the new Benicia-Martinez Bridge project. The specific alignment or details in its construction do not need to be resolved in the General Plan. The purpose is to determine the need for this connection and the approximate alignment.

- 14-11: In 1982, Benicia Industries (BI) received a BCD permit which required BI to provide public access to the waterfront in the form of a small parking lot at Oak and Bayshore where fishermen could park and then walk across Bayshore and the railroad tracks to a fishing area under the Benicia-Martinez Bridge. Under two later permits issued in 1988, BI was required to provide additional shoreline access to the area northeast of the Benicia-Martinez Bridge. It was intended that this area be reached by extending a path from the original fishing access area unless more than “minor” fill would be required to create the path. In that case, BI was to construct a second parking lot northeast of the bridge to provide access to this additional shoreline area and, in fact, the second parking lot was constructed. In approving the 1988 permits, BCD found that “safety or security problems have not arisen as a result of the use of this (1982) public access parking lot and that the permittee has not demonstrated its claims that either the Southern Pacific railroad tracks or Bayshore Road receives

enough traffic to pose a safety problem.”

- 14-12: With respect to the issue of providing public access north of Sulphur Springs Creek, the following is quoted from BCD permit 4-80 as amended through 1986:

The proposed project site (which is north of Sulphur Springs Creek) is bounded on the north by a duck club. Consequently, public access on the site may create some public safety problems. Also, bringing people into close contact with the animals living and using the relatively small wildlife area along the Bay edge will lessen to some extent the wildlife value of the existing and proposed tidal marshlands. To assure that there is no conflict between public use of the shoreline and use of the adjacent marshlands for hunting and as a wildlife area, some separation of these uses would seem to be desirable. Sulphur Springs Creek appears to be a logical boundary...”

The land where the duck club was reportedly located is presently owned by the Department of Fish and Game. It is unknown whether the Department would be willing to work with the City toward establishing a trail across the property or whether BCD concerns regarding potential effects on wildlife could be resolved. As noted above, however, the alignment of the trail is conceptual and the City expects to make adjustments at the design stage if necessary to deal with such issues.

- 14-13: Contrary to the commentator’s assertion, it is not possible to analyze the potential impacts of specific trails at this time, since the alignments are only conceptual and since there are no specific designs for the trails. In regard to alternative alignments, there are no alternative alignments that could meet the goal of providing access along the shoreline between the Arsenal and Lake Herman Road; an alignment along the shoreline is the only possible way to provide shoreline access.
- 14-14: The commentator suggests that there may be impacts on port operations that would arise from the protection of views. However, there is no suggestion as to what these impacts might be. The General Plan goals, policies and program in question would not affect existing port operations. They could limit the Port of Benicia’s ability to build new facilities that would block views or be unsightly from a distance. However, this is not an impact in the sense that is required to be analyzed under CEQA, because it would be

conjectural to try to assume what future projects could be affected and because it would be a socio-economic impact, which is generally not covered by CEQA. The impact of these visual goals, policies and programs on the *environment*, which is covered by CEQA, would be positive, since the goals, policies and programs would preserve views.

- 14-15: Figure F-2 has been added in this Chapter 3 of this Final EIR to show the locations of the eleven areas where ordnance is suspected.
- 14-16: The information regarding the area in open storage area in the Port designated for Water-Related Industrial use has been added to page 76 in Chapter 3 of this Final EIR.
- 14-17: In Chapter 3 of this Final EIR, Figures 3 and 10 and the list of roads on pages 61 and 63 of the Draft EIR have been amended to show that Adams Street, Oak Street and Bayshore Road are private.
- 14-18: Page 162 of the Draft EIR, which is referenced by the commentor, includes an explanation of the "guidance" that would prevent encroachment of noise-sensitive uses in industrial areas. This explanation is contained in the second paragraph in the section on Industrial and "Other Fixed Noise Sources," beginning with the sentence "Figure 4-6 of the General Plan provides specific performance standards for determining the compatibility of noise sensitive land uses with non-transportation sources... ."
- 14-19: In formulating Alternative B, the General Plan Oversight Committee's intent was to reduce the area designated for water-related industrial use without threatening the viability of the port. The Committee could not come to a conclusion as to the specific amount or location of the reduction and thus none was identified. There is no basis for the commentor's assumption that Alternative B would lead to "relocation of port-related industrial uses to less suitable shoreline area with concomitant impacts on sensitive Bay resources." It is not possible to determine if or where port-related uses might develop as a result of a reduction in lands designated water-related industrial under Alternative B and thus the impacts of relocation, if any, are too speculative to identify and need not be evaluated under CEQA.

**LETTER #15**

**EXXON COMPANY, U.S.A.**  
3400 EAST SECOND ST. • BENICIA, CALIFORNIA 94510-1097

Planning Department  
City of Benicia

MAR 2 1998

March 2, 1998

**RECEIVED**

REFINING DEPARTMENT  
BENICIA REFINERY  
COMMUNITY RELATIONS  
(707)745-7534

Mr. John Bunch  
Planning Director  
City of Benicia  
250 East L Street  
Benicia, California 94510

Dear Mr. Bunch:

At the Planning Commission's February 19, 1998 public hearing on the Draft Environmental Impact Report (EIR) for the City's General Plan Update, I had the opportunity to share, in general terms, some of Exxon's concerns with the Draft EIR. These concerns are discussed in much greater detail in our written comments, which are enclosed and which were prepared for us by Messrs. Michael J. Burke and Paul J. Neibergs of the Law firm Ellman, Burke, Hoffman and Johnson.

As you know, it is Exxon's perspective that there are several significant adverse impacts on our future business with changes proposed in the draft General Plan Update. As has been Exxon's tradition in Benicia, we look forward to a cooperative and constructive dialogue with the City regarding the issues of concern.

Sincerely,



F. V. Newhouse  
Community Relations Manager

FVN:jmg

Enclosures

c - City Council Members  
Planning Commission Members  
City Manager  
City Attorney

**LETTER #15**

**ELLMAN BURKE HOFFMAN & JOHNSON**  
A PROFESSIONAL LAW CORPORATION

ONE ECKER, SUITE 200  
SAN FRANCISCO, CA 94105

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March 2, 1998

Planning Department  
City of Benicia

BY HAND DELIVERY

MAR 2 1998

Jerry Hayes, Mayor  
Honorable Members of the City Council  
Joe Burek, Chair  
Honorable Members of the Planning Commission  
City Hall  
250 East L. Street  
Benicia, CA 94510

**RECEIVED**

Re: Draft Environmental Impact Report for Benicia General  
Plan Update.

Ladies and Gentlemen:

We are writing on behalf of Exxon Company, U.S.A. ("Exxon") to comment on the Draft Environmental Impact Report ("DEIR") that has been prepared for the proposed Update to the Benicia General Plan (the "General Plan Update"). These comments are submitted in addition to the other comments that have been or will be submitted by Exxon, orally and in writing, with respect to the DEIR and General Plan Update.

Exxon's relationship to the community and interest in the General Plan Update and DEIR are explained in the February 19, 1998 remarks of Fred Newhouse to the Planning Commission. These remarks were forwarded to the Planning Commission and City Council by letter dated February 20, 1998. We encourage you to review these remarks, which are incorporated herein by this reference, because they provide the context for and underscore the seriousness of Exxon's comments on the DEIR.

An environmental impact report is required to be prepared in accordance with the requirements of the California Environmental Quality Act ("CEQA"). The purpose of an EIR is "to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." (Pub. Res. Code Section 21061.)

City of Benicia  
March 2, 1998  
Page 2

The DEIR prepared for the General Plan Update fails to fulfill these purposes and is inadequate as a matter of law under CEQA. As discussed in more detail below, the DEIR fails completely to discuss the secondary impacts that are likely to result from the General Plan Update. The DEIR also fails to identify inconsistencies between the General Plan Update and adopted local and regional plans, and contains an inadequate analysis of potential noise impacts. In addition, the DEIR fails to address the potential impacts of locating incompatible residential and other uses in industrial areas, and also fails to provide the required analysis of cumulative impacts. Finally, the DEIR, contrary to the mandate of CEQA, does not consider a reasonable range of alternatives that would reduce the potential impacts of the General Plan Update. Therefore, we respectfully submit, the City should conduct the additional analyses and make the revisions and additions to the DEIR required to comply with CEQA, and then determine whether it is necessary to recirculate the revised DEIR for public review and comment.

- A. The DEIR fails to consider the secondary environmental impacts of the General Plan Update on both the region and Benicia itself.

Under CEQA, an EIR is required to "identify and focus on the significant environmental effects of the proposed project. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the long-term and short-term effects. The discussion should include relevant specifics of the area...and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development)..." (CEQA Guidelines, Section 15126(a)) (emphasis added).

It is not sufficient for an EIR to focus exclusively on direct physical impacts of a proposed project. "In evaluating the significance of the environmental effects of a project, the Lead Agency shall consider both primary or direct and secondary or indirect consequences." (Guidelines, Section 15064 (d) (emphasis added)). "Secondary consequences are related more to effects of primary consequences than to the project itself and may be several steps removed from the project in a chain of cause and effect." (Guidelines, Section 15064(d)(2)). "Direct physical conditions are easy to identify. Indirect examples could include the increased traffic, fuel consumption, and air pollution as the potential results" of a proposed project." (Id.; See Shawn v. Golden Gate Bridge, etc. District (1976) 60 Cal.App.3d 699.)

For a project that involves the adoption of a general plan, the EIR is required to "focus on the secondary impacts that may

City of Benicia  
March 2, 1998  
Page 3

be expected to result" from the action. (CEQA Guidelines, Section 15146 (b) (emphasis added); see Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners (1993) 18 Cal.App.4th 729, 745-746; Rio Vista Farm Bureau Center v. County of Solano (1992) 5 Cal.App.4th 351, 371-374.) Findings of significance are mandatory if the "project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals," or if "the environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly." (Guidelines, Section 15065; see Pub. Res. Code Sections 21038, 21087, 21083).

Contrary to the requirements of CEQA, the DEIR fails to address the potential secondary impacts of the General Plan Update. Because these potential impacts would adversely affect human beings and would also impede the achievement of long-term environmental goals in the region, a finding of significance is mandatory. (Guidelines, Section 15065.) In particular, the DEIR fails to consider the secondary regional housing, transportation, air quality and public service impacts that would result from the downzoning of residential and industrial properties. The DEIR also fails to consider the effects that the Noise Element in the General Plan Update would have on the availability of public safety services.

1. The DEIR fails to consider the likely regional environmental impacts of the General Plan Update.

15-1

A major land-use change proposed by the General Plan Update is to downzone industrial areas in the City from "General Industrial" to "Light Industrial." This downzoning includes the undeveloped land that is adjacent to the processing units and support facilities that form the operational core of Exxon's Benicia refinery. In addition to this industrial downzoning, the General Plan Update proposes to redesignate as open space certain properties that had been slated for residential development, including the Sky Valley property. The General Plan Update also includes the establishment of an "Urban Growth Boundary" that would effectively preclude any development, residential or commercial, outside of the already developed areas of the City.

The DEIR concludes that the proposed General Plan Update would not result in any significant environmental impacts because the downzoning will reduce the amount of residential and industrial development that otherwise might occur. Apparently, the rationale is that with less development there will be fewer impacts. However, there is no evidence in the DEIR to support the conclusion that this would be true even in Benicia itself.

Even if the conclusion could be demonstrated to be true for Benicia itself, it is certainly not true for the region as a

City of Benicia  
March 2, 1998  
Page 4

whole. Where will the homes and businesses that would otherwise be built in Benicia go, and what will be the impacts of this displacement? The DEIR is defective because it does not answer these questions. Indeed, it fails to even ask them!

As workers continue to be displaced because they cannot find or afford a home in Benicia, there surely will be adverse impacts on regional greenbelts, highways and air quality as a consequence of urban sprawl and extended commutes. Exxon workers already experience this problem - about 25% of its workers live in Benicia; the rest must commute to Benicia.

The General Plan Amendment anticipates and encourages a growth in the jobs provided by businesses in Benicia. Yet at the same time, the General Plan Update redesignates as open space property that had been previously designated for residential development, and establishes an "Urban Growth Boundary" outside of which development would be prohibited.

The consequence of this expansion of jobs, combined with a contraction of area available for residential development, is a displacement of housing to other communities. In other words, under the General Plan Update, the City of Benicia proposes to import jobs and export housing. The need for housing will not disappear; the General Plan Update simply curtails the amount of housing that will be provided in Benicia.

Although it is not possible to predict with precision the secondary impacts that will result from the downzoning proposed by the General Plan Update, it is well established that local efforts to export residential and other uses to other communities have significant environmental impacts on the region as a whole. In regard to efforts by communities to import jobs and export housing through land-use regulation, as the Benicia General Plan Update proposes to do, a recent study by the Association of Bay Area Governments (ABAG) entitled "Bay Area Futures: Where Will We Live and Work?", a copy of which is enclosed, describes how this type of land-use regulation exacerbates regional transportation and pollution. As communities try to bring in jobs, yet at the same time limit opportunities for additional housing, workers are required to make ever longer commutes, with the resultant direct additional environmental impacts. In addition, housing development is pushed further out into undeveloped areas that lack the necessary infrastructure. The results of this pattern of land-use regulation are growing regional environmental problems that inevitably follow in the wake of efforts by communities to enact land-use regulations without regard to regional needs.

Similar impacts would also arise as industrial park businesses find it difficult to expand or as those who might

# LETTER #15

City of Benicia  
March 2, 1998  
Page 5

consider moving to Benicia find it impossible to purchase appropriately zoned land.

By limiting the uses and reducing the floor area ratio (FAR) of land already devoted to industrial development, land that is adjacent or in close proximity to existing roads, rail, water and pipeline transportation systems, the General Plan Update would shift industrial development to other areas where it would not otherwise, and maybe should not, occur.

This could result in leap frog development, or development in more sensitive locales, with adverse impacts on regional greenbelts, housing, transportation systems and air quality.

To the extent downsizing in Benicia displaces development to other locations, it will induce growth in areas where it would not otherwise, and perhaps should not occur. This growth-inducing impact must be addressed also.

None of the potential adverse impacts of displaced development are analyzed in the DEIR. All of these impacts should be identified and fully addressed. The DEIR should indicate the density and intensity of residential and industrial development likely to occur in Benicia absent the downzoning, and the types and significance of the incremental environmental impacts on Benicia and the region if this development were to occur. The DEIR should then indicate how much of this incremental residential and industrial development is likely to be displaced to other areas, where this displaced development is likely to occur, and the types and significance of the potential environmental impacts of this displaced development on the locales likely to be impacted and the region as a whole. There would be nothing unique about this analysis. ABAG, Sedcorp, the Bay Area Forum, the Bay Area Council, the Bank of America and PG&E, among others, have examined the effects of alternative growth patterns arising from a range of land use decisions which could be made by local governments.

2. The DEIR Fails to Consider the Likely Environmental Impacts of Downzoning the Exxon Property on the Region and on Benicia Itself.

The DEIR fails to acknowledge that a refinery is an enormously expensive and complex facility and is one among a limited number of similar facilities in any region of the country. For example, the Exxon Benicia Refinery serves all of Northern California and Nevada. It produces about 10% of the gasoline consumed in California. Exxon's Benicia refinery cannot improve its operations through the construction of such new processing equipment as may be required by future federal, state or local mandates anywhere other than at, and contiguous with,

15-1

15-2

## LETTER #15

City of Benicia  
March 2, 1998  
Page 6

the existing refinery block. By redesignating all of the undeveloped land adjacent to Exxon's existing refinery facilities as "Light Industrial," the General Plan Update proposes to effectively preclude any additional construction of refinery facilities. This will have a direct and significant impact on the operation of Exxon's Benicia refinery, which in turn will have significant impacts on the environment.

Since 1987, the Bay Area Air Quality Management District has limited the amount of crude oil Exxon can process at the Benicia refinery to no more than 135,000 barrels a day. Nonetheless, during that period, and without changing this limit, Exxon has made approximately \$300 million worth of capital improvements to the refinery to improve its products and comply with state law. In 1996, Exxon constructed a new processing unit at a cost of about \$200 million for the sole purpose of complying with California requirements mandating the production and use of cleaner burning fuels. This investment, which did not increase Exxon's crude oil processing capacity by one barrel, required Exxon to construct new facilities on approximately eight undeveloped acres of General Industrial land adjacent to the existing refinery block.

All of the undeveloped land surrounding the existing processing facilities is proposed to be redesignated from its current "General Industrial" use to "Light Industrial," a designation that does not include a refinery use. Thus, under the proposed General Plan Update, it is likely that Exxon would be unable to make the type of \$200 million investment it made in 1996 to produce cleaner burning fuels in accordance with the requirements of state law.

That Exxon will be required to construct new facilities in the future to meet ever changing legal requirements is a virtual certainty. As one example, the State of California passed legislation in 1997 that could affect the future use of MBTE in gasoline. Although it is unclear exactly what the legal requirements in this and other areas will be, Exxon needs the flexibility to be able to respond to regulatory requirements as they arise and as new technology develops. In view of the history of state and federal regulation, it is a certainty that Exxon will be required at some point to construct new facilities to meet new legal mandates designed to improve air and water quality.

Exxon also hopes to be in a position to make improvements to its products and processing that go beyond the strict requirements of state and federal law. To remain competitive in a dynamic market, Exxon needs the flexibility to make additions to its facilities that respond to market demands and technological advances. The Benicia refinery should not be

15-2

## LETTER #15

City of Benicia  
March 2, 1998  
Page 7

subject to a land-use straightjacket that precludes advancements and additions that will result in safer, more efficient operations and provide better and ever-cleaner refined products to the public.

If Exxon is unable to make additions to its existing facilities in the Benicia Industrial Park, it will face a Hobson's choice with distinct environmental consequences. One choice would be to forego the production of fuels that would otherwise offer an improvement in terms of environmental protection, or to forego improvements that would increase plant safety and efficiency. To the extent that the production of cleaner fuels is mandated by state law, the inability of Exxon to produce such fuels at its Benicia refinery would obviously jeopardize the financial viability of the refinery itself, and thus the continued production of gasoline that now supplies 10% of California's needs.

If Exxon is unable to make additions to its existing facilities in the Benicia Industrial Park to meet future state mandates for cleaner burning fuels, one alternative would be to ship all of its product out-of-state. The present in-state distribution system relies heavily on an existing common-carrier pipeline system designed to serve Northern California and Nevada. Out-of-state distribution would involve increased reliance on delivery systems, such as tanker transport, that are likely to involve greater environmental impacts than utilization of existing in-state pipeline facilities. Moreover, to the extent that interstate pipeline shipments would require the construction of new pipeline facilities, such additional construction would itself pose the potential for significant environmental impacts. The DEIR does not, but should, discuss the potential significant environmental effects this alternative would likely cause.

15-2

As an alternative to foregoing product, plant and facility improvements, or to shipping all of its product out-of-state, or to simply being unable to produce gasoline that meets legal requirements, Exxon would have to consider alternative locations for any additional facilities. At a minimum, any additional facilities that could not be located adjacent to the existing refinery block would involve the environmental impacts resulting from the separation of different parts of the refining process. Contiguous expansion of a refinery minimizes the additional impacts that result from expansion. To the extent that this physical proximity is lost, additional environmental impacts result.

In addition, if Exxon were required to construct an entirely new refinery in order to continue producing gasoline in California, even if Exxon were able to obtain the many required permits from federal, state, regional and local agencies, this

City of Benicia  
March 2, 1998  
Page 8

new construction would necessarily involve a much wider scope of environmental impact than an adjacent incremental expansion. In other words, if Exxon cannot make the additions necessary at its existing facility to meet legal and market demands, it may be forced to engage in a level of development that clearly would have much more significant environmental impacts than expansion into areas adjacent to its current facilities.

The DEIR fails to analyze at all the potential adverse effects on Benicia, the region and this part of the country that could arise from Exxon's likely inability under the General Plan Update to meet governmental mandates, or voluntarily pursue more environmentally friendly technologies.

The DEIR must analyze these potential adverse impacts.

The DEIR correctly notes that it does not and cannot analyze the specific impacts of particular projects that might be undertaken pursuant to the General Plan Update. Yet what the DEIR is required to provide under CEQA is an analysis of the type of secondary and regional impacts that may result from the general planning direction proposed by the General Plan Update. This general planning direction involves a major downzoning of residential and industrial areas in the City. The foreseeable result of such downzoning includes the loss or displacement of Exxon's capacity to produce cleaner fuels in response to technological developments or legal and market mandates. Through its proposed residential downzoning, the General Plan Update proposes a planning direction that has demonstrably exacerbated environmental problems at the regional level. The failure of the DEIR to consider these impacts renders it fatally defective under CEQA.

3. The Noise Element of the General Plan Update will impose additional burdens on community services that are not analyzed in the DEIR.

The General Plan Update proposes in effect to establish a noise ordinance at the general plan level. In order to implement the noise standards set forth in the General Plan Update, it would be necessary for City officials, most probably fire or police personnel, to constantly monitor noise emissions from a variety of locations in the City. As a result, there will be additional demands on public services that would otherwise be available for other public health and safety purposes. The DEIR, however, fails to identify or analyze this indirect impact on the provision of community services in Benicia.

15-2

15-3

City of Benicia  
March 2, 1998  
Page 9

B. The DEIR fails to address significant inconsistencies between the General Plan Update and Other Local and Regional Plans.

Under CEQA, an EIR is required to "discuss any inconsistencies between the proposed project and applicable general plans and regional plans. Such regional plans include, but are not limited to, regional transportation plans, regional housing allocation plans..." (CEQA Guidelines, Section 15125 (b)); see Pub. Res. Code Section 21083 and 21087, 21061 and 21100. "Knowledge of the regional setting is critical to the assessment of environmental impacts." (CEQA Guidelines, Section 15125(b)). As noted in the CEQA Guidelines: "A number of agencies have been required to spend large amounts of public funds to develop regional plans as a way of dealing with large-scale environmental problems involving air and water pollution, solid waste, and transportation. Where individual projects would run counter to the efforts identified as desirable or approved by agencies in regional plans, the inconsistency between the project plans and the regional plans must be identified."

15-4

Contrary to this requirement, the DEIR fails to identify inconsistencies between the General Plan Update and local economic plans, and regional housing and seaport plans.

1. Local Economic Plans

In incorporating the requirements of the Economic Development Strategy of the Benicia Economic Development Board into Benicia's General Plan, the General Plan Update establishes as its very first goal to "Preserve industrial park viability." (General Plan Update, p. 30). Yet as discussed above, the downzoning proposed by the General Plan Update poses a direct threat to the economic viability of Exxon's refinery operations in the face of evolving legal and regulatory mandates. As noted in the General Plan Update, Exxon, with 400 employees, is the largest employer in the Benicia Industrial Park. In addition, many of the Industrial Park tenants rely on Exxon for much of their income and would be directly affected by any downturn in the economic viability of Exxon's Benicia refinery. Furthermore, as noted above, the limitations on uses and FAR reduction proposed in the General Plan Update will likely adversely affect and displace existing and potential Industrial Park occupants. And, as noted below, use conflicts within and adjacent to the Industrial Park which would arise under the General Plan Update will also likely adversely affect existing and potential Industrial Park occupants. In view of the potential impacts of the downzoning and mixed-use rezoning on Exxon and other existing and potential Industrial Park owners and tenants, the DEIR must discuss the apparent inconsistency between the downzoning and mixed-use rezoning proposed by the General Plan Update, and local

15-5

# LETTER #15

City of Benicia  
March 2, 1998  
Page 10

policies and programs regarding economic development, including those contained in the General Plan Update itself.

15-5

## 2. Regional Housing Plans.

The DEIR fails to address the blatant inconsistency between the General Plan Update and regional housing requirements adopted by ABAG, of which Benicia is a member. In accordance with state law, ABAG adopted a regional housing plan in 1989 that allocated each city in the area a "fair share" of the projected regional housing need. Under this regional housing allocation, Benicia's fair share of regional requirements was 1,243 units for the 1990-1995 period. However, as noted in the Housing Element in the General Plan Update, which by its terms covers the 1990-1995 period, Benicia in fact produced only 673 new housing units during this period.

15-6

Although ABAG has not yet prepared a regional housing plan for the 1995-2005 period, this inconsistency means that the General Plan Update is apparently based on an incorrect assumption concerning the housing needs of Benicia as of 1995. If Benicia in fact met only about half of its housing needs for the 1990-1995 period, then its needs for the 1995-2000 period are greater than projected in the General Plan Update, which does not take into account the discrepancy between the ABAG projections and the Housing Element's assumptions for the 1990-1995 period. At a minimum, in accordance with the requirements of CEQA, the DEIR must address this major inconsistency between the Housing Element and ABAG's regional housing plans.

## 3. San Francisco Bay Seaport Plan.

The DEIR does not address the conflict between the General Plan Update mixed-use proposals for the Port and the San Francisco Bay Seaport Plan. We incorporate the oral and written comments of Benicia Industries on this point.

15-7

### C. The DEIR fails to adequately address the environmental impacts of locating incompatible residential and other uses in industrial areas.

In failing to address the incompatibility of uses established by the General Plan Update, the DEIR fails both to adequately discuss the likely impacts, and to identify adequate mitigation measures.

15-8

## LETTER #15

City of Benicia  
March 2, 1998  
Page 11

1. The DEIR fails to adequately discuss the likely impacts of incompatible uses.

Under CEQA, an EIR is required to analyze "any significant environmental effects the project might cause by bringing development and people into the area affected. For example, an EIR on a subdivision astride an active fault line should identify as a significant effect the seismic hazard to future occupants on the subdivision. The subdivision would have the effect of attracting people to the location and exposing them to the hazards found there." (CEQA Guidelines, Section 15126(a)).

"As shown in Public Resources Code Section 21083(c), the Legislature had a concern about adverse effects which projects may have on human beings. Accordingly, the Guidelines declare that if a project would have the effect of attracting people to a location where the people would be exposed to environmental hazards or disagreeable conditions, that attraction and the resulting exposure must be seen as a significant effect of the project." (CEQA Guidelines, Section 15126, Discussion).

Contrary to this requirement of CEQA, the DEIR fails to discuss the likely environmental impacts of locating residential and bikeway uses in industrial areas. The General Plan Update includes proposed bikeways/pathways that would run directly through industrial property, including property owned by Exxon in the area of the Benicia refinery. Yet the DEIR omits any discussion of the potential impact of bringing bicyclists and hikers into these industrial areas.

In addition, the General Plan Update proposes to locate mixed residential uses in areas that have long been designated and used for heavy industry in the City. Yet, the DEIR fails to discuss the potential impacts of attracting residential development into the industrial core of the City. The DEIR must use reasoned analysis and devote attention to the significant existing uses in the area to determine whether significant impacts exist. For example, as shown in the General Plan Update, a major above-ground pipeline owned and operated by Exxon runs directly through the area of the Lower Arsenal that is proposed to be redesignated from General Industrial to Mixed-Use. Indeed, it appears that the Exxon pipeline forms the proposed border to this mixed-use area. Exxon is concerned about locating mixed uses virtually on top of a major above-ground pipeline. The DEIR fails to offer any discussion or analysis of the potential impacts of such incompatible uses.

City of Benicia  
March 2, 1998  
Page 12

2. The DEIR fails to identify adequate mitigation measures.

In order to satisfy the requirements of CEQA, mitigation measures must be capable of avoiding or minimizing impacts. (CEQA Guidelines, Section 15370). Substantial evidence must support the conclusion that the proffered mitigation measures will in fact be effective. (Laurel Heights, supra, 47 Cal.3d 376). In approving planning projects such as general plan amendments, agencies must devise and approve whatever general mitigation measures are feasible to lessen or avoid significant impacts. Agencies may not defer the formulation of mitigation measures to when specific development projects are considered. (Citizens for Quality Growth v. City of Mount Shasta (1988) 198 Cal.App.3d 433, 442; Christward Ministry v. Superior Court (1986) 184 Cal.App.3d 180.)

In addition, a "legally adequate EIR must contain sufficient detail to help ensure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug." (Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 733.) "A conclusory statement unsupported by empirical or experimental data, scientific authorities, or explanatory information of any kind not only fails to crystallize issues, but affords no basis for a comparison of the problems involved in the alternatives." (People v. County of Kern (1974) 39 Cal.App.830, 842-842.)

15-9

Although the DEIR offers the conclusion that any impacts from incompatible uses will be fully mitigated by the establishment of appropriate "buffers," the DEIR fails to provide any evidence that such buffers would in fact be feasible or effective. In regard to the Exxon pipeline, it is unclear how any such buffer zone would be either feasible or effective, given that the pipeline will literally border the proposed mixed use site. Although the DEIR need not identify the precise mitigation measures that would be applied to a particular project, it must at least evaluate the feasibility of the mitigations offered. The conclusory claim that buffers will fully mitigate impacts from incompatible uses is plainly inadequate under CEQA, and offers no basis for the decisionmakers or the public to evaluate the potential environmental impacts of the proposed General Plan Update. The DEIR may not seek to sweep the obvious incompatibility issues under the rug.

D. There are major deficiencies in the noise section of the DEIR.

The DEIR does not adequately describe current noise conditions. Nor does the DEIR adequately describe the noise

15-10

LETTER #15

City of Benicia  
March 2, 1998  
Page 13

conditions that are likely to result as a consequence of development permitted under the General Plan Update. For example, the General Plan Update proposes to allow the location of residential uses in industrial areas. In addition, the DEIR fails to offer any substantial evidence in support of the conclusion that any noise impacts will be fully mitigated by the policies set forth in the Noise Element of the General Plan Update. As in the case of the "buffer" mitigations offered generally with respect to incompatible uses, the DEIR fails to describe the noise mitigations in any detail, or to establish a basis for evaluating the effectiveness of such mitigations. As in the case of the incompatible uses proposed by the General Plan Update, the DEIR seeks to simply sweep the project's noise problems under the rug, and thus fails to comply with the informational and analytical requirements of CEQA.

15-10

15-11

The Noise Element of the General Plan Update provides no guidance to the City, developers and industry as to whether and how they might comply with noise standards. Therefore, there is no basis for the DEIR's conclusion that the policies and programs in the Noise Element will mitigate potential noise impacts from permitted development.

15-12

E. The DEIR fails to adequately analyze cumulative impacts.

A draft EIR must discuss significant "cumulative impacts." (CEQA Guidelines, Section 15130 (a). "Cumulative impacts" are "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (CEQA Guidelines, Section 15355). A legally adequate cumulative impacts analysis assesses the overall impacts of a project considered together with the impacts of existing and reasonably anticipated future projects, and is necessary because "the full environmental impact of a proposed...action cannot be gauged in a vacuum." Environmental Protection Information Center v. Johnson (1985) 170 Cal.App.3d 604, 625. As with the other requirements of CEQA, the "requirement for a cumulative impacts analysis must be interpreted so as to afford the fullest possible protection of the environment consistent with the reasonable scope of the statutory and regulatory language." Citizens to Preserve the Ojai v. Board of Supervisors (1985) 176 Cal.App.3d 421, 431-432.

15-13

In order to meet the requirements of CEQA, an EIR's analysis of cumulative impacts must include either a "list of past, present, and reasonably anticipated future projects," or a "summary of projections contained in an adopted general plan or related planning document which is designed to evaluate regional or areawide conditions." (CEQA Guidelines, Section 15130 ((b)(1))).

City of Benicia  
March 2, 1998  
Page 14

The few sentences offered by the DEIR on the subject of cumulative impacts fail to meet the minimum standards of CEQA. As discussed above, the DEIR fails to give any attention to the wider regional impacts of the General Plan Amendment, even though it is just this type of project that demands such a regional analysis. The DEIR also fails to include either a list of projects, or a summary of projections that would provide a basis for evaluating the broader impacts of the General Plan Amendment. As a result, the DEIR gauges the impact of the General Plan Update in a vacuum, and fails to afford the fullest possible protection of the environment as required by CEQA.

15-13

F. The DEIR fails to provide an adequate analysis of alternatives.

The DEIR fails to either identify a reasonable range of alternatives, or to provide a reasoned comparison of the alternatives that are identified.

1. The DEIR fails to identify a reasonable range of alternatives.

Under CEQA, an EIR must describe "a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of alternatives." (CEQA Guidelines, Section 15126(d.); Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376; Citizens v. Goleta Valley Board of Supervisors (1990) 52 Cal.3d 553). It is the burden of the agency, and not project opponents, to formulate alternatives. Laurel Heights, *supra*, 47 Cal.3d at 568.

15-14

The alternatives identified in the DEIR fail to include an alternative that would allow Exxon sufficient flexibility to respond to legal mandates and market demand, while at the same time meeting the need for some buffer between heavy industry and other uses. Instead, one alternative proposes designating all of the undeveloped Exxon property as Open Space, and the other proposes a designation of "Industrial Park," which in substance appears to be no different from the Light Industrial Designation offered by the preferred alternative. In other words, with respect to the industrial downzoning proposed by the General Plan Update, there are in fact no alternatives offered. This limited range of analysis fails to meet the rule of reason established by CEQA.

LETTER #15

City of Benicia  
March 2, 1998  
Page 15

2. The DEIR fails to offer an adequate analysis of the alternatives that are identified.

In analyzing project alternatives, an EIR is required to "include sufficient information about each alternative to allow meaningful evaluation and analysis, and comparison with the proposed project." (CEQA Guidelines, Section 15126(d)(3)). "The 'no project' analysis shall discuss the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services."

The discussion of alternatives offered in the DEIR fails to provide sufficient information to allow meaningful analysis. Nor does the "no project" analysis include a comparison of the proposed General Plan Update with what could be expected to occur under the current General Plan. The conclusory and unsupported statements offered in the DEIR are insufficient under CEQA.

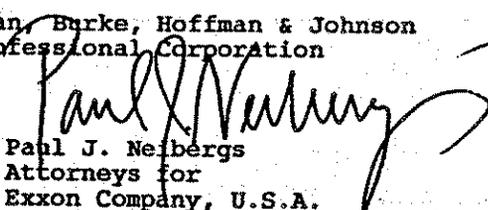
15-15

Thank you for the opportunity to provide these comments.

Respectfully submitted,

Ellman, Burke, Hoffman & Johnson  
a Professional Corporation

By

  
Paul J. Nelbergs  
Attorneys for  
Exxon Company, U.S.A.

cc: All Council Members  
All Planning Commissioners  
City Manager  
City Attorney  
Planning Director

benicia.wjb

LETTER 15

Paul J. Niebergs, *Ellman, Burke Hoffman & Johnson*. Representing Exxon.  
March 2, 1998.

- 15-1: Please see responses to comments 6-5 and 6-6. Also, it should be noted that CEQA Guidelines Section 15146 states that the level of specificity required in an EIR depends on the project. The case law quoted also says that the discussion in an EIR on a general plan need not be as specific as the discussion in an EIR on a project.
- 15-2: Please see the response to comment 6-9.
- 15-3: Please see the response to comment 10-10.
- 15-4: This comment requests additional analysis of the consistency between the Draft General Plan and several other local and regional plans. The commentor is correct that an EIR is to address this issue, and the Draft EIR already addresses consistency with regional plans on pages 35 and 36. Responses regarding the individual plans mentioned by the commentor are contained in the responses to comments 14-5, 15-5 and 15-6.
- 15-5: As noted by the commentor, the General Plan Update incorporates the goals and policies of the City's Economic Development Strategy. Thus it is inaccurate to suggest that the General Plan is inconsistent with the Economic Development Strategy. Issues regarding reductions in FARs in the industrial area are addressed in the response to comment 6-6. Issues regarding mixed use in industrial areas are addressed in the response to comments 10-3 and 14-3.
- 15-6: It is the City's position, as stated in the draft General Plan, that ABAG's outdated housing needs determination greatly overstates the real need in Benicia. Although ABAG's 1989 needs determination is noted in the draft General Plan, the policies and programs rely on the City's own updated needs determination which was prepared using ABAG's methodology but based on current information about development potential in Benicia. Provision of needed affordable housing is an important issue of concern to the Benicia community but the determination of the amount needed is a policy issue and not an environmental issue. There are no physical impacts on the environment which could result from use of the City's updated housing needs determination and thus there would be no impact under CEQA.

- 15-7: Please see the response to comment 14-5.
- 15-8: For a discussion of issues of mixed land uses and potential impacts associated with them, please see the responses to comments 10-3 and 14-3. For a discussion of issues related to trails in industrial areas, please see the response to comment 14-13. Responses to comments 14-9 through 14-12 provide additional information on specific trail alignments in industrial areas.
- 15-9: With regard to buffering along the Exxon pipeline in the industrial park, the discussion in the response to comment 10-3 has already pointed out that live/work uses would *only* be allowed if adequate buffers could be established. If no adequate buffers can be established along the pipeline, then live/work uses would not be allowed.
- 15-10: Please see the response to comment 6-11 for information on the existing noise environment and future noise projections.
- 15-11: The noise policies in the General Plan would be effective because they would require assessment of potential incompatibilities between noise-generating and noise-sensitive land uses before either new noise-generating or new noise-sensitive land uses could be developed. Unless exceptions were made by an act of the City with specific findings, no new noise incompatibilities would be allowed.
- 15-12: It is not the responsibility of the General Plan to explain how developers or industry might comply with noise standards (or any other standards) in future projects. As noted in the response to comment 15-11 above, the General Plan sets standards with which future development must comply. If it does not comply with the standards, the future development would not be allowed, unless the City made specific findings allowing it. It will be up to the proponents of future projects to determine how best to make their projects conform with the standards.
- 15-13: The commentor is not correct to state that an additional cumulative impact analysis is needed in the EIR, since the Draft EIR already adequately considers cumulative impacts. Page 200 of the Draft EIR includes a summary of the cumulative analysis, which is contained primarily in specific sections of Chapter 4 of the Draft EIR. In particular, the traffic analysis considers regional traffic patterns in its assessment of traffic patterns in Benicia; pages 71, 72, 82, 90 and 91 of the Draft EIR contain

particular analysis of freeway levels of service, which are based primarily on regional traffic projections. The noise and air quality analyses contained in the Draft EIR are based on the EIR traffic projections, and are especially based on these regional traffic projections for freeways. The Population, Employment and Housing section of the Draft EIR (pages 37 through 42) looks at population, employment and housing in all of Solano County, and not just in Benicia.

Moreover, the Draft EIR meets the legal requirement for a cumulative analysis, since it includes a summary of projections for development under both the existing General Plan and the proposed General Plan that is under consideration for adoption. This summary is contained in Table 4 on page 35 of the Draft EIR.

It should be noted that the case law referenced in this comment refers to EIRs on site specific projects, and not to EIRs on programmatic documents such as General Plans. There is no CEQA statute or guideline that suggests that an EIR needs to include an analysis of impacts from projects outside the jurisdiction of the General Plan. As noted above, the Draft EIR does include regional analysis of traffic, noise and air quality, but these analyses go beyond the requirements of CEQA.

- 15-14: The No Project Alternative, which is analyzed in the Draft EIR as required by CEQA, would include continuation of the existing General Plan designations on the Exxon site and all other sites in Benicia. This alternative appears to be in keeping with the alternative requested by the commentor in this comment.

It is important to note, however, that the City believes that the proposed General Plan would also meet the commentor's objective of providing an alternative "that would allow Exxon sufficient flexibility to respond to legal mandates and market demand, while at the same time meeting the need for some buffer between heavy industry and other uses." As noted in the response to comment 6-9, the General Plan retains some undeveloped on the Exxon site with the General Industrial designation, and it would be conjectural to suggest that this amount of land is insufficient for future refinery expansion. The proposed General Plan also includes buffer zones between industry and other uses, as proposed by the commentor.

- 15-15: The Draft EIR contains an analysis of the No Project Alternative on 182 to 187. Pages 20 through 27 and 33 through 35 provide additional analysis of the differences between the existing and proposed General Plans.

Additional information on the No Project Alternative may be found in responses to comments 13-2 through 13-7, above.

Additionally, Chapter 3 of this Final EIR includes Table F-1, which has been added after page 35 of the Draft EIR and includes a numerical comparison of potential buildout under the existing General Plan (the "No Project" Alternative) and the Draft General Plan. With respect to the commentor's specific concerns about the potential for industrial development, Table F-1 shows that almost identical amounts of industrial development could occur under the two General Plan alternatives.

## LETTER #16

23 January 1996

TO: John Bunch  
FROM: Jan  
RE: Comments from Forrest Deaner on General Plan EIR

Attached is a letter and comments on the General Plan EIR that were sent to me by Forrest Deaner. Please accept Mr. Deaner's letter as official comments to the EIR and pass these comments along to David Early. Thanks.

**LETTER #16**

121 Tustin Court  
Benicia California  
January 22, 1998

Ms. Jan Cox Golovich  
City Council Lady  
Benicia City Council  
City Hall  
250 East L Street  
Benicia, Ca. 94510

Dear Council Lady Golovich;

Having read the draft of the Benicia General plan and the accompanying EIR of the planning area, I am impressed. I applaud the efforts of those who worked tirelessly on the compilation. The reports are very comprehensive and exceptionally developed and conceived. Your participation and hard work have been important and you are to be commended. Good work by those involved!

EIR facts that are outlined are important, but, it's my contention there are areas that have been excluded. I have not examined these reports in minute detail, but I believe the open space lands in and around Southampton planned residential development do contain habitat of significance. Included in this open space are hundreds of acres north and south of Rose Drive. True, the flora contains a lot of European weeds and undesirable exotics.

16-1

The answer is restoration of native flora. Some of the native plants mentioned in the planning area are also seen in the open space area north and south of Rose Drive. The area already supports some native flora and support a variety of wildlife: many birds - hawks, quails, doves, humming birds, pheasants and kites; many mammals - fox, deer, raccoon, skunk, opossum, mountain lion, and jack rabbits. These named birds and mammals have been observed by me and others in the family during the last 19 years.

16-2

Restoration of native plants, in my opinion, would provide eye appeal and habitat for wildlife and replace that which was lost by development and livestock grazing during the period prior to colonization by people. Personal efforts at restoration have been hampered to a degree by current City policy regarding encroachment. The new General Plan offers opportunity to change present City Policy.

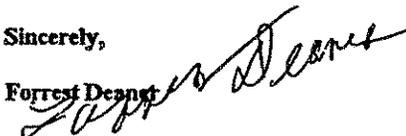
16-3

Ms. Golovich, we have discussed my recommendation for implementing such a plan. I sincerely believe that my recommendation should be incorporated within the General Plan. I do appreciate your support of my recommendation. It is my intention to submit a copy of this letter to the Planning Department with other pertinent data.

Sincerely,

Forrest Deane

cc: John Bunch, Planning Director



Planning Department  
City of Benicia

JAN 21 1998

**RECEIVED**

## 4.10 BIOLOGICAL RESOURCES

This section summarizes information on the biological resources of the City and provides an evaluation of the effects of the proposed General Plan on the sensitive resources.

### A. EXISTING SETTING

This section provides a general description of the existing biological resources within the Benicia Sphere of Influence. A summary of the regulatory framework which provides for the protection and conservation of important biological resources and more detail on the resources within the City of Benicia are contained in the Natural Resources Background Report.

#### 1. VEGETATION

Vegetation in the Benicia planning area is dominated by a cover of non-native grassland and suburban landscape, bordered by the important marshlands associated with Southampton Bay to the west and Suisun Bay to the east. Most of the rolling hills to the south of the Rose Drive area have been developed with urban and suburban uses, interspersed with grassland covered slopes and a few remaining undeveloped ravines. The lands to the east of East Second Street and north of I-780 have been highly disturbed by past military development and existing industrial uses, extending to the remaining marshland habitat along the edge of Suisun Bay. Grasslands cover most of the rangeland to the north of East Second Street and the Lake Herman Road area throughout Sky Valley and the northeastern hills. Major creeks, drainages, and the fringe of Lake Herman in the undeveloped northern area support freshwater marsh and riparian vegetation, which varies from stands of emergent cattail to a dense cover of willow forest and scrub. Scattered groves of oaks also occur in the northeastern hills, primarily on the north and east-facing slopes just west of I-680. Small areas of northern coastal scrub, freshwater seeps, remnant native grasslands, and stands of non-native eucalyptus also occur in the northern portion of the planning area.

*This area  
North and  
South of Rose  
Drive contains  
Native flora  
in open  
space lots*

FRESHWATER MARSH

Freshwater marsh is also associated with drainages and the fringe of freshwater bodies, including portions of Lake Herman and several stock ponds. The larger streams in the planning area which are not mapped with riparian habitat in Figure 20 most likely support some type of freshwater marsh cover. Freshwater marsh species also dominate the cover at the numerous freshwater seeps in the planning area.

COAST LIVE OAK WOODLAND

Oak woodland occurs in the northeastern portion of the planning area, and is dominated by coast live oak (*Quercus agrifolia*). The understory layer is generally poorly developed or composed of non-native grassland species, but several shrubs and other tree species occur in the woodland. Over 120 acres of oak woodlands occur within the planning area.

VALLEY NEEDLEGRASS GRASSLAND

Remnant native grasslands still occur in the northern portion of the planning area, forming valley needlegrass grassland. This natural community is characterized by purple needlegrass (*Nassella pulchra*), a perennial bunchgrass. Most of the native grasslands throughout the state have been eliminated, which has led the California Natural Diversity Database (CNDDDB) to now recognize native grasslands as a sensitive resource with a high inventory priority.

NORTHERN COASTAL SCRUB

A few stands of this natural community are scattered in areas of grassland cover in the planning area. Most of these consist of thickets of coyote brush (*Baccharis pilularis* ssp. *consanguinea*), which tends to colonize disturbed areas and therefore has not been mapped in Figure 20. Other species, such as California sage (*Artemisia californica*), poison oak, and toyon, occur in scattered locations on steeper slopes in the northern portion of the planning area.

2. SPECIAL-STATUS SPECIES AND SENSITIVE NATURAL COMMUNITIES

A record search conducted by the CNDDDB, together with other relevant information, indicates that occurrences of several plant and animal species with special-status have been recorded from or are suspected to occur in the southern Solano County area and Benicia vicinity. Several of these have been reported from the planning area, and most of these are associated with tidal marshland habitat. A number of the natural communities in the planning area have a high inventory priority with the CNDDDB due to rarity and threats, and are considered sensitive resources.

PLANT SPECIES

Some of these plants occur north and south of Rose Drive in open space land

Several plant species with special-status have been reported in the planning area, and based on recorded geographic range and preferred habitat, numerous other species may potentially occur in the Benicia vicinity. These have varied status, and many are considered rare (list 1B) by the California Native Plant Society (CNPS). Table 13 provides information on the name, status, habitat characteristics, distribution, and flowering period of the 15 plant species reported in or having the highest probability of occurrence in the planning area. Of these, four have actually been reported in the planning area. The locations of known or historic populations are shown in Figure 20.

Suisun marsh aster (*Aster chilensis* var. *lentus*), soft bird's beak (*Cordylanthus maritimus* ssp. *palustris*), and Delta tulle pea (*Lathyrus jepsonii* ssp. *jepsonii*) are all known from the salt and brackish marsh at Southampton Bay. Suitable habitat for these three species and other marshland species, such as Mason's lilaeopsis (*Lilaeopsis masonii*), also occurs in the marshland along the edge of Suisun Bay along the southeastern edge of the City, but no occurrences have been reported from this portion of the planning area.

An historical occurrence record of Congdon's tarplant (*Hemizonia parrayi* ssp. *congdonii*) was made from 1930 in the Benicia vicinity. Little is known about the habitat conditions or precise location of the population near Benicia, but the CNDDDB has mapped the non-specific occurrence in the vicinity of the I-780 interchange with Military West Street. CNDDDB's mapped location, indicated in Figure 20, appears to be inconsistent with the reported elevational range of the population, and it is possible that the actual occurrence was from the northeastern hills of the planning area, along the alignment of Interstate 680. There is no record that the species has been observed in the Benicia area since 1930, and it is now believed to have been extirpated in Solano County and possibly the Bay Area.

Existing development limits the likelihood of occurrence of any plant species of concern in the remaining grassland habitat south of the Rose Drive area, but suitable upland habitat remains in the northern portion of the planning area. There remains a possibility that populations of one or more species of concern occur on previously unsurveyed properties, particularly in the northeastern hills.

#### ANIMAL SPECIES

Table 14 provides information on the name, status, preferred habitat, and reported occurrences of the 33 animal species known from or suspected to occur in the planning area. Of these, a total of 13 have actually been reported from the planning area, and sightings and essential habitat for these species are indicated in Figure 20. The federally- or state-listed endangered or threatened species detected within the planning area are restricted to the tidal marshlands and open water habitat. Several other species considered as sensitive by the U.S. Fish and Wildlife

There are many native plants in this area

# LETTER #16

Benicia General Plan EIR

Biological Resources

Table 13. Special-Status Plant Taxa Known or Suspected to Occur in the Planning Area

TAXA NAME	STATUS (FED/STATE/CNPS)	HABITAT CHARACTERISTICS	DISTRIBUTION (PRESUMED EXTIRPATED)	FLOWERING PERIOD	OCCURRENCE
<i>Aster chilensis</i> var. <i>lentus</i> Suisun marsh aster	*-/1B	Brackish water marshes and swamps	Contra Costa, Napa, Sacramento, Solano	May-October	Known
<i>Castilleja affinis</i> ssp. <i>neglecta</i> Tiburon Indian paintbrush	FE/ST/1B	Valley grassland on serpentine	Marin, Napa, Santa Clara, Solano	April-June	Likely
<i>Cirsium hydrophilum</i> var. <i>hydrophilum</i> Suisun thistle	PE/-/1B	Brackish marsh	Solano	June-August	Possible
<i>Cordylanthus maritimus</i> ssp. <i>palustris</i> Point Reyes bird's-beak	*-/1B	Coastal salt marsh	Humboldt, Marin, Sonoma, Oregon (Alameda, Santa Clara, San Mateo)	May-October	Known
<i>Cordylanthus mollis</i> ssp. <i>mollis</i> Soft bird's-beak	PE/SR/1B	Coastal salt marsh	Contra Costa, Marin, Napa, Solano	July-Nov.	Possible
<i>Delphinium recurvatum</i> Recurved larkspur	*-/1B	Chenopod scrub and valley grassland	Alameda, Contra Costa, Colusa, Fresno, Kings, Kern, Merced, San Luis Obispo	March-May	Possible
<i>Eriogonum truncatum</i> Mt. Diablo buckwheat	-/1A	Oak woodland, chaparral	(Alameda, Contra Costa, Solano)	April-September	Possible
<i>Fritillaria pluriflora</i> Adobe fritillaria	*-/1B	Chaparral, woodland, grassland on adobe soil	Butte, Colusa, Glenn, Lake, Napa, Plumas, Solano, Tehama, Yolo Mendocino, Monterey, San Benito	February-April	Possible
<i>Fritillaria liliacea</i> Fragrant fritillary	*-/1B	Coastal scrub and grassland often	Alameda, Contra Costa, Monterey, San Benito, Santa Clara, San Francisco, San Mateo, Solano, Sonoma	February-April	Possible
<i>Hemizonia perrayi</i> ssp. <i>congdonii</i> Congdon's tarplant	*-/1B	Valley grassland and vernal pools	Monterey, San Luis Obispo (Alameda, Contra Costa, Santa Clara, Santa Cruz, Solano)	June-November	Known (historic record from 1930)

Occurs in some open space areas north and south of Rose Drive

X  
X  
X  
X  
X  
X  
X

# LETTER #16

## Biological Resources

## Benicia General Plan EIR

<i>Lasthenia conjugens</i> Contra Costa goldfield	PE/-/1B	Low flats and borders of vernal pools	Napa, Solano, (Alameda, Contra Costa, Mendocino, Santa Barbara, Santa Clara)	April- May	Possible
<i>Lathyrus jepsonii</i> ssp. <i>jepsonii</i> Delta tule pea	*-/1B	Brackish water marshes and swamps	Alameda, Contra Costa, Fresno, Napa, San Benito, Santa Clara, San Joaquin, Solano	May- June	Known
<i>Lilaeopsis masonii</i> Mason's lilaeopsis	*/SR/1B	Brackish water marshes and swamps	Contra Costa, Napa, Sacramento, San Joaquin, Solano	June- August	Possible
<i>Suaeda californica</i> California suaeda	FE/-/1B	Coastal salt marsh, now known from Morro Bay	San Luis Obispo (Alameda, Santa Clara, Sonoma)	July- October	Possible
<i>Trifolium amoenum</i> Showy Indian clover	PE/-/1B	Valley grassland	Sonoma (Alameda, Mendocino, Marin, Napa, Santa Clara, Solano)	April- June	Possible

### Federal Status:

- FE - Listed as "endangered" under the Federal Endangered Species Act.
- PE - Petitioned for listing as endangered.
- C - A candidate species under review for federal listing. Candidates include species for which the U.S. Fish and Wildlife Service has sufficient biological information to support a proposal to list as endangered or threatened. These species were considered to be category 2 candidate species for federal listing until 28 February 1996 when the U.S. Fish and Wildlife Service revised their status classification system. These species no longer have any candidate designation, but are unofficially classified as species of concern and could be added to the candidate list if information demonstrates they warrant listing.

- 1A - Plants of highest priority; plants presumed extinct in California.
- 1B - Plants of highest priority; plants rare and endangered in California and elsewhere.
- 3 - Plants requiring additional information; a review list.
- 4 - Plants of limited distribution - a watch list.

OCCURRENCE: Indicates likelihood of occurrence in the General Plan Area.

### State Status:

- SE - Listed as "endangered" under CESA. Taxa in serious danger of becoming extinct throughout all or significant portion of range due to varying factors.
- SR - Listed as "rare" under CESA. Although not presently threatened with extinction, may become endangered if present environmental factors worsen.

### CNPS Status:

1. REGIONAL AND SUBREGIONAL OPEN SPACE AND TRAILS

OPEN SPACE

Benicia has preserved considerable open space. The major areas are described below. (An Open Space map is provided as Figure 2-12 on page 80.)

Tri-City and County Open Space

Benicia is part of the Tri-City and County Cooperative Planning Area that controls 10,000 acres of open space in unincorporated Solano County between Benicia, Fairfield, and Vallejo (between I-80 and I-680). The *Tri-City and County Regional Park and Open Space Preservation Plan* (adopted 1993) is incorporated in the Benicia General Plan as a Special Area Plan. The Tri-City and County Plan reserves the Cooperative Planning Area for continuing agricultural and other open space uses and establishes a framework for regional park planning.

The Tri-City and County Plan includes a regional park plan that tentatively identifies a 35-mile system of primary trails to connect six potential recreation areas to each other and to areas outside of the Cooperative Planning Area. Near Benicia, a 10-mile north-south ridge trail would connect Lynch Canyon to Lake Herman Recreation Area. Another trail would connect Lake Herman Recreational Area to King Ranch on the eastern side of the Cooperative Planning Area adjacent to Lopes Road.

Southampton Open Space

The undeveloped open space areas within the Southampton subdivision offer physical separation between houses and visual relief from development. Portions of this open space have trails that are used for hiking, jogging, and walking.

Some parts of the Southampton Open Space are "residual" open space areas that were too steep for development. These areas are too steep for recreational use, and they are not connected to larger open space areas, so they provide little habitat value.

Benicia-Vallejo Open Space Buffer

The hills and ridges at the western edge of the Planning Area, also known as the "boundary hills," are designated to maintain a permanent visual and physical separation from Vallejo. The boundary hills begin at Dillon Point on Southampton Bay and extend north, incorporating Lake Herman Road. This area is protected through a 1979 Benicia/Vallejo "Memorandum of Understanding to Preserve the Buffer Zone." The two cities agreed that the buffer zone should be inviolate, with no urban development. In addition, development is restricted on the hills above the Benicia State Recreation Area, or on any other steep slopes which help define city or development boundaries.

*There is value here for restoring native plants*

**LETTER 16**

Forrest Deaner. January 22, 1998.

- 16-1: The Draft EIR provides a general description of vegetation in the planning area, summarizing characteristic species associated with the remaining natural community types and those common in developed areas. The presence of grassland covered slopes and a few undeveloped ravines in the otherwise developed lands to the south of Rose Drive is acknowledged on page 133 of the Draft EIR. As indicated on page 144, the new goals and policies in the Open Space and Conservation of Resources chapter of the General Plan would serve to protect sensitive biological resources, requiring additional detailed assessments and adequate protection or mitigation, where necessary. Policy 3.53.1 of the General Plan states that remaining native grasslands, oak woodlands, marshlands, and riparian habitat will be protected.

Notations made by the commentor on specific pages of the EIR section focus on the presence of sensitive native grasslands in the Rose Drive area. While detailed surveys of this area were not performed by the EIR biologist, the predominant cover in this location appears to be non-native grasslands interspersed with native annuals and perennial forbs. This condition is described in more detail in the background report prepared by the EIR biologist during the early stages of the General Plan Update process. Any stands of native grasslands in the vicinity of the Rose Drive area would also be afforded protection called for in Policy 3.53.1. No populations of special-status plant species have been reported from this portion of Benicia, and the notations made by the commentor on page 139 of the Draft EIR are presumably in reference to the presence of grassland habitat which may support populations of these species. Again, any development in these grasslands would required further detailed biological assessments to confirm presence or absence of any sensitive resources, such as rare plant populations.

- 16-2: Wildlife species common in the grassland habitat of the planning area are identified in the technical background report prepared by the EIR biologist during the early stages of the General Plan update process. This included reference to most of the species observed by the commentor.
- 16-3: Goal 3.53 of the General Plan calls for both protection and enhancement of native vegetation, consistent with the recommendation by the commentor. This includes specific policies and programs to protect areas of remaining natural communities, and to encourage enhancement and

restoration as part of open space dedication in proposed developments and in citywide open space improvements.

LETTER #17

Planning Department  
City of Benicia

JAN 23 1998

RECEIVED

121 Tustin Court  
Benicia California  
January 23, 1998

Mr. John Bunch  
Planning Director  
City of Benicia  
250 East L Street  
Benicia, Ca. 94510

Dear Mr. Bunch:

The Benicia General Plan and the accompanying EIR are important, historically significant documents. Great thought, sensitivity and planning are apparent in each document.

My concern centers on the environment, primarily its habitat. The EIR is excellent and the concerns for flora are exceptionally documented. This portion of the EIR should be expanded, in my opinion.

The EIR deals primarily with the planning area. However, it does have some relation to overall planning in regards to open space. My interpretation finds that all open space land around new residential building north and south of Rose Drive is too disturbed to be of any habitat value, according to the EIR. Disturbance of the open space areas probably provide timeliness which should be a consideration for restoration. There is absolutely no attempt to address the idea of restoration. This point of view, I believe, is flawed. Not all the open space areas are disturbed, neither the EIR or the General Plan contains any reference to this idea.

17-1

Native flora undoubtedly did, or still does exist in the disturbed areas. I maintain an effort should be made to restore native plants in these areas. The areas may have no value for residential development, but quality could be enhanced in these areas by restoration of native plants that existed there prior to the disturbance.

Yesterday I spoke with you by telephone regarding the City policy covering open space lands which abut residences, I also talked, by phone, with Mike Alvarez, Director of Parks and Community Services, yesterday. According to Mr. Alvarez, the policy has no official number. It was issued in the form of a memorandum signed by the City Manager six to eight years ago. He believes, I guess, the document is legal, and therefore a legally enforceable policy of the City. My conclusion leads me to believe that the City should adopt my idea of which you have a copy (or similar plan) formally, preferably in the City General Plan. However, a formal policy would undoubtedly accomplish the same goal.

17-2

Sincerely,

  
Forrest Deaner

**LETTER 17**

**Forrest Deaner. January 23, 1998.**

- 17-1: The grassland covered slopes in the Rose Drive area do provide habitat for wildlife species common in the Benicia vicinity, but the lack of dense cover, proximity of adjacent residential development, and fragmentation from large permanent open space lands limits the habitat value of these slopes. Restoration of these specific slopes to native grasslands would most likely be infeasible, even with intensive monitoring and maintenance. These slopes are dominated by aggressive non-native grassland species which tend to out compete native grass species. Attempting to establish native perennial bunch grasses would require on-going mechanisms such as controlled grazing, mowing, and/or frequent burning to suppress non-native species and favor native species. The steep nature of these slopes and proximity to residences precludes use of these vegetation management strategies. Given the fragmented nature of these open space slopes, the habitat benefits of establishing native grasslands in these areas would not justify the cost, even if funds for materials and labor were somehow obtained to initiate the restoration effort. Long-term management of these slopes would be required in perpetuity to prevent the re-establishment of grasslands dominated by non-native species.
- 17-2: The Parks, Recreation and Cemetery Commission is currently considering the commentor's proposal.

**LETTER #18**

Planning Department  
City of Benicia

JAN 26 1998

121 Tustin Court  
Benicia California  
January 27, 1998

**RECEIVED**

Mr. John Bunch  
Planning Director  
City of Benicia  
250 East L Street  
Benicia, Ca. 94510

Dear Mr. Bunch:

Great work on the EIR and the General Plan, Congratulations! My wife and I concur with all specification pertaining to wet lands, the 680 -780 corridors, open space lands in all other areas mentioned.

You have a copy of my idea and proposal for planting and restoration in open space lands, particularly those that abut private residences. However, the idea does not necessarily eliminate any areas that do not adjoin residences.

18-1

Reading the General Plan I have discovered the methodology for amending includes a requirement to commence in meeting with your staff. I hereby request a meeting. Kindly inform me of any specific deadlines. (745-3906)

Your ideas in the General Plan to restore, protect and enhance native plants and wildlife on open space, wet and lands are surprising, welcomed and long overdue. Requirements are essential. I was in error in my previous letter when I stated no mention of restoration occurred in the EIR or General Plan. Pages 184, 187 and 210 of the general plan do mention restoration. Page 187, Goal 3.26, policy 3.26.2 should recommend use of drought resistant trees. This group would include: oaks, madrone, cypress, Catalina ironwood, various conifers, buckeye, and bay laurel, among others.

18-2

My idea and proposal embraces some of the General Plan's specifications.

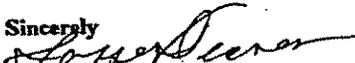
18-3

Probably, my idea or form of it could be amended at: page 210, 3.53.1 of the General Plan

It is my special request that Council Lady Jan Cox-Golovich be informed of any scheduled meeting. She has been coordinating and providing guidance on my idea and proposal since last year.

18-4

Sincerely

  
Forrest Deaner

**LETTER 18**

Forrest Deaner, January 27, 1998.

- 18-1: The commentor's praise for and agreement with specific General Plan policies is noted. Comments to City staff are noted. No response is required as a part of the EIR.
- 18-2: Recommendations for street tree plantings in General Plan Goal 3.26 and its supporting policies do not specify the use of native, drought-resistant species for street trees since such species tend to be unsuitable along roadways due to the potential for root damage to curbs and sidewalks. Policy 3.53.2 calls for use of native and compatible drought-resistant non-native species to the extent possible in landscaping new development and public areas.
- 18-3: As noted in the response to Comment 18-1, Policy 3.53.2 of the General Plan calls for use of native and compatible non-native plant species, especially drought-resistant species.
- 18-4: The commentor's request to staff is noted. No response is required.

# LETTER #19

Planning Department  
City of Benicia

FEB 18 1998

RECEIVED

121 Tustin Ct.  
February 18, 1998  
Benicia, Ca. 94510

John Bunch, Planning Director  
City of Benicia  
Planning Department  
250 East L Street  
Benicia, Ca. 94510

Dear Mr. Bunch:

Your work on the Benicia General Plan and EIR is commendable as are the efforts of all who participated.

Finding fault is not easy. Generally it is a good presentation and we are hopeful most of it will be adopted without change. Our focus is on open space and recreation and biological resources in the EIR.

#### 4.4 OPEN SPACE AND RECREATION

1, Pages 53-54, SOUTHAMPTON OPEN SPACE: "These steeply sloping lands are to steep for recreational use, and they are not connected to larger open space areas, (1) so they provide little habitat value." That statement should read:

*(1)...although there are hundreds of acres that are not specifically connected there is habitat value to resident wildlife. Efforts should be considered to restore these areas with native flora. Corridors could be established in specified areas to permit wildlife access.*

LAKE HERMAN REGIONAL PARK; it seems to us that black bass in the lake have been reported to contain mercury. If, this condition still exists it should be included in the EIR.

#### 4.10 BIOLOGICAL RESOURCES

Page 133 1. 1..."Most of the rolling hills to the south of the Rose Drive area have been developed with urban and suburban uses, interspersed with grassland covered slopes and a few undeveloped ravines." (this should be added):

*1. These large expanses of open space land should be restored with native bunch grasses and California native plants.*

# LETTER #19

## Page 134. NON-NATIVE GRASSLANDS

*(add) Attempts should be undertaken to restore these areas with native grasses and other native flora that will compete aggressively with non-native invasive plants.*

19-2

## Page 137 and 138, Item 2, SPECIAL STATUS SPECIES AND SENSITIVE NATURAL COMMUNITIES

*(add paragraph 5) ... Existing developed areas do contain hundreds of acres of open space and native flora does occur in these areas. Efforts to restore native flora is strongly recommended.*

19-3

*add paragraph 6) ... Any development in the planning area should require a survey of native flora. Efforts to protect not only sensitive plants, but other natives should be mandatory, including restoration when deemed desirable.*

It is our opinion that no mention is made in the EIR or the GENERAL PLAN with regard to restoration of native flora in developed or planned areas. Attention is directed to saving remaining sensitive resources, but none to restoration.

19-4

We are unalterably opposed to land use changes proposed in Alternative Options A or B. However, if the developer willingly provided \$20 million dollars in a trust account, with the City as sole trustee, we could be persuaded to change our minds. Provisions would include a large City native plant botanical garden in the area, restoration of native flora, trails wildlife corridors and landscaping with native plants. Proceeds from the trust would also be used to enhance the garden, police and fire services and the costs of providing sewer and water services to the area. No golf course would be permitted.

19-5

Sincerely,

*Norma and Forrest Deaner*

Norma and Forrest Deaner

**LETTER 19**

Norma and Forrest Deaner. February 18, 1998.

- 19-1: Please refer to the responses to comments 16-1 and 17-1 for a discussion of grasslands in the Rose Drive area and the general infeasibility of establishing native grasslands in the area in question. Additionally, please note that the commentor is requesting that policies be added to the text of the EIR. Such policy statements may be appropriate in the General Plan itself, but they are not appropriate in the EIR on the General Plan. The City will consider these suggestions when it considers action on the General Plan. No further response is necessary in this EIR.
- 19-2: The commentor is requesting that policies be added to the text of the EIR. Such policy statements may be appropriate in the General Plan itself, but they are not appropriate in the EIR on the General Plan. The City will consider these suggestions when it considers action on the General Plan. No further response is necessary in this EIR.
- 19-3: Goal 3.53 of the General Plan calls for both protection and enhancement of native vegetation, consistent with the recommendation by the commentor. This includes specific policies and programs to protect areas of remaining natural communities, and to encourage enhancement and restoration as part of open space dedication in proposed developments and in citywide open space improvements. Please also see the response to comment 19-2.
- 19-4: Restoration and revegetation with native vegetation is mentioned in Programs 3.53.A and 3.53.B of the General Plan, and would be either required as mitigation during environmental review of proposed development plans or encouraged in citywide open space areas. Please also see the response to comment 19-2.
- 19-5: The opposition of the commentor to Alternative Options A and B is noted, as is the suggested monetary compensation for loss of habitat in the northern portion of the planning area.

LETTER #20

900 Cambridge Drive, Apt 120  
Benicia, CA. 94510

Planning Department February 16, 1998  
City of Benicia

FEB 18 1998

RECEIVED

John Bunch, Planning Director  
City of Benicia  
Planning Department  
250 East L Street  
Benicia, CA. 94510

Dear Mr. Bunch

My family and I are new to California, having moved here in the middle of January from Oregon. My work brought me to the Bay area, Benicia's well planned community and schools brought us to Benicia. We have purchased a home in Southhampton and will be closing in March. My wife and I have always been involved in our community, and we plan to do the same now that we live in Benicia. I believe that a good place to start is with the General Plan. Our reading has left us with several questions.

In Reading the EIR Section 5.D Alternative Policies page 196, Policy 2.57.1 and Program 2.57.A are flawed because of the erroneous assumptions leading to the conclusion of "potential incompatibility". What evidence is being cited to substantiate this claim of incompatibility? In fact I would suggest that a church is very compatible, as the high use time is Sunday mornings when most other activities in an industrial area will be closed. Churches have a very short time frame when they are used, usually less than 4 hours a week. The use is typically at a time when industrial users are not working or at a reduced level of work. Churches are excellent neighbors and are welcomed neighbors in most communities.

20-1

The General Plan page 98 makes the assumption that churches locate in the industrial park solely for lower costs. How was this assumption drawn? I believe the reason churches locate in the industrial area is because of the absence of other suitable lease space in Benicia. My brief time in Benicia has lead me to believe that there is no suitable sized parcels for purchase for building new churches anywhere outside the industrial zones. I have not seen any suitable lease property that has high ceilings and auditorium seating outside the industrial area.

20-2

Page 99 of the General Plan Policy 2.57.1 "Allow churches to locate in industrial zones only as conditional uses (i.e., with limited term use permits specifying standards and conditions)." Needs to be amended to read Allow churches to locate in industrial zones. By having the word "limited term" in the policy it effectively prohibits a church from purchasing or building any facilities. I would like to suggest that our General Plan open other areas in the City for church use without any use permits.

20-3

The positive advantages of Benicia's land use planning are evident. Lets continue this great land use planning effort and allow and plan for churches to be part of Benicia, both now and in the future.

*David Poucher Jane Poucher*  
David Poucher Jane Poucher

**LETTER 20**

**David and Jane Poucher. February 16, 1998.**

- 20-1: Please see the response to comment 5-6 and the additional text that has been added to page 35 of the Draft EIR in Chapter 3 of this Final EIR.
- 20-2: Please see the response to comment 5-3.
- 20-3: This is a comment on the General Plan, and will be considered when the General Plan is considered.

**LETTER #21**

354 West Seaview Drive  
Benicia, California 94510  
February 16, 1998

Planning Department  
City of Benicia  
FEB 20 1998

**RECEIVED**

Mr. John Bunch, Planning Director  
City of Benicia - Planning Department  
250 East L Street  
Benicia, California 94510

Dear Sir:

My letter includes comments on the Draft City of Benicia General Plan EIR. I am a member at Northgate Christian Fellowship (6014 Egret Court).

**Request No. 1**

Delete wording in the EIR which concludes that Alternative Policy 2.57.1 and Program 2.57.A (Section 5D, page 196) are the preferred alternative to Policy 2.57.1 in the General Plan (Chapter 2, page 99).

21-1

**Request No. 2**

Delete the phrase "limited term" in the General Plan Policy 2.57.1.

21-2

**My reasons for Request No. 1 are the following:**

1. No evidence has been provided in the EIR, which substantiates the recommendation. In my experience there is little or no incompatibility when the Northgate church facility is used. I agree that compatibility can depend on hours of operation, but most church activities are on weekends or evenings when business activities are slow. The impacts are minimal. The existing planning process adequately addresses significant issues.
2. The Benicia General Plan will create a significant land use impact by causing conflicts with established religious uses in the City. This is in direct conflict with the Standards of Significance summarized in Part B on page 33. Two churches could be forced to relocate, with no available sites within Benicia. These impacts were not addressed in the EIR.
3. The EIR makes the assumption that churches move to the industrial park solely for lower costs. In fact, there is no other lease space with suitable ceiling height and

21-3

21-4

21-5

## LETTER #21

4. I believe our churches enhance the City's reputation as a great place to live and work. This is an asset that improves business in Benicia. I do not believe churches have a large potential to constrain Benicia's industrial growth.

21-6

My reason for Request No. 2 is the following:

1. Limited terms effectively prohibit purchase or building of facilities in industrial zones. I suggest the City consider opening other zones for use without Use Permits. Open spaces should be considered a possible option for church zoning if industrial zones are prohibited.

21-7

Sincerely,



Donald J. Hutchinson

LETTER 21

Donald J. Hutchinson. February 16, 1998.

- 21-1: Please see the response to comment 5-2.
- 21-2: This is a comment on the General Plan, and will be considered when the General Plan is considered.
- 21-3: Please see the response to comment 5-6 and the additional text that has been added to page 35 of the Draft EIR in Chapter 3 of this Final EIR.
- 21-4: The General Plan would not necessarily force existing churches to relocate, since churches would be allowed to continue to operate in industrial areas under a use permit. Such use permits could also be renewed, even if they had specific time limitations on them.
- Even if a church were forced to vacate its current site, this would not be considered to be a land use or environmental impact under CEQA, since it would not adversely affect the physical environment. It might be argued that a forcing a church to vacate its site would cause a social or economic impact, but such impacts are not addressed under CEQA unless they would lead to direct physical impacts.
- Furthermore, if one assumes that churches would relocate to other sites under the General Plan, it would still not be appropriate to attempt to assess the impacts of these relocations in this EIR. The impacts of new church locations would need to be assessed at the time that the new church locations were proposed. It would be conjectural to project where future churches might be built and the impacts they might create, so it is not possible to assess these impacts at this time.
- 21-5: Please see the response to comment 5-3.
- 21-6: This comment states the commentor's opinions, and does not require a response in this Final EIR.
- 21-7: This is a comment on the General Plan, and will be considered when the General Plan is considered.

# LETTER #22

68 La Prenda  
Benicia, CA 94510  
2-17-98

Planning Commission  
c/o John Bunch  
225 East L St  
Benicia, CA 94510

To the Members of the Planning Commission and the planning staff.

## IN REGARD TO THE EIR

I would like to have the answers to several questions regarding the Environmental Impact Report as it concerns the issue of Churches.

On page 35 it asserts that the Policy 2.57.1 is not a change from existing policy. The draft plan imposes limited terms compared to the current policies which allows permanent use. This is a big change. Does the city regard this as no change?

22-1

On page 196, in the first paragraph of the Alternative policies, it asserts that the city may select among the policies and program options without further environmental review. This seems to be based on the above paragraph. The alternative policy 2.57.1 and program 2.57.A would have an enormous physical impact on the city. This would also amount to a drastic change in policy. Doesn't this kind of drastic change with physical impact require an EIR? Has the city considered the physical impact of taking two churches that have been located in the industrial park and relocating them downtown or to a residential area? Has the city considered the impact of locating 2 additional churches that are currently meeting in schools in the downtown or residential areas? Has the city considered the economic impact that would be put upon the churches? (Which are made up of the citizens of this community.)

22-2

22-3

There would also be some very significant possible socio-economic impacts from putting several more churches into residential and commercial zones. An EIR would be necessary for either the policy to be implemented because both the Draft general plan and the EIR alternative policy would create a major impact as they are both changes from existing policy.

22-4

In Conversations with John Bunch and with members of the GPOC, there seems to be a general awareness that there is no land available for relocation for the churches that would either now or eventually be excluded from the industrial park. Joe Jacobson has proposed that sections of greenbelt might, in the future, be petitioned for rezoning to allow for church use. However, in table 4, on page 35, it shows that the 230 acres of public/quasi-public land are all built out and there is no intention of zoning any more for that use. What land does the city see as available for a church to relocate to? If there is no

22-5

## LETTER #22

such land, then how can the city see these policies and programs as anything less than throwing a church out of the city? How has the city addressed the issue of the first amendment issues that arise from this proposed policy and program? Could it not be concluded that the city is prohibiting the free exercise of religion?

22-5

How has the economic impact to the city been addressed since this could constitute an illegal taking under the 5th amendment, since Benicia Bible Church owns it's facility, which it bought based on a permanent use permit? Has the city considered the litigation costs that could arise from the adoption of these policies and programs?

22-6

I would urge the planning commission to maintain the current policy which allows churches to locate in the industrial park on a permanent basis and to reject both the limited term draft general plan proposal and the Alternative policy in the EIR. If the commission is considering either of those policies, I believe that an environmental impact report on the impacts of those policy changes is absolutely necessary.

22-7

Thank you for hearing me out.

Sincerely,

*Michael J. Anderson*  
Michael J. Anderson

**LETTER 22**

Michael J. Anderson. February 17, 1998.

- 22-1: Limited terms are standard measures for conditional use permits, which are already required for churches in industrial areas. The City does not regard this as a significant control measure prohibiting land use.
- 22-2: Please note that the analysis on page 196 of the Draft EIR has been changed in Chapter 3 of this Final EIR in response to comment 5-2.
- The statement on page 196 of the Draft EIR refers to the selection among the policies regarding church locations in industrial areas. Neither of the two policies under consideration would directly cause new churches to be built; they would only prohibit churches in certain areas. Thus the analysis concludes that there is sufficient environmental data to allow for inclusion of either alternative policy in the General Plan.
- 22-3: Please see the response to comment 21-4.
- 22-4: As noted in the response to comment 21-4, socio-economic impacts are generally not required to be analyzed under CEQA.
- 22-5: Please see the response to comment 5-3.
- 22-6: Any existing permanent use permit already issued by the City would not be subject to new General Plan policies. If the Benicia Bible Church has a permanent use permit, it could not be forced to relocate as a result of the change in policy.
- 22-7: The commentor's request directed to the Planning Commission is noted. No response is required.

# LETTER #23

19 February, 1998

Mr. John Bunch  
City Planning Director  
250 East L Street  
Benicia, CA 94510

I understand you are trying to implement alternative policies in the General Plan. I understand the implementation of this policy and program would prevent churches from establishing in industrial zones. The General Plan (page 98) reasons that there is concern that churches in industrial parks may present conflicts in terms of noise, safety and traffic. *limiting or excluding msg*

Page 30 of the General Plan states that wineries, delicatessens, lodging, bakeries, creameries, animal sales, and many other businesses are located in the industrial parks. These appear to be health and safety sensitive businesses, similar in sensitivity to churches. Why are only churches being targeted by these new policies?

23-1

If churches are excluded from the industrial parks, where can new churches locate, or existing churches relocate in Benicia? According to page 95 of the General Plan, all land designated by the city for Public or Quasi-Public use, where churches could be located, has been developed since 1995. The new plan provides no new designation for additional public or Quasi-Public land use. Please explain why the city is setting policies with the apparent goal and effect of banning all start up of new churches or relocation of churches in Benicia. *limiting or excluding msg*

23-2

Churches are used 3-5 hours on Sundays and 2-5 hours during weeknights after 5:00pm. The majority of businesses in the industrial parks have business hours from 8:00am-5:00pm during weekdays. How might churches conflict with industrial uses in terms of noise, safety or traffic since the hours of operation so minimally overlap?

23-3

Page 35 of the EIR alleges that the general plan and the alternatives have no physical effect on the environment, I disagree. *msg* The churches in the industrial park have several youth programs that provide activities for youth during school hours. If the churches are rezoned and have to relocate, these programs will be lost or relocated into other areas of the city causing a physical impact on these areas. To where can these programs be relocated? Why hasn't the city addressed in the EIR the physical impact of the relocation of these programs will have on the environment? What consideration has the city given to the negative social and economical impact the loss of these programs will have on the community if the programs are unable to or cannot afford to relocate?

23-4

I disagree with the implementation of the policies and programs as outlines in the alternative General Plan.

Yours truly,

LETTER #23

NAME ADDRESS

Sig  
Print

- ① ~~Daniel Serra~~ 130 E 110<sup>th</sup> St Benicia CA 94510
- ① Daniel Serra  
LORI GROVER
- ② 138 EAST 0<sup>th</sup> Street Benicia Ca 94510  
LORI GROVER
- ③ Leslie E. Tuvey 118 EAST 0<sup>th</sup> ST, Benicia, CA 94510  
~~Leslie E. Tuvey~~
- ④ Melba Virginia Tuvey 118 East 0 St. Benicia, CA  
Melba Virginia Tuvey
- ⑤ LAWRENCE MORASCI 106 EAST 0 ST BENICIA CA 94510  
Lawrence Morasci
- ⑥ IRENE MORASCI 106 EAST 0<sup>th</sup> ST BENICIA CA 94510  
Irene Morasci
- ⑦ 110<sup>th</sup> Locan  
105 E 0 ST. Benicia 94510
- ⑧ Jennie M. Fiore  
JENNIE M. FIORE  
125 East 0<sup>th</sup> St. Benicia 94510  
Frank A. Fiore
- ⑨ 125 East 0 St. Benicia CA 94510  
FRANK A. FIORE
- ⑩ J. H. White  
145 East 0 ST
- ⑪ Ann Phillip  
146 - East 0 St -
- ⑫ NOALIE J. SHOTWELL  
154 EAST 0<sup>th</sup> STREET
- ⑬ MIRNA I. LAMB Norma I. Lamb  
155, E 0<sup>th</sup> ST Jerry Lamb
- ⑭ LEROY C. LAM
- ⑮ Jerry L. Hofstetter Jerry L. Hofstetter
- ⑯ Della C. Hofstetter Della C. Hofstetter



**LETTER 23**

**Daniel Serna and 34 signators. February 19, 1998.**

- 23-1: This is a comment on the General Plan itself, and not on the EIR. The City will consider such comments when it considers adoption of the General Plan. No further response is required in this EIR.
- 23-2: Please see the response to comment 5-3.
- 23-3: Please see the response to comment 5-6 and the additional discussion that has been added in Chapter 3 of this Final EIR to page 35 of the Draft EIR.
- 23-4: Please see the response to comment 5-2 for a discussion of potential church sites in Benicia. Please see the response to comment 21-4 for a discussion of why analysis of physical impacts of future potential church sites cannot be completed at this time. As noted in the response to comment 22-4, socio-economic impacts are generally not under the purview of CEQA.

**LETTER #24**

March 2, 1998

Mr. John Bunch  
City Planning Director  
250 East L Street  
Benicia, CA 94510

We understand that the General Plan Policy 2.57.1 would limit the term of church use permits in the Industrial Park and the alternative in the EIR would exclude churches from the Industrial Park. The General Plan (page 98) reasons that there is concern that churches in industrial parks may present conflicts in terms of noise, safety and traffic.

Page 30 of the General Plan states that wineries, delicatessens, lodging, bakeries, creameries, animal sales, and many other businesses are located in the industrial parks. These appear to be health and safety sensitive businesses, similar in sensitivity to churches. Why are only churches being targeted by these new policies?

24-1

If churches are excluded from the industrial parks, where can new churches locate, or existing churches relocate in Benicia? According to page 95 of the General Plan, all land designated by the city for Public or Quasi-Public use, where churches could be located, has been developed since 1995. The new plan provides no new designation for additional public or Quasi-Public land use. Please explain why the city is setting policies with the apparent goal and effect of the limiting or excluding of all start up of new churches or relocation of churches in Benicia.

24-2

Churches are used 3-5 hours on Sundays and 2-5 hours during weeknights after 5:00pm. The majority of businesses in the industrial parks have business hours from 8:00am-5:00pm during weekdays. How might churches conflict with industrial uses in terms of noise, safety or traffic since the hours of operation so minimally overlap?

24-3

Page 35 of the EIR alleges that the general plan and the alternatives have no physical effect on the environment, I disagree. The churches in the industrial park have several youth programs that provide activities for youth during after school hours. If the churches are rezoned and have to relocate, these programs will be lost or relocated into other areas of the city causing a physical impact on these areas. To where can these programs be relocated? Why hasn't the city addressed in the EIR the physical impact the relocation of these programs will have on the environment? What consideration has the city given to the negative social and economical impact the loss of these programs will have on the community if the programs are unable to or cannot afford to relocate?

24-4

We believe that an EIR must be done if the General Plan Policy 2.57.1 is implemented. We would like to see churches locate in the Industrial Park without limited terms.

Yours truly,

See attached petition

Signed receipt by:  
\_\_\_\_\_

# LETTER #24

NAME	ADDRESS	Signature
Print Name		
1. Veronica Bearce	668 East L St	Veronica Bearce
2. Janet Mease	424 Warwick Dr	Janet P. Mease
3. Barbara Taylor	1922 Louisiana St.	Barbara M. Taylor
4. Ed e Marlene stanton	425 Solano Drive	Stanton
5. Ramey miller	568 Phelps Ct.	Benicia Ramey Miller
6. Daniel Mease	424 Warwick Dr	Daniel Mease
7. Vineeta Reliese	2090 Havenhill Dr.	Vineeta R.
8. Sue wing	319 EAST T ST	Sue Wing
9. JEREMY MEASE	424 WARWICK DR.	Jeremy Mease
10. Amy Webb	319 EAST "T" ST	Amy Webb
11. Carey Anderson	68 La Prenda	Carey Anderson
12. Elois Leimone	675 Daffodil	Elois Leimone
13. Paul Leimone	675 Daffodil Dr.	Paul Leimone
14. Ruth Baskette	595 Cove Way	Ruth Baskette
15. Simona Baskette	595 Cove Way	Simona Baskette
16. Roshaunda Banks	1444 16th Ave #202	San Leandro, Ca
17. Andrea Chavez	520 West K. St.	Benicia CA Andrea
18. James Suggs	-375 Walnut St	Benicia
19. Sarah McPhee	1736 Devonshire Dr	58
20. Alice D Heger	420 West M	Benicia
21. Teresa Hurlbut	1934 Patton Cr.	Benicia
22. Robert Lewis	266 East K St	
23. Debra Rudkowsky	1553 London Cir	Benicia Ca 94510
24. Lemie Valencia	435 Mills Dr.	Benicia
25. Alice L. M. P. Annon	511 Marlboro Dr	Benicia

LETTER #24

NAME ADDRESS

Print Name

Signature

Deborah Vaughan

26. Deborah Vaughan 2529 Eastern Ave #32 Sacramento 95821
27. Cheryl Currow 1771 Lido St. Benicia 94510
28. ~~Wm. R. Sherman~~ 89 Carolina Drive Benicia 94510
29. Sharon Randolph 534 W. K St. Benicia 94510
30. Marty Caballero 405 Turner Dr. Benicia 94510
31. ~~Patricia Westlock~~ 1356 Ellie Ct Benicia
32. ~~Shelli Fairley~~ 205 W. J. St Benicia
33. ~~Traci Jenkins~~ 451 Turner Dr, Benicia
34. ~~Dana Ryll~~ 175 East E. St
35. ~~Wynn E. Fransa~~ 1300 S. Hampton Rd #114 Benicia
36. ~~Dina C. Woomers~~ 640 East Second St. Benicia
37. ~~Robert A. [unclear]~~ 516 Georgia St
38. ~~Leona Black~~ Tedross Black
39. ~~Blawina Zack~~ 175 West I St #2
40. KENNETH RYAN 250 OLIVE BRANCH Ken. Ryan
41. Maureen GRANT 445 Brentwood Dr. Benicia, Grant
42. John ZACK 175 West I #1 Benicia CA 94510
43. JOHN D. KUEHL 175 WEST I #1 BENICIA CA 94510
44. Colleen Martin 226 East J St Benicia Colleen Martin
45. GEORGE ANDERSON 45 La Cruz Ave Benicia
46. GARY FREITAS 585 EAST J ST. BENICIA, CA
47. Leonard Cinner 674 Ware Ct. Benicia, CA 94510
48. Allen R. Rose 1811 Shirley Dr Benicia CA 94510
49. ~~Kathleen Truoka~~ 1322 E 7th Benicia CA 94510
50. ~~William~~ 1280 Monte Vista BENICIA, SRATIAN, G.

LETTER #24

NAME ADDRESS

Print Name

Signature

51. Darleen Rose 1811 Shielyn Dr Darleen Rose
52. Laura Bennett 146 East E St. Laura Bennett
53. Maureen Carroll 529 Sandy Way Maureen Carroll
54. Martha Hart 647 Oakbrook Dr Susan CA Kim Hart
55. Ellen Huber 99 Riverview Allen Huber
56. Sean Johnston 687 West T St. Sean R. Johnston
57. Myrian McIntosh 1028 West 6 Street Myrian McIntosh
58. Chris Garza 404 Turner
59. Virginia A. Lochelt 444 Military East, Benicia
60. Margaret J. Lovitt 444 Military E. Benicia
61. Kay Jordan 482 Melaleuc Dr Benicia 94510
62. Lisa Ribeiro 500 East J St Lisa Ribeiro
63. Thom K Bayler 1131 West 13th
64. Uls Wignall 445 Turner Dr Benicia 94510
65. Jane Rumenberg 910 West K Benicia 94510
66. Kay Kluwe 210 Vista Grande Benicia Kluwe
67. Laurie Ems 632 East K St Ben Laurie Ems
68. ~~68. [unclear] 632 East K St~~
69. ~~69. [unclear] 49 Carlisle~~
70. Edward F. Wachtuk 265 West I St Benicia
71. Wyanda Pencil 513 Gordon St Benicia 94510
72. John L. Beaton 1300 Southampton Rd. #110
73. Denise King 2136 Via Media Ct.
74. ~~74. [unclear] the track~~
75. Joseph A. Melton  
182 DARTMOUTH PL Benicia CA 94510

LETTER #24

NAME ADDRESS

Print Name

Signature

76. Charles L Heim 1640 Bayview Cir Charles Heim
77. JOHN A. VALENTINE 1205 W. 14<sup>TH</sup> ST. John A. Valentino
78. Barbara Foy 1205 W. 14<sup>TH</sup> ST. Barbara Foy
79. Jim McElhoney 65 Vista Grande Jim McElhoney
80. Scorina Gonzalez 49 Caroline Dr. Benicia
81. Betty J. Donald 1800 E 3<sup>rd</sup> St Benicia
82. Virginia Davidson 567 Willow Ct Benicia
83. Bruce W. Kuback 513 Gordon Ct Benicia
84. Doriette Bettsen 1044 Knight Dr. Benicia
85. Nancy L. Less 801 Southampton St. Benicia Calif. #125
86. Nancy Daily 212 W. Tennyson Benicia
87. Joseph L. Kelly 2136 Via Media Ct. Benicia, Ca.
88. Mary Gonzalez Abri 1453 E 4<sup>th</sup> St. Benicia
89. Stanley Sharn 928 Bolton Circle, Benicia
90. Jennifer Cowley 1528 E 4<sup>th</sup> St Benicia ca Jack Cowley
91. Tim Garcia 32 Buena Vista Benicia Ca.
92. David FRANKSON 1407 W. Military Benicia, CA 94510
93. ~~Clayton King~~ 1016 West 3rd Benicia CA 94510
94. Alvo Gonzalez 997 100 Cleveland Rd #3 Pt. Ca 94523
95. Mary Ingham 1833 Buena Tierra Benicia CA 94510
96. Janice Bailange 1833 Buena Tierra Benicia CA 94510
97. Melvin Washington 314 Marra Valley Wy Benicia CA 94510
98. Jan 1501 SHIRLEY DR
99. John W. Hays 375 Alderlyss Ct.
100. Mr. Pratt 253 West 1st St

LETTER #24

NAME ADDRESS

Print Name

Signature

- 10 1. Tim R Martin Tim R Martin
- 10 2. DAVID C. ELDRIDGE David Eldridge 109 CARLISLE PL.
- 10 3. Sara Morse SARA MORSE 1205 W 5th ST "R" BENICIA
- 10 4. Dina Cipolletti Dina Cipolletti 1145 East NSA #1
- 10 5. Anne E Rogers Anne E Rogers 254 Panorama Lane Elgin
- 10 6. Sheila Spunde Sheila Spunde 151 East F Street Benicia
- 10 7. John Bolzle John Bolzle 637 BELVEDERE AVE BENICIA
- 10 8. Rick McElhanev Rick McElhanev 65 Vista Grande
- 10 9. Margaret Rose Margaret Rose 222 Baker St
- 1 10. Joe Rose Joe Rose " " "
- 1 11. Dary Rose Dary Rose " " "
- 1 12. Bill Ellis William D. Ellis 462 Vista Ct
- 1 13. Kathy Ellis Patricia J. Ellis 462 Vista Ct.
- 1 14. Cassandra Wassleben Cassandra Wassleben 25 El Bonito Way
- 1 15. Zelda Nielsen Zelda Nielsen 91 Linda Vista
- 1 16. Herdi Pepler Herdi Pepler 529 East I St.
- 1 17. Tom J. Veaton Tom J. Veaton 190 W. K St #3
- 1 18. Tom J. Veaton Tom J. Veaton 609 East K St.
- 1 19. David Long David Long 609 East N A Benicia
- 1 20. Willard Long Willard Long 515 East K Benicia
- 1 21. N. Clenden N. Clenden 917 1st St Benicia
- 1 22. Nora J. Rodgers Nora J. Rodgers 5 El Bonito Benicia
- 1 23. Rick Rodgers Rick Rodgers 5 El Bonito Benicia
- 1 24. Gary H. Huber Gary H. Huber 351 Raymond Dr 94510.
- 1 25. Myra Myra 510 EAST L ST

**LETTER 24**

**Veronica Bearce and 149 other signators. March 2, 1998.**

24-1: Please see the response to comment 23-1.

24-2: Please see the response to comment 23-2.

24-3: Please see the response to comment 23-3.

24-4: Please see the response to comment 23-4.

**LETTER #25**

February 24, 1998

Mr. John Bunch  
City Planning Director  
250 East L St.  
Benicia, CA 94510

Planning Department  
City of Benicia

FEB 27 1998

**RECEIVED**

Dear Mr. Bunch:

My name is Linda Boone. I am a resident of Benicia and a member of the Benicia Bible Church and I work in the Industrial Park.

I am concerned about the proposed changes to the General Plan and EIR regarding limited use or exclusion of churches in the Industrial Park.

Benicia is a wonderful, growing community with 17 churches, currently. At some point in the future our growth may warrant the need for a couple of more churches. I believe we want people to have choices. I believe we want people to be able to seek and know God in a church that they find comfortable and that meets their needs. To continue to do this, we need to allow churches to be located in the industrial park. The 2 churches currently located in the park are causing no compatibility issues; safety, traffic or noise, or otherwise, that I am aware of...and there appears to be plenty of room for the few that might be needed for our community in the future.

25-1

Where will existing churches (or future new churches) be able to locate in Benicia? Why would Benicia adopt a plan that has no plan for churches?

25-2

I do understand the desire to attract and retain industrial facilities in the park and having a few churches in the park should in no way prevent future location of plenty of revenue businesses....and I also know that churches are vital to our community and it's goals. We want to remain a wholesome, moral, family oriented town. Churches are the foundation of this goal. Churches have a tremendous positive influence on our community; they provide needed fellowship, programs and services. I may not have needed to state this...but did not want to assume that the benefits churches provide and this great need wasn't being forgotten.

25-3

The proposed changes to the General Plan regarding churches ...are NOT in the best interest of the city of Benicia.

25-4

The proposed General Plan reasons that churches in the industrial parks may present conflicts in terms of noise, safety and traffic. It is not logical, nor do I understand, why churches are being targeted for exclusion or limitation from the parks.

Churches use their facility outside of regular business hours. There is no noise, traffic or safety issues Monday - Friday during business hours. We quietly do our thing when our neighbors are, the vast majority of the time, not present.

25-5

I ask how might churches pose a safety, traffic, or noise problem?

## LETTER #25

There is a large unoccupied new building adjacent to where I work. I would prefer a church to locate there rather than a business...there would be no added traffic and parking issues to deal with when I come and go from work; and no added noise when I choose to eat lunch in my car. A church would be a great neighbor.

25-6

There are currently artists residing full time in the industrial parks. Residential use would certainly seem at least, if not more, incompatible than churches. They and their family and friends can come and go anytime. They can do whatever...whenever. Yet there is no request for limitation or ban of the residential groups from the industrial area due to noise, safety and traffic. Also, the General Plan policy #2.2.3 specifically plans to continue to allow the industrial parks to be used for residential use.

25-7

Why is it that only churches are of concern in terms of safety, noise and traffic?

25-8

I go to a deli in the industrial park not far from my work for lunch. It's very popular...lots of traffic in and out of the driveway and parking lot. People sit at outdoor tables (inhaling delivery truck fumes). The deli generates more traffic than our church does...and all during business hours. Is this more compatible with other industrial businesses than a church? Compatible is defined as "existing together without conflict or detrimental effects".

25-9

Again, I ask, why are churches being targeted by these new policies?

From what I can tell the EIR does not address the relocation impacts should churches loose use of the Industrial Park, (nor does the General Plan ). This is not logical. I believe there would be impacts of the type that would require an EIR. What environmental impact analysis has been done on the effect of the churches if forced to relocate? How can the EIR (page 196) recommend/state no further environmental review is needed if the alternative policy regarding churches is enacted?

25-10

I ask that the Planning Commissioners reevaluate the proposed treatment of churches and their impact in EIR and General Plan. The proposed changes are not logical and are not in the best interest of the public or city. I would like our treatment of churches to support the moral, wholesome, family oriented environment we pride ourselves on maintaining.

25-11

Thank you in advance for your help in upholding our community / family goals and for your work on these plans.

*Linda L. Boone*

Linda Boone  
2277 Clearview Circle  
Benicia CA 94510

**LETTER 25**

Linda Boone. February 24, 1998.

- 25-1: The comment is noted. The commentor states the importance of churches and the necessity for allowing them in the industrial park. No response is required.
- 25-2: Please see the response to comment 5-3.
- 25-3: Comment noted. The commentor describes the community benefits provided by churches. No response is required.
- 25-4: This is a comment on the General Plan, and will be considered when the General Plan is considered.
- 25-5: Please see the response to comment 5-6 and the additional discussion that has been added in Chapter 3 of this Final EIR to page 35 of the Draft EIR.
- 25-6: Comment noted. The commentor states her preferences for a church rather than a business adjacent to her current place of work. No response is required.
- 25-7: The commentor is correct that churches and residences posed similar problems as potential candidates for development in industrial areas. In fact, the restrictions in the proposed General Plan on the location of churches and residences in industrial areas, though articulated differently, are actually quite similar. In both cases, neither use could be developed in industrial areas unless it were properly buffered from industrial uses and would not be subject to disturbance or danger from surrounding industrial uses. In the case of residences, these conditions would be guaranteed through the stipulations in General Plan Policy 2.2.3, which is cited by the commentor. In the case of churches, the conditions would be guaranteed through the conditional use permit process, which is required in Policy 2.57.1.
- 25-8: Please see the responses to comments 23-1 and 25-7.
- 25-9: Please see the response to comment 23-1.
- 25-10: Please see the response to comment 21-4.

25-11: Comment noted. The commentor requests that the Planning Commission re-evaluate proposed church-related policies in the General Plan. No response is required.

**LETTER #26**

213 Military East  
Benicia, California 94510-2808

Planning Department  
City of Benicia  
~~FEB 27 1998~~ DL  
MAR 2 1998  
**RECEIVED**  
**RECEIVED**

March 1, 1998

Mr. John Bunch, Planning Director  
City of Benicia  
Planning Department  
250 East L Street  
Benicia, CA 94510

Subject: Benicia General Plan, Draft Environmental Impact Report

Dear Mr. Bunch:

I am a resident of the City of Benicia and I have reviewed the Benicia General Plan (Plan) Draft Environmental Impact Report (DEIR) and am submitting the following comments. I will submit comments on the Plan itself separately. Generally, the DEIR appears to have adequately covered the impacts of the Plan. The section on water service, however, is incomplete and requires revision with respect to the current status of water service reliability and the impacts of growth on water service. The section on mitigation for traffic impacts is not adequate and should be revised to better reflect the needs of the community.

The section on Hydrology and Water Quality is incomplete and requires revision. First, most Delta water quality stations are maintained by both the U.S. Bureau of Reclamation and the California Department of Water Resources, through the Interagency Ecological Program. The monitoring station at Martinez is not the only with data available on water quality and there are more recent data than those cited readily available. The document implies that no pesticides have been detected at Martinez. This is incorrect. The U.S. Geological Survey, in cooperation with the Central Valley Regional Water Quality Control Board, has measured both pesticides and toxicity from the San Joaquin River and the Sacramento River and has tracked pesticides through the Delta, past Martinez and into San Pablo Bay. High levels of pesticides have been measured near Martinez. These data are readily available and should be included in the description.

The DEIR implies that most selenium in San Pablo Bay and Suisun Bay originates from agricultural activity, and to a lesser extent, to refineries. A significant amount originates from the San Joaquin Valley and is transported via the San Joaquin River into the Delta. However, very little selenium is actually found in the Delta, except near Vernalis. Most measurements within the Central Delta do not detect selenium. Most, and at times, nearly all, the selenium entering the Delta from the San Joaquin River is diverted at the Federal and State pumping plants in the South Delta and exported south. This occurs because most of the time the export

26-1

26-2

26-3

26-4

## LETTER #26

Mr. John Bunch  
March 1, 1998  
Page 2

pumping exceeds the San Joaquin River inflow to the Delta. Consequently, very little selenium in Suisun Bay and Carquinez Strait is transported there from the San Joaquin River and is more likely of local origin.

26-4

The DEIR incorrectly concludes that because the projected water demand is less than the amount for which the City of Benicia has contracted, there is no growth impact on water supplies. The main supplier for the City is the State Water Project. The State Water Project (SWP) has contracts to deliver over 4.2 million acre-feet annually, yet it can reliably deliver less than half that amount. The potential listing of spring and fall run chinook salmon, as well as the continuing decline of other species in the Delta, will continue to put pressure on the reliability of the SWP supplies. Furthermore, Delta smelt are known to reside near the intake of the North Bay Aqueduct and have lessened the reliability of the ability of that intake to deliver water.

Approximately half the water demand for Benicia comes from the Exxon Refinery. Consequently, most of any shortage will fall on residential and commercial users, who make up the other half of the demand. To develop a more reliable supply, the City has recently entered into an exchange agreement that will lessen the impacts of shortages. The DEIR should acknowledge this. However, there is no demonstration in the DEIR that this is adequate or will continue to be adequate in the future. There is also no indication of the amount of conservation that can be expected and its impacts on shortages (including the effects of demand hardening that result from conservation). The DEIR should develop this in more detail. Mitigation measures, such as development of more exchanges and/or interties with adjacent agencies should be included in the DEIR, as well as a commitment to water conservation, for example, through a commitment to Best Management Practices.

26-5

The section on transportation generally has the mitigation measures backwards. Instead of adding an extensive list to the CIP, and then considering alternatives "whenever possible", the mitigation should read "Develop alternatives to the improvements listed in Figure 12 and the list on Page 101; if no feasible alternatives are found, consider adding the improvements to the CIP." First, this ensures that the environmentally least damaging alternatives are given proper weight; second, it will decrease the burden on the City Budget; third, it will ensure that the character of Benicia will be more easily retained; fourth, it will lessen the likelihood of making expensive "improvements" that only re-route traffic until traffic finds a new equilibrium at or near the old levels (i.e., the improvements are defeated, and no net improvement in circulation results). As written, the mitigation measures amount to "Put it in the CIP and build it as fast as you can; if possible, consider some alternatives." This is totally unacceptable as a mitigation measure; to comply, one need make no effort whatsoever to develop or implement alternatives; one need merely consider some alternatives, if possible. The City cannot afford this approach, and it amounts to poor planning and even worse public policy.

26-6

## LETTER #26

Mr. John Bunch  
March 1, 1998  
Page 3

Thank you for the opportunity to comment on the DEIR. Please include me on future notices with respect to responses to comments and public meetings on the document, including those on future public drafts. If you have questions, you may contact me at 707-747-1946 (evenings) or 510-688-6100 (weekdays).

Sincerely,



Greg Gartrell

## LETTER 26

Greg Gartrell. March 1, 1998.

- 26-1: In Chapter 3 of this Final EIR, pages 123-124 of the Draft EIR has been amended to cite the Bureau of Reclamation as co-responsible for water quality monitoring in the Delta.
- 26-2: The water quality data on page 124 of the Draft EIR is from the Martinez monitoring station because it is the Department of Water Resources (DWR) station closest to Benicia, and hence the most relevant to the study. While there is another monitoring site operated by the US Geological Survey at Pacheco Creek, also near Martinez, this site only provides sampling for limited pollutants, and therefore does not provide the breadth of data available from the DWR station in Martinez. The investigation of available Delta water quality data for the technical background report that served as a source document for this section of the Draft EIR was gathered in 1995. Although the data is therefore several years old, conditions have not changed considerably to warrant updating the data.
- 26-3: The commentor states that the DEIR "implies" that no pesticides have been detected at the Martinez water quality station. In fact, the DEIR text states "While some extreme water quality conditions were measured in 1992 during periods of low Delta outflow, no organic pesticides were measured *above minimum reporting limits* (italics added), and no primary drinking water standards for dissolved trace metals were exceeded..." Thus, the DEIR does not imply that no pesticides were measured, just that the concentrations measured were below the minimum reporting limits established by monitoring agencies.
- 26-4: The commentor's assertion that very little selenium originating in the Central Valley reaches Suisun Bay due to Delta water export south via state and federal pumping/conveyance facilities is well taken. The DEIR text has been amended to reference this influence and its variation with respect to the volume of available Delta inflows vs. export requirements.
- 26-5: The concerns of the commentor over reliable water supplies and the relationship of water diversion to the decline of fishery resources in the bay and delta are noted. Detailed assessment of the potential impacts of water diversion on special-status species which utilize the delta would be provided as part of the environmental review process for both individual

water supply and delivery projects, and the comprehensive management options currently being evaluated as part of the CALFED Bay-Delta Program.

The City also has back-up means to ensure its water supply. These programs are alluded to on page 51 of the Draft EIR. Additional information on them is provided below:

In 1992, when the State Water Project delivery was reduced to 30%, the Solano County Water Agency (SCWA) arranged a local water pool in cooperation with Solano Irrigation District (SID). While the water was very expensive, the City of Benicia purchased 10,000 acre feet (AF) from the pool. In conjunction with this purchase, Benicia established a water conservation program approved by SCWA and the State. These actions allowed Benicia to get through the drought with acceptable impact to residents and businesses.

In order to address both future droughts and North Bay Aqueduct (NBA) delivery restrictions due to endangered species such as the Delta Smelt, Benicia has taken several actions. In 1992, Benicia entered into an agreement with the City of Vallejo to acquire up to 4400 AF of water per year, as needed. Vallejo has the ability to supply that water from either Lake Berryessa or other Vallejo sources in the event that the NBA is restricted. While the term of that agreement expires in 2010, Vallejo has expressed a willingness to extend the term. Benicia and Vallejo also have an agreement negotiated as part of the "Vallejo Sky Valley Project" which allows Benicia to purchase up to 1100 AF of water from Lake Berryessa per year upon demand through 2015. This agreement is not subject to extension.

Since 1992, Benicia has improved its position through exchanges and purchases within Solano County. However, that is not enough. In 1997, Benicia entered into an agreement with the Mojave Water District. Benicia will send water to Mojave during wet years for ground water restoration, and Benicia will receive some of Mojave's State Water Project delivery in drought years. Furthermore, Benicia has recently filed an "Area of Origin" application with the State in an effort to acquire additional Sacramento River water. Benicia maintains an active water conservation program approved by the State. Re-use of reclaimed wastewater has been investigated, and while not yet economically viable, it is expected to be a valuable resource at some point in the future. Benicia is an active participant in maintaining the reliability of current water sources and in developing new sources.

Because of these programs, there is no reason for the City to believe that it will be unable to meet future water needs. It would be inappropriate to identify an impact related to water provision in the General Plan EIR or to offer additional mitigation measures. Moreover, the Draft General Plan already includes policies and programs to promote water conservation, so that any impact on regional water supplies will be minimized.

- 26-6: The wording of Mitigation Measures CIRC-1 and CIRC-2 has been revised in Chapter 3 of this Final EIR. The new measures give precedence to alternatives to roadway and intersection widening, as requested by the commentor. The measures are worded to allow monitoring of traffic growth, and corresponding dynamic transportation improvement planning and CIP revision, so that the City does not over-build the transportation infrastructure or construct improvements which are no longer needed based on changing travel patterns. The City recognizes the difficulty and probably high costs associated with constructing many of the improvements listed in Mitigation Measures CIRC-1 and CIRC-2; these factors will make consideration of alternatives imperative.

**LETTER #27**

Bob Berman  
250 West K Street  
Benicia, CA 94510

Planning Department  
City of Benicia

MAR 2 1998

March 2, 1998

Mr. John Bunch  
City of Benicia Planning Department  
250 East L Street  
Benicia, CA 04510

RECEIVED

RE: Benicia General Plan Draft Environmental Impact Report, January 1998

Dear John:

On page 2 of the Draft EIR it states that this EIR is a "program level" EIR and that the City will conduct more specific analysis of environmental impacts for individual development projects that are proposed after General Plan adoption. I believe that this description on page 2 is inadequate to alert future developers of the need to complete environmental analysis for individual development projects. I recommend that page 2 of the Draft EIR be revised to include the following:

It is important to note that this is a program EIR and not an EIR on site-specific impacts that could result from development on particular properties in the City of Benicia. Site-specific analyses and mitigation must be assessed at the time there is a development application. Site-specific analyses will be required for each future development proposal; these future analyses shall be based on site surveys for environmental resources and constraints as well as on the actual development proposal submitted for the site. Future development applications and analyses will be guided by the goals and policies of the City of Benicia General Plan.

27-1

Thank you for your attention to the above.

Yours truly,



Bob Berman

**LETTER 27**

**Bob Berman. March 2, 1998.**

27-1: In Chapter 3 of this Final EIR, the requested text has been added to Draft EIR page 2.

# LETTER #28

Planning Department  
City of Benicia

March 2, 1998  
MAR 2 1998

Mr. John Bunch, Planning Director  
City of Benicia  
Planning Department  
250 East L Street  
Benicia, CA 94510

RECEIVED

The following are comments on the Draft Environmental Impact Report (DEIR) for the Draft General Plan.

## Land Use Impacts

The project changes the land use for three parcels on the south side of L Street west of East Fifth plus one parcel immediately to the south on East Fifth between K and L Street from Neighborhood Commercial to General Commercial. Only the parcel on the corner is a commercial use, the other three parcels are residential. The project extends commercial development to three residential parcels which appears to be in conflict with goal 2.16 (Limit General Commercial Use), policy 2.16.1 and program 2.16.A. A similar redesignation occurs for one parcel on the north side of L Street immediately east of East Fifth.

28-1

The proposed land use designations would conflict with established land uses on these parcels since commercial land uses are not allowed in any residential land use category. The DEIR should find this redesignation as a significant impact and propose feasible mitigation measures that would reduce the impact to a less-than-significant level.

The project also proposes a physical change to an existing residential land use on another section of East Fifth Street. The existing residential use on the east side of East Fifth immediately to the south of I-780 is proposed to become General Commercial. This land use change would conflict with General Plan goal 2.16 and its related policy and program. The proposed land use change would conflict with the established residential land use and the neighboring residential uses to the east and south. The DEIR should find this General Plan land use designation as a significant impact and propose feasible mitigation measures that would reduce the impact to a less-than-significant level.

28-2

## Circulation Impacts

The DEIR points out that the General Plan contains policies that would prevent implementation of Mitigation Measure CIRC-1 if the measure is unacceptable due to right-of-way needs, impact on neighboring properties, aesthetics, or community character. The DEIR fails to point out that the proposed widening at almost all the intersections would conflict with one or more proposed General Plan goals, policies and programs. These conflicts make this mitigation measure infeasible.

28-3

The mitigation measure proposes intersection widening at the undercrossing of East Second Street to I-780. There are sidewalks

## LETTER #28

on each side of the street in addition to a designated bike route. The number of approach lanes at the north intersection would expand from a total of eight lanes to 10 lanes. The number of approach lanes at the south intersection would expand from a total of five lanes to eight lanes. There would be four through lanes plus turn lanes under the freeway. This improvement would appear to conflict with goal 2.66 (enhance Benicia's pedestrian friendly streets and neighborhoods), policies 2.66.1 to 2.66.6, program 2.67.A, F, I, and K, policy 2.72.2, program 2.72.M, goal 2.73 (encourage alternatives to driving alone), goal 3.16 (maintain Benicia's small town character), policy 3.16.2., and policy 3.26.4. The addition of a free right-turn lane at both the north and south intersections would appear to conflict with program 2.66.K and M, and program 2.72.F and M.

Similar conflicts between the proposed General Plan and this mitigation measure would occur at the undercrossing of West Seventh Street to I-780. The number of approach lanes at the north intersection would expand from a total of six lanes to eleven lanes. There would be four through lanes plus two left-turn lanes under the freeway, plus Class II bike lanes and a sidewalk.

Similar conflicts between the proposed General Plan and this mitigation measure would occur at the undercrossing of East Fifth Street to I-780. The number of approach lanes at the north intersection would expand from a total of six lanes to nine lanes. The number of approach lanes at the south intersection would expand from a total of five lanes to eight lanes, including a free right-turn lane on northbound East Fifth Street.

28-3

Similar conflicts between the proposed General Plan and this mitigation measure would occur at the East Fifth Street/Military intersection. The number of approach lanes would expand from a total of seven lanes to 11 lanes, including Class II bike lanes and the Bay Trail on Military.

Similar conflicts between the proposed General Plan and this mitigation measure would occur at the East Second Street/Military intersection. The number of approach lanes would expand from a total of nine lanes to 11 lanes, including Class II bike lanes and the Bay Trail on Military.

The mitigation measure proposes that the City consider alternatives but provides no evidence that the alternatives are feasible or will mitigate the impact to a less-than-significant level. The DEIR should find that CIRC-1 is a significant unavoidable impact.

The DEIR finds that future volumes under the proposed project indicate the need for four lanes on many arterials in order to maintain a minimum Level of Service (LOS) E. This would appear to be inconsistent with the significance standard which requires maintenance of LOS C on all City roads, street segments, and intersections. The DEIR is underestimating significant traffic impacts on many arterials.

28-4

## LETTER #28

The DEIR proposes Mitigation Measure CIRC-2 that would widen many arterials to four lanes, including East Second Street between I-780 and Military East, East Fifth Street, Military East, and West Seventh Street. These improvements would be implemented if necessary. Since these improvements are needed to maintain LOS E, and the significance standard is LOS C, it is likely these improvements would be found necessary.

28-4

The DEIR fails to point out that street widenings at the four locations specified above would conflict with one or more proposed General Plan goals, policies and programs. The conflicts include the goals, policies, and programs previously identified, as well as goals related to residential and housing issues since many of the streets are bordered by residential uses. These conflicts make this mitigation measure infeasible at these locations.

28-5

The mitigation measure proposes that the City consider alternatives but provides no evidence that the alternatives are feasible or will mitigate the impact to a less-than-significant level. The DEIR should find that CIRC-2 is a significant unavoidable impact at these four locations.

The DEIR finds that Mitigation Measures CIRC-1 and CIRC-2 would have the potential for significant negative visual impacts, but that these impacts would be minimal if the General Plan guidance is followed to pursue alternative mitigation measures or forgoe the road widenings. No evidence is provided that the alternative mitigation measures are feasible and effective. If the proposed road widenings do not occur, then significant traffic impacts will become unavoidable.

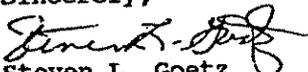
28-6

The General Plan proposes bikeway facilities on Military, East Second Street, and West Seventh Street. The General Plan proposes to create a protected landscaped sidewalk for West Seventh Street. The General Plan proposes the Bay Trail on Military. Mitigation Measure CIRC-2 proposes to widen these roadways from two lanes to four lanes. Widening of these roads has the potential to preclude implementation of these pedestrian and bicycle facilities. Pedestrian and bicycle travel demand could not be met at these locations. The DEIR should identify this road widening as a potential significant adverse circulation impact and propose feasible mitigation measures that would reduce the impact to a less-than-significant level.

28-7

Hopefully, these comments will support a complete and adequate environmental document.

Sincerely,

  
Steven L. Goetz  
347 Goldenslopes Court  
Benicia, CA 94510

## LETTER 28

Steven L. Goetz. March 2, 1998.

28-1: The commentor is correct that three of the four parcels identified at the southwest corner of East L and East 5th Streets are currently used for residences. All four parcels, however, are currently designated Neighborhood Commercial. The Neighborhood Commercial designation would be eliminated by the new General Plan and, therefore, the parcels are proposed to be redesignated consistent with the adjacent commercial designations. The impacts, if any, would only be those deriving from the change in the kinds of commercial uses allowed. Since the sites are already designated for commercial use, the continuation of this designation cannot be construed to cause impacts.

The commentor also expressed concern about a change in land use designation on "one parcel on the north side of L Street immediately east of East 5th" but no changes in land use designation are proposed at that location.

28-2: The parcel identified by the commentor is designated General Commercial in the existing General Plan and is currently used for a mobile home park. There would be no change in designation under the new General Plan and, therefore, no environmental impact is anticipated.

28-3: As noted in the response to comment 26-6, the wording of Mitigation Measures CIRC-1 has been changed in this Final EIR to give more precedence to alternative solutions. In addition, the general conflict between potential roadway and intersection widenings and certain General Plan goals and policies is noted in the DEIR on page 88, second paragraph.

28-4: All widenings noted in Impact CIRC-2 (with two exceptions noted below) would provide LOS C or better. The step up from two to four lanes would be required to avoid a future LOS F condition, but the doubling of capacity with the two additional lanes provides LOS C or better, and in most cases LOS A.

The two exceptions are East Second just north of I-780 and East Fifth just south of I-780, which would operate at LOS E even with four lanes. However, the operation of these segments due to their proximity to major intersections, will be more closely related to the operating LOS at those intersections than to the calculated "free flow" LOS of a roadway segment.

The wording of Impact and Mitigation Measure CIRC-2 has been changed to clarify any discrepancy and to avoid the appearance of an underestimation of impact.

- 28-5: As noted in the response to comment 26-6, the wording of Mitigation Measures CIRC-2 has been changed in this Final EIR to give more precedence to alternative solutions. In addition, the general conflict between potential roadway and intersection widenings and certain General Plan goals and policies is noted in the DEIR on page 88, second paragraph.
- 28-6: The commentor is correct that no evidence is given in the DEIR that alternatives to roadway widening would be feasible or effective. If feasible and effective alternatives to roadway widening are not found and the widenings are constructed, then the negative visual, air quality, noise and land use impacts noted in the discussion after Mitigation Measure CIRC-2, as amended in Chapter 3 of this Final EIR, could occur. However, this is not considered a significant impact since it is not foreseeable at this time which improvements, if any, would be implemented. The General Plan allows the community to decide which roadway and intersection improvements are desirable, and no clear decision has been made as to which improvements would be implemented. All improvements would be subject to additional project-specific review under CEQA at the time they were implemented.
- 28-7: It has not been determined at this time whether the widenings noted in the comment would preclude the pedestrian and trail facilities also noted in the comment. Mitigation Measure CIRC-2, as rewritten, notes that other considerations such as physical constraints, neighborhood impacts and community character may affect the improvements list. This allows for the consideration of bicycle and pedestrian facilities which may compete for limited right-of-way with new traffic lanes.

MARCH 2, 1998

Planning Department  
City of Benicia

MAR 2 1998

COMMENTS ON **RECEIVED**  
THE DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)  
FOR THE DRAFT GENERAL PLAN (GP)

The following comments are principally in response to the contents of the draft EIR as they relate to the location of churches in the industrial areas of Benicia (i.e., pages 35 and 196 of the draft EIR):

- 1. At the February 19, 1998 Planning Commission meeting, during the public comment discussions, the gentleman who represents the consultant that prepared the draft EIR said that that contents of the published draft EIR were incorrect as related to the issue of churches in industrial areas. Written corrections/changes/errata to the published contents were not distributed, so the following comments are on the published contents. There must be provision for public comment on what would have been published if the publishing error had not been made.

29-1

- 2. (page 35, paragraph beginning "Policy 2.57.1 of the General Plan . . .")

The first sentence reads "Policy 2.57.1 . . . is consistent with existing City policy." Certainly, existing City policy does allow churches to locate in industrial areas as conditional uses, as is stated. However, Policy 2.57.1, as quoted on page 196, also says (see last sentence of EIR draft policy wording) "Churches are not allowed in industrial zones." This is NOT consistent with existing City policy as is admitted in the draft GP (page 98) which says "Churches are allowed in industrial zones by use permit, and two have located in the Industrial Park . . ." Please resolve this conflict and error. Part of this difficulty may be due to differences in the wording of Policy 2.57.1 as contained in the draft GP (dated 12/15/97, page 99) and the Policy as quoted on page 196 of the draft EIR.

29-2

The third and fourth sentences discuss potential incompatibilities resulting from churches in industrial zones due to uses and activities. Specifically mentioned are the hours of operation of religious classes and child care activities in relation to industrial activities. All of these issues are being addressed during the use permit process under existing policy. Why are they even discussed here, since they are already being addressed under existing policy?

29-3

- 3. The draft EIR does NOT address the supposed environmental issues and possible use conflicts of " . . . noise, safety, or traffic" as given in the draft GP, top of page 98. Why not? However, in repetition to that said above, these issues are already being addressed under the existing use permit process. Some of these "conflicts" are, in fact, actual compatibilities: traffic resulting from after-business-hours and weekend use of the church will not interfere with business hours' traffic. Church-related traffic to industrial area church sites would, thereby, reduce traffic in residential and commercial areas of the City where the churches would otherwise be sited.

29-4

## LETTER #29

4. (page 196, alternative policy D1)

The proposed policy and programs quoted in the draft EIR are not consistent with those contained in the draft GP, page 99. This is incorrect.

29-5

This portion of the draft EIR reviews the proposed further restriction of churches in industrial areas. The last paragraph opines that further restriction to the siting of churches in industrial areas is preferred. This is based on "potential significant impacts related to their location in these zones." None of these impacts is discussed or evaluated. In addition, at least two churches are already located in industrial areas. All of these potential significant impacts must have already been addressed during the existing use permit process, or the Planning Commission and City Council have been remiss in their responsibilities.

29-6

5. As a general comment/question, how can the EIR be finalized prior to the completion of the GP process? As an example of the question and concern, the draft GP presently says (top of page 98):

29-7

"There is considerable concern in the industrial [underline added] community about this trend [of churches locating in the industrial areas], because churches, once established, have the potential to constrain the establishment or expansion of adjacent industrial uses which might present conflicts in terms of noise, safety, or traffic."

This, represents the position of a small but influential constituency. If churches were attempting to locate in a different area of the City, the above statement in the draft GP could, with only slight changes, be read as:

"There is considerable concern in the adjacent residential community about this, because churches, once established, have the potential to alter the neighborhood environment which might present conflicts in terms of noise, safety, or traffic." or

29-8

"There is considerable concern in the adjacent commercial community . . ."

The EIR cannot reflect, in any way, this subjective position, as it presently does. If this position is successfully purged from the final GP, there can be no legacy of it in the final EIR, regardless of the issue having or not having an environmental impact.

Thank you, in advance, for your consideration of and hoped-for favorable response to these comments.

Sincerely,

Bill Ellis

Bill Ellis  
462 Vista Court  
Benicia, CA

**LETTER 29**

**Bill Ellis. March 2, 1998.**

- 29-1: The commentor states that he has not yet seen the corrections to the Draft EIR that are included in this Final EIR, and that some of his comments may be superseded by these corrections. No response is necessary.
- 29-2: Policy 2.57.1 on page 196 of the Draft EIR is an alternative to the proposed General Plan policy. It should be understood that it is not the same policy as written on page 35 of the Draft EIR. The sentence on page 35 that states that Policy 2.57.1 is consistent with existing City policy refers only to the proposed General Plan policy, and not to the alternative policy.
- 29-3: The EIR must analyze proposed land use policies against the Standards of Significance on page 33 of the Draft EIR. For this reason, potential land use incompatibilities are discussed on page 35, even though these issues may be addressed through the use permit process.
- 29-4: As noted in response 5-6, additional information on these potential incompatibilities has been added to page 35 of the Draft EIR in Chapter 3 of this Final EIR.
- 29-5: Please see the response to comment 29-2.
- 29-6: Please see the responses to comment 5-2.
- 29-7: The General Plan and the General Plan EIR are parallel documents which will be finalized and adopted at the same time. The Planning Commission and City Council may make minor changes to the Draft General Plan, based on the information in the EIR or on other input they receive. Such changes may be made without additional environmental review, provided that they do not create additional significant environmental impacts. However, if changes to the proposed General Plan would trigger additional significant impacts without appropriate mitigation measures, then a supplemental EIR disclosing these impacts would need to be prepared and circulated.
- 29-8: Contrary to the commentor's assertion, the facts and findings in the EIR are not based on analysis contained in the General Plan, but on the consultants' and City's own analysis of the potential impacts of adoption of the General Plan.

## LETTER #30

My name is Gary Getchell.

I would like to address the EIR Policy 2.57.1 on Page 35 of the EIR. This Policy closes with the statement that: *"This is not considered a significant impact since it is not a change from the existing policy."*

30-1

I disagree that there is not an environmental impact. The policy states: "Compatibility of these uses could depend on the hours of operation of church activities compared to that of the industrial activities."

- The churches in the industrial park have several youth programs that provide activities for youth during after school hours. These after school activities would be happening concurrently with the industrial activities. If the churches' activities were found to be "incompatible" and in conflict with the City's specific regulations for churches in the "non-residential" zones then there would be an exposure for the churches to be rezoned and forced to relocate.
- If churches are rezoned and have to relocate, these programs will be lost or relocated into other areas of the city causing a physical impact on the new meeting sites.
- To what areas or sites can these programs be relocated?

30-2

Table 4. On Page 35 of the EIR shows a "Zero" Proposed Change in the Public/Quasi-public Land Use Category. Is there a provision for land usage by churches?

30-3

Why hasn't the City addressed, in the EIR, the physical impact the relocation of these programs will have on the environment?

What consideration has the City given to the negative social and economic impact the loss of these programs will have on the community if the programs are unable to or cannot afford to relocate?

30-4

The potential for church relocation or church programs' being relocated poses an Environmental Impact issue and should therefore require that an Environmental Impact Study be completed. This is contrary to the closing statement of Policy 2.57.1.

**LETTER 30**

**Gary Getchell. No date.**

- 30-1: Please see the response to comment 5-6 and the additional text in Chapter 3 of this Final EIR that has been added to page 35 of the Draft EIR for an explanation of the types of impacts that could occur if churches are located in industrial areas.
- 30-2: Please see the responses to comments 5-4 and 21-4 regarding the possibility of the relocation of churches.
- 30-3: Please see the responses to comment 5-3.
- 30-4: Please see the responses to comment 21-4.

# PUBLIC HEARING

MINUTES  
Benicia Planning Commission  
Regular Meeting  
City Council Chambers

February 19, 1998

7:00PM

## I OPENING OF MEETING

- A. Pledge to the flag
- B. Roll call of Commissioners  
Present: Campbell, Hannafin, Kalian, Renfrow, Steele, Turner, Burek  
Staff present: Planning Director John Bunch  
Associate Planner Larch McNeill
- C. Approval of Agenda

Chairman Burek announced that Congressman Miller would hold a town hall meeting on Saturday, February 28, 1998 at 10AM at the Benicia Library.

Commissioner Renfrow said he was concerned about the number of items on tonight's agenda. He was concerned that it would be late in the evening when the Draft EIR for the General Plan would be considered. He suggested that there be a one hour time limit for the proposed Chevron Zoning Text Amendment. If this item required more than one hour's time, it could be continued to the next regular meeting.

A motion was made by Vice Chairman Kalian and seconded by Commissioner Renfrow to approve the agenda as presented with item II C. being limited to one hour.

A roll call vote was taken as follows:

Ayes: Campbell, Hannafin, Kalian, Renfrow, Steele, Turner, Burek  
Noes: None

- D. Approval of minutes for the meetings of 5/8/97, 6/12/97, 10/9/97, 11/13/97, and 1/8/98  
Commissioner Campbell clarified his statement in the first paragraph on page 10 of the November 13, 1997 minutes, saying that the question he asked was how could one determine where the petitioners lived when there was no address or phone number listed. He also noted for the record that Mr. Fulton did reduce the lighting intensity at Gas City as he had indicated he would try to do.

A motion was made by Commissioner Renfrow and seconded by Commissioner Campbell to approve the minutes as submitted with the clarification as noted on the November 13, 1997 minutes.

A roll call vote was taken as follows:

Ayes: Campbell, Hannafin, Kalian, Renfrow, Steele, Turner, Burek  
Noes: None

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 2

## II NEW PUBLIC HEARING ITEMS

### A. MARINA GREEN GRADING

UP 98-1; Use Permit

Property south of East B Street between First and East Second Streets.

(PRJ 98-4)

PROPOSAL: The Planning Commission will consider a proposal to import up to 500 cubic yards of earth, grade, and landscape City-owned property south of East B Street for a temporary marina green. The recommendation of the Commission will then be forwarded to the City Council.

The Associate Planner presented the staff report.

Commissioner Campbell asked why this project had not be reviewed by the Parks, Recreation and Cemetery Commission. The Director of Parks and Community Services replied that the project was directly proposed to the City Council. Review is required by BCDC, the Army Corps of Engineers and the Department of Fish and Game. The Parks, Recreation and Cemetery Commission is aware of this project, but it has not been formally reviewed by the Commission.

Commissioner Campbell felt that the Parks, Recreation and Cemetery Commission should look at this project before it is considered by the City Council. He suggested that possibly the Planning Commission should condition approval to include review before the Parks, Recreation and Cemetery Commission at their next meeting on March 11, before the Council review. The Planning Director pointed out that the City Council would establish the conditions of approval. The Council could be requested to ask that the Parks, Recreation and Cemetery Commission review this item.

Chairman Burek opened the public hearing.

Cathy Hewitt, 266 East B Street, said she had attended the Depot Restoration meeting and the Mayor's Task Force meetings. She was concerned that these groups are not communicating with one another. She hoped that people would not spend time and money on something that is temporary.

The Director of Parks and Community Services said there would be some improvements that would have to be removed because of the depot restoration.

There being no one else wishing to speak, the hearing was closed to the public and turned over to the Commission.

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 3

Commissioner Hannafin asked who was responsible for maintaining this land once it is improved. The Director of Parks and Community Services replied it would be his department.

A motion was made by Vice Chairman Kalian and seconded by Commissioner Campbell to recommend that the City Council approve the use permit, based on the following findings and subject to the draft conditions of approval:

## Findings:

- a) The proposed location of the use is in accord with the objectives of the Zoning Ordinance and the purposes of the district in which the site is located.
- b) The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the Benicia Urban Waterfront Restoration Plan, and the General Plan, and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of the use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the City.
- c) The proposed conditional use will comply with the provisions of the Zoning Ordinance, including any specific condition required for the proposed conditional use in the district in which it would be located.

## Conditions:

- 1) This approval is for the planting plan dated January 29, 1998, and the grading plan prepared by Cullen Engineering - Grading Plan Marina Green Lawn Area dated November, 1997.
- 2) The proposed marina green use is temporary and may be modified or terminated as necessary to accommodate City approved development on the site.
- 3) Any alteration of the approved plans, including substitution of materials, shall be requested in writing and approved by the Parks and Community Services Department prior to changes being made in the field.
- 4) The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Planning Director, Design Review Commission or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 4

action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

A roll call vote was taken as follows:

Ayes: Campbell, Hannafin, Kalian, Renfrow, Steele, Turner, Burek  
Noes: None

Vice Chairman Kalian said he would like a separate recommendation sent to the Council indicating that the Planning Commission strongly recommends that the City Council allow the Parks, Recreation and Cemetery Commission to review this project for compatibility with other projects being proposed at the end of First Street. The Commission concurred.

**B. FLEETVIEW III**

VAR 98-1; Variance  
4690 East Second Street, APN: 80-050-52  
(PRJ 98-2 )

**PROPOSAL:** The applicant requests a variance to reduce the required landscaping width between the front property line and the parking lot from 10 feet to zero feet.

The Associate Planner presented the staff report.

Vice Chairman Kalian asked if the proposal was requested because of future widening of East Second Street. The Associate Planner replied that the street right-of-way width along East Second Street would be extended.

Vice Chairman Kalian asked if the property line did not allow this project as proposed to meet the requirements of the zoning ordinance. The Associate Planner said that was correct.

Commissioner Steele asked how far apart will the four trees be planted. The Associate Planner said they will try to site them close to the northwest corner of the property.

Chairman Burek opened the hearing to the public.

Norm Koerner, 275 East H Street, applicant said at the northwest corner, the elevation is about 7 feet and that sets back about 12-15 feet. When Fleetview I and II were built, they understood that if the street was to be widened, it would be on the opposite side of the street.

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 5

The Assistant Director of Public Works said it is the City's intent that when the Seeno property develops on the north side of East Second Street, necessary widening will be on the north side. The property line doesn't necessarily follow the curb line.

There being no one else wishing to speak on the subject, the hearing was closed and turned over to the Commission.

Vice Chairman Kalian asked how the project was allowed to proceed this far. The Planning Director said during the process, several viable alternatives were considered for parking. Staff felt it could recommend approval of the variance.

Commissioner Hannafin asked if there would be landscaping around the rest of the perimeter. The Planning Director replied there is landscaping and it is consistent with this type of project.

Commissioner Steele asked who will maintain the landscaping in the right-of-way. The Assistant Director of Public Works said the property owner will be required to maintain it.

Commissioner Steele asked if that had been discussed with the applicant. The Planning Director said it is not a condition of approval for the variance, but was required as part of the landscape maintenance agreement. The Associate Planner added that it was also a part of the staff design approval.

A motion was made by Commissioner Renfrow and seconded by Commissioner Hannafin that the Planning Commission approves the variance request (VAR 98-1) of Fleetview Business Center III as follows:

**Findings:**

- a) Because of the unusual shape of the lot, the strict application of the requirements of the Zoning Ordinance would deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification.
- b) Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.
- c) Granting the application is consistent with the purposes of the Zoning Ordinance, and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district.

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 6

Conditions:

- 1) This approval shall expire two years from the date of approval, unless made permanent by the issuance of building permits and the commencement of construction.
- 2) This project shall adhere to all applicable ordinances, plans, and specifications of the City of Benicia.
- 3) Any alteration of the approved plans, including substitution of materials, shall be requested in writing and approved by the Planning Department prior to changes being made in the field.
- 4) Four additional 24-inch box evergreen trees shall be planted in the public right-of-way adjacent to the landscape strip less than 10 feet in width on the property. Siting of the trees will be determined in consultation with the Public Works Department.
- 5) The conditions of approval for SDR 97-1 as amended remain in effect.
- 6) The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Planning Director, Design Review Commission or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

A roll call vote was taken as follows:

Ayes: Campbell, Hannafin, Kalian, Renfrow, Steele, Turner, Burek  
Noes: None

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 7

## C. CHEVRON ZONING TEXT AMENDMENT

EA 98-1; Negative Declaration  
ZO 98-1; Zoning Text amendment  
(PRJ 98-1)

**Location:** Properties zoned General Commercial at the southeast and southwest corners of the intersection of Columbus Parkway and Rose Drive; the southwest corner of the intersection of West Seventh Street and Military West (Taco Bell site); the block on the north side of Military between West Second and First Streets; the Chevron property; two properties located at 150 and 190 West J Street; northeast and southeast corners of the intersection of East Fifth and Military East.

**PROPOSAL:** The applicant proposes an amendment to the City's Zoning Ordinance which would allow the Planning Commission to consider approving a use permit for convenience markets on properties zoned General Commercial (CG) within 500 feet of parks and recreational facilities. A negative declaration of environmental impact will be considered prior to action on the amendment.

The Associate Planner presented the staff report.

Commissioner Renfrow said he would like the letter from Elizabeth Patterson read into tonight's record. The Planning Director read the letter for the record.

Vice Chairman Kalian said with regard to the Shell Station at Columbus Parkway, the 500 foot measurement was measured from the entrance to the State Park. He noted that the Shell Station and mini-mart are already in business. The Planning Director said that had been discussed in detail when the Rose Market made application for a convenience market. The Planning Commission at that time concurred with staff's application of the zoning ordinance regulations.

Commissioner Campbell asked how far Gas City and the 7/11 were from the small park on Military East. The Planning Director clarified that the park was constructed after the two convenience markets were built and as such the markets are legal non-conforming uses.

Commissioner Campbell said all seven sites in the staff report seem to be significant enough to impact the 24 intersections mentioned in the General Plan and Draft EIR.

Vice Chairman Kalian asked why this was being proposed as a text amendment and not a variance request by Chevron for its specific site. The Planning Director said that use variances are not allowed by State law; the only way that this request can be heard, is through the zoning text amendment as proposed.

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 8

Commissioner Campbell said there is no data to say there will be littering, loitering or traffic problems. The City Attorney said the Commission does not need to have the data, but may use common sense judgment.

Vice Chairman Kalian said it seems like the question is whether the Planning Commission should be in a position to consider these types of requests through the use permit process.

Chairman Burek opened the public hearing.

Tim Boe, architect representing the applicant, said there is a question whether what is being proposed is a nuisance. He did not feel there was any evidence to support that. The use permit application is a good process that he acknowledged and encouraged. The Chevron Station has been there for the past 25 years. Car repair is not being done at gas stations any longer. People would prefer to buy convenience items when they get gas. There are all different types of convenience stores, some that would encourage loitering. They are asking that the Commission broaden its scope to review these types of applications. He presented items that he had purchased from Safeway, on his way to the Commission meeting this evening, which are also sold in convenience markets. These items were packaged and sold for individual servings. The problem of litter cannot apply in this case, because litter is already present in the adjacent properties. They are requesting goods and services that the public already demands.

Commissioner Campbell said it seems that there would be more traffic on the most congested street in Benicia with the addition of this market. Mr. Boe said they were proposing to delete the service bays and utilize the existing space for the convenience market. The Planning Director clarified that a convenience market is not a supermarket. There is concern about pedestrian and traffic safety at this corner.

Cathy Hewitt, 266 East B Street, supported the staff recommendation. Convenience stores are not comparable to grocery stores. She preferred traditional service stations. She was opposed to the proposed amendment.

Carl Lusted, 1107 West Second Street, said he had presented a petition with 48 signatures to the Commission opposing this amendment. There is a dangerous crosswalk at the corner of Military West and West Second Street. This area does not need another store. A convenience store would encourage loitering and littering. Some of the people who signed this petition would rather that the service station continue its repair service.

There being no one else wishing to speak on the subject, the hearing was closed and turned over to the Commission.

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 9

Vice Chairman Kalian said the ordinance had been inconsistently applied in the past. He urged the Commission to expand its scope of work and support the proposed amendment.

Commissioner Hannafin said if the Commission recommends approval of this amendment, it would make it easier for these types of operations. He was inclined to deny the amendment.

Commissioner Steele said a zoning text amendment should not be made to benefit only one applicant and future applicants. She felt it was unwise to make this amendment and was opposed to it.

Vice Chairman Kalian said he would be willing to consider these types of requests through the use permit application procedure.

Commissioner Renfrow said the issue is "What is the higher good for the community?" He said that there are a number of convenience stores in Benicia already.

A motion was made by Commissioner Renfrow and seconded by Commissioner Steele to approve Resolution No. 98-1 as attached.

Under question:

Commissioner Campbell was concerned about the Rose Drive Market and the inconsistency in measurement to determine 500 feet in separation from the State Park. The Planning Director described the separation between the Rose Market and Shell Station which causes the latter to be further from the State Park.

Vice Chairman Kalian said Parcel 2 is mentioned in the staff report and, he submitted, that it is within 500 feet of the State Park.

A roll call vote was taken as follows:

Ayes: Campbell, Hannafin, Renfrow, Steele, Turner, Burek  
Noes: Kalian

Chairman Burek called a 5 minute recess. The meeting reconvened at 9PM.

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 10

**D. BENICIA GENERAL PLAN**

EA 98-2; Draft Environmental Impact Report  
(PRJ 98-3)

**Location:** Citywide

**PROPOSAL** The City of Benicia has prepared a new Draft General Plan which is intended to serve as the principal policy document for guiding future land use, development and conservation in Benicia. The City has also prepared a Draft Environmental Impact Report (EIR) which provides an assessment of the potential environmental consequences of the General Plan. As part of the public review process, the Planning Commission conducts a hearing to assess the adequacy of the EIR. At this hearing, members of the public and the Commission may express their views of the adequacy of the Draft EIR orally or in writing. Submission of comments in writing is encouraged. Comments should focus on the sufficiency of the EIR in discussing possible impacts upon the environment, ways in which adverse effects might be minimized, and alternatives to the project.

Chairman Burek said it was the Commission's intent to open the public hearing on the Draft EIR for the General Plan. The Commission will meet until 10:30PM tonight on this item. If this item is not completed this evening, it will be continued until February 26, 1998. If the public hearing is completed, there will be a study session on the draft General Plan on February 26. He stated that tonight's public hearing is on the Draft EIR and not the Draft General Plan.

The Planning Director made a presentation and then introduced consultant David Early of Design, Community and Environment.

Mr. Early said that comments are being gathered. A comment needs to be made only once for it to be entered into the record.

Richard Bortolazzo, representing the Chamber of Commerce, said that Alan Schwartzman would be their designated spokesman.

Alan Schwartzman said the Chamber of Commerce acknowledges the work of GPOC, the Planning Commission and staff. Page 19, D.1 states objectives and there is no socio-economic aspect of this Draft EIR and the Chamber felt this should be in the Final EIR. Regarding mixed land use, it doesn't address potential incompatibilities associated with non-industrial uses in the industrial park regarding noise, odors, view corridors and traffic. Under the section on employees and housing, some of the growth projections are based on inconsistent numbers. It does not seem to provide adequate housing for those growth projects. It appears the Draft EIR is based on some obsolete projections, i.e. ABAG 1990-1995. He asked if those

HI-1

HI-2

HI-3

HI-4

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 11

projections were appropriate. Regarding increasing job growth by 20%, it appears there is a decrease in job acreage. Regarding hydrology and geology, the data is old. Regarding open space and recreation, there has been inadequate consideration given to the effects on landowners regarding waterfront property and bike paths and the ownership of land in the Zocchi and Exxon areas. Regarding transportation and circulation, there has been no consideration for road upgrades and widening and how it will impact. The traffic circulation is not adequately addressed. If there is an increase in jobs, there is the likelihood that more people will commute and traffic flow will be increased. Regarding noise, the DEIR does not adequately address the enforcement issues.

H1-5

H1-6

H1-7

H1-8

H1-9

The Planning Director said the Draft EIR is to focus on environmental issues, not socio-economic issues. There will be a separate fiscal analysis. Vice Chairman Kalian asked if the fiscal analysis would be given to the Planning Commission prior to the public hearings. The Planning Director replied that he was unsure at this point when it would be given to the Commission.

Ken Jensen, 711 Larkspur Court, pastor of Northgate Christian Fellowship, said they currently meet in the industrial park. On page 196 under alternative policies regarding churches in the industrial zones, that statement seems to be out of place. The policy and program did not allow churches in industrial zones. There is talk about potential significant impacts, but he could not find where it is stated in the document. Page 35 has some discussion regarding churches: policies, 2.57.1 and 2.57.8. The preferred alternative on page 196 is a significant impact and does impact the churches. Mr. Early responded to say that there is a mistake on page 196. There is no significant impact identified and it will be changed in the Final EIR. They will amend page 196 to show that this is not the preferred alternative.

H2-1

Mike Anderson, 68 La Prenda, pastor of Benicia Bible Church, said they meet in the industrial park. The churches that are currently meeting in the industrial park would be forced to move to residential areas. The existing policy allows churches with use permits in the industrial areas. Moving churches would have further environmental impacts. Their church owns property and forcing them to relocate would be illegal under the fifth amendment. There is no negative impact with churches in the industrial park. A church must have a use permit to move. The term "limited term" has been added. If the wording as it states with "limited term use permits" stands, there needs to be a more complete EIR. The EIR needs to provide analysis of these significant impacts and/or eliminate the exclusion. He presented written material to be put into the record. (Attachment A to 2/19/98 minutes)

H3-1

H3-2

H3-3

H3-4

H3-5

Chuck Taylor, Benicia Bible Church, said he was a contractor in Benicia. If they were to relocate the church, there would be a significant impact. That is not addressed in the EIR. Churches are basically people, and these are people in the industrial park. Schools and housing are close to the industrial park. There are no more church sites in town.

H4-1

H4-2

H4-3

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 12

Laurie Grover, Benicia Bible Church, said the churches in the industrial park have several programs for youth. She asked why the City hasn't addressed where these programs can be located. She submitted a petition supporting churches in the industrial park for the record. (Attachment D to 2/19/98 minutes)

H5-1

Gary Getchell, Benicia Bible Church, disagreed with the statement in policy 2.57.1, page 35 of the EIR. Churches in the industrial park have several other programs during after school hours. If churches have to be rezoned and relocated, it will be a great loss. He questioned table 4 on page 35. He presented written material to be put into the record. (Attachment B to 2/19/98 minutes)

H6-1  
H6-2  
H6-3  
H6-4

David Early commented that several of the speakers are reading from notes and if the notes would be presented to the Commission, they could become part of the EIR. It is better and clearer to respond to written material.

Robert Sexton, 6058 Egret Court, said he was president of Drake Industrial Park and that he owned about ten buildings in five different communities. Some of their tenants are churches. The hours of church activity are very compatible because they have different hours for business/services. Churches have very little impact from a landlord standpoint.

H7-1

Scott Henning, 716 Military East, pastor of Benicia Baptist Church, 1055 Southampton Road said the adoption of the preferred alternative 2.57.1 did limit the practice of faith in Benicia. People of faith have a very significant financial impact in Benicia.

H8-1

Paul Lemone, 675 Daffodil, said he would like the chart on page 135 to show some increase in public or quasi public land.

H9-1

Gary Wayne, 319 East T Street, said he was the youth director of Benicia Bible Church, and said they had no activities during the day. Their use and activities take place in the evenings and so they did not feel that they created any impacts.

H10-1

Dave Ryan, member of Benicia Bible Church, noted a number of uses mentioned on page 30 of the General Plan, which in essence means people are involved. Churches function 4 or 5 hours on a Sunday or 2 hours during the week at nights. It seems as though churches are being targeted in the EIR.

H11-1

Don Hutchinson, 354 West Seaview, said he is a member of North Gate Fellowship Church, and asked at the end of their use permit, if they are required to move, the mere disposition of the contents would constitute an environmental impact. The same could hold true of Benicia Bible Church. He said they may have to relocate at the end of their use permit and there are no available parcels of appropriate size, other than in the industrial park.

H12-1

H12-2

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 13

David Poucher, Benicia, said he had an environmental concern about justice and it appears that the people of faith are being "picked upon" by means of churches in the industrial park. | H13-1

Fred Newhouse, representing Exxon Company U.S.A., presented a copy of his oral presentation to the Commission for the record. (Attachment C to 2/19/98 minutes) | H14-1

Les Montoya, 818 Military East, said regarding land use compatibility for churches, there would be a very large impact if churches were removed from the industrial park. One impact that would be obvious would be the parking on residential streets. | H15-1

Gary Moss, 362 Lori Drive, said it was a bad idea to place churches in the industrial park. The industrial park is there to create jobs for the community and it pays its way through the jobs. Benicia is in competition with Vallejo because of Mare Island. If we take an industrial area and allow churches in it, what stops another non-profit business from locating there? Businesses need to be able to expand. Churches have other functions taking place during the day, i.e. funerals, senior citizen activities, etc. | H16-1  
| H16-2  
| H16-3

The Planning Director asked that comments relate to the EIR and not the merits of the policies.

Steven Goetz, 347 Goldenlopes Drive, said he had traffic concerns. Regarding the traffic impacts, they are potentially growth-inducing. The standard is level C. Fourteen intersections are mentioned in the study. Level of service C can be violated. Figure 12 is not feasible. West Seventh Street would have 7 lanes and he did not see how that was feasible. On East Second Street, the general plan proposes 4 through lanes plus turn lanes. He did not consider free right turns to be feasible, as they are disruptive to pedestrians and bicycles. The East Fifth and Military approach proposed improvements would increase from 7 lanes to 11 lanes. That is deferred to future study. A lower level of service could be considered. Regarding the freeway, policy 2.8.2(H) has potentially significant impacts because it allows sound walls on I-780. He suggested elimination of sound walls and referenced several bad examples. The EIR does not adequately address potential noise impacts on the new section of road on East Second to Park Road, north of the Hillcrest neighborhood. | H17-1  
| H17-2  
| H17-3

Bob Ellis, 314 Durham Ct., said that Policy 2.57.1 is a concern to Benicia Bible Church because it presents a physical impact on their church. It would be useful for the church to expand into nearby buildings. This policy would not allow them to expand. | H18-1

Bob Berman, 250 West K Street, said he was concerned about what happens in the future. Once this EIR is certified, developers and city staff may rely on this document for environmental review. He would submit language relating to the limited use of this EIR. This EIR is not intended to be a site specific EIR or to allow exemption of certain projects from environmental review. | H19-1

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 14

Jeff Brinton, attorney representing Benicia Industries, said they are preparing to submit detailed comments. Regarding land use impacts and potential incompatibilities, live/work or expanded live/work in the arsenal area and port, the EIR acknowledges that there could be some potential incompatible impacts, but it could be resolved by buffers, but it does not state how. There could be setbacks imposed on port operations rather than adjoining properties. There needs to be discussion about buffers. Benicia Industries has concerns that the General Plan suggests a significant decrease in FAR for the water-related areas. That could limit future development in the port area. Where will port areas be relocated? The Seaport Plan was to protect these existing areas. Certain portions of the paths and trails in the new general plan are proposed for inappropriate areas. Certain segments of these paths are in industrial areas or under sensitive marsh areas. They plan to submit more detailed comments before the March 2, 1998 deadline.

H20-1

H20-2

H20-3

H20-4

Bill Ellis, 462 Vista Court, member of Benicia Bible Church said the draft general plan contains a number of statements and concerns to which the EIR responds. Is the EIR to be certified before the Draft General Plan is finalized? Mr. Early said the EIR has to respond to some document and that document is the Draft General Plan. The Draft General Plan possibly will be changed. If it changes drastically, a new environmental document would have to be written and circulated. They will be responding in detail to comments on pages 35 and 196 of the Draft EIR.

H21-1

Jeff Hesseltine, 501 Lupine Court, said churches don't pay property taxes. There is no place for an economic analysis of churches. The significant impact seems to be judged only physically. How do churches impact the industrial area, along with batting cages, live/work spaces, wineries, food service and creameries? He asked when was the comment period for the General Plan. The Planning Director replied that the comment period is open now. A closing date has not been established. There will be at least one public hearing on the General Plan before the Planning Commission and City Council.

H22-1

H22-2

H22-3

There being no one else wishing to speak on the subject, the hearing was closed and turned over to the Commission. Chairman Burek announced that the meeting would be continued to February 26 to allow an opportunity for the Planning Commission to comment, followed by a study session on the General Plan.

### III REVIEW AND DISCUSSION

- A. Staff request to initiate Zoning Ordinance amendments
- B. Recent City Council actions

The Commission agreed by consensus to continue this item to February 26, 1998.

# PUBLIC HEARING

Planning Commission Minutes  
February 19, 1998

Page 15

## IV COMMUNICATION FROM THE AUDIENCE

There were no communications from the audience.

## V ADJOURNMENT

A motion was made by Commissioner Hannafin and seconded by Commissioner Renfrow to adjourn to February 26, 1998. The motion carried unanimously.

Respectfully submitted,

  
John Bunch, Secretary

JB:Mc<sup>2</sup>  
[Feb1998.min]

# PUBLIC HEARING

**RESOLUTION NO. 98-1**  
**A RESOLUTION OF THE PLANNING COMMISSION**  
**OF THE CITY OF BENICIA RECOMMENDING DENIAL OF A**  
**PROPOSED ZONING TEXT AMENDMENT REGARDING**  
**CONVENIENCE MARKETS (ZO 98-1)**

WHEREAS, the Planning Commission at its regular meeting of February 19, 1998, considered a proposed zoning text amendment to allow convenience markets through the use permit approval within 500 feet of parks and recreational facilities; and

WHEREAS, the City currently prohibits convenience markets within 500 feet of parks and recreational facilities in order to reduce litter, loitering, and noise within parks and recreational facilities; and

WHEREAS, the City continues to find that such a prohibition is desirable to deter litter, loitering, and noise within the City parks and recreational facilities.

NOW, THEREFORE, the Planning Commission of the City of Benicia does hereby resolve as follows:

**SECTION 1.** The Planning Commission makes the following findings:

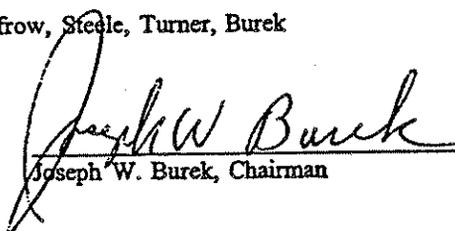
- a. The potential increase in noise, litter, and loitering associated with convenience markets are considered undesirable impacts between parks and recreational facilities, and convenience markets.
- b. The proposed zoning text amendment is inconsistent with the purposes of the Zoning Ordinance as the proposed amendment would promote unsafe pedestrian and bicyclist street crossings at unsignalized intersections.

**SECTION 2.** The Planning Commission hereby recommends that the City Council deny the proposed zoning text amendment.

The foregoing motion was made by Commissioner Renfrow, seconded by Commissioner Steele, and carried by the following vote at a regular meeting of the Commission on February 19, 1998:

Ayes: Campbell, Hannafin, Renfrow, Steele, Turner, Burek  
Noes: Kalian

  
John Bunch, Secretary

  
Joseph W. Burek, Chairman

# PUBLIC HEARING

ATTACHMENT A FOR 2/19/98 MINUTES

68 La Prenda  
Benicia, CA 94510  
2-17-98

Planning Commission  
c/o John Bunch  
225 East L St  
Benicia, CA 94510

To the Members of the Planning Commission and the planning staff:

IN REGARD TO THE EIR

I would like to have the answers to several questions regarding the Environmental Impact Report as it concerns the issue of Churches.

On page 35 it asserts that the Policy 2.57.1 is not a change from existing policy. The draft plan imposes limited terms compared to the current policies which allows permanent use. This is a big change. Does the city regard this as no change?

On page 196, in the first paragraph of the Alternative policies, it asserts that the city may select among the policies and program options without further environmental review. This seems to be based on the above paragraph. The alternative policy 2.57.1 and program 2.57.A would have an enormous physical impact on the city. This would also amount to a drastic change in policy. Doesn't this kind of drastic change with physical impact require an EIR? Has the city considered the physical impact of taking two churches that have been located in the industrial park and relocating them downtown or to a residential area? Has the city considered the impact of locating 2 additional churches that are currently meeting in schools in the downtown or residential areas? Has the city considered the economic impact that would be put upon the churches? (Which are made up of the citizens of this community.)

There would also be some very significant possible socio-economic impacts from putting several more churches into residential and commercial zones. An EIR would be necessary for either the policy to be implemented because both the Draft general plan and the EIR alternative policy would create a major impact as they are both changes from existing policy.

In Conversations with John Bunch and with members of the GPOC, there seems to be a general awareness that there is no land available for relocation for the churches that would either now or eventually be excluded from the industrial park. Joe Jacobson has proposed that sections of greenbelt might, in the future, be petitioned for rezoning to allow for church use. However, in table 4, on page 35, it shows that the 230 acres of public/quasi-public land are all built out and there is no intention of zoning any more for that use. What land does the city see as available for a church to relocate to? If there is no

# PUBLIC HEARING

ATTACHMENT A FOR 2/19/98 MINUTES

68 La Prenda  
Benicia, CA 94510  
2-17-98

Planning Commission  
c/o John Bunch  
225 East L St  
Benicia, CA 94510

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## PUBLIC HEARING

such land, then how can the city see these policies and programs as anything less than throwing a church out of the city? How has the city addressed the issue of the first amendment issues that arise from this proposed policy and program? Could it not be concluded that the city is prohibiting the free exercise of religion?

How has the economic impact to the city been addressed since this could constitute an illegal taking under the 5th amendment, since Benicia Bible Church owns it's facility, which it bought based on a permanent use permit? Has the city considered the litigation costs that could arise from the adoption of these policies and programs?

I would urge the planning commission to maintain the current policy which allows churches to locate in the industrial park on a permanent basis and to reject both the limited term draft general plan proposal and the Alternative policy in the EIR. If the commission is considering either of those policies, I believe that an environmental impact report on the impacts of those policy changes is absolutely necessary.

Thank you for hearing me out.

Sincerely,

*Michael J. Anderson*  
Michael J. Anderson

# PUBLIC HEARING

ATTACHMENT B FOR 2/19/98 MINUTES

My name is Gary Getchell.

I would like to address the EIR Policy 2.57.1 on Page 35 of the EIR. This Policy closes with the statement that: *"This is not considered a significant impact since it is not a change from the existing policy."*

I disagree that there is not an environmental impact. The policy states: "Compatibility of these uses could depend on the hours of operation of church activities compared to that of the industrial activities."

- The churches in the industrial park have several youth programs that provide activities for youth during after school hours. These after school activities would be happening concurrently with the industrial activities. If the churches' activities were found to be "incompatible" and in conflict with the City's specific regulations for churches in the "non-residential" zones then there would be an exposure for the churches to be rezoned and forced to relocate.
- If churches are rezoned and have to relocate, these programs will be lost or relocated into other areas of the city causing a physical impact on the new meeting sites.
- To what areas or sites can these programs be relocated?

**Table 4. On Page 35 of the EIR shows a "Zero" Proposed Change in the Public/Quasi-public Land Use Category. Is there a provision for land usage by churches?**

**Why hasn't the City addressed, in the EIR, the physical impact the relocation of these programs will have on the environment?**

**What consideration has the City given to the negative social and economic impact the loss of these programs will have on the community if the programs are unable to or cannot afford to relocate?**

The potential for church relocation or church programs' being relocated poses an Environmental Impact issue and should therefore require that an Environmental Impact Study be completed. This is contrary to the closing statement of Policy 2.57.1.

# PUBLIC HEARING

ATTACHMENT C FOR 2/19/98 MINUTES

**Exxon Benicia Refinery  
ORAL Comments on Draft EIR for the Proposed General Plan  
City Planning Commission Meeting  
February 19, 1998**

## ***Introduction***

Good Evening, I'm Fred Newhouse, Community Relations Manager for the Exxon Benicia Refinery. I reside at 816 Bantry Way - here in Benicia.

## ***Scope of Presentation***

Tonight I'd like to share with you:

The reasons why Exxon is concerned about certain proposals in the General Plan; and

Our specific concerns with the Draft Environmental Impact Report.

We will be providing more detailed comments on the Draft EIR in writing before the March 2 deadline.

## ***Exxon's Position***

First, I'd like to reiterate a couple of important points that we've expressed throughout the General Plan Update process in order to put our EIR comments in context.

We believe that the City - under the current General Plan, and with existing ordinances - has significant control over what we can and cannot do at the refinery, and with the undeveloped property we own. There are two significant examples of this control:

All of the land considered for redesignation in the Draft General Plan is already subject to a master plan overlay. This master plan requirement is attached to the land, *not to our ownership.*

Under the current zoning restrictions, when we wish to consider a significant addition or modification to our equipment, we currently review the proposal with City staff, get a permit and go through an environmental review as necessary.

# PUBLIC HEARING

## Exxon Benicia Refinery

### ORAL Comments on Draft EIR for the Proposed General Plan (Continued)

Our operations are probably the most intensively regulated in the City. On a day-to-day basis, we must answer to at least 30 different agencies, federal, state, county and city. These agencies comprehensively and exhaustively regulate and protect:

- Air quality
- Water Quality
- Plant Safety
- Public Safety
- Transportation

We need to be able to meet *federal and state mandates* to produce cleaner fuels, protect air and water quality and make our operations even better than they are now as new technologies continue to evolve, *as they surely will.*

This is a *real problem, not a theoretical concern.* Let me give you an example.

Since 1987, we have had 10 different modifications costing a total of ~ \$300 million, all driven by environmental requirements.

For example, as recently as 1996, the State of California mandated cleaner burning grades of gasoline.

To meet this requirement, which did not increase our refining capacity by so much as a drop of crude oil, we had to add processing equipment to our refinery which covered 8 acres of general industrial land and cost \$200 million.

We anticipate similar requirements in the future.

We need *space around our refinery block* to meet these requirements.

The sweeping redesignation of all of Exxon's undeveloped land as proposed in the Draft General Plan will make it extremely difficult and uncertain for us to function in the future. By redesignating adjacent, physically and environmentally appropriate land from General Industrial to Limited Industrial, the Draft General Plan would deny space to meet future requirements.

These are more specifically, General Plan issues, and we will address them in future hearings and workshops. But they are issues that have contributed to our interest in and concern with the Draft EIR that is before you this evening.

### ***Why are we Concerned with the DEIR?***

Exxon is like the community in many ways:

# PUBLIC HEARING

## Exxon Benicia Refinery ORAL Comments on Draft EIR for the Proposed General Plan (Continued)

We want Benicia to be the best place it can possibly be. We've been a part of this community for over 30 years now, and we, too, want clean air and water, peace and quiet, streets that are in good repair, city services that meet everyone's needs – a good, safe place for our employees to live, work, and raise their children. By the way, approximately 100 Exxon employees and their families live in Benicia.

Without a doubt, the best attributes of Benicia, the ones this Draft General Plan strives to preserve, benefit us all and are worth preserving.

Like you, we believe in good planning for our future. And we agree that planning should include reasonable buffers between the refinery and our residential neighbors. They are as good for us as they are for our neighbors and one of the primary reasons we purchased the land back in 1975 and 1984.

We are an integral part of this community and plan to be here for many years to come. We hope that the citizens and the City leaders recognize Exxon's value to the community and our unique needs to remain viable long term.

Taking all this into consideration, the Draft EIR presents us with concerns in three areas:

1. In the environmental impacts that the Draft EIR indicates would occur if the General Plan is adopted in its current form.
2. With the alternatives present in the Draft EIR.
3. With the Noise section of the Draft EIR.

### ***Environmental Impacts***

The Draft EIR concludes that the proposed Draft General Plan would not result in any significant environmental impacts because redesignating will reduce the amount of residential and industrial development that otherwise might occur. Apparently, the rationale is that with less development there will be fewer impacts. This may be true in Benicia itself. But it is certainly *not true for the region as a whole*. Where will the homes and businesses that would otherwise be built in Benicia go, and what will be the impacts of this displacement? The EIR is defective because it does not answer these questions. Indeed, it fails to even ask them!

As workers continue to be displaced because they cannot find or afford a home in Benicia, there will be adverse impacts on our greenbelts, highways and air quality as a consequence of urban sprawl and extended commutes. Exxon workers already experience this problem - about 25% of our workers live in Benicia; the rest must commute here.

# PUBLIC HEARING

## **Exxon Benicia Refinery ORAL Comments on Draft EIR for the Proposed General Plan (Continued)**

Similar impacts would also arise as industrial park businesses find it difficult to expand or as those who might consider moving to Benicia find it impossible to purchase appropriately zoned land.

By reducing the amount of land already devoted to industrial development, land that is adjacent or in close proximity to the existing roads, rail, water and pipeline transportation systems, you would shift industrial development to other areas where it would not otherwise, and maybe should not, occur.

This could result in the type of leap frog development we all dislike, with adverse impacts on our greenbelts, transportation systems and air quality.

None of the potential adverse impacts of displaced development are analyzed in the Draft EIR. All if these impacts should be identified and fully addressed.

Furthermore, the Draft EIR fails to acknowledge that a refinery is an enormously expensive and complex facility and is one among a limited number of similar facilities in any given region of the country. For example, the Exxon Benicia Refinery serves all of Northern California and Nevada. We produce ~10% of the gasoline consumed in California. Exxon - Benicia cannot improve its operations through the construction of processing units any where other than at, and contiguous with, the existing refinery block.

The Draft EIR fails to analyze at all potential adverse effects on Benicia, the region and this part of the country likely to arise from Exxon's inability under the Draft General Plan to meet governmental mandates, or voluntarily pursue more environmentally friendly technologies.

The Draft EIR must also analyze these potential adverse impacts.

### ***Alternatives***

As I mentioned earlier, the Draft EIR does not consider any number of sensible alternatives to redesignating our land to limited industrial.

We believe there are alternatives to consider in the Draft EIR that allow the General Plan to achieve its goals without negatively impacting our industry which is an important contributor to the City's and region's quality of life.

Instead of wholesale redesignation, these possible alternatives would take into consideration our need for space to meet technological and governmental mandates.

# PUBLIC HEARING

## Exxon Benicia Refinery

### ORAL Comments on Draft EIR for the Proposed General Plan (Continued)

We have little or no space left within the original refinery block, and with new mandates, we would have to look at the land next to this area to make needed changes. With the land use designation recommended in the Draft General Plan, this is very problematic, and the Draft EIR does not suggest any other alternatives that would address this issue.

#### Noise

There are also major deficiencies in the noise section of the Draft EIR. The Draft EIR does not adequately describe current conditions. It does not address what future conditions are likely to exist. And it provides no foundation to demonstrate that the noise element of the Draft General Plan will mitigate noise impacts.

Consequently, we hired a professional acoustical engineer with extensive experience in the noise regulation field to help assess the reasonableness of the new requirements and to help us identify the significant issues at stake, both for Exxon and the community as a whole. The Draft EIR, for example, does not address potential conflicts between the proposed standards and steps the refinery must take during flaring in order to meet air quality requirements. Overall, our consultant feels that the City must do much more to identify the nature and magnitude of noise concern before it spells out a solution, particularly one with short term noise levels that are, at best, ambiguous. He has also concluded that the proposed guidelines will not accomplish the intent of the General Plan. Subsequently, we ask that you request staff to either revise the short-term noise requirements, provide more realism and clarity, or remove them from the document.

We will detail these shortcomings in our written comments.

#### Conclusion

We believe it is in the best interests of all of Benicia to preserve the flexibility Exxon needs to continue operating and to be the good corporate citizen many Benicians value and appreciate.

And we think these two documents - the Draft General Plan and the Draft EIR are both tools we can all use to do that.

Together, the City of Benicia and Exxon have a long, successful history of active dialogue that works to resolve concerns such as these.

We invite, and look forward to, working with City staff, the Commission and the City Council to identify alternatives that address the issues I have touched on this evening, particularly those relating to changing our land use designation, and the noise element.

# PUBLIC HEARING

**Exxon Benicia Refinery  
ORAL Comments on Draft EIR for the Proposed General Plan (Continued)**

In addition, in the interest of making a positive contribution, we will make our noise consultant available to assist City staff or answer questions at a later date.

Thank you.

# PUBLIC HEARING

ATTACHMENT D FOR 2/19/98 MINUTES

19 February, 1998

Mr. John Bunch  
City Planning Director  
250 East L Street  
Benicia, CA 94510

I understand you are trying to implement alternative policies in the General Plan. I understand the implementation of this policy and program would prevent churches from establishing in industrial zones. The General Plan (page 98) reasons that there is concern that churches in industrial parks may present conflicts in terms of noise, safety and traffic. *limiting or excluding*

Page 30 of the General Plan states that wineries, delicatessens, lodging, bakeries, creameries, animal sales, and many other businesses are located in the industrial parks. These appear to be health and safety sensitive businesses, similar in sensitivity to churches. Why are only churches being targeted by these new policies?

If churches are excluded from the industrial parks, where can new churches locate, or existing churches relocate in Benicia? According to page 95 of the General Plan, all land designated by the city for Public or Quasi-Public use, where churches could be located, has been developed since 1995. The new plan provides no new designation for additional public or Quasi-Public land use. Please explain why the city is setting policies with the apparent goal and effect of banning all start up of new churches or relocation of churches in Benicia. *limiting or excluding*

Churches are used 3-5 hours on Sundays and 2-5 hours during weeknights after 5:00pm. The majority of businesses in the industrial parks have business hours from 8:00am-5:00pm during weekdays. How might churches conflict with industrial uses in terms of noise, safety or traffic since the hours of operation so minimally overlap?

Page 35 of the EIR alleges that the general plan and the alternatives have no physical effect on the environment, I disagree. *my* The churches in the industrial park have several youth programs that provide activities for youth during school hours. If the churches are rezoned and have to relocate, these programs will be lost or relocated into other areas of the city causing a physical impact on these areas. To where can these programs be relocated? Why hasn't the city addressed in the EIR the physical impact of the relocation of these programs will have on the environment? What consideration has the city given to the negative social and economical impact the loss of these programs will have on the community if the programs are unable to or cannot afford to relocate?

I disagree with the implementation of the policies and programs as outlines in the alternative General Plan.

# PUBLIC HEARING

Sig  
Print

NAME	ADDRESS
<del>Daniel Serna</del>	<del>130 E 110th St Benicia CA 94510</del>
① Daniel Serna	
<del>2 Ore Grover</del>	
② 138 EAST 0th Street Benicia Ca 94510	
<del>LARI GROVER</del>	
③ Leslie E. Tuvey	118 EAST 0th ST, Benicia, CA 94510
<del>Melba Virginia Tuvey</del>	
④ Melba Virginia Tuvey	118 East 0 St. Benicia, CA
<del>LAWRENCE MORASCI</del>	
⑤ LAWRENCE MORASCI	106 EAST 0 ST BENICIA CA 94510
<del>IRENE MORASCI</del>	
⑥ IRENE MORASCI	106 EAST 0th St BENICIA CA 94510
<del>105 E 0 ST, Benicia 94510</del>	
⑦ Jennie M. Fiore	
JENNIE M. FIORE	125 East 0th St. Benicia 94510
<del>FRANK A. FIORE</del>	
⑧ FRANK A. FIORE	125 East 0 St. Benicia CA 94510
<del>Jill White</del>	
⑩ Jill White	145 East 0 St
<del>Angie Phillip</del>	
⑪ Angie Phillip	146 East 0 St
<del>NOALIE J. SHOTWELL</del>	
⑫ NOALIE J. SHOTWELL	154 EAST 0th STREET
<del>KIRMA L. LAMB</del>	
13 KIRMA L. LAMB	155 E 0th St Norma L. Lamb Joy Lamb
<del>HERAY L. LAM</del>	
14 HERAY L. LAM	
<del>SERRY L. Hofstetter</del>	
15 SERRY L. Hofstetter	Serry L. Hofstetter
<del>Shelli C. Hofstetter</del>	
16 Shelli C. Hofstetter	Shelli C. Hofstetter

# PUBLIC HEARING

NAME ADDRESS

- 17 Dan Belil 225 Military East
- 18 Thomas Muller 258 Military F Benicia
- 19 JOHN REIS 253 MILITARY EAST
- 20 ANTHONY 242 MILITARY EAST
- 21 Connie Loran 1331 East 3rd Street
- 22 Philip Loran 1331 East 7th St
- 23 William 321 Military East
- 24 Shell George 377 Military East
- 25 Yuta Gordon 356 Military E
- 26 Yuta Jo Dean 356 Military E
- 27 Emily Nelson 355 Military E
- 28 Louis S Gaudinier 1404 ~~Benicia~~ SHEPHERD MAN. DR -
- 29 JOHN GROVER 138 EAST 'D'
- 30 SEAN GROVER 138 EAST 'D'
- 31 Lucile Kroger 503 WILMONT
- 32 ART Grogan 503 WILMONT St Ben. 94510
- 33 Virginia Kroger 503 WILMONT St Benicia
- 34. Chuck A. Moore 501 WILMONT Benicia
- 35 Elizabeth Moore " " "

**PUBLIC HEARING**

February 19, 1998

This section responds to oral public comments made at the public hearing on the Draft EIR, which was held before the Planning Commission on February 19, 1998. Each speaker is numbered consecutively, and each speaker's comments are also numbered consecutively. Thus comment H2-3 is the third comment made by the second speaker. The identifier "H" indicates that the comments were made at the hearing.

**SPEAKER 1: Alan Schwartzman**

- H1-1: Section D.1 on page 19 of the Draft EIR refers to the role of the General Plan, not the EIR. As noted in the responses to comments 4-9 and 10-1, socio-economic analyses are generally not required by CEQA.
- H1-2: Information on potential incompatibilities between industrial and non-industrial uses is included on page 35 of the Draft EIR, which has been expanded in Chapter 3 of this Final EIR.
- H1-3: The EIR preparers have reviewed Section 4.2 of the Draft EIR and have found no inconsistencies in the numbers regarding employment and housing.
- H1-4: Please see the response to comment 10-6 for a discussion of ABAG housing need projections and other ABAG data.
- H1-5: The proposed General Plan would redesignate 117 acres of existing industrial land, for a reduction of 4% when compared to the existing General Plan.
- Despite this small reduction, an overall increase in employment is still expected because existing vacant industrial parcels are expected to be developed with job-generating uses.
- H1-6: Both the hydrology and geology data used in the EIR were prepared in 1995 as part of the background information for the General Plan process. Several updates to this data are included in Chapter 3 of this Final EIR.
- H1-7: For information on trail alignments, please see the responses to comments 14-9 through 14-13. In regard to ownership of possible open space and trail

alignments, the City would have to negotiate for the right to construct a trail on any private land.

H1-8: A list of potential roadway and intersection widenings is contained in Impacts and Mitigation Measures CIRC-1 and CIRC-2, both of which appear in the Draft EIR and have been revised in this Final EIR.

H1-9: Please see the response to comment 10-10.

**SPEAKER 2: Ken Jensen**

H2-1: Please see the response to comment 5-2 and the changes to page 196 of the Draft EIR that are included in Chapter 3 of this Final EIR.

**SPEAKER 3: Mike Anderson**

H3-1: Please see the response to comment 5-4.

H3-2: Please see the response to comment 21-4 regarding why impacts of future church construction are not addressed in this EIR.

H3-3: Any church that has a use permit would be able to continue to operate under that use permit under the new General Plan, until such time as the existing use permit might expire.

H3-4: For information on the potential impacts of church location in industrial areas, please see page 35 of the Draft EIR, which has been amended in this Final EIR.

H3-5: Please see the response to comment 22-1.

**SPEAKER 4: Chuck Taylor**

H4-1: Please see the response to comment 21-4.

H4-2: For information on the potential impacts of church location in industrial areas, please see page 35 of the Draft EIR, which has been amended in this Final EIR.

H4-3: Please see the responses to comment 5-3.

**SPEAKER 5: Laurie Grover**

H5-1: Please see the responses to comment 5-3.

**SPEAKER 6: Gary Getchell**

H6-1: Policy 2.57.1 appears in the General Plan, not the EIR, and will be considered when the City considers the General Plan.

H6-2: Please see the responses to comment 21-4.

H6-3: The EIR preparers have reviewed Table 4 on page 35 and have found no errors in it.

H6-4: Mr. Getchell's written comments appear as Letter 30 in this Final EIR.

**SPEAKER 7: Robert Sexton**

H7-1: For information on the potential impacts of church location in industrial areas, please see page 35 of the Draft EIR, which has been amended in this Final EIR.

**SPEAKER 8: Scott Henning**

H8-1: This is a comment on the General Plan itself, and will be considered when the entire General Plan is considered.

**SPEAKER 9: Paul Lemone**

H9-1: The speaker's comment, while referring to a table in the EIR (which actually appears on page 35), is actually a request that more public/quasi-public land be designated in the General Plan. This is a comment on the General Plan itself, and will be considered when the entire General Plan is considered.

**SPEAKER 10: Gary Wayne**

H10-1: For information on the potential impacts of church location in industrial areas, please see page 35 of the Draft EIR, which has been amended in this Final EIR.

**SPEAKER 11: Dave Ryan**

H11-1: Please see the response to comment 23-1.

**SPEAKER 12: Don Hutchinson**

H12-1: The commentor appears to suggest that the disposal of fixtures from a church that had to be closed or relocated would constitute a significant environmental impact. It should be understood that the proposed General Plan would not result in the immediate closure of any existing church. However, if a church were to be closed, the disposal of its furnishings would not constitute a significant impact relative to the amount of minor construction and demolition occurring in Benicia on a daily basis or to the capacity in local landfills.

H12-2: Please see the responses to comment 5-3.

**SPEAKER 13: David Poucher**

H13-1: Please see the response to comment 25-7, which shows that "people of faith" are not being "picked on" in any targeted way. Moreover, there is no requirement under CEQA to assess social justice issues. This requirement exists under the National Environmental Policy Act (NEPA) only, which does not apply to the adoption of a General Plan.

**SPEAKER 14: Fred Newhouse**

H14-1: The speaker's comments are responded to in the responses to Letter 6 in this Final EIR.

**SPEAKER 15: Les Montoya**

H15-1: Please see the response to comment 21-4 regarding why impacts of future church construction are not addressed in this EIR.

**SPEAKER 16: Gary Moss**

H16-1: The speaker's comment regarding the job creation function of the industrial park is noted. No response is required.

H16-2: The speaker's comment regarding a precedent for non-profits in industrial areas is noted. No response is required.

H16-3: For information on the potential impacts of church location in industrial areas, please see page 35 of the Draft EIR, which has been amended in this Final EIR.

**SPEAKER 17: Steven Goetz**

H17-1: The commentor's concerns regarding widenings of roadways and intersections are addressed in responses to his written comments, which are included as Letter 28 in this Final EIR.

H17-2: Policy 2.8.2(H) states that soundwalls would not be permitted as proposed by Caltrans unless the community felt that benefits outweighed drawbacks. Moreover, no specific locations for soundwalls are proposed in the General Plan. Thus it would be conjectural to predict the construction of soundwalls under the General Plan, so it would not be appropriate to identify an impact regarding their possible construction. Construction of soundwalls in Benicia would require further environmental review if and when such construction is proposed.

H17-3: The commentors concerns regarding noise impacts from a potential connector between East Second Street and Park Road are addressed through an addition to page 159 of the Draft EIR, which is shown in Chapter 3 of this Final EIR.

**SPEAKER 18: Bob Ellis**

H18-1: This comment addressed the General Plan itself. It will be considered when the General Plan is considered for adoption.

**SPEAKER 19: Bob Berman**

H19-1: Please see the response to comment 27-1.

**SPEAKER 20: Jeff Brinton**

H20-1: Please see the responses to comment 14-3.

H20-2: Please see the responses to comment 6-6.

H20-3: Please see the responses to comments 14-9 through 14-13 regarding trails.

H20-4: Mr. Brinton's written comments appear as Letter 14 in this Final EIR.

**SPEAKER 21: Bill Ellis**

H21-1: Please see the response to comment 29-7.

**SPEAKER 22: Jeff Hesseltine**

H22-1: Economic analyses are not required under CEQA, and are generally not included in an EIR.

H22-2: Please see the responses to comments 23-1 and 25-7.

H22-3: This is a question regarding the General Plan process. It is not a comment

on the EIR, and requires no response in this document.

# PLANNING COMMISSION HEARING

## AGENDA Benicia Planning Commission Regular Meeting City Council Chambers

February 26, 1998

7:00PM

### I OPENING OF MEETING

- A. Pledge to the flag
- B. Roll call of Commissioners

Present: Campbell, Hannafin, Kalian, Renfrow, Steele, Burek  
Excused: Turner  
Staff present: Planning Director John Bunch  
Department Secretary Carolyn McNulty

- C. Approval of Agenda

A motion was made by Vice Chairman Kalian and seconded by Commissioner Renfrow to approve the agenda as submitted.

A roll call vote was taken as follows:

Ayes: Campbell, Hannafin, Kalian, Renfrow, Steele, Burek  
Noes: None  
Excused: Turner

### II CONTINUED ITEM

#### BENICIA GENERAL PLAN

EA 98-2; Draft Environmental Impact Report  
(PRJ 98-3)

Location: Citywide

PROPOSAL The City of Benicia has prepared a new Draft General Plan which is intended to serve as the principal policy document for guiding future land use, development and conservation in Benicia. The City has also prepared a Draft Environmental Impact Report (EIR) which provides an assessment of the potential environmental consequences of the General Plan. This meeting has been scheduled to provide the members of the Planning Commission with an opportunity to express their views of the adequacy of the Draft EIR orally or in writing. At the conclusion of this discussion, the Commission may accept the Draft EIR and direct the preparation of the Final EIR.

Commissioner Renfrow said regarding circulation, he was concerned with the comments of Steve Goetz at the public hearing and his question with developing mitigation measures to level of service C. He felt there was a philosophical conflict with the overall plan design.

PC-1

# PLANNING COMMISSION HEARING

Planning Commission Meeting  
February 26, 1998

Page 2

Vice Chairman Kalian said regarding traffic, he supported the comments of Commissioner Renfrow. The basic message of the Draft General Plan results in less of an impact than the current General Plan. Regarding traffic mitigation measures, if level of service C is acceptable, the mitigation measures have some impacts that are not currently outlined in the Draft EIR. If East Second Street is to be widened from Military to the freeway, there are a number of impacts. He asked if it was appropriate to mention that in the Draft EIR.

PC-2

Commissioner Renfrow asked what GPOC thought about with reference to establishing level of service C. The Planning Director said that was an important point of discussion with GPOC. It was felt that level of service C was a desirable objective, but should not always be an absolute requirement.

PC-3

Vice Chairman Kalian said the transportation impacts were never discussed. An EIR is meant to address impacts as outlined in CEQA.

PC-4

Commissioner Steele said the traffic problem was apparent to her. GPOC also discussed level of service (LOS) D. She believed that level of service C is a standard lower than our existing General Plan. The Planning Director clarified that LOS D has been used in past environmental reviews. Commissioner Steele said that LOS D is a wait of 20-30 seconds for a vehicle to wait at an unsignalized intersection. Arriving at this level of service was considered to be good at that time when GPOC discussed it. Widening some streets to four lanes seems to be opposite of what they wanted to do. Most of the areas considered are residential areas. To suggest that those streets be widened to four lanes is entirely opposite of what they anticipated and that should be corrected. She wanted to see the level changed rather than the widening to four lanes. Page 101 of the EIR mentions maintaining level of service E. She suggested that a level of service not be specified. She felt there should be a balance about widening roads where possible.

PC-5

David Early, consultant, said the references are to maintain level of service E. It was apparent to him that several of the Commissioners wanted more information. He noted that the suggestions of Commissioner Steele are appropriate with the General Plan. He planned to expand on the items of concern mentioned on page 101.

Commissioner Renfrow said the comments need to include that they noticed a difference in mitigation measures on page 101.

PC-6

The Assistant City Engineer clarified that the level of service is evaluated at one hour of peak traffic in the afternoon.

Commissioner Steele said air quality and noise impacts are also important.

PC-7

# PLANNING COMMISSION HEARING

Planning Commission Meeting  
February 26, 1998

Page 3

Commissioner Hannafin said he was concerned that some of the statements are written with the word "should".

PC-8

Commissioner Campbell said level of service C or D should be lower. There needs to be a balance with bicycle and pedestrian paths. He asked about demographics, particularly the older population. Mr. Early asked if he meant demographic information in terms of the aging population in Benicia, as it would be difficult to predict if people who presently live in Benicia would stay here as they age. He said he would look into this question.

PC-9

PC-10

Commissioner Steele noted that the General Plan is "anti-sprawl" development.

PC-11

Vice Chairman Kalian said he was surprised by page 39 regarding affordable housing. He had been told that housing affordability is the median for Solano County, not Benicia itself. What is written on housing affordability is different than what was discussed. He asked about median income as it relates to Solano County and Benicia. The information in the Draft EIR is based on the median income of Benicia.

PC-12

Vice Chairman Kalian said regarding the Urban Growth Boundary, GPOC felt there may be an environmental impact if the City adopts the Urban Growth Boundary outside the Sphere of Influence. The EIR needs to deal with this issue.

PC-13

Commissioner Hannafin said it had been discussed and he agreed that it was sending a confusing signal to developers and landowners.

PC-14

Commissioner Steele said the Urban Growth Boundary exists for a period of 15 to 20 years; it does not mean that we are giving up our Sphere of Influence.

PC-15

Vice Chairman Kalian said he was still concerned about the Urban Growth Boundary and its relationship with the Sphere of Influence.

PC-16

Mr. Early said he would consult with the Planning Director about this issue when he prepares his response to the question. The City will need to make a policy decision.

Vice Chairman Kalian said he did not understand the third paragraph from the bottom on page 34. Mr. Early said he would clarify that paragraph.

PC-17

Commissioner Campbell said regarding affordable housing, it appears "old" Benicia would have 42 sites and he considered that very heavily weighted. Specifically, he was referring to the infill sites on page 71 of the General Plan. Mr. Early replied there is no environmental impact with affordable housing per se. There would be an impact if the density was being changed.

PC-18

# PLANNING COMMISSION HEARING

Planning Commission Meeting  
February 26, 1998

Page 4

Commissioner Renfrow noted on page 152 under air quality, paragraph one seemed to have some inconsistencies. He asked for some clarification in the text discussion. Mr. Early said BAAQMD has some relatively new standards that are high to meet. There are explanations as to why these policies are not met. While it may be desirable to be in conformance with the Regional Air Plan, no city seems to be able to meet that particular standard. He believed that Benicia has met the spirit of the criteria and there is not a need to acknowledge an inconsistency.

PC-19

Commissioner Hannafin said at the public hearing last week, Bob Berman stated this EIR could not solely be relied upon by future developments and that was an important point. To the people who spoke last week, most of their comments were valid. Those comments will be noted, as some apply to the EIR and some to the General Plan.

PC-20

PC-21

Mr. Early pointed out that page 2 states this is a program EIR.

Chairman Burek said most of the issues he was concerned with, were raised by the public or Planning Commission. His concerns had previously been mentioned. He was particularly concerned about the noise and land use elements.

PC-22

Commissioner Campbell said regarding the noise element on page 274 of the General Plan, a comment was made on the maximum noise level. He said there is no mention of duration of the noise. Mr. Early said if the noise is instantaneous, no duration is needed.

PC-23

Commissioner Campbell asked if there was any discussion regarding light, i.e. excessive light. He asked if GPOC looked at the light issue and why there was not a section in the EIR on lighting. Mr. Early replied that, regarding the subject of lighting, CEQA required that light and glare issues are dealt with in a more qualitative standard.

PC-24

Vice Chairman Kalian said on page 159, the impact dealt only with traffic noise. Mr. Early said this section is only about traffic noise level. Other types of noise are discussed later in the section. He said he could make the paragraph clearer.

PC-25

Vice Chairman Kalian asked that the conclusion be restated in the other sections.

Commissioner Hannafin asked if the Commission was being asked to accept the Draft EIR with all the comments and responses. Mr. Early said this is a statement that the Commission accepts the document with the comments made and directs the preparation of the Final EIR.

PC-26

A motion was made by Vice Chairman Kalian and seconded by Commissioner Hannafin to accept the Benicia General Plan Draft EIR as being in conformance with CEQA and City of Benicia Environmental Review Guidelines and direct the completion of the Final EIR by April 17, 1998.

# PLANNING COMMISSION HEARING

Planning Commission Meeting  
February 26, 1998

Page 5

A roll call vote was taken as follows:

Ayes: Campbell, Hannafin, Kalian, Renfrow, Steele, Burek

Noes: None

Excused: Turner

### III REVIEW AND DISCUSSION

#### A. Staff request to initiate Zoning Ordinance amendments

The Planning Director said staff has been compiling needed Zoning Ordinance amendments and there are a number of revisions. He requested that the Commission initiate the proposed changes for consideration.

A motion was made by Vice Chairman Kalian and seconded by Commissioner Renfrow to authorize staff to initiate minor changes to the Zoning Ordinance.

A roll call vote was taken as follows:

Ayes: Campbell, Hannafin, Kalian, Renfrow, Steele, Burek

Noes: None

Excused: Turner

#### B. Recent City Council actions

The Planning Director noted that there has been a recommendation to create a Housing Element Advisory Committee (HEAC).

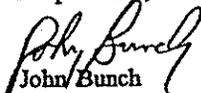
### IV COMMUNICATION FROM THE AUDIENCE

There was no communication from the audience.

### V . ADJOURNMENT TO STUDY SESSION IN COMMISSION ROOM

A motion was made by Vice Chairman Kalian and seconded by Commissioner Renfrow to adjourn to a study session. The motion carried unanimously.

Respectfully,

  
John Bunch  
Secretary

JB:Mc<sup>2</sup>

[Feb2698.Agn]

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**PLANNING COMMISSION HEARING****February 26, 1998**

This section responds to comments made by Planning Commissioners regarding the Draft EIR at their meeting on February 26, 1998. Because the Commissioners took turns commenting on the EIR, the comments are not numbered by speaker. Instead, they are numbered consecutively. The identifier "PC" indicates that the comments were made by Planning Commissioners.

- PC-1: For responses to comments made by Steven Goetz, please see the responses to comment letter 28 written by Mr. Goetz.
- PC-2: For responses to comments made by Steven Goetz, please see the responses to comment letter 28 written by Mr. Goetz.
- PC-3: This comment requested information regarding the General Plan preparation process, and is not a comment on the Draft EIR. No additional response is necessary.
- PC-4: Pages 86 to 102 of the Draft EIR discuss transportation impacts and mitigation measures of the proposed General Plan. Thus it is not the case that transportation impacts are not discussed.
- PC-5: Commissioner Steele's comments represent her point of view regarding appropriate level of service standards and issues in the General Plan. The comments are not about the Draft EIR *per se*, so no response is necessary.
- PC-6: For a discussion of the apparent discrepancy between Level of Service C and E in Mitigation Measure CIRC-2, please see the response to comment 28-4.
- PC-7: Air quality impacts of the General Plan are discussed on pages 151 to 154 of the Draft EIR. Noise impacts are discussed on pages 156 to 165.
- PC-8: As noted on page 29 of the Draft EIR, all mitigation measures are stated with discretionary language ("should") because they are recommendations, and not conditions of approval for the project, unless they are specifically adopted as conditions by the City. Under CEQA, an EIR is required to identify mitigation measures that could reduce identified impacts to less-than-significant levels. However, the City is not required to adopt these mitigation measures, even after the EIR is certified. The City could also

require alternative mitigation measures that are equally effective, or it could find that the identified measures are infeasible and allow the project without mitigation under a finding of overriding consideration. If the City adopts the suggested mitigation measures as conditions of approval, then their language will be changed from the discretionary "should" to the mandatory "shall."

- PC-9: This comment states Commissioner Campbell's opinions regarding appropriate level of service standards and other circulation issues in the General Plan. The comments are not about the Draft EIR *per se*, so no response is necessary.
- PC-10: Table C-11 on page C-9 of the Draft General Plan's Appendix C (Housing Element Data) shows the population age distribution in Benicia in 1990. The text states that the median age in the city was 34.5 years in 1990; the median age in Solano County as a whole was 30.7. The median age in Benicia was 25.7 in 1970 and 30.8 in 1980, thus indicating some aging of the overall population over time.
- PC-11: This comment states the speaker's opinion. No response is required.
- PC-12: The median income information in the General Plan (which appears on pages C-11 and C-12 of Appendix C) is for the Vallejo-Fairfield-Napa Primary Metropolitan Statistical Area, which is defined by the US Census and contains much of Solano and Napa Counties. However, the information on housing affordability on pages 39 and 40 of the Draft EIR, while based on this median income, is specific to Benicia since it relates to the housing stock in Benicia only.
- PC-13: Please see the responses to comments 6-5, 6-6 and 10-5, all of which consider the potential impacts of the establishment of an urban growth boundary.
- PC-14: This comment states the speaker's opinion. No response is required.
- PC-15: This comment states the speaker's opinion. No response is required.
- PC-16: This comment states the speaker's opinion. No response is required.
- PC-17: In Chapter 3 of this Final EIR, the text of the third paragraph from the bottom of page 34 of the Draft EIR has been amended to be more clear.

PC-18: The commentor is correct that most of the infill sites identified on page 71 of the General Plan are in the older parts of Benicia. However, this does not represent a significant impact under CEQA, since there are no specific environmental impacts associated with the fact that infill housing could be built on these sites. Moreover, there is no environmental impact associated with the construction of affordable housing when compared to construction of any other type of housing. Specific projects proposed for the infill sites would receive additional review under CEQA before they are permitted.

PC-19: General Plan Program 2.73A, which appears at the top of page 152 of the General Plan, suggests a comprehensive transportation systems management (TSM) program in concert with businesses and residential communities as a means to minimize peak period traffic and hence air quality problems. As noted in the text below this program, TSM programs were previously required by the State, but that requirement was abolished in 1996. However, there is no reason that the City cannot voluntarily engage in a TSM program or require participation by developers. Therefore, there is no legal inconsistency.

PC-20: Please see the response to comment 27-1.

PC-21: All EIR comments from the public hearing are reprinted and answered in this Final EIR.

PC-22: The commentor states that he has no additional comments. No response is required.

PC-23: The "Maximum Noise Level" shown on Figure 4-12 on page 274 of the proposed General Plan refers to instantaneous noise measured at any instant in time. Therefore, no duration needs to be specified.

PC-24: While light and glare issues are often considered in environmental documents prepared under CEQA for individual projects, there is no indication that light and glare impacts would be significant in the city as a whole if development occurred under the proposed General Plan. Therefore, this issue was not covered in the EIR.

PC-25: Conclusions regarding the lack of impacts regarding noise are made at the end of each of the four sections on noise in the Draft EIR. These conclusions appear in the Draft EIR at the bottom of page 159, in the middle of page 162, and at the top and end of page 165.

PC-26: As noted at the meeting, the Planning Commission's action at the meeting was to accept the Draft EIR as being in compliance with CEQA and to direct preparation of this Final EIR.

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