

**347 Goldenlopes Court
Benicia, CA 94510**

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

May 31, 2008

Dear Council Members:

This letter addresses the public hearing item on the June 3rd City Council meeting for the review of the Benicia Business Park project. I have had an opportunity to review the agenda material. This letter has comments on the agenda material. The comments are organized in the order the issues appear in the material.

Staff Report – Budget Information

The budget information in the staff report only discusses the cost of some city services to the project. It does not discuss the cost of implementing Condition 171, which extends city bus service to the project. This condition only requires the project to fund the capital costs for this service. The City will be responsible for all ongoing operating costs for extending this city service to the project. This cost should be passed on to the project sponsor, but City Council has apparently chosen not to and to give the project a free ride.

The staff report does not disclose that the City will be required to pay for maintaining Condition 183, which requires construction of sound walls along East 2nd Street or resurfacing the road with rubberized asphalt. Public comments have disclosed that the General Plan discourages the use of sound walls and that the mitigation measure does not require the applicant to maintain the rubberized asphalt to ensure its effectiveness in the long term. At a previous City Council meeting, staff explained that rubberized asphalt has been used on roads in Benicia in the past and is somewhat more expensive than regular asphalt. We all know asphalt pavement wears out. When this rubberized asphalt wears out, the staff recommendation will pass the cost of repaving to the City.

Other costs to the City not disclosed in the staff report are the costs to address impacts of the project that were not fully addressed in the certified Final EIR. These costs include:

- Upgrades to Lake Herman Road east of the project to accommodate workers commuting to and from the project.
- Corrective measures such as new traffic signals to ensure residents of Seaview and East Tenny's can safely enter East 2nd Street under traffic conditions created by the project.

The EIR should have required the applicant to pay for these projects as a mitigation measure. At a previous City Council meeting (or maybe it was at the Planning Commission), staff explained that these improvements could be funded through off-site traffic impact fees paid by the applicant. At this point there are few alternatives since the

City Council certified the Final EIR without requiring the EIR to fully address these project impacts. Consequently, any traffic fees paid by the applicant and used to upgrade Lake Herman Road or install signals on East 2nd Street will not be available to fund other projects in the city.

Staff Report – Planning Commission Concerns

The Planning Commission's concerns about air quality and noise are not fully addressed by the staff report. It describes state law that prohibits locating schools within 500 feet of heavily traveled roads and includes the statement "*Although these requirements do not apply to existing school facilities, they highlight the need to protect children from air quality, noise and safety impacts associated with high traffic volumes*". The City Council should address the absence of any staff recommendations to protect children at Semple School from traffic generated air pollution.

Condition 99e (xii) is offered to respond to the Planning Commission's concern about child safety. One Commissioner recalled that many years ago the City Council constructed a pedestrian bridge to allow children to safely cross Military West to reach Mary Farmer School. Staff is now recommending to this City Council to address the safety of children at Semple School by requiring the applicant to "*install a new high-visibility crosswalk at the intersection of East 2nd St and Hillcrest Avenue...*"

The adequacy of Condition 99e (xii) is questionable. At Mary Farmer School, a previous City Council believed a pedestrian bridge was needed to protect children crossing Military West, which is a two lane road with (I am guessing) less than 10,000 cars/day. Now, this City Council is expected to support a "*high visibility crosswalk treatment with flashing lights*" as adequate protection for students crossing four lanes of traffic on East 2nd Street that will be carrying over 30,000 cars/day at cumulative development. The staff report mentions that "*other options include traffic calming and vehicle weight and speed limits*", but recommends none of these options to the Council.

The staff report does not discuss the Planning Commission's concern about off-site bicycle and pedestrian circulation. Comments were submitted to the Planning Commission about pedestrian and safety issues created by proposed mitigation measures on East 2nd Street in the vicinity of the freeway, and how these measures would negate other mitigation measures proposed to reduce traffic by providing on-site bicycle and pedestrian facilities. Commissioner Healy publicly concurred with these concerns. What is the value of providing on-site bicycle and pedestrian facilities in Condition 172 if, by approving this project, we create pedestrian and bicycle safety problems on East 2nd Street that discourage bicycle and pedestrian trips to other destinations in Benicia?

Staff Report – Additional Comments

The Additional Comments section of the staff report provides a matrix requested by the Mayor at the last meeting, describing the conditions that were modified in response to

comments. It is unfortunate that sufficient time was not available to organize all the comments adjacent to the applicable conditions so the City Council could see if a condition was modified in response to the comments. One comment that comes to mind is the need for a condition that establishes an Advisory Committee to assist the City in monitoring the project's compliance with the Condition of Approval and the Mitigation Monitoring and Reporting Program. City Council members will need to rely upon their own memory to determine whether or not certain comments warranted modifications to certain conditions.

Staff Report – Sky Valley Committee Recommendation

The Sky Valley Open Space Committee recommended a condition of approval for the applicant to purchase the Signature Properties site to mitigate cumulative impacts related to the Benicia Business Park growth. Staff indicates that the EIR did not identify cumulative impacts related to development of 20-acre parcels in the County.

The Sky Valley Open Space Committee brings up new circumstances that warrant discussion in the Addendum for the Benicia Business Park project. In April, the County released an Initial Study for the Signature Properties project. An eight unit subdivision is proposed on a 169 acre parcel on Lake Herman Road opposite Lake Herman Park. The Initial Study includes considerable discussion to identify as an impact the increased exposure of populations to wild land fire and the need for extending fire protection in the area to mitigate this impact. Also in April, the County released a draft EIR for their new General Plan. The County proposes to establish a transfer of development rights program in their General Plan to protect agricultural land from urbanization. Receiving sites for these development rights have not been identified by the County. The Benicia Business Park will be required to construct an on-site fire station. The Addendum should evaluate potential growth inducing impact of extending fire protection to this area. Providing such services could encourage approval of additional subdivisions by the County in Sky Valley and the designation of Sky Valley by the County as a receiving site for development rights transferred from agricultural lands elsewhere in the county.

The certified Final EIR only evaluates the potential for the project to induce significant population growth by the City. It does not evaluate the potential for the project to induce significant population growth in nearby unincorporated areas by the County. The City published the draft Addendum on April 29, 2008. The Addendum does not discuss the County's projects. The Addendum should determine whether approval of the Benicia Business Park project as proposed will create a significant growth inducing impact on unincorporated lands north of the project site and conflict with our urban growth boundary.

Conditions of Approval

Condition 6: This condition seems to conflict with Condition 13 which requires the applicant to work with the Economic Development Manager to attract high quality businesses. Considerable comments have been made on the desire to locate a research and development (R&D) campus on the project site. However, Condition 6 says "*any non-flex*

use” requires a use permit. A use permit is an additional level of review that allows the City to impose additional conditions. This condition will require an R&D use to apply for a use permit. Any efforts pursuant to Condition 13 to attract R&D will be undercut by the use permit requirement. It would help if R&D were added as a use by right in the Limited Industrial portion of the project site. The City should also consider if it could legally limit the amount of land devoted to package distribution, or warehousing and transportation. These uses are not compatible with an R&D campus.

Condition 23: City staff now proposes to require preparation of individual site plans for each phase. This may be in response to comments for a Specific Plan, revised Tentative Map, Planned Development zoning or similar mechanism that would result in a less auto-oriented project. Knitting together individual site plans for each phase, incrementally, does not make a Master Plan, particularly if a unified streetscape on roads internal to the project is desired. Conformance to LEED-ND guidelines may require modification to other conditions, particularly Circulation, Parking and Loading conditions, and the Public Works conditions related to transportation. Condition 23 should be revised to provide for modification to other conditions where a conflict is demonstrated with Condition 23. Other characteristics for a “*campus*” such as use of natural topography in layout for buildings and roads, or integration of parking facilities are not included in this condition.

Conditions 35 and 40: These conditions should be modified to allow the use of on-street parking, where available, to comply with the required number of parking spaces. This flexibility will help reduce the size of parking lots, and help slow traffic on streets within the site and make them safer for pedestrians.

Condition 49: It has been an understanding by many stakeholders that landscaping will be an important amenity of the project. Have temporary irrigation systems, as permitted by this condition, been proven in Benicia to result in the desired landscape amenity for the long term? If so, please identify where such areas exist so that all stakeholders can be assured that this condition will not reduce the viability of the landscaping they expect.

Conditions 98 and 99: The road cross sections for streets internal to the project site (e.g. A Boulevard and Industrial Way extension), do not appear to allow on-street parking. If this is correct, please see comment on Conditions 35 and 40.

Condition 99.e.vi: If the intent is to provide a connection to Channel Road, should this condition specify *Lot B* in lieu of *Lot A*?

Condition 176: The addition of “*a park & ride lot as needed to serve the project*” is confusing and potentially ineffective. Park & Ride lots serve residential communities, not employment centers. Are the employees working within the project to drive to this lot, park their car, and then ride a bus from this lot to the building where they work? The public comment has been for an Intermodal Transit Center. Such a center is a place where City residents can drive to, park and transfer to express buses that serve locations on the I-680 or I-80 corridors. It would also be a place where transit commuters to the Business

Park can transfer from an express bus to the local bus route serving the Business Park to reach their final destination. Substantial testimony has been provided about how the EIR justifies adding an Intermodal Transit Center as a mitigation measure for the project's impact on air quality. The requirement for a park & ride lot should be replaced with a requirement to provide an Intermodal Transit Facility within the project.

Condition 205: The need for an updated economic analysis is a significant issue among many stakeholders. The adequacy of any updated economic analysis should not be determined solely by City staff. The adequacy should be determined by the City Council based on a recommendation of City staff.

Condition 207: The stated purpose of this condition is to allow the "*property owners*" to be reimbursed for any construction and maintenance costs for public services that are above their fair share. How is the fair share of each property owner to be determined? To what degree will this condition offset the overriding economic reasons for approving the project, which are listed on page VIII-B-131 as "*the project will add to the City's tax base, allowing for the provision of public services*"?

CEQA Findings

These proposed findings underscore the significant flaws in the certified Final EIR. Many of the findings fail to clarify the feasibility or effectiveness of certain mitigation measures where the record is ambiguous or unclear. No analysis is provided of the facts in the record and how they support the ultimate conclusion for these mitigation measures. These findings use one broad conclusory statement to dispense with potential effects that are determined not to be significant. Absent some description of your line of thinking in these findings, how can your constituents understand the logic of your decision? There is no indication that the proposed City Council findings are careful, reasoned and equitable, or that they fulfill the purposes of CEQA for public disclosure and public accountability. As a member of the City Council, how would you respond to the following question: *what in the record convinces you that each of the findings discussed below are appropriate and reflect your judgment?*

CEQA Findings – Effects determined to be mitigated to less than significant levels

- Impacts TRANS-5 and TRANS-15: The City Council finds mitigation measures TRANS-5 and TRANS-15 are feasible solely based on the traffic modeling. This finding does not respond to the facts and comments to the contrary in the record. Mitigation Measures TRANS-5 and TRANS-15 fail to include installation of signal controls for the "*free right turn lane*" as referenced in Response E 7-10. Without this new signal, pedestrians on the east side of East 2nd Street would be unable to cross the free right-turn lane and proceed from one side of the freeway to the other side. The Final EIR does not deny that Caltrans controls this intersection and must approve the mitigation measure before it can be implemented. Nor does it show that the referenced traffic modeling is sufficient to comply with Caltrans standards and show that

these standards can be met. The Final EIR does not substantiate the finding that these mitigations measures will result in acceptable levels of service by Year 2030, assuming signal controls for the free right-turn lane and assuming the conditions needed to comply with Caltrans standards.

- Impact TRANS-22: The City Council finds impact TRANS-22 will be avoided based on the Addendum, without responding to the facts and comments in the record to the contrary. Response E 2-2 addressed a question from Caltrans about the freeway capacities assumed in the EIR. The Final EIR assumes a capacity of 2,200 vehicles per hour per lane for the I-780 freeway. This assumption overestimates capacity because it does not acknowledge conditions on I-780 that can reduce freeway capacity.

Further comments were provided at the hearing to certify the Final EIR. These comments described how this freeway traverses a significant grade between East 2nd Street and Southampton Road, and carries the highest traffic volumes on I-780 attributed to the project. This grade reduces the capacity of this freeway compared to other freeways on flat land. The project includes limited industrial uses that generate truck traffic. Trucks move slower than passenger vehicles, particularly when on grades. Commenters requested the City to demonstrate that the conditions prevailing on this section of I-780 (e.g. vertical grade and vehicle mix) are consistent with the freeway capacity assumed in the EIR. If the prevailing condition on I-780 is not consistent with the freeway capacity assumed in the EIR, then its findings on freeway congestion at this location would be underestimated. The Addendum failed to analyze these comments. It evaluated the changes to the project using the same methodology used for the Final EIR.

- Impact TRANS-23: The City Council finds Mitigation Measure TRANS 23 to be effective based on the traffic modeling in the Final EIR. This finding is made even though the record provides no traffic model results to demonstrate that the mitigation measure would adequately serve the project with transit facilities. Commenters explained that this mitigation measure would be ineffective because it did not fund ongoing operating cost of extending transit to the project. Response E 7-13 claims that requiring the project to provide additional funds to Benicia Transit "*would likely exceed constitutional nexus requirements*" and would be inconsistent with past approaches in Benicia to transit. The record disputes these claims given the EIR's description of the transit impact on page 247 which states:

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

The EIR describes the project impact as the lack of transit routes serving the project. Commenters reasoned that providing funds for transit facilities as proposed is not effective mitigation because funding is not assured to operate the additional buses.

Statements were made supporting the constitutional tests for providing operating funds for the extension of transit routes. The Final EIR provides no assurances that the mitigation measure adopted by the City Council will ensure that the project will substantially mitigate its impact on transit.

- **Impact NOI-2:** The findings for Impact NOI-2 rely on experts who say the proposed mitigation measures have been effective throughout the Bay Area. However, the facts in the record show that the General Plan does not support constructing sound walls at this location and there is no assurance that the rubberized asphalt will be effective in reducing noise after the pavement wears out. The Final EIR states that the project will have a 20-year buildout. The Mitigation Monitoring and Reporting Program requires installation of rubberized asphalt before any grading begins. Comments that the effectiveness of the rubberized pavement will wear out by buildout, when noise generation will be greatest, are not disputed by the City. The City does not indicate it will have sufficient funds to replace the rubberized asphalt before it wears out. This mitigation measure cannot be found effective unless the project sponsor is required to maintain the rubberized asphalt pavement in perpetuity.

CEQA Findings – Significant Effects that cannot be mitigated to a less than significant level

The proposed City Council findings for Impact AIR-2 do not address the facts in the record that support adding the Intermodal Transit Center to Mitigation Measure AIR-2. The purpose of Mitigation Measure AIR-2 as described in the Final EIR is to implement feasible and effective measures in further reducing vehicle trip generation and resulting emissions from the project. Response E 7-14 concedes that an intermodal transit facility within the project could increase transit use, much in the same way as providing bus turnouts, benches and shelters, which are already part of Mitigation Measure AIR-2. The EIR's conclusion that this additional mitigation measure would not reduce air quality impacts to a less than significant level does not deny the City's obligation to include in AIR-2 all feasible and effective mitigation measures that will help offset significant unavoidable impacts. The record supports an expanded mitigation measure that would require the project sponsor to provide a graded site for a future Intermodal Transit Facility, to pay fees to fund construction of the facility, and to maintain any on-site landscaping in perpetuity.

CEQA Findings – Effects determined not to be significant

Section 5 on page VIII-B-123 is the most problematic. The City Council will conclude *"the environmental topics analyzed in Chapter IV of the Final EIR and Addendum represents those topics which generated the greatest potential controversy and expectation of adverse impacts among the project team and members of the public."* This section should provide a list of those topics discussed in the record and determined by the City Council not to be significant. Furthermore, this section should summarize the evidence

that support this determination by the City Council. What follows is a partial list of the effects determined not to be significant by the City Council.

- Effect on Air Quality for Children at Semple School: Comments from the public, the School District and the Planning Commission expressed concern about the traffic pollution generated by the project on the children at Semple School. The Draft EIR stated that future traffic will comply with the state law that prohibits elementary schools to be located within 500 feet of roads carrying up to 100,000 vehicles per day. Response A 7-1 states that "*the modeled future plus project Average Daily Trips (ADT) would be 37,900 along East 2nd Street and 55,000 ADT on I-780*". Commenters pointed out that the future freeway volume referenced in Response A 7-1 represents existing traffic, not future traffic. It was argued that future ADT on the roads within 500 feet of Semple School could be as high as 130,900. At the February 19th City Council meeting, the EIR consultant claimed the application of the state standard on school siting requires the 100,000 vehicle threshold to be measured on one road only. Commenters requested substantiation of that assertion, but none was provided. No explanation is provided to support the City Council determination that there is no significant adverse effect of the project on the air quality for the children at Semple School.
- Effect on Traffic Safety near the School: Comments from the public, the School District and the Planning Commission expressed concern about the potential safety impacts to school children from the traffic increases generated by the project on East 2nd Street. They acknowledged the Cumulative Plus Project forecast in the Draft EIR, which show traffic increasing over 240% above current conditions on East 2nd Street in the vicinity of numerous school crossings that serve Semple School. Commenters stated the Mitigation Measure TRANS-5 and TRANS-15 will make walking and bicycling more dangerous on East 2nd Street and negate the effectiveness of Mitigation Measure TRANS-24. Commenters explained that parents will have little incentive to allow their children to walk or bicycle to school under these conditions, and that traffic congestion at Semple School will worsen as more parents feel compelled to drive their children to school. The Final EIR provides no information that safe conditions for school children can be maintained at these locations under these conditions, or that "*additional police enforcement or (unspecified) design changes made independent of the proposed project*" (pursuant to Response E 7-3) could feasibly maintain safe conditions for children using school crosswalks on or adjacent to East 2nd Street.
- Effect on Traffic Safety along East 2nd at Seaview and at East Tennys: Comments were made on the ability for residents of Seaview and East Tennys to safely enter East 2nd Street under traffic conditions created by the project. The EIR forecasts that traffic on East 2nd Street north of I-780 will increase from 11,000 vehicles per day to 37,900 vehicles per day by the year 2030. With such traffic volumes on East 2nd Street, it is reasonable to expect that traffic from the unsignalized intersections at Seaview and at East Tennys may not be able to safely enter these intersections without signal controls or other mitigation. The EIR could easily determine if traffic signals would be warranted at

these locations under Year 2030 conditions, yet it failed to provide such an analysis when requested to do so.

CEQA Findings – Statement of overriding considerations

The proposed statement of overriding considerations does not present much evidence to support the factual premises that underlie the City Council's choice to proceed with the project when determining that the project's benefits outweigh its adverse environmental impacts. In fact where the record does provide evidence, it serves to minimize the extent of the project's benefits as described below.

- *The project will increase the City's job supply.* The EIR tells us that at best only 1 in 4 of the jobs provided by the project will be for a Benicia resident.
- *The project will develop the site in a way that is consistent with the City's General Plan.* That evidence for this statement is based on the perceived adequacy of over two hundred conditions of approval and the City's ability to obtain compliance with these conditions. The ability to have confidence in these conditions is undercut by the fact that the City Council will have only discussed these conditions on June 3rd and will have done so without the advice of the Planning Commission.
- *The project will add to the City's tax base, allowing for the provision of public services.* No facts are available to identify what if any net gain will be realized by the City after implementation of the Revenue Sharing agreement in Condition 207? It may be that any addition to the City tax base will be consumed for many years by the public services required to serve the project and the reimbursements to property owners provided by the Revenue Sharing agreement.

Mitigation Monitoring and Reporting Program

Comments are provided on the proposed use of the checklist categories in Table 1. This is followed by comments on the program's provisions for Mitigation Measures TRANS-24 and AIR-2, which are intended to reduce project-generated vehicle trips. These mitigation measures are of particular importance to the project's sustainability, compliance with the LEED-ND requirement in Condition 23, and to the neighborhoods along East 2nd Street which will be adversely impacted by the traffic generated by this project.

Mitigation Monitoring and Reporting Program – Checklist Categories in Table 1

- Monitoring/Reporting Actions: All monitoring/reporting actions should include documentation suitable for use in periodic monitoring/reporting reports on the project that can be made available to the public. For example, Mitigation Measure GEO-1 indicates the City of Benicia Planning and Building Department will ensure that the design level geotechnical investigation complies with the requirement of this mitigation

measure, and all applicable regulations. This action should document when the review of a geotechnical investigation report is completed for compliance with this mitigation measure. Such documentation would help support any future non-compliance action and would inform interested stakeholders on the status of this mitigation measure.

Some monitoring/reporting actions include *review and approve the annual report*. In cases when an annual report is required and the implementing entity is the project sponsor, who will be responsible for the annual report if the affected parcel is sold by the project sponsor to another party?

- **Non-Compliance Sanctions**: Some non-compliance sanctions refer to issuance of non-compliance citations. This column should specify the penalties or other consequences attached to such citations. This added information will disclose to the implementing entity and interested stakeholders whether such penalties/consequences are sufficient to compel compliance.
- **Timing**: The EIR states that the project will be built out over twenty years. The program shows the timing for implementation of many mitigation measures to be *prior to issuance of an occupancy permit*. Does this mean that these implementation measures will be completed before any occupancy permit is issued or before an occupancy permit is issued for a certain phase. If the timing is tied to certain phases or some other threshold, that phase or threshold should be indicated in this column for the appropriate mitigation measure.

Mitigation Monitoring and Reporting Program – Mitigation Measure TRANS-24

Comments below are organized by the columns in Table 1.

- **TRANS-24 Monitoring/Reporting Action**: The monitoring/reporting action for TRANS-24 should include inspection by the Planning and Building Department to ensure the project sponsor has installed the design element. Also, the Public Works Department is not included in this column. Since some of the design elements are part of public improvements, should the Public Works Department be included to ensure that the project sponsor has incorporated design elements in the appropriate plans and ensure that the project sponsor has installed the design element?
- **TRANS-24 Implementation Procedures**: The procedure is limited to *the project sponsor shall prepare development plans incorporating the design elements and services*. How does a development plan incorporate a service required by this mitigation measure? Specifically, how will the City ensure parking and building leases are “unbundled”, or businesses that have 50 or more employees and provide employee parking on a free or subsidized basis will provide financial compensation to those employees who commute by means other than private automobile? These are on-going activities that must be

implemented during the life of the project (e.g. in perpetuity) to ensure the level of mitigation anticipated in the Final EIR.

An additional implementation measure should be included that: 1) requires the project sponsor to prepare Covenants, Conditions and Restrictions (CC&Rs) for the project, subject to the approval of City staff, to ensure parking and building leases are unbundled and that financial compensation to affected occupants is provided as required by the applicable state regulation; and 2) requires the project sponsor to ensure an on-site compliance coordinator is provided in perpetuity to assist all property owners, monitor compliance, prepare annual reports documenting compliance with the applicable state statute, and recommend remedial actions if needed.

- **TRANS-24 Monitoring/Reporting Action:** The City Attorney will need to review project title documents to ensure the required services are established and maintained. City staff must verify that there is an on-site compliance coordinator, review and approve the annual report, and ensure that remedial activities are being undertaken.
- **TRANS-24 Non-Compliance Sanction:** Sanctions are limited to *no issuance of an occupancy permit*. A sanction must be identified if compliance with an ongoing provision of this mitigation measure becomes a problem after issuance of an occupancy permit. If non-compliance citations are used, the program should indicate the penalty or other consequence attached to the citation to compel compliance by the project sponsor or subsequent property owner.
- **TRANS-24 Timing:** Implementation procedures and monitor/reporting actions will need to occur annually, post construction, for the services specified in this mitigation measure.

Mitigation Monitoring and Reporting Program – Mitigation Measure AIR-2

Comments below are organized by the columns in Table 1

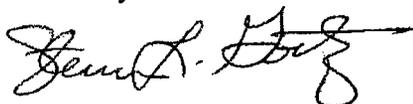
- **AIR-2 Mitigation Measure:** The description of this mitigation measure is not consistent with Condition 176 or the CEQA findings. The project sponsor must incorporate into the project all the measures in AIR-2. Furthermore, the entire program for this measure is inadequate, as it is tied to construction of facilities. Such an approach does not ensure on-going implementation of programs during the life of the project (e.g. in perpetuity) to ensure the level of mitigation anticipated in the Final EIR.
- **AIR-2 Implementation Procedure:** The proposed implementation procedure for AIR-2 is not sufficiently detailed. The implementing entity is the project sponsor, therefore, the project sponsor should be required to prepare and implement a Trip Demand Management (TDM) program which meets the requirements of this mitigation measure. An implementation measure is needed to allow the TDM program to change over time to adapt to future needs. To provide this flexibility, a measure should be added that: 1)

requires the project sponsor to prepare CC&Rs for the project, subject to the approval of City staff, to ensure property owners comply with the applicable TDM program; 2) requires the project sponsor to ensure an on-site compliance coordinator is provided in perpetuity to assist all property owners, monitor compliance, prepare annual reports documenting compliance with the applicable state statute and the performance standards of this mitigation measure, and recommend changes to the TDM program or remedial actions if needed; 3) requires the project sponsor to pay the City to retain a consultant with expertise in TDM programs to review the project sponsor's submittals; and 4) requires the project sponsor to establish a funding mechanism to fund the on-site TDM services and on-going City staff oversight.

- AIR-2 Monitoring/Reporting Action: The City Attorney will need to review project title documents to ensure the required services are established and maintained. City staff must verify that there is an on-site compliance coordinator, review and approve the TDM program and subsequent annual reports, and ensure that remedial activities are being undertaken.
- AIR-2 Non-Compliance Sanction: Sanctions are limited to *no issuance of any site specific grading or building permit*. A sanction must be added if compliance with the ongoing provisions of this mitigation measure becomes a problem after issuance of any site-specific grading or building permit. If non-compliance citations are used, the program should indicate the penalty or other consequence attached to the citation to compel compliance by the project sponsor or subsequent property owner.
- AIR-2 Timing: Implementation procedures and monitor/reporting actions will need to occur annually, post construction, for the services specified in this mitigation measure.

These comments are not offered as a way of repairing what has become a significantly flawed project. They are offered to underscore the project's significant problems, their undisclosed costs to the City, and the significant compromises that have been or are about to be made by the City Council. As this project has unfolded, the only thing that has not become clearer is the project's benefits. This is a sorry state for a project that will irrevocably shape Benicia's future if it's approved as proposed. These comments are provided to help demonstrate to you that we deserve a better project. I hope you demand it.

Sincerely



Steven L. Goetz, AICP

Cc: A. Caldwell, City of Benicia
C. Knox, City of Benicia



United States Department of the Interior

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 Sacramento Fish and Wildlife Office
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In Reply Refer To:
 81420-2008-TA-1504

May 28, 2008

Mr. Charlie Knox
 Department of Community Development
 City of Benicia
 250 East L Street
 Benicia, California 94510

OPTIONAL FORM 89 (7-80)

FAX TRANSMITTAL

of pages ▶

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Fax # hard copy follows	Fax # Via FedEx
NSN 7540-01-917-7588	5099-101

GENERAL SERVICES ADMINISTRATION

Subject: Endangered Callippe Silverspot Butterfly, Threatened California Red-legged Frog, Wildlife, and the Benicia Business Park Project in the City of Benicia, Solano County, California (SCH 2001022079)

Dear Mr. Knox:

This letter concerns the proposed Benicia Business Park in the City of Benicia, Solano County, California. At issue are the potential adverse effects of the proposed project on the threatened California red-legged frog (*Rana aurora draytonii*), endangered Callippe silverspot butterfly (*Speyeria callippe callippe*), and wildlife species. The U.S. Fish and Wildlife Service (Service) understands the City of Benicia will make a final decision on the project on June 3, 2008. We are issuing this letter under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), and the Service's Mitigation Policy of 1956.

The comments and recommendations in this letter are based on 1) final environmental impact report for the Benicia Business Park (FEIR); 2) *Final Benicia Business Park Environmental Impact Report Supplemental Response to Comments Document* dated November 2007 (EIRSR); 3) electronic mail message from the Service to the City of Benicia dated May 1, 2007; 4) electronic mail message from the Service to the City of Benicia dated May 27, 2008; and 5) other information available to the Service.

It is our understanding the 517.8 acre project is located on undeveloped rolling hills in the northeastern portion of the City of Benicia. According to the FEIR, the majority of the site is dominated by non-native grasslands; there are 7.28 acres of freshwater marsh and several intermittent streams and swales. The grasslands contain both native and exotic plant species, and burrowing rodents, including California voles (*Microtus californicus*).

**TAKE PRIDE
 IN AMERICA**

Mr. Charlie Knox

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Section 9 of the Act prohibits the take of the threatened California red-legged frog, Callippe silverspot butterfly, and other federally listed species by any person subject to the jurisdiction of the United States. As defined in the Act, take is defined as "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harass means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to breeding, feeding, or sheltering." "Harm has been further defined to include habitat destruction when it injures or kills a listed species by interfering with essential behavioral patterns, such as breeding, foraging, or resting. Thus, not only are the California red-legged frog and Callippe silverspot butterfly protected from such activities as collecting and hunting, but also from actions that result in its death or injury due to the damage or destruction of its habitat. The Act prohibits activities that "...remove and reduce to possession any listed plant from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law." The term "person" is defined as "...an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal government, of any State, municipality, or political subdivision of a State, or any other entity subject to the jurisdiction of the United States."

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out of the project and a listed species is going to be adversely affected, then initiation of formal consultation between that agency and the Service pursuant to section 7 of the Act is required. Such consultation would result in a biological opinion addressing the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a Federal agency is not involved in the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to section 10(a)(1)(B) of the Act should be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be taken by the project.

The Callippe silverspot butterfly is endemic to the grassy hills surrounding the San Francisco Bay. The animal has been recorded at San Bruno Mountain and Sign Hill in South San Francisco in San Mateo County, in the hills near Pleasanton in Alameda County, and in the hills between Vallejo and Cordelia in Solano County. During the early summer flight season, the adult females lay their eggs on the undersides of leaves and stems of their host plant, Johnny jump-up (*Viola pedunculata*), or in the vicinity of the plants. Adult callippe silverspot butterflies frequently engage in hilltopping, which is the behavior where adults congregate on hilltops for the purpose of locating mates. Hilltops and ridges play an important role in callippe breeding behavior. Most observations of adults are made on hilltops. Losing hilltops from habitat areas likely decreases mate location and genetic mixing over the long-term. Adult Callippe silverspot butterflies have been observed throughout the Cordelia Hills, including Saint John's Mine Road, Hunter Hill, Cordelia, and Lake Herman. According to the FEIR, no larvae foodplants have been observed on the project site, although the plant surveys

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appear to have been of a cursory nature and the majority were conducted a number of years ago. Habitat in the form of nectar plants, hilltops, and movement areas is present on the site. Therefore, the Service has determined it is reasonable to conclude the Callippe silverspot butterfly inhabits and has the potential to be encountered within the action area, based on the biology and ecology of this endangered animal, the presence of suitable habitat, and the recent nearby records of this species.

The historic range of the California red-legged frog extended coastally from the vicinity of Elk Creek in Mendocino County, California, and inland from the vicinity of Redding in Shasta County, California, southward to northwestern Baja California. This species is still locally abundant within portions of the San Francisco Bay area and the central coast. The proposed Benicia Business Park is located within Recovery Unit 3 (North Coast and North San Francisco Bay) (Service 2002). The action area falls within Core Area #15 (Jameson Canyon Lower Napa River) of that Recovery Unit (Service 2002). The conservation needs for the Fagan-Jameson Canyon-Lower Napa River core area are: (1) protecting existing populations from current and future urbanization; (2) create and manage alternative breeding habitats; and (3) protecting dispersal corridors. The action area is not located within designated critical habitat for the California red-legged frog, however, it is adjacent to the proposed Unit 11 (American Canyon Unit) in the proposed rule issued on April 13, 2004 (Service 2004). According to the FEIR, the project site contains aquatic and upland habitats, include rodent burrows, which are suitable for foraging, aestivation, movement, and other essential behaviors. No California red-legged frogs have been observed at the project site, however, it appears protocol surveys have not been completed at this location. There are several recent records of the threatened amphibian near the cities of Cordelia, Fairfield, American Canyon, Vallejo, and the Cordelia Hills (California Department of Fish and Game 2008a, 2008b), including some sites that are within dispersal distance of the project and there are no apparent physical barriers for the movement of these animals between these areas. Therefore, the Service has determined it is reasonable to conclude the California red-legged frog inhabits and has the potential to be encountered within the action area, based on the biology and ecology of this threatened amphibian, the presence of suitable habitat, and the recent records of this species.

The on-going loss and reduction in natural habitat for listed species and wildlife in this portion of Solano County and southern Napa County is of concern to the Service. The proposed project will reduce habitat and increase fragmentation in the Cordelia Hills for the California red-legged frog, Callippe silverspot butterfly, and wildlife, including black-tailed deer (*Odocoileus hemionus*), bobcat (*Lynx rufus*), gray fox (*Urocyon cinereoargenteus*), and possibly American badger (*Taxidea taxus*). Much of the Cordelia Hills are undeveloped, however, the proposed Benicia Business Park, coupled with the existing Hiddenbrooke development along with Hiddenbrooke Parkway, as well as other proposed projects in the City of Fairfield (Fieldcrest Villages) and the County of Solano (Siena Tentative Map) will continue the loss and fragmentation of wildlife habitat in this area. The elimination of the availability of natural habitat likely will eliminate or decrease the ability of the California red-legged frog, Callippe silverspot butterfly, and wildlife, especially medium to large sized animals, to survive in the Cordelia Hills over the long term because they will be adversely

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affected by increased urban development, predators, lack of cover, resting areas, forage, increased genetic problems, mortality resulting from predation by domestic cats (*Felis domesticus*) and dogs (*Canis familiaris*), and collisions with vehicles, and other human-caused factors.

The endangered showy Indian clover (*Trifolium amoenum*) is an annual plant in the Fabaceae or pea family. It grows to 4 to 27 inches in height and blooms from April to June. The species was found in a variety of habitats including low, wet swales, grasslands and grassy hillsides. Showy Indian clover was extirpated from all of its 24 historically known locations, which occurred in seven counties. Originally, it ranged from Mendocino County south to Sonoma, Marin, Alameda and Santa Clara counties, and east to Napa and Solano counties. The species was considered extinct until 1993, when a single plant was discovered on privately-owned property in Sonoma County. That site has since been developed and the species is no longer present. Another natural population, consisting of about 200 plants, was discovered in 1996 in Marin County on privately owned property. There are records of this plant from Napa Junction near the City of American Canyon and Vanden Station in the City of Fairfield. According to the FEIR, the project site contains potential habitat for the showy Indian clover in the form of grasslands. Therefore, the Service has determined it is possible the showy Indian clover inhabits the action area, based on the biology and ecology of this endangered plant, the presence of suitable habitat, and the records of this species from the vicinity of the action area.

The FEIR stated that focused plant surveys were conducted on three separate days in 1997 for wetland plants, and six separate days in 1999 for upland plants. Reconnaissance-level surveys of biological resources were conducted on one day in 1999 and one day in 2006; the intensity and extent of these surveys are unclear. Generally surveys, especially protocol surveys for listed species, are considered valid for two calendar years after the final date of survey. It is not clear if the surveys for plants were conducted according to Service and California Department of Fish and Game protocols.

Our specific comments on the FEIR are as follows:

- 1) Impact BIO-4 in the FEIR: We concur with the FEIR that the proposed project could result in both direct and indirect impacts to the threatened California red-legged frog. We do not concur that the proposed mitigation measures in the FEIR will reduced the adverse effects of the project on the California red-legged frog to a level of less than significant. We recommend the applicant be required to obtain authorization for incidental take of this threatened animal via sections 7 or 10(a)(1)(B) of the Act prior to certification of the environmental document. If the Service authorizes incidental take for this listed animal, we recommend the City of Benicia incorporate the Conservation Measures and Reasonable and Prudent Measures from the biological opinion or section 10 permit into the City's grading and other appropriate permits.
- 2) Callippe silverspot butterfly (pages 181 and 186 of the FEIR): We do not concur with the FEIR that this endangered animal is not likely to inhabit the action area. The surveys for

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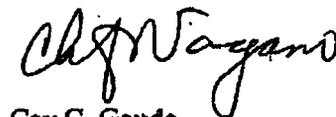
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upland plants were conducted for a limited period of time, most of which were several years ago. Johnny jump-up, the larvae foodplant, most likely would have been dried up and extremely difficult or impossible to detect during surveys that were conducted in the summer and fall, such as were a number of the field visits to the project site. At least one of the plant species listed in the FEIR is utilized by the adults as a nectar source; in addition, hilltops and open areas on the site may be used by the adults for mating, feeding, resting, and other essential behaviors. There are no mitigation measures in the FEIR to reduce the impacts of the proposed project on the endangered Callippe silverspot butterfly to a level of less than significant. We recommend the applicant obtain authorization for incidental take of this listed species via sections 7 or 10(a)(1)(B) of the Act prior to certification of the environmental document. If the Service authorizes incidental take for this listed animal, we recommend the City of Benicia incorporate the Conservation Measures and Reasonable and Prudent Measures from the biological opinion or section 10 permit into the City's grading and other appropriate permits

- 3) Response E1-5 of the EIRSR: The Service does not concur with the statement in the EIRSR does not provide an important wildlife movement corridor. The on-going loss and reduction in natural habitat for listed species and wildlife in this portion of Solano County and southern Napa County is of concern to the Service. The proposed project will reduce and fragment habitat in the Cordelia Hills for the California red-legged frog, Callippe silverspot butterfly, and wildlife. We recommend that the proposed project implement adequate mitigation for adverse effects on listed species and wildlife resulting from project-related habitat fragmentation and loss of movement corridors.
- 4) Showy Indian clover (page 185 of the FEIR): Photocopies of the botanical surveys described in the FEIR should be provided to the Service and the California Department of Fish and Game in order to determine the potential presence of the endangered showy Indian clover; if protocol surveys for this species have not been completed, the environmental document should not be certified until the presence of this plant and the possible effects of the project have been resolved with the Service and the California Department of Fish and Game.

We continued to be interested in working with the City of Benicia and the applicant in the resolution of the issues regarding endangered species and wildlife. Please contact Chris Nagano the letterhead address, via electronic mail (Chris_Nagano@fws.gov), or at telephone 916/414-6600 if you have any questions regarding this response on the proposed Benicia Business Park Project.

Sincerely,




Cay C. Goude
Assistant Field Supervisor
Endangered Species Program

Mr. Charlie Knox

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cc:

Scott Wilson, Greg Martinelli, Anna Holmes, California Department of Fish and Game,
Yountville, California
Jane Hicks, Regulatory Branch, U.S. Army Corps of Engineers, San Francisco, California
Jolanta Uchman, State Water Resources Control Board, Oakland, California

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2008b. RAREFIND. Natural Diversity Data Base, Natural Heritage Branch,
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habitat for the California red-legged frog (*Rana aurora draytonii*), proposed rule.
Federal Register 69:19620-19642.

2006. Endangered and threatened wildlife and plants; designation of critical habitat for
the California Red-legged Frog (*Rana aurora draytonii*), and special rule exemption
associated with final listing for existing routine ranching activities; final rule. Federal
Register 71:19243.

From: Anne Cardwell
To: Melissa Andersen
Date: 5/28/2008 8:23:01 PM
Subject: Fwd: USFWS: Proposed Benecia Business Park

For the website... thanks!

>>> Charlie Knox 5/27/2008 4:24 PM >>>
>>> <Chris_Nagano@fws.gov> 5/27/2008 3:47 PM >>>

Dear Mr. Knox:

This electronic mail message concerns the proposed Benecia Business Park in the City of Benecia. It is our understanding that the City of Benecia may approve the project in June 2008. The U.S. Fish and Wildlife Service is concerned the potential adverse effects of this project on the endangered callippe silverspot butterfly (*Speyeria callippe callippe*), threatened California red-legged frog (*Rana aurora draytoni*), and wildlife were not adequately addressed in the City's environmental documents. The two listed species are protected under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). We will be sending you a hardcopy letter in the near future that provides specifics on our concerns.

Please contact me via electronic mail or at telephone 916/414-6600 if you have any questions.

s/Chris Nagano

Deputy Assistant Field Supervisor
Endangered Species Program
Sacramento Fish and Wildlife Office
U.S. Fish and Wildlife Service
2800 Cottage Way Room W-2605
Sacramento, California 95825

CC: Heather McLaughlin

From: Heather McLaughlin
To: Anne Cardwell; Melissa Andersen
Date: 5/27/2008 8:14:41 PM
Subject: Fwd: For June 3 Agenda packet – re: Seeno project

To add to the web file since the cover email is new.

>>> Anne Cardwell 5/27/2008 3:38 PM >>>

>>> Norma Fox <normafox@hotmail.com> 5/27/2008 3:17:00 PM >>>

Dear Anne, I sent this last time, but I'm sending again so that it can be included in the official City Council Agenda packet for the June 3 Council meeting.

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

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

Please also put extra copies of the document on the side table.

Thanks,

Norma

P.S. Here is a short list, but the attached doc goes into more detail.

Source doc is **Clean Technology & the Green Economy, March 2008**

http://www.labor.ca.gov/panel/pdf/DRAFT_Green_Economy_031708.pdf

GREEN INDUSTRY SEGMENTS (adapted from CleantechT) Energy Generation; Energy Efficiency; Transportation; Green Building; Energy Storage; Environmental Consulting; Water & Wastewater; Finance/Investment; Environmental Remediation; Air & Environment; Business Services; Research & Alliances; Agriculture; Recycling & Waste; Materials; Manufacturing/Industrial

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

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

What is a "Green" Business?

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

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

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

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

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

Cleantech Industry Segments

Source: Cleantech Group, LLC™

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

From: Anne Cardwell
To: Charlie Knox; Council; Heather McLaughlin; Jim Erickson
Date: 5/27/2008 3:38:18 PM
Subject: Fwd: For June 3 Agenda packet -- re: Seeno project

>>> Norma Fox <normafox@hotmail.com> 5/27/2008 3:36:16 PM >>>

Dear City Council Members, The EIR Addendum for the revised Benicia Business Park makes economic claims of positive net revenue flow that are unsubstantiated by quantitative up-to-date financial data. They are basing those claims on their 2006 Economic Study which was based on financial data from 2005 and which utilized economic outlook assumptions and projections that were considered valid in 2006. Furthermore, it is an analysis of a former version of the project, one that contained 50% more revenue-producing industrial components that the current version. Since the US economy is currently sliding into a severe and long lasting economic downturn, the out-dated financial data and economic assumptions and projections from 2006 are no longer reliable or valid. Benicia's General Plan Policies on Sustainable Economy (Prog.2.5.c) requires future development uses to be evaluated on a cost/revenue basis for the long term. Obviously, this requirement intends that evaluation to be based on reliable up-to-date financial data. Thus the applicant's revised project is out of compliance with this General Plan requirement for a reliable up-to-date cost/revenue evaluation of the project. For the same reason, they are out of compliance with the CEQA requirement for a reliable urban decay analysis (again, one based on up-to-date financial data). Their original, and still unchanged, urban decay analysis was based on the same data in the 2006 Economic Study. The City Council itself, in your condition of approval of the FEIR, stipulated that when the applicant brought forward the revised project proposal, it should contain an urban decay analysis. I'm sure you intended it to be based on current economic conditions and data, not that they should provide you with the same out-dated urban decay analysis that they had already provided to you in 2006! The recent severe economic downturn constitutes "new information of substantial importance which was not known at the time of the original EIR and which will cause significant effects that were previously examined" [i.e., economic and fiscal projections; urban decay] "to be substantially more severe than shown in the previous EIR." Furthermore the booming and promising cleantech industry that has very recently emerged both nationally, and particularly in the Bay Area, constitutes additional "new information of substantial importance which was not known at the time of the EIR." Because of this new information, the project [as currently proposed and designed] "will have a significant effect not discussed in the previous EIR." That significant effect is a huge lost economic opportunity to the City if we proceed with the current project's plan of Phase I freeway oriented commercial development, followed 5-8 years later by a gradual build out of mixed bag industrial uses (poorly matched to our employment demographics), instead of redesigning and refocusing the entire project concept to one focused on a cleantech R&D theme, and beginning with that immediately in Phase I. CEQA law requires a Subsequent EIR if "new information of substantial importance, causing significant effects" was not covered in the previous EIR. For all of the above reasons, the applicant should have provided a Subsequent EIR with a new cost/revenue Economic Impact Analysis and Urban Decay Analysis and they were negligent in not doing so. Thus the City Council has every legal right, because of CEQA and General Plan noncompliance, to deny the current project based on their provision of inadequate, unreliable and unquantified data to support their claims.. Your vote on a project of this magnitude (which could pull down the entire town's economy for years to come if we don't get it right) requires that your decision must be based on a careful economic review of quantifiable and reliable financial data that has been thoroughly vetted and approved by independent financial experts. No such review has ever been done by the Council, and there is now no reliable Economic Impact Analysis to base it on. Please do not request or grant an extension of time to the applicant to come back with all the missing data and analyses that they should have provided! The gaming of this city must end. They set the statutory clock ticking with the approval of the EIR, and they were negligent in providing the documentation that you specifically required of them when you approved the EIR. You are required by law to approve or deny the project by June 3. Please simply deny it. Do not allow the applicant to drag this game out any longer.! With a denial of the project we can clear the decks of this complicated mess of conditions of approval and unmitigatable environmental effects. The applicant and the city can collaborate together, utilizing the copious material produced by our EIR review process, to quickly pull together a brand new project based

on a 21st Century business and environmental vision, and one that capitalizes and focuses on the tremendous cleantech economic goldmine that is within our reach. The new project should be legally codified by a Development Agreement. It must also strictly conform to our many General Plan sustainability requirements, including our *economic* sustainability goals such as encouraging new development that provides substantial and sustainable fiscal and economic benefits; targeting firms that pay high wages and jobs that relate to the skills and education levels of Benicia residents; protecting and preserving our downtown business district as our central business core; and conducting thorough evaluation of future uses on a cost/revenue basis for the long term. These General Plan economic goals were spelled out more specifically and concretely in our 10-year Economic Development Strategy, that was approved and adopted by the City Council in September of 2007, and which calls for a strategy of attracting "clean energy, high tech, research and development businesses to our industrial areas, and developing them in a campus-like setting." The stated reason for focusing on this type of business development was that it would provide jobs that more closely match our well educated and skilled Benicia employment pool. **You now have the opportunity to realize these goals for Benicia IF you deny the project before you by June 3, and you have every legal right to do so. Please don't miss this opportunity!** Benicia is counting on you to guide us forward into a prosperous and sustainable 21st Century, not backwards with a business model that fits the economic conditions of the 20th Century. Your vote on June 3 will set the direction and trajectory for our economic future. Which way will it go? Norma FoxMay 27, 2008
Make every e-mail and IM count. Join the i'm Initiative from Microsoft.

MARILYN BARDET
333 East K St. Benicia, CA 94510
(707) 745-9094 mjbardet@sbcglobal.net

May 27, 2008

Ron Glas, Principal Planner
Solano County Department of Resource Management
675 Texas St.
Fairfield, CA 94533

**Comments on the Department of Resource Management
Initial Study of Environmental Impacts of the Signature Properties'
Subdivision Application No. S-05-01, Parcel No. 0181-230-030,
the "Siena" Tentative Map, City of Benicia vicinity**

Based on my reading of the initial study, and my participation in recent discussion with the Benicia City Council-appointed Sky Valley Committee on the proposed project, as well as my reading of Bob Berman's comments and those of Steve Goetz, I believe the initial study on the Signature Properties' proposal for 8 rural residential homes -- each described to be situated on 20+ acre parcels divided out of a large ~171 acre property located along Lake Herman Road and extending north -- grossly underestimates potentially significant and cumulative, long-term impacts of the project. The initial study provides inadequate mitigations AND fails to address a new CEQA policy fundamental, AB32, the "Global Warming Solutions Act", which requires assessment of global warming impacts, e.g., potential (and cumulative) energy consumption owing to new development. The initial study does not adequately identify or assess potential significant impacts to hydrology, water quality and water supply (watershed and water resources—aquifer, drainages, seeps, creeks, wetlands, Suisun Bay), biologic resources, aesthetics, agricultural resources, air quality, hazards, land use and planning, noise, population and housing, public services, recreation and transportation and traffic, utilities and service systems.

For reasons given below, further review is essential to understanding the scope of the project's impacts, and therefore I concur with others that an EIR must be undertaken.

Project Description:

The project site, of ~171 acres, is described as having an
"old ranch complex consisting of a single-family residence and related farm buildings and corrals bordering the northwest corner of the property. An on-site domestic well and septic system serves the existing residential dwelling unit. The ranch complex occupies approx. 3.3 acres of the site. Access to the subject parcel is via a narrow private dirt road from Lake Herman Rd... The dirt road enters the site at the southeast corner of the property and runs along one of the drainages traversing the property up to the existing ranch complex; it then continues along the northerly portion of the property to the neighboring ranch northwest of the subject property."

It isn't clear whether the original ranch complex exists within the boundary of the 171 acre property, or lies just outside the northwest corner; in either case, it should be clarified whether the proposed 8 homes would add to the existing ranch dwelling and complex, thus figuring a total of 9 contiguous residential properties, or whether the old ranch would be eliminated and replaced by one of the new estates.

Copies of several of the tentative maps were emailed to me by pdf files. The map showing the entire property is nearly unreadable, except for the very basics, the parcel numbers and parcel boundaries and location of proposed building sites with leachfields. The map of subdivision parcels #7 & #8 is hardly more readable for details. Neither map makes clear the location of "seasonal" or "intermittent" ponds or wetlands, or the location of various drainages (A1, B1, B2, etc), the extent of the drainage that borders the dirt road, etc.

Also, the maps do not make clear what the exact nature of the improvements to Lake Herman Rd. would be and where the improvements (widening, etc) would be located and for what extent of the road (all the way to the Industrial Way extension proposed by the Seeno Benicia Business Park project? See below).

Sustainable Development: the threat of cumulative growth-inducing impacts to Benicia's overarching goal

The goal of Benicia's general plan for sustainability should be taken into account and the meaning of the citizen initiative that established Benicia's "Urban Growth Boundary". It's been assumed, until the draft of the new county general plan was publicly revealed, that land use decisions affecting municipalities are best left to municipalities. Smart, innovative, energy-efficient planning calls for keeping growth *within* cities, to discourage car-dependent suburban sprawl and ex-urb development, to protect and conserve ag land, natural resources and native habitat for future generations, and now, to protect our climate and reduce greenhouse gases (GHG) that contribute to global warming: ergo, to conserve energy.

Although I had no opportunity to attend a workshop in Benicia on the draft county general plan, I understand that the draft plan calls for ag land in Benicia's northern sphere of influence to be re-zoned from Ag-20 to Ag-160. One rural residence per 160 acres would most likely represent far fewer impacts to hills, watershed and native habitat than would 8 estate homes dividing up the property into parcels with new paved access roads, driveways, wells and leachfields. Ag-160 zoning would likely discourage more subdivision developments of 20 acre parcel "rural estate homes" cropping up north of Lake Herman Rd. [So, it appears that Signature Properties is taking advantage of a shrinking time-table for the old zoning's "window of opportunity" in seeking tentative map approval for 8 houses instead of 1 on their 171 acres.]

It seems that our county is borrowing from the bad example of development patterns in neighboring Contra Costa. The initial study should account for, anticipate and analyze potentially significant negative long-range economic consequences for the City of Benicia, considering the rising cost of all services, especially since the proposed site borders city properties and yet is without infrastructure for water and sewer, and is located across from the city's Lake Herman Recreation Area. An in-depth review of the consequences of the project, via

an EIR, should provide economic comparisons with what has happened in Contra Costa County, wherein huge tracts of rural county ag land were developed for residential, for which services became unsupportable by the county, forcing cities to annex those developments at great cost. The short equation? The county colludes with developers, then begs out when basic servicing costs rise, eventually forcing cities to expand their borders and take up the expense of servicing outlying subdivisions.

The potential for considerable cumulative impacts exists when this project is considered in tandem with the proposed new county general plan, which establishes a "transfer of development rights" program. Receiving sites will be identified if this program is adopted. The Sky Valley area is more likely to become a receiving site for development rights if barriers such as fire protection are eliminated.

AB32: meeting GHG reduction targets

According to keynote speakers at the Haagen-Smit Symposium held in Monterey, in April 2008, [a conference to support the governor's "Landuse Subcommittee of the Climate Action Team" (LUSCAT)], to meet state GHG reduction targets, cities and whole regions must engage innovative land-use and transportation planning. [see: California Air Resources Board website; Haagen-Smit Symposium; Draft_LUSCAT_Submission_to_CARB.pdf].

In this case, we must be concerned about an outlying rural subdivision's potentially significant and cumulative contributions to GHG, especially considering that prospective future residents would most likely be dependent on individual car trips for commutes to and from the city for basic amenities and services, as well as to places of work. There is no analysis in the initial study that accounts for energy consumption through estimates of the minimum or maximum number of car trips per day that 8 rural (family) residences would generate, nor the distances that would have to be traveled for basic daily life (for groceries, schools, employment, etc.).

The cumulative impacts of "rural residential" with Seeno-proposed "Benicia Business Park":

The initial study fails to identify the proposed "Benicia Business Park" and the potential cumulative growth-inducing factors of both projects, which, in tandem, very likely could encourage further subdivision development along Lake Herman Rd., (into Sky Valley—a long stated assumption by many, since there had been a proposal for a 5,000+ residential development in the late 1980's). There is no analysis of the nexus between the two concurrently proposed projects: for instance, in the need for more police and fire services for rural residences, and whether or not the additional police and fire proposed to be provided by the Business Park would likely serve the rural development, and if so, how the use of the proposed extension of Industrial Way as a main artery into the business park from Lake Herman Rd. benefits prospective rural residents of the Signature Properties project.

Also, proposed improvements to Lake Herman Rd. that are variously assumed by the Seeno project FEIR and the Signature Properties initial study, suggest that a much greater portion of our scenic, rural route -- so designated in Benicia's general plan for protection -- will be given to greater amounts of daily traffic and higher speeds of traffic as far west as Lake Herman Recreation Area, which is directly across from the proposed housing development. Daily traffic

impacts at the newly proposed intersection of Lake Herman Rd. and an extended Industrial Way, as discussed in the Seeno draft EIR and FEIR, are not identified.

I can think of numbers of ways that this lack of basic cross-referencing and cross-accounting for impacts would skew cumulative impact analyses by isolating discussion of each project. One example: the increased pressure on "uses" of Lake Herman recreation area and more loss of wildlife and habitat cumulatively through grading and reduction of open space. And since public concerns about the potential growth-inducing impacts of the Seeno project were virtually dismissed in the FEIR --(residential development north of Lake Herman Rd. was not even entertained as a viable prospect, despite the fact that LSA, the EIR preparer, apparently submitted several reports or studies that supported the findings of the Signature Property initial study check list)--it is more than a little disturbing that the rural residential project would actually take full advantage of the business park project. (see comments that follow on police and fire services). However, the initial study makes no such reference to the proposed extension of Industrial Way that would provide the nearest, quickest entry into Benicia for rural residents.

Because the initial study's lack of envisioning of the cumulative impacts owing to the concurrently proposed business park, we cannot fully comprehend nor anticipate the potentially harmful significant cumulative impacts to our environment, and therefore, the negative consequences to the to the sustainability of the region immediately adjacent to our city, as we contemplate extending residential beyond city limits on as yet undeveloped ag grazing lands.

Agricultural Resources:

Sustainable rural development in hilly grasslands would seek to maximize the potential for use of designated ag land for ag purposes, for example: grazing or cultivation of olive groves or cork oaks. (In Portugal, historically and to this day, pigs are raised in rural cork oak groves, the trees not only providing usable cork, but also acorns the pigs feed on. This would be possible here, since we know cork oaks were planted by the Portuguese in Benicia, and that the trees have survived in our climate on grassy slopes with little water in the Benicia Arsenal and elsewhere in the city.) There is no assurance, in the initial study and in the layout of 8 buildings (with garages) on the tentative map, that use of the property for agricultural purposes is a serious intent, e.g., that the "ag" part of the subdivision is at least equal in importance as an asset worthy of protection as is allowance for the construction of large, rural estate homes. It is not clear in the initial study how the placement of the houses would actually protect the potential surrounding acreage on each 20 acre parcel for ag uses.

With regard to providing for future sustainability, there is a new call, promoting local agriculture to provide a local and regional food supply, since the cost of producing and transporting food over long distances will become increasingly expensive owing to rising fuel costs.

The initial study should assess the potential for 8 residences to each support at least one acre of vegetable gardening, accounting for water supply, since water is planned to come from wells, drawing from ground water.

Hydrology, Watershed and Water Resources

Reasonable estimates of the total potential annual draw-down of ground water attributable to

development should be analyzed, as well as estimates of amounts of water that would potentially be drawn per year per household, in order to understand the impact of single residential dwelling against total of 8 or 9 should be factored into the discussion. [Sonoma County is struggling with the problem of their falling water table, owing to intensive agricultural use. Most vineyards right now still rely on surface irrigation systems, which support greater water demand by comparison to older methods of cultivation, which forced vines to develop deeper root systems that could draw their own water from ground water sources and survive on season rains for irrigation.]

If 8 residential estate houses cultivate gardens, what would be the effect on the local ground water supply within 5 years, 10 years, 20 years and more? What is the effect of drought on ground water reserves, and in the case the project is approved and demand during drought exceeds aquifer replenishment from limited seasonal rains?

Cumulative significant impacts of relying on well water for home use and landscape/garden irrigation must be analyzed, demonstrating potential negative effects on trees and other deep-rooted shrubs clustered in riparian corridors along drainages, etc. Such trees as water-loving willows that help clean and filter creeks and other vegetation offer habitat for all sorts of wildlife, and must rely on ground water for survival. Analysis of the threat over time of a dropping water table is necessary, to ascertain the survivability of riparian corridors under such stress potentially caused by development demands for water, coupled with less rainfall due to global warming impacts.

In time of global warming with projected environmental stresses due to more frequent drought, it should be considered highly important to preserve on site all seasonal wetlands, ponds, pools, etc that would support migrating or nesting birds and other creatures within at least a 10 - 20 mile zone around Lake Herman and Suisun Marsh.

Cumulative, significant impacts of grading, from concurrently proposed projects, (Signature Properties and Seeno business park) coupled with grading done in the mid to late 90's for the Tourtelot/ Waters End military cleanup and residential development, must be assessed, since a continuous grasslands ecosystem still constitute our northern hills, reaching east to west and south to north across Lake Herman Road, and thus, within one mile of the Seeno Benicia Business Park project, which plans to excavate over 4 million cubic yards of soil.

Over the last decade, we bulldozed hills south of Lake Herman Rd, within our city limit, for the enormous earth-moving military cleanup project on the 190+acre Tourtelot property, to prepare for 400 homes in the Waters End development. Throughout the entire site, all original surface soils were removed and buried, destroying hilly grassland habitat. Now we're slated to excavate the Seeno-owned property for cut and fill that destroys natural habitat on more than half of 527 acres (cut slopes can't count as open space or natural terrain for habitat). The Signature Properties site is over one quarter of the Seeno property site and only slightly smaller than the Tourtelot property site. If the Seeno project is approved as currently planned, and the Signature Properties site is developed -- the site being within one mile of the Seeno property and the residential development of Waters End (as the crow flies) -- we will have disturbed over 50% of the total hilly grasslands that could be seen as once forming a "whole hilly grassland terrain" supporting a wide variety of interdependent plant and animal species, including specially protected plant status species like the tarplant, seasonally migrating birds, water fowl, eagles, various raptors, owls, Callippe butterfly, bats and other ground-foraging

and burrowing owls and other creatures.

The initial study does not fully explain or justify the potential impacts of locating the leachfields where they are indicated on the tentative maps, within each subdivision parcel. In the case of a swath of Johnny Jump-ups --the preferred food for Callippe butterfly larvae -- located on a suggested leachfield site, it is recommended that the mitigation be to relocate that particular leachfield and also protect Johnny Jump-up habitat off-site. It's admitted that the hilltop site actually supplies three components required by all stages of the Callippe's life. Breaking up habitat that exists as a whole ecosystem in one place for an endangered special status species should not be allowed. But beside the leachfield being moved, are there other potential disturbances that could impact the Callippe butterfly habitat on site?

What will be the drainage patterns of the leached wastes? Could toxic sediments from solids and liquids (for example, pharmaceuticals, bio-hazards, pathogens) potentially enter ground water? Could waste sediments and toxins penetrate to Paddy Creek and to Sulphur Springs Creek? and then to Suisun Marsh? Could potential contaminants impact the ground beneath seasonal wetlands or ponds on the property by perhaps percolating upward? The initial study does not identify the potential threat to the lower reaches of Paddy Creek from leachate from the IT Class I dumpsite, especially from "Drum Burial Area IV (or V?)", despite the fact that hundreds of 55 gal drums of dangerous toxins were removed from the site before final closure of the dump. An expert on landfills -- an independent environmental consultant, head of Toxics Assessment, Group that worked under contract for the City of Benicia, Ms. Jody Sparks, once reminded the city and community in regard to the IT site and its official closing: "All landfills eventually leak".

Drainage A originates off the property to the northwest and is impounded by an earthen dam to form a pond near the northwestern border of the property; this pond is ephemeral, but holds water long enough to support a small patch of cattails. This pond is mapped as seasonal wetland on the Wetland Delineation Report Figure 3. The upper reaches of Drainage A are incised within steeply sloping hills and the lower reach of this drainage passes through a depositional areas with wetland characteristics.

Secondary drainage A1 originates within the project site and is tributary to drainage A; seasonal wetlands are present along its lower section, but these wetlands are not contiguous with those in drainage A.

Drainage B (Paddy Creek) flows out of Paddy Lake on the City of Benicia parcel to the north and runs along the southeast border of the site before crossing onto the site just before its confluence with drainage B1. Downstream of this confluence, drainage B exits the project site near its southern corner, crosses under Lake Herman Road and empties into Sulphur Springs Creek. . .

The influence of these drainages on the seasonal flow of Paddy Creek and their total contribution to the Silver Springs Creek watershed should be explained; also their history of flooding during heavy winter rains. How will development on 8 parcels impact the drainages? How will grading (cut and fill) impact drainages? What about storm-run off, from development?

Also, are there any other plant or animal species living in the “ephemeral pond mapped as a seasonal wetland” besides a “small patch of cattails”?

Consistency with Existing General Plan, Zoning, and Other Applicable Land use Controls:
The description claims,

. . . “Lake Herman Road is a major connector with vehicles traveling at 55 miles per hour... the subdivider of each proposed lot that adjoins a County maintained road [is required] to make reasonable improvements to the road when property is subdivided. The improvements are limited to the dedication of rights-of-way and the construction of offsite and onsite improvements.... Water and sanitation will be provided per the requirements of Chapter 26 of the Solano County Code. The 20 acre lots are also consistent with Chapter 26 which states that where sewage disposal is on-site, there is a minimum parcel size of 2.5 acres, if public water is provided, or 5 acres if water is supplied by well.”

The initial study should explain the discrepancy between the intention of the STA with regard the designation of Lake Herman Road as a “major connector, with vehicles traveling at 55 miles per hour”, and the Benicia General Plan’s policy that protects Lake Herman Rd. as a “scenic rural route”. Whatever improvements would be envisioned for Lake Herman Rd by Signature Properties should have to reconcile the different intentions toward the road’s protection and degree of use as a “connector” or “feeder” route from Vallejo to I-680. Cumulative traffic impacts should be accounted for in the analysis of the adequacy of whatever plan is put forward for the intersection at Lake Herman Road of the proposed new access road that leads from the project site. Analysis would have to account for greater use of the Lake Herman Recreation Area by employees of the proposed new business park one mile east, along Lake Herman Rd.

It would help to have an explanation of why 5 acres are required for leachfields when “water is supplied by wells”.

Aesthetics:

I disagree that the visual impacts to scenic vistas from parcels 1, 2, 3 & 4 “would not be visible from Lake Herman Road, due to the existing ridgelines and existing tree canopy on the property.” Certainly, the eye will be drawn to a new access road that intersects with Lake Herman Road, and within 600 ft has a 30 ft cut slope--hardly natural to the local terrain. There’s no assurance that signs of habitation near the ridgeline will not be present through a “tree canopy” that could be pruned by owners for viewsheds to Lake Herman. Major requirements for berms were established by the City of Benicia when new housing was planned within uppermost reaches of the Southampton development. It was imperative to hide rooflines and houses from main viewpoints from Lake Herman Recreation Area, in the vicinity of the lake itself. Still, a cluster of houses are visible today -- either the berm was not properly located or built up, or the rule was ignored. The proposed houses would be substantial in size, with landscaping, new trees, driveways, cars, etc.

Evidence will be noticed from Lake Herman Recreation Area -- generated by cars turning up the road and/or exiting onto Lake Herman Rd, as well as from car noises.

Since lots 5.6.7.& 8 “would be located from 200 to 400 ft from and visible from Lake Herman Rd.”, there is no way that we can say that the viewsheds of our scenic rural route is being protected by the arrangement of three of the lots and their houses along Lake Herman Rd. In fact, it will seem that the subdivision is the type that surrounds a pastoral lake with golf course: this is NOT the feeling of the lake as Benicians have known it and loved it. The proposed project is likely to feel like a privileged, though isolated, gated enclave fronting on a lake that will seem more private than public, given its proximity to the proposed development site.

What would be the mitigations for increased, cumulative use and wear and tear, of the Lake Herman Recreation Area by rural residents who would live in the immediate vicinity on the Signature Properties parcels, and also, by employees of the proposed business park, considering increased traffic and parking at lunch hour as well as increased use by walkers and bicyclists on dirt paths around the lake and leading up into Southampton neighborhoods?

Biologic Resources:

Other than my mention (above) of the special status species that may be disturbed by grading on 8 parcels and by creation of leachfields (lot #8), in the interests of time, I refer to any and all comments on biologic resources submitted by Sue Wickham and Bob Berman of the Solano Land Trust.

Cultural Resources:

Whether or not the old Marshall Ranch complex would “retain a level of significance sufficient to be eligible for listing on the California Register of Historic Resources”, the ranch may be eligible for Solano County or City of Benicia designation as a rural historic regional or local asset. This should be explored.

Impact VII-g(1) EMS/Fire Response Time to proposed subdivision, and, Mitigation VII-g (1):

The initial study describes the prevalence of arson fires in the area owing to burning cars left on Lake Herman Rd. This suggests a level of destructive mischief that can be fairly anticipated, calling for more police and fire response, in quick time, given that there would be people and dwellings threatened at the project site and vicinity of Lake Herman Rd, which could obstruct access and exit from the subdivision. Two response times are calculated, one from Hastings Drive fire station, and another from Cordelia fire department. There is no mention of the new police and fire substations that are being proposed for East 2nd Street, within the Benicia business park site. Since the nearest fire station would be the new substation, and the quickest access and response time would be achieved by use of the extension of Industrial Way, the initial study must discuss the nexus of the Signature Properties subdivision with the Seeno “Benicia Business Park” masterplan, and the discussion in the FEIR and “conditions of approval” now being recommended by the City of Benicia staff for those services.

Impact VII-g(2) Water Supply:

The initial study discusses the amount of extra water on site required for certain sized parcels, as if a grass fire on a particular parcel could be considered in isolation from other contiguous properties. How is a fast-moving, wind-driven grass fire contained by separate use of water tanks, if more than one water tank is not accessible because of a spreading fire?

(e.g., the water tank is located within a burning zone?) It's clear from the number of mitigation measures suggested that the threat of serious fire to dwellings and people would complicate fighting a grassfire that spreads out-of-control to surrounding hills. The need of an auxiliary fire truck and equipment, asphalted roads, etc., suggests the potential for on-going perpetual expense that would eventually have to be absorbed by the City of Benicia. Since drought and hot weather is projected to be associated to global warming in our area, it would seem unwise and foolish to plan for more housing in outlying rural dry grass areas, since the energy consumed and dollars spent to fight such fires to save people and dwellings would increasingly be exorbitant, with fire-fighting beginning earlier in the year all over the state, and funds for such regional efforts in extreme short supply.

Public Services, Population and Housing, Transportation and Traffic:

I've discussed the problem over time of mounting costs of servicing the fire and police protection for the subdivision. I've also discussed the issue of transportation and traffic in relation to AB32, (energy consumption and contribution to GHG), and cumulative impacts with Seeno's Benicia Business Park project and with regard to "growth inducing impacts" of allowing one residential subdivision to grow outside Benicia's city limits. I've also discussed the problem of creating sprawl, outside city limits, in relation to AB32 mandate to engage innovative land use and transportation planning: this, to limit and greatly reduce dependence on individual car trips, and "per capita vehicle miles traveled."

In conclusion, it seems that the judgment that the Initial Study finds no significant and cumulative impacts that cannot be mitigated, and so therefore deserves a negative declaration, is not based in sufficient fact and analysis based on metrics, especially as related to goals of environmental and economic sustainability and AB32. Again, an EIR should be initiated to tackle these deficiencies.

Thank you for your time and consideration of my comments.

Sincerely,

Marilyn Bardet



Heather

City Manager's Office
MEMORANDUM

Date: May 20, 2008
To: Mayor & City Council
From: Anne Cardwell, Assistant to the City Manager *AC*
Re: Written Public Comment for May 20th Council Meeting

Enclosed in your red folders are copies of all the written public comment that we have received since the packet went out.

Duplicate copies of what is already in the packet are not included in your red folders, since you already have that included in your packet.

Copies of all written public comment received since the last Council meeting, including what is in your packet, are available on the back table for the members of the public.

BENICIA FIRST!
City Council Presentation

Benicia Business Park

May 20, 2008

1

Presentation Outline

- Project History
- Project and Phasing
- Environmental Issues
- Approval Process
- Development Strategy
- Opportunity
- Recommendation

2

Project History

- Pre-1999 (Pre-History)
- Benicia General Plan Adopted 1999
- 2001 Plan (Withdrawn by Applicant)
- 2007 Plan (Meetings in May, August, EIR certified at Applicant's request in Feb. 2008)
- 2008 Plan (submitted March 20, 2008)

3

Project 2008

- 527.8 acres
- 150 ac. Limited Industrial--2.35 million sq. ft. industrial space
- 35 ac. General Commercial--857,000 sq. ft. commercial space
- 4,535 jobs (15,410 jobs in Benicia in 2005, 29% increase)

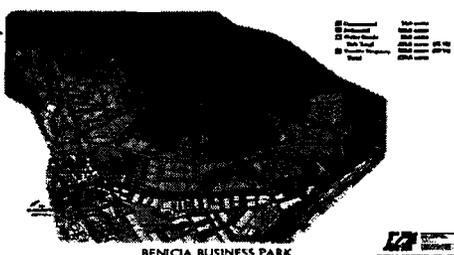
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Project 2008-Selected Uses

- Retail-100,000 sq. ft.
- Restaurant/Fast Food-28,000 sq. ft.
- Office-300,000 sq. ft.
- Research & Development-50,000 sq. ft.
- Industrial/Warehouse-1,091,340 sq. ft.
- Flex Use-1,308,420 sq. ft.

5

Proposed Project



6

Two Projects-One Commercial, One Industrial

7

Phasing Plan-20 Year Buildout

8

Environmental Issues Initial Study

- Initial Study should measure a project against accepted thresholds of significance.
- This Initial Study compares the 2008 project to the 2007 project.
- Analysis is predicated on "less than" the 2007 Plan--an unacceptable plan.
- Proportional reduction in project doesn't necessarily mean proportional reduction in impacts.

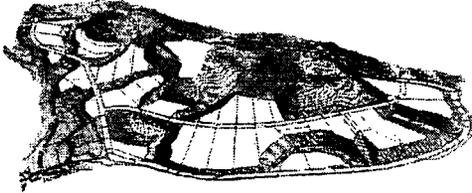
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Environmental Issues Initial study

- Grading--No Geotechnical Report or grading plan
- Hydrology--no performance measures for storm water
- Biology--No surveys for sensitive species (pappose tarplant, red-legged frog, etc.)
- Traffic--no updated traffic numbers
- Noise--no updated noise analysis

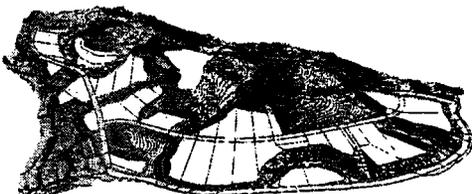
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Environmental Issues Grading



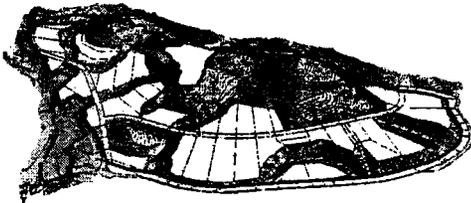
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Environmental Issues Grading



12

Environmental Issues
Grading



13

Environmental Issues
Traffic

"Based on the analysis conducted as part of this Addendum, it cannot be determined whether the mitigated project would avoid any other significant transportation and circulation impacts besides Impact Trans-22 [Freeway widening]." (Addendum p.37)

14

Environmental Issues
I-780 Traffic

- No additional freeway lanes required
- Lane was not feasible
- No additional information on I-780 impacts
- Traffic impacts on East 2nd Street?

15

Environmental Issues
Air Quality

"...the mitigated project would generate levels of reactive organic gases, nitrogen oxides, and particulate matter that would exceed Bay Area Air Quality Management District criteria for significant regional emissions."
(Addendum p. 39)

Air quality—Significant unavoidable impact of the 2008 project

16

Environmental Issues
Noise

"However, transportation modeling data was not available at the time of the preparation of this Addendum to determine whether any of the operational noise impacts of the project identified in 2007 final EIR would be eliminated." (Addendum p. 40)

Mitigation Measures NOI-2a, NOI-2b, and NOI-2c required. [activity areas, sound walls and ventilation]

17

Environmental Issues
Samuel School

- Safety and access issues due to increased vehicle traffic (including increased truck traffic) on East 2nd Street
- Air Quality issues
- Noise issues

18

Environmental Issues- Greenhouse Gases

- Project (as conditioned) could provide trails in open space, employee showers, bike storage, connection to transit.
- Air Quality-still significant and unavoidable impact.
- 75 percent of project employees will commute by auto in/out of Benicia.
- No multi-modal center, no long-term commitment to transit.
- No commitment to LEEDS (except as conditioned)

19

Environmental Issues Urban Decay

Sample of Proposed Uses

- Retail-100,000 sq. ft.
- Restaurant-20,000 sq. ft.
- Fast Food-8,000 sq. ft.
- Office-300,000 sq. ft.
- Initial Study says Urban Decay is not an issue.

- Urban Decay issue still an open question

20

Environmental Issues Initial Study

- Initial Study Conclusion: No new or more severe impacts.
- No real analysis of the impacts of 2008 Plan.
- Initial Study inconclusive at best.
- Cannot assume Addendum is appropriate for project.
- Missed opportunity to review and correct any inaccuracies in the Final EIR

21

 **Development Strategy**

- No background reports; studies to be completed later
- Unwilling to pay for additional studies
- Low cost-low risk strategy
- No certainty in the process
- Not willing to extend timelines (My way or the highway)

22

 **Development Strategy**

- Generic project; nothing unique to Benicia
- No project theme or vision
- "Let the market decide"
- Lowest common denominator

23

 **Opportunity**

- City needs to be proactive: set the standard for development
- Last major opportunity for development of this magnitude
- 21st Century employment center
- Job center matched to local population

24

Opportunity
Benicia Resident Occupations

- Management/professional 6,455 46%
- Service 1,785 13%
- Sales/Office 3,677 26%
- Construction/Maintenance 1,055 7%
- Manufacturing/transport 1,175 8%
- Total employed residents 14,097 100%

25

Opportunity
Economic Development Strategy

- City's Economic Development Strategy encourages high-tech, campus style development.
- "Increase research and development and campus style uses in Benicia Industrial Park."
- "Update Zoning Code to encourage clean energy, high-tech, research and development uses in the industrial districts..."

26

Opportunity

- Location in BioTech crescent
- Clean Tech--emerging field
- Opportunity for both construction and long-term employment
- Green Gateway to Solano County

27

Approval Process

- Shortchanged process
- Very aggressive timeline—leads to inadequate review
- For a streamlined process, everything needs to line up perfectly—no time for remedies.
- No meaningful Planning Commission review of Initial Study/Addendum or conditions
- Do the mitigation measures still fit the project?

28

Approval Process

- MMRP needs to be circulated
- No statement of overriding considerations for Air Quality (required)
- No certainty in the City approval process

29

Recommendation City Options

- Applicant requests time extension (with city's agreement)
- Approve project with conditions
- Deny project

30

Recommendation

- Follow the lead of the Planning Commission.
- Deny Project-and
- Invite the Applicant to continue the discussion.

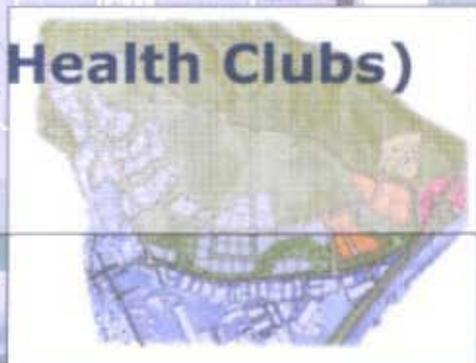
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BENICIA GENERAL PLAN: LAND USE DIAGRAM

Chapter 17.32: Industrial District (IL) Benicia Municipal Code

Permitted Uses or conditional permitted uses under the IL zoning include:

- Research and Development Services (i.e. Bio Tech, etc.)
- Industry, Research and Development Laboratories
- Government Offices
- Cultural Institutions
- Artists' Studios
- Commercial Filming
- Commercial Recreations & Entertainment (Health Clubs)
- Limited Industrial



BENICIA GENERAL PLAN: LAND USE DIAGRAM

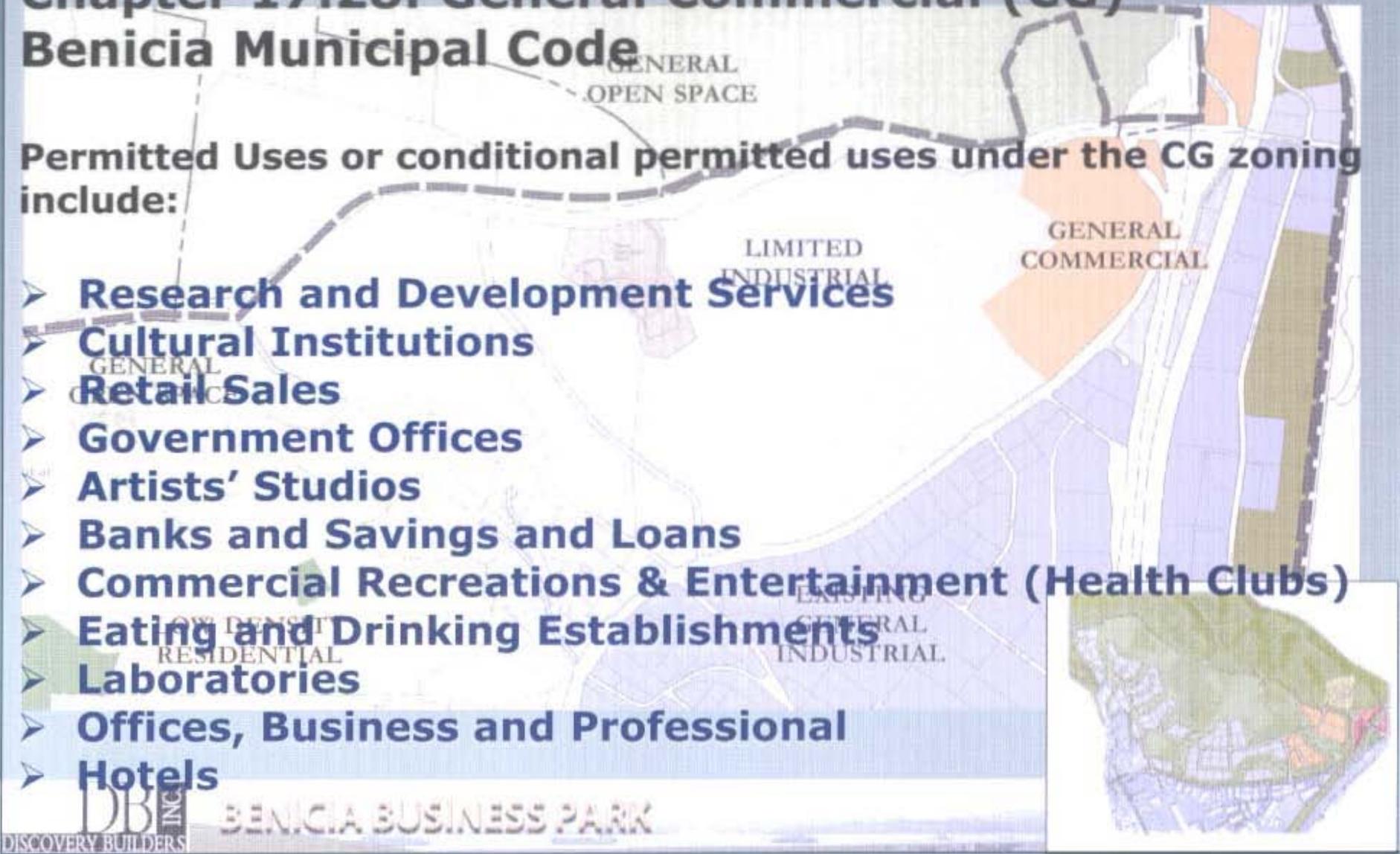
Chapter 17.28: General Commercial (CG) Benicia Municipal Code

Permitted Uses or conditional permitted uses under the CG zoning include:

- **Research and Development Services**
- **Cultural Institutions**
- **Retail Sales**
- **Government Offices**
- **Artists' Studios**
- **Banks and Savings and Loans**
- **Commercial Recreations & Entertainment (Health Clubs)**
- **Eating and Drinking Establishments**
- **Laboratories**
- **Offices, Business and Professional**
- **Hotels**

DB INC
DISCOVERY BUILDERS

BENICIA BUSINESS PARK



May 20, 2008

To the Members of the Benicia City Council

Benicians need certainty about the Seeno/Discovery Builders Project. In Phase I – the 35 acre commercial development Benicians are being asked to “buy a pig in a poke”.

The Seeno Project – The 35 acre commercial development is their first priority – Phase I. The additional 490+ acre development was casually reduced from 9M cubic yards to 4+cubic yards displacement. The reduction came only as a reluctant, superficial, acquiescence at the very last minute allowing only a minimum of time for study and deliberation by both the Planning Commission and the City Council. Seeno/Discovery Builders were unable, or unwilling, to grant a time extension.

Three possibilities for Business Development of Phase I:

- ***Business supported and sustained by the freeway.*** The 35 acres could be a Big Box/ Wal-Mart development. Benicia has not been offered a list of possible tenants – only a collage of corporate logos comparable and similar to those in Fairfield, Suisun, Rio Vista, and Vacaville. Who has Seeno/Discovery Builders confirmed as the tenant mix?

The tenant mix analyzed in the Benicia Business Park DEIR are: Hotel, Family Clothing, Drug, Office Supplies/Computer Equipment, Sporting Goods, Music/Electronic Media, and Household Appliances & Electronics.

In the DEIR, (p.349): “However, if the tenant mix changes (specifically if big box tenants are incorporated into the project), the project could result in urban decay in Downtown Benicia and other local retail –serving districts and centers.”

In Bakersfield Citizens for Local Control v. City of Bakersfield (December 2004) the court determined that the CEQA Guidelines (Section 15064) require urban decay research and analysis: “when the economic or social effects of a project cause a physical change, this change is to be regarded as a significant effect in the same manner as any other physical change resulting from the project.”

Benicia has not been offered a tangible list of the anticipated tenant mix for the 35 acre Business Park. It has only been offered a visual collage of corporate logos in a Power Point presentation.

- ***Business which supports the Business Park.*** If the commercial development was integrated into the whole 527 acres of development it could be designed to serve the tenants of the development.
- ***Business which is unique to the character and charm of Benicia and would enhance and attract tourism to the downtown and historic district.***

What are the intentions and objectives of Seeno/Discovery Builders in asking Benicia to support their 527 acre Development Project? The proposed 35 acre commercial development could be just another quick stop along I 680 and useful for Seeno/Discovery Builders to earn revenue for the additional Phases of development – whatever they might be in the next 20-25 years. Or could we persuade Seeno/Discovery Builders to consider other possibilities which would enhance the unique charm and character of Benicia – a very special place to explore and enjoy.

Benicians, The Planning Commission, and the City Council must demand some certainty from Seeno/Discovery Builders as to the tenant mix for the 35 acre Phase I Commercial Development.

Sincerely,

Sabina Yates
302 Bridgeview Ct.
Benicia CA 94510
707.746.6428 redfoxred@earthlink.net

Prior to approval of the rough grading plans for the western portion of the commercial area, the applicant shall provide the Planning Director with a redesigned plan of this area that better conforms to the existing topography and minimize grading.

Handout from developer
via Charlie K. ☺
beg of 5/20 meeting

Asthma management has been a frequent challenge for BUSD schools for a variety of reasons. The high pollen/allergen concentrations, weather factors as well as environmental issues have played a role in the respiratory health of many of our students.

Benicia Unified School District currently has 358 documented cases of students with a diagnosis of asthma. The known cases are based on medical documentation providing a diagnosis and school medication need.

The school staff is well aware of many other students with symptoms and or diagnosis of asthma whose parents haven't provided documentation allowing for medication use at school. Students without medical documentation aren't placed on the health problem list which affects the accuracy of calculated asthma rates within our district.

**Other factors influencing the accuracy of asthma rates include:
Many students carry inhalers in their backpacks and use them without school staff awareness. Students and parents are sometimes unaware of ed.code laws for medication at school and don't report their child's asthma. Students don't have medical coverage for an extra inhaler to leave at school so the parent is reluctant to let the staff know about an asthma diagnosis especially if it's mild. Parents feel they don't have time to comply with the paperwork requirements California laws require to use medication at school.**

*From Jeri Deane
District Nurse*

SAC does not serve clients directly, but community members interested in fighting the burden of asthma in Solano County are welcome to join the coalition.

SAC members include Solano County Health Promotion & Education Bureau Manager, a Senior Health Education Specialist and Solano County Health Officer Ron Chapman, MD.

Organizations

American Lung Association of the East Bay
Bay Area Air Quality Management District
Benicia Unified School District
Child Start, Inc.
Children's Network
David Grant Medical Center
Dixon Unified School District
Kaiser Permanente
NorthBay Healthcare
Partnership HealthPlan
Regional Asthma Management Prevention (RAMP)
Solano County CHDP
Solano County Dept. of Environmental Management
Solano County Emergency Services
Solano County Health and Social Services
Solano County Office of Education
Touro University
Vacaville Unified School District
Vallejo City Unified School District
Yolo-Solano Air Quality Management District

Individuals

Darrell Cauthorn, RCP
Harold J. Farber, MD
Teri Greene
Barbara Langham, RN
Guillermo Mendoza, MD
Allen Plutchok, MD
Jane Stewart, RN

|

Contacts

Interested community members may contact SAC directly:
Program Coordinator Susan White (707) 434-9685 [Susan White](#)

Solano County contact: Janice B. Tunder, MPH, (707) 553-5896 [Janice Tunder](#)

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5/15
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California
Endowment



The Burden of Asthma on Schools: Fact Sheet

May 2008

While additional research is needed to provide more precise estimates, research supports the following statements and recommendations.

Asthma is the leading cause of school absences in children in regions of the State and is a leading cause of school absences.

23,000 to 36,000 children) miss 11 or more days of school per year due to this medical condition.⁵

The economic burden of asthma on schools includes:

- Lost revenues to schools and school districts due to school absences,
- Lost opportunities for children to learn and participate in school, and
- Lost opportunities for children, families, communities, and the State to be healthier and improve their economic base.

School Absences

- Half of all children with asthma under 12 years of age miss at least one day of school per year; the average number of days missed among this group is 5.2 days.¹
- Increased asthma severity correlates with increased absenteeism.^{2,3}
- Nighttime awakenings in children with asthma significantly correlate with school absenteeism; the greater the number of nights awakened, the greater the number of school days missed.⁴
- From seven to eleven percent of children with asthma attending California schools (about

School Achievement

- While we do not have solid research on asthma and school performance, school performance in children with asthma improved when they received medical treatment, suggesting that asthma adversely affects scholastic achievement.⁶⁻⁸
- Some research suggests a connection between improved school ventilation and improved academic achievement.⁹

Environmental Triggers of Asthma

Environmental risk factors worsen, and in some cases may cause, asthma.

- Environmental factors such as high ozone levels and exposure to tobacco smoke, cockroaches, and dust are associated with asthma attacks and school absences.^{10,11}
- In a Los Angeles study, school absences rose by over 80 percent when community ozone levels increased by 20 parts per billion.¹¹
- Children with asthma who attend schools located within 200 meters of heavy traffic have lower lung volumes than those at schools farther away from traffic.¹²

UCSF
University of California
San Francisco

1

Philip R. Lee
Institute for Health Policy Studies

Diane Henry - Fwd: Seeno Project

From: Anne Cardwell
To: Charlie Knox; Council; Heather McLaughlin; Jim Erickson
Date: 5/20/2008 10:19 AM
Subject: Fwd: Seeno Project

Not sure if this already went to you all, it appears to just be addressed to me, so just in case...

All emails, etc. I receive today on this will be copied for you all and the table.

thanks,
Anne

>>> <priswhite@aol.com> 5/20/2008 10:14 AM >>>

Dear Members of the City Council

As a resident of Benicia I am asking you to deny the Seeno Project and send it back requesting a new project. I know all of you have the best interests of Benicia at heart and I, as a resident, can only ask for what I believe is the right thing to do. I also know all of you are aware of the difficulties with the proposed project so I won't make a list.

Sincerely

Priscilla Whitehead
288 W J St
Benicia, Ca

Plan your next roadtrip with MapQuest.com: America's #1 Mapping Site.

Jayne York - Fwd: Seeno Project

From: Anne Cardwell
To: Jayne York
Date: 5/20/2008 10:17 AM
Subject: Fwd: Seeno Project

>>> <priswhite@aol.com> 5/20/2008 10:14 AM >>>

Dear Members of the City Council

As a resident of Benicia I am asking you to deny the Seeno Project and send it back requesting a new project. I know all of you have the best interests of Benicia at heart and I, as a resident, can only ask for what I believe is the right thing to do. I also know all of you are aware of the difficulties with the proposed project so I won't make a list.

Sincerely

Priscilla Whitehead
288 W J St
Benicia, Ca

Plan your next roadtrip with MapQuest.com: America's #1 Mapping Site.

Jayne York - Fwd: Lake Herman Highway & Urban Decay...

From: Anne Cardwell
To: Jayne York
Date: 5/20/2008 10:07 AM
Subject: Fwd: Lake Herman Highway & Urban Decay...

>>> <PetrBray@aol.com> 5/19/2008 10:09 AM >>>
The Lake Herman Highway & Urban Decay...

Lake Herman Highway, Lake Herman Highway,
I see Seeno comin' and he's comin' down the skyway.
He's got Permit Violations following him like a storm,
some are ice-cold dead and some are pretty warm.

You can cover up a creek, cover it up for a week,
but sooner or later even the toads, they all come back to speak.
Gonna get my Braito Landfill coupons, all my old tokens in reverse,
if you thought the Rose Drive Fiasco was a mess, this could be even worse.

Don't need a General Plan, don't even need a trickle,
we can buy half of China, put in a WalMart, and sell it for a nickel.
All we need is 500 plus acres, carve it outa the hills,
we can move dirt all day, and still have money for the bills.

Out on The Lake Herman Highway, The Lake Herman Highway,
don't need a cell phone or a pony, just send up a dirt cloud,
it's that easy to call Homey.

Bring us your extra trash, your extra stash and hash,
we'll just Land Rover the City Council and never have to worry about cash.
Out on the Lake Herman Highway, the Lake Herman Highway,
Oh, the Lake Herman Highway, all lanes leading out of town and gone...
Where DID the town go? Urban decay, man, Urban decay.
The banners and balloons are all still rising
out on The Lake Herman Highway...
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twists on family favorites at AOL Food.

(<http://food.aol.com/dinner-tonight?NCID=aolfod00030000000001>)</HTML>

Diane Henry - Fwd: Lake Herman/Seeno Project Blues...

From: Anne Cardwell
To: Charlie Knox; Heather McLaughlin; Jim Erickson
Date: 5/20/2008 10:06 AM
Subject: Fwd: Lake Herman/Seeno Project Blues...

fyi - Jayne will do the copies, etc. for tonight.

>>> <PetrBray@aol.com> 5/19/2008 9:29 AM >>>
Dear members of the Benicia City Council....

There's not a puppy's chance in a goldfish pond that I can think of the Seeno Project's becoming viable in Benicia, so I wrote the

Lake Herman/Seeno Project Blues

"The sweet pretty things are in bed now of course,
the city fathers are trying to endorse
the reincarnation of Paul Revere's horse,
but the town has no need to be nervous..."
©Bob Dylan, The Tombstone Blues

Used to be Lake Herman was a good place for a walk,
now all I hear downtown is developer's hill-leveling talk.
They've got one eye on their bottom lines, and one eye in the hills,
seems like they just can't get enough of carving up the hills...

I've got the Lake Herman/Seeno Project Blues,
got the Lake Herman/Seeno Project Blues,
nothing I can't use like the Lake Herman/Seeno Project Blues.

They say that Mr. Seeno has extravagant taste,
seems like Permit Violations follows him like a paste.
Oh, Boy who was it that opened up our City's doors to him?
"Environmental Violations" must be a new kind of Developer's HYMN.

'Got the Lake Herman/Seeno Project Blues,
got the Lake Herman/Seeno Project Blues,
nothing I can't use like the Lake Herman/Seeno Project Blues.

We used to have a General Plan, was good for the common man,
good for the ladies and children too and organizing our developmental stand.
But Seeno figures he doesn't have to comply and prefers it was up in smoke,
how many counties away is he from seein' that his is the saddest joke?

'Got the Lake Herman/Seeno Project Blues,
got the Lake Herman/Seeno Project Blues,

nothing I can't use like the Lake Herman/Seeno Project Blues.

Gonna go downtown, and stand at the podium,
some will swear it's just another Mad Cow Disease Project
and they've all lost it on their sodium.
But I'd rather stand in an empty room
than sing to a stagnant lake,
sitting across from The Lake Herman Highway,
(humongous residential lots also on the county side of the lake?)!

'Got the Lake Herman/Seeno Project Blues,
got the Lake Herman/Seeno Project Blues,
nothing I can't use like the Lake Herman/Seeno Project Blues.

East Second Street will become an artery just like the Gran Prix.
Better wear your crash helmet if you attend Semple Elementary.
Downtown becomes a ghost town, just like it was in Ghost Town 3.
Better get us a BIG box store, a couple dozen with wall-to-wall perfume,
transfer our downtown culture to the
Made-from-China-&-Brought-Into-The-Hills-&-the-Walmart-BOOM-BOOM-BOOM!

Oh, Boy, Oh, Boy, I just can't wait, watching the ships go by from the Lake
Herman
Walmart/Costco/Home Depot/18-wheeler Freightliner Parking Lot Gate!!
Who did we elect to figure out that THIS was to be our NO LONGER LITTLE TOWN
fate?
Adios Little Town, once more we've got monumental CRAP on our plate!
Call us Dublin/San Ramon/Fremont/San Jose/Wall-to-Wall Peninsula,
who needs greener grasses and an environmental buffer zone?
Is our own General Plan dying out on The Lake Herman Highway?
Urban Decay downtown?? Count on it! A ghost town!
Widening of 780? 280% traffic increase on East 2nd Street?? NO THANKS!!
Whoopee, another Century Plaza Vallejo Mega Mall!! Will New and Used Car lots
be next?? Oh, Boy, we can have our own Vallejo PLAZA in the hills!?? NO!!!

'Got the Lake Herman/Seeno Project Blues,
got the Lake Herman/Seeno Project Blues,
nothing I can't use like the Lake Herman/Seeno Project Blues.

(New verses to come as this charade deepens.)

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303 Warwick Dr.
Benicia, CA 94510
Cell: 707-246-8082

 www.peterbray.org

http://www.poetrymatters.150m.com/index_files/pages_files/bray.html
 www.sonador.com/pedro

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(<http://food.aol.com/dinner-tonight?NCID=aolfod00030000000001>)</HTML>