

Marilyn J. Bardet  
333 East K Street, Benicia CA 94510  
mjbardet@comcast.net

July 19, 2022

Benicia City Council  
Planning Commission  
Victor Randall, Senior Planner  
Lisa Wolfe, City Clerk

**SUBJECT: Public Review Draft, Housing Element [HEU] 2023-2031**

Herein, I endorse and incorporate by reference the comments submitted on the Housing Element Update by professional planners, Natalie Macris and Steve Goetz.

I am a 36 year resident of the East Side and an Arsenal stakeholder for as many years.

My letter dated April 19, 2022, on the scoping for the Draft Environmental Impact Report on the Housing Element/Climate Vulnerability Assessment Update is pertinent to my comments on the HEU.

I repeat my call for a General Plan amendment to permanently eliminate residential as a permitted use in the Arsenal Historic District/lower Arsenal area. Two major reasons:

**ONE:** The obvious incompatibility of residential with major industrial uses in the port waterfront area where Valero's and Amports's facilities are ever-present existing sources of pollution, hazards and risks to which future residents and sensitive receptors (families, children, elderly, immune compromised) would be vulnerable, and from which there are very limited ways for those future occupants to be protected from those facilities' physical hazards and also air, soil and water pollution. State agencies would be involved in any proposed mitigations: EPA's DTSC, BAAQMD, the Water Board and State's Port Authority.

Allowing residential including affordable housing within the Arsenal Historic District would potentially locate from 400 - 500 future residents in harm's way. The City should not be relying on "Buyer Beware" notices, represented primarily by real estate disclosure statements (see SB35 project applications), to be conveyors of detailed information about existing hazards and major sources of chronic pollution. While SB35 projects are exempted from CEQA, leaning exclusively on such a flawed law, and thereby seeming to escape evaluation of such known *existing* hazards and pollution sources is an irresponsible position of a city government. The primary job of elected officials is to be looking forward and proactively engaging in protecting the health and safety of current and future residents as the General Plan's Health and Safety chapter outlines. This is an issue of environmental justice.

**TWO:** Of equal and paramount concern is saving the Arsenal Historic District's incomparable Civil War era Officers' Enclave from destruction. Identified in the Arsenal Historic Conservation Plan [AHCP] as "subDistrict C", a national treasure listed in 1976 on the National Park Services' National Register of Historic Places, to this day, this district is visibly intact as designed by the Army under orders of President Abraham Lincoln and served as the central heart of the Arsenal's command structure from the mid-19th c until the Arsenal's closure in 1964. District C has 11 original historic structures—the Clocktower Fortress, commanding officers' living quarters and their administrative buildings surrounded by open space grounds— the surrounding landscape setting of Officers' Row of the Jefferson Ridge, inclusive of the assembly area where the Arsenal flagpole originally stood. These landscapes are deemed "cultural landscapes" of District C. The 1993 Arsenal Historic Conservation Plan, though it needs updating, represents the intent of the City and community, as affirmed in the General Plan, for preserving the National Register district's distinct character as a venerable asset that invites the development of historic tourism, as the General Plan envisions.

The draft HEU does not specify, describe or characterize the distinctions conferred on the Arsenal Historic District and particularly District C. Why not? Staff presentations have also not used proper names, such as are used on historic maps and other official materials and the AHCP, such as "Officers' Enclave" or "National Register District C". The scant description in the HEU does not accurately represent the distinctions and values of these esteemed cultural assets. It is not surprising, then, that such prestigious distinctions have not been accounted for in the SB35 project applications for residential development within the Arsenal Historic District.

Distinctions that must be named and discussed for their value to the City, state and nation:

In 1936, the Arsenal earned California's official state landmark status; and in 1976, the National Park Service of the U.S. Dept of the Interior listed 4 subdistricts on the National Register of Historic Places as distinguished in the Arsenal Historic Conservation Plan, [AHCP, Figure 2, p.7 "National Register Districts and Properties of the Benicia Arsenal"]

SB35 projects now being evaluated under minimum objective standards, if approved, would destroy District C in every way pertinent to its integrity, character and standing on the National Register as a unified, intact district.

Generalized references to the Arsenal Historic Conservation Plan protections are not sufficient to inform the public of our major cultural elements, including the cultural landscapes along Jefferson Ridge that have been integral to the design of Officers' Row since 1859. Many residents have no knowledge of the Conservation Plan, let alone, the history of the City and the Arsenal's role in its foundation and subsequent prominence through the Civil War era, the 20th century's world wars, the Korean War and peacetime defense, until the Arsenal closed in 1964. But City elected officials are expected to understand and promote those values and historical relevance.

Historical context

Over the past twenty-five years issues cited in ONE and TWO were deliberated by staff, planning commission, council and the public. Concern for protecting historic resources and for addressing environmental hazards in the lower Arsenal port area that would impact the Arsenal Historic District and its future uses have still not been resolved.

These issues were previously raised during controversy in 1994-1995 over a large-scale industrial development proposal for the Port of Benicia, submitted by Koch Industries, for a petroleum coke storage and shipping terminal facility that was planned to serve all 5 Bay Area refineries. In the aftermath of public outcry and defeat of Koch Industries' proposal, a number of housing development proposals, beginning in 2001, were floated and subsequently withdrawn for residential infill in the Arsenal Historic District's National Register District C. A culminating public defeat of the Draft EIR for the Lower Arsenal Mixed Use Specific Plan, reviewed through two attempts at certification between 2006-2007, meant that upwards of 115 units of infill housing proposed for parcels along the Jefferson Ridge, Park Rd and Grant St, were not permitted. Now, however, given two projects that could ruin the Arsenal Historic District forever, the city claims that SB35 allows for no avenue of appeal of any ministerial decision for approval that would be made by its own staff.

For reasons cited above in ONE and TWO, which are more fully accounted for in my April 19th letter, I request that the following parcels be removed from the HEU's "Vacant Lands" inventory and those cited as "Opportunity Sites" for residential infill, and also, those parcels previously permitted for residential use in "mixed use districts".

From HEU's Figure 3.1.E. City of Benicia Sites Inventory #5, I request removal of the following:

"Considered "suitably zoned": Parcels # 123, 124, 6, 7, 2, 3, 4, 5; as well, those parcels proposed for zoning changes and/or zoning overlay: Parcels # 52, 53, along Grant St. and Parcel #45, at 1471 Park Rd. Included are the two SB35 project application sites at 1451 Park Road Project (categorized as a "Core Site"), and 7.9 acres on the Jefferson Ridge, the "Jefferson Ridge Project".

A prime example of a city-owned property that should be removed from the HEU: 1471 Project Road, Parcel #45, which is in every aspect equally unsuitable for residential development of any kind as are the parcels cited above within District C and Grant St parcels. Parcel #45 lies within the boundaries of former Benicia Arsenal and is within the Arsenal Historic District. [See Figure 3, Arsenal Historic Conservation Plan. p 9]. Because it lies within the former boundaries of the former Benicia Arsenal it would require DTSC clearance with regard former possible contamination from former military uses.

The 1471 Park Rd parcel is triangle-shaped and fronts onto Park Rd. Its location on Park Rd would put future residents entering and leaving the development in daily danger. Park Rd cuts up from the lower Arsenal industrial area to connect to a major intersection at Bayshore Rd and Industrial Way, at the entrance to the Valero refinery. Park Road is the ONLY and busiest, heavily truck-trafficked road that cuts

through the eastern side of town connecting the lower Arsenal industrial area to the industrial park. Park Road is particularly important to both Valero's refinery and Asphalt Plant, as well as Amports LLC car import business operations, whose headquarters and parking lots border Park Rd. For example: Park Rd is used by huge tractor-trailers hauling cars from the port to Amports' other parking areas along Park Rd., just north of the 1471 Park Rd parcel.

The parcel at 1471 Park Road is bounded on the north by 2 lanes of the I-780 freeway that form a low overpass over Park Rd.; just north of those lanes, there is a flyover of I-680 lanes connecting to the Benicia/Martinez bridge. The parcel's eastern side, bounded by Park Rd, is also where Valero's 6 active pipelines run parallel to the road, running from the refinery and then following a course along the base of the Jefferson Ridge's northern side to Valero's tanker dock at Bayshore Rd at Army Pt., the dock owned and governed by the State of California's Port Authority. On the east side, Amports uses the property across Park Rd and bordered by Oak Road as a parking lot for cars offloaded at their shipping terminal. Further, the parcel is approx. 2,500 ft from Valero's southern tank farm and less than a mile from Valero's Asphalt plant.

Key indicators of the site's unsuitability for housing from a sustainability/livability index perspective: There is absolutely no shopping or public transit in the area that would serve prospective residences in this location. CEQA analysis of "vehicle miles traveled" [VMT] to services and jobs would have to be done in accordance with state mandates for reducing VMT for sake of climate protection. The location of infill housing that includes affordable units would likely increase VMT.

\* \* \*

Adapted from my April 19th letter on scoping for the DEIR on the HEU:

**Regarding the need to build affordable housing:**

While the serious aim to provide affordable housing is necessary and laudably noble, how can this aim be justly and equitably realized by current means, wherein, for example, SB35 projects are required to build *only* 10% affordable of the total number of units proposed for maximum density? And, since SB35 streamlined approval processes lie outside the purview of CEQA, it appears that "environmental justice issues" are given no attention by SB35, e.g. consideration of conditions of a specific location where such a density infill project could be developed. Ergo, those projects' potentially significant impacts related to environmental justice could remain uncharacterized, veiled by SB35 proscriptions against CEQA.

The implications of SB35, and by example and precedent, how the streamlined review is being conducted for the two SB35 projects proposed for the Arsenal Historic District, are ominous for Benicia, since SB35 projects are likely to be proposed for "vacant lands" and "opportunity sites" throughout the community to fulfill RHNA numbers.

The HEU should identify all sites inventoried in the HEU for possible development where maximum density housing proposed under SB35 would be located and indicate the total number of "low and very low" affordable units that would be *required* to be built on those potential sites.

*" 'Environmental justice' means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. (Gov. Code, § 65040.12, subd. (e)). Fairness in this context means that the benefits of a healthy environment should be available to everyone, and the burdens of pollution should not be borne by sensitive populations or communities that already are experiencing its adverse effects."*

**Regarding the "underserved" East Side:**

I am particularly concerned about how future anticipated increases of residential infill will improve and/or adversely impact Benicia's East Side, which is still considered to be "underserved", lacking services and amenities, as described by a City study initiated in 1985 on East Side conditions.

How will the full impacts to the East Side be accounted for if *ALL* projects proposed for the East Side were to be developed apropos the HEU, whether as Opportunity Sites or Vacant Lands, in addition to any and all SB35 projects approved now or in the future for the East Side?

The full scope of cumulative effects of the HEU, should development of all parcels represented be developed, must be evaluated as part of the HEU DEIR. Right now, those SB35 projects for the Arsenal Historic District will not have had analyses of potential cumulative impacts on future residents, pertinent to environmental justice issues. Such evaluation is currently left uncharacterized and excluded from the prospective review of SB35 projects.

The Climate Vulnerability Assessment Update allows for projected increases in population. The lack of a substantial "passive recreation" park on the East Side is a glaring problem. The CVAU cites the importance of parks that provide shade and respite outdoors for residents during long hot summers. Where is this concern represented in the HEU as related to existing conditions on the East Side? Parcels considered now for development on historic landscapes within the Jefferson Ridge's District C are the last substantial green "open spaces" left on the East Side and within the old Arsenal's central historic core. This fact has not been recognized by the HEU, but should be.

Thank you for considering my comments on the HEU. There are many more comments I could make, but those included represent my primary concerns.

Respectfully,

Marilyn Bardet