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Re: Scoping Comments on City of Benicia Notice of Preparation of Environmental Impact Report on the proposed Rose Estates

The following are comments for the proposed Rose Estates project Notice of Preparation (NOP) of an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA). The comments are organized by reference to goals and policies of the existing General Plan which supports the goal of sustainable development based on environmental issues of climate, clean air and water management, habitat and aesthetics. [Appendix A](#) of the state Land Use and Climate Innovation (LUCI) is included to support additional mitigation measures for potential significant impacts.

The EIR should identify and mitigate significant climate change impacts as listed here:

- Lead agencies must analyze the greenhouse gas emissions of proposed projects, and must reach a conclusion regarding the significance of those emissions (See CEQA Guidelines, Section 15064.4)
- When a project's greenhouse gas emissions may be significant, lead agencies must consider a range of potential mitigation measures to reduce those emissions (See CEQA Guidelines, Section 15126.4(c)).
- Lead agencies must analyze potentially significant impacts associated with placing projects in hazardous locations, including locations potentially affected by climate change. (See CEQA Guidelines, Section 15126.2(a)).
- Lead agencies may significantly streamline the analysis of greenhouse gases on a project level by using a programmatic greenhouse gas emissions reduction plan meeting certain criteria. (See CEQA Guidelines, Section 15183.5(b)).
- CEQA mandates analysis of a proposed project's potential energy use (including transportation-related energy), sources of energy supply, and ways to reduce energy demand, including through the use of efficient transportation alternatives.

The Benicia General Plan details the robust public outreach for the 1999 General Plan update. The General Plan process was a consensus decision making process anchored by shared values and testing goals and policies for consistency with the shared values. The update, in part, was the result of the public protesting Sky Valley development project without the General Plan update based on the sentiment of the "tail wagging the dog". We need to have more

meaningful and earlier community input into general plans, specific plans, and the planning process. Without that, the only community recourse is through CEQA, which can make CEQA the boogiemanager. And that is the moment in time with this EIR.

For reference see [Benicia General Plan](#) discussion of the comprehensive public outreach program. The General Plan is based on this public outreach program involving subject matter forums, fanning out to neighborhood schools to make it easier for the public to participate. The effort was led by volunteers from the GPOC as well as staff. Consultants were not the lead.

A two-page questionnaire (with assistance from University of California at Davis, UCD) mailed by the GPOC to Benicians in June 1995 was answered by nearly 500 people. The results pinpointed what people deeply care about in Benicia:

Benicia's small-town atmosphere
Economic health of First Street
Objectivity in business development

The Benicia General Plan as adopted begins with the overarching goal of sustainable development. The City has yet to adopt standards for achieving this overarching goal however, numerous general plan goals and policies support the sustainable development goal.

The EIR should formally document how the project mitigates these potential impacts to sustainable development and explicitly state how it aligns with the General Plan's mandatory "vertical consistency" rule (meaning the project does not conflict with the community's broader development blueprints).

Government Code Section 65300.5 states: "In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency."

The EIR should begin its assessment with a clarification how the Rose Estates project could be accepted for review when it is so woefully inconsistent with the public driven General Plan. Typically, local government identifies impacts affecting general plan standards and mitigates with amendments. The scale of the Rose Estates, were it to be mitigated with amendments, would essentially be a general plan update. Rather than guided by the public-based goals, policies and programs, it becomes the defacto General Plan update. This suggests that any developer can submit a plan to the city and regardless of inconsistencies with the general plan be confident that mitigation measures amending the general plan is a passport to approval.

The alternative to this scenario is that the EIR identifies all goals, policies and programs that support the overarching goal of the General Plan and the project is brought into consistency with the sustainable development goal and supporting goals, policies and appropriate programs.

The EIR should reference all city council resolutions regarding the “Seeno” project site. These resolutions are “promises made” to the public about environmental concerns among other issues.

The EIR should assess the potential impacts of the proposed project on the city’s [Climate Adaptation Plan](#) with particular attention of the waste water from the project and impacts to the wastewater treatment plant in light of sea level.

The EIR should include two alternatives:

1. Existing Industrial and commercial land use. The current land use is light industrial and commercial. This alternative should modify the distribution of commercial within the industrial use – not at Lake Herman Road and I-689 would reduce VMT and provide a sense of community within the “campus”. This is a sustainable approach for reducing impacts to the environment keeping in mind that viable economic development matching jobs to residents and reducing commuting time is sustainable and meets the General Plan overarching goal. *A mid 1980 council resolution addressed the proximity of residential to the Class I hazardous waste site. The resolution specifically focused on the so-called Seeno property – the current site of the Rose Estates. The EIR should assess the potential impacts of the closed Class I buried barrels of toxic material and the toxic plume in Paddy Creek. The potential water impacts are for existing wildlife and domestic animals and the hydrologic connection to groundwater (it should be noted that historic analysis is inadequate based on limited geotechnical studies.*
2. Infill development alternative. Using the adopted housing element discuss environmental impacts of infill housing within the general plan land use designations and compare to the sustainability goals to the proposed project.

The EIR should assess the proposed project potential impacts on the General Plan environmental goal:

[“Community development and sustainability are at the heart of the goals developed in this General Plan.”](#) Sustainable development represents an approach to community development that Benicia residents and businesses want to achieve with this General Plan. (pg.26).

“Sustainability” in this General Plan conveys long-term interdependent economic and environmental goals that promote efficient land use. It is a way of thinking and acting responsibly with respect to environmental, social, and economic issues at ever widening levels of awareness or “integration.” That is, what is done at the project or local level can

affect all levels of the environment, including the local community, neighboring regions, the country, and the world.

Sustainable development implies urban areas that reflect a long-term economic horizon; result in efficient land use patterns that are not overly energy-intensive; have sufficient linkages to the local and regional economy to assure long-term job creation and economic vitality; support ecologically sensitive design features; and value the public realm. (pg.34)

The concept of creating a sustainable community in Benicia is a primary goal and objective of the General Plan. The concept affects all chapters of the Plan and all aspects of the community. While it is assumed that this Plan cannot radically change the nature of Benicia, the goal and intent are to create a more livable and sustainable community over time.” Pg. 27-28)

The EIR should examine the sustainability of the proposed project and the physical impacts caused by the proposed project. Mitigation measures should result in a comprehensive sustainable development including the suggested alternatives.

The EIR should objectively assess the “. . . intent of this General Plan that land be used efficiently to reduce traffic, preserve and at urban fringes, reduce infrastructure costs, and minimize the loss of farmland, wetlands, and open space. By doing these things, it is hoped that Benicia can avoid the costs of sprawl and erosion of the quality of life.” (pg. 29).

The EIR should assess the proposed project impacts to the General Plan open space land use open space in residential subdivisions, and open space for public health and safety, such as hillsides with slopes over 30 percent; and rural open space (pg. 39)

The EIR should assess the impacts of the proposed project on the following General Plan programs:

Program 2.1.A: Adopt development guidelines that retain the **scale** and character of the city, **preserve public view corridors**, and reflect the subdivision and development patterns within existing neighborhoods.

POLICY 2.1.2: Make efficient use of land in new development areas consistent with the surrounding neighborhood.

POLICY 2.1.4: Strive to preserve significant areas of vegetation and open space when approving development projects.

“Significant” can mean, for example, a single specimen tree, vegetation serving as habitat, or a grove of several native trees which enhance the canopy and scenic beauty of a neighborhood. (pg. 44)

GOAL 2.3: Ensure orderly and sensitive site planning and design for large undeveloped areas of the City, consistent with the land use designations and other policies in this General Plan.

POLICY 2.3.1: Require a Master Plan for new industrial and business park developments on properties under common or single ownership which aggregate to more than 40 acres. (pg.46)

GOAL 2.4: Ensure that development pays its own way.

State law (to date) allows cities to assess fees to ensure that development pays for itself; however the law also requires a nexus between fees imposed on developers and the public improvements funded by those fees.

Integrate with the EIR's Environmental Goals

To satisfy CEQA requirements, tie economic costs to environmental impacts:

- Greenhouse Gases (GHGs): Factor in the social cost of carbon to calculate societal cost savings.
- Resource Efficiency: Account for the long-term utility savings of meeting or exceeding [California Energy Commission](#) Title 24 building energy efficiency standards.
- Environmental LCC (E-LCC): Consider using methodologies like the International Organization for Standardization ISO 14040 et seq. series, which integrates environmental Life Cycle Assessment (LCA) with financial costing. [1]
- See [CalTrans for LCC](#).

POLICY 2.4.1: Ensure any new development to be fiscally and financially sound and pay its own way with respect to City and School District capital improvements. [*Use life cycle costing analysis*]

The objective is that neither the City nor the School District will be expected or required to use general funds to provide capital improvements for private development unless a project produces substantial public benefits and amenities in which the City or School District may want to participate.

Program 2.4.A: Monitor development to ensure it does not overburden the City's Infrastructure (pg. 47)[*this can be done through a Development Agreement*].

POLICY 2.6.2: Other land uses should not adversely affect existing industrial and commercial land uses.

Program 2.6.A: Where General Plan amendments propose to convert industrial land to non-industrial or non-commercial uses, require the preparation of a fiscal and economic impact analysis to ensure that the conversion does not adversely affect the city's long term economic development, or the economic vitality of existing industrial/commercial uses.

The most common fact pattern of this latter situation has been the construction of big box retail facilities that prompt the closure of smaller businesses in urban downtown areas, which in turn causes blight in those downtown areas.) See GOAL 2.12: Strengthen the Downtown as the City's central commercial zone.

POLICY 2.6.5: Establish and maintain a land buffer between industrial/ commercial uses and existing and future residential uses for reasons of health, safety, and quality of life.

Program 2.6.F: Use topography, landscaping, and distance as a buffer between Industrial Park uses and residential uses.

A buffer is "adequate" to the extent that it physically and psychologically separates uses or properties so as to shield, reduce, or block one set of properties from noise, light, or other nuisances generated on or by the other set of properties. Buffers will be determined on a case by case basis (pg.57)

The EIR should assess the consistency of the proposed project and its impacts with the General Plan GOAL 2.14: Enhance Benicia's small-town atmosphere of pedestrian-friendly streets and neighborhoods.

POLICY 2.14.1: Give priority to pedestrian safety, access, and transit over automobile speed and volume.

This goal and policy are supporting the overarching goal of sustainability reducing greenhouse gases as well as traffic congestion which contributes to air pollution. (pg. 88). Also see the supporting program at pages 88-90.

The EIR should assess the consistency of the proposed project with **GOAL 2.20: Provide a balanced street system to serve automobiles, pedestrians, bicycles, and transit, balancing vehicle-flow improvements with multi-modal considerations.** (pg. 93).

The EIR should assess the impacts of the proposed project on existing trees – see POLICY 3.20.3: Encourage preservation of existing trees. Especially preserve and protect mature, healthy trees whenever practicable, particularly where such trees are of significant size or are of significant aesthetic value to the immediate vicinity or to the community as a whole (pg. 163)

The EIR should assess ravines and streambeds associated with the former Paddy Lake and Lake

Herman Reservoir as important water resources and to be protected from development impacts as noted by the General Plan. By reducing overland runoff and filtering water-borne pollutants, these naturally occurring watercourses aid in flood prevention and water quality preservation.

The EIR should assess the impacts of the project to:

GOAL 3.22: Preserve water bodies.

POLICY 3.22.1: Avoid development that will degrade existing lakes and streams.

Program 3.22.A: Require that all development in watersheds flowing into lakes and unchannelized streams include features to preserve run-off water quality.

Program 3.22.B: Require a minimum setback of 25 feet from the top of bank of streams and ravines. Do not allow development within the setback. (pg, 166)

The EIR should assess the impacts of the project to:

GOAL 3.27: Improve energy efficiency.

POLICY 3.27.1: Promote energy conservation in all new development and during rehabilitation of existing homes.

FLOOD AND INUNDATION HAZARDS GOALS, POLICIES, AND PROGRAMS

GOAL 4.9: Minimize and accommodate runoff from existing and future development.

POLICY 4.9.1: Increase the use of stormwater management, including use and restoration of natural systems and green infrastructure throughout the city, and create a flood mitigation plan.

POLICY 4.9.2: Encourage use of green infrastructure and permeable paving materials to reduce flood risk on public and private property.

Program 4.9.A: Where appropriate, promote the use of stormwater retention basins rather than standard engineering modifications to natural channels.

Program 4.9.B: Encourage use of meandering drainage channels in all new developments and wherever channels are replaced.

POLICY 4.9.3: Regulate runoff from new development so that post development site peak-flow rates are no greater than predevelopment levels.

POLICY 4.9.5: Ensure that new development pays its fair share cost of drainage system improvements. *At the last Seeno development project review, city staff required a storm drainage system be designed and built at once instead of working with the developer for no net runoff of storm water – this approach of using natural infrastructure is more cost effective and better for the overall watershed.*

The EIR should assess fire hazards and find consistency with the following goals:

GOAL 4.14: Reduce the risk and threat from urban and wildland fire hazards.

POLICY 4.14.1: Require new developments consisting of 10 dwelling units or more in the wildland-urban interface to provide fire protection plans that include a risk analysis, evacuation plan, defensive space requirements, fire safety requirements for infrastructure, building ignition resistance, fire-protection maintenance, and assess fire response capabilities. (pg. 209-210)

The EIR should assess to what extent the United States Army was active in training or practice activity on the proposed project site. In addition to the assessment for military pollution and unexploded ordnance the EIR should assess the risk of the closed [inadequately] Class I Hazardous Waste site.

GOAL 4.15: Ensure that the community is safe from risks to public health that could result from exposure to hazardous materials (pg. 212).

POLICY 4.15.3: Protect existing and future development from contaminated sites, hazardous landfill waste and debris, chemical spills, and other hazards including unexploded ordnance and explosive waste. Information on unexploded ordnance on arsenal properties can be found in the army archives search report for the Benicia Arsenal and other federal documents. (pg. 213)

POLICY 4.15.5: Require that all sites known or suspected to have unexploded ordnance and/or a toxic history be tested and remediated before any development can occur.

POLICY 4.15.6: Prohibit residential development on any land formerly operated as landfill or dump, including land formerly owned or used by the military for military wastes, until the waste and contamination is removed with proper agency oversight or remediated as required by the appropriate regulatory agencies.

Program 4.15.G: Maintain and designate land along East Second Street for non- residential purposes (pg. 214)

The EIR should assess the impacts of the proposed project on GOAL 4.21: Ensure clean air for Benicia residents. (pg. 226)

POLICY 4.21.2: Support implementation of the Bay Area Clean Air Plan. The Bay Area Clean Air Plan provides a strategy for attaining all the air quality standards in the nine-county Bay Area Air Quality Management district. Benicia would demonstrate consistency with the Bay Area Clean Air Plan by implementing transportation control measures, including expanding employer assistance programs, improving bicycle access and facilities, improving arterial traffic management, establishing transit use incentives, and adopting a local clean air plan, policies, and programs.

Program 4.21.B: Require that projects with identified significant air quality impacts include all feasible mitigation measures needed to reduce impacts to less than significant levels.

POLICY 4.21.3: Encourage designs and land use strategies that reduce automobile use and promote mixed use, jobs/housing balance, telecommuting, bicycle, and pedestrian facilities, and transit. (pg. 226)

The EIR should assess the impacts noise of the proposed project. Noise is a public health issue and mitigation measures should be provided to protect public health. The current noise standard for Benicia is based on the city designated as an industrial city because of the refinery. The EIR should discuss the noise conditions now and mitigation measures to reduce noise impacts based on science and public health.

In addition to the Benicia General Plan with policies and programs supporting sustainable development, the following approaches are offered for reference by the Governor's Office of Land Use and Climate and Innovation or LUCI (formerly Governor's Office of Planning and Research)

Below are approaches offered by the LUCI and at this link. https://lci.ca.gov/wp-content/uploads/OPR_Appendix_A_final.pdf Referring to these goals, objectives and policies are a reference for determining the environmental impact to the physical environment through the sustainability lens of the project and Environmental Impact Report (EIR) alternatives. These are included not only for reference but also for the city officials, decision makers and the public to have a clear understanding of the potential impacts of development on sustainability.

Core Sustainability Analyses

For sustainable developments that require a full Initial Study or Environmental Impact Report (EIR), the analysis heavily focuses on the project's alignment with long-term climate goals. Key areas evaluated include:

- Greenhouse Gas (GHG) Emissions: Calculating the project's carbon footprint during both construction and operational phases.
- Energy Demand: Evaluating energy conservation measures, efficiency, and use of renewable energy sources.

- Transportation: Analyzing Vehicle Miles Traveled (VMT) to ensure the development reduces auto reliance and promotes public transit or active transportation (walking/biking).
- Population and Housing: Ensuring the project minimizes displacement and efficiently utilizes existing urban infrastructure.

Design for Sustainability and Stability

Goal: Accommodate the development of a mix of land uses that meet the diverse needs of residents and businesses, with places to live, work, shop, be entertained and culturally enriched, engage in healthy lifestyles, and engage with one's community. *There is a potential impact to existing city-centered civic, cultural and commercial General Plan goal and potential significant impacts to environment if the new "center" of this project impacts downtown which could result in loss of commercial viability and physical decline for lack of retail support. The EIR should discuss this conflict for impacts to the environment as a result of downtown blight. There is an abundance of examples in the state.*

Objective 1: Regulate and Optimize Density (General)

Policies, Programs, Actions:

- Regulate the levels of building intensity and population density consistent with the designations established by the Land Use Diagram. Within these designations, cumulative development shall not exceed (insert number) additional persons or housing units) and (insert number) additional employees (or non-residential building square feet) by (insert year). *It is noted that the current zoning is light industrial and commercial with a particularly egregious commercial designation at Lake Herman Road and I-680 thus defeating the purpose of integrating commercial into neighborhoods making the community walkable and less dependent on driving.*
- Review the General Plan's residential and commercial capacities every five years and modify, as necessary, to reflect development that has occurred, its impacts, evolving market and economic conditions, and consistency with community values. *This is timely in light of the proposed developments such as Valero/Signature and California Forever and Shipbuilding at Mare Island - and the NOP should discuss how different capacities have changed and to what extent limited industrial and commercial play a role.*
- Allocate sufficient land at densities sufficient to support the development of businesses offering jobs matched to the education and skills of the city's residents and housing affordable to employees of local businesses, thereby reducing commutes to and from outside of the community.

- Avoid the overconcentration of uses and facilities in any neighborhood or district where their intensities, operations, and/or traffic could adversely impact the character, safety, health, and quality of life.

Objective 2: Enhance areas at the local level to increase livability and bolster local economy while reducing automobile traffic. *This objective clearly calls for infill development.*

Policies, Programs, Actions & Programs:

- Provide for and encourage the development of a broad range of uses in the city's commercial centers and corridors that reduce the need to travel to adjoining communities and capture a greater share of local spending.

Provide for New Development

Goal: Support development projects that provide a diversity of urban and suburban neighborhood opportunities. Ensure that new residential growth areas include neighborhoods that provide a mix of residential types and densities, and appropriate transitional features integrating the area with adjacent existing neighborhoods and development.

Objective 1: Plan new development that is high-quality and well-integrated into existing cities and communities.

Policies, Programs, Actions:

- **Provide opportunities for interested and affected parties to have input in proposed planning activities as early as possible.** *This is highlighted because the current city approach is to use consultants to solicit comments and respond but there is no public dialogue or vetting of information including about the General Plan. The public and some city officials would benefit from learning how planning works so that the public and officials are using ground-truthed information and opportunity to have community input in the decision making. The approach for the last several years (with the exception of East 5th Street process) does not seek advice and collective recommendations from an appointed advisory committee.*
- Encourage the retention and production of diverse types of housing within Urban Service Areas in order to provide adequate housing choices for current and future residents.
- Coordinate the development of capital facilities and infrastructure with the timing of growth to ensure adequate and high levels of services for existing and new development. *This is challenging because of a Ponzi-like fact of new development generating one-time fees and property tax but sometime in the future the property tax at a fixed rate cannot support the maintenance of city infrastructure due to inflation and*

thus all new and old streets, sidewalks begin to deteriorate causing a physical impact to the environment by reducing safe streets and sidewalks for bicycles and pedestrians. This includes impacts to trees which may die for lack of maintenance and not provide shade for reducing urban heat nor air pollution abatement. While some would argue that fiscal analysis is not a CEQA requirement, the blight of deteriorating infrastructure including trees is an impact. One need only look at existing conditions in the city to see the reality of these impacts for sustainability.

- Encourage the retention and production of diverse types of housing within Urban Service Areas in order to provide adequate housing choices for current and future residents.
- Coordinate the development of capital facilities and infrastructure with the timing of growth to ensure adequate and high levels of services for existing and new development.
- Provide for a diversity and variation of building types, densities, and scales of development in order to reinforce the identity of individual neighborhoods, foster a variety of market-based options for living and working to suit a large range of income levels, and further affordable housing opportunities.
- Require that new development and reconstruction comply with the California Green Buildings Standards Code with amendments and update periodically to reflect future amendments. *The update requirement is based on the longevity of construction of large projects and changing standards. If a Development Agreement is adopted, it must include this update process to ensure future sustainability.*
- Require that the scale and massing of new development in higher-density centers and corridors provide appropriate transitions in building height and bulk and are sensitive to the physical and visual character of adjoining lower-density neighborhoods.
- Require that buildings are designed as a high-quality, long-term addition to the City's urban fabric; exterior design and buildings shall exhibit permanence and quality, minimize maintenance concerns, and extend the life of the building. *This is critical to meeting sustainable development standard. Rather than bending to developers' desire to use less quality materials to save costs (which have an impact on affordability) but cheaper materials cost the environment and resident future costs and are an environmental impact.*

Objective 2: Promote compact development patterns, mixed-use, and higher densities that use land efficiently; reduce automobile dependence and pollution and greenhouse gas emissions, and facilitate walking, bicycling, and transit use, including through mixed-use corridors and activity centers.

Policies, Programs, Actions:

- Target growth and new construction in infill areas by redeveloping underutilized commercial, residential, and industrial properties. *Consider infill as an alternative for the EIR.*
- Site a mix of housing and jobs in close proximity or through mixed use development so that bicycling, walking and transit use is a viable option for residents and employees.
- Protect and conserve land that is used for agricultural purposes, including cropland and grazing land. *This applies to the county in general. The Benicia General Plan designates land inside the Urban Growth Boundary for development.*
- Encourage new neighborhoods to be designed to locate all housing within ½ mile of a central gathering place that incorporates public spaces, shopping areas, access to transit, and/or community-supportive facilities and services. *This is a potential impact to downtown viability which could lead to blight. The general plan stipulates that the city center is civic, cultural and commercial and policies in the general plan support the focus the downtown. The EIR should discuss the impacts of a blighted downtown as a result of shifting focus to new development areas. Policies for sustainability suggest neighborhood services but not cultural, recreational and major retail. Decades of evidence of the harm and blight to historic downtowns as major retail is established elsewhere.*