

**AGENDA ITEM
CITY COUNCIL MEETING: JUNE 3, 2008
PUBLIC HEARING**

DATE : May 27, 2008
TO : City Manager
FROM : Community Development Director
SUBJECT : **BENICIA BUSINESS PARK VESTING TENTATIVE MAP,
MASTER PLAN OVERLAY AND REZONING (CONTINUED)**

RECOMMENDATION:

Adopt resolutions (1) approving the proposed Vesting Tentative Map, Master Plan Overlay and Rezoning, with conditions (as may be modified by the City Council); and (2) adopting the accompanying EIR Addendum, Mitigation Monitoring and Reporting Program, Statement of Overriding Considerations for a significant and unavoidable air quality impact due to ozone precursors, and associated Findings pursuant to the California Environmental Quality Act (CEQA).

EXECUTIVE SUMMARY:

The City Council continued this public hearing from May 20, 2008 to allow opportunity for additional public comment. Per Subdivision Map Act Section 66452.2, the City Council must act on the application at the June 3, 2008 meeting unless the applicant and Council agree to an extension. Staff has provided project conditions intended to allow approval of the project.

BUDGET INFORMATION:

The project would be required to contribute its fair share for City services, including funding and installing all on-site infrastructure and necessary off-site utility connections, paying development and traffic impact fees, and providing sites and funding for fire, police and public works facilities.

To ensure zero cost to the City for providing services related to the development, project condition 199 requires the development to:

- Construct a police substation in the commercial area and pay all police costs (because the project would account for all of the demand for new police service in the area); and

- Construct a fire station and fund 50% of ongoing operations (the level of demand for fire service identified by the fiscal analysis submitted by the applicant as attributable to the project).

ENVIRONMENTAL REVIEW:

The City Council certified the project EIR on February 19, 2008. Resolution No. 08-13 certifying the EIR directs that:

the Hillside/Upland Preservation alternative be evaluated in an Initial Study that conforms to the law; analyzes, in particular, the following issues: Leadership Energy and Environmental Design (LEED), AB 32, I-780 traffic, sustainability and urban decay; and considers appropriate mitigations for the environmental impacts.

Counsel for the applicant submitted a March 26, 2008 proposed addendum to the EIR that states:

Where an EIR has been prepared and certified for a project, and a further discretionary approval is required for the project, the "initial study" consists of determining whether a subsequent or supplemental EIR should be required.

The April 29, 2008 Draft EIR Addendum prepared by LSA Associates finds that the revisions to the project do not create new significant environmental impacts or increase the severity of impacts identified in the EIR, and, therefore, a supplemental EIR is not required per (CEQA) Guidelines Section 15164. According to the Draft Addendum, project revisions have eliminated the following formerly significant impacts:

- LU-1, which indicated the project would substantially conflict with General Plan environmental protection policies;
- TRANS-22, which would have required a project contribution to widening I-780;
- VIS-1, 2 and 3, which described adverse affects on scenic vistas; and
- CULT-1, which described an impact to cultural resources on-site.

The Draft Addendum indicates that additional transportation impact mitigation measures might be able to be eliminated if updated traffic data is provided by the applicant. Condition 11 requires such analysis prior to the approval of the first final map for the project. The Draft Addendum also calls for reducing the scope of wetland protection measure BIO-2b to reflect increased protection of drainages.

The Draft Addendum includes a discussion and analysis concluding that the revised project would be partially consistent with most of the measures identified by California Environmental Protection Agency to reduce greenhouse gas emissions in commercial and industrial development in compliance with AB 32 (whereas the prior project was found to be generally inconsistent with the Cal EPA measures). The Draft Addendum recommends an additional mitigation measure GREEN-1 requiring trails in the project open space connecting the site to surrounding areas, which is required by condition 90.

EIR mitigation measure TRANS-23 and condition 171 require the project to extend Benicia Transit (Benicia Breeze) to the project site, and condition 171 further requires provision of transit within the site.

SUMMARY:

On February 19, 2008, the City Council certified the Benicia Business Park EIR but determined that the project as proposed could not be approved due to inconsistency with the City's General Plan. Revisions to the project were submitted on March 20, 2008. On April 10, 2008, the Planning Commission recommended denial based on insufficient information to eliminate inconsistencies with the General Plan regarding impacts on geologic resources, urban decay downtown, overall community health, and bicycle and pedestrian circulation.

A majority of Planning Commissioners expressed a desire for more time to review the project, in part because environmental documentation for the revised project was not yet available. The Draft EIR Addendum, published April 29, 2008, concludes that the revisions to the project have resolved the prior General Plan inconsistencies that created a significant impact per CEQA.

The Planning Commission also recommended that the applicant work with staff to refine the project into one that could gain community support, and indicated that a Development Agreement would be an appropriate tool to achieve this objective. Benicia Municipal Code Section 17.116.020 provides the option of a Development Agreement at the request of a project applicant. Since the applicant has not requested a Development Agreement, staff and the applicant have instead been meeting regarding project conditions. Staff-recommended changes since April 10, 2008, are shown in the attached list of conditions.

Project Description

The proposed project is located in northeastern Benicia. The project site consists of 527.8 acres of undeveloped land bounded on the south and east by East 2nd Street. The western boundary is an irregular property line that generally parallels the alignments of West Channel Road and Industrial Way. The northern property line is also irregular and is bounded in part by the City of Benicia Water Treatment Plant and Lake Herman Road.

The project as revised per the March 20, 2008 submittal includes:

- Rezoning of the site to apply the Master Plan Overlay designation and adjust the General Commercial and Limited Industrial zoning district boundaries;
- Subdivision of the site into 80 lots ranging from 1.5 to 5.4 acres;
- Development of approximately 150 acres of limited industrial and 35 acres of commercial land uses, with approximately 2.35 million square feet of industrial building space and 857,000 square feet of commercial uses – projected to result in the direct creation of 4,535 jobs;
- Open space totaling 312 acres, including buffers to preserve drainages, topographic features and the rural character of Lake Herman Road;
- Utilities and infrastructure, including 30 acres of roads; and

- Two 1,000,000-gallon tanks to supply water for the project.

The project has been conceived in various forms since the early 1980s. In 1981 an EIR was prepared for a mixed-use development proposal that included the project site. At that time, the site was part of unincorporated Solano County, and annexation to the City of Benicia was evaluated in the EIR. In 1983, the City Council approved a General Plan amendment, pre-zoning, and annexation of the site and certified the EIR. The Local Agency Formation Commission approved the annexation in 1985. In 1988, a site plan was developed for an industrial park with 115 lots on 319 acres of the property. The sponsor withdrew the application prior to environmental review.

An EIR was prepared for a subsequent industrial park proposal in 2001. After the Draft EIR was circulated for public review, the applicant made changes to the project. In 2004, Discovery Builders assumed the role of applicant and submitted the current project application, with EIR certification in February 2008. The project analyzed in the EIR included approximately 60 percent of the land area for development and 40 percent for open space.

The revised project reverses the prior open space/development ratio, with approximately 60 percent open space. The application seeks City Council approval of a Vesting Tentative Map, Master Plan, and Rezoning to subdivide the site. The applicant has characterized the project revision as a combination of the Waterway Preservation and Hillside/Upland Preservation EIR alternatives. The project is proposed to be built in five phases, starting with the 35-acre (14-lot) commercial area (based on assumed tenant/buyer interest).

Differences from the project analyzed in the EIR include:

- Distribution of development into separated areas of the site.
- Reduction of industrial development from 4.44 million to 2.35 million sq. ft.
- Increased preservation of slopes and hilltops.
- Inclusion of 100-to-200-foot buffers along drainages, swales and other wetlands.
- Reduction of grading from roughly 9 million to 4 million cubic yards.
- Reconfiguring of the commercial area to be consistent with the General Plan and preserve a waterway.
- Separated bike/pedestrian paths along through roads.
- Bio-swales in parking lots and along roads.
- LEED design guidelines.

Planning Commission Issues

In recommending denial of the project, the Planning Commission found that the applicant failed to provide sufficient information to demonstrate consistency with the General Plan regarding impacts on geologic resources, urban decay downtown, overall health of the city, and bicycle and pedestrian circulation. The Draft EIR Addendum finds that the revised project “would not result in a significant unavoidable impact in regard to consistency with the General Plan,” but “the City Council is the proper decision-making body to make an overall finding on the consistency of the project with the General Plan.”

The geologic impact discussed at the April 10, 2008 Planning Commission meeting was proposed grading of the western hillside in Phase 1, which would reduce the hill by about 45 feet and create a 3:1 slope rising more than 80 feet directly above East Second Street. Project condition 98b requires the applicant to redesign this area prior to consideration of the first final map application by the City Council.

Condition 11 requires the applicant to update the analysis of potential for urban decay that was included in the EIR prior to approval of the first final map. EIR mitigation measure DECAF-1 and project condition 205 require updating that analysis if the amount of retail development is proposed to increase beyond 100,000 sq. ft. and/or if a single retail use larger than 20,000 sq. ft. is proposed.

Community health issues discussed by the Planning Commission focused on pedestrian and child safety and air quality, especially in proximity to East Second Street and Robert Semple Elementary School. Senate Bill 352 establishes findings that school districts must make when siting or building new schools within 500 feet of major roadways. 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. Condition 99e (xii) requires the applicant to install a new high-visibility crosswalk at the intersection of East 2nd St. and Hillcrest Ave, and mitigation measure NOI-2c and condition 183 require either soundwalls or rubberized asphalt along East 2nd St. Other options include traffic calming and vehicle weight and speed limits.

Bicycle and pedestrian circulation issues discussed by the Commission included walkability within development areas, amenities for bicyclists such as storage and showers, and a public access trails in project open space, which are required by condition 172.

Design Guidelines

The proposed master plan includes guidelines for commercial and industrial uses intended to ensure quality development and promote sustainable practices. The guidelines encourage LEED strategies for green building, as well as low-impact development through bio-swale drainages and bio-retention basins, reduced paving, and use of recycled products for parking lot materials. Prescribed design elements include wall articulation, multi-planed pitched roofs, window rhythm, variety of massing, and landscaping. City review is required for design of all buildings on-site: staff-level for industrial and commission-level for commercial structures.

Public Facilities Sites

The revised project includes two lots (45 and 46) totaling 4.5 acres set aside for a fire station to satisfy the requirement of EIR mitigation measure PUB-1a (though the site needs to be developed as part of the first phase). The applicant also has proposed a 7.4-acre site for a City corporation yard at the southeast corner of Industrial Way and A Boulevard to satisfy EIR mitigation measure PUB-1b. The Police Department office identified in EIR mitigation measure PUB-1a would need to be provided on the

commercial portion of the property as part of Phase 1. These facilities would include five police officers, two patrol cars, 12 fire fighters, a fire engine, a brush truck, and administrative support.

Additional Conditions

In response to Council comments at the May 20, 2008 meeting, staff has modified the project conditions as summarized in the following matrix:

Subject	Condition	Modification
<i>Project Compliance</i>		
During all site work Around-the-clock	103f	The contract employee position must be full-time. The applicant also must provide 24-hour security personnel at the site, who must inform the City immediately of any work activity occurring outside hours allowed by City regulations.
<i>Greenhouse Gas Reduction</i>		
21st-century businesses	13	The applicant must work with the Economic Development Manager to attract high quality business including cleantech and zero waste/emission companies.
Additional transit components	176	The project must provide as many of the following measures as practicable: <ul style="list-style-type: none"> • A park-and-ride site as needed to serve the project.
<i>Grading</i>		
Western commercial area	98b	Prior to grading, the applicant must obtain approval from the City Council of a new grading plan that better conforms to existing topography and minimizes cuts and fills.
<i>Semple School</i>		
Child safety	99e xii	The applicant must install a high-visibility crosswalk treatment with flashing lights at East 2 nd St./Hillcrest Ave.
<i>Sustainable Design</i>		
Green Building	79	All buildings must be LEED certified.
Development Agreement Form-based Code Specific Plan	23	Prior to the first building permit in each phase, the applicant must provide a site-specific plan in conformance with LEED-ND guidelines, Low-impact Development standards, and campus design.
<i>Financing</i>		
Zero cost to City	207	Prior to the first final map, a revenue sharing agreement must be established that ensures no cost to the City for providing services to the project.

In response to a Council concern regarding scheduling of project improvements, condition 91 allows the applicant to provide data analyses with quantified thresholds that could convince the City Council to allow adjustments to phasing and timing of project infrastructure. Additional oversight could be achieved through a committee to make recommendations to Council regarding project compliance.

Sky Valley Committee Recommendation

During its May 7, 2008 review of a proposed eight-lot subdivision outside the City near Lake Herman, the Sky Valley Open Space Committee recommended a condition of

approval encouraging Discovery Builders to purchase the Signature Properties site to mitigate cumulative impacts related to the Business Park development. The EIR did not identify cumulative impacts related to the development of 20-acre parcels in the County.

CONCLUSION:

Staff believes that the project is ready for Council approval with the attached list of project conditions, which include around-the-clock oversight to ensure compliance with all conditions and mitigation measures.

Attachments:

- Draft Resolution of Project Approval, with (A) Project Findings and (B) Conditions of Project Approval
- Draft Resolution of Approval of CEQA Documentation, with (A) CEQA Findings and Statement of Overriding Considerations, (B) Mitigation Monitoring and Reporting Program, and (C) EIR Addendum (by reference)
- Public comment received since the May 20, 2008 City Council meeting packet

The project revisions and Draft Addendum, which were included in the May 6, 2008 City Council packet, and public comment from the May 6, 2008, and May 20, 2008 City Council hearings are available via the City website or the Community Development Department.