

Item No. 23

Supplemental Material

For
City of Sacramento
City Council
Housing Authority
Redevelopment Agency
Economic Development Commission
Sacramento City Financing Authority

Agenda Packet

Submitted: July 25, 2007

For the Meeting of: July 31, 2007



Additional Material



Revised Material

Subject: Northgate 880 / Panhandle - Public Hearing

Contact Information: Arwen Wacht, 808-1964

Please include this supplemental material in your agenda packet. This material will also be published to the City's Intranet. For additional information, contact the City Clerk Department at Historic City Hall, 915 I Street, First Floor, Sacramento, CA 95814-2604 B (916) 808-7200.



PLANNING
DEPARTMENT

CITY OF SACRAMENTO
CALIFORNIA

NEW CITY HALL
915 I STREET, 3RD FL
SACRAMENTO, CA
95814-2998

PLANNING
916-808-5656
FAX 916-264-5328

July 26, 2007

To: Honorable Mayor and Members of the City Council

From: Arwen Wacht, Planning

Re: Northgate 880 / Panhandle Letters (M05-031 / P05-077)

Please find copies of the letters and e-mails staff has received since the production of the May 24, 2007 Planning Commission staff report for the Northgate 880 / Panhandle project.

- Natomas Charter School letter dated November 13, 2006 (submitted by the applicant for Panhandle - P05-077) (1 page)
 - Letter details that they have no concerns with the location of multi-family residential land uses adjacent to the charter school.
- Christine Paros (Natomas Park Master Association) e-mail letter dated February 19, 2007 (7 pages)
 - Letter details: Request that no more Natomas land be approved for residential development until the levees are repaired, until a comprehensive flood evacuation plan is established and tested, and until the Sacramento Police Department is staffed at nationally accepted standards; Concerns about the drastic reduction in the amount of open space; Concerns about the Inclusionary Housing Plan proposals; Concerns about the elimination of the greenbelt along Elkhorn Boulevard; The proposal should provide bicycle/pedestrian connectivity between all open space elements; Request for residential uses above the retail/commercial elements of the project; Request for the PUD Schematic Plan and Tentative Subdivision Maps to include the layouts of the high density residential projects; Concerns about the amount of acreage intended for school sites; Request for the Panhandle proposal to be rezoned per the General Plan land use designations; Request for all parks and bike paths to be “turn key” and constructed prior to 50% development; Request for landscape plan review and vintage lamp posts; Requests for additional vehicular and bike connection; Request for the Panhandle project to be developed as shown in the existing NNCP.



- Tristan Godt e-mail letter dated May 21, 2007 (1 page)
 - Letter details: Over saturation of high density housing and empty commercial buildings in North Natomas; Need for additional open space; Concerns that no more residential development be approved in Natomas until levees are repaired or a comprehensive flood evacuation plan is established and tested, and until the Sacramento Police Department is staffed at nationally accepted standards.
- Sacramento Police Department response memo to Tristan Godt's letter, dated May 23, 2007 (1 page)
 - Memo addresses concerns raised in Tristan Godt's letter regarding Police issues.
- Robert Cowan letter dated May 16, 2007 (1 page)
 - Letter details: Providing City utilities to the residents east of Sorento Road; grandfathering in property owners to the east of Sorento Road to connect or not to connect to City utilities at the prevailing rate at that time; That wells located east of Sorento Road will not be infringed upon, condemned, or otherwise interfered with; Property taxes will not be increased for residents who choose to connect to City utilities; and if a special utility tax district is set up at a later date, the property owners will not be included in the district.
- Vernon R. Rittscher letter dated May 16, 2007 (1 page)
 - Letter details are identical to the previous letter.
- Maria Chavarin letter dated May 18, 2007 (1 page)
 - Letter details are identical to the previous letter.
- Amarjit Sangha letter dated May 20, 2007 (1 page)
 - Letter details are identical to the previous letter.
- Karen and Britt Rodgers faxed letter dated May 24, 2007 (2 pages)
 - Letter details: Privacy concerns regarding the four single-family lots that will be backing onto their property (would like to request that only one story houses be allowed there); Flooding/drainage issues; Request for a masonry wall between the existing Northpointe Park residents and the proposed Panhandle parcels; Concerns that the proposed houses (1,400-2,200 square feet) will not match the existing homes in the area (3,000-4,400 square feet); Inquiries about the funding for schools and parks; And inquiries about minimizing construction dust and debris.
- Ralph Friend (Robla School District) letter dated May 22, 2007 (1 page)
 - Letter details: Details on their negotiations with Dunmore Homes to acquire and build a school site within the Panhandle area.
- James P. Pacht e-mail letter dated May 24, 2007 (5 pages)
 - Letter details: Concerns about certification of the EIR by Planning Commission; The definition of flood hazard safety measures; Open space buffer elimination; Finance plan circulation; And agricultural land impacts not being mitigated.



- Brigit S. Barnes & Associates, Inc. (for Jim Gately, J.B. Management, L.P.; J.B. Properties; and J.B. Company) letter dated May 24, 2007 (14 pages)
 - Letter details: Concerns with the environmental document;
- Walt Seifert (Sacramento Area Bicycle Advocates – SABA) e-mail letter dated May 29, 2007 (2 pages)
 - Letter details: Lack of connectivity from the Panhandle project site to the surrounding area and amenities.
- Richard Hack e-mail letter dated May 31, 2007 (2 pages)
 - Letter details: Concerns about Grant School District and school district issues brought up at the Planning Commission meeting on May 24, 2007; Inquiry about a bike trail down the west side of the Panhandle project and providing connections to the south; A request for the Planning Commission not to approve the annexation until the City's provides the infrastructure promised in the General Plan, Police department staffing is increased, and the flooding threat is reduced.
- Tristan Godt e-mail letter dated May 31, 2007 (2 pages)
 - Letter details: Concerns about the locations of the inclusionary housing components, the type of inclusionary units proposed (rental versus ownership), and over-saturation of apartments in the area.
- Christine Paros (Natomas Park Planning Committee) e-mail dated May 31, 2007 (8 pages):
 - Letter details: Concerns about school district issues, flood issues, providing ownership inclusionary housing units, having high density residential uses next to a school, provisions for a police substation in North Natomas and additional police protection, the proposal should keep the greenbelt along Elkhorn Boulevard, provisions for a larger Ueda buffer zone, the lack of large lot development, and if a buffer cannot be put in place on the eastern property line the proposal should provide for rural estates development along the eastern portion of the property.
- Karen Rodgers e-mail dated May 31, 2007 (2 pages)
 - E-mail details: If the Panhandle proposal will be governed by an association, if the homeowners will have a required timeline for landscaping their backyards, and if there is a way to limit the number of two story homes.
- Judith Lamare e-mail dated May 31, 2007 (1 page)
 - E-mail details: Flood related issues.
- Brigit S. Barnes, Inc. letter dated June 14, 2007 (10 pages)
 - Letter details: Concerns with the environmental document.
- Gary Sawyer letter dated June 14, 2007 (15 pages)
 - Letter details: Concerns with Grant School District.



- Valley View Acres Community Association (VVACA) letter detailing the issues of agreement between VVACA and the applicants (dated June 19, 2007).
- Brigit S. Barnes and Associates, Inc. letter dated June 28, 2007 (12 pages)
 - Letter details: Concerns with new information, affordable housing, and Urban Design comments.

cc: City Manager
City Attorney
City Clerk

February 19, 2007
Ellen Marshall
City of Sacramento, Development Services Department
New City Hall, 915 I Street, 3rd Floor
Sacramento, CA 95814

Re: Panhandle Annexation & Development Comments on project P05-077 and its Draft Environmental Impact Report (DEIR).

Dear Ms. Marshall,

Our Natomas Park Master Association (NPMA), representing approximately 12,000 homeowners, OPPOSES the Panhandle project, application P05-077, for the following reasons, including many concerns that were not adequately evaluated in the DEIR. We request these impacts be fully addressed in the FEIR and included in the administrative record for this project and its CEQA review:

- **Until levees are repaired, and as a mitigation measure, we request no more Natomas land be approved for residential development:**
 - All undeveloped land needs to be left undeveloped where possible to provide vital drainage and avoid adding more pressure on fragile levees.
 - The Panhandle, a huge, 600-acre land area, floods substantially. It flooded Del Paso Blvd in 2005. What will happen when the river and levees are full and there is nowhere for drainage to go?
 - We request the Panhandle EIR provide a *quantitative* assessment of levee and flood risks, including worst-case analysis of Panhandle drainage flow volumes & levee impact, assuming all approved Natomas developments are built.
 - NPMA fully supports NCA's comments to the Panhandle PUD & DEIR dated 12/18/2006 and requests a complete response in the FEIR.
 - We request Staff provide an explanation of the drainage plan for NPMA community review. Will there be a forced pump system? Why is water from the south Panhandle proposed to be pumped north and piped to the Main Canal? It should gravity flow directly to the C-1 canal. Otherwise, it could exacerbate flooding in central Natomas Park during extreme flood events. The 2 drainage basins are of special concern.

- **Until a comprehensive flood evacuation plan is established & tested, we request no more Natomas land be approved for residential development:**
 - Flood evacuation needs could require a different approach to transportation patterns.
 - Panhandle development will add *thousands* of residents.
 - PUD Dwelling Unit (DU) totals per zone are not provided. How many DU are there?
 - There are 8000+ *unbuilt* approved residential units in Natomas now. Evacuating our current population of approx. 90,000 residents may not be feasible. An evacuation plan that ensures that no residents will fail to escape a worst case flood event needs to be required as a mitigation measure and adopted by City Council prior to approval of any maps or issuance of any building permits.

- We request the EIR provide a quantitative analysis of the Panhandle impact on flood evacuation capability should Natomas worst-case flood risk be realized.
- **Until the Sacramento Police Department is staffed at nationally accepted standards, we request no more Natomas land be approved for development:**
 - Both the population and crime in Sacramento are on the rise and the Sacramento Police Department is not growing in response to either.
 - Sacramento is currently staffed at 1.4 officers per 1000 residents. The department is authorized to employ enough officers to raise the ratio to 1.9 officers per 1000 residents. This is well below national average for cities of similar size and crime rates.
 - In the Natomas area alone there are only 36 authorized officers dedicated to the area. This represents less than 1 officer per 1000 residents, with more growth planned.
 - Please see all of the following for further details on these figures:
 - Sacramento Police Department 2005 Annual Report
 - Sacramento Police Department Crime Statistics
 - 2005 Census
 - “Understaffed police force affecting city” from the 02/05/2007 Sacramento Bee
- It is unacceptable to reduce open space so drastically (@ 100-acres or 50%) from General Plan (GP) & North Natomas Community Plan (NNCP) designations:
 - This change increases local flooding risk by removing 100 acres of drainage land capacity.
 - The increase from GP & NNCP residential densities creates *more* need for open space.
 - The developer receives a double bonus profit from both increased DU density and reduced open space. What justifies giving this boon at community expense? The developer knew these designations when the land was bought.
 - NPMA strongly supports the Panhandle Working group’s open space position. The points in this position paper especially as they relate to issues required to be discussed in an EIR need to be fully evaluated in this EIR. They have not been.
 - Putting the primary recreational open space under EVA power lines is visually unpleasant. As the 1985 NNCP indicated, the lines are noisy. Already adopted mitigation from the 1985 plan requiring substantial setbacks needs to be disclosed and carried forward. The school district is prohibited by law from even placing a parking lot within 150 feet of these power transmission lines for their property within the Panhandle. How can the city justify a few feet? Impacts need to be disclosed and quantified.
 - We recommend the development agreement require *developer* liability if EVA exposure becomes a proven health risk. We do not want our taxpayer dollars put at risk for this.
- This proposal does not include SHRA’s inclusionary housing plan. We request SHRA present their inclusionary plan to NPMA in writing for review prior to Planning Commission review.
- We oppose the apartments in parcels 798 & 799 at the SW corner:
 - All new housing should be *ownership* until levees are fixed & evacuation plans established. Evacuating renters posed serious problems during Katrina. If there is a detention basin, it should be placed at this location where it can capture natural drainage from Dry Creek and Robla Creek watersheds.
 - Parcels 798 & 799 cannot be designated for inclusionary housing. These parcels are located within 500’ of the Pardee inclusionary apartments. City policy states that inclusionary housing cannot be located within 500’ of another inclusionary project.

- Apartments will surround the charter school. This is unwise given today's world of stalkers. There have concerns raised already.
- We have too many apartments already on Del Paso Blvd. East of Truxel.
- The northern greenbelt on Elkhorn provides high investment return & should not be eliminated:
 - This Panhandle frontage completes the entire greenbelt from Hwy 99 to the Ueda parkway.
 - The Ueda connects to the American River Parkway. The greenbelt therefore creates vital bike/ped connectivity to a Sacramento *regional* off-street bikeway/parkway system.
 - Removing this greenbelt will create a "piecemeal" visual appearance to Elkhorn Blvd.
- There is no bike/ped *connectivity* among all the open space elements. This is critical for dense projects. People will walk & exercise more when they can take long walks or jogs to destinations without mixing with vehicles. Natomas especially needs east-west connectivity. The community plan is based on trio reduction levels that assume connectivity. Impacts need to be disclosed and quantified.
- We request the Community Neighborhood Commercial (CNC) & MDR be revised back the original plan using commercial below second & 3rd story lofts. This was an excellent product that we do not have in NN. It has better visual appeal than the revised proposal.
- The PUD & tentative map need to include layouts of all high density (HD) parcels. We request the applicant provide maps showing HD building layouts, landscape easements, traffic patterns, etc. These can be easily provided as done for other uses. HD parcels greatly impact project viability. How can one properly review a PUD, map or DEIR without their layout integrated in the PUD?
- There is no need for the schools to have 76 acres; 1/12th of *total* Panhandle acreage and nearly equal to total Panhandle open space:
 - There are K thru 12 schools for thousands of students being constructed on 13-acre sites.
 - Current GP & NNCP plans provide a 5.5 acre Public Facility site that is adequate space for a school and sports field.
 - We oppose lighted sports fields adjacent to NP, except at the current GP & NNCP school site.
 - We request total school acreage be limited to 20 acres and convert the remaining 56 acres to open space. Future development N of Elkhorn will have additional sites for Grant USD.
- We request the proposal be rezoned properly per the GP land use designations:
 - The school sites are incorrectly designated R-1 PUD, inflating R-1 totals. We request these be designated Public Use or separated in to a separate R-1 category.
 - We request all low density residential be accurately rezoned as R-1 (Std. Single Family low density), not R-1A (Single family alternative low-medium density). There is already plenty of MDR & HDR in the plan. True low density is needed for mixed use balance.
 - We request all MDR be properly rezoned as *ownership* housing that is R-2 or R-1A. R-2A is a *multi-family* zone that allows for rental apartments. We want *ownership* housing only.
 - We request the RE rural estates zoning to be reinserted in plan. Natomas needs to continue to attract High End housing balance for sustainability. Mixed Use viability relies on density & economic *balance*. This site offers a rare opportunity for both Rio Linda & Sacramento to attract high end homebuyers who want to build custom homes on larger lots. Affluent homebuyers should not have to leave our community to build an "estate" home.
- NPMA requests all parks & bike paths be "turn key", constructed by/before 50% development.
- NPMA requests landscape plan review prior to project approval & also requests vintage lamp posts.

- We recommend D way & H way be connected to National Drive. This distributes commute traffic more evenly among a number of East-West collectors reducing traffic on each as in Midtown.
- We request the developer be conditioned to add speed bumps on every road leading around park lots A & B to National Drive so that taxpayer dollars are not needed for them. This same traffic pattern has caused speeding problems on Crest Way & Danbrook Dr.
- If not in plan, an East-West bike/ped only route connecting NP through Valley View acres to the Ueda bikeway needs to be conditioned so we don't have to use busy Del Paso Blvd.
- We request the City update the Bikeway master plan for all "prezone" projects. They are not in the Bikeway master plan. An alternate transportation master plan needs to be established.
 - All bike paths require 2' decomposed granite shoulders per the City bikeway master plan.
 - All sidewalks need to have handicap access curbs installed at developer expense.
 - All parks & greenbelts need crosswalks on streets installed at developer expense.
- If not in plan, emergency access for the fire dept is needed to all site lots.

We urge you to **disapprove** this proposal for the numerous reasons above. The flood & flood evacuation concerns alone should be enough to merit disapproving this project until we have a better understanding of evacuation traffic patterns & needs. It is irresponsible to continue placing thousands of additional people in harm's way posing great financial liability for the city if a flood should occur. This land is not in the City yet. Why rush?

The EIR also needs to make a serious, quantitative evaluation of drainage & flood impacts.

Beyond the flood issues, changing the GP & NNCP land uses in such a wholesale manner without a clear *need* and without community consent is bad precedent. Why is such a dramatic change needed?

Residents rely on plans when they buy their homes. Prove to residents that we can trust City plans as *commitments* that will not be changed on a whim in such a wholesale manner. The developer bought this land with these designations known. Make the developer build the Panhandle as planned.

Sincerely,

Christine Paros

Planning Committee
Natomas Park Master Association (NPMA)

Cc: D. Roth, R. Tretheway, G. Bitter.



NATOMAS PARK MASTER ASSOCIATION

P. O. Box 348677, Sacramento, CA 95834-8677

(916) 925-9200 (916) 925-1990 fax

admin@natomaspark.org

April 27, 2007

Councilmember Ray Tretheway
City of Sacramento
915 – I Street, 5th Floor
Sacramento, CA 95814

Subject: Request for Plan to Preserve Natomas Preferred Risk Flood Rates.

Councilmember Tretheway,

The Board of Directors of the Natomas Park Master Association formally requests the Sacramento City Council implement a plan to preserve preferred risk flood insurance rates for Natomas residents as was done after the floods of 1986.

The Association requests the City respond to our association prior to May 18, 2007 with an explanation of what plan(s) you are implementing towards this objective.

After the floods of 1986, Natomas levees were in worse condition than today. Yet the City was able to convince FEMA to hold off insurance increases by means of special legislation contained in the McKinney Homeless Act, while Sacramento local agencies worked together to improve the levees. Will this same plan be implemented now? Why or why not?

In a Feb 2007 NCA meeting attended by numerous residents and District 1 director Dan Roth, Supervisor Roger Dickinson stated that City & County officials were developing a plan to negotiate with FEMA to retain the lower risk designation if the preliminary April FEMA maps showed Natomas was in a high flood risk zone. The plan he outlined was to convince FEMA to revert back to the current Natomas flood zone prior to the November 2007 deadline for issuing final maps.

No official verbal or written communication of this plan has been observed, nor has any evidence that FEMA is considering such a move been seen. The Association requests now:

- To know what these stated plans are as an official response from the City. SAFCA has referred us to City officials for answers to these questions. Note again that FEMA was not the agency that deferred higher insurance rates last time. It was Congress that overrode FEMA's bureaucratic machinery which did not permit such changes. Is a similar plan in work now?
- For you, as our Councilmember, to act on behalf of Natomas residents to mitigate the severe financial burden residents face with both a flood assessment and mandatory high risk flood insurance costs. Annual insurance costs alone are estimated to be >\$1,000 per household.
 - The Association strongly believes that publicizing efforts to prevent higher flood insurance rates will greatly aid the chances of SAFCA flood assessment passage.
- For the City of Sacramento to explain clearly how it intends to convince Congress and FEMA that Sacramento is acting responsibly to prevent more residents from being put in harm's way.
 - In 1987, Sacramento City imposed a development moratorium. What is the plan now to demonstrate this important criterion?
 - How will the City of Sacramento convince Congress and FEMA that more people are not being put in harm's way when efforts are still underway to annex land and approve new developments in the deep Natomas flood basin?
- For the City of Sacramento to immediately implement strategies that will convince Congress and FEMA to not raise Natomas' flood risk. To this end, the Association requests the City place a hold on all new development applications and all annexation efforts while the flood risk determination is being established... if not longer.
- That City Staff be directed to fully analyze flood risk & flood impacts in DEIRs and EIRs affecting Natomas land. It is unacceptable for environmental reviews to not assess flood risks & impacts as severe when this is what has been communicated by DWR, FEMA, SAFCA and City officials in published media.
- For the City of Sacramento to establish clear and realistic flood evacuation plans for Natomas before approving any more development projects. Emergency personnel have made it clear to the press and residents that they cannot evacuate all residents in a timely manner with locations of stranded residents dependent on location of levee breaches.

- o Given experience from the Katrina Hurricane, how will Sacramento address liability for designating development of numerous inclusionary housing rental complexes in the Natomas flood plain?

Lastly, regarding the SAFCA flood assessment, the Association requests SAFCA and/or City officials to establish:

- A developer flood assessment and a commitment for when said assessment will be implemented. Supervisor Dickinson stated developers were “lining up” to support the assessment. He & District 1 Director Roth both pledged that a developer fee would be established in the near future. Once again, our only information is that “developer flood assessment fees are being considered”. We request the city equally burden all landowners.
- An estimated timetable for when Natomas levee improvements are scheduled to start & complete assuming assessment passage. We are aware our fees will pay for only Natomas improvements. Our concern is to ensure that improvements for our “high risk” Natomas levees start quickly at high priority should the assessment be approved.

Natomas is a mixed use community with many first-time homebuyers and lower income residents. We residents request solid answers as to what the City is doing to help ease our financial burden for flood risks we were not made aware of. The Natomas Park Master Association urges the City to take action as was successfully done after the floods of 1986.

I look forward to a response from your office soon.

Sincerely,

Mike Cooper
Board President

CC: County Supervisor Roger Dickinson
Mayor Fargo
Sacramento City Council members
City Manager Ray Kerridge
Sacramento County Supervisors
SAFCA Board
SAFCA President Stein Buer

May 21, 2007

Dear Planning Commission members:

It is my understanding that over 200 acres had already been approved in the General Plan and North Natomas Community Plan as open space in the Panhandle. Once again, things have changed in order to accommodate developer needs and pocketbooks. North Natomas is already over saturated with high-density housing (three-story apartments and condos surround us!), empty commercial buildings and even more is being built and planned. Greater acreage of open space is necessary for neighborhood beautification, cleaner air and attracting people to live in our community.

Additionally:

- Until levees are repaired, no more Natomas land should be approved for residential development
- Until a comprehensive flood evacuation plan is established & tested, no more Natomas land should be approved for residential development
- Until the Sacramento Police Department is staffed at nationally accepted standards, no more Natomas land should be approved for development

Please consider the population explosion and rapid growth here in North Natomas. Maintaining the original planned open space can only add to what this area has to offer. Reducing space that was already promised does nothing to improve the quality of life for our residents (current and future) nor does it show respect for the Panhandle Working group and their efforts to protect the overall community plan.

Respectfully,

Tristan Godt
Natomas Park Resident
431 Eastbrook Way
Sacramento, CA 95835



SACRAMENTO POLICE DEPARTMENT
CPTED UNIT
5770 FREEPORT BLVD. SUITE #100
SACRAMENTO, CA 95822
916-808-0868



TO: ARWEN WACHT, ASSOCIATE PLANNER
Development Services **DATE: 05/23/2007**

ATTENTION: DANA MATTHES, CAPTAIN
Office of the Chief

FROM: ERIC POERIO, LIEUTENANT
Crime Prevention Through Environmental Design

SUBJECT: PANHANDLE - POLICE DEPARTMENT STAFFING

The following information is in response to Mr. Godt's letter to the Planning Commission dated 5/21/2007:

There is no "nationally accepted standard" for police staffing ratios and the Sacramento Police Department does not currently have an adopted officer-to-resident ratio standard. The Police Department is currently funded for 1.7 officers per 1,000 residents; however, we are currently developing a new Master Plan which will include an updated citywide staffing, resource and facility plan to address current staffing issues as well as growth in the City for the next ten years. The result of the Master Plan study may result in a staffing ratio other than 1.7 per 1,000. The plan is expected to be completed in the summer of 2007.

On an annual basis, the Police Department deploys officers utilizing a variety of data that includes: GIS data, Calls for Service data, Crime Analysis data and Availability of Personnel. At the present time, the Police Department does not have a Police Patrol Facility in the Natomas area. However, we are currently working with the City in an effort to establish a new facility in the area.

Projected growth from this project is expected create an increase in calls for police services. The Police Department will need to grow accordingly and will utilize our new Master Plan to provide specific guidance for that growth. As part of the EIR mitigation measure (4.13.1.1b), we plan to use new funds generated from the finance plan to grow concurrent with development so that we can continue to provide appropriate levels of service for the area.

May 14, 2007

Ms. Arwen Wacht
City Planning Division, City of Sacramento, New City Hall
915 I Street 3rd Floor
Sacramento, CA 95814-2998

Dear Ms. Wacht:

In reference to the general letter that was sent to all property owners concerning the proposed projects, etc. to be heard at the Sacramento City Planning Commission, 5:30 P.M. in the Historic City Hall, 915 I Street, 2nd Floor Hearing Room, Sacramento, CA 95814 on May 24, 2007. This is in specific reference to plan referenced in the letter at P05-077 - North of Del Paso Road and more specifically the General Plan Map Amendment, North Natomas Community Plan Text Amendment, North Natomas Community Plan Map Amendment, Panhandle North - Krumenacher (including the Tentative Master Parcel Map, Tentative Subdivision Modifications); Panhandle North - Dunmore (including the Tentative Master Parcel Map, Tentative Subdivision Map, Subdivision Modification, and other items listed as Panhandle Central - Dunmore and Panhandle South - Dunmore); in more specific, items J - BB under P05-077 - North of Del Paso Road - listed in your May 3, 2007 letter to property owners.

We the undersigned at the address listed below wish to put in formal writing and put a formal request before the City of Sacramento Planning Division as follows: All items listed in P-05-077, items J - BB in the May 03, 2007 letter to Property Owners are to be subject to the following conditions for approval: Residents of property parcels to the East of Sorento Road are to be provided with City utilities i.e. sewer, water, electric, and natural gas, and these shall be installed at the same time as they are installed in the above referenced parcels. All properties are to be "grandfathered", i.e. property owners will be free to hook up, or not hook up, to one or more of the City utilities being installed at the prevailing rates at the time of completion of the utility services. If a property owner does not wish to hook up to any of the utilities provided they will be subject to hook up to utilities when the property changes hands through sale, etc. EXCEPT for transfer between relatives, i.e. parents to children, etc. Only one restriction will apply to the above and that is that wells on the properties East of Sorento Road will not in any way be infringed upon, condemned, or otherwise interfered with. Property taxes for residents who take advantage of hook up to city utilities will not in any way be increased. If a special tax utility district is set up at a later date all property owners who have been hooked up to City utilities as provided above will not be included.

This formal request in writing is in specific response to the paragraph that is second from the last paragraph of the above referenced letter.

Robert H. Cowan 5020 Carey Rd
NAME ADDRESS

MAY 16 - 2007
DATE

Robert H. Cowan
PRINTED NAME

NAME ADDRESS

DATE

PRINTED NAME

May 14, 2007

Ms. Arwen Wacht
City Planning Division, City of Sacramento, New City Hall
915 I Street 3rd Floor
Sacramento, CA 95814-2998

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This formal request in writing is in specific response to the paragraph that is second from the last paragraph of the above referenced letter.

Vernon R. Rittschler
2030 Carey Rd
Sacramento

MAY 16-07

VERNON R. RITTSCHLER
PRINTED NAME

NAME ADDRESS

DATE

PRINTED NAME

May 14, 2007

Ms. Arwen Wacht
City Planning Division, City of Sacramento, New City Hall
915 I Street 3rd Floor
Sacramento, CA 95814-2998

Dear Ms. Wacht.

In reference to the general letter that was sent to all property owners concerning the proposed projects, etc. to be heard at the Sacramento City Planning Commission, 5:30 P.M. in the Historic City Hall, 915 I Street, 2nd Floor Hearing Room, Sacramento, CA 95814 on May 24, 2007. This is in specific reference to plan referenced in the letter at P05-077 - North of Del Paso Road and more specifically the General Plan Map Amendment, North Natomas Community Plan Text Amendment, North Natomas Community Plan Map Amendment, Panhandle North - Krumenacher (including the Tentative Master Parcel Map, Tentative Subdivision Modifications); Panhandle North - Dunmore (including the Tentative Master Parcel Map, Tentative Subdivision Map, Subdivision Modification, and other items listed as Panhandle Central - Dunmore and Panhandle South - Dunmore); in more specific, items J - BB under P05-077 - North of Del Paso Road - listed in your May 3, 2007 letter to property owners.

We the undersigned at the address listed below wish to put in formal writing and put a formal request before the City of Sacramento Planning Division as follows: All items listed in P-05-077, items J - BB in the May 03, 2007 letter to Property Owners are to be subject to the following conditions for approval: Residents of property parcels to the East of Sorento Road are to be provided with City utilities i.e. sewer, water, electric, and natural gas, and these shall be installed at the same time as they are installed in the above referenced parcels. All properties are to be "grandfathered", i.e. property owners will be free to hook up, or not hook up, to one or more of the City utilities being installed at the prevailing rates at the time of completion of the utility services. If a property owner does not wish to hook up to any of the utilities provided they will be subject to hook up to utilities when the property changes hands through sale, etc. EXCEPT for transfer between relatives, i.e. parents to children, etc. Only one restriction will apply to the above and that is that wells on the properties East of Sorento Road will not in any way be infringed upon, condemned, or otherwise interfered with. Property taxes for residents who take advantage of hook up to city utilities will not in any way be increased. If a special tax utility district is set up at a later date all property owners who have been hooked up to City utilities as provided above will not be included.

This formal request in writing is in specific response to the paragraph that is second from the last paragraph of the above referenced letter.

Amajit Sangha
NAME ADDRESS

5/20/07
DATE

5001 Carey Rd, Sac, CA, 95835
PRINTED NAME

NAME ADDRESS

DATE

PRINTED NAME

5-24-2007

Arwen Wacht
City of Sacramento
City Planning Division
915 I Street- Third Floor
Sacramento, CA 95814-2998

Thank you for alerting us to the meeting scheduled for May 24 at 5:30 p.m.; however, we will be unable to attend and are using this letter as a means to communicate our concerns with the project overall, as well as our specific concerns as our home is adjacent to the area being developed.

As a resident at the end of Cadbury Court, we have 211 lineal feet of property which are extremely affected by the proposed changes, our specific concerns are as follows:

- **The current plan has FOUR homes backing to our property.** We are very concerned about privacy and the affect this change will have on our property value. We would like to request that the homes that back to our property are single story and placed as far forward on the lot to provide more distance between our house and any new construction.
- **Has flooding of our area been addressed?** The ditch has filled with water every year, and to concerning levels during the 2005-2006 winter season. Filling in the current drainage ditch and raising the elevation of the homes in back of us 1-2 feet elevates our concerns.
- **What division is going to go between our homes and the proposed homes?** We would like to request a block wall that matches the other Natomas Division fences. We understand that although this option may be costly, other options such as another fence adjacent to our current fence, cause significant fire, health and safety issues due to not being able to maintain the area between the fences.
- **The proposed homes backing to our property are 1400-2200 square feet.** What can be done to better match the homes in our area that are 3000-4400 square feet? We are really concerned about how this is going to affect our property values.

As a resident of Natomas Park, we have the following project concerns as well:

- What sort of funding has already been secured for the schools and parks? How can we be assured that the appropriated area will be used for the proposed schools and parks? What is the timeline for building the schools and parks?
 - If funding for the above two items has not been secured, what can be done to assure that those areas are not eventually used for some other purpose?

- Finally, what will be done to minimize dust and debris that will affect our property during construction? Even using traditional dust suppression methods, (ie water trucks) will still lead to a lot of dust in our home and property. Are there any plans for clean up of our area during this process? We currently have a large investment in the landscaping of our backyard, and are very concerned with this issue of dust and cleanup requirements.

Please let me know who to talk to to have these concerns addressed.

Sincerely,

A handwritten signature in cursive script that reads "Karen Rodgers". The signature is written in black ink and is positioned above the typed name.

Karen and Britt Rodgers
22 Cadbury Court
Sacramento, CA 95835
916-419-4946

Robla School District

5248 Rose Street, Sacramento, CA. 95838

Ralph Friend, Superintendent

(916) 991-1728 ext. 508

FAX: (916) 992-0308

May 22, 2007

Planning Commission
City of Sacramento
New City Hall
915 I Street
Sacramento, CA 95814

**Re: Panhandle Annexation and PUD Final EIR
Robla School District
May 24, 2007 Agenda**

Dear Members of the Commission:

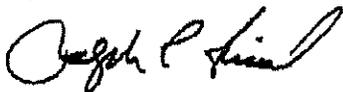
Since last year the Robla School District has been in negotiations with Dunmore Homes to acquire and build the proposed K-6 school site necessary to serve the estimated 500 Robla students from the Panhandle Project. Initial negotiations were very promising with both the District and the Developer agreeing to commit additional funding toward the school. Unfortunately several weeks ago Dunmore informed the District that it will not be able to provide the additional funding necessary for the acquisition and development of the site. Accordingly, the City should be aware it is very unlikely that the proposed school site will be built to serve the community.

The school site is one of the cornerstones of the Project and was designed to be a focal point of the new community. The project analysis by the City should consider the very real possibility that the school will not be built.

We also believe it is appropriate to note that the rezoning and annexation of the property will significantly increase the value of the school site property, thus forcing the District to pay property values based on entitled property. Unless the acquisition of the school site is included with all of the other public property in the City's financing plan, the District will be forced to pay premium prices for property with revenue from a statutory fee structure that most will agree is inadequate. Even if the property acquisition were included as part of the City's financing plan, the available funding from the statutory fees and State grants will not be sufficient to complete all of the required improvements.

Thank you for your consideration. We trust the City will find a way through the entitlement process to insure adequate funding for the development of this important project feature. In addition, the people of our existing and new developments appreciate your thorough consideration of this project on their behalf!

Very truly yours,



Ralph Friend, Superintendent

cc: City Council
Robla School District Board of Trustees
William M. Wright, Legal Counsel
Jennifer Hageman
Dunmore Homes

James P. Pachl
Attorney at Law

717 K Street, Suite 534
Sacramento, California, 95814

Tel: (916) 446-3978

Fax: (916) 447-8689

jpachl@sbcglobal.net

May 24, 2007

Chair and Members
Sacramento City Planning Commission
915 I Street
Sacramento, Ca. 95814

Re: M05-031/P05-077 Northgate 880/Panhandle

Dear Joseph Yee, Chair, and Members of the Commission,

I represent Sierra Club, ECOS - The Environmental Council of Sacramento and Friends of the Swainson's Hawk. We filed extensive comments on the DEIR. We learned about the hearing earlier this week and are requesting more time to be able to review the FEIR and comment in detail. Staff did not mail notices of availability of the FEIR, nor the FEIR, to us. Staff also advises that it did not send notice of this hearing to us, although it appears that a notice of hearing but not notice of availability of the FEIR was sent to ECOS. We understand that other parties received copies of the FEIR on Saturday May 19, which leaves much too little time for review of an FEIR for a project with controversial issues.

We object to the approval of the project as presented.

1. Certification of EIR. CEQA Guidelines § 15025(b) and (c) prohibit certification of an EIR by the Planning Commission in projects where the Planning Commission sits as an advisory body to make a recommendation on the project to a decision-making body (Board of Supervisors).

CEQA Guideline § 15025 (b)(1) states:

"(b) The **decision-making body** of a public agency **shall NOT delegate** the following functions:

(1) Reviewing and considering a Final EIR or approving a Negative Declaration prior to approving a project."

CEQA Guideline § 15025 (c) states:

"(c) Where an advisory body such as a planning commission is required to make a recommendation on a project to the decision-making body, the advisory body shall also review and consider the EIR or negative declaration in draft or final form."

Guideline 15025, like many of the CEQA Guidelines, is followed by Discussion by the drafters intended to provide interpretation of the Guideline (c) says (attached.):

"Subsection (c) reflects an administrative interpretation **which applies the requirements of CEQA to advisory bodies. Such bodies need not and may not certify an EIR**, but they should consider the effects of a project in making their decisions."

Here the Commission is only advisory to the Council on most aspects of the project approval, including key elements such as application for annexation and amendment of the General Plan. The decisions proposed for the Commission to approve cannot be implemented without the Council approval of all of the other elements of the staff recommendation.

2) Definition of Flood Hazard Safety Measures. The FEIR and staff report recommend that the project mitigate placing new houses in a flood hazard area by compliance with those conditions that will be imposed by FEMA which are predicted to be in the AE Zone, AR Zone and/or A99 Zone. However, the FEIR and staff recommendation fail to disclose what levels of safety are required by each FEMA zone. A 99 zone, for instance, requires no protections at all. CEQA requires information like this to be disclosed to the public and decision makers so that informed opinions based on fact can be developed before making decisions about approvals.

The environmental community and community associations in Natomas have asked the City to adopt a moratorium on further development entitlements in the Natomas Basin until the levees are repaired. This proposed project approval and accompanying EIR fail to adequately disclose the full consequences of improving more development now, and the EIR does not respond adequately to the request for a moratorium on growth approvals in the face of very high uncertainty about future flood protection.

3) Open Space Buffer. The SACOG Blueprint principles do not justify eliminating the open space buffer from the community plan as claimed by staff. The EIR fails to respond to our comments on the importance of maintaining the open space buffer as originally planned. The Staff recommendation refers to Smart Growth Principles that do not address transitions between urban uses and rural and natural conservation areas. Moreover, the EIR alternative that includes the Open Space Buffer on the east side of the project area has higher density land uses and is very compatible with the Blueprint principles.

4) Finance Plans. As we pointed out in the DEIR, the Finance Plan should be circulated for a 45 day review period. That has not been done. Moreover, the mitigation program now refers to two financing plans, including a future finance plan for all park, trails, open space/parkway or other open space areas:

Finance Plan: The Applicant shall provide a Finance Plan for the project prior to final map approval that includes the development of all designated park facilities, trails, open space/parkway or other open space areas anticipated to be maintained by the City of Sacramento Department of Parks and Recreation. The Plan shall include all improvements costs associated with the designated park facilities, trails, open space/parkway or other open space areas along with ongoing maintenance and operation costs for these facilities in perpetuity.

The public has a right to review of any Finance Plan as an integral feature of the mitigation program. The public and decision makers cannot form an opinion on the feasibility of the trails, open space and parks without an opportunity to review and comment upon the financing plan prior to project approval. To postpone the financing plan until after project approval is a violation of CEQA.

5. Agricultural Land Impacts Not Mitigated. The project has significant direct and cumulative impacts on preservation of agricultural lands. Mitigation Measure 4.2.1 proposes to "stack" mitigation of loss of agricultural land onto the mitigation requirement established by the Natomas Basin Habitat Conservation Plan for protection of threatened species.

Mitigation Measure 4.2.1 (From MMP). The Applicant shall protect one acre of existing farmland of equal or higher quality for each acre of Prime Farmland or Farmland of Statewide Importance that would be converted to non-agricultural uses in the Panhandle PUD. This protection may consist of the establishment of farmland easements or other appropriate mechanisms. The farmland to be preserved shall be located within the County. This mitigation measure may be satisfied by compliance with other mitigation requirements involving the permanent conservation of agricultural lands and habitat. This impact is significant and unavoidable.

As we have stated previously in comments on the DEIR, it is not appropriate to use habitat lands to mitigate for agricultural impacts.

"There is no substantial evidence that preservation of habitat mitigation land under the NBHCP will also mitigate for loss of farmland. The farmland and endangered species habitat mitigation requirements having differing goals which in some instances are incompatible. Mitigation for loss of agricultural land is intended to preserve production agriculture. By contrast the Natomas Basin Conservancy is mandated to manage its land as "high quality habitat" for covered species, notably the threatened Giant Garter Snake and the Swainson's Hawk. Twenty-five percent of NBC land is required to be converted to managed marsh, a non-agricultural use, and another 25% managed for high quality upland habitat values, which, due to soil and agricultural market conditions, is nearly impossible to achieve in the Basin on land managed for production agriculture. Moreover, it cannot be determined whether "stacking" can succeed for Panhandle's agricultural and habitat mitigation, because no land has been identified for the proposed mitigation of habitat and agricultural impacts of the Panhandle project."

Very Truly Yours,



JAMES P. PACHL, Attorney

15025. Delegation of Responsibilities

(a) A public agency may assign specific functions to its staff to assist in administering CEQA. Functions which may be delegated include but are not limited to:

- (1) Determining whether a project is exempt
- (2) Conducting an Initial Study and deciding whether to prepare a draft EIR or Negative Declaration.
- (3) Preparing a Negative Declaration or EIR.
- (4) Determining that a Negative Declaration has been completed within a period of 180 days.
- (5) Preparing responses to comments on environmental documents.
- (6) Filing of notices.

(b) The decision-making body of a public agency shall not delegate the following functions:

(1) Reviewing and considering a final EIR or approving a Negative Declaration prior to approving a project.

(2) The making of findings as required by Sections 15091 and 15093.

(c) Where an advisory body such as a planning commission is required to make a recommendation on a project to the decision-making body, the advisory body shall also review and consider the EIR or Negative Declaration in draft or final form.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21082, 21100.2 and 21151.5, Public Resources Code; *Kleist v. City of Glendale*, (1976) 56 Cal. App. 3d 770.

Discussion: This section is a recodification of former Section 15055 with one additional feature. The section is necessary in order to identify functions in the CEQA process that a decision-making body can delegate to other parts of the Lead Agency. The agency can operate more efficiently when many functions are delegated to the staff rather than requiring the decision-making body to perform all the functions.

Subsection (b) codifies the holding in *Kleist v. City of Glendale* by identifying the functions that cannot be delegated. The functions of considering the environmental document and making findings in response to significant effects identified in a final EIR are fundamental to the CEQA process. These steps bring together the environmental evaluation and the decision on the project. This section is intended to assure that the environmental analysis of a project is brought to bear on the actual decision on the project. The section also serves to guide agencies away from practices that have been ruled invalid.

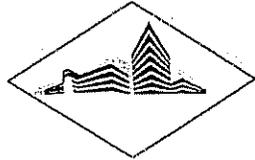
Subsection (c) reflects an administrative interpretation which applies the requirements of CEQA to advisory bodies. Such bodies need not and **may not** certify an EIR, but they should consider the effects of a project in making their recommendations. This section also suggests that advisory bodies may consider a draft EIR.

(Underlining added for emphasis/ jpp)

**Brigit S.
Barnes &
Associates,
Inc.**

A Law Corporation

Brigit S. Barnes, Esq.
Susan M. Vergne, Esq.



*Land Use and
Environmental
Paralegal*
Jaenalyn Jarvis

Legal Assistants
Noreen Patrignani
Jenna Porter

3262 Penryn Road
Suite 200
Loomis, CA 95650
Phone (916) 660-9555
FAX (916) 660-9554
Website:
landlawbybarnes.com

May 24, 2007

Hand Delivered

City of Sacramento Planning Commission
Historic City Hall
915 I Street, 2nd Floor Hearing Room
Sacramento, CA 95814

Attn: Hon Joseph Yee, Chairperson
Hon Darrel Woo, Vice-Chairperson
Hon D.E. "Red" Banes, Commissioner
Hon John Boyd, Commissioner
Hon Joseph Contreras, Commissioner
Hon Chris Givens, Commissioner
Hon Michael Notestine, Commissioner
Hon Iodi Samuels, Commissioner
Hon Barry Wasserman, Commissioner

Re: Natomas Panhandle Annexation Project (M00-066)
Comments on FEIR for the Panhandle Annexation, etc. (P05-077)
SCH#2005092043
Our Clients: Jim Gately/J.B. Management, L.P./J.B. Properties/J.B. Company
Our File No: 2219

Clients' Parcel Nos:
225-0060-033, -034, -054 through -059, -061, -066 through -068
225-0941-001, -027 through -029, -032 through -034, -037
225-0942-**013**, -014, -015, -035, -038, -043 through -049, -051, -052, -053
225-0943-027 and -028
237-0011-047
237-0410-029, -030, -032
237-0420-001, -028 through -030

[Note The 3 bolded parcels owned by our clients do not show on the proposed resolution of annexation]

Dear Respected Commissioners:

On behalf of our clients, Jim Gately, J.B. Management, L.P. ("J.B. Management"), J.B. Properties, and J.B. Company, we hereby submit the following comments on the Final EIR prepared by the City for the Natomas Panhandle Annexation Project ("Annexation Project").

The Staff Report incorporates over 600 pages of proposals, which attempts to rezone the proposed annexation property, provide for preliminary zoning for subdivisions and form the PUD, and resolve internal consistency issues between County properties, your staff is aware, we did not receive notice of the May 24, 2007 Planning Commission Public Hearing on the Annexation Project, despite repeated requests [dated February 23, 2001 and February 26,

Asset Preservation	•	Commercial Real Estate	•	Environmental
General Business	•	Real Estate Financing	•	Litigation

7

2001, respectively] for notices in connection with any and all actions involving the Panhandle Annexation, and the City's Proposed Zoning and Regulatory Provisions for the J.B. Management property. We became aware of the May 24th hearing when our client faxed us the May 3rd notice, which he in turn did not receive until May 9th

Despite our many requests for review and coordination meetings, none have occurred. We note that an attempt has been made by City staff to segregate the already constructed commercial and industrial properties in the southern portion into a special planning area, which partially addresses concerns specific to our clients' property. Unfortunately, however, due to the number and interrelationships of the entitlement approvals described in the Staff Report (and the jurisdictional limits of the Planning Commission's review), we can only summarize our environmental concerns, and file more detailed land use / consistency / entitlement objections prior to hearing by the City Council and/or LAFCO. We note also that the Tax Exchange Agreement has never been negotiated by the Parties.

ENVIRONMENTAL DOCUMENT DEFICIENCIES

General Comments

In general, the Environmental Impact Report ("EIR") supports the conclusion that -- given the acknowledged number of "Significant and Unavoidable" and "Cumulatively Considerable and Significant and Unavoidable" determinations contained in the EIR, requiring findings to override which the City Council will be faced with -- this annexation benefits no one except the developers of the northern portion of the proposed annexation, to the detriment of the environmental impacts for the region at large. Many items which were challenged in the DEIR are not responded to in the FEIR, but proposed resolutions are suggested in the Staff Report

An agency may not approve or carry out a project for which an EIR has been completed if the EIR identifies one or more significant environmental effects of the project, unless the agency makes one or more of the following findings *required by Pub. Res. Code § 21081*:

- (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects of the project as identified in the EIR;
- (2) These changes or alterations are within the responsibility and jurisdiction of another public agency, and the changes have been adopted by this other agency, or can and should be adopted by this other agency; and

(3) Specific economic, social, legal, technological, or other considerations, including consideration for the provision of employment opportunities for highly trained workers, made infeasible the mitigation measures or project alternatives identified in the EIR.

The EIR fails to adequately address the concerns raised in the numerous substantive comment letters received from not only our clients, but among others, the Department of Water Resources, Caltrans, LAFCO, the County of Sacramento, SMAQMD, and local school, park and other facilities districts. Because so much of the mitigation relied upon by the City's consultants remains to be fleshed out, the EIR should be redrafted and recirculated when all mitigation plans are completed and the recent FEMA hazard issue is addressed. Otherwise, the EIR violates CEQA by segmenting this project into stages of approval. CEQA Guidelines Section 15003(h); Bozung v. LAFCO (1975) 13 Cal 3d 263, 283.

The proposed findings identified in Exhibit 1A themselves impermissibly permit the project applicant to arrange further mitigation to resolve the destruction of open space and farm land, traffic impacts, and develop a future finance plan for review. The statutory and case law violations are cited in explicit sections below.

Hydrology and Water Quality

As set forth in the Staff Report at pp. 175 and 194-196, the proposed project area is protected by a levee system that has been determined by the Sacramento Area Flood Control Agency (SAFCA) to be at risk of underseepage and erosion hazards during a 100-year storm event. FEMA is expected to soon issue revised Flood Insurance Rate Maps showing that the Natomas Basin is within a special flood hazard area. FEIR, at p. 3.0-29. These hazards would remain present until SAFCA implements necessary levee improvements, to be constructed within the next 2 to 5 years. Until these improvements are made, the project places housing and persons in an area subject to flooding hazards. See Impact 4.11.3. The proposed project, in combination with planned and proposed development in the region, would contribute to exposing additional residents and businesses to flood hazards. The EIR states that this contribution is considered cumulatively considerable. See Impact 4.11.6. The flood risk is compounded by the fact that Open Space has been reduced by 100-acres, or 50% of the PUD project area. This loss increases local flooding risk by removing 100 acres of natural drainage land capacity. Thus, these combined unmitigated risks raise broad policy issues regarding expanding City liability to the public, in addition to CEQA issues.

The proposed mitigation (MM 4.11.3), requiring development within the project site to comply with FEMA regulations and the City's Floodplain Management Ordinance in existence as of the date of the issuance of building permits, and to fund said improvements upon the completion of a nexus study, violates CEQA.

CEQA Guideline 15130(a)(3) states that an EIR may find that a project's contribution to cumulative impacts is less than significant if the project is required to implement or fund its "fair share" of mitigation measures designed to alleviate the cumulative impact. However, the lead agency "shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable." CEQA Guideline 15130(a)(3) Since the City has not completed a "nexus" or "rough proportionality" study pursuant to the constitutional principles established by Nollan/Dolan, any fair share contribution by the applicant cannot be determined to be less than cumulatively considerable.

"The commitment to pay fees without any evidence that the mitigation will actually occur is inadequate." Save our Peninsula Committee v. Monterey County Board of Supervisors (2001) 87 Cal.App.4th 99, 140, citing Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 728. In Anderson First Coalition v. City of Anderson (2005) 130 Cal.App.4th 1173, the Court of Appeal held that bare recitation that a project would pay "fair share" fees towards highway improvements was too speculative to be deemed an adequate mitigation measure. *Id.*, at pp. 1193-1194. The Court of Appeal ruled that to be sufficient under CEQA, a "fair share" mitigation fee measure must (1) specify the actual dollar amount based on current or projected construction costs; (2) specify the improvement projects for which the fair share will be used; (3) if the fair share contribution is a percentage of costs which are not yet known, then specify the percentage of costs; and (4) make the fees part of a reasonable enforceable plan or program which is sufficiently tied to actual mitigation of traffic impacts at issue.

There is no evidence of the amount of money represented by "fair share," no evidence as to how the "fair share" will be calculated, no evidence that the amount of "fair share" funding will be adequate to construct the infrastructure which comprises the mitigation measures, and no evidence that any other party or entity will contribute amounts towards their unspecified "fair shares" which are sufficient to construct the infrastructure which comprises the mitigation measures.

The failure to provide enough information to permit informed decision-making is fatal. When the informational requirements of CEQA are not complied with, an agency has failed to proceed in a manner required by law. Save our Peninsula Committee v. Monterey County Board of Supervisors (2001) 87 Cal App 4th 99, 118

Finally, because the EIR did not adequately analyze the flood issue and, in response to comments, has added significant new information regarding the flood issue after the public review period had began, the EIR is required to be recirculated for further review and comment. Public Resources Code §21092.1; 14 Cal. Code Regs. 15088.5; Laurel Heights

Improvement Association v. Regents of University of California (1993) 6 Cal 4th 1112. The purpose of recirculation is to give the public and other agencies an opportunity to evaluate the new data and the validity of conclusions drawn from it. Save our Peninsula Comm. v. Monterey County Board of Supervisors (2001) 87 Cal.App.4th 99, 131; Sutter Sensible Planning, Inc. v. Board of Supervisors (1981) 122 Cal App 3d 813, 822.

Public Services & Utilities

As set forth in the Staff Report at p. 179, the proposed project at buildout would require connection into the existing wastewater conveyance facilities that may not have adequate capacity. See Impact 4.13.4.1 Existing SRCSD facilities serving the North Natomas area are capacity constrained. Ultimate capacity will be provided by construction of the Lower Northwest and Upper Northwest Interceptors, currently scheduled for completion in 2010. The proposed mitigation (MM4.13.4.1a and b) requires connection to the sewer system and a future sewer study. Additional proposed mitigation (MM4.13.4.1c), acquiring land on behalf of SRCSD for the Upper Northwest Interceptor Project to install pipelines and facilities, is speculative and uncertain. In Sundstrom v. County of Mendocino (1988) 202 Cal App 3d 296, the appellate court concluded that because the success of mitigation was uncertain, the county could not have reasonably determined that significant effects would not occur. This deferral of environmental assessment until after project approval violated CEQA's policy that impacts must be identified before project momentum reduces or eliminates the agency's flexibility to subsequently change its course of action. The only way around Sundstrom is for the City to commit itself to making sure the mitigation actually occurs. As stated in the Staff Report at p. 208, the developer has been charged with responsibility for effectively implementing the mitigation measures contained in the Mitigation Monitoring Program.

As set forth in the Staff Report at p. 197, the proposed project would contribute to cumulative demands for wastewater treatment services within the SRCSD and CSD-1 service areas, and the associated need to expand wastewater facilities. See Impact 4.13.4.3. These impacts, in combination with the impacts from other development, would contribute to the cumulative impacts assessed in the EIR for the SRWTP 2020 Master Plan Expansion Project. As acknowledged in the Staff Report at p. 198, the SRWTP 2020 Master Plan Expansion Project EIR has been challenged in court pursuant to CEQA. As such, the mitigation requiring connection to these facilities is uncertain. An EIR need not identify and analyze all possible resources that might service the proposed project should the anticipated resources fail to materialize. However, because of the uncertainty surrounding the anticipated sources for wastewater treatment, the EIR cannot decline to address other possible resources. The decision-makers and the public should be informed if other sources exist and, at least in general terms, be informed of the environmental consequences of tapping such alternate resources. Without either such information or a guarantee that the

resources identified in the EIR will be available, the decision-makers simply cannot make a meaningful assessment of the potentially significant environmental impacts of the proposed project. Napa Citizens for Honest Government v. Napa County Board of Supervisors (2001) 91 Cal. App 4th 342; Sierra Club v. State Bd. of Forestry (1994) 7 Cal.4th 1215, 1237.

Land Use and Open Space

The project would result in the substantial loss of existing open space, by converting almost 530 acres from open space to urban uses. See Impacts 4.1.3 and 4.1.5. The proposed mitigation (MM 4.1.3), requiring coordination between the applicant, the City, and LAFCO to identify appropriate off-site lands to be set aside in a permanent conservation easement, violates CEQA in that no such appropriate site is identified, much less evaluated. Laurel Heights v. Regents of University of California (Laurel Heights) (1988) 47 Cal.3d 376, 400-403; Citizens of Goleta Valley v. Board of Supervisors (Goleta) (1988) 197 Cal App 3d 1167, 1178-79.

The proposed project would result in the conversion of almost 100 acres of Prime Farmland and 1.2 acres of Farmland of Statewide Importance. See Impacts 4.2.1 and 4.2.3. The proposed mitigation (MM 4.2.1), requiring the establishment of farmland easements or other appropriate mechanism to protect like quality agricultural land within the County, violates CEQA in that no such location for these easements has been identified, no showing is made that remaining farmland in the area is adequate to its purposes and/or equal to the quality of land to be taken out of production. CEQA requires local agencies to adopt feasible mitigation measures and alternatives identified in the EIR. San Francisco Ecology Center v. City and County of San Francisco (1975) 48 Cal.App.3d 584, 590-591. These essential mitigations are left to the future in violation of Laurel Heights and Goleta.

Annexation requires ultimate approval by LAFCO, which is charged with the duty of discouraging urban sprawl through the premature conversion of prime agricultural and open space lands to urban uses pursuant to the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (Government Code §56000, et seq.); FEIR at p. 2.0-7-2 0-8. LAFCO has stated that the EIR does not adequately analyze the impacts regarding the loss of agricultural land, and it therefore is unable to evaluate the project for consistency with LAFCO policies. FEIR, at p. 3.0-68. The EIR response to LAFCO's concern in this regard referred LAFCO back to the inadequate DEIR analysis and stated that, since LAFCO had not identified any specific deficiencies in the analysis, it was not making any revision to the analysis. FEIR, at p. 3.0-73.

Air Quality

The EIR relies on the future preparation of an Air Quality Mitigation Plan required by the SMAQMD.

As set forth in the Staff Report at p. 188, emissions of ozone-precursor pollutants (ROG and NOx) would exceed SMAQMD's significance thresholds and could result in a significant contribution to ambient concentrations that could potentially exceed applicable NAAQS and CAAQS for which the SVAB is currently designated non-attainment. See Impact Nos. 4.5.3 and 4.5.8. The proposed mitigation (MM 4.5.3), requiring coordination between the project applicant, the City, and SMAQMD to develop and approve a future Air Quality Management Plan (AQMP), and thus violates CEQA law prohibiting deferred mitigation. In San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal. App. 4th 645, 670, the court held that simply requiring a project applicant to obtain a management plan and then comply with the recommendations in the management plan was an improper deferral of mitigation. See also Endangered Habitats League, Inc. v. County of Orange (2005) 131 Cal. App. 4th 777, 793.

Transit-Oriented Development

The design shows more density located to the Northeast corner of the project, which is not placed close to the transit and transportation features of the project, located in the southern portion.

Traffic and Circulation

As set forth in the Staff Report at pp. 184-186, the project would generate additional traffic for freeway facilities in the project area vicinity, project area roadways, and project area state highway systems already operating below acceptable levels of service. See Impact Nos. 4.4.3, 4.4.7 and 4.4.8. As acknowledged in the Staff Report at pp. 185-186, the proposed mitigation (MM 4.4.3), requiring the payment of a fair share contribution to the Downtown – Natomas-Airport Light Rail Extension (DNA), will not ensure that the impacts will be fully mitigated. As discuss in the sections addressing flood control and loss of farmland, an EIR must describe the mitigation measure for each significant environmental impact. Pub. Res. Code §§21002.1(a), 21100(b)(3); 14 Cal. Code Regs. §15126.4. In San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal. App. 4th 645, 670, the court held that simply requiring a project applicant to obtain a management plan and then comply with the recommendations in the management plan was an improper deferral of mitigation. See also Endangered Habitats League, Inc. v. County of Orange (2005) 131 Cal. App. 4th 777, 793. Without adequate descriptions, neither the City nor LAFCO can evaluate the adequacy of the proposed mitigation or fee program.

Furthermore, as set forth in the Staff Report at p. 185, the City has not completed a “nexus” or “rough proportionality” study pursuant to the constitutional principles established by Nollan/Dolan, and thus any fair share contribution would be secured under the terms of a development agreement. The development agreement has yet to be negotiated and executed, therefore the mitigation is speculative and uncertain, which is not allowed under Sundstrom, supra.

In addition, Caltrans has stated that impacts to the mainline State Highway System can feasibly be mitigated by improving the SR-99/I-5 Interchange and I-80 auxiliary lanes, and by making a fair share contribution to the mainline State Highway System. FEIR, at p. 3.0-52. The EIR dismisses such mitigation and instead states that the fair share contribution to the DNA project will mitigate some of the project’s impacts, but not all. FEIR, at p. 3.0-53. An adequate EIR must respond to specific suggestions for mitigating a significant environmental impact unless the suggested mitigation is facially infeasible. While the response need not be exhaustive, it should evince good faith and a reasoned analysis. Los Angeles Unified School District v. City of Los Angeles (1997) 58 Cal App 4th 1019, 1029

On two occasions, the County of Sacramento Department of Transportation (DOT) requested that the EIR analyze traffic impacts to all roadway segments and major intersections along Elkhorn Boulevard (between SR-99 and Watt Avenue), Northgate Boulevard (between Del Paso Road and I-80) and National Drive (between Elkhorn Boulevard and I-80). FEIR, at p. 3.0-90. The EIR’s response to DOT’s request was that the additional roadway segment and intersection analysis was not necessary because project-generated traffic at those locations would be minimal. FEIR, at p. 3.0-92. Courts have held that an agency failed to proceed as required by law because the EIR’s discussion and analysis of a mandatory EIR topic was so cursory it clearly did not comply with the requirements of CEQA. El Dorado Union High School District v. City of Placerville (1983) 144 Cal.App.3d 123, 132.

If staff means to impose a fee program for the light rail system, it must set out in detail how the imposition of fees will assure the traffic mitigation will result. The EIR is silent on this issue, and therefore violates CEQA. Kings County Farm Bureau v. City of Hanford (1990) 221 Cal App 3d 692, 727; Save Our Peninsula Committee v. Monterey County Board of Supervisors (2001) 87 Cal App 4th 99, 140.

Adequate responses to comments on the draft EIR are of particular importance when significant environmental issues are raised in comments submitted by experts or by regulatory agencies, like Caltrans, with recognized specialized expertise. Santa Clarita Org. for Planning the Environment v. County of Los Angeles (2003) 106 Cal App 4th 715, 131. The response must be detailed and must provide a reasoned good faith analysis. 14 Cal

Code Regs. §15088(c). The responses to comments must state reasons for rejecting suggestions and comments on major environmental issues. Conclusory statements unsupported by factual information are not an adequate response. *Id.*; Clery v. County of Stanislaus (1981) 118 Cal.App.3d 348. The need for a reasoned, factual response is particularly acute when critical comments have been made by other agencies or experts People v. County of Kern (1976) 62 Cal.App.3d 761, 722; Berkeley Keep Jets Over the Bay Comm. v. Board of Port Commissioners (2001) 91 Cal App 4th 1344, 1367.

LAND USE ISSUES

Inconsistency With the City of Sacramento General Plan

Development of the proposed project prior to upgrade of the levees to 100-year level of flood protection (current FEMA and Corps of Engineers standards) would be inconsistent with Sacramento City General Plan Section 8, Goal A, Policy One, Flood Hazards, which states:

“Prohibit development of areas subject to unreasonable risk of flooding unless measures can be implemented to eliminate or reduce the risk of flooding”

The general plan has been aptly described as the “constitution for all future developments” within the city or county. The propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan. The consistency doctrine has been described as the “linchpin of California’s land use and development laws; it is the principle which infuses the concept of planned growth with the force of law.” Families Unafraid to Uphold Rural etc. County v. Board of Supervisors (1998) 62 Cal.App 4th 1332, 1336; Corona-Norco Unified School District v. City of Corona (1993) 17 Cal.App 4th 985, 994. The proposed project, therefore, is valid only to the extent that it is consistent with the City’s General Plan. A project is consistent with the general plan if it will further the objectives and policies of the general plan and not obstruct their attainment. It must be compatible with the objectives, policies, and general land uses and programs specified in the general plan. Future, supra, at 1336; Corona-Norco, supra, at 994.

These inconsistency arguments also apply to the North Natomas Community Plan, which are set forth in detail below.

Inconsistency With North Natomas Community Plan

As set forth in the Staff Report at p. 22, the proposed project is not consistent with NNCP land use policies regarding Agricultural Buffers, Open Space and Greenbelt Boundaries,

Widths, and Purposes Although NNCP Text Amendments are proposed to rectify said inconsistencies, there is no guarantee that those text amendments will be approved.

As set forth in the Staff Report at p 183, the proposed project would result in 316 more residents than what would be allowed under the current NNCP land use designations, which would induce substantial population growth. See Impact Nos. 4.3.1 and 4.3.4. There is no proposed mitigation to reduce these impacts.

The EIR conflicts with the land use vision and policy provision of the North Natomas Community Plan. See Responses 2-2 and 2-3, pp. 3.0-113 and 114 of the FEIR.

The location of National Drive is different than that envisioned in the NNCP.

Development of the proposed project prior to upgrade of the levees to 100-year level of flood protection (current FEMA and Corps of Engineers standards) would be inconsistent with the NNCP Flood Control Guiding Policy A, which states:

“One hundred year flood protection must be obtained prior to any new residential development in the North Natomas Community”

Loss of Revenue to Districts Serving Detachment Area

The Rio Linda & Elverta Recreation and Park District opposes this project because it will detach the Northern Panhandle area from its service area. As such, the District will lose over \$200,000 annually, which is 15% of its operating budget. This loss of revenue will affect the District's ability to provide Park and Recreation services to the Panhandle and Rio Linda-Elverta Community. FEIR, at pp. 3.0-59 and 3.0-62. The EIR states that a revenue sharing agreement will address such fiscal effects. FEIR, at p. 3.0-61. As set forth in the Staff Report at p. 11, the Tax Sharing Agreement has not yet been negotiated or executed by the affected parties, and must ultimately be approved by LAFCO. There is no guarantee that this will be successful. In Sundstrom v. County of Mendocino (1988) 202 Cal.App 3d 296, the appellate court concluded that because the success of mitigation was uncertain, the county could not have reasonably determined that significant effects would not occur. This deferral of environmental assessment until after project approval violated CEQA's policy that impacts must be identified before project momentum reduces or eliminates the agency's flexibility to subsequently change its course of action.

The County of Sacramento opposes this project because it will lose \$3 to \$4 million annually due to its loss of jurisdiction over the annexation area. FEIR, at p. 3.0-62. The EIR states that a revenue sharing agreement will address such fiscal effects. FEIR, at p. 3.0-64. As set forth in the Staff Report at p. 11, the Tax Sharing Agreement has not yet been negotiated or

executed by the affected parties, and must ultimately be approved by LAFCO. There is no guarantee that this will be successful. See discussion of the application of Sundstrom, above.

SPECIFIC IMPACTS TO J.B. PROPERTIES

The Planning Commission should be aware that this office and Mr. Gately met with and corresponded numerous times, beginning in 1998, with the City Attorney's office, the Planning Department, and the City Manager, attempting to reach consensus on a pre-annexation agreement, reimbursement agreement, and development guidelines applicable to the JB/Benvenuti properties, so that our clients' objections to annexation could be addressed. As part of the draft pre-annexation agreement, we proposed to convey previously constructed improvements, or to construct infrastructure improvements on Gateway Park Boulevard, National Drive, and Del Paso Boulevard in exchange for specific reimbursements for previously constructed improvements. No recognition for previously constructed improvements or proposed reimbursements is made in the Draft Panhandle Public Facilities Financing Strategy.

JB Management, LP and North Market Center, LP are relying on the statements contained in the FEIR, at p. 3.0-117:

"The mitigation measures identified in the DEIR apply to lands that will be developed under the proposed Panhandle PUD. None of the mitigation measures identify assessments or fee programs that apply to existing development in the Southern portion of the Panhandle Area."

However, many discrepancies in implementation of this goal are reflected in the detailed mitigation table. Therefore, the imposition of mitigation for new construction upon completed projects within the Panhandle must be further clarified. We cite to some of the references in the FEIR which conflict with the general statement above.

- The DEIR 2.0-5 states: "Evaluation of Existing Infrastructure Deficiencies of the Southern Portion – as identified in Section 3.0 (Project Description), there are existing infrastructure deficiencies in the Southern Portion of the Panhandle Area that do not meet existing City standards. **This will have to be addressed when additional development occurs in the Southern Portion. Consideration of these conditions and acceptable improvements needed in the future will need to be made by City and LAFCO decision-makers.**" [Emphasis added]

- While there is no development proposed at this time in the southern portion, the City anticipates the need to upgrade existing deficient infrastructure facilities in the future. No specific infrastructure upgrades are proposed at this time, but the facilities identified are: water supply and distribution facilities, drainage facilities, and roads.
- Mitigation Measure 4.11.1: the Southern Portion is nearly built out and has its drainage infrastructure in place to accommodate development of the area. However, some of this drainage infrastructure may be deficient and require upgrades to meet full built out conditions consistent with City standards. **So for future development of the Southern Portion, the project applicant shall demonstrate that it adequately attenuates increased drainage flows consistent with City standards.** [Emphasis added.]
- The same applies for future development of remaining parcels as far as construction-related and operational water quality impacts, flood hazards from levee failure, groundwater quality impacts, etc.
- The traffic section of the EIR only evaluated the PUD area and states the “Panhandle PUD would contribute to traffic impact to the transportation system in the vicinity of the project area”, etc. (“the Southern Portion is nearly built out and the annexation of the proposed project does not include specific entitlement requests for the remaining development. Thus, the southern Portion’s impact would be less than significant.”)

Financing Plan

The Draft Panhandle Planned Unit Development Public Facilities Financing Plan (PFFP), May 4, 2007, addresses the project located north of Del Paso Road and south of Elkhorn Boulevard, and includes all backbone infrastructure improvements, public facilities, and associated administrative costs to serve the defined PUD project area. The PFFP includes improvements to roadways, sewer, water, drainage, parks, landscaping, schools, fire, police, library and transit, and describes the costs and financing mechanisms that will be used to create these improvements in the PUD project area. Therefore, the PFFP does not address any costs or financing in the Southern Portion. It needs to be clearly stated that there will be no financial impact of the Annexation and PUD on the nearly built out Southern Portion and, therefore, it is not addressed in the PFFP.

Mitigation Requirements in the Southern Portion

The Executive Summary to the FEIR provides the modifications to the Panhandle PUD since the release of the DEIR, and in the section on Project Alternatives Summary states:

The alternatives focus on the Northern Portion and the PUD only since the Southern Portion of the project area is nearly built out. Development opportunities in the Southern Portion are limited to the existing 13 vacant parcels (52-acres of vacant land), and all future development would be consistent with the existing development pattern for the Southern Portion.

Therefore, it appears that the concerns previously addressed as to the impacts of the annexation on the Southern Portion have attempted to be addressed by the statement, throughout the documents, that the Southern Portion of the project is nearly built out. This implies that the FEIR and mitigation requirements do not apply to the Southern Portion. However, in the Staff Report it states:

With respect to the entitlements over which the Planning Commission has final approval authority and in support of its approval of the Project, the Planning makes the following findings ... with Respect to Impacts from the Southern Portion of the Project. (SR p. 198)

- c. The following impacts of the Southern Portion of the Project, including cumulative impacts, are identified as significant and potentially significant environmental impacts of the Project, and are unavoidable and cannot be mitigated in a manner that would substantially lessen the significant impact. Notwithstanding disclosure of these impacts, the Planning Commission elects to approve the Project due to overriding considerations as set forth in Section 8, the statement of overriding considerations

As long as the Southern Portion is included in impacts and mitigation (to less than significant and overriding considerations) for the project, it needs to be clearly stated how the Southern Portion already built out may be impacted, now and in the future, by those environmental concerns.

Additionally, the mitigation impacts and measures refer to "project applicant", "developer", "applicant", etc. and may refer to Panhandle PUD, Dunmore, Krumenacher, etc., but are not consistent. It needs to be clearly and consistently stated whether the mitigation measures apply solely to the PUD area, or if they include development in the Southern Portion, as well

Consistency Between GP, CP, and Zoning for the Southern Portion

The DEIR indicated that the General Plan designations for the Southern Portion would be changed from Rural Estates, Low Density Residential, and Mixed Use to Heavy Commercial

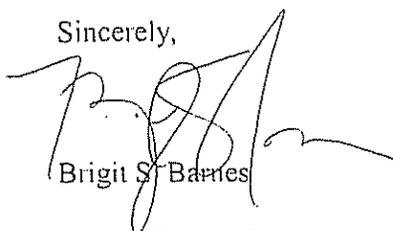
or Warehouse, Water, and Roadways. The NNCP designations would be changed from Rural Estates, Low Density Residential, Medium Density Residential, and Employment Center to Light Industrial, Parks/Open Space, and Roadways. The pre-zoning designations would be changed from Flood, Light Industrial (M1), Light Industrial—Flood Combining, Industrial Office Park—Flood Combining, and EC30 SPD Employment Center to M1 SPD Light Industrial.

The Staff Report states that the General Plan is removing the former land use designations and replacing them with Special Planning District, Water, and Roadways (instead of Commercial or Warehouse, etc.). (SR p. 12) However, Figure 3.0-7 still shows the Proposed City General Plan Designations for Southern Portion as Heavy Commercial or Warehouse, etc. The Proposed Community Plan designations remove the former land use and replace it with Northgate 880 Special Planning district (SPD), etc. However, Figure 3.0-9 still shows Proposed North Natomas Community Plan Designations for Southern Portion as Light Industrial, etc. Obviously, for consistency all documents need to indicate that the GP, CP, and pre-zoning in the Southern Portion will be Northgate 880 Special Planning District M1 (light industrial).

North Natomas Development Guidelines (NNDG)

Concerns have been raised in the past as to the applicability of the NNDG design criteria to development in the Southern Portion. It appears that they have been addressed by the changes to the General Plan and Community Plan, and that "All development proposed in the North Natomas Community Plan area is required to be designated a Planned Unit Development (PUD)". (NNDG p. 18.) In fact, the City website under "Panhandle Annexation Project" states: "Part of the annexation process will include the consideration of amendment to the North Natomas Community Plan for the area of undeveloped land located north of Del Paso Road. Prior to adoption, the NNCP needs to clearly state that there is no intent to apply conditions to the nearly built out Southern Portion

Sincerely,



Brigit S. Barnes

cc: Client / Frank Watson, Esq.
Sacramento LAFCO, Attn: Don Lockhart

Sacramento Planning Commission
City Hall
915 I Street
Sacramento, CA 95814

May 29, 2007

Re: Northgate 880/Panhandle and connectivity

Dear Commissioners:

On May 24 I testified to the Planning Commission on behalf of the Sacramento Area Bicycle Advocates about the lack of connectivity from the Panhandle project area to areas outside the Panhandle. At the same Commission meeting, the project applicant extolled the project's connectivity.

I want to put the external connectivity of the proposed Panhandle street layout into perspective by comparing it to the existing street system grid in Midtown and East Sacramento.

The southern boundary of the Panhandle is about 2,000 feet long. Three street connections are proposed to Del Paso Road and the mixed uses on that street. In Midtown there would be nearly three times as many connections over the same distance, that is, 8 connections between numbered streets and a lettered street such as J Street. In East Sacramento with smaller block sizes along arterials, there could be as many as 14 street connections in the same distance.

The east and west boundaries of the Panhandle are two miles long. A handful of connections are proposed for each boundary. In Midtown, there would be 25 connections over two miles. In East Sacramento, there are 32 street connections along J Street from 29th Street to 57th Street, a two-mile stretch that includes several large parcels for schools and a hospital.

These examples demonstrate a dramatic lack of external connectivity. Block size is crucial for connectivity. Small block sizes enhance the ability of people to make trips by walking or biking by reducing travel distances and giving people route choices. Poor decisions made now, before the area is developed, will forever affect the ability of residents to walk and bike. We urge you not to let older notions of suburban development, based on the assumption that virtually everyone would drive for virtually every trip, should not prevail.

I also mentioned in my testimony that bicycle access from the Panhandle to the Ueda and Dry Creek Parkways should be an important consideration because the trails in these parkways will be regionally significant. I think I understated their importance. These trails will be nationally significant for recreation and transportation, which will form, along with the American River Parkway trail, a 70 mile off-street loop, will be nationally significant.

SABA is an award winning nonprofit organization with more than 1,400 members. We represent bicyclists. Our aim is more and safer trips by bike. We're working for a future in which bicycling for everyday transportation is common because it is safe, convenient and desirable. Bicycling is the healthiest, cleanest, cheapest, quietest, most energy efficient and least congesting form of transportation.

Truly yours,

Walt Seifert

Executive Director
Sacramento Area Bicycle Advocates (SABA)
(916) 444-6600
saba@sacbike.org
www.sacbike.org

"SABA represents bicyclists. Our aim is more and safer trips by bike."

From: RICHARD HACK <rkhack@sbcglobal.net>
To: Arwen Wacht <AWacht@cityofsacramento.org>
Date: 5/31/07 8:53AM
Subject: Panhandle Commission Review

Good morning Arwen,

I will not be able to make tonight's meeting since I will be in Oakland for work. Please pass on my comments to the Commission

I attended the meeting last week and was able to speak some of my frustration with this proposed development and annexation. Something new that upset me though was the way the representative from the Grant School district did not relinquish the floor after his three minutes even though we all realized the Commission was try to hear as much public comment as possible.

I am sorry if the Grant School District loses \$11 million due to construction delays but if they were so worried about it then why was the proposal not submitted earlier. I believe this is another attempt by a developer to ramrod a project through without taking the proper evaluations. This time they are using a school district as their tool.

If one takes into account how much more the elementary school districts will have to pay for their property after annexation and how much they will all have to pay in Flood Insurance, then \$11 Million does not sound so much. But if you were to actually have a flood and people or students were injured, how would that and the property damage compare to the \$11 million. I guess the gentleman from Grant School District should of used "his Crystal Ball" he said he used when buying the land to see the impact rushing this project forward would have on the surrounding communities and their own investment as well

I also suggested to Councilman Tretheway and others before when this project decided to bump up against Natomas Park and Regency Park and we were complaining about the Inclusionary apartments Pardee is constructing that a bike trail down the west side of the Panhandle project could ad a connection to the Promenade (our new shopping area) if Pardee across Del Paso Road and the city could arrange a pedestrian bridge over the canal south a Del Paso road and passage through the commercial area south of the canal.

I also want to remind the Commission of my request to not approve the Annexation until the City of Sacramento creates the infrastructure they promised in the General Plan. The city promotes this General Plan concept even today as they schedule for the General Plan 2030. Unfortunately they do not support it I remind the city that the General plan calls for 2.5 sworn police officers per 1000 residents. But the Lieutenant who sent the letter into the Commission states there is no "National Standard". Although the Sacramento Bee published the article about us being at the bottom of 50 cities surveyed and cited several agencies who recommend standards in staffing such as the FBI. We as a city have set that standard in our General Plan.

To the Planning Commission, I challenge you as the volunteer Representatives of "We the People" to look after the welfare of the residents of Sacramento. Reject this annexation plan until action is taken to reduce the threat of flooding and assist the Natomas area homeowners by taking action to halt the rising insurance rates and dropping home values in the area. You are our true hope to hold the various agencies accountable from the Police Department in it's staffing and failure to build a sub-station in North Natomas, to SHRA who you requested to re-look their policies which they did not and even City Council who seems to be out of touch with the people, especially in Natomas. Please do not reward these agencies for their failures and inaction.

Thank you again for all the time you put in

Sincerely,

Richard Hack
130 Orrington Circle

CC: Tristan Godt <tgodt@sbcglobal.net>, Chris Paros <chrisp55@comcast.net>

Tristan Godt
431 Eastbrook Way
Sacramento, CA 95835
916-419-4050

May 31, 2007

To: Ms. Awren Wacht and City of Sacramento Planning Commission

Members of the Natomas Park Master Association came before the commission several months ago, regarding the issue of inclusionary housing for rent. We are here once again, asking why ALL inclusionary housing planned for the Panhandle is again rental? In the SHRA letter to City Planning, dated 5/11/07, SHRA recommends that the developer satisfy a portion of their obligation with an ownership product. So why is it that "the applicant has chosen ... rental complexes"? It is unfathomable that the developers are making all the demands (which are being repeatedly accommodated) and the concerns of residents of our community are repeatedly being ignored!

The staff reports for this annexation show that the developer receives fee reductions for inclusionary housing (Vaquero gets \$338,000 in fee reductions, Dunmore gets \$1,045,000 in fee reductions). Is the fee reduction the same, greater or lesser for inclusionary "for-sale" housing? Why not demand for-sale units with greater incentive to the developer, or better yet, incentives only when for-sale units are included to satisfy the inclusionary obligation.

I request that the commission reject the panhandle annexation at this time and ask the developer to correct some issues within the development plan:

- Parcels 28 & 29 cannot be designated for inclusionary housing. These parcels are located within 500' of the Pardee inclusionary apartments. City policy states that inclusionary housing cannot be located within 500' of another inclusionary project. (The Pardee development is also within 1000' of the Terracina Gold inclusionary apartments.
- We already have too many apartments on Del Paso Blvd. east of Truxel, so why is all of the HDR located in this area, while all the MDR rentals are located in the middle and the back of the panhandle? If it is mixed use, mix it up instead of clustering it.
- The NPMA heard from Chelsea Management (with their strict rental policies) that they know and anticipate they will be unable to rent their 134 inclusionary apartments as the rental market in this community is already over saturated and vacancies are high. Reconsider the rental housing in favor of for-sale units.

Additionally, the commission should not be held hostage by the GUSD and the possible monetary penalty if they don't break ground by September. This is yet another case of school districts making extremely poor decisions with taxpayer money! They should

suffer the temporary consequences of their decisions instead of subjecting an entire community to suffer in the wake of yet another rushed decision to approve developer plans that the community is not satisfied with.

Thank you for your consideration in this very important matter.

Regards,

Tristan Godt
Natomas Park Resident

From: "Paros, Christine" <Christine.Paros@aerojet.com>
To: <redbanes@comcast.net>, <mnotestine@mognot.com>, <planning.samuels@yahoo.com>, <blw2@mindspring.com>, <dwoo@insurance.ca.gov>
Date: 5/31/07 1:39PM
Subject: Panhandle project Letter & additional comments - Natomas Park Planning Committee

May 31, 2007

Commissioners,

Attached is our Natomas Park Planning Committee (NPPC) letter sent to Staff in February 2007 that was not included in Staff's Panhandle (P05-077) project report for your review. It outlines our many reasons for opposing the annexation.

We realize your commission will be pressed to approve this project in concern for the \$11M penalty Grant Union School District (GUSD) may be subject to. But we request your Commission please get independent confirmation of the need for GUSD to build this large school (70 acres!) to avoid wasting potentially many more taxpayer dollars. We are wondering:

- * Why did GUSD enter such a financially risky construction agreement that assumes an aggressive approval schedule for this controversial project?
- * Why is there no "out" provision in their agreement for delays that are beyond their control (e.g. LAFCO approval)?
- * Will your decision set a precedent? Will NUSD be coming next to you asking for an equivalent annexation consideration to bail them out of their bad land deal?
- * Where will this huge student population come from? It can't be from Natomas. Natomas already has Inderkum High, Natomas High and another enormous K thru 12 school under construction at Commerce Way & North Park Dr. Many vacant lot school sites still exist.
- * What will taxpayers pay annually in flood insurance fees & flood assessments for yet another school in the flood plain?
- * Is it wise to put another school in the flood plain?

Please consider the bottom line in your decision, i.e. do you think it is good for Sacramento to annex this land or not? Questions to ask are:

- * "Is annexation of flood plain land needed?"

* "Is this annexation truly in Sacramento's best interest at this time?" especially while FEMA is redrawing flood maps that could likely put all this land in a high risk flood zone.

* "Is it wise and ethical to knowingly put more people in harm's way?" Are there liabilities to consider?

If you consider the larger, economic & flood impacts of this project, we feel you will see that the wiser, more cost-effective economic decision for taxpayers is to disapprove or delay this project.

But if you feel you must approve this project, please at least establish conditions to mitigate the large impacts we Natomas residents will experience:

- * Condition the inclusionary element to be ownership housing. Once again a developer has performed a "bait & switch" on residents, telling us for years that the inclusionary housing would be condos. Now we "suddenly" learn these are inclusionary rentals.
 - o The Charter school will be nearly surrounded by high density units. Would you want your child playing in a school yard where potential drifters could be watching?
- * Condition inclusionary element approval as contingent on SHRA meeting with our community and establishing an agreed review process as your commission conditioned previously in Jan 07 (ref Pardee Apartment appeal)
 - o Per Sacramento's inclusionary ordinance map in para 17 190, Natomas is the primary "new growth area" for all inclusionary housing in Sacramento. Make SHRA meet with us.
- * Condition permit issuance on establishing a police substation in North Natomas as required by the NNCP
 - o Residents have negotiated with a developer to dedicate a substation if the city funds the call center phone. But the City has rejected the offer due to lack of funding! Are there sufficient services for the additional 6000 + residents?
 - o There are approved permits already for @ 8000+ unbuilt homes in Natomas. What will happen to our services when you approve 3000 more?
 - o Why is there no police substation, and only one fire station for

a community of @ 80,000 residents that will expand with annexation?

- * Condition an Elkhorn Blvd frontage greenbelt as per the original project plan. This will complete the last section of a long greenbelt running from I-5 to the Ueda parkway. Elkhorn has high traffic loads. The greenbelt will make a much safer bike/ped connection to the Ueda bikeway for families to use.

- * Condition building permit approval on the City establishing a flood evacuation plan, & full disclosure of the likely high flood insurance rates (with an estimate of annual cost)

- * Condition the parks & greenbelts to be turnkey and built within 30% buildout so that existing parks are not overburdened

- * Establish a larger Ueda buffer zone. We support ECOS in this. The Ueda is an important habitat preserve.

- * Do not increase housing densities, especially along the western boundary. Natomas has an overabundance of high density & small lot housing now. Mass transit is 20 years away. For mixed use balance, we need larger lot housing. Homeowners bought their homes assuming the Panhandle densities that were in the original plan.

- * Condition Rural Estates on the eastern buffer per the original plan if the City cannot support more open space there. The larger lots will likely add a larger land buffer. This location is geographically excellent for this product. Natomas needs this opportunity for custom homebuyers as an economic balance for all the inclusionary rental housing built along Del Paso Blvd. E of Truxel Rd.

More comments are in the attached Feb 07 letter. Please consider the needs of Natomas residents who have to live with the impacts of this project.

Sincerely,

Christine Paros

Chair, Natomas Park Planning Committee

CC: <awacht@cityofsacramento.org>, "Chris Paros" <chrisp55@comcast.net>, "Charles Gray" <cgray460@comcast.net>, "RICHARD HACK" <rkhack@sbcglobal.net>, "Tristan Godt" <tgodt@sbcglobal.net>, "Jay Ross" <jay@therosfamily.us>

From: <karen.s.rodgers@comcast.net>
To: <awacht@cityofsacramento.org>
Date: 5/31/07 1:08PM
Subject: Re: Panhandle Project Meeting on 5/24

Hi Arwen,

My understanding is that the meeting is being continued today, and I'd like to add the following comments:

Will the properties in back of us be governed by an association? Will the homeowners have a required timeline for landscaping their backyards?

Finally, for our specific property, is there a way to limit the number of two story homes to just one, and that lot be lot number 354 as drawn on "Tentative Subdivision Map/Tentative Subdivision Condo Map (Lots 795, 796, 797&802) Panhandle - Dunmore South" prepared by MacKay & Soms Civil Engineers, INC last revised on March 16, 2007

Thanks,

Karen Rodgers

----- Original message -----

From: karen.s.rodgers@comcast.net

Arwen Wacht
City of Sacramento City Planning Division
915 I Street- Third Floor
Sacramento, CA 95814-2998

Thank you for alerting us to the meeting scheduled for May 24 at 5:30 p.m.; however, we will be unable to attend and are using this letter as a means to communicate our concerns with the project overall, as well as our specific concerns as our home is adjacent to the area being developed

As a resident at the end of Cadbury Court, we have 211 lineal feet of property which are extremely affected by the proposed changes, our specific concerns are as follows:

The current plan has FOUR homes backing to our property. We are very concerned about privacy and the affect this change will have on our property value. We would like to request that the homes that back to our property are single story and placed as far forward on the lot to provide more distance between our house and any new construction.

Has flooding of our area been addressed? The ditch has filled with water every year, and to concerning levels during the 2005-2006 winter season. Filling in the current drainage ditch and raising the elevation of the homes in back of us 1-2 feet elevates our concerns.

What division is going to go between our homes and the proposed homes? We would like to request a block wall that matches the other Natomas Division fences. We understand that although this option may be costly, other options such as another fence adjacent to our current fence, cause significant fire, health and safety issues due to not being able to maintain the area between the fences.

The proposed homes backing to our property are 1400-2200 square feet. What can be done to better match the homes in our area that are 3000-4400 square feet? We are really concerned about how this is going to affect our property values.

As a resident of Natomas Park, we have the following project concerns as well:

What sort of funding has already been secured for the schools and parks? How can we be assured that the appropriated area will be used for the proposed schools and parks? What is the timeline for building the schools and parks?

o If funding for the above two items has not been secured, what can be done to assure that those areas are not eventually used for some other purpose?

Finally, what will be done to minimize dust and debris that will affect our property during construction? Even using traditional dust suppression methods, (ie water trucks) will still lead to a lot of dust in our home and property. Are there any plans for clean up of our area during this process? We currently have a large investment in the landscaping of our backyard, and are very concerned with this issue of dust and cleanup requirements.

Please let me know who to talk to to have these concerns addressed.

Sincerely,

Karen and Britt Rodgers
22 Cadbury Court
Sacramento, CA 95835
916-419-4946

From: Scot Mende
To: Arwen Wacht; Judith Lamare
Date: 5/31/07 1:32PM
Subject: Re: ECOS & PANHANDLE

Jude,
Yes, I'll distribute your e-mail and attachments

>>> Judith Lamare <judelam@sbcglobal.net> 05/31/2007 11:05 AM >>>
Panhandle review, hearing May 31.

Regarding my presentation last week on the Panhandle annexation, could you distribute the attached ECOS documents to Planning Commission and staff?

Specifically ECOS has requested the following which I believe applies to Panhandle Annexation (because of GP amendment and rezone):

RESOLVED, that the Environmental Council of Sacramento (ECOS):

- 1 Urges the relevant governmental authorities to impose a moratorium on approval or construction of residential, industrial and commercial development in the Natomas Basin, except for development in the area south of Elkhorn and east of El Centro Boulevards not requiring a general plan amendment or rezoning from agricultural use, until all of the levees protecting the Natomas Basin are upgraded to provide full protection from flooding
- 2 Urges the relevant authorities to support flood depth mapping as soon as reasonably possible
- 3 Urges that general plan updates in the basin provide for sufficient space for flood-control infrastructure that is or may be required in the future

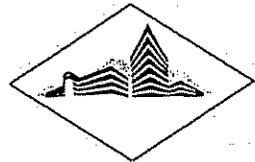
Judith Lamare, Ph.D.
717 K St., Suite 534
Sacramento, Ca. 95814
916-447-4956
916-447-8689 (fax)
judelam@sbcglobal.net

CC: Andy Sawyer; Graham Brownstein; Jim Pachi; Paul Menard

**Brigit S.
Barnes &
Associates,
Inc.**

A Law Corporation

Brigit S. Barnes, Esq.
Susan M. Vergne, Esq.



*Land Use and
Environmental
Paralegal
Jaenalyne Jarvis*

*Legal Assistants
Noreen Patrignani
Jenna Porter*

3262 Penryn Road
Suite 200
Loomis, CA 95650
Phone (916) 660-9555
FAX (916) 660-9554
Website:
landlawbybarnes.com

Panhandle #6

June 14, 2007

Hand Delivered

City of Sacramento Planning Commission
Historic City Hall
915 I Street, 2nd Floor Hearing Room
Sacramento, CA 95814

Attn: Hon. Joseph Yee, Chairperson
Hon. Darrel Woo, Vice-Chairperson
Hon. D.E. "Red" Banes, Commissioner
Hon. John Boyd, Commissioner
Hon. Joseph Contreras, Commissioner
Hon. Chris Givens, Commissioner
Hon. Michael Notestine, Commissioner
Hon. Jodi Samuels, Commissioner
Hon. Barry Wasserman, Commissioner

Re: Natomas Panhandle Annexation Project (M00-066)
Supplemental Comments on FEIR for the Panhandle Annexation, etc
(P05-077)
SCH#2005092043
Our Clients: Jim Gately/J.B. Management, L.P./J.B. Properties/J.B. Company
Our File No: 2219

Clients' Parcel Nos:
225-0060-033, -034, -054 through -059, -061, -066 through -068
225-0941-001, -027 through -029, -032 through -034, -037
225-0942-013, -014, -015, -035, -038, -043 through -049, -051, -052, -053
225-0943-027 and -028
237-0011-047
237-0410-029, -030, -032
237-0420-001, -028 through -030

*[Note: The 3 **bolded** parcels owned by our clients do not show on the proposed resolution of annexation]*

Dear Respected Commissioners:

Since the Planning Commission continued the hearing on this matter to June 14th, we would like to take this opportunity to provide further comments relative to inconsistencies contained in the FEIR. As you are aware, this office represents Jim Gately/JB Company/JB Management LP. This letter is intended to supplement our prior comments, and to underscore the significant defects in the FEIR which open the document up to challenge. This matter has been set on an aggressive hearing schedule for the admitted purpose of helping the Grant School District with its internal financial dilemma. However, adoption of

Asset Preservation	•	Commercial Real Estate	•	Environmental
General Business	•	Real Estate Financing	•	Litigation

this EIR, with the defects as noticed, makes the potential of litigation likely and reduces the possibility of an annexation being completed in time to assist the District.

**INADEQUATE RESPONSE TO CLIMATE CHANGE COMMENTS (FEIR,
CHAPTER 3.0)**

Contrary to the statements in the DEIR, 4.5-34 to 36, and Comment 7-58, only generic responses to the issue of project impacts to climate change were provided by the City. California's Attorney General has publicly challenged numerous general plan and development-related EIRs since 2006, precisely on the grounds that the impacts of increasing population in an area necessitating an admitted increase in traffic planning must be considered significant where the incremental effects of the annexation are viewed in connection with the effects of other current projects, and the effects of probably future projects. Pub. Res. Code §21083(b)(2). A draft EIR must consider the increase in carbon emissions anticipated to result from the proposed project in light of AB 32. [See for example, Communities for a Better Environment v. CA Resources Agency (2002) 103 Cal.App.4th 98, 119-120: the test for a significant cumulative impact is "not one additional molecule".]

The California Legislature has found that "Global Warming poses a serious threat to the economic well-being, public health, natural resources and the environment of California." Health and Safety Code §38501(a). Global Warming is obviously a serious environmental impact. CEQA requires that a public agency undertaking a project with the potential to harm the environment must prepare an EIR that uncovers, analyzes and fully discloses the reasonably foreseeable effects on the environment of the project, and adopts all feasible measures available to mitigate those effects. Neither the absence of a CEQA guideline that requires consideration of global warming impacts, nor lack of a regulatory standard for Green House Gas (GHG) emissions for projects justifies the conclusion that it is not possible to determine whether GHG emissions of a project constitute a significant cumulative environmental impact. Such a determination is, in effect, a conclusion that the potential cumulative impacts are not significant – a determination that must be supported by evidence and analysis. CEQA Guidelines encourage but do not require agencies to publish thresholds of significance. §15064.7(a). CEQA Guidelines also recognize that "An ironclad definition of significant effect is not always possible on scientific and factual data." §15064(b).

Under Assembly Bill [AB] 32, the California Global Warming Solutions Act, Health and Safety Code §38500, et seq., GHG emissions are required to be reduced by 25% by the year 2020. To the extent that a project's direct and indirect GHG-related effects, considered in the context of the existing and projected cumulative effects, may interfere with California's ability to achieve the 25% reduction goal, an agency must make the determination that the project's global warming-related impacts should be considered cumulatively significant.

This approach is similar to the question posed in the CEQA Guidelines, Appendix G – Environmental Checklist Form for Air Quality Impacts (with respect to criteria pollutants): could the project “Conflict with or obstruct implementation of the applicable air quality plan?” The agency could easily ask, “Could project emissions conflict with or obstruct implementation of AB32?”

The greater the environmental problem, the lower the threshold for significance of cumulative impacts should be. Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98, 120. Global Warming presents very significant, widespread threats to the environment and public health; every feasible opportunity to reduce GHG impacts must be pursued. The question is not how the effect of the project compares to the pre-existing cumulative effect, but whether any additional amount of effect should be considered significant in the context of the existing cumulative effect. Communities for a Better Environment, supra, at 119-120; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 718; Los Angeles Unified School District v. City of Los Angeles (1997) 58 Cal.App.4th 1019, 1025-1026. For a project that emits air pollutants, the test for significant cumulative impact is not one additional molecule. Communities for a Better Environment, supra, at 119-120; Kings County Farm Bureau, supra, at 718. The City must apply this rule of reason: are GHG emissions of the project enough that, along with new emissions from other projects, the cumulative emissions could interfere with achieving the reductions of AB32? Approving projects without requiring feasible measures to reduce or avoid GHG emissions will make it more difficult to achieve the reductions required by AB32, place a greater burden on other sources of emissions, and result in greater cost to achieve the required reductions.

Cases interpreting NEPA are persuasive authority as to requirements of CEQA. No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 86 fn. 21. In Border Power Plant Working Group v. DOE (S.D. Cal. 2003) 260 F.Supp.2d 997, 1028-29, the court found that NEPA required consideration of potential environmental impacts from a proposed natural gas turbine’s emission of carbon dioxide, a greenhouse gas, and rejected the argument that consideration of this impact is not required since EPA has not designated carbon dioxide as a criteria pollutant.

GHG emissions of the project must be quantified based on best available information (i.e., URBEMIS to estimate increased VMT; CARB’s Proposed Methodology to Model Carbon Dioxide Emissions and Estimate Fuel Economy (2002); CARB’s EMFAC model; Caltrans’ California Motor Vehicle Stock Travel and Fuel Forecast (MVSTAFF) and CARB’s OFFROAD Model). Feasible methods to avoid or reduce impacts must be identified and adopted. (Models to evaluate mitigation benefits include Center for Clean Air Policy, Transportation Emissions Guidebook, Emissions Calculator, California Energy Commission, The Energy Yardstick: Using PLACE3S to Create More Sustainable Communities and

Clean Air and Climate Protection Software – a Joint Project of STAPPA/ALAPCO, ICLEI and the EPA .) Feasible mitigation measures are found from many sources, such as LEED Green Building standards, ICLEI, Climate Action Team Report, Climate Action Program at Caltrans (December 2006), Renewable Energy Sources, and California Energy Commission's New Solar Homes Partnership.

As set forth in the FEIR at pp. 3.0-10, 12 and 13, the City has determined that the impacts of global warming are too speculative for evaluation. However, this is not true. The City can estimate the amount of GHG emissions from the proposed project and make a determination whether that amount of emissions constitutes a potential significant cumulative impact under CEQA. For GHG emissions from the proposed project that cannot be avoided, mitigation could include reduction of other existing GHG emissions.

The Panhandle EIR proposes no measures to specifically reduce greenhouse gas emissions. After the City received comments on the DEIR pointing out its lack of analysis of global warming and lack of mitigation measures to address global warming, a generalized discussion of global warming was added to the FEIR. However, the FEIR contains no inventory of the current, baseline greenhouse gas emissions from the project, no estimate of the increase in greenhouse gas emissions that will result from the project, and no analysis of the effects of these increases on the reductions in greenhouse gas emissions mandated by AB32. The FEIR fails to respond adequately to comments on Global Warming by failing to adequately address the statutory mandate of AB32.

LONG-TERM WATER SUPPLY (DEIR, CHAPTER 4.13)

The FEIR is fatally flawed because it fails to identify clearly allocated sources of water to be used by the project, as required by the recent Vineyard decision. In Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, the California Supreme Court held that an EIR failed to adequately inform decision makers and the public regarding its plan for long-term water supply. The Court ruled that, although the EIR identified the intended water sources in general terms, it did not clearly and coherently explain, using material properly stated or incorporated in the EIR, how the long-term demand was likely to be met with those sources, **the environmental impacts of exploiting those sources, and how those impacts were to be mitigated**, as required by Public Resources Code §21100(b). While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can. Laurel Heights Improvement Association v. Regents of University of California (1988) 47 Cal.3d 376, at 398-399 [an EIR must address the impacts of reasonably foreseeable future activities related to the proposed project]. Before approving a project, the decision makers must be informed of the intended source of water for the project, **and what the impact will be if supplied from a particular source or possible sources, and if that impact is adverse, how it will**

be addressed. Stanislaus Natural Heritage Project v. County of Stanislaus (1996) 48 Cal.App.4th 182, at 206.

According to the Panhandle DEIR (at 4.13-18), one of the project's water sources includes the Fairbairn Water Treatment Plant, which is subject to the Water Forum Agreement (WFA). The WFA is the product of the Water Forum, a stakeholder group that undertook long-term planning to meet increased demand for American River water through 2030. According to the DEIR's cumulative analysis of water supply and demand projections, the WFA "was developed to address cumulative development of this area." DEIR, at p. 4.13-22. As in the Panhandle Annexation EIR, the EIR in Vineyard, *supra*, relied on the WFA, which includes plans for increased surface water diversions by several water purveyors, including new diversions by the year 2030 totaling as much as 78,000 acre-feet annually (afa). The EIR for the WFA extensively analyzed the environmental impacts of the planned increases in surface water diversion, as well as the cumulative impacts of the Agreement and other foreseeable changes in area water supply and demand. It found that, in spite of measures included in the proposal for water conservation, increased use of American River water under the WFA **is likely to cause significant and potentially significant impacts within the Lower American River and Folsom Reservoir, including effects to certain fisheries, recreational opportunities and cultural resources.** In addition, it found that impacts to water supply, water quality and power supply were likely to occur outside the American River system. As such, given the actual language of Vineyard, the FEIR must be recirculated to reconsider its conclusions relating to Increased Water Demand (Impact 4.13.3.1) and Supply (4.13.3.2), that they have been determined to be **less than significant.** DEIR, at pp. 4.13-20, 21 and 22.

Because the EIR failed to explicitly incorporate the impacts and mitigation discussion in the WFA Final EIR, it lacks, contrary to CEQA's requirements, enforceable mitigation measures for the surface water diversions intended to serve the project. The County could have incorporated the WFA mitigation measures into the Panhandle Annexation EIR. But absent such incorporation, the EIR, and the findings based on it, are inadequate to support project approval under CEQA because they do not discuss the impacts of new surface water diversions, enforceable measures to mitigate those impacts, or the remaining unmitigated impacts. CEQA Guidelines, Cal. Code Regs. Title 14, §15126.4(a)(2); Vineyard, *supra*, at 444.

A second identified source is the City's reliance on "claimed" pre-1914 water rights, and a 1957 water rights settlement agreement with the U.S. Bureau of Reclamation, which provides that USBR will operate its facilities so as to provide a reliable supply of the City's water rights water to the City's diversion intakes, so long as the City doesn't exceed its agreed-upon diversion of 326,800 afa. The Water Supply Assessment identifies that the City has adequate water supplies secured by the 1957 USBR contract to meet the project's and

cumulative demands through 2030. DEIR, at p. 4.13-22. In Santa Clarita Organization for Planning the Environment v. County of Los Angeles (2003) 106 Cal.App.4th 715, the EIR's cumulative impact analysis for a project, which was to be supplied water by the local water agency, relied on the water agency receiving its full entitlement of afa. The Court held that the EIR's water supply discussion was inadequate because it assumed that such water futures or "paper water" would be made available.

As the court stated in Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, at 430-431, while the applicable case law states no definitive standard of certainty for analysis of future water supplies, they do articulate certain principles for analytical adequacy under CEQA. First, CEQA's informational purposes are not satisfied by an EIR that simply assumes a solution to the problem of supplying water to a proposed project. Decision makers must, under the law, be presented with sufficient facts to "evaluate the pros and cons of supplying the amount of water that the [project] will need" [citing to Santiago County Water District v. County of Orange (1981) 118 Cal.App.3d 818]. Second, the future water supplies identified and analyzed must bear a likelihood of actually proving available; speculative sources and unrealistic allocations ("paper water") are insufficient bases for decision-making under CEQA [citing Santa Clarita, *supra*, at pp. 720-723]. An EIR must also address the **impacts** of likely future water sources, and the EIR's discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water's availability [citing California Oak Foundation v. City of Santa Clarita (2005) 133 Cal.App.4th 1219, 1238-1239, 1244]. The ultimate question under CEQA, moreover, is not whether an EIR establishes a likely source of water, but whether it adequately addresses the reasonably foreseeable impacts of supplying water to the project. Vineyard, *supra*, at p. 434. The Panhandle DEIR fails to adequately address the impacts associated with the paper water sources, which are, in-and-of-themselves, legally inadequate.

As further proof of water supply, the EIR states that the City has developed an Urban Water Management Plan to ensure the conservation and efficient use of available water supplies and to ensure an appropriate level of reliability in its water service sufficient to meet the needs of its customers. DEIR, at p. 4.13-18. When an individual land use project requires CEQA evaluation, the urban water management plan's information and analysis may be incorporated in the water supply and demand assessment in lieu of an independent analysis only "if the projected water demand associated with the proposed project was accounted for in the most recently adopted urban water management plan." Water Code §10910(c)(2). The Water Supply Assessment does provide any specific information regarding the UWMP and how it will address the project's impacts, nor does it indicate whether the UWMP includes the project's demands, or attach or incorporate the UWMP into the EIR.

The DEIR states (at 4.13-14) that the City currently operates 32 active municipal groundwater supply wells within the City limits. The impacts to the City's well system as a

result of the proposed project have not been adequately set forth. As in San Joaquin Raptor Rescue Center v. Jaxon Enterprises, Inc. (2007) 149 Cal.App.4th 645, the EIR simply provides information on the amount of water needed to support the project. The court held that this information, without more, was inadequate to inform the public and decision makers regarding groundwater impacts. The court questioned what impact there would be on other groundwater users. Without such information, the true impact of the project on groundwater supplies cannot be adequately evaluated. As in Vineyard, the court held that the EIR must include "facts to evaluate the pros and cons of supplying the amount of water that the project will need." Id., at 663.

HYDROLOGY & WATER QUALITY (DEIR, CHAPTER 4.11)

As acknowledged in the Panhandle DEIR, development of the project would introduce sediments and constituent pollutants typically associated with construction activities and urban development into stormwater runoff. These pollutants will have the potential of degrading downstream storm water quality. This impact is considered to be potentially significant. See Impact 4.11.2. Mitigation Measure 4.11.2b requires compliance with the State General Construction Activity Storm Water Permit (the CGP discussed in detail below). However, the FEIR does not incorporate the most recent conditions of the Storm Water Permit as Best Management Practices (BMPs). As stated in Mitigation Measures 4.11.2 a and b, an NPDES Permit will be required for the project. An NPDES Permit is required pursuant to the Clean Water Act, Section 402(p), the intent of which is to attain water quality standards and protection of beneficial uses through the effective implementation of BMPs. The State CGP is issued through the SRWCB, which is charged with implementing the NPDES program under Section 402(p) of the CWA.

On March 2, 2007, the SWRCB issued a Preliminary Construction General Permit (PCGP) that departs markedly from the existing California General Construction Stormwater Permit.¹ The PCGP includes unprecedented control strategies that have never been included in a stormwater construction general permit issued by EPA or any state administering the federally delegated program. These new provisions include: Action Levels (ALs) (extensive monitoring and analysis); Advanced Treatment Systems (ATs) (retention ponds, pumping, chemical treatment, extensive testing, and controlled effluent release); a 5-acre limitation on the total area under active construction (which actually limits construction to a much smaller size due to activities other than actual construction -- i.e. stockpiling, fire protection buffers, etc. -- to approximately 3 active acres); Numeric Effluent Limits (NELs) (for pH, turbidity

¹ The current permit was originally adopted in 1999, litigated in the Baykeeper cases, subsequently amended in 2001, and expired in 2004. A SWRCB-commissioned Blue Ribbon Panel examined feasibility of numeric effluent limits in June 2006 and found numeric limits were technically feasible in **very limited** circumstances, and the panel was generally critical of the current stormwater regulatory programs.

and toxicity with associated testing); and provisions for post-construction hydromodification control. The controls on post-construction hydromodification are required in order to prevent downstream erosion and sedimentation-channel instability. Runoff volume must approximate pre-development. Sites over 2 acres must preserve drainage divides and time of runoff concentration. Sites over 50 acres must preserve drainage patterns and place controls close to source.

As stated in the PCGP, modification of a site's runoff and sediment supply and transport characteristics (hydromodification) is a significant cause of degradation of the beneficial uses established for water bodies in California. Construction activities can cause hydromodification. This General Permit requires all discharges to maintain pre-development hydrologic characteristics, such as flow patterns and surface retention and recharge rates, in order to minimize post-development impacts to offsite water bodies. PCGP, Finding No. 9.

The formal draft of the Construction General Permit (CGP) is expected in June 2007. SWRCB Hearings on the CGP will be conducted in August 2007. The new CGP could be effective as early as Fall 2007. The new CGP governs all construction sites over 1 acre.

The Panhandle DEIR does not discuss the state of the CGP. At the very least, the EIR should acknowledge the spirit and intent of the proposed new GCP, and set forth mitigation requiring compliance with the newly adopted GCP. CEQA was intended to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. CEQA Guidelines, Cal. Code Regs. Title 14 §15003(f); Friends of Mammoth v. Board of Supervisors (1972) 8 Cal.3d 247.

WETLAND/RIPARIAN ISSUES (DEIR, CHAPTER 4.8)

The EIR fails to take into account SWRCB's new Wetland and Riparian Area Protection Policy, in determining whether impacts to riparian areas should be treated as Significant. In 2001, the U.S. Supreme Court's SWANCC² decision disclaimed federal jurisdictional protection over certain isolated waters. On January 25, 2001, the California State Water Resources Control Board (SWRCB) prepared a Memorandum reacting to the SWANCC decision, clarifying that disclaimed waters were still subject to California jurisdictional protection. Governor Schwarzenegger's Action Plan for California's Environment directed state agencies to fill any gaps in wetlands protection. [For example, the SWRCB has not yet adopted its own definitions of wetlands and riparian areas. It relies on the federal definition used to administer the CWA Section 401 and 404 programs. However, most riparian areas

² Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC) (2001) 531 U.S. 159.

do not meet the federal wetland criteria, which makes identification and protection of these areas difficult.]

The SWRCB Report to the Legislature on Regulatory Steps Needed to Protect and Conserve Wetlands Not Subject to the Clean Water Act (State Water Board 2003) identified several such gaps in wetland and riparian area protections and outlined a series of steps needed to fill the gaps. In 2004, the SWRCB General Waste Discharge Requirements for Dredge and Fill to Wetlands (SWRCB Order No. 2004-004-DWQ) was issued. On June 25, 2004, the SWRCB issued Guidance for Regulation of Discharges to Isolated Waters. On September 24, 2004, the SWRCB's issued its 2004 Workplan: Filling the Gaps in Wetlands Protection (State Water Board 2004b), which further memorialized these steps by establishing tasks necessary to improve protection of wetlands and riparian areas in the state. In an effort to fulfill its obligations, SWRCB has developed a proposed Wetland and Riparian Area Protection Policy.

Most recently, on April 9, 2007, the SWRCB held a Scoping Meeting for the CEQA analysis on its Proposed Wetland and Riparian Area Protection Policy. The proposal contains alternative approaches in order to resolve what it describes as insufficient protections in the past which led to significant historic losses of California's wetlands and riparian areas. Among the alternatives being considered are: #3 (the adoption of new, broader definitions of wetlands and riparian areas (more protective and much broader than federal definitions of wetlands and waters); the adoption of state policy that better protects wetlands and riparian areas from dredge and fill than CWA §404(b)(1) guidelines); and #4 (same protections as #2, plus the adoption of state policy that protects wetlands and riparian areas from hydromodification (discussed infra), vegetation clearing and invasive species.

Most recently, on June 5, 2007, the Corps and EPA issued several memoranda and an instructional guidebook providing guidance to their field offices to ensure that jurisdictional determinations are consistent with recent case law interpreting the SWANCC decision. The guidance includes requiring a fact-specific analysis to determine whether certain types of waters (including swales, small washes and roadside ditches) have a significant nexus with a traditional navigable water, based on ecological and hydrological factors.

As a result of the SRWCB's new policy and the recent Guidance from the Corps and EPA, the project has the potential to significantly impact these resources, which have yet to be identified under the new definitions and significant nexus criteria. At the very least, the EIR should acknowledge the spirit and intent of the proposed new policies and set forth mitigation requiring compliance with the newly adopted policy. CEQA was intended to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. CEQA Guidelines, Cal. Code Regs. Title 14 §15003(f); Friends of Mammoth v. Board of Supervisors (1972) 8 Cal.3d 247.

INSUFFICIENTLY DEFINITE MITIGATION FOR DESTRUCTION OF FARM LAND

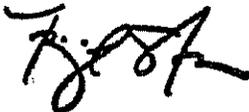
Contrary to the statements in the DEIR, and Responsive Comments to LAFCO, specific mitigation to reduce the impacts anticipated from the conversion of farm land and open space into residential development should be included in the document. An annexation of this nature where prime farm land is converted is precluded by LAFCO statutory restrictions at Government Code §56668.

FINDINGS

The EIR does not fully acknowledge all adverse environmental harms the project will do, and therefore this Planning Commission and the City Council cannot perform a legally adequate balancing of the benefits of the project against its adverse environmental effects. The FEIR identifies 17 significant environmental impacts; and commenters, including this commenter, have identified at least three impacts which have been improperly neglected. This City is precluded from adopting the EIR unless it can make findings in support of overriding considerations; and the convenience of annexing an island, thus wiping out open space and prime farm land, is not supported by economic or social considerations which make mitigation measures infeasible. 14 Cal.Code Reg. § 1509(b); *see Citizens for Quality Growth v. City of Mt. Shasta* (1988) 198 Cal.App.3d 433, 442, 243 Cal.Rptr. 727 (findings must be express and in writing; "implicit" findings are not acceptable).

Thus, the Planning Commission should order staff to correct the FEIR to directly address the comments received by all parties, and recirculate the EIR for further public comment.

Sincerely,



Brigit S. Barnes

cc: Clients / Frank Watson, Esq.
Sacramento LAFCO, Attn: Don Lockhart

June 14, 2007

To: Sacramento City Council and City Planning Commission

Subject: My spoken comments to the City Planning Commission on June 14, 2007, regarding: **Concerns about Grant Joint Union High School District's current and future performance in the Panhandle development project.**

Council Members and Members of the City Planning Commission,

My name is Gary Sawyer

May 26, 2007's Sacramento Bee article about Grant School District's role in the Panhandle described city officials as "totally unaware," "caught by surprise," and "stunned"

City officials must have wondered how some events left unmanaged could put city officials in such a weak and disadvantaged position, oversight-wise.

Well, I'm here to suggest to you that you weren't done in by unmanaged events. Rather, I believe Grant officials are "playing" you, using a long-resorted to Grant operating strategy. It's a strategy based on Grant officials doing just enough to give the appearance of being fair and an ally in a project...but doing it in a manner that minimizes the chances of anyone else being prepared or able to alter Grant's schemes. It's a frequent Grant strategy which many a Grant neighborhood has been a victim of... and now I believe Grant is doing the same thing to you.

Allow me to cite 3 similarities between your Panhandle situation and the several huge towers which Grant has recently erected in several neighborhoods. Towers which Grant is about to load down with up to 72 commercial cell phone antennas per tower.

Similarity #1: In both the towers and Panhandle cases, those that should be aware of what's going on...aren't.

Similarity #2: In both cases, how can two projects—both of which Grant officials have been preparing for 7 years—come as such a total surprise to those that should have been made aware of all the key details long ago?

Similarity #3: In both the Panhandle and towers cases, how can Grant officials tell Bee reporters (with a straight face) that "Grant did its homework"...and claim they did a fully adequate job of forewarning and informing those that should be forewarned?

At least regarding the towers, one of Grant's own trustees berated Grant officials in 2002 for: "You are not giving them due process"...and "Almost any other governmental agency, they'd almost string you up if you did (what Grant did)."

I'm going to leave you with 21 written instances of how Grant officials are screwing over unaware residents. Hopefully, after reading these examples, you'll say to yourselves, "Hey!...Grant School District officials are trying to pull the same sort of crap on us!" And hopefully, you'll put a stop to Grant's crummy behavior toward you and residents.

PS: Now that you know how bad it feels to be Grant's goat or Grant's mushrooms, I hope you will deny Grant's plan when they may appear before you soon seeking permission to mount up to 72 commercial cell phone antennas on one tower in a city neighborhood (that doesn't know about Grant's antenna scheme)



Gary Sawyer

Attached: "Can Grant Joint Union High School District officials be trusted to perform responsibly and with total honesty regarding the Panhandle development project? (June 14, 2007)"

4621 Don Julio Bl
Sacramento, CA 95842
(916) 334-2841

Postscript to City officials: I've canvassed 3 neighborhoods that Grant School District has targeted for huge towers loaded down with up to 72 commercial cell phone antennas per tower...and I haven't found five residents thoroughly familiar with Grant's towers/antennas scheme. Please don't let Grant School District officials get away with blindsiding residents.

- “Both Verizon and AT&T would have normally chosen to collocate on one of the existing stadium light poles.”
- “Both Verizon and AT&T Wireless could have met its needs for a site in this area by collocating on one of the 65’ [65-foot-tall] football stadium light standards [light poles].”

But instead of letting the cell phone companies do things the easy (and non-intrusive) way in which they wished to, Grant School District insisted that the cell phone companies erect several huge microwave towers instead of using already existing light poles. As Verizon Wireless further explained in its “Don Julio Site Justification Statement”:

- “The [Grant] High School District requested Verizon to instead assist the District with construction of the [Grant School] District’s proposed lattice tower and to collocate on that structure.”
- “[A]nd the [Grant School] District requested that AT&T cooperate with Verizon [on erecting a new tower].”
- “[AT&T Wireless and Verizon Wireless] are complying with the [Grant School] District’s request to assist with the construction of the new tower for the [Grant] District that is much taller than is needed by either wireless carrier.”

(Note: It would be interesting to know if Grant School District gave the cell phone companies any alternative other than to comply with what the cell phone companies tactfully referred to as a “request” by Grant School District for the construction of new towers.)

Each 120-foot-tall tower that the cell phone companies agreed to erect was to be twice as tall as either Verizon Wireless or AT&T Wireless needed for its antennas. (Grant School District insisted on that in order to obtain towers tall enough to mount the few antennas which Grant School District wanted for inter-school communications.) And because Grant School District also envisioned raking in lots of easy money for allowing scores of commercial cell phone antennas to be mounted on the towers, the towers would have to be much more massive than they would have had to be in order to hold just a few non-commercial antennas desired for school-related uses. The result was that each tower was also going to be much more of a major eyesore than anything which either cell phone company’s original plan would have created.

One might say Grant School District’s plan was innovative. Which is true, except for the despicable part about Grant School District apparently having no intentions of ever forewarning or informing local residents about the huge, antenna-bedecked eyesores which Grant officials were about to erect in an undisclosed number of neighborhoods. Because, strange as it seems, Grant School District and Sacramento County are not required by law to tell residents about the proposed towers. Which left many residents feeling as Grant School District Trustee Sheedy felt when he later learned of Grant School District’s plan and rebuked the school district for—

“.. not giving [Grant School District residents] due process...”

Trustee Sheedy’s rebuke of Grant’s officials stemmed from the reasonable and considerate belief that something as immense, intrusive and permanent as these towers carried with them an ethical obligation to forewarn residents and take their feelings and concerns into consideration. (A belief which most Grant School District officials apparently didn’t share.)

What tripped up and exposed Grant School District’s scheme to erect these towers with little or no forewarning in the targeted neighborhoods was the fact that Grant School District is required by law to get Sacramento County’s permission to mount even one commercial cell phone antenna on any structure. And Sacramento County is required by law to conduct a public hearing before granting that permission. So in 2002, Sacramento County sent out notices announcing a county hearing in response to a formal request to mount 18 commercial cell phone antennas on the proposed Highlands High tower. (This is the same Highlands High tower and 18 commercial cell phone antennas about which Grant School District’s Superintendent Buchanan would later claim,

“There is [sic] absolutely no plans to put 18 antennas on it at this time.”)

June 14, 2007

To: Sacramento City Council and City Planning Commission

Subject: Can Grant Joint Union High School District officials be trusted to perform responsibly and with total honesty regarding the Panhandle development project? (Grant's mishandling of a different project provides at least 21 reasons to think "No!"—and to suspect that Grant School District officials may be not dealing openly and forthrightly with city officials.)

Council Members and Members of the City Planning Commission,

My name is Gary Sawyer and I live within Sacramento's Grant Joint Union High School District (aka Grant School District). The current project to provide education facilities in the Panhandle area must be carried out by people the community can trust. I read the May 26, 2007, Sacramento Bee article about the limited manner in which Grant School District officials kept city officials apprised of what was going on. Myself and others living within the Grant School District have also had similar experiences with the less than fully explanative Grant School District officials. So, permit me to cite twenty-one examples of either out-and-out lies, selective truths, or self-serving actions on the part of Grant School District officials, which I think demonstrate the need to closely monitor Grant School District's involvement in the Panhandle development project. My examples all relate to events stemming from Grant School District's seven-years-long plan to erect huge microwave towers in various Grant School District neighborhoods—without district officials seeing any need to forewarn or inform local residents about the huge towers coming to their areas. But the problem with Grant School District officials is not limited to the towers issue; many other concerned Sacramentans have also had similarly disappointing experiences in dealing with Grant officials on a wide variety of other issues. All of those experiences aside, the local community's gathering in 2002 of the 22,000 signatures necessary to formally request that the State Board of Education dissolve Grant School District on grounds of unsatisfactory performance clearly indicates that the role of Grant School District officials in any Panhandle development project should be carefully monitored. (Note: Any underlining in this document was added by me.)

The events leading up to the twenty-one examples cited in this letter: As far back as 2001 (or earlier)...

- a. Grant officials decided to improve their inter-school communications system by utilizing microwave antennas;
- b. AT&T Wireless and Verizon Wireless decided to improve their companies' reception inside Grant School District.

While Verizon Wireless and AT&T Wireless' initial strategy for improving cell phone reception within the area of Grant School District was fairly non-intrusive and uncontroversial, unfortunately Grant School District coerced the cell phone companies into partnering with Grant School District in a rather underhanded scheme. The scheme was prompted by the two cell phone companies seeking Grant School District's permission to rent space on already existing high school stadium light poles on which to mount several commercial cell phone antennas. According to Verizon Wireless' "Don Julio Site Justification Statement":

- "The first option [Verizon Wireless] considered was collocation [sharing space] on the [already existing] Highlands High School football stadium light standard [light pole]."
- "Verizon gives priority to opportunities to collocate on existing structures over construction of new monopoles or lattice towers if the other factors are satisfactory."
- "AT&T Wireless also approached the [Grant School] District for a football stadium light standard collocation..."

on it at this time,” I sat nearby holding a county-generated notice about the proposed Highlands High School tower. (See Attachment 2.) That notice clearly states that a formal request had already been made for permission to put 18 antennas on the Highlands High tower (not including several additional antennas intended for school-related uses). The county notice even specifies which cell phone companies’ antennas would be mounted at which specific heights on the tower. Notes:

- a. As Attachment 3 shows: Since 2002, that initial request for 18 antennas has been replaced by a newer request to allow placement of up to 72 commercial cell phone antennas on the now even taller Highlands High tower;
- b. Design drawings at Grant District Headquarters in 2006 showed 84 antennas mounted on the Highlands High tower. (I have copies of those drawings.)

#3. [Note: Agencies or groups which may have to depend on Grant School District’s information-sharing abilities during the Panhandle development project effort should pay particular attention to this example.] Consider the written multi-page interview of Grant School District Superintendent Buchanan that appeared in the Grant School District newspaper “Grant Today” in September 2002. In that interview, which Buchanan later claimed informed Grant School District residents about the proposed towers, Buchanan made a point of saying:

“We [Grant School District] have made a very strong effort to involve all aspects of the community in our programs.”

Later, when a few concerned residents publicly demanded to know the extent of Grant School District’s “very strong effort” to involve and inform affected residents about the tower(s), Grant School District trustees admitted Grant School District had not made any effort to notify residents in the affected neighborhoods about the proposed towers during the entire three years (or more) that the plans for the towers had been under development at that point. And the reason one trustee gave for not informing residents was that there was no law that required them to inform residents. (That comment was what prompted Trustee Sheedy’s angry rebuke of Grant’s trustees and officials for their inexcusable treatment of local residents. Because, with the exception of Trustee Sheedy, the inactions of Grant School District Superintendent Buchanan and the trustees seemed to pretty much suggest an attitude of: If the law doesn’t specifically say we cannot screw over or hide important facts from the local residents, then why should we do more than the minimum required, and why should we care if local residents get blind-sided or screwed over?)

And that total lack of effort on Grant School District’s part to inform residents might explain why only two residents showed up at the Sacramento County Community Planning Advisory Council meeting in 2002 to ask Buchanan questions about the towers...and why only three of the scores of my neighbors whom I later polled had ever heard anything about the proposed tower. (One of those only three residents who were aware of the proposed tower was a Grant School District employee.)

#4. In Buchanan’s interview about the towers project in Grant Today, Buchanan summed up Grant School District’s towers-related efforts up to that time in this way:

“You may or may not have heard that there is currently some talk about installing and reinforcing the tower system...”

Rather than just minimize Grant School District’s efforts up until then as just “some talk,” Buchanan should have been much more honest with residents about the steps Grant School District had already taken prior to Buchanan’s interview in October 2002. Because by then, according to an internal Grant School District memo and other documents:

- “[On] September 27, 2001, the California State Board of Education approved a 160’ lattice tower to be constructed at the subject site [Highlands High School].”
- “...the District is actively negotiating with three (3) microwave tower/cellular providers to assist us in building the IT Tower Network”;
- “...the District has concluded agreements with Surewest Wireless and Nextel...”

While those county notices were only sent to residents living within 500 feet of Highlands High School, they were the first effort on any agency's part to provide (a limited number of) residents with the first real information about the huge, 120-foot-tall, antenna-laden, microwave towers which Grant School District had been planning for years to install in several Grant School District neighborhoods. (Grant School District would later admit that they had not intended to forewarn or consult with the residents of the neighborhoods that would be most negatively impacted by these massive and permanent eyesores.)

And that is the history leading up to the following...

Twenty-one examples which demonstrate Grant School District's irresponsible treatment of residents and an inability on the part of Grant officials to do a quality job correctly, honestly and responsibly. Notes:

- a. Keep in mind that the poles on which the cell phone companies wished to mount their antennas already existed.
- b. Notice in several examples that it was Sacramento County officials—rather than the Grant School District officials who had been developing the towers plan for three years or more—who informed local residents about the tower(s).

Example #1. The fact that Grant's officials intended to try to erect the tower(s) without notifying residents beforehand prompted one Grant School District trustee to angrily and publicly rebuke Grant's officials and his fellow trustees. Criticisms which Trustee Sheedy made in 2002 about Grant officials and the district's trustees included:

- "At the time we [the Board] approved [the tower]... we did not notify neighbors that [the tower] was going to go up."
- "[Y]ou [the Grant School District] have neighbors that are going to be terribly offended..."
- "And why does this Board not notify neighbors that they are going to have that type of intrusion within neighborhoods? How would you like to have a 125-foot-tall tower next to your house—without notification?"
- "I'm saying that this Board ought to look at that policy—when you put something as intrusive as that in neighborhoods—in residential areas..."
- "Listen, any other governmental agency, they'd almost string you up if you did [what the school district did]."
- "But you are not giving them [neighborhoods and residents] due process at this Board level—you're not. You are relying upon the County which is sort of a cop-out..."
- "[T]here was no due process... other than saying, 'Let the administration do what they're going to do'."
- "[I]f you're putting something on your land, no matter where it is, and if it's near residences, and it offends them, and its going to be very controversial like this looks like it could be—and this could be controversial..."

(Note: Attachment 1 contains more of Trustee Sheedy's angry rebuke of Grant officials for failing to treat the residents living within the Grant School District fairly.)

#2. When concerned residents publicly confronted Grant School District Superintendent Buchanan at that same Board of Trustees meeting in 2002, Buchanan told the community and the trustees this:

"There is [sic] absolutely no plans to put 18 antennas on it [the Highlands High tower] at this time."

As Buchanan stood there telling Grant's trustees and the public that there were "absolutely no plans to put 18 antennas

which Grant officials (and possibly County and State education officials) wanted the community to know about; projects which certainly were uncontroversial and unlikely to rally any opposition.

But Grant School District has never erected a single large sign anywhere—and has never displayed any message on its glaring 24-hour electronic bulletin board—informing residents about Grant School District’s towers plan or the huge, 140- and 160-foot-tall, antenna-laden towers which Grant officials were about to erect in various neighborhoods; towers and a plan which one of Grant School District’s own trustees publicly condemned as far back as five years ago as...

- “We [the Grant School District] did not notify neighbors . . .”
- “[Y]ou [the Grant School District] have neighbors that are going to be terribly offended. . .”

#10. Regarding the locations of the proposed towers, the Sacramento Bee article states, “Grant School District’s board approved contracts... for three towers at...Highlands High School, Grant Skills Center and Rio Linda High School.” The wording and information in that sentence are somewhat suspect because:

- Did Grant officials forget to mention to The Bee that Grant officials had already negotiated a formal resolution with Rio Linda School District permitting Grant officials to build a tower at Rio Linda’s Alpha School too?
- Back in 2003, I specifically asked the technical expert for Grant School District’s towers project if there could be any more towers erected later that were not being revealed at that time. While I have no witnesses to what his answer was and therefore I won’t repeat his answer here since it would be his word against mine, I strongly suggest, based on his response to me in 2003, that someone insist that Grant School District identify the maximum number of neighborhoods in which Grant School District might eventually wish to erect these huge towers.

#11. In 2006, I polled many neighbors living near Highlands High School, Grant Skills Center and Alpha School...and found fewer than ten residents who had ever heard anything about a tower possibly coming to their neighborhood. If by 2006, the vast majority of residents around 3 of the 3 (or is it 4?) potential tower sites had been told nothing by Grant officials about huge antenna-bedecked towers that had been in the works for up to five years at that point, what does that say about Buchanan’s claims that...

“We [Grant School District] have made a very strong effort to involve all aspects of the community in our programs”?

And why shouldn’t we consider Grant officials’ selective and ineffective dissemination of information about the towers to be the best indicator of a similar future unwillingness and unlikelihood on Grant’s part to keep the community apprised of all important Panhandle-related information?

#12. The Sacramento Bee article also states:

- “[T]he towers’ primary function will be for backup communication...”;
- “Each tower... is also designed with potential to add antennas for cellular phone communications...”;
- “[T]he Highlands High School tower already has contracts for five antennas...”

But looking at Grant School District’s own design drawings of the towers just a short time prior to that Sacramento Bee article, you wouldn’t get the impression that the towers were designed with just the “potential” to add commercial antennas later on... or that “five antennas” was anywhere close to what Grant School District really has in mind. The truth is that before construction even began, Grant School District’s drawings of the Highlands High School tower specified which 4 cell phone companies would own up to 48 commercial cell phone antennas on that one tower—even listing the specific heights at which the antennas will be mounted. (The four cell phone companies named on the drawings are Metro PCS, AT&T, Sprint and Verizon... with Cingular and T-Mobile listed as “Applicants” on other tower-related related documents.) In addition to those 48 already-designated antennas, Grant School District’s current design drawings of the Highlands High tower show that spaces have also already been designed in for an additional 24 commercial cell phone antennas not yet assigned to any particular cell phone companies—antennas that the drawings refer to as (unassigned) “future antennas.” That’s a total of 72 antennas on just the one Highlands High School tower.

But Buchanan apparently felt that the two measly words “some talk” adequately described the status of the new towers; or, was about as much information as Buchanan felt that the public deserved to know; or—recalling Trustee Sheedy’s remark that, “[Grant officials] have neighbors that are going to be terribly offended”—perhaps those two words were all the details that Buchanan and Grant officials wanted the public to know. (What does that say about the prospects for full disclosure by Grant officials during—and regarding—the proposed Panhandle development project?)

#5. The only tower height which Buchanan mentioned in that entire multi-page interview was “30-foot masts”...making the towers sound like something which many people buy at Radio Shack and put atop their homes to get better television reception. But the truth is that what Grant School District had already requested—and already received approval from the State Department of Education to erect in one or more neighborhoods—were massive, immense 160-foot-tall towers.

#6. Since 2003, and despite neighborhood opposition to the tower, Grant School District has increased the height of the then proposed 120-foot-tall Highlands High School tower by an additional 40 feet, now proposing to make it 160-foot-tall.

#7. Despite Buchanan’s claim in 2002 that—

“We [Grant School District] have made a very strong effort to involve all aspects of the community in our programs”...

...when I visited the Del Paso Heights site of the proposed Grant Skills Center microwave tower in 2003, I found that nearby residents—including those who lived directly across the street from the proposed site—had also been told nothing about the giant towering eyesore coming to their area. Which wasn’t surprising, considering it took six requests and five months for concerned residents in my area to receive the tower-related information we requested from Grant’s officials and trustees...and then the information we received lacked many key details. (And other residents have told me that their requests for information from Grant School District about other issues were also unreasonably delayed for long periods.)

#8. Jumping ahead to 2006, a November 23, 2006 Sacramento Bee newspaper article about Grant School District’s towers project said, “[Grant School District] provided The Bee with records showing 10 public meetings and public notifications between April... and August 2004.” That information surprised me—a lot; because:

- Three of us living near Highlands High School are probably the most informed residents regarding the towers issue;
- Grant School District knows we would want to be informed about any tower-related meetings or notices;
- Grant School District certainly knows how to contact each of us.

But the three of us are still not aware of any “10 public meetings and public notifications” that ever took place during that time period (or since). That fact worries me because, if Grant School District announced and conducted “10 [tower-related] public meetings and public notifications”...but did it in a manner that left most residents in the affected neighborhoods totally unaware of most (or any) of those public meetings or notifications...what does that say about Buchanan’s “very strong effort[s] to involve all aspects of the community in our [Grant School District] programs”? And what details about the current Panhandle development project may Grant School District also conveniently fail to disclose or disseminate to the community in a manner adequate enough to ensure that residents actually receive the information?

#9. I’m not suggesting that Grant School District officials don’t tell residents anything. Quite the contrary, Grant officials are very good at disseminating whatever information Grant officials want the public to know. But Grant officials also seems to be very good at not revealing information that Grant officials may not want the public to be aware of. For example, until March 2007, five large, 4-foot by 8-foot impossible-to-miss wooden signs—and an impossible-to-miss large electronic bulletin board—have stood for years alongside the intersection next to Highlands High School. (See the photos in Attachment 4.) While the wooden signs were removed recently, the electronic bulletin board continues to disseminate mundane and uncontroversial information to nearby passers-by and residents twenty-four hours a day, seven days a week. And the five huge wooden signs bragged for years about five projects

Sacramento County or Verizon Wireless about the extent of neighborhood opposition to the Highlands High tower in 2003. (When Verizon Wireless learned of the extent of neighborhood opposition to the tower just shortly before the Sacramento County Planning Department's hearing on the tower in 2003, Verizon Wireless requested the hearing be postponed—and Verizon Wireless subsequently withdrew from the project, citing neighborhood opposition.) (Alas, it's a sad commentary when an "outside" company like Verizon Wireless cares more about and responds more to neighborhood concerns and objections than our own elected and appointed Grant School District officials do!) Because Grant officials did so little to make participating city officials aware of the looming \$11-million penalty well ahead of time, how much can the city and other agencies involved in the current Panhandle project trust Grant School District to be completely upfront with them...and not set them up to be blind-sided later?

#18. Returning to Buchanan's written interview in 2002, Buchanan tried to justify the proposed towers by suggesting that the towers might lead to Grant School District playing a role in "national security," and that the towers might be utilized by several area emergency agencies. In Buchanan's own words:

"We are talking to Office of Emergency Services (OES) and to the Federal Emergency Management Agency (FEMA) regarding the utilization of our towers. OES would like to do a pilot project with the highway patrol regarding the possibility of using our towers as part of the highway patrol communications system. The possibility of using our towers as part of systems in use by the sheriff department, the fire department, and other essential services agencies is also currently being discussed"... "There's also the much bigger and wider picture where Grant may be able to participate in a pilot project related to national security."

In researching the veracity of Buchanan's statements in the interview, I wrote to the five emergency agencies Buchanan specifically mentioned...and two of them responded in writing. Sacramento's Metro Fire Department wrote that Grant officials had not contacted them...and the CHP wrote that they weren't interested in Grant's towers.

#19. In that same interview, Buchanan said, "And we try to make sure the towers blend in." But Grant officials (with the exception of Trustee Sheedy in 2002) have shown no concern about the negative visual impact of the towers on our neighborhoods:

- Grant officials have designed the towers to be 55 to 95 feet taller than the already existing structures that would have been sufficient to earn the desired extra revenue from the cell phone companies.
- The towers will have to be sturdy enough to hold (at least) 72 commercial antennas. (Remember, Grant's drawings in 2006 showed 84 antennas on one tower.) So, instead of narrow, less noticeable, spire-like towers capable of holding the few antennas needed for school-related use, towers will have to be much more massive and far more of an eyesore.
- I've heard no mention at any Grant School District meetings about any efforts to camouflage either the towers or the antennas which Grant School District intends to put on the towers. To the contrary, one of Grant School District's own photo simulations of the Highlands High tower shows a giant school banner hung from the tower. (Permit me to point out to Buchanan that a 160-foot-tall tower laden with 72 antennas is enough of an eyesore and insult to nearby homeowners; so Buchanan should STOP trying to find ways to hang more junk from it.)

#20. Unbelievable as it sounds, Buchanan actually stated at one Grant School District Board of Trustees meeting that erecting the massive antenna-bedecked microwave towers would actually help improve the property values of surrounding homes. And let's not forget Grant trustee Bryce Vernon telling the board and the public in 2002 that, "[The tower] is not intrusive to the Community..." But how can a huge tower—in plain view in a residential neighborhood—and destined to be loaded down with up to 72 (or more) commercial cell phone antennas—not be intrusive? And what do such comments say about the honesty and judgment of those who utter them? (As of April 2007, the Highlands High School tower is substantially complete...and it is intrusive and it is a noticeable eyesore...even before any antennas have been mounted on it.)

#21. Since 2001, Grant officials have not really improved their treatment of residents living within Grant School District:

In light of the facts that:

- Grant School District already designed the tower(s) to be massive enough to hold 72 (or more) commercial antennas;
- And Grant School District and its wireless cell phone company collaborators had already formally asked Sacramento County for permission to mount “up to seventy-two (72) panel-type antennas” on the Highlands High tower alone...

...does that really sound like Grant officials designed these towers with just a “potential to add antennas”? No; the scores of antennas already shown on the tower drawings seem to indicate that the antennas were a major reason to build the towers...and were key components of the towers from the start. And if that is the case, why won't Buchanan and the Grant School District trustees admit that? (And what might they choose to not admit concerning the Panhandle project?)

#13. Before Grant School District can legally mount even one commercial cell phone antenna on any of the towers, Sacramento County is required by law to hold a public hearing—which has not been held yet. So how is it that Grant School District can claim in The Sacramento Bee article that it “already has contracts for five antennas” to be mounted on the Highlands High School tower? (And how many other not yet authorized antennas does Grant School District have undisclosed contracts for—or have hopes of mounting on the other proposed towers?)

#14. According to the Sacramento Bee article, Grant officials “found a way to make them [the towers] a source of revenue [by permitting several cell phone companies to hang their antennas on them].” But as Verizon Wireless’s “Don Julio Site Justification Statement” mentioned in 2002, Grant officials could have begun earning the same sort of revenue from the cell phone companies—as far back as 2001 or 2002—by simply permitting AT&T Wireless and Verizon Wireless to mount their antennas on already existing stadium light poles that were half the height of these new towers. Instead, Grant officials insisted that the cell phone companies erect huge new towers rather than use the already existing light poles.

#15. [City officials reading #15 should note that Grant officials gave residents little or no advance notification about the towers in 2007—much like Grant officials did to city officials in 2007 regarding the \$11-million penalty clause.] Grant School District’s original construction timetable for 2006 showed that construction of the first tower(s) was to begin on August 28, 2006, and one or more towers were to be what Grant School District documents called “substantially complete” by October 13, 2006. It appears that Grant School District intended that one or more towers were supposed to be almost finished by the time Sacramento County officials sent out the first notices in mid-October 2006 mentioning any-thing about the resurrected towers plan...and Grant officials’ desire to mount up to 72 cell phone antennas on the Highlands High tower. In other words, the only reason a few residents were told about Grant School District’s latest plan to erect a 160-foot-tall Highlands High tower before Grant commenced construction in 2007 was because Grant School District was unable to stick to their timetable. (Give Grant officials an “F” in “Conduct” and an “F” in “Staying on Schedule”; and give them an “A+” in “Underhandedness.”) (Like the towers, what possibly controversial details about the redistricting plan might Grant School District not adequately publicize in time to permit public opinion to oppose them?)

#16. When Mr. Werner S., who lives near Highlands High School, contacted the Sacramento Planning Department in July 2003, he was told that Grant officials reported only two names to the county as being opposed to the towers; the two names were Mr. S.’s name and my name. But Buchanan and Grant’s trustees were probably fully aware by that time that there was sizable neighborhood opposition to the tower and antennas, in the form of 37 written objections by residents, a signed peti-tion with 11 additional signatures, and a television news story about the campaign against the tower. (What does that say about the sort of full and accurate disclosure—or rather lack of full and accurate disclosure—which we should expect from Grant officials regarding the accurate reporting of any criticisms or problems involving the Panhandle project?)

#17. [This example is another caution to those who will partner with Grant School District in the Panhandle development project.] As city officials have already learned the hard way, Grant officials seem to feel little or no obligation to keep their partners informed either. A prior example of this was Grant officials’ failure to forewarn

those projects which Grant School District wants Grant School District residents to know about.

Note: The examples listed in this letter were originally compiled in April 2007 as part of a letter concerning worries that Grant Joint Union High School District would fail to adequately carry out its role in the upcoming major school district reorganization project. Back in April 2007, copies of the list were sent to:

- State Superintendent of Public Instruction Jack O'Connell, California State Board of Education
- County Superintendent of Education David Gordon, Sacramento County Office of Education
- Superintendent and Board of Trustees, North Sacramento School District
- Superintendent and Board of Trustees, Rio Linda Union School District
- Superintendent and Board of Trustees, Robla School District
- Superintendent and Board of Trustees, Elverta School District
- Mr. Dennis Strigl, Pres., Verizon Wireless
- Mr. Robert Dotson, Pres., T-Mobile
- Mr. Gary Forsee, Pres., Sprint
- Mr. Stanley Sigman, Pres., Cingular Wireless
- Sacramento County Planning and Community Development Department
- Some residents living within the Grant Joint Union High School District
- Several news agencies (local and otherwise).

Final Note: Had I had any reason back then to think that it was City of Sacramento officials who would next fall victim to the "working with the Grant School District" experience, I would have sent City officials a copy in April too...and perhaps have saved you from later being described (a month later) by The Sacramento Bee as "caught by surprise," "totally unaware," and "stunned." But in this case, you've learned on your own about working with Grant School District...(I hope).

a. Up through 2007, I have met and talked to many other Grant School District residents who also felt bewildered and/or insulted by the dismal and dismissive manner in which Grant officials treated them and their concerns about various other issues. I.e., the tower-related experiences I am recounting are just a very small sampling of occasions on which Grant's Superintendent Buchanan and Grant's trustees have: mistreated and alienated residents, or left entire neighborhoods clueless, uninformed and out of important decision-making processes.

b. Grant officials may try to claim that my examples are no longer relevant because a new, more enlightened and more constituent-conscious management hierarchy exists within Grant School District today; but consider the following. Back in 2002, when Trustee Sheedy berated Grant's officials and trustees for their disrespect and extremely poor treatment of the public, Sheedy also warned his fellow trustees to:

"Don't just say, 'That's the way we've always done it.'"

Trustee Sheedy issued that warning to Grant's officials and trustees in 2002. And a couple of years later, 22,000 residents made their dissatisfaction with Grant's management style clear to Grant officials by formally petitioning the State Board of Education to dissolve Grant School District. After and in spite of all those "clues," the (supposedly) now more enlightened and constituent-conscious Grant Board of Trustees still displayed shockingly poor judgment in 2006 by publicly telling members of the public to not take it personally if citizens who were concerned enough to appear before the Grant Board of Trustees were not permitted the standard 3 minutes of speaking time; because, in one trustee's words (as best I could transcribe them as she spoke):

"That's just the way we do things."

Conclusion: I hope the experiences of myself and other residents living within the Grant School District will convince city officials and the other agencies participating in the Panhandle development project to be very, very careful in their dealings with Superintendent Buchanan and Grant's trustees. Even if Buchanan or the trustees don't out-and-out lie to you, I've demonstrated why I doubt that longtime Grant Joint Union High School District officials will feel any obligation to tell you (or anyone) the truth or the whole truth



Gary Sawyer
4621 Don Julio Blvd.
School Sacramento, CA 95842
(916) 334-2841
Email:

Grant_Neighbors_Deserve_BETTER
@Hotmail.com
[3 underscores ("_") are required in this
email address; but capital letters are
not required.]

Attachments:

- 1) Grant School District Trustee Sheedy's angry rebuke of the Grant District and his fellow Trustees... for failing to treat residents living within Grant School District fairly.
- 2) Copy of a 2002 County notice regarding an official request for authorization to mount 18 commercial cell phone antennas on the proposed Highlands High tower. (Grant School District's Superintendent Buchanan later claimed: "There is absolutely no plans to put 18 antennas on it at this time.")
- 3) Copy of a 2006 County notice regarding an official request for authorization to mount 72 commercial cell phone antennas on the proposed Highlands High tower. (If Grant School District officials had managed to stay on their desired schedule for erecting the first tower(s), local residents wouldn't have been notified about the tower—or the 72 antennas Grant wanted to mount on it—until after the tower was what Grant School District plans called "substantially complete.")
- 4) Photos of the 5 huge wooden signs and the glaring 24-hour electronic bulletin board—all in place alongside Highlands High School for years—which Grant School District used to inform residents about

Attachment 1:

Grant School District Trustee Sheedy's angry rebuke of the Grant School District and his fellow Trustees ... for failing to treat residents living within Grant School District fairly

"At the time we [the Board] approved [the tower] ... we did not notify neighbors that [the tower] was going to go up." "And why does this Board not notify neighbors that they are going to have that type of intrusion within neighborhoods? How would you like to have a 125-foot tower next to your house—without notification?" "I'm saying that this Board ought to look at that policy—when you put something as intrusive as that in neighborhoods—in residential areas—so that we—[Trustee Sheedy emphasized the "we"]—notify the people and maybe have a full hearing before this Board on that—before it [the tower] goes in. That's not right." "But you have neighbors that are going to be terribly offended. Listen, any other governmental agency, they'd almost string you up if you did [what the school district did]." "[The issue is] due process...notification of people in the neighborhood. And all I'm suggesting to you is [the District] review and don't just say, 'That's the way we've always done it'; you review the process when you put something as obtrusive as that—and intrusive—in the neighborhood—that you have a hearing on it." "But you are not giving them [neighborhoods and residents] due process at this Board level—you're not. You are relying upon the County which is sort of a cop-out, to [to notify people about] the cell stuff; but the [tower] structure itself, there was no due process. Other than saying, 'Let the administration do what they're going to do'; well, Hell, if they wanted to put a warehouse out there, would you let them do that?" "All I'm saying is that if you're putting something on your land, no matter where it is, and if it's near residences, and it offends them, and its going to be very controversial like this looks like it could be—and this could be controversial ... the City and County go through this day in and day out." "Those towers are very large."

Source: Some of Trustee Sheedy's comments at November 20, 2002's Grant Joint Union High School District Board of Trustees Meeting (as transcribed from the audiotape transcript of that meeting).

Copy of a 2002 County-generated notice regarding an official request for authorization to mount 18 commercial cell phone antennas on the proposed Highlands High tower. (Grant School District's Superintendent Buchanan would later claim: "There is absolutely no plans to put 18 antennas on it at this time")

COURTESY MEETING NOTICE

NORTH HIGHLANDS COMMUNITY PLANNING ADVISORY COUNCIL

TO BE HELD AT THE NORTH HIGHLANDS PARKS & RECREATION BUILDING, 6040 WATT AVENUE, NORTH HIGHLANDS, CA

A Community Planning Advisory Council meeting will be held **Tuesday, August 27, 2002 at 7:30 PM**, to consider and discuss an application filed for the following property:

ASSESSOR'S PARCEL NO: 219-0035-001 CONTROL NO: 02-UPP-0454

PROJECT NAME: Verizon/AT&T "Don Julio/Highlands High School" collocation Wireless Facility Use Permit

LOCATION: The property is located on the southeast corner of Walerga Road and Don Julio Boulevard, in the North Highlands community.

APPLICANT: Epic Wireless Group, Inc., 381 S. Lexington Drive, Suite 103, Folsom, CA 95630, Attention: Joel Ellinwood

DEVELOPER: Verizon Wireless, 255 Parkshore Drive, Folsom, CA 95630, Attention: Network Dept

CO-DEVELOPER: AT&T Wireless, 1071 Bell Avenue, Sacramento, CA 95838, Attention: Larry Houghtby

ARCHITECT: Peek Site-Com, 853 Lincoln Way, Suite 106, Auburn, CA 95603, Attention: Todd Peek

OWNER: Grant Joint Unified High School District, 1333 Grand Avenue, Sacramento, CA 95814, Attention: Mike

REQUEST: A Use Permit to allow a collocation wireless facility on a 60± acre site know as "Don Julio Junior High School and Highlands High School" in the RD-2 zone. The facility would consist of the construction of a 120-foot high lattice tower for the benefit of the Grant Union School District, approved by Resolution No. 29-01 adopted August 15, 2001. Six (6) panel type antennas, two (2) per sector, would be mounted at a centerline of 75 feet for AT&T Wireless and four (4) panel type antennas in each of three (3) sectors for a maximum of twelve (12) total, would be mounted at a centerline of 60 feet for Verizon Wireless. In addition, equipment shelters for both carriers would be located at the base of the tower within a completely enclosed 2,500± square foot lease area with a 6-foot high chain link fence.

NOTE from Gary Sawyer:
6 AT&T
antennas... →
plus
12 Verizon
antennas...
equals
18 antennas

The Community Planning Advisory Council will be making a recommendation to the County of Sacramento, Planning and Community Development Department. If you have questions, please attend the meeting. If you need to speak to a staff person, please leave a message at 874-7910.

Copy of a 2006 County-generated notice regarding an official request for authorization to mount 72 commercial cell phone antennas on the proposed Highlands High tower. (Had Grant School District been able to complete the tower according to their schedule, local residents wouldn't have been notified about the tower—(or the 72 antennas to be mounted on it)—until after the tower was what Grant School District plans called "substantially complete.")

COURTESY MEETING NOTICE

NORTH HIGHLANDS COMMUNITY PLANNING ADVISORY COUNCIL

**TO BE HELD AT THE NORTH HIGHLANDS PARKS & RECREATION BUILDING,
6040 WATT AVENUE, NORTH HIGHLANDS, CA**

A Community Planning Advisory Council meeting will be held **TUESDAY, October 24, 2006 AT 7:00 pm** to consider and discuss an application filed for the following property:

ASSESSOR'S PARCEL NO.: 219-0035-001

CONTROL NO: 06-UPP-0683

PROJECT NAME: HIGHLAND HIGH WIRELESS TELECOMMUNICATIONS FACILITY USE PERMIT

LOCATION: The property is located at 6602 Guthrie Road, at the southeast corner of Walerga Road and Don Julio Blvd., in the North Highlands community. (Supervisor District 1: Dickinson)

OWNER: Grant Joint Union School District, 1333 Grand Avenue, Sacramento, CA 95838

APPLICANTS: Metro PCS
785 Orchard Drive #200
Folsom, CA 95630
Attention: Karen Lienert

Verizon Wireless
4305 Hensley Circle
El Dorado Hills, CA 95742
Attention: Teresa Heine

T-Mobile
853 Lincoln Way, Suite 106
Auburn, CA 95603
Attention: Todd Peek

Sprint
367 Civic Drive, Suite 7
Pleasant Hill, CA 94523
Attention: Matt Yergovich

REQUEST: Cingular Wireless
3851 North Freeway Blvd.
Sacramento, CA 95834
Attention: Larry Houghtby

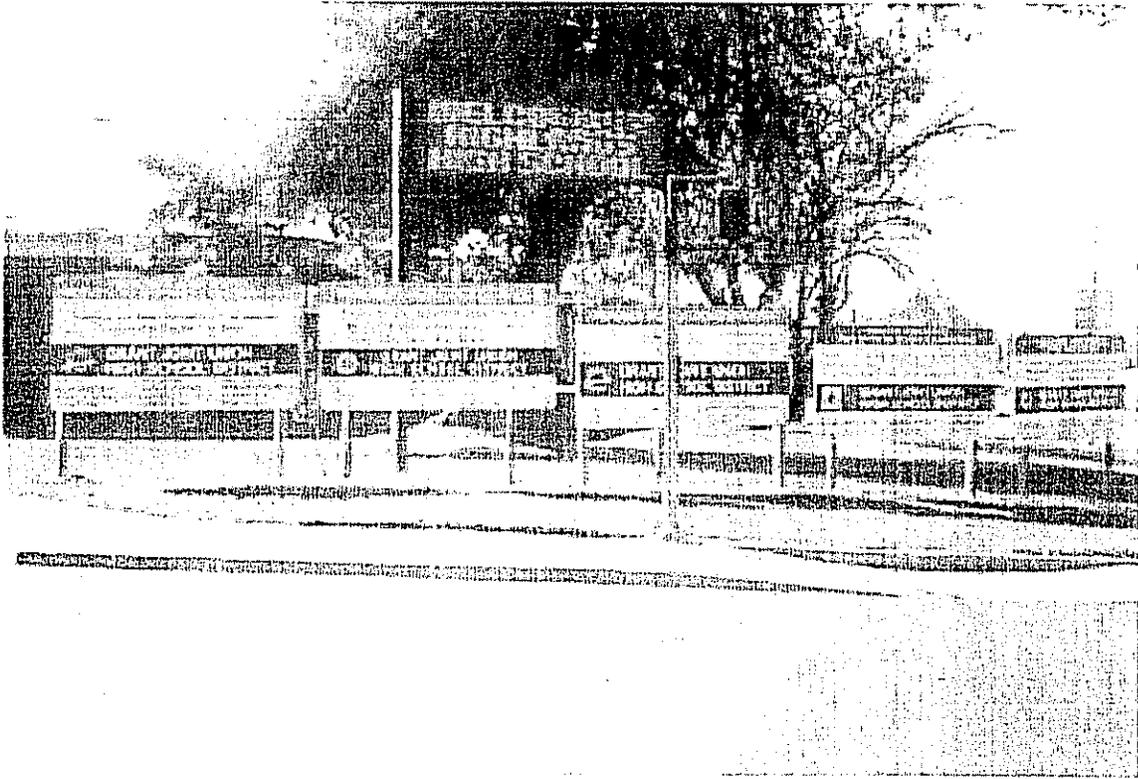
A Use Permit to allow the collocation of multiple wireless telecommunication carriers on a 160-foot high radio tower in the RD-2 zone. The facilities will consist of up to seventy-two (72) panel-type antennas mounted between 49 and 133 feet on the tower, and the placement of equipment shelters at the base of the tower.

Note: On September 27, 2001, the California State Board of Education approved a 160' lattice tower to be constructed at the subject site (Highlands High School). The lattice tower is exempt from local land use regulations by Resolution No. 04-02, adopted on February 6, 2002, furthermore, the Department of General Services, Division of the State Architect approved construction of the lattice tower on June 28, 2006. As a result, the use permit is to allow the collocation of multiple carriers after the lattice tower is constructed.

The Community Planning Advisory Council will be making a recommendation to the County of Sacramento, Planning and Community Development Department. If you have questions, please attend the meeting. If you need to speak to a staff person, please leave a message at 874-7910

Attachment 4:

Photos of the 5 huge wooden signs and the glaring 24-hour electronic bulletin board—all in place alongside Highlands High School for years—which Grant School District uses to inform residents about those projects which Grant School District wants Grant School District residents to know about *



GRANT SCHOOL DISTRICT

Funded by the General Obligation Bond Measure E as approved by voters within Grant Joint Union High School District

GRANT JOINT UNION HIGH SCHOOL DISTRICT

ARCHITECTS STAFFORD KING WIESE 622 20TH STREET SACRAMENTO, CA 95811	GENERAL CONTRACTOR: LAMON CONSTRUCTION CO., INC. 831 MARKET STREET YUBA CITY, CA 95991
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* -- But Grant School District has never erected a single large sign anywhere—and has never displayed any message on its 7 day a week, 24-hours a day electronic bulletin board—to inform residents about Grant School District’s towers plan or the huge, 140- and 160-foot-tall, antenna-laden towers which Grant School District proposes to erect in various neighborhoods

**Issues of Agreement Between Valley View Acres
Community Association and Dunmore and Vaquero
Development in Regards to the Panhandle Development**

**Respectfully Submitted By
Valley View Acres Community Association**

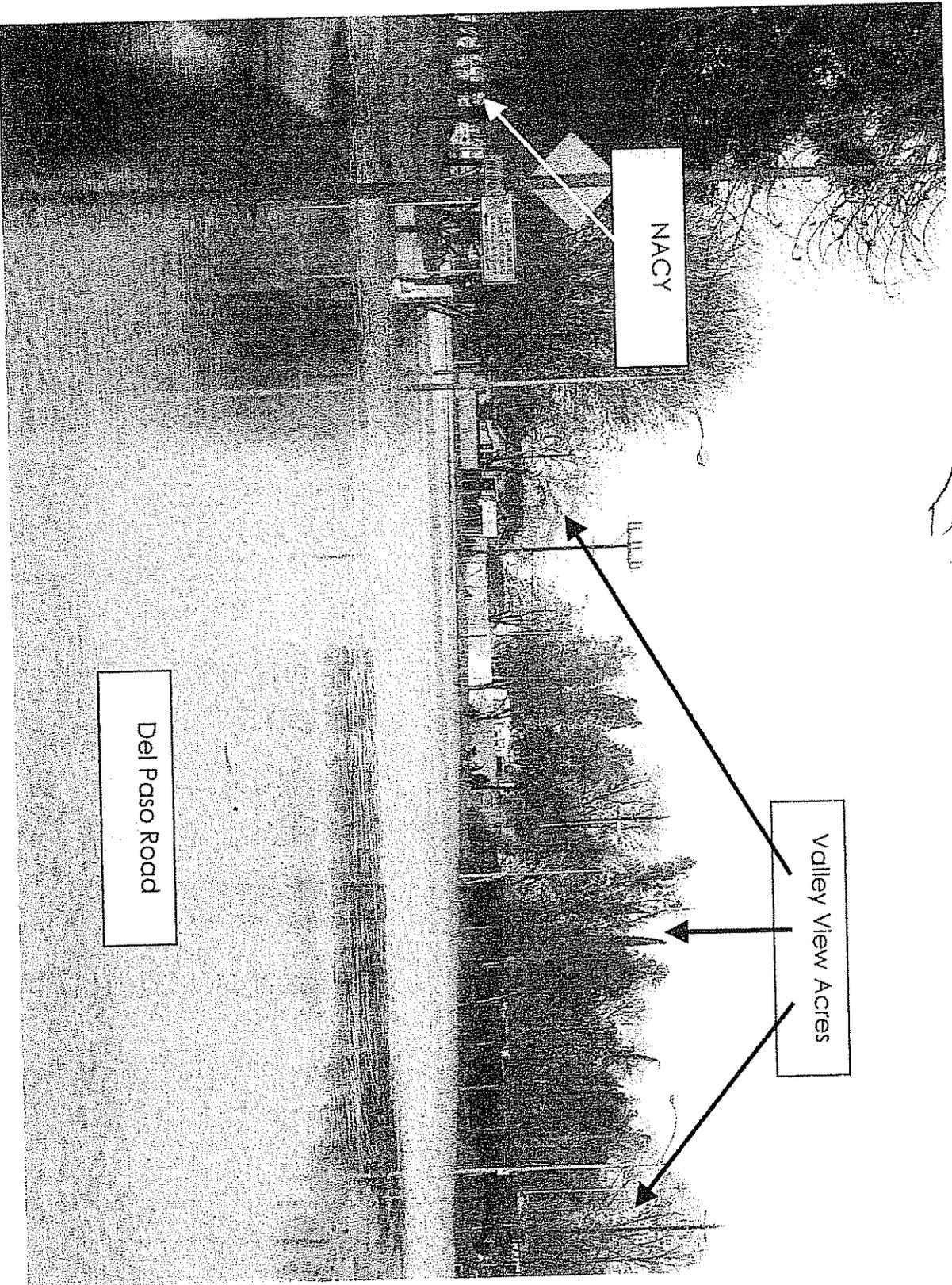
Revised 06/19/07

Drainage/Flood Protection/Detention Basin

1. An area in the southern portion of Camellia Park (southeast corner of Panhandle project) will be used for short-term back-up holding of storm water from the Del Paso Road/Sorento Road intersection area. An area in the southeast portion of Camellia Park would be excavated/depressed to accommodate storm water flows that exceed the capacity of the existing storm drain system at this intersection. The intent of this storage is to lessen storm water ponding that occurs at Sorento Road/Del Paso Road and to help lessen the back-up of storm water in interior ditches of Valley View Acres.

Prior to City Council approval of the project, additional technical analysis will be prepared to determine the size and depth of the storage area and to coordinate the implications to park planning with City Parks and Utilities Staff. Additional consultation is needed with City Parks staff to determine if the area would be considered parkland if it is used for the storage area. It is possible that the area of the storm water storage may not be considered parkland and that we would need to refine our approach/design or that the project would need to take a different approach to parkland. Since the Nino Parkway is considered an open space area, working with Parks/Utility and WAPA Authorities, we would consider placing the water storage at the Ninos Parkway location to avoid any Quinby-park conflicts. An upcoming meeting will be held (Valley View reps will be invited) with Parks/Utilities to further explore the approach.

**Del Paso Road & Valley View Acres
Flooding with subsequent road closures
January 1, 2006**

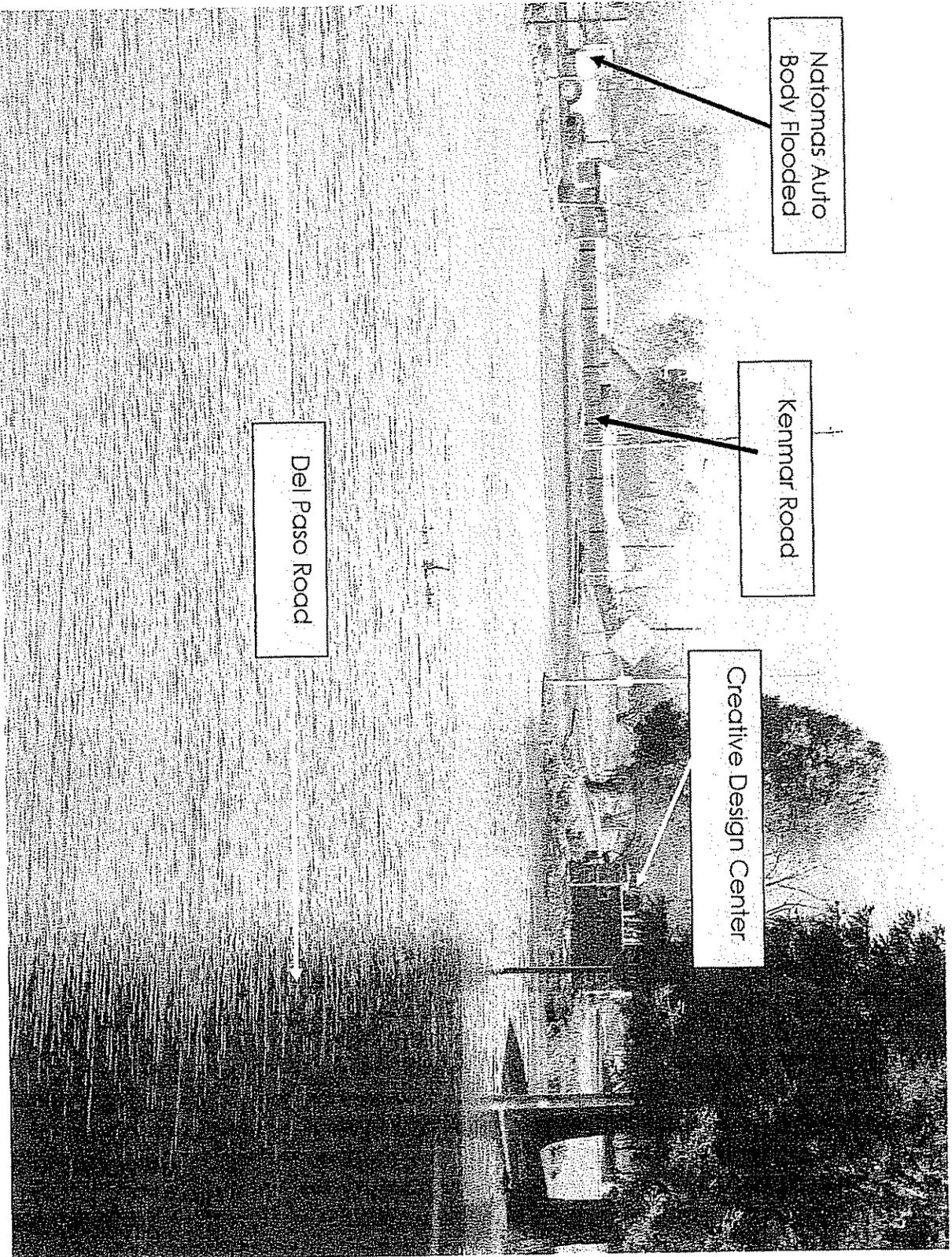


NACY

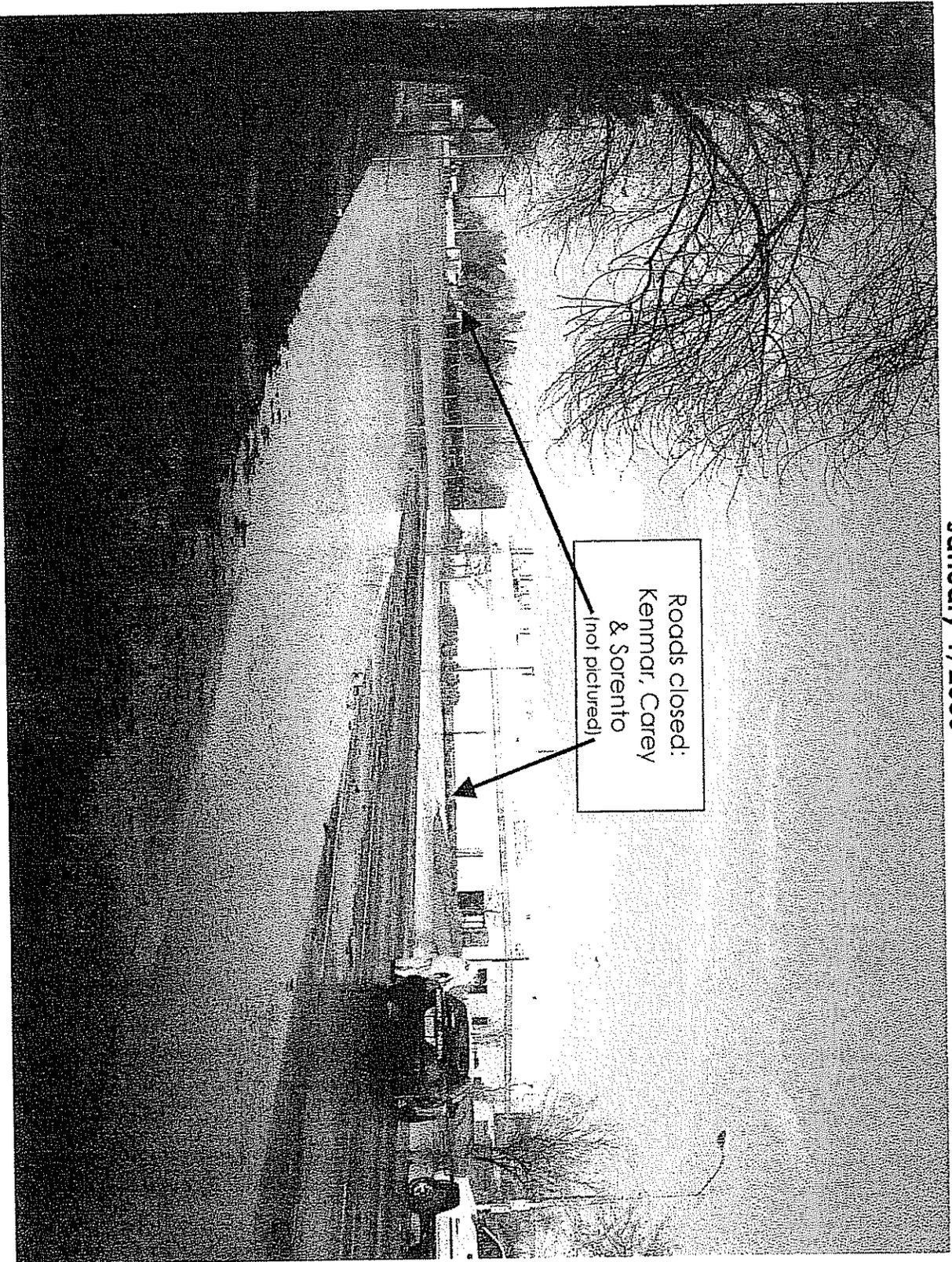
Valley View Acres

Del Paso Road

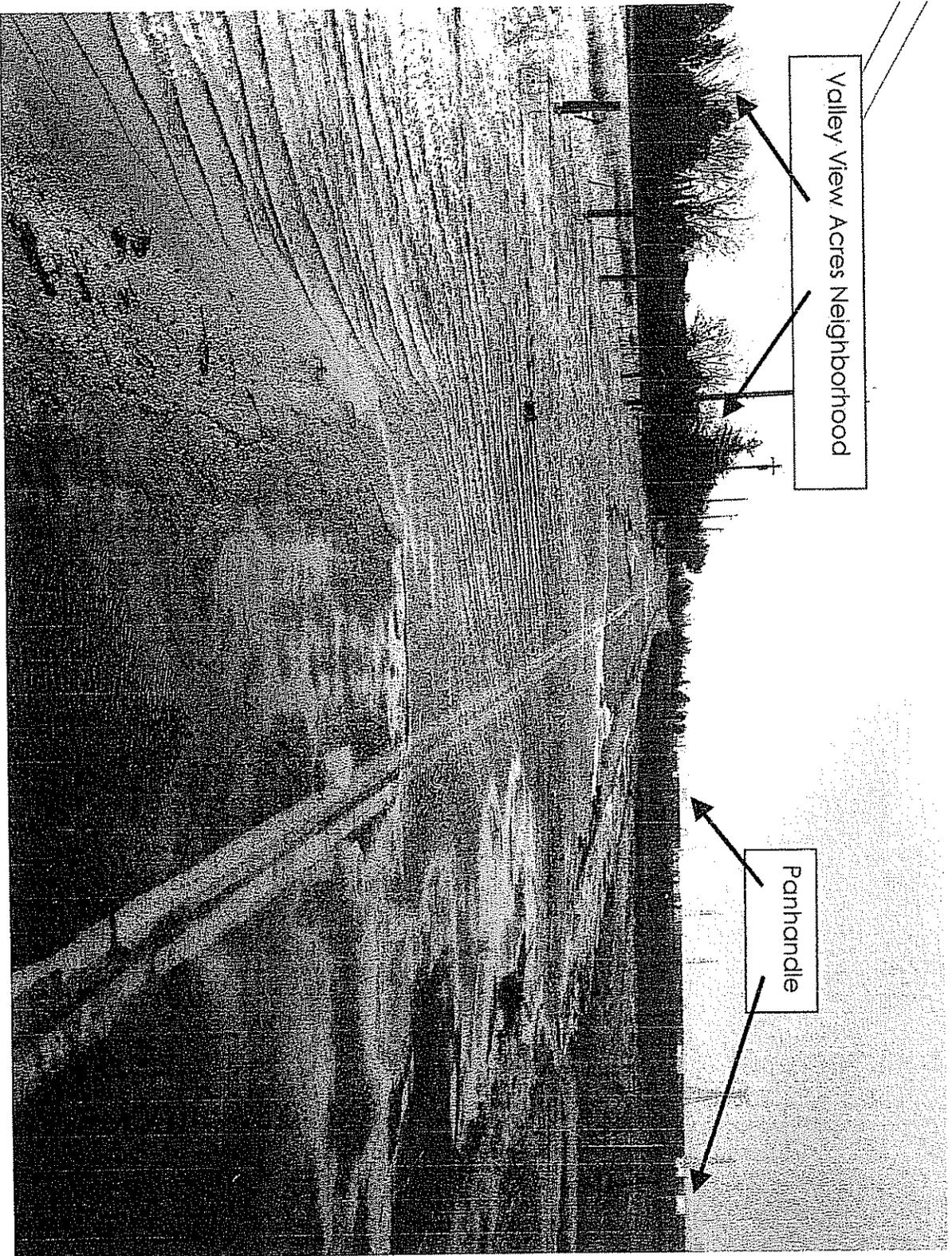
**Del Paso Road & Kenmar Road
Flooding with subsequent road closures
January 1, 2006**



**Westerly View of Del Paso Road, Kenmar Road & Carey Road
Flooding with subsequent road closures
January 1, 2006**



5600 Sorento Road Flooding
January 1, 2006

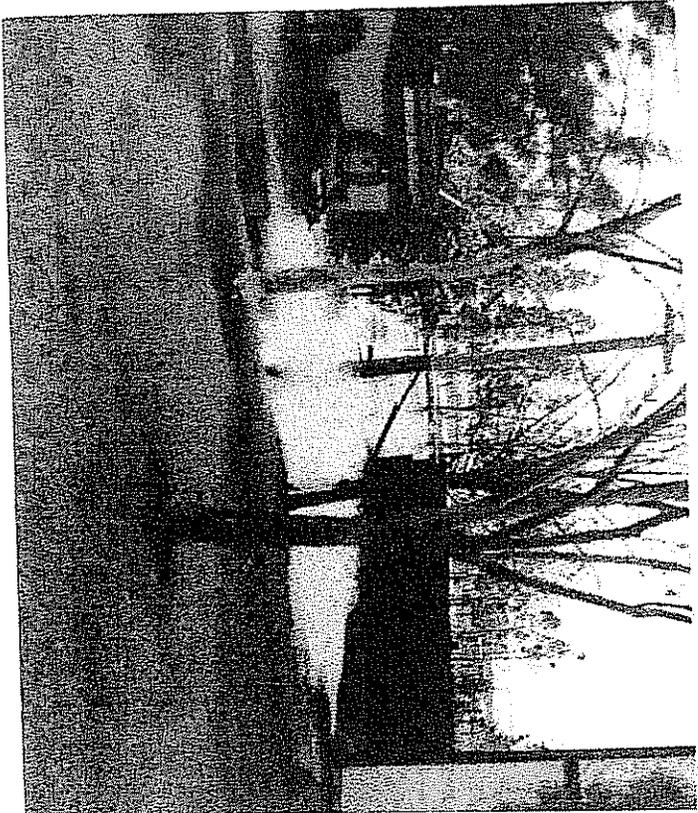
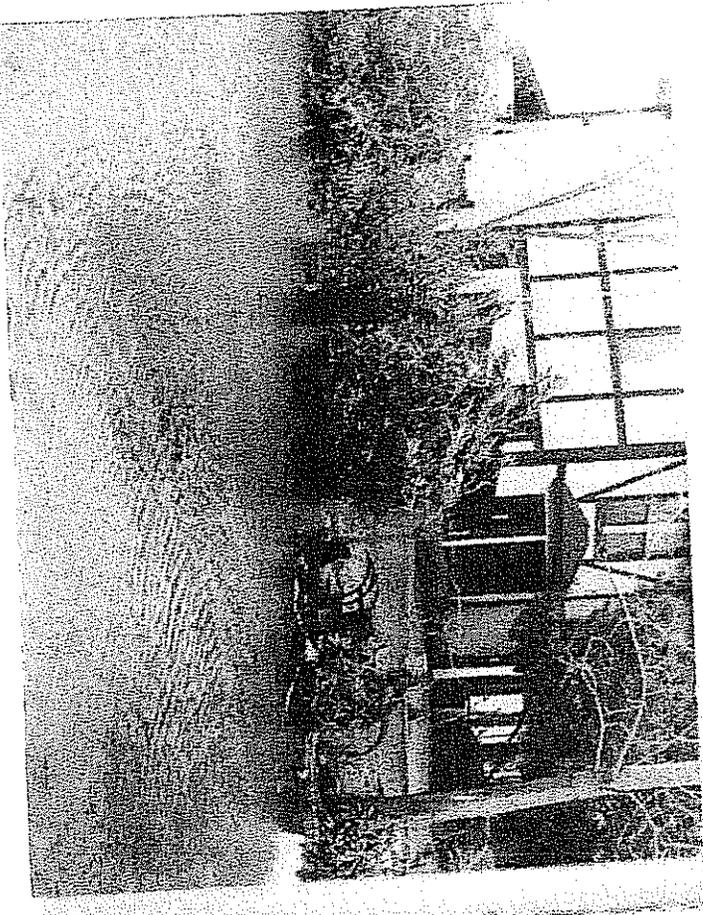
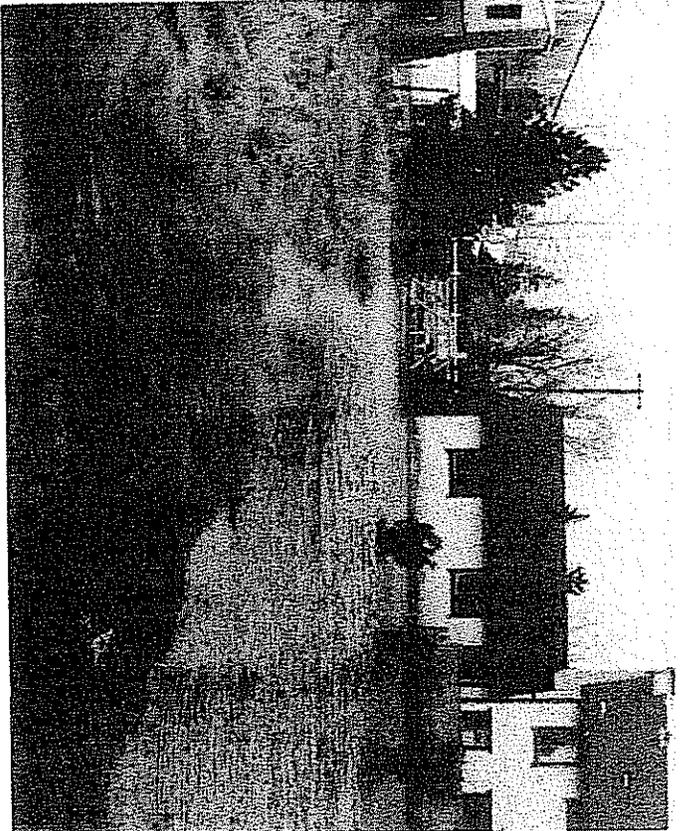
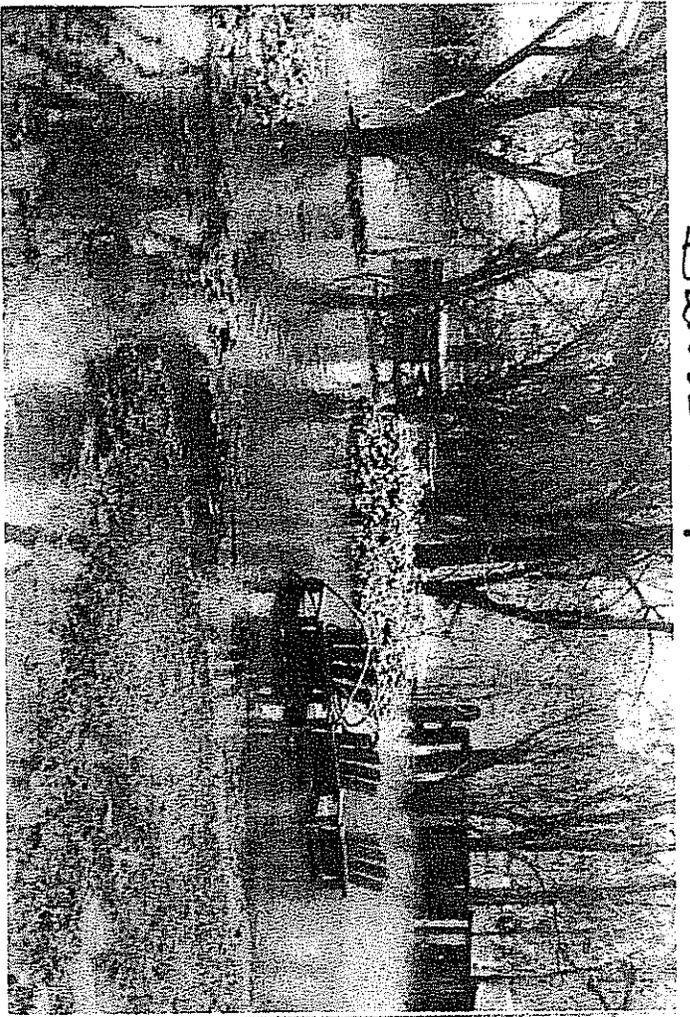


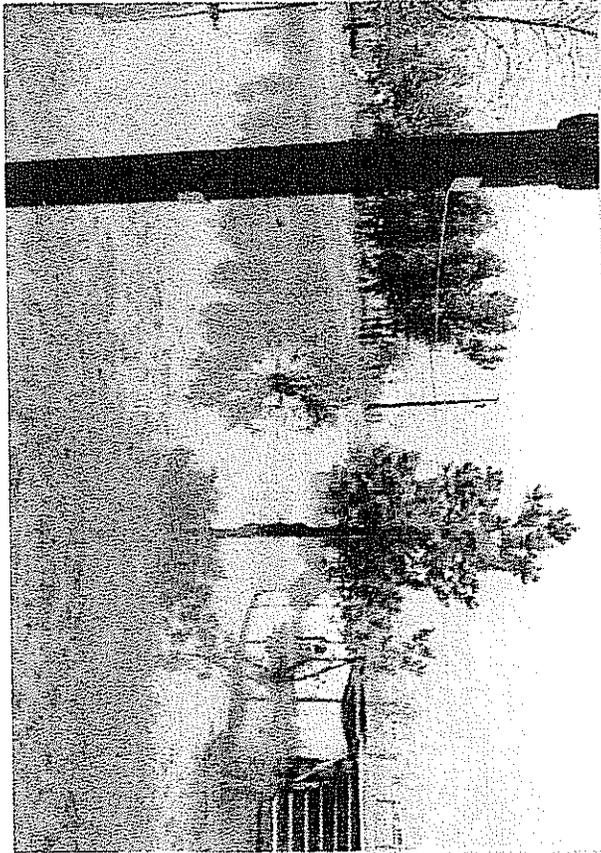
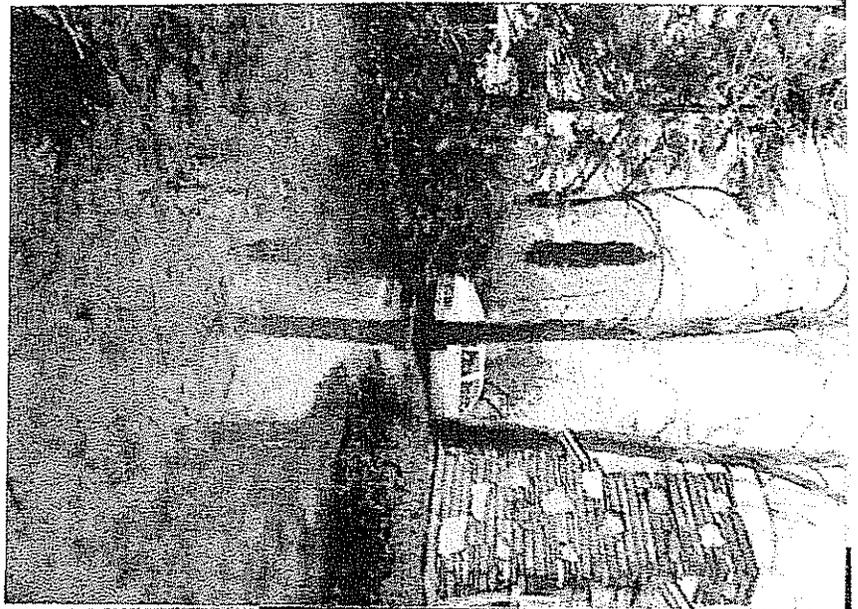
Neighborhood Ditches Overwhelmed

Interior Valley View Acres Street



Barron Dr. - northside homes





Multi-Use Transitional Corridor

2. A 50-foot landscape corridor will be provided on the west side of Sorento Road from the northeast corner of Camellia Park north to the first proposed I.O.D. north of the southern boundary of the Avdis property: The 50-foot landscape corridor shall be further defined as a 50-foot wide, multi-use area along the west side of Sorento Road measured from the existing west edge pavement of Sorento Road west to the proposed 6-foot wall. This corridor is the first 50-feet of the minimum 100-foot transition west from Sorento Road to the foundation of homes P.U.D.

From the north curb-line of the proposed I.O.D., to approximately 50-feet south of the East Levee Road, the corridor will vary from 22-30 feet. At the west edge of the landscaped corridor, a 6-foot fence shall be constructed of masonry or up-graded wood-type material.

Camellia Park (Parcel 41) shall be designed with pedestrian access to the east from Sorento Road, including walkways/trails accessible from the east side of the park along Sorento Road. The 8-foot multi-purpose concrete pathway should curve or meander its entire length within the swale. There should be entrance/exit points along the concrete walkway every 500 feet. 'No Parking' signs shall be placed along Sorento Road on the eastern edge of the park.

3. The eastern edge of the parcel (Parcel 21) planned for senior residential units shall be redesigned so that the residential units along the eastern edge face Sorento Road. The following is the design (from west to east): Senior residential unit, residential front yard, curb/gutter/sidewalk, residential street (approx 48-feet), masonry/open fencing wall, landscape corridor (50-feet), Sorento Road. The intent is to create a spacing of a minimum 100-feet from west edge of Sorento Road to the nearest residential foundation unit north from Camellia Park to the first proposed I.O.D. north of the southern boundary of the Avdis property.

Vehicular access shall be prohibited from Sorento Road and no improvement to Sorento Road will be made. Units along the east side in the senior residential project (Parcel 21) will face Sorento Road and be single story homes. Single story homes shall extend to the first proposed I.O.D. north of the southern boundary of the Avdis property.

Corridor Fencing

4. Starting at the southeastern edge of the senior residential units (parcel 21) and the western edge of the 50-foot landscape corridor, a 6-foot barrier shall be constructed consisting of masonry bottom and topped by open fencing (i.e. tubular steel, vertical bars). The barrier fencing shall continue north to the first proposed I.O.D. north of the southern boundary of the Avdis property. Fencing continuing north will consist of masonry or up-graded wood-type construction.

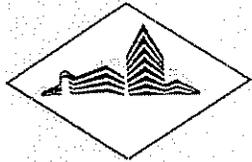
Mitigation Measures

5. Consistent with Mitigation Measure 4.2.2.c of the Panhandle FEIR, Panhandle shall require buyers of residential units to be provided with a disclosure regarding the adjacent Valley View Acres area. The disclosure shall describe Valley View's unique rural estate residential environment and that there may be inconveniences (i.e. odors, noises, dust) and other environmental considerations associated with Valley View. The disclosure will state that the Panhandle residents should be prepared to accept these inconveniences and recognize that these uses will occur. Panhandle project representatives and Valley View representatives will work to draft the language of the disclosure.

**Brigit S.
Barnes &
Associates,
Inc.**

A Law Corporation

Brigit S. Barnes, Esq.
Susan M. Vergne, Esq.



*Land Use and
Environmental
Paralegal
Jaenalyn Jarvis*

*Legal Assistants
Noreen Patrignani
Jenna Porter*

*3262 Penryn Road
Suite 200
Loomis, CA 95650
Phone (916) 660-9555
FAX (916) 660-9554
Website.
landlawbybarnes.com*

June 28, 2007

#3

*Via Facsimile [Fax: 916-808-5328 and 916-808-7480]
and Hand Delivered*

City of Sacramento Planning Commission
Historic City Hall
915 I Street, 2nd Floor Hearing Room
Sacramento, CA 95814

Attn: Hon. Joseph Yee, Chairperson
Hon Darrel Woo, Vice-Chairperson
Hon. D E "Red" Banes, Commissioner
Hon. John Boyd, Commissioner
Hon. Joseph Contreras, Commissioner
Hon. Chris Givens, Commissioner
Hon. Michael Notestine, Commissioner
Hon. Jodi Samuels, Commissioner
Hon. Barry Wasserman, Commissioner

Re: Natomas Panhandle Annexation Project (M00-066)
Comments on FEIR for the Panhandle Annexation, etc. (P05-077)
SCH#2005092043
Our Clients: Jim Gately/J.B. Management, L.P./J.B. Properties/J.B. Company
Our File No: 2219

Clients' Parcel Nos:

225-0060-033, -034, -054 through -059, -061, -066 through -068
225-0941-001, -027 through -029, -032 through -034, -037
225-0942-013, -014, -015, -035, -038, -043 through -049, -051, -052, -053
225-0943-027 and -028
237-0011-047
237-0410-029, -030, -032
237-0420-001, -028 through -030

*[Note: The 3 **bolded** parcels owned by our clients do not show on the proposed
resolution of annexation]*

Dear Respected Commissioners:

Since the Planning Commission continued the hearing on this matter to June 28th, we would like to take this opportunity to provide further comments. As you are aware, this office represents Jim Gately/JB Company/JB Management LP.

The Planning Commission's June 14th motion continued the hearing to June 28th, and requested additional information from Staff and the applicant regarding six issues. In addition to the formal request for information, several Commissioners (Samuels, Wasserman

Asset Preservation	-	Commercial Real Estate	-	Environmental
General Business	-	Real Estate Financing	-	Litigation

and Givens) expressed concern over the fact that the applicant's affordable housing program did not include an ownership product component.

NEW INFORMATION

As set forth in the proposed Findings (p. 191 of the previous Staff Report), the loss of open space caused by the project is considered a **significant and unavoidable impact**. The Commission has requested that the applicant provide additional information regarding this issue. As stated in the current Staff Report at p. 7, the applicant will be providing this information "at or prior to the 6/28 hearing." See also Attachment 11, Staff Report at pp 608-610. As of the morning of 6/28, this information has not been made available to the public via the City's website or any other means, leaving the assumption that it will be presented for the first time the night of the hearing. Providing this new information the night of the hearing deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project (the open space issue).

As such, the new information must be included in the EIR, and the EIR recirculated in accordance with CEQA Guideline §15088.5(a), which requires that a lead agency recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under CEQA Guideline §15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting, **as well as additional data or other information**. See also Public Resources Code §21092.1.

AFFORDABLE HOUSING

The applicant completely ignores the strong recommendations of the Commissioners and the Sacramento Housing & Redevelopment Agency, which, in its 5/14/07 comment letter, stated it would like to see an ownership product included in the inclusionary housing program. See Exhibit 1K to the Staff Report. The applicant's rationale is that it complies with the City's Inclusionary Housing Ordinance, which states that the product can be ownership or rental. What is left, however, is an inconsistency issue with the North Natomas Community Plan. The current Staff Report, at p. 20, incorrectly states that the project is consistent with the North Natomas Community Plan's Affordable Housing requirements. Shortly thereafter, the Staff Report goes on to state that the NNCP's policies regarding Affordable Housing are to provide a wide range of affordability, **including ownership opportunities**. *Id.*, at p. 20.

The consistency doctrine has been described as the "linchpin of California's land use and development laws; it is the principle which infuses the concept of planned growth with the force of law." Families Unafraid to Uphold Rural etc. County v. Board of Supervisors (1998) 62 Cal.App.4th 1332, 1336; Corona-Norco Unified School District v. City of Corona

(1993) 17 Cal.App.4th 985, 994. The proposed project, therefore, is valid only to the extent that it is consistent with the applicable community plan. A project is consistent with the community plan if it will further the objectives and policies of the plan and not obstruct their attainment. It must be compatible with the objectives, policies, and general land uses and programs specified in the plan. Future, supra, at 1336; Corona-Norco, supra, at 994.

URBAN DESIGN GROUP COMMENTS

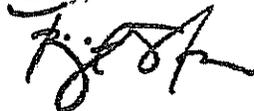
In response to the issues raised in the Commission's 6/28 motion, Attachment 11 to the Staff Report (pp. 608-610) states that the Urban Design Group (UDG) will be providing comments on the project prior to or at the time of the hearing. The CEQA Guidelines require that the lead agency provide a written proposed response to a public agency on comments made by that public agency **at least 10 days prior to certifying an environmental impact report**. CEQA Guideline §15088(b). Furthermore, responses to the UDG's comments must be included as a revision to the DEIR or included in the FEIR. CEQA Guideline §15088(d).

ADDITIONAL NEW INFORMATION

According to Attachment 11 to the Staff Report, there are additional items of information and diagrams that will be presented by the applicant at the hearing in response to the Commission's motion issues. Again, the new information must be included in the EIR, and the EIR recirculated in accordance with CEQA Guideline §15088.5(a).

Based on the foregoing, the Commission clearly cannot make a decision tonight certifying the Environmental Impact Report for this project. The matter must be continued until recirculation and adequate public and agency review requirements have been met.

Sincerely,



Brigit S. Barnes

cc: Client / Frank Watson, Esq.
Sacramento LAFCO, Attn: Don Lockhart