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CITY OF SACRAMENTO  
CALIFORNIA

May 11, 1990

APPROVED  
BY THE CITY COUNCIL

MAY 15 1990

OFFICE OF THE  
CITY CLERK

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Mayor and City Council  
City Hall  
Sacramento, CA 95814

Honorable Mayor and Members in Session:

**SUBJECT: Support of a Friend-of-the-Court (Amicus Curae) Brief  
for the Defendant County in Citizens of Goleta Valley  
v. Board of Supervisors in the California Supreme Court**

**SUMMARY**

The City has been asked to support the defendant County in the above case by allowing its name, along with many other California cities, to be included on the "friend-of-the-court" brief being submitted to the California Supreme Court. The Environmental Services Division and this office recommend that the City join the brief.

**DISCUSSION**

In the above case, the Appellate Court held that an EIR was inadequate because it did not analyze off-site alternative locations for a hotel project. The court held that the fact the project applicant only owned the site for which the application was filed was not a reason not to study other possible sites. Moreover, the court held that the duty to examine alternative sites also meant that sites outside the jurisdiction should have been analyzed.

This decision has led to a lot of additional expense, as well as a good deal of uncertainty as to how to comply.

The requirement for analysis of off-site alternative locations was patterned from NEPA (federal) case law. This analysis makes sense when dealing with federal projects involving agencies with thousands of acres under their jurisdiction. City projects generally involve private applicants that do not own numerous alternate properties in the jurisdiction. The result is that even if the off-site alternative is identified as the environmentally superior alternative, it is highly unlikely that the developer will be in a position to purchase the alternate site. The purpose of an EIR is to provide the public and decision makers with information regarding the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. Because of the inability of the project developer to actually purchase the alternative site, the alternative site analysis does not actually provide any practical information beyond what is presented in the "no project" alternative.

Many of the major projects before the City which require preparation of an EIR have environmentally significant impacts due to the intensity of the development. It is difficult to find any location that can accommodate the project with significantly reduced environmental impacts (i.e., one million square feet of office will impact traffic circulation virtually anywhere it is located). Analysis of alternative sites requires the data collection and analysis effort to be performed in its entirety for two (or more) separate sites. The level of analysis for the alternate site must be quite thorough. The great increase in data collection requires substantial increases in the time, effort, and cost for the preparation of an EIR.

There may be circumstances where the major impact of a project is to a unique natural or cultural feature found on the proposed project site. In this situation, analysis of an alternate site is appropriate. Analysis of alternative sites in most other circumstances results in little valuable information and is impractical, timely and costly.

#### **FINANCIAL DATA**

There will be no cost to the City.

#### **POLICY CONSIDERATIONS**

Whether to support the limitation of the need to develop off-site alternatives.

#### **MBE/WBE**

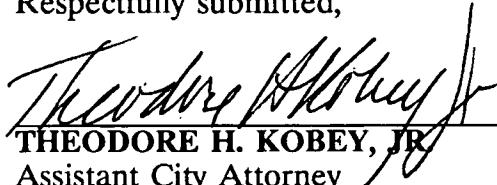
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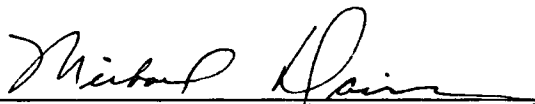
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**RECOMMENDATION**

It is recommended that the City be authorized to join the amicus curae brief.


Respectfully submitted,

  
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THEODORE H. KOBAY, JR.  
Assistant City Attorney

  
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MICHAEL DAVIS, Director  
Planning and Development

May 15, 1990  
All Districts

Recommendation Approved:

  
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WALTER J. SLUPE,  
City Manager