

24

APPROVED
BY THE CITY COUNCIL

MAY 21 1987

OFFICE OF THE
CITY CLERK



CITY OF SACRAMENTO

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 "I" Street

Sacramento, Ca. 95814

May 13, 1987

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Appeal of Environmental Coordinator's Decision to prepare a Negative Declaration on various entitlements to develop the Schumacher Property (P87-043).

Location: Property bounded by Elkhorn Boulevard on the north Del Paso Road on the south, and State Route 99 and I-5 on the west.

SUMMARY

A Negative Declaration was filed on this project for the review and ratification by the Planning Commission and City Council in hearing the requested entitlements. The environmental analysis contained in the Negative Declaration was based on information from the 1985 North Natomas Community Plan EIR, an Initial Study and a detailed matrix comparing the proposed project to the NNCP EIR, Statement of Override and Community Plan. The Negative Declaration was distributed for a 21 day public review period to City, County, State and Federal agencies, community groups and interested citizens.

City Environmental procedures provide for a ten day appeal period of the filing of a Negative Declaration. An appeal of the Negative Declaration was filed because the appellant believes that potentially significant impacts to schools have not been mitigated to a less than significant level by not having an agreement with the project's applicants.

This project was heard by the Planning Commission on May 7, 1987, at which time the Commission ratified the Negative Declaration and recommended approval of the Development Agreements, PUD Designation, and Rezonings.

Staff recommends that the Council conduct a public hearing, close the public hearing and deny the appeal based on the attached Resolution.

CITY MANAGER'S OFFICE
RECEIVED
MAY 14 1987

Administration
Room 300 449-5571
Building Inspections
Room 200 449-5716
Planning
Room 200 449-5604

BACKGROUND INFORMATION

On January 23, 1984, an application (known as Schumacher - Iverson, P84-032) was submitted to the City of Sacramento requesting a series of entitlements for 554 acres located in the North Natomas Community Plan area and bounded by State Route 99/I-5 on West Elkhorn Boulevard on the north and Del Paso Road on the south. The entitlements requested included a General Plan Amendment and Rezone.

Subsequently, the City adopted a work program to determine whether urban development of the North Natomas areas should occur at that time, and to conduct a detailed community planning study and infrastructure study in order to determine market demand, constraints, and costs associated with any such urbanization. The Council voted to postpone action on the Schumacher - Iverson application until this updated Community Plan was completed.

On January 31, 1984, the City Council voted to conduct a Community Plan Study for the North Natomas area. The City retained several professional consulting firms to develop a possible draft Community Plan. The draft Community Plan along with four other alternatives were equally analyzed in a draft EIR. In addition to the Community Plan alternatives, the EIR assessed the impact of five individual projects for which applications had been received for properties in the study area. Once such application was Schumacher - Iverson. The EIR was prepared to cover the legal and administrative action including the rezonings of the five individual applications. On December 10, 1985, the City Council certified the NNCP EIR. On February 6, 1986, the City Council approved a Motion of Intent to adopt the Final Community Plan which included the subject application area and on May 13, 1986, final adoption of the Community Plan occurred.

On January 17, 1987, this subject application (known as Schumacher Property P87-043) was submitted to the City and amends the original Schumacher - Iverson application. The proposed application includes 558+ acres in the North Natomas Community Plan area. The City staff compared the application's site plan dated April 1987, to the adopted Community Plan. City's staff has determined that the proposed application land uses are in substantial compliance with the Community Plan. The application proposes 2,421 dwelling units compared to 2,414 dwelling units for the same area of Community Plan. The application could generate 7,462 jobs compared to 7,410 jobs for the same area of the Community Plan.

Staff prepared a matrix to review impacts identified in the NNCP EIR to determine if the proposed application was adequately environmentally assessed or would create new impacts not previously identified. The Initial Study Matrix consists of nine analysis columns as noted below:

- original application/EIR
- impacts/EIR

- significant
- mitigation measures/EIR
- statement of override
- community plan
- new application
- new impacts
- new mitigation measures

For each of the nine analysis columns the following areas of potential environmental impact were addressed (as read horizontally across the matrix):

- | | |
|----------------------------------|--|
| - land use (urban & agriculture) | - public utilities services and recreation |
| - traffic | - noise |
| - air quality | - risk of upset |
| - earth | - wildlife |
| - water | - vegetation |
| - employment | - public health |
| - population | - cultural resources |
| - housing | - energy |

The Initial Study Matrix did not identify and new potentially significant adverse environmental impacts that would result from the proposed project, that had not already been adequately addressed, on both a project-specific and cumulative level, in the previously certified Environmental Impact Report for the North Natomas Community Plan. All applicable mitigation measures from the EIR and/or Community Plan are to be considered and imposed at the time of approval of Tentative Maps, or Special Permits and other specific development entitlements. This project application includes Development Agreements that will provide the mechanism to implement mitigation measures as subsequent land use entitlements (i.e. Tentative Maps and Special Permits) are processed. Through the Development Agreements and additional land use entitlement requirement, the City will be able to apply identified EIR and/or Community Plan mitigating measures. Development will require subsequent Tentative Maps and/or Special Permit approvals which provides an additional opportunity to review each land development. The Development Agreements and Special Permit process will provide the ability to apply additional site-specific and detailed mitigation measures to reduce potential future impacts (i.e. preserving existing vegetation, construction affects, and aesthetics) to a less than significant level. Each of the projects which are subject to the Development Agreements require further discretionary land use entitlements from the City. Accordingly, the City will be able to impose those mitigation measures on all of the projects at an appropriate stage of their development.

CEQA Guidelines, Section 15153(a and c) states that any EIR prepared for an earlier project may also be used as part of an Initial Study to document a finding that a later project will not have additional significant effects on the environment. In this situation, the Guidelines state that a Negative Declaration should be prepared.

CEQA Guidelines, Section 15168 state that a "program" EIR prepared for an earlier large project may be incorporated into a later in environmental assessment of a specific project, to deal with regional influences, cumulative impacts, and broad mitigation measures.

Therefore, on April 10, 1987, the Environmental Coordinator filed a Negative Declaration with the City Clerk including a draft development agreement. The Negative Declaration was distributed on April 10, 1987, for a 21-day Public Review period to City, County, State, Federal Agencies, community groups interested citizens.

On May 4, 1987, an appeal was filed opposing the Environmental Coordinator's decision to prepare a Negative Declaration because the proposed project may have potential significant adverse impact on five school districts that provided services in the North Natomas area. The applicant states that only an agreement between the districts and the developers would insure the provision of adequate school facilities to mitigate the potential impacts.

Staff response to the appeal is that State legislation enacted in 1986 (subsequent to the City Council approval of the Community Plan) preempts the City's authority to mitigate potential schools impacts and that the proposed Development Agreements includes mitigation for school impacts.

State law (AB 2926 - Stirling) states under Government Code that "the following provisions shall be the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval of a development project "and that" no public agency shall..... deny approval of a project on the basis of the adequacy of school facilities." AB 2926 limits the amount of school fees to \$1.50 per square foot for residential and \$0.25 per square foot for commercial or industrial development (Gov. Code 65995). The Legislature specifically preempts the field of development requirements for school facilities finance (65995(d)).

The North Natomas Development Agreements contain a number of requirements and findings intended to implement the provisions of the North Natomas Community Plan. There are 29 special conditions that the Council must consider prior to app[roving special permit, subdivision maps, or other land use entitlement beyond the proposed rezoning and development agreements. One special condition (#23) addresses school facilities which states: "The extend deemed necessary by the City for the proposed development, the applicant has entered into agreements to the satisfaction of the City with the appropriate shcool district(s) or

24

is subject to other measures satisfactory to the City which will ensure the provision of adequate school facilities to service the residential dwelling units when needed."

Of the comments received on this project, staff is not aware of any evidence in the record identifying remaining or new impacts that have not been adequately addressed. All comments received on the Negative Declaration and responses are provided as Exhibit C.

Attached to this report, for the Council's information, are:

- Exhibit A - Negative Declaration
- Exhibit B - Appeal
- Exhibit C - Comments on the Negative Declaration and Responses

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing, close the public hearing and deny the appeal based on attached Resolution.

Respectfully submitted,



Marty Van Duyn
Planning Director

RECOMMENDATION APPROVED:



WALTER J. SLIPE CITY MANAGER

MVD:AG:tc
attachments

May 13, 1987
District No. 1

P87-043

24

RESOLUTION No. 87-382

Adopted by The Sacramento City Council on date of

APPROVED
BY THE CITY COUNCIL

MAY 21 1987

OFFICE OF THE
CITY CLERK

A RESOLUTION DENYING THE APPEAL OF THE MR. P. ADDISON COVERT, OF THE ENVIRONMENTAL COORDINATOR'S DECISION TO FILE A NEGATIVE DECLARATION ON VARIOUS ENTITLEMENTS TO DEVELOP THE SCHUMACHER PROPERTY (P87-043)

WHEREAS, the City of Sacramento has had four noticed public opportunities to comment on the document entitled "Negative Declaration for the Schumacher Property (P87-043)

May 1, 1987 - closing of 21 day Negative Declaration review period to allow State agency as well as general public review and comment pursuant to CEQA Guidelines Section 15206-b-2-A,B,C and D.

May 7, 1987 - City Planning Commission public hearings on the Negative Declaration and entitlements for the project;

May 21, 1987 - City Council public hearing on the appeal of the Environmental Coordinator's decision to prepare a Negative Declaration for the project.

WHEREAS, the City Council having heard, fully reviewed, and considered the Negative Declaration and the staff report dated April 16, 1987, prepared for the Planning Commission's consideration in connection therewith, the staff report dated May 21, 1987, prepared for the Council's consideration responding specifically to the concerns of the appellant, and the written and verbal comments and testimonial evidence received on or by the above noted dates;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOW:

The City Council hereby finds and determines that:

1. The appeal of Mr. P. Addison Covert raises no new environmental issues not adequately addressed in the Negative Declaration. These same issues are reiterated by staff in the report to the Planning Commission on May 7, 1987, in staff responses during the May 7, 1987, hearing, and in the appeal staff report for Council dated May 21, 1987. The staff responses to the grounds of the appeal as presented in the May 21, 1987, staff report are incorporated by reference into these findings. Therefore as more full described below, there is no

need or requirement to prepare a site-specific EIR for the project, or to hold further hearings on environmental issues relating to the project.

- 2. The NNCP EIR is a program EIR as defined in CEQA Guidelines Section 15168. Pursuant to CEQA Guidelines Section 15168(c)(1) an Initial Study was prepared to examine the effects of this project that were not examined in the NNCP Program EIR. Pursuant to the Initial Study, development agreements have been incorporated into the project resulting in the correct finding that the project as presented to the Planning Commission results in no new potential significant adverse environmental impacts.

All potentially significant adverse environmental impacts that would result from the project have already been adequately addressed in the previously certified NNCP EIR which together with the Findings of Overriding Considerations adopted in conjunction with the approval of the NNCP, were incorporated into the Negative Declaration.

- 3. The specifically identified ground for the appeal and the findings of the City Council in reference thereto are as follows:

Ground for the Appeal alleges that the Negative Declaration was used inappropriately under CEQA in that significant adverse environmental impacts on schools were not mitigated and an EIR should have been prepared.

The Council finds that no new EIR is required for this project pursuant to CEQA Guidelines Sections 15153 and 15168, and that the Negative Declaration addressed all known potential significant adverse environmental impacts that could result from the project. The Council further finds that the Negative Declaration was prepared based on the application and information submitted by the applicant, the NNCP EIR and Findings of Overriding Consideration, the NNCP, and the Initial Study as well as the Matrix.

The Negative Declaration did not identify any new potentially significant adverse environmental impacts that would result from the proposed project, that had not already been adequately addressed, on both a project-specific and cumulative level, in the previously certified Environmental Impact Report for the North Natomas Community Plan. All applicable mitigation measures from the EIR and/or community Plan are to be considered and imposed at the time of approval of Tentative Maps, or Special Permits and other specific development entitlements. This project application includes Development Agreements that will provide the mechanism to implement mitigation measures as subsequent land use entitlements (i.e. Tentative Maps and Special Permits) are processed. Through the Development Agreements and additional land use entitlement requirement, the City will be able to apply

identified EIR and/or Community Plan mitigating measures. Development will require subsequent Tentative Maps and/or Special Permit approvals which provides an additional opportunity to review each land development. The Development Agreements and Special Permit process will provide the ability to apply additional site-specific and detailed mitigation measures to reduce potential future impacts (i.e., preserving existing vegetation, construction affects, and aesthetics) to a less than significant level.

The Negative Declaration basis that the proposed project would not have potentially significant adverse impacts on schools is because:

- a. State law (AB 2926 - Stirling) states under Government Code 65996 that "the following provisions shall be the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering their approval of a development project" and that "no public agency shall... deny approval of a project on the basis of the adequacy of school facilities."

AB 2926 limits the amount of school fees to \$1.50 per square foot for residential and \$0.25 per square foot for commercial or industrial development (Gov. Code 65995). The Legislature specifically preempts the field of development requirements for school facilities finance (65995(d), and;

- b. The North Natomas Development Agreements contain a number of requirements and findings intended to implement the provisions of the North Natomas Community Plan. One particular finding addresses school facilities in that the Council must consider prior to approving special permits, subdivision maps, or other land use entitlement beyond the proposed rezoning and development agreement. The special condition (#23) is for residential development and states: "To the extent deemed necessary by the City for the proposed development, the applicant has entered into agreements to the satisfaction of the City with the appropriate school district(s) or is subject to other measures satisfactory to the City which will ensure the provision of adequate school facilities to serve the residential dwelling units when needed."

- 4. The Environmental Coordinator's decision to prepare a Negative Declaration was proper, adequate, and in compliance with the California Environment Quality Act, the CEQA Guidelines, and the City Environmental Procedures. Accordingly, Mr. P. Addison Covert's appeal is denied. This finding is based on verbal and

24

written evidence presented and received at the public hearing May 7, 1987, including the Council May 21, 1987, staff report responding to this appeal, the Initial Study and all supplemental information the record from the Planning Commission hearing of May 7, 1987, staff report from the Planning Division.

MAYOR

ATTEST:

CITY CLERK

P87-043



CITY OF SACRAMENTO

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 "I" Street

Sacramento, Ca. 95814

Administration
Room 300 449-5571
Building Inspections
Room 200 449-5716
Planning
Room 200 449-5604

April 13, 1987

MEMORANDUM

TO: Interested Persons

FROM: Lisa Pyzel, Planner *LP*

SUBJECT: PUBLIC REVIEW OF NEGATIVE DECLARATION FOR SCHUMACHER PROPERTIES (P87-043)

Attached for your review is the subject document which has been submitted to the State Clearinghouse for a 21-day public review period pursuant to Section 15206-b-2-A and E of the California Environmental Quality Act (CEQA) Guidelines. The public review period ends May 4, 1987 at 5:00 p.m.

The City Planning Commission will consider the project proposal on Thursday, May 7, 1987 at 5:30 p.m. in the Hearing Room on the first floor (Room 102) of 1231 I Street, Sacramento, California.

Please phone me at 449-2037 if you have any questions regarding this matter.

LP:jg

NEGATIVE DECLARATION

The Environmental Coordinator of the City of Sacramento, California, a municipal corporation, does prepare, make, declare, and publish this Negative Declaration for the following described project:

P87-043 Development Agreement for the 558+ vacant acre Schumacher properties project. Planned Unit Development designation for 558+ vacant acres. Rezone 558+ vacant acres from Agricultural to: Townhouse (R-1A-PUD) for 93+ acres; Garden Apartments (R-2B-PUD) for 79+ acres; Shopping Center (SC-PUD) for 2.5+ acres; Manufacturing, Research, & Development (MRD-20-PUD) for 340+ acres and Agriculture/Open Space for 44+ acres.

LOCATION: East side of SR 99 and I-5 between Elkhorn Boulevard and Del Paso Road.
APN: 201-300-16-18, 26-29,61; 225-030-26-31; 225-040-17,29-30,32.

The City of Sacramento, Department of Planning and Development, Planning Division has reviewed the proposed project and has determined that the project, with mitigation measures, as identified in the attached Initial Study, as resolved, will not have any significant effects on the environment not previously identified in the NNCP EIR which is a Program EIR (CEQA Section 15168).

This environmental review process and Negative Declaration filing is pursuant to Title 14, Division 6, Chapter 3, Article 6, Section 15070 of the California Administrative Code and pursuant to the Sacramento Local Environmental Regulations (Resolution 78-171) adopted by the City of Sacramento and pursuant to Sacramento City Code, Chapter 63.

A copy of this document may be reviewed/obtained at the City of Sacramento, Department of Planning and Development, Planning Division, Environmental Section, 1231 I Street, Room 300, Sacramento, California 95814.

Marty Van Duyn
Environmental Coordinator of the
City of Sacramento, California,
a municipal corporation

MVD:jg
Attachment
revised 3/87

APR 10 1 19 PM '87
RECEIVED
CITY OF SACRAMENTO
PLANNING DIVISION

By: 

INITIAL STUDY

This Initial Study has been required and prepared by the Department of Planning and Development, Planning Division, Environmental Section, 1231 I Street, Suite 300, Sacramento, CA 95814, (916) 449-2037, pursuant to CEQA Guidelines, Section 15063 (August 1, 1983).

File No. and/or Project Name: P87-043, Schumacher Properties
Applicant - Name: Nolte and Associates, ATTN: Ken Klug
Address: 1730 I Street
Sacramento, California 95814

PROJECT DESCRIPTION

The proposed project, Schumacher Properties, involves 558+ vacant acres on the east side of SR 99 and I-5 between Elkhorn Boulevard and Del Paso Road in the North Natomas Community Plan (NNCP) area (see Attachment A-Vicinity Map). The site is currently vacant/unused land or used for agricultural purposes and the entire area is zoned Agricultural (A).

Current adjacent land uses to the north are Elkhorn Boulevard and agriculture; to the east is agriculture, to the south is Del Paso Road and agriculture, and to the west is SR 99/I-5 and agriculture.

The applicant is requesting approval of the following entitlements:

1. Development Agreement for the 558+ vacant acres known as the Schumacher Properties.
2. Planned Unit Development designation for 558+ vacant acres
3. Rezone 558+ vacant acres from Agricultural to:
 - Townhouse (R-1A-PUD) for 93+ acres
 - Garden Apartments (R-2B-PUD) for 79+ acres
 - Shopping Center (SC-PUD) for 2.5+ acres
 - Manufacturing, Research, & Development (MRD-20-PUD) for 340+ acres
 - Agriculture/Open Space for 44+ acres

The NNCP indicates that prior to rezoning property in the Community Plan area, an Infrastructure Report and Development Agreement were to be prepared. The Infrastructure Report identifies necessary public facilities to develop the NNCP area while the Development Agreement would provide the contractual means to implement the orderly development of NNCP area. The Infrastructure Report is hereby incorporated by reference.

BACKGROUND

On January 23, 1984, an application (known as Schumacher-Iversen, P84-032)) was submitted to the City of Sacramento requesting a series of entitlements for 554 acres located in the North Natomas Community Plan area and bounded by SR-99/I-5 on the west, Elkhorn Boulevard on the north and Del Paso Road on the south. The entitlements requested included a General Plan Amendment and Rezone. Subsequently, the City adopted a work program to determine whether urban development of the North Natomas areas should occur at that time, and to conduct a detailed community planning study and infrastructure study in order to ascertain market demand, constraints, and costs associated with any such urbanization. The Council voted to postpone action on the Schumacher-Iversen application until this updated Community Plan was completed.

On January 31, 1984, The City Council voted to conduct a Community Plan Study for the North Natomas area. The City retained several professional consulting firms who developed a possible draft Community Plan. The draft Community Plan along with four other alternatives were evaluated in equal weight in a draft EIR. In addition to the Community Plan alternatives, the EIR assessed the impact of five individual projects for which applications had been received for properties in the study area. Once such application was Schumacher-Iversen. The EIR was prepared to cover the legal and administrative action including the rezonings of the five individual applications. On December 10, 1985 the City Council certified the NNCP EIR. On February 6, 1986, the City Council approved a Motion of Intent to adopt the Final Community Plan which included the subject application area and on May 13, 1986 final adoption of the Community Plan occurred.

On January 17, 1987, this subject application (known as Schumacher Properties, P87-043) was submitted to the City and amends the original Schumacher-Iversen application. The proposed application includes 558+ acres in the North Natomas Community Plan area (Attachment B). The City staff compared the application's site plan dated April 1987 (Attachment C) to the Community Plan. The City's staff has determined that the proposed application land uses are in substantial compliance with the Community Plan. The application proposes 2,421 dwelling units as compared to 2,414 dwelling units for the same area of Community Plan. The application could generate 7,462 jobs compared to 7,410 jobs for the same area of the Community Plan.

INITIAL STUDY MATRIX

CEQA Guidelines Section 15152(b)(1)(A,B, and C) and (c), states that any EIR prepared for an earlier project may also be used as part of an Initial Study to document a finding that a later project will not have additional significant effects on the environment. In this situation, the Guidelines state that a Negative Declaration should be prepared.

CEQA Guidelines Section 15168(b)(1-5),(c)(1-5), and (d)(1 and 2), state that a "program" EIR prepared for an earlier large project may be incorporated into a later environmental assessment of a specific project, to deal with regional influences, cumulative impacts, and broad mitigation measures.

CEQA Guidelines Section 15063, discusses the purpose, contents, and format of an Initial Study. Public agencies are able to devise appropriate methods of providing this information so long as State requirements for content are met. In the past the City Planning Division has used a checklist format (with attached written supplements) as shown in sample form in the CEQA Guidelines. For this subject application a matrix format rather than the traditional checklist format has been used.

Staff prepared a matrix to review impacts identified in the NNCP EIR to determine if the proposed application was adequately environmentally assessed or would create new impacts not previously identified. The Initial Study Matrix consists of nine analysis columns as noted below:

- original application/EIR
- impacts/EIR
- significant
- mitigation measures/EIR
- statement of override
- community plan
- new application
- new impacts
- new mitigation measures

For each of the nine analysis columns the following areas of potential environmental impact were addressed (as read horizontally across the matrix):

- | | |
|----------------------------------|--|
| - land use (urban & agriculture) | - public utilities services and recreation |
| - traffic | - noise |
| - air quality | - risk of upset |
| - earth | - wildlife |
| - water | - vegetation |
| - employment | - public health |
| - population | - cultural resources |
| - housing | - energy |

This format allowed project-specific data and analysis from the NNCP EIR and findings to be segregated and highlighted, compared to the actual project submittal, and assessed for any new potential impacts not already previously addressed in the program EIR. Adopted mitigation measures from the program EIR and findings, and from the Community Plan are listed, as well as any new measures that were determined to be appropriate to mitigate project-specific impacts.

The only subject on the Initial Study Checklist not covered by the matrix are "Light and Glare". The Environmental Coordinator has determined that this project will not produce any potentially significant adverse environmental impacts in this subject area.

24

The information provided in the Matrix supports the Finding that no new potential significant adverse impacts that were not assessed in the NNCP EIR would result from the proposed application. The Initial Study checklist includes a section on determination of mandatory findings of significance. Impacts identified in the mandatory findings of significance are fully addressed through the matrix because the matrix assesses the project's potential to:

degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; reduce the number or restrict the range of a rare or endangered plant or animal; eliminate important examples of the major periods of California history or prehistory; achieve short-term to the disadvantage of long-term, environmental goals; have impacts which are individually limited, but cumulatively considerable; have environment effects which will cause substantial adverse effects on human beings, either directly or indirectly.

The Initial Study Matrix is too cumbersome to attach to this document and is therefore incorporated by reference and available for review at the City Planning Division Environmental Section office.

ENVIRONMENTAL ANALYSIS

The NNCP EIR was certified by the City Council on December 10, 1985. The NNCP EIR is a Program EIR as defined in the CEQA Guidelines Section 15168. The Guidelines state that where a Program EIR has been prepared, subsequent projects must be examined through an Initial Study to evaluate any environmental effects that were not examined in the Program EIR (CEQA Section 15168 (c)(1)).

The NNCP Program EIR which together with the Findings of Overriding Considerations adopted in conjunction with the approval of the Community Plan, are incorporated into this document.

There are no new potentially significant adverse environmental impacts that could result from the proposed project that have not already been adequately addressed on both a project-specific and cumulative level in the NNCP EIR which includes mitigation measures and overriding considerations where appropriate.

This Negative Declaration is prepared pursuant to CEQA Guidelines Section 15168 (c) (1) and incorporates by reference the Initial Study Matrix and the discussion of project-specific mitigation measures from the Matrix and the NNCP Program EIR.

SUMMARY AND MITIGATION MEASURES

The applicant is responsible for implementation of all project-specific mitigation measures identified in the "Mitigation Measures/EIR" column of the Initial Study Matrix. Adequate completion of these measures will be required as a condition of approval of specific land use entitlements should approval of the subject proposal be granted.

The only additional mitigation measure required at the time of the Program EIR which the Matrix identified as being necessary to adequately mitigate potential adverse environment impacts is to conduct an archeological survey for areas not included in the archeological survey for the NNCP. Completion of this survey is required prior to approval of specific land use entitlements (i.e., tentative subdivision map, special permit, etc.) for those areas.

Therefore, this proposed application has no potential for new significant adverse impacts not already studied and previously addressed. All applicable mitigation measures from the EIR and/or Community Plan are to be considered and imposed at the time of approval of Tentative Maps, or Special Permits and other specific development entitlements. This project application includes a Development Agreement (Attachment D) that will provide the mechanism to implement mitigation measures as subsequent land use entitlements (i.e., Tentative Maps and Special Permits) are processed. Through the Development Agreement and additional land use entitlement requirement, the City will be able to apply identified EIR and/or Community Plan mitigating measures. Development will require subsequent Tentative Maps and/or Special Permit approvals which provides an additional opportunity to review each land development. The Development Agreement and Special Permit process will provide the ability to apply additional site-specific and detailed mitigation measures to reduce potential future impacts (i.e., preserving existing vegetation, construction affects, and aesthetics) to a less than significant level.

REFERENCES

- Sacramento City Draft 1987 General Plan and 1987 Draft EIR
- Sacramento City General Plan and EIR, 1974
- South Sacramento Community Plan and EIR, 1986
- North Natomas Community Plan and EIR, 1986
- Sports Complex Negative Declaration, 1986
- Airport-Meadowview Community Plan and EIR, 1984
- North Sacramento Community Plan and EIR, 1984
- Sacramento South Pocket Specific Plan & EIR, 1977
- Sacramento Central City Comprehensive Plan & EIR, 1977
- Downtown Redevelopment Plan Update & EIR, 1985
- Sacramento City Zoning Ordinance, November 1978
- Renaissance Tower EIR, 1986
- Laguna Creek Floodplain Study and EIR, 1985
- Creekside Oaks and Gateway Centre EIR, 1984
- Delta Shores Village PUD EIR, 1983
- Greenhaven Executive Office Park EIR, 1982
- Executive Airport Master Plan and EIR, 1981
- Sacramento City American River Pkwy Plan & Neg. Dec. 1985
- Northgate Station EIR, 1986

24

- o At the Crossroads, A Report on California Endangered and Rare Fish and Wildlife. California Resources Agency and Department of Fish and Game, 1972
- o Soils of Sacramento County, California. Walter Weir, Division of Soils, U.C. Berkeley, 1950
- o Fifteenth Progress Report on Trip Ends Generation Research Counts. CalTrans, 1983
- o Native Oaks: Our Valley Heritage. Sacramento County Office of Education, 1976.
- o The applicant's environmental questionnaire and submitted plans are considered part of this Initial Study.

DETERMINATION

On the basis of this initial evaluation:

I find the proposed project COULD NOT have any new significant effect on the environment, not identified as part of the NNCP Program EIR and a NEGATIVE DECLARATION will be prepared pursuant to Guidelines Section 15168(c)(1).

DATE: 10 APR 87 SIGNATURE: [Signature]

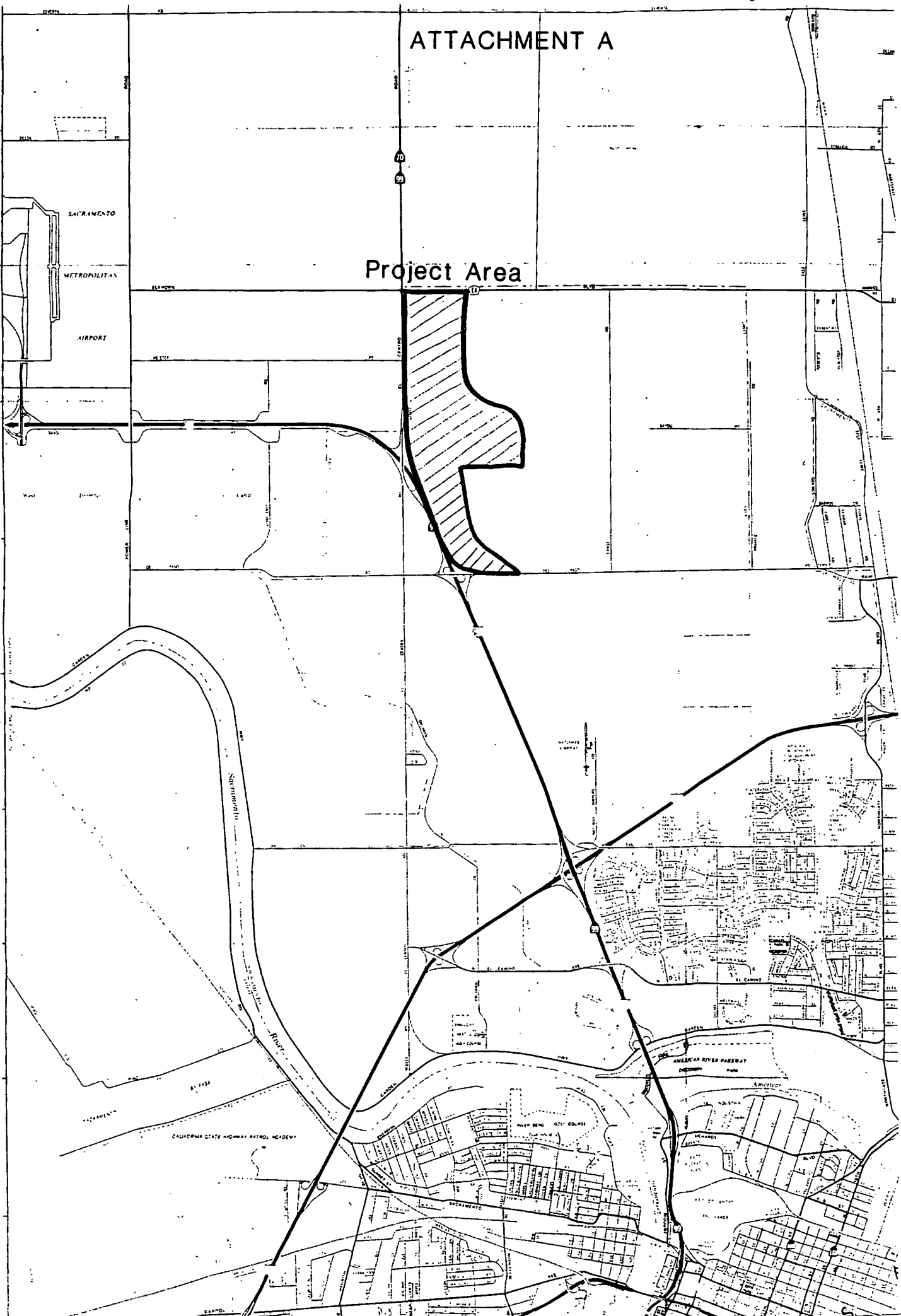
PREPARED BY: Clif Carstens PHONE: (916) 449-2037

Revised 3/87

CC:HT:jg

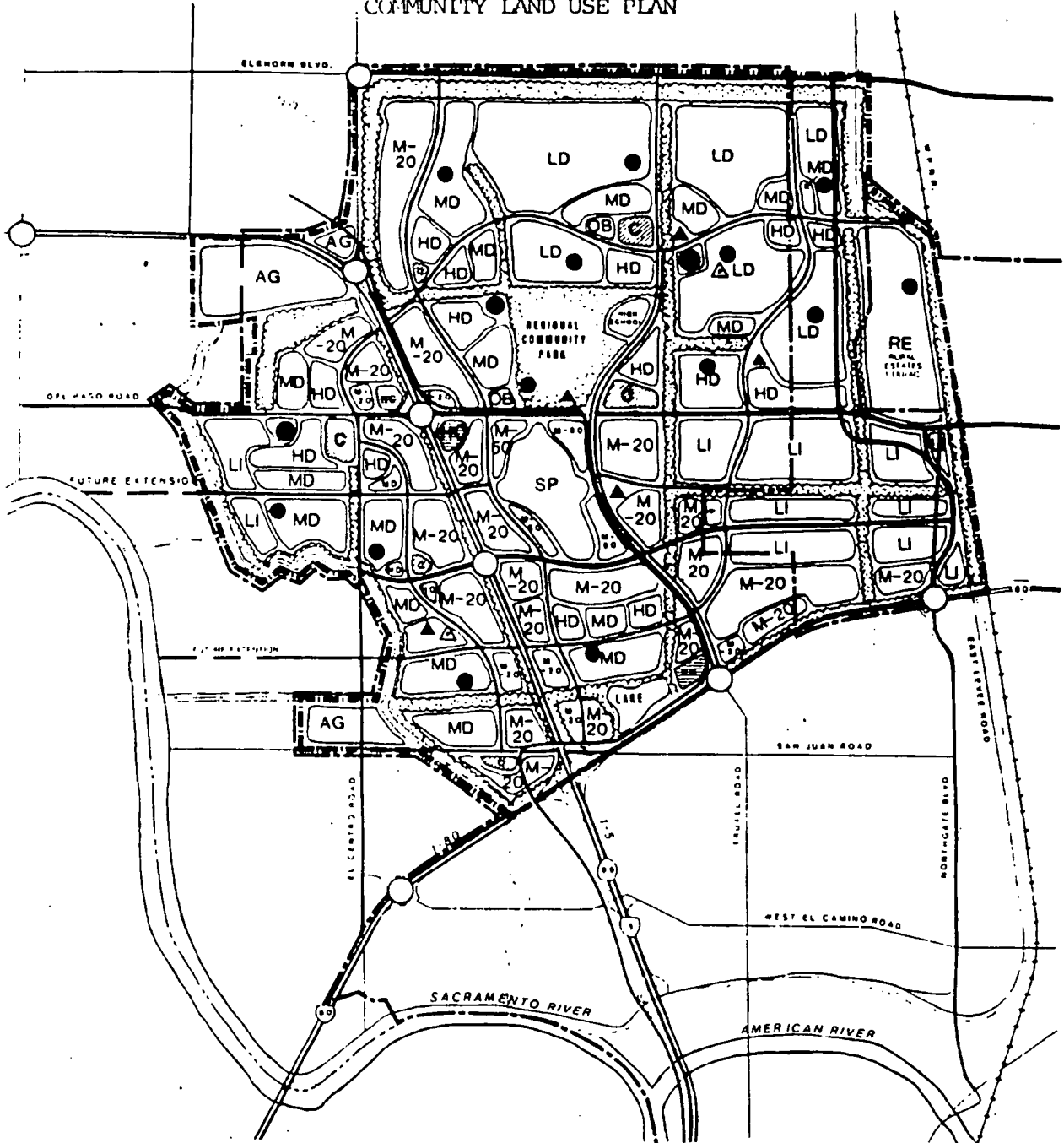
ATTACHMENT A

Project Area



NORTH NATOMAS COMMUNITY

COMMUNITY LAND USE PLAN

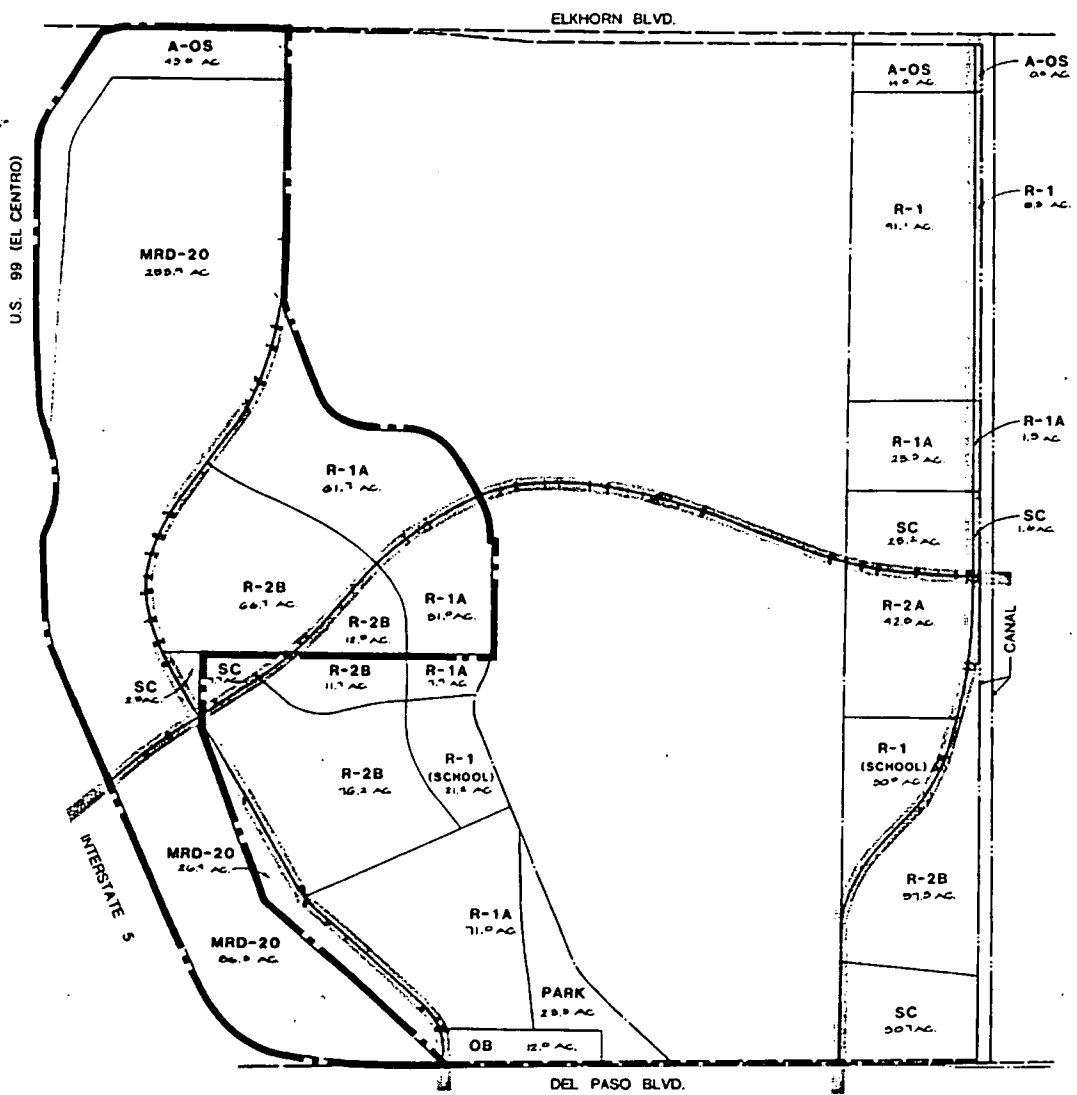


ADOPTED LAND USE

FIGURE 3

HD HIGH DENSITY RESIDENTIAL (2200 AC)	HIGHWAY COMMERCIAL	OB OFFICE BUSINESS	AG AGRICULTURE
MD MEDIUM DENSITY RESIDENTIAL (112 DU AC)	M-20 MANUFACTURING RESEARCH DEVELOPMENT (20% OFFICE)	SP SPORTS COMPLEX	ELEMENTARY SCHOOL JUNIOR HIGH SCHOOL
LD LOW DENSITY RESIDENTIAL (17 DU AC)	M-50 MANUFACTURING RESEARCH DEVELOPMENT (50% OFFICE)	PARK OPEN SPACE	CIVIC/PUBLIC USE (LIBRARY, FIRE STATIONS, MEDICAL CENTER)
COMMUNITY NEIGHBORHOOD COMMERCIAL	LI LIGHT INDUSTRIAL	GREENBELT BUFFER HIGHWAY OR ROAD LANDSCAPING	4-LANE DIVIDED MAJOR 6-LANE DIVIDED MAJOR 8-LANE DIVIDED PARKWAY

COMMUNITY PLAN STUDY AREA BOUNDARY: CITY OF SACRAMENTO CITY LIMITS: SACRAMENTO COUNTY BOUNDARY:
 BY METROLIGHT RAIL ROUTE

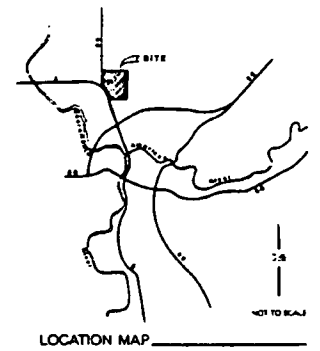
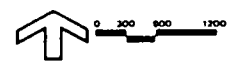


LAND USE SUMMARY		
KEY	PROPOSED ZONING	ACREAGE
R-1	SINGLE FAMILY	0.0 AC.
R-1 (SCHOOL)	SINGLE FAMILY - DESIGNATED FOR SCHOOL USE	0.0 AC.
R-1A	TOWNHOUSE	42.7 AC.
R-2A	GARDEN APARTMENT	00 AC.
R-2B	GARDEN APARTMENT	71.5 AC.
OB	OFFICE BUILDING	0.0 AC.
SC	SHOPPING CENTER	2.0 AC.
MRD-20	MANUFACTURING, RESEARCH AND DEVELOPMENT	340.0 AC.
A-OS	AGRICULTURE - OPEN SPACE	43.0 AC.
PARK	RECREATIONAL PARK	0.0 AC.

TOTAL 890.0 AC.

NOTE: ALL ACREAGES ARE APPROXIMATE DRAINAGE AREAS. NET ACREAGES WILL EXCLUDE MAJOR ROADWAYS, DRAINAGE CANALS AND THE LINE IN ACCORDANCE WITH PROPOSED DEVELOPMENT PLANS.

- LEGEND
- STREET RIGHT-OF-WAY
 - PROPERTY OWNERSHIP DIVISION
 - CANAL BOUNDARY
 - PROPOSED ZONING LIMIT
 - ▨ PROPOSED THOROUGHFARE
 - R-1 PROPOSED LINE
 - 25.0 AC. ACREAGE
 - ▭ LIMIT OF APPLICATION AREA



REZONING EXHIBIT

CITY OF SACRAMENTO, CALIFORNIA

SCHUMACHER

N NOLTE AND ASSOCIATES
1730 I Street, Sacramento, Ca. 95814
916-441-3270

APRIL, 1987

ATTACHMENT C

24

DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF SACRAMENTO AND

RELATIVE TO THE DEVELOPMENT OF
PROPERTY IN THE NORTH NATOMAS
COMMUNITY PLAN AREA

This Development Agreement is entered into this _____ day of _____, 1987, by and between the CITY OF SACRAMENTO, a municipal corporation (herein the "City"), and _____, a California _____ (herein the "Developer"), pursuant to the authority of Section 65864 et seq. of the Government Code of the State of California and pursuant to the City's powers as a charter city.

Recitals

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864 et seq. of the Government Code which authorizes any city, county or city and county to enter into a development agreement with an applicant for a development project, establishing certain development rights in the property which is the subject of the development project application.

B. The Developer owns in fee that certain real property described in Exhibit A attached hereto and incorporated herein by this reference and located within the City of Sacramento (herein the "Subject Property")

which the Developer seeks to develop consistent with the General Plan of the City of Sacramento (herein the "General Plan") and the North Natomas Community Plan in effect as of the date of this Agreement and as subsequently amended, if necessary, to conform to the Financing Plan, as defined in Section 300 hereof (herein the "Community Plan").

C. On January 21, 1986, the State Office of Planning and Research granted the City an extension of time for revision of the General Plan. On January 20, 1987, the State Office of Planning and Research granted the City an additional extension of time to revise its General Plan. In approving and authorizing this Agreement, the City Council has found and determined that it is consistent with the terms and conditions of such extension.

D. On May 13, 1986, the City Council by Resolution No. _____ amended the General Plan with respect to the development of the North Natomas Area (defined in Recital E).

E. On May 13, 1986, the City Council by Resolution No. _____ adopted the Community Plan. The Community Plan sets forth goals and objectives for the development of an area encompassing approximately 7,778 acres of land within the City of Sacramento and 1,577 acres of land within the County of Sacramento (said lands now or hereafter lying within the City limits are herein referred to as the "North Natomas Area"). In adopting the Community Plan, the City identified the following basic principles and goals:

1. The North Natomas Area should be opened for quality urban development. The properly controlled development of the North Natomas Area will provide the

stimulus needed to reverse the City's long-standing inability to attract major industrial employers and new sources of employment and housing at a central urban location within the Sacramento Metropolitan Area.

2. Urban development in the North Natomas Area must result in a new planned community of distinction. The intensity and mix of land uses within the North Natomas Area should reflect the highest and best use of developable lands in the area consistent with the economic, social and environmental goals of the City. The North Natomas Area should contain optimum amounts of land devoted to parks, recreational facilities and open space.

3. The North Natomas Area must be financially sound. The mix and intensity of land uses within the North Natomas Area must be financially capable of supporting not only the capital costs of the infrastructure required for its development, but also the ongoing costs of maintaining that infrastructure and providing quality public services. In addition, the development must be capable of bearing the substantial costs of environmental mitigation measures adopted as components of the Community Plan. Those measures include, but are not limited to, the acquisition and maintenance of greenbelts and a regional park, voluntary employment and economic programs, private and public housing and infrastructure trust fund programs for adjoining communities, particularly North Sacramento, transportation systems management programs, air quality maintenance and improvement programs and improvements to the regional transportation network servicing the North Natomas Area. Finally, the net tax revenues generated by development of the North Natomas Area must provide an ongoing revenue surplus for use throughout the City.

4. The initial phase of the development of the North Natomas Area must afford an intensity and mix of land uses to ensure economic viability for the proposed private development of a sports arena, sports stadium, related parking areas and support facilities. It should also be adequate to fund the excess capacity of the North Natomas Area infrastructure which must be constructed in that phase to serve subsequent phases of development.

5. The development of the North Natomas Area as a whole should contain an adequate mix of employment-generating land uses and housing for employees. A jobs-to-housing ratio goal of sixty percent (60%) for the North Natomas Area as a whole is reasonable and attainable.

6. Land uses in the North Natomas Area should be of a nature that they complement and do not compete with the goals of the North Sacramento Community Plan and office and commercial development in the Central Business District.

7. The design of land uses within the urbanized areas should seek to protect and enhance existing agricultural land uses in areas abutting upon those urbanized areas.

8. Consistent with the other enumerated goals, the intensity and mix of land uses within the North Natomas Area should recognize and protect future operations of the Sacramento Metropolitan Airport.

9. Regional environmental constraints upon the urban development of the North Natomas Area should be addressed in the context of appropriate regional programs addressing those constraints. Approval of specific land use entitlements for urban development within the North

24

Natomas Area must be conditioned upon the entitlee's commitment to participate in and fund appropriate regional programs addressing those regional constraints.

F. The coordinated and orderly development of the Subject Property with other property intended for development within the North Natomas Area (herein the "Other Developer Property") is essential to the proper implementation of the Community Plan. As a result, the Community Plan specifically contemplates application of the City's planned unit development process, the entering into of development agreements with the Developer hereunder and other property owners within the North Natomas Area (herein the "Other Developers") and appropriate phasing of development as a means of achieving the policies, goals, standards and objectives of the Community Plan for the entire North Natomas Area and the City in general.

G. The Final Environmental Impact Report (herein the "EIR") for the Community Plan was certified by the City Council on _____, 1985, by Resolution No. _____, and, in connection with its adoption of the Community Plan, the City Council on May 13, 1986, by Resolution No. _____, adopted its Findings of Fact and Statement of Overriding Considerations based upon review and consideration of the Final EIR.

[REFER TO NEGATIVE DECLARATIONS FOR SPORTS
COMPLEX; DEL PASO ROAD WIDENING; OTHERS, IF ANY]

Pursuant to Section 15162 of Title 14 of the California Administrative Code, the City Council has found and determined that there are no substantial changes in the project (the "project" being the development of the Subject Property pursuant to this Agreement in accordance with the

prior approvals referred to in Recital U hereof) or in the circumstances under which the project is to be undertaken, and that the project and the approval and execution of this Agreement involve no new impacts not considered in the previous EIR('s). Prior to the approval and authorization of this Agreement, a Negative Declaration was approved for this Agreement.

H. In implementation of and pursuant to the Community Plan, the City Council has adopted, by Resolution No. _____, on December 30, 1986, development guidelines for the development of property within the North Natomas Area (herein the "Development Guidelines"), a copy of which is attached hereto as Exhibit B and incorporated herein by this reference.

I. In implementation of and pursuant to the Community Plan, the City Council has designated, by Resolution No. _____, adopted on _____, 1987, a conceptual financing plan entitled " _____ " (herein the "Conceptual Financing Plan") setting forth conceptual alternatives for assumption of and participation by land owners and developers in the North Natomas Area in financing the design, construction and ongoing maintenance of the public improvements and facilities required for the development of the North Natomas Area pursuant to the Community Plan, including dedications of land and participation in other programs designated in the Community Plan in mitigation of impacts on the North Natomas Area, the surrounding region and the City generally.

J. On _____, 1987, the Planning Commission, after a duly noticed public hearing, recommended approval of planned unit development zoning for

24

the Subject Property, and on _____, 1987, the City Council, after a duly noticed public hearing, adopted Ordinance No. _____ approving the planned unit development zoning for the Subject Property (said zoning is herein referred to as the "Applicable Zoning (PUD)").

K. [Intentionally Omitted.]

L. On March 3, 1987, by Resolution No. _____, the City Council adopted procedures to enable the City to enter into development agreements for the development of property within the North Natomas Area pursuant to the authority of its Charter and Sections 65864 through 65869.5 of the Government Code (both resolution and any superseding procedural ordinance are herein referred to as the "Procedural Resolution").

M. On _____, 1987, the Planning Commission, designated by the Procedural Resolution as the advisory agency for purposes of development agreement review pursuant to Government Code Section 65867, considered this Agreement in a duly noticed public hearing.

N. Development of the Subject Property in accordance with the conditions of this Agreement will provide orderly growth and development of the Subject Property in accordance with the requirements, policies, goals, standards and objectives of the Community Plan.

O. The Developer will incur substantial costs in order to comply with conditions of approval and to assure development of the Subject Property in accordance with the Community Plan and this Agreement.

P. Development of the Subject Property (alone or as a consequence of the prior, contemporaneous or future development of the Other Developer Property) will result in a need for municipal services and facilities, and a need to mitigate impacts on the community, in excess of those otherwise physically required for the implementation of the Community Plan.

Q. Development of the Subject Property (alone or as a consequence of the prior, contemporaneous or future development of the Other Developer Property) requires substantial public facilities and improvements, participation by the Developer (together with the Other Developers) in certain programs to be established for the benefit of the North Natomas Area and the property owners, businesses, employees and residents therein, and other measures to assure that the policies, goals, standards and objectives of the Community Plan are achieved as development occurs in the North Natomas Area. The developments in the North Natomas Area will pay all of the costs of such public improvements and all costs of implementing other programs and measures to achieve the policies, goals, standards and objectives of the Community Plan, such costs to be spread among developers and properties in such manner as the City shall determine in implementing the Community Plan.

R. This Agreement is voluntarily entered into by the Developer in order to implement the Community Plan and in consideration of the rights conferred and the procedures specified herein for the development of the Subject Property. This Agreement is voluntarily entered into by the City in the exercise of its legislative discretion in order to implement the Community Plan and in consideration of the agreements and undertakings of the Developer

24

hereunder. The City and the Developer recognize and agree that but for the Developer's contribution to and participation in programs to mitigate the impacts of the development of the Subject Property and the cumulative impacts of the development of the North Natomas Area, the City would not approve the development of the Subject Property as contemplated by this Agreement. The City's approval of the development of the Subject Property as contemplated hereunder is in reliance upon and in consideration of the Developer's agreement to make contributions, assume obligations and be subject to the restrictions referred to in this Agreement to mitigate the impacts of the development of the Subject Property and the cumulative impacts of the development of the North Natomas Area.

S. The authority for this Agreement is contained in the Charter of the City of Sacramento, the Community Plan, the Procedural Resolution, other applicable City ordinances, resolutions and procedures and Government Code Section 65864 et seq. Inasmuch as this Agreement and the development agreements with the Other Developers provide for the participation of the Developer (together with the Other Developers) in financing the public improvements required to carry out the Community Plan, this Agreement constitutes a financing agreement within the meaning and scope of Government Code Section 53511 in that it provides for a means of satisfying financing obligations for various improvements and facilities to be owned by or maintained for the benefit of the City and the public generally in the North Natomas Area.

T. The City and the Developer have taken all actions mandated by and have fulfilled all requirements set forth in the Procedural Resolution.

U. The following prior or contemporaneous approvals of the City have been given with respect to the Developer's development of the Subject Property:

1. Adoption of amendments to the General Plan. (City Council Resolution No. _____, adopted May 13, 1986.)

2. Adoption of the Community Plan. (City Council Resolution No. _____, adopted May 13, 1986.)

3. Adoption of the Development Guidelines. (City Council Resolution No. _____, adopted December 30, 1986.)

4. Approval of the Applicable Zoning (PUD) for the Subject Property. (Ordinance No. _____, adopted _____, 1987.)

5. [Intentionally Omitted.]

6. Approval of this Agreement. (Ordinance No. _____, adopted _____, 1987, effective _____, 1987 (herein the "Adopting Ordinance").)

Agreements

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, THE CITY AND THE DEVELOPER HEREBY AGREE AS FOLLOWS:

ARTICLE 1. General Provisions.

A. [Sec. 100] Property Description and Binding Covenants. The Subject Property is that property described

24

in Exhibit A. The Developer represents that it has a legal or equitable interest in the Subject Property and that all other persons holding legal or equitable interests in the Subject Property (excepting owners or claimants in easements) are bound by this Agreement. It is intended and determined that the provisions of this Agreement shall constitute covenants which shall run with said Subject Property, and the burdens and benefits hereof shall bind and inure to all successors in interest to the parties hereto.

B. [Sec. 101] Term. The term of this Development Agreement shall commence upon the effective date of the Adopting Ordinance and shall extend for a period of ten (10) years thereafter, unless said term is terminated, modified or extended by circumstances set forth in this Agreement or by mutual consent of the parties hereto, subject to the provisions of Section 104 hereof. The term may be extended, from time to time, for additional terms not to exceed five (5) years each, subject to amendment in accordance with the provisions of Section 104 hereof; provided, however, that if the Developer is not in default under this Agreement and has commenced development of the Subject Property pursuant to this Agreement or is participating in the Financing Plan referred to in Section 300(2) and in Item No. IV.B.6. of the Special Conditions referred to in Section 200, the City may not unreasonably deny any such five-year extension. Following the expiration of said term, this Agreement shall be deemed terminated and of no further force and effect, subject, however, to the provisions of Section 410 hereof.

The City shall cause any such written notice of termination to be recorded with the County Recorder within ten (10) days of receipt of such notice.

C. [Sec. 102] Assignment.

(1) The Developer shall have the right to sell, assign or transfer its interest under this Agreement as part of a contemporaneous and related sale, assignment or transfer of the Subject Property, or any portion thereof, without the consent of the City; provided, however, that the Developer shall notify the City of such sale, assignment or transfer by providing written notice thereof to the City Manager in the manner provided in Sections 103 and 900 hereof. Express written assumption by such assignee or transferee, to the satisfaction of the City Attorney, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer of such obligations so expressly assumed. Any such assumption of the Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form of assumption agreement attached hereto as Exhibit D and incorporated herein by this reference.

In any event, any such assignee or transferee shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such assignee or transferee shall observe and fully perform all of the duties and obligations of the Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it.

(2) The holder of any mortgage, deed of trust or other security arrangement with respect to the Subject

24

Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but shall otherwise be bound by all of the terms and conditions of this Agreement, including the terms and conditions of the Applicable Zoning (PUD) or Applicable Special Permit(s). Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to foreclosure of the mortgage or deed of trust, or a deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior to the time such holder comes into possession. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

(3) Nothing in this Section 102 shall be deemed to constitute or require City consent to or approval of any subdivision or parcelization of the Subject Property, it being recognized that any such actions must comply with applicable City laws and regulations and be consistent with the Community Plan, the Development Guidelines, the Applicable Zoning (PUD), the Applicable Special Permit(s) and this Agreement. Parcelization of the Subject Property shall conform to the parcels as set forth in the Applicable Zoning (PUD).

D. [Sec. 103] Notices. Formal written notices, demands, correspondence and communications between the City and the Developer shall be sufficiently given if dispatched

by certified mail, postage prepaid, to the principal offices of the City and the Developer, as set forth in Article 9 hereof. Such written notices, demands, correspondence and communications may be directed in the same manner to such other persons and addresses as either party may from time to time designate. The Developer shall give written notice to the City, within ten (10) days after the close of escrow, of any sale or transfer of any portion of the Subject Property and any assignment of this Agreement, specifying the name or names of the transferee, the transferee's mailing address, the amount and location of the land sold or transferred, and the name and address of a single person or entity to whom any notice relating to this Agreement shall be given.

E. [Sec. 104] Amendment of Agreement. This Agreement may be amended from time to time by mutual consent of the parties, with City costs payable by amendment applicants, in accordance with the provisions of Government Code Sections 65867 and 65868, subject to the following:

(1) The procedure and findings required for an amendment to or extension of this Agreement shall be those specified in Section 206 of the Procedural Resolution.

(2) The issuance of any land use approval or permit which approves a change in the term, permitted uses, density or intensity of use, height or size of buildings, provisions for reservation and dedication of land, conditions, terms, restrictions and requirements relating to subsequent discretionary actions, monetary contributions by the Developer or in any other terms or conditions of this Agreement shall require an amendment to this Agreement. The City Manager shall make the determination

24

as to the applicability of this subsection in accordance with the standards set forth in Section 206 of the Procedural Resolution.

(3) Any change in the design or other terms and conditions of development of the Subject Property not specified in this Agreement or the Procedural Resolution to require an amendment shall not require an amendment of this Agreement. The City Manager shall make the determination as to the applicability of this subsection in accordance with the standards set forth in Section 206 of the Procedural Resolution.

(4) If, consistent with the provisions of this Agreement and any applicable planning, zoning or other legal requirements, the Subject Property has been divided into parcels under different ownerships, this Agreement may be amended, severed or cancelled as to particular parcels all under common ownership with the agreement of all parties having an interest in the parcels so affected.

(5) This Agreement shall also be subject to termination or modification pursuant to the provisions of Sections 207 and 301 of the Procedural Resolution.

F. [Sec. 105] Amendment of Zoning. Any amendment of the Applicable Zoning (PUD) shall be accomplished by a rezoning, which the City, in the exercise of its legislative discretion, may approve, deny or otherwise condition. Such rezoning shall comply with all procedural requirements of the Sacramento City Zoning Ordinance in effect at the time such rezoning is considered. Any such rezoning shall be consistent with the General Plan and the Community Plan in effect as of the time of the rezoning and shall contain all applicable conditions required in the

Community Plan for such rezoning to be effective. Any such rezoning may also be subject to the Special Conditions referred to in Section 200.

ARTICLE 2. Development of the Subject Property.

A. [Sec. 200] Permitted Uses and Development Standards. Subject to the Special Conditions set forth in Exhibit C, attached hereto and incorporated herein by this reference (herein the "Special Conditions"), the reserved discretionary approvals set forth in Section 201 and all other terms and conditions of this Agreement, the Developer may develop the Subject Property in accordance with and subject to the terms and conditions of the discretionary approvals set forth in Recital U of this Agreement. Specifically, the permitted uses, density or intensity of use, height or size of buildings and provisions for reservation and dedication of land for public purposes shall be set forth in the discretionary approvals set forth in Recital U of this Agreement and the reserved discretionary approvals set forth in Section 201 of this Agreement. The Developer recognizes that the Community Plan provides for various conditions to be satisfied for zoning or rezoning to be effective and for the development of the Subject Property and the Other Developer Property to proceed, including but not limited to conditions relating to transportation, air quality, the maintenance of a jobs/housing ratio and the provision of necessary public improvements. Accordingly, in the manner specified in the Special Conditions, any rights of the Developer under this Agreement are subject to such conditions and all other conditions of the Community Plan, and may be modified from time-to-time by the City in the exercise of its police powers in order to achieve the policies, goals, standards and objectives of the Community Plan notwithstanding any other provision of this Agreement to the contrary.

B. [Sec. 201] Reserved Discretionary Approvals.

Development of the Subject Property by the Developer is subject to the following reserved discretionary approvals:

- (1) Special Permit(s)
- (2) Tentative Map(s)
- (3) Hazardous Materials Permit(s), if applicable.

In reviewing and approving applications for special permits and other discretionary approvals, the City may exercise design review and may attach such conditions and requirements as may be deemed necessary or appropriate to carry out the policies, goals, standards and objectives of the Community Plan and to comply with legal requirements and policies of the City pertaining to such reserved discretionary approvals.

C. [Sec. 202] Development Timing.

There is no requirement under this Agreement that the Developer must initiate or complete development of any phase of the development within any period of time set by the City. It is the intention of this provision that the Developer be able to develop in accordance with the Developer's own time schedule; provided, however, that phasing of development shall be governed by the Special Conditions. No future modification of the Sacramento City Code or any ordinance or regulation which limits the rate of development over time shall be applicable. However, nothing herein shall be construed to relieve the Developer from any time conditions in any permit or to excuse the timely completion of any act which is required to be completed within a time period set by any applicable code or permit provisions.

D. [Sec. 203] Special Conditions. Development of the Subject Property shall be subject to the Special Conditions.

E. [Sec. 204] Development Guidelines. Development of the Subject Property shall be subject to the Development Guidelines.

F. [Sec. 205] Rules, Regulations and Official Policies.

(1) Subject to the Special Conditions, development of the Subject Property shall be subject to such rules, regulations, ordinances and official policies applicable to such development on the effective date of this Agreement. Except as otherwise provided in this Agreement, to the extent any future changes in the General Plan, Community Plan, zoning codes or any future rules, ordinances, regulations or policies adopted by the City purport to be applicable to the Subject Property but are inconsistent with the terms and conditions of this Agreement, the terms of this Agreement shall prevail, unless the parties mutually agree to amend or modify this Agreement pursuant to Section 104 hereof. To the extent that any future changes in the General Plan, the Community Plan, zoning codes or any future rules, ordinances, regulations or policies adopted by the City are applicable to the Subject Property and are not inconsistent with the terms and conditions of this Agreement or are otherwise made applicable by other provisions of this Article 2, such future changes in the General Plan, Community Plan, zoning codes or such future rules, ordinances, regulations or policies shall be applicable to the Subject Property.

24

(2) This section shall not preclude the application to development of the Subject Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in state or federal laws or regulations. In the event state or federal laws or regulations enacted after the effective date of this Agreement or action by any governmental jurisdiction other than the City prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, this Agreement shall be modified, extended or suspended as may be necessary to comply with such state or federal laws or regulations or the regulations of such other governmental jurisdiction.

To the extent that any actions of federal or state agencies (or actions of regional and local agencies, including the City, required by federal or state agencies) have the effect of preventing, delaying or modifying development of the North Natomas Community Plan Area or any area therein, the City shall not in any manner be liable for any such prevention, delay or modification of said development. Such actions include, but are not limited to, flood plain or wetlands designations and the imposition of air quality measures or sanctions. The Developer is required, at its cost and without cost to or obligation on the part of the City, to participate in such regional or local programs and to be subject to such development restrictions as may be necessary or appropriate by reason of such actions of federal or state agencies (or such actions of regional and local agencies, including the City, required by federal or state agencies).

(3) Notwithstanding anything herein to the contrary, all applications for approvals, permits and

entitlements shall be subject to the development and processing fees and taxes which are in force and effect at the time the application therefor is filed.

(4) Nothing herein shall be construed to limit the authority of the City to adopt and apply codes, ordinances and regulations which have the legal effect of protecting persons or property from conditions which create a health, safety or physical risk.

(5) Codes, ordinances and regulations relating to construction standards or permits shall apply as of the time of grant of each applicable construction permit.

(6) The parties intend that the provisions of this Agreement and the Procedural Resolution shall govern and control as to the procedures and the terms and conditions applicable to the development of the Subject Property over any contrary or inconsistent provisions contained in Section 66498.1 et seq. of the Government Code or any other State law now or hereafter enacted purporting to grant or vest development rights based on land use entitlements (herein "Other Vesting Statute"). In furtherance of this intent, and as a material inducement to the City to enter into this Agreement, the Developer agrees that:

(a) Notwithstanding any provisions to the contrary in any Other Vesting Statute, this Agreement, the Procedural Resolution and the conditions and requirements of land use entitlements for the Subject Property obtained while this Agreement is in effect shall govern and control the Developer's rights to develop the Subject Property;

(b) The Developer waives, for itself and its successors and assigns, the benefits of any Other

24

Vesting Statute insofar as they may be inconsistent or in conflict with the terms and conditions of this Agreement, the Procedural Resolution and land use entitlements for the Subject Property obtained while this Agreement is in effect; and

(c) The Developer will not make application for a land use entitlement under any Other Vesting Statute insofar as said application or the granting of the land use entitlement pursuant to said application would be inconsistent or in conflict with the terms and conditions of this Agreement, the Procedural Resolution and prior land use entitlements obtained while this Agreement is in effect.

(7) This section shall not be construed to limit the authority or obligation of the City to hold necessary public hearings, to limit discretion of the City or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements of use which require the exercise of discretion by the City or any of its officers or officials, provided that subsequent discretionary actions shall not conflict with the terms and conditions of this Agreement.

G. [Sec. 206] Imposition of Covenant of Easement by Ordinance. Nothing herein shall preclude the City from acting pursuant to Government Code Section 65870 et seq. in furtherance of implementing the Community Plan.

ARTICLE 3. Obligations of the Developer.

A. [Sec. 300] Improvements.

(1) The Developer shall develop the Subject Property in accordance with the discretionary approvals set forth in Recital U hereof and any reserved discretionary

approvals referred to in Section 201 hereof, subject to the terms and conditions of this Agreement. The failure of the Developer to comply with any term or condition of or fulfill any obligation of the Developer under the discretionary approvals set forth in Recital U hereof or of any reserved discretionary approvals set forth in Section 201 hereof, shall constitute a default by the Developer under this Agreement. Any such default shall be subject to cure by the Developer as set forth in Section 400 hereof.

(2) The City will adopt a financing plan (herein the "Financing Plan") for public improvements required for development of the North Natomas Area and other programs contemplated by the Community Plan. It is anticipated that the Financing Plan will be a further refinement of the Conceptual Financing Plan referred to in Recital I hereof and shall be based upon and implement the Infrastructure Design Report and Financing Study required under the Community Plan. The Developer shall participate in the Financing Plan, as made applicable to the development of the Subject Property, and shall faithfully and timely comply with each and every provision thereof. Without limiting the foregoing, applications for special permits, subdivision maps or other land use entitlements and building permits may be made subject to the Developer's participation in and compliance with the Financing Plan. The failure of the Developer to comply with any term or condition of or fulfill any obligation of the Developer under the Financing Plan, shall constitute a default by the Developer under this Agreement.

B. [Sec. 301] Landscaping.

(1) The Developer shall install and maintain landscape improvements, including plants, irrigation and

24

grading, in open space on the Subject Property in accordance with the Development Guidelines and as required by each special permit issued with respect to the Subject Property. Such installation shall occur not later than and as a condition to the issuance of a certificate of occupancy for buildings on such affected site.

(2) The Developer will cooperate with the City in the formation of a maintenance assessment district providing for maintenance of landscaping within and on public easements, public property (including but not limited to greenbelts, parks other than the regional park, and drainage-ways) and public rights-of-way and including assessments for such maintenance against the Subject Property, provided that the failure of City to form such maintenance assessment district shall not relieve the Developer of its obligations under subsection (1) of this Section 301.

C. [Sec. 302] Special Conditions. The Developer shall comply with the Special Conditions. Failure of the Developer to comply with such requirements shall constitute a default by the Developer under this Agreement.

D. [Sec. 303] Dedications. The Developer shall comply with the requirements of the Applicable Zoning (PUD), Applicable Special Permit(s) and approved subdivision maps for the dedication of land. Failure of the Developer to comply with such requirements shall constitute a default by the Developer under this Agreement.

E. [Sec. 304] Planning Costs Reimbursement. The Developer shall pay costs imposed pursuant to Section 401(e) of the Procedural Resolution at the time of application for a special permit or tentative subdivision map, whichever

first occurs, with respect to the Subject Property or such portion thereof as is covered by such application.

F. [Sec. 305] City's Good Faith in Processing.

Subject to the reserved discretionary approvals set forth in Section 201, the provisions of Section 204(3) hereof and the Special Conditions, the City agrees that it will accept, in good faith, for processing, review and action, all complete applications for zoning, special permits, development permits, subdivision maps or other entitlements for use of the Subject Property in accordance with the Community Plan, the Development Guidelines and this Agreement.

The City shall inform the Developer, upon request, of the necessary submission requirements for each application for a permit or other entitlement for use in advance, and shall review said application and schedule the application for review by the appropriate authority.

G. [Sec. 306] Agreements of the Essence. The foregoing agreements are of the essence of this Agreement.

ARTICLE 4. Default, Remedies, Termination.

A. [Sec. 400] General Provisions. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either party to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such thirty (30)

24

day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party to this Agreement may at its option institute legal proceedings pursuant to this Agreement or give notice of intent to terminate this Agreement pursuant to California Government Code Section 65868 and the Procedural Resolution. Following notice of intent to terminate, the matter shall be scheduled for consideration and review by the City Council within thirty (30) calendar days in the manner set forth in the Procedural Resolution.

Following consideration of the evidence presented in said review before the City Council, either party alleging the default by the other party may give written notice of termination of this Agreement to the other party, subject, however, to the provisions of Section 410 hereof.

Evidence of default may also arise in the course of a regularly scheduled periodic review of this Agreement pursuant to Government Code Section 65865.1 and the Procedural Resolution. If the City determines that the Developer is in default following the completion of the normal scheduled periodic review, the City may give the Developer written notice of termination of this Agreement as set forth in this section specifying in said notice the alleged nature of the default and potential actions to cure said default where appropriate. If the alleged default is not cured within thirty (30) days or within such longer period specified in the notice, or the Developer waives its right to cure such alleged default, this Agreement may be

terminated by the City, subject, however, to the provisions of Section 410 hereof.

B. [Sec. 401] Enforcement of Development Guidelines.

(1) Before any subdivision, parcelization, lot line adjustment or building permit is issued for any non-residential uses on the Subject Property, the Developer shall establish and implement a legal mechanism approved by the City which accomplishes the following:

(a) Establishes an association composed of property owners and tenants;

(b) Provides that said association shall have the responsibility and authority to enforce the provisions of this Agreement during the term of this Agreement and thereafter the terms of the Development Guidelines as the Development Guidelines may be in effect at the time enforcement action is taken;

(c) Provides that such enforcement action may include, but not be limited to, legal action in the name of the board of directors of the association to enjoin violation of this Agreement or the Development Guidelines. In the event the enforcement action is successful, the attorneys' fees and costs actually incurred in bringing any such action shall either be collected from the owner or occupant personally or shall be a lien on the property involved;

(d) Provides that the City shall have standing to bring an action in the name of the board of directors of the association to enjoin any violation to the extent that the board of directors has such power to do

24

so. In the event the enforcement action is successful, the attorneys' fees and costs actually incurred in such action shall either be collected from the owner or occupant personally or shall be a lien on the property involved collectable by the City.

The Developer may fulfill its obligation under this Section 401(1) by joining an existing association which satisfies the requirements of this Section 401(1).

(2) Before any subdivision, parcelization, lot line adjustment or building permit is issued for any residential uses on the Subject Property, the Developer shall establish and implement a legal mechanism approved by the City to assure enforcement of this Agreement and the Development Guidelines, as applicable to such residential property.

C. [Sec. 402] Developer Default; Enforcement. No building permit shall be issued or building permit application accepted for the building shell of any structure on the Subject Property if the permit applicant owns or controls any property subject to this Agreement and if such applicant or any entity or person controlling such applicant is in default under the terms and conditions of this Agreement unless such default is cured or this Agreement is terminated. The Developer shall cause to be placed in any covenants, conditions and restrictions applicable to the Subject Property, or in any ground lease or conveyance thereof, express provision for an owner of the Subject Property, lessee or City acting separately or jointly to enforce the provisions of this Agreement and to recover attorneys' fees and costs for such enforcement.

D. [Sec. 403] Annual Review. The City Manager shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by the Developer with the terms and conditions of this Agreement. Such periodic review shall be limited in scope to compliance with the terms and conditions of this Agreement pursuant to California Government Code Section 65865.1 and the Procedural Resolution. Notice of such annual review shall include the statement that any review may result in amendment or termination of this Agreement. The costs of notice and related costs incurred by the City for the annual review conducted by the City pursuant to this Section shall be borne by the Developer.

The City Manager shall provide thirty (30) days prior written notice of such periodic review to the Developer. Such notice shall require the Developer to demonstrate good faith compliance with the terms and conditions of this Agreement and to provide such other information as may be reasonably requested by the City Manager and deemed by him to be required in order to ascertain compliance with this Agreement.

If, following such review, the City Manager is not satisfied that the Developer has demonstrated good faith compliance with all the terms and conditions of this Agreement, or for any other reason, the City Manager may refer the matter along with his recommendations to the City Council.

The City Council shall conduct a hearing on compliance at its first available agenda after referral by the City Manager. The Council shall hear the matter de novo.

24

A finding by the City Manager or the City Council of good faith compliance by the Developer with the terms and conditions of this Agreement shall conclusively determine said issue up to and including the date of said review.

In any event, upon written demand by the Developer, the City Manager shall initiate the annual review.

Failure of the City to conduct an annual review shall not constitute a waiver by the City of its rights to otherwise enforce the provisions of this Agreement nor shall the Developer have or assert any defense to such enforcement by reason of any such failure to conduct an annual review.

E. [Sec. 404] Default by the City. In the event the City is in default under the terms of this Agreement, the City agrees that the Developer shall not be obligated to proceed with or complete the private improvements required under this Agreement, or any phase thereof, nor shall resulting delays in the Developer's performance caused by the City's default constitute grounds for termination or cancellation of this Agreement.

F. [Sec. 405] Enforced Delay, Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental entities, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance. If

written notice of such delay is given to the City within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

G. [Sec. 406] Legal Actions. In addition to any other rights or remedies, a party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation. In no event shall the City, or its officers, agents or employees, be liable in damages for any breach or violation of this Agreement, it being expressly understood and agreed that the Developer's sole legal remedy for a breach or violation of this Agreement by the City shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement.

H. [Sec. 407] Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Developer acknowledges and agrees that City has approved and entered into this Agreement in the sole exercise of its legislative discretion and that the standard of review of the validity or meaning of this Agreement shall be that accorded legislative acts of the City. Should any legal action be brought by a party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the Court. For purposes of this Section and Sections 401 and 402, reasonable attorneys' fees of the City Attorney's Office shall be based on comparable fees of private attorneys practicing in Sacramento County.

I. [Sec. 408] Invalidity of Agreement.

(1) If this Agreement shall be determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment.

(2) If any provision of this Agreement shall be determined by a court to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any law which becomes effective after the date of this Agreement and either party in good faith determines that such provision is material to its entering into this Agreement, either party may elect to terminate this Agreement as to all obligations then remaining unperformed in accordance with the procedures set forth in Section 400, subject, however, to the provisions of Section 410 hereof.

J. [Sec. 409] Termination Upon Completion of Development. This Agreement shall terminate when the Subject Property has been fully developed as determined by the City, subject, however, to the provisions of Section 410 hereof.

K. [Sec. 410] Effect of Termination on Developer Obligations. Termination of this Agreement shall not affect the Developer's obligations to comply with the Community Plan and the terms and conditions of the Applicable Zoning (PUD), the Applicable Special Permit(s), or subdivision map or other land use entitlements approved with respect to the Subject Property, nor shall it affect any other covenants of the Developer specified in this Agreement to continue after the termination of this Agreement.

ARTICLE 5. Hold Harmless Agreement.

A. [Sec. 500] Hold Harmless Agreement. The Developer hereby agrees to and shall hold the City, its elective and appointive boards, commissions, officers, agents and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage, which may arise from the Developer's or the Developer's contractors', subcontractors', agents' or employees' operations under this Agreement, whether such operations be by the Developer, or by any of the Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by or acting as agent for the Developer or any of the Developer's contractors or subcontractors.

In the event of any legal action instituted by a third party or any governmental entity or official arising out of the approval, execution or implementation of this Agreement (exclusive of any such actions brought by the Developer), the Developer agrees to and shall cooperate fully and join in the defense by the City of such action; provided, however, that the City and the Developer shall each bear their own respective costs, if any, arising from such defense. Such agreement by the Developer does not include any agreement to indemnify the City and its elective and appointive boards, commissions, officers, agents and employees from any such legal actions. [Notwithstanding the foregoing, City at its sole option may elect to tender the defense of any legal action to the Developer and in the event the Developer at its sole option accepts the tender, the Developer shall hold the City harmless from and defend the City from all costs and expenses incurred in the defense of such matter, and the Developer and City shall each bear any respective

24

liability, other than costs and expenses, for which they may be found liable as a result of such action.]

ARTICLE 6. Project as a Private Undertaking.

A. [Sec. 600] Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Subject Property is a separately undertaken private development. No partnership, joint venture or other association of any kind between the Developer and the City is formed by this Agreement. The only relationship between the City and the Developer is that of a governmental entity regulating the development of private property and the owner of such private property.

ARTICLE 7. Consistency With General Plan and Community Plan.

A. [Sec. 700] Consistency With General Plan and Community Plan. The City hereby finds and determines that execution of this Agreement is in the best interest of the public health, safety and general welfare and is consistent with the General Plan and the Community Plan.

ARTICLE 8. Construction.

A. [Sec. 800] Construction. This Agreement shall be subject to and construed in accordance and harmony with the Sacramento City Code, as it may be amended, provided that such amendments do not substantially alter the rights granted to the parties by this Agreement.

ARTICLE 9. Notices.

A. [Sec. 900] Notices. All notices required by this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, to the addresses of the parties as set forth below.

Notice required to be given to the City shall be addressed as follows:

City of Sacramento

Attention: _____

Notice required to be given to the Developer shall be addressed as follows:

Attention: _____

Either party may change the address stated herein by giving notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

ARTICLE 10. Entire Agreement.

A. [Sec. 1000] Entire Agreement. This Agreement is executed in _____ duplicate originals, each of which is deemed to be an original. This Agreement consists of 35 pages and four exhibits which constitute the entire

24

understanding and agreement of the parties. Said exhibits are identified as follows:

Exhibit A: Description of the Subject Property

Exhibit B: Development Guidelines

Exhibit C: Special Conditions

Exhibit D: Form of Assumption Agreement

IN WITNESS WHEREOF, the City and the Developer have executed this Agreement as of the date set forth above.

CITY OF SACRAMENTO

By _____
Mayor

Attest _____
City Clerk

"CITY"

APPROVED AS TO FORM:

City Attorney

a California _____

By _____

"DEVELOPER"

EXHIBIT A

DESCRIPTION OF THE SUBJECT PROPERTY

[TO BE INSERTED]

24

EXHIBIT B

DEVELOPMENT GUIDELINES

[TO BE INSERTED]

EXHIBIT C

SPECIAL CONDITIONS

[TO BE INSERTED]

EXHIBIT D

FORM OF ASSUMPTION AGREEMENT

[TO BE INSERTED]

94

EXHIBIT B

NOTICE OF APPEAL OF THE DECISION OF THE ENVIRONMENTAL COORDINATOR

TO THE SACRAMENTO CITY COUNCIL:

I do hereby make application to appeal the decision of the Environmental Coordinator of:

- Filing a Negative Declaration
- Requiring an Environmental Impact Report
- Other _____

PLEASE TYPE OR PRINT

Project Proposal: Development Agreement, Rezone
Planned Unit Development

Project Address: East side of SR 99 and I-5 between Elkhord Blvd. and Del Paso Road

Assessor's Parcel No.: 201-300-16-18; 26-29, 61; 225-030-31; 225-040-17, 29-30, 32

Owner: Schamacher Properties Phone: _____

Mailing Address: _____ Zip Code: _____

Applicant/Agent: Nolte and Associates Phone: _____

Mailing Address: 1730 I St., Sacramento, CA Zip Code: 95814

Grounds for Appeal: (Explain in Detail and use a separate sheet if necessary.)

See attached letter dated May 4, 1987.

Appellant: P. Addison Covert Phone: (916) 444-8920
(Print Name)

Mailing Address: KRONICK, MOSKOVITZ, ET AL. 770 L St., Ste. 1200, Sacto, CA Zip Code: 95814

Appellant Signature: _____ Date: May 4, 1987

Filing Fee: _____ Date Received: _____ By: _____

- by Applicant \$625.00
- by Third Party \$40.00

Revised: 2-27-85
Original: CC
cc: MVD
AG

Receipt No. _____

M

STANLEY W. KRONICK
 ADOLPH MOSKOVITZ
 EDWARD J. TIEDEMANN
 FREDERICK G. GIRARD
 LLOYD HINKELMAN
 CHARLES A. BARRETT
 CLIFFORD W. SCHULZ
 FRANK A. IWAMA
 JAMES E. THOMPSON
 ROBERT E. MURPHY
 THOMAS W. ERES
 ROBERT G. WALTERS
 ROBERT S. SHELBURNE
 JAMES F. GEARY
 JAMES M. BOYD, JR.
 STEPHEN A. KRONICK
 JANET K. GOLDSMITH
 PAUL M. BARTKIEWICZ
 ROBIN LESLIE STEWART
 ROBERT B. MILLER
 WILLIAM A. KERSHAW
 ROBERT A. RUNDSTROM
 JAMES E. MESNIER
 RUTHANN G. ZIEGLER

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

770 L STREET, SUITE 1200

SACRAMENTO, CALIFORNIA 95814-3363

TELEPHONE (916) 444-8920

TELECOPIER (916) 444-5615

PAUL W. TOZER
 DONALD W. FITZGERALD
 THOMAS C. HUGHES, III
 ANDREA M. MILLER
 JOHN L. BUKEY
 RICHARD P. SHANAHAN
 WILLIAM E. HVIDSTEN
 RAYMOND W. DUNNE
 RICHARD H. HART, JR.
 MICHAEL A. GROB
 P. ADDISON COVERT
 PATRICK J. BITTNER
 ROLAND L. CANDEE
 TAMI L. GRIFFIN
 THOMAS W. BIRMINGHAM
 GREGORY S. WEBER
 SUSAN B. CARLSEN
 MARK E. CULLERS
 TIMOTHY M. SMITH
 LINDA S. SOMERS
 PHILIP A. WRIGHT

May 4, 1987

LEGISLATIVE CONSULTANT
 ARNOLD BRAY

OF COUNSEL
 E. KENDELL DAVIS
 LEONARD M. FRIEDMAN
 WILLIAM E. BYRNE

City Council
 City of Sacramento
 915 "I" Street, Room 203
 Sacramento, CA 95814

RE: Negative Declaration for North
 Natomas Area Development

Honorable Mayor and Members of the City Council:

This office has been retained by five local public school districts serving portions of the proposed North Natomas Area development. The affected districts are Del Paso Heights Elementary, Natomas Union Elementary, Rio Linda Union Elementary, Robla Elementary, and Grant Joint Union High School District. All of the districts presently have various conditions of overcrowding within their boundaries, and in some cases will experience significant enrollment growth as a result of the development presently envisioned in the North Natomas Community Plan ("Plan").

The Plan proposes the construction of approximately 32,618 residential units in the North Natomas Area, which will have the effect of generating approximately 13,375 additional school age children to the districts. Presently, the districts have very limited space to house these additional students. The estimated 1987 cost of constructing new school facilities for these students will exceed \$159,896,000 (or \$4,902 per housing unit). Under Government Code Sections 53080, et seq., the districts' school boards are authorized to levy a one-time fee of up to \$1.50 per square foot of residential space and 25 cents per square foot of commercial or industrial space. Such a fee could potentially generate revenue in the amount of \$61,600,000. A shortfall of approximately \$98,296,000 (or \$3,014 per housing unit) would still result notwithstanding these fees.

24

State funding for school construction is available to finance a portion of the shortfall, but such funding is difficult to qualify for on a timely basis, and at present, the need for funds statewide far outweighs available state revenue. Both factors have the potential of contributing to a decrease in the quality of education offered by the districts.

This situation is identical to the one faced by the City of Placerville in El Dorado Union High School District v. City of Placerville (1983) 144 Cal.App.3d 123, 192 Cal.Rptr. 480. In El Dorado, the City of Placerville approved a tentative subdivision map for proposed residential development without requiring mitigation measures addressing the problem of increased enrollment to be generated by the development. In holding that increase in student enrollment is cognizable under CEQA, the Court of Appeal stated:

"The EIR should contain sufficient information to enable public agencies to make decisions that consider environmental consequences. (Guidelines §15150.) The EIR here falls woefully short of that standard. Although the Draft recognized an increase in student enrollment, neither report said anything about the effects of such an increase in the student population, and suggested no mitigation measures to deal with such an impact, required by the Guidelines. (§15143, subds. (a), (c) and (g).) Nor is there any discussion of the cumulative impact of projects such as Whispering Pines on District, which CEQA expressly requires. (§21083; Guidelines, §§15023.5, 15143, subd. (a).) Finally, District had advised the City in February 1980 the special impact fee it had imposed would not fully meet its needs. On this record, we cannot assume City made any evaluation of the impact of the project, much less the kind of detailed evaluation CEQA contemplated under these circumstances." (Emp. in orig.) Id. at 132-133, 485.

City Council
City of Sacramento
May 4, 1987
Page 3

1043.1-L-041687-361

Public agencies are required to mitigate or avoid significant effects of projects they approve. Public Resources Code §§21002, 21002.1. The use of a negative declaration instead of an EIR where the project may have a significant effect on the environment is only proper when "(r)visions in the project plans or proposals made by or agreed to by the applicant before the proposed negative declaration is released for public review would avoid the effect or mitigate the effects to a point where clearly no significant effects would occur." 14 Cal. Admin. Code. §15070(b)(1).

It is the position of the affected districts that no such revisions have been made.

The City of Sacramento's Draft General Plan states at Section 6, page 17, that it is a goal of the City to "continue to assist school districts in providing quality educational facilities that will accommodate projected student enrollment growth." Additionally, policies contained under such goal include:

Assist school districts with school financing plans and methods to provide permanent schools in existing and newly developing areas in the city.

Involve school districts in the early stages of the land use planning process for the future growth of the city.

The districts have been reviewing the need for school facilities with certain North Natomas Area developers, but no agreements have been reached as of this date.

Section 300 of the draft developer agreement provides in part that North Natomas developers must participate in, and comply with all provisions of a "Financing Plan" adopted by the City, which contains methods to finance public improvements in the North Natomas Area. The Financing Plan presents a unique opportunity for the districts, the City and the developers to provide a method to fund quality educational facilities in the North Natomas Area, and would eliminate the project's adverse effects.

City Council
City of Sacramento
May 4, 1987
Page 4

1043.1-L-041687-361

24

In addition, the Community Plan for the North Natomas Area under the heading "Schools" at page 62, paragraph 7 reads:

Prior to the approval of any rezoning or land use entitlements for any residential land use within the Plan Area, the applicant shall enter into an agreement with the appropriate school districts which will insure the provision of adequate school facilities to serve the residential dwelling units when needed. The appropriate school district and the building community will cooperate in drafting a financing plan which will address the provisions of adequate school facilities to serve the planned residential areas when needed. The plan will consider Mello-Roos financing and Impaction Fees among other possible sources of funds.

An agreement between the districts and the developers which insures the provision of adequate school facilities as provided for in the Financing Plan would eliminate the project's adverse effects. Absent adequate mitigation measures, the districts protest approval of a negative declaration for the Project.

Very truly yours,


P. ADDISON COVERT

PAC:shg

cc: North Natomas Area School Superintendents:
Mr. Carl Mack, Jr.
Mr. Raff McDonald
Dr. Dale Faust
Mr. Paul Rahe
Dr. Hazel Mahone

EXHIBIT C

COMMENTS RECEIVED ON THE NEGATIVE
DECLARATION AND RESPONSES (SCHUMACHER, P87-043)

1. U.S. Army Corps of Engineers
2. CA Department of Fish and Game
3. CALTRANS
4. CA Department of Transportation-Aeronautics Division
5. CA Department of Food & Agriculture
6. Sacramento County Department of Public Works
7. Sacramento County Department of Airports (no response necessary)
8. Sacramento County Health Department (no response necessary)
9. City of Sacramento Fire Department (no response necessary)
10. SMUD
11. ECOS



DEPARTMENT OF THE ARMY
SACRAMENTO DISTRICT, CORPS OF ENGINEERS
650 CAPITOL MALL
SACRAMENTO, CALIFORNIA 95814-4794

May 8, 1987

REPLY TO
ATTENTION OF

Sacramento Basin Branch

RECEIVED

MAY 11 1987

Planning and Development

Ms. Lisa Pyzel
Planner
City of Sacramento
Department of Planning and Development
1231 I Street
Sacramento, California 95814

Dear Ms. Pyzel:

We have reviewed the Negative Declarations for Ketscher, Payne, Schumacher, and Tsakopoulos properties in the Natomas area, all dated April 13, 1987. Our comments follow:

The area is presently shown as a zone C on Flood Insurance maps. However, recent studies indicate the area may be subject to more frequent flooding. Final determination of flood plains is currently not available.

Should you need further assistance, do not hesitate to contact us. Thank you for the opportunity to provide review comments.

Sincerely,

Douglas J. Galladay
for Walter Yep
Chief, Planning Division



CITY OF SACRAMENTO

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 "I" Street

Sacramento, Ca. 95814

Administration
Room 300 449-5571
Building Inspections
Room 200 449-5716
Planning
Room 200 449-5604

May 13, 1987

Mr. Walter Yep
Chief, Planning Division
U.S. Army Corps of Engineers
650 Capitol Mall
Sacramento, California 95814

Attn: Sacramento Basin Branch

SUBJECT: Response to Comments on Negative Declarations
For Schumacher (P87-043), Payne (P87-044),
Ketscher (P87-045), and Tsakopoulos (P87-070)

Dear Mr. Yep:

Thank you for your comments on the above-referenced projects.

The Development Agreements recognize that actions by federal agencies which prohibit development within the flood plain when the determination of the flood plain boundaries is available must be complied with, and development of the area cannot proceed until any flooding problem that would violate federal standards is eliminated.

May 13, 1987
page 2

Please call Lisa Pyzel at 449-2037 if you have any questions regarding this matter.

Cordially,



Cliff Carstens,
Senior Planner

cc: Rusty Selix
Gregory Thatch
Martin Steiner
Lisa Pyzel
File: P87-043
P87-044
P87-045
P87-070

CC:om

24

Memorandum

To : 1. Gordon P. Snow, Projects Coordinator
Resources Agency

Date : April 30, 1987

2. Lisa Pyzel, Planner
City of Sacramento
Environmental Planning Department
1231 I Street, Room 300
Sacramento, CA 95814

From : Department of Fish and Game

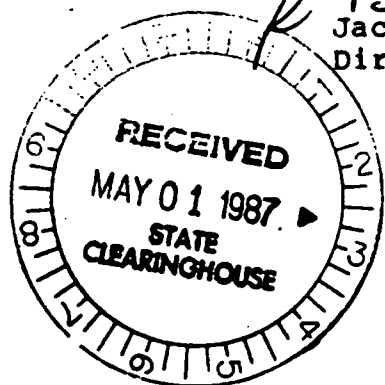
Subject : Proposed Negative Declaration for the Schumacher Properties
(P87-043) City of Sacramento, Sacramento County (SCH 87041304)

The Department of Fish and Game has reviewed the proposed Negative Declaration for the Schumacher Properties, a proposed rezoning of 558+ acres from "Agriculture" to "Townhouse"; "Garden Apartment"; "Shopping Center"; "Manufacturing, Research and Development"; and "Agricultural Open Space" in North Natomas. The property is located in the vicinity of the intersection of Elkhorn Road and El Centro Road.

The Department concurs with the finding for a Negative Declaration, provided the proposed mitigation measures for the wetlands are implemented. We would be pleased to work with the city during the design phase of the drainage plan in order to maximize the wetlands value of the waterways for the State listed threatened giant garter snake (Thamnophis couchi gigas) and other fish and wildlife resources.

If the Department can be of further assistance, please contact James D. Messersmith, Regional Manager, Region 2, 1701 Nimbus Road, Suite A, Rancho Cordova, CA 95670, telephone (916) 355-09922.

Jack C. Parnell
Jack C. Parnell
Director



SACRAMENTO CITY
PLANNING - ENVIRONMENTAL

MAY 5 1987

RECEIVED

24



CITY OF SACRAMENTO

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 "I" Street

Sacramento, Ca. 95814

Administration
Room 300 449-5571
Building Inspections
Room 200 449-5716
Planning
Room 200 449-5604

May 13, 1967

Mr. James D. Messersmith
Department of Fish and Game,
Region 2
1704 Nimbus
Rancho Cordova, California 95670

SUBJECT: Response To Comments on Negative Declarations
For Schumacher (P87-043), Payne (P87-044)
Ketscher (P87-045), and Tsakopoulos (P87-070)

Dear Mr. Messersmith:

Thank you for your comments on the above-referenced projects.

The City of Sacramento Public Works Department is currently preparing preliminary studies and drainage plans for the North Natomas area which will include wetland areas design and/or preservation. Eventually, all responsible agencies will meet with the City to determine the scope of the environmental issues. The City will be pleased to work with your agency at that time.

Cordially,

Cliff Carstens,
Senior Planner

cc: Rusty Selix
Gregory Thatch
Martin Steiner
Lisa Pyzel
File: P87-043
P87-044
P87-045
P87-070

CC:om

24

Memorandum

To : State Clearinghouse
 Office of Planning & Research
 Attention: Peggy Osborn
 1400 10th Street
 Sacramento, CA 95814

Date : April 27, 1987
 File : 03-Sac-5/80
 Ketscher,
 Tsakopoulos, Payne &
 Schumacher Prop.
 SCH 87041301-4

From : DEPARTMENT OF TRANSPORTATION - Telephone ATSS 457-4498
 District 3, P. O. Box 911, Marysville, CA 95901

Subject: Review Negative Declaration

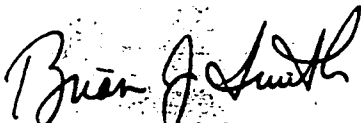
Caltrans, District 3, has reviewed the negative declarations for development agreements, rezones and planned unit development designations for four properties within the North Natomas Community Plan area.

We wish to re-emphasize our previous concerns from both the original Community Plan EIR and the Capital Gateway Sports Complex. The importance of Interstates 5 and 80 as regional transportation facilities should not be overlooked. Full build-out of these individual properties will create potential impacts when overlapped with regional traffic on the freeways.

The supplemental environmental assessments prepared for special use permits to develop these properties should specify mitigation measures which were identified in the Community Plan EIR. The subject development agreements should be more specific in identifying a funding commitment by each developer to regional facilities as addressed in the Community Plan EIR. These facilities include an adequate internal circulation system, improvements to the interstate system and specifically applicable TSM measures.

Although the Initial Study Matrix may be too cumbersome to include, future environmental assessments for similar actions should include a summary of applicable mitigation measures from the Community Plan EIR.

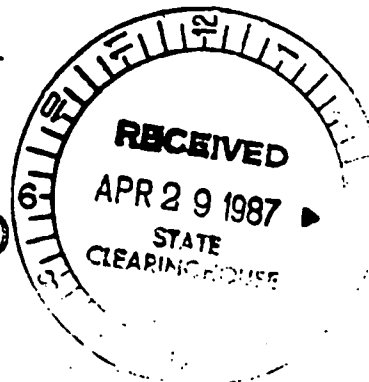
If there are any questions on these comments, please contact Mrs. Jeannie Baker, Telephone (916) 741-4498.



Brian J. Smith
 Chief, Environmental Branch
 SACRAMENTO CITY
 PLANNING - ENVIRONMENTAL

MAY 5 1987

RECEIVED





CITY OF SACRAMENTO

24

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 "I" Street

Sacramento, Ca. 95814

May 13, 1987

Administration
Room 300 449-5571
Building Inspections
Room 200 449-5716
Planning
Room 200 449-5604

Mr. Brian J. Smith
Chief, Environmental Branch
Department of transportation,
District 3
P.O. Box 911
Marysville, California 95901

SUBJECT: Response to Comments on Negative Declaration
for Schumacher (P87-043), Payne (P87-044),
Ketscher (P87-045), and Tsakopoulos (P87-070)

Dear Mr. Smith:

Thank you for your comments on the above-referenced projects.

The special conditions element of the Development Agreements specifically requires developers to participate in TSM Programs, to enter into an agreement with Cal Trans and to participate in financing interim and permanent infrastructure in conjunction with project-specific developments. The current applications are requests for rezoning, and not for specific development. At the time that specific development proposals are received, appropriate mitigation measures plus the above-mentioned items required for development will be assessed as appropriate.

Please call Lisa Pyzel at 449-2037 if you have any further questions regarding this matter.

Cordially,

Cliff Carsten,
Senior Planner

cc: Rusty Selix
Gregory Thatch
Martin Steiner
Lisa Pyzel
File: P87-043
P87-044
P87-045
P87-070

CC:om

Memorandum

To: State Clearinghouse
Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

Date: May 4, 1987

File:

Attention Peggy Osborn

From: DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS

Subject: The City of Sacramento's Negative Declarations for
Schumacher Properties/North Natomas, SCH# 87041304;
Ketscher Property/North Natomas, SCH# 87041301; Payne
Property/North Natomas, SCH# 87041303

The Department of Transportation, Division of Aeronautics, has reviewed the above-referenced documents pursuant to CEQA and with respect to the areas of airport-related noise and safety impacts on the projects, the projects' potential impact on airport operations and the issue if compatible land uses in the vicinity of the airport.

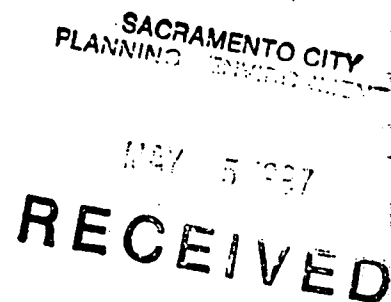
In addition to other uses, the projects include proposed residential development, and are located southeast of Sacramento Metro Airport. Although the sites are located outside of the 60 Community Noise Equivalent Level (CNEL) contours for the Airport (1986 Master Plan Update, published by the Sacramento County Dept. of Airports), consideration should be given to the notification of prospective buyers and tenants of the close proximity of the airport and the potential for subsequent aircraft overflights.

Thank you for the opportunity to review and comment on these proposals.

Sincerely,

JACK D. KEMNERLY, Chief
Division of Aeronautics

Sandy Hayward
Sandy Hayward
Environmental Planner



cc: Sacramento County ALUC
Sacramento County Dept. of Airports
Sacramento Metro Airport



CITY OF SACRAMENTO

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 "I" Street

Sacramento, Ca. 95814

Administration
Room 300 449-5571
Building Inspections
Room 200 449-5716
Planning
Room 200 449-5604

May 13, 1987

Ms. Sandy Hesnard
Department of Transportation
Division of Aeronautics
1120 N Street
Sacramento, California 95814

SUBJECT: Response to Comments on Negative Declarations
For Schumacher (P87-043), Payne (P87-044),
Ketscher (P87-045), and Tsakopoulos (P87-070)

Dear Ms. Hesnard:

Thank you for your comments regarding the above-referenced projects.

As subsequent developments are proposed in the North Natomas area, Caltrans will have the opportunity to review future development proposals in their relationship to airport operations.

Please call Lisa Pyzel at 449-2037 if you have any questions regarding this matter.

Cordially,

Cliff Carstens,
Senior Planner

cc: Rusty Selix
Gregory Thatch
Martin Steiner
Lisa Pyzel
File: P87-043
P87-044
P87-045
P87-070

CC:oz

Memorandum

To : Ms. Peggy Osborn
 State Clearinghouse
 Office of Planning and Research
 1400 Tenth Street, Room 121
 Sacramento, California 95814

Date : April 24, 1987

Place : Sacramento

From : Department of Food and Agriculture --1220 N Street, Room 104
 Sacramento, CA 95814

Subject : SCH No. 87041304

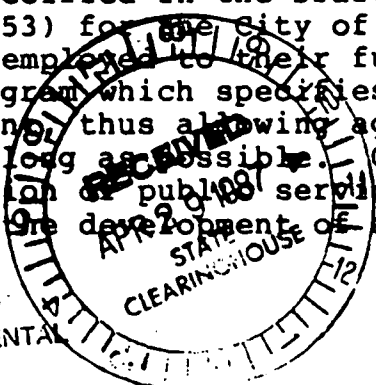
Thank you for the opportunity to comment on the proposed Negative Declaration for the Schumacher Property (P87-043) project which would approve a development agreement for the above referenced property, provide a planned unit development designation, and rezone 514 of 558 acres from agricultural to various urban zoning designations.

The California Department of Food and Agriculture (CDFA) finds that a Negative Declaration is not the appropriate environmental document for this project for the following reasons. It is unclear if this project would convert prime agricultural land and if the property is under Williamson Act contract.

The premature rezoning of parcels located north of Del Paso Road could result in discontinuous patterns of growth and the premature loss of productive agricultural land. Such rezoning could also present undue pressure to develop adjacent agricultural parcels in an untimely manner.

Such rezoning would seem inconsistent with North Natomas Community Plan policy as stated in the sample Development Agreement (page 4, paragraph E. 7.). Such rezoning should take place once the Sacramento urban area reaches Del Paso Road.

Mitigation measures such as those specified in the Draft Environmental Impact Report (pages D-52, D-53) for the City of Sacramento General Plan Update should be employed to their fullest extent. These include a phasing program which specifies infill development and contiguous development, thus allowing agricultural operations to continue for as long as possible. Other measures would include timely expansion of public services so as to avoid premature development, and the development of an agricultural preservation plan.



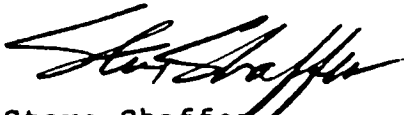
SACRAMENTO CITY
 PLANNING - ENVIRONMENTAL

MAY 5 1987

RECEIVED

Ms. Peggy Osborn
Page Two
April 24, 1987

While it is not the policy of the CDFA to judge the merits of local planning decisions, we are, however, concerned with the rate at which agricultural land is being converted to urban uses. Therefore, the CDFA requests the preparation of a Draft Environmental Impact Report for this project.



Steve Shaffer
Research Analyst
(916) 322-5227



CITY OF SACRAMENTO

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 "I" Street

Sacramento, Ca. 95814

Administration

Room 300 449-5571

Building Inspections

Room 200 449-5716

Planning

Room 200 449-5604

May 13, 1987

Mr. Steve Shaffer
Research Analyst
Department of Food and Agriculture
1220 N Street, Room 104
Sacramento, California 95814

SUBJECT: Response To Comments on Negative Declaration for
Schumacher (P87-043), Payne (P87-044),
Ketscher (P87-045), and Tsakopoulos (P87-070)

Dear Mr. Shaffer:

The North Natomas Community Plan EIR closely examined agricultural land in North Natomas and recommended the following:

"Measures to preserve agricultural lands should be adopted in order to adequately buffer agricultural areas from urban uses and to avoid urban-rural conflicts. These measures include use of low density, open-space buffers, drainageways, or designation of specific land uses, such as certain industrial uses within the boundaries to agricultural lands."
(Community Plan, pg. 115)

The Community Plan provides for a 500-foot wide open-space greenbelt/buffer within City lands on the perimeter of the study area to reduce growth-inducing impacts and preserve agricultural lands.

The Community Plan also contains policies relative to preservation of agricultural land in North Natomas. This Agricultural Preservation Program is cited in the matrix which is a part of the Negative Declaration.

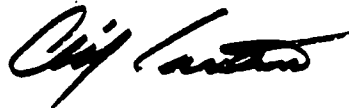
The rezonings then are not inconsistent with the Community Plan policies or the Development Agreements in that the Agricultural Preservation Program will be part of the project.

page 2
May 13, 1987

The issues raised by you are not new issues. The Agricultural Preservation Program was adopted in the Statement of Override as addressing those impacts which are not amenable to mitigation. The Negative Declaration determined that no new impacts have been identified that were not addressed in the North Natomas Community Plan EIR in conjunction with the proposed rezonings.

Please call Lisa Pyzel at 449-2037 if you have any questions regarding this matter.

Cordially,



Clif Carstens,
Senior Planner

cc: Rusty Selix
Gregory Thatch
Martin Steiner
Lisa Pyzel
Files: P87-043
P87-044
P87-045
P87-070

CC:om



COUNTY OF SACRAMENTO

DEPARTMENT OF PUBLIC WORKS

COUNTY ADMINISTRATION BUILDING • ROOM 304 • 827 SEVENTH STREET
SACRAMENTO, CALIFORNIA 95814

TELEPHONE: (916) 440-8581

May 4, 1987

Lisa Pyzel, Planner
City of Sacramento
Department of Planning and Development
1231 I Street, Room 200
Sacramento, CA 95814

Subject: PUBLIC REVIEW OF NEGATIVE DECLARATION FOR
TSAKOPOULOS PROPERTY (P87-070), SCHUMACHER PROPERTIES (P87-043),
PAYNE PROPERTY (P87-044), AND THE KETSCHER PROPERTY (P87-045)

Dear Ms. Pyzel:

The Department of Public Works has reviewed the above subject document. Comments are offered from the Water Resources and Water Quality Divisions. The Highways and Bridges Division had no comments.

Water Resources

In light of recent meetings with the State Department of Water Resources and U.S. Army Corp of Engineers, this office would like to advise you that there is a concern that this subject area may be placed on the 100-year flood plan by FEMA in the future because of questions about the stability and the height of the levees surrounding Reclamation District 1000. A number of studies by the previously mentioned agencies are under way to determine levee stability and to reevaluate flows down the American River in light of the new hydrology being developed for the American River. The extent of the problem and the cost to fix it cannot be determined until these studies are completed. FEMA has notified this office that it expects the flood plan remapping to be completed within three years if the studies determine that the stability and height of the levees do not meet FEMA criteria.

Any development agreement by and between the City and developers should include provisions for future changes.

Lisa Pyzel
May 4, 1987
Page 2

Water Quality

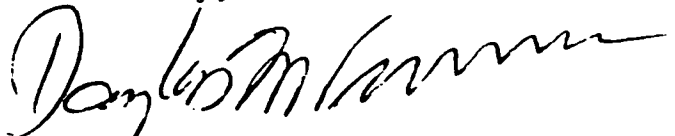
With respect to availability of interceptor funding by the Sacramento Regional County Sanitation District and trunk funding by County Sanitation District No. 1, it is imperative that such needs be identified by the applicants as soon as possible. Cash flow problems for both districts could dictate that such construction be funded by the developers with their costs offset by reimbursement agreements. The need for such agreements in lieu of immediate participation by the districts will be based on orderly development, resulting in offsetting connection fee revenues being available within a reasonable time after district expenditures.

Of the material reviewed on the above subject (the Infrastructure Report was not available) the initial Study Matrix contains the only reference to the EPA grant limitation and the associated penalty. This situation was recognized in the "Sewer" discussion of an earlier document, the "Capital Gateway" rezoning application (P86-131), and comments therein are also applicable to the above subject documents. The Oct. 2, 1986 amendment to item "B" in that earlier application should be noted (see attached).

In addition, it is recommended that the development agreement referenced in the above subject documents needs to make reference to the SRCSD's policy on repayment of the EPA grant funds plus interest, through an indemnification agreement with the first developer. A further reference should be made to the SRCSD ordinance currently being considered which would establish a surcharge to the CIE (connection) fee in North Natomas.

If you need further information, please feel free to contact Anne DeStefano of my staff at 440-6575.

Yours truly,



Douglas M. Fraleigh, Director
Department of Public Works

DMF:mp

Attachment

cc: T. Tice
W. Wanderer
J. Alessandri
B. Hodgkins
J. Ray
W. Harada
A. DeStefano

- North Market Boulevard from the City Limits line on the east to the connection with the Interstate 5 interchange on the west.
- East Commerce Boulevard from Del Paso Road south to North Market Boulevard.
- b. Provide a 12-inch diameter water supply line from the existing 12-inch line in San Juan Road in South Natomas, north to the project site. This line will later be incorporated into the ultimate distribution system. (ND/MM# 19)
- c. Provide a water storage facility in the vicinity of the Arena/Stadium Complex. The configuration, size and specific location of the storage facility are to be determined during the design process. (ND/MM# 20)
- d. On-site water facilities shall be approved by the City Fire Chief to ensure that fire flow requirements are adequately met. (ND/MM# 21)
- e. Provide a booster pump station to provide appropriate pressurization of the distribution system. (ND/MM# 22)
- f. Provision of any transmission mains to or within the project area would be postponed until the expected on-site demands require new transmission facilities from the City's existing treatment plant or a possible new treatment plant west of the project area. (ND/MM# 23)
- g. Planning, design, and construction of the Sports Complex shall occur in accordance with standard practices and shall be approved by the Department of Public Works. (ND/MM# 24)

Sewer:

- a. Sewer facilities are subject to the approval of Sacramento County Regional Sanitation District (SCRSD). All sewer facility plans shall be submitted concurrently to the City Department of Public Works and SCRSD for review and approval. The following requirements of SCRSD shall be met (ND/MM# 45):
 - An overall sewer plan identifying adjacent areas to be considered in design of the system that will affect



CITY OF SACRAMENTO

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 "I" Street

Sacramento, Ca. 95814

Administration

Room 300 449-5571

Building Inspections

Room 200 449-5716

Planning

Room 200 449-5604

May 13, 1987

Mr. Douglas Fraleigh, Director
Sacramento County Department of Public Works
827 Seventh Street, Room 304
Sacramento, California 95814

SUBJECT: Response To Comments on Negative Declarations For
Schumacher (P87-043), Payne (P87-044),
Ketscher (P87-045) and Tsakopoulos (P87-070)

Dear Mr. Fraleigh:

Thank you for your comments on the above-referenced projects.

The Development Agreement between the City and the developer has been amended to include technical revisions and clarifications. Section 205, subparagraph 2 responds to allow for changes for on-going studies. The section is clarified in Attachment B of the "Proposed changes to Development Agreement (General)", a copy of which was sent to you on May 4, 1987.

Regarding water quality, the applicants have indicated a willingness to negotiate for reimbursement agreements to allow for interceptor funding. Section II C in the Special Conditions specifically references the Sacramento County Regional Sanitation District as an affected agency requiring an agreement prior to any land use entitlement impacting the services or facilities of that agency.

24
May 13, 1987
page 2

Please call Lisa Pyzel at 449-2037 if you have any questions regarding this matter.

Cordially,



Clif Carstens,
Senior Planner

cc: Rusty Selix
Gregory Thatcher
Martin Steiner
Lisa Pyzel
File: P87-043
P87-044
P87-045
P87-070

CC:om

24

COUNTY OF SACRAMENTO
DEPARTMENT OF AIRPORTS
6900 AIRPORT BOULEVARD
SACRAMENTO, CALIFORNIA 95837
(916) 929-5411



DIRECTOR OF AIRPORTS
Thomas P. Engel

RECEIVED
APR 23 1987
Planning and Development

Ms. Lisa Pyzel, Planner
Sacramento City Planning Dept.
1231 I Street, Room 200
Sacramento, CA 95814

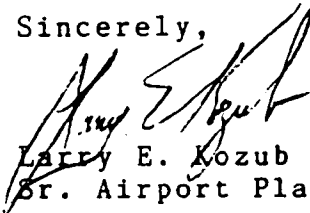
SUBJECT: REVIEW OF NEGATIVE DECLARATION
SCHUMACHER PROPERTIES (P87-043)
PAYNE PROPERTY (P87-044)
KETSCHER PROPERTY (P87-045)

Dear Ms. Pyzel:

The Sacramento County Department of Airports has reviewed the Negative Declaration for the subject properties in the North Natomas Area. All subject properties are located East of I-5 and will not be exposed to any adverse or incompatible noise impacts from operations at Metro Airport.

Thank you for the opportunity to review these development proposals.

Sincerely,


Larry E. Kozub
Sr. Airport Planner

LEK:jg

cc: Environmental Impact Section
County Planning Department
ALUC

24



COUNTY OF SACRAMENTO

HEALTH DEPARTMENT
RONALD L. USHER, DIRECTOR

ENVIRONMENTAL HEALTH BRANCH
3701 Branch Center Road
Sacramento, California 95827
(916) 366-2101

April 30, 1987

Lisa Pyzel, Planner
Planning Department
City of Sacramento
1231 I Street, Room 300
Sacramento, CA 95814

Subject: PUBLIC REVIEW OF NEGATIVE DECLARATION FOR:

- TSAKOPOULES PROPERTY (P87-070)
- KETSCHER PROPERTY (P87-045)
- PAYNE PROPERTY (P87-044)
- SCHUMACHER PROPERTY (P87-043)

Dear Ms. Pyzel:

The District Sanitarian, Mr. Augustine Nnoli, (366-2165) has informed me that the only comments he has in regard to the subject properties is that they must meet our Program's approval for sewage disposal and water supply at the time of their development.

Sincerely,

Dan M. Jacobson, Senior
Environmental Health Sanitarian

DMJ:dc
043087

cc: A. Nnoli

24

RECEIVED
APR 28 1987
Planning and Development

DEPARTMENT OF
FIRE

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
SUITE 401
SACRAMENTO, CA
95814-2979

916-449-5266

RAY CHARLES
FIRE CHIEF

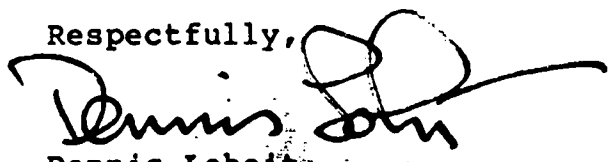
April 24, 1987

M E M O R A N D U M

TO : LISA PYZEL, Planner
FROM : DENNIS LOHEIT, Inspector II Fire Dept.
SUBJECT : PAYNE, P87-044, TSAKOPOULAS, P87-070
SCHUMACHER P87-043 AND KETSCHER PROPERTIES
P87-045

These three properties are all located near I-5 with Elkhorn Blvd. on the North. There is no fire protection in this area now that could respond with a reasonable time. A firehouse will have to be located in the area. One is proposed for Elkhorn Blvd. at a location yet to be determined. That location could be one of these sites.

Respectfully,



Dennis Loheit
Inspector II



SMUD

SACRAMENTO MUNICIPAL UTILITY DISTRICT □ P. O. Box 15830, Sacramento CA 95852-1830, (916) 452-3211
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

May 6, 1987

MARTY VAN DUYN
ENVIRONMENTAL COORDINATOR
CITY OF SACRAMENTO
1231 I STREET
SACRAMENTO CA 95814

The Sacramento Municipal Utility District has reviewed the Negative Declaration for Schumacher properties (P87-043).

As you are aware, SMUD intends to request from the City of Sacramento a Transmission Facility Permit for a proposed 115,000 volt overhead transmission system. This 115,000 volt transmission system, if approved, addresses all the proposed electrical facilities that would be required to provide electrical service for the North Natomas area.

The total electrical peak demand brought about by this project will be 46.8 MW. The planning for the electrical facilities to provide service to this and other proposed developments in areas addressed in the North Natomas Community Plan has already been addressed in Section Q of the North Natomas Community Plan Draft and Final EIR's.

An overhead 115kV will be required along Elkhorn Boulevard, El Centro Road, Del Paso Boulevard and portions of I-5. This will require the dedication of an overhead public utility easement. The developer will be required to dedicate a unit substation site within this property in order for SMUD to provide electrical service to this development.

The alternative to an overhead 115kV transmission line is an overhead 69kV system. If Natomas is served by a 69kV system, an additional right-of-way will be required in the northwest corner of this property.

Currently, SMUD has an existing overhead 69kV subtransmission line on the north side of Del Paso Road and the east side of El Centro. These lines are proposed to be upgraded to 115kV standards and operated at 115kV.

As a mitigating measure for this project, the developers be immediately made aware of the proposed 115kV overhead system. It is also requested as a second mitigating measure that the City require the developers to work with SMUD in the design and planning phases of this development. This would assure that the development of the necessary electrical facilities be accomplished in such a manner that no one is inconvenienced.

24
May 6, 1987

Within the month, SMUD will be releasing environmental documentation for public review, which will specifically address some of the electrical facilities required for this project.

Underground Distribution Facilities to provide electrical service to the new businesses and homes associated with the project will be required. As another mitigating measure, the developer will be asked to dedicate PUE's or grant to SMUD all necessary easements for electrical facilities to service this development.

The growth in electric demand brought about by this and other projects in the Natomas area will impact other areas of the electric system outside this project boundary. Any approved development will have a cumulative growth-inducing impact upon SMUD's electrical transmission and distribution facilities. In order to serve this new load, the cumulative effect of adding new customers requires that transmission and generation facilities will be expanded. Expansion of the facilities is not a readily apparent component of system expansion because these projects are usually located outside development boundaries and require long-lead times to construct and bring into operation. Distribution facilities are required for any development. Local distribution facilities, however, are located within development projects, and construction must be coordinated with the builder during the different phases of development.

As a third measure for this project, the developer should immediately initiate contact with the SMUD Distribution Planning Department and consult with SMUD through the planning, development and completion of the project. It is important that SMUD review all tentative subdivision maps concerning this project and that the developer/builder establish and maintain this contact with the planners at SMUD to determine the facilities that will be needed and identify the necessary easement to provide service for this project.

Please assure that the information we have provided in this response is immediately conveyed to all project proponents. We want the project proponents to be informed of SMUD's planned activities within this project's boundaries.

Thank you for the opportunity to review this Negative Declaration. If you have any questions, please contact me at 732-6223.



PAUL OLMSTEAD
ENVIRONMENTAL SPECIALIST

Attachment

cc: Liza Pizel

0584P/0002P

24



CITY OF SACRAMENTO

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 "I" Street

Sacramento, Ca. 95814

Administration

Room 300 449-5571

Building Inspections

Room 200 449-5716

Planning

Room 200 449-5604

May 13, 1987

Mr. Paul Olmstead
Sacramento Municipal Utilities District
P.O. Box 15830
Sacramento, California 95852

SUBJECT: Response to Comments on Negative Declaration
For Schumacher (P87-043), Payne (P87-044),
Ketscher (P87-045), and Tsakopoulos (P87-070)

Dear Mr. Olmstead:

Thank you for your comments on the above-referenced projects.

The Negative Delcarations addressed rezoning and the Development Agreements only, and thus no project-specific impacts could be addressed.

At the time the applicants submit any further entitlement requests, such as tentative subdivision maps, special permits, etc., SMUD will have the opportunity to comment on specific impacts and suggest mitigation measures.

May 13, 1987
page 2

Please call Lisa Pyzel at 449-2037 if you have any questions regarding this matter.

Cordially,

Lisa Pyzel

for Clif Carstens,
Senior Planner

cc: Rusty Selix
Gregory Thatch
Martin Steiner
Lisa Pyzel
File: P87-043
P87-044
P87-045
P87-070

CC:om



Environmental Council of Sacramento, Inc.

May 4, 1987

Mr. Marty Van Duyn
Planning Director
City of Sacramento
1231 I Street, Room 300
Sacramento, CA 95814

SUBJECT: Four Natomas Negative Declarations

Dear Mr. Van Duyn:

Attached are detailed comments of ECOS on the adequacy and appropriateness of the Negative Declarations for the Tsakopoulos, Ketscher, Payne and Schumacher projects.

Please contact me at 447-6099 if you have any questions about our position.

Sincerely,

Michael R. Eaton
Michael R. Eaton
President

Member Organizations

- American Lung Association of Sacramento — Emigrant Trails
- Audubon Society California Native Plant Society, Sacramento Valley Chapter
- California Park and Recreation Society, District 11
- Capital Bicycle Commuters Association
- League of Women Voters of Sacramento
- Modern Transit Society of Sacramento
- Planned Parenthood Association of Sacramento
- ~~Sacramento County Farm Bureau~~
- Sacramento Old City Association
- Sacramento Valley Bicycle Advocates
- Save the American River Association
- Sierra Club, Mother Lode Chapter
- South Natomas Community Association
- Zero Population Growth

24

**COMMENTS OF THE ENVIRONMENTAL COUNCIL OF SACRAMENTO
ON THE ADEQUACY AND APPROPRIATENESS OF THE
NEGATIVE DECLARATIONS FOR
NORTH NATOMAS PROJECTS ISSUED APRIL 13, 1987**

May 4, 1987

On April 13, 1987, the Environmental Coordinator for the City of Sacramento issued four Negative Declarations for the Tsakopoulos Property, the Ketscher Property, the Payne Property, and the Schumacher Properties. The Negative Declarations are intended to support rezoning, planned unit development designation, and development agreements for these projects. Each of the projects is a very large project proposing to convert agricultural land to urban uses such as shopping centers, industrial parks, office buildings and residential development. Together the four projects involve more than 1,500 acres.

The proposed projects also raise many important and highly controversial policy questions concerning environmental quality. These include whether development should be permitted in high flood hazard areas, whether development should be permitted which is inconsistent with the applicable air quality plan, what steps should be taken to address airport land use impacts, and whether major decisions concerning the future of large areas of vacant land within the city should be made pending completion of a general plan update.

Despite the many significant environmental impacts of these projects, and the critical policy issues involved, the four Negative Declarations are being circulated for only 21 days. A shortened review period, for projects of this magnitude, is totally inappropriate.

The Environmental Council of Sacramento (ECOS) has expressed concerns about the completeness and accuracy of the estimation of the environmental impacts associated with urbanization of North Natomas, and about the effectiveness and adequacy of the measures proposed to partially mitigate those impacts. ECOS also believes that new information has become available since the certification of the NNCP EIR that needs to be considered and evaluated in a project-specific EIR. ECOS is particularly concerned about the use of a Negative Declaration in a situation where we believe an Environmental Impact Report (EIR) is required by law.

Staff justifies a Negative Declaration in these instances because they assert that the projects have no significant impacts not previously identified in the North Natomas Community Plan (NNCP) EIR. ECOS disagrees with this conclusion, both as a matter of law and substance. The NNCP EIR is in our view not adequate for use in approving specific land use entitlements, even if the applications are consistent with the adopted Community Plan.

Moreover, ECOS is very concerned that the associated Development Agreements will irrevocably commit the City to perform perfunctory approvals of subsequent tentative maps and special permits, eliminating any real opportunity for either subsequent environmental review or implementation of mitigation measures.

Our detailed comments are presented below.

Comment Period

ECOS requests that the public comment period for these Negative Declarations be extended.

Several factors make it inappropriate to shorten the public comment period for these projects:

- 1) These projects are highly controversial; an extended public review period should be provided to allow public participation;
- 2) The public review period for these projects coincided in large part with the public comment period for the General Plan Update EIR (which ended April 30). Many interested citizens have devoted their time to preparing comments on the GPU EIR, leaving little time to review these negative declarations.
- 3) These Negative Declarations are unusually difficult to review. The documents provide little project information. No checklist is attached. Instead, the City relies on other documents that are not readily available. ECOS has asked to see the Initial Study Matrices for these projects, but City staff were only able to provide two of the four; of the two provided, one (for the Tsakapolous project) is lacking those columns which describe the application of any new mitigation measures. The additional time required to obtain and review documents which are not reproduced in the Negative Declarations should dictate a longer review period.

For all of these reasons, ECOS requests an extension of the public review period.

2. **Definition of "Project"**

CEQA defines "project" as: "...activities involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies" (Pub. Res. Code Sec. 21065(c)). The CEQA Guidelines (14 Cal. Adm. Code 15000 et. seq.) further define "project" as: "... the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately..."(emphasis added).

The discussion under this section of the Guidelines provides an example of a general amendment and states that if the entitlement "...was requested as one of several approvals necessary for the specific development project, the city should characterize the proposed development as the project". Case law has also reinforced this interpretation of project. "The term 'project' means the whole of an action which has a potential for physical impact on the environment, and refers to the underlying activity and not the governmental approval process." (50 Cal. Jur. Sec. 372 citing Natural Resources Defense Council, Inc. v Arcata Nat. Corp., 59 CA3d 959, 131 Cal Rptr 172). In particular, rezones have been held to be projects requiring an EIR (City of Carmel-by-the-Sea vs. Board of Supervisors, 183 Cal App 3d 229 1986).

A decision by the city to approve these four applications and associated development agreements would be a commitment to allow construction of 6,879 dwelling units and development of office, commercial and industrial buildings with an employment generation level of 13,006. It is impermissible, therefore, for the city to define this application as merely changing a zoning designation on a map, rather than a proposal to urbanize 1,500 acres, so as to avoid preparation of a project-specific EIR and discussion of alternatives and mitigation measures.

3. **Issuance of a Negative Declaration is Impermissible**

CEQA Section 21080 (c)(2) allows issuance of a negative declaration in lieu of an EIR in situation where an "initial study identifies potentially significant effects on the environment, but (i) revisions in the project plans or proposals made by or agreed to by the applicant before the proposed negative declaration is released for public review would avoid the effects to a point where clearly no significant effects would occur, and (ii) there is no substantial evidence before the agency that the project, as revised, may have a significant effect on the environment."

The four applications do not incorporate any mitigation measures "agreed to by the applicant before the proposed negative declaration is released." Rather, the negative declarations state that: "All

applicable mitigation measures from the EIR and/or Community Plan are to be considered and imposed at the time of approval of Tentative Maps, or Special Permits and other specific development entitlements." Since the proposed project does not include any mitigation measures, issuance of a negative declaration is in violation of CEQA.

In addition, there is substantial evidence in the administrative record (comments on the NNCP and EIR and in other documents discussed below), that the proposed development will have a significant effect on the environment. The City Council's decision to adopt Statements of Overriding Consideration in lieu of mitigation measures in its adoption of the NNCP, pursuant to issuance of the NNCP EIR, does not permit the city to issue negative declarations for site specific developments whose impacts are not mitigated. CEQA does not allow Statements of Overriding Consideration to substitute for mitigation measures in negative declarations.

4. NNCP EIR is Inadequate for these Projects

The City's attempt to rely on the NNCP EIR as the required environmental analysis of these four projects is improper. A site-specific EIR is required.

Project specific impacts for these four applications were not addressed in the NNCP EIR. Indeed, attorneys for the City of Sacramento conceded in litigation concerning the NNCP EIR that the EIR did not fully address site specific impacts of individual projects. Moreover, the NNCP EIR did not include the Tsakopoulos project.

5(a) In addition, there is substantial evidence before the city that there are significant environmental impacts associated with these projects which were not addressed in the NNCP EIR. ECOS' comments on the Capital Gateway Unit 1 project negative declaration (arena and stadium special permit application) are hereby incorporated by reference. In summary, the impacts that were not addressed in the NNCP EIR include: (1) Noise impacts from the Sacramento Metropolitan Airport which are more severe and more extensive than what was identified in the NNCP EIR; (2) Noise impacts from the stadium, which was redesigned to be oriented towards residential development and left open at one end, which are different in degree and area of impact from what was analyzed in the NNCP EIR; (3) Truxel Road widening through South Natomas and a bridge over the American River which will be needed to serve the Capital Gateway Unit 2 project; and (4) new U.S. Army Corps of Engineers Flood Control Report which notes that the potential for flooding within North Natomas is much more severe than what was indicated in previous studies.

24

5b City staff rationalize using the NNCP EIR as a basis for approving these projects by pointing out that the CEQA Guidelines allow use of an EIR for an earlier project to document a finding that a later project will not have additional significant environmental impacts. The Office of Planning and Research's discussion of this Guidelines section explicitly rejects this approach. The discussion states:

The section places necessary conditions on the use of a prior EIR to avoid abuse of this approach. ... Use of a negative declaration is not appropriate. Although a negative declaration does state that an EIR will not be prepared, the reason for preparing a negative declaration is that the project will not have a significant effect. An EIR is needed if the project may have a significant effect"

6. **The Negative Declarations are Incomplete**

Instead of preparing an environmental checklist, the Negative Declarations rely on an Initial Study Matrices, which is incorporated by reference. There are two major problems with this approach. First, the Initial Study matrices do not meet requirements of the California Environmental Quality Act that are addressed by the traditional environmental checklist. Second, the requirements of the California Environmental Quality Act for incorporation by reference have not been satisfied.

The California Environmental Act requires consideration of certain "Mandatory Findings of Significance." As should be apparent from ECOS' comments on land use, transportation, air quality, flooding, and development agreements, ECOS believes that all four of these findings are applicable (see 14 Cal. Admin. Code § 15065). Although the Negative Declarations claim that the Mandatory Findings of Significance are addressed in the Initial Study Matrices, they are nowhere specifically addressed.

Where another document is incorporated by reference, the Negative Declaration must include a discussion as part of which the incorporated document is "briefly summarized where possible or briefly described if the data or information cannot be summarized" (14 Cal. Admin. Code § 15150 [c]). Instead of summarizing or describing the contents of the Initial Study Matrices, however, the Negative Declarations simply describes the format of the Initial Study Matrices. No useful information concerning impacts or mitigation measures is provided. The Negative Declaration might just as well have described the number of pages or the color of the paper of the Matrices. Instead, it should at a minimum have identified the areas where there are significant environmental impacts, as identified in the North Natomas Community Plan EIR, and listed the specific mitigation measures to be required. The summary in the Negative Declarations should also have identified

those areas, including traffic and sensitive plant species, where the Matrices recognize the potential for significant new environmental impacts. Most important, the summary should have informed the reader that the Matrices identified many areas where the impacts of the project, as identified in the North Natomas Community Plan EIR, would not be mitigated to a less than significant level. Further, the Initial Study Matrices are not generally available, as required by the CEQA Guidelines.

Similarly, the Negative Declarations incorporate by reference an "Infrastructure Report" with the following language:

"The Infrastructure Report is hereby incorporated by reference." (Page 1)

The Negative Declarations fail, however, either to summarize the contents of the Infrastructure Report or to list it with the references. Moreover, when ECOS requested a copy of the "Infrastructure Report" for the purpose of preparing comments on the Gateway Unit Two and Ose projects, we were informed that the report was under preparation but did not exist. Subsequently, it has been explained to us that City staff intended to incorporate by reference a "Conceptual Infrastructure Report" dated December 1986. That report was made available to us May 4, 1987. We have not been able to review that report in advance of preparation of these comments.

It should also be noted that the requirements for incorporation by reference of the North Natomas Community Plan EIR have not been satisfied (see 14 Cal. Admin. Code §§ 15150 [c], 15150 [d]). The contents of the EIR are not summarized, and the state identification number is not provided.

The CEQA Guidelines (15071[d]) specifically require that the initial study be attached to the Negative Declaration. The format selected by staff for the Matrices does not obviate the need to comply with the Guidelines.

The Initial Study Matrices identify a large number of significant adverse impacts for these projects. The Negative Declaration claims that the Matrices were used to determine if there were any "new" impacts not previously identified in the North Natomas Community Plan EIR. A review of the two Matrices made available to ECOS reveals that no such review has been undertaken. The Tsakopoulos Matrices does not even have a column indicating if new impacts have been identified. The other Matrices (including Gateway and Ose) reveal that the Matrices do not go beyond a comparison of the project application with the Community Plan. If the project is consistent, or nearly so, the Matrices conclude there are no "new" impacts. No attempt is made to determine if there are site-specific impacts which were not addressed in the Community Plan EIR. No effort is

made to examine site-specific impacts, even though the Matrices clearly indicate that for many impacts, for example traffic levels on specific roadways, no information is provided by the North Natomas Community Plan EIR. Nor do the Matrices reflect any attempt to determine if there is any new information available concerning environmental impacts which became available after the Community Plan EIR was certified. Similarly, no attempt to update the analysis of cumulative impacts is made. In the absence of any effort to review site specific impacts or determine if new information is available, the Matrices cannot support the conclusion that there are no "new" impacts.

The Initial Study Matrices also fail to undertake any effort to make the Community Plan mitigation measures more specific so as to apply them to these specific projects; the provisions of the Community Plan are simply recited. Failure to thoroughly explore how the mitigation measures apply to these specific projects, and how effective they will be, raises doubts about the seriousness with which the City will pursue the mitigation measures. This failure also makes it impossible for the reader to determine, on the basis of the Initial Study Matrices, what the site specific impacts of the projects will be.

Flooding Issues

The Matrices concludes (page 4) that no new potential significant adverse impacts that were not addressed in the NNCP EIR would result from the proposed projects. We believe this conclusion to be inaccurate. ECOS incorporates as its comments on this issue the testimony of Heather Fargo, presented to the Planning Commission on April 16, on the Gateway II and Ose Projects.

The NNCP Draft EIR discussed the issue of flooding, but the Final EIR did not provide any hope that flooding problems could be resolved. The DEIR pointed out (page M-8) that " ... the structural integrity of the levees bordering the Sacramento River upstream of the Study Area remains uncertain." The DEIR went on to say that seismic failure of these levees was not reflected in the current FEMA flood mapping, and recommended (p. M-44) that a flood analysis be undertaken " ... to determine the minimum finished floor elevations required to avoid structural flood damage which would occur if Sacramento River levees failed during a 100-year flood or major earthquake."

These discussions avoid the major problem: development should not be allowed in serious flood hazard areas as long as the flood hazard persists. The Negative Declaration Matrices acknowledges that major on-site flooding is likely under specific circumstances. This concern has been reinforced by new information recently made available by the U. S. Army Corps of Engineers concerning the

flood peril posed by the American River and its levee system (Special Study on the Lower American River, California, March 1987, incorporated herein by reference). The Report concludes that various areas within the Sacramento region are at greater risk from flood danger than previously estimated and that peak flows on the American River will be greater than previously projected. It specifically concludes that the Natomas area is at greater risk than previously estimated, although resolution of the Natomas issues was outside the scope of the study. The study assumes that there will be no construction in the Natomas area after 1991.

The Corps also has underway other studies that will produce information bearing on North Natomas flood risks and mitigation measures. These include the American River Watershed Investigation, Sacramento River Flood Control System Evaluation, the Dry Creek Investigation, and the Sacramento Metropolitan Area Reconnaissance Study.

None of the specific mitigation measures referenced in the Negative Declaration addresses the flooding problem described in the Corps report. The Negative Declaration considers flooding that might be caused or exacerbated by development in North Natomas, rather than the potential increased loss of life or property that might be caused by that urbanization.

Obviously, these proposals do not cause existing inadequate flood protection. Nonetheless, that is no reason to allow such development to occur in a flood hazard area. This short-sighted approach is characterized by the statement in the Matrices that "Flooding is a regional problem; this application must provide adequate mitigation measures for its impacts." On the contrary, the potential hazard posed to people and property by development in a flood zone is an environmental impact that needs to be thoroughly evaluated and mitigated.

We disagree that development should proceed in a hazardous area. The Negative Declarations are insufficient in this respect, and an EIR and/or EIS, reflecting the more recent information developed by the Corps of Engineers, should be required. Further, the EIR/EIS should address specific means by which the projects will avoid significant flood damages, rather than recommend a study plan for "finish floor elevations" (Matrices, and p. M-44 of DEIR) without requiring adherence to results of the study. The feasibility of placing "finish floor elevations" above the 100 year flood level needs to be examined, as well as the potential costs to the rest of the Sacramento community from flood damages and mitigation costs.

7. **Jobs-Housing Balance**

The projects addressed by these four Negative Declarations would provide the same number of jobs as projected for the properties involved in the North Natomas Community Plan. But the amount of housing provided for on the properties involved would be far less. Approximately 250 acres within the Tsakopoulos Property would remain zoned agricultural, instead of providing the housing called for in this area by the Community Plan. As a consequence, the housing-jobs ratio will be far less than indicated for the project areas by the Community Plan. As a result, there will be major impacts on housing, traffic, and land use. With less housing built in North Natomas, workers will have to find housing in other parts of the region, resulting in increased impacts on traffic and air pollution.

These impacts cannot be dismissed by assuming that the residential development west of Interstate 5 called for by the Community Plan will eventually be approved. Rather, it must be assumed that the City will in fact take into consideration the information provided by the noise assessment. Further, it may be anticipated that the County will oppose future proposals for residential development in North Natomas west of Interstate 5. It may also be anticipated that developers will request rezoning for other, more profitable land uses, instead of residential development, in areas within the airport flightpath. Indeed, such requests have recently occurred for areas within the Mather Field flightpath. Some Council members have already expressed reservations about approving residential development west of Interstate 5, based upon more detailed information concerning airport noise contours which became available after approval of the North Natomas Community Plan.

It may be conceded that there is a possibility that the residential development called for by the Community Plan will eventually be constructed. But there is a substantially greater likelihood that much of the area will eventually be rezoned for office, industrial, or commercial uses, as has occurred recently in South Natomas even without the airport noise issue to support developers' requests. There is also a possibility that residential development west of Interstate 5 will be postponed indefinitely until the airport noise issue is resolved. A Negative Declaration cannot be adopted based upon the assumption that only one of these clearly foreseeable possibilities might occur. Rather, an Environmental Impact Report must be prepared if there is a "fair argument" that a significant impact will occur.

Certainly, it can be fairly argued that, as a result of the moratorium imposed on residential

development west of Interstate 5, less residential development will be constructed within North Natomas than called for by the existing community plan. The resulting environmental impacts would be very significant.

ECOS has previously suggested that, pending completion of new airport land use plans, that no residential or non-residential development be approved within the affected areas, to assure that irrevocable commitments affecting jobs-housing ratios are not made pending determination of appropriate noise standards. Such an approach would reduce, but not eliminate, the effects of approving this project at this time on jobs-housing ratios.

8 ECOS is also concerned that proposed agreements between the school districts and the developers of these projects could further reduce the amount of housing. ECOS has not seen the proposed agreements, but based on newspaper accounts it appears that the agreements may preclude housing construction if adequate school funds are not available. Such an agreement may protect the Natomas school districts at the expense of traffic, air quality and other environmental goals depending on the housing to employment ratio. The agreements may also delay housing construction and encourage rezoning from housing to employment generating uses. The agreements should have been incorporated into the projects, and their impact evaluated as part of the initial study, to be sure that efforts to mitigate impacts on schools -- a goal we endorse -- do not have unintended adverse impacts on other goals.

9. **Air Pollution and Traffic Issues**

The negative declarations fail to indicate whether or how the projects will comply with the air quality mitigation program adopted for portions of the NNCP area (the mitigation program was not included in the NNCP EIR but was relied on by the City Council in its findings of overriding considerations).

They also fail to incorporate recent information on carbon monoxide (CO) and ozone problems in the Sacramento area (see transcript and materials for October 23 hearing of the Air Resources Board), and they fail to consider the cumulative impacts of development in North and South Natomas on traffic and air pollution. Moreover, as with the NNCP EIR, the absence of a post-1995 analysis, for projects whose major impacts will occur post-1995, is a major short-coming.

Moreover, the NNCP EIR's characterization of the responsibilities of the City and federal agencies has recently been demonstrated to be incorrect, with major implications for the scale and timing of facilities required to mitigate traffic and air pollution (particularly CO) impacts in North and South Natomas. While acknowledging that development of North Natomas would be inconsistent with the Air Quality Plan, the NNCP DEIR (at page F-17) stated that such inconsistencies "would not affect the 1987 projected ozone concentrations."

The Environmental Protection Agency's Report on the Implementation Status of the 1982 Sacramento Area Air Quality Plan (February 10, 1987) presents a contrary view. It states "that the City and County have taken actions which override the general intent of [the 1982 Air Quality] Plan and which are inconsistent with improving regional air quality" (p.ii). The 1982 Plan assumed, consistent with the City's 1974 general plan, the agreement between Regional Sanitation and EPA, and the City's Growth Policy, that there would be no urbanization of North Natomas for at least 20 years. The 1982 Plan also included an infill strategy, designed to concentrate development in existing urbanized areas, which included North Natomas among the outlying areas which should not be developed. The Environmental Protection Agency's report warns the City and other jurisdictions:

"that § 176 (c) of the Clean Air Act prohibits any federal agency from engaging in, providing financial assistance for, licensing, permitting, or approving any activity which does not conform to an approved air quality plan. A conformity determination does not depend on the implementation status of the Plan. Any development is not in conformity if it was not consistent (in terms of growth or projected emissions) with the Plan."

ECOS contends that the City's adoption of the North Natomas Community Plan was in violation of the 1982 Air Quality Plan. Even assuming that the City's action was not prohibited by the 1982 Plan, however, there can be little doubt that development of North Natomas is inconsistent with the assumptions and general intent of the 1982 Plan. Thus, the Federal Highway Administration cannot approve or permit any freeway expansion or encroachment on the freeway right of way which would support North Natomas development.

The assumptions used in the traffic analysis for the North Natomas Community Plan EIR included certain "base roadway improvements" (DEIR p. E-22). These included, for Alternatives C, D, and E, three additional interchanges, at Power Line Road/I-5; North Market Boulevard/I-5 and Truxel Road/ I-80. Unless and until a new Air Quality Plan is approved which takes North Natomas development into account in its emissions projections, the Federal Highway Administration cannot allow these interchanges to be constructed. The freeway ramp projects identified in the Initial Study Matrices will also be precluded.

Without these interchanges and ramps, traffic circulation patterns will be far different than assumed in the North Natomas Community Plan EIR. Traffic congestion on existing interchanges and roads leading from those interchanges to North Natomas development will be significantly worse than assumed in the North Natomas Community Plan EIR, with correspondingly different air pollution emissions.

Unquestionably, the fact that these interchanges and ramps cannot be constructed, a fact made apparent by the Environmental Protection Agency's 1987 report, constitutes new information showing that the project will have significant adverse effects not previously discussed in the previous EIR. Further, it would be absurd to suggest, in light of the Environmental Protection Agency Report, that the traffic impacts of the project can be mitigated at all, let alone mitigated to a less than significant effect, through a developer's agreement to share in any costs incurred in constructing interchange and ramp projects that cannot legally be constructed at the present time.

Of course, the question whether a negative declaration is proper depends on whether all environmental impacts will be mitigated to less than significant levels, not on whether there are new impacts not previously addressed. A negative declaration is improper unless "there is no substantial evidence that the project may have a significant effect on the environment" (14 Cal. Admin. Code § 15070). Further, if mitigation measures are to be incorporated into the project to demonstrate that there is no substantial evidence that a significant effect may occur, those mitigation measures must be incorporated into the project plans "before the proposed Negative Declaration is released." Id.

As indicated in the Initial Study Matrices, however, many mitigation measures have not yet been incorporated into project plans, and will not be at the time that the development agreements and rezoning for which the negative declaration is being circulated will be approved. Instead, many of the mitigation measures are "to be considered and imposed at the time of approval of tentative maps, special permits, and other specific development entitlements." Other mitigation measures have not even been identified, but are to be "determined by Truxell Road EIS" or "to satisfaction of City Traffic Engineer." These statements not only indicate that the mitigation measures relied on in the Negative Declaration have not been incorporated into project plans, they leave serious doubt as to whether those mitigation measures ever will be.

The focus on "new impacts" in the Negative Declarations is highly misleading. Impacts which have not yet occurred and will not occur of the project is turned down are not classified as "new impacts" if they are discussed in the North Natomas Community Plan EIR, even if the EIR

concludes those impacts cannot be mitigated. Even if one looks only at the discussion in the Initial Study Matrices, however, it is clear that the absence of any substantial impacts has not been demonstrated. With respect to on-site mitigation measures, the Initial Study Matrices state that the Community Plan "does not address" these impacts. With respect to the contents of the new application with respect to these impacts, the Initial Study Matrices state: "not known."

These statements indicate that further information should have been required from the applicants to determine on-site and project specific impacts. In ECOS's opinion, based on experience with projects of equal or lesser magnitude, such impacts are a certainty. Indeed, many of the local roads are likely to be at Level of Service F during rush hour traffic.

The Sacramento General Plan Update EIR provides additional information about traffic and air pollution issues (see Exhibits Y-78 and Y-86). For example, the SGPU EIR projects exceedances of the state and federal 1 hour and 8 hour CO standards at the I-80/5 interchange.

10. Mitigation Measures

The Initial Study Matrices do not suggest mitigation measures for the change in jobs-housing ratio and corresponding increased traffic and air pollution impacts. Indeed, even for the impacts which are evaluated in the North Natomas Community Plan EIR, the Matrices indicate that the mitigation measures proposed in the EIR and the Community Plan have not been incorporated into the project application. Rather, the Initial Study Matrices indicate that these mitigation measures will be "considered and imposed" at some later time.

Since many of these mitigation measures, such as the agricultural preservation transfer of development rights program, have not yet been put together, the potential effectiveness of these measures in reducing the significant effects of the project is highly speculative. It is for this reason that the California Environmental Quality Act requires circulation of an environmental impact report if the mitigation measures are not incorporated into the project before the environmental documentation for the project is circulated (See 14 Cal. Admin. Code § 15070 [b]).

// **Development Agreements**

The North Natomas Community Plan EIR does not address the environmental impacts of the use of Development Agreements. Use of development agreements was added to the Community Plan after the final EIR was certified. But entry into development agreements constitutes an irrevocable commitment of resources which can have major environmental consequences. Not only do they preclude further modifications to the Community Plan if impacts prove different than anticipated; they may also interfere with future citywide environmental initiatives.

For example, it has recently been proposed that a trust fund be created to support development in a Downtown Incentive Zone, supported by fees on development in other areas. One such proposal has been made by council member Serna, who has been quoted in the Sacramento Bee as saying "I will try to extend it [the requirement for payment of fees] to other areas of the city, perhaps to South and North Natomas." Although council member Serna's proposal ties fees to allowance of higher densities, there is no reason the fees could not be applied to office and commercial development in accordance with the applicable Community Plan. But the use of development agreements would preclude application of the fees to development in accordance with the North Natomas Community Plan.

Another example of an irreversible commitment is well illustrated by this project application. The application proposes development agreements for all of the non-residential development allowable within the project area under the North Natomas Community Plan. But much of the allowable residential development, that west of Interstate 5, is not proposed at this time. Further evaluation of airport noise problems may convince the City that residential development west of Interstate 5 is undesirable.

If residential development is eliminated from the area west of Interstate 5, more housing will have to be included in other areas subject to the North Natomas Community Plan to maintain the jobs-housing ration. But approval of development agreements will effectively lock in the project's land uses, precluding the modifications needed to maintain the jobs-housing ration.

It should also be recognized that the North Natomas Community Plan incorporates a large number of mitigation measures intended to reduce the adverse impacts of the development permitted. If these mitigation measures prove less effective than anticipated, allowable land uses should be adjusted to avoid unacceptable impacts.

24

12. Finally, new information may later suggest that the currently designated land uses are inappropriate. Such information might become available through studies of the safety of Sacramento river levees, discovery of sensitive habitat, new information concerning regional supply and demand for housing or industrial land uses, or other sources. But development agreements may well be the most dangerous feature of this project. There is no immediate need for this project, and much of the project may not be built for ten to twenty years. But when construction is proposed, and the City has better information concerning the impacts of the project, the City's hands will be tied.

Many of these concerns about development agreements were detailed in a letter from ECOS to the City Council dated March 3, 1987. That letter is hereby incorporated by reference.



CITY OF SACRAMENTO

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 "I" Street

Sacramento, Ca. 95814

Administration
Room 300 449-5571
Building Inspections
Room 200 449-5716
Planning
Room 200 449-5604

May 13, 1987

Michael P. Eaton
Environmental Council of Sacramento
909 12th Street
Sacramento, California 95814

SUBJECT: Response to Comments on Negative Declarations
For Schumacher (P87-043), Payne (P87-044),
Ketscher (P87-045), and Tsakopoulos (P87-070)

Dear Mr. Eaton:

Attached is the City's response to your comments on the above-referenced documents. Note that the paragraph numbers cross-reference to the same paragraph numbers we added to your letter.

Please call Lisa Pyzel at 449-2037 if you have any questions regarding this matter.

Cordially,

Cliff Carstens,
Senior Planner

cc: Rusty Selix
Gregory Thatch
Martin Steiner
Lisa Pyzel

File: P87-043
P87-044
P87-045
P87-070

CC:om

RESPONSE TO COMMENTS BY THE ENVIRONMENTAL COUNCIL OF SACRAMENTO ON THE NEGATIVE DECLARATIONS FOR THE SCHUMACHER (P87-043), PAYNE (P87-044) KETSCHER (P87-045) AND TSAKOPOULAS (P87-070) PROJECTS

1. The California Environmental Quality Act (CEQA) provides for a shorter review period for a Negative Declaration when requested by the Lead Agency due to exceptional circumstances (Section 15106). In this instance, the negative declarations were being reviewed shortly after the Capital Gateway Unit 2 project (P87-017) had been reviewed by the same agencies. The negative declarations were similar in that no new issues were raised in the four new projects that had not been discussed in the Capital Gateway Unit 2 negative declaration. As evidenced by the lengthy and detailed comments received from ECOS, the shorter review period did not prejudice their ability to comment.

The four new matrices are virtually identical to the previously distributed Capital Gateway Unit 2 matrix and the format was not unfamiliar to the reviewing agencies. The matrices are assembled on large pieces of paper and are quite large and bulky, however, they were available for review and inspection and special printing at the requestor expense at any time during the review period had ECOS contacted the appropriate professional staff person. It is apparent from the detailed comments that ECOS was familiar with the contents of the matrices. Their lack of obtaining them at an earlier date had no impact on their ability to comment, as shown by their extensive verbal and written responses several days later at the public hearing.

2. The comments on definition of a project suggests that the City defines this project as "merely changing the zoning designation on a map rather than proposal to urbanize 1,500 acres". The City acknowledges that this is part of a proposal to urbanize 1,500 acres and acknowledges that impacts associated with urbanization of 1,500 acres must be assessed. The City has assessed those issues in the North Natomas Community Plan EIR. There are no project-specific impacts which would potentially create a new substantial adverse impact on the environment. With regard to project-specific EIRs on specific physical development projects such as the stadium, the City acknowledges that a separate initial study must be prepared on each application as it comes before the City. As the City did in the negative declaration on the stadium proposal, it looks at the project-specific impacts when it has the project-specific construction related impacts and would at that time determine whether a project-specific EIR is required. Project-specific EIRs may be necessary where a specific construction project creates substantial impacts not previously identified in the North Natomas Community Plan EIR and that those impacts cannot be mitigated by conditions of approval.
3. The next comments suggest that since no mitigation measures are included issuance of a negative declaration is in violation of CEQA.

The proper statement of the issue is whether the approval of the development agreement could create new impacts beyond those envisioned in the plan. The matrix indicates all mitigation measures must be complied with at the time of subsequent approvals. Hence, this does not constitute a new adverse impact.

This situation is no different than any other approval such as a conditional negative declaration where a project is approved based upon compliance with conditions at a later time. As long as the legal mechanisms to assure that the conditions must be complied with are legitimate, the fact that the conditions and mitigation measures need not be fulfilled at the time of the initial approval does not invalidate that approval or suggest that further environmental analysis is necessary.

- 4. The next comment alleges that CEQA does not allow a negative declaration to be prepared for site-specific developments whose impacts are not mitigated.

The City agrees that CEQA does not allow statements of overriding consideration to substitute for feasible mitigation measures in the negative declaration. However, this is not the case in this situation. The statement of overriding consideration refers to those impacts for which the City made findings indicating they could not be mitigated at the time it adopted the NNCP. Those impacts which can be mitigated feasibly are still required to be mitigated and the negative declaration does not change this.

5(a)

1. NOISE IMPACTS FROM THE AIRPORT

Recent preliminary studies indicate that it is possible that noise impacts west of Interstate 5 will be more severe than previously indicated. Based upon these new airport studies, potentially adverse impacts for residential development that could conflict with the airport operations might be created. There may be solutions to any potential aircraft noise problems which do not require elimination of residential land uses such as changes to airport operational conditions. These studies however, are not yet complete and there is no official determination that this is the case. Therefore, this project, which does not permit any of the residential development west of Interstate 5 to proceed, does not create conflicts with airport operations and accordingly, there is no new impact to assess for these projects.

2. NOISE IMPACTS FROM THE STADIUM

These issues were raised at the time the sports complex special permit was before the City. At that time, the City prepared a negative declaration which has been incorporated by reference in this negative declaration indicating that the noise impacts from the redesign of the stadium would not create substantial new impacts.

3. TRUXEL ROAD WIDENING

Truxel Road widening through South Natomas and a bridge over the American River are not part of these projects. No determination has been made to proceed with these conceptual projects. If a preliminary

study indicating the conceptual project(s) are feasible then an environmental study of that project will be completed which will likely include an environmental impact report (see Special Condition No. 7 in the Development Agreement).

Furthermore, there is no indication that this road widening and bridge will be necessary to serve these projects.

4. U.S. ARMY CORPS OF ENGINEERS FLOOD CONTROL REPORT

The recent information contained in the U.S. Army Corps of Engineer Report confirms the statements in the North Natomas Community Plan EIR indicating that there was an increased risk of flooding. It is expected that the federal government will complete its studies and would prohibit development in any areas within the flood plain. Consistent with this, the development agreement recognizes that actions by federal agencies which prohibit development must be complied with and development of this area cannot proceed until any flooding problem that would violate federal standards is eliminated.

Accordingly, consistent with the North Natomas Community Plan EIR and the federal requirements and the development agreement, this is not a new impact which is potentially significant and not mitigated. The significant impact was identified at the time of EIR and the development agreement assures that these impacts must be mitigated to a level of less than significance before any construction takes place.

- 5b. Statements indicating that the CEQA guidelines provide that an EIR for an earlier project cannot be used to document a finding of a later project deals with a situation where the later project is a different project than the previous project. This is different from the Program EIR situation where the later project is part of the same project previously approved. The guidelines include different sections to recognize that these are different situations, therefore, the quotes that a negative declaration is inappropriate and an EIR needs to be prepared are inapplicable sections of CEQA guidelines.
6. The initial study matrix was used instead of the environmental checklist in order to improve and expand the initial study. The comments suggested herein do not indicate that any of the issues that would have been covered by the checklist have not been analyzed for this initial study. The guidelines do not indicate that the checklist must be followed, but indicate that the checklist is an example of a way of insuring that certain issues are analyzed. Since all issues identified in the checklist have been analyzed and since the comment does not raise any issues not covered by the matrix, there is no merit to this objection.

The reference to mandatory findings of significance are included on page 4 of the negative declarations. To this extent the objection that these were not included is incorrect.

24

7. JOBS/HOUSING BALANCE

The comment correctly notes that the number of dwelling units within the project area are less by not including at this time the housing units west of Interstate 5.

However, this does not indicate that the jobs/housing ratio will be changed. The jobs/housing ratio did not require that those dwelling units be constructed before the commercial and industrial facilities proposed for construction in this project application be complete.

Rather, the jobs/housing ratio is a balance indicating that a particular amount of housing must be completed at the time that a particular amount of industrial and commercial development occurs.

The Community Plan's requirements for a jobs/housing ratio are not changed. Therefore, there is no new impact.

If the units west of Interstate 5 are not constructed, project applicants in North Natomas would be required to construct other housing not provided for in the Community Plan in order to comply with jobs/housing ratio balance at the time that such additional commercial/industrial development beyond the scope of this project is sought.

If it is determined that the housing west of Interstate 5 will not be constructed and additional housing will be built elsewhere, or other uses will be allowed west of Interstate 5, it is recognized that these would be major Community Plan changes and would require environmental analysis at that time.

Inasmuch as these applications are consistent with the jobs/housing balance requirements and would not allow construction of commercial and industrial uses without the required housing mix indicated in the Community Plan's jobs/housing ratio, the lack of including the housing units west of Interstate 5 at this time does not constitute a change in the jobs/housing balance.

To the extent that the comment references the Office of Planning and Research condition that no residential development is permitted until new noise assessment is completed, this requirement expires at the time that a new general plan is approved for the City. Since no new residential development is contemplated in this application and since a new general plan is likely to be adopted shortly, this OPR condition will soon become a moot point.

- 8. The agreements between the school districts and the developers only provide additional financing to fund schools. The Community Plan and Development Agreement require maintenance of the job-housing link, which will not be changed by any financing agreements with the school districts. The agreements between the school districts and the applicants are intended to

satisfy Condition No. 23 in the Development Agreements Special Conditions. The City believes that the agreements to satisfy condition No. 23 would not create any direct or indirect environmental impacts.

- 9. The initial study prepared for this project does reflect the recent information on carbon monoxide and ozone problems and the cumulative impacts of the development in North and South Natomas on traffic and air pollution. This recent information does not provide any significant difference from the North Natomas Community Plan as indicated by the matrix.

The special conditions made part of the development agreement and the procedural ordinance require the developers to comply with the Air Quality Mitigation Program at the time that final discretionary approvals are issued for individual development projects.

The EPA report is simply a report. No action presently taken or expected to be taken by the Environmental Protection Agency supports the conclusion by ECOS that development of North Natomas would violate the Air Quality Plan. In any event, if that is true, this is the potential subject of litigation and not relevant for CEQA purposes.

The City also disagrees with characterizations that various other documents propose that there should be no urbanization of North Natomas.

The City further disagrees with the statement that "Development of North Natomas is inconsistent with the 1982 Air Quality Plan.

Accordingly, it is the City's position that the Federal Highway Administration can approve the freeway interchanges in North Natomas.

- 10. The Program EIR for the North Natomas Community Plan does include many mitigation measures which are included within these projects. The NNCPP also includes findings of override for mitigation measures at that time not considered to be feasible.

The comments on the negative declarations and the negative declarations do not identify new mitigation measures now feasible which were previously shown to be infeasible. This is the standard by which to judge whether new mitigation measures must be imposed at this time. These comments on the negative declarations do not identify new mitigation measures which meet this criteria.

- 11. A development agreement is no different than any other land use approval in that it represents a further commitment to a particular course of urban development which necessarily precludes other alternatives for the development agreement area. The development agreement simply commits the City to urbanization of the property included within the agreement. The issues associated with general urbanization have all been assessed in the North Natomas Community Plan including all the impacts citywide and the impacts on other environmental initiatives and other alternatives for the

City. To the extent that this approval further commits the City to those adverse environmental impacts, these are already included in the overriding findings which were prepared for the North Natomas Community Plan and thus no new environmental impacts are created by approval of a development agreement at this time.

Development agreements, contrary to the statements and comments on page 14 of your letter would not preclude application of fees for a downtown incentive zone to property within the North Natomas area.

12. Nothing in CEQA or elsewhere suggests that a City is somehow supposed to consider it to be a significant adverse environmental impact that it is now committing to do something that future environmental studies might indicate was not appropriate. Indeed were this the standard, perhaps there would not be any cities in existence in the State of California.



May 27, 1987

P. Addison Covert
c/o Kronick, Moskovitz, et al.
770 L Street, Suite 1200
Sacramento CA 95814

Dear Sirs:

On May 21, 1987, the Sacramento City Council heard your appeal of the Environmental Coordinator's Decision to prepare a Negative Declaration on various entitlements to allow development of the Schumacher project for property located on the east side of State Route 99 and I-5, between Elkhorn Boulevard and Del Paso Road.

The Council adopted Res. 87-382 denying your appeal.

Sincerely,

Lorraine Magana
City Clerk

LM/lmh/#24

cc: Planning Department
Nolte and Associates, 1730 I Street, Sacramento, CA, 95814