



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(INSTALLATIONS AND ENVIRONMENT)
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

DEC 21 2006

Ms. Lydia Du Borg
City Manager
City of Concord
1950 Parkside Drive
Concord, CA 94519

Dear Ms. Du Borg,

We have received your letter and Michael Wright's letter of December 18, 2006 that included the City of Concord's questions to the Navy. As requested, we will provide written responses by January 4, 2007 and have enclosed herein a similar list of questions for the City of Concord. My staff will be available to meet with your staff on January 4 or 5 to discuss our responses and provide further clarification if needed. We will also be available to meet on January 8 or 9, prior to the city council meeting, if you desire.

As stated in my December 14, 2006 letter to you, I remain convinced that keeping an open dialogue with the public and the entire city council is essential to this process. Again, I request to be placed on the agenda to address the city council at its scheduled January 9, 2007 meeting to articulate the Navy views on using the Exchange Authority at Naval Weapons Station Seal Beach Detachment Concord pursuant to Title 10, Section 2869 of the United States Code. I do not wish to delay this discussion as suggested in your letter. If additional research is needed to answer questions from the city council and the public that arise from the January 9th council meeting, we will be available for follow on meetings with you and your staff as necessary. We will also be available for a follow on session at the city council meeting on January 16 as well.

Please give Ms. Kimberly Kesler a call upon confirmation. I sincerely appreciate your cooperation in this effort.

Sincerely,

Wayne Amy
Deputy Assistant Secretary
(Installations and Environment)

Copy to:
Sen. Dianne Feinstein
Sen. Barbara Boxer
Rep. George Miller
Rep. Ellen Tauscher
Mark Peterson, Mayor
Bill Shinn, Vice Mayor
Helen Allen, Council Member
Michael Chavez, Council Member
Laura Hoffmeister, Council Member

Questions

NEPA/CEQA Issues

1. Federal law does not require that the redevelopment plan which is developed as part of the City's application to HUD and the Navy within the framework of the Base Closure process be an "approved project" or a project that is enforceable under state and local land use laws. California law provides a framework for Federal approval of a reuse plan before preparation of a draft EIR. NEPA, which is often completed jointly or before CEQA, is typically completed after submittal of the redevelopment plan to HUD and the Navy. The Navy does not know of any cases where the CEQA process was completed prior to submittal of the redevelopment plan to HUD and the Navy. If appropriate environmental planning compliance can occur after submission of the reuse plan to HUD, would the City be willing to forego completing an EIR until after HUD approval of the reuse plan?
2. In circumstances where a joint document is not being prepared for a reuse project, California Public Resources Code Section 21083.5 permits a local agency to use the federal EIS in lieu of an EIR, if the EIS meets certain substantive requirements of CEQA. In accordance with DBCRA, the EIS is typically prepared after the reuse plan is submitted to HUD and the Navy (P.L. 101-510, Section 2905(b)(7)(K)(i) and (ii). Therefore, the local agency is not required by CEQA to undertake environmental review before federal review and approval of the redevelopment (reuse) plan. The CEQA Guidelines address this option for CEQA compliance as an appropriate alternative for a scenario where "the NEPA document is ready before CEQA document." (Cal. Code Regs tit. 14, § 1221.) Can the City staff envision any circumstances where this approach would be a viable alternative to completing the City's CEQA obligation, with the EIS considering the impacts of a redevelopment (reuse) plan that has been developed and submitted for federal review in advance of any CEQA compliance?
3. Could the City refer to its Reuse (Redevelopment) Plan submitted to HUD as a "Proposal," "Draft Final Reuse Plan" or "Preliminary Reuse Plan"? The plan would then go through the NEPA and CEQA process after the submittal to HUD and the Navy. Once the NEPA ROD is signed and the EIR is certified, the Reuse Plan would be finalized and adopted by the City.
4. What consultations will the city need to carry out with regards to sensitive species and cultural resources? For which species/habitats will the city need to consult with regulators or require special treatment in the CEQA documentation?
5. Under your proposed Programmatic EIR process presented in our meeting on 30 Nov 2006, what is the general time line for the completion of the major components of the EIR (NOP, DEIR, FEIR, Certification, submittal, etc.)? When would you begin this CEQA process?
6. Will your Phase III planning documents be adopted by the City in such a way that they will require another CEQA document before property conveyance occurs? How will you ensure that there are no substantial changes from the Redevelopment

(Reuse) Plan submitted to HUD? Was the City intending to complete its Phase III documentation prior to conveyance? What is your timeline for Phase III?

Planning, Zoning and Entitlement Issues

7. Outside of the BRAC process, what is the City's normal process and timeline for property entitlement and zoning? At what point is CEQA required in that process?
8. What are the city's responsibilities for protection of endangered species and cultural resources, and how do these responsibilities impact the zoning process?
9. Compared to the City's normal planning, zoning and entitlement process, what are the advantages to the City of proceeding with the preparation of a reuse plan in accordance with the standardized BRAC planning process?
10. Under BRAC, preparation of a reuse plan is an option for the LRA, rather than a requirement for conveyance. In the event that NWS Concord is not surplus, the BRAC reuse planning process (including the homeless outreach portion) in 2905(b)(7) is not triggered. In that case, would the City be willing to undertake reuse planning activities on its own, utilizing its general planning and zoning authority?

Outreach/Screening Issues

11. Will the City's screening and outreach process include other city and county entities?
12. Does the City intend to support public uses by designating specific property for Public Benefit Conveyances (PBC), which requires potential recipients to submit an application to the appropriate sponsoring federal agency for approval? Or does the City intend to incorporate public uses into its development plan for conveyance by some other means? How will the City determine the amount of property to be designated for specific public uses?
13. In the standardized BRAC process, the LRA incorporates public benefit uses into its reuse plan, but a specific PBC grantee is selected by the authorized Federal entity from among eligible applicants (i.e., grantees for public parks are selected by the Department of Interior from the eligible applicants). How will the City ensure that all potentially eligible entities are aware of the City's plans for public benefit uses?
14. The City's October 10, 2006 Concord Community Reuse Project presentation indicates that the timeline for NEPA/CEQA review and adopting a Reuse Plan is winter 2008 to winter 2009. The Concord Community Reuse Project material mailed by the City November 9, 2009 also states that "it is anticipated the city will adopt a Community Reuse Plan in early 2009." The city website further describes Phase III as the phase in which the LRA will prepare, finalize and adopt the detailed Reuse and community facilities plans. It states that the start date for this phase will not be determined until Phase II is complete. The timeline for Phase II is shown as 2006 to 2009. Does the city intend to meet the statutory deadlines as discussed in our November 30, 2006 meeting and will your public information be revised to reflect a schedule that meets the statutory deadlines?

15. What is the City's timeline (including milestones and projected dates) for completing the outreach and screening process, submitting the reuse plan to HUD in a form that will not be substantially changed, and then implementing the reuse plan through the zoning and entitlement process?
16. What are the City's current responsibilities for providing emergency shelter and transitional housing for the homeless (e.g., what is the City's role in implementing Section 50800 of the California Health and Safety Code)?
17. As a member of the Contra Costa HOME Consortium, is the City obligated to accommodate providers who serve the homeless in areas outside of the City of Concord?
18. What is the City's current process to identify and accommodate the requirements of the homeless? How does the current process differ from what would be required under the standardized BRAC process?
19. How does the City currently accommodate both the needs of the community for economic development and the needs of the homeless in the area? If 2869 authority were utilized, what would be the City's proposed process to accommodate the needs of the homeless considering the particulars of this specific installation?
20. Approximately how many people are in transitional housing in the County now? How much additional transitional housing is needed?
21. Since no HUD approval or homeless outreach screening is required when property is not declared surplus, what is the benefit to the City of obtaining HUD's approval of its homeless assistance application under the standardized BRAC process?
- 22. Development issues**
23. It is understood that one of the City's major concerns is that the use of the 2869 exchange authority at the beginning of the process would lead to a developer influenced planning process. Do the City staff believe that the City's usual planning, entitlement, and zoning processes will not provide an adequate framework for community input and local control? Given the City's existing authority over property entitlement and zoning, please explain how the developers would be able to unduly influence a City and community controlled process.
24. Is there currently a zoning overlay for the property?
25. Is the City proposing to implement a development agreement that allows enhanced use of the property, above and beyond a basic zoning overlay, in exchange for public improvements?
26. How is the City currently addressing developer proposals for projects in the City of Concord? How would this change under the standardized BRAC process? How would it change under a 2869 scenario?
27. Is it the City's preference to select or influence who acquires title to the property?

28. If the property is not surplus, what would the City's process be, including community involvement, for amending its General Plan and applicable Specific Plans to include development of the Inland Area?
29. The City has expressed its concern that the use of the 2869 exchange authority now would lead to a developer influence planning process. Has the City evaluated options that could be employed to protect the integrity of its planning process?