



**BENICIA PLANNING COMMISSION AND  
BENICIA HISTORIC PRESERVATION REVIEW COMMISSION  
CITY HALL COUNCIL CHAMBERS  
SPECIAL JOINT WORKSHOP MINUTES**

**Thursday, January 12, 2012  
6:00 p.m.**

**I. OPENING OF MEETING**

**A. Pledge of Allegiance**

**B. Roll Call of Commissioners**

**Present:** Planning Commissioners: Don Dean, Rick Ernst, George Oakes, Rod Sherry, Belinda Smith, Lee Syracuse and Chair Brad Thomas.

HPRC Commissioners: Chuck Mang, Steve McKee, Jon Van Landschoot, Mike White and Chair David Crompton.

**Absent:** Commissioners Toni Haughey and Leann Taagepera (both excused)

**Staff Present:** Kat Wellman, Contract Attorney  
Charlie Knox, Public Works & Community Development Director  
Mark Rhoades, Interim Land Use and Engineering Manager  
Lisa Porras, Senior Planner  
Kathy Trinque, Administrative Secretary

**C. Reference to Fundamental Rights of Public** - A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030 of the City of Benicia's Open Government Ordinance.

**II. OPPORTUNITY FOR PUBLIC COMMENT**

**A. WRITTEN**

None.

**B. PUBLIC COMMENT**

None.

### III. SPECIAL MEETING AGENDA ITEM

#### A. WORKSHOP – NEW HARBOR COMMUNITY CHURCH, NEW FACILITY PROPOSED AT 882 BLAKE COURT AT ROSE DRIVE.

##### PROJECT PROPOSAL:

The City of Benicia is processing an application from New Harbor Community Church to construct a new 20,244 sq. ft., multi-use, two-story church at the terminus of Blake Court, east of Rose Drive. Pursuant to a prior agreement with the City in June 2001, the land was dedicated to a church to be selected by the Benicia Council of Churches. New Harbor Community Church was the selected recipient of this land. However, the Church will still need to get Use Permit approval from the Planning Commission since the location is in the City's Single Family Zone District. In addition, the project's overall site plan and building disposition requires Design Review approval by the Historic Preservation Review Commission (HPRC). Finally, because the project in its current form provides less than the required landscaping, a Variance will also need to be approved by the Planning Commission. This project was previously presented to a joint workshop of the Planning Commission and HPRC on September 10, 2009. City staff has been working with the applicant on overall site design to address the concerns that were raised at the previous workshop. Several schematic drawings will be presented at this workshop.

The purpose of this meeting was to receive feedback and input from citizens and Commissioners regarding new conceptual site designs produced by staff.

##### **Recommendation:**

Staff recommended that the Planning Commission and Historic Preservation Review Commission review alternative site design concepts for the proposed two-story 20,244 sq. ft. New Harbor Church at 882 Blake Court, at Rose Drive, and direct the applicant to draw upon staff's suggested conceptual site plan (Diagram 4) and continue processing the application.

Lisa Porras, Senior Planner, presented the proposed project. No formal action by either Commission is requested or required, this item is for discussion and comments from commissioners and members of the public. Commissioners are requested to provide direction to the applicant so the project may proceed for approval separately and at future dates.

Ms. Porras continued with a power point presentation that reviewed the site history, project description, building overview, lot size, parking, aerial view, architectural rendering and the current site plan. The building shown in the center of the site does not meet findings for design review and use permits. Ms. Porras read the necessary findings and explained staff's review process. Staff has expressed these concerns to the Church (applicant) and outlined the findings needed for the project to be approved.

Ms. Porras presented 4 rough sketches prepared by staff of possible site plans and explained each. The number of required parking spaces is determined by the size of the worship building (that also contains a basketball court). The applicant asked to hear from the community and the HPRC and Planning Commissions before spending additional funds on additional design or environmental review of the project.

In conclusion, Ms. Porras stated that the purpose of the meeting is to hold a discussion focused on the proposed site design. The goal is to bring a project forward that can meet the necessary findings. Staff will continue to work with the applicant and bring their project back for formal approval. First, design review approval from HPRC will be scheduled and second, Use Permit approval will be scheduled for the Planning Commission.

HPRC and Planning Commissioners asked staff for clarification regarding: average square footage of surrounding single family homes, quantity of site grading required, number of required parking spaces, playground placement, history of how site was selected for a religious use, if number of parking spaces is reduced if the basketball court was removed from the worship building.

Kat Wellman, Contract Attorney, advised Commissioners that the City must be careful not to discriminate toward a religious facility at this location. She explained that the religious use for this site was decided in 2002 by the City Council. The City can condition the number of services, activities, traffic issues, etc., but not the use. She also clarified that the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) applies to an application for a religious facility. In that regard the City may not treat this use differently than similar uses. Commissioners are not making a decision for the applicant to move forward with this site design at this meeting, rather giving direction to the applicant of how best to meet the needs of the community.

Commissioners asked staff for additional clarification on why the view of Blake Court from Rose Drive is important, the number of community use facilities in the city, landscaping requirements, child care program details, sustainability goals, why open space does not mitigate landscaping requirements, square footage of the main worship building, potential for landslides in the open space area and whether the basketball court should be included in the worship center.

Chair Thomas opened the meeting for public comment, with a reminder to focus on the site and design and not to discuss whether or not the project should be built.

**Public Comment:**

David Bowie, attorney for the applicant, stated that this project has previously been presented to the City. The project has been well described by staff. The applicant is sensitive to the neighborhood's concerns and asks the City to balance the needs of all parties. Regarding the basketball court, the applicant is flexible about its inclusion in the worship building. The applicant has hired a new project architect to develop a new site design and is interested in hearing comments from everyone. The original design does fit the site and he understands there are parking and traffic concerns from the neighborhood. The EIR will be completed soon. The church currently conducts multiple services and does hope to grow its congregation. Any overflow traffic and parking issues can be addressed. The applicant is open to conditions to make this project work for the neighborhood.

Kerry Degavre, of 869 Rose Drive, spoke in opposition of the proposed site plan and project. She said that she represents 98% of the neighbors and she has spent many hours collecting signatures and researching this project. She is not in favor of the size of this church.

Rick Allen, of 917 Bradford Ct, spoke in opposition of the proposed site plan and project. He stated that 450 neighbors do not want the church built. Rose Drive is dangerous with many accidents. Police reports confirm the number of accidents at the intersection of Bolton Circle and Rose Drive. An error was made when this decision was made.

Marguerita Hunt, of 890 Rose Dr., spoke in opposition of the proposed site plan and project. She stated that the plan is overly optimistic about the

number of required parking spaces – 75 is not enough to accommodate various activities that would be held at this church. The density of the church is greater than that of surrounding single-family homes.

Victoria Johnston, of 880 Rose Dr., spoke in opposition of the proposed site plan and project. She stated that this is not an appropriate site for a large church due to the traffic safety from the hill on Rose Drive. She expressed concern about cars exiting Blake Ct onto Rose Drive when more cars are entering for the next worship service. She loves the existing open space and chose her current residence for that reason.

Patricia Everhart, of 878 Channing Circle, spoke in opposition of the proposed site plan and project. She stated that the church should be one story to blend in with the residential neighborhood. The church should be as low impact as possible to the neighbors. Additional services and parking will impact neighbors and lower property values.

Buck Cabral, of 851 Clifton Ct, spoke in opposition of the proposed site plan and project. He stated that this project is like putting a square peg in a round hole. The City shouldn't force things. The traffic at the intersection of Rose Drive at Blake Ct is too busy and he would like a traffic signal installed. The police can't handle all the traffic issues here. He does not think this project is a good idea.

A resident of 945 Rose Drive stated that a 20,000 sq ft facility is too big and would have too much of a traffic impact on Rose Drive. Rose Drive traffic is bad now without it. Rose Drive traffic won't stop to let residents back out of their driveways. He wants the size of the facility reduced to reduce the impact on the neighborhood.

A resident of 763 Rose Drive spoke in opposition of the proposed site plan and project. Rose Drive traffic is horrible – cars drive 50 mph. He stated that he did not know about this project until he saw a yard sign about it. The church should be a small facility with limited parking.

Chair Thomas asked Ms. Wellman, Contract Attorney, about a limit to the number of speakers heard during public comment.

Ms. Wellman advised Chair Thomas that he may state if the public has anything new to add to the comments that have already been made, please do so, otherwise you may simply state that you agree with

previous comments. Also the Chair may state that public comment will be limited to a certain number of additional speakers.

Chair Thomas stated that due to time constraints the Commission will limit public comment to 3 more speakers.

Mike Spangler, of 928 Bradford Way, spoke in opposition of the proposed site plan and project. He expressed concern about traffic from Columbus Parkway, if the church provides daycare. A two-story structure is too big for the neighborhood. He has a major concern about the design, day care and traffic.

Jerry Beckman, of 884 Rose Dr, spoke in opposition of the proposed site plan and project. He wants the building scaled down so it is not so dominant and the parking lot gated and locked. He also expressed concern about traffic from Columbus Parkway backing up.

Tom Percival, of 914 Bolton Circle, spoke in opposition of the proposed site plan and project. He stated that the building is too large – a 1-story design would be better and to make sure the lighting on building and in parking areas is low.

Peggy Kooley, of 949 Rose Drive, spoke in favor of the proposed project. She stated that she wants to have a church on this site. She lives next to low income housing on Rose Drive. She wants the church to work with the community on this project.

**Public Comment closed.**

**Comments from HPRC Commissioners:**

HPRC Chair, David Crompton:

1. The landscaping requirement should be more than minimum standard.
2. The building design should be compatible with the neighborhood – i.e., break up the wall (less than 30 ft) that faces the residences.
3. Additional landscaping would break up the mass of the building.
4. No basketball court inside.
5. Liked staff's suggestion to locate the parking behind the church.
6. Break up the church building into a number of smaller buildings.

Commissioner Mike White:

1. The proposed trees located between the building and the neighborhood are the wrong type. Would rather see small redwoods or require the Church to work with the neighbors and plant what they would like.
2. Agrees with Chair Compton – also likes staff’s proposed site plan sketch #4.
3. The childcare should be moved away from the neighbors.
4. The windows on the building facing residences should be placed higher or use opaque glass to preserve the privacy of the neighbors.

Commissioner Jon Van Landschoot:

1. The building is too large and it violates all HPRC rules.
2. Install a traffic signal at Blake Ct/Rose Drive intersection.
3. 1 or 2 buildings on the site/no more than 1 story high.
4. This project is not a community center.
5. If offices are needed, build one on the north side and one on the south side.
6. No day care.
7. No basketball court.
8. Trees should be evergreen.
9. Worship services should be spaced 1 ½ hours apart.
10. No windows facing backyard of residences or use opaque glass.

Commissioner Steve McKee:

He expressed appreciation for the church’s willingness to be flexible and that a new architect has been hired.

1. He believes that Blake Ct should not extend into the parking lot.
2. He is OK with a one-story church that is visible from the street.
3. He is OK without a basketball court and a smaller worship building.
4. Maybe the church could include some future parking spaces.
5. Would like to see the building mass at the back but keep the site line to open space open.
6. Is the lighthouse feature necessary?
7. Wants to see the traffic issues worked out.

8. Wants to see a site plan that is significantly different than the current one.

Commissioner Chuck Mang:

1. He agrees that it is OK to see the church from the street.
2. The elevation height on the worship building should be kept toward the rear.
3. The childcare should be in the rear and to the south.
4. This is a good project for the neighborhood.

### **Comments from Planning Commissioners:**

Commissioner Dean:

1. Agrees with other comments made by HPRC Commissioners  
The building is too large – either build it smaller or build multi-buildings to blend in with neighborhood and be less intrusive.
2. Don't agree that parking should be behind the building.
3. Push building back to give more space with the neighborhood.
4. Parking impacts
5. Work with neighbors on landscaping and parking.

Commissioner Ernst:

1. Agrees with HPRC Commissioners and Commissioner Dean.  
He would like the building re-designed as 1-story.
2. Prefers circular parking plan around the building.  
Feels sorry about possible impacts to Rose Drive residents.  
Is against the project and would like to see residents contact the City Council to keep this area as open space.

Commissioner Smith:

- She recalled that there was a similar discussion with the neighborhood before the new Community Center was built and now the new Center is considered as asset to the neighborhood.
1. She agrees with the other commissioner's comments regarding the second story windows.
  2. Move parking away from backyards of neighbors.

3. The applicant should consider a building with multi-levels to reduce the massing.
4. The lighting should not be intrusive for neighbors.
5. She asked for clarification on the open space – is it City property or the church’s property.

Ms. Porras responded that the church owns the open space, but the City accepted the open space easement on October 15, 2002.

Commissioner Sherry:

He summarized public and Commissioner concerns that he agrees with as follows:

1. The traffic and vehicle speed on Rose Drive needs to be mitigated.
2. Parking and overflow – church should maximize onsite parking.
3. Reduce the size of the building – limit occupancy load.
4. Shadow problem from building – restrict building height and move it away from the neighbors.
5. Access to parking during off-hours – add a gate across the parking lot.
6. Sound – likes staff’s sketch #4 – the sound can be mitigated with landscaping and a soundwall.
7. Landscaping – the trees should not be too tall.

Chair Thomas adjourned the workshop by stating that this is a good project. He encouraged all parties that he believes the benefits of this project will outweigh the burdens to the neighborhood.

#### **IV. ADJOURNMENT**

The Special Meeting was adjourned at 7:50 pm.

**REGULAR MEETING  
BENICIA PLANNING COMMISSION  
CITY HALL COUNCIL CHAMBERS  
January 12, 2012  
Meeting Minutes  
7:45 pm (meeting started 8:00 pm)**

#### **I. OPENING OF MEETING**

**A. Pledge of Allegiance**

**B. Roll Call of Commissioners**

**Present:** Commissioners Don Dean, Rick Ernst, George Oakes, Rod Sherry, Belinda Smith, Lee Syracuse and Chair Brad Thomas.

**Absent:** None

**Staff Present:** Kat Wellman, Contract Attorney  
Charlie Knox, Public Works & Community Development Director  
Mark Rhoades, Interim Land Use and Engineering Manager  
Lisa Porras, Senior Planner  
Kathy Trinque, Administrative Secretary

**C. Reference to Fundamental Rights of Public** - A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030 of the City of Benicia's Open Government Ordinance.

**II. ADOPTION OF AGENDA**

**III. OPPORTUNITY FOR PUBLIC COMMENT**

**A. WRITTEN**

None.

**B. PUBLIC COMMENT**

None.

**IV. CONSENT CALENDAR**

**A. Approval of the 2012 Planning Commission Calendar Identifying Hearing Dates**

On motion of Commissioner Oakes, seconded by Commissioner Sherry, the Consent Calendar was adopted by the following vote:

Ayes: Commissioners Dean, Ernst, Oakes, Sherry, Smith, Syracuse and Chair Thomas

Noes: None

Absent: None

Abstain: None

**V. REGULAR AGENDA ITEMS**

**A. USE PERMIT APPLICATION FOR A LARGE FAMILY DAY CARE AT 130 GILL WAY**

**PROPOSAL:**

In accordance with the Benicia Municipal Code Section 17.24.020, the applicant requested approval of a Use Permit to establish a large family day care facility at 130 Gill Way. The applicant currently operates a large family day care facility at 216 Eaton Court, but will be moving and requested use permit approval to operate the large family day care, maximum of 14 children, at this new location. The applicant requested hours of operation from 6:00 a.m. to 5:00 a.m., seven days a week.

**Recommendation:**

Approve a Use Permit request to allow a large family day care facility at 130 Gill Way based on the findings, and subject to the conditions listed in the resolution.

Lisa Porras, Senior Planner, provided an overview of the proposed project and the reviewed the action before the Planning Commission at this meeting. She read the Zoning Administrator's conditions included in the staff report and those conditions recommended by staff.

Mark Rhoades, Interim Land Use and Engineering Manager, provided a brief overview as he conducted the Zoning Administrator's hearing on November 23, 2011. He briefly explained that the State has made family day care facilities a priority and it is to be considered a residential use. The applicant has operated a large family day care at her previous residence at 216 Eaton Court without neighborhood complaints. There is another large family day care operating as a legal non-conforming use two doors away from the 130 Gill Way. The Zoning Administrator's conditions are rather conservative and the other day care has stated that they will comply with the same standards,

Commissioners held a discussion with staff regarding the following: terms of the use permit and termination date (use permit in effect until vacated or revoked based on complaints); why is there a legal non-conforming use (established prior to the zoning ordinance and allowed unless there are the City holds nuisance proceedings from complaints); how many children are allowed (up to 14, per State law); operating hours are 6:00 to 5:00 am? (Staff is recommending that hours be limited to 6:00 am to 8:00 pm); does the Zoning Ordinance regulate how close family day care centers can be to each other? (no); is the 23/hour per day operating hours typical? (yes).

**Opened for Public Comments**

Applicant, Claudia Claverie, 130 Gill Court, explained that the reason she requested 23 hour/day operating hours is to provide emergency daycare for families when needed. She stated that she has been a licensed day care provider since 1976. She provides quality childcare. She has a degree in early child development and her business is accredited and meets or exceeds all licensing laws.

Ms. Claverie answered questions from Commissioners regarding the number of children she cares for at one time and how her schedule works (she does not have 14 children at one time – the number of children on site varies throughout the day); if she is comfortable with the restricted operating hours (she stated that she prefers the 23 hr/day operating hours); how long is her lease (not sure at this point).

Becky Billing, of 2064 Havenhill Dr, resident and Coordinator for Solano County Childcare Planning Council, spoke in favor of the proposed Use Permit. She stated that Solano County has a huge need to infant/toddler care. She knows Claudia, that she has both a degree in child care and a quality program.

Gerry Raycraft, Childcare Facility Coordinator of Childcare Network, spoke in favor of the proposed Use Permit. He explained how family childcare functions. He stated that the average enrollment in Solano County is 7.25 children and in Benicia it is just less than 7 children. Outside playtime is part of a residential use. Ms. Claverie won't have all 14 children playing outside every day at 8:00 am. He requested that the Commission remove the 9:00 am restriction on outside play.

David Pillsbury, of 139 Gill Way, spoke in opposition to the Use Permit. He is opposed to day care use in this neighborhood. There is already 1 day care which causes noise and additional traffic. He wants the conditions to limit hours from 6:00 am to 6:00 pm, five days per week.

Leslie McFadden, of 132 Gill Way, spoke in opposition to the Use Permit. She lives just below 130 Gill Way and can hear everything. There is no fence across the backyard. She is retired and fighting cancer. She wants peace and quiet.

Carrie Peterson, of 132 Gill Way, spoke in opposition to the Use Permit. She stated that they already have a large family day care on the block and she knows what the neighborhood impacts are. She does not want two on the

same street with one house in between. She wants peace and quiet. The proposed Use Permit is an unfair burden to the neighborhood.

Karl Hellevick, of 135 Gill Way, spoke in opposition to the Use Permit. He is concerned about additional traffic, noise, pollution and parking. He is also concerned that his house will lose value. The area should be tested for radon and asbestos because there are many residents with cancer.

**Public Comment closed.**

Commissioner Ernst asked if the daycare at 130 Gill Way was operating now.

Mr. Rhoades responded no, the existing daycare at the other Gill Way residence is operating.

Chair Thomas asked about the lack of a backyard fence.

Ms. Claverie responded that she plans to construct a new back yard fence once the Use Permit is approved. She will also supervise children playing in the backyard.

Commissioner Smith asked for clarification on the conditions of approval and findings. She finds some conditions onerous unless applied to all day care providers.

Commissioner Ernst stated concern about re-directing traffic onto White Chapel, which may create a nuisance for other neighbors. He also agrees with Commissioner Smith that some conditions need to be removed.

Commissioner Sherry stated that he also agrees with Commissioner Smith. Gill Way is a narrow street and White Chapel is steep. He would like to see the applicant leave 1 parking space in the driveway open so parents could pull into the driveway and park there. Also agrees that some conditions need to be removed or modified.

Commissioner Dean stated that he wants to remove #3 in the resolution so that no parent has to be without childcare in an emergency. He asked staff for further clarification on #6 and #13. He would like to remove the "3 strikes" since the City has an enforcement mechanism. He stated support for the Use Permit.

Commissioner Oakes stated that he is opposed to granting this Use Permit because he does not agree with having two day care facilities this close together in the same neighborhood.

Commissioners reviewed and discussed the conditions of approval listed in the proposed resolution.

Mr. Rhoades read the conditions and revisions were made as Commissioners reached consensus.

Commissioners reviewed each condition listed in the resolution with the applicant, Claudia Claverie. Ms. Claverie concurred that she would be able to operate her day care facility under the revised conditions of approval.

Commissioner Ernst made a motion to approve the Use Permit and it was seconded by Commissioner Syracuse.

Commissioners Smith commented that she sympathizes with the neighbors, but she is obligated to support the Zoning Ordinance and Municipal Code which contains nothing that would prohibit this Use Permit.

Commissioner Ernst made some additional comments concerning noise impacts in his neighborhood.

Commissioner Oakes asked for a point of order.

Ms. Wellman explained that if the Commission is adopting the resolution, the findings and conditions are also being adopted.

Commissioner Oakes expressed frustration that the Commission has not determined that this Use Permit is detrimental to the health and safety of the public. He further stated that the Commission has not mitigated the health issue. He has no problem with the day care facility except that it is in the wrong location.

Commissioner Sherry responded that while this is inconvenient to the neighborhood, those issues have been mitigated by the conditions of approval.

On motion of Commissioner Ernst and seconded by Commissioner Syracuse, the proposed resolution, with amended conditions of approval, was adopted by the Planning Commission of the City of Benicia at the regular meeting of said Commission held on the 12<sup>th</sup> day of January 2012 and adopted by the following vote:

Ayes: Commissioners Dean, Ernst, Sherry, Smith, Syracuse and Chair Thomas.

Noes: Commissioner Oakes

Absent: None

Abstain: None

**VI. COMMUNICATIONS FROM STAFF**

None.

**VII. COMMUNICATIONS FROM COMMISSIONERS**

Commissioner Dean asked staff when agendas are posted on the City's website are attachments also posted.

Kathy Trinique, Administrative Secretary, responded yes, however, sometimes due to technical issues, it is necessary to scroll to the bottom of the agenda page and click on the document icon to view them.

Commissioner Smith asked when the Commission would be reviewing the work program.

Chair Thomas responded that he understood that it would be agendized according to workload.

Commissioner Smith stated that she would like to see Planning policies scheduled at an upcoming meeting.

Commissioner Dean asked if staff would email a current department organizational chart to Commissioners.

**VIII. ADJOURNMENT**

The meeting was adjourned at 10:10 pm.