

BENICIA HISTORIC PRESERVATION REVIEW COMMISSION

CITY HALL COMMISSION ROOM

REGULAR MEETING AGENDA

Thursday, February 26, 2009

6:30 P.M.

I. OPENING OF MEETING

- **Pledge of Allegiance**

- **Roll Call of Commissioners**

- **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. AGENDA CHANGES AND DISCUSSION

III. OPPORTUNITY FOR PUBLIC COMMENT

- WRITTEN

- PUBLIC COMMENT

- PRESENTATION

A. OPEN GOVERNMENT PRINCIPLES

The City Attorney will be giving an overview of the Open Government Ordinance, including Brown Act, Conflict of Interest, Ethics, Public Records and Ex-Parte Communication.

V. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for removal for discussion or explanation is received from the Historic Preservation Review Commission or a member of the public by submitting a speaker slip for that item.

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Any Item identified as a Public Hearing has been placed on the Consent Calendar because it has not generated any public interest or dissent. However, if any member of the public wishes to comment on a Public Hearing item, or would like the item placed on the regular agenda, please notify the Community Development Staff either prior to, or at the Historic Preservation Review Commission meeting, prior to the reading of the Consent Calendar.

- Approval of Agenda

- [Approval of Minutes of January 22, 2009](#)

- [726 FIRST STREET \(RELLIK TAVERN\) – EXTERIOR REPAIR -*Public Hearing](#)

08PLN-58 Design Review

726 First Street, APN: 89-341-010

PROPOSAL:

The owners of the Rellik Tavern request design review approval to repair the south (alley) and east (rear) walls. While performing the interior tenant improvements, the applicant discovered extensive dry rot, resulting in the need to re-frame and re-floor portions of the building, as well as add structural improvements including a portion of new foundation on the southeast corner of the building. Improvements will result in the removal of the inadequate walkway facing the alley; upgrading the plywood siding of the south and east facing walls with stucco to match the remainder of the structure; and, reconstruction of the trash enclosure.

Recommendation: Approve a design review request for exterior repairs at 726 First Street, based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

VI. REGULAR AGENDA ITEMS

A. [IOOF FAÇADE MODIFICATIONS AND RULES FOR REPAIR](#) – Staff and the Commission will discuss issues related to repairs of the Odd Fellows building, including potential changes to the Downtown Historic Conservation Plan rules for repair projects.

Recommendation: Provide direction to staff regarding any future modifications to the Odd Fellows building and changes to the Downtown Historic Conservation Plan rules for repair projects.

B. [439 FIRST STREET – LUCCA BAR AND RESTAURANT DESIGN REVIEW FOR REQUIRED ADA IMPROVEMENTS AND MOVABLE PLANTER BOXES](#)

09PLN-6 Design Review

439 First Street, APN: 89-174-030

PROPOSAL:

The applicant requests design review approval for required ADA access improvements on the front façade and the rear exit, as well as movable planters for the creation of an outdoor dining area along the West E Street frontage.

Recommendation: Approve a design review request for required ADA access improvements and movable planter boxes, for the proposed business located at 439 First Street, based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

C. 127 FIRST STREET –THE TANNERY

09PLN-1 Design Review

127 First Street; APN: 89-244-050

PROPOSAL:

The applicant requests design review approval to replace existing galvanized metal siding with stucco and apply new paint (to match existing) on the south and west facing elevations of an existing building known as The Tannery.

Recommendation:

Approve new siding and paint for the south and west facing elevations of an existing building located at 127 First Street, based on the findings and subject to the conditions listed in the proposed resolution.

VII. COMMUNICATIONS FROM STAFF

VIII. COMMUNICATIONS FROM COMMISSIONERS

IX. ADJOURNMENT

Public Participation

The Benicia Historic Preservation Review Commission welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The Historic Preservation Review Commission allows speakers to speak on agenda and non-agenda matters under public comment. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the Historic Preservation Review Commission.

Should you have material you wish to enter into the record, please submit it to the Commission Secretary.

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Valerie Ruxton, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Meeting Procedures

All items listed on this agenda are for Commission discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action the Commission may take.

The Historic Preservation Review Commission may not begin new public hearing items after 11 p.m. Public hearing items, which remain on the agenda, may be continued to the next regular meeting of the Commission, or to a special meeting.

Pursuant to Government Code Section 65009; if you challenge a decision of the Historic Preservation Review Commission in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the Historic Preservation Review Commission at, or prior to, the Public Hearing. You may also be limited by the ninety (90) day statute of limitations in which to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

Appeals of Historic Preservation Review Commission decisions that are final actions, not recommendations, are considered by the Planning Commission. Appeals must be filed in the Community Development Department in writing, stating the basis of appeal with the appeal fee within 10 business days of the date of action.

Public Records

The agenda packet for this meeting is available at the City Clerk's Office, the Benicia Public Library and the Community Development Department during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the Community Development Department's office located at 250 East L Street, Benicia, or at the meeting held in the City Hall Council Chambers. If you wish to submit written information on an agenda item, please submit to Gina Eleccion, Management Analyst, as soon as possible so that it may be distributed to the Historic Preservation Review Commission.

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING:
FEBRUARY 26, 2009
INFORMATIONAL ITEM

DATE : February 18, 2009
TO : Historic Preservation Review Commission
FROM : City Attorney *J*
SUBJECT : **COMPLETION OF OPEN GOVERNMENT AWARENESS TRAINING**

RECOMMENDATION:

Complete open government awareness training.

EXECUTIVE SUMMARY:

The Open Government ordinance requires that all public officials, and some employees, read the Open Government ordinance and attend an annual training on the ordinance.

BUDGET INFORMATION:

There is no fiscal impact from these changes.

BACKGROUND:

The training includes a review of the Brown Act, conflict of interest issues, ethics, due process and "Open Government Tips". Please sign and return the certificate of completion to the City Clerk's office or the City Attorney's office once you have read the ordinance. A second copy of the certificate is included for your records. This course also covers review of the City of Benicia Code of Conduct. It is not necessary to sign and return page 4 of the Code of Conduct when the material is included in this Open Government Training. Your signature on the Certificate of Completion verifies that you have also completed this training. The Brown Act has not been included as the 2009 update because it was sent under separate cover in January.

Attachments:

- Title 4 of the Benicia Municipal Code
- Open Government Tips
- Code of Conduct
- Certificate of Completion

TITLE 4

Title 4
OPEN GOVERNMENT

Chapters:

- 4.04 In General
- 4.08 Public Access to Meetings
- 4.12 Public Information
- 4.16 Ethics
- 4.20 Open Government Commission

Chapter 4.04 IN GENERAL

Sections:

- 4.04.010 Goal.
- 4.04.020 Findings and purpose.
- 4.04.030 Fundamental rights.
- 4.04.040 Copies to be provided.
- 4.04.050 Definitions.

4.04.010 Goal. It is the goal of this title to make it easier for people to access city government so that they may be more informed about what their city is doing and so that they may be involved in a more meaningful and knowledgeable way. Open meetings, easier access to public records, ethical guidelines and a watchdog commission will help increase the public trust and confidence in the city government and will increase the public awareness and knowledge about their government. A well-educated public and ethical officials are essential to good government. (Ord. 05-06 § 1).

4.04.020 Findings and purpose. The city council finds as follows:

- A. The Ralph M. Brown Act states: "The people of this State do not yield their sovereignty to the agencies which serve them."
- B. It is the city's duty to serve the public and to accommodate those who wish to obtain information about or participate in the process of making decisions.
- C. Elected city officials, commissions, boards, advisory bodies and other agencies of the city exist to conduct the people's business. This title is intended to assure that the deliberations of these bodies and the city's operations are open to the public.
- D. This title is intended in part to clarify and supplement the Ralph M. Brown Act and the California Public Records Act to assure that the people of the city of Benicia can be fully informed and thereby retain control over the instruments of local government in their city.
- E. This title is intended to list and implement fundamental rights of each member of the public. (Ord. 05-06 § 1).

4.04.030 Fundamental rights. Fundamental rights of each member of the public include, but are not limited to:

- A. The right to receive meaningful, advance notice of agendas and packets of all meeting materials.
- B. The right to attend, listen to and participate in all meetings without cost, signup, giving name or address or any personal information.
- C. The right to speak with a meaningful amount of time on every agenda item separately, including each consent item, closed session or any report items without being required to sign up, give his/her name, or address, or any other information.

D. The right to interrupt the body for a point of order or clarification except to the extent that it becomes unduly disruptive.

E. The right to speak on any subject not on the agenda so long as the subject relates to the business of the body.

F. The right to criticize the body or members for their official actions or inactions, during public comment or by holding signs except to the extent that it becomes unduly disruptive.

G. The right to pull consent agenda items for public review and discussion.

H. The right to comment on every agenda item either during the public comment period on that item, under the general public comment period or in writing.

I. The right to use presentation tools when commenting.
A plaque listing these rights will be placed at the entrance of the council chambers. These rights shall be read aloud by the presiding official to the public at the start of each meeting unless the rights are posted in the meeting room. If the rights are posted, the presiding officer may state the rights are posted instead of reading them. (Ord. 05-06 § 1).

4.04.040 Copies to be provided. The office of the city attorney shall provide any person with a copy of the Brown Act or Public Records Act or this title without charge. (Ord. 05-06 § 1).

4.04.050 Definitions. The following words and phrases, whenever used in this title, shall be construed as hereafter set out unless it shall be apparent from the context that they have a different meaning. Unless defined herein, the definitions in the Ralph M. Brown Act and the California Public Records Act and related laws shall govern.

A. "Agenda packet" means the nonconfidential portion of a body's agenda-related materials. "Agenda packet" includes materials that:

1. Were distributed by the city to a majority of the members of a body prior to or at the meeting; and
2. Relate to an item on the agenda.

B. "Body" means:

1. The Benicia city council;
2. Any board, commission, task force or committee, which is established by city ordinance or by motion or resolution of the city council or created as a result of federal, state or local grants;
3. Any advisory board, commission or task force created and appointed by the mayor and approved by the city council; or
4. Any standing committee of any body specified in subsections (B)(1), (B)(2) or (B)(3) of this section.

"Body" shall not mean any congregation or gathering which consists solely of employees of the city of Benicia or consists of employees and representatives of companies providing employees' benefits including, but not limited to, retirement and health care plans.

C. "Criticize" means to provide verbal or written critical comments, regarding the official actions or inactions, during public comment or by holding signs except to the extent that it becomes unduly disruptive.

D. "Days" means calendar days.

E. "Department" means a department of the city of Benicia.

F. "Information request facilitator" means the person who shall assist members of the public with their public information requests. For general requests, it means the city clerk in accordance with BMC 4.20.030(D). For department-specific requests, it means the department director or designee.

G. "Interrupt" means to stand and raise one's hand and, in accordance with Robert's Rules of Order, wait for recognition by the presiding officer before speaking.

H. "Meeting".

1. "Meeting" shall mean any of the following:

a. A congregation of a majority of the members of any body in which any item within its subject matter jurisdiction is heard, discussed or deliberated;

b. Any use of direct communication, personal intermediaries or communications media to cause a majority of the members of a body to become aware of an item of business and of the views or positions of other members with respect thereto, and to negotiate consensus thereon; and

c. Any meal or social gathering of a majority of the members of a body immediately before, during, or after a meeting of a body. For the purposes of this definition, "immediately before" means the four hours prior to a meeting.

2. "Meeting" shall not include any of the following:

a. Individual contacts or conversations between a member of a body and any other person;

b. The attendance of any number of the members of a body at a conference, or at any meeting or gathering organized to address a topic of local community concern and which is open to the public; provided, that a majority of the members of a body refrains from collectively discussing, other than as part of the scheduled program, the topic of the meeting or gathering or any other business within the subject matter jurisdiction of that body;

c. The attendance of any number of the members of any body at a purely social, recreational, educational or ceremonial occasion; provided, that a majority of the members of any body refrains from discussing any business within the subject matter jurisdiction of the body; and provided, that the gathering does not qualify as a meeting under subsection (F)(1)(c) of this section; and

d. The attendance of a majority of the members of a body at a standing committee; provided, that the members of the body who are not members of the standing committee do not participate personally or through representatives.

I. "Notice" means the posting of an agenda in a location that is freely accessible to the public 24 hours a day and as additionally specified in BMC 4.08.030, 4.08.050 and 4.08.060.

J. "Public information" means the content of "public records" as defined in the California Public Records Act (Government Code Section 6250 et seq.) whether contained in public records or in oral communications.

K. "Public official" means all elective officials and members of all official boards, commissions and committees of the city.

L. "Online" shall mean accessible by computer without charge to the user.

M. "The Public Records Act" shall mean Government Code Section 6250 et seq.

N. "Ralph M. Brown Act" shall mean Government Code Section 54950 et seq.

O. "Software or hardware failure" means solely technological failures of software or hardware that are unforeseeable. This term includes failures such as those caused by natural disasters or acts of God, and technical failures against which the city has taken customary precautions.

P. "Standing committee" shall mean any number of members of a body which totals less than a quorum and which has (1) a continuing subject matter jurisdiction, or (2) a meeting schedule fixed by charter, ordinance, resolution or formal action of the body.

Q. "Weeknight" shall mean after 5:00 p.m. on any day of the week except for Saturday or Sunday. (Ord. 07-22 § 1; Ord. 06-11 § 1; Ord. 05-06 § 1).

Chapter 4.08
PUBLIC ACCESS TO MEETINGS

Sections:

- 4.08.010 Meetings to be open and public – Application of Brown Act.
- 4.08.020 Conduct of meetings for public agencies covered by this title.
- 4.08.030 Notice requirement – Emergency meeting.
- 4.08.040 Conduct of business – Time and place for meeting.
- 4.08.050 Notice and agenda requirements – Regular meetings.
- 4.08.060 Notice and agenda requirement – Special meetings.
- 4.08.070 Agenda packets as public records – Agenda subscribers.
- 4.08.080 Barriers to attendance prohibited.
- 4.08.090 Public testimony at regular and special meetings.
- 4.08.100 Minutes and recordings.
- 4.08.110 Public comment by members of bodies.
- 4.08.120 Agenda descriptions and oral disclosures.
- 4.08.130 Statement of reasons for closed sessions.
- 4.08.140 Conduct of closed session.
- 4.08.150 Disclosure of closed session discussions and actions.
- 4.08.160 Ex-parte communications.

4.08.010 Meetings to be open and public – Application of Brown Act.

All meetings of bodies defined in BMC 4.04.050 shall be open and public, to the same extent as if that body were governed by the provisions of the Ralph M. Brown Act (Government Code Section 54950 et seq.) unless greater public access is required by this chapter, in which case this chapter shall be applicable. (Ord. 05-06 § 1).

4.08.020 Conduct of meetings for public agencies covered by this title.

To the extent not inconsistent with state or federal law, a body may require, as a condition of any express delegation of power to any public agency, including joint powers authorities, whether such delegation of power is achieved by legislative act, contract, lease or other agreement, that any meeting by such a public agency at which an item concerning or subject to the delegated power is discussed or considered shall be conducted pursuant to the Ralph M. Brown Act. (Ord. 05-06 § 1).

4.08.030 Notice requirement – Emergency meeting. Emergency meetings shall be held in accordance with Government Code Section 54956.5 which states:

(a) For purposes of this Section, "emergency situation" means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this Section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) (1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this Section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this Section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this Section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this Section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the roll call vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

(Ord. 05-06 § 1).

4.08.040 Conduct of business – Time and place for meeting.

A. Unless proscribed by council ordinance, every body established by city council ordinance shall establish by formal action the time and place for holding regular meetings and shall conduct such regular meetings in accordance with such resolution or formal action. Whenever reasonably possible bodies shall

conduct their regular meetings on weeknights except when the body determines that the subject matter would be more appropriately discussed at another time.

B. Regular and special meetings of every body shall be held within the city of Benicia except to do any of the following:

1. Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the body is a party;

2. Inspect real or personal property which cannot be conveniently brought to Benicia; provided, that the topic of the meeting is limited to items directly related to the real or personal property;

3. Participate in meetings or discussions of multi-agency significance that are outside Benicia. However, any meeting or discussion held pursuant to this subsection shall take place within the jurisdiction of one of the participating agencies and be noticed by all participating agencies. Agencies include local agencies such as school districts, counties, cities or other public agencies as specified in the Brown Act; or

4. Meet outside the city of Benicia with elected or appointed officials of the United States or the state of California or counties.

C. If a meeting is held outside of the city, the location of the meeting shall be posted in the city.

D. If a regular meeting for any body falls on a holiday, the meeting shall be held on the next scheduled regular meeting day unless otherwise noticed as a special meeting for which notice is given at least six days in advance.

E. If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet in the customary location, the meetings may be held for the duration of the emergency at some other place specified by the presiding official of the body or his or her designee. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to media organizations who have requested written notice of meetings.

F. If a quorum of a body becomes present at a meeting of a standing or ad hoc committee of said body, the body may not take action at the meeting of the committee unless the meeting has been properly noticed as a meeting of the body itself. The standing or ad hoc committee of a body may take action at the meeting consistent with the committee's jurisdiction and authority.

G. Every body shall ensure that video screens or presentation boards are reasonably viewable by both the body and the public.

H. To ensure business is conducted in the open, bodies should avoid taking breaks during discussion of a particular agenda item. If a break is needed or if the item is continued to a future meeting, each member of the body shall disclose orally on the public record the general nature of any conversations during the break or continuance pertaining to the item.

I. Unless proscribed by council ordinance, each body established by ordinance shall establish and publish an annual schedule of regular meetings. (Ord. 07-02 § 1; Ord. 06-11 § 2; Ord. 05-06 § 1).

4.08.050 Notice and agenda requirements – Regular meetings.

A. Six-Day Advance Notice Requirement for Regular Meetings of Bodies. The city council, and any body defined in BMC 4.04.050, shall provide notice before any regular meeting by:

1. Posting a copy of the agenda in a location freely accessible to the public 24 hours a day no later than six days before the date of the meeting;
2. Filing a copy of the agenda and a complete agenda packet with the office of the city clerk and the Benicia Public Library no later than five days before the date of the meeting; and
3. Posting a copy of the agenda online at the city's web site no later than six days before the date of the meeting. Notwithstanding this subsection, the failure to timely post a copy of the agenda because of software or hardware failure, as defined, shall not constitute a defect in the notice for a regular meeting, if the body complies with all other posting and noticing requirements.

B. Supplemental Agenda and Related Materials Requirements for Regular Meetings of Bodies. Notwithstanding the notice provisions of subsection (A) of this section, a body may amend or supplement a posted agenda or agenda-related materials no later than 72 hours before a regular meeting and only for the following reasons or under the following conditions. Prior to amending or supplementing the posted agenda or agenda-related materials, the presiding officer shall state for the record what supplemental material is under consideration and/or how the agenda is proposed to be amended. Agendas or agenda-related materials may only be amended or supplemented:

1. To add an item due to an emergency or urgency, provided the body makes the same findings as required by subsection (D) of this section before taking action;
2. To delete or withdraw any item from a posted agenda;
3. To provide additional information to supplement the agenda-related material previously filed with the office of the city clerk; provided, that the additional information was not known to staff;
4. To correct technical, nonsubstantive errors or omissions, or to change a stated financial amount that decreases the body's obligation under a proposed agreement, or to clarify the agenda title in a manner that does not substantively change the nature of the action to be taken on the agenda item;
5. To consider the recommendations, referrals, minutes or actions taken on any item heard by a standing committee of the city council; provided, that the item has not been materially changed by the committee or materially changed after the committee considered the item; or
6. To continue an agenda item to the next regular meeting of the body so long as members of the public are given an opportunity to address the body on the item at the meeting from which the item is continued. If substantial supplemental information is received from the applicant or a member of the public, the body shall either (1) automatically continue the item to the next regular meeting or a special meeting, or (2) decide that there was adequate notice to allow consideration of the additional information.

C. Excuse of Open Government Notice Requirements. If an item appears on an agenda but the body fails to meet any of the additional notice requirements under this section, the body may take action only if:

1. The minimum notice requirements of the Brown Act have been met; and

2. The body, by a two-thirds vote of those members present, adopts a motion determining that, upon consideration of the facts and circumstances, it was not reasonably possible to meet the additional notice requirements under this section and any one of the following exists:

a. The need to take immediate action on the item is required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent special or regular meeting;

b. There is a need to take immediate action which relates to federal or state legislation or the body's eligibility for any grant or gift; or

c. The item relates to a purely ceremonial or commendatory action.

D. Action on Items Not Appearing on the Agenda. Notwithstanding subsection (C) of this section, a body may take action on items not appearing on a posted agenda only if:

1. The matter is an emergency. Upon a determination by a majority vote of the body that work stoppage, crippling disaster or other activity exists which severely impairs public health, safety or both; or

2. The matter is urgent. Upon a determination by a two-thirds vote of those present, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action which came to the attention of the body after the agenda was posted; that there was adequate public notification considering the subject matter to be considered; and that the need to take immediate action:

a. Is required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent special or regular meeting;

b. Relates to federal or state legislation; or

c. Relates to a purely ceremonial or commendatory action.

E. Nothing in this section shall prohibit a body from taking action to schedule items for a future meeting to which regular or special meeting notice requirements will apply, or to distribute agenda-related materials relating to items added pursuant to subsection (D) of this section before or during a meeting.

F. Nothing in this section shall prohibit the office of the city attorney from conforming a document to comply with technical requirements as to form and legality. (Ord. 07-03 § 1; Ord. 05-06 § 1).

4.08.060 Notice and agenda requirement – Special meetings.

A. If the presiding official or senior staff member to the body finds that waiting for the next available regular meeting of the body would make it impossible to take meaningful action or the regular meeting will be cancelled due

to a lack of quorum or a city holiday, a special meeting of any body may be called at any time by the presiding official thereof or by the senior staff member to the body. All bodies calling a special meeting shall provide notice by:

1. Posting a copy of the agenda in a location freely accessible to the public at least 72 hours (excluding Saturday, Sunday and holidays) before the time of the meeting set forth in the agenda. The posting time for a special meeting due to the body's regular meeting falling on a holiday shall be six days;

2. Filing a copy of the agenda and copies of all agenda-related material in the office of the city clerk at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda; and

3. Delivering a copy of the agenda to each member of the body, to each local newspaper of general circulation, to each agenda subscriber, and to each media organization which has previously requested notice in writing, so that a copy of the agenda is received at least 24 hours before the time of the meeting set forth in the agenda. Receipt of the agenda shall be presumed upon reasonable proof that delivery was made.

B. Bodies specified in BMC 4.04.050 shall, in addition to the noticing requirements of this section, post a copy of the agenda for any special meeting online at the city's web site at least 72 hours before the time of the meeting set forth in the agenda. Failure to timely post a copy of the agenda online because of software or hardware failure, as defined, shall not constitute a defect in the notice for a special meeting if the body complies with all other posting and noticing requirements.

C. No business other than that set forth in the agenda shall be considered at a special meeting. Each special meeting shall be held at the regular meeting place of the body except that the body may designate an alternative meeting location; provided, that such alternative location is specified in the agenda.

D. To the extent practicable, the presiding official or the majority of members of any body may cancel a special meeting by delivering notice of cancellation in the same manner and to the same persons as required for the notice of such meeting.

E. Special meetings may not be scheduled on the same day as a previously scheduled regular meeting that was not noticed in compliance with this chapter if the special meeting is called to consider any of the items that were included in the notice for such regular meeting. (Ord. 05-06 § 1).

4.08.070 Agenda packets as public records – Agenda subscribers.

In addition to providing access to all records which are public records pursuant to the California Public Records Act (Government Code Section 6250 et seq.) and this title, every body specified in BMC 4.04.050 shall make available for immediate public inspection and copying all agendas and agenda-related materials.

A. All agendas shall be posted on the city's web site and the city's cable channel and available at the Benicia Public Library. Complete agenda

packets for each body shall be posted on the city's web site to the extent fiscally and technologically feasible and shall be available for review at the Benicia Public Library and at the city manager's office during normal business hours. The time for compliance with this subsection shall be in accordance with the time of the posting of the agenda for the meeting.

B. All agendas of every body shall be available to the public by an email subscription. Such service shall be provided free of charge and shall be provided to the subscriber until the request for the service is cancelled by the subscriber or the email address is no longer valid. The email shall be sent at the time of the posting of the agenda for the meeting. The city clerk shall establish the email subscribers list for the city council agendas. The secretary to other bodies shall establish and maintain the email subscribers list for the respective bodies.

C. Paper copies of the agenda and agenda packet shall be available to members of the public for every body upon payment of the fee established by city council resolution. Every body shall establish a subscription list for the agenda and/or agenda packet so that members of the public may subscribe to the agenda and/or agenda packet upon payment of the fee established by the city council. The fee shall not exceed the direct costs of copying the agenda and agenda packet and the reasonable mailing costs of the agenda and agenda packet. In order to enhance public participation and involvement, the fees for the agenda subscription shall be waived for anyone who reports on city government and makes the reports available to members of the public. Subscriptions for the agenda and/or agenda packet shall be valid for one year. The city clerk or the secretary to other bodies shall send the subscriber a note to resubscribe and pay the subscription fee with the last agenda and/or agenda packet that is mailed to a subscriber.

D. Every body shall make available for immediate public inspection and copying the agenda packet that has been distributed to a majority of its members. The right to immediate public inspection and copying provided in this section shall not include any material exempt from public disclosure under this title or under state or federal law. Neither this section nor the California Public Records Act shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that Act or this title.

E. All requests by agenda subscribers to receive agendas or agenda-related materials may be made by mail, telephone or email to the office of the city clerk or city manager's office. The city clerk shall maintain a list of all bodies and shall immediately forward a copy of the written request to the appropriate body to ensure compliance with the request.

F. Notwithstanding any other provision of this title, the failure of an agenda subscriber to timely receive the agenda or agenda-related material pursuant to this section shall not constitute grounds for invalidation of the actions of the body taken at the meeting for which the agenda or the agenda-related material was not timely received. (Ord. 05-06 § 1).

4.08.080 Barriers to attendance prohibited.

A. No body specified in this title shall conduct any meeting, conference or other function in any facility which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever a body anticipates that the number of persons attending the meeting may exceed the legal capacity of the room, a public address system or television shall be used to the extent technologically and fiscally reasonable to permit the overflow audience to listen to the proceedings.

B. Any person attending an open meeting of a body shall have the right to record, photograph or broadcast the proceedings unless such activities constitute a persistent disruption of the proceedings. (Ord. 06-11 § 3; Ord. 05-06 § 1).

4.08.090 Public testimony at regular and special meetings.

A. Every agenda for every regular or special meeting shall provide a public comment section on the agenda as an opportunity for members of the public or for members of the body to directly address a body on items of interest to the public that are within the body's subject matter jurisdiction; provided, that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Government Code Section 54954.2 and BMC 4.08.050(D). Except as provided in subsection (C) of this section, speakers shall limit their comments during the public comment section of the agenda to nonagendized items.

B. Every agenda for regular or special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item before taking action. Public comments on closed session items shall be taken before the closed session is convened. The presiding official of any body may request speakers representing similar views to designate a spokesperson in the interest of time. Spokespersons for the proponent(s) of an agenda item and for the opponent(s) shall each have 15 minutes to present their case. The spokesperson for the proponent(s) shall have five minutes to present any rebuttal. Other speakers may be requested to keep their remarks concise.

C. At the presiding official's discretion, the official may grant up to 10 minutes to a speaker who desires to speak on multiple agenda items so that the speaker shall address all items at one time before the body's consideration of those items. Such comments shall be made under the public comment part of the agenda.

D. Every body shall adopt a rule providing that each person wishing to speak on an item shall be permitted to speak once based upon previously adopted time constraints which are reasonable and uniformly applied. Except as otherwise provided by this section, it shall be the policy of the city that all speakers are entitled to up to five minutes of speaking time per agenda item.

E. Members of the public who speak on an agenda item or under public comment do not have to give their name or address should they choose not to.

F. Written material submitted by members of the public shall be retained as part of the official agenda file and available for review by other members of the public in accordance with Chapter 4.12 BMC.

G. No body shall abridge or prohibit public criticism of the policies, procedures, programs or services of the body or agency, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, even if the criticism implicates the performance of one or more public employees. Nothing in this subsection shall confer any privilege or protection beyond that which is otherwise provided by law. (Ord. 07-04 § 1; Ord. 06-04 § 1; Ord. 05-06 § 1).

4.08.100 Minutes and recordings.

A. All bodies shall record the minutes for each regular and special meeting convened under the provisions of this chapter. At a minimum, the minutes shall state the time the meeting was called to order, the names of the members attending the meeting, a one-sentence summary of, and the roll call vote on, each matter considered at the meeting, the time the body began and ended any closed session, any letters submitted on agenda items, those members of the public who spoke on each matter if the speakers identified themselves, and the time the meeting was adjourned. The draft minutes of each meeting shall be available for inspection and copying upon request within the shortest possible time after the meeting. No later than five business days after the meeting at which the minutes are adopted, the officially adopted minutes shall be available for inspection and copying upon request and shall be posted on the city's web site.

B. Every body specified in BMC 4.04.050 and established by city ordinance shall make an audio and where possible economically and technically a visual recording of every open regular meeting. Other bodies shall audiotape each regular and special open meeting and may make a visual recording of any meeting. Any recording of any open meeting shall be a public record subject to inspection and copying. For the city council and bodies established by ordinance, the recording shall not be erased, deleted or destroyed for at least four years. For all other bodies, the recording shall not be erased, deleted or destroyed for at least two years. If, during the four- or two-year period, a written request for inspection or copying of any recording is made, the recording shall not be erased, deleted or destroyed until the requested inspection or copying has been accomplished. Inspection of any such recording shall be provided without charge on a player or computer made available by the body. (Ord. 05-06 § 1).

4.08.110 Public comment by members of bodies. Every member of a body retains the rights of any citizen to comment publicly on the wisdom or propriety of government actions, including those of the body of which he or she is a member. Bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials to express their judgments or opinions, including those

judgments or opinions pertaining to the disclosure or nondisclosure of discussions or actions taken in closed session. However, the release of specific factual information made confidential by state or federal law including, but not limited to, privileged attorney-client communications, other than by the procedures set forth under state law or this title, may constitute grounds for censure or for an action for injunctive or declaratory relief by the body. Nothing in this section shall confer any privilege or protection for expression beyond that which is otherwise provided by law. (Ord. 05-06 § 1).

4.08.120 Agenda descriptions and oral disclosures.

A. Agendas for meetings shall provide a brief description of the item under consideration. To the extent appropriate, information that should be described includes the following: the commonly used name and location of the property under consideration; names of proposed appointees, contractors or parties to an agreement; and the general nature of the action(s) under consideration. The use of acronyms, jargon and "double speak" should be avoided.

B. Closed session descriptions shall comply with the permissive provisions of Government Code Section 54954.5 in describing items for closed session.

C. In the case of an item added to the agenda pursuant to Government Code Section 54954.2(b) or BMC 4.08.050(D), the statement shall be made in open session concurrent with the findings required pursuant to that section.

D. Any action taken on items that are not described in accordance with this section is subject to invalidation pursuant to the provisions of Government Code Section 54960.1. (Ord. 05-06 § 1).

4.08.130 Statement of reasons for closed sessions.

A. Prior to adjourning to any closed session, a body shall announce in open session the general reason or reasons for the closed session, and must cite and explain the statutory or case authority under which the session is being closed.

B. In the case of a closed session item added to the agenda pursuant to Government Code Section 54954.2(b) or BMC 4.08.050(D), the statement shall be made in open session concurrent with the findings required pursuant to that section.

C. No minutes for a closed session, but a tape recording of the closed session shall be made. The tapes shall remain confidential pursuant to Government Code Section 54960 unless the body elects to disclose the information in accordance with BMC 4.08.150(B) or a court orders disclosure.

D. Nothing in this section shall require or authorize a disclosure of information that is confidential under law. (Ord. 06-11 § 4; Ord. 05-06 § 1).

4.08.140 Conduct of closed session.

A. A body shall consider in closed session only those matters specified in the statement required in BMC 4.08.130.

B. The following provisions of the Brown Act apply to the conduct of closed session by bodies and are hereby incorporated by reference as though fully set forth herein: Government Code Sections 54956.8; 54956.9; 54956.95; 54957; and 54957.6.

C. No minutes for a closed session, but a tape recording of the closed session shall be made. The tapes shall remain confidential pursuant to Government Code Section 54960 unless the body elects to disclose the information in accordance with BMC 4.08.150(B). (Ord. 05-06 § 1).

4.08.150 Disclosure of closed session discussions and actions.

A. In accordance with Government Code Section 54963 and as provided below, a person present at a closed session may not disclose confidential information received.

B. In addition to the required disclosures pursuant to Government Code Section 54957.1 and subsection (C) of this section, the body may, by motion and vote in open session, elect to disclose any other information obtained in closed session which a majority of the members of the body deems to be in the public interest. Any disclosure pursuant to this section shall be made through the presiding official or such other person present in the closed session, designated to convey the information.

C. Immediately following the closed session a body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

1. Real Property Negotiations. Approval of an agreement concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval requires action from another party to the negotiations, the body shall disclose the fact of its approval, the substance of the agreement and the body's vote or votes thereon after the other party or its agent has informed the body of its action upon (a) inquiry by any person, and (b) in any event, at the next meeting of said body. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or if there are multiple contiguous or closely located properties that are being considered for transfer, the report specified in this section need not be made until the conditions have been satisfied or an agreement has been reached with respect to all the properties, or both.

2. Litigation. Direction or approval given to the body's legal counsel to prosecute, defend, seek or refrain from seeking appellate review or relief, or to otherwise enter as a party, intervenor or amicus curiae in any form of litigation as the result of a consultation under Government Code Section 54956.9 shall be reported in open session as soon as given, or at the first meeting after

an adverse party has been served in the matter if immediate disclosure of the body's intentions would not be contrary to the public interest. The report shall identify the names and capacities of all parties to the litigation, the court of jurisdiction and case number, the type of case, any existing claim or order to be defended against, or any factual circumstances or contractual dispute giving rise to the litigation.

3. Settlement. If a body accepts a settlement offer signed by an opposing party, the body shall report its vote of approval and identify the substance of the agreement. If final approval rests with another part or with the court, the body shall disclose its vote of approval and the substance of the agreement to any person upon inquiry as soon as the settlement becomes final, but in no case later than the next meeting following final approval of settlement. A body shall neither solicit nor agree to any term in a settlement agreement which would preclude the release, upon request, of the text of the settlement agreement itself and any related documentation communicated to or received from the adverse party or parties. Where the disclosure of documents in settled litigation could affect litigation on a closely related case, the report, settlement agreement and any documents described in this section need not be disclosed until the closely related case is settled or otherwise finally concluded.

D. Reports required to be made pursuant to this section may be made orally or in writing. Copies of any contracts, settlement agreements, or other documents related to the items or transactions that were finally approved or adopted in closed session and which contain the information required to be disclosed under this section shall be made available for inspection and copying, upon request, at the time the report is made or after any substantive amendments have been retyped into the document.

E. A written summary of the information required to be reported immediately pursuant to this section, or documents containing that information, shall be made available for inspection and copying by the close of business on the next business day following the meeting.

F. Action taken in closed session which is not immediately disclosable under this section shall be disclosed and noticed under the procedures set forth in subsection (C) of this section at such time as disclosure is required. (Ord. 05-06 § 1).

4.08.160 Ex-parte communications. While it is the city's policy to encourage communications between the public and officials, the city recognizes that Constitutional due process protections may limit communications with council members or board or commission members outside of a public meeting. Therefore, the city's policy on ex-parte communications discourages officials from discussing appeals or enforcement matters with members of the public except during the body's formal consideration of the matters. These matters should not be discussed during site inspections or field trips that are not part of an agenda meeting. If such discussions take place, officials must publicly disclose at the start of the agenda presentation of the item, the substance of any such discussions they have had with anyone other than another member of

the body or staff member. This policy applies to any appeal or enforcement matter which is pending, or is reasonably expected to come before the body on which the official sits. (Ord. 05-06 § 1).

Chapter 4.12 PUBLIC INFORMATION

Sections:

- 4.12.010 Release of documentary public information.
- 4.12.020 Release of oral public information.
- 4.12.030 Public review file – Policy body communications.
- 4.12.040 Non-exempt public information.
- 4.12.050 Disclosure requests.
- 4.12.060 Immediate disclosure request.
- 4.12.070 Withholding restrictions.
- 4.12.080 Justification for withholding.
- 4.12.090 Fees for copying.
- 4.12.100 Web site information.
- 4.12.110 Requests made by email.
- 4.12.120 Policy regarding purchase and use of computer systems.

4.12.010 Release of documentary public information. Release of public records by a body or by any department, whether for inspection of the original or by providing a copy, shall be governed by the Public Records Act in any particulars not addressed by this chapter. The provisions of Government Code Section 6253.9 are incorporated herein by reference. (Ord. 05-06 § 1).

4.12.020 Release of oral public information. Release of oral public information shall be accomplished as follows:

A. Every department director shall be responsible for being knowledgeable about the affairs of the respective agency or department, to facilitate the inspection and copying of public records and to provide oral public information about agency or department operations, plans, policies, and positions. The department will make every effort to facilitate the information requested and will make it a top priority.

B. It shall be the duty of the department director (or designee) or, in the case of requests not directed to a specific department, the city clerk to provide information on a timely and responsive basis to the public. It shall also be their duty to assist members of the public in identifying those public records they wish to obtain pursuant to Government Code Section 6253.1. This section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of his or her operational duties and confined to accurate information not confidential by law.

C. Public employees and city board, commission or committee members shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion is not represented as that of the city, department, board, commission or committee and does not materially misrepresent the city, department, board, commission or committee's position. Nothing in this section shall be construed to

provide rights to public employees beyond those recognized by law or agreement, or to create any new private cause of action or defense to disciplinary action. (Ord. 05-06 § 1).

4.12.030 Public review file – Policy body communications. Every body specified in BMC 4.04.050 shall maintain a communications file, organized chronologically and accessible to any person during normal business hours, containing a copy of any letter, memorandum or other writing pertaining to the body's duties which the clerk or secretary of such body has distributed to, or sent on behalf of, a quorum of the body concerning a matter that has been placed on the body's agenda within the previous 30 days or is scheduled or requested to be placed on the agenda within the next 30 days. Excepted from the communications file shall be commercial solicitations, mail sent bulk-rate, agenda and agenda-related material, periodical publications or communications exempt from disclosure under the California Public Records Act or this title. Multiple-page reports, studies or analyses which are accompanied by a letter or memorandum of transmittal need not be included in the communications file; provided, that the letter or memorandum of transmittal is included in the communications file and the reports, studies or analyses are readily available for review. (Ord. 05-06 § 1).

4.12.040 Non-exempt public information. Notwithstanding any right or duty to withhold certain information under the California Public Records Act or other law, the following shall govern specific types of requests for documents and information:

A. Drafts and Memoranda. No completed preliminary drafts or memoranda shall be exempt from disclosure under Government Code Section 6254(a) if said completed preliminary draft or memorandum has been retained in the ordinary course of business or pursuant to law or agency or department policy. Completed preliminary drafts and memoranda concerning agreements, memoranda of understanding or other matters subject to negotiation and pending a body's approval need not be subject to disclosure until final action has been taken or said document is included as part of the public agenda packet for the body, whichever is first.

B. Litigation Material. Unless otherwise privileged or made confidential by law, records of all communications between a body's representatives and the adverse party shall be subject to public inspection and copying, including the text and terms of any settlement agreement, once the pending litigation has been settled or finally adjudicated.

C. Personnel Information. None of the following shall be exempt from disclosure under Government Code Section 6254(c):

1. Job pool information, to the extent such information is compiled for reporting purposes and does not permit the identification of any particular individual. Such job pool information may include the following:

- a. Sex, age and ethnic group;
- b. Years of graduate and undergraduate study, degree(s) and major or discipline;

- c. Years of employment in the private and/or public sector;
- d. Whether currently employed in the same position for another public agency;
- e. Other non-identifying particulars as to experience credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the positioning in question.
 - 2. The job description of every employment classification.
 - 3. The resumes of employees, although personal information such as home address shall be deleted.
 - 4. Any adopted memorandum of understanding between the city and a recognized employee organization.

D. Law Enforcement Information.

1. The Benicia police department shall cooperate with all members of the public making requests for law enforcement records and documents under the California Public Records Act or other applicable law. Unless disclosure of the records sought is prohibited by other provisions of state or federal law such as the TNG Order, records and documents exempt from disclosure under the California Records Act pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public to the full extent permitted by law after the district attorney or court determines that a prosecution will not be sought against the subject involved or the statute of limitations for filing charges has expired, whichever occurs first. Information may be redacted from such records and documents and withheld if, based upon the particular facts, the public interest in nondisclosure clearly outweighs the public interest in disclosure. The final decision for disclosure shall be made by the city council and the vote and reasoning of each city council member shall be made public on all nondisclosures. Such redacted information may include:

- a. The names of juvenile witnesses or suspects;
- b. Personal or otherwise private information related or unrelated to the investigation if disclosure would constitute an unwarranted invasion of privacy;
- c. The identity of a confidential source;
- d. Secret investigative techniques or procedures;
- e. Information whose disclosure would endanger law enforcement personnel, a witness, or party to the investigation; or
- f. Information whose disclosure would endanger the successful completion of an investigation where the prospect of enforcement proceedings is likely.

2. The Benicia police department shall maintain a record, which shall be a public record and which shall be separate from the personnel records of the agency, which reports the number of citizen complaints against law enforcement agencies or officers, the number and types of cases in which discipline is imposed and the nature of the discipline imposed. This record shall be maintained in a format which assures that the names and other identifying information of individual officers involved is not disclosed directly or indirectly.

E. Contracts, Bids and Proposals. Contracts, contract bids, responses to requests for proposals and all other records of communications between the city and individuals or business entities seeking contracts shall be open to inspection and copying following the contract award or acceptance of a contract offer. Nothing in this provision requires the disclosure of a person's net worth or other proprietary financial information submitted for qualification for a contract.

F. Budgets and Other Financial Information. The following shall not be exempt from disclosure:

1. Any proposed or adopted budget for the city, including any of their respective agencies, departments, programs, projects or other categories, which have been submitted to a majority of the members of the city council, or their standing committees.

2. All bills, claims, invoices, vouchers or other records of payment obligations, as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social, legal or other services whose records are confidential by law. The nonconfidential portion, if any, of such records shall be disclosed.

G. Email correspondence retained in the ordinary course of business and not exempt from disclosure shall be made available within three working days upon written or oral request. All such email shall be maintained for two years before being destroyed. (Ord. 05-06 § 1).

4.12.050 Disclosure requests.

A. Notwithstanding any other provision of law and subject to the requirements of this section, a written or oral request to inspect or obtain copies of public records that is submitted to any department or to any body shall be satisfied no later than five business days unless the requestor is advised in writing within one business day that additional time is needed to determine whether:

1. The request seeks disclosable public records or information;
2. The requested records are in the possession of the department processing the request;
3. The requested records are stored in a location outside of the department;
4. The requested records likely comprise a voluminous amount of separate and distinct writings;
5. Reasonably involves another department or other local or state agency that has a substantial subject matter interest in the requested records and which must be consulted in connection with the request.

B. All determinations made pursuant to subsections (A)(1) through (A)(5) of this section shall be communicated in writing to the requestor within five business days of the date of the request. In no event shall any disclosable records be provided for inspection or copying any later than 10 business days after the written determination pursuant to subsections (A)(1) through (A)(5) of this section is communicated to the requestor. Additional time shall not be permitted to delay a routine or readily answerable request. The written request

shall also contain a telephone number, email or facsimile number whereby the requestor may be contacted. The provisions of Government Code Section 6253 shall apply to any written request that fails to state a number by which the requestor may be contacted.

C. The person seeking the information need not state a reason for making the request or the use to which the information will be put, but shall be advised that providing such information may help the city assist the person finding all documents responsive to their request.

D. Unless the record request will be satisfied within one business day, an acknowledgement of receipt of the request or notification that additional time is needed pursuant to subsection (A) of this section shall be sent to the requestor if an address has been provided. (Ord. 05-06 § 1).

4.12.060 Immediate disclosure request.

A. An immediate disclosure request is a request for (1) public records which have been previously distributed to the public, such as past meeting agendas and agenda-related materials, within the past calendar year, or (2) public records such as statements of economic interests that have, by other law, a requirement to be disclosed within a specific shortened time frame. All immediate disclosure requests shall describe the records sought in as focused and specific language as possible so they can be readily identified and shall state the words "Immediate Disclosure Request" across the top of the first page of the request and on any envelope in which the request is transmitted.

B. Notwithstanding any other provision of law and subject to the requirements of this section, a written or oral request to inspect or obtain copies of public records pursuant to an immediate disclosure request that is submitted to any department or to any body shall be satisfied at the earlier of the time required by other law or no later than two business days unless the requestor is advised in writing within two business days that additional time is needed because of the volume of records sought or because the records do not qualify as subject to the immediate disclosure request procedure.

C. All determinations made pursuant to subsection (B) of this section shall be communicated in writing to the requestor within two business days of the date of the request. If additional time is needed or if the records do not qualify for an immediate disclosure request, the request shall be processed in accordance with BMC 4.12.050. (Ord. 05-06 § 1).

4.12.070 Withholding restrictions.

A. No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure by law.

B. Any redacted, deleted or segregated information shall be keyed by footnote or other clear reference to the appropriate justification for withholding. Such redaction, deletion or segregation shall be done personally by the attorney or other staff member conducting the exemption review. (Ord. 05-06 § 1).

4.12.080 Justification for withholding. Any withholding of information shall be justified, in writing, as follows:

A. A withholding under a permissive exemption in the California Public Records Act or this title shall cite the legal authority and, where the exemption is based on the public interest in favor of not disclosing, explain in practical terms how the public interest would be harmed by disclosure.

B. A withholding on the basis that disclosure is prohibited by law shall cite the applicable legal authority.

C. A withholding on the basis that disclosure would incur civil or criminal liability shall cite any statutory or case law supporting that position.

D. The final decision for withholding information shall be made by the city council. The matter shall be scheduled for action at the next regularly scheduled city council meeting unless such meeting is more than 30 days from the date of the request for action by the council. In the event that the next regular meeting is more than 30 days away, a special meeting shall be called. If the council decides records should be disclosed, the records shall be disclosed not later than 5:00 p.m. of the next business day following the council meeting unless the council specifies some other time. Each council member's vote and general reason shall be given and recorded in public. Detailed reasons need not be provided when such disclosure would compromise privacy or confidential matters or would subject the city to litigation. (Ord. 07-05 § 1; Ord. 05-06 § 1).

4.12.090 Fees for copying.

A. No fee shall be charged for making public records available for inspection.

B. No fee shall be charged for a single copy of a current meeting agenda.

C. A fee may be charged for:

1. Single or multiple copies of past meeting agendas or any agenda-related materials;
2. Multiple copies of a current meeting agenda; and
3. Any other public record copied in response to a specific request.

D. The city may, rather than making copies itself, contract at market rate to have a commercial copier produce the duplicates and charge the cost directly to the requester.

E. All drafts or final environmental impact reports and environmental impact statements shall be posted either on the city's web site or on the consultant's web site.

F. In addition to the copies routinely required for city official or staff use, the city shall require the applicant for a project that is, or will be, of widespread public interest to pay for up to 20 copies of documents such as environmental impact reports. These copies will be provided on a first-come, first-serve basis at no cost to members of the public. The city manager or designee shall determine if and how many extra copies will be required on a case by case basis.

G. All fees permitted under this section shall be determined and specified in the city of Benicia master fee schedule, as amended. When the cost of writing a receipt and collecting the fees required under this section would exceed the cost of the copies, the copying fee shall be waived. The master fee schedule shall note the maximum amount that may be waived.

H. Nothing in this section shall be interpreted as intending to preempt any fee set by or in compliance with state law. (Ord. 06-11 § 5; Ord. 05-06 § 1).

4.12.100 Web site information. Each department shall make an effort to ensure its portion of the city's web site is kept current. Each department shall also post public documents that are of interest to a wide number of the public. (Ord. 05-06 § 1).

4.12.110 Requests made by email. To ensure that email requests are received, records requests made by email shall not be effective until acknowledged by a return email of the city. Immediately upon receipt of an email request for records, the employee shall promptly acknowledge the request by a return email. Departments may establish a designated staff member or designated email address to receive email records requests. (Ord. 05-06 § 1).

4.12.120 Policy regarding purchase and use of computer systems.

A. It is the policy of the city to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public under this chapter. To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall select these systems to ensure convenient, efficient, and economical public access to records.

B. Departments purchasing new computer systems shall attempt to reach the following goals as a means to achieve lower costs to the public in connection with the public disclosure of records:

1. Implementing a computer system in which exempt information is segregated or filed separately from otherwise disclosable information.

2. Implementing a system that permits paper reproduction of electronic copies of records.

C. Nothing in this section shall be interpreted to require the city to use a system that would prevent it from complying with the security requirements of the state and federal governments for accessing their records. (Ord. 05-06 § 1).

Chapter 4.16 ETHICS

Sections:

- 4.16.010 Policy.
- 4.16.020 Responsibilities of public office and employment.
- 4.16.030 Declaration of open government awareness.
- 4.16.040 Dedicated service.
- 4.16.050 Fair and equal treatment.
- 4.16.060 Use of public property.
- 4.16.070 Obligations to citizens.
- 4.16.080 Conflict of interest.
- 4.16.090 Disclosure of conflict of interest.
- 4.16.100 Representation before bodies.
- 4.16.110 Gifts.

4.16.010 Policy. The proper operation of city government requires that: (1) public officials and employees be independent, impartial and responsible to the people; (2) government decisions and policy be made using the proper channels of government; and (3) that public office or employment not be used for personal gain. (Ord. 05-06 § 1).

4.16.020 Responsibilities of public office and employment. Public officials and employees are bound to uphold and carry out the Constitution of the United States, the Constitution of the state of California, and the law and regulations of the city. Public officials and employees shall observe in their official acts the highest ethical standards and discharge faithfully the duties of their offices or employment regardless of personal considerations. Public officials and employees shall recognize that the public interests must be their primary concern; that they fulfill the public trust invested in them by their conduct; and that conduct in their official affairs should be above reproach. (Ord. 05-06 § 1).

4.16.030 Declaration of open government awareness. All employees who are required to fill out conflict of interest forms pursuant to the Political Reform Act and the city's conflict of interest code and all public officials shall sign an annual statement stating that they have read the rest of this title, Open Government, and have attended or will attend when next offered, a training session on open government, to be held at least once annually. The statements shall be maintained by the city clerk's office and shall be available as public record. Annual training shall also be provided to city employees who regularly respond to requests for information by the public. All such trainings will be conducted by the city attorney's office with the assistance of the open government commission. (Ord. 07-23 § 1; Ord. 05-06 § 1).

4.16.040 Dedicated service. Public officials and employees shall not exceed their authority or breach the law or ask others to do so. Public officials and employees shall work in full cooperation with other public officials and employees unless prohibited from doing so by laws or regulations including, but not limited to, attorney-client privilege, privacy or confidentiality laws. (Ord. 05-06 § 1).

4.16.050 Fair and equal treatment. Except in the case of moving an agenda item up on a particular agenda, preferential consideration of the request or petition of an individual person, group, business or entity shall not be given. No person, group, business or entity shall receive special advantages beyond that which are available to any other person, group, business or entity. (Ord. 05-06 § 1).

4.16.060 Use of public property. No public official or employee shall request or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such property is available to the public generally or when such use is incidental as provided by city policy including city manager administrative instructions. No public official or employee shall use the time of any city employee, while said employee is on duty, for personal convenience or profit. (Ord. 05-06 § 1).

4.16.070 Obligations to citizens. No public official or employee shall use their official position to grant, or assist in granting, any special (whether negative or positive) consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen in the same circumstances. (Ord. 05-06 § 1).

4.16.080 Conflict of interest.

A. Incorporation of the California Political Reform Act. No public official or employee shall make, participate in making, or in any way use or attempt to use his or her official position to influence a governmental decision in which the public official or employee knows or has reason to know he or she has a disqualifying conflict of interest within the meaning of California Government Code Section 87100 et seq., and any subsequent amendments to those sections. Members of advisory bodies not subject to the Political Reform Act may make, participate in making, or in any way use or attempt to use their official positions to influence decisions on matters within the purview of their body. In the interest of open government, members of all bodies are encouraged to disclose economic interests that are not conflicts under the Political Reform Act.

B. Incorporation of Government Code Section 1090 Et Seq. No public official or employee shall make a contract in which he or she has a financial interest within the meaning of California Government Code Section 1090 et seq. and any subsequent amendments to those sections.

C. Future Employment. No public official or employee shall make, participate in making, or in any way use or attempt to use his or her official position to influence a decision of the city, affecting a person or entity with whom the public official or employee is discussing or negotiating an agreement

concerning said public official or employee's future employment. This prohibition shall be for a period of one year from the beginning of the discussion or negotiation or completion of the negotiation on future employment.

D. **Incompatible Activity or Employment.** Public officials and employees shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with their assigned duties as a public official or employee. (Ord. 07-06 § 1; Ord. 05-06 § 1).

4.16.090 Disclosure of conflict of interest.

A. Public officials and employees shall disclose on the public record any personal, professional or business relationships with any individual who is the subject of or has an ownership or financial interest in the subject of a governmental decision being made by the official or employee where, as a result of the relationship, the ability of the official or employee to act for the benefit of the public could reasonably be questioned. For the purposes of this section, the minutes of a public meeting at which the governmental decision is being made, or if the governmental decision is not being made in a public meeting, a memorandum kept on file at the offices of the city official or the employee's department, shall constitute the public record.

B. **Penalties.** A court may void any governmental decision made by a public official or employee who fails to disclose a relationship as required by subsection (A) of this section if the court determines that the failure to disclose was willful.

C. **Regulations.** The open government commission may recommend regulations for adoption by the city council setting forth the types of personal, professional and business relationships that must be disclosed pursuant to this section. (Ord. 05-06 § 1).

4.16.100 Representation before bodies. No public official on a decision making body shall represent a client, a person or group before the board, commission, committee or the city council on which the public official presently sits. (Ord. 05-06 § 1).

4.16.110 Gifts. In conformance with the gift limits imposed by California Government Code Section 89503 and any subsequent amendments to that section, no official or employee of the city shall accept any gift, reward, service or gratuity of any kind in excess of the amount set forth pursuant to the Political Reform Act per single source as defined by the Political Reform Act regulations in a calendar year by reason of their employment or office. The provisions of Government Code Section 89503 and the related regulations shall be used to interpret the provisions of this section. (Ord. 07-24 § 1; Ord. 06-11 § 6; Ord. 05-06 § 1).

Chapter 4.20
OPEN GOVERNMENT COMMISSION

Sections:

- 4.20.010 Open government commission.
- 4.20.020 Administrative review and appeal process.
- 4.20.030 Responsibility for administration.
- 4.20.040 Enforcement of ethics chapter.

4.20.010 Open government commission.

- A. Duties. In the implementation of this title, the commission shall:
1. Advise the city council and provide information to other city departments and bodies on appropriate ways in which to implement this title with a priority on simple, standard procedures.
 2. Assist in citywide training for implementing the title.
 3. Develop and maintain an administrative process for review and enforcement of this title.
 4. Propose amendments to the city council of this title as needed.
 5. Report to the city council on any practical or policy problems encountered in the administration of this title.
- B. The commission shall consist of five members of the public. All commission members shall have a demonstrated interest in open and ethical government through such activities as, but not limited to, attendance at meetings of government bodies, requests for documents from government agencies, disseminating information about government to others, and familiarity with the Brown Act and/or Public Records Act. All members shall be without known conflicts of interest and shall be residents of the city to the extent possible. The first appointment shall be for one year. The second appointment shall be for two years. The third appointment shall be for three years. All subsequent appointments shall be for four years. A commissioner may serve two full four-year terms on the commission.
- C. The commission will meet as needed, but at least quarterly, unless otherwise directed by the city council.
- D. The commission shall provide an annual report on implementation and compliance with this title. (Ord. 05-06 § 1).

4.20.020 Administrative review and appeal process.

- A. An administrative review and appeal process is hereby established to review whether a meeting was held in violation of this title or records were withheld in violation of this title. No such administrative review process shall preclude, delay or in any way limit a person's remedies under the Brown Act or Public Records Act. Further, such administrative review process shall not be used against employees except the city manager and city attorney since other employees are subject to discipline at the discretion of their supervisor.

B. Such review process shall include an:

1. Appeal to the city manager who shall make a decision within seven days of the appeal. (This step shall not apply in cases involving the city manager or members of the city council.)

2. Appeal of the city manager's decision to either the commission or a three-member panel of city attorneys, at the option of the person appealing the decision. The commission or three-member panel of city attorneys, as the case may be, shall first review the matter to determine if they have jurisdiction over the matter. If the complaint involves allegations that meetings were held in violation of this title or records were withheld in violation of this title, then they have jurisdiction to hear the matter and may hear the matter in accordance with the procedures established by resolution of the open government commission. The decision on jurisdiction is final unless judicial review is initiated.

3. If the commission or a three-member panel of city attorneys reviews whether a meeting was in violation of this title or records were withheld in violation of this title, their decision may be appealed to the city council. The decision of the city council is final.

C. Enforcement.

1. Upon the conclusion of the administrative review process, as implemented pursuant to subsection (B) of this section, any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce his or her rights under this title.

2. A court may award costs and reasonable attorneys' fees to the plaintiff in an action brought pursuant to this section where it is found that a body has violated this title. The costs and fees shall be paid by the body and shall not become a personal liability of any public official or employee of the body.

3. If the litigation is judged to be frivolous by the court, the defendant body may assert its right to be paid reasonable court costs and attorneys' fees.

D. Mediation. Notwithstanding any other provision of law, any person whose request to inspect or copy public records has been denied by any body, agency or department may demand immediate mediation of his or her request with the Solano County courts mediation service or some mutually agreed-upon person who agrees to volunteer his or her time serving as mediator.

E. Cure and Correction.

1. Nothing in this title shall prevent a body from curing or correcting an action challenged on grounds that a body violated any material provision of Chapter 4.08 BMC. A body shall cure and correct an action by placing the challenged action on a subsequent meeting agenda for separate determinations of whether to cure and correct the challenged action and, if so, whether to affirm or supersede the challenged action after first taking any new public testimony.

2. In the event the commission, upon the conclusion of a formal hearing conducted pursuant to its administrative review process, determines that

a body violated any material provision of this title, the body shall agendize for the challenged action to correct and cure the violation. Any violation shall have no effect on those actions described in Government Code Section 54960.1(d)(1) – (4), inclusive.

F. Reports or Recommendations from Meetings Alleged to Have Been Held in Violation of This Title. If the sole purpose or nature of an action that is challenged for violation of this title is to make or convey an advisory report or recommendation to another body, such body shall not be precluded from hearing or taking action on the item if it is within the authority or jurisdiction for said body to hear or take action on the item in the absence of such report or recommendation.

G. Penalties. The penalty for violation of this title by an elected or appointed official shall be commensurate with the violation and may include penalties, such as censure, including findings of fact and a determination, which shall be given to media selected by the commission.

H. Limitation of Actions. No person may file a complaint with the commission alleging violation of the notice provisions of BMC 4.08.050 if he or she attended the meeting or had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken. (Ord. 07-08 § 1; Ord. 05-06 § 1).

4.20.030 Responsibility for administration.

A. The city manager shall administer and coordinate the implementation of the provisions of this title for all bodies, agencies and departments under his or her authority, responsibility or control.

B. The city attorney shall staff, or provide staff for, the commission to permit the commission to fulfill the functions and duties set forth herein. The city attorney shall provide the commission with legal assistance, to the extent such assistance does not constitute a conflict.

C. The city clerk in the case of the city council and the assigned department in the case of other bodies shall be responsible for timely posting all agendas and shall make available for immediate public inspection and copying all agendas and agenda-related material filed with it.

D. The city clerk or designee shall act as information request facilitator to assist members of the public with acquiring the information they seek. If it will take longer than 48 hours (excluding Saturdays, Sundays, and holidays) to obtain the information requested by a member of the public then the city clerk will provide a written concise explanation of how and when the information will be made available. (Ord. 05-06 § 1).

4.20.040 Enforcement of ethics chapter. The city council, and not the open government commission, shall be the enforcement body for alleged violations of Chapter 4.16 BMC. This process shall not be used against employees except the city manager and city attorney since other employees are subject to discipline at the discretion of their supervisor. In the event of an allegation of a violation of the ethics provisions of this title, the matter shall first be referred to the city attorney

for a determination as to whether there is a substantial likelihood that an ethics violation occurred. If substantial cause exists, the city council shall use the administrative process set forth above to resolve the matter except the option of referral to the commission in BMC 4.20.020(A)(2) shall be omitted. In the case of an allegation of an ethics violation committed by an elected official, the process shall proceed directly to the city council for a determination. (Ord. 05-06 § 1).

OPEN GOVERNMENT TIPS



OPEN GOVERNMENT TIPS FOR EFFECTIVE MEETINGS

DISCLOSE EX PARTE COMMUNICATIONS

BACKGROUND: In *quasi-judicial* matters, when the Council, Planning Commission, Historic Preservation Review Commission, Civil Service Commission or other Board or Commission is deciding the facts of a particular case applicable to a specific piece of property, an abatement matter, a use permit or variance, personnel appeals, license revocations, or an appeal of a lower level decision, it is extremely important for members of the decision-making body to refrain from contacting either party to the dispute or their attorneys. These types of *ex parte* (outside of the record) contacts can give rise to legal attack against the City for violation of due process rights. You are supposed to make your decision based solely on evidence produced at the hearing. If you have received evidence outside of the hearing, and the substance of that contact was not disclosed at the commencement of the hearing so as to give all parties an opportunity to respond and contest it, a court may find that the City's hearing violated the Constitutional due process rights of either party, thus subjecting the City to liability.¹ This policy applies to any *quasi-judicial* matter which is pending, or is reasonably expected to come, before the body on which the official sits.²

BEST PRACTICE – NO EX PARTE COMMUNICATIONS: In matters involving *quasi-judicial* decisions, particularly where the matter is controversial and being contested, and in any enforcement action or appeal of a prior decision, the best practice is for you to avoid all *ex parte* communications about the item. In these types of contested cases, you should refrain from contacting the parties or their attorneys, or getting involved in the dispute prior to the hearing, so as to preserve your ability to make your decision based solely on the evidence produced at the hearing.

DISCLOSURE OF EX PARTE COMMUNICATIONS: If you do get involved in an *ex parte* discussion, you must publicly disclose the substance of any such discussion at the start of the agenda presentation of the item. However, it is not enough just to indicate that you spoke to a party, such as the applicant, or to the neighbors who are contesting the application or project. To ensure due process, you need to disclose what was learned during the conversation so that all parties have an opportunity to respond.³

SITE VISITS: These types of matters should not be discussed during site inspections or field trips that are not part of an agenda meeting. Although individual site visits are allowed and encouraged, they should be disclosed so that your specific observations can be made part of the record.

LEGISLATIVE ACTS: In *legislative* actions, generally applicable to the city as a whole (such as most ordinances), not only is it appropriate to speak and receive information from your constituents, but that is part of your duties as elected and appointed officials. For Open Government purposes, it is suggested that you disclose the information you received outside of the hearing. This is because if the information is important for your decisionmaking process, it may also be important for the other decision makers to hear and consider.

¹ The concern regarding *ex parte* contacts only applies to *quasi-judicial* actions, where the decision making body is acting like a court.

² See also Benicia Municipal Code Section 4.08.160.

³ Any questions or concerns regarding *ex parte* communications and what should be disclosed on the record should be discussed prior to the meeting with the City Attorney.



OPEN GOVERNMENT TIPS FOR EFFECTIVE MEETINGS

HOW TO MAKE A MOTION

Background: In a public meeting, it is important for the public to understand what action is taken by the decision making body. It is not always easy to follow what action a public body is proposing if a motion is made that does not specify with sufficient detail the item and the actual action that is being proposed. This handout is designed to assist the public official in calling for action on both simple and complex items.

Simple Items With Little Or No Discussion: For certain items on the agenda, very little if any discussion is needed. Approval of the consent calendar is an example. If the mayor or chair asks for a motion to approve the consent calendar, an individual need merely to respond “so moved”¹ or “I move to approve the consent calendar.” This approach may be used for other actions by inserting the identity of the item to be approved.

More Complex Items With Discussion: For items involving a detailed staff report, complex issues, controversy or a great deal of public discussion, it is important for any motion to clearly identify what action is being proposed by the decision making body and the identity of the project or item. This eliminates confusion and allows anyone entering the meeting (or turning on the television) to understand what item is being discussed and the action that is being proposed. It also creates a clean record for the decision making body.

Staff reports generally include a “*recommendation*” section that can be read as an actual motion if this is the action that the decision making body wishes to follow. However, any deviation from the recommendation or changes in the conditions of approval must be cited. For example, a motion to approve a conditional use permit might be made as follows:

“I move to approve a conditional use permit for Good Grub Restaurant located at 360 Main Street to permit outdoor eating subject to the findings and conditions in the attached resolution, with the one change in condition #6 that the bar area must be closed at midnight.”

The illustrated motion contains the action, the description and location of the project, cites the resolution and the findings and conditions of approval, as well as a proposed change in one of the conditions of approval.

A decision not to follow a staff recommendation should include findings of fact to support the decision. For example, such a motion contrary to the one made above would be:

“I move to reject the application for a conditional use permit for outdoor eating to Good Grub Restaurant located at 360 Main Street based on the fact there are residential neighbors on two sides of the restaurant that are currently experiencing noise and other problems from the restaurant that would only increase if outdoor dining were permitted.”

If this motion were passed, staff would have sufficient information to prepare a resolution rejecting the application for a conditional use permit based on actual findings.

During a meeting, the City Attorney (or staff advisor if there is no City Attorney staffing the meeting) can assist in properly framing a motion if there is any question as to how an action should be proposed.

¹ This is because the motion requested has already been articulated.

CODE OF CONDUCT



City of Benicia Code of Conduct for Members of City Council, Boards, Commissions and Committees

Preamble

The residents and businesses of Benicia are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. The effective functioning of democratic government therefore requires that:

- Public officials, both elected and appointed, comply with both the letter and spirit of the laws and politics affecting the operations of government;
- Public officials be independent, impartial and fair in their judgment and actions;
- Public office be used for the public good, not for personal gain; and
- Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Benicia City Council has adopted a Code of Conduct for members¹ of the City Council and the City's commissions to assure public confidence in the integrity of local government and its effective and fair operation.

This Code of Conduct describes the manner in which Council Members should treat one another, city staff, constituents, and others they come into contact with in representing the City of Benicia.

The constant and consistent theme through the conduct guidelines is "respect." Council Members experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, elected officials are called upon to exhibit appropriate behavior at all times. These guidelines help guide Council Members to do the right thing in even the most difficult situations.

It is also recognized that Council Members have the duty to conduct City affairs in a business-like manner, assuring timely consideration of matters before them and thoughtful expeditious decision-making. These guidelines incorporating best practices among city governments can help guide Council Members to contribute to this end.

¹ For ease of reference in the Code of Conduct and unless the context indicates otherwise, the term "Council Member" or "member" refers to any member of the Benicia City Council or any of the City's boards, commissions or committees established by the City Council.

City of Benicia Code of Conduct

1. **Acts in the Public Interest**

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Benicia and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the City Council and the City's commissions².

2. **Comply with the Law**

Members shall comply with the laws of the federal government, the State of California and the City of Benicia in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the City Municipal Code, laws pertaining to conflict of interest, elections campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances, resolutions and policies. Members shall not solicit political support from City Staff (financial contributions, display of signs, name on support list, etc.).

3. **Conduct of Members**

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Council and commissions, the staff or the public.

4. **Respect for Process**

Members shall perform their duties in accordance with the processes and rules of order established by the City Council and commissions governing the deliberation of public policy issues, the involvement of the public, and the implementation of policy decisions of the City Council by City staff.

5. **Conduct at Public Meetings**

Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of the meetings. Members shall commit to practice civility and decorum in discussions and debates. Members shall commit to honoring the role of the Chair in maintaining order, keeping discussion on track, and focusing discussion on agenda items at hand. Members shall avoid debate and argument with the public. Members shall not engage in personal attacks of any kind under any circumstance.

6. **Decisions Based on Merit**

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

² For ease of reference in the Code of Conduct and unless the context indicates otherwise, the term "commissions" refers to any of the City's commissions, boards or committees established by the City Council.

- 7. Communication**
Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or commission, which they may have received from sources outside of the public decision-making process.
- 8. Conflict of Interest**
In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest.
- 9. Gifts and Favors**
Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
- 10. Confidential Information**
Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
- 11. Use of Public Resources**
Members shall not use public resources that are not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.
- 12. Representation of Private Interests**
In keeping with their role as stewards of the public interest, members of the Council shall not appear on behalf of the private interests of third parties before the Council or any commissions or proceedings of the City, nor shall members of commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
- 13. Advocacy**
Members shall represent the official policies or positions of the City Council or commissions to the best of their ability when designated as delegates. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Benicia, nor will they allow the inference that they do.
- 14. Policy Role of Members**
Members shall respect and adhere to the council-manager structure of city government as provided by state law and City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, commissions, and City Staff.

Members therefore shall not interfere with the administrative functions of the City or the professional duties of City Staff; nor shall they impair the ability of staff to implement Council policy decisions. Members should refrain from:

- Disrupting staff from the conduct of their jobs
- Involvement in administrative functions
- Attending staff meetings unless requested by staff

15. Independence of Boards and Commissions

Because of the value of the independent advice of commissions to the public decision-making process, members of Council shall refrain from using their position to influence the deliberations or outcomes of commission proceedings.

16. Positive Work Place Environment

Members shall support the maintenance of a positive and constructive work place environment for City employees and for residents and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

17. Implementation & Enforcement

As an expression of the standards of conduct for members expected by the City, this Code of Conduct is intended to be self-enforcing. It, therefore, becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, ethical standards shall be included in the regular orientation for candidates for City Council, applicants to commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming that they read and understand the City of Benicia Code of Conduct.

This Code shall be reviewed annually by the City Council and City commissions at the annual organization and procedures meeting of each body. At such meeting, Council Members and Commissioners shall sign a statement affirming they have read and understand the Code of Conduct.

The Benicia Code of Conduct expresses standards of ethical conduct expected for members of the City Council and commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The chairs of commissions and the Mayor have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Conduct are brought to their attention.

I affirm that I have read and understand the City of Benicia Code of Conduct.

Signature

Date

Print Name

CERTIFICATE OF COMPLETION

OPEN GOVERNMENT TRAINING Proof of Participation Certificate



Participant Name: _____

Board or Commission: Historic Preservation Review Commission

Course Date & Time: February 26, 6:30 p.m.

Location: Commission Room, City Hall

Eligible Credit: Requires Attendance for Entire Session

This course is an overview course on open government principles necessary to satisfy the requirements of Title 4 of the Benicia Municipal Code, including the following:

- The Brown Act
- Conflict of Interest Issues
- Ethics; and
- Due process.

This course also covers review of the City of Benicia Code of Conduct. It is not necessary to sign and return page 4 of the Code of Conduct when the material is included in this Open Government Training. Your signature on this document verifies that you have also completed this training.



To be completed by participant:

By signing below, I certify that I attended this session, participated in the activity described above and have read Title 4 of the Benicia Municipal Code and the Code of Conduct.

Participant Signature

NOTE TO PARTICIPANT: Please provide a copy of this proof of participation to the City Clerk. In addition, we recommend you make a copy of this proof of participation for your own records to retain for at least five years. **These certificates are only available at this program; duplicates will not be issued.**



BENICIA HISTORIC PRESERVATION REVIEW COMMISSION

**JOINT MEETING WITH
THE BENICIA PLANNING COMMISSION
CITY HALL COUNCIL CHAMBERS**

REGULAR MEETING MINUTES

**Thursday, January 22, 2009
6:30 P.M.**

I. CALL TO ORDER – JOINT MEETING OF PLANNING COMMISSION AND HISTORIC PRESERVATION REVIEW COMMISSION

A. Pledge of Allegiance

B. Roll Call of Commissioners

Planning Commission:

Present: Commissioners Bortolazzo, Healy, Sherry, Syracuse, Thomas, and Chair
Railsback

Absent: Commissioner Ernst

Historic Preservation Review Commission:

Present: Commissioners Crompton, Donaghue, Haughey, McKee, Taagepera, White
and Chair Mang

Absent: None

Staff Present:

Charlie Knox, Community Development Director

Damon Golubics, Principal Planner

Mike Marcus, Assistant Planner

Gina Eleccion, Management Analyst

Anne Cardwell, Administrative Services Director

Mario Giuliani, Management Analyst

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. PRESENTATIONS

A. STRATEGIC PLAN UPDATE 2009-2011

The Director of Administrative Services will present a staff report detailing the strategic plan update for 2009-2011. The strategic plan is a document that establishes, evaluates and prioritizes the City’s mission, vision, guiding principles, strategic issues, strategies, and related actions. The Commissions will be asked to identify and provide input on major priorities that relate to the Planning and Historic Preservation Review Commission responsibilities.

Anne Cardwell, Administrative Services Director gave a brief presentation. Charlie Knox suggested that HPRC Commissioners email their comments on the Strategic Plan items. Planning Commission will have an opportunity to address this at their February meeting.

B. COMMANDING OFFICER’S QUARTERS UPDATE AND REUSE

Staff will facilitate a presentation and discussion regarding the construction status of the Commanding Officer’s Quarters and note Commission and public input regarding reuse suggestions and comments.

Mario Giuliani, Management Analyst, gave a PowerPoint presentation. The Parks and Community Services Department is looking for feedback on reuse. They are currently in Phase 1 of the project, stabilizing the structure to prepare it for Phase 2. Phase 2 is for tenant improvements and landscaping. Public access is a mandatory requirement of the grant funding.

The public comment period was opened.

Marilyn Bardet – She would like to see historic tourism and protection of the Jefferson Ridge. She referenced the Arsenal Specific Plan. She suggested a conference center in that area, but can’t see this project moving forward until the Arsenal Specific Plan is adopted.

Belinda Smith – She is concerned with public access to city-owned historic structures. She is also concerned that this is being rushed and would like more public interest in the project.

A citizen spoke on the project and would like to see weddings at this facility.

A citizen stated her support for a designers' workshop to have more input in the project. She believes this would be a good site for a meeting/event center.

William Blair, 149 West J Street – He supports a restaurant and event center.

Planning Commissioners commented on the use. Commissioner Syracuse noted that this was a social center of the area. He gave historical facts about the property. He would like to see a restaurant in the space. Commissioner Healy questioned if other jurisdictions have gone through a similar situation and suggested researching this. He mentioned the possibility of a bond measure for overall citywide improvements.

Historic Preservation Review Commissioners commented on the use. Commissioner Haughey commented that historic restorations can be expensive. She suggested interim uses before leasing long-term. Commissioner McKee commented on the square footage of the structure. He suggested that there could be a restaurant and catering/event space. Commissioner Crompton questioned if the City has any existing needs for programs or activities.

Mario Giuliani noted that staff is looking into the possibility of access to hold a public meeting onsite. In addition, he noted that Carey and Company has been looking at this project globally, along with the Arsenal Specific Plan. Carey and Co. is looking at other jurisdictions for input on similar projects.

**IV. ADJOURNMENT OF JOINT MEETING WITH PLANNING COMMISSION;
CONTINUATION OF REGULAR MEETING OF HISTORIC PRESERVATION REVIEW
COMMISSION**

The joint meeting was adjourned at 7:17 p.m. A short recess was called. The regular meeting of the Historic Preservation Review Commission continued at 7:26 p.m.

Public Comment:

Belinda Smith commented that she was glad to see the presentation on the Commanding Officer's Reuse Study. She noted that there was a project at the Camel Barn Museum that did not comply with the Secretary of the Interior Standards. She would like a discussion and policy on how the City handles projects at city-owned properties.

Marilyn Bardet commented that the State Office of Historic Preservation recognizes landscapes. The setting is extremely important.

Jon Van Landschoot commented on the brick controversy at the IOOF. He suggested that any changes go back to the Commission.

Jim Conlow commented on the bricks at the IOOF. He believes this should have been returned to as close to original materials as possible.

The public comment period was closed.

V. CONSENT CALENDAR

Gina Eleccion noted that additional information was submitted for Item V-C and requested the item be pulled for discussion.

Commissioner Taagepera pulled Items V-B and V-D. In addition, she would like to separate Item VIII-A into 2 parts.

On motion of Commissioner Crompton, seconded by Commissioner Haughey, the Consent Calendar was approved, as amended above, by the following vote:

- Ayes: Commissioners Crompton, Donaghue, Haughey, McKee, Taagepera, White and Chair Mang
- Noes: None
- Absent: None
- Abstain: None

A. Approval of Agenda

The following Consent Calendar items were pulled for discussion.

B. Approval of Minutes of December 18, 2008

Commissioners commented on the minutes. The following changes were requested:

- Page 3 – Change language to reflect renovation of building, not “going up.”
- Page 4 – Language should reflect that the proposal be consistent with Roland-Nawi evaluation of the property and architectural style.
- Page 6 – Note Commissioner Haughey had previously requested a stop work order.
- Page 6 – Clarify repair vs. emergency. Also define “minor”. Commissioner Taagepera requested definitions of repair and emergency and separate out emergency and repair.

Gina Eleccion suggested discussing these definition issues at the February meeting.

On motion of Commissioner White, seconded by Commissioner McKee, the Minutes of December 18, 2008, were approved, as amended, by the following vote:

- Ayes: Commissioners Crompton, Donaghue, Haughey, McKee, Taagepera, White and Chair Mang
- Noes: None
- Absent: None
- Abstain: None

C. 145 EAST I STREET - *Public Hearing

08PLN-66 Minor Design Review
145 East I Street, APN: 89-051-110

PROPOSAL:

The applicant requests design review approval to add living area to back cottage, and to replace composition siding with common v-groove siding used on main house.

Gina Eleccion noted that revised plans were submitted for this project. She commented on the existing unit, the Mills Act contract, and the necessity for rehabilitation of this structure. Commissioners noted that the plans could have been more detailed.

Melani Sesin, Applicant – She noted that the only change to the exterior is the siding, which is compatible with previously approved siding on the primary structure.

Commissioners questioned if the roof slopes on both sides of the gable will match the structure. The applicant noted that the trim will match the house. There will be wood windows and a composition roof.

The public hearing was opened. No public comment. The public hearing was closed.

Commissioners questioned clarification of the CEQA exemption, as this is not a historic structure. Damon Golubics commented that there was discussion on this issue.

Commissioner Crompton questioned what this structure is classified as. Staff noted that this is an accessory structure.

The following modifications were requested:
Revise Condition #5 to reflect shingles, wood windows, corner trim, roof slopes,
Revise Condition #2 to reflect plans dated January 21, 2009

RESOLUTION NO. 09-1 (HPRC) - A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING A DESIGN REVIEW REQUEST FOR MODIFICATIONS TO A COTTAGE AT 145 EAST I STREET (08PLN-66)

On motion of Commissioner Donaghue, seconded by Commissioner White, the above Resolution was approved, as amended, by the following vote:

- Ayes: Commissioners Crompton, Donaghue, Haughey, McKee, Taagepera, White and Chair Mang
- Noes: None
- Absent: None
- Abstain: None

D. 127 FIRST STREET – TANNERY – *Public Hearing
 09PLN-1 Design Review
 127 First Street, APN: 89-244-050

PROPOSAL:

The applicant requests design review approval to replace existing windows and doors, and install additional windows to the west and south facing elevation of the existing building at 127 First Street, commonly known as The Tannery. The proposed materials are consistent with previous design review approval in April 2008. Additional exterior modifications will be presented to the Commission on February 26, 2009.

Damon Golubics, Principal Planner, gave an overview of the project. He noted that the current proposal is consistent with the Commission’s April 2008 approval. He noted that additional renovations will be coming before the Commission in February.

Commissioners questioned why the project is coming forward in pieces. Damon Golubics noted that the Commission can decide to either take action or continue this to hear the entire proposal in February. Staff noted that this was the applicants’ decision.

James Morgan, Applicant – He noted that this was not intended to be a piecemeal application. They would like approval on the windows so they can move forward ordering the materials. They intend to bring the rest of the project forward in February. In April 2008, there was no intention for additional window changes. He noted that the existing proposal is consistent with the previous approval.

Commissioners commented on other aspects of the design, but held their comments until the February meeting.

The public hearing was opened.

Jon Van Landschoot commented on the changes proposed. He is concerned with the piecemealing of the project.

Jim Conlow commented that the west side of the building is only visible from the water.

The public hearing was closed.

Commissioners noted that the Bay Trail will be going behind the property. Commissioners are pleased to see work being done. There will be additional discussion at the February meeting.

RESOLUTION NO. 09-2 (HPRC) - A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING MODIFICATIONS TO THE SOUTH AND WEST BUILDING FACADES OF THE TANNERY BUILDING LOCATED AT 127 FIRST STREET

On motion of Commissioner White, seconded by Commissioner Taagepera, the above Resolution was approved by the following vote:

- Ayes: Commissioners Crompton, Donaghue, Haughey, McKee, Taagepera, White and Chair Mang
- Noes: None
- Absent: None
- Abstain: None

VI. REGULAR AGENDA ITEMS

- A. 726 FIRST STREET - RELLIK TAVERN (formerly PASTIME) FAÇADE IMPROVEMENTS**
08PLN-58 Design Review

726 First Street, APN: 89-341-010

PROPOSAL:

The applicant requests design review approval to modify the west and east facing elevations of a preexisting building. West-facing (front) façade modifications include the removal of all existing signage, removal of paint to restore brick color, a new entrance door and a new shingle sign, illuminated by two small spotlights. East-facing (rear) modifications are limited to a porch enclosure around the existing wood deck and a 10' planter box, visible from the alley.

Recommendation: Approve a Design Review request for exterior façade improvements at 726 First Street, based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

Commissioner McKee noted he is the architect on the project and has to recuse himself from the discussion.

Mike Marcus, Assistant Planner, distributed additional photos and color board materials on the project. He gave a brief overview of the project. He noted the interior modifications proposed. Comments from the December 18, 2008 workshop were taken into consideration by the applicant. Mike Marcus noted that additional material information was submitted for the Commission's review.

Commissioners commented on the painting of the brick and the proposed door. Staff noted that the Commission's feedback on materials was given to the applicant.

Christine Passalacqua was introduced to answer questions on the materials proposed. She noted that painting the brick is an option proposed, but they are open to suggestions.

Commissioners commented that they would like the door style to be compatible with the Moderne architecture. Commissioners had no objection to painting the brick. Mike Marcus noted that existing material can barely be classified as brick as it is thin layers of masonry.

Commissioners commented on historic photos of the building. In addition, the door was discussed. Christine Passalacqua noted that the proposed door would be ADA compliant.

The public hearing was opened.

Jon Van Landschoot commented on the project. He commented on the signage of the building being historic and believes it is a character defining feature.

The public hearing was closed.

Commissioners discussed the project. Paint color was discussed. Commissioners stated concerns with the door and the sign, particularly in relation to the Moderne style of architecture. There is a question as to the age of the sign. There was a suggestion to use glass on the doors and incorporate glass block.

Commissioner Haughey provided information on the sign. Ideally, she would like the neon sign left there. It is unknown if the sign is historic. If the sign is removed, the Camel Barn Museum would be happy to take it.

Christine Passalacqua noted that the sign was replaced and is not historic. The previous business owner may be willing to donate the sign to the Museum. Commissioner Donaghue noted that the hardware on the sign is new.

Approve with modifications:

- 1. Door shall be of Moderne style, compatible with existing doors on First Street, particularly Piccolo.
- 2. Side panel to be glass or glass block with wood trim, as approved by staff.

RESOLUTION NO. 09-3 (HPRC) - A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING EXTERIOR FAÇADE IMPROVEMENTS AND A REAR PORCH ENCLOSURE AT THE RELLIK TAVERN (formerly PASTIME) ON A BUILDING LOCATED AT 726 FIRST STREET

On motion of Commissioner Taagepera, seconded by Commissioner White, the above Resolution was approved, with above modification, by the following vote:

- Ayes: Commissioners Crompton, Donaghue, Haughey, Taagepera, White and Chair Mang
- Noes: None
- Absent: None
- Abstain: Commissioner McKee

Mike Marcus gave information on the DHCP Guidelines regarding doors. Commissioners discussed the ADA issue with the door. The applicant noted that the sidelight panel is there because of the approach of the door.

A recess was called at 9:28 p.m. The meeting was reconvened at 9:40 p.m.

VII. COMMUNICATIONS FROM COMMISSIONERS

None.

VIII. COMMUNICATIONS FROM STAFF

A. DISCUSSION ON COMMISSIONER TAAGEPERA’S MEMO ON PRESERVATION ISSUES – Continued from December 18, 2008

Commissioner Taagepera submitted a memo related to preservation issues, with particular emphasis on the designation of Portuguese-influenced properties. The Commission requested this be agendaized for discussion.

Recommendation: Discuss Commissioner Taagepera's memo, including the action of the September 25, 2008 HPRC meeting regarding Portuguese-influenced properties. If the Commission finds that the approved minutes and resolution contain errors, direct staff to bring a revised resolution and amended minutes for approval on February 26, 2009.

1. Discussion on Commissioner Taagepera's memo.

Staff and Commissioners discussed the issues raised in Commissioner Taagepera's memo. Staff noted that many of the items raised are supported by staff, but require funding that may be difficult to get. Commissioners commented on the amount of work that needs to be done. The Priority List of Discussion Items was discussed. The Commission would like a resolution to Council confirming the priorities and need for funding. There was a suggestion to have the Chair address Council on the work of the Commission.

2. Discussion on the listing status of the Portuguese properties related to the historic resource inventory.

Gina Eleccion noted that there is a difference in opinion as to what happened at the September 25, 2008 meeting regarding the listing of the Portuguese influenced properties. The Commission is being asked to provide direction to staff as the action taken. Commissioner Taagepera gave an overview of the actions at the meeting. She believes that the Portuguese properties were recommended for listing. Commissioner Haughey believes the 12 properties were going to remain as contributors.

Gina Eleccion noted that it is common for staff to present a recommendation that the Commission modifies at the meeting. That is what happened regarding the Portuguese properties. The language in the minutes reflects that.

Commissioner Taagepera commented that she watched the tape and does not believe these buildings were delisted.

Commissioners commented on what transpired at the meeting.

Commissioner Taagepera stated for the record that she did not vote to delist the Portuguese properties.

On motion of Commissioner Haughey, seconded by Commissioner Taagepera, the Commission recommended amending the minutes and resolution to reflect an error and clarify that the Portuguese properties are to be listed, by the following vote:

Ayes: Commissioners Haughey and Taagepera
 Noes: Commissioners Crompton, Donaghue, McKee, White and Chair Mang
 Absent: None
 Abstain: None

The motion to amend the minutes and resolution did not carry.

B. STATUS REPORT: 721 FIRST STREET (IOOF BUILDING)

The Commission requested a status report and discussion on construction activity at 721 First Street.

Gina Eleccion gave a history of the project. She noted that red brick was proposed, but was not installed. Charlie Knox viewed the site after brick was already up and determined that it should be left. In addition, she noted that there was a lot of interest from the community and Council, and a desire to have the work completed.

Commissioner Haughey noted that there is a lot of work that needs to be done, but it should be approved by the Commission. Commissioners would like to have the building fixed by replacing the brick with red brick. Consensus of the Commission was to bring this back as an action item. Staff will get a legal opinion on what we can legally require of the applicant.

C. CERTIFIED LOCAL GOVERNMENT (CLG) ANNUAL REPORT

Staff will present the CLG Annual Report to the Commission for review and discussion.

Gina Eleccion gave an overview of the report.

Commissioners commented on the qualifications. Gina Eleccion noted that these are recommended qualifications. The City is looking at amending the Benicia Municipal Code to allow non-resident Commissioners. This would open the process up to more individuals.

The report was discussed in terms of goals and budget. Gina Eleccion noted that the next year will be challenging. Staff will be looking for creative ways to comply with training requirements.

IX. ADJOURNMENT

Chair Mang adjourned the meeting at 11:05 p.m.

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING:
FEBRUARY 26, 2009
CONSENT CALENDAR

DATE : February 19, 2009

TO : Historic Preservation Review Commission

FROM : Mike Marcus, Assistant Planner

SUBJECT : **DESIGN REVIEW FOR EXTERIOR REPAIRS**
AT THE RELLIK TAVERN (formerly PASTIME)

PROJECT : 726 First Street
08PLN-58 Design Review
APN: 89-341-010

RECOMMENDATION

Approve a Design Review request for exterior repairs at 726 First Street, based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

EXECUTIVE SUMMARY

The owners of the Rellik Tavern request design review approval to repair the south (alley) and east (rear) walls of the structure located at 726 First Street. Internal tenant improvements resulted in the need to remove the inadequate walkway facing the alley; upgrade the plywood siding of the south and east facing walls with stucco to match the remainder of the structure; and, to reconstruct the existing trash enclosure.

BUDGET INFORMATION

There are no anticipated budgetary implications.

ENVIRONMENTAL ANALYSIS

Staff has determined that this project is Categorically Exempt under Section 15331 of the State of California Environmental Quality Act (CEQA), which states that work on historic resources that is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* is categorically exempt from further CEQA review.

BACKGROUND

Applicant/Owner: DiZy Enterprizes – Delando and Zoe Pegan

General Plan designation: Downtown Commercial

Zoning designation: Town Core

Existing use: Bar and Card Room (Pastime)

Proposed use: Bar (Rellik Tavern)

Adjacent zoning and uses:

North: Town Core; Commercial (Benicia Home Improvement Center)

East: Town Core; Public & Semi-Public, Commercial (State Capitol Building, Randy's)

South: Town Core; Commercial (Randy's Catering)

West: Town Core – Open; Vacant lot

SUMMARY

A. Project Description

The owners of the Rellik Tavern received Design Review approval on January 22, 2009 for exterior improvements to a structure identified by the Downtown Historic Conservation Plan as being a *Contributing* historic structure. Design Review approval included façade modifications and an open-air rear porch structure. A building permit for interior tenant improvements was issued on January 6, 2009 and a separate building permit for interior demolition work was issued on January 29, 2009. Through the process, the general contractor and architect discovered that highly unsatisfactory conditions existed, including:

- Substandard framing (sizes and connections)
- Dry rot in floor and some roof framing
- Lack of a concrete foundation for most of this area
- Substandard ceiling height (per California Building Code standards)

The proposed revision will result in a framed building acceptable to building code standards with adequate ceiling height as well as the elimination of out-of-plumb walls currently in place. The height of the remodeled area will increase approximately 18”.

Performing the interior repairs will affect the plywood exterior on the south-facing alley side of the structure, resulting in the need to remove the non-historic, covered walkway that currently projects into the City's right-of-way. City building permit records indicate that the structure was constructed in August 1980.

The applicant proposes removing the existing structure and existing doors, which were constructed as part of the 1980 building permit, and replacing the patchwork of plywood siding with stucco siding. In addition, construction of the new foundation will require removal and replacement of the existing wood trash enclosure. In order to differentiate the existing stucco siding with the proposed new stucco siding, staff recommends a

condition of approval requiring a piece of vertical trim to be placed at the location of the transition from old to new, as well as adding a bellyband around the new construction.

B. Project Analysis

1. Consistency with the Secretary of Interior's *Standards*

This project is consistent with the Secretary of Interior's Standards for Rehabilitation, as outlined in the attached checklist.

2. Consistency with the Downtown Historic Conservation Plan

This project is consistent with the Downtown Historic Conservation Plan which contains Design Guidelines for Historic Buildings. In keeping with *Policy 4: Appropriate Materials, Color and Finishes, Guideline 4.1* (p55), the re-siding of the east portion of the south-facing façade and of the east-facing façade includes replacement of the plywood siding with a new stucco finish, similar to that of the original material used throughout the remainder of the structure. This aspect of the project is also consistent with *Guideline 1.5 of Policy 1: Design Integrity* (p53), which states that additions should employ the same materials as the original structure. The aforementioned plywood siding was added as part of a previous addition prior to design guidelines being in place. Thus, staff supports the applicant's desire to upgrade the existing plywood to stucco, effectively meeting the intent of this guideline.

In addition, the project is consistent with *Guideline 2.2 of Policy 2: Design and Screening* (p56), whereas the refuse screening area shall be located in an area accessible from the rear parking lot and shall consist of a 6-foot solid wood wall with a roof enclosure.

3. Consistency with the General Plan

The City of Benicia General Plan Goal 3.1 is to "Maintain and enhance Benicia's historic character." By removing the existing plywood siding and improving the aesthetic appeal of the building, without threatening its historic integrity, the project is consistent with General Plan Goal 3.1.

C. Conclusion

Staff recommends that the Historic Preservation Review Commission approve the request for exterior repair at 726 First Street, based on the findings and subject to the conditions listed in the proposed resolution.

FURTHER ACTION

The Historic Preservation Review Commission's action will be final unless appealed to the Planning Commission within ten business days.

Attachments:

- Checklist for the Secretary of the Interior's *Standards for Rehabilitation*
- Draft Resolution
- Project Plans (date stamped February 11, 2009)
- DPR 523 A & B forms
- Planning Commission Use Permit Resolution No. 08-13
- HPRC Design Review Resolution No. 09-3
- Photographs

**CHECKLIST FOR THE SECRETARY OF THE
INTERIOR'S STANDARDS FOR
REHABILITATION**

Secretary of Interior's Standards for Rehabilitation
Design Review (08PLN-0058)
726 First Street, Benicia, CA

Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

An assumption is made prior to work that existing historic fabric has become damaged or deteriorated over time and, as a result, more repair and replacement will be required. Thus, latitude is given in the **Standards for Rehabilitation and Guidelines for Rehabilitation** to replace extensively deteriorated, damaged, or missing features using either traditional or substitute materials.

The bold text is the applicable Secretary of Interior's Standard for Rehabilitation guideline. The regular text is staff's response about how the particular guideline or policy relates to the proposed project.

1. **A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.**
The existing use as an alcohol beverage establishment will remain the same.

2. **The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.**
This project does not propose the removal of any distinctive materials that characterize the historic designation of the property. The plywood siding proposed for removal is part of an addition to the original structure and is not compatible with the primary materials used on the historic structure.

Removal of the existing walkway structure that is located in the City's public right-of-way is consistent with this Standard because building permit records indicate that it was constructed in August of 1980, which is not within the period of significance.

3. **Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.**
There are no proposed additions or changes that will create a false sense of historical development. The change in material to portions of the south-facing and east-facing façades will be differentiated by means of vertical trim and a bellyband, per the project's conditions of approval.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

This project does not propose changes to any features that have acquired historic significance. Building permits indicate that the walkway on the south side of the structure is not historic.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

The rehabilitation work plan included in the design review application and draft contract would preserve the distinctive materials, features, finishes and construction techniques of the property, which in this case is the stucco siding of the original structure.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

The proposed project does not involve the disturbance or alteration of any of the historic elements of the building.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

The proposed project does not involve the use of chemical or physical treatments.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

None of the proposed work is expected to disturb archeological resources.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

The addition of the screen structure on the rear porch will not destroy historic materials, features or spatial relationships. The new construction will be clearly differentiated from the old, while being compatible with historic materials, features, size, scale and proportion and massing. A piece of vertical trim between the existing stucco siding and the new stucco siding will differentiate new from old; in addition, a bellyband on the new stucco will further differentiate new from old.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
The reconstruction of the trash enclosure will not impact the historic structure.

DRAFT RESOLUTION

RESOLUTION NO. 09- (HPRC)

**A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW
COMMISSION OF THE CITY OF BENICIA APPROVING EXTERIOR
REPAIRS AT THE RELLIK TAVERN (formerly PASTIME) ON A BUILDING
LOCATED AT 726 FIRST STREET**

WHEREAS, Delando and Zoe Pegan of DiZy Enterprises, have requested Design Review approval for exterior repairs at 726 First Street; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on February 26, 2009 conducted a public hearing and reviewed the proposed project;

NOW, THEREFORE, BE IT RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby approves exterior repairs at 726 First Street; and

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission finds that:

- a) The proposed project is consistent with the objectives and the applicable provisions of Title 17 of the Benicia Municipal Code, the Downtown Mixed Use Master Plan, and the Downtown Historic Conservation Plan because it enhances the building's historic integrity;
- b) Removing the non-historic walkway on the south-facing facade, removing non-historic doors associated with the walkway, stucco-ing the repaired siding, and reconstructing the dilapidated trash enclosure is in keeping with the Secretary of the Interior's *Standards*, as specified in the Secretary of the Interior's Checklist for Rehabilitation for the project
- c) The vertical trim and bellyband located in the area of the new stucco adequately differentiates new construction from the existing historic characteristics;
- d) The proposed exterior repairs and the proposed conditions of approval are consistent with the Downtown Historic Conservation Plan and Title 17 of the Benicia Municipal Code and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of the proposed project, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city because they remove a potential hazard from the public right-of-way;

BE IT FURTHER RESOLVED THAT the Benicia Historic Preservation Review Commission hereby approves the proposed project subject to the following conditions:

1. The plans submitted for the building permit, development and construction shall substantially comply with the submitted elevations date stamped February 11, 2009, prepared by Steve McKee, Architect, consisting of 1 sheet, on file with the Community Development Department, except as modified by the following conditions.
2. The project shall adhere to all conditions required by Planning Commission Use Permit Resolution No. 08-13 and Historic Preservation Review Commission Design Review Resolution No. 09-3.
3. Vertical trim shall be added at the location of the building where new stucco siding meets existing stucco siding.
4. A bellyband shall be added on the new portion of the south-facing stucco façade to differentiate new construction from existing conditions.
5. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
6. Any alteration of the approved plans, including substitution of materials or colors, shall be requested in writing and approved by the Community Development Director or designee prior to changes being made in the field.
7. Construction activities shall meet all municipal code requirements for hours of operation. Construction equipment shall be adequately muffled and controlled. These requirements shall be made a condition of all related contracts for the project.
8. This approval shall expire two years from the date of approval, unless made permanent by the issuance of building permits and the commencement of construction. The applicant may request in writing a one-year extension from the Community Development Director.
9. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Historic Preservation Review Commission, Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend,

indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * *

On motion of Commissioner , seconded by Commissioner , the above Resolution was adopted by the Historic Preservation Review Commission of the City of Benicia at a regular meeting of said Commission held on February 26, 2009 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Chuck Mang
Historic Preservation Review Commission Chair

PROJECT PLANS

**DEPARTMENT OF PARKS AND
RECREATION FORMS 523 A & B**

State of California — The Resources Agency
 DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #: _____
 HRI # _____
 Trinomial _____
 NRHP Status Code: _____
 Other Listings _____
 Review Code _____ Reviewer _____ Date _____

*Resource Name or #: 726 First Street

- P1. Other Identifier:**
***P2. Location:** *a. County Solano
 b. Address: 726 first Street
***c. City:** Benicia Zip 94510
 d. UTM: N/A
 e. USGS Quad: Benicia T2N R3W MDM
***f. Other Locational Data (APN #):** 89-341-01

***P3a. Description**

This is a 20th century, one-story commercial block. Rectangular in plan, it has a flat roof with a stylized geometric pediment. There are multiple storefronts with recessed entries and flat store front windows along the front elevation. A clerestory runs in a band above the store front windows, but has been covered in the center of the building. One of the store fronts on the south side of the building has been enclosed to accommodate a bar. This has altered the appearance of the building which originally consisted of continuous store fronts.

***P3b. Resource Attributes:** HP6

***P4. Resources Present:** Building Structure Object Site District Element of District

P5b. Description of Photo:

Front façade, view northeast

***P6. Date Constructed/Age:** Circa 1930
 Prehistoric Historic Both

***P7. Owner and Address:**
 Patrick Leary Estate

P5. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



1020 Briones Rd
 Martinez, CA 94553

***P8. Recorded by:**

Carol Roland
 Roland-Nawi Associates
 4829 Crestwood Way
 Sacramento, CA 95822

***P9. Date Recorded:** 11-20-04

***P10. Type of Survey:** Intensive
 Reconnaissance Other

Describe Eligibility Evaluation

***P11. Report Citation:** none

***Attachments:** NONE Map Sheet Continuation Sheet Building, Structure, and Object Record Linear Resource Record Archaeological Record District Record Milling Station Record Rock Art Record Artifact Record Photograph Record Other (List):

BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Identifier: 726 First Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name:

B3. Original Use: Commercial

B4. Present Use: Commercial

*B5. Architectural Style: Moderne

B7. Moved? No Yes Unknown

Date: N/A Original Location: same

*B8. Related Features: None

B9a. Architect: unknown

B9b. Builder: unknown

*B10. Significance: Theme: Benicia Downtown District Period of Significance: 1847-1940

Property Type: Commercial Applicable Criteria: A / C

This commercial building continues the pattern of contiguous shop blocks along First Street that was established in the 19th century. Relatively simple in design, the pediment and cornice treatment make an allusion to the Moderne Style which was popular in the 1930s and 1940s. With the Majestic Theater and the commercial building at 120 H Street, it is one of the few examples of 20th century moderne architecture in the town. Unfortunately the enclosure, or removal, of the store front façade in the center of the building and the removal or covering of the clerestory has adversely affected the building's integrity. Because it retains its original form and many of the other storefront features, the building may have potential for rehabilitation. This should be considered in any future review of proposals for alterations. The building is a contributor to the Downtown Historic District. However, the poor integrity of the building makes this designation fragile and any further changes should be carefully evaluated.

B11. Additional Resource Attributes: N/A

B12. References: McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred Knopf (1986); Bruegmann, Robert. *Benicia Portrait of an Early California Town: An Architectural History* (San Francisco: 101 Productions (1980); Woodbridge, Sally and Cannon Design Group. *Benicia, California: Downtown Historic Conservation Plan*. City of Benicia, 1990; Sanborn Map Benicia, CA. 1886; 1986 Benicia Historic Inventory form.

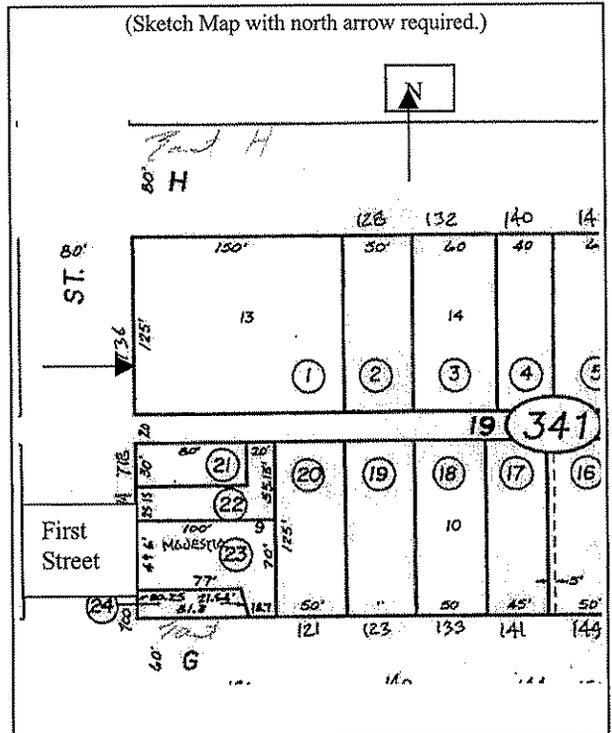
BUILDING, STRUCTURE, AND OBJECT RECORD

Remarks: N/A

B14. Evaluator: Carol Roland, Ph.D.

Roland-Nawi Associates: Preservation Consultants
4829 Crestwood Way
Sacramento, CA 95822

B 15. Date of Evaluation: 11-22-04



(This space reserved for official comments.)

**PLANNING COMMISSION USE PERMIT
RESOLUTION NO. 08-13**

RESOLUTION NO. 08-13 (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A USE PERMIT FOR A BAR ESTABLISHMENT WITH LIVE ENTERTAINMENT AT 726 FIRST STREET

WHEREAS, Mr. Delando Pegan of DiZy Enterprises, has requested Use Permit approval for a bar establishment with live entertainment at 726 First Street; and

WHEREAS, the Planning Commission at a regular meeting on December 11, 2008 conducted a public hearing and reviewed the proposed project.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Commission of the City of Benicia hereby approves the bar establishment with live entertainment at 726 First Street.

BE IT FURTHER RESOLVED THAT the Planning Commission finds that:

- a. The proposed use is categorically exempt from California Environmental Quality Act review under Guidelines Section 15301, which applies to interior and exterior alterations of existing facilities.
- b. The proposed uses are consistent with the objectives and other provisions of Title 17 of the Benicia Municipal Code and with the Downtown Mixed Use Master Plan, which allows for bar establishments and live entertainment in the Town Core zoning district, subject to the conditions listed below.
- c. The proposed conditional use is required to comply with the provisions of the Noise Ordinance (BMC Chapter 8.20), as well as with all other City ordinances, as discussed in the staff report.
- d. The proposed bar and restaurant are consistent with the goals, policies, programs, and maps of the General Plan. Specifically, the proposal is consistent with General Plan Goal 2.12 B (p. 48), "Work to attract economically viable businesses that will create night-life Downtown such as restaurants, cafes, movie theaters, and other entertainment uses."

BE IT FURTHER RESOLVED THAT the Benicia Planning Commission hereby approves the proposed project subject to the following conditions:

1. The plans submitted for approval and development of the site shall be in substantial compliance with the plans date stamped "October 20, 2008" prepared by Steve McKee, attached as an exhibit and on file with the Community Development Department.

2. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
3. Hours shall not exceed 6:00 a.m. to 2:00 a.m., seven days per week.
4. Pursuant to the City Attorney's legal opinion regarding the State of California Labor Code, the smoking lounge portion of this proposal shall not be allowed.
5. Exterior alterations shall obtain necessary design review approvals from the Historic Preservation Review Commission (HPRC). Following HPRC design review approval, the applicant shall submit the final design of the enclosed outdoor patio to the Planning Commission for final review and consideration.
6. No alcohol service/table service shall be permitted in the enclosed patio area.
7. Outdoor enclosed patio design shall address noise attenuation, create a buffer between the commercial bar use and neighboring residential uses, provide a secure environment that can be monitored by Rellik staff, and maintain all legal exiting requirements. Rear door from establishment to patio shall have a self-closing mechanism.
8. Indoor live entertainment shall be limited to the following hours:
 - Monday - Thursday: 6 p.m. to 10:00 p.m.
 - Friday: 5 p.m. to 1:00 a.m.
 - Saturday: 12:00 p.m. to 1:00 a.m.
 - Sunday: 12:00 p.m. to 10 p.m.
9. Solo acoustical musicians/instrumentalists requiring amplification shall be exempt from Condition #8.
10. Amplified music shall be permitted to occur twelve (12) times per calendar year. The applicant shall provide the Community Development Department and the Police Department with seventy-two (72) hours of notice prior to each event.
11. On a case-by-case basis, the permittee may request exemption from the hours of operation of indoor live entertainment (Condition #8) for any city-wide event. The request shall be made in writing to the Community Development Department at least seventy-two (72) hours prior to event. Such events shall not count towards the permittee's allotted twelve (12) live entertainment events per calendar year.
12. Noise levels from the site shall comply with the standards contained in the Noise Ordinance, BMC Chapter 8.20. Pursuant to BMC 8.20.080(C), sound

sound levels emanating from sound-amplifying equipment shall be limited to seventy-five (75) decibels, as measured from the property line.

13. Live entertainment shall not take place in any exterior area at any time. Music from interior performances shall not be transmitted to outdoor areas; doors and windows shall remain closed during all live entertainment performances.
14. The total number of occupants present at live entertainment events shall not exceed the total allowed occupant capacity of the bar, which shall be posted in compliance with the Uniform Building Code.
15. In the case of a private event, Licensee(s) shall provide written notification to the Investigation Commander of the Benicia Police Department at least two (2) weeks prior, concerning all contracted events occurring on the premises. Notification shall include the date of the event, the start and end time, and estimated number in attendance. If the contracted event is agreed upon prior to the two (2) week period of the occurrence, the licensee(s) shall notify the Investigation Commander of the Benicia Police Department in writing within 24 hours of the contracted event.
16. Current contact information for all business owners shall be on file with the Police Department and the Community Development Department; any changes shall be reported to both departments within 15-calendar days.
17. The operator of the establishment shall be responsible for monitoring clients' behavior both inside and outside the building to avoid excessive noise or disturbance to the neighborhood.
18. No alcohol shall be consumed outside of the business establishment, other than in the enclosed outdoor patio area.
19. All employees shall attend the Responsible Beverage Service training; certificates must be renewed and kept current in the time frame established by the program, and certificates must be kept at the establishment and available upon request.
20. Owner / Manager shall attend all restaurant and / or bar owner meetings called by the Chief of Police.
21. The applicant shall obtain all proper permits required by the Solano County Health and Social Services Department for light food service prior to food service operation. The applicant shall obey all Health Department general conditions, laws, and regulations relative to their food service operation.
22. This establishment is subject to all requirements of the Fire and Life Safety Division, in relation to enforcement of Uniform Building Code and Fire Code

23. The applicant shall obey all subsequent ABC general conditions, laws, and regulations relative to their liquor license.
24. Use Permit conditions of approval shall be reviewed on an as needed basis by the Community Development Department and Police Department.
25. In the event of violations of the conditions of this permit, the Community Development Director and the Police Department may refer the Use Permit to the Planning Commission for subsequent review, potential modifications to conditions of approval, or potential revocation of the Use Permit, pursuant to BMC Chapter 17.104.090 and Chapter 17.128.060.
26. All exterior modifications will require Design Review approval from the Historic Preservation Review Commission.
27. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * *

On motion of Commissioner Ernst, seconded by Commissioner Syracuse, the above Resolution was adopted by the Planning Commission of the City of Benicia at a regular meeting of said Commission held on December 11, 2008 by the following vote:

Ayes: Commissioners Ernst, Syracuse, Thomas
Noes: Vice Chair Healy
Absent: Chair Railsback
Abstain: Commissioners Bortolazzo and Sherry



Dan Healy
Planning Commission Vice Chair

**HISTORIC PRESERVATION REVIEW
COMMISSION DESIGN REVIEW
RESOLUTION NO. 09-3**

RESOLUTION NO. 09-3 (HPRC)

**A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW
COMMISSION OF THE CITY OF BENICIA APPROVING EXTERIOR
FAÇADE IMPROVEMENTS AND A REAR PORCH ENCLOSURE AT THE
RELLIK TAVERN (formerly PASTIME) ON A BUILDING LOCATED AT
726 FIRST STREET**

WHEREAS, Delando and Zoe Pegan of DiZy Enterprises, have requested Design Review approval for exterior façade improvements and a rear porch screen structure at 726 First Street; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on January 22, 2009 conducted a public hearing and reviewed the proposed project;

NOW, THEREFORE, BE IT RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby approves exterior façade improvements and a rear porch screen structure at 726 First Street; and

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission finds that:

- a) The proposed development is consistent with the objectives and the applicable provisions of Title 17 of the Benicia Municipal Code, the Downtown Historic Conservation Plan and the Secretary of the Interior's *Standards*;
- b) By removing non-historic, nonconforming signage, painting the façade and retaining door and window proportions, the proposed improvements retain traditional façade elements, proportions and architectural details which give historic buildings their special character;
- c) The architectural design of the rear patio screening structure employs the same materials, and similar opening proportions and clearly distinguishes old from new;
- d) The proposed façade modifications and the proposed conditions of approval are consistent with the Downtown Historic Conservation Plan and Title 17 of the Benicia Municipal Code and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of the proposed project, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city;

BE IT FURTHER RESOLVED THAT the Benicia Historic Preservation Review Commission hereby approves the proposed project subject to the following conditions:

1. The plans submitted for the building permit, development and construction shall substantially comply with the submitted elevations date stamped January 8, 2009 prepared by Steve McKee, Architect, consisting of 3 sheets marked, attached to this resolution, on file with the Community Development Department, except as modified by the following conditions.
2. The plans submitted for the building permit, development and construction shall substantially comply with the color and material board, prepared by Steve McKee, Architect, date stamped January 7, 2009.
 - a. Door shall be of Moderne style, characterized by wood and glass construction, consistent with the door shown in Exhibit A (Piccolo). Sidelight, directly adjacent to door, shall be glass or glass block with wood trim. Prior to installation, the final design of the door and sidelight shall require Community Development Department staff-level approval.
3. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
4. Any alteration of the approved plans, including substitution of materials or colors, shall be requested in writing and approved by the Community Development Director or designee prior to changes being made in the field.
5. Construction activities shall meet all municipal code requirements for hours of operation. Construction equipment shall be adequately muffled and controlled. These requirements shall be made a condition of all related contracts for the project.
6. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Historic Preservation Review Commission, Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * *

On motion of Taagepera, seconded by Commissioner White, the above Resolution was adopted by the Historic Preservation Review Commission of the City of Benicia at a regular meeting of said Commission held on January 22, 2009 by the following vote:

Ayes: Commissioners Crompton, Donaghue, Haughey, Taagepera, White and
Chair Mang
Noes: None
Absent: None
Abstain: Commissioner McKee

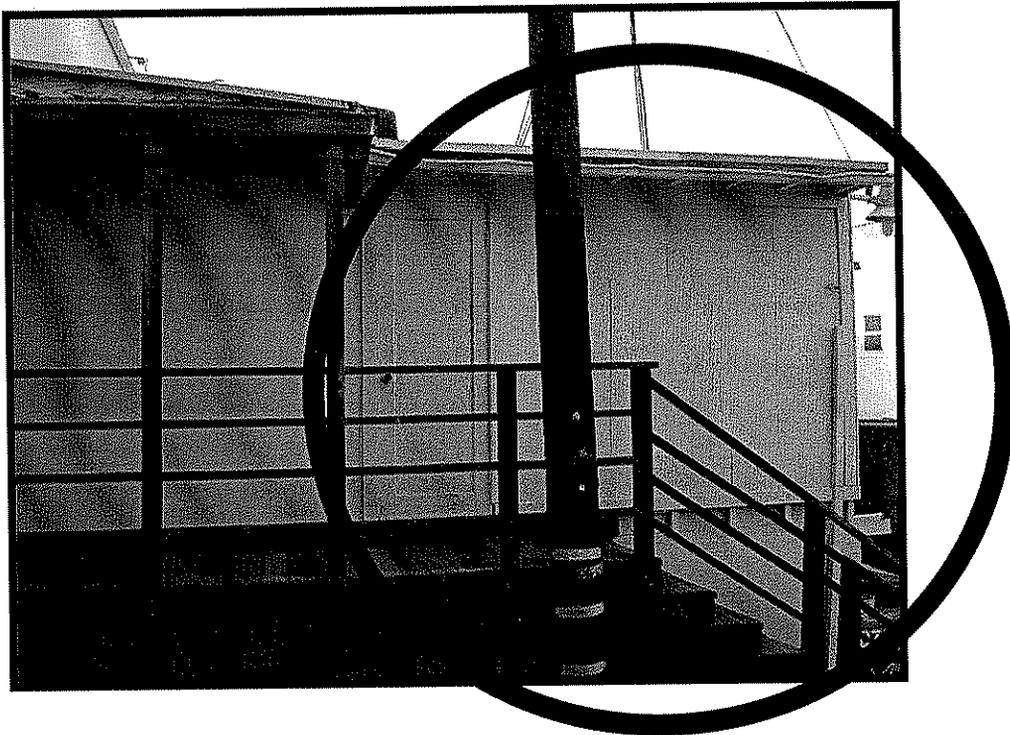


Chuck Mang
Historic Preservation Review Commission Chair

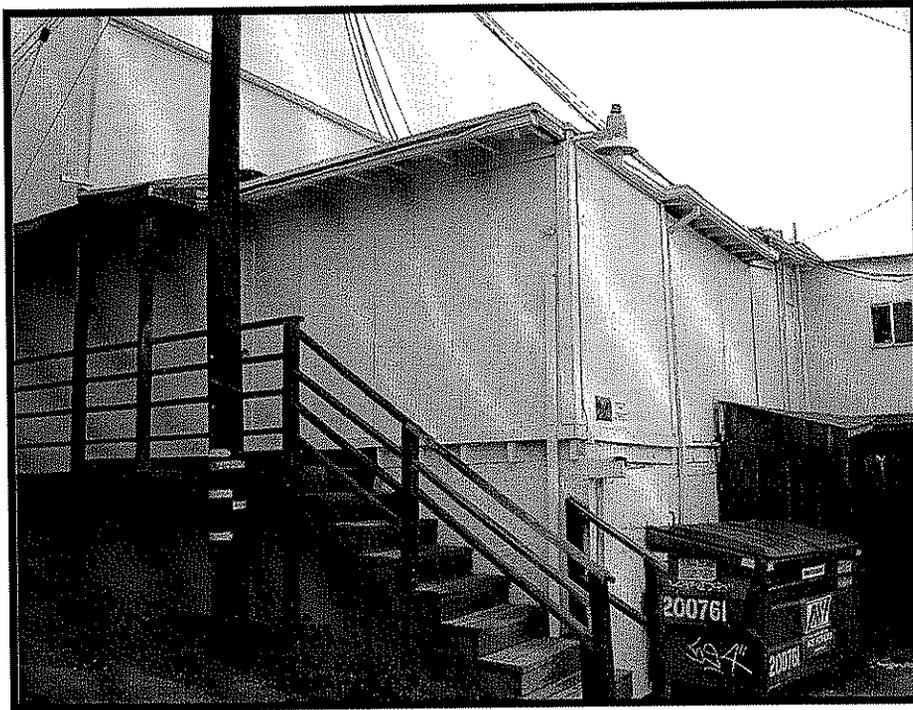
PHOTOGRAPHS



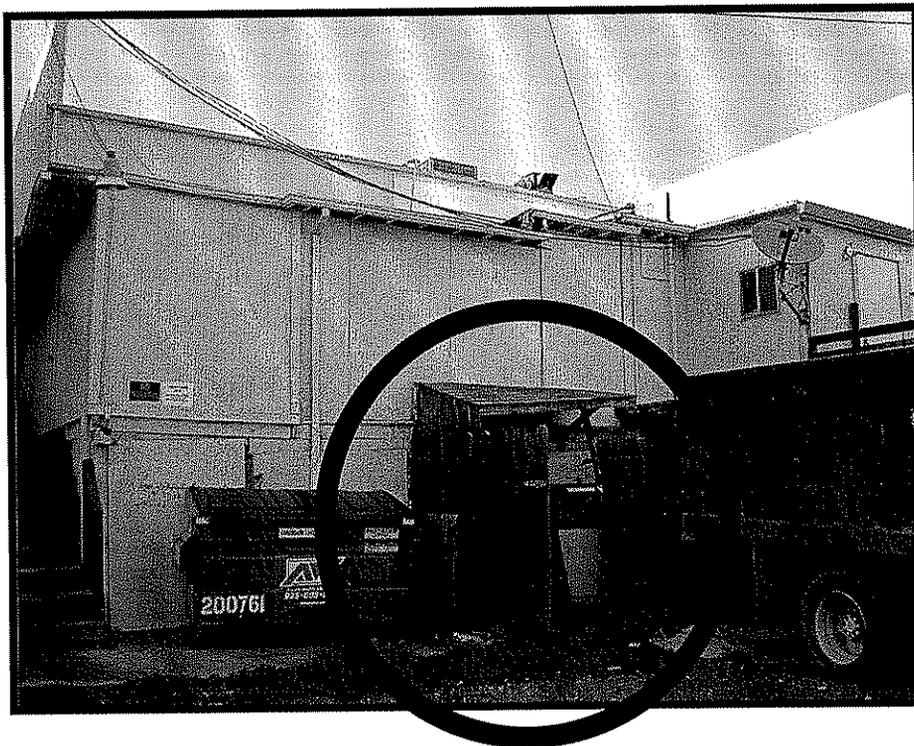
Photograph 1: Existing South façade with walkway (to be removed)



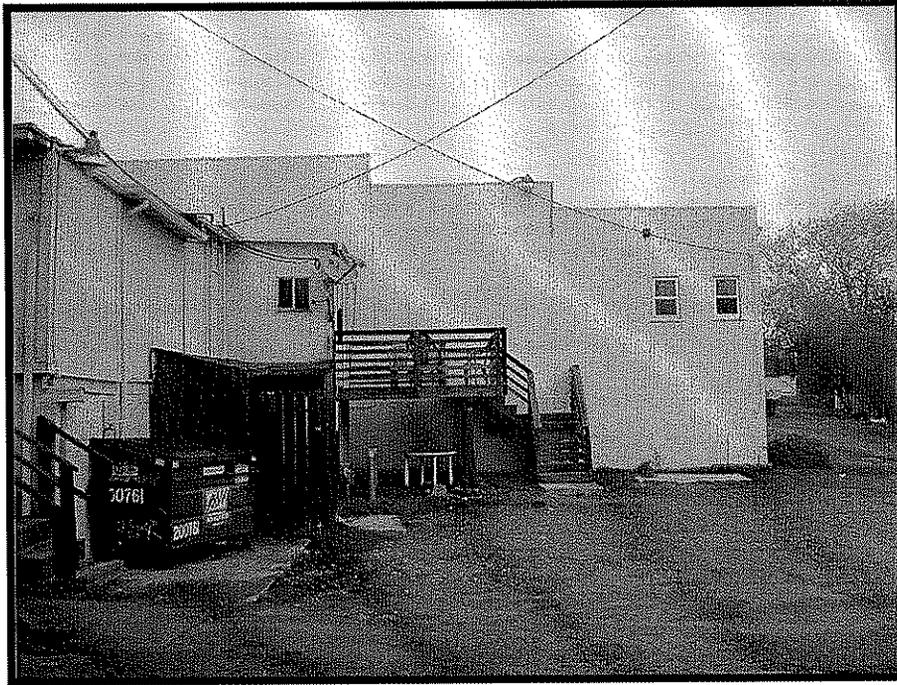
Photograph 2: Southeast corner of South façade; Area of transition from stucco (to left) to plywood siding (circled)



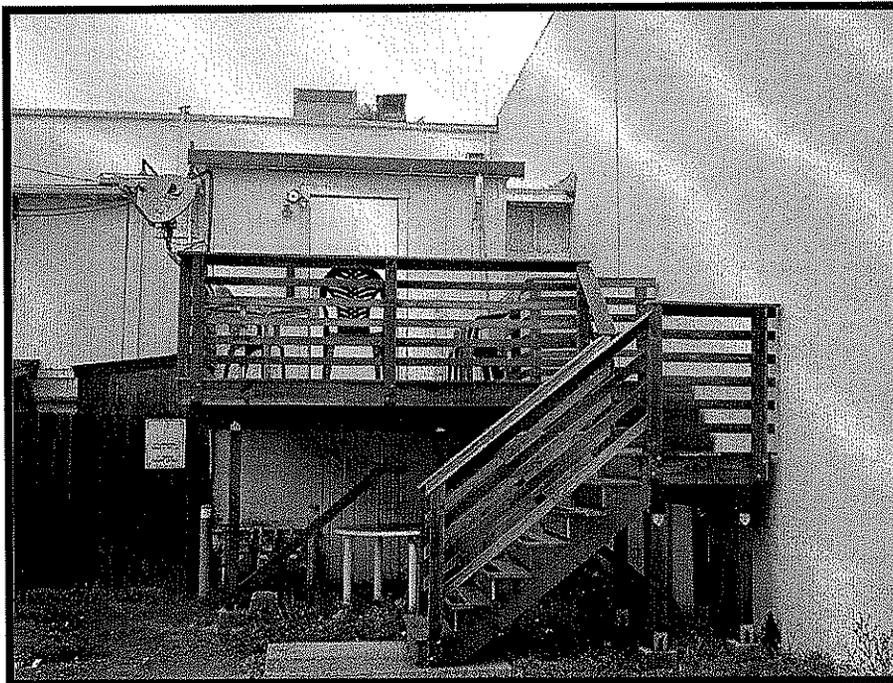
Photograph 3: Southeast corner; Siding to be stucco



Photograph 4: Trash enclosure to be reconstructed



Photograph 5: Rear of existing structure



Photograph 6: Rear deck; location of proposed open-air structure

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION: FEBRUARY 26, 2009
REGULAR AGENDA ITEMS

DATE : February 6, 2009
TO : Historic Preservation Review Commission
FROM : Community Development Director
SUBJECT : **IOOF FACADE MODIFICATIONS AND RULES FOR REPAIR**

RECOMMENDATION:

Provide direction to staff regarding any future modifications to the Odd Fellows building and changes to the Downtown Historic Conservation Plan rules for repair projects.

EXECUTIVE SUMMARY:

Commission members have expressed dissatisfaction regarding the type of brick veneer used in the recent repair of the Odd Fellows building façade at 721 First Street. Accordingly, the Commission has scheduled this item for potential action, which could include requesting that the applicant paint the façade or that the City Council prioritize replacement of the veneer as part of the 2009-11 Strategic Plan and Budget.

In addition, the Commission requested clarification of repair vs. emergency, and a definition of “minor.”

BUDGET INFORMATION:

Replacing the existing brick veneer could cost \$80,000 and take up to eight weeks. Painting the façade white to match its pre-repair condition could cost up to \$10,000 and take a week or two. Either option would require scaffolding and possibly sidewalk closure.

SUMMARY:

City staff expected the faux brick to be red and learned that different veneer was being used as it was being installed. As the old-look veneer met the Secretary of Interior Standards for Rehabilitation (see attached excerpt), finishing the long overdue project took priority over staff's veneer preference.

Attachments:

- July 17, 2008 staff memo to HPRC
- Secretary of Interior Standards, p. 70
- Circa 1900 photo of building
- DPR Form 523 A & B

JULY 17, 2008 STAFF MEMO



Community Development Department
MEMORANDUM

Date: July 17, 2008
To: Historic Preservation Review Commission
From: Mike Marcus, Assistant Planner
Re: Status Report: 721 First Street (IOOF Building)

At the May 22, 2008 HPRC meeting, staff was asked by the Commission to provide a status report on the IOOF Building located at 721 First Street. The following is a summary of activity.

Project History

The project began in October 2006 when a vehicle hit the front corner of the building. In early 2007, a minor earthquake further destabilized the building. The property was inspected and the Building Official issued a notice and order. The City issued an encroachment permit allowing the property owner to place scaffolding on the sidewalk to prevent falling brick from injuring pedestrians. A permit application was filed on September 25, 2007 for replacement of the brickwork associated with the front façade. The City worked with the applicant to ensure a seismically sound project. The work was permitted under the Downtown Historic Conservation Plan's exemption for repairs. Staff has worked to ensure that the repairs be done to the specifications of the Secretary of Interior's *Standards for Rehabilitation*.

Brick façade stabilization project

The Building Official determined that due to substantial deterioration of the previously existing brick façade, the only seismically safe solution was to replace the façade with a new brick veneer façade, provided the integrity of the dimensions and materials were not jeopardized. To assure accurate repair and maintenance of the historic brick façade, the general contractor had the façade precisely photographed prior to demolition. A set of scaled (1"=10') photographs was created to provide a baseline for accurate repair and maintenance. The façade will remain unpainted to retain the building's original character.

- *Window replacement:* The project includes replacement of aluminum windows with single-hung Marvin wood windows that maintain original proportions.
- *IOOF emblem restoration:* The emblem has been retained and is undergoing extensive restoration. It will be returned to its exact location.
- *Façade base repair:* The contractor has agreed to repair the glass that protects the neon lettering flanking the entry at the base of the façade.

**SECRETARY OF INTERIOR STANDARDS
EXCERPT - PAGE 70**

Recommended

Applying new or non-historic surface treatments such as water-repellent coatings to masonry only after repointing and only if masonry repairs have failed to arrest water penetration problems.

Replacing in kind an entire masonry feature that is too deteriorated to repair—if the overall form and detailing are still evident—using the physical evidence as a model to reproduce the feature. Examples can include large sections of a wall, a cornice, balustrade, column, or stairway. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

The following work is highlighted to indicate that it represents the particularly complex technical or design aspects of Rehabilitation projects and should only be considered after the preservation concerns listed above have been addressed.

Not Recommended

Applying waterproof, water repellent, or non-historic coatings such as stucco to masonry as a substitute for repointing and masonry repairs. Coatings are frequently unnecessary, expensive, and may change the appearance of historic masonry as well as accelerate its deterioration.

Removing a masonry feature that is unrepairable and not replacing it; or replacing it with a new feature that does not convey the same visual appearance.

Recommended

Design for the Replacement of Missing Historic Features

Designing and installing a new masonry feature such as steps or a door pediment when the historic feature is completely missing. It may be an accurate restoration using historical, pictorial, and physical documentation; or be a new design that is compatible with the size, scale, material, and color of the historic building.

Not Recommended

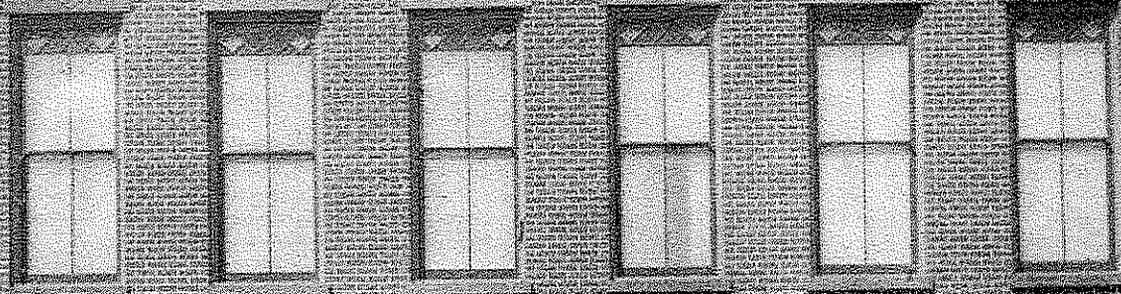
Creating a false historical appearance because the replaced masonry feature is based on insufficient historical, pictorial, and physical documentation.

Introducing a new masonry feature that is incompatible in size, scale, material and color.

PHOTO – CIRCA 1900



I.O. O.F.



W. H. GARRETTSON, GROCER



DPR FORM 523 A & B

State of California — The Resources Agency
 DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #: _____
 HRI # _____
 Trinomial _____
 NRHP Status Code: _____
 Other Listings _____
 Review Code _____ Reviewer _____ Date _____

*Resource Name or #: Solano IOOF Hall

- P1. Other Identifier:
- *P2. .Location: *a. County Solano
- b. Address: 727 First Street
- *c. City: Benicia Zip 94510
- d. UTM: N/A
- e. USGS Quad: Benicia T2N R3W MDM
- *f. Other Locational Data (APN #): 89-113-12

***P3a. Description**

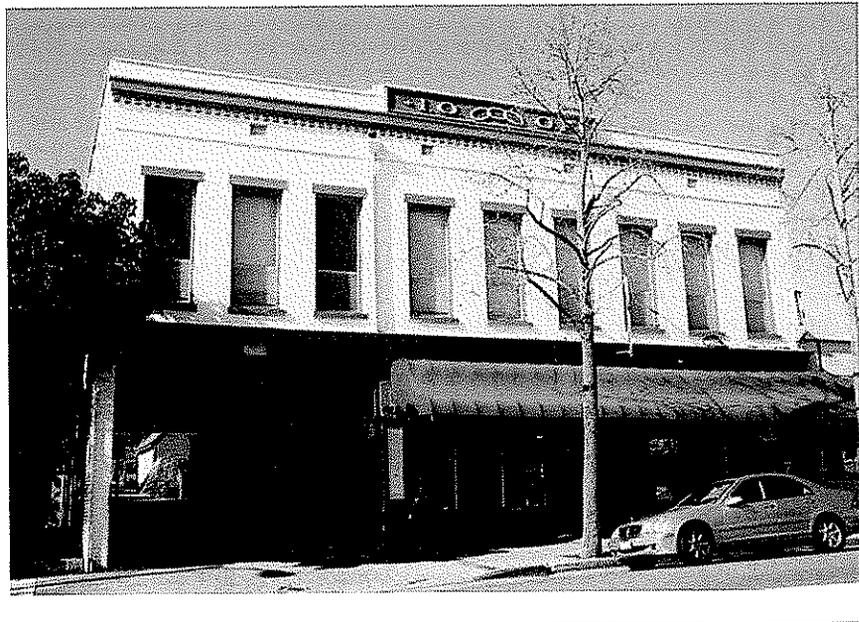
This typical fraternal hall was constructed in the late 19th or early 20th century. Like many buildings of its type constructed in small California towns, it had commercial rentals on the lower story and fraternal organization space on the second story. The building is constructed of brick with the front façade stuccoed. It is rectangular in plan with a flat roof and a pediment. At the center of the pediment, just above the cornice, is a raised IOOF inscription. A dentil cornice extends along the full front façade. The upper story is characterized by a large number of windows symmetrically arranged along the upper façade. The windows are one-over-one double hung and are long and narrow with prominent lintels and sills. A belt course separates the upper from the lower story. On the north side of the lower façade there is a large store front with a central entry flanked by storefront canted windows. An awning extends across the top of the windows and obscures their architectural detail. On the south side of the façade it appears that a store front has been removed to provide a drive through to the rear of the building..

P3b. Resource Attributes: HP6/13

***P4. Resources Present:** Building Structure Object Site District Element of District

P5b. Description of Photo:

P5. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



- *P6. Front façade, view northwest
Date Constructed/Age: 1890
 Prehistoric Historic Both
- *P7. **Owner and Address:**
 Solano Lodge IOOF
 PO Box 44
 Benicia, CA 94510
- *P8. **Recorded by:**
 Carol Roland
 Roland-Nawi Associates
 4829 Crestwood Way
 Sacramento, CA 95822
- *P9. **Date Recorded:** 11-20-05
- *P10. **Type of Survey:** Intensive
 Reconnaissance Other
- Describe Eligibility Evaluation**
- *P11. **Report Citation:** none
- *Attachments: NONE Map Sheet Continuation Sheet Building, Structure, and Object Record Linear Resource Record Archaeological Record District Record Milling Station Record Rock Art Record Artifact Record Photograph Record Other (List):

BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Identifier: Solano IOOF Lodge

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name: IOOF Hall

B3. Original Use:

fraternal/commercial

B4. Present Use: Commercial

*B5. Architectural Style: Italianate Commercial

B7. Moved? No Yes Unknown

Date: N/A

Original Location: same

*B8. Related Features: None

B9a. Architect: unknown

B9b. Builder: unknown

*B10. Significance: Theme: Benicia Downtown District

Period of Significance: 1847-1940

Property Type: Associational/Commercial I

Applicable Criteria: A / C

This building is typical of many small town fraternal halls with organizational use reserved to the second story and commercial rental space on the first story. It is good example of its building type. It is one of several surviving fraternal buildings in town and indicates the importance that these type of organizations played in the civic and community life of 19th and 20th century towns. The building retains good integrity except for the south bay of the structure which has been gutted to provide drive through access to the rear of the building. Despite this alteration, the building retains sufficient integrity of design, materials, and workmanship to continue as a contributing building within the Downtown Historic District.

B11. Additional Resource Attributes: N/A

B12. References: McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred Knopf (1986); Bruegmann, Robert. *Benicia Portrait of an Early California Town: An Architectural History* (San Francisco: 101 Productions (1980); Woodbridge, Sally and Cannon Design Group. *Benicia, California: Downtown Historic Conservation Plan*. City of Benicia, 1990; Sanborn Map Benicia, CA. 1886; 1986 Benicia Historic Inventory form.

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING:
FEBRUARY 26, 2009
REGULAR AGENDA ITEMS

DATE : February 17, 2009

TO : Historic Preservation Review Commission

FROM : Mike Marcus, Assistant Planner

SUBJECT : **439 FIRST STREET – LUCCA BAR AND RESTAURANT
DESIGN REVIEW FOR REQUIRED ADA
IMPROVEMENTS AND MOVABLE PLANTER BOXES**

PROJECT : 439 First Street
09PLN-006 Design Review
APN: 89-174-030

RECOMMENDATION:

Approve a design review request for required ADA access improvements and movable planter boxes, for the proposed business located at 439 First Street, based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

EXECUTIVE SUMMARY:

The applicant requests design review approval for a landing and required ADA access ramp on the west-facing facade, as well as the addition of movable planter boxes for the creation of an outdoor dining area along the West E Street frontage.

BUDGET INFORMATION:

There are no anticipated budgetary implications.

ENVIRONMENTAL ANALYSIS:

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that work on historic resources that is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* is categorically exempt from further CEQA review.

BACKGROUND:

Applicant/Owner: Jan Lucca (Business owner) / Kevin Raines (Building owner)

General Plan designation: Downtown Commercial

Zoning designation: Town Core

Existing use: Currently Vacant – Previously a retail furniture business; 3-residential units on second floor

Proposed use: Bar and Restaurant

Adjacent zoning and uses:

North: Town Core, Commercial and Office (metaphysical store; misc. offices)

East: Town Core, Commercial (restaurant)

South: Town Core, Commercial (furniture store)

West: Town Core – Open, Office and Vacant Commercial

SUMMARY:

A. Project Description

The applicant anticipates opening a bar and restaurant inside an existing commercial structure that has been identified as a *Contributing* structure in the Downtown Historic Conservation Plan. The proposed business includes an outdoor seating area for food and alcoholic beverage service along the First Street and West E Street frontages, partially screened by movable planter boxes. To conform to the exiting requirements of the California Building Code and the Americans with Disabilities Act (ADA), the applicant proposes expanding the existing exit on the west-facing side of the building to include a small deck and ADA ramp, thus providing an accessible connection to the sidewalk.

The applicant requests five total planter boxes; four back-to-back, and one running perpendicular, all on the northwest corner of the structure's West E Street frontage. The movable planter boxes are proposed to be primarily constructed of vertical 1" x 6" V-Rustic siding with 1" x 3" horizontal trim at the top and 1" x 6" horizontal trim at the base, painted Kelly Moore Grey Whale Coat, KM 3782-3 (dark grey). The top trim would have a 2" x 3" redwood cap for aesthetic purposes. Each proposed planter box is 3'-0" high, 1'-0" wide and 8'-0" long, with wheels for easy moving. To provide lighting for the outdoor seating area, the applicant proposes 3 wall mounted *Mirador 17" high outdoor wall lights*, located 7' from the ground (see attachments for sample design).

The construction of the ADA accessible ramp includes replacement of the existing substandard landing and stairs with an enlarged concrete porch landing and ramp that would lead from the door on the west-facing side of the building to the West E Street sidewalk. The required metal rail would be constructed of welded steel with powder coated paint finish, Kelly Moore Grey Whale Coat, KM 3782-3 (dark grey).

B. Project Analysis

1. Consistency with the Secretary of Interior's *Standards*

This project is consistent with the Secretary of Interior's Standards for Rehabilitation, as outlined in the attached checklist.

2. Consistency with the Downtown Historic Conservation Plan

This project is consistent with the intent of the Downtown Historic Conservation Plan because it retains the historic façade elements, proportions and architectural details which give historic buildings their special character. The required ADA accessible ramp is located in such a way as to have the least possible aesthetic and physical impact. The movable planter boxes have no affect on the structure and the wall-mounted lights can be removed with very little impact to the structure.

3. Consistency with the General Plan

The City of Benicia General Plan Goal 3.1 is to "Maintain and enhance Benicia's historic character." By making the building accessible to those with physical disabilities, without threatening the building's historic integrity, the project is consistent with General Plan Goal 3.1.

C. Conclusion

Staff recommends that the Historic Preservation Review Commission approve the request for required ADA improvements and movable planter boxes at 439 First Street, based on the findings and subject to the conditions listed in the attached resolution.

FURTHER ACTION:

The Historic Preservation Review Commission's action will be final unless appealed to the Planning Commission within ten business days.

Attachments:

- Checklist for the Secretary of the Interior's *Standards for Rehabilitation*
- Draft Resolution
- Project Plans
- DPR 523 A & B forms
- Planning Commission Use Permit Resolution No. 08-11
- Sample of outdoor wall lights
- Photographs

**CHECKLIST FOR THE SECRETARY OF THE
INTERIOR'S STANDARDS FOR
REHABILITATION**

Secretary of Interior's Standards for Rehabilitation
Design Review (09PLN-006)
439 First Street, Benicia, CA

Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

An assumption is made prior to work that existing historic fabric has become damaged or deteriorated over time and, as a result, more repair and replacement will be required. Thus, latitude is given in the **Standards for Rehabilitation and Guidelines for Rehabilitation** to replace extensively deteriorated, damaged, or missing features using either traditional or substitute materials.

The bold text is the applicable Secretary of Interior's Standard for Rehabilitation guideline. The regular text is staff's response about how the particular guideline or policy relates to the proposed project.

- 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.**

The aforementioned structure has had many different uses in its lifetime, including a children's furniture store and previously, a hamburger grill. Changing uses to a bar and restaurant requires minimal changes to the buildings distinctive materials, features and spaces.

- 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.**

The applicant has located the required ADA access on the west-facing side of the building in order to retain character of the building, therefore preserving its historic integrity. The movable planter boxes are designed to have the least impact possible and require no alteration to the building. The addition of 3 new light fixtures on the West E Street façade can be removed with no impact to the structure.

- 3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.**

There are no proposed additions or changes that will create a false sense of historical development. There are no changes to the primary façade and the ramp that will be located on the west-facing side of the building will be constructed with materials that do not create a false sense of historical development.

- 4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.**
This project does not propose changes to any features that have acquired historic significance.
- 5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.**
This project does not propose changes to any distinctive materials, features, finishes, or construction techniques.
- 6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.**
The proposed project does not involve the disturbance or alteration of any of the historic elements of the building.
- 7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.**
The proposed project does not involve any chemical or physical treatments.
- 8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.**
None of the proposed work is expected to disturb archeological resources.
- 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.**
The addition of the required ADA ramp will not destroy historic materials, features or spatial relationships. The new construction will be clearly differentiated from the old, while being compatible with historic materials, features, size, scale and proportion and massing.
- 10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.**
The ADA ramp and landing will be constructed in such that it can be removed in the future with no impact on the essential form and integrity of the historic property.

DRAFT RESOLUTION

RESOLUTION NO. 09- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING AN ADA RAMP AND LANDING, AND MOVABLE SIDEWALK PLANTER BOXES AT A SITE LOCATED AT 439 FIRST STREET

WHEREAS, Mr. Jan Lucca has requested Design Review approval for an ADA ramp and landing and movable planter boxes at 439 First Street; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on February 26, 2009 conducted a public hearing and reviewed the proposed project.

NOW, THEREFORE, BE IT RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby approves the ADA ramp and landing, and movable planter boxes at 439 First Street.

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission finds that:

- a) The proposed development is consistent with the objectives and the applicable provisions of Title 17 of the Benicia Municipal Code, the Downtown Mixed Use Master Plan, the Downtown Historic Conservation Plan and the Secretary of the Interior's *Standards* because its use fits within the zoning use classification and the modifications respect the historic integrity of the building;
- b) Locating the ADA ramp on the First Street façade of the building would require the removal of the existing 6" threshold, therefore significantly altering the historic character of the building;
- c) The architectural design of the ADA ramp and landing on the west-facing side retains the historic character of the structure, clearly distinguishes old from new, and can be removed without damaging the historic structure;
- d) The proposed façade modifications and the proposed conditions of approval are consistent with the Downtown Historic Conservation Plan and Title 17 of the Benicia Municipal Code and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of the proposed project, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city;

BE IT FURTHER RESOLVED THAT the Benicia Historic Preservation Review Commission hereby approves the proposed project subject to the following conditions:

1. The plans submitted for approval and development of the site shall be in substantial compliance with the plans prepared by architect Steve McKee, date stamped "February 19, 2009", attached as an exhibit and on file with the Community Development Department.
2. The plans submitted for the building permit, development and construction shall include the proposed paint colors for the movable planter box and welded handrail, Kelly Moore Grey Whale Coat, KM 3782-3. Outdoor wall lights shall be the Mirador 17" outdoor wall lights, as submitted by the applicant.
3. The project shall adhere to all conditions required by Planning Commission Use Permit Resolution No. 08-11.
4. All necessary permits shall be obtained from the Public Works department for outdoor seating and dining, including but not limited to a sidewalk encroachment permit and an outdoor dining permit.
5. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
6. The project shall comply with Benicia Municipal Code Chapter 8.28 Fire Prevention and Life Safety Code.
7. Movable planter boxes must be maintained in a presentable condition to prevent peeling paint, ensure the existence of live plants, and to keep up the aesthetic appeal of such amenity.
8. Plant selection for the movable planters shall be reviewed and approved by the Community Development Department.
9. Any alteration of the approved plans, including substitution of materials or colors, shall be requested in writing and approved by the Community Development Director or designee prior to changes being made in the field.
10. Construction activities shall meet all municipal code requirements for hours of operation. Construction equipment shall be adequately muffled and controlled. These requirements shall be made a condition of all related contracts for the project.

11. This approval shall expire two years from the date of approval, unless made permanent by the issuance of building permits and the commencement of construction. The applicant may request in writing a one-year extension from the Community Development Director.

12. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

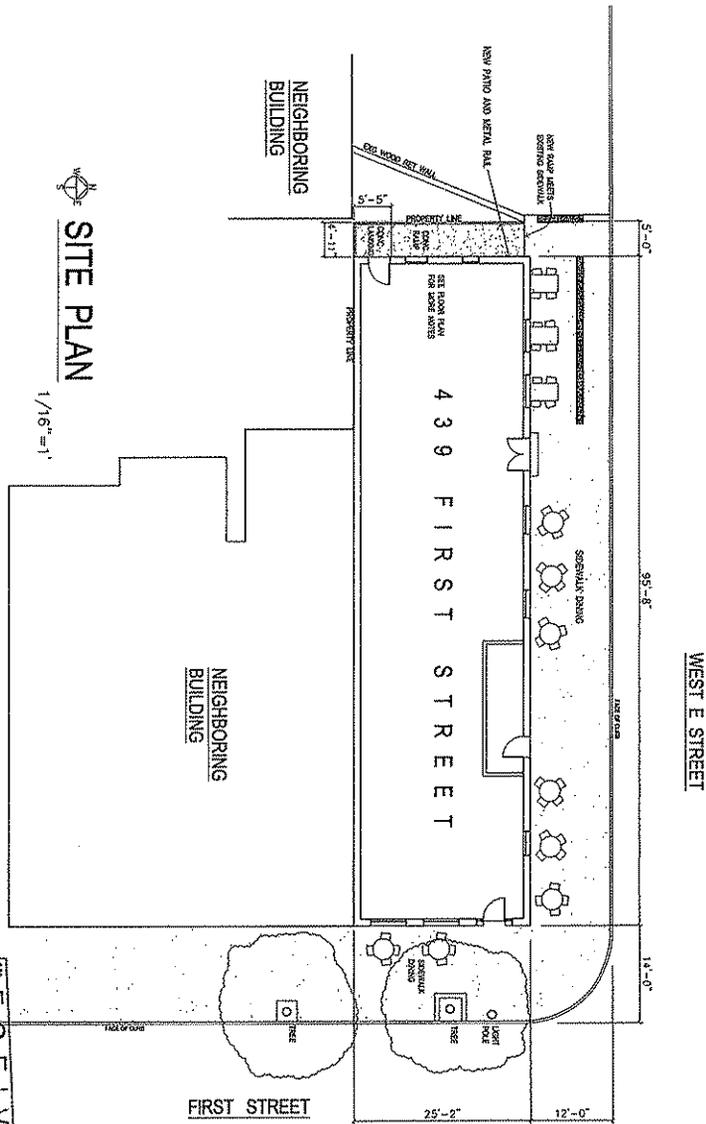
* * * * *

On motion of Commissioner , seconded by Commissioner , the above Resolution was adopted by the Historic Preservation Review Commission of the City of Benicia at a regular meeting of said Commission held February 26, 2009 by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Chuck Mang
Chair, Historic Preservation Review Commission

PROJECT PLANS



SITE PLAN

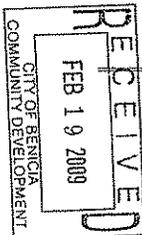
1/16"=1'

PROJECT INFO

PROJECT DESCRIPTION:
 REMODEL EXISTING COMMERCIAL SPACE INTO RESTAURANT
 AND BAR AND ACCESSIBLE RESTROOMS
OCCUPANCY GROUP: A-2 (NON-SPRINKLERED)

AREA:
 BUILDING FOOTPRINT 2804 S.F.
 PAINT/RAMP FOOTPRINT 120 S.F.
 TOTAL LOT COVERAGE 2057 S.F.

SPACE INSIDE BUILDING:
 SEE DIAGRAM ON SHEET 2 FOR INTERIOR AREAS



LUCCA BAR / RESTAURANT REMODEL

Sheet: **1** OF 5
 SITE PLAN INFO

REMODEL
 "LUCCA"
 RESTAURANT AND BAR
 439 FIRST STREET
 BENICIA, CA

Revisions:
 Date: 2/17/09
 Drawn By: SM

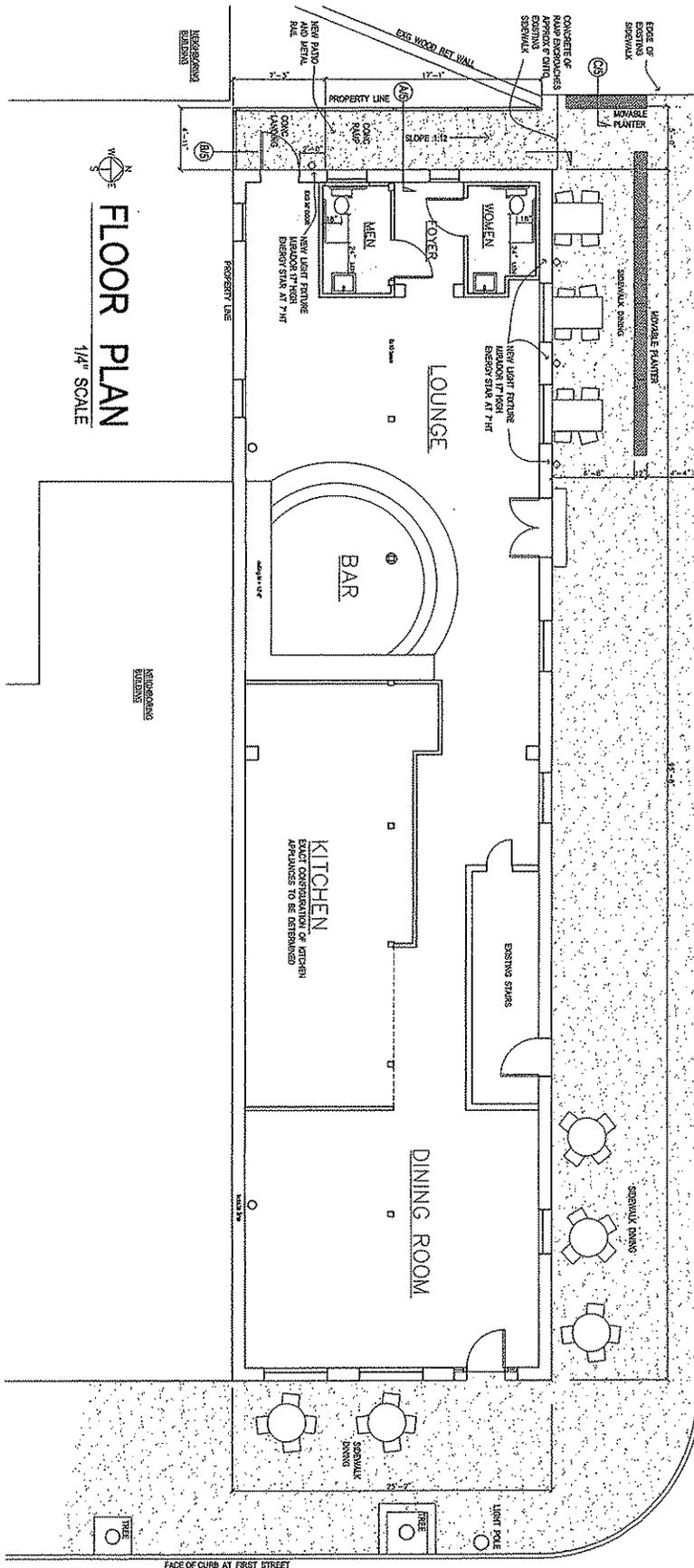
Steven McKee - Architect



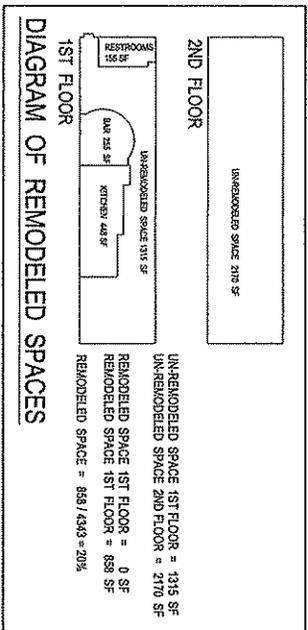
975 West K Street
 Benicia CA 94510

(707) 746-6788
 (707) 746-6767 fax

www.smbca.com



FLOOR PLAN
1/4" SCALE

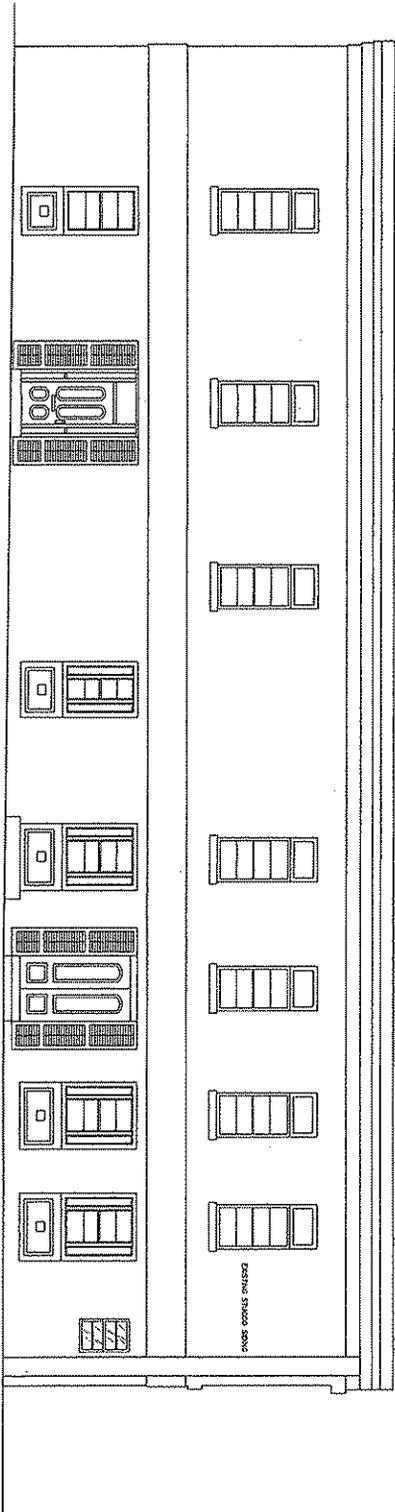


Sheet: **2** OF 5
FLOOR PLAN

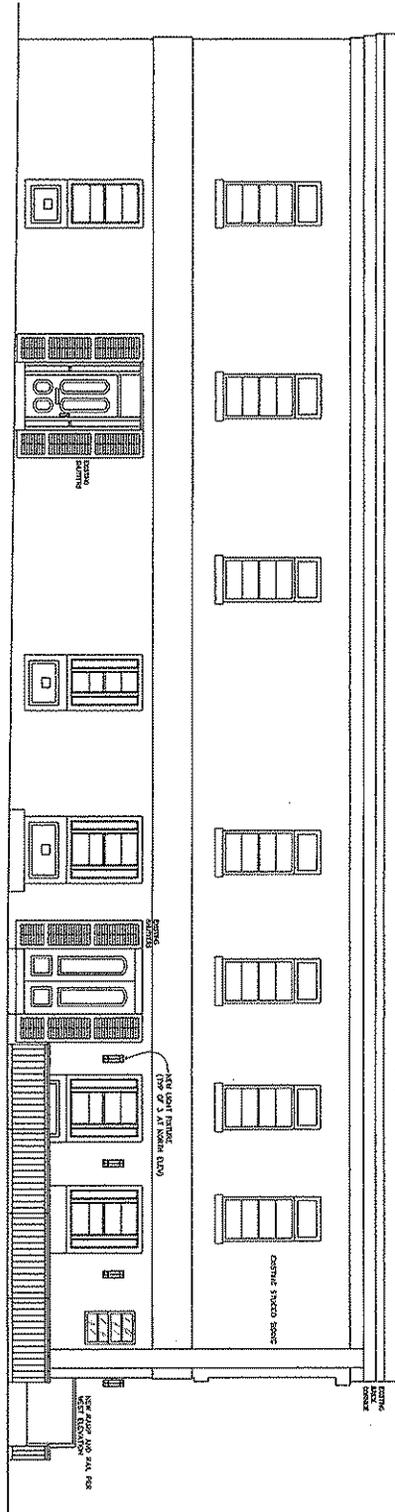
REMODEL
"LUCCA"
RESTAURANT AND BAR
439 FIRST STREET
BENICIA, CA

Revisions:
Date: 2/17/09
Drawn By: SM

Steven McKee - Architect
975 West K Street
Benicia CA 94510
(707) 746-6788
(707) 746-6767 fax
www.stevemckee.com



NORTH ELEVATION - EXISTING
3/16" = 1'



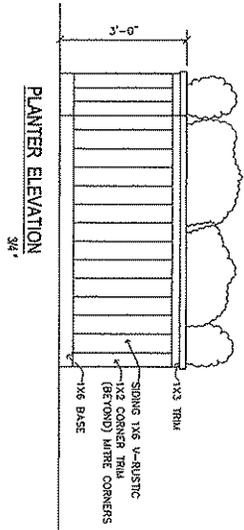
NORTH ELEVATION - PROPOSED
3/16" = 1'

Sheet: **4**
OF 5
ELEVATIONS

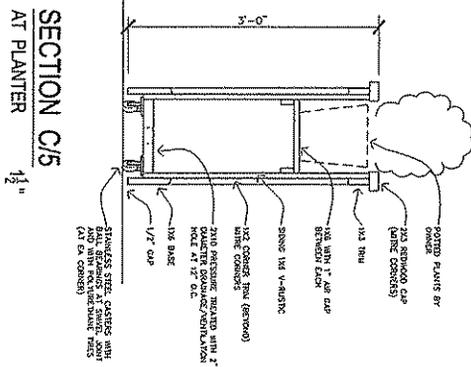
REMODEL
"LUCCA"
RESTAURANT AND BAR
439 FIRST STREET
BENICIA, CA

Revisions:
Date: 2/17/09
Drawn By: SM

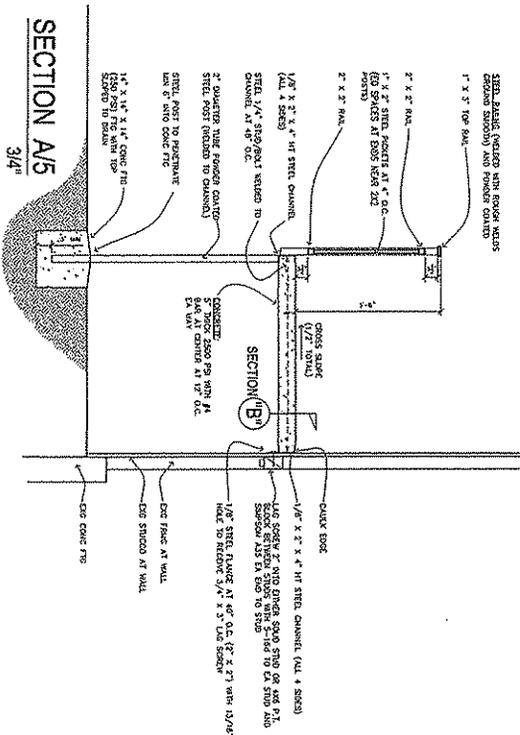
Steven McKee - Architect
975 West K Street
Benicia CA 94510
(707) 746-6788
(707) 746-6767 fax
www.smk.com



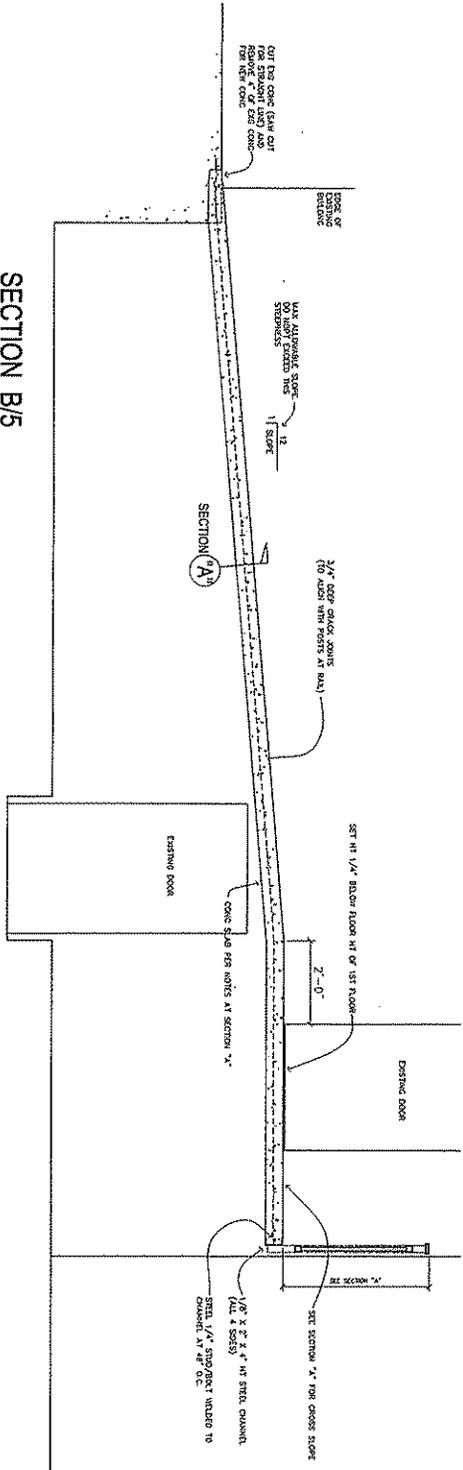
PLANTER ELEVATION
3/4"



SECTION C/5
1/2"



SECTION A/5
3/4"



SECTION B/5
3/4"

**DEPARTMENT OF PARKS AND
RECREATION FORMS 523 A & B**

State of California — The Resources Agency
 DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # _____
 HRI # _____
 Trinomial _____
 NRHP Status Code: _____
 Other Listings _____
 Review Code _____ Reviewer _____ Date _____

*Resource Name or #: 433- 439 First Street

- P1. Other Identifier:
- *P2. .Location: *a. County Solano
- b. Address: 433-439 First Street
- *c. City: Benicia Zip 94510
- d. UTM: N/A
- e. USGS Quad: Benicia T2N R3W MDM
- *f. Other Locational Data (APN #): 89-174-03

*P3a. Description

This property consists of a two-story wing on the north side of the building and a single story wing on the south. The building has a rectangular footprint. Both wings have flat roofs with a dentil cornice. The first story consists of three commercial/shop spaces. The shop in the two-story wing has an entrance at the north corner of the building. There are two store windows to south. In the one story wing central shop doors with transoms are flanked by storefront windows on either side. Fenestration on the second story of the building consist of one-over-one double hung windows. The building is clad in stucco with decorative ceramic tile inset under the store front windows.

- *P3b. Resource Attributes: HP6
- *P4. Resources Present: Building Structure Object Site District Element of District
- P5b. Description of Photo:
Front façade, view southwest
- *P6. Date Constructed/Age: Circa 1880
 Prehistoric Historic Both
- *P7. Owner and Address:

P5. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



- Harvey Berneking Trust
17695 Old Monte Road
Guerneville, CA 95446
- *P8. Recorded by:
Carol Roland
Roland-Nawi Associates
4829 Crestwood Way
Sacramento, CA 95822
- *P9. Date Recorded: 11-20-04
- *P10. Type of Survey: Intensive
 Reconnaissance Other
Describe Eligibility Evaluation
- *P11. Report Citation: none
- *Attachments: NONE Map Sheet Continuation Sheet Building, Structure, and Object Record Linear Resource Record Archaeological Record District Record Milling Station Record Rock Art Record Artifact Record Photograph Record Other (List):

BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Identifier: 433-439 First Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name:

B3. Original Use: Commercial

B4. Present Use: Commercial

*B5. Architectural Style: Commercial

B7. Moved? No Yes Unknown

Date: N/A

Original Location: same

*B8. Related Features: None

B9a. Architect: unknown

B9b. Builder: unknown

*B10. Significance: Theme: Benicia Downtown District

Period of Significance: 1847-1940

Property Type: Single Family

Applicable Criteria: A / C

A group of commercial structures of precisely this configuration appears on the 1886 Sanborn map. The two-story building is described as a general merchandise store with a residence in the second story. The one-story wing is shown as partially vacant with one of the shops occupied by a tailor. The cornice treatment, entry doors with transoms, and shop windows also support a 19th century construction date. The ceramic tile insets, with their suggestion of Art Deco, are a recent addition and were not present when the building was recorded by HABS in 1977. The building retains its massing and form, basic commercial character, setting and location. This grouping of buildings is one of the few remaining connected commercial structures that once presented a unified street front along First Street. The ceramic tile introduces an inauthentic detail and false historic appearance. Despite this change, the building contributes to the historic commercial character of the downtown and should be considered for listing as a contributor to the Downtown Historic District.

B11. Additional Resource Attributes: N/A

B12. References: McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred Knopf (1986); Bruegmann, Robert. *Benicia Portrait of an Early California Town: An Architectural History* (San Francisco: 101 Productions (1980); Woodbridge, Sally and Cannon Design Group. *Benicia, California: Downtown Historic Conservation Plan*. City of Benicia, 1990; Sanborn Map Benicia, CA. 1886; 1986 Benicia Historic Inventory form.

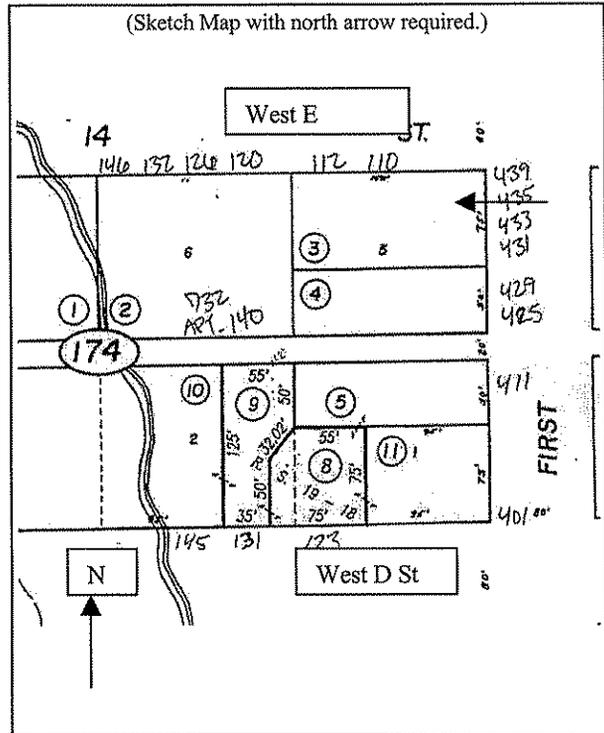
BUILDING, STRUCTURE, AND OBJECT RECORD

Remarks: N/A

B14. Evaluator: Carol Roland, Ph.D.

Roland-Nawi Associates: Preservation Consultants
4829 Crestwood Way
Sacramento, CA 95822

B 15. Date of Evaluation: 11-22-04



(This space reserved for official comments.)

Resource Identifier: 433-439 First Street

Continuation Update



HABS photograph 1977

**PLANNING COMMISSION USE PERMIT
RESOLUTION NO. 08-11**

RESOLUTION NO. 08-11 (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A USE PERMIT FOR A BAR ESTABLISHMENT WITH LIVE ENTERTAINMENT AT 439 FIRST STREET

WHEREAS, Mr. Jan Lucca has requested Use Permit approval for a bar establishment with live entertainment at 439 First Street; and

WHEREAS, the Planning Commission at a regular meeting on November 13, 2008 conducted a public hearing and reviewed the proposed project.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Commission of the City of Benicia hereby approves the bar establishment with live entertainment at 439 First Street.

BE IT FURTHER RESOLVED THAT the Planning Commission finds that:

- a. The proposed use is categorically exempt from California Environmental Quality Act review under Guidelines Section 15301, which applies to interior and exterior alterations of existing facilities.
- b. The proposed uses are consistent with the objectives and other provisions of Title 17 of the Benicia Municipal Code and with the Downtown Mixed Use Master Plan, which allows for bar establishments and live entertainment in the Town Core zoning district, subject to the conditions listed below.
- c. The proposed conditional use is required to comply with the provisions of the Noise Ordinance (BMC Chapter 8.20), as well as with all other City ordinances, as discussed in the staff report.
- d. The proposed bar and restaurant are consistent with the goals, policies, programs, and maps of the General Plan. Specifically, the proposal is consistent with General Plan Goal 2.12 B (p. 48), "Work to attract economically viable businesses that will create night-life Downtown such as restaurants, cafes, movie theaters, and other entertainment uses."

BE IT FURTHER RESOLVED THAT the Benicia Planning Commission hereby approves the proposed project subject to the following conditions:

1. The plans submitted for approval and development of the site shall be in substantial compliance with the plans date stamped "September 22, 2008" prepared by the applicant, attached as an exhibit and on file with the Community Development Department.

2. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
3. Establishment hours shall be seven days per week, from 6:00 a.m. to 2:00 a.m.
4. Indoor live entertainment shall only be allowed during the following hours:
 - Monday - Thursday: 6 p.m. to 10:00 p.m.
 - Friday: 5 p.m. to 11:00 p.m.
 - Saturday: 12:00 p.m. to 11:00 p.m.
 - Sunday: 12:00 p.m. to 10 p.m.
5. No amplified music shall be permitted under any circumstance.
6. Live entertainment shall not take place in any exterior area at any time. Music from interior performances shall not be transmitted to outdoor areas.
7. Additional insulation between the first and second floors shall be installed as part of the interior tenant improvements as a means of sound attenuation to buffer the second floor uses from the noise associated with live entertainment, prior to offering live entertainment.
8. If the upstairs use changes from a residential use to another use classification, Conditions 4-7 shall be reviewed by the Community Development Department and the Planning Commission.
9. The operator of the establishment shall be responsible for monitoring clients' behavior both inside and outside the building to avoid excessive noise or disturbance to the neighborhood.
10. Noise levels from the site shall comply with the standards contained in the Noise Ordinance, BMC Chapter 8.20.
11. The total number of occupants present at live entertainment events shall not exceed the total allowed occupant capacity of the catering room/wine bar, which shall be posted in compliance with the Uniform Building Code.
12. This establishment is subject to all requirements of the Fire and Life Safety Division, in relation to its enforcement of the Uniform Building Code and Fire Code
13. The applicant, or designee, shall modify the rear exit to be ADA accessible. All exterior modifications will require Design Review approval from the Historic Preservation Review Commission.

14. Prior to the final inspection, the trash enclosure shall meet all storm water regulations.
15. Prior to the final inspection, an under-sink grease trap shall be installed.
16. City Use Permit approval for serving alcoholic beverages is contingent on the applicant receiving approval from Alcoholic Beverage Control (ABC). The applicant shall obey all subsequent ABC general conditions, laws, and regulations relative to their liquor license.
17. The following conditions apply to outdoor dining and beverage service:
 - a. A sidewalk encroachment permit is required from the Public Works department.
 - b. A permanent or semi-permanent sidewalk barrier shall be required to limit alcohol beverage service to a contained area pursuant to ABC regulations. Final design will require Historic Preservation Review Commission approval.
 - c. A maximum of two (2) tables on First Street and six (6) tables along West E Street will be permitted, subject to the conditions of an encroachment permit.
 - d. Outdoor dining shall cease at 10:00 p.m. except for the 3 tables located west of the bar entrance, which shall be allowed to operate until 1:00a.m.
18. Conditions shall be reviewed on an as needed basis by the Community Development Department and Police Department.
19. In the event of violations of the conditions of this permit, the Community Development Director and the Police Department may refer the Use Permit to the Planning Commission for subsequent review, potential modifications to conditions of approval, or potential revocation of the Use Permit, pursuant to BMC Chapter 17.104.090 and Chapter 17.128.060.
20. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

On motion of Commissioner Bortolazzo, seconded by Commissioner Healy, the above resolution was adopted by the Planning Commission of the City of Benicia at a regular meeting of said Commission held on November 13, 2008 by the following vote:

Ayes: Commissioners Bortolazzo, Ernst, Healy, Sherry, Syracuse, Thomas and
Chair Railsback
Noes: None
Absent: None
Abstain: None



Fred Railsback
Planning Commission Chair

SAMPLE OF OUTDOOR WALL LIGHTS

LUCCA

LAMPS PLUS

ORDER STATUS 1-800-782-1967

MY CART 0 ITEMS IN CART

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The Minka-Lavery gurus have done it again with this outdoor fixture from their sleek Mirador lighting collection. Offering a textured French Bronze finish, it includes Pearl Mist glass for a gentle diffusion. ENERGY STAR® rated for efficiency, it includes one 26 watt fluorescent bulb, and a built-in photocell provides automatic dusk-to-dawn operation.

- Textured French Bronze finish.
- Pearl mist glass.
- ENERGY STAR® rated.
- Includes one 26 watt fluorescent bulb.
- Photocell sensor.
- 17" high.
- 9" wide.
- Extends 5 1/2".
- California Title 24 Compliant.



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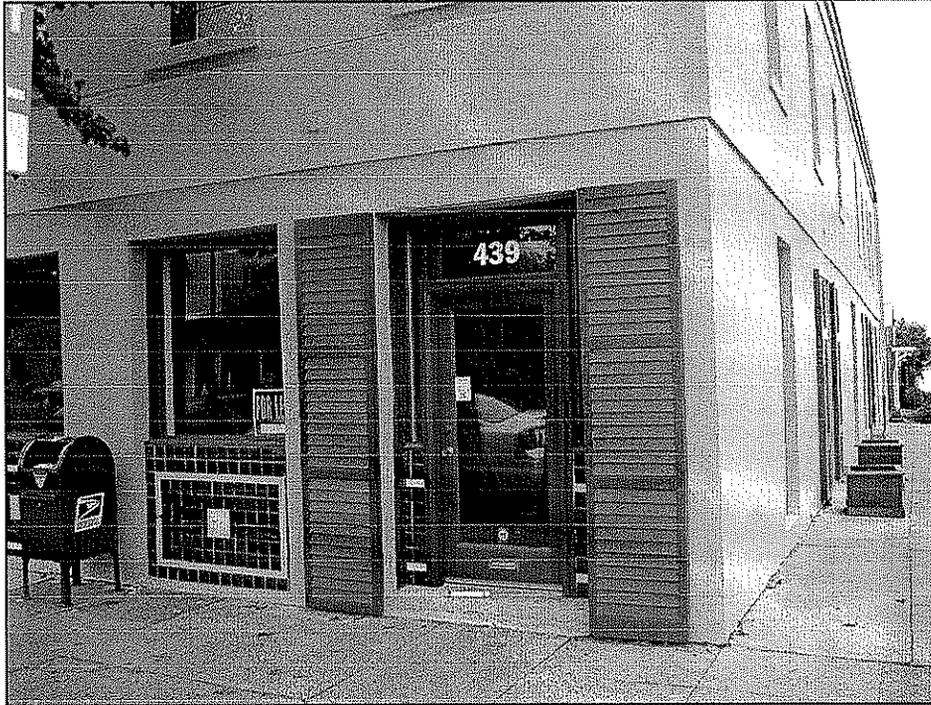


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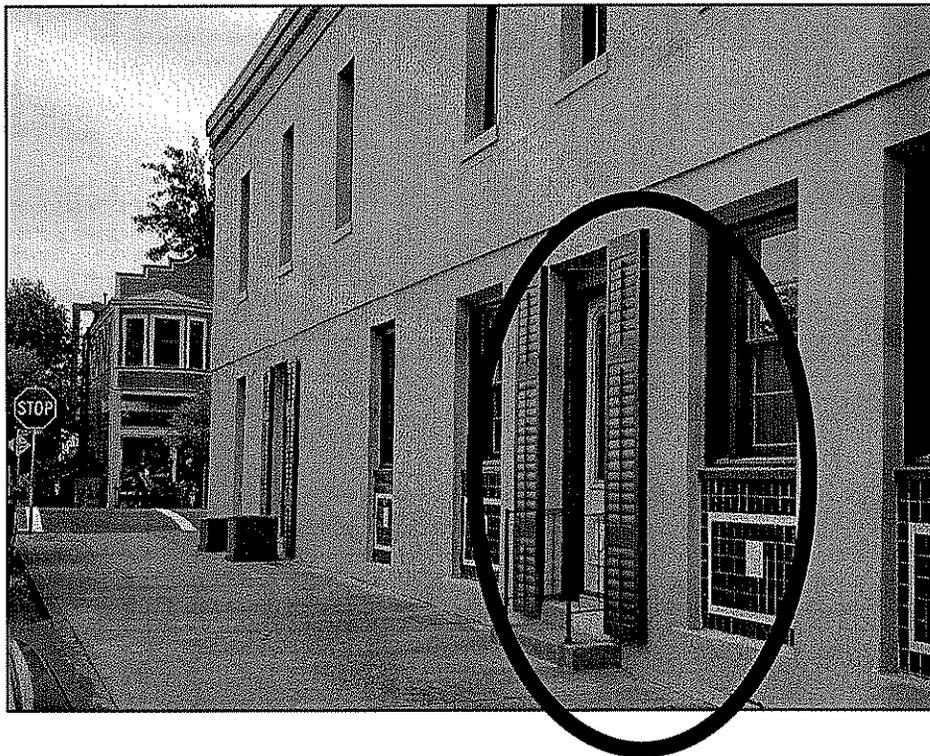
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PHOTOGRAPHS



Photograph 1: First Street façade; Entrance to restaurant



Photograph 2: West E Street Façade; Entrance to bar



Photograph 3: West E Street; Entrance to bar; Location of movable planter boxes and light fixtures



Photograph 4: West-facing exit; Location of proposed landing and required accessible ADA ramp

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION: FEBRUARY 26, 2009
REGULAR AGENDA ITEMS

DATE : February 18, 2009

TO : Historic Preservation Review Commission

FROM : Lisa Porras, Senior Planner

SUBJECT : **TANNERY BUILDING FACADE RENOVATIONS**

PROJECT : 09PLN-01 Design Review
127 First Street
APN: 89-244-050

RECOMMENDATION:

Approve new siding and paint for the south and west facing elevations of an existing building located at 127 First Street, based on the findings and subject to the conditions listed in the proposed resolution.

EXECUTIVE SUMMARY:

The applicant requests design review approval to replace existing galvanized metal siding with stucco and apply new paint (to match existing) on the south and west facing elevations of an existing building known as The Tannery.

This project is located in the Downtown Historic District and is regulated by the Downtown Historic Conservation Plan design guidelines for Type 1 and 2 Commercial Buildings.

BUDGET INFORMATION:

No fiscal impacts to the City are anticipated as a result of this project.

ENVIRONMENTAL ANALYSIS:

This project is Categorically Exempt under Section 15301, Existing Facilities. This exemption includes minor alterations of existing structures involving negligible or no expansion of existing uses.

BACKGROUND:

Applicant/Owner:	John R. Hernandez
General Plan designation/Zoning:	Commercial Downtown / Town Core
Existing use:	Restaurant, Retail, and Cocktail Lounge
Proposed use:	No changes as part of this application
Adjacent zoning and uses:	
North:	Residential and Retail (under construction)
East:	First Street; Residential and Retail
South:	Restaurant (Captain Blyther's)
West:	Southampton Bay of the Carquinez Strait

SUMMARY:

A. Project Description

The project site is situated along the shoreline and lower First Street in downtown Benicia. This Design Review application applies only to portions of the west and south facing façades as shown below.

Figure 1. Portions of the west and south facing façades subject to improvements.

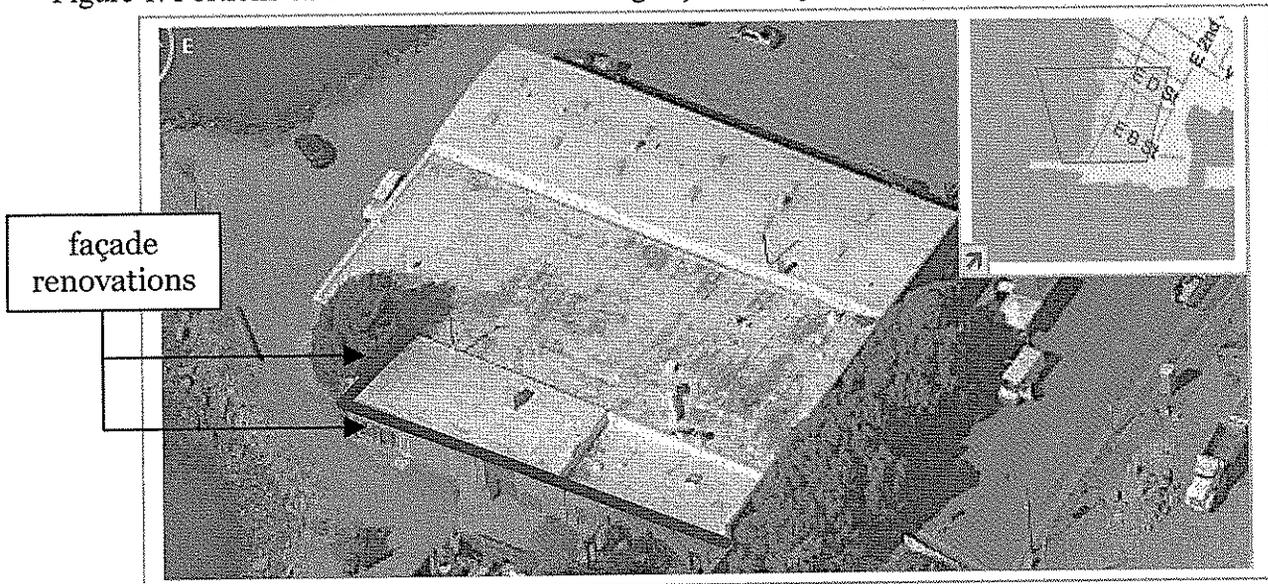
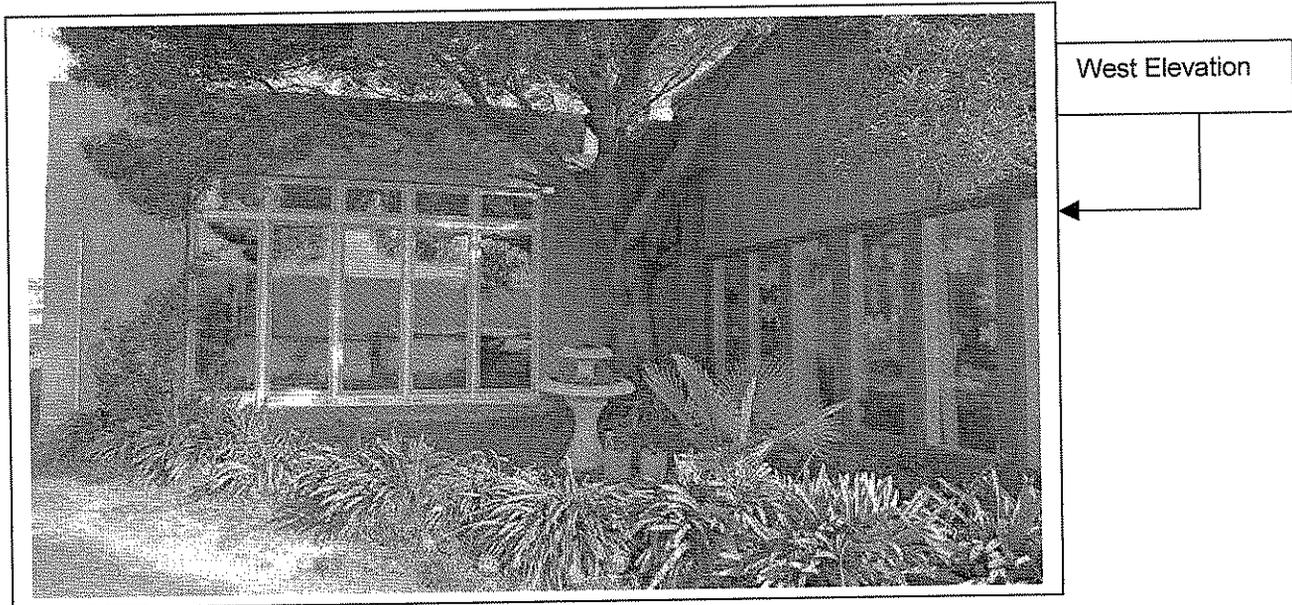
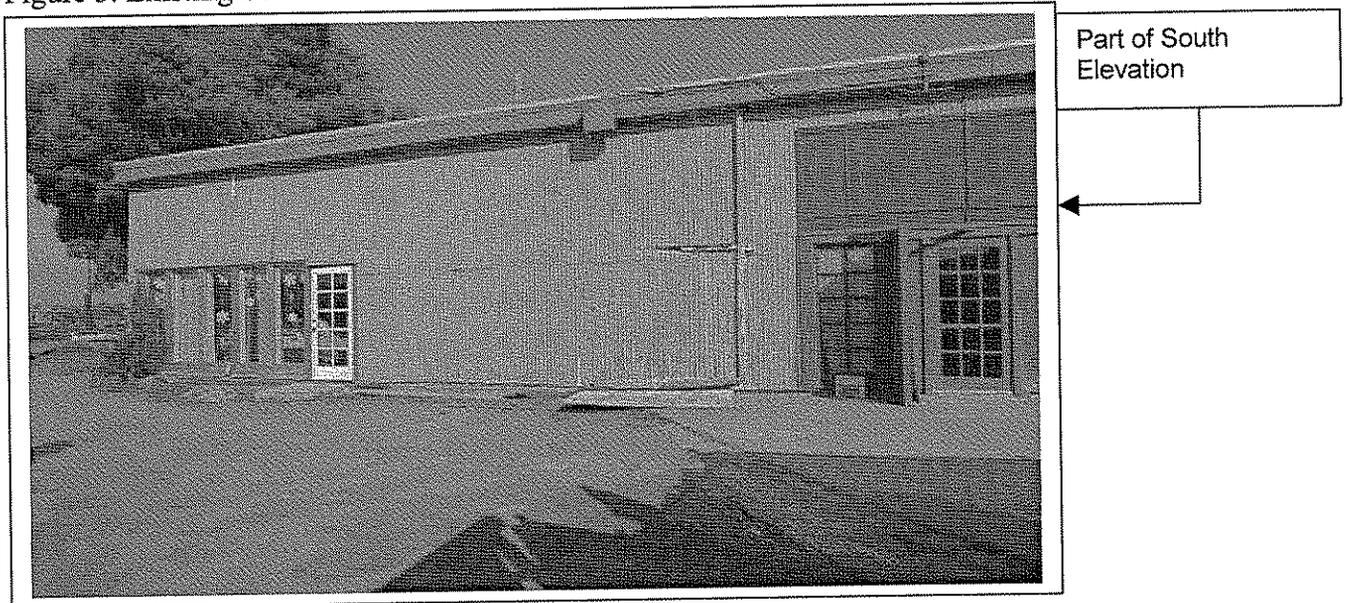


Figure 2. Existing West Elevation – south half



Galvanized sheet metal siding is presently located on the west elevation (shown in Figure 2 above). This material is also present on roughly half of the south elevation (shown in Figure 3 below) with the remaining siding consisting of stucco and a small portion of plywood panels.

Figure 3. Existing South Elevation – west half



All galvanized sheet metal siding on both these elevations, along with plywood panels, will be replaced with stucco siding. In addition, the full extent of both elevations will be painted "Point Sienna" (to match existing paint shown in Figure 2) KM4102-3 by Kelly Moore (see attachment D). All trim will be painted tan to match window frames.

The following table evaluates project consistency with applicable City policies, guidelines, and regulations. Guidelines in the Downtown Historic Conservation Plan address primary building frontages. The project façades could be deemed primary frontages given future construction of the Bay Trail.

Downtown Historic Conservation Plan			
Policy 2	Principal Materials and Finishes: Use materials for the principal wall surface of the building façade which have a durable, high quality finish and are compatible with those traditionally used for Benicia’s downtown commercial buildings.		
			<i>Discussion</i>
	Guideline 2.1	Appropriate principal material and finishes for wall surfaces include the following: Stucco – smooth or lightly textured, painted finish. Avoid heavily trowelled or stippled finishes.	<i>Replacing galvanized metal siding with new stucco (to be painted to match existing) is consistent with this guideline..</i>
Policy 6	Colors and Finishes should be appropriate to the nature of the material, the historic character of the district, the style of building and the climate and quality of light in Benicia.		
			<i>Discussion</i>
	Guideline 6.4	Where building facades are painted, the wall color should be light to medium, ranging from off-whites and pale neutrals to earth-toned neutral colors. Avoid bright whites and deep, dark colors.	<i>The proposed Sienna color is a brownish pink earth-toned color and thus complies with this guideline.</i>

Benicia Municipal Code	
17.54.120	Maintenance of structures and premises: all property owners in H districts and owners of designated landmarks shall have the obligation to maintain structures and premises in good repair. Structures and premises in good repair shall present no material variance in apparent condition from surrounding structures in compliance with the provisions of this chapter. Good repair includes and is defined as the level of maintenance that ensures the continued availability of the structure and premises for a lawfully permitted use, and prevents deterioration, dilapidation, and decay of the exterior portions of the structure and premises.
	<i>Discussion</i>
	<i>The project purpose is to renovate the exterior façades to promote continued use of the building. By repairing and maintaining the function and appearance of the west and south facing facades, this project is consistent with this provision of the Benicia Municipal Code.</i>

The proposed project is consistent with the objectives of the Downtown Historic Conservation Plan and the applicable provisions of Title 17 of the Benicia Municipal Code.

C. Conclusion

Staff recommends that the Historic Preservation Review Commission approve new siding and paint for portions of the south and west façades of an existing building located at 127 First Street based on the findings and subject to the conditions listed in the attached resolution.

FURTHER ACTION:

The Historic Preservation Review Commission's action will be final unless appealed to the Planning Commission within ten (10) business days.

Attachments:

- Draft Resolution
- Project Plan (date stamped January 8, 2009)
- Photographs
- Exterior Paint Color

**ATTACHMENT A
DRAFT RESOLUTION**

RESOLUTION NO. 09-__ (HPRC)

**A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION
OF THE CITY OF BENICIA APPROVING NEW SIDING AND PAINT FOR THE
SOUTH AND WEST ELEVATIONS OF THE TANNERY BUILDING
LOCATED AT 127 FIRST STREET**

WHEREAS, John R. Hernandez has requested Design Review approval for modifications to the south and west building facades of the Tannery Building at 127 First Street; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on February 26, 2009 conducted a public hearing and reviewed the proposed project;

NOW, THEREFORE, BE IT RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby approves new siding and paint for the south and west building elevations of the Tannery Building; and

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission finds that:

- a) The proposed improvements are consistent with the objectives and the applicable provisions of Title 17 of the Benicia Municipal Code and the Downtown Historic Conservation Plan;

The proposed modifications are consistent with Policies 2 and 6 of the Downtown Historic Conservation Plan, and Section 17.54.120 of the Municipal Code.

- b) The new siding and paint are visually harmonious with the site and with surrounding sites and structures, and do not unnecessarily block scenic views from other buildings or public parks or dominate their surroundings to an extent inappropriate to their use;

The new siding and paint comply with Guidelines 2.1 and 6.4 of the Downtown Historic Conservation Plan.

- c) The materials and colors are visually harmonious with surrounding development and with the natural landforms and vegetation of the areas in which they are proposed to be located;

Materials and colors selected for new siding and paint will not impact or overwhelm the features of surrounding development. In fact, new paint will match existing color.

- d) The proposed façade modifications and the proposed conditions of approval are consistent with the Downtown Historic Conservation Plan and Title 17 of the Benicia Municipal Code and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of the proposed

project, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city;

The proposed modifications are consistent with Policies 2 and 6 of the Downtown Historic Conservation Plan, and Section 17.54.120 of the Municipal Code.

BE IT FURTHER RESOLVED THAT the Benicia Historic Preservation Review Commission hereby approves the proposed project subject to the following conditions:

1. The plans submitted for the building permit and development and construction shall substantially comply with the submitted elevations date stamped January 8, 2009 prepared by John C. Hofherr Architect, consisting of one sheet marked Exhibit A, attached to this decision of record on file with the Community Development Department, except as modified by the following conditions.
2. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
3. This approval shall expire two years from the date of approval, unless made permanent by the issuance of building permits and the commencement of construction.
4. Any alteration of the approved plans, including substitution of materials, shall be requested in writing and reviewed by the Community Development Director or designee prior to changes being made in the field.
5. Construction activities shall meet all municipal code requirements for hours of operation. Construction equipment shall be adequately muffled and controlled. These requirements shall be made a condition of all related contracts for the project.
6. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Historic Preservation Review Commission, Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

On motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted by the Historic Preservation Review Commission of the City of Benicia at a regular meeting of said Commission held on February 26, 2009 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

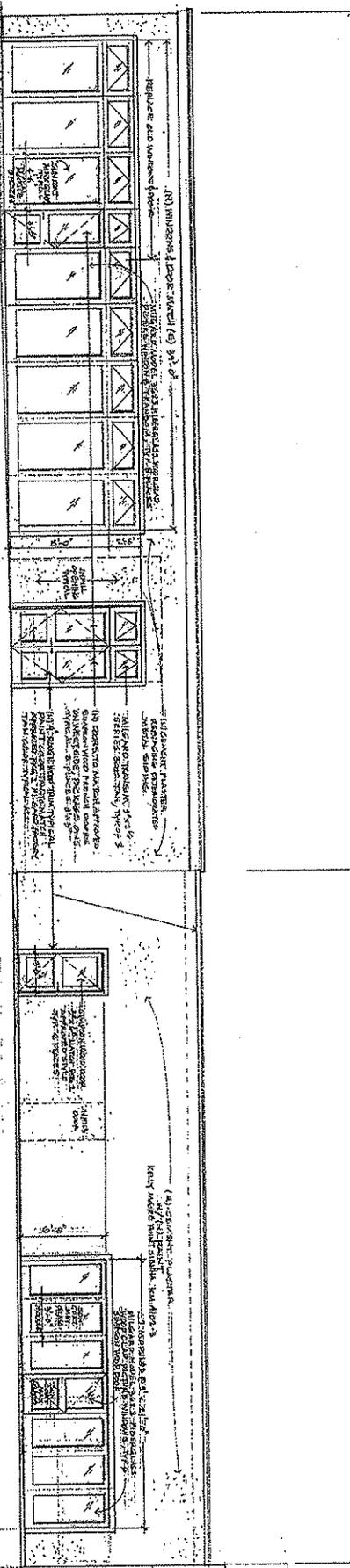
Chuck Mang
Historic Preservation Review Commission Chair

**ATTACHMENT B
PROJECT PLANS**

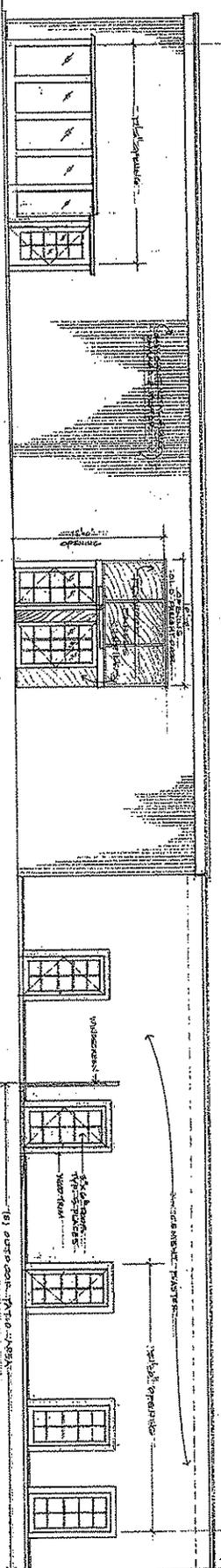
PAINT SOUTH SIDE TO MATCH WEST SIDE COLOR
 FINISHES AND APPROVALS SHALL BE IN ACCORDANCE
 WITH THE CITY OF BENICIA, CALIFORNIA, 1997 PLAN.

MARK AND DESCRIBE ALL MATERIALS WORKING MATERIALS

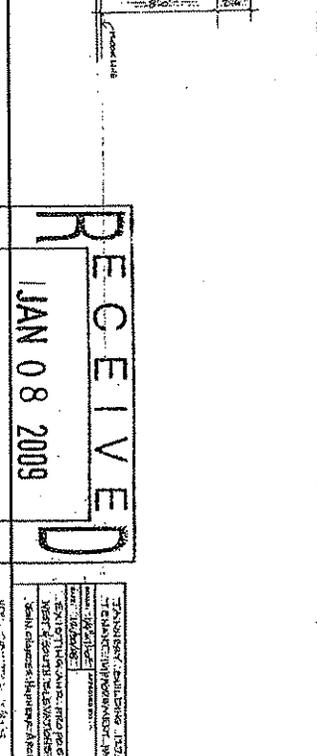
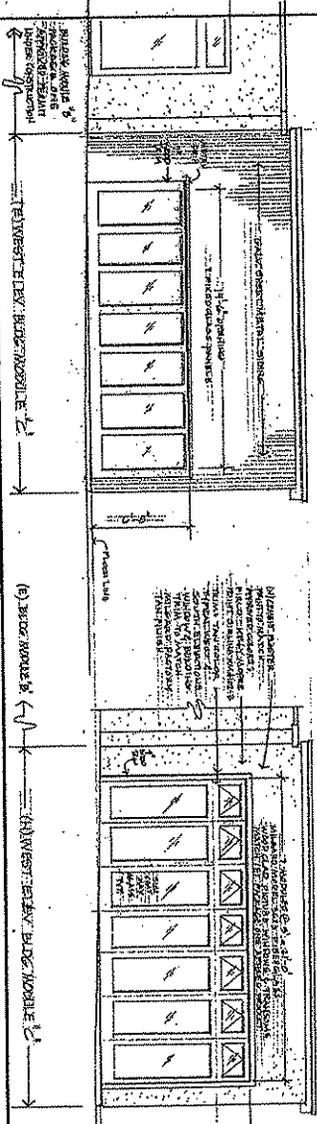
(b) BOUNDARY BETWEEN (a) CORNER WINDOWS



NEW SOUTH ELEVATION



EXISTING SOUTH ELEVATION



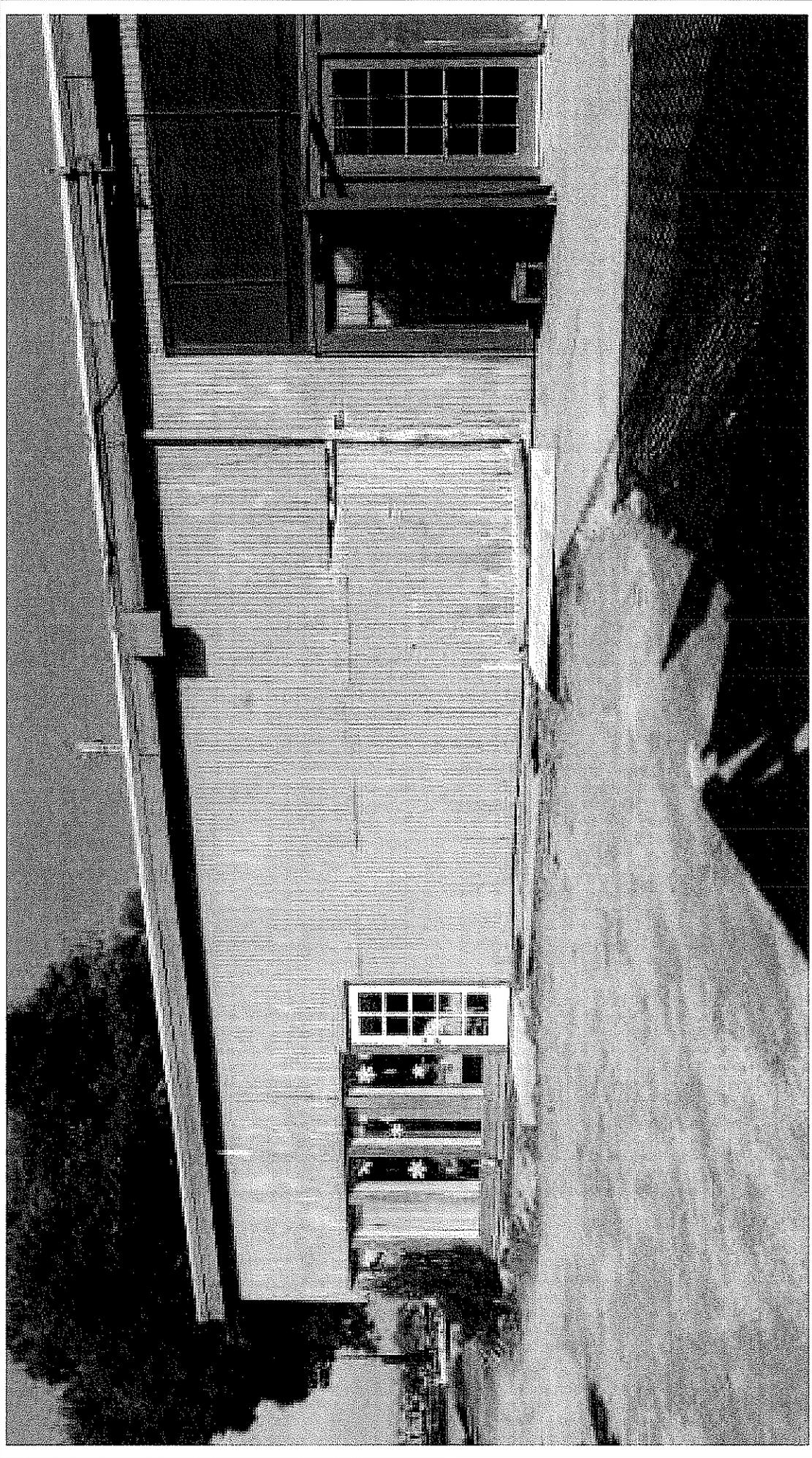
RECEIVED
 JAN 08 2009
 CITY OF BENICIA
 COMMUNITY DEVELOPMENT

PROJECT NO.	123456789
DATE	12/15/08
DESIGNER	J. SMITH
CHECKED	M. JONES
APPROVED	K. BROWN
SCALE	AS SHOWN
NOTES	SEE SHEET 123456789 FOR FURTHER INFORMATION.

**ATTACHMENT C
PHOTOGRAPHS**



127 First Street, "The Tannery"
South and west elevation corner (south elevation under construction;
west elevation slated for new siding and paint).



127 First Street, "The Tannery"

South elevation upgrade includes replacing existing galvanized metal siding with new stucco, painted to match existing.



127 First Street, "The Tannery"

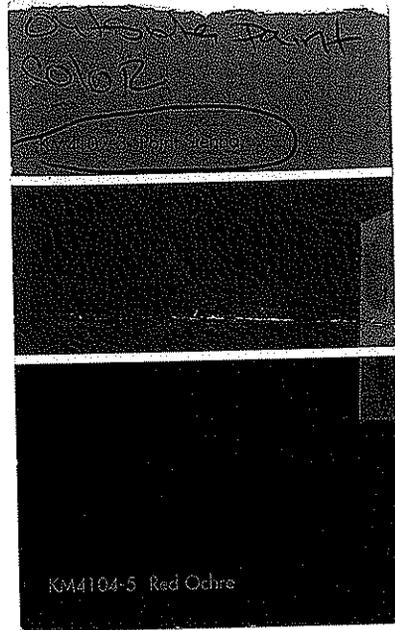
Portion of south elevation – to be painted "Point Sienna" by Kelly Moore, KM4102-3..

ATTACHMENT D
EXTERIOR PAINT COLOR

JOHN TIMBERLAND®
OUTDOOR LIGHTING



About your finish
Our fixtures can be cleaned with a soft cloth and mild soap if necessary. Do not use abrasive cleaners, cleaning solutions or brass polish, as they may damage the surface finish.



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003005 07143

CASA SEVILLE WALL 23.75H 9W 3-60W

A A



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