



**BENICIA PLANNING COMMISSION
CITY COUNCIL CHAMBERS**

REGULAR MEETING MINUTES

**March 8, 2007
7:00 P.M.**

I. OPENING OF MEETING

- A. Pledge of Allegiance**
- B. Roll Call of Commissioners**

Present: Chair Fred Railsback, Commissioners Richard Bortolazzo, Kyle Daley, Dan Healy, Mike Ioakimedes, Bonnie Silveria and Scott Strawbridge

Absent: None

Staff Present: Community Development Director Charlie Knox
Associate Planner Laura Karaboghosian
City Attorney Heather McLaughlin
Senior Civil Engineer Mike Roberts
Administrative Secretary Gina Eleccion

- 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. AGENDA CHANGES AND DISCUSSION

Gina Eleccion noted that there was an error in the February 8th minutes on page 3 showing Commissioner Strawbridge making a motion and second on the same item. This error will be corrected.

III. OPPORTUNITY FOR PUBLIC COMMENT

- A. WRITTEN**
None.
- B. PUBLIC COMMENT**

None.

IV. PRESENTATIONS

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.

Heather McLaughlin, City Attorney, gave a presentation. An overview of meeting notification and meeting procedures was given. Ex-Parte communication was reviewed.

Chair Railsback questioned if it was necessary to disclose conversations with the public about projects. Heather McLaughlin advised disclosing all conversations regarding projects.

Heather McLaughlin reviewed public records and how requests are handled. The ethics section of the Open Government ordinance was reviewed. Conflict of Interest rules were reviewed. Campaign contributions were discussed.

Heather McLaughlin noted that the Ethics training certification is good for two years.

V. CONSENT CALENDAR

On motion of Commissioner Silveria, seconded by Commissioner Daley, the Consent Calendar was approved, with the correction to the minutes as noted above, by the following vote:

Ayes: Commissioners Bortolazzo, Daley, Healy, Ioakimedes, Silveria, Strawbridge, and Chair Railsback
Noes: None
Absent: None

A. Approval of Agenda

B. Planning Commission Minutes of February 8, 2007

VI. REGULAR AGENDA ITEMS

A. 907 FIRST STREET – SAHARA RESTAURANT

07PLN-1 Use Permit for Outdoor Patio Dining
07PLN-11 Use Permit for In-Lieu Parking Fee
07PLN-10 Use Permit for Live Entertainment
907 First Street, APN: 89-043-130

PROPOSAL:

The applicant requests approval of use permits to 1) establish a 600 square foot outdoor dining area; 2) allow payment of an in-lieu parking fee for two spaces (\$4,000 total) to serve the outdoor dining area; and 3) allow live entertainment inside the restaurant

Wednesday thru Saturday evenings and in the outdoor dining area for special occasions at 907 First Street.

Recommendation: Planning Commission hold a public hearing, consider public testimony and other relevant documents and approve conditional use permit applications for: 1) outdoor dining; 2) in-lieu parking; and 3) live entertainment; based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

Commissioners Bortolazzo recused himself due to property ownership across the street from the project. Commissioner Ioakimedes recused himself due to restaurant ownership on First Street.

Laura Karaboghosian, Associate Planner, gave an overview of the project. She noted that condition #20 should be removed.

Commissioners discussed the project and questioned if a meeting was held with the neighbors. Laura Karaboghosian stated that she was not aware of any neighborhood meeting, but all properties within a 300' radius were notified of the project and the public hearing.

Commissioners discussed the sound with respect to the restaurant next door. Without a noise study, impacts on the existing business are unknown.

The meaning of "meal service" was clarified. Laura Karaboghosian noted that this is a police department condition to ensure that this remains a restaurant and not a bar. Charlie Knox noted that this condition could be removed, but may lead to enforcement issues.

In-lieu parking was discussed. The Commission would like to encourage bike riding and bike racks. Charlie Knox noted that this is something that could be encouraged on First Street in general, but not as a condition of this project.

Commissioners discussed the issue of signage. Laura Karaboghosian noted that the police department added this condition to encourage clientele looking for a restaurant and not a bar.

Commissioners discussed whether the Historic Preservation Review Commission has reviewed the exterior modifications to the building. Laura Karaboghosian noted that there is a sign permit, which does not require Historic Preservation Review Commission approval, but the paint is exempt from review.

The public hearing was opened.

Stein Eriksen, Applicant – He commented on the color of the building. There are many local people involved in the project. There will be a single guitarist and occasionally

belly dancers. He commented on the integrity of the restaurant and the employees. Alcohol sales will be limited to beer and wine only.

Carl Lucca, Neighbor – He noted that he grew up in the neighborhood. He does not expect a lot of noise from the establishment. He wants the Commission to consider noise impacts, but he believes the recommendation is positive. Parking is getting worse downtown. He would like to see the City deal with parking issues. He is in favor of the project.

The public hearing was closed.

Commissioners discussed the project. Parking in-lieu fees were discussed. Charlie Knox noted that the money goes into a Public Works fund for parking improvements. He further noted that in general \$2000/space is minimal for parking improvements. He further noted that the code currently requires this and waiving this fee for one applicant would be better served by reducing the parking requirements and a recommendation of amending the zoning ordinance to remove the in-lieu parking fee. Heather McLaughlin noted that the Commission does not have the authority to waive the in-lieu fee. Charlie Knox noted that the applicant could come back for a reduction of parking.

Commissioners discussed their options in terms of the in-lieu parking. Heather McLaughlin noted that future deferral of parking district fees are assessed to the property owner. She further noted that the in-lieu fee is substantially less than contributions to a parking district.

RESOLUTION NO. 07-5 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING THE FOLLOWING: 1) A USE PERMIT FOR OUTDOOR PATIO DINING 2) A USE PERMIT FOR IN-LIEU PARKING 3) A USE PERMIT FOR LIVE ENTERTAINMENT AT 907 FIRST STREET

On motion of Commissioner Silveria, seconded by Commissioner Daley, the above Resolution, with the removal of Condition #20, was approved by the following vote:

Ayes: Commissioners Daley, Healy, Silveria, Strawbridge and Chair Railsback
Noes: None
Absent: None
Abstain: Commissioners Bortolazzo and Ioakimedes

- B. 1208 EAST FIFTH STREET**
06PLN-75 Use Permit for Parking Reduction
1208 East Fifth Street, APN: 88-132-180

PROPOSAL:

The applicant requests approval of a use permit to reduce the required on-site parking ratio for a proposed three story 6,081 square foot medical building used as an in-office

and outpatient surgery center for chronic pain treatment located at 1208 East 5th Street. According to Benicia Municipal Code Section 17.74.030, medical and dental offices require one parking space per 250 square feet of floor area. However, the applicant requests approval of a use permit to reduce the on-site parking requirement ratio to one parking space per 300 square feet of floor area.

Recommendation: Planning Commission hold a public hearing, consider public testimony and other relevant documents and approve the conditional use permit for a reduction in on-site parking for a proposed medical building at 1208 East 5th Street, based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

Laura Karaboghosian, Associate Planner, gave an overview of the project.

Commissioners discussed the hours of operation and if those hours are permanent. Laura Karaboghosian noted that there is only one physician for procedures, thus the hours are designated. Heather McLaughlin noted that if the project is approved, as conditioned, the hours would be limited to those requested. The applicant would have to return to the Commission to revise their hours.

Commissioners questioned if patients will be driving themselves to the site. Laura Karaboghosian noted that it is likely that patients may be dropped off or picked up at the facility. Commissioners commented on the need for emergency vehicle access. Mike Roberts noted that there is a bus stop on East Fifth Street and a disabled ramp with access. Charlie Knox noted that in an emergency, there is not a large distance between the elevator and the side of the building.

Staff noted that the Fire Department has reviewed the project and provided comments on the conditions of approval.

Commissioners questioned whether a condition could be added regarding securing the pharmaceuticals. Laura Karaboghosian noted that the physician noted that there is a triple locking system.

The public hearing was opened.

Jef Pederson, Architect – He noted that the narcotics are under lock and key. He further noted that there are standard protocols for outpatient facilities regarding securing narcotics. There is an emergency generator to handle any loss of power. He commented that there can only be 5 patients under anesthesia at any one time.

Charlie Knox noted that there is a 4-space buffer to accommodate for additional patients.

A resident on East Fifth Street spoke in favor of the project, but expressed some concerns regarding parking.

A resident on the corner of East L Street and Fifth expressed her concerns with parking. There are a lot of children in the area. She expressed concerns with the height of the building.

The public hearing was closed.

Commissioners questioned if there is a bus stop in front of the property. Laura Karaboghosian confirmed that there is a bus stop there, and it may be slightly relocated, but will remain immediately in front of the project site. In addition, a conventionally sized bus does not service this stop, but rather a transit van.

Commissioners questioned what type of surgery will be performed. Jef Pederson noted that typically it is pain management shots.

RESOLUTION NO. 07-6 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A CONDITIONAL USE PERMIT FOR REDUCTION OF THE ON-SITE PARKING REQUIREMENT

On motion of Commissioner Healy, seconded by Commissioner Bortolazzo, the above Resolution was approved by the following vote:

Ayes: Commissioners Bortolazzo, Daley, Healy, Silveria, Strawbridge and Chair
Railsback
Noes: Commissioner Ioakimedes
Absent: None
Abstain: None

C. CONSIDERATION OF AN ORDINANCE TO REGULATE FORMULA BUSINESSES

PROPOSAL:

The City Council has directed the Planning Commission to offer its recommendation regarding a potential ordinance to regulate formula businesses. Among its provisions, the drafted ordinance would:

- Define “formula business” and “big box”;
- Require use permit review for formula and big box businesses in certain locations; and; and
- Limit the number of formula businesses allowed both citywide and downtown.

The Planning Commission must provide a recommendation to the Council regarding any zoning ordinance amendment pursuant to California Government Code Section 65853 et seq.

Recommendation: If desired, Planning Commission recommend that City Council consider a proposed ordinance on formula businesses.

Commissioners questioned if there is a need for anyone to recuse themselves if they live or own a business downtown. Heather McLaughlin noted that the way the ordinance is written, it is broad. Charlie Knox noted that the draft ordinance addresses restaurants and eating and drinking establishments. Heather McLaughlin noted that as the ordinance is drafted, Commissioners with retail or eating and drinking establishments should recuse themselves.

Commissioners Ioakimedes and Strawbridge recused themselves due to business ownership. Commissioner Silveria recused herself due to employment at a business downtown.

Charlie Knox gave an overview of the item. There have been citizen concerns raised at the Council level. There is a concern with differentiation between corporate-owned vs. franchised businesses. There are multiple options in limiting formula businesses as outlined in the staff report.

Charlie Knox noted that he does not believe that Council wants to penalize local franchisees.

Commissioners discussed provisions for businesses that may become formula based. Charlie Knox noted that there are no current provisions regulating this.

Commissioners discussed whether formula businesses could come to the City for approval. Charlie Knox noted that formula businesses could apply for a use permit under the draft ordinance.

Charlie Knox noted that there are other jurisdictions that have formula ordinances. He noted that the specific provisions of the draft ordinance are tailored to Benicia in response to Starbuck's. Every City has specific regulations to their community. If this ordinance moves forward, it will be tailored to Benicia.

Commissioners discussed the exemption of grocery stores, hardware stores and drug stores. Charlie Knox noted that typically the first large anchors of shopping centers are grocery, hardware or drug stores.

Commissioners discussed issues with setting a maximum of formula businesses that includes Solano Square.

Commissioners discussed the big box issues. Charlie Knox noted that the 20,000 sq. ft. threshold addresses businesses like Petco, Bed Bath and Beyond, and other similar businesses.

The public hearing was opened.

Sabina Yates, citizen – She questioned if this excludes the Benicia Business Park project and how this would affect that project.

Charlie Knox noted that the proposed ordinance addresses total number of any one formula business citywide.

Mike Ioakimedes, 360 East H Street – He agrees that there are problems with enforcing limiting formula business. The General Plan addresses small-town charm, but does not specifically outline how to preserve the small-town charm. He noted that some formula businesses have modified their spaces for small towns. He believes formula businesses are appropriate. He believes there is a need for a process to ensure the small-town charm.

The public hearing was closed.

A question was asked if all formula businesses could be required to get a use permit. Charlie Knox noted that this is an option. He explained the findings necessary to approve a use permit for a formula business, as included in the draft ordinance.

The Benicia Business Park project was discussed. There are 35 acres of commercial space in the proposed project. Charlie Knox noted that there is a list of uses in the Draft Environmental Impact Report. Charlie Knox noted that if it is the Commission's desire for all of the uses under CG to require a use permit, this would affect uses at the Benicia Business Park project.

Commissioners discussed the idea of limiting formula businesses at Solano/Davies Square and determined that those centers are appropriate for formula businesses. The Commission expressed a desire to clarify the definition of formula business. Charlie Knox noted that language can be modified to address specific concerns.

Heather McLaughlin questioned if the Commission wants to identify formula business by defining a certain number of the categories in the current definition. Charlie Knox stated that this is a good suggestion.

Commission would like to change the definition of formula business as follows:

“Formula Business” means an eating and drinking establishment or big box that maintains three or more of the following features in common with more than four other establishments in the nine Bay Area counties: standardized array of services and/or merchandise, trademark, logo, service mark, symbol, sign, décor, uniform, menu, or other similar standardized feature.

Commissioners discussed the free market and the fact that consumers should set benchmarks for services and should shop accordingly.

A question over layout was raised and if it is standardized for each formula business.

In addition to modifying the definition of formula business as noted above, Commissioners would like to modify the following:

1. Modify 17.70.350 to remove limitation on total number in CD district and Solano/Davies Square.
2. In Section 3 Table, remove "Formula Business" line under Retail Sales.
3. In Section 3 Table, add "(L)" under Additional Regulations for Big Box.

RESOLUTION NO. 07-7 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL CONSIDERATION OF AN ORDINANCE TO REGULATE FORMULA BUSINESSES

On motion of Commissioner Daley, seconded by Commissioner Bortolazzo, the above Resolution was adopted by the Planning Commission of the City of Benicia at a regular meeting of said Commission held on March 8, 2007 by the following vote:

Ayes: Commissioners Bortolazzo, Daley, Healy and Chair Railsback
Noes: None
Absent: Commissioners Ioakimedes, Silveria and Strawbridge
Abstain: None

VII. COMMUNICATIONS FROM STAFF

A. STRATEGIC PLAN PRIORITIES UPDATE

Charlie Knox noted that the Commission's Strategic Plan recommendations were given to the Council. He thanked Commissioners for attending the Strategic Plan workshop.

VIII. COMMUNICATIONS FROM COMMISSIONERS

None.

IX. ADJOURNMENT

Chair Railsback adjourned the meeting at 9:49 p.m.