

March 11, 2010

BENICIA PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS

REGULAR MEETING AGENDA

Thursday, March 11, 2010

7:00 P.M.

I. OPENING OF MEETING

A. Pledge of Allegiance

B. Roll Call of Commissioners

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

II. ADOPTION OF AGENDA

III. OPPORTUNITY FOR PUBLIC COMMENT

This portion of the meeting is reserved for persons wishing to address the Commission on any matter not on the agenda that is within the subject jurisdiction of the Planning Commission. State law prohibits the Commission from responding to or acting upon matters not listed on the agenda.

Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

A. WRITTEN

B. PUBLIC COMMENT

IV. 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 Planning Commission or a member of the public by submitting a speaker slip for that item.

*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 Planning Commission meeting, prior to the reading of the Consent Calendar.

A. [Approval of Minutes of February 11, 2010](#)

V. REGULAR AGENDA ITEMS

A. [COMMISSION PRIORITY DISCUSSION ITEM #4, CONTINUED](#)

Staff will follow up on the Commission's February 11th discussion on Gateways. Follow up topics include: Caltrans' Standard Encroachment Permit process, funding status, summary of Commission's comments, and staff's suggested next steps, including establishing a list of principles to forward to the City Council for future gateway planning. Staff will recommend that the Planning Commission review staff's first draft of the Planning Commission's Principles for Gateway Priorities, Components, and Process.

VI. COMMUNICATIONS FROM STAFF

A. [COMMISSION PRIORITY DISCUSSION ITEM #5: REGULATIONS FOR SIDEWALK TABLE SERVICE, RESTAURANTS, BARS, LIVE ENTERTAINMENT, AND ALCOHOL BEVERAGE SERVICE](#)

Staff will transmit information to the Planning Commission to review in preparation for discussion at the next Planning Commission hearing on April 8, 2010.

B. [INTERIM PLANNING COMMISSION SECRETARY ASSIGNMENT](#)

VII. COMMUNICATIONS FROM COMMISSIONERS

VIII. ADJOURNMENT

Public Participation

The Benicia Planning 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 Planning Commission allows speakers to speak on agendized and non-agendized 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 Planning 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 Planning 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 Planning 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 Planning 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 Planning Commission decisions that are final actions, not recommendations, are considered by the City Council. Appeals must be filed in the Public Works & 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 Public Works & 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 Public Works & 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 Planning Commission.

 [February 11, 2010 minutes \(pdf\)](#)

 [Gateways \(pdf\)](#)

 [Restaurants, Bars Policies and Regulations \(pdf\)](#)

 [PC Secretary \(pdf\)](#)



BENICIA PLANNING COMMISSION

CITY COUNCIL CHAMBERS

REGULAR MEETING MINUTES

Thursday, February 11, 2010

7:00 P.M.

I. OPENING OF MEETING

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

Present: Commissioners Richard Bortolazzo, Don Dean, Rick Ernst, Rod Sherry, Lee Syracuse, Brad Thomas and Chair Healy

Absent: None

Staff Present: Lisa Porras, Senior Planner
Heather McLaughlin, City Attorney
Gina Eleccion, Management Analyst
Raquel Walsh, Recording Secretary

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

II. AGENDA CHANGES AND DISCUSSION

None.

III. OPPORTUNITY FOR PUBLIC COMMENT

- A. WRITTEN**

None.

- B. PUBLIC COMMENT**

None.

IV. PRESENTATION

A. OPEN GOVERNMENT PRICIPLES

The City Attorney gave an annually required overview of the Open Government Ordinance, including the Brown Act, Conflict of Interest, Ethics, Public Records and Ex-Parte Communication. She covered specific items including closed sessions, quorums, emails regarding Planning Commission business, turning over records quickly, Code of Conduct and Standards of Behavior review.

Commissioner Syracuse asked City Attorney McLaughlin to elaborate on item 13 of the Code of Conduct document. She explained that when any individual from the Commission goes before the City Council to speak about a project in their neighborhood for example, it is important to clarify whether a Commissioner is speaking as a neighbor/private person or as a Planning Commission member.

Commissioner Ernst inquired if this is the same training that Commissioners take every year. City Attorney McLaughlin indicated that it is the same training. Commissioner Ernst also asked if the dollar amount of gifts has changed. City Attorney McLaughlin responded that they had not changed and the amount for every two years is \$420. She continued that if the Commissioners receive gifts of over \$50, they need to report it on Form 700 and over \$420 is disqualifying. She added that there is a new handout on gifts that she will send to the Commissioners.

V. CONSENT CALENDAR

On motion of Commissioner Sherry, seconded by Commissioner Ernst, the Consent Calendar was approved by the following vote:

Ayes: Commissioners Bortolazzo, Dean, Ernst, Sherry, Syracuse, Thomas, and Chair Healy

Noes: None

Absent: None

Abstain: None

A. Approval of Agenda

B. Approval of Minutes of December 10, 2009

VI. REGULAR AGENDA ITEMS

A. COMMISSION DISCUSSION ITEMS PRIORITY NUMBER 4- Commission Discussion.

Senior Planner Lisa Porras gave a PowerPoint presentation, including the General Plan definition of gateways, how gateways are identified in the General Plan, policies and related projects.

Using the General Plan definition, Senior Planner Porras explained that gateways are essentially entrance points that are located off of a roadway. She pointed out that the General Plan has five such gateways listed. In addition to those five, she noted that there are policies that address the Pine Lake Area as a location to be developed as a gateway. She identified the five gateways currently designated using maps, as well as aerial and freeway photographs. Those five gateways are: The I-680 south corridor gateway approaching Lake Herman Road, the Lake Herman gateway east of Sky Valley Road, the southern entries from the Benicia/ Martinez Bridge, the Marina gateway off of the Carquinez Strait, and the western entrance gateway to the City on I-780.

Also covered by Lisa Porras was the language contained in the General Plan listed in Chapter three, Section C- Visual Character, which focuses on the look, feel and sense of place that is Benicia and begins to translate those expressions into goals, policies and program language. Additionally, she noted the General Plan goals and programs with that included urban plan design, and preparation of design guidelines that would begin to identify and direct the formation of the cities five gateways. The requirements for any development plans for the Pine Lake area were also highlighted.

Lisa Porras discussed the newly adopted study by the Board of the Solano Transportation Authority titled the "Solano Highways Operation Study". Within the study, design guidelines were prepared to establish a consistent and cohesive theme along the corridors. She indicated that the visual design guidelines contained in the study are intended to serve as a guide for cities to further establish what their own gateways might look like.

Lisa Porras noted one of the goals of the study was to create unique gateways that express the identity of each city but also strengthen the relationships between the corridors and surrounding areas by establishing common denominator features. The three themes that arose in the study were nautical, agricultural and natural and included examples of signage (with logo and color), hard-scape and landscape features. Lisa Porras also indicated that another goal of the study is the use sustainable and environmentally friendly plants and materials in the development of the gateways.

The presentation concluded with examples of existing signage located on the freeway corridors, as well as the signage that is considered internal (off freeway) and for directional use within the City.

Commissioner Bortolazzo inquired as to who is in charge of the large Benicia Nationwide freeway sign. City Attorney McLaughlin indicated that the city is not currently in control of that sign but has a sent letter to the company that claims to have a security interest in the sign asking them to take it down or let the City take it down. Additionally, he asked if the City could use the sign to promote events. City Attorney McLaughlin stated that the sign needs to be fixed.

Commissioner Bortolazzo noted that there are gateways located on private property and asked how the private property rights are affected by decisions made by the Commission. Senior Planner Porras noted that Fairfield and Vacaville have really focused plans that

deal with the issue, and that staff could look into and bring back information to further enhance the discussion. Commissioner Bortolazzo asked if there were any monies allocated to implement ideas from the Solano Highways Operation Study. Lisa Porras explained that it would need to be funded by local jurisdictions; however, if signage is located in a priority development area it could be eligible for funding.

Commissioner Dean inquired if any thought was given to the East Second Street exit or if there were any other internal gateways noted in staff's report. Senior Planner Porras noted that there have been efforts made by the City to establish internal gateways. She indicated that looking at the directives of the General Plan, internal gateways are not included and the focus is on the freeway, as well as the Lake Herman and Carquinez waterway corridors.

Chair Healy asked staff to define the "naturalized" theme in the study. Senior Planner Porras noted the naturalistic theme is described in the study as un-incorporated areas using native landscape in a neutral palate of native plants. Chair Healy also inquired as to whether the City has reconciled the competing interests, with one side wishing to plant many trees within the City, and the other wanting to keep the landscape of rolling hills with no obstructions as it was 100 years ago. Senior Planner Porras explained that she did not have the background information on that topic and is unsure of the context of the discussion when staff worked with STA on the item.

Chair Healy opened up the discussion to public comment.

Steve Goetz, 347 Goldenslopes - He appreciated the background that staff gave the Commission, especially the implementation language that talked about the city developing an urban design plan that would address the issues and hoped that the Commission would consider this a priority that the City should undertake soon. He noted that the gateways need more public outreach and that the Commission would get a lot of feedback on the themes suggested if there were a meeting held on the subject in Benicia. He discussed the presentation made by CALTRANS to the Parks and Cemetery Commission in March 2009 for the landscape plan of the southern gateway as part of the Benicia Bridge project. He feels that city logos can be somewhat boring and the City has an opportunity use the art community to display Benicia's "wares". He also feels that the urban design plan should also include the freeway. He closed his comments by saying the Historic Preservation Review Commission needs to look at this issue as well because the Arsenal Historic Preservation Plan has recommendations on what happens to the freeway as it goes through the lower Arsenal, and that needs to be incorporated into the Commission's review.

Marilyn Bardet, 333 East K Street- She agreed with Commissioner Bortolazzo saying that the city has an outstanding arts community. She commented that she was recently part of an Arts Benicia show and a noted an impressive piece by a Benicia resident and sculptor, who studied at UC Davis and has associations with other well-known sculptors in the area. She stated she is discouraged that East Second Street is not considered a gateway and the City should take examples from other cities about how internal entrances

are treated and would like to see shorter exits improved as part of our tourism plan. She concluded that landscaping is part of it, and a holistic approach should be used.

Dana Dean, 835 First Street- Attorney that represents the lessor and lessee of the Pine Lake Area. She appreciated Commissioner Bortolazzo's comments and wished to explain the current status of the area. She indicated that there has been a transitional period going on, but CC Meyers is committed to staying in Benicia and participating in the community. She continued that they have submitted a landscape plan for review.

Commissioner Bortolazzo asked if the area was to become an appropriation yard. Dana Dean answered no and explained that there will be an office with some yard involved, but a major portion will meet the long-standing terms of a landscaping plan for that area with a water feature. She noted three General Plan requirements for the site have been worked through and are part of the submitted plan. Commissioner Bortolazzo asked if the site would be for aggregating construction equipment and materials. Dana Dean answered that there will not be equipment but there will be some materials. Commissioner Bortolazzo indicated that the area was unattractive and perpetuated an industrial look. Dana Dean explained that as it sits, the site is a temporary circumstance and they have been working hard to come up with a plan that will protect and enhance the view corridor.

Chair Healy asked about the proposed water feature of the Pine Lake Area. Dana Dean explained that there would be more than one water feature so that it is visible from different points on I-780. She mentioned that they have focused on the CALTRANS plan to harmonize with CALTRANS property nearby.

Commissioner Dean asked how many acres the Pine Lake Area encompasses. Dana Dean answered that it is 28.36 acres.

Chair Healy brought the discussion back to the Commission to talk about five questions posed by staff. One question was what would implementation of the five gateways look like

Commissioner Ernst spoke about Suisun's attractive sculpture of the marshland, noting that he has pushed for more artist input for all of our gateways. He suggested that they look into categorizing gateways to segregate them into internal and external locations. He indicated that the bicycle pedestrian bridge that comes into the lower Arsenal could be another gateway and would like to see improvement to the signage of the lower Arsenal.

Commissioner Sherry noted the three things that need to be implemented are landscaping, art feature and signing. He indicated that those three elements should be incorporated into every gateway and that every gateway should be different.

Commissioner Bortolazzo indicated that he would not encourage anything at Lake Herman and felt that the Pine Lake gateway should be dealt with the quickest. He also listed the southern entries off of the Benicia Bridge near the refineries a priority. He also liked Commissioner Ernst's suggestion of a bicycle path as a gateway.

Commissioner Dean suggested that the number of people using each entry should be looked at in terms of priorities. He indicated that a natural entry point is East Second Street and wanted to explore what can be done to help direct people and make it a more welcoming entry into the city.

Commissioner Syracuse spoke about the internal signage at the apex West K and Military West and the past condition of the East Second Street exit. He agreed that the gateways should be different and indicated that the use of logos is important. He also indicated that the planting of trees to screen the Pine Lake Area is also necessary.

Commissioner Thomas agreed that the rare resource of the art community is diverse and broad. He also agreed that the gateways should not look the same. As Benicia is multi-faceted, they should reflect that. He noted how there is a different feel coming into the City from the State Park area as opposed to the Lake Herman side, but that both have characteristics that are part of Benicia. He suggested the unifying element of the gateways could be the use of the artwork itself. Commissioner Thomas indicated that tapping into this great resource would actually advertise one of the great aspects of the city without overstating it.

Chair Healy suggested inviting the public and art community to tell the Commission what they think and to come up with ideas. He also proposed they should continue the discussion with regard to tree planting in the City to come to a consensus before pressing forward on Pine Lake and other issues related to the gateways.

Chair Healy asked the Commission their view on whether the gateways should be prioritized. Commissioner Sherry indicated that East Second Street is critical if they were going to incorporate the internal gateways.

Chair Healy inquired as to if the Pine Lake plan would be brought back to the Planning Commission for review. Senior Planner Lisa Porras indicated that the area is in the general industrial zone and design review in that zone is done at staff level, but the Planning Director has the authority to remand it to higher level decision making process, in which case it would be directed to the HPRC.

Chair Healy asked the Commission if there are any gateways not listed in the General Plan but are important to consider. Commissioner Ernst indicated that Park Road could be considered a gateway. Commissioner Bortolazzo noted that the scale of signage is important. Commissioner Syracuse indicated that the freeway corridor overlooking the high school towards the water is also an important location. Commissioner Bortolazzo suggested that massive wildflower planting would be inexpensive and impressive as well.

Chair Healy suggested that Valero be invited into the discussion to field the questions of aesthetics regarding the refinery area. Commissioner Ernst suggested that the schools should also be involved. The Commissioners agreed on the importance of focusing on

the most visible of the gateway locations, the scale and supported research to find out who Benicia wants to attract with the signage.

Senior Planner Lisa Porras indicated that staff would provide a record of the comments made, including what groups to work with, the ideas of gateways being unique and how they can evolve. She added that staff will go back and discuss with the Planning Director how this project fits in within the larger context of a priority project identified by Council, and some of the things that staff can do to continue the discussion and work with the community to start planning with budget constraints. She welcomed the Commission to email any additional thoughts to staff to memorialize the evening's discussion.

VII. COMMUNICATIONS FROM STAFF

A. UPDATE ON THE INTERMODAL PROJECT

Gina Eleccion, Management Analyst, referred to the February 4, 2010 memorandum, which included a brief history of the project, funding, and locations researched to provide access to bus route 78 that travels between the Vallejo Ferry Terminal and Walnut Creek Bart. She also brought the Commission current on staff's efforts to address several concerns by the Commission and public regarding the original proposed sites, and the status of alternate sites researched by City staff. She noted the importance of a proposed site being visible, identifiable and easily accessible from the freeway, in which the current route does not present many possibilities.

Gina Eleccion indicated that staff is continuing discussions with the Gateway Calvary Church, working towards a partnership that would fit the community needs as well as the church's needs for future expansion. She anticipates additional communication from the Church within the next three weeks to know if staff can continue to move forward with that site, and at that time will be able to schedule workshops to move forward with preliminary designs.

Commissioner Dean asked whom the target group to use the park and rides are and asked if this is a long-term infrastructure project. Gina Eleccion explained the City's Transit Services Division could better answer the question with regards to the ridership base. She added that the City will promote the location to Benicia residents to develop a higher level of use and availability, but that it is not restricted to anyone living outside of Benicia.

Commissioner Sherry asked about an intermodal facility at Goodyear and asked if that station would incorporate a park-and-ride, a bus station and train station. Lisa Porras indicated that the city is seeking funds of \$150,000 from MTC through STA to develop a transit plan for that area. The Planning Division is waiting for a response. She also indicated that the plan would incorporate all three types of transportation.

Commissioner Thomas asked how many parking spaces were inquired about at Solano Square and if the related conversations involved Safeway. Gina Eleccion indicated that there was not direct communication with Safeway and there were approximately 30

spaces involved. She noted that the management company of the property conveyed Safeway's request to have more parking, in which a proposal to utilize any spaces would not fit into that request.

In relation to the Gateway discussion, Gina Eleccion indicated that staff is looking at the Intermodal Project location as a "gateway" type project that would require signage identification. Additionally, she noted that they are looking into monumental type signs that tie in the public art aspects of the previous discussion to connect the entrance to the west side of town with the other proposed gateway sites.

Commissioner Ernst inquired about the State Park lot and the CALTRANS vehicle storage area off of East Second Street. Gina Eleccion indicated that it is almost impossible to get a commitment from the state for a project of this type, and would require bus stop relocation. She further noted that Route 78 does not travel up East Second Street.

Commissioner Sherry inquired about the Sundowner location and the cost to acquire. Gina Eleccion explained that the appraisal of the property was unrealistic and the money allotted for this project cannot be used to purchase property. She noted that the money is to design and construct the plan.

Chair Healy opened up the topic to public comment.

Dana Dean, 835 First Street- Representing the Gateway Calvary Church. She indicated that the church is very open to this discussion and are sensitive to the timelines the City has to stay on in order to meet their funding obligations.

ADDITIONAL COMMUNICATIONS

Gina Eleccion, Management Analyst, notified the Commission and the public that the Historic Context Project is well underway. She explained that the purpose of this federally funded project is to document the "built environment" in Benicia and how it affected what was built and what remains today. She continued that they are looking for public participation, maps, photographs (particularly of street scapes), postcards, and newspaper articles. She noted that there would be oral histories conducted. She concluded by welcoming input and noted that the Benicia Herald will continue to promote this project.

VIII. COMMUNICATIONS FROM COMMISSIONERS

None.

IX. ADJOURNMENT

Chair Healy adjourned the meeting at 9:00pm



Public Works &
Community Development Department
MEMORANDUM

Date: March 11, 2010
To: Planning Commission
From: Lisa Porras *lp*
Senior Planner
Re: Commission Priority Discussion Item #4, Continued.

At the Commission's February 11 hearing, a key topic of discussion was on Benicia's "gateways". Staff presented an overview of existing goals, policies, and programs pertaining to gateways as described in Benicia's General Plan. In addition, staff informed the Commission about current efforts underway, such as the Solano Highways Operation Study that addresses gateways/signs throughout the county. Local examples were shared.

The Commission considered six gateways in the City as cited in the General Plan:

- (1) Northern Gateway at I-680 and Lake Herman Road, and
- (2) Lake Herman Gateway along Lake Herman Road, just east of Lake Herman, and
- (3) Southern Gateway at the intersection of I-680 and I-780, and
- (4) Western Gateway at I-780 and Rose Drive/Columbus Parkway, and
- (5) Marina and the Port as approached from the Carquinez Strait, and
- (6) Pine Lake.

In addition, staff suggested the following questions to help frame the discussion:

- :
- What would implementation of the 5 gateways look like?
 - Should gateways be designed to look consistent? Or should each gateway be approached as a unique feature drawing from its surroundings and local context?
 - Should the 5 gateways be prioritized for implementation?
 - Are there other gateways that are not listed in the General Plan, but are important to consider?
 - Are the policies and programs in the General Plan complete? Or are there other key components that should be identified?

This memo serves to memorialize the Commission's discussion.

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Planning Commission Questions

1. *Who is in control of the large sign off of HWY 680?*

The sign was installed in the late 1990's as a result of a development agreement between the City of Benicia and Nationwide Auction. The City agreed that Nationwide Auction could lease the land in the City's right-of-way for the sign. Today, Nationwide Auction no longer does business in Benicia and has filed bankruptcy. The City's approach is to seek a new sign operator, but must wait until financial and legal liabilities are resolved between Nationwide Auction and all other stakeholders.

2. *What is the process for receiving Caltrans encroachment permit?*

Staff is seeking confirmation from Caltrans regarding the process for special treatment in the right-of-way for gateways/signage/landscaping, however the standard process for most encroachments include submitting a Standard Encroachment Permit Application with initial fee of \$328 (additional fees may be required, e.g. \$164 contractor fee), which is followed by a 4-week review process for approval.

3. *Are there any funds set aside for Gateways in the city budget?*

The Capital Improvement Program for Fiscal Years 2009-2029 includes a line item under Transportation Projects, listed as "Gateway Entrance Enhancements" and defined as: Construction of traffic and pedestrian entrance amenities at four locations: (1) Military West and West 14<sup>th</sup> Street, (2) East 2<sup>nd</sup> and HWY 780, (3) East 5<sup>th</sup> and HWY 780, and (4) West 7<sup>th</sup> and HWY 780. The funds earmarked for such improvements total \$450,000 spread out over three years. However, no source of funds has been identified.

Public Comments

1. Benicia needs a Citywide Urban Design Plan to address freeway treatment
2. Gateways must be prioritized
3. The public must be involved
4. Include community art, sculptures
5. Involve the Historic Preservation Review Commission
6. The Arsenal Historic Conservation Plan addresses freeways
7. Design concepts in the Solano Highways Operations Study are not impressive
8. Replace signage on the East 2<sup>nd</sup> entrance into Benicia; it's inadequate
9. Improve East 5<sup>th</sup> entrance
10. Integrate with tourism
11. Pine Lake Design Review Application was recently submitted

## Planning Commission Comments

1. Consider a hierarchical approach for city gateways/signs:
  - a. (external) freeway
  - b. (internal) local road
  - c. (internal) bike/pedestrian paths
  - d. (internal) parks
  - e. (internal) focal points/landmarks
  - f. (internal) “city tree”
2. Consider the art community’s ability to infuse artistic elements into or used as gateways.
3. Gateways should have their own unique features, depending upon location
4. Every gateway should be different, should not look the same
5. Perhaps there is room for a unifying theme amongst all gateways, e.g. they all include art
6. Do not want a cookie cut approach
7. Landscaping, art, and signage should comprise the three basic elements of gateways
8. The scale of the gateways needs to be contextual; e.g. signs/gateways off the highways need to be large, while interior gateway/signage can be smaller
9. Themes identified in Solano Highways Operations Study (prepared by Solano Transportation Authority) need to be refined/adjusted, e.g. planting and signage design.
10. Consider a design competition, and/or charrettes
11. Invite the public and the art community to participate and play a role in shaping gateways
12. Include Arts Benicia and the Arts Commission
13. Include the schools
14. Gateway on Lake Herman different that the other freeway oriented signs; maybe no landscaping required, but perhaps some type of sign
15. Consider seeding the hillsides on Valero property with wildflowers
16. Pine Lake should be the priority
17. The interchange between HWY 680 and HWY 780 is Benicia’s true gateway
18. East 2<sup>nd</sup> is key as it directs the most people entering into Benicia; it can be much more welcoming, we can do better here
19. East 2<sup>nd</sup>, westbound exit island, perhaps something can be done here
20. Importance and priority on gateways that are most used
21. Look at local examples, e.g. Napa, Suisun, Davis
22. Bicycle/Pedestrian paths from Benicia-Martinez Bridge is also a “gateway”
23. The public needs to be able to comment on the Pine Lake application/plan.
24. Valero needs to respond to issues regarding its views/aesthetics.
25. Perhaps Valero could mimic ConocoPhillips plant in Pismo Beach by painting tanks
26. If there are limited funds, focus on most visible of all gateways, develop a large gateway
27. Consider what kind of statement we want to make, and to whom? Visitors? Locals? History? Who do we want to attract?
28. Potential for new development to provide, or help provide, gateways, e.g. Seeno development could assist in realizing gateway at Lake Herman/HWY 680

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Based on the Commission’s comments, staff suggests creating a set of principles that could be forwarded to the City Council for their consideration during future work programming.

Staff recommends sorting these principles into three categories, and referencing them as the Planning Commission's Principles for Gateway Priorities, Components, and Process for future gateway planning. Staff's suggestions are listed below and can be revised based on further input and agreement from the Commission.

### Gateway Priorities

To implement the gateways as identified in the General Plan, the priority considerations include, not in any particular order:

1. Pine Lake
2. The interchange between HWY 680 and HWY 780
3. Gateways that are most used/traveled by
4. If there are limited funds, focus on most visible of all gateways and develop a large gateway
5. Seek opportunities where new development can provide, or help provide, gateways, e.g. Seeno development could assist in establishing gateway at Lake Herman/HWY 680

In addition, the Planning Commission also places importance on other gateways that are not visible from freeways, such as

- local roads/neighborhoods
- along bike/pedestrian paths
- inside/alongside parks
- focal points/landmarks
- establishing a "city tree"

Amongst these, the Commission places priority amongst the following:

- East 2<sup>nd</sup> (directs majority of visitors into Benicia; it can be much more welcoming)
- East 2<sup>nd</sup>, westbound exit island, perhaps something can be done here
- Place importance and priority on gateways that are most used
- Seek opportunities where new development can provide, or help provide, gateways

### Components

1. Consider the art community's ability to infuse artistic elements into or used as gateways
2. Gateways should have their own unique features, depending upon location
3. Every gateway should be different, should not look the same
4. Consider a unifying theme amongst all gateways, e.g. they all include art
5. No cookie cut approach
6. Landscaping, art, and signage should comprise the three basic elements of gateways
7. The scale of the gateways needs to be contextual; e.g. signs/gateways off the highways need to be large, while interior gateway/signage can be smaller
8. Consider what kind of statement we want to make, and to whom? Visitors? Locals? History? Who do we want to attract?

### Process

1. Consider a design competition, and/or charrettes
2. Invite the public and the art community to participate and play a role in shaping gateways
3. Include Arts Benicia, Arts Commission, and the Historic Preservation and Review Commission

4. Include the schools
5. The public should have an opportunity to comment on Pine Lake applications/plans.

**Staff Recommendation →**

Staff recommends that the Planning Commission review and confirm the Principles for Gateway Priorities, Components, and Process. Thereafter, this item can be continued to April 8, 2010 when the Planning Commission can take action to forward this list of principles to the Council for its consideration during future work programming for city gateways.



Public Works &  
Community Development Department  
**MEMORANDUM**

**Date:** March 11, 2010  
**To:** Planning Commission  
**From:** Lisa Porras *lp*  
Senior Planner  
**Re:** Commission Priority Discussion Item #5

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On April 8, 2010 staff plans to agendize the Commission's priority discussion item #5 addressing regulations for bars, restaurants, live entertainment, sidewalk table service, and alcohol beverage service. The Planning Commission requested that staff prepare this item due to the lack of consistency in the application of conditions of approval for uses that serve alcohol including bars, restaurants. The attached examples of project conditions of approval bear this out. The Planning Commission also included sidewalk table service in their request for information. There are some significant differences in the manner in which the City's zoning standards treat alcohol related uses. These differences are geographic in nature (e.g. Downtown versus other parts of the city). The standards also differ in their various permit thresholds and definitions. Staff will provide additional information at the April meeting, including:

1. Recommendation for a standard list of conditions for establishments serving alcohol;
2. List of special conditions that might be applied based on a proposed establishment's proximity to sensitive receptors or other concerns; and,
3. Communication from the Police Department relevant to their issues relevant to establishments that serve alcohol.

Some of the issues that may be raised by the Planning Commission may not be able to be addressed by conditions of approval. In addition, conditions of approval are not applied to ministerial (by right) projects and instead rely on the requirements of zoning standards. As a result, this process may obviate the need for some Zoning Ordinance changes to address those issues. If that becomes the case, and depending on the complexity, staff will need to work with both the Planning Commission and the City Council to establish this among Benicia's other legislative priorities.

(over)

The following materials are provided for the Commission to review prior to commencing the discussion on April 8, 2010:

- General Plan Goals, Policies, and Programs
- Zoning Regulations
  - Use Regulations **outside** the Downtown Mixed Use Master Plan Area
  - Use Regulations **inside** the Downtown Mixed Use Master Plan Area
  - Title 17 Use Definitions
- Sidewalk and Table Permit Application/Requirements
- Implementation
  - Conditions of Approval as Adopted for Use Permits between 2006 and through 2009. This includes the following projects: (1) The Rellik Tavern, 726 First Street, (2) Luca Restaurant, 439 First Street, (3) Sahara Restaurant, 907 First Street.

## Relevant City of Benicia General Plan Policy Language

### **GOAL 2.12: Strengthen the Downtown as the City's central commercial zone.**

- Program 2.12.B: Work to attract economically viable businesses that will create night-life Downtown such as restaurants, cafes, movie theaters, and other entertainment uses.
- Program 2.12.I: Work with existing restaurants and cafes to provide sidewalk food service where the service will not impede pedestrian flow and where adequate sidewalk space exists.

### **GOAL 3.7: Maintain and reinforce Benicia's small-town visual characteristics.**

- Policy 3.7.2: Encourage “place-making”—the arrangement of built elements to create indoor or outdoor spaces that are recognizable and suitable for a specific function or functions.

“Place making” and “place definition” are among the most important functions of urban design. “Place” can be manifested in many forms: a street closed off for a neighborhood or regional fair; a cafe on the sidewalk or in a courtyard adjacent to it; a front porch where neighbors gather; or a small intimate patio or porch on the private side of the building where one can take a respite from urban life.

# Use Regulations OUTSIDE the Downtown Mixed Use Master Plan Area

| USE                               | ZONE                 |                   |                    |                       |                    |                    |                          |                 |  |              |
|-----------------------------------|----------------------|-------------------|--------------------|-----------------------|--------------------|--------------------|--------------------------|-----------------|--|--------------|
|                                   | Community Commercial | Office Commercial | General Commercial | Waterfront Commercial | Limited Industrial | General Industrial | Water Related Industrial | Industrial Park |  |              |
| Eating and Drinking Establishment | Permitted            | Permitted         | Permitted          | Permitted             | L4                 | L4.1               | L4                       | L4              |  |              |
| With Wine & Beer                  | Permitted            | Permitted         | Permitted          | Permitted             | L4                 | L4.1               | L4                       | L4              |  |              |
| With Full Alcohol                 | Use Permit           | Use Permit        | Use Permit         | Use Permit            | Use Permit         | Use Permit         | Use Permit               | Use Permit      |  |              |
| With Live Entertainment           | Not allowed.         | Not allowed.      | Use Permit         | Use Permit            | Not allowed.       | Not allowed.       | Not allowed.             | Not allowed.    |  | Not allowed. |
| With Take-Out                     | Use Permit (E)       | Not allowed       | Permitted (E)      | Permitted (E)         | L4 (D)             | L4.1 (D)           | L4 (D)                   | L4 (D)          |  | L4 (D)       |
| Drive Up                          | Use Permit           | Not allowed       | Use Permit         | Not allowed           |                    |                    |                          |                 |  |              |
| Limited                           | Permitted            | Permitted         | Permitted          | Permitted             | L4 (D)             | L4.1 (D)           | L4 (D)                   | L4 (D)          |  | L4 (D)       |
| Formula                           | Use Permit (L)       | Not allowed       | L19 (L)            | Not allowed           |                    |                    |                          |                 |  |              |
| Truck Stop                        | Not allowed          | Not allowed       | Use Permit         | Not allowed           |                    |                    |                          |                 |  |              |

**L-4** Permitted as a secondary use in a building, occupying no more than 2,500 square feet of the building floor area.

**L-4.1** Permitted as a secondary use in a building occupying no more than 2,500 square feet of the building area. A use permit is required for secondary uses occupying building areas of 2,501 to 5,000 square feet, or where the use is the primary use of a building.

**L-19** Formula businesses are a permitted use in the CG zone except for the Solano/Davies Square areas (bounded by Military, N and West and East Second Streets) where a use permit is required.

## Use Regulations OUTSIDE the Downtown Mixed Use Master Plan Area

### **(E, D) 17.70.090 Eating and drinking establishments with take-out service.**

The following supplementary development regulations shall apply to eating and drinking establishments with take-out service other than limited take-out service, as defined:

- A. No Walk-Up Service in CC and CG Districts. Food shall be delivered to patrons within a car or within a building, or enclosed or covered outdoor eating area.
- B. Minimum Separation. Establishments shall not be closer than 500 feet to a public or private school, park, or playground in an R, OS, or PS district.
- C. Litter Control. Identifiable containers and napkins shall be used for all carry-out food, and all litter resulting, including litter on adjacent property and public rights-of-way, shall be promptly removed. A use permit may require the operator to retain a contract litter cleanup service if the community development director determines that a litter problem exists. (Ord. 87-4 N.S., 1987).

### **(L) 17.70.350 Formula businesses.**

In the combined CD district and Solano/Davies Square areas (bounded by Military, N and West and East Second Streets), no more than one establishment of any particular formula business shall be allowed. Approval of a use permit for a formula business requires that the planning commission find that the proposed establishment will:

- A. Complement existing uses and enhance the economic health of the surrounding area;
- B. Be operated in a nonobtrusive manner that preserves the city's or area's distinctive character, ambiance, and small-sized city and historic nature;
- C. Not result in a concentration of formula businesses in the vicinity or citywide;
- D. Promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations;
- E. Contribute to an appropriate balance of local, regional or national-based businesses and small, medium and large-sized businesses in the community; and
- F. Avoid an appearance commonly associated with strip retail or shopping centers. (Ord. 07-12 § 4).

**BENICIA MUNICIPAL CODE – TITLE 17 ZONING REGULATIONS  
USE DEFINITIONS**

**17.16.050 Commercial use classifications.**

**L. Eating and Drinking Establishments.** Businesses serving prepared food or beverages for consumption on or off the premises.

1. With Wine and Beer Service. Alcoholic beverages served are limited to wine and beer.

2. With full alcoholic beverage service.

3. With Live Entertainment. Establishments offering live entertainment, as defined in Chapter 17.12 BMC.

4. With Take-Out Service. Establishments at which 20 percent or more of the transactions are sales for off-site consumption, and which serve or deliver prepared food to persons in vehicles or have more than two work stations at which employees package or service prepared food and receive payment.

a. Drive-Up. Service from a building to persons in vehicles through an outdoor service window.

b. Limited. Establishments that do not serve persons in vehicles.

5. Truck Stop. A facility geared primarily to providing services for truckers, including on-site fueling, repair and servicing of freight trucks; restaurant facilities; restrooms; towing services; overnight accommodations and related services.

**17.12.030 Definitions.**

**"Entertainment, live"** means regulations pertaining to live entertainment in this chapter apply to the following activities where they occur on a scheduled basis three or more days during a calendar year on the site of a use other than a public or semipublic use:

A. A comedy act, musical, theatrical, or dance recital performed by one or more persons, regardless of whether performers are compensated;

B. Any form of dancing by patrons or guests at a business establishment;

C. A fashion show, except when conducted within an enclosed building used primarily for the manufacture or sale of clothing.

# Use Regulations INSIDE the Downtown Mixed Use Master Plan Area

| DOWNTOWN MIXED USE MASTER PLAN REGULATIONS              |                               |                |                                 |                           |
|---------------------------------------------------------|-------------------------------|----------------|---------------------------------|---------------------------|
| USE                                                     | Town Core                     | Town Core Open | Neighborhood General            | Neighborhood General Open |
|                                                         | Restaurant, Café, Coffee Shop | Permitted      | Minor Use Permit (staff review) | Not allowed               |
| Bar, Tavern, Night Club open from 7:00 AM until 9:00 PM | Permitted                     | Use Permit     | Not allowed                     | Not allowed               |
| Bar, Tavern, Night Club open from 9:00 PM until 7:00 AM | Use Permit                    | Not allowed    | Not allowed                     | Not allowed               |

See definitions below:

**Bar, Tavern, Night Club:**

**Bar, Tavern:** A business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery ("brew-pub"), and other beverage tasting facilities.

**Night Club:** A facility serving alcoholic beverages for on-site consumption, and providing entertainment, examples of which include live music and/or dancing, comedy, etc. Does not include adult oriented businesses.

## Use Regulations INSIDE the Downtown Mixed Use Master Plan Area

**Restaurant, Cafe, Coffee Shop:** A retail business selling ready-to-eat food and/or beverages for on- or off-premise consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on- or off-premise consumption ("counter service"); and establishments where customers are served food at their tables for on-premise consumption ("table service"), that may also provide food for take-out, but does not include drive-through services.

**CITY OF BENICIA SIDEWALK TABLE PERMIT  
APPLICANT'S INDEMNIFICATION STATEMENT**

I hereby acknowledge that I have applied for a permit to allow the placement and use of sidewalk tables for business purposes in front of my business premises. Upon City approval of a Sidewalk Table Permit, I agree to hold the City of Benicia and its officers and employees harmless from, and will indemnify them against, all claims, liability, and loss, and in particular from and against all such claims, liability, and loss predicated on active or passive negligence of the City of Benicia resulting directly or indirectly from operations under an approved Sidewalk Table Permit. This hold-harmless obligation shall not terminate during the life of the permit. If any damage occurs to City facilities incurred as a result of the sidewalk table use, I acknowledge that I shall be charged with the cost of the repairs of such damage. This permit may be revoked at any time at the option of the Director of Public Works if it appears to the Director that continuing the sidewalk table use, whether because of changed conditions or otherwise, interferes with adequate or safe public use of the right-of-way involved. Upon revocation of the permit, all furniture and appurtenances associated with the sidewalk table use shall be removed from the right-of-way area, and shall not be replaced within that area until such time as the Director determines the use may once again be continued.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's signature

\_\_\_\_\_  
Print applicant's name

\_\_\_\_\_  
Print business name

**FOR DEPARTMENT USE ONLY**-----

Permit number \_\_\_\_\_

Date received \_\_\_\_\_

**CONDITIONS OF APPROVAL:**

1. Tables shall be kept a minimum of 2 feet from the curb face, and a clear walkway area of at least 5 feet in width shall be maintained for the entire frontage. A clear area of at least 5 feet in width shall be maintained at all building entries.
2. Tables shall not block access to fire emergency facilities, including hydrants and Fire Department connections.
3. Furniture shall be restricted to the frontage of the applicant's business, and shall not encroach on the frontage of any other business.
4. Furniture and trash receptacles shall be removed completely from the sidewalk area daily prior to the close of business.
5. All litter shall be removed from the site and surrounding premises as necessary, and those areas shall be kept neat and free of trash. Spilled liquids and foods shall be removed immediately.
6. Any necessary permits shall be obtained from the Solano County Department of Environmental Health Services prior to the use of sidewalk tables.
7. The applicant shall sign the Applicant's Indemnification Statement attached to this application.
8. The applicant shall not drill holes into or otherwise damage the sidewalk for the purpose of installing posts or anchorages. Furniture shall be equipped with non-skid devices to prevent damage to the sidewalk.

Additional Conditions: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**APPLICANT'S STATEMENT:** I have read the information regarding the conditions of approval listed above, as well as the City's "Sidewalk Table Policies and Standards". I agree to abide by and conform to these conditions, to the Policies and Standards, and to all provisions of the Benicia Municipal Code pertaining to the conduct of my business. I am aware that if I do not operate my business in compliance with these regulations, my permit may be revoked by the Planning Director upon verbal or written notice.

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Applicant's signature

**DEPARTMENT USE ONLY-----**

Date received: \_\_\_\_\_ Permit number: \_\_\_\_\_

Approved by: Planning \_\_\_\_\_ Date approved: \_\_\_\_\_

P. Works \_\_\_\_\_ Date approved: \_\_\_\_\_

# APPLICATION FOR SIDEWALK TABLE PERMIT--CITY OF BENICIA

**PLEASE NOTE:** To obtain a permit to place tables on the City sidewalk, you must verify that the use of the tables will meet the City's "Sidewalk Table Policies and Standards". Many of those requirements are listed below in the conditions of approval. Please read the policy and standards thoroughly to verify that you can meet those requirements.

**PLEASE COMPLETE ALL ITEMS. TYPE OR PRINT IN DARK INK.**

Business name: \_\_\_\_\_

Business address: \_\_\_\_\_

Applicant's name: \_\_\_\_\_

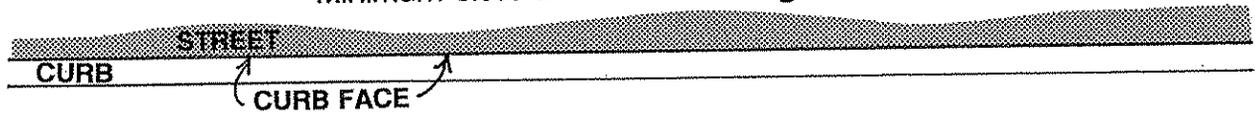
Mailing address: \_\_\_\_\_

Phone number: \_\_\_\_\_

# of tables proposed: \_\_\_\_\_ Hours of operation: \_\_\_\_\_

**ON THE PLOT PLAN BELOW,** draw the position of each table you plan to place on the sidewalk, noting the dimensions as shown on the sample plot plan. Include all existing obstructions on the sidewalk (trees, fire hydrants, signs, etc.). Please note the following requirements:

- Minimum distance between curb face and nearest table: 2'
- Minimum clear area at all building entries: 5'



SIDEWALK

BUILDING

**PLEASE NOTE--THE FOLLOWING INFORMATION MUST BE ATTACHED TO THIS APPLICATION:** Attach color photographs of the furniture proposed for use (manufacturers' brochures are acceptable). Include photos of umbrellas, trash containers, and any other types of furniture/accessory items that will be used.

**Chapter 9.04**  
**ALCOHOLIC BEVERAGE CONSUMPTION<sup>1</sup>**

Sections:

- 9.04.010 Public consumption prohibited.
- 9.04.020 Exceptions.
- 9.04.030 Alcohol permit.
- 9.04.040 Repealed.

**9.04.010 Public consumption prohibited.**

Except as provided in BMC 9.04.020, it is unlawful for any person to consume an alcoholic beverage or possess an open container of an alcoholic beverage in or upon any public street, sidewalk, alley, lane, way, highway or parking lot; or upon the grounds of any public building or facility; or upon any private parking lot, including unimproved land suitable and used for the parking of vehicles, which is open to the public, whether or not any fee is charged for the entry to or use of space in the parking lot.

The consumption of alcoholic beverages in public parks and playgrounds is regulated by Chapter 12.28 BMC. (Ord. 95-9 N.S.; Ord. 76-21 N.S. § 1, 1976; prior code § 12-1001).

**9.04.020 Exceptions.**

A. BMC 9.04.010 shall not be construed as to make it unlawful for any person to consume an alcoholic beverage or to possess an open container of alcoholic beverage within any public building or facility, or upon any public golf course or golf driving range; further, BMC 9.04.010 shall not be construed to make punishable any act or acts which are prohibited or made punishable by any law of the state.

B. It shall not be unlawful for a person to consume an alcoholic beverage or possess an open container of an alcoholic beverage when the person is attending a function operating under an alcohol permit issued in accordance with BMC 9.04.030. (Ord. 95-9 N.S.; Ord. 76-21 N.S. § 1, 1976; prior code § 12-1002).

**9.04.030 Alcohol permit.**

No person shall give or sell to another person any alcoholic beverage while in or upon any public street, sidewalk, alley, lane, way, highway or parking lot; or in any public park or playground, or upon the grounds of any public building or facility; or upon any private parking lot, including unimproved lands suitable and used for the parking of vehicles, which is open to the public, whether or not any fee is charged for the entry to or use of space in the parking lot; without first obtaining a permit issued by the city. The city council shall, by resolution, establish the procedure for obtaining an alcohol permit, including the fees for such permits. (Ord. 95-9 N.S.).

**9.04.040 Violation – Penalty.**

Repealed by Ord. 03-9. (Ord. 95-9 N.S.; Ord. 76-21 N.S. § 1, 1976; prior code § 12-1003).

**SAMPLE CONDITIONS OF APPROVAL TAKEN  
FROM PREVIOUS USE PERMIT REQUESTS**

**Sample Conditions of Approval**  
**taken from Previous Use Permit Requests**  
**(2006-2009)**

The Rellik Tavern: (726 First Street)

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 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.

Luca Restaurant: (439 First Street)

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.

Sahara Restaurant: (907 First Street)

1. The restaurant with outdoor dining for which this permit was applied, shall substantially comply with the plans and statement related to this use, submitted by Stein Eriksen, consisting of one sheet, dated February 6, 2007 and marked Exhibit A and on file with the Community Development Department, subject to the following conditions. This use permit does not allow outdoor live entertainment except to the extent expressly provided in this resolution.
2. This approval is for outdoor dining as an accessory use to a restaurant and payment of an in-lieu parking fee.
3. This project shall adhere to all applicable ordinances, plans, and specifications of the City of Benicia.
4. Outdoor dining shall be allowed in the patio area to the west of the restaurant Sunday through Thursday 11 a.m. to 9 p.m. and Friday and Saturday from 11 a.m. to 10 p.m. The outdoor dining area shall be limited to the area shown on the plans date stamped December 29, 2006 measuring approximately 600 square feet.
5. The operator of the establishment shall be responsible for monitoring patron behavior both inside and outside the building to avoid excessive noise or disturbance to the neighborhood. Should the operator of the establishment fail to monitor patron behavior, the Planning Commission shall hold a public hearing to address this issue.
6. Noise levels from the site shall comply with the standards contained in the Noise Ordinance, Benicia Municipal Code Chapter 8.20.
7. Exterior lighting shall be downward facing and shall meet Benicia Municipal Code Section 17.70.240.
8. The restaurant 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.
9. The applicant shall enter into an in-lieu parking fee agreement with the City within 90 days of the effective date of this Use Permit, and shall work with the Community Development Director, or designee, in establishing the terms and

conditions of said agreement. The agreement may provide for a payment plan and shall be recorded.

10. The restaurant with live entertainment, for which this permit was applied, shall substantially comply with the statement submitted by Stein Eriksen, dated January 28, 2007.
11. Outdoor live entertainment shall be allowed on Farmers Market days, currently Thursdays, from 4:00 p.m. to 8:00 p.m. and on special event days including, Independence Day, The Waterfront Festival, the Peddler's Fair and the Handicraft Fair. Music on these special event days shall be allowed from 1:00 p.m. to 6:00 p.m. The applicant shall post a notice on the premises announcing the date and time of the scheduled music venue. Said notice shall be posted at least five (5) days in advance of the date of the music event.
12. If outdoor live entertainment is desired on special event days other than those days identified in Condition Number 11 above, it shall require prior approval by the Community Development Director and Police Chief. The applicant shall provide mailing notice materials in accordance with the Community Development Department Mailing Notice Requirements handout. A public notice shall be mailed to all property owners within a 300-foot radius of the premises at least 10 days prior to the Community Development Director and Police Chief taking action on the request for additional music events. The public notice shall identify the date, time and music venue.
13. All employees shall attend the Responsible Beverage Service training annually. Certificates of completion shall be retained at the restaurant and made available upon request.
14. The restaurant owner/manager shall attend all restaurant owner meetings called by the Police Chief.
15. The restaurant shall remain a restaurant in perpetuity with beer/wine sales allowed only as a supplement to customers dining. Customers shall not be allowed to order drinks and sit inside or outside without meal service. Alcoholic beverages shall be served with food.
16. No alcoholic beverage signs or display of alcoholic beverages shall be allowed inside or outside the restaurant. Alcoholic beverage advertisement shall be limited to the menu only.
17. All laws governing the serving of alcohol shall be obeyed.
18. All exiting from the project will meet CBC requirements.

19. A Knox Box access system shall be provided in accordance with the Uniform Fire Code, Section 902.4. Contact the Fire and Life Safety Division at (707) 746-4273 for details.
20. In the event of violations of the conditions of the use permits, the Community Development Director 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 Section 17.104.090.
21. 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.

Issy's Restaurant: (1034 First Street)

1. Any alteration of the approved plans dated December 12, 2005 (Attachment A) outside of the ones required to satisfy these conditions shall be requested in writing and approved by the Community Development Director or designee prior to changes being made in the field.
2. All signs subject to Benicia Municipal Code Section 18 shall be approved by the Planning Department prior to installation.
3. Hours of operation shall not exceed 11:00am – 9:30pm daily.
4. Food service shall be offered concurrently with beverage sales during all hours of operation.
5. All employees shall attend Responsible Beverage Service (RSB) training within 6 months of approval of the Use Permit. New employees shall also attend RSB training within 60 days of hire. All employees shall continue to attend annual RSB training. RSB training courses are provided by several agencies including; City of Benicia Police Department, Alcohol and Beverage Control, etc.
6. The owner and/or manager will make a good faith effort to attend all bar/restaurant meetings called by the Police Department. Members of the

Police Department conduct these meetings twice a year. Notification of these meeting will be sent by mail.

7. This approval shall expire two years from the date of approval, unless made permanent by establishing the proposed use or extended in writing by the Community Development Director.
8. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
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 attach set aside, void or annul an approval of the Planning Commission, City Council, Planning 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.



Public Works &  
Community Development Department  
**MEMORANDUM**

**Date:** March 4, 2010

**To:** Planning Commission

**From:** Charlie Knox *CP*  
Director of Public Works and Community Development

**Re:** Interim Planning Commission Secretary Assignment

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As you know, Senior Planner Lisa Porras filled in for Principal Planner Damon Golubics at the Planning Commission meeting in February. Shortly thereafter, Damon resigned from his position with the City.

I am in the process of seeking City Manager approval to fill this vacancy and the Associate Planner position (recently vacated by Mike Marcus) as soon as possible.

In the interim, I have assigned Planning Commission Secretary responsibilities to Lisa Porras.