

April 10, 2008 - Benicia Business Park

BENICIA PLANNING COMMISSION

CITY COUNCIL CHAMBERS

REGULAR MEETING AGENDA

Thursday, April 10, 2008

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. AGENDA CHANGES AND DISCUSSION**

**III. OPPORTUNITY FOR PUBLIC COMMENT**

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 Agenda

[B. Planning Commission Minutes of February 14, 2008](#)

**V. REGULAR AGENDA ITEMS**

[B. BENICIA BUSINESS PARK VESTING TENTATIVE MAP, MASTER PLAN AND REZONING](#)

**PROJECT LOCATION: The Benicia Business Park site is located in the northeastern portion of the City of Benicia in Solano County. The project site consists of a total of 527.8 acres of undeveloped land bounded on the south and east by East 2nd Street. The western boundary is an irregular property line that generally parallels the alignments of West Channel Road and Industrial Way. The northern**

property line is also irregular and is bounded in part by the City of Benicia Water Treatment Plant and Lake Herman Road.

#### PROPOSAL

The revised project reverses the prior open space/development ratio, with approximately 60 percent open space. The application seeks City Council approval of a Vesting Tentative Map, Master Plan, and Rezoning to subdivide the 527.8-acre Benicia Business Park site into 80 lots ranging in size from 1.5 to 5.2 acres, plus five large open space lots. The applicant has characterized this final project application as a combination of two environmentally superior alternatives analyzed in the EIR: the Waterway Preservation and Hillside/Upland Preservation alternatives.

The project is proposed to be constructed in phases, with the initial phase comprising the 35-acre (14-lot) commercial portion of the project, plus two lots at the East 2nd Street/Industrial Way intersection that will be used for new public service facilities, including a Fire Department sub-station and Police department office. If the project is approved, conditions will be necessary to ensure that necessary infrastructure is installed prior to occupancy of each phase.

On February 19, 2008 the City Council certified the Environmental Impact Report (EIR) for the Benicia Business Park project; however, Council also determined that the project as proposed could not be approved due to inconsistency with the City's General Plan. A revised Vesting Tentative Map, Master Plan and Rezoning application was submitted March 20, 2008. The Subdivision Map Act requires the Planning Commission to make a report regarding the proposed Vesting Tentative Map to the City Council within 50 days of EIR certification. State law also requires a Planning Commission recommendation on a rezoning proposal.

#### RECOMMENDATION:

Adopt a resolution that (1) comprises a report to the City Council regarding the proposed Vesting Tentative Map, (2) makes a recommendation to the City Council regarding the proposed rezoning, and (3) may include findings and conditions for Council to consider in the event Council chooses to approve the project.

#### ENVIRONMENTAL ANALYSIS:

The City Council certified the project EIR on February 19, 2008 by Resolution No. 08-13.

#### VI. COMMUNICATIONS FROM STAFF

#### 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 Secretary.

#### **Disabled Access**

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact 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 may be taken by the Commission.

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 which are final actions, not recommendations, are considered by the City Council. Appeals must be filed in the Community Development Department in writing, stating the basis of appeal with the appeal fee within 10 business days of the date of action.

 [February 14, 2008 minutes.pdf](#)



**BENICIA PLANNING COMMISSION  
CITY COUNCIL CHAMBERS**

**REGULAR MEETING MINUTES**

**Thursday, February 14, 2008**

**7:00 P.M.**

**I. OPENING OF MEETING**

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

Present: Commissioners Rick Ernst, Dan Healy, Rod Sherry, Lee Syracuse, Brad Thomas and Chair Railsback

Absent: Commissioner Richard Bortolazzo

Staff Present: Charlie Knox, Community Development Director  
Mike Marcus, Assistant Planner  
Contract Attorney Kat Wellman  
Gina Eleccion, Management Analyst

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

**II. AGENDA CHANGES AND DISCUSSION**

No agenda changes.

**III. OPPORTUNITY FOR PUBLIC COMMENT**

- A. WRITTEN**

A comment letter was received from Greg Gartrell regarding the Subway Use Permit, but more specifically the lack of trash receptacles downtown. This letter was distributed to the Commission.

- B. PUBLIC COMMENT**

None.

**IV. CONSENT CALENDAR**

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

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

- A. Approval of Agenda**
- B. Planning Commission Minutes of December 13, 2007**

**VII. REGULAR AGENDA ITEMS**

**A. 1371 EAST SECOND STREET – SUBWAY SANDWICHES AND SALADS USE PERMIT**

08PLN-4 Use Permit  
 1371 East Second Street, APN: 88-111-110

**PROPOSAL:**

In accordance with Benicia Municipal Code 17.70.350, Formula Businesses, the applicant requests approval of a Use Permit for the establishment of a Subway Sandwiches and Salads restaurant.

**Recommendation:** Approve a Use Permit based on the findings and conditions in the proposed resolution.

Mike Marcus, Assistant Planner, gave a brief overview. A use permit has been applied for. This is the first project to be processed based on the formula business ordinance. He clarified that the business is not in operation, but that tenant improvements are being done.

Charlie Knox, Community Development Director, stated that the tenant improvement is normally approved after the use permit, however, the applicant is aware that the tenant improvements are being done at their own risk. He further explained that no additional parking study was required, as there are parking requirements for Solano/Davies Square.

Chair Railsback commented on the increase of parking on N Street. He questioned if it was possible to create 30-minute parking zones on N Street. Charlie Knox stated that he will communicate this issue to Public Works. Further, Mike Marcus noted that there are ten spaces below the building that should be utilized for employee parking.

Commissioner Ernst stated that there is confusion in the public that this has already been improved. Commissioners discussed the issue with the tenant improvements versus the use permit approval. Charlie Knox noted that there was a 10-day period between the time the tenant improvements were approved and the time the applicant was notified that a use permit was required.

Commissioners questioned if there could be signage noting the additional parking.

Kat Wellman, Contract Attorney, noted that the applicant bears the liability of the cost of the tenant improvements.

Jodi Singh, Applicant – She stated that she lives and works in Benicia. She is available to answer questions. She noted that it is a small retail franchise that intends to support the community.

Commissioner Ernst questioned if the applicant owns the other Subway shops in town. The applicant stated that this is her only Subway in town. Commissioner Ernst questioned where the products come from and what size truck would be used for deliveries. The applicant noted that there are small trucks and deliveries are not daily. They further noted that they anticipate the majority of their customers will be from Benicia.

The public hearing was opened.

Janine Seeds, 775 West K Street – She commented on the risk of the tenant improvements without the use permit approval. She doesn't understand the allowable uses, particularly with regards to delivery trucks. She does not want another Subway in town.

The public hearing was closed.

Commissioners discussed the project. Kat Wellman noted that the analysis of the project is included in the staff report. There was discussion over the impact of an additional formula business.

Commissioner Ernst stated his concerns with approving this application. Commissioner Healy clarified that this is before the Commission because it is a formula business. Commissioner Syracuse noted that there are no other business owners here this evening. He believes that many business owners believe that the increase in traffic benefits them. Commissioner Thomas commented on the concentration of formula businesses, but does not believe that this one business will significantly impact the existing conditions. Commissioner Sherry questioned the signage. Mike Marcus confirmed that the sign will fit with the approved sign program for Solano/Davies Square. Chair Railsback commented on the need for 30-minute parking zones and loading zones. There are issues with trash. Possibly, there could be a meeting of the business owners to address some of these concerns. Chair Railsback noted that there was a very involved public process regarding the formula business ordinance and this business complies with the ordinance. Commissioner Healy agreed with Chair Railsback's comments. He believes this is a much better location than a business on First Street.

**RESOLUTION NO. 08-1 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A USE PERMIT FOR A FORMULA BUSINESS AT 1371 EAST SECOND STREET**

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

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

Commissioner Ernst commended staff for a thorough report.

**B. ZONING TEXT AMENDMENT TO AMEND TITLE 17.108 (DESIGN REVIEW) OF THE BENICIA MUNICIPAL CODE**

Zoning Text Amendment  
City Wide

**PROPOSAL:**

The zoning text amendment would update and amend Title 17 (Zoning), specifically Chapter 17.108 amending regulations for design review responsibilities.

**Recommendation:** City Council approval of update and amendment of Section 17.108 of the Benicia Municipal Code, based on the findings in the proposed resolution.

Charlie Knox gave an overview of this item. City Council directed this amendment. This would only affect commercial projects greater than 2500 square feet.

The public hearing was opened.

Jon Van Landschoot, 175 West H Street – He supports this amendment, but wants to make sure the Commission is trained and qualified to assume these duties.

The public hearing was closed.

Charlie Knox noted that this type of design review approval by the Planning Commission might only come up once every year.

**RESOLUTION NO. 08-2 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENTS ESTABLISHING THE PLANNING COMMISSION AS THE AUTHORITY FOR COMMISSION-LEVEL DESIGN REVIEW OUTSIDE HISTORIC DISTRICTS**

On motion of Commissioner Ernst, seconded by Commissioner Syracuse, the above Resolution was approved by the following vote:

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

**C. ZONING TEXT AMENDMENT TO CHANGE THE REGULATIONS FOR ANIMAL KEEPING, SUBJECT TO SPECIFIC CRITERIA**

Zoning Text Amendment  
City Wide

**PROPOSAL:**

The zoning text amendment would update and amend Title 17 (Zoning), specifically Section 17.70.300 establishing new regulations for animals in a residential district.

**Recommendation:** Direction to City Council on amendment of Section 17.70.300 of the Benicia Municipal Code, based on the findings in the proposed resolution.

Charlie Knox gave a brief overview. He noted that Title 6 of the Benicia Municipal Code has been amended and this is to be consistent with that change. This is necessary for compatibility in residential areas.

The public hearing was opened.

Janine Seeds, 775 West K – She commented on existing animal uses adjacent to Rose Center.

Charlie Knox noted that the horses next to the Rose Center are being handled through the City’s code enforcement department.

The public hearing was closed.

**RESOLUTION NO. 08-3(PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENTS AMENDING SECTION 17.70.300 OF THE ZONING ORDINANCE TO BE CONSISTENT WITH TITLE 6 OF THE BENICIA MUNICIPAL CODE**

On motion of Commissioner Syracuse, seconded by Commissioner Thomas, the above Resolution was approved by the following vote:

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

**VIII. COMMUNICATIONS FROM STAFF**

Charlie Knox noted that the Contra Costa County pipeline hearing has been postponed to February 19<sup>th</sup>. City staff will be writing a letter regarding safety and sensitive species.

Gina Eleccion noted that there will be a special meeting with the State Office of Historic Preservation regarding the Secretary of the Interior Standards. The meeting will be held in the City Council Chambers on March 27<sup>th</sup>.

**IX. COMMUNICATIONS FROM COMMISSIONERS**

None.

**X. ADJOURNMENT**

Chair Railsback adjourned the meeting at 8:09 p.m.