



**BENICIA PLANNING COMMISSION
CITY COUNCIL CHAMBERS**

REGULAR MEETING MINUTES

Thursday, April 10, 2008

7:00 P.M.

I. OPENING OF MEETING

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

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

Absent: None

Staff Present: Charlie Knox, Community Development Director
Damon Golubics, Principal Planner
Heather McLaughlin, City Attorney
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

None.

III. OPPORTUNITY FOR PUBLIC COMMENT

- A. WRITTEN**

None.

- B. PUBLIC COMMENT**

None.

IV. CONSENT CALENDAR

Gina Eleccion noted a correction to page 2 of the minutes. The word “improved” should be changed to “approved”.

On motion of Commissioner Ernst, seconded by Commissioner Syracuse, the Consent Calendar was approved, with minutes amended as noted above, by the following vote:

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

A. Approval of Agenda

B. Planning Commission Minutes of February 14, 2008

V. REGULAR AGENDA ITEMS

A. 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.

Charlie Knox, Community Development Director, gave an overview of the project. He noted that City staff has confirmed that CEQA does not call for advisory body to make a recommendation on the EIR Addendum. State Law requires a recommendation from the Planning Commission on tentative map and rezoning. A PowerPoint presentation was shown comparing the prior project proposed to the current revised project. The current project has substantially less developable area than the options in the certified EIR. The phasing of the project was shown. There is condition of construction funding of a fire substation. City staff has recommended a process requiring a use permit to allow office on the industrial land, which could trigger an EIR for specific projects. The developer has not proposed a Development Agreement. Specific conditions of approval were mentioned as follows:

Condition #90 – Requires for a trail in the open space.

Location for a transit facility, transit for employees on site, and amenities for bicyclists are other desired outcomes of the project.

Offsite utility sewer connections may be a controversial issue for the applicant. Grading is another controversial issue. A 3-dimensional slide of the grading plan was shown. City staff believes there is opportunity to better protect the hillsides per General Plan policies. Staff believes there is still General Plan inconsistency with 2 hillsides.

Condition 103 F – Applicant funds a full-time Public Works employee to oversee stormwater, grading and erosion control on the site.

Charlie Knox noted a change in Condition #14 on page 5 – Should require final map per phase, not for whole project. In addition, Charlie Knox gave an overview of the hearing process.

Dan Schiada, Public Works Director, noted that the Public Works employee condition does not necessarily mean a full-time employee throughout the lifetime of the project.

Commissioners discussed the project. The cost of the fire station and funding mechanism was discussed. Charlie Knox noted that a property owners' association would be set up. In addition, police and fire are planned to be phased in.

Commissioners discussed ownership of streets, pavements and gutters. Dan Schiada noted that they would be public right-of-way, but sidewalk maintenance is the responsibility of private property owners.

Commissioners discussed the sizes of the parcels in the development and what the largest building that could be built is. Charlie Knox noted that the applicant has flexibility in seeking tenants. The largest retail space shown near I-680 and Lake Herman Road is 27,000 square feet.

Offsite utilities were discussed. Dan Schiada noted that there was a study identifying what size pipelines should be used. The applicant needs to come up with a plan to accommodate site development over the next 20 years.

Commissioners discussed the slopes of the property lines in relation to fill issues. There was a question as to whether the major slopes are going to be landscaped. Charlie Knox noted that there is a plan for hydroseeding and slope stabilization. Dan Schiada noted that the City Standards require benching. Maintenance of the slopes and open space will be the responsibility of an ongoing maintenance program monitored by the property owners' association.

Commissioners commented on the LEED issues. Charlie Knox noted the requirements for sustainable building. In addition, he noted there is City design review for all commercial and industrial buildings, which would allow for additional conditions.

Commissioners questioned if there was a requirement for a certain LEED certification level. In addition, there was a question as to how the open space areas are maintained.

Commissioners questioned the definition of a "finished building pad." Dan Schiada noted that would be the final, graded dirt area for the lot. Each final map will be reviewed in detail by the Planning Commission and City Council.

The commercial use of the project was discussed in terms of its income revenue. Charlie Knox noted that the Fiscal Impact Analysis is based on the feasibility of certain commercial uses; however, there is no guarantee of success in any project.

The property owners' association was discussed. Charlie Knox noted that the buildout is anticipated at 20-30 years for the industrial space.

The City's Economic Development Strategy was mentioned in relation to this development. Charlie Knox noted that there is a desire to have business uses at the site, as compared to land uses in the Industrial Park.

Commissioners questioned the timing of the revised plan submitted and the timetable related to the Subdivision Map Act. Charlie Knox noted that the applicant and City Council have to agree in order to extend the timeframe.

The use of development agreements was discussed. Charlie Knox noted that this would require mutual agreement. Commissioners questioned if a development agreement could be a condition of approval. Heather McLaughlin, City Attorney, noted that the Planning Commission could recommend to the City Council that a development agreement would be an appropriate tool.

The issue of requiring a use permit for offices in industrial areas was discussed. Charlie Knox noted that the application can't be adjusted to simply allow offices without additional environmental review.

Commissioners discussed if the applicant can be mandated to fund the marketing of the project.

Applicant Presentation:

Carl Campos, Loving and Campos Architects – He questioned if he could have 22 minutes and Benicia First (the organized opposition group) could also have 7 additional minutes. Consensus of the Commission was to grant the additional time. Mr. Campos highlighted the changes to the plan. He noted that the project started in 1988 and gave an overview of its transformation. Council certified the EIR with the statement that the proposed project did not comply with the General Plan. The applicant revised their plan and resubmitted a superior alternative, which protects the drainage reaches and provides for industrial development. Design opportunities were highlighted. The use of landscaping and bioswales was shown. LEED standards were included. Grading was highlighted, showing a relationship of Southampton grading prior to, and during, development.

Commissioners commented on the changes to the plan. The applicant was asked why these changes were not made sooner. Carl Campos noted that the original plan involved a lot of grading; however, the 2004 plan had been reworked which the EIR is based on. Based on comments from the public and Council related to the EIR, the plan was revised.

Commissioners commented on the use of flat pads. Carl Campos noted the grading would be phased. In addition, he noted that the pads are tiered, but have to be large enough to accommodate multiple uses.

The widening of streets was discussed in terms of the adequacy of the improvements. Dan Schiada noted that the improvements are adequate based on the traffic analysis. Lake Herman Road would remain rural, but would be improved. East 2nd Street would be widened and would be 2 lanes in each direction with medians. Dan Schiada noted that the total trips are distributed to all of the various locations analyzed. In addition, Charlie Knox noted that the previous project had a buildout with a higher number of trips per day. He further noted that this data is necessary as part of the EIR Addendum prior to going back to the City Council for approval. Dan Schiada noted that there will be improvements at the I-780/East 2nd Street off-ramps.

Commissioners questioned the applicant regarding conditions related to LEED requirements. Carl Campos noted that the system is typically voluntary.

Louis Parsons, Discovery Builders, stated they would prefer conditions of approval vs. a development agreement.

Jerry Page, Benicia First – He introduced Don Dean to present.

Don Dean, 257 West I Street – He noted that there is an Initial Study still to be done on this project. He believes there needs to be more legal research as this should be considered a “new project.” Benicia First would like to see an Initial Study go forward for the revised project. He noted that the Commission can approve the project, request additional time, or deny the project. He requested that all relevant material be provided by the applicant (grading plan, geotechnical report) The Initial Study incorporates all material. The revised project should be evaluated according to recognized thresholds of significance. Additionally, he would like to see material available sooner.

Jerry Page, Benicia First – He commented on sustainability. He is concerned with Phase 2 of the project. He would like to see a more clear vision of the project. There needs to be additional investigation between the applicant and the City Council. He discussed the need for research and development uses. He commented on “Cleantech” uses. He would like a plan to attract high-tech businesses. He commented on traffic, air quality, noise and urban decay impacts. He believes additional time is needed for review.

A recess was called at 9:05 p.m. The meeting was reconvened at 9:18 p.m.

Chair Railsback questioned if the applicant agrees to the extension, would the project return to the Planning Commission. Heather McLaughlin noted that if a recommendation has not been made, then the project could come back to the Commission.

Commissioner Ernst stated that he discussed grading with Sal Evola.

The public hearing was opened.

Gene Doherty, 580 Willow Court – He was surprised and pleased with the presentation. He encouraged the requirement of Silver LEED certification at least for some of the projects. He encouraged this type of buildout, but realizes there are a lot of issues that need to be resolved. He commented on Condition 90 regarding a dollar amount for the trails.

Bob Berman, 250 West K Street – He commented that this process is bizarre. He is concerned with the lack of specific analysis of the project. He commented on the General Plan policy inconsistencies and the lack of analysis. He is concerned with the EIR Addendum and mitigation measures. He disagrees with the time limits stated regarding State Law and the Subdivision Map Act. There has not been adequate time to review this.

Commissioner Ernst questioned who prepared the proposed EIR Addendum. Charlie Knox noted the applicant prepared the proposed EIR Addendum. LSA, which prepared

the EIR, will prepare the official EIR Addendum prior to Council review. In addition, he noted that without a new, significant impact, there is no threshold for a supplemental EIR. The lead agency on the project is City Council.

John Garcia, 125 Mountview Terrace – He thanked the Commission and developer for their time spent on the project. He commented on the General Plan inconsistencies and the EIR Addendum and revised plan addressing those inconsistencies. He would like to see this project move forward. He does not believe there will ever be a “perfect project.”

Marilyn Bardet, 333 East K Street – She incorporated all comments submitted by Benicia First, and all comments submitted in the EIR Response to Comments. Ecological and sustainability are critical. It is important to attract the best tenants. The economics of building green will pay off. She commented on the latest version of the LEED-ND pilot program. This is a neighborhood development project. She addressed issues with grading and the need for additional geotechnical information. EPA required clean fill for the Tourtelot project, but the community did not want such severe grading. Development and densities could be consolidated.

Sabina Yates, 302 Bridgeview Court – The original development showed a complete lack of concern for Benicians. She is concerned with the impact of the project. She would like to see the developer work with the Economic Development Board to create a gateway.

Dana Dean, Attorney representing Citizens Considering the Consequences – She believes an Initial Study is required. Addendums are appropriate only when conditions are all met. The certification of the EIR required an Initial Study. She believes a development agreement can be a condition of approval.

Joel Fallon, Resident – He believes that given the scope and complexity of the proposal, he would like the City Council to revisit the EIR.

Dan Smith, Military East – The new project is not covered specifically by the certified EIR. He believes that many of the General Plan conflicts still exist. He does not believe this is a good design. There needs to be a hydrology study based on the revised plan. He submitted an article to the Commission.

Andy Siri, 716 West H Street – He commented on issues with Sulphur Spring Creek. He noted that originally the developer was looking at residential development. He commented on the commercial/industrial developments paying their way.

Steve Goetz, 347 Goldenslopes Court – He commented on the size and density and the impacts of the project. He is disappointed with the review provided for this project. He previously submitted a letter to the Commission. He believes the Commission’s recommendation should be definitive. He thinks that without further review the Commission should deny the project. Traffic congestion is a major issue. The vehicle mix is also an issue. The proximity of increased traffic to Robert Semple Elementary is also an issue, particularly related to air quality.

Norma Fox, Resident – She is concerned with the lack of economic analysis. She referenced a City of Oakland document for development scenarios and economic projections. She believes the applicant neglected to provide economic analysis to the City.

Barbara Bosworth, West L Street – She followed up on Marilyn Bardet’s conditions of approval. She would like:

1. LEED Neighborhood Development
2. Campus Style development in Phase 2
3. Require 15 acre commercial parcel in Phase 1 to allow office
4. Geotechnical studies analyzing new footprint
5. Traffic impacts further reduced
6. Analysis of air pollution at Semple school
7. Provision and facility for alternative public transport
8. Recreational bike and public access trails
9. Road layout revised for all phases of project for accessibility and walkability
10. Commercial limited to compatible high quality business park
11. Resource manager assigned and paid for to ensure proper management of open space

Susan Street, East 2nd Street – She is concerned with some of the language in the staff report. She commented on the project and the reputation of the developer. She believes there is a huge opportunity to have a sustainable project.

Michael Gosney, SF Resident – He is associated with the Green Century Institute. He suggested that there are many resources. There is an opportunity for the City and developer to create a sustainable project. He believes additional time is needed to review this project.

Bob Craft, Resident – He commented on the need for a sustainable project. He believes the revised plan appears to be a better alternative. The revised plan was not studied in the EIR. An Initial Study should be required. He would like to amend Condition #90 to add the word “or.” He would like a community advisory panel created to monitor construction.

Andrew Laughton, Green Century Institute – There is a revolution in development. Sustainable design is critical. Environmental, economic and social issues are pillars of sustainability. He encouraged the Commission to consider this carefully.

Kitty Griffin, Baker Street – She made reference to the Intermodal Transportation Station. She commented on current legislature related to sustainability. She thanked the developer for preserving the open space on Lake Herman Road. The land use plan does not match all of the General Plan Goals and Policies. She would like to maximize the City’s power to make sure the project complies with the General Plan.

Belinda Smith, Resident – She commented on impacts to Robert Semple School. There is already a sound wall there. She would like additional mitigation measures:

1. Require developer to pay for double-paned windows and air cleaners at the school.
2. Possibly have developer build a new school site.

Jon Van Landschoot, Resident – He commented on the 50-day timeline and whether it was set in stone. He would like the City Attorney’s opinion on this. He believes the packets should have been available sooner. He would like the City to take more time with this. He stated his concern with the words “should, consider, seek, whenever possible, agree to improve, flexible, etc...” He commented on the developer’s reputation with grading. He does not believe the developer cares about the environment.

Sal Evola, Discovery Builders – He stated there is no rebuttal, but is available to answer questions.

Commissioner Healy questioned if the developer would agree to extend the existing timeline for this process. Sal Evola stated that he does not believe this is a new project. A commitment was made to City Council to bring a compliant project forward, which they believe they did. Commissioner Healy further questioned if the developer agrees to the recommendations of the Commission. Sal Evola believes the plan submitted is the environmentally superior alternative with proper conditions of approval.

The public hearing was closed.

Commissioners discussed:

1. The addition of basic LEED conditions.
2. Development Agreement
3. Truck route requirements
4. Grading (Phase 1 and 2) – Prior to Council making any decision on project, developer should return with detailed grading plan for that portion of hillside that conforms with the General Plan

Charlie Knox noted that the Phase 2 site does not look like an extremely steep slope. Regarding the Phase 1 commercial site, he would like to see a more terraced pad for variation in topography.

Charlie Knox stated that once the final map is approved, staff level design review would be required to develop a site. The use is regulated and is warehouse or flex use; however, office is allowed at less than 50% floor area as a subordinate use.

Commissioners commented on the possibility of more time to review the information. In addition, there is a need for clarification of the difference of a development agreement vs. conditions of approval. Charlie Knox noted that regarding conditions of approval, the applicant will respond to the City Council in the approval process. Development Agreements are negotiated over long periods of time. Development Agreements tend to benefit the developer.

Regarding Robert Semple School, there may not be a nexus with improvements and this project. Air pollution, traffic and noise are all issues. There is a lot of existing development that uses East 2nd Street. Dan Schiada noted there is a condition at Hillcrest for traffic calming. Significant traffic improvements are being imposed on this developer, along with traffic impact fees.

The Intermodal Transportation Station was discussed. Dan Schiada stated that this project is still in the preliminary stages. There are challenges in locating that project on the rail line. There is no specific site established for this.

Commissioners would like more information and time to review. Some of the conditions are too permissive. It is critical to have long-term viability. Development agreements are standard procedures. The Commission would like the developer to agree to a development agreement.

Heather McLaughlin stated that she believes the City needs to take action on the project based on the Subdivision Map Act. Action does not have to be approval. A development agreement would be negotiated between the City and the developer, and would be subject to a public hearing at City Council.

Commissioners do not believe there is any positive result for the developer to not agree to extend the time or commit to a development agreement.

The public health component of the General Plan was mentioned.

Commissioner Healy stated that he is prepared to find that the project does not comply. He objects to the word “substantial” in reference to compliance with the General Plan. He would like to reduce the condition setting a maximum amount of eating and drinking establishments. LEED should be mandatory. Off-ramps and crosswalks should be redone. A separate irrigation system imposed. Solar and green building should be required.

The Commissioners commented on the magnitude of the project.

Charlie Knox commented that the City attempted to change “shoulds” to “shalls” in the EIR.

Commissioner Ernst would like to continue the item to allow staff to facilitate a meeting with applicant to resolve issues. Charlie Knox noted that the Commission has to make its report within 50 days (i.e., at this meeting), then Council has 30 days to hear the item. Council can continue through June 3rd.

Charlie Knox encouraged the Commission to make some kind of report to the City Council. If the Commission only reports that they do not have enough time to review the Tentative Map, then the rezoning may have to come back because Council could not take action without Planning Commission recommendation.

Heather McLaughlin noted that they could recommend denial on the map and rezoning based on lack of time and ask Council to remand this back to the Commission.

A suggestion was made to have a study session with Council, Applicant, and City staff.

RESOLUTION NO. 08-4 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL DENIAL OF VESTING TENTATIVE MAP, MASTER PLAN OVERLAY, AND REZONING APPROVAL FOR THE BENICIA BUSINESS PARK PROJECT

Commissioner Healy made a motion to recommend denial of the project because it is inconsistent with the General Plan with the factual basis that it has failed to provide enough adequate information regarding geological studies; regarding the commercial impact on the downtown; regarding the impact on the health of the City; they failed to address fully the bicycle path and pedestrian path.

This project is being presented in such a way in large part because the applicant only presented the report 6-days ago that the burden rested on the applicant to convince the City that this project was consistent with the General Plan and as of right now they have failed to do that.

Motion includes recommendation of denial of the entirety of the project [including tentative vesting map, rezoning, overlay, and environmental documentation/certification].

On motion of Commissioner Healy, seconded by Commissioner Thomas, the above resolution was adopted, with comments noted, by the following vote:

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

On motion of Commissioner Healy, seconded by Commissioner Syracuse, the following recommendation was made:

In the spirit of the City and developer moving forward with the best possible project, the City invite the developer to contact them [City Staff] tomorrow and establish a comprehensive schedule designed to both address the shortcomings of the plan and get this community fully on board on a project that everyone can get behind.

The above recommendation was carried by the following vote:

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

VI. COMMUNICATIONS FROM STAFF

None.

VII. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Ernst commented on the petition for keeping the State Parks open.

VIII. ADJOURNMENT

Chair Railsback adjourned the meeting at 11:50 p.m.