April 26, 2012

BENICIA HISTORIC PRESERVATION REVIEW COMMISSION

REGULAR MEETING AGENDA

City Hall Commission Room

Thursday, April 26, 2012

6:30 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 matter jurisdiction of the Historic Preservation Review 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 commissioners, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

A. WRITTEN COMMENT

B. PUBLIC COMMENT

IV. PRESENTATIONS

None.

V. CONSENT CALENDAR

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

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

A. Approval of Minutes of March 22, 2012

VI. REGULAR AGENDA ITEMS

A. WORKSHOP – DEMOLITION ORDINANCE, Listing process AND other PROPOSED REVISIONS TO TITLE 17 OF THE BENICIA MUNICIPAL CODE

PROPOSAL:

Continued from the March 22 meeting, this is a discussion of the proposed revisions to Title 17, focusing on Chapter 17.54 H Overlay Districts. To address concerns over the current demolition ordinance, listing process, and respond to the Commission's request for additional definitions in our zoning code, staff has drafted amendments for the commission's review and discussion. Comments will be incorporated into a final draft, which will be brought back to the Commission to make a recommendation to the Planning Commission and City Council.

Recommendation: Review draft demolition ordinance and added definitions, discuss revisions, take public comment, and direct staff to bring back a final draft for action.

VII. COMMUNICATIONS FROM STAFF

A. MAY – NATIONAL PRESERVATION MONTH

Staff will provide an overview of National Preservation Month, including various activities in the community. This year's theme is "Discover America's Hidden Gems."

VIII. COMMUNICATIONS FROM COMMISSIONERS

IX. ADJOURNMENT

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Public Participation

The Benicia Historic Preservation Review Commission welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The Historic Preservation Review Commission allows speakers to speak on 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 Historic Preservation Review Commission.

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

Disabled Access

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

Meeting Procedures

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

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

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

Appeals of Historic Preservation Review Commission decisions that are final actions, not recommendations, are considered by the Planning Commission. Appeals must be filed in the 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. The Public Works & Community Development Department is open Monday through Friday (except legal holidays), 8:30 a.m. to 5 p.m. (closed from noon to 1 p.m.). Technical staff is available from 8:30 - 9:30 a.m. and 1:00 - 2:00 p.m. only. If you have questions/comments outside of those hours, please call 746-4280 to make an appointment. 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 Commission Room. If you wish to submit written information on an agenda item, please submit to Lisa Porras, Senior Planner, as soon as possible so that it may be distributed to the Historic Preservation Review Commission.**

Draft Minutes March 22, 2012 Meeting
Draft Demolition Ordinance

DRAFT

BENICIA HISTORIC PRESERVATION REVIEW COMMISSION
REGULAR MEETING MINUTES

City Hall Commission Room
Thursday, March 22, 2012
6:30 P.M.

I. OPENING OF MEETING:

A. Pledge of Allegiance

B. Roll Call of Commissioners

Present: Commissioners Delgado, Haughey, McKee, Taagepera, Trumbly, and Van Landschoot
Absent: Chair Crompton
Staff Present:
Amy Million, Principal Planner
Lisa Porras, Senior Planner
Stacy Hatfield, Sr. Admin. Clerk, Recording Secretary

C. Reference to Fundamental Rights of Public

II. ADOPTION OF AGENDA:

On motion of Commissioner Van Landschoot, seconded by Commissioner Haughey, the Agenda was approved by the following vote:

Ayes:	Commissioners Delgado, Haughey, McKee, Taagepera, Trumbly, and Van Landschoot
Noes:	None
Absent:	Chair Crompton
Abstain:	None

III. OPPORTUNITY FOR PUBLIC COMMENT

A. **WRITTEN COMMENT**
None

B. **PUBLIC COMMENT**
None

IV. PRESENTATIONS:

A. PROCLAMATIONS OF COMMENDATION FOR CHUCK MANG AND MIKE WHITE FOR THEIR SERVICE TO THE COMMUNITY

Vice Chair Taagepera read the Proclamations of Commendation for former Commissioners White and Mang. The proclamations will be mailed to their homes since neither one was able to attend the meeting. Commissioner Van Landschoot expressed how much he appreciated them staying on the Commission until their replacements could be found.

B. OPEN GOVERNMENT PRINCIPLES

The City Attorney will make a presentation on the Open Government ordinance. The Open Government ordinance requires that all public officials and some employees read the Open Government Ordinance and attend an annual training on the ordinance. This training will also include a review of the Brown Act, the City's Code of Conduct and other related documents.

The City Attorney gave a presentation to the Commission on the topics listed above. She discussed what constitutes a meeting. If four or more commissioners get together to discuss something commission related, it should be noticed so that the public has an opportunity to speak on the issue. She also shared that the City Council has decided that speakers will have no fewer than 3 minutes to talk at public meetings.

Vice-Chair Taagepera wanted clarification from the City Attorney on whether letters sent to a commission are public information. The City Attorney noted that unless the letter was relating to something confidential, it is public information and should be made available at the meeting.

The Commissioners also asked for clarification on whether they could speak at other commission meetings. The City Attorney said that they could, however it must be made clear whom they are representing. She suggested designating a representative, which would need to be done at a prior meeting by vote. Spokespersons are allowed 15 minutes to talk.

The City Attorney suggested using caution when communicating by emails and blogs, and Commissioner Haughey asked if a commissioner could

serve on two commissions. The City Attorney said no. The City Attorney also gave an overview of the Code of Conduct handout and discussed the Public Records Act. She explained that you have ten days to respond to records requests. The City is trying to post as much information as possible on the City's website so that the public can access it. She also noted that each board should maintain a public correspondence file for one year.

V. CONSENT CALENDAR

A. Approval of Minutes of February 23, 2012

On motion of Commissioner Haughey, seconded by Commissioner Van Landschoot, the minutes of the February 23, 2012 meeting were approved by the following vote:

Ayes: Commissioners Haughey, McKee, Taagepera, and Van Landschoot
Noes: None
Absent: Chair Crompton
Abstain: Commissioners Delgado and Trumbly

VI. REGULAR AGENDA ITEMS

B. DESIGN REVIEW FOR A REAR ADDITION AT 153 WEST E STREET

12PLN-00005 – Design Review
153 West E Street
APN: 0089-173-110

PROPOSAL:
The applicant requests design review approval for exterior modifications to the rear façade of the existing Craftsman style non-contributing building located within the boundaries of the Downtown Historic District. The proposed modification includes enclosing a portion of the rear porch and stairs to accommodate a new laundry room used as part of the Bed & Breakfast operations. The new enclosure would be located on the first floor and match the siding and details of the first floor's rear façade. The construction of this addition was commenced prior to the subject request for approval.

Recommendation: Approve design review request for exterior modifications to the rear façade of the existing bed and breakfast, based on the findings and conditions of approval set forth in the proposed resolution.

Staff presented this item to the Commission and explained that the applicant is requesting to make a change to his design review application to include a new flue vent. Staff is not concerned with this non-substantive change as presented and is willing to put it in front of the Commission for approval. It was noted that the laundry room addition was performed prior to obtaining a building permit.

The applicant gave an overview of the events that occurred during the process to obtain what he thought was his building permit. He contends that he was just following staff direction when he went ahead and started construction. He presented to the Commission what he thought was his building permit.

Staff gave an explanation of the conversation that took place between the Public Works and Community Development Director and the applicant. Staff clarified that the applicant paid for a plan check, not a permit. Some of the Commissioners expressed concern that the proper process was not followed.

Commissioner McKee indicated that had this project been presented before it was started, he would have likely voted for approval. He also indicated that since the laundry room addition was engineered, and the walls were left open so the work could still be inspected, he was fine with their design review. The Commissioners decided that the project is consistent with all of the necessary criteria and approved the design review application.

RESOLUTION NO. 12-3 (HPRC) -A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING DESIGN REVIEW FOR EXTERIOR MODIFICATIONS TO THE REAR FAÇADE OF 153 WEST E STREET

On motion of Commissioner Haughey, seconded by Commissioner McKee, the above resolution was approved for exterior modifications to the rear façade of 153 West E Street and the addition of a new flue vent by the following vote:

Ayes:	Commissioners Haughey, McKee, Taagepera, Trumbly, and Van Landschoot
Noes:	Commissioner Delgado
Absent:	Chair Crompton
Abstain:	None

C. DESIGN REVIEW FOR A REAR ADDITION AT 141 WEST F STREET

12PLN-00006 – Design Review
141 West F Street
APN: 0089-115-180

PROPOSAL:
The applicant requests design review approval to construct a 378 sq. ft. addition along the rear elevation of an existing residence. This Design Review request also includes a new 417 sq. ft. deck attached to the proposed addition. This residence is listed as a Contributing Structure and located in the Downtown Historic District.

Recommendation: Approve the design review request to construct a rear addition to an existing single-family residence, based on the findings and conditions of approval set forth in the proposed resolution.

Staff presented the project to the Commissioners and explained that there will also be two minor roof changes done when the applicant addresses some needed repair work. The applicant would like to change that portion of the roof to match the lines of the existing roof. Overall staff finds the project is consistent with the requirements and staff is recommending approval.

Commissioner Van Landschoot asked for clarification on percentage of lot coverage. Staff explained that the setback dictates what the footprint can be. There is no maximum lot coverage requirement under the Downtown Mixed Use Master Plan.

The applicant offered to answer any questions the Commissioners may have had or provide further clarification on the project. The applicant was asked the amount of the fees he paid to come before the Commission and Commissioner Van Landschoot requested a copy of the City's design review fees from staff. Staff also pointed out that the fees are posted on the City website. The Commissioners had no further questions and congratulated the applicant on a great project.

Commissioner Delgado made a suggestion to the applicant on the design of the back of the house. His suggestion was to remove one of the two gables. Commissioner McKee was fine with the design as it was and Vice-Chair Taagepera believed the project was consistent and looked good.

RESOLUTION. 12-4 (HPRC) -A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING DESIGN REVIEW FOR AN

ADDITION TO THE EXISTING RESIDENTIAL STRUCTURE LOCATED AT 141 WEST F STREET (12PLN-6)

On motion of Commissioner Van Landschoot, seconded by Commissioner Trumbly, the proposed resolution approving the design review and addition to the existing residential structure located at 141 West F Street, along with allowing the applicant to make the design changes to the roof line on the east façade suggested by Commissioner Delgado should they decide to do so, was approved by the following vote:

Ayes: Commissioners Delgado, Haughey, McKee, Taagepera, Trumbly, and Van Landschoot
Noes: None
Absent: Chair Crompton
Abstain: None

C. **WORKSHOP – DEMOLITION ORDINANCE, LISTING PROCESS AND OTHER PROPOSED REVISIONS TO TITLE 17 OF THE BENICIA MUNICIPAL CODE**

PROPOSAL:
To address concerns over the current demolition ordinance, listing process, respond to the Commission's request for additional definitions in our zoning code, staff has drafted amendments for the commission's review and discussion. Comments will be incorporated into a final draft, which will be brought back to the Commission to make a recommendation to the Planning Commission and City Council.

Recommendation: Review draft demolition ordinance and added definitions, discuss revisions, take public comment, and direct staff to bring back a final draft for action.

Staff explained that the Demolition Ordinance and listing process is being discussed in order to address concerns that have been expressed by the Commissioners over the past few years and also as a directive from Council. Staff is anticipating receiving comments and suggestions from the Commissioners and then would like to redraft the ordinance and bring it back to the Commission at the next regularly scheduled meeting.

Commissioner Haughey would like clarification on who has the authority to make the decisions on demolition. The ordinance seems to be inconsistent to her because in some places the decision seems to rest with the Community Development Director and at other times it seems to be the responsibility of the Commission.

Commissioner Van Landschoot would like staff to look at the formatting of the ordinance for consistency. Staff will revise the format and will also remove the underlines and strikeouts so it is easier to read.

Dana Dean explained that she was in attendance at the meeting on behalf of Amports. Ms. Dean had several concerns with the current ordinance. Some of those concerns included inconsistent references, the demolition issue as a whole, the issue of notice to property owners, the differing environmental review references, the level of environmental review and the designation of properties.

The Commissioners agreed to take the existing ordinance home to spend more time reviewing it. They also agreed to bring their comments and suggestions back to the Commission and suggested having another workshop.

Dana Dean also agreed to put her comments in writing and give them to staff.

D. PRIORITY LIST OF DISCUSSION ITEMS – Continued from February 23, 2012

Staff and Commission will discuss and review the Commission's discussion items, including ranking of topics.

Staff explained that at the February 23, 2012 meeting the Commission began reviewing the Priority List of Discussion Items. To better facilitate the discussion, staff restructured and regrouped the list in order to help the Commission decide what to focus on and what to go forward with.

On the list under Discussion Topics, it was decided that Definitions of "repair", "emergency", and "minor" would be merged with Title 17.54 to make a new Priority Item 2, Disclosure on Historic District Properties would be moved to Priority Item 1, Informational Brochure on Historic Districts would be Priority Item 3 and Preservation of Historic Sites would be Priority Item 4.

On the list under Historic Context Recommendations the Update to Downtown Historic Conservation Plan was merged with Priority 1 on Strategic Plan Projects as number 5 on the list and the Historic Inventory Survey & Update to Conservation Plans under Historic Context Recommendations was moved to number 5 under Discussion Topics. The remaining survey items under Historic Context Recommendations were removed from the list entirely.

VII. COMMUNICATIONS FROM STAFF

A. UPDATE ON MILLS ACT CONTRACT INSPECTION AND COMPLIANCE REPORT

As a follow up to the Commission's request at the February 23, 2012 meeting, staff provided an update on the properties that were out of compliance with their Mills Act agreements. Staff contacted the three property owners and had the following information to report:

- Due to budgetary constraints, the Union Hotel has not been able to replace their windows. Staff worked with the property owner to bring them into compliance.
- 145 East I St. is now in compliance.
- 441 West J Street ended up restructuring their program themselves without communicating with staff. They completed items that were scheduled for the end of their contract first. They are now in compliance and will be replacing the windows on the front side of the house this year.

B. UPDATE ON THE CURRENT MILLS ACT PROGRAM BUDGET

Staff reported that the costs for last year were $27,000, which is under the $35,000 cap. There is still money left if people want to apply. She also mentioned that the DHCP Map has been updated and the inaccuracies were addressed.

VIII. COMMUNICATIONS FROM COMMISSIONERS

Vice-Chair Taagepera welcomed the new commissioners.

IX. ADJOURNMENT

Vice-Chair Taagepera adjourned the meeting at 9:45 p.m.

Public Works & Community Development Department
MEMORANDUM

Date: April 19, 2012
To: Historic Preservation Review Commission (HPRC)
From: Amy Million, Principal Planner
Re: Workshop / Discussion of the draft ordinance to update Title 17 of the Benicia Municipal Code (Demolition and Designation of Historic Resources)

This workshop item to review the draft ordinance is a continued discussion from the March 22, 2012 meeting. In response to the Commission's preliminary comments, staff is providing two versions of the draft ordinance changes:

1) Clean Version. The 'Clean Version' incorporates all the proposed changes
2) Redline Version. The 'Redline Version' shows the text that is recommended for removal indicated with strikeout (~~strikeout~~). New text that is recommended is indicated with underlining (underlining.)

The primary focus of the proposed ordinance changes are to Chapter 17. 54 to update and clarify the review process for demolition of historic structures as well as the process for designating historic resources. For additional clarity and cohesiveness between the Zoning Ordinance and the adopted Conservations Plans, staff is also recommending that the text amendments also include the addition of four definitions to Section 17.12.030 Definitions. The following is a brief summary of the proposed ordinance changes:

Section 17.12.030 Definitions
Previously, the commission requested that the definitions of "repair, minor and emergency" were discussed further. Staff has incorporated a definition for "Emergency Demolition, Repair and Alteration" for the Commission's consideration. Other definitions included are "Contributor or Contributing Structure" and "Landmark". The proposed definitions of these terms are consistent with those provided in the Arsenal and Downtown Historic Conservation Plans. The proposed definition of "Demolition" will establish the threshold for significant impact for projects

that require review under the California Environmental Quality Act (CEQA). This definition will guide the process outlined in Section 17.54.100.

Chapter 17.54 H Historic Overlay District
As part of the historic resource inventory update discussion, City Council directed staff to develop a process that allows a potentially eligible property that goes through a restoration to gain historic status. In Section 17.54.090, there is an existing process for initiating and designating landmarks. This chapter could be amended to include a clearer process for any resource to gain or regain historic status. Staff recommends addition of the term "contributing historic structure", so that more than landmarks are addressed. Staff also recommends inclusion of language that gives HPRC the authority to initiate the designation process. In addition, there are other minor modifications of this section that could further clarify the process. The draft text amendments for demolition of historic structures would upgrade the Zoning Ordinance to reflect the requirements of CEQA.

Staff is requesting additional input from the Commission. Final comments from the Commission, as well as comments from OHP, will be included in the text amendment that will be presented back to the Commission. Pending HPRC recommendation, the text amendments will be forwarded to the Planning Commission and City Council late this summer.

DRAFT ORDINANCE
(Clean Version)

CITY OF BENICIA

ORDINANCE NO. 12-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 17.12.030 (DEFINITIONS) OF CHAPTER 17.12 (DEFINITIONS), AND AMENDING CHAPTER 17.54 (H HISTORIC OVERLAY DISTRICT), ALL OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE TO UPDATE DEVELOPMENT STANDARDS AND REGULATIONS FOR DEMOLITIONS OF HISTORIC AND NON-HISTORIC STRUCTURES

Section 1.

Section 17.12.030 (Definitions) of Chapter 17.12 (Definitions) of Title 17 (Zoning) of the Benicia Municipal Code is amended by adding the following definitions to read as follows:

"Contributor or Contributing structure" means structures which contribute to the historic character of the district because of age and because they are representative of common styles and building types of the historic period of the district, but are not architecturally or historically outstanding and therefore do not qualify for individual recognition.

"Demolition" means any act of pulling down, removing, dismantling, or razing a substantial portion of a structure or building. Substantial portion shall mean fifty (50) percent of the walls or roof of a structure.

" Emergency Demolition, Repair or Alteration" refers to demanding immediate action to prevent or mitigate loss of or damage to life, health, property or essential public services, as determined the City's Building Official. This shall include, but is not limited to, such occurrences as fire, flood, earthquake, or other soil or geological movements, as well as occurrences such as a riot, accident, or sabotage. The Building Official's determination in this matter shall be governed by the standards and criteria set forth in the most recent edition of the California Building Code that is in effect in the City.

"Landmark" means officially recognized historic buildings that are listed on the registers of important national, state and/or local programs: the National Register of Historic Places, the Historic American Buildings Survey, the State Historic Landmarks program, and the Benicia Historical Resources Survey.

Section 2.

Chapter 17.54 (H Historic Overlay District) of Title 17 (Zoning) of the Benicia Municipal Code is amended to read as follows:

Sections:

17.54.010 Specific purposes.
17.54.020 Applicability and zoning map designator.
17.54.030 Land use and development regulations.
17.54.040 Criteria for establishment of an H district.
17.54.050 Criteria for designating a contributing or landmark structure.

17.54.060 Conservation plan required.
17.54.070 Application requirements.
17.54.080 Review and approval.
17.54.090 Required Findings.
17.54.100 Demolition and design review procedures.
17.54.110 Amendments and removal of historic designation.
17.54.120 Maintenance of structures and premises.

17.54.010 Specific purposes.

The specific purposes of the H historic overlay district are to:

A. Implement the city's general plan;

B. Deter demolition, destruction, alteration, misuses, or neglect of historic or architecturally significant buildings that form an important link to Benicia's past;

C. Promote the conservation, preservation, protection, and enhancement of each historic district;

D. Stimulate the economic health and residential quality of the community and stabilize and enhance the value of property;

E. Encourage development tailored to the character and significance of each historic district through a conservation plan that includes goals, objectives, and design criteria.

17.54.020 Applicability and zoning map designator.

A. The H historic overlay district may be combined with any zoning district. Each H overlay district shall be shown on the zoning map by adding an "-H" designator to the base district designation followed by the number of the district based on the order of adoption.

B. Effects on Projects Approved Prior to Effective Date. No provision of this chapter shall apply to projects approved prior to the effective date of an ordinance establishing an H district or a resolution designating a contributing historic structure or landmark. Such projects shall be considered nonconforming uses, subject to the provisions of Chapter 17.98 BMC.

17.54.030 Land use and development regulations.

A. The land use and development regulations applicable in an H district shall be as prescribed for the base district with which it is combined unless modified by another overlay district; provided, that the requirements of the district conservation plan shall govern where conflicts arise.

B. Exceptions for Designated Contributing and Landmark Structures.

1. The community development director may grant a use permit for an exception to the land use regulations of the base district with which an H district is combined when such an exception is necessary to permit the

preservation or restoration of an historic or architecturally significant building, structure or site.

2. Applications for such use permits shall be filed with the community development director on a form provided. The community development director shall refer all applications for an exception under this section to the historic preservation review commission (HPRC) for a report and recommendation. In making a decision, the community development director shall make a written finding that shall specify the facts relied upon in rendering his decision. A copy of this written finding, together with all evidence presented to the community development director, shall be filed in the community development department. The written finding and decision shall be mailed to the applicant and shall be subject to appeal to the planning commission. Decision-making authority on such use permits may be deferred to the planning commission at the option of the community development director. Upon their decision in such instances, an appeal may be made to the city council as prescribed in Chapter 1.44 BMC.

17.54.040 Criteria for establishment of an H district.

A. A portion of a base district shall be eligible for inclusion in an H district if one or more of the following criteria, rigorously applied, are met:

1. The area possesses outstanding character, interest, or value as part of the heritage of the city.

2. The area is the location of a significant documented historical event.

3. The area is identified with a person or group that contributed significantly to the culture and development of the city.

4. Structures within the area exemplify and convey a particular architectural style or way of life that is important to the city's documented history.

5. Structures within the area are the best remaining examples of an architectural style in a neighborhood.

6. The area or its structures are identified as the work of a person or group whose work has significantly influenced the heritage of the city, the state, or the United States.

7. The area or its structures embody elements of oustanding attention to architectural or landscape design, detail, materials, or craftsmanship that reflect Benicia's historic significance.

8. The area is related to a designated historic building or district in such a way that its preservation is essential to the integrity of the building or district.

9. The area's unique location or singular physical characteristics represent an established and familiar visual feature of a neighborhood.

10. The area has potential for yielding information of archaeological interest.

11. The area's integrity as a natural environment strongly contributes to the well-being of the people of the city.

B. Portions of a base zoning district that do not meet the above criteria may be included in an H district if inclusion is found to be essential to the integrity of the district.

17.54.050 Criteria for designating a contributing or landmark structure. Individual buildings may be designated as a contributing structure or historic landmarks if one or more of the following criteria, rigorously applied, are met. A landmark located outside of an H-Overlay District or adopted conservation plan so designated shall be eligible for the same review procedures as buildings and structures within an H district.

1. The structure possesses outstanding character, interest, or value as part of the heritage of the city.

2. The structure is the location of a significant documented historical event.

3. The structure is identified with a person or group that contributed significantly to the culture and development of the city.

4. The structures exemplify and convey a particular architectural style or way of life that is important to the city's documented history.

5. The structure(s) is identified as the work of a person or group whose work has influenced the heritage of the city, the state, or the United States.

6. The structure embodies oustanding elements of architectural or landscape design, detail, materials, or craftsmanship that reflect and convey Benicia's historic significance.

7. Other attributes of the historic/cultural resource which are consistent with the Secretary of the Interior's Standards.

In order for a structure to be considered for designation of a landmark, it must possess an exceptional level of quality as it pertains to the criteria listed above. The building should be considered for its individual exceptional signficance and not limited to its ability to contribute to the historic context or the district.

17.54.060 Conservation plan required.

A. Prior to filing an application for an H district, the applicant shall prepare an historic district conservation plan with the assistance of the community development department. Each conservation plan shall contain:

1. A map and description of the proposed district, including boundaries; the age, setting, and character of structures; urban design elements and streetscapes; major public improvements; and proposed objectives to be achieved;

2. A statement of the architectural or historical significance of the proposed district;

3. A list of specific alterations that should be subject to design review in order to protect the architectural or historical character of the proposed district;

4. A set of specific performance guidelines for new construction and alterations necessary to preserve the character of the proposed district;

5. Proposed rules and regulations for design review.

B. Adoption of Conservation Plan. An ordinance establishing an H district shall include an historic district conservation plan in the form submitted or as revised by the planning commission or city council. The plan's performance guidelines may modify the land use and development regulations of the base zoning district, but shall not significantly alter the regulations. A performance guideline shall be found to be a significant alteration of base district regulations if it substantially prevents property from being used in accord with the provisions of the base district, or creates a substantial number of nonconforming uses or structures.

17.54.070 Application requirements.

A. An application for the designation of an individual historic structure (contributing or landmark) may be initiated by the historic preservation review commission, planning commission or, city council. An application for the establishment of an H district may be initiated by the historic preservation review commission, planning commission, city council, or by filing a petition. The peition requesting establishment of an H district shall be filed with the community development director, accompanied by the required fee. If initiated by petition, the application shall include a form bearing the signatures of the owners of at least 51 percent of the land area within the proposed district.

B. Application Contents. An application for the establishment of an H district shall contain a proposed conservation plan for the district as prescribed by BMC 17.54.060. An application for a contributing structure or landmark designation shall contain:

1. A map showing the location of the building or structure and building plans or photographs of the building exterior;

2. A statement, supported by documentation, of the architectural or historical significance of the proposed building and description of the particular features that should be preserved; and

3. Except when initiated by the city, the consent of the owner or authorized agent to the proposed designation is required. For purposes of this section, each condominium owner's association shall be deemed the property owner of common areas.

4. A statement of the condition of the site or structures and an explanation of any known threats to the site or structures.

5. An evalution consistent with the *National Register Criteria for Evaluation Bulletin 15 (U.S. Department of the Interior, National Park Service).* It is recommended that a historic preservation specialist perform this evaluation and complete the required documentation.

Prior to accepting the application as complete, the community development director may request additional information, plans or materials deemed necessary to support the application. Ahistoric preservation review commission public hearing on the petition shall be held within 45 days of the date the petition is accepted as complete with final disposition completed within 90 days.

17.54.080 Review and approval.

A. Neighborhood Workshop. For establishment of an H-Overlay District, the community development department shall conduct a neighborhood workshop in the proposed district to explain the proposal and the amendment process to neighborhood residents. Notice of the workshop shall be given in the same manner prescribed for zoning map amendments by BMC 17.120.040.

B. Notice and Public Hearing. After the neighborhood workshop, if required, the proposed district or designation of a historic structure shall be the subject of public hearings before the historic preservation review commission, planning commission and the city council. The hearings shall be set, noticed, and conducted as prescribed by Chapter 17.120 BMC.

C. Contents of Public Notice. In addition to the information prescribed by Chapter 17.120 BMC, notice of a public hearing for the establishment of an H district or designation of historic structures therein, shall include a statement that original petitioners have the right to withdraw their support of the district at any time prior to the hearing, and that property owners who have not signed the petition have the right to do so prior to the date of the hearing.

17.54.090 Required Findings.

A. In addition to the findings required by Chapter 17.120 BMC, the historic preservation review commission, planning commission and city council shall make the following specific findings:

1. That the proposed district, contributing or landmark structure has a significant documented architectural or historical character that can be preserved and enhanced through appropriate controls on new development and alterations to existing buildings and landscaping.

2. That all the criteria setforth in Section 17.54.040 for the esblishment of an H distrct have been met or one or more of the criteria setforth in Section 17.54.050 for the desination of a contributing or landmark structure have been met, as the case may be.

3. That the proposed historic resource or district meets the *National Register Criteria for Evaluation Bulletin 15 (National Park Service).*

17.54.100 Demolition and design review procedures.

A. In General. Except as modified by an adopted conservation plan, design review in an H district or of a proposed alteration, enlargement or demolition of a designated historic resource (contributor or landmark) shall be conducted as prescribed by Chapter 17.108 BMC. Design review and approval shall be the responsibility of the community development director or the historic preservation review commission, as the case may be.

The building official shall not issue a permit for construction, alteration, enlargement, or demolition of a building or structure located in an H district or of a designated historic resource without the prior approval of the community development director or the historic preservation review commission.

B. Criteria. In addition to the requirements of Chapter 17.108 BMC, the community development director or historic preservation review commission, as the case may be, shall consider the proposed demolition, new construction, or alteration in the context of the adopted conservation plan and the architectural or historical value and significance of the site and structure in relation to the overlay district. These considerations shall include the visual relationship of proposed architectural design elements to the surrounding area, including scale, height, rhythm of spacing, pattern of windows and doorways, building siting and relationship to landscaping, roof pitch, architectural style, and structural details, materials, colors, and textures.

C. Exception. Prior design review approval of the community development director or historic preservation review commission is not required for permit applications for the following:

1. Demolitions of non-historic structures within the Eastern Residential Area of the Downtown Historic District as shown in the Downtown Historic Conservation Plan.

2. Emergency Demolitions, Alterations or Repair as defined in Section 17.12.030 ordered by the City's Building Official to remedy conditions

determined to be an immediate danger to the life, health and safety of the occupants or general public.

3. Demolition of a non-historic structure which has a floor area less than one hundred twenty (120) square feet.

4. Installation or removal of a temporary construction shed or office.

5. Exemptions set forth in the adopted conservation plan.

D. Required Permit. No demolition permit shall be issued for demolition of any structure within an H district or for demolition of a designated historic structure outside of an H district without prior review and approval by the historic preservation review commission. To assist any evaluation by the historic preservation review commission, the community development director shall submit a report and recommendation to the historic preservation review commission.

1. For Demolitions.

a. Demolition permit applications for a designated historic resource shall require preparation of an environmental impact report in accordance with the California Environmental Quality Act and shall be considered by the historic preservation review commission before making a decision on the demolition permit application.

b. If, after review of the request for a demolition permit of a non-historic structure, the historic preservation review commission determines that the structure itself has historical, architectural or cultural interest or value and initiates the subject strucure for historic designation, the commission shall withhold approval for demolition until the appropriate environmental review is completed in accordance with the California Environmental Quality Act.

As a possible mitigation measure to the applicable environmental review, the historic preservation review commission may direct the community development department to consult with recognized historic preservation organizations and other civic groups, public agencies and interested citizens; make recommendations for acquisition of property by public or private bodies or agencies; explore the possibility of moving one or more structures or other features; and take any other reasonable measures.

b. If, after review of the request for a demolition permit, the historic preservation review commission determines that the building or structure has no substantial historical, architectural, or cultural interest or value, a building permit for demolition may be issued.

2. For Removal or Alteration of Certain Landscape Materials. The commission's approval shall be required for removal or alteration of landscape materials identified as significant resources by the historic district conservation

plan. Removal or alteration of such landscape materials shall require a finding that the proposed removal or alteration will not affect the character of the H district, or that the safety of persons or property requires the removal or alteration. No provisions of this subsection shall be construed as restricting routine maintenance of landscape materials.

E. Required Findings. The director or the commission shall not grant design approval for demolition, new construction or alteration unless it finds the following:

1. For Demolitions.
    a. The project will not cause a significant adverse effect as defined in the State of California Environmental Quality Act Guidelines.
    b. The replacement structure will be compatible with the historic context of the district and the surrounding buildings.
    c. No economically reasonable, practical, or viable measures could be taken to adaptively use, rehabilitate, or restore the building or structure on its existing site and there is substantial evidence to support this conclusion from at least two sources (e.g. structural engineer, architect); or there exists compelling public interest to justify the demolition.
2. For New Construction or Alterations.
    a. That the proposed new construction or alteration will be compatible with and help achieve the purposes of the H district.
    b. For designated historic structures, the project complies with the Secretary of the Interior Standards for the Treatment of Historic Properties "Standards" or adopted guidelines based on the Standards.

F. Economic Hardship Waiver. If an applicant for design concept or design approval presents evidence of inability to meet the cost of complying with a condition of approval, the director or the commission may grant the approval with the requirement that all conditions be met within a period of up to five years. If such conditions are not met within five years, the property owner shall be subject to the enforcement provisions of Chapter 17.128 BMC.

G. Effective Date – Appeals. Decisions of the director or commission shall be final on the tenth business day after the date of the decision, unless appealed in accordance with Chapter 1.44 BMC.

17.54.110 Amendments and Removal of historic designation.

A. Removal of the historic designation of a building shall be approved by the city council upon recommendation from the historic preservation review commission.

B. Removal of the historic designation of a H overlay district shall be approved by the city council upon recommendation from the historic preservation review

commission and the planning commission.

C. Evidence in the form of a formal evalution documenting that the designated historic structure no longer retains the historic integrity required for designation stated in the city adopted survey and the *National Register Criteria for Evaluation Bulletin 15 (National Park Service)*.

D. Required Findings. The City Council shall make findings of fact and determinations in writing that the criteria set forth in Sections 17.54.040 and 17.54.050, as the case may be, can no longer be met. It is recommended that a historic preservation specialist perform this evaluation and complete the required documentation.

E. Amendments to Adopted Conservation Plans. Procedures for an amendment to an adopted conservation plan shall be initiated in the same manner as an application for a zoning map amendment (Chapter 17.120 BMC).

17.54.120 Maintenance of structures and premises.

A. All property owners in H districts and owners of designated historic structures (contributors and landmarks) shall have the obligation to maintain structures and premises in good repair. Structures and premises in good repair shall present no material variance in apparent condition from surrounding structures in compliance with the provisions of this chapter.

B. For the purposes of this Section, good repair shall be defined as the level of maintenance that ensures the continued availability of the structure and premises for a lawfully permitted use, and prevents deterioration, dilapidation, and decay of the exterior portions of the structure and premises including but not limted to:

1. Facades that may fall and injure a member of the public or property

2. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports

3. Members of ceilings, roofs and roof supports or other horizontal members which age, split or buckle due to defective material or deterioration

4. Deteriorated or insufficient waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors

5. Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering

6. Any fault or defect which renders it not properly watertight or structurally unsafe.

DRAFT ORDINANCE
(Redline Version)

CITY OF BENICIA

ORDINANCE NO. 12-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 17.12.030 (DEFINITIONS) OF CHAPTER 17.12 (DEFINITIONS), AND AMENDING CHAPTER 17.54 (H HISTORIC OVERLAY DISTRICT), ALL OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE TO UPDATE DEVELOPMENT STANDARDS AND REGULATIONS FOR DEMOLITIONS OF HISTORIC AND NON-HISTORIC STRUCTURES

Section 1.

Section 17.12.030 (Definitions) of Chapter 17.12 (Definitions) of Title 17 (Zoning) of the Benicia Municipal Code is amended by adding the following definitions to read as follows:

"Contributor or Contributing structure" means structures which contribute to the historic character of the district because of age and because they are representative of common styles and building types of the historic period of the district, but are not architecturally or historically outstanding and therefore do not qualify for individual recognition.

"Demolition" means any act of pulling down, removing, dismantling, or razing a substantial portion of a structure or building. Substantial portion shall mean fifty (50) percent of the walls or roof of a structure.

" Emergency Demolition, Repair or Alteration" refers to demanding immediate action to prevent or mitigate loss of or damage to life, health, property or essential public services, as determined the City's Building Official. This shall include, but is not limited to, such occurrences as fire, flood, earthquake, or other soil or geological movements, as well as occurrences such as a riot, accident, or sabotage. The Building Official's determination in this matter shall be governed by the standards and criteria set forth in the most recent edition of the California Building Code that is in effect in the City.

"Landmark means officially recognized historic buildings that are listed on the registers of important national, state and/or local programs: the National Register of Historic Places, the Historic American Buildings Survey, the State Historic Landmarks program, and the Benicia Historical Resources Survey.

Section 2.

Chapter 17.54 (H Historic Overlay District) of Title 17 (Zoning) of the Benicia Municipal Code is amended to read as follows:

Sections:

17.54.010 Specific purposes.
17.54.020 Applicability and zoning map designator.
17.54.030 Land use and development regulations.
17.54.040 Criteria for establishment of an H district.

17.54.050 Criteria for designating a contributing or landmark structure ~~buildings~~.
17.54.060 Conservation plan required.
17.54.070 Application requirements.
17.54.080 Review and approval.
17.54.090 ~~Establishment of H districts and landmark designation.~~ Required Findings
17.54.100 Demolition and design review procedures.
17.54.110 Amendments and removal of historic designation.
17.54.120 Maintenance of structures and premises.

17.54.010 Specific purposes.
The specific purposes of the H historic overlay district are to:
A. Implement the city's general plan;

B. Deter demolition, destruction, alteration, misuses, or neglect of historic or architecturally significant buildings that form an important link to Benicia's past;

C. Promote the conservation, preservation, protection, and enhancement of each historic district;

D. Stimulate the economic health and residential quality of the community and stabilize and enhance the value of property;

E. Encourage development tailored to the character and significance of each historic district through a conservation plan that includes goals, objectives, and design criteria.

17.54.020 Applicability and zoning map designator.
A. The H historic overlay district may be combined with any zoning district. Each H overlay district shall be shown on the zoning map by adding an "-H" designator to the base district designation followed by the number of the district based on the order of adoption.

B. Effects on Projects Approved Prior to Effective Date. No provision of this chapter shall apply to projects approved prior to the effective date of an ordinance establishing an H district or a resolution designating a contributing historic structure or landmark. Such projects shall be considered nonconforming uses, subject to the provisions of Chapter 17.98 BMC.

17.54.030 Land use and development regulations.
A. The land use and development regulations applicable in an H district shall be as prescribed for the base district with which it is combined unless modified by another overlay district; provided, that the requirements of the district conservation plan shall govern where conflicts arise.

B. Exceptions for Designated Contributing and Landmark Structures.

1. The community development director may grant a use permit for an exception to the land use regulations of the base district with which an H district is combined when such an exception is necessary to permit the preservation or restoration of an historic or architecturally significant building, structure or site.

2. Applications for such use permits shall be filed with the community development director on a form provided. The community development director shall refer all applications for an exception under this section to the historic preservation review commission (HPRC) for a report and recommendation. In making a decision, the community development director shall make a written finding that shall specify the facts relied upon in rendering his decision. A copy of this written finding, together with all evidence presented to the community development director, shall be filed in the ~~planning~~ community development department. The written finding and decision shall be mailed to the applicant and shall be subject to appeal to the planning commission. Decision-making authority on such use permits may be deferred to the planning commission at the option of the community development director. Upon their decision in such instances, an appeal may be made to the city council as prescribed in Chapter 1.44 BMC.

17.54.040 Criteria for establishment of an H district.

A. A portion of a base district shall be eligible for inclusion in an H district if one or more of the following criteria, rigorously applied, are met:

1. The area possesses outstanding character, interest, or value as part of the heritage of the city.

2. The area is the location of a significant documented historical event.

3. The area is identified with a person or group that contributed significantly to the culture and development of the city.

4. Structures within the area exemplify and convey a particular architectural style or way of life that is important to the city's documented history.

5. Structures within the area are the best remaining examples of an architectural style in a neighborhood.

6. The area or its structures are identified as the work of a person or group whose work has significantly influenced the heritage of the city, the state, or the United States.

7. The area or its structures embody elements of oustanding attention to architectural or landscape design, detail, materials, or craftsmanship that reflect Benicia's historic significance.

8. The area is related to a designated historic building or district in such a way that its preservation is essential to the integrity of the building or district.

9. The area's unique location or singular physical characteristics represent an established and familiar visual feature of a neighborhood.

10. The area has potential for yielding information of archaeological interest.

11. The area's integrity as a natural environment strongly contributes to the well-being of the people of the city.

B. Portions of a base zoning district that do not meet the above criteria may be included in an H district if inclusion is found to be essential to the integrity of the district.

17.54.050 Criteria for designating a contributing or landmark ~~structure~~building.

Individual buildings may be designated as a contributing structure or historic ~~architecturally significant~~ landmarks if one or more of the following criteria, rigorously applied, ~~set forth in BMC 17.54.040~~ are met. A landmark located outside of an H-Overlay District or adopted conservation plan so designated shall be eligible for the same review procedures as buildings and structures within an H district.

1. The structure possesses outstanding character, interest, or value as part of the heritage of the city.

2. The structure is the location of a significant documented historical event.

3. The structure is identified with a person or group that contributed significantly to the culture and development of the city.

4. The structures exemplify and convey a particular architectural style or way of life that is important to the city's documented history.

5. The structure(s) is identified as the work of a person or group whose work has influenced the heritage of the city, the state, or the United States.

6. The structure embodies oustanding elements of architectural or landscape design, detail, materials, or craftsmanship that reflect and convey Benicia's historic significance.

7. Other attributes of the historic/cultural resource which are consistent with the Secretary of the Interior's Standards.

In order for a structure to be considered for designation of a landmark, it must possess an exceptional level of quality as it pertains to the criteria listed above. The building should be considered for its individual exceptional signficance and not limited to its ability to contribute to the historic context or the district.

17.54.060 Conservation plan required.

A. Prior to filing an application for an H district, the applicant shall prepare an historic district conservation plan with the assistance of the ~~planning~~ community development department. Each conservation plan shall contain:

~~A~~1. A map and description of the proposed district, including boundaries; the age, setting, and character of structures; urban design elements and streetscapes; major public improvements; and proposed objectives to be achieved;

~~B~~2. A statement of the architectural or historical significance of the proposed district;

~~C~~3. A list of specific alterations that should be subject to design review in order to protect the architectural or historical character of the proposed district;

~~D~~4. A set of specific performance guidelines for new construction and alterations necessary to preserve the character of the proposed district;

~~E~~5. Proposed rules and regulations for design review.

B. Adoption of Conservation Plan. An ordinance establishing an H district shall include an historic district conservation plan in the form submitted or as revised by the planning commission or city council. The plan's performance guidelines may modify the land use and development regulations of the base zoning district, but shall not significantly alter the regulations. A performance guideline shall be found to be a significant alteration of base district regulations if it substantially prevents property from being used in accord with the provisions of the base district, or creates a substantial number of nonconforming uses or structures.

17.54.070 Application requirements.

A. ~~Filing a Petition.~~ An application for ~~an H district or landmark designation~~ the designation of an individual historic structure (contributing or landmark) may be initiated by the historic preservation review commission, planning commission or, city council~~, or by filing a petition~~. An application for the establishment of an H district may be initiated by the historic preservation review commission, planning commission, city council, or by filing a petition. The peition requesting establishment of an H district shall be filed with the community development director, accompanied by the required fee. If initiated by petition, the application shall include~~:~~

~~1. The proposed conservation plan for the district as prescribed by BMC 17.54.060;~~

~~2. A~~ a form bearing the signatures of the owners of at least 51 percent of the land area within the proposed district.

B. Application Contents. An application for the establishment of an H district shall contain a proposed conservation plan for the district as prescribed by BMC 17.54.060. An application for a contributing structure or landmark designation shall contain:

1. A map showing the location of the building or structure and building plans or photographs of the building exterior;

2. A statement, supported by documentation, of the architectural or historical significance of the proposed building and description of the particular features that should be preserved; and

3. Except when initiated by the city, the consent of the owner or authorized agent to the proposed designation is required. For purposes of this section, each condominium owner's association shall be deemed the property owner of common areas.

4. A statement of the condition of the site or structures and an explanation of any known threats to the site or structures

5. An evalution consistent with the *National Register Criteria for Evaluation Bulletin 15 (U.S. Department of the Interior, National Park Service).* It is recommended that a historic preservation specialist perform this evaluation and complete the required documentation.

Prior to accepting the application as complete, the community development director may request additional information, plans or materials deemed necessary to support the application. A ~~planning~~ historic preservation review commission public hearing on the petition shall be held within ~~90~~ 45 days of the date the petition is accepted as complete with final disposition completed within 90 days.

17.54.080 Review and approval.

A. Neighborhood Workshop. For establishment of an H-Overlay District, ~~T~~the community development department shall conduct a neighborhood workshop in the proposed district to explain the proposal and the amendment process to neighborhood residents. Notice of the workshop shall be given in the same manner prescribed for zoning map amendments by BMC 17.120.040.

B. Notice and Public Hearing. After the neighborhood workshop, if required, the proposed district or designation of a historic structure shall be the subject of public hearings before the historic preservation review commission, planning commission and the city council. The hearings shall be set, noticed, and conducted as prescribed by Chapter 17.120 BMC.

C. Contents of Public Notice. In addition to the information prescribed by Chapter 17.120 BMC, notice of a public hearing for the establishment of an H district or designation of ~~a landmark~~ historic structures therein, shall include a statement that original petitioners have the right to withdraw their support of the district at any time prior to the hearing, and that property owners who have not signed the petition have the right to do so prior to the date of the hearing.

17.54.090 ~~Establishment of H districts and landmark designation.~~Required Findings.

A. ~~Required Findings.~~ In addition to the findings required by Chapter 17.120 BMC, the historic preservation review commission, planning commission and city council shall make the following specific findings:

1. ~~T~~That the proposed district, contributing or landmark structure has a significant documented architectural or historical character that can be preserved and enhanced through appropriate controls on new development and alterations to existing buildings and landscaping

2. That all the criteria setforth in Section 17.54.040 for the esblishment of an H distrct have been met or one or more of the criteria setforth in Section 17.54.050 for the desination of a contributing or landmark structure have been met, as the case may be.

3. That the proposed historic resource or district meets the *National Register Criteria for Evaluation Bulletin 15 (National Park Service).*

~~B. Adoption of Conservation Plan. An ordinance establishing an H district shall include an historic district conservation plan in the form submitted or as revised by the planning commission or city council. The plan's performance guidelines may modify the land use and development regulations of the base zoning district, but shall not significantly alter the regulations. A performance guideline shall be found to be a significant alteration of base district regulations if it substantially prevents property from being used in accord with the provisions of the base district, or creates a substantial number of nonconforming uses or structures.~~

~~C. Effects on Projects Initiated Prior to Effective Date. No provision of this chapter shall apply to projects initiated prior to the effective date of an ordinance establishing an H district or designating a contributing historic resource or landmark. Such projects shall be considered nonconforming uses, subject to the provisions of Chapter 17.98 BMC. For the purposes of this subsection, a project shall be deemed initiated if an application, plans, and materials for concept or development plan review have been filed and accepted as complete.~~
~~D. Amendments to Adopted Conservation Plans. Procedures for an amendment to an adopted conservation plan shall be initiated in the same manner as an application for a zoning map amendment~~

17.54.100 Demolition and design review procedures.

A. In General. Except as modified by an adopted conservation plan, design review in an H district or of a proposed alteration, enlargement or demolition of a designated ~~landmark~~ historic resource (contributor or landmark) shall be conducted as prescribed by Chapter 17.108 BMC. Design review and approval shall be the responsibility of the community development director or the ~~design review~~historic preservation review commission, as the case may be.

The building official shall not issue a permit for construction, alteration, enlargement, or demolition of a building or structure located in an H district or of a designated historic resource ~~landmark~~ without the prior approval of the community development director or the ~~design~~ historic preservation review commission. ~~Prior approval of the community development director or the design review commission is not required for permit applications of an emergency nature to rehabilitate an unsafe building or to demolish the structure for the same reasons.~~

B. Criteria. In addition to the requirements of Chapter 17.108 BMC, the community development director or ~~design~~ historic preservation review commission, as the case may be, shall consider the proposed demolition, new construction, or alteration in the context of the adopted conservation plan and the architectural or historical value and significance of the site and structure in relation to the overlay district. These considerations shall include the visual relationship of proposed architectural design elements to the surrounding area, including scale, height, rhythm of spacing, pattern of windows and doorways, building siting and relationship to landscaping, roof pitch, architectural style, and structural details, materials, colors, and textures.

C. ~~Required Findings. No demolition permit shall be issued for demolition of any historic structure within an H district or for demolition of a designated landmark without prior review and approval by the design review commission. Demolition permits for nonhistoric structures within the H district may be approved by the community development director. To assist any evaluation by the design review commission, the community development director shall submit a report and recommendation to the design review commission.~~Exception. Prior design review approval of the community development director or historic preservation review commission is not required for permit applications for the following:

1. Demolitions of non-historic structures within the Eastern Residential Area of the Downtown Historic District as shown in the Downtown Historic Conservation Plan.

2. Emergency Demolitions, Alterations or Repair as defined in Section 17.12.030 ordered by the City's Building Official to remedy conditions determined to be an immediate danger to the life, health and safety of the occupants or general public.

3. Demolition of a non-historic structure which has a floor area less than one hundred twenty (120) square feet.

4. Installation or removal of a temporary construction shed or office.

5. Exemptions set forth in the adopted conservation plan.

D. Required Permit. No demolition permit shall be issued for demolition of any structure within an H district or for demolition of a designated historic structure outside of an H district without prior review and approval by the historic preservation review commission. To assist any evaluation by the historic preservation review commission, the community development director shall submit a report and recommendation to the historic preservation review commission.

1. For Demolitions.

a. Demolition permit applications for a designated historic resource shall require preparation of an environmental impact report in accordance with the California Environmental Quality Act and shall be considered by the historic preservation review commission before making a decision on the demolition permit application.

b. . If, after review of the request for a demolition permit of a non-historic structure, the ~~design~~ historic preservation review commission determines that the structure itself has historical, architectural or cultural interest or value and initiates the subject strucure for historic designation, the commission shall ~~may~~ withhold approval for demolition ~~for 180 days (from the date of commission action) or~~ until the appropriate environmental review is completed in accordance with the California Environmental Quality Act.~~, whichever occurs later~~.

As a possible mitigation measure to the applicable environmental review, ~~During the 180 days,~~ the ~~design~~ historic preservation review commission may direct the ~~planning~~ community development department to consult with recognized historic preservation organizations and other civic groups, public agencies and interested citizens; make recommendations for acquisition of property by public or private bodies or agencies; explore the possibility of moving one or more structures or other features; and take any other reasonable measures.

~~At the end of the 180-day period, the demolition permit shall be issued if environmental review determines there will not be a significant impact on the environment and all requirements of this title are met or, if there may be substantial environmental damages, that specific economic, social or other considerations make infeasible the mitigation measures or alternatives identified during environmental review.~~

b. If, after review of the request for a demolition permit, the ~~design~~ historic preservation review commission determines that the building or structure has no substantial historical, architectural, or cultural interest or value, a building permit for demolition may be issued.

~~2. For New Construction or Alterations. The director or the commission shall not grant design approval for new construction or alterations unless it finds that the proposed new construction or alteration will be compatible with and help achieve the purposes of the H district.~~

~~3~~2. For Removal or Alteration of Certain Landscape Materials. The ~~director's or~~ commission's approval shall be required for removal or alteration of

landscape materials identified as significant resources by the historic district conservation plan. Removal or alteration of such landscape materials shall require a finding that the proposed removal or alteration will not affect the character of the H district, or that the safety of persons or property requires the removal or alteration. No provisions of this subsection shall be construed as restricting routine maintenance of landscape materials.

E. Required Findings. The director or the commission shall not grant design approval for demolition, new construction or alteration unless it finds the following:

1. For Demolitions.
    a. The project will not cause a significant adverse effect as defined in the State of California Environmental Quality Act Guidelines.
    b. The replacement structure will be compatible with the historic context of the district and the surrounding buildings.
    c. No economically reasonable, practical, or viable measures could be taken to adaptively use, rehabilitate, or restore the building or structure on its existing site and there is substantial evidence to support this conclusion from at least two sources (e.g. structural engineer, architect); or there exists compelling public interest to justify the demolition.
2. For New Construction or Alterations.
    a. That the proposed new construction or alteration will be compatible with and help achieve the purposes of the H district.
    b. For designated historic structures, the project complies with the Secretary of the Interior Standards for the Treatment of Historic Properties "Standards" or adopted guidelines based on the Standards.

~~D~~F. Economic Hardship Waiver. If an applicant for design concept or design approval presents evidence of inability to meet the cost of complying with a condition of approval, the director or the commission may grant the approval with the requirement that all conditions be met within a period of up to five years. If such conditions are not met within five years, the property owner shall be subject to the enforcement provisions of Chapter 17.128 BMC.

~~E~~G. Effective Date – Appeals. Decisions of the director or commission shall be final on the tenth business day after the date of the decision, unless appealed in accordance with Chapter 1.44 BMC.

17.54.110 Amendments and Removal of historic designation.

A. Removal of the historic designation of a building shall be approved by the city council upon recommendation from the historic preservation review commission.

B. Removal of the historic designation of a H overlay district shall be approved by the city council upon recommendation from the historic preservation review commission and the planning commission.

C. Evidence in the form of a formal evalution documenting that the designated historic structure no longer retains the historic integrity required for designation stated in the city adopted survey and the *National Register Criteria for Evaluation Bulletin 15 (National Park Service).*

D. Required Findings. The City Council shall make findings of fact and determinations in writing that the criteria set forth in Sections 17.54.040 and 17.54.050, as the case may be, can no longer be met. It is recommended that a historic preservation specialist perform this evaluation and complete the required documentation.

E. Amendments to Adopted Conservation Plans. Procedures for an amendment to an adopted conservation plan shall be initiated in the same manner as an application for a zoning map amendment (Chapter 17.120 BMC).

17.54.120 Maintenance of structures and premises.

A. All property owners in H districts and owners of designated ~~landmarks~~ historic structures (contributors and landmarks) shall have the obligation to maintain structures and premises in good repair. Structures and premises in good repair shall present no material variance in apparent condition from surrounding structures in compliance with the provisions of this chapter.

B. For the purposes of this Section, good repair shall be defined as the level of maintenance that ensures the continued availability of the structure and premises for a lawfully permitted use, and prevents deterioration, dilapidation, and decay of the exterior portions of the structure and premises including but not limted to:

1. Facades that may fall and injure a member of the public or property

2. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports

3. Members of ceilings, roofs and roof supports or other horizontal members which age, split or buckle due to defective material or deterioration

4. Deteriorated or insufficient waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors

5. Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering

6. Any fault or defect which renders it not properly watertight or structurally unsafe.