



**BENICIA PLANNING COMMISSION
REGULAR MEETING MINUTES**

**City Hall Council Chambers
Thursday, May 9, 2013
7:00 P.M.**

I. OPENING OF MEETING

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

Present: Commissioners Cohen-Grossman (arrived 8:55 p.m.)**
Dean, Oakes, Smith, Sprague (arrived 8:50 p.m.)**, and
Young
Absent: Chair Sherry (excused)

**NOTE: Commissioners Cohen-Grossman and Sprague arrived after agenda item V.A due to conflicts of interest as noted:
Commissioner Cohen-Grossman: Interest in real property within 500 feet
Commissioner Sprague: Employed by proponent

Staff Present: Charlie Knox, Community Development Director
Amy Million, Principal Planner/Recording Secretary
Adam Petersen, Contract Associate Planner
Mark Boehme, Contract City Attorney

- C. Reference to Fundamental Rights of Public**

II. ADOPTION OF AGENDA

On a motion of Commissioner Young seconded by Commissioner Oakes, the agenda was adopted by the following vote:

Ayes: Commissioners Dean, Oakes, Smith and Young
Noes: None
Absent: Commissioners Cohen-Grossman, Sprague and Chair Sherry
Abstain: None

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN
None.

B. PUBLIC COMMENT
None.

IV. CONSENT CALENDAR

Item IV.A was continued to the next meeting due to lack of quorum of participants from the April 11th meeting.

On a motion of Commissioner Young seconded by Commissioner Oakes, noting the continuance of Item IV.A, the consent calendar was adopted by the following vote:

Ayes: Commissioners Dean, Oakes, Smith, and Young
Noes: None
Absent: Commissioners Cohen-Grossman, Sprague and Chair Sherry
Abstain: None

A. APPROVAL OF MINUTES OF APRIL 11, 2013 SPECIAL MEETING WITH THE HISTORIC PRESERVATION REVIEW COMMISSION

B. AMENDMENT TO SIGN PROGRAM FOR SOUTHAMPTON SHOPPING CENTER

RESOLUTION NO. 13-3 OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING AN AMENDMENT TO THE SIGN PROGRAM AT 800-892 SOUTHAMPTON ROAD (13PLN-00012; APN: 0086-151-110)

V. REGULAR AGENDA ITEMS

A. APPEAL OF STAFF GENERAL PLAN CONSISTENCY DETERMINATION – ASSISTED LIVING USE IN LOWER ARSENAL

Mr. Knox provided an overview of the item.

The Commission requested clarification from staff on the appeal process and next steps.

Dana Dean, representing appellant Amports, provided an overview of the allegations for the appeal including burden of proof per BMC 1.44.040, circumventing procedures, General Plan consistency, inadequate CEQA review, violation of due process and lack of noticing. She also clarified statements in regard to Amports economically

contributing to Benicia and Amports' concerns with the projects and potential nuisance claims primarily related to noise from port operations.

Commissioner Young requested confirmation from the City Attorney on the process and the Community Development Director's purview. Mr. Boehme confirmed the Director's authority to make a determination regarding the General Plan as well as the zoning ordinance.

The Commission questioned whether or not existing residents in the area have complained about the noise from Amports in the past.

Stephen Gizzi, Gizzi & Reep, LLC, representing the proponents stated reasons why he believed Amports is opposing the project and clarified the types of care the envisioned use would provide.

The Commission and staff discussed the process regarding zoning ordinance and General Plan consistency determinations.

Public comment was opened.

Nyles Gregory, representing Jefferson Street Mansion stated that he believed there was a violation of due process due to the lack of noticing.

Richard Bortolazzo, property owner, stated that Amports completed a noise study for a previous project and it concluded no noise impact on Jefferson Street. The Housing Element includes this parcel for potential housing.

Leah Shelhorn, 700 First Street, supports the projects and feels that noise is not an issue.

Public comment was closed.

Ms. Dean stated that in her research of adjacent jurisdictions, they do not call for the Community Development Director to make a consistency determination in regard to the General Plan. Ms. Dean stated she is concerned with the location of the project restating that nuisance claims can cause a company such as Amports to be relocated. Ms. Dean restated the appellant's position that this use is not consistent with the General Plan

Mr. Gizzi addressed the issue of compatible uses. He stated that the subject determination was a first step in the process and specific issues regarding a project can be addressed during project review.

The Commission requested clarification from staff and discussed the noticing requirements, definition of Lower Arsenal Mixed Use in the General Plan, consistency with the General Plan, and whether the Community Development Director decision affects how review of the future project would be conducted.

RESOLUTION NO. 13-4 OF THE PLANNING COMMISSION OF THE CITY OF BENICIA DENYING AN APPEAL AND CONFIRMING THE COMMUNITY DEVELOPMENT DIRECTOR'S DETERMINATION FOR ZONING AND GENERAL PLAN CONSISTENCY FOR A RESIDENTIAL CARE, GENERAL FACILITY USE ON JEFFERSON STREET, LOWER ARSENAL

On a motion of Young seconded by Commissioner Oakes, the above resolution was approved by the following vote:

Ayes: Commissioners Dean, Oakes, and Young
Noes: Commissioner Smith
Absent: Commissioners Cohen-Grossman and Sprague and Chair Sherry
Abstain: None

Vice-Chair Dean recessed the meeting at 8:50 p.m. for a 10-minute break.

B. USE PERMIT APPLICATION FOR AN OUTDOOR EXERCISE AREA AT 608 FIRST STREET (BENICIA FITNESS)

13PLN-00016

608 FIRST STREET; APN: 0089-342-230

Ms. Million introduced Adam Petersen, new Contract Associate Planner for the Planning Division.

Mr. Petersen provided an overview of the project, noting a few changes to the draft conditions of approval including the removal of the amplified music and relocating the speed bag and punching bag to the southern area of the courtyard to accommodate the adjacent residence.

Lori Bishop, owner of Benicia Fitness provided additional detail on how the outdoor patio space would be used. Ms. Bishop stated that she opted to not have amplified music in the patio area in order to accommodate the adjacent residence and the existing fitness classes at the gym. She also stated that she takes safety seriously and would not allow customers to use the patio area in the dark or during inclement weather.

Public comment was opened.

A resident of East F Street stated that his original concern about the noise was no longer an issue with the removal of the amplified music. He also stated that parking was not an issue. He expressed concern that he was not provided notice of the public meeting.

Public comment was closed.

The Commission discussed several ways to mitigate the impacts of the outdoor patio area on the residential uses including a sign to customers limiting noise, limiting the hours of operation to daylight hours only and limiting the amount of outdoor lighting.

RESOLUTION NO. 13-5 OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APROVING A CONDITIONAL USE PERMIT FOR AN OUTDOOR FITNESS AREA AT 608 FIRST STREET, BENICIA FITNESS (13PLN-00016; APN: 0089-342-230)

On a motion of Commissioner Young seconded by Commissioner Smith, the above resolution was adopted by the following vote:

Ayes: Commissioners Cohen-Grossman, Dean, Smith, Sprague, Young
Noes: Commissioner Oakes
Absent: Chair Sherry
Abstain: None

VI. COMMUNICATIONS FROM STAFF

A. THE NOTICE OF INTENT TO ADOPT THE INITIAL STUDY FOR INDUSTRIAL ZONING TEXT AMENDMENTS ISSUED ON APRIL 19, 2013 HAS BEEN RETRACTED. THIS ITEM IS NOT SCHEDULED FOR PLANNING COMMISSION REVIEW ON MAY 9, 2013 AND WILL BE SCHEDULED FOR A FUTURE MEETING.

Ms. Million informed the Commission that the Initial Study for the zoning text amendments for the industrial zoning districts was issued prematurely with a noted Planning Commission review date of May 9. It will be scheduled and noticed at a future date.

B. UPDATE ON PLAN BAY AREA AND PRIORITY DEVELOPMENT AREA READINESS ASSESSMENT

Ms. Million provided an updated on the Plan Bay Area and Priority Development Readiness Assessment.

VII. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Cohen-Grossman announced the first community workshop for the Urban Waterfront Enhancement and Master Plan is on June 5, 2013 at the Community Center at 370 East L Street.

Commissioner Smith announced that she was absent during last month's Planning Commission meeting because she was in Chicago attending the American Planning Association (APA) conference. She attended a workshop on promoting community health in planning decisions and suggested that staff provide a presentation to the Commission on Health Impact Assessments.

Commissioner Dean inquired about obtaining an updated hardcopy of the Zoning Ordinance. Staff confirmed that it will be provided.

VIII. ADJOURNMENT

Vice-Chair Dean adjourned the meeting at 9:59 p.m.