

BENICIA HISTORIC PRESERVATION REVIEW COMMISSION

**** Special Meeting Location **
Commanding Officer's Quarters – 1
Commandant's Lane**

REGULAR MEETING AGENDA

Thursday, June 25, 2009

6:30 P.M.

I. 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. II. AGENDA CHANGES AND DISCUSSION

III. III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

B. PUBLIC COMMENT

IV. IV. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for removal for discussion or explanation is received from the 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 Agenda

B. Approval of Minutes of April 23, 2009

C. Approval of Minutes of June 11, 2009 joint HPRC/Planning Commission meeting

D. JACK IN THE BOX – DESIGN REVIEW

09PLN-29 Design Review

6001 Goodyear Road, APN: 181-260-050

PROPOSAL:

The applicant requests approval of exterior changes for an existing restaurant, associated fuel station, and convenience store at 6001 Goodyear Road. The project consists of repainting the exterior of the restaurant, convenience store, fuel canopy, monument signs, and pylon sign.

Recommendation: Grant design review approval for exterior changes at 6001 Goodyear Road (Jack in the Box), based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

V. v. REGULAR AGENDA ITEMS

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

PROPOSAL:

To address concerns over the current demolition ordinance, as well as 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.

VI. VI. COMMUNICATIONS FROM STAFF

VII. VII. COMMUNICATIONS FROM COMMISSIONERS

VIII. VIII. ADJOURNMENT

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 agenda and non-agenda 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 Valerie Ruxton, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Meeting Procedures

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

The 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 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 Community Development Department during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the Community Development Department's office located at 250 East L Street, Benicia, or at the meeting held in the City Hall Council Chambers. If you wish to submit written information on an agenda item, please submit to Gina Eleccion, Management Analyst, as soon as possible so that it may be distributed to the Historic Preservation Review Commission.



BENICIA HISTORIC PRESERVATION REVIEW COMMISSION

CITY HALL COMMISSION ROOM

REGULAR MEETING MINUTES

Thursday, April 23, 2009

6:30 P.M.

I. OPENING OF MEETING

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

Present: Commissioners Crompton, Donaghue, Haughey, McKee (arrived late),
Taagepera, White and Chair Mang
Absent: None

Staff Present:

Lisa Porras, Senior Planner
Mike Marcus, Assistant Planner
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

Gina Eleccion suggested moving Item V-D up before Item V-C. On motion of Commissioner Crompton, seconded by Commissioner White, the agenda was amended per the previous request by the following vote:

Ayes: Commissioners Crompton, Donaghue, Haughey, McKee, Taagepera, White and
Chair Mang
Noes: None
Absent: None

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

None.

B. PUBLIC COMMENT

Jon Van Landschoot, 175 West H Street – Compliment staff for the full-sized plans provided.

IV. CONSENT CALENDAR

On motion of Commissioner White, seconded by Commissioner Donaghue, the Consent Calendar, with amendments to minutes as noted, was approved by the following vote:

Ayes: Commissioners Donaghue, Haughey, McKee, Taagepera, White and Chair Mang

Noes: None

Absent: None

Abstain: Commissioner Crompton

A. Approval of Agenda

B. Approval of Minutes of March 26, 2009

Commissioner Taagepera commented on her request for clearer rules for Chair and Vice Chair and the addition of Roberts Rules of Order.

On Communications from Commissioners, Commissioner Taagepera wanted clarification on her request for information from staff trainings. She noted that she requested staff come back to the Commission with information from their training sessions.

V. REGULAR AGENDA ITEMS

A. 170 WEST I STREET – NEW 4,564 SQUARE FOOT TWO-STORY HOME

09PLN-8 Design Review

170 West I Street, APN: 089-044-030 and 089-044-010

PROPOSAL:

The applicant requests design review approval to construct a new 4,564 two-story home consisting of three bedrooms, bonus area, exercise area, living room, family room, dining room, kitchen, utility room, and a three-car garage. This project is subject to the development regulations in the Downtown Mixed Use Master Plan. Because the proposed project is within the Downtown Historic District, it is also subject to the Downtown Historic Conservation Plan (DHCP) guidelines for “New Construction” and “Site Improvements.”

Recommendation: Approve a new two-story home at 170 West I Street, based on the findings and subject to the conditions listed in the proposed resolution.

Commissioner McKee stated he is the architect on the project and must recuse himself.

Lisa Porras, Senior Planner, gave an overview of the project. She highlighted specific conditions, including those required by the Zoning Administrator on March 30th. Colors and materials were highlighted. She noted that there are 10 cypress trees proposed for removal. Ms. Porras informed the Commission about a revision to condition #7.

Commissioners questioned the variance and why it was granted. Ms. Porras stated that the Zoning Administrator's findings for granting approval, and the required conditions for approval were listed in the Decision of Record. Commissioners questioned the purpose of the lot line adjustment. . Lisa Porras stated that a lot line adjustment was required as a condition of variance approval to address driveway width.

Commissioners questioned the selected paint colors and whether future approval would be required to change the paint colors. Staff informed the Commission that currently, paint colors do not require approval, but it is something that could be considered in the future. Staff clarified that the Commission has the authority to review color and materials for new construction with guidance provided in the Downtown Historic Conservation Plan.

Commissioner Taagepera was concerned that the CEQA exemptions are not being applied consistently. She stated the project could also be deemed exempt under a different category.

The 5-foot lot line adjustment for the driveway was questioned. Lisa Porras showed the 5' lot line adjustment on the plans that would create a 10' driveway. Condition #4 of the resolution should read April 23, 2011. Lisa Porras noted that currently the building permit can move forward without the lot line adjustment. If the lot line adjustment was not completed in the timeframe outlined, Commissioners questioned how the City would ensure that it was done.

Commissioner Donaghue excused himself at 7:00 p.m.

Joseph Garske, Applicant – Mr. Garske informed the Commission that he has spoken to an Engineer and is attempting to get a survey from a title company, clarifying that he is already working on the lot line adjustment process. He gave a brief history of the lot and the project. He noted that he is pleased to move back downtown. He noted that the story poles are not a true depiction of the building.

The public hearing was opened.

Donnell Rubay, 175 West H Street – Ms. Rubay asked the Commission whether revised Condition #7 would be included in the final resolution. She noted that an agreement was made between the neighbors and the property owner .

Jon Van Landschoot, 175 West H Street – He thanked the Garskes for approaching them about this project. He questioned the color of the main body of the building. Lisa Porras noted that it will be a beige color. He stated concerns with the height of the screening trees and would like them to go at least 10-15'.

Phil Joy – He noted that the story poles do not accurately depict the building.

Mrs. Garske – She noted that they are pleased with the design and looking forward to moving downtown.

Celeste Joy – She noted that the Garskes were sensitive to the neighborhood.

Bonnie Silveria – She is pleased to see story poles being used. The story poles alert the neighbors that something is being built.

The public hearing was closed.

Commissioners stated they did not want to select a specific tree and instead prefer providing general guidance.. Commissioner Haughey questioned why an accessory building would be disallowed, and why it should be deed restricted in the conditions of approval. She asked whether it was legal and stated her concern. . Lisa Porras noted that the deed restriction was required by the Zoning Administrator as part of the variance approval process. The landscaping screening was required as a condition of approval for the variance..

Commissioner White noted that strawberry trees drop a lot of fruit and will grow to at least 15'. There are other evergreens that might be more low maintenance.

Commissioner Donaghue rejoined the meeting at 7:17 p.m.

Commissioner White stated that decisions were made that the Commission had no input on.

Commissioners commented that it is a good design. There was a suggestion to have some requirement that the paint colors remain for a certain time period.

There are concerns with the octagon windows, particularly on the porch. Based on other properties in the district, this window style does not appear to be appropriate.

Commissioner Taagepera questioned the variance and why the HPRC should be constrained in their review; the Commission had no say in the size, which is related to design.

Commissioner Haughey stated a decision was already made with the neighbors beforehand and that the process was not done correctly.

The Commissioners questioned the variance procedure and noted it restricts HPRC's decision making abilities. A review of the variance request would have been helpful before a decision was made on the matter. The Commission would like to discuss future handling of these types of issues.

There was another comment on the octagon windows proposed. This is not an architectural element represented. It was noted that the windows appear somewhat nautical. There was a suggestion to modify the conditions to change the octagon windows.

Conditions were amended as follows:

1. Amend Condition #4 to require that the Lot Line Adjustment process begin prior to Certificate of Occupancy.
2. Amend Condition #5 to remove the work “opaque”, and add language that the applicant use a more traditional window than the octagons on the north elevation, as approved by staff.
3. Condition #7 be approved as written in the resolution, not based on the revised language submitted.

Donnell Rubay made a point of order that the setbacks in the Downtown Mixed Use Master Plan created confusion. She noted that the applicant and neighbors worked this out ahead of time.

Commissioners asked staff to clarify what the setback requirements are.. Lisa Porras cited the setbacks as written in the Downtown Mixed Use Master Plan for the NG zone. Commissioner Taagepera would have liked to have heard the neighbors’ concerns. Commissioner Haughey noted that she believed the issue related to the garage versus an accessory unit and stated the agreement was made to satisfy the neighbors’ concerns.

Commissioner White stated that the HPRC should not set a precedent by requiring deed restrictions and instead the property owners should be left to decide this for themselves. He stated that the neighbors and property owner can agree to a private deed restriction on their own.

RESOLUTION NO. 09-8 A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING DESIGN REVIEW FOR A NEW 4,564 SQUARE FOOT RESIDENCE LOCATED AT 170 WEST I STREET

On motion of Commissioner Donaghue, seconded by Commissioner White, the above Resolution was approved, as amended, by the following vote:

Ayes: Commissioners Crompton, Donaghue, Haughey, Taagepera, White and Chair Mang
Noes: None
Absent: None
Abstain: Commissioner McKee

A recess was called at 8:05 p.m. The meeting was reconvened at 8:20 p.m.

B. 182 EAST I STREET ADDITION - WORKSHOP

09PLN-7 Design Review

182 East I Street, APN: 89-052-090

PROPOSAL:

The owners of 182 East I Street are requesting preliminary review of their proposal for a rear addition to an existing residential structure. The residence is listed as a Contributing historic structure in the recent survey update of the Downtown Historic Conservation Plan and retains its historic integrity.

Recommendation: Review the preliminary proposal and provide feedback to applicants.

Commissioner McKee, as the architect for the project, recused himself.

Mike Marcus, Assistant Planner – gave an overview of the proposal. He noted that an additional sheet was available. The applicants would like preliminary review and feedback.

Commissioners questioned how the applicant will deal with the 10' setback issue. Mike Marcus noted that the Neighborhood General zone of the Downtown Mixed Use Master Plan requires the 10' setback. There were questions regarding the encroachment of the adjacent property. Mike Marcus noted that this is currently legal, non-conforming. There was a question as to the new fire code regulations now conforming with the proposed plans.

The issue of a variance was raised. Mike Marcus noted that the City does not believe it can make the findings for a variance. Commissioners suggested moving the house back 3' 11" so that they could meet the 40' setback from the alley.

Bob VanWert, Applicant – He noted that there is ample yard space. They have looked into a variance, but this has been discouraged by the City. He noted that the garage is in good condition. They would like to go straight back, but that was discouraged.

Laurie VanWert – Applicant – She noted that there is inconsistency in the regulations. The City has advised that a variance could not be granted. They have a real need for additional square footage. She feels they are meeting the standards of all of the regulations, other than the Downtown Historic Conservation Plan in relation to the historic character of the site. She noted it's difficult for homeowners to expand their properties and they are frustrated with the process. There have been modifications to the property.

Commissioners questioned if there is a basement under the structure. The applicant noted that there is, with exterior access. Commissioners questioned the possibility of using the basement to add square footage.

Commissioners discussed options for the applicants. There are issues with the addition projecting out. There is a possibility of moving the garage, but this would not gain a lot of square footage.

There are issues with the Downtown Mixed Use Master Plan and it needs to be revisited.

The public hearing was opened.

Bonnie Silveria – She questioned the findings for a variance and noted it could be appealed to the Planning Commission. She noted that a recommendation from HPRC to the Planning Commission would carry some weight.

The applicants questioned if any of the fees could be waived. This would have to be approved by the Community Development Director.

The Commission reached consensus that the 10' separation from the house and garage is not consistent with other provisions. They would support granting of a variance to relieve this condition, and would recommend waiving the variance application fee. There is no unfair advantage and a hardship exists due to inconsistency in the regulations with the Downtown Mixed Use Master Plan. The Commission recommended further meetings with staff to see if this issue can be resolved. The preference is to add on to the back. Adding to the side has not been consistent with prior approvals.

Commissioner Crompton suggested looking at designs that expand the structure sideways that would be consistent with the Secretary of the Interior Standards.

Bob VanWert noted that the basement is basically crawl space and there are flooding issues.

Commissioner Crompton noted that granting a variance here might set a precedence for future applicants.

A variance would not offer an unfair advantage and this is a hardship because the regulations conflict. There are concerns with the Downtown Mixed Use Master Plan and a recommendation to amend this document. There is also an issue with the siting of the house on the lot.

Commissioner Crompton noted that an addition can be done and be compatible.

- D. DISCUSSION ON FORMATION OF A STANDING SUBCOMMITTEE** – The Commission will discuss the suggestion by Bonnie Silveria to form a standing subcommittee of the Commission.

Gina Eleccion, Management Analyst, introduced the item. She noted that staff supports this, but would like to clearly define the role of the committee. It is not intended to meet monthly, but quarterly. If a standing committee is formed, these meetings will need to be

noticed, agendas prepared, minutes taken. There are Open Government requirements for such a committee.

Bonnie Silveria, Benicia Historical Society – She suggested forming this committee to have continuity with the goals and work of the Commission, the Historical Society and City staff.

Commissioners discussed the committee and how it would be structured. Bonnie Silveria clarified that a standing committee would exist in perpetuity so that there is consistency in the collaboration between the Commission, the Historical Society and City staff.

Commissioners commented on the issues related to historic preservation and would like to support staff in their efforts in preservation. Gina Eleccion noted that staff is appreciative of the volunteers efforts. The committee can be structured so that the Commission determines the work of the committee.

There was consensus to form a quarter ad hoc committee that would deal with a specific topic or project. The committee would bring back their findings to the Commission. Once the work on that topic or project was complete, a new ad hoc committee would be formed with a different purpose.

C. AMENDMENT OF COMMISSION RULES & PROCEDURES

The Commission will review draft Rules and Procedures.

Recommendation: Adopt a resolution amending the Historic Preservation Review Commission rules and procedures.

Commissioners discussed to draft rules. Gina Eleccion noted that the City Attorney has reviewed and recommended approval of this document. The City Attorney has added language to the conflict of interest and subcommittees sections.

Direction was given to staff to update specific sections of the draft presented.

Commissioner Taagepera commented on using Robert’s Rules of Order. Gina Eleccion read excerpts from Robert’s Rules of Order regarding elections. If the Commission does not specify how elections will be held, Robert’s Rules of Order will apply. Officers can be elected verbally or by ballot. Commissioners felt more comfortable with voting by ballot.

Commissioner White suggested that at the end of the Chair’s year term, nominations for new officers will be accepted and voted on by ballot. Commissioners will consider tenure and desire to serve, on the Commission when electing Chair/Vice Chair.

RESOLUTION NO. 09-9 (HPRC) - A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA AMENDING RULES AND PROCEDURES BY WHICH THE COMMISSION WILL OPERATE

On motion of Commissioner Donaghue, seconded by Commissioner White, the above resolution was adopted by the following vote:

Ayes:	Commissioners Crompton, Donaghue, Haughey, McKee, Taagepera, White and Chair Mang
Noes:	None
Absent:	None
Abstain:	None

VI. COMMUNICATIONS FROM STAFF

Gina Eleccion reminded Commissioners of CLG training in Davis on April 27th. Directions and information were provided.

May is National Preservation Month. The City has been working with the Benicia Historical Society. Flyers and letters will be going out to all H District property owners. The following events are scheduled:

May 5th – City Council Proclamation. Everyone is encouraged to attend to support our preservation efforts.

May 7th & 14th – Farmers’ Market. Commissioners were encouraged to attend and volunteer to work at the booth.

May 28th – Historic Preservation “Meet & Greet”. This will take place on HPRC’s regular meeting night. This will be an informal setting that will allow residents to talk to Commissioners, staff and Historical Society members about a variety of topics. Informational brochures will be on hand for the public.

Gina Eleccion noted that the CLG grant application is being submitted this week.

There is no update on the IOOF. Commissioner Haughey noted she got an estimate of \$2600 to put 2 coats of spray on sealant on the brick. Staff will follow up on the direction to get an Architectural Historian’s opinion on the integrity of the building with the existing brick.

VII. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Haughey commented on a house on West H Street that was painted red. There are many complaints about this. In addition, she raised concerns about the variance process for 170 West I Street. She has major concerns with the Downtown Mixed Use Master Plan.

Commissioner Taagepera distributed flyers for the Commanding Officer’s Quarters.

VIII. ADJOURNMENT

Chair Mang adjourned the meeting at 11:20 p.m.



BENICIA PLANNING COMMISSION

**SPECIAL JOINT MEETING WITH
THE BENICIA HISTORIC PRESERVATION REVIEW COMMISSION
CITY COUNCIL CHAMBERS**

**SPECIAL MEETING MINUTES
Thursday, June 11, 2009**

7:00 P.M.

**I. CALL TO ORDER – JOINT MEETING OF PLANNING COMMISSION (PC) AND
HISTORIC PRESERVATION REVIEW COMMISSION (HPRC)**

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

Planning Commission:

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

Absent: None

Historic Preservation Review Commission:

Present: Commissioners Crompton, Donaghue (arrived late), Haughey, McKee,
White, and Chair Mang

Absent: Commissioner Taagepera (excused)

Staff Present:

Damon Golubics, Principal Planner

Rhonda Corey, Senior Administrative Clerk

- 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. PLANNING COMMISSION CONSENT CALENDAR

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

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

A. Approval of Agenda

B. Approval of Planning Commission Minutes of May 14, 2009

V. REGULAR AGENDA ITEMS

A. VANWERT RESIDENTIAL VARIANCE

09PLN-31 Variance

182 East I Street, APN: 089-052-090

PROPOSAL:

The owners of 182 East I Street are requesting a variance from the Neighborhood General (NG) development standards, specifically the rear building setback for the main building and the distance between buildings. The owners are also requesting final design review approval from the Historic Preservation Review Commission of a proposed rear addition to the existing residential structure. The residence is listed as a Contributing historic structure in the recent survey update of the Downtown Historic Conservation Plan and retains its historic integrity.

Recommendation: Planning Commission review the variance request.

A memo from Historic Preservation Review Commissioner Taagepera was submitted on this item.

Damon Golubics gave a presentation on the proposed variance.

Jon Van Landschoot, 175 W H - He expressed concerns about the broader issue of the City's Downtown Mixed Used Master Plan. He stated that the city has a lot of oddly shaped properties and that a lot of properties are not situated on the centerline. Further stated that variances in general, create privacy issues even though it does not apply to this project. Requested that another joint meeting be scheduled to discuss precedence issues.

The applicant, Mrs. VanWert stated that she and her husband are seeking a modest addition to the residence and that their options are limited due to the setbacks.

PC Commissioner Dean asked what the outcome of the Historic Preservation Workshop was. Damon Golubics advised that the proposal being presented is the preferred alternative that HPRC agreed upon at the workshop. He stated that he does not support such a variance in general but supports this variance as reasonable.

HPRC Chair Mang commented that he felt the Secretary of Interiors Standards can have a negative impact. He believes the proposal is reasonable and allows the applicant to proceed.

HPRC Commissioner Haughey commented that the residence is small and only affects the family living in the residence and no one else. She further stated that the proposal wouldn't affect the district or other neighbors. She considers it a win/win situation for all parties involved and supports the variance.

PC Commissioner Sherry inquired about whether or not the Benicia Fire Department has approved the project in regards to the fire code. Damon Golubics stated that the Building Official Harvey Higgs reviewed the 3 ft distance issue.

PC Commissioner Bortolazzo stated that this is a family issue and not a historical structure issue. The variance doesn't change the look of the residence.

PC Commissioner Sherry agreed with Commissioner Bortolazzo. He referred to Commissioner Taageperas' letter and specifically the question of whether or not a fee waiver may be possible. Damon Golubics stated that it would be at the discretion of the Community Development Director Charlie Knox. Upon Planning Commission recommendation the issue could be addressed with Charlie Knox.

PC Commissioner Ernst agreed with PC Commissioner Sherry regarding the fee waiver and requested that it be included in the resolution.

PC Commissioner Syracuse supports the proposal as a consultant hired 20 years ago advised him that additions to the rear of the residence were not significant.

PC Chair Healy supports the proposal and appreciates the effort made by staff to make it work for the applicant.

PC Commissioner Ernst expressed his concern about future requests of the same.

HPRC Chair Mang and HPRC Commissioner Haughey both expressed support of the fee reduction.

RESOLUTION NO. 09-2 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A VARIANCE FOR THE REAR BUILDING SETBACK FROM THE MAIN BUILDING AND A VARIANCE FOR THE SETBACK FOR THE DISTANCE BETWEEN BUILDINGS (09PLN-031)

On motion of Commissioner Bortolazzo, seconded by Commissioner Syracuse, the above Resolution was adopted by the following vote:

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

FEE WAIVER

On the motion of Commissioner Bortolazzo, seconded by Commissioner Sherry, the Planning Commission would like the Community Development Director to consider a refund of processing fees for the VanWert variance and design review request by the following vote:

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

VI. COMMUNICATIONS FROM STAFF

Damon Golubics advised Commissioners that City Engineer Michael Throne has accepted a position of Public Works Director with the City of American Canyon and will be leaving. He reminded Commissioners of the July 2nd, 2009 Housing Element Presentation.

VII. COMMUNICATIONS FROM COMMISSIONERS

PC Commissioner Syracuse commended staff for their hard work on this project

PC Commissioner Ernst commended HPRC for their work on this issue. Encouraged historic homeowners watching this meeting from home, to subscribe to an email list for HPRC meeting information.

PC Commissioner Sherry asked Damon Golubics if we could conduct a survey of surrounding cities regarding the fees of other cities. Damon Golubics stated that staff could do that.

**ADJOURNMENT OF JOINT MEETING WITH PLANNING COMMISSION;
CONTINUATION OF SPECIAL MEETING OF HISTORIC PRESERVATION
REVIEW COMMISSION**

Joint Meeting adjourned at 7:55 pm with a 5 minute recess. Reconvened with HPRC only at 8:03 pm.

B. VANWERT RESIDENTIAL ADDITION

09PLN-07 Design Review
182 East I Street, APN: 089-052-090

PROPOSAL:

The owners of 182 East I Street are requesting final design review approval of a proposed rear addition to the existing residential structure. The residence is listed as a Contributing historic structure in the recent survey update of the Downtown Historic Conservation Plan and retains its historic integrity.

Recommendation: Pending Planning Commission approval of the variance, the Historic Preservation Review Commission shall review and approve the design review proposal. If the Planning Commission does not approve the variance, the design review request will be continued to a future Historic Preservation Review Commission meeting.

A memo from Historic Preservation Review Commissioner Taagepera was submitted on this item.

Damon Golubics gave a presentation regarding the design review request and advised Commissioners that staff recommends approval.

The public hearing was opened. No public comment. The public hearing was closed.

HPRC Commissioner White expressed appreciation to the applicant for their patience and fortitude in pursuing this project. Feels approval is the right thing for the applicant.

HPRC Commissioner Crompton agreed that this is a good project.

HPRC Commissioner Donaghue agreed with the other Commissioners and questioned who would approve/deny the siding sample that is still outstanding. Damon Golubics stated that it would be easier for staff to make a decision on this issue.

**RESOLUTION NO. 09-10 (HPRC) - A RESOLUTION OF THE HISTORIC
PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA**

**APPROVING A DESIGN REVIEW REQUEST FOR AN ADDITION TO AN
EXISTING CONTRIBUTING STRUCTURE AT 182 EAST I STREET**

On motion of Commissioner Donaghue, seconded by Commissioner Haughey, the above Resolution was adopted by the following vote:

Ayes: Commissioners Crompton, Donaghue, Haughey, White and Chair Mang
Noes: None
Absent: Commissioner Taagepera
Abstain: Commissioner McKee

VIII. ADJOURNMENT

HPRC Chair Mang adjourned the meeting at 8:10 pm

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING: JUNE 25, 2009
REGULAR AGENDA ITEMS

DATE : June 16, 2009

TO : Historic Preservation Review Commission

FROM : Sharon Williams, Development Services Technician

SUBJECT : **DESIGN REVIEW FOR EXTERIOR CHANGES AT 6001 GOODYEAR ROAD**

PROJECT : 09PLN-29
6001 Goodyear Road
APN: 181-260-050

RECOMMENDATION:

Grant design review approval for exterior changes at 6001 Goodyear Road (Jack in the Box), based on the findings, and subject to the conditions listed in the proposed resolution and as discussed during the public hearing.

EXECUTIVE SUMMARY:

The applicant requests approval of exterior changes for an existing restaurant, associated fuel station, and convenience store at 6001 Goodyear Road. The project consists of repainting the exterior of the restaurant, convenience store, fuel canopy, monument signs, and pylon sign.

BUDGET INFORMATION:

No budget impacts are anticipated.

ENVIRONMENTAL ANALYSIS:

Staff has determined that this project is Categorically Exempt under Section 15301 of the California Environmental Quality Act, which exempts minor alteration of existing private facilities.

BACKGROUND:

Applicant: Stantec Architecture, Inc.
Owner: Getty CA Leasing, Inc.
General Plan designation/Zoning: Commercial General/General Commercial

Existing use: Restaurant, convenience store, and fuel station
Proposed use: Restaurant, convenience store, and fuel station
Adjacent zoning and uses:

North: Limited Industrial (IL): Vacant
East: Limited Industrial (IL): Vacant
South: General Industrial (IL): Vacant
West: Freeway

SUMMARY:

A. Project Description

The subject parcel is located at the corner of Lake Herman and Goodyear Road and has a General Commercial (CG) zoning designation. The project site is flat and completely improved and has been operating as a fuel station, convenience store, and restaurant for many years. Access to the site is from Goodyear Road and is not proposed to change.

B. Project Analysis

Summary of Proposed Project

Improvements to the convenience store and restaurant

The existing convenience store and restaurant have a stucco finish with a number of existing large windows and glass doors. The convenience store and restaurant are currently painted beige with red trim. The applicant requests approval to repaint the building using a richer color palette consisting of darker beige, red, black, and grey colors. The majority of the building would be painted "Balanced Beige" (beige) with "Fireweed" (red) as an accent color. The trim would be painted "Caviar" (black) and "Grey Matters" (grey).

Improvements to fuel island canopy

The existing fuel canopy shall retain its current size, shape, and location. The applicant proposes to repaint the fuel canopy and columns using "Balanced Beige."

Monument and Pylon Signs

The proposed pylon and monument signs shall retain their current sizes, shapes, and locations. The applicant proposes to repaint both monument signs and the pylon sign using "Balanced Beige."

1. Findings

- a) The Historic Preservation Review Commission finds that the proposed development is consistent with the objectives and provisions of Title 17 of the Benicia Municipal Code and the purposes of General Commercial (CG) zoning district.

The current use of the subject parcel will remain the same as a fuel station, convenience store, and restaurant, which are all allowed uses in the General Commercial zoning standards.

- b) The proposed location of the exterior changes at 6001 Goodyear Road and the proposed conditions of approval will be consistent with the General Plan and with Title 17 of the Benicia Municipal Code and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of the proposed use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city;

There will be no changes to the physical site layout, including access, and the use will remain the same. Additionally, there is no new construction development included as part of this approval process.

- c) The proposed exterior changes at 6001 Goodyear Road will comply with the provisions of Title 17 (Benicia Zoning Ordinance), including specific conditions required for use in the district in which it will be located.

This approval is for design review purposes only.

C. Conclusion

Staff recommends approving the proposed exterior changes, subject to the conditions of approval in the attached resolution.

FURTHER ACTION:

The Historic Preservation Review Commission's action will be final unless appealed to the Planning Commission within ten business days.

Attachments:

- Draft Resolution
- Project Plans

DRAFT RESOLUTION

RESOLUTION NO. 09- (HPRC)

**A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION
OF THE CITY OF BENICIA APPROVING DESIGN REVIEW FOR EXTERIOR
MODIFICATIONS AT 6100 GOODYEAR ROAD (09PLN-29)**

WHEREAS, Stantec Consulting, Inc. (Jack in the Box) has requested Design Review approval for exterior modifications to a fuel station, convenience store, and restaurant at 6100 Goodyear Road; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on June 25, 2009, conducted a public hearing and reviewed the proposed project;

NOW, THEREFORE, BE IT RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby approves Design Review for exterior modifications at 6100 Goodyear Road; and

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission finds that:

- a) The proposed development is consistent with the objectives and provisions of Title 17 of the Benicia Municipal Code and the purposes of General Commercial (CG) zoning district *because the current use of the subject parcel will remain the same as a fuel station, convenience store, and restaurant, which are all allowed uses in the General Commercial zoning standards.*
- b) The proposed location of the exterior changes at 6001 Goodyear Road and the proposed conditions of approval will be consistent with the General Plan and with Title 17 of the Benicia Municipal Code and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of the proposed use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city *because there will be no changes to the physical site layout, including access, and the use will remain the same. Additionally, there is no new construction development included as part of this approval process.*
- c) The proposed exterior modifications at 6001 Goodyear Road will comply with the provisions of Title 17 (Benicia Zoning Ordinance), including specific conditions required for use in the district in which it will be located *because this approval is for design review purposes only.*

BE IT FURTHER RESOLVED THAT the Benicia Historic Preservation Review Commission hereby approves the proposed project subject to the following conditions:

1. The plans submitted for the building permit shall substantially comply with the submitted site plan and elevations date stamped April 27, 2009, prepared by Stantec

Consulting, consisting of six sheets attached to this staff report on file with the Community Development Department, except as modified by the following conditions. Any change from the approved plans, including substitution of materials, shall be requested in writing for approval by the Community Development Department Director, or designee prior to changes being made in the field.

2. This approval shall expire two years from the date of approval, unless made permanent by the issuance of building permits and the commencement of construction. The applicant may request in writing a one-year extension from the Community Development Director.
3. This project shall adhere to all applicable ordinances, plans, and specifications of the City of Benicia.
4. This approval is only for design review of the re-image program. A separate sign permit is required for any changes to signage on-site.
5. No more than 50 percent of the total window space on a wall may be covered by temporary window signs and each temporary window sign shall be removed when the sale or promotion advertised ends (BMC 18.16.120).
6. The restaurant and/or convenience market operator shall pick up and dispose of all litter, such as beverage containers, food wrappers, and food containers on the project site at all times.
7. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Historic Preservation Review Commission, Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

On motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted by the Historic Preservation Review Commission of the City of Benicia at a regular meeting of said Commission held on June 25, 2009, by the following vote:

Ayes:

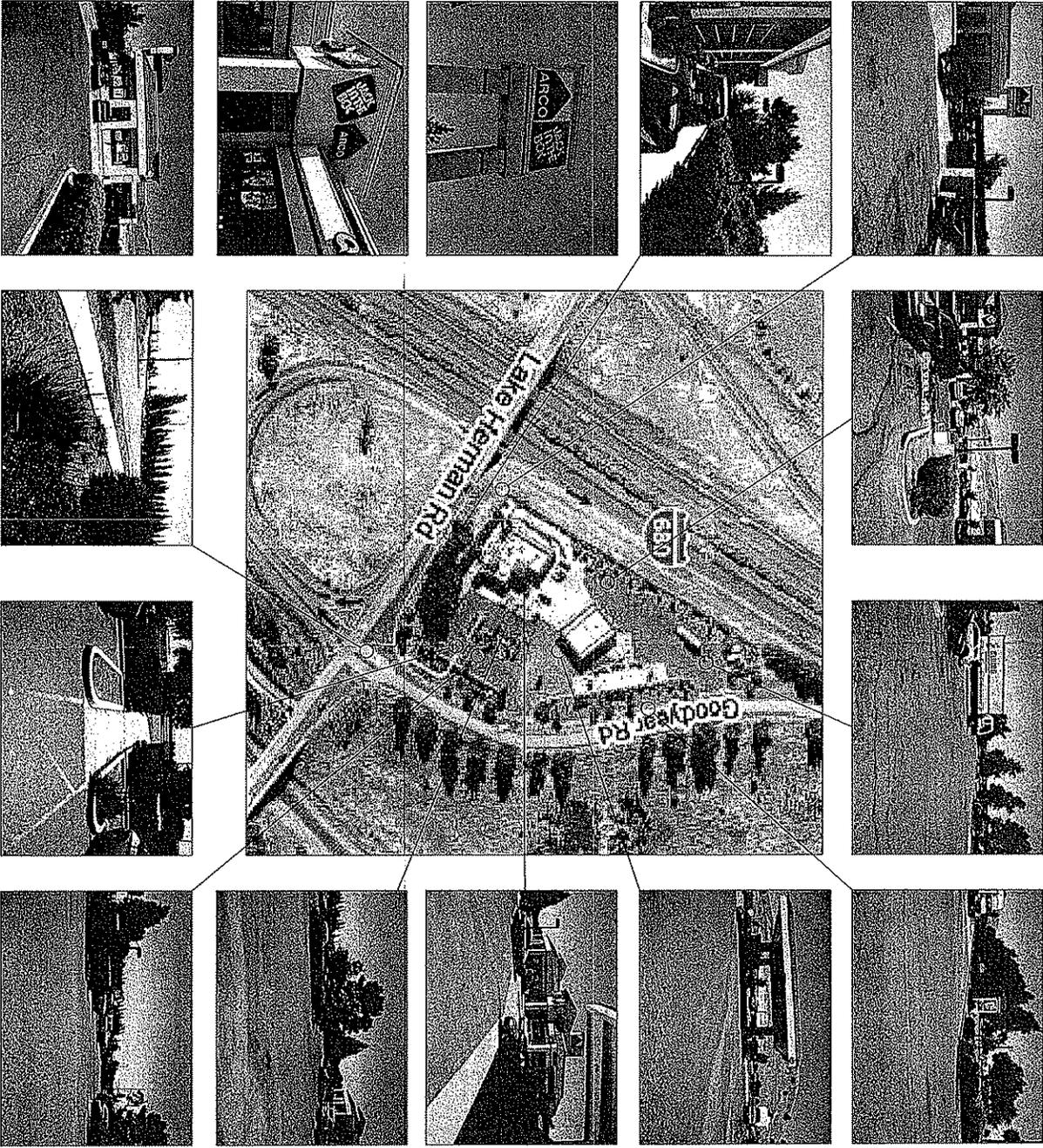
Noes:

Absent:

Chuck Mang
Historic Preservation Review Commission Chair

PROJECT PLANS

(If viewing online, full-size plans are available to view in the Community Development Department or in the Benicia Public Library in the June 25, 2009, Historic Preservation Review Commission packet)



Stantec Consulting Inc. Tel: 916.624.0910
 6020 West Oaks Blvd, Ste 200 Fax: 916.624.0929
 Rocklin, CA U.S.A. 95765 lever@stantec.com

The Contributor shall verify and be responsible for all information provided to the Contributor. The Contributor shall verify and be responsible for all information provided to the Contributor. The Contributor shall verify and be responsible for all information provided to the Contributor.

- △ 100% COMPLETE
- △ 75% COMPLETE
- △ 50% COMPLETE
- △ 25% COMPLETE
- △ NOT STARTED

DATE: _____
 RELEASE: SEP 16, 2009
 PROJECT NAME: _____
 PREPARED BY: _____
 DATE: _____
 CONTRIBUTOR: _____
 REVISIONS: _____

© 1999 Jack H. The Bot Inc.
 5450 BARK AVE
 SAN DIEGO, CA 92123
 THESE PHOTOS AND PHOTOGRAPHS ARE THE PROPERTY OF JACK H. THE BOT INC. AND ARE NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

SITE
 PHOTOS
 SP1.0

FILE INFORMATION
 LOT TYPE: 29150
 48 & 342
 ADDRESS
 4801 GOODYEAR ROAD
 INDIO, CA
 DRAWN BY: _____
 SCALE: 1/8" = 10' SCALE



Community Development Department MEMORANDUM

Date: June 18, 2009
To: Historic Preservation Review Commission (HPRC)
From: Amy Million, Consulting Planner
Re: Workshop / Discussion of the draft ordinance to update the Benicia Municipal Code for the Standards and Regulations for the Demolition of Historic and Non-Historic Structures

Title 17 Zoning of the Municipal Code provides standards for the demolition and design review of historic and non-historic structures. The draft text amendments propose to revise the existing standards to provide continuity and clarity on these procedures. The attached draft includes amendments to four (4) Sections of Title 17 Zoning:

Section 17.12 Definitions

At the February 26, 2009 HPRC meeting, the commission requested that the definitions of “repair, minor and emergency” were discussed further. Staff has looked at these definitions in addition to addressing the standards and regulation for demolition of both historic and non-historic structures.

Section 17.54.100 Demolition and review procedures AND Section 17.108.060 Review Responsibilities

On June 17, 2008 the City Council adopted resolution 08-62 amending the Downtown Historic Conservation Plan to require Design Review for construction and modifications of non-historic single-family residences and duplexes in the H Historic Overlay District. The proposed changes are to provide clear direction on the permit process and requirements for demolition and design review in the H Historic Overlay District.

Section 17.70.370 Demolition Review

As the City moves to address the issues of sustainable development, several projects are in progress. There is a draft Climate Action Plan which includes recommendations for a green building ordinance and a construction/demolition ordinance. Also, effective August 1, 2009, the City will begin to enforce the required California Green Building Standards Code. All of these changes will eventually be reflected Title 17 Zoning Ordinance. Specifically, there is a proposed text change to add “Section 17.70.370 Demolition Review”. The intent of this change is to provide a direct correlation between the California Green Building Standards Code, Municipal Code Title 15 Buildings and Construction and the strategies of the draft Climate Action Plan.

The proposed Draft Text Amendment is written in a redlined format. Text that is recommended for removal is indicated with ~~strikeout~~ (~~strikeout~~). New text that is recommended is indicated with underlining (underlining.)

DRAFT ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 09-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 17.12.030 (DEFINITIONS) OF CHAPTER 17.12 (DEFINITIONS), AMENDING SECTION 17.54.100 (DEMOLITION AND DESIGN REVIEW PROCEDURES) OF CHAPTER 17.54 (H HISTORIC OVERLAY DISTRICT), AMENDING SECTION 17.108.060 (REVIEW RESPONSIBILITIES) OF CHAPTER 17.108 (DESIGN REVIEW), AND ADDING SECTION 17.70.370 (DEMOLITION REVIEW) TO CHAPTER 17.70 (SITE REGULATIONS) 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:

“Demolition” means any act of pulling down, removing, dismantling, or razing a substantial portion of a structure or building. Substantial portion shall mean twenty five (25) percent of the volume of the structure, building, or the roof 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. 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.

“Minor Alteration of a Historic Structure” means any physical modification to a historic structure that is limited in scope or has a minor impact to the exterior of the structure. Minor alterations include, but are not limited to, awnings, landscaping, lighting, seismic work, signs, alterations to existing storefronts, any changes to windows and doors or their openings other than repair or in-kind replacement, the application of new exterior wall cladding or siding which changes the appearance, design, or texture of a property, and the addition of dormers or other architectural features.

“Major Alteration of a Historic Structure” means any physical modification to a historic structure to the extent that its structural or architectural integrity is permanent impaired. Major alterations include, but are not limited to, removal of any significant feature(s) of a historic resource or the addition of square footage to a building within the H overlay district.

“Major Alteration, parking” means a change of use or an addition that would increase the number of parking spaces or loading berths by not less than 10 percent of the total number required prior to the alteration or enlargement.

Section 2.

Section 17.54.100 (Demolition and design review procedures) of Chapter 17.54 (H Historic Overlay District) of Title 17 (Zoning) of the Benicia Municipal Code is amended to read as follows:

Section 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 structure shall be conducted as prescribed by Chapter 17.108. Design review and approval shall be the responsibility of the ~~planning~~ community development director or the ~~design~~ 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 ~~landmark~~ historic structure without the prior approval of the ~~planning~~ community development director or the ~~design~~ historic preservation review commission. ~~Prior approval of the planning 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, the ~~planning~~ 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~~ Exception. This section is not intended to apply to 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 as defined in Section 17.12.030 ordered by the Chief Building Official of the City of Benicia to remedy conditions determined to be an immediate danger to the life, health and safety of the occupants, the owner or that of the general public do not require approval of community development director or the historic preservation review commission.

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

4. A temporary construction shed or office.

D. ~~Economic Hardship Waiver~~ Required Permit. 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~~ historic preservation review commission. ~~Demolition permits for nonhistoric structures within~~

~~the H district may be approved by the planning director.~~ To assist any evaluation by the design review commission, the planning community development director shall submit a report and recommendation to the historic preservation review commission.

1. For Demolitions.

a. If, after review of the request for a demolition permit, the design historic preservation review commission determines that the structure itself has historical, architectural or cultural interest or value, the commission may withhold approval for demolition for one hundred eighty days (from the date of commission action) or until environmental review is completed, whichever occurs later.

During the one hundred eighty 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 one-hundred-eighty-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. 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. ~~Effective Date~~ 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 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's of the Interior Standards "Standards" or adopted guidelines based on the Standards.

3. 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.

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.

Section 3.

Section 17.108.060 (Review Responsibilities) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended read as follows:

Section 17.108.60 Review responsibilities.

A. By the Community Development Director. The community development director shall be responsible for design review for projects in the IG, IL, and IW districts and for projects outside the Industrial districts that involve construction of less than 2,500 square feet of floor area, and "Minor Alteration of a Historic Structures" as defined in Section 17.12, in the H overlay district.

B. By the Historic Preservation Review Commission. The historic preservation review commission shall be responsible for design review in the RS (nonresidential structures only), RM, RH, C, OS, PS, PD and the H overlay districts, for projects not subject to community development director review. The historic preservation review commission shall hold a public hearing, as provided in BMC 17.108.080, and shall

approve, conditionally approve, or disapprove applications for design approval. Decisions of the ~~design~~ historic preservation review commission may be appealed to the planning commission in accordance with Chapter 1.44 BMC

Section 4.

Chapter 17.70 (Site Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is amended by adding Section 17.70.370 (Demolition Review) to read as follows

Section 17.70.370 Demolition Review.

A. Applicability. The following regulations shall apply to all demolition projects in any zoning district. "Demolition" is defined as any act of pulling down, removing, dismantling, or razing a substantial portion of a structure or building. Substantial portion shall mean twenty five (25) percent of the volume of the structure, building, or the roof structure.

B. Exceptions. This section is not intended to apply to the following:

1. Emergency Demolitions ordered by the Chief Building Official of the City of Benicia to remedy conditions determined to be an immediate danger to the life, health and safety of the occupants, the owner or that of the general public do not require approval of community development director or the historic preservation review commission. "Emergency demolition" as per Section 17.12, shall be defined as demanding immediate action to prevent or mitigate loss of or damage to life, health, property or essential public services. 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.

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

3. A temporary construction shed or office.

C. Replacement Structure. An application authorizing demolition of a designated historic building or of a dwelling shall not be approved and issued until the City has granted final approval of a building permit for construction of the replacement building. This requirement applies solely to any primary structure(s) on a property as determined by the community development director.

D. Material Conservation and Resource Efficiency.

(Reference to the California Green Building Standards Code and amendments in Title 15 Buildings and Construction of the Benicia Municipal Code to be included here. The California Green Building Standards Code includes requirements for waste diversion and other construction and demolition standards)