



**BENICIA PLANNING COMMISSION
CITY COUNCIL CHAMBERS**

REGULAR MEETING MINUTES

**July 12, 2007
7:00 P.M.**

I. OPENING OF MEETING

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

Present: Chair Fred Railsback, Commissioners Richard Bortolazzo, Kyle Daley, Dan Healy, Mike Ioakimedes, Bonnie Silveria and Scott Strawbridge
Absent: None

Staff Present: Community Development Director Charlie Knox
Senior Planner Damon Golubics
Associate Planner Xzandrea Fowler
Contract Attorney Kat Wellman
Senior Civil Engineer Mike Roberts
Administrative Secretary Gina Eleccion

- 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

Commissioner Silveria recommended 221 First Street be moved to follow the Consent Calendar, seconded by Commissioner Bortolazzo and carried by the following vote:

Ayes: Commissioners Bortolazzo, Daley, Healy, Ioakimedes, Silveria and Strawbridge
Noes: Chair Railsback
Absent: None

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

None.

B. PUBLIC COMMENT

None.

IV. CONSENT CALENDAR

On motion of Commissioner Daley, seconded by Commissioner Silveria, the Consent Calendar, with the removal of IV-B, was approved by the following vote:

Ayes: Commissioners Daley, Healy, Ioakimedes, Silveria, Strawbridge and Chair
Railsback
Noes: None
Absent: None
Abstain: Commissioner Bortolazzo

A. Approval of Agenda

B. Planning Commission Minutes of June 14, 2007

On motion of Commissioner Silveria, seconded by Commissioner Healy, the June 14, 2007 minutes were approved by the following vote:

Ayes: Commissioners Healy, Ioakimedes, Silveria, Strawbridge and Chair Railsback
Noes: None
Absent: None
Abstain: Commissioners Bortolazzo and Daley

C. GENERAL PLAN CONSISTENCY DETERMINATION FOR A VACATION OF A PORTION OF WEST K STREET BETWEEN WEST 13TH AND WEST 14TH STREET – *Public Hearing

PROPOSAL:

The property owner of 1356 West K Street is proposing that the City vacate and grant the road right-of-way dividing said property in exchange for dedicating the parcel immediately to the west to the City, which would become part of the West 14th/West K Street Public Access.

Recommendation: Make a finding of consistency with the General Plan.

RESOLUTION NO. 07-10 - A RESOLUTION ESTABLISHING CONSISTENCY WITH THE GENERAL PLAN FOR THE VACATIN OF A PORTION OF WEST K STREET BETWEEN WEST 13TH AND WEST 14TH STREET

D. GENERAL PLAN CONSISTENCY DETERMINATION FOR A VACATION OF A PORTION OF WEST 11TH STREET RIGHT-OF-WAY BETWEEN WEST K AND WEST L STREET – *Public Hearing

PROPOSAL:

The City is proposing to vacate and grant the road right-of-way to the property owners of 1105 West K Street and 1100 West 11th Street. This request has been made on behalf of the Economic Development Division who is working with the Public Works Department to create revenue from the sale of underutilized public rights-of-way.

Recommendation: Make a finding of consistency with the General Plan.

RESOLUTION NO. 07-11 - A RESOLUTION ESTABLISHING CONSISTENCY WITH THE GENERAL PLAN FOR THE VACATION OF A PORTION OF WEST 11TH STREET RIGHT-OF-WAY BETWEEN WEST K AND WEST L STREET

V. REGULAR AGENDA ITEMS

A. 163 EAST H STREET

07PLN-19 Use Permit/Mitigated Negative Declaration
163 East H Street, APN: 89-052-290

PROPOSAL:

The applicant proposes to construct an approximately 17,150 square foot mixed-use building with subterranean parking on the vacant parcel located at 163 East H Street. The first floor of the building contains seven office/retail spaces. The office/retail spaces range in size from 400 square feet to 1,100 square feet. The first floor includes a common courtyard and restrooms. The second floor contains five office/retail spaces and common restrooms. The second floor spaces range in size from 770 square feet to 1,120 square feet. The third floor contains three residential units and a laundry room. The residential units range in size from 885 square feet for a studio apartment, to 1,185 square feet for a two bedroom apartment.

Recommendation: Approve a Use Permit for a mixed-use project at 163 East H Street, based on the findings and conditions in the proposed resolution.

Commissioners Bortolazzo and Strawbridge stated conflicts on this project and recused themselves.

Xzandrea Fowler, Associate Planner, gave an overview of the project.

The public hearing was opened.

RESOLUTION NO. 07-12 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA CERTIFYING AND ADOPTING

AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION THAT WAS PREPARED FOR THE PROPOSED MIXED-USE PROJECT LOCATED AT 163 EAST H STREET

On motion of Commissioner Silveria, seconded by Commissioner Daley, the above Resolution was approved by the following vote:

Ayes: Commissioners Daley, Healy, Ioakimedes, Silveria, Chair Railsback
Noes: None
Absent: None
Abstain: Commissioners Bortolazzo and Strawbridge

B. BENICIA VIEWS SUBDIVISION

07PLN-16 Tentative Subdivision Map

East Sixth Street (between East H & I Streets), APN: 89-074-020, -080, -090, & -100

PROPOSAL:

The applicant requests approval of a Tentative Subdivision Map to subdivide four vacant residential parcels into seven residential parcels. Two of the newly subdivided parcels would have a parcel area of 6,250 square feet and five parcels would have a parcel area of 7,500 square feet. The alley right of way located off of East Sixth Street, between East H and East I streets, would be improved.

Recommendation: Approve a Tentative Subdivision Map and recommend adoption of a Mitigated Negative Declaration for a project at East 6th Street (between H & I Streets), based on the findings and conditions in the proposed resolution.

Xzandrea Fowler, Associate Planner, gave an overview of the project. She noted that the Initial Study identified several potential impacts which can be mitigated.

Commissioners questioned how much of Bottle Hill would be removed. Xzandrea Fowler noted that there is an area that will need to be graded, but nothing is proposed on the City-owned property at this point.

Xzandrea Fowler clarified that City-owned parks are zoned Open Space, so the property would need to go through a rezoning and General Plan amendment to use that parcel as a park. Charlie Knox further noted that the Parks Master Plan would need to be amended, along with the General Plan.

Commissioners questioned access to the property if the City were to develop the property. Charlie Knox noted that it is unlikely the property will be developed by the City. Commissioner Silveria commented that it was always intended to leave the property as open space.

The public hearing was opened.

Paul McClennon, 615 East I Street – He is concerned with the hydraulics issues in the Mitigated Negative Declaration. He believes there will be water issues related to developing the I Street properties.

Mike Roberts, Senior Civil Engineer, noted that a Geotechnical Report was prepared that evaluated the hydraulics. He noted that the increased surface runoff will be captured in the street. He suggested amending the Geotechnical Report to address those issues and add this as a condition of approval. In addition, Mike Roberts noted that there will be a sidewalk constructed and significant rock will be removed.

Dan Raffanti, Developer – He thanked Staff for assisting him with this project. He plans to live in one of the I Street homes. He has held several neighborhood meetings to discuss the project. He believes the main concern of the neighbors is to make sure the property is developed. He believes the homes will be valued in the 800 – 900,000 range. He noted that there will be disclosures of the industrial uses surrounding the property.

Project Designer – He believes this project compliments the adjacent neighborhood and the Port. He noted that the homes will be 2700 – 2900 square feet.

Don Obendorf, 600 East I Street – He will be the most impacted by this development. He has not been notified of any meetings held. He is concerned with the history of the property, the Bottle Hill area, and the removal of trees. The City owns a lot that is part of Bottle Hill. He would like a park that overlooks the Yuba property.

Marilyn Bardet, 333 East K Street – She noted that there is an East Side Plan. She believes it is reasonable for a park to be constructed.

Dana Dean, 835 First Street – She spoke on behalf of Amports. Amports was not included in the neighborhood discussions. The current view is not protected. Amports would like deed restrictions included notifying potential owners of the lack of view protection and the proximity to the industrial use.

Commissioners questioned timing of development of the Yuba property.

Commissioners questioned if deed notifications would be acceptable. Dan Raffanti does not want to see deed restrictions. He would like to see a condition for disclosures to be given. Charlie Knox noted that there can be a deed restriction that is basically a rolling notification of the industrial uses adjacent to the property.

Richard Lockwood, 699 East I Street – He was not informed of the proximity of his property to an industrial project. He is in favor of this project. The current property is being used as a dumping ground. He does not believe this is a good location for a park.

The public hearing was closed.

Commissioner Ioakimedes commented that there are issues with infill development. The City should look at higher density, particularly adjacent to industrial areas. He does not have issues with this particular project, but wants the City to consider a better way to deal with infill development that is adjacent to industrial areas.

Commissioner Strawbridge commented that the community has publicly stated that they want less density. The Commission may need to have a discussion on how to handle future infill development.

Commissioner Silveria believes this project is too dense. She would like to keep nice lots sizes. She does not believe this project would go through on the west side of town.

Chair Railsback noted that he has had ex-parte communications with some of the neighbors. All of the issues discussed have been mentioned at the hearing.

Commissioner Daley stated his concerns with the future of the area. Commissioner Bortolazzo stated his support for the project.

Charlie Knox noted that this is before the Commission because there are more than 4 lots proposed. The applicant could have proposed higher density on the properties.

Commissioner Silveria questioned the possibility of a view corridor. Xzandrea Fowler noted that there is a mitigation for views. Commissioner Silveria would like a view corridor with public access. Charlie Knox noted that the subdivision complies with the open space requirement. The applicant does not agree with the view corridor and public access suggestion. The use of storypoles was mentioned.

Commissioner Healy expressed frustration because there is no certainty with the City lot. He agrees with the use of a deed restriction.

The Commission would like the Parks and Recreation Commission to explore use of the City-owned parcel.

Commissioners added the following conditions:

1. Add deed restriction regarding industrial uses and the port.
2. Applicant shall amend the existing geotechnical report to analyze the possibility of construction activities increasing subsurface flows under "I" Street and construct any necessary mitigation measures.

RESOLUTION NO. 07-13 (PC) - A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE THE BENICIA VIEWS TENTATIVE SUBDIVISION MAP FOR THE SUBDIVISION OF FOUR VACANT RESIDENTIAL PARCELS INTO SEVEN RESIDENTIAL PARCELS LOCATED ON EAST SIXTH STREET, BETWEEN EAST H AND EAST I STREETS AND CERTIFY AND ADOPT THE INITIAL STUDY/MITIGATED NEGATIVE

DECLARATION THAT WAS PREPARED FOR THE PROPOSED SUBDIVISION

On motion of Commissioner Bortolazzo, seconded by Commissioner Strawbridge, the above Resolution was approved by the following vote:

Ayes: Commissioners Bortolazzo, Ioakimedes, Strawbridge, Chair Railsback
Noes: Commissioners Daley, Healy and Silveria
Absent None

A recess was called at 9:43 p.m. The meeting was reconvened at 10:05 p.m.

Gina Eleccion announced that the July 26th Historic Preservation Review Commission meeting will be held in the City Council Chambers. The main topic of the meeting will be the update of the historic surveys. A public hearing notice and letter to property owners is being mailed out in the next few days. All survey forms will be available online at the City’s website.

C. DOWNTOWN MIXED USE MASTER PLAN

The Downtown Mixed Use Master Plan applies to a large portion of the Downtown Historic District in an area generally bounded by K Street, East Second Street, West Second Street and the Carquinez Strait.

PROPOSAL:

The draft Downtown Mixed Use Master Plan establishes standards to guide development in Downtown Benicia. The plan is intended to provide specificity and certainty regarding the design and placement of buildings in this area of special interest and value to the community. The plan includes a different set of development and land use standards than are presently established by the *Zoning Ordinance* and the *General Plan*. Upon adoption, the standards in Chapter 4 of the plan will supercede and replace the City’s *Zoning Ordinance* provisions regarding zoning districts, allowable land uses, permit requirements and site development standards for the geographic area covered.

Recommendation: That the City Council adopt the draft Mitigated Negative Declaration and approve the associated resolution.

Commissioners Bortolazzo, Ioakimedes and Strawbridge recused themselves due to property and business ownership in the Downtown Historic District.

Charlie Knox introduced the item to the Commission. An overview of the process was given. He stated that the mitigation measures ensure that the Plan will not have significant impacts. He noted that this Plan is in conjunction with the update of the Downtown Historic Conservation Plan. There is a mitigation measure regarding Floor Area Ratio (FAR). He credited Donnell Rubay with catching an error in one of the tables regarding FAR. A handout clarifying the correct numbers in the table was provided for the Commissioners and public. He noted that without the FAR

requirements, the Plan would require an Environmental Impact Report (EIR) because the impacts would be significant.

The public hearing was opened.

Kirk Arneson, 110 East E Street – He spoke as a representative of the Arneson/Shannonhouse Trust. They are in favor of the Plan with 4 concerns. The City-owned parking lot at the end of East E Street should not be developed to the maximum allowed. The maximum building square footage in the historic district is also a concern. There needs to be compatibility with non-historic homes in the historic district. They would like to see frontal elevations for new developments.

Neil Leary, 140 East G Street – He does not support the change in zoning on East G Street to Neighborhood General Open (NG-O). The street does not support commercial uses. The alley was vacated and he believes parking will be an issue. Due to the width of the street, diagonal parking is not an option. He submitted a petition from residents on G Street.

Bob Berman, Resident – Questioned if the Plan is being recommended for adoption or just the Mitigated Negative Declaration. Charlie Knox noted that the Mitigated Negative Declaration includes the necessary changes to the map and zoning ordinance and General Plan.

Bob Berman commented that the adoption of a Plan requires an analysis of potential buildout. The impacts of the Plan need to look at existing conditions. He referenced specific issues in the Plan. Mitigation measure should be more specific.

Charlie Knox commented that the Arsenal Plan contains 5 options to address the buildout. The purpose of the intent to adopt a Mitigated Negative Declaration is to identify potentially significant impacts and see if these could be mitigated to a less than significant level. Demolition, waterfront green identification and citizen process for East E Street lot – Exhibit from City Council directing staff to include these mitigations.

Commissioner Silveria commented that the intent of the demolition ordinance is to have a process that does not allow demolition of historic resources without proper evaluation and review.

Charlie Knox commented on the East G Street designation of NG-O. The designation was a result of public comment at the charrettes and City Council hearings. NG-O gives property owners more development rights.

Marilyn Bardet, Resident – She stated her concerns over water runoff pollution. She wondered if the 100-year flood information is current and is concerned with flooding. She does not want to see underground parking.

Leann Taagepera, Resident – She would like to see non-historic construction comply with the historic plans. She believes the downtown commercial lot description is unclear. She would like clarification of “non-residential” uses.

Linda Lewis, 282 West I Street – Submitted a letter to the Commission that she read into the record. She is concerned with parking and congestion.

Donald Dean, 257 West I Street – He would have liked to have seen additional information on potential buildout. He questioned if the Negative Declaration includes all future development. He commented on the historic survey update and the need to have status of buildings resolved.

Donnell Rubay, 175 West H Street – She commented on the FAR calculations. She would like to see design review for single-family non-historic homes within the district.

Jon Van Landschoot, 175 West H Street – He spoke about the difference between regulations for historic and non-historic homes within the historic district. Every property within the district should be viewed as a resource.

Dana Dean, 835 First Street – She commented on her proposed mitigations. She proposed language that “every historic resource within the district comply with the Secretary of the Interior Standards”. This could include streetscapes and other features.

Kathleen Olson, 334 West H Street – Thanked the Commission and Staff for the thorough citizen-involved process. She commented on the Streetscape Plan

The public hearing was closed.

Charlie Knox addressed concerns of the public.

Regarding TC-O and ground floor uses, there are permitted uses designated, some requiring a use permit. Commissioner Silveria suggested changing the language to “commercial” vs. “non-residential”. Charlie Knox noted that there are non-commercial uses that are allowed. The language can be changed to “retail”.

Regarding landscaping and bioswales, any property 10,000 square feet or larger will be required to implement a Stormwater Management Plan.

Regarding future environmental review, projects will be evaluated on an individual basis.

Regarding single-family design review, the proper place to address this is in the Downtown Historic Conservation Plan.

Charlie Knox commented on the Secretary of the Interior Standards in relation to construction in the historic district. The easiest solution is to apply the Secretary of the Interior Standards to all structures in the district.

Commissioners commented on parking mitigations. The City should include a citizen-involved process regarding the East E Street lot to provide adequate parking.

Changes:

Condition #4 (Exhibit A) – change from “non-residential” to “retail”

MIT TRANS 1 – include parking as a future use for the City-owned East E Street lot.

Recommend the City Council consider design review for all structures within the Downtown Historic District.

**RESOLUTION NO. 07- 14 (PC) - RECOMMENDING CITY COUNCIL
ADOPTION OF AN INITIAL STUDY / MITIGATED NEGATIVE
DECLARATION FOR THE DOWNTOWN MIXED USE MASTER PLAN**

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

Ayes:	Commissioners Daley, Healy, Silveria, Chair Railsback
Noes:	None
Absent:	None
Abstain:	Commissioners Bortolazzo, Ioakimedes and Strawbridge

D. 221 FIRST STREET APPEAL – BUILDING PERMIT ISSUANCE

07PLN-43

221 First Street APN: 89-244-040

Appeal of the Community Development Director’s decision on June 6, 2007, to issue a building permit for the 221 First Street Project.

PROPOSAL:

The appeal of the Community Development Director’s decision to issue a building permit for the 221 First Street project is based on the following assertions:

1. The City’s approval of the project expired; and
2. Issuance of the building permit violated a condition of approval.

Recommendation: Continue to the August 9, 2007 regular Planning Commission meeting to allow consideration of potential action regarding the matter by the San Francisco Bay Conservation and Development Commission (BCDC) scheduled for its August 2, 2007 meeting.

Commissioners Ioakimedes and Strawbridge recused themselves due to property ownership.

Charlie Knox, Community Development Director, gave a brief overview. Staff is recommending continuance to the August 9th Planning Commission meeting. A timeline of project approvals and appeals was given. Charlie Knox noted that there has been

significant interaction with San Francisco Bay Conservation and Development Commission. (BCDC). An injunction has been filed by the appellant which is not scheduled for court until July 13th.

Commissioner Silveria noted that she will not be at the August 9th meeting.

Chair Railsback questioned if there was not a quorum on August 9th, would the Commission be able to draw straws. Kat Wellman confirmed this was true.

Commissioners questioned if staff expects BCDC to take action on August 2nd. Charlie Knox noted that he can't ensure final action will be taken at that time, but he does not expect any conditions related to building design. He further noted that a proceed-at-risk letter was sent to the attorney for the applicants advising them of the appeal having been filed.

Kat Wellman noted that the Commission should decide if they're going to continue the hearing.

On motion of Commissioner Silveria, seconded by Commissioner Daley, the item was continued to the August 9th meeting by the following vote:

Ayes:	Commissioners Daley, Healy, Silveria and Chair Railsback
Noes:	None
Absent:	None
Abstain:	Commissioners Bortolazzo, Ioakimedes and Strawbridge

The public hearing was opened.

Jerry Hayes, Appellant – He introduced Donnell Rubay, Co-Appellant, who gave a presentation.

Donnell Rubay, Appellant – She apologized for the amount of paper received on the project. The Special Area Plan applies to Benicia and should comply. She believes the approval expired on May 3, 2005 and that no BCDC permit has been issued, so no building permit should have been issued. She is concerned that the applicant is grading the site. She believes this project is being given special consideration because the Mayor is the applicant.

Jerry Hayes, Appellant – He believes this is a straight-forward appeal. The permit should not have been issued due to expiration of project approval and the fact that the BCDC permit had not been issued. He believes the Community Development Director abused his authority. No extension of approval was applied for. He would like the building permit rescinded.

Dana Dean, Attorney for Property Owner – She submitted a letter to the Commission. She agrees that the rules do need to be followed. There are requirements in the appeal

ordinance that have not been followed. She asked for consideration of this issue prior to August 9th. She believes there are conflicting statutes between the Appeal Ordinance and the Zoning Ordinance. The Zoning Ordinance gives the Community Development Director the right to interpret the conditions of approval.

Jon Van Landschoot, 175 West H Street – He had hoped the Commission would not continue this item. He believes the project approval expired on May 3, 2007. He made reference to the May 2005 Historic Preservation Review Commission meeting. The BCDC permit approval should have been complete before the building permit was issued.

Susan Roeteke???, 15 Chelsea Hills Drive – She questioned if this has already been approved, then she doesn't understand the issues and would like people to be more civil.

The public hearing was closed.

Commissioner Healy questioned if there is a way to handle this through a separate hearing. Charlie Knox noted that he would be happy to facilitate meetings to resolve this issue.

Kat Wellman, Consulting Attorney, noted that the appropriate time to issue an extension is prior to the expiration of approval.

VI. COMMUNICATIONS FROM STAFF

Damon Golubics noted that the Draft EIR for the Arsenal Plan will be released Friday, July 20th with the comment period ending on September 4th. Copies will be available in the Community Development Department and on the City's website.

Charlie Knox noted that the Response to Comments to the Benicia Business Park Draft EIR will be available next week as well.

VII. COMMUNICATIONS FROM COMMISSIONERS

None.

VIII. ADJOURNMENT

Chair Railsback adjourned the meeting at 11:40 p.m.