

The Benicia Planning Commission meets the 2nd Thursday of each month at 7:00 p.m. in the Council Chambers.

BENICIA HISTORIC PRESERVATION REVIEW COMMISSION CITY HALL COMMISSION ROOM

REGULAR MEETING AGENDA

Thursday, September 27, 2007
6:30 P.M.

Please file a speaker's slip if you wish to address the Commission. Anyone wishing to address the Commission regarding the agenda items or during Communications from Audience may speak for a maximum of 5 minutes per agenda item if the subject is before the Commission.

Note: All items listed, except under Communications, are for Commission Discussion and/or Action.

I. **CALL TO ORDER**

- 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. **OPPORTUNITY FOR PUBLIC COMMENT**

- A. **WRITTEN**

- B. **PUBLIC COMMENT**

III. **CONSENT CALENDAR**

- A. **Approval of Agenda**

- B. **Approval of Minutes of August 23, 2007**

- C. **392 - 396 EAST H STREET - MILLS ACT CONTRACT**
06PLN-67 APN: 89-051-120

PROPOSAL:

The applicant requests approval of a Mills Act Contract with the City of Benicia for this property.

Recommendation: Approve Mills Act contract and recommend City Council approval.

- D. **141 WEST H STREET - MILLS ACT CONTRACT**
07PLN-50 APN: 89-044-350

PROPOSAL:

The applicant requests approval of a Mills Act Contract with the City of Benicia for this property.

Recommendation: Approve Mills Act contract and recommend City Council approval.

- E. **120 WEST D STREET - MILLS ACT CONTRACT**
07PLN-52 APN: 89-243-060

PROPOSAL:

The applicant requests approval of a Mills Act Contract with the City of Benicia for this property.

Recommendation: Approve Mills Act contract and recommend City Council approval.

- F. **1025 WEST 2ND STREET - MILLS ACT CONTRACT**
07PLN-51 APN: 87-162-080

PROPOSAL:

The applicant requests approval of a Mills Act Contract with the City of Benicia for this property.

Recommendation: Approve Mills Act contract and recommend City Council approval.

- G. **140 EAST G STREET - MILLS ACT CONTRACT**
07PLN-53 APN: 89-342-040

PROPOSAL:

The applicant requests approval of a Mills Act Contract with the City of Benicia for this property.

Recommendation: Approve Mills Act contract and recommend City Council approval.

- H. **522 WEST K STREET**
07PLN-59 Design Review
510-550 West K Street and 501 West 5th Street (522 1/2 West K Street-Leasing Office), APN: 0087-145-010, -030, -040, -050

PROPOSAL:

The applicant requests approval for an exterior remodel to an existing apartment complex "Benicia Continental Apartments" located at 510-550 West K Street and 501 West 5th Street (522 1/2 West K Street-Leasing Office). The changes shall include modifications to the exterior stairs, exterior sheathing and the roofline.

Recommendation: Approve design review for the exterior remodel of the existing apartment complex "Benicia Continental Apartments" located at 510-550 West K Street and 501 West 5th Street (522 1/2 West K Street - Leasing Office), based on the findings, and subject to the conditions listed in the proposed resolution.

IV.

V.

REGULAR AGENDA ITEMS

- A. **STRAW HAT PIZZA**
07PLN-68 Design Review
1401 East Fifth Street, APN: 88-092-040

PROPOSAL:

The applicant requests approval for the complete renovation of an existing building, previously known as the Sundowner, for a new Straw Hat Pizza restaurant. The renovation includes a complete interior/exterior remodel, renovation of an outdoor eating area, parking reconfiguration and reduction, landscaping improvements, and an update of handicapped accessibility.

Recommendation: Continue to the October 25, 2007 meeting.

- B. **GOLLNICK RESIDENCE - ALTERATION**
07PLN-62 Design Review
149 West F Street, APN: 89-115-190

PROPOSAL:

The applicant requests approval to add 499 square foot addition to the existing second dwelling unit located in the rear yard of the subject property addresses as 153 West F Street. The proposal would expand the first story and add a partial second story.

Recommendation: Approve design review for the proposed addition.

VI.
VII. **COMMUNICATIONS FROM COMMISSIONERS**

VIII. **COMMUNICATIONS FROM STAFF**
A. **HISTORIC SURVEY AD HOC COMMITTEE UPDATE**

IX. **ADJOURNMENT**

Public Participation

The Benicia Planning 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 Planning Commission allows speakers to speak on agendaed and non-agendaed 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 Planning Commission.

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

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Anne Cardwell, 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 may be taken by the Commission.

The Planning 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 Planning 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 Planning 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 Planning Commission decisions which are final actions, not recommendations, are considered by the City Council. Appeals must be filed in the Community Development Department in writing, stating the basis of appeal with the appeal fee within 10 days of the date of action.



**BENICIA HISTORIC PRESERVATION REVIEW COMMISSION
CITY HALL COMMISSION ROOM**

REGULAR MEETING MINUTES

**Thursday, August 23, 2007
6:30 P.M.**

I. CALL TO ORDER

A. Pledge of Allegiance

B. Roll Call of Commissioners

Present: Commissioners Conlow, Donaghue, Haughey, Mang, White, Wilson, and Chair Delgado
Absent: None

Staff Present:

Charlie Knox, Community Development Director
Damon Golubics, Senior Planner
Gina Eleccion, Administrative Secretary

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. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

Written comments were received from Donnell Rubay and Sandra Shannonhouse.

B. PUBLIC COMMENT

Don Dean, 257 West I Street – He commented on the 134 West D Street project and read a portion of an article in the Benicia Herald. He noted that the context of the structure is as important as the structures themselves.

Jon Van Landschoot, 175 West H Street – He would like to request a few agenda items placed on the Commission agendas. He submitted a letter with his requests.

III. CONSENT CALENDAR

On motion of Commissioner White, seconded by Commissioner Donaghue, the Consent Calendar was approved by the following vote:

- Ayes: Commissioners Conlow, Donaghue, Haughey, Mang, White, Wilson and Chair Delgado
- Noes: None
- Absent: None
- Abstain: Commissioners Donaghue and Wilson (Item III B only)

- A. Approval of Agenda**
- B. Approval of Minutes of July 26, 2007**

IV. REGULAR AGENDA ITEMS

- A. 309 FIRST STREET**
07PLN-60 Design Review
309 First Street, APN: 89-243-140

PROPOSAL

The applicant requests approval of two new window awnings and potted plants to dress up the front of a new boutique business located at 309 First Street. The project also consists of signage placed on the new awnings.

Recommendation: Approve a design review permit for 309 First Street.

Commissioner Donaghue noted that he had an economic interest within 500’ of this property and recused himself from this item.

Damon Golubics, Senior Planner, made a brief presentation.

Commissioners questioned if there is space to install the awnings. They discussed the historic nature of the building.

Claudia Mahrt, Applicant – She noted that the awning will help with the sun and the rain and believes it will look nicer. She noted that the plants will be small.

The public hearing was opened.

Sandra Shannonhouse noted that the building has been there for a long time.

Jon Van Landschoot supported the business.

A citizen spoke that this structure may have historic significance to Benicia.

The public hearing was closed.

Commissioners discussed the project. They would like a condition that the awning not encroach on the shingled, gabled portion, and a condition that the color of the awnings be black.

RESOLUTION NO. 07-10 (HPRC) - A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING A DESIGN REVIEW REQUEST FOR TWO NEW AWNINGS AT 309 FIRST STREET (07PLN-60)

On motion of Commissioner Wilson, seconded by Commissioner White, the above Resolution was approved, with added conditions, by the following vote:

- Ayes: Commissioners Conlow, Haughey, Mang, White, Wilson and Chair Delgado
- Noes: None
- Absent: None
- Abstain: Commissioner Donaghue

B. 150 WEST G STREET - Discussion

Bill Royal submitted a letter to the Commission at the July meeting regarding the condition of an accessory structure at 150 West G Street. The Commission will discuss issues raised and provide direction to staff.

Charlie Knox noted that this was placed on the agenda in response to a letter/picture submitted. Due to Brown Act issues, the Commission could not discuss this at their July meeting, therefore they requested it be on the August agenda for discussion.

Commissioners questioned if the City has ever pursued enforcement against a property owner for deterioration of their structure. Charlie Knox noted that this has not been done, but the Code Enforcement Officer could be sent to develop a plan for compliance.

The public hearing was opened.

Jerry Hayes, 150 West G Street – As the property owner, he noted that he has plans to restore the carriage house. The structure is not on the verge of falling down. The structure has been there since the 1860’s. He intends to begin working on this within the next year or so.

A citizen commented that she has mixed emotions on this item. She does not believe that all property owners have the financial means to restore their structures. She encouraged the Commission to look at issues raised.

Donnell Rubay, 175 West H Street – She stated that she is puzzled that this is agendized.

Jon Van Landschoot, 175 West H Street – He questioned how this item could get on the agenda so easily.

The public hearing was closed.

Commissioners commented on the condition of the structure. They also discussed the issue of agendizing this item.

Commissioners support the owner’s intention to rehabilitate this structure. Staff can work with the homeowner to rehabilitate the structure. No further action was recommended.

C. MILLS ACT PROGRAM REQUIREMENTS – Discussion

The Commission will discuss State and City Mills Act Program provisions regarding homes 50 years or older.

Recommendation: Direct staff to prepare a revision to City Mills Act Program Guidelines to remove the provision qualifying homes solely on the basis of being 50 years or older, and forward this revision to the City Council for approval.

Charlie Knox announced that Gina Eleccion was reclassified as a Management Analyst and will be more involved in the Commission’s projects.

Gina Eleccion gave a brief overview.

Charlie Knox noted that the State does not recognize “potential” as a category.

Jon Van Landschoot, 175 West H Street – He commented that the Commission should support the removal of this criteria.

Donnell Rubay, 175 West H Street – She believes the intention was to comply with State Law.

On motion of Commissioner Wilson, seconded by Commissioner Haughey, staff was directed to revise the Mills Act Program Guidelines to remove Criterion #4, with the future removal of Criterion #2 when the historic surveys are updated, by the following vote:

Ayes: Commissioners Conlow, Donaghue, Haughey, Mang, White, Wilson and Chair Delgado

Noes: None
Absent: None
Abstain: None

D. DRAFT HISTORIC BUILDING SURVEY – Formation of Ad Hoc Committee

City of Benicia
Downtown Historic Conservation District

PROPOSAL

The City of Benicia is in the process of updating the Downtown Historic Conservation Plan. A draft survey of historic properties was presented at the July Commission meeting. The Commission directed staff to form an ad hoc committee to ensure the accuracy of the inventory and provide additional outreach to the public before the Commission forwards the documentation to the City Council for approval.

Recommendation: Authorize formation of a committee consisting of two Commission members, two Benicia Historical Society representatives, and one City staff member to work with community volunteers to finalize the Downtown historic resource inventory, and appoint 2 members of the Commission to this committee.

Gina Eleccion gave background on this item.

The public hearing was opened.

Cathy Forbes questioned how the Commissioners are appointed.

The public hearing was closed.

Commissioner Wilson nominated Commissioner Haughey. Commissioner Haughey nominated Commissioner White.

On motion of Commissioner Donaghue, seconded by Commission Conlow, formation of the committee and the above nominations were approved by the following vote:

Ayes: Commissioners Conlow, Donaghue, Haughey, Mang, White, Wilson and
 Chair Delgado
Noes: None
Absent: None
Abstain: None

E. 126 EAST E STREET

06PLN-52 Design Review
126 East E Street; APN: 89-372-050

PROPOSAL

The applicant proposes to demolish a designated potential contributor structure to the Downtown Historic District and relocate an 1895 house from Napa to the site, which would be lifted above a new first floor, and supplemented with a third floor deck to become a mixed-use building.

Recommendation: Approve a permit for demolition of a structure at 126 East E Street because it no longer retains substantial historical, architectural or cultural interest or value; approve a design review permit for the relocation of a building to the project site; and recommend that the Planning Commission adopt the Initial Study/Mitigated Negative Declaration prepared for the project.

Commissioners Donaghue, Wilson and Chair Delgado recused themselves due to conflict of interest issues.

Commissioner White chaired this item.

Damon Golubics, Senior Planner, gave an overview of the project. The Commission needs to determine whether this structure can be demolished. If this determination is made, the design of the structure can be discussed, and then the environmental documentation can be discussed.

Commissioners questioned the adequacy of the Negative Declaration. Charlie Knox noted that because the demolition of a cultural resource is requested, a CEQA categorical exemption for infill can't be used, but could be used for a later project if demolition is approved but not the replacement project proposed. The Planning Commission would be responsible for adoption of the environmental document if project design is approved.

Charlie Knox noted that staff has typically erred on the side of caution in terms of environmental review. For example, there are no thresholds of significance in our CEQA Guidelines, but a typical traffic impact threshold is a 1% increase citywide. The adopted City process for approving demolition permits is being followed. If the Commission believes this historic resource should not be demolished, then there is no need to discuss design.

Demolition:

The public hearing was opened.

Mark Mitchell, Attorney for the applicant – He noted that this is a confusing issue. He is concerned with the historic designation of the structure. His client would like this removed as a designated structure because it does not retain any historic significance.

Charlie Knox noted that it is the purview of the Commission to approve or deny the demolition permit. He noted that there has not been public notice on whether to de-list the historic structure.

The public hearing was opened.

Don Dean, 257 West I Street – He does not believe this is as complicated as it seems. CEQA Guidelines should be followed and he does not believe this is happening. The replacement of this structure with a 3-story structure is a significant impact to the existing district. Regarding the structure itself, he commented on the analysis in the staff report.

Bob Berman, 250 West K Street – He noted that this is a confusing issue. He believes that staff is wrong in its determination. This demolition is subject to CEQA review. He believes the Initial Study is inadequate. Many jurisdictions are not using thresholds of significance. Comments previously made on the Initial Study should have been addressed.

Donnell Rubay, 175 West H Street – She was surprised to see this item come back before the historic surveys have been adopted. If a historic building is being demolished, additional CEQA review is required. She disagrees with a categorical exemption for infill. There is no current DPR form for this property.

Sandra Shannonhouse – She believes it is an error to approve a demolition permit. She is concerned that the Commission does not promote renovation of structures.

Jon Van Landschoot, 175 West H Street – He believes this is demolition by neglect and the applicant should not be rewarded for neglecting this structure. He commented on other buildings that have been renovated. He submitted a 200 email from the applicant regarding preserving historic structures.

Jerry Hayes, 150 West G Street – He opposes the demolition of this structure because it will degrade the district. It is designated within the district. He believes the Commission should deny the demolition permit and continue the item until there is a clear understanding of the issues. Proper CEQA evaluation needs to be completed.

Mark Mitchell, Attorney – He noted that there were permits to repair and improve the inside of the property. There are no external historic features to this structure. The new structure bears more historic significance to this community than the existing structure. There are property owners who would like to develop their properties and can't wait until the historic survey update is complete. The State does not recognize "potential contributors."

The public hearing was closed.

Commissioners discussed the issue of the demolition permit. Additional clarification on the designation was requested.

Charlie Knox noted that if delisting were requested, it would be a recommendation from HPRC with final Council action to change the Downtown Historic Conservation Plan map of historic resources. Demolition permits are approved directly by HPRC. The recommendation from staff is based on the Downtown Historic Conservation Plan and Zoning Ordinance allowing demolition of structures that no longer have historic integrity.

Commissioner Haughey would like additional information. She is concerned with the process. There is potential for this structure to be rehabilitated.

Commissioner White would like the City Council to take action on the delisting prior to any action being taken on the demolition permit. He does not believe the structure has historic significance.

Charlie Knox noted that the Commission can make a recommendation to the City Council on the delisting. He further noted that there is a process in place for demolition.

Jon Van Landschoot stated adding de-listing to this discussion would be a Brown Act violation.

RESOLUTION NO. 07-11 (HPRC) - A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING A DEMOLITON PERMIT FOR A STRUCTURE LOCATED AT 126 EAST E STREET (06PLN-52)

On motion of Commissioner Conlow, seconded by Commissioner Mang, the above resolution was adopted by the following vote:

- Ayes: Commissioners Conlow, Mang and White
- Noes: Commissioner Haughey
- Absent: None
- Abstain: Commissioners Donaghue, Wilson and Chair Delgado

A recess was called at 9:08 p.m. The meeting was reconvened at 9:20 p.m.

Design:

Jon Van Landschoot requested pictures of the project be displayed. Charlie Knox posted the project plans.

Vicki Tucker, ARC Inc., on behalf of the applicant – She is excited to be involved in recycling a structure. She commented on the proposed rotation of the building so that the original front door faces sideways. If this is not done, a large portion of the storefront would be lost. They propose stepping the structure back. She realizes there is concern from the community. The applicant is willing to work with the community on the design of the project.

Commissioner Haughey questioned if the building could be brought into town without raising it up.

Applicant Patrick Donaghue stated that a commercial building needs to be visible from First Street or it would not be viable. If it is to be used as a residence, it will need a 2-car garage.

Commissioner Conlow said he does not believe that the proposed building rotation is the best option.

The public hearing was opened.

Sandra Shannonhouse – She is opposed to the project and does not like the design. The use needs to be within the context of a building that fits within the historic district. The proposal is out of scale with the neighborhood. The design is not compatible with the adjacent properties. She would like the project redesigned to be more compatible with the historic district.

Donnell Rubay, 175 West H Street – She noted that the proposed design does not fit with the existing district. She is concerned with the property rights of existing properties. There are not garages for all of the historic properties in the district. She would like the building put on the ground without the glass front.

Cathy Forbes – She commented that the Secretary of the Interior Guidelines need to be followed, particularly in terms of massing, materials and setbacks.

Bob Berman, 250 West K Street – He believes the environmental review needs to be done prior to any action being taken on the project. Noise is a major issue with residential uses.

Kirk Arneson, 110 East E Street – He commented that there are no 3-story buildings on the side streets in the district. He believes a good project can be designed with 2 stories.

Don Dean, 257 West I Street – He believes the design is out of proportion to the existing neighborhood. The height and setbacks should be looked at.

Jon Van Landschoot, 175 West H Street – He reminded the Commission that it is a design review body. The project is out of scale with the neighboring structures.

Mark Mitchell, Attorney – He requested guidance as the applicant is willing to bring the design back.

The public hearing was closed.

Commissioners discussed the design.

Commissioner Haughey said she believes the design is insensitive to the neighbors, district and the building itself. She does not believe it is compatible with the district.

Commissioner Conlow commented on the height of the proposed structure in relation to the First Street Café. The City Council sets the standards for height and setbacks. He would like to see the building be more compatible with the historic nature of the district. There are many historic districts that have a variety of building heights adjacent to each other.

Commissioner Mang understands staff’s recommendation to return the structure to its original orientation. He would like to see the front elevation be more pronounced.

Commissioner White believes it is not compatible with the neighborhood. A 3-story structure on that street will be too pronounced. He would like the project redesigned with staff involvement to better fit the neighborhood.

On motion of Commissioner Haughey, seconded by Commissioner White, the applicant was asked to redesign the project to be more compatible with the DHCP and within the character of the neighborhood, to work with staff based on the comments given by the Commission and public, and to comply with the Secretary of the Interior Guidelines, by the following vote:

- Ayes: Commissioners Conlow, Haughey, Mang and White
- Noes: None
- Absent: None
- Abstain: Commissioners Donaghue, Wilson and Chair Delgado

Environmental Documentation:

Charlie Knox noted that the Commission is being asked to determine the appropriateness of the Mitigated Negative Declaration solely for the demolition permit since no action on the design review has occurred. He noted that the Commission may want to consider the cultural resource section of the MND. Given existing rules, a single-family residence could be constructed on the property.

The public hearing was opened.

Bob Berman, 250 West K Street – The Initial Study is inadequate. He submitted comments in April listing the inadequacies.

Sandra Shannonhouse, 110 East E Street – She believes the Initial Study is inadequate and previously submitted a letter with her concerns.

The public hearing was closed.

Commissioner Conlow commented that if the document is inadequate then the Commission should be acting with a complete document.

Commissioner White commented that the MND may be inadequate for the project as a whole, but not the demolition permit. Commissioner Haughey noted that issues have been raised regarding the cultural resources on future potential action. Charlie Knox noted that both Bob Berman and Donnell Rubay raised concerns with the adequacy in relation to the demolition permit. Charlie Knox noted that if the environmental review is found to be inadequate, the demolition permit could not take effect until environmental documentation is approved.

On motion of Commissioner Conlow, seconded by Commissioner Mang, the IS/MND was approved in relation to the demolition permit only.

- Ayes: Commissioners Conlow and Mang
- No: Commissioners Haughey and White
- Absent: None
- Abstain: Commissioners Donaghue, Wilson and Chair Delgado

The motion failed.

Charlie Knox noted that staff will prepare a revised Initial Study/MND solely for demolition of the structure.

Don Dean noted that there is a demolition permit approved for a potential future project. He does not believe the actions can be segmented. Charlie Knox noted that based on the Commission’s decision, he does not know what the final proposal will look like. At this point, the IS/MND needs to consider the demolition permit only. If in the meantime, the applicant revises the proposal, then the IS/MND will be revised to include all impacts.

Charlie Knox noted that since the project was not approved, the environmental review is considered separately. Issues – MND relied on uncertain future action and MND deficient in not analyzing the impact of removal on the cultural resource that is the entire district. In addition, look at cumulative impacts if done on a repeated basis.

Commissioner White clarified that he does not support the current MND because it is not specific to demolition. Commissioner Conlow questioned if a vote for demolition negated the CEQA determination. Charlie Knox noted that if the building remains a historic resource, though it has been approved for demolition, and environmental documentation is still required.

Charlie Knox noted that a new or revised Initial Study would require a 30-day recirculation.

On motion of Commissioner White, seconded by Commissioner Mang, staff was directed to prepare an Initial Study/Mitigated Negative Declaration in relation to the demolition

permit only, with a condition that if the applicant submits a redesigned project, then the IS/MND will address both demolition and design, by the following vote:

- Ayes: Commissioners Haughey, Mang and White
- Noes: Commissioner Conlow
- Absent: None
- Abstain: Commissioners Donaghue, Wilson and Chair Delgado

Chair Delgado and Commissioners Donaghue and Wilson rejoined the meeting.

V. COMMUNICATIONS FROM COMMISSIONERS

Chair Delgado stated that he, Mayor Messina, and Charlie Knox attended a ceremony in Oakland August 3, 2007, to receive CLG certification, which he believes is an honor for the City.

VI. COMMUNICATIONS FROM STAFF

A. STATUS OF CITY-OWNED HISTORIC STRUCTURES

The Parks and Community Services Department has prepared a maintenance update of City-owned historic structures.

Gina Eleccion stated that the Parks Department compiled this list in response to inquiries from the Commission. She asked the Commission if they would like an annual update and if this format is acceptable. The Commission stated that they liked the format and requested an annual update.

Charlie Knox noted that Xzandrea Fowler is no longer with the City, and that a new Senior Planner and Assistant Planner will be joining staff in September.

VII. ADJOURNMENT

Chair Delgado adjourned the meeting at 11:04 p.m.

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING:
SEPTEMBER 27, 2007
CONSENT CALENDAR

DATE : August 24, 2007

TO : Historic Preservation Review Commission

FROM : Community Development Department

SUBJECT : **RESOLUTION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A MILLS ACT CONTRACT FOR THE PROPERTY AT 392-396 EAST H STREET IN THE CITY OF BENICIA**

RECOMMENDATION:

Move to adopt Resolution No. 07- __ recommending that the City Council authorize the City Manager to enter into a Mills Act Contract with the property owner of 392-396 East H Street in the City of Benicia.

EXECUTIVE SUMMARY:

The Mills Act program is a State of California authorized mechanism by which owners of Qualified Historical Properties may use an alternative method of determining property value for tax assessment purposes. The program is available to both residential and non-residential properties. The intent of the Mills Act Program is to enhance and preserve historic buildings within the Historic Districts. The City Council approved the City of Benicia Mills Act program and assigned initial review and recommendation of Mills Act applications to the Historic Preservation Review Commission.

BUDGET INFORMATION:

The Mills Act contract will reduce the property tax paid by this property. The City of Benicia receives approximately 26% of the property taxes collected on parcels in the City. The estimated reduction in City revenue due to the subject Mills Act proposal is \$492. The City Council authorized up to \$30,000 annually of property tax rebates for Mills Act contracts, of that, approximately \$18,000 remains available for new contracts.

ENVIRONMENTAL ANALYSIS:

Mills Act contracts are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that work on historic resources that is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* is categorically

exempt from further CEQA review. Mills Act contracts require that all work performed subsequent to entering into a contract is consistent with those standards.

BACKGROUND:

On June 25, 2007, Angela Fortain, owner of the residences at 392-396 East H Street applied to enter into a Mills Act Contract with the City of Benicia.

The property is listed as a contributing building in the City's Downtown Historic Conservation Plan. The subject building meets the eligibility requirements for the Mills Act Program. The applicant has met all of the submittal requirements.

The property is in good condition with almost all of the character defining features intact and in good repair (see attached Department of Parks and Recreation (DPR) form 523A & B).

According to the DPR forms prepared by Carol Roland of Roland-Nawi Associates dated November 20, 2004, the structure at 392-396 East H Street is a good example of a modest Queen Anne Cottage. The principal character-defining features of this style of building as exhibited on the subject property, are as follows:

1. A one-story building with a L-shape floor plan;
2. A steeply pitched hip roof with a cross gable;
3. A prominent projecting bay of the west side of the front elevation;
4. One-over-one narrow windows with wooden casing and bracketed sills; and
5. A spindle work cornice extending across the front façade linking the bay the porch.

Built circa 1890, the house is in good to excellent condition and retains a high level of historic integrity. This is a maintenance contract for already well-preserved properties. During the past years of ownership, the property owner has completed maintenance work that contributes to the preservation of the property. This work includes removal of dry rot, new drainage, refinished interior floors, repaired original windows, and other similar projects. The applicant's future maintenance plan for the preservation and general up-keep on the property is attached to this staff report. The applicant's continued maintenance of the already well-preserved property is consistent with the goals of the City of Benicia Mills Act program to encourage preservation, restoration and rehabilitation of historic properties. The proposal is also consistent with the City of Benicia General Plan Goal 3.1 which is to "Maintain and enhance Benicia's historic character."

Attachments:

- Maintenance Plan
- Department of Parks and Recreation forms 523 A & B
- Draft Resolution recommending City Council approval of Mills Act contract for 392-396 East H Street.
- Draft Contract

MAINTENANCE PLAN

**392-396 East H Street
Maintenance Plan**

Project (s)	Schedule
1. Exterior painting	2007
2. Interior painting	2008
3. Refinish hardwood floors	2009
4. Repair wooden front steps	2010
5. Replace flooring in bathrooms	2011
6. Replace roof	2012
7. Interior painting	2013
8. Exterior Painting	2014
9. Refinish hardwood floors	2015
10. Replace back entryway flooring	2016

**DEPARTMENT OF PARKS & RECREATION
FORMS 523 A & B**

State of California — The Resources Agency
 DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #: _____
 HRI # _____
 Trinomial _____
 NRHP Status Code: _____
 Other Listings _____
 Review Code _____ Reviewer _____ Date _____

*Resource Name or #: 392 East H Street

- P1. Other Identifier:
 *P2. .Location: *a. County Solano
 b. Address: 392 East H Street
 *c. City: Benicia Zip 94510
 d. UTM: N/A
 e. USGS Quad: Benicia T2N R3W MDM
 *f. Other Locational Data (APN #): 80-171-05

*P3a. Description
 This is a fine example of modest Queen Anne Cottage. It is one-story with an L-shape plan. It has a steeply pitched hip roof with a cross gable. A projecting bay occupies the west side of the front elevation. The canted bay is surmounted by the cross gable roof. The gable is trimmed with a narrow fascia and is closed. The gable end is finished with fish scale shingles. A spindle work cornice extends across the front façade linking the bay and the porch. The porch is cut-in with the roof supported on turned posts and brackets. Fenestration consists of one-over-one narrow windows with wooden casings and bracketed sills. Cladding is lap siding.

- *P3b. Resource Attributes: HP2
 *P4. Resources Present: Building Structure Object Site District Element of District
 P5b. Description of Photo:
 Front façade, view south
 *P6. Date Constructed/Age: 1890
 Prehistoric Historic Both
 *P7. Owner and Address:
 Angela Fortain

P5. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



- 392 East H Street
 Benicia, CA 94510
 *P8. Recorded by:
 Carol Roland
 Roland-Nawi Associates
 4829 Crestwood Way
 Sacramento, CA 95822
 *P9. Date Recorded: 11-20-04
 *P10. Type of Survey: Intensive
 Reconnaissance
 Other
 Describe Eligibility Evaluation
 *P11. Report Citation: none
 *Attachments: NONE Map Sheet
 Continuation Sheet Building, Structure, and
 Object Record Linear Resource Record
 Archaeological Record District Record
 Milling Station Record Rock Art Record
 Artifact Record Photograph Record
 Other (List):

BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Identifier: 392 East H Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name:

B3. Original Use: residence

B4. Present Use: residence

*B5. Architectural Style: Queen Anne

B7. Moved? No Yes Unknown

Date: N/A Original Location: same

*B8. Related Features: None

B9a. Architect: unknown

B9b. Builder: unknown

*B10. Significance: Theme: Benicia Downtown District

Period of Significance: 1847-1940

Property Type: Single Family

Applicable Criteria: A / C

The house is an excellent example of a Queen Anne Cottage and retains a high level of integrity. It is also an example of the growth of the downtown area eastward in the late 19th century. The house is a contributor to the Downtown District and should continue in this status.

B11. Additional Resource Attributes: N/A

B12. References: McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred Knopf (1986); Bruegmann, Robert. *Benicia Portrait of an Early California Town: An Architectural History* (San Francisco: 101 Productions (1980); Woodbridge, Sally and Cannon Design Group. *Benicia, California: Downtown Historic Conservation Plan*. City of Benicia, 1990; Sanborn Map Benicia, CA. 1886; 1986 Benicia Historic Inventory form.

DRAFT RESOLUTION

RESOLUTION NO. 07- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL AUTHORIZE THE CITY MANAGER TO ENTER INTO A MILLS ACT CONTRACT FOR THE PROPERTY LOCATED AT 392-396 EAST H STREET

WHEREAS, the purpose of the Mills Act Program is to encourage the preservation, restoration and rehabilitation of historic properties within the City of Benicia; and

WHEREAS, the property at 392-396 East H Street is listed as a contributing building in the Downtown Historic Conservation Plan; and

WHEREAS, General Plan Goal 3.1 is to “Maintain and enhance Benicia’s historic character” and preservation and rehabilitation of the contributing building at 392-396 East H Street is consistent with this Goal; and

WHEREAS, all exterior work undertaken pursuant to the subject Mills Act Contract must be consistent with the Secretary of the Interior’s Standards; and

WHEREAS, the City has determined that this project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that modifications to historic structures consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties are categorically exempt from further CEQA review; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on DATE considered the Mills Act contract application of Angela Fortain.

NOW, THEREFORE, BE IT RESOLVED that the Historic Preservation Review Commission of the City of Benicia hereby finds that:

The proposed application is consistent with General Plan Goal 3.1 as the proposed contract will allow the applicant to continue to preserve and enhance a contributing building at 392-396 East H Street.

BE IT FURTHER RESOLVED that the Historic Preservation Review Commission recommends that the City Council approve the Mills Act Contract application of Angela Fortain.

On motion of Commissioner , seconded by Commissioner , the above Resolution was adopted at a regular meeting of the Historic Preservation Review Commission on September 27, 2007 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Gina D. Eleccion
Historic Preservation Review Commission Secretary

DRAFT CONTRACT

RECORDED AT THE REQUEST OF THE CITY OF BENICIA

WHEN RECORDED, RETURN TO:

CITY OF BENICIA
250 East L Street
Benicia, CA 94510
Attention: City Clerk

HISTORICAL PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of DATE, by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the “City”), and Angela Fortain (hereinafter referred to as the “Owner”).

WITNESSETH

A. Recitals

1. California Government Code Sections 50280, et seq. allow cities the discretion to enter into contracts with the owners of qualified historical properties, as the term is defined by Government Code Section 50280.1, for the purpose of restricting development of its cultural and historic significance and continuing maintenance of the historical property;
2. Owner possess fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address 392-396 East H Street, Benicia, CA 94510 (hereinafter, shall be referred to as the “the Historical Property”). A legal description of the Property is attached hereto and incorporated herein by this reference as Exhibit A;
3. On DATE the City Council of the City of Benicia adopted Resolution No. 06- thereby declaring its intention to enter into this Historic Property Preservation Agreement.

DRAFT

4. City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of cultural and historical significance of the Property and to qualify the Property for an assessment of valuation pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code

B. Agreement

NOW, THEREFORE, City and Owner, in consideration of the mutual promises, covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on DATE and shall remain in effect for a term of (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter "renewal date"), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owner serves notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.
2. Notice of Nonrenewal. If City or Owner desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the contract as follows: (1) Owner must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date or (2) City must serve written notice within sixty (60) days prior to the renewal date. Owners may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owner.
3. Valuation of Historical Property. During the term of this Agreement, Owner are entitled to seek assessment of valuation of the Historical Property pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.
4. Standards for Historical Property. During the term of this Agreement, the Property shall be subject to the following conditions, requirements and restrictions:
 - a) Owner shall preserve and maintain the characteristics of cultural and historical significance of the Property in accordance to the Secretary of the Interiors Standards for Rehabilitation and the minimum maintenance standards, identified in Exhibit "B", attached hereto, which shall apply to the property throughout the term of this Agreement. New additions, exterior alterations, or related new

construction shall comply with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings.

5. Inspections and Annual Reporting. Owner agrees to permit the periodic examination, by prior appointment, of the interior and exterior of the Historic Property by the County Assessor, the State Department of Parks and Recreation, the State Board of Equalization and the City as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually and when any improvements or changes have been made.
6. Provision of Information. Owner hereby agree to furnish City with any and all information requested by City which City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.
7. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Section 50285 may cancel this Agreement if it determines that Owner have breached any of the conditions of the Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines that Owner have failed to restore or rehabilitate the Historical Property in the manner specified in paragraph 4 of this Agreement.

In the event of cancellation, Owner shall be subject to payment of those cancellation fees set forth in California Government Code Sections 50280 et seq., described herein. Upon cancellation, Owner shall pay a cancellation fee of twelve and one-half percent (12 1/2%) of the current fair market value of the Historic Property at the time of cancellation, as determined by the county assessor as though the Historic Property were free of any restrictions pursuant to this Agreement.

8. Enforcement of Agreement. In lieu of any provisions to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in the Agreement, and if such a violation is not corrected to the reasonable satisfaction of City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days provided that acts to cure the breach or default may be commenced within (30) days and must thereafter be diligently pursued to completion by Owner, then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner growing out of the terms of this Agreement, apply to any violation by Owner or apply for such other relief as may be appropriate.

9. Waiver. City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

10. Binding Effect of Agreement. Owner hereby subject the Historical Property described in Exhibit A hereto to the covenants, reservations and restrictions as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owners' successors and assigns in title or interest to the Historical Property.

Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historical Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

11. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, or at any other address as may be later specified by the parties hereto.

City: City of Benicia
250 East L Street
Benicia, California 94510

Owner: Angela Fortain
392 East H Street
Benicia, California 94510

12. General Provisions

- a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.
- b. Owner agree to and shall hold City and its elected officials, officers, agents and employees harmless from liability for damage or claims which may arise from the direct or indirect use or operations of Owner or those of their contractor, subcontractor, agenda, employee or other person acting on his/her behalf which relates to the use, operation and maintenance of the Historic Property and from any injury to property caused by the restrictions on development of the Historical Property from application or enforcement of the City's Historical Preservation Ordinance or from the enforcement of this Agreement. Owner hereby agree to and shall defend the City and its elected officials, officers, agents and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner's activities in connections with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historical Property.
- c. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.
- d. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.
- e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.
- f. This Agreement shall be constructed and governed in accordance with the laws of the State of California.

13. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause the Agreement to be recorded in the office of the County Recorder of the County of Solano.
14. Notice to State Office of Historic Preservation. The Owner or Agent of the Owner shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.
15. Amendments. This Agreement may be amended, in whole or in part, only by written recorded instrument executed by the parties hereto

IN WITNESS WHEREOF, City and Owner have executed this Agreement on the day and year first written above.

Angela Fortain

CITY OF BENICIA

BY:
DATED:

BY: Jim Erickson, City Manager
DATED:

APPROVED AS TO FORM

Heather McLaughlin, City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

(See attached sheet)

EXHIBIT B

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

The following Standards are to be applied to rehabilitation projects for the Property in a reasonable manner, taking into consideration economic and technical feasibility:

- (1) The Property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of the Property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize the Property shall be avoided.
- (3) The Property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the historic property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structure(s), if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by this project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions and adjacent or related new construction shall be undertaken in

such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Please refer to the complete text for additional information.

Copied from The Secretary of the Interior's Standards for the Treatment of Historic Properties U. S. Department of the Interior, National Park Service, Weeks and Grimmer, 1995, pg. 62.

Minimum Property Maintenance:

As part of this agreement the Owner shall maintain all buildings, structures, yards and other improvements in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions (includes but does not limit to the following) are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls, and windows, broken windows, peeling exterior paint, broken structures;
2. Scrap lumber, junk, trash or debris;
3. Abandoned discarded or unused objects, equipment such as automobiles, automobile parts, furniture, appliances, containers, cans or similar items;
4. Stagnant water, including pools or spas, or open excavations;
5. Any device, decoration, design, structure, vegetation or landscape which is unsightly by reason of its height, condition or its inappropriate location;
6. graffiti;
7. Incomplete exterior construction where no building inspections have been requested for 6 or more months, or for work which does not require a building permit, where there has been no significant progress for 90 days.

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING:
SEPTEMBER 27, 2007
CONSENT CALENDAR

DATE : August 24, 2007

TO : Historic Preservation Review Commission

FROM : Community Development Department

SUBJECT : **RESOLUTION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A MILLS ACT CONTRACT FOR THE PROPERTY AT 141 WEST H STREET IN THE CITY OF BENICIA**

RECOMMENDATION:

Move to adopt Resolution No. 07- recommending that the City Council authorize the City Manager to enter into a Mills Act Contract with the property owner of 141 West H Street in the City of Benicia.

EXECUTIVE SUMMARY:

The Mills Act program is a State of California authorized mechanism by which owners of Qualified Historical Properties may use an alternative method of determining property value for tax assessment purposes. The program is available to both residential and non-residential properties. The intent of the Mills Act Program is to enhance and preserve historic buildings within the Historic Districts. The City Council approved the City of Benicia Mills Act program and assigned initial review and recommendation of Mills Act applications to the Historic Preservation Review Commission.

BUDGET INFORMATION:

The Mills Act contract will reduce the property tax paid by this property. The City of Benicia receives approximately 26% of the property taxes collected on parcels in the City. The estimated reduction in City revenue due to the subject Mills Act proposal is \$936. The City Council authorized up to \$30,000 annually of property tax rebates for Mills Act contracts, of that, approximately \$18,000 remains available for new contracts.

ENVIRONMENTAL ANALYSIS:

Mills Act contracts are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that work on historic resources that is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* is categorically

exempt from further CEQA review. Mills Act contracts require that all work performed subsequent to entering into a contract is consistent with those standards.

BACKGROUND:

On July 18, 2007, Carla and Paula Chiotti, owners of the residence at 141 West H Street applied to enter into a Mills Act Contract with the City of Benicia.

The property is listed as a contributing building in the City's Downtown Historic Conservation Plan. The subject building meets the eligibility requirements for the Mills Act Program. The applicant has met all of the submittal requirements.

The property is in good condition with almost all of the character defining features intact and in good repair (see attached Department of Parks and Recreation (DPR) forms 523A & B).

According to the DPR forms prepared by Carol Roland dated November 20, 2004, the structure at 141 West H Street is a typical Queen Anne cottage style house. The principal character-defining features of this style of building as exhibited on the subject property, are as follows:

1. L-shape floor plan with an intersecting hip and gable roof;
2. A full-length bay window projects from the gable wall;
3. The bay windows possess highly decorative window casements; and
4. Front porch with a flat roof supported on turned posts and arches and spindle-work brackets.

Built circa 1880, the house is in good condition and retains much of its historic integrity. Portions of the front entry have been modified over the years including the entry door and front window on the east side have been replaced. This prominent window was replaced with an aluminum slider window that detracts from the historic architecture of the house. The ten-year rehabilitation plan includes the replacement of this window, front entry door and other general maintenance items to preserve and enhance the subject property. These projects listed in the Rehabilitation Plan are included in "Exhibit C" of the contract. This rehabilitation work is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* as demonstrated by the attached checklist. This type of work is appropriate for Mills Act contracts.

The applicant's have also provided a summary of restoration and maintenance that they have completed to date. Since these items have already been completed they are not included in the draft contract but are included as an attachment for your reference.

The applicants' proposed rehabilitation plan is consistent with the goals of the City of Benicia Mills Act program to encourage preservation, restoration and rehabilitation of historic properties. The proposal is also consistent with the City of Benicia General Plan Goal 3.1 which is to "Maintain and enhance Benicia's historic character."

Attachments:

- ❑ Secretary of Interior's Standards for Rehabilitation Checklist
- ❑ Ten-Year Maintenance Plan
- ❑ Applicant's Summary of Completed Restoration and Maintenance Projects
- ❑ Department of Parks and Recreation forms 523 A & B
- ❑ Draft Resolution recommending City Council approval of Mills Act contract 141 West H Street.
- ❑ Draft Contract

**CHECKLIST FOR THE SECRETARY OF THE
INTERIOR'S STANDARDS FOR
REHABILITATION**

Secretary of Interior Standards for Rehabilitation
Mills Act Contract (07PLN-0050)
141 West H Street, Benicia, CA

Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, rehabilitation may be considered as a treatment.

The bold text is the applicable Secretary of Interior's Standard for Rehabilitation guideline. The regular text is staff's response about how the particular guideline or policy relates to the proposed project.

- 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.**

The existing residential use will not change.

- 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.**

The structure at 141 West H Street is a typical Queen Anne cottage style house. The principal character-defining features of this style of building as exhibited on the subject property, are as follows:

1. L-shape floor plan with an intersecting hip and gable roof;
2. A full-length bay window projects from the gable wall;
3. The bay windows possess highly decorative window casements; and
4. Front porch with a flat roof supported on turned posts and arches and spindle-work brackets.

These character-defining features are still present will be retained and preserved. The proposal does not involve the removal of distinctive materials or alteration of features, spaces and spatial relationship that characterizes the property.

In addition, the proposed rehabilitation plan will remove non-historic elements and further preserve and enhance the historic character of the property.

- 3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.**

This project does not involve adding conjectural features or elements taken from other historic properties.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

The building appears to retain its original historic integrity without acquiring changes that possess historic significance in their own right.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

The proposed rehabilitation would replace a non-original aluminum slider window with a more historically appropriate wood window. The existing front entry door would also be replaced with a door appropriate to the Queen Anne cottage style home. All other renovations will first attempt to repair and if necessary replace in-kind distinctive materials, features, finishes, and construction techniques of the building.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

Deteriorated historic features that cannot be repaired will be replaced in-kind and will match the old in design, color, and texture. With exception to the front entry door, large front façade window on the east side which are non-original materials that will be replaced, any general maintenance performed during the term of the contract will have a focus on repairing rather than replacing.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

This standard does not apply to this project.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

This standard does not apply to this project.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

No new additions or new construction is proposed. Exterior alterations will be limited to repair or replacement in-kind therefore will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

The essential form and integrity of the historic property would not be impaired by the repair or replacement of the historic features. No new additions or new construction is proposed.

TEN-YEAR MAINTENANCE PLAN

**141 West H Street
Ten-Year Rehabilitation and Maintenance Plan**

	Project (s)	Schedule
1.	<u>Replacement of the front door with a more historically appropriate door (Queen Anne Cottage style). The final door selection shall be approved by the Community Development Director prior to installation.</u>	<u>2008</u>
2.	<u>Remove non-original aluminum slider window on front façade and replace with two wooden-framed windows to match the original design. Final window design shall be approved by the Community Development Director prior to Installation.</u>	<u>2009</u>
3.	<u>Repair or replace concrete retaining wall in front yard.</u>	<u>2010</u>
4.	<u>Install new landscaping in front yard.</u>	<u>2012</u>
5.	<u>General maintenance and repair as needed</u>	<u>Life of Contract</u>

**APPLICANT'S SUMMARY OF COMPLETED
RESTORATION AND MAINTENANCE PROJECTS**

Work Plan
 141 West H Street
 Benicia, CA 94510

Summary of major restoration and maintenance completed to date:

Description of Work:	Completed in:
New water heater	December 1998
Repair and renovation including: installation of central heating system; asbestos removal and floor repair; re-roofed house and shed; interior painting of all rooms; installation of new kitchen cabinets, countertops, sink, and stove; new window coverings and light fixtures; replaced damaged boards on porch.	2000
New carpet in living room and bedrooms.	May 2001
Electrical and plumbing repairs	November 2002
Installation of new cabinets in laundry room	January 2003
New fence on west side of property	September 2003
Stall shower replaced	October 2003
Removal of cement exterior front stairs and iron railing; installation of architecturally fitting wooden stairs and railing; removal of pest-infested carport and remedial pest control in basement; repair and strengthening of foundation.	November 2003
Exterior painting of house and shed	Winter 2003
Re-screen, prep, and painting of three wooden-framed windows	March – April 2004
Two-way sewer pipe installed	November 2004
Removal of two palm trees that interfered with plumbing	Spring 2005

**DEPARTMENT OF PARKS AND RECREATION
FORMS 523 A & B**

PRIMARY RECORD

Primary #: _____
HRI # _____
Trinomial _____
NRHP Status Code: _____
Other Listings _____
Review Code _____ Reviewer _____ Date _____

*Resource Name or #: 141 West H Street
P1. Other Identifier: none
*P2. Location: *a. County Solano
b. Address: 141 West H Street
*c. City: Benicia Zip 94510
d. UTM: N/A
e. USGS Quad: Benicia T2N R3W MDM
*f. Other Locational Data (APN #): 89-044-35

*P3a. Description:

This is a typical Queen Anne cottage with an L-shape plan and an intersecting hip and gable roof. The house is set on a raised foundation and has an elevated porch on the east side of the front façade. The front gable is oriented toward the street and is finished with a molded fascia and plain cornice. A full-length, square bay projects from the gable wall. It has a gable roof with an elaborate cornice supported on brackets. The Bay windows are one-over-one paired with highly decorative window casements that exhibit pilaster, and rosettes. The porch has a flat roof supported on turned posts and arched and spindle-work brackets. The porch rail and balustrade are plain. The front porch window has been replaced with a large aluminum slider which detracts from the authenticity of the house. The building is clad with clapboard.

*P3b. Resource Attributes: HP2

*P4. Resources Present: Building Structure Object Site District Element of District

P5b. Description of Photo:

Front façade, view north

*P6. Date Constructed/Age: 1880

P5. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



*P7. Prehistoric Historic Both

Owner and Address:

Paula Chiotti Trust

960 Lodi St.

Santa Rosa, CA 95401

*P8. Recorded by:

Carol Roland

Roland-Nawi Associates

4829 Crestwood Way

Sacramento, CA 95822

*P9. Date Recorded: 11-20-04

*P10. Type of Survey: Intensive

Reconnaissance

Other

Describe Eligibility Evaluation

*P11. Report Citation: none

*Attachments: NONE Map Sheet

Continuation Sheet Building, Structure, and

Object Record Linear Resource Record

Archaeological Record District Record

Milling Station Record Rock Art Record

Artifact Record Photograph Record

Other (List):

BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Identifier: 141 West H Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name: none

B3. Original Use: Residential

B4. Present Use: Residential

*B5. Architectural Style: Queen Anne

*B6. Construction History: The entry door and the east front window have been replaced and the elevated foundation has been covered with stucco.

*B7. Moved? No Yes Unknown

Date: N/A Original Location: same

*B8. Related Features: none

B9a. Architect: unknown

B9b. Builder: unknown

*B10. Significance: Theme: Benicia Downtown District Period of Significance: 1847-1940 Property Type: Single Family Applicable Criteria: A / C

Despite the replacement of a front elevation window, this house retains its integrity. The major elements of design, decoration, and style remain in place. The house contributes to the Benicia Downtown Historic District and it should continue to do so.

B11. Additional Resource Attributes: N/A

B12. References: McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred Knopf (1986); Bruegmann, Robert. *Benicia Portrait of an Early California Town: An Architectural History* (San Francisco: 101 Productions (1980); Woodbridge, Sally and Cannon Design Group. *Benicia, California: Downtown Historic Conservation Plan*. City of Benicia, 1990; Sanborn Map Benicia, CA. 1886; 1986 Benicia Historic Inventory form.

DRAFT RESOLUTION

RESOLUTION NO. 07- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL AUTHORIZE THE CITY MANAGER TO ENTER INTO A MILLS ACT CONTRACT FOR THE PROPERTY LOCATED AT 141 WEST H STREET

WHEREAS, the purpose of the Mills Act Program is to encourage the preservation, restoration and rehabilitation of historic properties within the City of Benicia; and

WHEREAS, the property at 141 West H Street is listed as a contributing building in the Downtown Historic Conservation Plan; and

WHEREAS, General Plan Goal 3.1 is to “Maintain and enhance Benicia’s historic character” and preservation and rehabilitation of the contributing building at 141 West H Street is consistent with this Goal; and

WHEREAS, all exterior work undertaken pursuant to the subject Mills Act Contract must be consistent with the Secretary of the Interior’s Standards; and

WHEREAS, the City has determined that this project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that modifications to historic structures consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties are categorically exempt from further CEQA review; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on September 27, 2007 considered the Mills Act contract application of Carla and Paula Chiotti.

NOW, THEREFORE, BE IT RESOLVED that the Historic Preservation Review Commission of the City of Benicia hereby finds that:

The proposed application is consistent with General Plan Goal 3.1 as the proposed contract will allow the applicant to continue to preserve and enhance a contributing building at 141 West H Street.

BE IT FURTHER RESOLVED that the Historic Preservation Review Commission recommends that the City Council approve the Mills Act Contract application of Carla and Paula Chiotti.

On motion of Commissioner , seconded by Commissioner , the above Resolution was adopted at a regular meeting of the Historic Preservation Review Commission on September 27, 2007 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Gina D. Eleccion
Historic Preservation Review Commission Secretary

DRAFT CONTRACT

WHEN RECORDED, RETURN TO:

CITY OF BENICIA
250 East L Street
Benicia, CA 94510
Attention: City Clerk

HISTORICAL PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of DATE, by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the "City"), and Carla and Paula Chiotti (hereinafter referred to as the "Owners").

WITNESSETH

A. Recitals

1. California Government Code Sections 50280, et seq. allow cities the discretion to enter into contracts with the owners of qualified historical properties, as the term is defined by Government Code Section 50280.1, for the purpose of restricting development of its cultural and historic significance and continuing maintenance of the historical property;
2. Owners possess fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address 141 West H Street, Benicia, CA 94510 (hereinafter, shall be referred to as the "the Historical Property"). A legal description of the Property is attached hereto and incorporated herein by this reference as Exhibit A;
3. On DATE the City Council of the City of Benicia adopted Resolution No. 07- thereby declaring its intention to enter into this Historic Property Preservation Agreement.
4. City and Owners, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of cultural and historical significance of the Property and to qualify the Property for an assessment of valuation pursuant

to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code

B. Agreement

NOW, THEREFORE, City and Owners, in consideration of the mutual promises, covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on DATE and shall remain in effect for a term of (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter "renewal date"), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owners serves notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.
2. Notice of Nonrenewal. If City or Owners desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the contract as follows: (1) Owners must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date or (2) City must serve written notice within sixty (60) days prior to the renewal date. Owners may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owners.
3. Valuation of Historical Property. During the term of this Agreement, Owners are entitled to seek assessment of valuation of the Historical Property pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.
4. Standards for Historical Property. During the term of this Agreement, the Property shall be subject to the following conditions, requirements and restrictions:
 - a) Owners shall preserve and maintain the characteristics of cultural and historical significance of the Property in accordance to the Secretary of the Interiors Standards for Rehabilitation and the minimum maintenance standards, identified in Exhibit "B", attached hereto, which shall apply to the property throughout the term of this Agreement. New additions, exterior alterations, or related new construction shall comply with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings.
 - b) Owner shall make improvements to bring the Property into good condition. Attached hereto, marked as Exhibit "C", and incorporated herein by this reference,

is a list of work that both City and Owners agree is necessary to bring the Property into good condition.

Owners shall undertake all improvements in accordance with Exhibit "C". If the schedule set out in Exhibit "C" is not complied with, then City will use the following process to determine whether the owner is making good faith progress on the schedule of work. Upon City's request, the Owner shall submit documentation of expenditures, made to accomplish the next highest priority improvement project for the property, within the last 24 months. The owner shall be determined to be in substantial compliance when the expenditures are equal to or greater than the property tax savings provided by the Property being in the Mills Act Program. This schedule set out in Exhibit "C" shall be revised to reflect the schedule change. The Community Development Director shall have the ability to administratively adjust the schedule timeline, in concurrence with the property owner, only by written recorded instrument executed by the parties hereto.

5. Inspections and Annual Reporting. Owners agrees to permit the periodic examination, by prior appointment, of the interior and exterior of the Historic Property by the County Assessor, the State Department of Parks and Recreation, the State Board of Equalization and the City as may be necessary to determine Owners' compliance with the terms and provisions of this Agreement. Owners agree to provide the City with a report as to the status of the Historic Property annually and when any improvements or changes have been made.
6. Provision of Information. Owners hereby agree to furnish City with any and all information requested by City which City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.
7. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Section 50285 may cancel this Agreement if it determines that Owners have breached any of the conditions of the Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines that Owners have failed to restore or rehabilitate the Historical Property in the manner specified in paragraph 4 of this Agreement.

In the event of cancellation, Owners shall be subject to payment of those cancellation fees set forth in California Government Code Sections 50280 et seq., described herein. Upon cancellation, Owners shall pay a cancellation fee of twelve and one-half percent (12 1/2%) of the current fair market value of the Historic Property at the time of cancellation, as determined by the county assessor as though the Historic Property were free of any restrictions pursuant to this Agreement.

8. Enforcement of Agreement. In lieu of any provisions to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owners, City shall give written notice to Owners by registered or certified mail addressed to the address stated in the Agreement, and if such a violation is not corrected to the reasonable satisfaction of City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days provided that acts to cure the breach or default may be commenced within (30) days and must thereafter be diligently pursued to completion by Owners, then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owners growing out of the terms of this Agreement, apply to any violation by Owners or apply for such other relief as may be appropriate.
9. Waiver. City does not waive any claim of default by Owners if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.
10. Binding Effect of Agreement. Owners hereby subject the Historical Property described in Exhibit A hereto to the covenants, reservations and restrictions as set forth in this Agreement. City and Owners hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owners' successors and assigns in title or interest to the Historical Property.

Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historical Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owners hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owners hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owners.

11. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, or at any other address as may be later specified by the parties hereto.

City: City of Benicia
250 East L Street
Benicia, California 94510

Owners: Paula Chiotti
1835 Leonard Avenue
Santa Rosa, CA 95405

Carla Chiotti
1909 Dogwood Place
Richland, WA 99354

12. General Provisions

a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

b. Owners agree to and shall hold City and its elected officials, officers, agents and employees harmless from liability for damage or claims which may arise from the direct or indirect use or operations of Owners or those of their contractor, subcontractor, agenda, employee or other person acting on his/her behalf which relates to the use, operation and maintenance of the Historic Property and from any injury to property caused by the restrictions on development of the Historical Property from application or enforcement of the City's Historical Preservation Ordinance or from the enforcement of this Agreement. Owners hereby agree to and shall defend the City and its elected officials, officers, agents and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owners' activities in connections with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historical Property.

c. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and

all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

d. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

f. This Agreement shall be constructed and governed in accordance with the laws of the State of California.

13. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause the Agreement to be recorded in the office of the County Recorder of the County of Solano.

14. Notice to State Office of Historic Preservation. The Owners or Agent of the Owners shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.

15. Amendments. This Agreement may be amended, in whole or in part, only by written recorded instrument executed by the parties hereto

IN WITNESS WHEREOF, City and Owners have executed this Agreement on the day and year first written above.

Paula Chiotti
Carla Chiotti

CITY OF BENICIA

BY:
DATED:

BY: Jim Erickson, City Manager
DATED:

BY:
DATED:

APPROVED AS TO FORM

Heather McLaughlin, City Attorney

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

(See attached sheet)

EXHIBIT B

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

The following Standards are to be applied to rehabilitation projects for the Property in a reasonable manner, taking into consideration economic and technical feasibility:

- (1) The Property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of the Property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize the Property shall be avoided.
- (3) The Property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the historic property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structure(s), if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by this project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions and adjacent or related new construction shall be undertaken in

such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Please refer to the complete text for additional information.

Copied from The Secretary of the Interior's Standards for the Treatment of Historic Properties U. S. Department of the Interior, National Park Service, Weeks and Grimmer, 1995, pg. 62.

Minimum Property Maintenance:

As part of this agreement the Owners shall maintain all buildings, structures, yards and other improvements in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions (includes but does not limit to the following) are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls, and windows, broken windows, peeling exterior paint, broken structures;
2. Scrap lumber, junk, trash or debris;
3. Abandoned discarded or unused objects, equipment such as automobiles, automobile parts, furniture, appliances, containers, cans or similar items;
4. Stagnant water, including pools or spas, or open excavations;
5. Any device, decoration, design, structure, vegetation or landscape which is unsightly by reason of its height, condition or its inappropriate location;
6. graffiti;
7. Incomplete exterior construction where no building inspections have been requested for 6 or more months, or for work which does not require a building permit, where there has been no significant progress for 90 days.

EXHIBIT C

Architectural Rehabilitation and/or Restoration

The City and the Owner agree to the following Rehabilitation projects to be undertaken by the Owner in conformance with Paragraph 4b of this Agreement. The work will be conducted as indicated below.

	Project (s)	Schedule
1.	<u>Replacement of the front door with a more historically appropriate door (Queen Anne Cottage style). The final door selection shall be approved by the Community Development Director prior to installation.</u>	<u>2008</u>
2.	<u>Remove non-original aluminum slider window on front façade and replace with two wooden-framed windows to match the original design. Final window design shall be approved by the Community Development Director prior to Installation.</u>	<u>2009</u>
3.	<u>Repair of replace concrete retaining wall in front yard.</u>	<u>2010</u>
4.	<u>Install new landscaping in front yard.</u>	<u>2012</u>
5.	<u>General maintenance and repair as needed</u>	<u>Life of Contract</u>

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING:
SEPTEMBER 27, 2007
CONSENT CALENDAR

DATE : August 24, 2007

TO : Historic Preservation Review Commission

FROM : Community Development Department

SUBJECT : **RESOLUTION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A MILLS ACT CONTRACT FOR THE PROPERTY AT 120 WEST D STREET IN THE CITY OF BENICIA**

RECOMMENDATION:

Move to adopt Resolution No. 07- recommending that the City Council authorize the City Manager to enter into a Mills Act Contract with the property owner of 120 West D Street in the City of Benicia.

EXECUTIVE SUMMARY:

The Mills Act program is a State of California authorized mechanism by which owners of Qualified Historical Properties may use an alternative method of determining property value for tax assessment purposes. The program is available to both residential and non-residential properties. The intent of the Mills Act Program is to enhance and preserve historic buildings within the Historic Districts. The City Council approved the City of Benicia Mills Act program and assigned initial review and recommendation of Mills Act applications to the Historic Preservation Review Commission.

BUDGET INFORMATION:

The Mills Act contract will reduce the property tax paid by this property. The City of Benicia receives approximately 26% of the property taxes collected on parcels in the City. The estimated reduction in City revenue due to the subject Mills Act proposal is \$630. The City Council authorized up to \$30,000 annually of property tax rebates for Mills Act contracts, of that, approximately \$18,000 remains available for new contracts.

ENVIRONMENTAL ANALYSIS:

Mills Act contracts are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that work on historic resources that is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* is categorically

exempt from further CEQA review. Mills Act contracts require that all work performed subsequent to entering into a contract is consistent with those standards.

BACKGROUND:

On July 18, 2007, Carla and Paula Chiotti, owners of the residence at 120 West D Street applied to enter into a Mills Act Contract with the City of Benicia.

The property is listed as a contributing building in the City's Downtown Historic Conservation Plan. The subject building meets the eligibility requirements for the Mills Act Program. The applicant has met all of the submittal requirements.

The property is in good condition with almost all of the character defining features intact and in good repair (see attached Department of Parks and Recreation (DPR) forms 523A & B).

According to the DPR forms prepared by Carol Roland dated November 20, 2004, the structure at 120 West D Street is a two-story Greek Revival style house. The principal character-defining features of this style of building as exhibited on the subject property, are as follows:

1. Moderately pitched roof with a front gable trimmed with a plain fascia and verge board;
2. Front entry consisting of a recessed door and transom window; and
3. A simple façade with two small double hung windows at the second story level and four, four-over-four windows at ground level.

Built circa 1870, the house is in good condition and retains much of its historic integrity. The front porch and entry steps have been rebuilt with rustic and unpainted wood that is not compatible with the building's high level of integrity.

As part of the Ten-year rehabilitation plan the simple front porch will be painted. The draft contract also includes the rehabilitation of the existing garage of the west side of the residence. Sanborn Fire Insurance Company maps document the garage built between 1913-1942. Staff finds that this structure has acquired historic significance in its own right. Rehabilitation of this garage would be consistent with the purpose and intent of the Mills Act Program.

These projects are listed in the Rehabilitation Plan are included in "Exhibit C" of the contract. This rehabilitation work is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* as demonstrated by the attached checklist. This type of work is appropriate for Mills Act contracts. The proposal is also consistent with the City of Benicia General Plan Goal 3.1 which is to "Maintain and enhance Benicia's historic character."

The applicant's have also provided a summary of restoration and maintenance that they have completed to date. Since there projects have been completed they are not included in the draft contract but are included as an attachment for your reference.

Attachments:

- ❑ Secretary of Interior's Standards for Rehabilitation Checklist
- ❑ Rehabilitation and Maintenance Plan
- ❑ Applicant's Summary of Completed Restoration and Maintenance Projects
- ❑ Department of Parks and Recreation forms 523 A & B
- ❑ Draft Resolution recommending City Council approval of Mills Act contract 120 West D Street.
- ❑ Draft Contract

**CHECKLIST FOR THE SECRETARY OF THE
INTERIOR'S STANDARDS FOR
REHABILITATION**

Secretary of Interior's Standards for Rehabilitation
Mills Act Contract (07PLN-0052)
120 West D Street, Benicia, CA

Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, rehabilitation may be considered as a treatment.

The bold text is the applicable Secretary of Interior's Standard for Rehabilitation guideline. The regular text is staff's response about how the particular guideline or policy relates to the proposed project.

1. **A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.**

The existing residential use will not change.

2. **The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.**

The structure at 120 West D Street is a two-story Greek Revival style house. The principal character-defining features of this style of building as exhibited on the subject property, are as follows:

1. Moderately pitched roof with a front gable trimmed with a plain fascia and verge board;
2. Front entry consisting of a recessed door and transom window; and
3. A simple façade with two small double hung windows at the second story level and four, four-over-four window at ground level.

These character-defining features are still present will be retained and preserved. The proposal does not involve the removal of distinctive materials or alteration of features, spaces and spatial relationship that characterizes the property.

4. **Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.**

This project does not involve adding conjectural features or elements taken from other historic properties.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

According to Sanborn Fire Insurance Company maps, the detached garage on the west side of the property was likely built between 1913 and 1942. Although not part of the original building, this addition would possess historic significance in its own right. Garages built in the early part of the 20th century document the evolution of automobiles as they became more common. The rehabilitation plan includes the rehabilitation of the garage, which will further enhance and preserve the historic property.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

The rehabilitation work plan included in the draft contract would preserve the distinctive materials, features, finishes and construction techniques of the property. The focus of the work plan is to repair the existing materials instead of replacement.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

The proposed rehabilitation would repair any distinctive materials, features, finishes, and construction techniques of the building. Any future general maintenance performed during the term of the contract that involves deteriorated historic features that cannot be repaired will be replaced in-kind and will match the old in design, color, and texture.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

This standard does not apply to this project.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

This standard does not apply to this project.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

There are no new additions or related construction associated with this Mills Act Contract rehabilitation plan resulting in the destruction of historic materials, features and spatial relationship. The front porch and steps constructed in 1999, are currently rustic, unfinished wood. This addition does not relate to the structure's integrity and detracts from the historic façade. As part of the rehabilitation plan, the porch and stairs are to be painted. No new additions or new construction is proposed. Exterior alterations will be limited to repair or replacement in-kind therefore will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

No new additions or related new construction is proposed and therefore the essential form and integrity of the historic property would not be impaired by future removal.

REHABILITATION AND MAINTENANCE PLAN

**120 West D Street
Ten-Year Rehabilitation and Maintenance Plan**

	Project (s)	Schedule
1.	<u>Build retaining wall on west side of property</u>	<u>2007</u>
2.	<u>Replace fence on west side of property</u>	<u>2007</u>
3.	<u>Paint front porch/steps</u>	<u>2008</u>
4.	<u>Paint exterior of house and repair windows as necessary</u>	<u>2008</u>
5.	<u>Rehabilitate garage</u>	<u>2010</u>
6.	<u>Develop and install low-maintenance landscape plan in front of house</u>	<u>2012</u>
7.	<u>On-going maintenance and repair including the pruning of the two Olive trees on the D Street frontage.</u>	<u>Life of Contract</u>

**APPLICANT'S SUMMARY OF COMPLETED
RESTORATION AND MAINTENANCE PROJECTS**

Work Plan for
120 West D Street
Benicia, CA 94510

Summary of major restoration and maintenance completed to date:

Description of Work:	Completed in:
Complete interior renovation including: installation of new bathroom and kitchen plumbing; electrical rewiring; new kitchen cabinets, countertops, sink, and appliances; new sink, toilet, and tub in bathroom; new floor coverings on all floors (vinyl and carpeting); interior painting; installation of ceiling fans, smoke alarms, window coverings, and locks; built pantry and laundry room	1998
Complete re-roofing	October 1999
Front porch replaced	1999
Garage door replaced; garage repair	October 2003, December 2003
Foundation inspection; pest inspection.	March 2004
Garage and fence repair.	November 2004
Concrete footing for garage.	December 2004

**DEPARTMENT OF PARKS AND RECREATION
FORMS 523 A & B**

PRIMARY RECORD

Primary #: _____
HRI # _____
Trinomial _____
NRHP Status Code: _____
Other Listings _____
Review Code _____ Reviewer _____ Date _____

*Resource Name or #: 120 West D Street

P1. Other Identifier: none

*P2. Location: *a. County Solano

b. Address: 120 West D Street

*c. City: Benicia Zip 94510

d. UTM: N/A

e. USGS Quad: Benicia T2N R3W MDM

*f. Other Locational Data (APN #): 89-243-06

*P3a. Description

A two-story Greek revival house with a moderately pitched roof, this residence was constructed circa 1870 or possibly earlier. The front gable is trimmed with a plain fascia and verge board. The entry is located on the west side of the façade and consists of a recessed door and transom which is accessed via a stair that is oriented east. The fenestration is symmetrically arranged and consists of two small double hung windows at the second story level and vertically emphasized four-over-four windows. The house is clad with clapboard.

*P3b. Resource Attributes: HP2

*P4. Resources Present: Building Structure Object Site District Element of District

P5b. Description of Photo:

Front façade, view south

*P6. Date Constructed/Age: Circa 1870

Prehistoric Historic Both

*P7. Owner and Address:

Paula Chiotti

P5. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



960 Lodi Street
Santa Rosa, CA 95401

*P8. Recorded by:
Carol Roland
Roland-Nawi Associates
4829 Crestwood Way
Sacramento, CA 95822

*P9. Date Recorded: 11-20-05

*P10. Type of Survey: Intensive
 Reconnaissance
Other

Describe Eligibility Evaluation

*P11. Report Citation: none

*Attachments: NONE Map Sheet
Continuation Sheet Building, Structure, and
Object Record Linear Resource Record
Archaeological Record District Record
Milling Station Record Rock Art Record
 Artifact Record Photograph Record
Other (List):

BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Identifier: 120 West D Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name: same

B3. Original Use: Residential

B4. Present Use: Residential

*B5. Architectural Style: Greek Revival

*B6. Construction History: The front porch of the house has been rebuilt. It is a side facing stair which opens directly onto the side walk. It is of rustic, unpainted wood.

*B7. Moved? No Yes Unknown

Date: N/A Original Location: same

*B8. Related Features:

There is a single car garage on the west side of the house.

B9a. Architect: unknown

B9b. Builder: unknown

*B10. Significance: Theme: Benicia Downtown District Period of Significance: -1847-1940 Property Type:
Single Family Applicable Criteria: A / C

This is one of the earlier houses in Benicia that has survived. It is a typical Greek Revival house, devoid of decoration. A new stair has been added to the front of the house and in its rustic style detracts somewhat from the character and appearance of the building. However, the house retains overall integrity of design, materials, workmanship, location, setting, and association. It was identified as a potentially contributing building in the 1989 survey and should be elevated to the status of a contributor to the Downtown Historic District.

B11. Additional Resource Attributes: N/A

B12. References: McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred Knopf (1986);
Bruegmann, Robert. *Benicia Portrait of an Early California Town: An Architectural History* (San Francisco: 101 Productions (1980); Woodbridge, Sally and Cannon Design Group. *Benicia, California: Downtown Historic Conservation Plan*. City of Benicia, 1990; Sanborn Map Benicia, CA. 1886; 1986 Benicia Historic Inventory form.

DRAFT RESOLUTION

RESOLUTION NO. 07- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL AUTHORIZE THE CITY MANAGER TO ENTER INTO A MILLS ACT CONTRACT FOR THE PROPERTY LOCATED AT 120 WEST D STREET

WHEREAS, the purpose of the Mills Act Program is to encourage the preservation, restoration and rehabilitation of historic properties within the City of Benicia; and

WHEREAS, the property at 120 West D Street is listed as a contributing building in the Downtown Historic Conservation Plan; and

WHEREAS, General Plan Goal 3.1 is to “Maintain and enhance Benicia’s historic character” and preservation and rehabilitation of the contributing building at 120 West D Street is consistent with this Goal; and

WHEREAS, all exterior work undertaken pursuant to the subject Mills Act Contract must be consistent with the Secretary of the Interior’s Standards; and

WHEREAS, the City has determined that this project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that modifications to historic structures consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties are categorically exempt from further CEQA review; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on September 27, 2007 considered the Mills Act contract application of Carla and Paula Chiotti.

NOW, THEREFORE, BE IT RESOLVED that the Historic Preservation Review Commission of the City of Benicia hereby finds that:

The proposed application is consistent with General Plan Goal 3.1 as the proposed contract will allow the applicant to continue to preserve and enhance a contributing building at 120 West D Street.

BE IT FURTHER RESOLVED that the Historic Preservation Review Commission recommends that the City Council approve the Mills Act Contract application of Carla and Paula Chiotti.

On motion of Commissioner , seconded by Commissioner , the above Resolution was adopted at a regular meeting of the Historic Preservation Review Commission on September 27, 2007 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Gina D. Eleccion
Historic Preservation Review Commission Secretary

DRAFT CONTRACT

WHEN RECORDED, RETURN TO:

CITY OF BENICIA
250 East L Street
Benicia, CA 94510
Attention: City Clerk

HISTORICAL PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of DATE, by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the "City"), and Carla and Paula Chiotti (hereinafter referred to as the "Owners").

WITNESSETH

A. Recitals

1. California Government Code Sections 50280, et seq. allow cities the discretion to enter into contracts with the owners of qualified historical properties, as the term is defined by Government Code Section 50280.1, for the purpose of restricting development of its cultural and historic significance and continuing maintenance of the historical property;
2. Owners possess fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address 120 West D Street, Benicia, CA 94510 (hereinafter, shall be referred to as the "the Historical Property"). A legal description of the Property is attached hereto and incorporated herein by this reference as Exhibit A;
3. On DATE the City Council of the City of Benicia adopted Resolution No. 07- thereby declaring its intention to enter into this Historic Property Preservation Agreement.
4. City and Owners, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of cultural and historical significance of the Property and to qualify the Property for an assessment of valuation pursuant

to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code

B. Agreement

NOW, THEREFORE, City and Owners, in consideration of the mutual promises, covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on DATE and shall remain in effect for a term of (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter "renewal date"), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owners serves notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.
2. Notice of Nonrenewal. If City or Owners desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the contract as follows: (1) Owners must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date or (2) City must serve written notice within sixty (60) days prior to the renewal date. Owners may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owners.
3. Valuation of Historical Property. During the term of this Agreement, Owners are entitled to seek assessment of valuation of the Historical Property pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.
4. Standards for Historical Property. During the term of this Agreement, the Property shall be subject to the following conditions, requirements and restrictions:
 - a) Owners shall preserve and maintain the characteristics of cultural and historical significance of the Property in accordance to the Secretary of the Interiors Standards for Rehabilitation and the minimum maintenance standards, identified in Exhibit "B", attached hereto, which shall apply to the property throughout the term of this Agreement. New additions, exterior alterations, or related new construction shall comply with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings.
 - b) Owners shall make improvements to bring the Property into good condition. Attached hereto, marked as Exhibit "C", and incorporated herein by this reference,

is a list of work that both City and Owner agree is necessary to bring the Property into good condition.

Owner shall undertake all improvements in accordance with Exhibit "C". If the schedule set out in Exhibit "C" is not complied with, then City will use the following process to determine whether the owner is making good faith progress on the schedule of work. Upon City's request, the Owner shall submit documentation of expenditures, made to accomplish the next highest priority improvement project for the property, within the last 24 months. The owner shall be determined to be in substantial compliance when the expenditures are equal to or greater than the property tax savings provided by the Property being in the Mills Act Program. This schedule set out in Exhibit "C" shall be revised to reflect the schedule change. The Community Development Director shall have the ability to administratively adjust the schedule timeline, in concurrence with the property owner, only by written recorded instrument executed by the parties hereto.

5. Inspections and Annual Reporting. Owners agrees to permit the periodic examination, by prior appointment, of the interior and exterior of the Historic Property by the County Assessor, the State Department of Parks and Recreation, the State Board of Equalization and the City as may be necessary to determine Owners' compliance with the terms and provisions of this Agreement. Owners agree to provide the City with a report as to the status of the Historic Property annually and when any improvements or changes have been made.
6. Provision of Information. Owners hereby agree to furnish City with any and all information requested by City which City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.
7. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Section 50285 may cancel this Agreement if it determines that Owners have breached any of the conditions of the Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines that Owners have failed to restore or rehabilitate the Historical Property in the manner specified in paragraph 4 of this Agreement.

In the event of cancellation, Owners shall be subject to payment of those cancellation fees set forth in California Government Code Sections 50280 et seq., described herein. Upon cancellation, Owners shall pay a cancellation fee of twelve and one-half percent (12 1/2%) of the current fair market value of the Historic Property at the time of cancellation, as determined by the county assessor as though the Historic Property were free of any restrictions pursuant to this Agreement.

8. Enforcement of Agreement. In lieu of any provisions to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owners, City shall give written notice to Owners by registered or certified mail addressed to the address stated in the Agreement, and if such a violation is not corrected to the reasonable satisfaction of City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days provided that acts to cure the breach or default may be commenced within (30) days and must thereafter be diligently pursued to completion by Owners, then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owners growing out of the terms of this Agreement, apply to any violation by Owners or apply for such other relief as may be appropriate.
9. Waiver. City does not waive any claim of default by Owners if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.
10. Binding Effect of Agreement. Owners hereby subject the Historical Property described in Exhibit A hereto to the covenants, reservations and restrictions as set forth in this Agreement. City and Owners hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owners' successors and assigns in title or interest to the Historical Property.

Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historical Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owners hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owners hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owners.

11. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, or at any other address as may be later specified by the parties hereto.

City: City of Benicia
250 East L Street
Benicia, California 94510

Owners: Paula Chiotti
1835 Leonard Avenue
Santa Rosa, CA 95405

Carla Chiotti
1909 Dogwood Place
Richland, WA 99354

12. General Provisions

a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

b. Owners agree to and shall hold City and its elected officials, officers, agents and employees harmless from liability for damage or claims which may arise from the direct or indirect use or operations of Owners or those of their contractor, subcontractor, agenda, employee or other person acting on his/her behalf which relates to the use, operation and maintenance of the Historic Property and from any injury to property caused by the restrictions on development of the Historical Property from application or enforcement of the City's Historical Preservation Ordinance or from the enforcement of this Agreement. Owners hereby agree to and shall defend the City and its elected officials, officers, agents and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owners' activities in connections with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historical Property.

c. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

d. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

f. This Agreement shall be constructed and governed in accordance with the laws of the State of California.

13. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause the Agreement to be recorded in the office of the County Recorder of the County of Solano.

14. Notice to State Office of Historic Preservation. The Owners or Agent of the Owners shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.

15. Amendments. This Agreement may be amended, in whole or in part, only by written recorded instrument executed by the parties hereto

IN WITNESS WHEREOF, City and Owners have executed this Agreement on the day and year first written above.

Paula Chiotti
Carla Chiotti

CITY OF BENICIA

BY:
DATED:

BY: Jim Erickson, City Manager
DATED:

BY:
DATED:

APPROVED AS TO FORM

Heather McLaughlin, City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

(See attached sheet)

EXHIBIT B

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

The following Standards are to be applied to rehabilitation projects for the Property in a reasonable manner, taking into consideration economic and technical feasibility:

- (1) The Property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of the Property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize the Property shall be avoided.
- (3) The Property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the historic property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structure(s), if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by this project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions and adjacent or related new construction shall be undertaken in

such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Please refer to the complete text for additional information.

Copied from The Secretary of the Interior's Standards for the Treatment of Historic Properties U. S. Department of the Interior, National Park Service, Weeks and Grimmer, 1995, pg. 62.

Minimum Property Maintenance:

As part of this agreement the Owners shall maintain all buildings, structures, yards and other improvements in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions (includes but does not limit to the following) are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls, and windows, broken windows, peeling exterior paint, broken structures;
2. Scrap lumber, junk, trash or debris;
3. Abandoned discarded or unused objects, equipment such as automobiles, automobile parts, furniture, appliances, containers, cans or similar items;
4. Stagnant water, including pools or spas, or open excavations;
5. Any device, decoration, design, structure, vegetation or landscape which is unsightly by reason of its height, condition or its inappropriate location;
6. graffiti;
7. Incomplete exterior construction where no building inspections have been requested for 6 or more months, or for work which does not require a building permit, where there has been no significant progress for 90 days.

EXHIBIT C

Architectural Rehabilitation and/or Restoration

The City and the Owners agree to the following Rehabilitation projects to be undertaken by the Owners in conformance with Paragraph 4b of this Agreement. The work will be conducted as indicated below.

	Project (s)	Schedule
1.	<u>Build retaining wall on west side of property</u>	<u>2007</u>
2.	<u>Replace fence on west side of property</u>	<u>2007</u>
3.	<u>Paint front porch/steps</u>	<u>2008</u>
4.	<u>Paint exterior of house and repair windows as necessary</u>	<u>2008</u>
5.	<u>Rehabilitate garage</u>	<u>2010</u>
6.	<u>Develop and install low-maintenance landscape plan in front of house</u>	<u>2012</u>
7.	<u>On-going maintenance and repair including the pruning of the two Olive trees on the D Street frontage.</u>	<u>Life of Contract</u>

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING:
SEPTEMBER 27, 2007
CONSENT CALENDAR

DATE : August 24, 2007

TO : Historic Preservation Review Commission

FROM : Community Development Department

SUBJECT : **RESOLUTION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A MILLS ACT CONTRACT FOR THE PROPERTY AT 1025 WEST SECOND STREET IN THE CITY OF BENICIA**

RECOMMENDATION:

Move to adopt Resolution No. 07- recommending that the City Council authorize the City Manager to enter into a Mills Act Contract with the property owner of 1025 West Second Street in the City of Benicia.

EXECUTIVE SUMMARY:

The Mills Act program is a State of California authorized mechanism by which owners of Qualified Historical Properties may use an alternative method of determining property value for tax assessment purposes. The program is available to both residential and non-residential properties. The intent of the Mills Act Program is to enhance and preserve historic buildings within the Historic Districts. The City Council approved the City of Benicia Mills Act program and assigned initial review and recommendation of Mills Act applications to the Historic Preservation Review Commission.

BUDGET INFORMATION:

The Mills Act contract will reduce the property tax paid by this property. The City of Benicia receives approximately 26% of the property taxes collected on parcels in the City. The estimated reduction in City revenue due to the subject Mills Act proposal is \$648. The City Council authorized up to \$30,000 annually of property tax rebates for Mills Act contracts, of that, approximately \$18,000 remains available for new contracts.

ENVIRONMENTAL ANALYSIS:

Mills Act contracts are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that work on historic resources that is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* is categorically

exempt from further CEQA review. Mills Act contracts require that all work performed subsequent to entering into a contract is consistent with those standards.

BACKGROUND:

On July 18, 2007, Carla and Paula Chiotti, owners of the residence at 1025 West Second Street applied to enter into a Mills Act Contract with the City of Benicia.

The property is currently not listed as a contributing building to the City's Downtown Historic Conservation Plan. However, as a residential buildings 50 years or older situated within the Downtown Historic District, the subject building meets the eligibility requirements for the Mills Act Program. The applicant has met all of the submittal requirements.

The property is in good condition with almost all of the character defining features intact and in good repair (see attached Department of Parks and Recreation (DPR) forms 523A & B).

According to the DPR forms prepared by Carol Roland dated November 20, 2004, the structure at 1025 West Second Street is a good example of a Classic Revival house. The principal character-defining features of this style of building as exhibited on the subject property, are as follows:

1. Moderately sloped front gable roof ;
2. Gable is closed with an elaborate bracketed band and cornice;
3. A symmetric front façade with a central entry flanked by paired windows; and
4. Narrow, double-hung windows with a bracketed pediment at the top of the casing.

Built circa 1870, the house is in good condition and retains much of its historic integrity. However, there are some portions of the structure that have begun to deteriorate and detract from its historic integrity. These projects listed in the Rehabilitation Plan are included in "Exhibit C" of the contract. These projects include repair and maintenance of the wood picket fence, exterior wood screens on the double-hung windows, front porch, side access ramp, new landscaping, and repair of any damaged (dry rot, etc.) wood. This rehabilitation work is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* as demonstrated by the attached checklist. This type of work is appropriate for Mills Act contracts.

As a property with a Mills Act Contract, the property owner(s) is responsible for minimum property maintenance and general up-keep of the property including removal of any debris (trash, furniture, automobile parts, etc.). The subject property currently has some debris in the front yard that would need to be removed upon granting on the Mills Act Contract. As with all properties under the Mills Act Contract, minimum property maintenance will be part of the annual property inspection.

The applicants have also provided a summary of restoration and maintenance that they have completed to date. Since these project have already been completed they are not included in the draft contract but are included as an attachment for your reference.

The applicants' proposed rehabilitation plan is consistent with the goals of the City of Benicia Mills Act program to encourage preservation, restoration and rehabilitation of historic properties. The proposal is also consistent with the City of Benicia General Plan Goal 3.1 which is to "Maintain and enhance Benicia's historic character."

Attachments:

- ❑ Secretary of Interior's Standards for Rehabilitation Checklist
- ❑ Rehabilitation and Maintenance Plan
- ❑ Applicant's Summary of Completed Restoration and Maintenance Projects
- ❑ Department of Parks and Recreation forms 523 A & B
- ❑ Draft Resolution recommending City Council approval of Mills Act contract 1025 West Second Street.
- ❑ Draft Contract

**CHECKLIST FOR THE SECRETARY OF THE
INTERIOR'S STANDARDS FOR
REHABILITATION**

Secretary of Interior's Standards for Rehabilitation
Mills Act Contract (07PLN-0051)
1025 West Second Street, Benicia, CA

Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, rehabilitation may be considered as a treatment.

The bold text is the applicable Secretary of Interior's Standard for Rehabilitation guideline. The regular text is staff's response about how the particular guideline or policy relates to the proposed project.

1. **A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.**

The existing residential use will not change.

2. **The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.**

The structure at 1025 West Second Street is a good example of a Classic Revival house. The principal character-defining features of this style of building as exhibited on the subject property, are as follows:

1. Moderately sloped front gable roof;
2. Gable is closed with an elaborate bracketed band and cornice;
3. A symmetric front façade with a central entry flanked by paired windows; and
4. Narrow, double-hung windows with a bracketed pediment at the top of the casing.

These character-defining features are still present will be retained and preserved. The proposal does not involve the removal of distinctive materials or alteration of features, spaces and spatial relationship that characterizes the property. On the contrary, all work included in the rehabilitation plan will further preserve and enhance the structure.

3. **Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.**

This project does not involve adding conjectural features or elements taken from other historic properties.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

The building appears to retain its original historic integrity without acquiring changes that possess historic significance in their own right.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

The proposed rehabilitation would replace several non-original aluminum window screens with wood window screens to match existing. In addition, the front porch and wood siding would be repaired and/ or replaced. All other renovations are for the general maintenance of the property and include new landscaping, paint, etc. All rehabilitation work will first attempt to repair and if necessary replace in-kind distinctive materials, features, finishes, and construction techniques of the building.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

Deteriorated historic features that cannot be repaired will be replaced in-kind and will match the old in design, color, and texture. These features would include the few existing wood window screens, front porch floorboards, wood siding and any other general maintenance performed during the term of the contract.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

This standard does not apply to this project.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

This standard does not apply to this project.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

No new additions or new construction is proposed. Exterior alterations will be limited to repair or replacement in-kind therefore will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

The essential form and integrity of the historic property would not be impaired by the repair or replacement of the historic features. No new additions or new construction is proposed.

REHABILITATION AND MAINTENANCE PLAN

**1025 West Second Street
Ten-Year Rehabilitation and Maintenance Plan**

	Project (s)	Schedule
1.	<u>Scrape, prime and paint exterior of house</u>	<u>2008</u>
2.	<u>Replace damaged wood from dry rot around perimeter of the house</u>	<u>2008</u>
3.	<u>Repair and paint wood picket fence in front yard</u>	<u>2009</u>
4.	<u>Remove or repair and paint the ramp that provides access to the side entrance on the north side</u>	<u>2009</u>
5.	<u>Replace the existing exterior aluminum window screens with wood window screens to match the existing wood screens. Repair existing exterior wood window screens as necessary</u>	<u>2010</u>
6.	<u>Repair and/or replace the wood floor boards on porch the front entry porch</u>	<u>2011</u>
7.	<u>Develop and install low maintenance landscape plan for front yard</u>	<u>2012</u>
8.	<u>General maintenance and repair as needed</u>	<u>Life of Contract</u>

**APPLICANT'S SUMMARY OF COMPLETED
RESTORATION AND MAINTENANCE PROJECTS**

Work Plan
 1025 West 2nd Street
 Benicia, CA 94510

Summary of major restoration and maintenance completed to date:

Description of Work:	Completed in:
Bathroom remodeled including new sink, toilet, tub, flooring, and plumbing fixtures, and painting	1998
Construction of cyclone fence on south side of property	February 1999
Repair of porch handrail and front gate	August 1999
New roof	Fall 1999
Main sewer pipe replacement	March 2000
Installation of new water heater; roof repair.	March 2003
Repair wooden-framed window and screen door.	August 2003
Repair and refinish wooden screen; foundation inspection.	March 2004
New heater installed.	April 2004
Hot water pipes replaced	March 2005
Electrical rewiring of entire house including installation of new outlets; interior painting; replaced vinyl floors and carpeting; installed new window coverings; installed weather-stripping around doors and windows; installed door to back porch.	2006
Upgraded electrical system (installation of 24 volt outlet to accommodate clothes dryer)	February 2007
New screen installed.	June 2007

**DEPARTMENT OF PARKS AND RECREATION
FORMS 523 A & B**

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #: _____
HRI # _____
Trinomial _____
NRHP Status Code: _____
Other Listings _____
Review Code _____ Reviewer _____ Date _____

*Resource Name or #: 1025 West Second Street

- P1. Other Identifier: none
- *P2. .Location: *a. County Solano
- b. Address: 1025 West Second Street
- *c. City: Benicia Zip 94510
- d. UTM: N/A
- e. USGS Quad: Benicia T2N R3W MDM
- *f. Other Locational Data (APN #): 87-162-08

*P3a. Description

This is a classical revival house with an atypical moderately sloped roof. The house is rectangular in plan with a front gable roof. The gable is closed with an elaborately bracketed band and cornice. It has a small overhang and a plain fascia and verge board. There is a brick corbelled chimney on the south roof slope. The front façade is symmetrically arranged with a central entry flanked by paired windows. There is a central entry porch with a hipped roof supported on square posts. The windows are narrow double hung with a bracketed pediment at the top of the casing. The pediment functions to visually tie the paired windows into a single unit. The house is clad with clapboard.

*P3b. Resource Attributes: HP2

*P4. Resources Present: Building Structure Object Site District Element of District

P5b. Description of Photo:

Front façade, view west

*P6. Date Constructed/Age: Circa 1870

Prehistoric Historic Both

*P7. Owner and Address:

P5. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



Paula Chiotti
960 Lodi Street
Santa Rosa, CA 95401

*P8. Recorded by:

Carol Roland
Roland-Nawi Associates
4829 Crestwood Way
Sacramento, CA 95822

*P9. Date Recorded: 11-20-04

*P10. Type of Survey: Intensive

Reconnaissance Other

Describe Eligibility Evaluation

*P11. Report Citation: none

*Attachments: NONE Map Sheet Continuation Sheet Building, Structure, and Object Record Linear Resource Record Archaeological Record District Record Milling Station Record Rock Art Record Artifact Record Photograph Record Other (List):

BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Identifier: 1025 West Second Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name: none

B3. Original Use: Residential

B4. Present Use: Residential

*B5. Architectural Style:

B7. Moved? No Yes Unknown

Date: N/A Original Location: same

*B8. Related Features: None

B9a. Architect: unknown

B9b. Builder: unknown

*B10. Significance: Theme: Benicia Downtown District

Period of Significance: 1847-1940 Property Type: Single Family Applicable Criteria: A / C

The house is a good example of the Classical Revival style of which is well represented the Downtown Historic District.

The house exhibits a number of fine decorative details including its elaborate cornices and paired windows with pediments. It retains its integrity of design, workmanship, materials, setting and location. The building should be considered for addition to the list of contributors to the Benicia Downtown Historic District.

B11. Additional Resource Attributes: N/A

B12. References: McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred Knopf (1986); Bruegmann, Robert. *Benicia Portrait of an Early California Town: An Architectural History* (San Francisco: 101 Productions (1980); Woodbridge, Sally and Cannon Design Group. *Benicia, California: Downtown Historic Conservation Plan*. City of Benicia, 1990; Sanborn Map Benicia, CA. 1886; 1986 Benicia Historic Inventory form.

DRAFT RESOLUTION

RESOLUTION NO. 07- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL AUTHORIZE THE CITY MANAGER TO ENTER INTO A MILLS ACT CONTRACT FOR THE PROPERTY LOCATED AT 1025 WEST SECOND STREET

WHEREAS, the purpose of the Mills Act Program is to encourage the preservation, restoration and rehabilitation of historic properties within the City of Benicia; and

WHEREAS, the property at 1025 West Second Street is a single-family residence 50-years or older situated in the Downtown Historic District; and

WHEREAS, General Plan Goal 3.1 is to “Maintain and enhance Benicia’s historic character” and preservation and rehabilitation of the historic residential building at 1025 West Second Street is consistent with this Goal; and

WHEREAS, all exterior work undertaken pursuant to the subject Mills Act Contract must be consistent with the Secretary of the Interior’s Standards; and

WHEREAS, the City has determined that this project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that modifications to historic structures consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties are categorically exempt from further CEQA review; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on September 27, 2007 considered the Mills Act contract application of Carla and Paula Chiotti.

NOW, THEREFORE, BE IT RESOLVED that the Historic Preservation Review Commission of the City of Benicia hereby finds that:

The proposed application is consistent with General Plan Goal 3.1 as the proposed contract will allow the applicant to continue to preserve and enhance the historic residential building at 1025 West Second Street.

BE IT FURTHER RESOLVED that the Historic Preservation Review Commission recommends that the City Council approve the Mills Act Contract application of Carla and Paula Chiotti.

On motion of Commissioner , seconded by Commissioner , the above Resolution was adopted at a regular meeting of the Historic Preservation Review Commission on September 27, 2007 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Gina D. Eleccion
Historic Preservation Review Commission Secretary

DRAFT CONTRACT

WHEN RECORDED, RETURN TO:

CITY OF BENICIA
250 East L Street
Benicia, CA 94510
Attention: City Clerk

HISTORICAL PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of DATE, by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the "City"), and Carla and Paula Chiotti (hereinafter referred to as the "Owners").

WITNESSETH

A. Recitals

1. California Government Code Sections 50280, et seq. allow cities the discretion to enter into contracts with the owners of qualified historical properties, as the term is defined by Government Code Section 50280.1, for the purpose of restricting development of its cultural and historic significance and continuing maintenance of the historical property;
2. Owners possess fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address 1025 West Second Street, Benicia, CA 94510 (hereinafter, shall be referred to as the "the Historical Property"). A legal description of the Property is attached hereto and incorporated herein by this reference as Exhibit A;
3. On DATE the City Council of the City of Benicia adopted Resolution No. 07- thereby declaring its intention to enter into this Historic Property Preservation Agreement.
4. City and Owners, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of cultural and historical significance of the Property and to qualify the Property for an assessment of valuation pursuant

to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code

B. Agreement

NOW, THEREFORE, City and Owners, in consideration of the mutual promises, covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on DATE and shall remain in effect for a term of (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter "renewal date"), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owners serves notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.
2. Notice of Nonrenewal. If City or Owners desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the contract as follows: (1) Owners must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date or (2) City must serve written notice within sixty (60) days prior to the renewal date. Owners may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owners.
3. Valuation of Historical Property. During the term of this Agreement, Owners are entitled to seek assessment of valuation of the Historical Property pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.
4. Standards for Historical Property. During the term of this Agreement, the Property shall be subject to the following conditions, requirements and restrictions:
 - a) Owners shall preserve and maintain the characteristics of cultural and historical significance of the Property in accordance to the Secretary of the Interiors Standards for Rehabilitation and the minimum maintenance standards, identified in Exhibit "B", attached hereto, which shall apply to the property throughout the term of this Agreement. New additions, exterior alterations, or related new construction shall comply with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings.
 - b) Owners shall make improvements to bring the Property into good condition. Attached hereto, marked as Exhibit "C", and incorporated herein by this reference,

is a list of work that both City and Owner agree is necessary to bring the Property into good condition.

Owner shall undertake all improvements in accordance with Exhibit "C". If the schedule set out in Exhibit "C" is not complied with, then City will use the following process to determine whether the owner is making good faith progress on the schedule of work. Upon City's request, the Owner shall submit documentation of expenditures, made to accomplish the next highest priority improvement project for the property, within the last 24 months. The owner shall be determined to be in substantial compliance when the expenditures are equal to or greater than the property tax savings provided by the Property being in the Mills Act Program. This schedule set out in Exhibit "C" shall be revised to reflect the schedule change. The Community Development Director shall have the ability to administratively adjust the schedule timeline, in concurrence with the property owner, only by written recorded instrument executed by the parties hereto.

5. Inspections and Annual Reporting. Owners agree to permit the periodic examination, by prior appointment, of the interior and exterior of the Historic Property by the County Assessor, the State Department of Parks and Recreation, the State Board of Equalization and the City as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually and when any improvements or changes have been made.
6. Provision of Information. Owners hereby agree to furnish City with any and all information requested by City which City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.
7. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Section 50285 may cancel this Agreement if it determines that Owners have breached any of the conditions of the Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines that Owners have failed to restore or rehabilitate the Historical Property in the manner specified in paragraph 4 of this Agreement.

In the event of cancellation, Owners shall be subject to payment of those cancellation fees set forth in California Government Code Sections 50280 et seq., described herein. Upon cancellation, Owners shall pay a cancellation fee of twelve and one-half percent (12 1/2%) of the current fair market value of the Historic Property at the time of cancellation, as determined by the county assessor as though the Historic Property were free of any restrictions pursuant to this Agreement.

8. Enforcement of Agreement. In lieu of any provisions to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owners, City shall give written notice to Owners by registered or certified mail addressed to the address stated in the Agreement, and if such a violation is not corrected to the reasonable satisfaction of City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days provided that acts to cure the breach or default may be commenced within (30) days and must thereafter be diligently pursued to completion by Owners, then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owners growing out of the terms of this Agreement, apply to any violation by Owners or apply for such other relief as may be appropriate.
9. Waiver. City does not waive any claim of default by Owners if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.
10. Binding Effect of Agreement. Owners hereby subject the Historical Property described in Exhibit A hereto to the covenants, reservations and restrictions as set forth in this Agreement. City and Owners hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owners' successors and assigns in title or interest to the Historical Property.

Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historical Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owners hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owners hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owners.

11. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, or at any other address as may be later specified by the parties hereto.

City: City of Benicia
250 East L Street
Benicia, California 94510

Owners: Paula Chiotti
1835 Leonard Avenue
Santa Rosa, CA 95405

Carla Chiotti
1909 Dogwood Place
Richland, WA 99354

12. General Provisions

a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

b. Owners agree to and shall hold City and its elected officials, officers, agents and employees harmless from liability for damage or claims which may arise from the direct or indirect use or operations of Owners or those of their contractor, subcontractor, agenda, employee or other person acting on his/her behalf which relates to the use, operation and maintenance of the Historic Property and from any injury to property caused by the restrictions on development of the Historical Property from application or enforcement of the City's Historical Preservation Ordinance or from the enforcement of this Agreement. Owners hereby agree to and shall defend the City and its elected officials, officers, agents and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owners' activities in connections with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historical Property.

c. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and

all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

d. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

f. This Agreement shall be constructed and governed in accordance with the laws of the State of California.

13. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause the Agreement to be recorded in the office of the County Recorder of the County of Solano.

14. Notice to State Office of Historic Preservation. The Owners or Agent of the Owners shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.

15. Amendments. This Agreement may be amended, in whole or in part, only by written recorded instrument executed by the parties hereto

IN WITNESS WHEREOF, City and Owners have executed this Agreement on the day and year first written above.

Paula Chiotti
Carla Chiotti

CITY OF BENICIA

BY:
DATED:

BY: Jim Erickson, City Manager
DATED:

BY:
DATED:

APPROVED AS TO FORM

Heather McLaughlin, City Attorney

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

(See attached sheet)

EXHIBIT B

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

The following Standards are to be applied to rehabilitation projects for the Property in a reasonable manner, taking into consideration economic and technical feasibility:

- (1) The Property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of the Property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize the Property shall be avoided.
- (3) The Property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the historic property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structure(s), if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by this project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions and adjacent or related new construction shall be undertaken in

such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Please refer to the complete text for additional information.

Copied from The Secretary of the Interior's Standards for the Treatment of Historic Properties U. S. Department of the Interior, National Park Service, Weeks and Grimmer, 1995, pg. 62.

Minimum Property Maintenance:

As part of this agreement the Owners shall maintain all buildings, structures, yards and other improvements in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions (includes but does not limit to the following) are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls, and windows, broken windows, peeling exterior paint, broken structures;
2. Scrap lumber, junk, trash or debris;
3. Abandoned discarded or unused objects, equipment such as automobiles, automobile parts, furniture, appliances, containers, cans or similar items;
4. Stagnant water, including pools or spas, or open excavations;
5. Any device, decoration, design, structure, vegetation or landscape which is unsightly by reason of its height, condition or its inappropriate location;
6. graffiti;
7. Incomplete exterior construction where no building inspections have been requested for 6 or more months, or for work which does not require a building permit, where there has been no significant progress for 90 days.

EXHIBIT C

Architectural Rehabilitation and/or Restoration

The City and the Owner agree to the following Rehabilitation projects to be undertaken by the Owner in conformance with Paragraph 4b of this Agreement. The work will be conducted as indicated below.

	Project (s)	Schedule
1.	<u>Scrape, prime and paint exterior of house</u>	<u>2008</u>
2.	<u>Replace damaged wood from dry rot around perimeter of the house</u>	<u>2008</u>
3.	<u>Repair and paint wood picket fence in front yard</u>	<u>2009</u>
4.	<u>Remove or repair and paint the ramp that provides access to the side entrance on the north side</u>	<u>2009</u>
5.	<u>Replace the existing exterior aluminum window screens with wood window screens to match the existing wood screens. Repair existing exterior wood window screens as necessary</u>	<u>2010</u>
6.	<u>Repair and/or replace the wood floor boards on porch the front entry porch</u>	<u>2011</u>
7.	<u>Develop and install low maintenance landscape plan for front yard</u>	<u>2012</u>
8.	<u>General maintenance and repair as needed</u>	<u>Life of Contract</u>

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING:
SEPTEMBER 27, 2007
CONSENT CALENDAR

DATE : August 24, 2007

TO : Historic Preservation Review Commission

FROM : Community Development Department

SUBJECT : **RESOLUTION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A MILLS ACT CONTRACT FOR THE PROPERTY AT 140 EAST G STREET IN THE CITY OF BENICIA**

RECOMMENDATION:

Move to adopt Resolution No. 07- recommending that the City Council authorize the City Manager to enter into a Mills Act Contract with the property owner of 140 East G Street in the City of Benicia.

EXECUTIVE SUMMARY:

The Mills Act program is a State of California authorized mechanism by which owners of Qualified Historical Properties may use an alternative method of determining property value for tax assessment purposes. The program is available to both residential and non-residential properties. The intent of the Mills Act Program is to enhance and preserve historic buildings within the Historic Districts. The City Council approved the City of Benicia Mills Act program and assigned initial review and recommendation of Mills Act applications to the Historic Preservation Review Commission.

BUDGET INFORMATION:

The Mills Act contract will reduce the property tax paid by this property. The City of Benicia receives approximately 26% of the property taxes collected on parcels in the City. The estimated reduction in City revenue due to the subject Mills Act proposal is \$600. The City Council authorized up to \$30,000 annually of property tax rebates for Mills Act contracts, of that, approximately \$18,000 remains available for new contracts.

ENVIRONMENTAL ANALYSIS:

Mills Act contracts are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that work on historic resources that is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* is categorically

exempt from further CEQA review. Mills Act contracts require that all work performed subsequent to entering into a contract is consistent with those standards.

BACKGROUND:

On July 20, 2007, Neil Leary, owner of the residence at 140 East G Street applied to enter into a Mills Act Contract with the City of Benicia.

The property is listed as a potential landmark building in the City's Downtown Historic Conservation Plan. The subject building meets the eligibility requirements for the Mills Act Program. The applicant has met all of the submittal requirements.

The property is in fair condition with almost all of the character defining features intact and in fair to poor repair (see attached Department of Parks and Recreation (DPR) form 523A & B).

According to the DPR forms prepared by Carol Roland dated November 20, 2004, the structure at 140 East G Street was originally a Queen Anne, but was partially rebuilt in the Craftsman Style following a fire in the 1920's. The principal character-defining features of this style of building as exhibited on the subject property, are as follows:

1. Complex roof with a steeply pitched front facing gable on the east side;
2. Decorative elements associated with the Queen Anne Style including a molded fascia, prominent cornice and decorative scalloped shingles;
3. A canted bay with a rectangular pediment and wide cornice;
4. A wide covered porch that wraps around three quarters of the front façade;
5. A veranda, enclosed with an open rail;
6. One-over-one double hung windows arranged singly and in pairs; and
7. A prominent porch with Craftsman detailing that includes exposed rafters and purlins, wide fascia with cut ends and the pergola-like treatment between the gable end and lintel.

The house is in fair condition and retains much of its historic integrity. The building was constructed in 1896 and after a fire in the early 1920's burned a portion of the house, a rear single-story Craftsman style addition was constructed. In June 2006, the applicant completed the construction of a 3-car garage with a 1,080 sq. ft. two bedroom, two bathroom apartment unit. The new construction replaced a garage structure that was constructed in the 1970's. In January 2007, the applicant received HPRC approval to demolish an existing 880 square foot, 1½ story, rear residential addition. In replacement, the applicant proposes construction of a 1,240 square foot single story addition.

The ten-year rehabilitation plan includes the proposed construction, painting for the entire structure, repair of gutters, replacement of the roof, landscape improvements and other general maintenance items to preserve and enhance the subject property. These projects listed in the Rehabilitation Plan are included in "Exhibit C" of the contract. This rehabilitation work is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*

as demonstrated by the attached checklist. This type of work is appropriate for Mills Act contracts.

The applicants' proposed rehabilitation plan is consistent with the goals of the City of Benicia Mills Act program to encourage preservation, restoration and rehabilitation of historic properties. The proposal is also consistent with the City of Benicia General Plan Goal 3.1 which is to "Maintain and enhance Benicia's historic character."

Attachments:

- Secretary of Interior's Standards for Rehabilitation Checklist
- Rehabilitation and Maintenance Plan
- Department of Parks and Recreation forms 523 A & B
- Draft Resolution recommending City Council approval of Mills Act contract 140 East G Street.
- Draft Contract

**CHECKLIST FOR THE SECRETARY OF THE
INTERIOR'S STANDARDS FOR
REHABILITATION**

Secretary of Interior's Standards for Rehabilitation
Mills Act Contract (07PLN-0053)
140 East G Street, Benicia, CA

Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, rehabilitation may be considered as a treatment.

The bold text is the applicable Secretary of Interior's Standard for Rehabilitation guideline. The regular text is staff's response about how the particular guideline or policy relates to the proposed project.

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

The structure was originally a residential building and will continue to be used as such. The defining characteristics of the main buildings will be maintained.

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

The structure at 140 East G Street was originally a Queen Anne Style house, but the building was partially rebuilt in the Craftsman Style following a fire in the 1920's. As it exist today, the house combines elements of both styles. The principal character-defining features of this style of building as exhibited on the subject property, are as follows:

1. Complex roof with a steeply pitched front facing gable on the east side;
2. Decorative elements associated with the Queen Anne Style including a molded fascia, prominent cornice and decorative scalloped shingles;
3. A canted bay with a rectangular pediment and wide cornice;
4. A wide covered porch that wraps around three quarters of the front façade;
5. A veranda, enclosed with an open rail;
6. One-over-one double hung windows arranged singly and impairs; and
7. A prominent porch with Craftsman detailing that includes exposed rafters and purlins, wide fascia with cut ends and the pergola-like treatment between the gable end and lintel.

These character-defining features are still present will be retained and preserved. The proposal does not involve the removal of distinctive materials or alteration of features, spaces and spatial relationship that characterizes the property.

3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural

features or elements from other historic properties, will not be undertaken.

The proposal functions as a timeline that clearly differentiates the old from the new, by infusing architectural features from the existing addition with the architectural features of the recently constructed garage and second dwelling unit. This project does not involve adding conjectural features or elements taken from other historic properties.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

The applicant has chosen to preserve and retain the most significant historic architectural elements. The proposed addition will incorporate some of the architectural features found in the existing additions, so that period in history will not be completely lost.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

The existing features of the Queen Anne main structure will be preserved and the new addition will incorporate features of the existing Craftsman style addition while incorporating features and construction techniques that are common in construction today.

All other renovations will first attempt to repair and if necessary replace in-kind distinctive materials, features, finishes, and construction techniques of the building.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

Deteriorated historic features that cannot be repaired will be replaced in-kind and will match the old in design, color, and texture.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

Any surface cleaning of the historically significant structure will be undertaken using the gentlest methods available.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

This standard does not apply to this project.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

The addition will enhance the practical use of the main structure, while maintaining the historic character of the property. The existing main structure will not be negatively impacted by the construction of the proposed addition. The addition will be compatible in size, scale, location, and features with the existing addition.

All other exterior alterations will be limited to repair or replacement in-kind therefore will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

If in the future the new addition is removed the essential form and integrity of the historic property would be unimpaired since the new addition is basically replacing the existing addition and the structure is minimally visible from the street.

REHABILITATION AND MAINTENANCE PLAN

**140 East G Street
Ten-Year Rehabilitation and Maintenance Plan**

Project (s)	Schedule
1. <u>Replace the roof with a composition shingle type roof, similar to the existing. Repair the gutters. Final roofing materials shall be approved by the Community Development Director prior to installation.</u>	<u>2008</u>
2. <u>Construction of the approved single story structure to replace the structure that was demolished in 2007.</u>	<u>2009</u>
3. <u>Paint the entire structure.</u>	<u>2009</u>
4. <u>Install new landscaping in front yard.</u>	<u>2010</u>
5. <u>General maintenance and repair as needed</u>	<u>Life of Contract</u>

**DEPARTMENT OF PARKS AND RECREATION
FORMS 523 A & B**

State of California — The Resources Agency
 DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #: _____
 HRI # _____
 Trinomial _____
 NRHP Status Code: _____
 Other Listings _____
 Review Code _____ Reviewer _____ Date _____

*Resource Name or #: 140 East G Street
 P1. Other Identifier: none
 *P2. Location: *a. County Solano
 b. Address 140 East G Street
 *c. City: Benicia Zip 94510
 d. UTM: N/A
 e. USGS Quad: Benicia T2N R3W MDM
 *f. Other Locational Data (APN #): 89-342-04
 *P3a. Description:

Originally a Queen Anne Style house, the building was partially rebuilt in the Craftsman Style following a fire in the 1920s. As it exists today, the house combines elements of both styles. Compound in plan, the house has a complex roof with a steeply pitched front facing gable on the east side. This gable dates from the 1896 construction and exhibits several decorative elements associated with the Queen Anne Style including a molded fascia, prominent cornice and decorative scalloped shingles. A canted bay with a rectangular pediment and wide cornice are found on the lower story of the gable wall. On the west side of the house the roof is hipped with a broad curve at the northwest corner. At the first story level a wide covered porch wraps around three quarters of the front façade and continues on the west side of the house. The porch is covered with a flat roof supported on Tuscan columns. A veranda, enclosed with an open rail, is set on top of the porch roof. Fenestration consists of one-over one double hung windows arranged singly and in pairs. On the east side of the house a prominent porch with Craftsman detailing was added in the 1920s. Particularly noteworthy details of the side porch include the exposed rafters and purlins, wide fascia with cut ends and the pergola-like treatment between the gable end and lintel.

*P3b. Resource Attributes: HP2

P5. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



*P4. Resources Present: Building Structure Object Site District
 Element of District

P5b. Description of Photo:

Front façade, view northwest

*P6. Date Constructed/Age: 1896/1922

Prehistoric Historic Both

*P7. Owner and Address:

Patrick Leary
 140 East G Street
 Benicia, CA 94510

*P8. Recorded by:

Carol Roland
 Roland-Nawi Associates
 4829 Crestwood Way
 Sacramento, CA 95822

*P9. Date Recorded: 11-20-04

*P10. Type of Survey: Intensive

Reconnaissance

Other

Describe Eligibility Evaluation

*P11. Report Citation: none

*Attachments: NONE Map Sheet

Continuation Sheet Building, Structure, and

Object Record Linear Resource Record

Archaeological Record District Record

Milling Station Record Rock Art Record
 Artifact Record Photograph Record Other (List):

BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Identifier: 140 East G Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name: none

B3. Original Use: residential

B4. Present Use: residential

*B5. Architectural Style: Combination of Queen Anne and Craftsman

*B6. Construction History: The building was constructed in 1896. According to interviews conducted during the 1986 historical survey the original two-story portion of the house burned in 1922 and was replaced with the single story rear section that exists today. It is probable that the Craftsman style porch was also added to the house at the time of the 1922 construction. The replacement of the rear wing of the house and the porch replacement took place within the period of significance.

*B7. Moved? No Yes Unknown

Date: N/A Original Location: same

*B8. Related Features: none

B9a. Architect: unknown

B9b. Builder: unknown

*B10. Significance: Theme: Benicia Downtown District Period of Significance: 1847-1940 Property Type: Single Family Applicable Criteria: A / C

The house is an interesting example of the combination of two popular styles: one, the Queen Anne, from the late 19th century, and other, the Craftsman, from the 1920s. The original Queen Anne construction is most evident in the eastern gable end wing of the house, while the western façade, rear portion of the house, and side porch most clearly represent the later additions in the Craftsman Style. The house is large and has a strong street presence. It reflects the economic prosperity of industrial Benicia in the 1890s. It is eligible for listing in the California Register under both Criteria A and C. The house is a contributing element to the Benicia Downtown Historic District and has been identified as a Potential Landmark building. It has excellent integrity, continues to contribute to the historic district and should be considered for Landmark status.

B11. Additional Resource Attributes: N/A

B12. References: McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred Knopf (1986); Bruegmann, Robert. *Benicia Portrait of an Early California Town: An Architectural History* (San Francisco: 101 Productions (1980); Woodbridge, Sally and Cannon Design Group. *Benicia, California: Downtown Historic Conservation Plan*. City of Benicia, 1990; Sanborn Map Benicia, CA. 1886; 1986 Benicia Historic Inventory form.

DRAFT RESOLUTION

RESOLUTION NO. 07- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL AUTHORIZE THE CITY MANAGER TO ENTER INTO A MILLS ACT CONTRACT FOR THE PROPERTY LOCATED AT 140 EAST G STREET

WHEREAS, the purpose of the Mills Act Program is to encourage the preservation, restoration and rehabilitation of historic properties within the City of Benicia; and

WHEREAS, the property at 140 East G Street is listed as a potential landmark building in the Downtown Historic Conservation Plan; and

WHEREAS, General Plan Goal 3.1 is to “Maintain and enhance Benicia’s historic character” and preservation and rehabilitation of the historic building at 140 East G Street is consistent with this Goal; and

WHEREAS, all exterior work undertaken pursuant to the subject Mills Act Contract must be consistent with the Secretary of the Interior’s Standards; and

WHEREAS, the City has determined that this project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15331, which states that modifications to historic structures consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties are categorically exempt from further CEQA review; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on September 27, 2007 considered the Mills Act contract application of Neil Leary.

NOW, THEREFORE, BE IT RESOLVED that the Historic Preservation Review Commission of the City of Benicia hereby finds that:

The proposed application is consistent with General Plan Goal 3.1 as the proposed contract will allow the applicant to continue to preserve and enhance a historic building at 140 East G Street.

BE IT FURTHER RESOLVED that the Historic Preservation Review Commission recommends that the City Council approve the Mills Act Contract application of Neil Leary.

On motion of Commissioner , seconded by Commissioner , the above Resolution was adopted at a regular meeting of the Historic Preservation Review Commission on September 27, 2007 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Gina D. Eleccion
Historic Preservation Review Commission Secretary

DRAFT CONTRACT

WHEN RECORDED, RETURN TO:

CITY OF BENICIA
250 East L Street
Benicia, CA 94510
Attention: City Clerk

HISTORICAL PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of DATE, by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the “City”), and Neil Leary (hereinafter referred to as the “Owner”).

WITNESSETH

A. Recitals

1. California Government Code Sections 50280, et seq. allow cities the discretion to enter into contracts with the owners of qualified historical properties, as the term is defined by Government Code Section 50280.1, for the purpose of restricting development of its cultural and historic significance and continuing maintenance of the historical property;
2. Owner possess fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address 140 East G Street, Benicia, CA 94510 (hereinafter, shall be referred to as the “the Historical Property”). A legal description of the Property is attached hereto and incorporated herein by this reference as Exhibit A;
3. On DATE the City Council of the City of Benicia adopted Resolution No. 07- thereby declaring its intention to enter into this Historic Property Preservation Agreement.
4. City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of cultural and historical significance of the Property and to qualify the Property for an assessment of valuation pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code

B. Agreement

NOW, THEREFORE, City and Owner, in consideration of the mutual promises, covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on DATE and shall remain in effect for a term of (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter "renewal date"), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owner serves notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.
2. Notice of Nonrenewal. If City or Owner desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the contract as follows: (1) Owner must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date or (2) City must serve written notice within sixty (60) days prior to the renewal date. Owner may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owner.
3. Valuation of Historical Property. During the term of this Agreement, Owner is entitled to seek assessment of valuation of the Historical Property pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.
4. Standards for Historical Property. During the term of this Agreement, the Property shall be subject to the following conditions, requirements and restrictions:
 - a) Owner shall preserve and maintain the characteristics of cultural and historical significance of the Property in accordance to the Secretary of the Interiors Standards for Rehabilitation and the minimum maintenance standards, identified in Exhibit "B", attached hereto, which shall apply to the property throughout the term of this Agreement. New additions, exterior alterations, or related new construction shall comply with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings.
 - b) Owner shall make improvements to bring the Property into good condition. Attached hereto, marked as Exhibit "C", and incorporated herein by this reference, is a list of work that both City and Owner agree is necessary to bring the Property into good condition.

Owner shall undertake all improvements in accordance with Exhibit "C". If the schedule set out in Exhibit "C" is not complied with, then City will use the following process to determine whether the owner is making good faith progress on the schedule of work. Upon City's request, the Owner shall submit documentation of expenditures, made to accomplish the next highest priority improvement project for the property, within the last 24 months. The owner shall be determined to be in substantial compliance when the expenditures are equal to or greater than the property tax savings provided by the Property being in the Mills Act Program. This schedule set out in Exhibit "C" shall be revised to reflect the schedule change. The Community Development Director shall have the ability to administratively adjust the schedule timeline, in concurrence with the property owner, only by written recorded instrument executed by the parties hereto.

5. Inspections and Annual Reporting. Owner agrees to permit the periodic examination, by prior appointment, of the interior and exterior of the Historic Property by the County Assessor, the State Department of Parks and Recreation, the State Board of Equalization and the City as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement. Owner agrees to provide the City with a report as to the status of the Historic Property annually and when any improvements or changes have been made.
6. Provision of Information. Owner hereby agree to furnish City with any and all information requested by City when the City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.
7. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Section 50285 may cancel this Agreement if it determines that Owner has breached any of the conditions of the Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines that Owner has failed to restore or rehabilitate the Historical Property in the manner specified in paragraph 4 of this Agreement.

In the event of cancellation, Owner shall be subject to payment of those cancellation fees set forth in California Government Code Sections 50280 et seq., described herein. Upon cancellation, Owner shall pay a cancellation fee of twelve and one-half percent (12 1/2%) of the current fair market value of the Historic Property at the time of cancellation, as determined by the county assessor as though the Historic Property were free of any restrictions pursuant to this Agreement.

8. Enforcement of Agreement. In lieu of any provisions to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or

certified mail addressed to the address stated in the Agreement, and if such a violation is not corrected to the reasonable satisfaction of City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days provided that acts to cure the breach or default may be commenced within (30) days and must thereafter be diligently pursued to completion by Owner, then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner growing out of the terms of this Agreement, apply to any violation by Owner or apply for such other relief as may be appropriate.

9. Waiver. City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.
10. Binding Effect of Agreement. Owner hereby subject the Historical Property described in Exhibit A hereto to the covenants, reservations and restrictions as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historical Property.

Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historical Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

11. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, or at any other address as may be later specified by the parties hereto.

City: City of Benicia
250 East L Street
Benicia, California 94510

Owner: Neil Leary
140 East G Street
Benicia, CA 94510

12. General Provisions

a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

b. Owner agree to and shall hold City and its elected officials, officers, agents and employees harmless from liability for damage or claims which may arise from the direct or indirect use or operations of Owner or those of their contractor, subcontractor, agenda, employee or other person acting on his/her behalf which relates to the use, operation and maintenance of the Historic Property and from any injury to property caused by the restrictions on development of the Historical Property from application or enforcement of the City's Historical Preservation Ordinance or from the enforcement of this Agreement. Owner hereby agree to and shall defend the City and its elected officials, officers, agents and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner's activities in connections with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historical Property.

c. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

d. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

f. This Agreement shall be constructed and governed in accordance with the laws of the State of California.

13. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause the Agreement to be recorded in the office of the County Recorder of the County of Solano.
14. Notice to State Office of Historic Preservation. The Owner or Agent of the Owner shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.
15. Amendments. This Agreement may be amended, in whole or in part, only by written recorded instrument executed by the parties hereto

IN WITNESS WHEREOF, City and Owners have executed this Agreement on the day and year first written above.

Neil Leary

CITY OF BENICIA

BY:

DATED:

BY: Jim Erickson, City Manager

DATED:

APPROVED AS TO FORM

Heather McLaughlin, City Attorney

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

(See attached sheet)

EXHIBIT B

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

The following Standards are to be applied to rehabilitation projects for the Property in a reasonable manner, taking into consideration economic and technical feasibility:

- (1) The Property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of the Property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize the Property shall be avoided.
- (3) The Property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the historic property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structure(s), if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by this project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions and adjacent or related new construction shall be undertaken in

such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Please refer to the complete text for additional information.

Copied from The Secretary of the Interior's Standards for the Treatment of Historic Properties U. S. Department of the Interior, National Park Service, Weeks and Grimmer, 1995, pg. 62.

Minimum Property Maintenance:

As part of this agreement the Owner shall maintain all buildings, structures, yards and other improvements in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions (includes but does not limit to the following) are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls, and windows, broken windows, peeling exterior paint, broken structures;
2. Scrap lumber, junk, trash or debris;
3. Abandoned discarded or unused objects, equipment such as automobiles, automobile parts, furniture, appliances, containers, cans or similar items;
4. Stagnant water, including pools or spas, or open excavations;
5. Any device, decoration, design, structure, vegetation or landscape which is unsightly by reason of its height, condition or its inappropriate location;
6. graffiti;
7. Incomplete exterior construction where no building inspections have been requested for 6 or more months, or for work which does not require a building permit, where there has been no significant progress for 90 days.

EXHIBIT C

Architectural Rehabilitation and/or Restoration

The City and the Owner agree to the following Rehabilitation projects to be undertaken by the Owner in conformance with Paragraph 4b of this Agreement. The work will be conducted as indicated below.

	Project (s)	Schedule
1.	<u>Replace the roof with a composition shingle type roof, similar to the existing. Repair the gutters. Final roofing materials shall be approved by the Community Development Director prior to installation.</u>	<u>2008</u>
2.	<u>Construction of the approved single story structure to replace the structure that was demolished in 2007.</u>	<u>2009</u>
3.	<u>Paint exterior.</u>	<u>2009</u>
4.	<u>Install new landscaping in front yard.</u>	<u>2010</u>
5.	<u>General maintenance and repair as needed</u>	<u>Life of Contract</u>

**AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION
SEPTEMBER 27, 2007
CONSENT CALENDAR**

DATE : September 18, 2007

TO : Historic Preservation Review Commission

FROM : Community Development Department

SUBJECT : **REVIEW OF DESIGN REVIEW APPROVAL REQUEST FOR EXTERIOR REMODEL TO THE BENICIA CONTINENTAL APARTMENTS LOCATED AT 510-550 WEST K STREET AND 501 WEST 5TH STREET (522 ½ WEST K STREET-LEASING OFFICE)**

PROJECT : Benicia Continental Apartments Remodel
510-550 West K Street and 501 West 5th Street (522 ½ West K Street-
Leasing Office), APN: 0087-145-010, -030, -040, -050
06PLN-00059 Design Review Permit

RECOMMENDATION:

The Historic Preservation Review Commission move to approve Design Review 07PLN-00059 for the exterior remodel of the existing apartment complex “Benicia Continental Apartments” located at 510-550 West K Street and 501 West 5th Street (522 ½ West K Street-Leasing Office), based on the findings, and subject to the conditions listed in the attached resolution.

EXECUTIVE SUMMARY:

The applicant requests Design Review approval for an exterior remodel to an existing apartment complex “Benicia Continental Apartments” located at 510-550 West K Street and 501 West 5th Street (522 ½ West K Street-Leasing Office). The changes include modifications to the exterior stairs, exterior sheathing and the roofline.

BUDGET INFORMATION:

No City budgetary impacts are anticipated.

ENVIRONMENTAL ANALYSIS:

Staff has determined that this project is Categorically Exempt under Section 15301 of the State CEQA Guidelines, Existing Facilities. Class 1 exempts interior and exterior alterations where the project involves negligible or no expansion of an existing use, from the provisions of CEQA.

BACKGROUND:

Applicant: Dan Lieberman, Horizon Management Group

Owner: Brentwood Village Apartments

General Plan designation/Zoning: Multi-Family Residential/PD, Planned Development

Existing and Proposed use: Multi-Family Residential

Adjacent zoning and uses:

North: RS, Single Family Residential/ Residential

East: RS, Single Family Residential/Residential and RM, Medium Density Residential/ Residential

South: CC, Community Commercial/ Commercial and PD, Planned Development/ Residential

West: CC, Community Commercial/ Commercial and RM, Medium Density Residential/ Residential

SUMMARY:

Site Description

The Benicia Continental Apartments are located on West K Street between West 5th Street and Claverie Way. The project site is located over four irregular shaped parcels measuring 73,486 square feet. The complex consists of five, two-story apartment buildings totaling 38,290 square feet in floor area. Four of the buildings are located along West K Street and one building is located along Claverie Way near West 5th Street.

Project Description

The architectural style of the apartment complex is simple, two-story residential buildings. The buildings are clad with vertical wood siding with brick facia along the lower portion of the first story. The exterior stairs leading to the second story units are comprised of open concrete steps with rod iron railings. The buildings have mansard roofs that are clad with wood shake. With the exception of the wood trim work that runs along the top of the first floor windows, the building lacks architectural detail on the façade.

The proposed remodel would consist of a series of exterior upgrades to all five buildings in the apartment complex. These exterior modifications would include:

1. Exterior Stairs:
 - a. Building A. The stairs leading to the upstairs units would be shifted laterally so they are no longer located directly in front of the front doors of the upstairs units.
 - b. Building B, C & D. The configuration of the stairs would change so that half way up the run the stairs would be at a 90-degree turn.

2. Roofline:

The existing mansard roofline would be modified to a traditional parapet roofline. The parapet would be fenestrated with a cornice and dentils resembling an Italianate Victorian architectural style. This style is common on both residential and commercial buildings.

3. Siding Materials:

The existing vertical wood side would be removed and replaced with horizontal 7-inch wide Hardiplank lap siding. The existing brick veneer along the lower portion of the first story will remain. Over the years numerous utility wires (cable, etc.) have been fastened to the buildings façade running from apartment windows to the roof. As part of the re-siding, the existing utility wires will be incorporated behind the siding, so the façade will have less clutter.

4. Paint Colors:

The Cornice and Dentils would be painted off-white “Swiss Coffee”. The Window trims would be a light beige/gray “Malibu Beige” and the siding would be a medium toned beige/gray “Chadwick”.

5. Windows:

The existing aluminum windows would be replaced with white vinyl framed windows. New decorative wood trim would be added around the perimeter of the windows and painted a light beige/gray “Malibu Beige”.

6. Lighting:

Exterior lighting on the building is provided at the front and rear entries. As part of the remodel the exterior lighting will be replaced with new consistent lighting fixtures throughout the complex. Section 17.70.250D2 states that security lighting may be indirect or diffused, or shall be shielded or directed away from adjoining properties and public rights of way. The applicant has not yet determined the specific type, style and location of the new lighting fixtures. Therefore, this requirement is reflected in the attached condition of approval.

General Plan and Zoning Consistency

According to Section 17.108.010 Design Review is intended to ensure that the architectural design of structures, their material, and colors are visually harmonious with surrounding development and with the natural landforms, etc. The proposed exterior remodel is intended to enhance the aesthetic quality design of the subject property and contribute to the overall enhancement of the neighborhood.

FURTHER ACTION:

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

Attachments:

- Draft Resolution
- Project Plans with Photographs**

*** If viewing online, this attachment is available to view in the Community Development Department or in the Benicia Public Library in the September 27, 2007 Historic Preservation Review Commission packet.*

DRAFT RESOLUTION

RESOLUTION NO. 07- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING DESIGN REVIEW PERMIT FOR THE EXTERIOR REMODEL OF THE BENICIA CONTINENTAL APARTMENT COMPLEX LOCATED AT 510-550 WEST K STREET AND 501 WEST 5TH STREET (07PLN-59)

WHEREAS, Dan Lieberman with Horizon Management Group on behalf of Brentwood Village Apartments, requested design review approval for the exterior remodel for the apartment complex “Benicia Continental Apartments” located at 510-550 West K Street and 501 West 5th Street (522 ½ West K Street-Leasing Office); and

WHEREAS, the Historic Preservation Review Commission, at a regular meeting on September 27, 2007, conducted a public hearing to review the request; and

NOW, THEREFORE BE IT RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby finds that:

- A. This project is Categorically Exempt under Section 15301 of the State CEQA Guidelines, Existing Facilities. Class 1 exempts interior and exterior alterations where the project involves negligible or no expansion of an existing use, from the provisions of CEQA.
- B. The design of this project is consistent with the purposes of the City of Benicia Zoning Ordinance

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby approves the design review permit subject to the following conditions:

1. The plans submitted for approval and development of the site shall be in substantial compliance with the plans dated received “August 1, 2007” prepared by Loving and Campos Architects, Inc. marked Exhibit “A” and consisting of 12 sheets on file in the Community Development Department.
2. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
3. This approval shall expire two years from the date of approval, unless made permanent by the issuance of a building permit and the commencement of work that is diligently pursued to completion. Alternatively, the time period may be extended, by the Community Development Director, if the application for time extension is received prior to the end of the initial two year deadline and there has been no change in the City’s development policies which affect the site, and there is no change in the

physical circumstances nor new information about the project site which would warrant reconsideration of the approval.

4. Any alteration of the approved plans, including substitution of materials or changes in paint colors, shall be requested in writing and approved by the Community Development Director or designee prior to changes being made in the field.
5. Construction activities shall meet all municipal code requirements for hours of operation. Construction equipment shall be adequately muffled and controlled. These requirements shall be made a condition of all related contracts for the project.
6. The paint colors shall be consistent with the submitted paint samples as follows: The Cornice and Dentils shall be painted off-white "Swiss Coffee". The Window trims shall be light beige/gray "Malibu Beige" and the siding shall be medium toned beige/gray "Chadwick".
7. The new siding shall be 7-inch wide Hardiplank lap siding consistent with the submitted material sample.
8. Exterior security lighting may be indirect or diffused, or shall be shielded or directed away from adjoining properties and public rights of way. Prior to issuance of a building permit, a lighting plan shall be submitted for the Community Development Director for review and approval.
9. The existing aluminum windows shall be replaced with white vinyl window frames.
10. 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 Planning Commission, City Council, Community Development Director's, Historic Preservation Review Commission 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 at a regular meeting of the Historic Preservation Review Commission on September 27, 2007 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Gina Eleccion

Historic Preservation Review Commission Secretary



Community Development Department
MEMORANDUM

Date: September 27, 2007
To: HPRC Commissioners
From: Mike Marcus, Assistant Planner
Re: Continuance for 1401 East Fifth Street

In a September 18th, 2007 conversation with the project architect, B. Clyde Beck, staff learned that the applicant is substantially updating the initially submitted plans. To allow adequate review and analysis of the newly submitted plans, staff is recommending that the Commission continue the agenda item to the next regular meeting of the HPRC scheduled for October 25th, 2007.

The Commission will open the public hearing and take public testimony. No discussion or action can be taken on this item until the October 25th meeting.

The staff report, including all public comments received and staff's response to the comments, will be available on October 25th, 2007.

**AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION
SEPTEMBER 27, 2007
REGULAR AGENDA ITEM**

DATE : September 18, 2007

TO : Historic Preservation Review Commission

FROM : Community Development Department

SUBJECT : **REVIEW OF DESIGN REVIEW APPROVAL REQUEST
FOR 149 WEST F STREET (APN: 089-115-190).**

RECOMMENDATION:

Move to approve Design Review 07PLN-62 to expand the first story and add a partial second story to the existing detached residential unit located in rear yard of 149 West F Street, based on the Findings and Conditions of Approval set forth in the attached resolution.

EXECUTIVE SUMMARY:

The applicant requests design review approval to add a 499 square foot addition to the existing detached dwelling unit located in the rear yard of the subject property at 149 West F Street. This unit is individually addressed as 153 West F Street. The proposal would expand the first story and add a partial second story.

ENVIRONMENTAL ANALYSIS:

Staff has determined that this project is Categorically Exempt under Section 15303(b) of the State CEQA Guidelines, New Construction or Conversion of Small Structures. Class 3 exempts small residential projects, including duplexes, from the provisions of CEQA.

BACKGROUND:

The subject property has a General Plan and zoning designation of RM, Medium Density Residential. The RM zoning designation allows up to 1 residential unit for every 3,000 square feet of lot area. The site area is 6,250 square feet.

SUMMARY:

A. Project Description

The proposed project is to expand the existing detached residential unit located in the rear of the subject property. The alteration would include the expansion of the first story and addition of a partial second story. The project would add a total of 499 square feet to the

existing dwelling unit. No alteration to the primary residential structure is proposed as part of this application.

B. Site Description

The subject property is located on the north side of West F Street between First and West Second Streets. The property is set on an incline and leveling off towards the rear. The detached rear residential unit and the existing detached garage for the main structure are accessed via the alley that runs along the rear property line. The primary structure fronting on West F Street is a one-story Craftsman Bungalow and designated as a contributing structure to the Downtown Historic District.

The detached rear residential unit is a small single-story structure with minimal architectural detail. According to Sanborn Fire Insurance Company maps, this building was constructed around the same time the primary building. The Sanborn maps document it to be historically used as a residential unit. The building appears to have had minimal alterations. The building's first footprint shown on the 1942 Sanborn map is consistent with the footprint of the current building. The building has a moderately pitched roof which is clad with composition shingles. The façade is clad with horizontal lap. The windows along the alley are small and surrounded by a simple wood frame. The building appears to retain much of its original integrity.

C. Project Analysis

Note: This project was submitted prior to the second reading of the Downtown Mixed Use Master Plan. The standards of the Downtown Historic Conservation Plan, Zoning Ordinance, and Downtown Mixed Use Master Plan are used in evaluating this project.

Downtown Historic Conservation Plan (DHCP)

Alterations to residential buildings in the Downtown Historic District are regulated by Chapter 5 Design Guidelines in the DHCP. Typically only the primary building is considered in evaluating a property's historic importance to the Downtown Historic District, however detached accessory buildings could also play an important role in the development of a property. Built around the same time as the principle structure, the detached residential unit's historic significance should be considered in applying the DHCP.

The DHCP encourages building forms that are similar in scale, form, and design and are architecturally compatible with the existing structure(s). The DHCP further states that horizontal wood siding is a preferred principal building material. The project proposes to use 7" hardiplank horizontal lap siding. This material is visually compatible with the existing material on both residential structures on the property. The basic structure of the proposed building architecturally integrates well with the existing structures.

Zoning Ordinance

The RM, Medium Density Residential zoning district requires a rear yard setback of 15 feet. The existing detached residential unit is located 4 feet from the rear property line and projects 11 feet into the required rear yard. Zoning Ordinance Section 17.98.030 D states that *no nonconforming structure shall be altered so as to increase the discrepancy between existing conditions and the standards for front yards, side yards, rear yards,*

height of structures, etc. Under this requirement, no expansion or alteration can be made to the portion of the building located within the required setbacks.

The height of the existing building within the required rear setback is 14 feet to peak of roof. The proposed project includes a small vertical expansion of the first floor within this area of 2.5 feet making the total height of the structure within the required rear setback 17.5 feet. In order to meet the requirements of the Zoning Ordinance this portion of the existing building must retain its existing height of 14 feet. Given the historic integrity of this building, staff recommends that the project be modified to not only comply with the Zoning Ordinance but also preserve the existing historic features of the building. Staff recommends that the existing window openings and roofline along the alley be preserved. Preserving the existing roofline and opening would preserve the historic façade along the alley. This code requirement and recommendation are reflected in the attached conditions of approval.

Downtown Mixed Use Master Plan

The subject property is located within the Neighborhood General (NG) district in the Downtown Mixed Use Maser Plan. The NG district requires 1 off-street parking space for residential units with 1-2 bedrooms. As part of the project, a parking space will be added to serve the detached residential unit. Access to the new and existing parking garage would be provided by the alley along the rear property line.

Paint Colors

Paint samples were not submitted as part of the application. If the selected paint colors are different than the existing yellow hue, staff recommends that a sample board of proposed paint colors be submitted to the Community Development Director for review and approval.

Conclusion

Generally, this proposed project meets the intent and standards presented in the City's development regulations. As stated in the staff report and attached conditions of approval, some minor modifications need to be made to the proposed project in order to conform to the City's standards. Staff recommends approval of this project based on the proposed modification set forth in the attached conditions of approval.

FURTHER ACTION:

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

Attachments:

- Draft Resolution
- Project Plans**

*** If viewing online, this attachment is available to view in the Community Development Department or in the Benicia Public Library in the September 27, 2007 Historic Preservation Review Commission packet.*

DRAFT RESOLUTION

RESOLUTION NO. 07- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING DESIGN REVIEW PERMIT TO EXPAND THE EXISTING DETACHED RESIDENTIAL UNIT LOCATED IN THE REAR YARD OF 149 WEST F STREET (07PLN-62)

WHEREAS, Verna Gollnick, property owner, requested design review approval to expand the first story and add a partial second story to the existing residential unit located in rear yard of 149 West F Street (The unit is individually addressed as 153 West F Street); and

WHEREAS, the Historic Preservation Review Commission, at a regular meeting on September 27, 2007, conducted a public hearing to review the request; and

NOW, THEREFORE BE IT RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby finds that:

- A. This project is Categorically Exempt under Section 15303(b) of the State CEQA Guidelines, New Construction or Conversion of Small Structures. Class 3 exempts small residential projects, including duplexes, from the provisions of CEQA.
- B. The design of this project is consistent with the purposes of the City of Benicia Zoning Ordinance.

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia hereby approves the design review permit subject to the following conditions:

1. The plans submitted for approval and development of the site shall be in substantial compliance with the plans dated received "August 6, 2007" prepared by Steven McKee-Architect marked Exhibit "A" and consisting of 4 sheets on file in the Community Development Department.
2. This approval shall expire two years from the date of approval, unless made permanent by the issuance of a building permit and the commencement of work that is diligently pursued to completion. Alternatively, the time period may be extended, by the Community Development Director, if the application for time extension is received prior to the end of the initial two year deadline and there has been no change in the City's development policies which affect the site, and there is no change in the physical circumstances nor new information about the project site which would warrant reconsideration of the approval.
3. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.

4. Any alteration of the approved plans, including substitution of materials or changes in paint colors, shall be requested in writing and approved by the Community Development Director, or designee prior to changes being made in the field.
5. The applicant shall revise the project plans to reduce the height of the building to the existing 14 feet within the 15 foot rear yard setback area by preserving the existing window openings and roofline along the alley. Revised plans shall be reviewed and approved by the Community Development Director, or designee, prior to issuance of a building permit for the project.
6. The siding shall be 7” hardiplank lap siding.
7. If the proposed paint colors are different than the existing yellow hue, the Community Development Director, or designee, shall review the color scheme of the building and shall approve the color scheme prior to issuance of a building permit.
8. 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 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 at a regular meeting of the Historic Preservation Review Commission on September 27, 2007 by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Gina Eleccion
Historic Preservation Review Commission Secretary