

September 27, 2012

BENICIA HISTORIC PRESERVATION REVIEW COMMISSION

REGULAR MEETING AGENDA

City Hall Commission Room

Thursday, September 27, 2012

6:30 P.M.

I. OPENING OF MEETING:

A. Pledge of Allegiance

B. Roll Call of Commissioners

C. Reference to Fundamental Rights of Public - A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030 of the City of Benicia's Open Government Ordinance.

II. ADOPTION OF AGENDA:

III. OPPORTUNITY FOR PUBLIC COMMENT

This portion of the meeting is reserved for persons wishing to address the Commission on any matter not on the agenda that is within the subject matter jurisdiction of the Historic Preservation Review Commission. State law prohibits the Commission from responding to or acting upon matters not listed on the agenda. Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on commissioners, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

A. WRITTEN COMMENT

B. PUBLIC COMMENT

IV. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for removal for discussion or explanation is received from the Historic Preservation Review Commission or a member of the public by submitting a speaker slip for that item.*Any Item identified as a Public Hearing has been placed on the Consent Calendar because it has not generated any public interest or dissent. However, if any member of the public wishes to comment on a Public Hearing item, or would like the item placed on the regular agenda, please notify the Community Development Staff either prior to, or at the Historic Preservation Review Commission meeting, prior to the reading of the Consent Calendar.

A. Approval of Minutes of August 23, 2012

V. REGULAR AGENDA ITEMS

A. MILLS ACT PROGRAM STATUS

Prior to review of this year's Mills Act Contract applications staff will provide an overview of the Mills Act Program including a [summary of the costs and available funds](#).

B. 135 EAST J STREET – MILLS ACT CONTRACT (12PLN-00014)

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

Recommendation: Recommend City Council approval of Mills Act Contract.

C. 175 WEST H STREET – MILLS ACT CONTRACT (12PLN-00023)

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

Recommendation: Recommend City Council approval of Mills Act Contract.

D. 288 WEST J STREET – MILLS ACT CONTRACT (12PLN-00027)

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

Recommendation: Recommend City Council approval of Mills Act Contract.

VII. COMMUNICATIONS FROM STAFF

VIII. COMMUNICATIONS FROM COMMISSIONERS

IX. ADJOURNMENT

Public Participation

The Benicia Historic Preservation Review Commission welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The Historic Preservation Review Commission allows speakers to speak on agendized and non-agendized matters under public comment. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the Historic Preservation Review Commission.

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

Disabled Access

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

Meeting Procedures

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

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

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

Appeals of Historic Preservation Review Commission decisions that are final actions, not recommendations, are considered by the Planning Commission. Appeals must be filed in the Community Development Department in writing, stating the basis of appeal with the appeal fee within 10 business days of the date of action.

Public Records

The agenda packet for this meeting is available at the City Clerk's Office, the Benicia Public Library and the Community Development Department during regular working hours. The Community Development Department is open Monday through Friday (except legal holidays), 8:30 a.m. to 5 p.m. (closed from noon to 1 p.m.). Technical staff is available from 8:30 - 9:30 a.m. and 1:00 - 2:00 p.m. only. If you have questions/comments outside of those hours, please call 746-4280 to make an appointment. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the Community Development Department's office located at 250 East L Street, Benicia, or at the meeting held in the City Hall Commission Room. If you wish to submit written information on an agenda item, please submit to Amy Million, Principal Planner, as soon as possible so that it may be distributed to the Historic Preservation Review Commission.

 [Approval of Minutes August 23, 2012](#)

 [Mills Act Program Status](#)

 [Mills Act Program Program Costs](#)

 [135 East J Street - Mills Act Contract](#)

 [175 West H Street - Mills Act Contract](#)

 [288 West J Street - Mills Act Contract](#)

 [Approval of Minutes September 27, 2012](#)

 [HPRC 2013 Meeting Schedule](#)

 [Agenda Item - 916 West Third Street](#)

 [Agenda Item - 475 East I Street](#)

 [475 East I Street Site Plan and Elevations](#)

 [Agenda Item - 133 West E Street](#)

 [133 West E Street Site Plan and Elevations](#)

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**BENICIA HISTORIC PRESERVATION REVIEW COMMISSION
REGULAR MEETING MINUTES**

**City Hall Commission Room
Thursday, August 23, 2012
6:30 P.M.**

I. OPENING OF MEETING:

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

Present: Commissioners Delgado, Haughey, McKee, Taagepera (arrived 7:10pm), Trumbly, Van Landschoot, and Chair Crompton

Absent: None

Staff Present: Amy Million, Principal Planner, Recording Secretary
Lisa Porras, Senior Planner

- C. Reference to Fundamental Rights of Public**

II. ADOPTION OF AGENDA:

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

Ayes: Commissioners Delgado, Haughey, McKee, Van Landschoot, Trumbly and Chair Crompton

Noes: None

Absent: Commissioner Taagepera

On a motion of Commission Van Landschoot, seconded by Commissioner Haughey, the agenda was amended to move Item IV-Election of Officers to the end of the calendar when Commissioner Taagepera arrives.

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

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN COMMENT

None.

B. PUBLIC COMMENT

None.

IV. CONSENT CALENDAR

A. Approval of Minutes of July 26, 2012

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

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

V. REGULAR AGENDA ITEMS

A. 321 FIRST STREET – DESIGN REVIEW (ROOKIES)

Commissioner McKee recused himself as the project architect.

Lisa Porras, Senior Planner, provided a summary of the project.

A representative from the project architect's office (Steve McKee – Architect) gave a brief presentation on the project.

The Commission asked the project sponsor and the property owner various questions regarding the trash enclosure, clarification of the west elevation, and the parking layout.

The Commission and staff discussed the parking requirement as provided in the Downtown Mixed Use Master Plan. The property owner provided the Commission with additional information on the sidewalk that runs along the

south side of the building from First Street towards the east to the restaurant's entrance in regard to materials and ADA requirements.

No public comment.

On motion of Commissioner Van Landschoot, seconded by Commissioner Trumbly, the application was approved, with the following condition that the applicant works with the property owner of the adjacent parcel to provide an additional parking space to the extent feasible, by the following vote:

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

Commissioner McKee returned to the meeting.

VII. COMMUNICATIONS FROM STAFF

A. Update on City Review of Board and Commissions

Staff reminded the Commissioner of the August 24th survey deadline. The commissioners asked for clarification on the process.

B. Commission's Objectives for Office of Historic Planning Workshop/Training

Staff briefly discussed the memo and requested that the Commission discuss possible OHP training topics.

Commissioner Van Landschoot provided the following topics:

1. Clear definition of preservation terms "in-kind", etc.
2. Benefits of the historic district for those in and outside the district.
3. Enforcement of alterations with prior approval, i.e. removal of historic features.
4. More city-wide support for preservation efforts. For example, Planning Commission, City Council and Historic Preservation Review Commission should be on the same page and support each other. Perhaps OHP could address how other cities address this.
5. How do other cities reach out to property owners in the historic districts.

Commissioner Haughey provided the following topic:

1. Practical help for homeowners. The example provided was a workshop she attended on how to repair old window where they were able to provide a physical demonstration. These hand-on

trainings could be really helpful to property owner of historic buildings.

Commissioner Taagepera provided the following comments:

1. The City of Napa is a Certified Local Government so they may be interested in participating.
2. OHP previous training on the Secretary of the Interior Standards used larger more complex examples and were not as applicable to the typical single-family home in Benicia.
3. The purpose of the training was not necessarily for the Commission itself, but for other members of the community; such as the Planning Commission as an appeal body to HPRC.
4. Page & Turnbull a private preservation firm or a representative from another jurisdiction could also provide training as an alternative to OHP staff.

Commission Haughey mentioned that it is helpful when professionals in the historic preservation field can provide real examples relevant to Benicia.

The commissioners discussed the process for appealing to Planning Commission and how the Historic Preservation Review Commission was limited to providing the Planning Commission on information on preservation standards during public comment.

The Commission discussed engaging outside preservation firms and suggested that they help staff with that process.

VIII. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Van Landschoot announced that he will going out of town and will miss the September meeting.

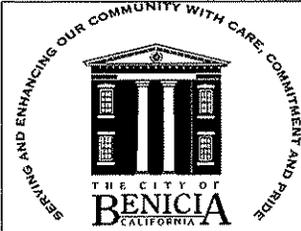
Commissioner Taagepera announced that she has a schedule conflict and will likely arrive late for the September and October meetings.

IX. ELECTION OF OFFICERS

Commissioner Trumbly nominated Haughey/Delgado as Chair and Vice Chair. On a motion by Commissioner Trumbly, seconded by Commissioner McKee, the motion was carried by the Commission.

X. ADJOURNMENT

Chair Haughey adjourned the meeting at 7:30 p.m.



Community Development Department
MEMORANDUM

Date: September 17, 2012
To: Historic Preservation Review Commission (HPRC)
From: Amy Million, Principal Planner *AM*
Re: Mills Act Program Status

In December 2007, the City Council amended the Mills Act Program to allot up to \$35,000 annually toward the program (including staff implementation costs). They also created a deadline of June 30th each year for applicants to submit an application for consideration for acceptance into the program. The purpose of this deadline was to insure that all contracts were able to be processed by the end of the calendar year and also to allow the Historic Preservation Review Commission and City Council the ability to review all proposals at once, consider their benefits and make a better informed decision. (This year, due to Commissioner conflicts, each application will need to be reviewed and acted on separately so that Commissioners may recuse themselves as appropriate.)

Every year staff works with the County to provide the most up-to-date information available regarding the associated tax savings and program costs for each property.

In order to determine the taxes for a Mills Act Contract property, the County uses the lower of the following three values:

1. Base Property Value
2. Fair Market Value
3. Mills Act Property Value

In the case of the City's existing and proposed contracts, the Mills Act Property Value is the lesser.

The actual tax revenue lost each year to the City is based on the difference between the Mills Act Property Value and the Base Property Value or Fair Market Value, whichever is less. The specific value (Base Property Value or Fair Market Value) that applies to each property is bolded and highlighted in the attached Mills Act Program Costs summary. As a result of the County's methodology, changes in the real estate market continuously affect the revenue loss. The

amount of loss to the City every year will fluctuate regardless of whether or not there is a change in the number of contracts.

The staff cost to process each Mills Act application is approximately \$1,350, which is partially offset by the Mills Act application fee of \$550. Annual inspection and reporting incurs another \$150 in staff time per contract per year.

The City currently has thirty-one contracts that resulted in an annual loss of tax revenue to the City of \$22,067 in the 2011/2012 tax year, with additional annual inspection costs of \$4,650, for a total program annual cost of \$26,717.

The estimated total loss of city revenue for all contracts (existing and proposed) for the 2012/2013 tax year is \$28,557. Below is a Summary of the Annual Program Costs:

Summary of Annual Program Costs

	<u>ANNUAL REVENUE LOSS</u>	<u>ANNUAL INSPECTION COSTS</u>	<u>2012/2013 ESTIMATED COSTS</u>
31 Existing Contracts	\$22,067 (2011)	\$4,650 (2011)	\$26,717
3 Proposed Contracts	\$1,390 (2012 estimate)	\$450 (2012)	\$1,840
TOTAL:	\$23,457	\$5,100	\$28,557

For all contracts recorded by December 31 of a calendar year, reassessment by the County is conducted by June 30 of the following year and is reflected on fiscal year tax bills issued in October.

Attachments:

- Mills Act Program Costs

MILLS ACT PROGRAM COSTS

City of Benicia Mills Act Program Costs

The Mills Act contracts will reduce the property tax paid by these properties. The City of Benicia receives approximately 26% of the property taxes collected on parcels in the City.

PROPERTY ADDRESS	DATE ENTERED INTO CONTRACTS	BASE PROPERTY VALUE (as of Feb 2012)	PROPERTY TAX WITHOUT CONTRACT (1%)	CITY PROPERTY TAX REVENUE OF FAIR MARKET VALUE (as of Feb 2012)	PROPERTY TAX WITHOUT CONTRACT (1%)	CITY PROPERTY TAX REVENUE OF REASSESSED PROPERTY VALUE (26% OF (as of Feb 2012)	PROPERTY TAX WITH CONTRACT (1%)	CITY PROPERTY TAX REVENUE OF REASSESSED PROPERTY VALUE (26% OF CONTRACT	ESTIMATED TAX SAVINGS* LOSS OF CITY REVENUE*
245 West K Street - M	11/7/90	\$1,339,611	\$13,396.11	\$3,482.99	\$5,310	\$1,381	\$148,505	\$386.11	\$3,825
235 East L Street**	6/1/90	\$649,657	\$6,496.57	\$468,000	\$4,680	\$1,217	\$202,222	\$526	\$2,658
230 West K Street	10/22/04	\$517,749	\$5,177.49	\$322,400	\$3,224	\$838	\$106,484	\$277	\$2,159
121 West J Street - M	12/3/04	\$389,835	\$3,898.35	\$509,000	\$5,090	\$1,323	\$173,559	\$451	\$2,163
185 East D Street - M	11/9/04	\$352,005	\$3,520.05	\$513,000	\$5,130	\$1,334	\$101,278	\$263	\$2,507
251 West J Street - M	12/17/04	\$276,501	\$2,765.01	\$231,000	\$2,310	\$601	\$84,520	\$220	\$1,465
401 First Street	10/15/04	\$999,726	\$9,997.26	\$1,300,000	\$13,000	\$3,380	\$953,333	\$2,479	\$464
166 West H Street	12/17/04	\$439,000	\$4,390.00	\$439,000	\$4,390	\$1,141	\$162,895	\$424	\$2,761
149 West G Street - M	10/30/06	\$439,000	\$4,390.00	\$439,000	\$4,390	\$1,141	\$162,895	\$424	\$2,761
145 East I Street	10/30/06	\$583,888	\$5,838.88	\$399,000	\$3,990	\$1,037	\$22,266	\$23	\$3,167
141 West D Street - M	12/18/07	\$432,805	\$4,328.05	\$255,000	\$2,550	\$663	\$101,870	\$265	\$1,531
120 West D Street	12/18/07	\$360,672	\$3,606.72	\$444,000	\$4,440	\$1,154	\$109,141	\$284	\$2,515
1025 West Second Street	12/18/07	\$330,439	\$3,304.39	\$229,000	\$2,290	\$595	\$75,833	\$197	\$1,522
140 East G Street	12/18/07	\$667,749	\$6,677.49	\$679,000	\$6,790	\$1,765	\$203,972	\$530	\$4,638
392-396 East H Street	12/18/07	\$398,421	\$3,984.21	\$300,000	\$3,000	\$780	\$165,885	\$431	\$1,343
224 West I Street	12/18/07	\$635,562	\$6,355.62	\$532,000	\$5,320	\$1,383	\$115,702	\$301	\$2,833
242 West I Street	12/18/07	\$575,163	\$5,751.63	\$374,000	\$3,740	\$972	\$90,670	\$236	\$4,163
171 West H Street	12/18/07	\$632,540	\$6,325.40	\$442,000	\$4,420	\$1,149	\$93,939	\$244	\$3,481
270 West H Street	12/18/07	\$1,359,475	\$13,594.75	\$844,000	\$8,440	\$1,674	\$141,680	\$368	\$5,023
441 West J Street	12/18/07	\$678,692	\$6,786.92	\$1,764,600	\$17,646.00	\$4,770	\$88,328	\$230	\$3,887
271 West J Street	12/02/08	\$517,749	\$5,177.49	\$322,400	\$3,224	\$838	\$106,484	\$277	\$2,159
141 West J Street	12/02/08	\$774,060	\$7,740.60	\$458,000	\$4,580	\$1,191	\$121,875	\$317	\$3,361
155 West J Street	12/02/08	\$481,865	\$4,818.65	\$245,000	\$2,450	\$637	\$83,984	\$216	\$1,810
182 East Street	12/9/2009	\$471,251	\$4,712.51	\$346,000	\$3,460	\$900	\$106,608	\$277	\$2,394
1101 West Second Street	12/9/2009	\$390,440	\$3,904.40	\$654,000	\$6,540.00	\$1,700	\$157,564	\$410	\$2,329
395 West J Street	7/2/1905	\$584,367	\$5,843.67	\$396,000	\$3,960.00	\$1,030	\$101,461	\$264	\$2,945
TOTAL VALUE:		\$18,335,372	\$183,354	\$14,725,500	\$147,255	\$38,286	\$4,744,624	\$12,336	\$84,873
EXISTING CONTRACTS TOTAL:									\$4,650
EXISTING CONTRACTS ANNUAL COSTS: (\$150 per contract for annual inspections)									\$22,067
2012 CONTRACTS ANNUAL COSTS (\$150 per contract for annual inspections)									\$766
TOTAL VALUE:		\$996,995	\$9,969.95	\$960,000	\$9,600	\$2,496	\$320,714	\$834	\$5,347
2012 CONTRACTS TOTAL INCL. ANNUAL STAFF COSTS (EXISTING AND PROPOSED):									\$1,840
2012 CONTRACTS TOTAL:									\$28,557
2012 CONTRACTS ANNUAL STAFF COSTS (\$150 per contract for annual inspections)									\$450
2012 CONTRACTS ANNUAL STAFF COSTS (\$150 per contract for annual inspections)									\$1,390
2012 CONTRACTS ANNUAL STAFF COSTS (\$150 per contract for annual inspections)									\$441
2012 CONTRACTS ANNUAL STAFF COSTS (\$150 per contract for annual inspections)									\$566
2012 CONTRACTS ANNUAL STAFF COSTS (\$150 per contract for annual inspections)									\$384
2012 CONTRACTS ANNUAL STAFF COSTS (\$150 per contract for annual inspections)									\$1,476
2012 CONTRACTS ANNUAL STAFF COSTS (\$150 per contract for annual inspections)									\$234
2012 CONTRACTS ANNUAL STAFF COSTS (\$150 per contract for annual inspections)									\$366
2012 CONTRACTS ANNUAL STAFF COSTS (\$150 per contract for annual inspections)									\$1,695
2012 CONTRACTS ANNUAL STAFF COSTS (\$150 per contract for annual inspections)									\$5,347
TOTAL:									\$28,557

* Tax savings are estimates and subject to change annually. M - Exhibit B "Maintenance Only" contract ** Prior to 2003 City Council program authorization

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING
SEPTEMBER 27, 2012
REGULAR AGENDA ITEMS

DATE : August 22, 2012

TO : Historic Preservation Review Commission

FROM : Amy Million, Principal Planner

SUBJECT : **MILLS ACT CONTRACT FOR 135 EAST J STREET**

PROJECT : 12PLN-00014 Mills Act
135 East J Street
APN: 0088-142-130

RECOMMENDATION:

Adopt a resolution recommending that the City Council authorize the City Manager to enter into a Mills Act Contract with the property owners of 135 East J Street in the City of Benicia.

EXECUTIVE SUMMARY:

Heather and Christian Barron request approval of a Mills Act Contract for a contributing building located at 135 East J Street, as provided by the City of Benicia's Mills Act Program.

The Mills Act Program, enacted by the State of California in 1972, encourages the restoration and preservation of qualified historic buildings through economic incentive and authorizes its implementation by local governments. In 2003, Council approved the City of Benicia Mills Act Program and assigned initial review and recommendation of Mills Act Contract applications to the Historic Preservation Review Commission (Resolution 03-12). The program incentive consists of an alternative method for determining property value for tax assessment purposes.

Staff has determined the property at 135 East J Street meets the eligibility requirements for the Mills Act Program and all application requirements have been satisfied.

BUDGET INFORMATION:

An approved Mills Act Contract would reduce the property taxes collected from 135 East J Street. The City collects 26% of paid property taxes. Based on data

available from the Solano County Tax Assessor's office, the property owner would receive a tax savings of approximately \$1,695 in the 12/13 tax year (2012/13 fiscal year) should the Mills Act Contract be approved. The City would receive \$365 per year from property taxes, which is a loss of approximately \$441 annually.

ENVIRONMENTAL ANALYSIS:

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15331, which applies to projects limited to the maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the federal Secretary of the Interior's Standards for the Treatment of Historic Properties. Mills Act Contracts require all work performed subsequent to entering into a contract be consistent with these standards.

BACKGROUND:

On April 11, 2012, Heather and Christian Barron, owners of the residence at 185 East J 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.

According to Solano County Assessor's parcel data, the existing structure was built in 1918. At present, the property is listed as a Contributing building to the Downtown Historic District, as shown in the City's Downtown Historic Conservation Plan. In a survey completed by Carol Roland (DPR Form 523 A&B), her analysis estimated the building's construction circa 1920. She noted that the building is a good example of its style (Craftsman Bungalow) and exemplifies the infill construction that continued to develop the town in the 1920s. She recommended that the building remain as a contributing structure.

SUMMARY:

Site Description

The property is located on north side of East J Street between First Street and East Second Street. The property contains one single-family detached structure (one-story) that is approximately 2,384 square feet and a detached garage in the rear yard.

Project Description

As noted on Roland's survey and site photographs, the building is in good condition and it retains its historic integrity. The building is described as a Craftsman bungalow. The building is primarily clad with lap siding on the facades. The side gables on the east and west facing facades are clad with

non-original composition shingles.

Since purchasing the property in 2011, the property owner has completed several maintenance and repair items to the interior and exterior of the home including repairing the wood windows, new roof, foundation work, and leveling front porch and steps. They also recently completed the repair of some of the lap siding to remove the dry rot as well as rebuilt the dilapidated entry steps on the east façade.

In addition to work already completed, there a few work items to be completed in order to complete restore all aspects of the building’s historic integrity. The proposed Architectural Preservation Schedule outlines the timeframe for completion of this project as follows:

WORK PLAN PROJECT(S)	SCHEDULE
Replace existing T1-11 boards on the front porch and front porch steps with 1 x 4 tongue & groove wood boards. The new steps shall have a rounded edge “bull nose”	2013
Repoint chimney to secure the loose bricks. Repointing shall be consistent with the National Park Service Preservation Bulletin No. 2	2014
Remove non-original asphalt shingle siding on the gable on the east and west facades with wood square shingle siding or similar. Final material shall be reviewed and approved by the Planning Division prior to installation	2015
Landscape front yard. Final design shall be historically appropriate to the craftsman style and review by Planning Division staff prior to installation	2016
Complete Exterior Painting: Body Color: Stratford Sage, Kelly Moore or similar Trim Color: Maybec Muslin, Kelly Moore or similar	2017

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 scope of work is appropriate for Mills Act contracts. Items listed in the Draft Work Plan and Schedule (Exhibit C of Draft Contract) are intended to rehabilitate this downtown historic resource.

Secretary of the Interior’s Standards for Treatment of Historic Properties

As a designated contributing historic structure and pursuant to the Mills Act Contract, all exterior changes must comply with the Secretary of the Interior’s Standards for Rehabilitation. According to the Standards:

“...where an important architectural feature is missing, its replacement is always recommended in the Rehabilitation guidelines as the first, or preferred, course of action. If adequate documentation exists so that the feature may be accurately reproduced, and if it is desirable to re-establish the feature as part of the building's historical appearance, then designing and constructing a new feature based on such information is appropriate. When replacing a missing historic feature such as an entrance or porch, the Standards recommend restoration based on historical, pictorial, and physical documentation; a new design that is compatible with the historic character building. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered. “

All work must be consistent with the standards and guidelines for rehabilitation.

Downtown Historic Conservation Plan Consistency

The Downtown Historic Conservation Plan provides Design Guidelines for all categories of designated historic residential buildings. The guidelines are intended to guide renovation work. Staff has determined that the proposed work program is consistent with these guidelines (see attachment).

Conclusion

The improvement listed in Exhibit C Architectural Rehabilitation of the Draft Contract is consistent with historic preservation goals established by the City of Benicia, including General Plan Goal 3.1, to “Maintain and enhance Benicia's historic character.” The proposed work program is also consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for the Treatment of Historic Buildings, and the Downtown Historic Conservation Plan. The work described herein is appropriate to execute this Mills Act Contract.

FURTHER ACTION:

The recommendation of the Historic Preservation Review Commission will be forwarded to the City Council for final action. The decision of the Historic Preservation Review Commission may be appealed to the Planning Commission within ten (10) business days.

Attachments:

- ❑ Consistency Analysis: Secretary of the Interior's Standards for Rehabilitation
- ❑ Applicable Downtown Historic Conservation Plan Guidelines
- ❑ Department of Parks & Recreation (DPR) Forms 523 A & B
- ❑ Photographs
- ❑ Draft Resolution

□ Draft Contract

**CONSISTENCY ANALYSIS:
SECRETARY OF THE INTERIOR'S
STANDARDS FOR REHABILITATION**

**Project Consistency Analysis:
Secretary of Interior's Standards for Rehabilitation
Mills Act Contract (12PLN-00014)
135 East J Street**

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 are the Secretary of Interior's Standard for Rehabilitation guidelines. 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 135 East J Street is a Craftsman Bungalow style house. The principal character-defining features of this style of building as exhibited on the subject property, are as follows:

1. One and one-half story with low-pitched side gable roof
2. Overhangs are wide with exposed rafter tails and purlins
3. Strong horizontal emphasis including a long covered porch spanning the front elevation exterior siding

The work plan associated with the contract will retain and preserve those historic materials that characterize the building. In addition, the non-original siding on the side gables will be removed and replaced with a wood siding to be consistent with the Craftsman style architecture. 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 rehabilitation of the exterior siding completed by 2015, will be done in accordance with the Secretary of Interior's Guidelines for Historic Preservation.

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

According to the property survey prepared by Carol Roland, the building is an excellent example of a Craftsman style bungalow and retains its integrity. There are no changes to the property that have acquired historic significance in their own right that need to be retained and preserved.

- 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, wherever possible.

- 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. 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 are proposed and therefore the essential form and integrity of the historic property would not be impaired by future removal.

**APPLICABLE DOWNTOWN HISTORIC
CONSERVATION PLAN GUIDELINES**

Applicable Downtown Historic Conservation Plan Guidelines 135 East J Street

- Policy 1: Design Integrity. Maintain the design integrity and distinguishing features of historic buildings.
- Policy 2: Façade Elements and Details. Retain the traditional façade elements, proportions and architectural details which give historic buildings their special character and use appropriate replacements where necessary.
- Policy 3: Integrity of Materials. Maintain the integrity of original building materials.
- Policy 4: Appropriate Materials, Colors, and Finishes. Promote the use of appropriate materials in restorations, renovations and additions to historic and colors which complement their styles and particular combination of building materials.

Given the proposed work schedule, the following DHCP guidelines apply to this property:

4.1 – Use original materials wherever possible in restoration, renovation, or repair work and use the same materials for building additions.

4.2 – When necessary to substitute a material, take care that its outward appearance, durability, texture and finish will be as close as possible to that of the original. If the original material was painted, be sure that the substitute will accept and retain the same painted finish.

**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 #: 135 East J Street

P1. Other Identifier:

*P2. Location: *a. County Solano

b. Address: 135 East J Street

*c. City: Benicia Zip 94510

d. UTM: N/A

e. USGS Quad: Benicia T2N R3W MDM

*f. Other Locational Data (APN #): 88-142-13

*P3a. Description

This is a Craftsman Bungalow house which is one-and-one-half story with low pitched side gable roof. The pitch and the wide spread of the roof give this particular house a strong horizontal emphasis. The roof is pierced by a low center dormer which has a shed roof and a ribbon of vent windows. Overhangs are wide with exposed rafter tails and purlins. A covered porch spans the east side of the front elevation. It is covered by the primary roof which is supported on a wide post. A low Chalet Style rail encloses the porch. On the west side of the front elevation there is an enclosed space which was probably part of the original porch. It is spanned by a ribbon of multi-light wood frame windows. The enclosure of this space was probably accomplished early in the house's history. The house is clad with lap siding.

*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: 1920

Prehistoric Historic Both

*P7. Owner and Address:

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



Gerald McKay
500 West I Street
Benicia, CA 94510

*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: 135 East J Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name: none

B3. Original Use: Residential

Present Use: Residence

*B5. Architectural Style: Craftsman Bungalow

*B6. Construction History: Constructed in the 1920s. The west side of the porch was enclosed 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

This Craftsman Bungalow house is a contributor to the Benicia Downtown Historic District. It is a good example of its style and exemplifies the infill construction that continued to develop the town in the 1920s. The house has good integrity. The west side of the porch was probably originally open and was enclosed within the period of significance using multi-light windows. The house should continue in its contributory 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.

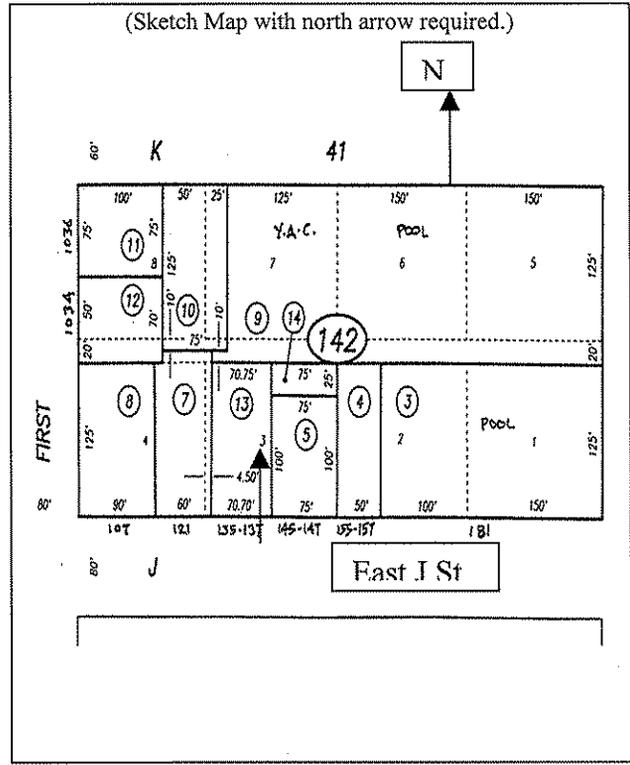
BUILDING, STRUCTURE, AND OBJECT RECORD

Remarks: N/A

B14. Evaluator: Carol Roland, Ph.D.

Roland-Nawi Associates: Preservation Consultants
4829 Crestwood Way
Sacramento, CA 95822

B 15. Date of Evaluation: 11-22-04



(This space reserved for official comments.)

PHOTOGRAPHS



View of front façade
(The majority of the exterior paint is complete - Work Plan Item – Year 2017)



View of front yard – landscaping
(Work Plan Item – Year 2015)



Asphalt shingle siding on west façade
(Work Plan Item – Year 2015)



Asphalt shingle siding on east façade
(Work Plan Item – Year 2015) and chimney (Work Plan Item – Year 2015)

DRAFT RESOLUTION

RESOLUTION NO. 12- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW 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 135 EAST J 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 135 East J 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 the and preservation and rehabilitation of the contributing building at 135 East J 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 for the Treatment of Historic Properties; 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 CEQA review; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on September 27, 2012 considered the Mills Act contract application of Heather and Christian Barron; and

WHEREAS, the Historic Preservation Review Commission reviewed the Draft Mills Act Contract and recommended changes to Exhibit C.

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 135 East J Street.

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission recommends that the City Council approve the Mills Act Contract application of Heather and Christian Barron.

* * * * *

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, 2012 by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Historic Preservation Review Commission Chair

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 December 2012, by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the “City”), and Heather and Christian Barron (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. Owners possess fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address 135 East J 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 November 20, 2012 the City Council of the City of Benicia adopted Resolution No. 12- 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 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 January 1, 2013 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 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. 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, Owner 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 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 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 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 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 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: Heather and Christian Barron
135 East J 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 agrees 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 agrees 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 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.

Heather Barron
Christian Barron

CITY OF BENICIA

BY:
DATED:

BY: Brad Kilger, 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.

Minimum Property Maintenance:

As part of this agreement the Owner shall maintain all buildings, structures, yards and other improvements in a manner that does not detract from the appearance of the immediate neighborhood. The following conditions (including, but not limited to) 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 agrees to the following Rehabilitation project to be undertaken by the Owner in conformance with Paragraph 4b of this Agreement. In addition, throughout the life of this contract the owner shall maintain Minimum Property Maintenance as described in Exhibit B. The work will be conducted as indicated below.

PROJECT(S)	SCHEDULE
Replace existing T1-11 boards on the front porch and front porch steps with 1 x 4 tongue & groove wood boards. The new steps shall have a rounded edge "bull nose"	2013
Repoint chimney to secure the loose bricks. Repointing shall be consistent with the National Park Service Preservation Bulletin No. 2	2014
Remove non-original asphalt shingle siding on the gable on the east and west facades with wood square shingle siding or similar. Final material shall be reviewed and approved by the Planning Division prior to installation	2015
Landscape front yard. Final design shall be historically appropriate to the craftsman style and review by Planning Division staff prior to installation	2016
Complete Exterior Painting: Body Color: Stratford Sage, Kelly Moore or similar Trim Color: Maybec Muslin, Kelly Moore or similar	2017

Work Item: The methods and materials for completing the above work items shall be subject to review and approval by the City prior to commencement of work. All work shall comply with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

Completion Date: Work shall be completed by the specified date unless the Owner requests a change to a later completion date in writing and the City agrees to a later completion date. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION MEETING
SEPTEMBER 27, 2012
REGULAR AGENDA ITEMS

DATE : August 22, 2012

TO : Historic Preservation Review Commission

FROM : Amy Million, Principal Planner

SUBJECT : **MILLS ACT CONTRACT FOR 175 WEST H STREET**

PROJECT : 12PLN-00023 Mills Act
175 West H Street
APN: 0089-044-20

RECOMMENDATION:

Adopt a resolution recommending that the City Council authorize the City Manager to enter into a Mills Act Contract with the property owners of 175 West H Street in the City of Benicia.

EXECUTIVE SUMMARY:

Jon Van Landschoot and Donnell Rubay request approval of a Mills Act Contract for a contributing building located at 175 West H Street, as provided by the City of Benicia's Mills Act Program.

The Mills Act Program, enacted by the State of California in 1972, encourages the restoration and preservation of qualified historic buildings through economic incentive and authorizes its implementation by local governments. In 2003, Council approved the City of Benicia Mills Act Program and assigned initial review and recommendation of Mills Act Contract applications to the Historic Preservation Review Commission (Resolution 03-12). The program incentive consists of an alternative method for determining property value for tax assessment purposes.

Staff has determined the property at 175 West H Street meets the eligibility requirements for the Mills Act Program and all application requirements have been satisfied.

BUDGET INFORMATION:

An approved Mills Act Contract would reduce the property taxes collected from

175 West H Street. The City collects 26% of paid property taxes. Based on data available from the Solano County Tax Assessor's office, the City would receive about \$618 in the 12/13 tax year (2012/13 fiscal year) from 175 West H Street. Should the Mills Act Contract be approved, the City would receive \$234 per year, which is a loss of approximately \$384 annually.

ENVIRONMENTAL ANALYSIS:

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15331, which applies to projects limited to the maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the federal Secretary of the Interior's Standards for the Treatment of Historic Properties. Mills Act Contracts require all work performed subsequent to entering into a contract be consistent with these standards.

BACKGROUND:

On May 31, 2012, Jon Van Landschoot and Donnell Rubay, owners of the residence at 175 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 subject property is located within the Downtown Historic H Overlay District and listed as a Contributing building, as shown in the City's Downtown Historic Conservation Plan. According to Solano County Assessor's parcel data and the historic inventory survey completed by Carol Roland (DPR Form 523 A&B), the existing structure was built in 1920. Ms. Roland noted that the building is an excellent example of the Craftsman style bungalow that has been well maintained and retains its integrity. She recommended that the building remain as a contributing structure.

SUMMARY:

Site Description

The property is located on north side of West H Street between West Second and First Street. The property contains one single-family detached residence approximately 1,840 square feet.

Project Description

As noted on Roland's survey and site photographs, the building is in excellent condition and it retains its historic integrity. The subject building is a detailed Craftsman Bungalow house representing the classic features of this architectural

style. The principal character-defining features of this style of building, are exhibited on the subject property, are as follows:

1. Rectangular in plan presenting a strong feeling of horizontality with a double front gable;
2. Prominent front porch covered by a front gable roof and supported on a carved lintel with double posts and brackets;
3. Fenestration consists of a central window flanked with sidelights on the east side of the front façade and double hung windows elsewhere; and
4. Cladding is rustic shingle, except for the lower front wall, which is clapboard.

All of the building's character defining features are present and in good repair. This proposal is for a "maintenance only" contract for an already well-preserved property. All properties are required to comply with Exhibit B of the Contract, which requires continued maintenance to the exterior paint, deteriorated features and landscaping among others.

Secretary of the Interior's Standards for Treatment of Historic Properties

As a designated contributing historic structure and pursuant to the Mills Act Contract, all exterior changes must comply with the Secretary of the Interior's Standards for Rehabilitation. According to the Standards:

"...where an important architectural feature is missing, its replacement is always recommended in the Rehabilitation guidelines as the first, or preferred, course of action. If adequate documentation exists so that the feature may be accurately reproduced, and if it is desirable to re-establish the feature as part of the building's historical appearance, then designing and constructing a new feature based on such information is appropriate. When replacing a missing historic feature such as an entrance or porch, the Standards recommend restoration based on historical, pictorial, and physical documentation; a new design that is compatible with the historic character building. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered. "

All work must be consistent with the standards and guidelines for rehabilitation.

Downtown Historic Conservation Plan (DHCP) Consistency

The Downtown Historic Conservation Plan provides Design Guidelines for all categories of designated historic residential buildings. The guidelines are intended to guide renovation work. The proposed contract is to maintain the character defining features as they exist currently. This effort is consistent with the guidelines and policies set forth in the DHCP.

Conclusion

The applicants' 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."

FURTHER ACTION:

The recommendation of the Historic Preservation Review Commission will be forwarded to the City Council for final action. The decision of the Historic Preservation Review Commission may be appealed to the Planning Commission within ten (10) business days.

Attachments:

- Department of Parks & Recreation (DPR) Forms 523 A & B
- Photographs
- Draft Resolution
- Draft Contract

**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 #: 175 West H Street

P1. Other Identifier: _____

*P2. Location: *a. County Solano

b. Address: 175 West H Street

*c. City: Benicia Zip 94510

d. UTM: N/A

e. USGS Quad: Benicia T2N R3W MDM

*f. Other Locational Data (APN #): 89-044-20

*P3a. Description

This well detailed Craftsman Bungalow house is rectangular in plan with a double front gable. Set low to the ground the house has a strong feeling of horizontality. The roof is moderately sloped with exposed rafters and purlins. A plan fascia trims the gable and the gable end exhibits a six-light attic window framed with a Japanesque casing. The prominent front porch occupies three quarters of the front elevation. It is covered by a front gable and is supported on a carved lintel with double posts and brackets. The porch rail is closed. A short wooden stair provides access to the heavy oak door with decorative upper glazing. Fenestration consists of a central window flanked with sidelights on the east side of the front façade and double hung windows elsewhere. A small six-over-six fixed porch window mirrors the design of the attic vents. The house is clad with rustic shingle, except for the lower front wall which is 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: 1920

Prehistoric Historic Both

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



*P7. Owner and Address:
 Jonathan Van Landschoot
 175 West 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: 175 West H Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name: none

B3. Original Use: Residential

Present Use: Residence

*B5. Architectural Style: Craftsman Bungalow

*B6. Construction History: House appears to be unaltered.

*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

This carefully detailed Craftsman Bungalow is an excellent example of its style and one of the more elaborate bungalows in Benicia's historic district. It has excellent integrity. It is a contributing building to the Downtown Historic District and should continue to maintain that status.

B11. Additional Resource Attributes: N/A

B12. References: McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred Knopf (1986); Brueggemann, 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.

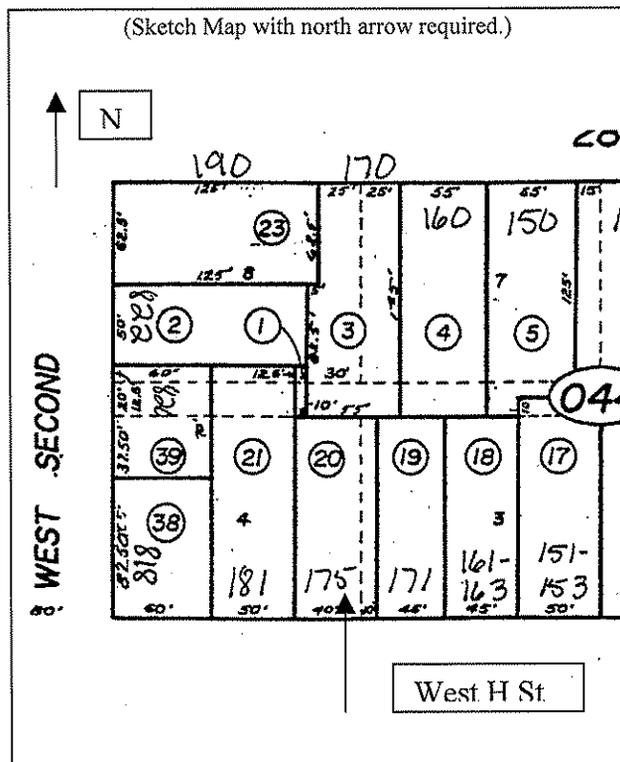
BUILDING, STRUCTURE, AND OBJECT RECORD

Remarks: N/A

B14. Evaluator: Carol Roland, Ph.D.

Roland-Nawi Associates: Preservation Consultants
4829 Crestwood Way
Sacramento, CA 95822

B 15. Date of Evaluation: 11-22-04



(This space reserved for official comments.)

PHOTOGRAPHS



Front facade



Front yard landscaping

DRAFT RESOLUTION

RESOLUTION NO. 12- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW 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 175 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 175 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 the and preservation and rehabilitation of the contributing building at 175 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 for the Treatment of Historic Properties; 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 CEQA review; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on September 27, 2012 considered the Mills Act contract application of Jon Van Landschoot and Donnell Rubay; and

WHEREAS, the Historic Preservation Review Commission reviewed the Draft Mills Act Contract and recommended changes to Exhibit C.

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 175 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 Jon Van Landschoot and Donnell Rubay.

* * * * *

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, 2012 by the following vote:

- Ayes:
- Noes:
- Absent:
- Abstain:

Historic Preservation Review Commission Chair

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 December 2012, by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the "City"), and Jonathan C. Vanlandschoot and Donnell M. Rubay (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. Owners possess fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address 175 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 November 20, 2012 the City Council of the City of Benicia adopted Resolution No. 12- 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 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 January 1, 2013 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 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.
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, Owner 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 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 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.

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 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 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: Jonathan C. Vanlandschoot and Donnell M. Rubay
175 West H 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 agrees 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 agrees 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 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.

Jonathan C. Vanlandschoot
Donnell M. Rubay

CITY OF BENICIA

BY:
DATED:

BY: Brad Kilger, 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.

Minimum Property Maintenance:

As part of this agreement the Owner shall maintain all buildings, structures, yards and other improvements in a manner that does not detract from the appearance of the immediate neighborhood. The following conditions (including, but not limited to) 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, 2012
REGULAR AGENDA ITEMS

DATE : August 22, 2012

TO : Historic Preservation Review Commission

FROM : Amy Million, Principal Planner

SUBJECT : **MILLS ACT CONTRACT FOR 288 WEST J STREET**

PROJECT : 12PLN-00027 Mills Act
288 West J Street
APN: 0089-041-020

RECOMMENDATION:

Adopt a resolution recommending that the City Council authorize the City Manager to enter into a Mills Act Contract with the property owners of 288 West J Street in the City of Benicia.

EXECUTIVE SUMMARY:

Priscilla Whitehead requests approval of a Mills Act Contract for a contributing building located at 288 West J Street, as provided by the City of Benicia's Mills Act Program.

The Mills Act Program, enacted by the State of California in 1972, encourages the restoration and preservation of qualified historic buildings through economic incentive and authorizes its implementation by local governments. In 2003, Council approved the City of Benicia Mills Act Program and assigned initial review and recommendation of Mills Act Contract applications to the Historic Preservation Review Commission (Resolution 03-12). The program incentive consists of an alternative method for determining property value for tax assessment purposes.

Staff has determined the property at 288 West J Street meets the eligibility requirements for the Mills Act Program and all application requirements have been satisfied.

BUDGET INFORMATION:

An approved Mills Act Contract would reduce the property taxes collected from

288 West J Street. The City collects 26% of paid property taxes. Based on data available from the Solano County Tax Assessor's office, the City would receive about \$800 in the 12/13 tax year (fiscal year 2012/13) from 288 West J Street. Should the Mills Act Contract be approved, the City would receive \$234 per year, which is a loss of approximately \$566.

ENVIRONMENTAL ANALYSIS:

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15331, which applies to projects limited to the maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the federal Secretary of the Interior's Standards for the Treatment of Historic Properties. Mills Act Contracts require all work performed subsequent to entering into a contract be consistent with these standards.

BACKGROUND:

On June 29, 2012 Priscilla M. Whitehead and John Dineen, owners of the residence at 288 West J 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 subject property is located within the Downtown Historic H Overlay District and listed as a Contributing building, as shown in the City's Downtown Historic Conservation Plan. According to Solano County Assessor's parcel data and the historic inventory survey completed by Carol Roland (DPR Form 523 A&B), the existing structure was built in 1880. Ms. Roland noted that the building is representative of a restrained Queen Anne that has been well maintained and retains its integrity. She recommended that the building remain as a contributing structure to the Downtown Historic District.

SUMMARY:

Site Description

The property is located on south side of West J Street near the intersection of West Third Street. The property contains one single-family detached residence approximately 1,337 square feet.

Project Description

As noted on Roland's survey and site photographs, the building retains its integrity in all aspects. The subject building was described as a 'restrained Queen Anne' style representing a simple form of the traditionally more elaborate style. The principal character-defining features of this style of building, are exhibited

on the subject property, are as follows:

1. Porch supported by turned posts and arched brackets with spindle work
2. Canted bay window on the front elevation
3. Closed front gable with molded fascia and a plain verge board

All of the building's character defining features are present and in good repair. As such, the work items identified in this contract are for minor repairs and replacements. All properties are required to comply with Exhibit B of the Contract, which requires continued maintenance to the exterior paint, deteriorated features and landscaping among others. Since this is a new contract, all initial work is included in the work plan.

WORK PLAN PROJECT(S)	SCHEDULE
Window repair as needed including reglazing and replacement of sash cords	2014
Replace metal railing on front porch with historically appropriate wood railings. Railings to be reviewed and approved by the Community Development Director prior to installation	2016
Repair and/or replace wood siding and trim elements along roof eave where missing or deteriorated as part of the planned exterior painting of the house	2017
Level front lawn to improve drainage	2018

In addition to the exterior work, the applicant has indicated that there are a few interior work items that will need to be completed in order to improve the building. Those items are not included as part of the work program ; however, they are noted below for reference. Those projects and their associated timeline are included in the following table:

ADDITIONAL INTERIOR PROJECT(S)	SCHEDULE
Install installation under floor	2014
Upgrade electrical as needed	2020

Secretary of the Interior's Standards for Treatment of Historic Properties

As a designated contributing historic structure and pursuant to the Mills Act Contract, all exterior changes must comply with the Secretary of the Interior's Standards for Rehabilitation. According to the Standards:

"...where an important architectural feature is missing, its replacement is always recommended in the Rehabilitation guidelines as the first, or preferred, course of action. If adequate documentation exists so that the feature may be accurately reproduced, and if it is desirable to re-establish the feature as part of the building's historical appearance, then designing and constructing a new feature based on such information is appropriate. When replacing a missing historic feature such as an entrance or porch, the Standards recommend restoration based on historical, pictorial, and physical documentation; a new design that is compatible with the historic character building. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered. "

All work must be consistent with the standards and guidelines for rehabilitation.

Downtown Historic Conservation Plan (DHCP) Consistency

The Downtown Historic Conservation Plan provides Design Guidelines for all categories of designated historic residential buildings. The guidelines are intended to guide renovation work. The proposed contract is to maintain the character defining features as they exist currently. This effort is consistent with the guidelines and policies set forth in the DHCP.

Conclusion

The applicants' 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."

FURTHER ACTION:

The recommendation of the Historic Preservation Review Commission will be forwarded to the City Council for final action. The decision of the Historic Preservation Review Commission may be appealed to the Planning Commission within ten (10) business days.

Attachments:

- Consistency Analysis: Secretary of the Interior's Standards for Rehabilitation
- Applicable Downtown Historic Conservation Plan Guidelines
- Department of Parks & Recreation (DPR) Forms 523 A & B
- Photographs
- Draft Resolution
- Draft Contract

**CONSISTENCY ANALYSIS:
SECRETARY OF THE INTERIOR'S
STANDARDS FOR REHABILITATION**

**Project Consistency Analysis:
Secretary of Interior's Standards for Rehabilitation
Mills Act Contract (12PLN-00027)
288 West J Street**

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 Secretary of Interior's Standard for Rehabilitation guidelines. 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.**

According to the DPR 523 form prepared by Carol Roland, the structure at 288 West J Street is a restrained Queen Anne style house. The principal character-defining features of this style of building as exhibited on the subject property, are as follows:

4. Porch supported by turned posts and arched brackets with spindle work
5. Canted bay window on the front elevation
6. Closed front gable with molded fascia and a plain verge board

With exception to the guardrail and the slight deterioration of the wood trim and minor siding repair needed, these character-defining features are still present and 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.**

No changes are proposed that create a false sense of historical development. The replacement of the guardrail is scheduled for completion in 2016 and the rehabilitation of the exterior siding will be completed as part of the planned exterior painting in 2017. All work will be done in accordance with the Secretary of Interior's Guidelines for Historic Preservation.

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

According to the property survey prepared by Carol Roland, the building is a good example of a simple Queen Anne style home and retains its integrity. There are no changes to the that need to be retained and preserved.

- 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, wherever possible.

- 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. Exterior alterations will be limited to repair or replacement in-kind or in the case of the guardrail, with historically appropriate features and 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 are proposed and therefore the essential form and integrity of the historic property would not be impaired by future removal.

**APPLICABLE DOWNTOWN HISTORIC
CONSERVATION PLAN GUIDELINES**

Applicable Downtown Historic Conservation Plan Guidelines 288 West J Street

- Policy 1: Design Integrity. Maintain the design integrity and distinguishing features of historic buildings.
- Policy 2: Façade Elements and Details. Retain the traditional façade elements, proportions and architectural details which give historic buildings their special character and use appropriate replacements where necessary.
- Policy 3: Integrity of Materials. Maintain the integrity of original building materials.
- Policy 4: Appropriate Materials, Colors, and Finishes. Promote the use of appropriate materials in restorations, renovations and additions to historic and colors which complement their styles and particular combination of building materials.

Given the proposed work schedule, the following DHCP guidelines apply to this property:

4.1 – Use original materials wherever possible in restoration, renovation, or repair work and use the same materials for building additions.

4.2 – When necessary to substitute a material, take care that its outward appearance, durability, texture and finish will be as close as possible to that of the original. If the original material was painted, be sure that the substitute will accept and retain the same painted finish.

**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 #: 288 West J Street

P1. Other Identifier:

- *P2. **.Location:** *a. County Solano
 b. **Address:** 288 West J Street
 *c. **City:** Benicia **Zip** 94510
 d. **UTM:** N/A
 e. **USGS Quad:** Benicia T2N R3W MDM
 *f. **Other Locational Data (APN #):** 89-041-02

***P3a. Description**

This house is a restrained Queen Anne with relatively flat wall surfaces and limited detailing. The massing of this house also varies from the usual configurations of cottages of this type. A wide front gable wing presents to the street, partially masking the rectangular portion of the building to the rear. The front gable intersects with the hip roof of the rear part of the building. The closed gable has a molded fascia and a plain verge board. An arched decorative attic vent is centered on the gable end which is clad with fish scale shingles. On the west side of the front elevation there is a slightly canted bay. A cut-in porch on the east side of the elevation has turned posts and arched brackets with spindle work. A wide belt course separates the body of the house from the elevated basement. 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 north

***P6. Date Constructed/Age:** Circa 1880
 Prehistoric Historic Both

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



***P7. Owner and Address:**

Priscilla Whitehead
 288 West J 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: 288 West J Street

*NRHP Status Code: 3D

B1. Historic Name: N/A

B2. Common Name: none

B3. Original Use: Residential

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

This house is a variation on the usual form and detailing of the Queen Anne Cottage. Its character defining features include its wide decoratively treated front gable, slightly canted bay, and spindle work porch brackets and frieze. The house retains its integrity in all aspects. The house contributes to the Downtown Historic District and should continue to retain this status. The house was recorded by HABS in 1977.

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.

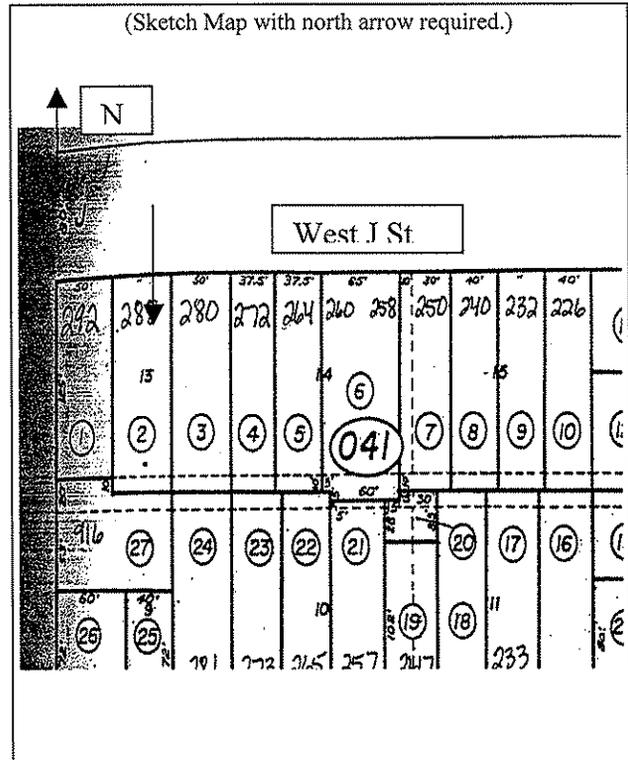
BUILDING, STRUCTURE, AND OBJECT RECORD

Remarks: N/A

B14. Evaluator: Carol Roland, Ph.D.

Roland-Nawi Associates: Preservation Consultants
4829 Crestwood Way
Sacramento, CA 95822

B 15. Date of Evaluation: 11-22-04

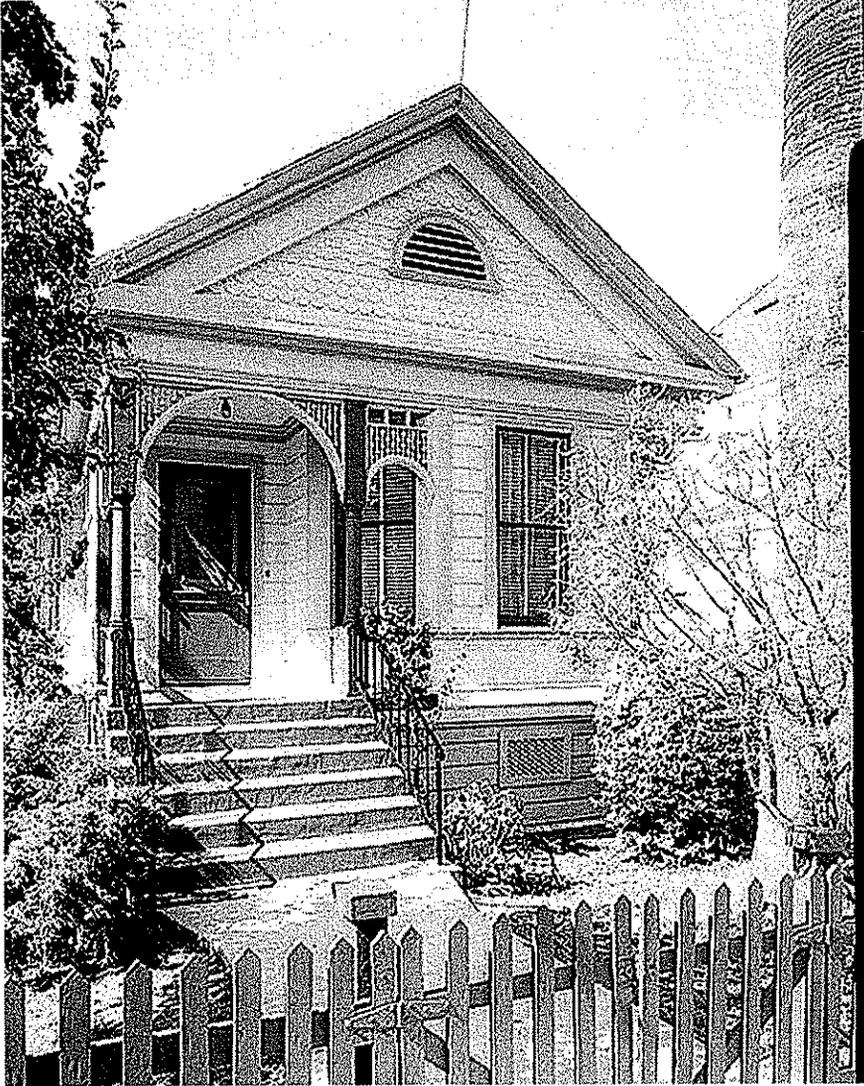


(This space reserved for official comments.)

BUILDING, STRUCTURE, AND OBJECT RECORD

Resource Identifier: 288 West J Street

X Continuation Update



HABS photograph 1977

PHOTOGRAPHS



Front facade



Guardrail on front entry steps to be replaced –
Work Plan Item – 2016



Minor wood repairs completed as part of Exterior Painting –
Work Plan Item – 2017

DRAFT RESOLUTION

RESOLUTION NO. 12- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW 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 288 WEST J 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 288 West J 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 the and preservation and rehabilitation of the contributing building at 288 West J 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 for the Treatment of Historic Properties; 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 CEQA review; and

WHEREAS, the Historic Preservation Review Commission at a regular meeting on September 27, 2012 considered the Mills Act contract application of Priscilla M. Whitehead and John Dineen; and

WHEREAS, the Historic Preservation Review Commission reviewed the Draft Mills Act Contract and recommended changes to Exhibit C.

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 288 West J Street.

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission recommends that the City Council approve the Mills Act Contract application of Priscilla M. Whitehead and John Dineen.

* * * * *

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, 2012 by the following vote:

- Ayes:
- Noes:
- Absent:
- Abstain:

Historic Preservation Review Commission Chair

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 December 2012, by and between the CITY OF BENICIA, a municipal corporation (hereinafter referred to as the "City"), and Priscilla M. Whitehead and John Dineen (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. Owners possess fee title in and to that certain real property, together with associate structures and improvements thereon, located at the street address 288 West J 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 November 20, 2012 the City Council of the City of Benicia adopted Resolution No. 12- 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 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 January 1, 2013 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 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. 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, Owner 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 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 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 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 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 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: Priscilla M. Whitehead & John Dineen
288 West J 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 agrees 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 agrees 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 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.

Priscilla M. Whitehead
John Dineen

CITY OF BENICIA

BY:
DATED:

BY: Brad Kilger, 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.

Minimum Property Maintenance:

As part of this agreement the Owner shall maintain all buildings, structures, yards and other improvements in a manner that does not detract from the appearance of the immediate neighborhood. The following conditions (including, but not limited to) 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 agrees to the following Rehabilitation project to be undertaken by the Owner in conformance with Paragraph 4b of this Agreement. In addition, throughout the life of this contract the owner shall maintain Minimum Property Maintenance as described in Exhibit B. The work will be conducted as indicated below.

PROJECT(S)	SCHEDULE
Window repair as needed including reglazing and replacement of sash cords	2014
Install installation under floor	2014
Replace metal railing on front porch with historically appropriate wood railings. Railings to be reviewed and approved by the Community Development Director prior to installation	2016
Paint exterior	2017
Level front lawn to improve drainage	2018
Upgrade electrical as needed	2020

Work Item: The methods and materials for completing the above work items shall be subject to review and approval by the City prior to commencement of work. All work shall comply with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

Completion Date: Work shall be completed by the specified date unless the Owner requests a change to a later completion date in writing and the City agrees to a later completion date. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.