October 11, 2007

BENICIA PLANNING COMMISSION

CITY COUNCIL CHAMBERS

REGULAR MEETING AGENDA

Thursday, October 11, 2007

7:00 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. AGENDA CHANGES AND DISCUSSION

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III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

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 Planning 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 Planning Commission meeting, prior to the reading of the Consent Calendar.**

A. Approval of Agenda

B. Planning Commission Minutes of August 9, 2007

C. Approval of 2008 Meeting Schedule

V. REGULAR AGENDA ITEMS

A. ZONING TEXT AMENDMENT TO PROHIBIT FUTURE BILLBOARDS OR NON-ACCESSORY SIGNS AND TO ELIMINATE THE CHAPTER PERTAINING TO FREEWAY ADVERTISING SIGNS

Zoning Text Amendment

City Wide

PROPOSAL:

The zoning text amendment would update and amend Title 18 (Signs), by adding Section 18.24.015 to prohibit any future Billboards and Non-accessory Signs and delete Chapter 18.32 pertaining to Freeway Advertising Displays.

Recommendation: City Council approval of update and amendment of Title 18 of the Benicia Municipal Code, based on the findings in the proposed resolution.

VI. COMMUNICATIONS FROM STAFF

VII. COMMUNICATIONS FROM COMMISSIONERS

VIII. ADJOURNMENT

Public Participation

The Benicia Planning Commission welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The Planning Commission allows speakers to speak on 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 Planning Commission.

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

Disabled Access

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

Meeting Procedures

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

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

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

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

August 9 2007 draftmin.pdf
2008 PC Schedule.pdf
PC report 101107.pdf

DRAFT

BENICIA PLANNING COMMISSION
CITY COUNCIL CHAMBERS

REGULAR MEETING MINUTES

August 9, 2007
7:00 P.M.

I. OPENING OF MEETING

A. Pledge of Allegiance
B. Roll Call of Commissioners

Present: Chair Fred Railsback, Commissioners Richard Bortolazzo, Kyle Daley, Dan Healy, Mike Ioakimedes
Absent: Commissioners Bonnie Silveria and Scott Strawbridge (both excused)

Staff Present: Community Development Director Charlie Knox
Senior Planner Damon Golubics
Associate Planner Xzandrea Fowler
City Attorney Heather McLaughlin
Contract Attorney Kat Wellman
Administrative Secretary Gina Eleccion

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

II. AGENDA CHANGES AND DISCUSSION

None.

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

None.

B. PUBLIC COMMENT

None.

IV. CONSENT CALENDAR

On motion of Commissioner Daley, seconded by Commissioner Bortolazzo, the Consent Calendar was approved by the following vote:

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

A. Approval of Agenda
B. Planning Commission Minutes of July 12, 2007

V. REGULAR AGENDA ITEMS

A. 134 WEST D STREET

06PLN-46 Use Permit/Mitigated Negative Declaration
134 West D Street, APN: 89-243-050

PROPOSAL:

The applicant is proposing to relocate a three story, 112-year old house (known as the Thompson House) and its water tower from Napa County to the Benicia shore at the end of West D Street to create a Bed and Breakfast Inn. The project site is 18,750 square feet. The relocated house will undergo extensive restoration and rehabilitation. The Inn will have a total of 6 guest rooms and a caretaker's suite. In conjunction with design review approval granted on July 26, 2007, the applicant is requesting a Use Permit for off-site parking.

Recommendation: Approve a Use Permit for off-site parking for a proposed bed and breakfast at 134 West D Street, and adopt the associated Initial Study/Mitigation Negative Declaration, based on the findings and conditions in the proposed resolution.

Commissioners Bortolazzo and Ioakimedes stated a conflict of interest on this item. After playing cards were cut, Commissioner Bortolazzo was elected to participate in this item.

Xzandrea Fowler, Associate Planner, gave a brief overview of the project. A video presentation was given by the applicant.

The public hearing was opened.

Elliot Rapp, 560 Anderson Lane – He objected that he believes the applicant is not going about this project the correct way. He would like the property cleaned up.

Tom Adams, 223 East J Street – He supports the project and appreciates the efforts the applicants have made to clean up the property.

Gary Wheeler, 580 Anderson Lane – He thanked Xzandrea Fowler for clarifying some issues on the project. He believes the City has the opportunity to clean up this property. He would like a condition of approval added to this effect.

Marilyn Bardet, 333 East K Street – She stated her support of the project.

Leann Taagepera, 270 West H Street – She stated her support of the project. BCDC is already requiring a lot of cleanup of the property.

Jerry Hayes, 150 West G Street – He stated his support of the project. He noted that there are many structures that have been moved to Benicia.

Manuel Lopes, 230 East 2nd Street – He stated his support of the project. The boatyard is a working boatyard.

Larry Leach, 300 East H Street – He commented that he's seen a lot of changes on First Street. He supports the project.

Jane Mallone, 566 Anderson Lane – She appreciates the Joy's efforts to build this project, but would like to see the boatyard cleaned up.

The public hearing was closed.

Commissioners discussed the project.

Charlie Knox noted that there are privately owned parcels in the water. The cleanup is a top priority for the City. BCDC has allocated $500,000, which the City has asked for, to clean up sites. He noted that BCDC's jurisdiction overlaps with the City's.

RESOLUTION NO. 07-15_ (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A USE PERMIT FOR OFF-SITE PARKING AND ADOPTION OF AN INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION FOR THE PROPOSED BED AND BREAKFAST INN LOCATED AT 134 WEST D STREET (06PLN-46)

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

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

B. 221 FIRST STREET APPEAL – BUILDING PERMIT ISSUANCE – continued from July 12, 2007
07PLN-43
221 First Street APN: 89-244-040

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

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

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

Recommendation: Reopen the July 12, 2007 public hearing, consider the appeal, staff report, and all public testimony and pertinent documents, and deny the appeal of the issuance of a building permit for a mixed-use project located at 221 First Street.

Due to Commissioners Bortolazzo and Ioakimedes' conflicts, the Commissioners cut playing cards on this item. Commissioner Bortolazzo will be participating in the discussion of this item.

Charlie Knox gave an overview of the appeal. BCDC has issued their permit at an August 2, 2007 hearing, by a unanimous vote. The issue to be addressed by the Commission is the expiration of the approval.

The public hearing was opened.

Jerry Hayes, Appellant – He thanked the Commission for the opportunity to speak. He urged the Commission to address the two issues of the appeal:

1. The project approval expired on May 3, 2007
2. The issuance of the building permit was illegal because a condition of approval had not been met (BCDC approval of the project).

He commented on language in the Resolution that noted an amendment to the project approval. The September 22, 2005 public hearing was not noticed to reopen the project and re-approve the whole project. He stated codes on project approval expiration dates.

Leann Taagepera, Member of "FOOT" – She commented that they are not against development. She believes the approval expired on May 3, 2007. The September 22, 2005 hearing was strictly to amend the prior project approval. The building plans submitted were not what was approved.

Commissioners questioned whether a ruling was made in this case. Heather McLaughlin stated that no final determination has been made.

Commissioner Daley questioned the unanimous decision of the BCDC approval. Charlie Knox noted that BCDC's scope was much more limited than the Commission's. He further noted that the injunction was to halt work until the City made a decision on the appeal. At the moment, the applicant can proceed at their own risk.

Dana Dean, Attorney for Applicant – She noted that under the appeal ordinance, she has rebuttal rights.

Manuel Lopes, 221 First Street LLC – He stated his embarrassment over the proceedings. He believes this is a good project and his family is planning on living in the units. He invited the Harbor Walk residents to contact him to discuss concerns.

Dana Dean – She provided a transcript of the court proceedings. She believes the conditions of approval were met. Design approvals lapse after 2 years. She referenced a letter dated August 7, 2007 regarding a judge's ruling.

The public hearing was opened.

Tom Adams, 223 East J Street – As a former Design Review and Planning Commissioner, he supports the projects and opposes the appeal. He believes there is a small minority opposing this project. He would like to see this project move forward.

Laurie Parrish, Business Owner – She spoke on behalf of the Harbor Walk Homeowner's association. A letter was submitted by a homeowner that was not sent on behalf of the Homeowner's Association. The Harbor Walk homeowners, as a whole, are not opposed to this project. Personally, she also supports this project.

Larry Fullington, 833 Clifton Court – He is concerned that there is a small segment of citizens derailing projects. He resents comments that City staff is incompetent and believes the lawsuit is frivolous. The judge has not made a determination and has left it up to the City. He urged the Commission to deny the appeal.

Pat Lopes, 230 East 2nd Street – She gave background of her family and its history in Benicia.

Kim Evans, Resident – There is a long history of the project applicants and they have contributed a lot to the City. She supports the project.

Larry Leach, 300 East H Street – He would like to see Downtown developed. He would like the Commission to resolve this issue. He would like to see people working together to better this community. Most of the people he talks to believe there is a personal vendetta driving this appeal.

Kerry Carney, 164 East H Street – She reminded the Commission that there are rules and regulations. She urged the Commission to consider only the issues raised.

Marilyn Bardet, 333 East K Street – She commented on procedural issues being raised. She believes that the district should be looked at as a whole. The 221 First Street project is an asset.

Bob Macintosh, 956 West L Street – He supports the project and believes the issue over the dates is trivial. He would like to see the project built.

A resident on Chelsea Hills Drive commented that there are a lot of people contributing to this town. Everyone has valid concerns, but it seems that this project is a good project. She noted that small developers have a tough time getting projects approved.

Jim Phelan, 870 Channing Circle – He stated his support for the project.

The public hearing was closed.

Jerry Hayes – He commented on the issues raised by the speakers. He read statements from the court transcript regarding the effective date of the approval. He noted that BCDC did not look at any design issues. He believes that Charlie Knox should have stopped the permit and looked at the project. Conditions changed since the 2-year approval was granted. He asked the Commission to do the right thing.

Dana Dean, Attorney – She noted that the transcript had been provided to the Commission. She noted that there have been adjustments to the building plans based on ADA requirements.

Commissioners discussed the appeal.

Commissioner Bortolazzo believes, based on the transcript, that the September 22, 2005 date is valid. Commissioner Daley agreed with Commissioner Bortolazzo's assessment. He does not believe that the rules weren't followed.

Commissioner Healy commented that he is bothered that Jerry Hayes is attacked for asserting his position. He would like to see people respect each other. He noted that he had ex-parte communication with Dana Dean. There is ambiguity in the regulations and it is not unreasonable to defer to the applicants in this case.

Chair Railsback commented that everyone involved in this process has done a lot for this community.

RESOLUTION NO. 07-16 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA DENYING AN APPEAL OF THE ISSUANCE OF A BUILDING PERMIT FOR A MIXED-USE PROJECT LOCATED AT 221 FIRST STREET(07PLN-43)

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

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

A recess was called at 9:00. The meeting was reconvened at 9:10 p.m.

C. LOWER ARSENAL MIXED USE SPECIFIC PLAN DRAFT ENVIRONMENTAL IMPACT REPORT

Arsenal Historic Overlay District

PROPOSAL:

The Lower Arsenal Specific Plan is intended to implement the General Plan Mixed Use designation for that area of the city. The Draft Plan is the result of field studies, community workshops, and public charrettes conducted in Benicia between July and October 2006. A Draft Environmental Impact Report (DEIR) has been prepared to identify potential impacts. The Draft EIR was circulated on July 19, 2007 with the public comment period running through September 6, 2007.

Recommendation: Receive and forward public comment, including from Planning Commissioners, to the City Council.

Commissioner Bortolazzo recused himself due to property ownership within the Arsenal.

Charlie Knox gave an overview of the project. A scoping session was held on April 12, 2007. The public comment period ends on September 6, 2007. Charlie Knox noted that there are alternatives proposed which only address the Jefferson Ridge area. Option 2 is "the project" per CEQA. After all comments are received, the City Council will consider the comments, the EIR and the Plan for adoption.

Adam Weinstein, LSA, gave a brief presentation. He reviewed some of the key impacts of the project and gave the project alternatives.

Charlie Knox noted that the description of the 1.5 Alternative should be more like 35-40,000 square feet.

The public hearing was opened.

Mark Hajjar, 924 West 8th Street - He is trying to develop a 22-unit project in the Arsenal. He believes the DEIR is comprehensive. He requested revisions submitted in a letter to the Commission.

Kat Wellman noted that there can be a deed notification without a restriction.

Don Basso, 511 Poppy Circle – He commented on the Senior Housing alternative. He does not believe this is a compatible use. Businesses in the area will be impacted.

Dennis McCray, Director of Solano Affordable Housing Foundation – He spoke on the Jefferson Ridge portion of the Plan, specifically the senior housing alternative his organization if proposing.

Dana Dean, Attorney – She spoke on behalf of Amports. Her preliminary comments note large flaws in the DEIR. The project description needs to be revised. She will be submitting additional comments on the environmental documents. She was pleased to see a recommendation for a General Plan amendment and rezoning.

Belinda Smith, Resident – She spoke about the conservation plan and its purpose. The historic integrity of the district must be maintained. There are artificial zones that have been created. She will be submitting additional comments.

Reed Robbins, Jefferson Street Mansion – She submitted a letter to the Commission. There will be major impacts in developing Option 3 (senior housing). There are existing businesses in the area. There are easements in the area that would affect Option 3. She would like Option 3 discarded.

Marilyn Bardet, 333 East K Street – She noted that her verbal scoping comments were not included in the DEIR. She made reference to children in the area and Department of Toxic Substance Control (DTSC) issues. She will be submitting additional comments. She would like the EIR prepared again.

Larry Fullington, 833 Clifton Court – He believes the Jefferson Ridge is a jewel for this community. The Jefferson Street Mansion should be mentioned more in the EIR. He does not support the senior housing alternative in the Arsenal.

Dennis Owens, 1025 Grant Street applicant – He stated his objection to the new site lines in the alternatives.

Don Dean, 257 West I Street – Submitted a document to the Commission. He noted that the Arsenal is a historic district. The impacts to the National Register Historic districts must be identified. There should be more analysis as to why the Plan reduces impacts. The biology impacts should be further investigated. He supports the Plan, but would like to see additional impacts identified.

Kathleen Olson, 920 First Street – She noted that the document is daunting. She is overwhelmed by how complicated it is to get things accomplished. She supports additional analysis prior to adoption of a Specific Plan.

The public hearing was closed.

The Commissioners noted that their comments will be submitted in writing. Commissioner Healy reminded everyone that the hearing is to discuss the impacts identified in the DEIR. He would like to see standard language for deed notifications.

Commissioner Daley stated his concerns with deed restrictions/notifications. He does not want to see major impacts to the port or wildlife. Children's health issues should be addressed. Security and evacuation impacts need to be addressed.

Commissioner Ioakimedes noted that this is a comprehensive document, but there are inconsistencies. The document needs to be clear and not create ambiguity. Residential uses need to be considered.

Comments will be forwarded to the City Council.

VI. COMMUNICATIONS FROM STAFF

Gina Eleccion noted that the Arsenal PowerPoint slides will be posted online tomorrow and apologized for technical difficulties.

Charlie Knox noted that the next step in the EIR process is that LSA will compile all comments submitted, and a Response to Comments document will be prepared. The Draft EIR adequacy step in the CEQA review process will most likely be removed prior to EIR certification of this project. The City Council will hold certification hearings.

Charlie Knox noted that Opticos has developed a Consistency Matrix between the plan policies and programs and the Arsenal Historic Conservation Plan, to be included in the adopted Lower Arsenal Mixed Use Specific Plan.

VII. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Daley requested email copies of the packets.

VIII. ADJOURNMENT

Chair Railsback adjourned the meeting at 10:24 p.m.

Community Development Department
MEMORANDUM

Date: October 3, 2007
To: Planning Commission
From: Gina Eleccion, Management Analyst
Re: 2008 Planning Commission Meeting Schedule

The Planning Commission meeting schedule is listed below for your reference and approval.

January 10, 2008	**July 10, 2008**
February 14, 2008	**August 14, 2008**
March 13, 2008	**September 11, 2008**
April 10, 2008	**October 9, 2008**
May 8, 2008	**November 13, 2008**
June 12, 2008	**December 11, 2008**

AGENDA ITEM
PLANNING COMMISSION MEETING: OCTOBER 11, 2007
REGULAR AGENDA ITEM

DATE : October 4, 2007

TO : Planning Commission

FROM : Kat Wellman, Contract Attorney
Damon Golubics, Acting Community Development Director

SUBJECT : **REVIEW AND RECOMMEND APPROVAL OF A PROPOSED ORDINANCE PROHIBITING FUTURE BILLBOARDS AND NONACCESSORY SIGNS CITYWIDE**

RECOMMENDATION:

Recommend that the City Council amend various sections in Title 18 (Signs) to add and update Section 18.24.015 (Billboards/Nonaccessory Signs) and delete Chapter 18.32 (Freeway Advertising Displays) in the Benicia Municipal Code, prohibiting future billboards and nonaccessory signs in the City of Benicia, based on the findings set forth in the attached resolution.

EXECUTIVE SUMMARY: On May 1, 2007, the City Council enacted a 45-day moratorium to prohibit any new billboards within the City while the city considered appropriate regulations for billboards or nonaccessory signs. On June 5, 2007, the Council extended the billboard moratorium for an additional 10 months and 15 days to prevent the issuance of any permits for new billboards. Pursuant to Council direction, the City Attorney's office has drafted the attached ordinance that would prohibit any future billboards or nonaccessory signs to be placed anywhere in the City of Benicia. The ordinance would *not* impact any currently existing billboards or nonaccessory signs in Benicia, as they are protected from removal by State Law.

The Community Development Department has a completed application for a use permit to construct a new billboard on Highway I-680 pending the outcome of the moratorium. The City Council will determine if it will allow this last application to be reviewed for a use permit prior to the effective date of the ordinance. If the City Council so moves, the Planning Commission will be reviewing the use permit application for this proposed billboard at the next Planning Commission meeting on November 8, 2007.

Review and comment by the Planning Commission on the proposed ordinance is requested at this time.

ENVIRONMENTAL ANALYSIS:

Staff has determined that this action is not a "project" as defined by the California Environmental Quality Act (CEQA). Section 15061 (b)(3) of the CEQA Guidelines state that if the proposed "activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment." This Section of the Guidelines also state that "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

BUDGET INFORMATION:

There is no foreseeable impact on the City's budget.

SUMMARY:

As defined in the Benicia Municipal Code, billboards and nonaccessory are signs that advertise or provide information about a business organization, events, goods, products, services or uses, not directly concerning the use on the property on which the sign is located. (See BMC Section 18.040.020). These are the signs that are typically found along major highways. Currently, there are four such billboards located along I-680 near the industrial area of the City. A fifth billboard is proposed for removal pursuant to an agreement. There are no billboards along I-780.

State Law Regulating Outdoor Advertising: Although outdoor advertising is generally regulated by California State law through the Outdoor Advertising Act (Business and Professions Code Sections 5200 et seq.), local governments are authorized to regulate outdoor advertising, billboards and signs within their jurisdiction. However, certain regulations are preempted by State law. First, regardless of local agency approval, the California Department of Transportation (CalTrans) has the ultimate say in whether a sign can be located adjacent to the freeway. Second, and more important to the proposed ordinance, Business and Professions Code Section 5412 expressly prohibits the removal of any lawfully erected advertising signs without just compensation to the owner of the sign and the property owner, unless the parties enter into a mutually agreeable relocation agreement. Consequently, the owners of the billboards currently existing in the City of Benicia have a "property right" to continue to use the signs unless the City wishes to compensate them for their removal.

Benicia General Plan & Current Sign Ordinance: The City Council expressed an intent to prohibit new billboards along Interstate Highways I-680 and I-780 when the General Plan was adopted in 1999. Goal 3.9 in Chapter 3 of the Benicia General Plan, entitled *Protect and Enhance Scenic Roads and Highways*, contains a policy goal to "preserve vistas" along I-680 and I-780, and the need to "inventory scenic resources" along I-680 and I-780 in order to apply for State Scenic Highway designation of these two Interstate Highways through Benicia. In addition, Program 3.9B specifically referred to developing a sign enforcement program along the freeways, which, with the special State Scenic designation, would ensure "special scenic conservation treatment" of these Highways from Caltrans. Despite the intent of the General Plan, these programs were never

implemented and the City's sign ordinance was never changed to implement the necessary regulation of signage along the freeways. The City's current sign ordinance regulating billboards and outdoor advertising structures has not been reviewed since 1977 and 1965. Although there are conflicting sections that address billboards and nonaccessory signs, BMC Chapter 18.32 specifically provides for freeway advertising display signs, which would allow for new billboards to be constructed along I-680 and I-780.

When it became known that an application for a new billboard was about to be submitted, the City Council passed the moratorium prohibiting the issuance of any new use permits for billboards, so that there was sufficient time to study and develop appropriate regulations in keeping with the goals and policies of the General Plan. The proposed ordinance attached is the result of the Council's direction.

Proposed Ordinance: The proposed ordinance prohibits any new billboards or accessory signs to be constructed in the City of Benicia. It amends various sections in Title 18 (Signs) of the Benicia Municipal Code pertaining to billboards and non-accessory signs and pursuant to the goals set forth in the General Plan, sets forth expressed findings that excessive and inappropriate signage has an adverse impact on the overall visual appearance and character of the City, its highways and the safety of the community.

In summary, the ordinance lists billboards and non-accessory signs as one of the "prohibited signs" in Section 18.24.010; expressly prohibits them in a new Section 18.24.015 entitled "Billboards/Nonaccessory Signs;" and eliminates Chapter 18.32 entitled "Freeway Advertising Displays" in its entirety. It should be again noted, that the ordinance does not impact any existing billboards in the City, which cannot be removed without proper compensation to the owner(s).

If this ordinance is recommended for adoption by the Planning Commission to the City Council, the Council will also determine if a pending application for one additional billboard along I-680 can be reviewed by the Planning Commission for a use permit. If so moved, this application will come forward to the Planning Commission at its November 8, 2007 meeting, prior to the effective date of the ordinance if adopted by the City Council.

FURTHER ACTION:
The Planning Commission recommendation shall be final unless appealed to the City Council within ten business days.

Attachments:
- Draft Resolution
- Draft Ordinance (strikeout version)
- Draft Ordinance (nonstrikeout version)

DRAFT RESOLUTION

RESOLUTION NO. 07- XX (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING THAT THE CITY COUNCIL APPROVE A ZONING TEXT AMENDMENT TO PROHIBIT FUTURE BILLBOARDS OR NONACCESSORY SIGNS AND ELIMINATE THE CHAPTER PERTAINING TO FREEWAY ADVERTISING DISPLAY SIGNS

WHEREAS, on May 1, 2007, the City Council enacted a 45-day moratorium to prohibit any new billboards within the City while the city considers appropriate regulations for billboards; and

WHEREAS, on June 5, 2007, the Council extended the billboard moratorium for an additional 22 months and 15 days to prevent the issuance of any permits for billboard.

WHEREAS, the City Attorney's office has drafted an ordinance suggesting new regulations for future billboard requests; and

WHEREAS, the Planning Commission at a regular meeting on October 11, 2007, conducted a public hearing, considered all testimony and documents and reviewed the proposed zoning text amendment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia hereby recommends that the City Council approve a zoning text amendment to prohibit future billboards or nonaccessory signs and eliminate the chapter pertaining to freeway advertising; and

BE IT FURTHER RESOLVED that the Planning Commission of the City of Benicia finds:

a) That the City's General Plan has goals and policies that specifically recommend protection and enhancement of scenic roads and highways through the City. (Goal 3.9: Protect and enhance scenic roads and highways);

b) That the City should "preserve vistas along I-780 and I-680" as outlined in Policy 3.9.1 in the General Plan;

c) That General Plan programs implementing this policy call for a program to inventory of scenic resources, and apply to the State for Scenic Highway Designation for I-780 and I-680, and development of a sign enforcement program along freeways through town;

d) Billboards should not be allowed to proliferate along Benicia's highways since this would be contrary to pursuing the State scenic highway designation as required by the General Plan;

e) That in addition to promoting General Plan goals, excessive and inappropriate signage has an adverse impact on the overall visual appearance and character of the City and its highways, affects the appearance and quality of life of the community and can increase the safety risks to traffic and pedestrians; and

f) In order to implement these important General Plan goals, policies and programs, new regulations prohibiting billboards along I-780 and I-680 and throughout Benicia are necessary.

* * * * *

On a motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted by the Planning Commission of the City of Benicia at the regular meeting of said Commission held on the 11th day of October, 2007, and adopted by the following vote:

Ayes:
Noes:
Absent:
Abstain:

_____
Damon Golubics
Acting Planning Commission Secretary

DRAFT ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 07-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING VARIOUS SECTIONS IN TITLE 18 (SIGNS) TO UPDATE SECTIONS AND ADDING SECTION 18.24.015 (BILLBOARDS/NONACCESSORY SIGNS) AND DELETING CHAPTER 18.32 (FREEWAY ADVERTISING DISPLAYS) OF THE BENICIA MUNICIPAL CODE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

Section 1.

Title 18 (Signs) of the Benicia Municipal Code is amended to read as follows:

The footnote is deleted in its entirety. ~~[1] For statutory provisions authorizing a city to regulate signs and billboards by use of its zoning power, see Government Code 65850.~~

Section 2.

Section 18.04.010 (Purpose) of Chapter 18.04 (General Purposes) Of Title 18 (Signs) is amended to read as follows:

18.04.010 Purpose. The purpose of this title is to promote and protect the public health, welfare and safety by advancing the goals, policies and strategies of the General Plan to protect, preserve and enhance the vistas, scenic corridors and highways of the city, as well as the aesthetics, traffic safety and environmental values of the city's residential communities and commerical/industrial districts by restricting and regulating signage in the city. This title provides regulations regarding ~~regulating~~ the size, height, design, quality of materials, construction, location, elimination and maintenance of permitted signs and sign structures within the city.

Section 3.

Section 18.04.015 (Findings) of Chapter 18.04 (General Purposes) Of Title 18 (Signs) is added to read as follows:

18.04.015 Findings. In adopting this title, the city council finds that excessive and inappropriate signage has an adverse impact on the overall visual appearance and character of the city and its highways, affects the appearance and quality of life of the community, and that it can increase the safety risks to traffic and pedestrians. By adopting this title, the city council intends to comply with the goals and policies of the General Plan to preserve the city's vistas and scenic resources along I-780 and I-680 and to protect the city's ability to apply for State scenic highway designation for the

portions of Interstate Highways I-780 and I-680 that run through the City. This title is intended to safeguard and preserve the health, property, and public welfare of residents and businesses by prohiting, regulating, and controlling the type, design, location, and maintenance of signs.

Section 4.

Section 18.04.020 (Definitions) of Chapter 18.04 (General Purposes) Of Title 18 (Signs) is amended to read as follows:

"Billboard or Nonaccessory Sign" means a sign which advertises or provides information about a business organization or event, goods, products, services or uses, not directly concerning the use on the property upon which the sign is located, and does not include community directional signs or open house signs.

"Nonaccessory sign or Billboard" means a sign which advertises or provides informsation about a business organization or event, goods, products, services or uses, not directly concerning the use on the property upon which the sign is located, and does not include community directional signs or open house signs.

Section 5.

Section 18.24.010 (Prohibited signs - generally) of Chapter 18.24 (Prohibition and generally) Of Title 18 (Signs) is added to read as follows:

18.24.010 Prohibited signs – generally. Unless specifically authorized under other sections of this title, the following types of signs shall not be erected or maintained: a flashing sign; a moving sign; a sign which has banners, flyers, pennants, pinwheels, or utilizes two or more light bulbs in a wire string; a portable sign; a projecting sign; a sign painted directly on the wall of a building or fence; a dilapidated or abandoned sign or a sign in disrepair or dangerous condition; a sign which is affixed to a fence, utility pole or utility structure, or a tree, shrub, rock or other natural object; a mobile sign or a sign attached to a motor vehicle which is parked with the intent to advertise to the public passing by; ~~a nonaccessory sigh, unless a variance for such is granted in a commercial (CN, CG, CT CO) district~~; a sign containing obscene or profane matter; a sign illuminated by exposed light globes, i.e., clear light bulbs not turned away or properly shrouded from the viewer; and a sign created by the arrangement of vegetation, rocks, or other objects, such as hillside, visible to pedestrians and motorists, without application to and approval by the planning commission.

Section 6.

Section 18.24.015 (Billboards/Nonaccessory Signs) of Chapter 18.24 (Prohibition and generally) Of Title 18 (Signs) is added to read as follows:

18.24.015 Billboards/nonaccessory signs. The city completely prohibits the

construction, erection or use of any billboards or nonaccessory signs other than those which legally exist in the city, or for which a valid permit has been issued and has not expired, as of the date on which this provision is first adopted. No permit shall be issued for any billboard which violates this policy, and the city will take immediate abatement action against any billboard or nonaccessory sign constructed or maintained in violation of this policy. In adopting this provision, the city council affirmatively delcares that it would have adopted this billboard/nonaccessory sign policy even if it were the only provision in this chapter. The city council intends for this billboard policy to be severable and separately enforceable even if other provision(s) of this chapter or title may be declared, by a court of competent jurisdiction, to be unconstitutional, invalid or unenforceable. This provision does not prohibit agreements to relocate presently existing, legal billboards or nonaccessory signs.

Section 7.

Section 18.24.030 (Exempt signs in commercial or industrial districts) of Chapter 18.24 (Prohibition and generally) Of Title 18 (Signs) is added to read as follows:

18.24.030 Exempt signs – in commercial or industrial ~~manufacturing land use~~ districts.

A. Identification signs within ~~the~~ commerical or industrial ~~manufacturing land use~~ districts shall be submitted to the community development director for ~~his~~ approval. Directional signs are exempt in this zone. Billboards or nonaccessory signs are prohibited.

B. Any signs within ~~the~~ commerical or industrial zones ~~manufacturing land use~~ ~~district~~ shall be designed so that the appearance of such signs shall be in keeping with the general surrounding architecture. Special attention shall be directed to those signs visible from freeway entraces to the city. ~~and they shall be installed in keeping with ladnscaping, open space requiremens, and general appearance of said freeway structures.~~ Signs that negatively impact the landscaping, open space requirements, vistas, scenic corridors or general appearance of the freeway structions may be denied.

Section 8.

Chapter 18.32 (Freeway Advertising Displays) of Title 18 (Signs) is deleted in its entirety.

~~**FREEWAY ADVERTISING DISPLAYS**~~[1]

~~Sections:~~

~~18.32.010 Definitions.~~

~~18.32.020 Prohibited location.~~

~~18.32.030 Exemptions.~~
~~18.32.040 Violation – Removal.~~

~~18.32.010 Definitions.~~

~~As used in this chapter, certain terms are defined as follows:~~

~~A. "Advertising display" refers to advertising structures and to signs.~~

~~B. 1. "Advertising structure" refers to a structure of any kind or character erected or maintained for outdoor advertising purposes on which any poster, bill, printing, painting, or other advertisement of any kind whatsoever may be placed, including statuary.~~

~~2. "Sign" refers to any card, cloth, metal, painted or wooden sign of any character, placed for outdoor advertising purposes, on or to the ground, or any tree, wall, bush, rock, fence, building, structure or thing, either publicly or privately owned, other than an advertising structure.~~

~~3. Neither advertising structure nor sign, as used in this chapter includes:~~

~~a. Official notices issued by a court or public body or officer;~~

~~b. Notices posted by any public officer in performance of a public duty, or by any person in giving legal notice;~~

~~c. Directional, warning, or information signs or structures required or authorized by law or by federal, state, or municipal authority.~~

~~C. "Freeway" means a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access and which is declared to be such in compliance with the Streets and Highways Code of the state of California.~~

~~D. "Landscaped freeway" means a section or sections of a freeway which is now, or hereafter may be, improved by the planting, at least on one side of the freeway right-of-way, lawns, trees, shrubs, flowers, or other ornamental vegetation which shall require reasonable maintenance. Planting for the purpose of soil erosion control, traffic safety requirements, reduction of fire hazards, or traffic noise abatement shall not change the character of a freeway to a landscaped freeway.~~

~~E. The verb "to place," and any of its variants as applied to advertising displays, includes the maintaining and the erecting, constructing, posting, painting, printing, tacking, nailing, gluing, stitching, carving or otherwise fastening, affixing, or making visible, any advertising display on or to the ground, or any tree, bush, rock, fence, post, wall, building, structure, or thing.~~

Section 9.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The city council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

*****

On the motion of Council Member , seconded by Council Member , the foregoing ordinance was Introduced at a regular meeting of the City Council on the day of , 2007, and adopted at a regular meeting of the Council held on the day of , 2007, by the following vote:

Ayes:

Noes:

Absent:

_____
Steve Messina, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

DRAFT ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 07-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING VARIOUS SECTIONS IN TITLE 18 (SIGNS) TO UPDATE SECTIONS AND ADDING SECTION 18.24.015 (BILLBOARDS/NONACCESSORY SIGNS) AND DELETING CHAPTER 18.32 (FREEWAY ADVERTISING DISPLAYS) OF THE BENICIA MUNICIPAL CODE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

Section 1.

Title 18 (Signs) of the Benicia Municipal Code is amended to read as follows:

The footnote is deleted in its entirety.

Section 2.

Section 18.04.010 (Purpose) of Chapter 18.04 (General Purposes) Of Title 18 (Signs) is amended to read as follows:

18.04.010 Purpose. The purpose of this title is to promote and protect the public health, welfare and safety by advancing the goals, policies and strategies of the General Plan to protect, preserve and enhance the vistas, scenic corridors and highways of the city, as well as the aesthetics, traffic safety and environmental values of the city's residential communities and commerical/industrialdistricts by restricting and regulating signage in the city. This title provides regulations regarding the size, height, design, quality of materials, construction, location, elimination and maintenance of permitted signs and sign structures within the city.

Section 3.

Section 18.04.015 (Findings) of Chapter 18.04 (General Purposes) Of Title 18 (Signs) is added to read as follows:

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intended to safeguard and preserve the health, property, and public welfare of residents and businesses by prohiting, regulating, and controlling the type, design, location, and maintenance of signs.

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Noes:

Absent:

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Steve Messina, Mayor

Attest:

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Lisa Wolfe, City Clerk