

**October 11, 2012
REGULAR MEETING
BENICIA PLANNING COMMISSION
CITY HALL COUNCIL CHAMBERS**

**AGENDA
OCTOBER 11, 2012
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. 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 jurisdiction of the Planning 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 council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

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 minutes from JULY 12, 2012](#)

V. REGULAR AGENDA ITEMS

A. 2007-2014 HOUSING ELEMENT

PROPOSAL:

One of the seven State-mandated General Plan elements, The Housing Element is a comprehensive statement describing the housing needs of Benicia, and how the City's plans and regulations facilitate the development, improvement and preservation of housing for all

economic segments of the community. The City adopted its first Housing Element in 1979 and has updated it periodically per State requirements. The proposed 2007-2014 Housing Element has been pre-certified by the State Department of Housing and Community Development (HCD).

Recommendation:

Adopt a resolution recommending that the City Council adopt the Initial Study/Negative Declaration and the 2007-2014 Housing Element.

[Click here](#) to view staff report and all attachments.

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 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 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 that 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.

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 Council Chambers. If you wish to submit written information on an agenda item, please submit to Lisa Porras, Senior Planner, as soon as possible so that it may be distributed to the Planning Commission.

 [July 12, 2012 Minutes \(pdf\)](#)



DRAFT

**BENICIA PLANNING COMMISSION
CITY HALL COUNCIL CHAMBERS
MINUTES**

**Thursday, July 12, 2012
7:00 p.m.**

I. OPENING OF MEETING

A. Pledge of Allegiance

B. Roll Call of Commissioners

Present: Don Dean, George Oakes, Brad Thomas, Lee Syracuse and Chair Rod Sherry.

Absent: Commissioners Grossman (excused) and Smith (excused)

Staff Present: Kat Wellman, Contract Attorney
Mario Giuliani, Economic Development Manager
Amy Million, Principal Planner
Lisa Porras, Senior Planner
Kathy Trinque, Administrative Secretary

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

II. ADOPTION OF AGENDA

Commissioner Oakes suggested that the order of the agenda be changed so that Items A and B under the Regular Agenda (VI) be heard before the Presentation Item (V).

On motion of Commissioner Oakes, seconded by Commissioner Syracuse, the agenda order was amended with Regular (Items VI A and B) heard before the Presentation (Item V) and adopted by the following vote:

Ayes: Commissioners Dean, Oakes, Syracuse, Thomas and Chair Sherry

Noes: None

Absent: Commissioners Grossman and Smith

Abstain: None

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

None.

B. PUBLIC COMMENT

None.

IV. CONSENT CALENDAR

A. APPROVAL OF MINUTES FROM JUNE 14, 2012

On motion of Commissioner Dean and seconded by Commissioner Syracuse, the June 14, 2012 meeting minutes were approved by the following vote:

Ayes: Commissioners Dean, Oakes, Syracuse, Thomas and Chair Sherry
Noes: None
Absent: Commissioners Grossman and Smith
Abstain: None

VI. REGULAR AGENDA ITEMS

A. USE PERMIT TO OPERATE A TATTOO BODY ART STUDIO AS AN ANCILLARY USE TO AN ART GALLERY

PROPOSAL:

Request for approval of a use permit to operate a tattoo body art studio as an ancillary use to an art gallery located at 131 First Street, Suite E. The art gallery will have regular business hours from 9 a.m. to 8 p.m. every day of the week, and the business owner will be available to provide body art during these hours by appointment only.

Recommendation:

Approve Use Permit 12PLN-00019 to allow the operation of a tattoo body art studio as an ancillary use to an art gallery located at 131 First Street, Suite E, based on the findings and subject to the conditions of approval set forth in the draft resolution.

Chair Sherry recused himself for this item. Commissioner (Vice-Chair) Dean acted as Commission chair for this item.

Lisa Porras, Senior Planner, presented a brief review of the staff report and staff's recommended action for approval of the Use Permit. She described the 3 findings that the Planning Commission must make in order to approve the Use Permit. Staff recommends approval of the Use Permit.

Questions from Commissioners included: (Oakes) how is this project tied to the BCDC requirement for a public access trail (staff explained the property history and that the new property owner is in agreement with the requirement to construct a new trail pursuant to BCDC and is working with the City Attorney on an agreement to construct the trail); (Dean) how many businesses are still located at the Tannery building (only a few).

Vice-Chair Dean commented that he is glad to hear that an agreement is in process but expressed concern that until the agreement is finalized it could keep this business from opening in the Tannery building. He also noted that condition #9 on the draft resolution specifies an August 1, 2012 deadline for the agreement to be executed and asked if that is enough time to finish that process.

Kat Wellman, Contract Attorney, commented that the agreement with the property owner is progressing with a good faith effort on the part of the property owner, and this agreement will ensure that compliance with the BCDC requirement to install a new public access trail occurs.

Landon Mau, business owner and applicant stated that the reason he is moving his business to the Tannery building is because his business has outgrown its current location. He is planning to expand the art gallery and the new location provides this additional space in addition to areas for 3 additional tattoo artists.

Commissioner Thomas asked about how many tattoo appointments they have typically have in a day and how much larger the space is at the new location.

Mr. Mau responded that the tattoo area will have about the same square footage, but the unit allows more room to display art. He stated that he is up to date with all health department certifications and other requirements.

Public Comment opened.

Bonnie Silveria, representing the Historical Society and as a former Planning Commissioner and Parks Commissioner spoke in support of the applicant. She commented that this business should not be the "trigger" for a new trail requirement; a new trail should be the City's responsibility. She is in favor of completion of this segment of the Bay Trail. She further suggested that the City collect a bond from the property owner and establish a firm timeframe to ensure the trail's completion.

Public Comment Closed.

Commissioners discussed the August 1 agreement deadline between the City and the property owner and how that may impact opening of this business.

Ms. Wellman stated that there is some flexibility with the timeline and the City's desire is not to burden the applicant. Good progress is being made with the property owner and she will consider adding a bond to ensure that the public access trail will be built.

Vice-chair Dean asked for clarification in case an executed agreement with the property owner is not reached and how would that impact this applicant's use permit.

Ms. Wellman responded that the Use Permit could return to the Planning Commission for re-consideration. However, both parties are moving forward with the agreement and she anticipates that the agreement will be completed in time.

(Edgar Montigue, a member of the public, spoke in support of this business and the proposed use permit. However, public comment was closed).

A motion was made by Commissioner Oakes and seconded by Commissioner Thomas, to approve Use Permit 12PLN-00019 allowing the operation of a tattoo body art studio as an ancillary use to an art gallery located at 131 First Street, Suite E, based on the findings and subject to the conditions of approval set forth in the draft resolution and adopted by the following vote:

Ayes: Commissioners Oakes, Syracuse, Thomas and Vice-Chair Dean

Noes: None

Absent: Commissioners Grossman and Smith

Abstain: Chair Sherry

B. PROPOSED ZONING ORDINANCE AMENDMENT TO SECTION 17.70.350 TO REMOVE REMNANT REFERENCES TO THE FORMER DOWNTOWN COMMERCIAL ZONING DISTRICT

PROPOSAL:

In May 2007 the City Council adopted Ordinance 07-12, which established regulations for Formula Businesses. Subsequently the City Council adopted the Downtown Mixed Use Master Plan (DMUMP) in September 2007, which updated the standards and regulations in the downtown area.

Implementation of the DMUMP resulted in rezoning most of Downtown including the First Street corridor. This rezoning replaced the Downtown Commercial (CD) zoning district, thus eliminating its presence within Title 17. At the time of adoption, the Zoning Ordinance was amended to reflect these changes; however, the reference to the CD zoning district in Section 17.70.350 Formula Business was mistakenly not removed. The purpose of this

text amendment is to remove this obsolete regulation pertaining to the CD zoning district and instead reference the DMUMP, which now regulates this area of the City.

Recommendation:

Adopt a resolution recommending the City Council adopt an ordinance to amend Benicia Municipal Code Section 17.70.350 to remove remnant standards and regulations pertaining to the former Downtown Commercial (CD) zoning district and instead properly reference the Downtown Mixed Use Master Plan.

Chair Sherry returned to the meeting.

Amy Million, Principal Planner, provided a review of the staff report, explained Exhibit A "Downtown Map (Town Core Vs. Downtown Commercial) and that staff's intention with the proposed amendment is to be consistent with the General Plan to keep the "small town" feel of Benicia's downtown.

Commissioner Dean asked if this is the only proposed revision to the Zoning Ordinance (yes); and asked if this is the only affected location (yes).

No further discussion by Commissioners was held.

No public comments were received.

Chair Sherry clarified that the amendment is basically increasing the area that regulates formula based businesses along First Street to the area from West 2nd to East 2nd Streets.

On motion of Commissioner Thomas, seconded by Commissioner Syracuse, the proposed resolution recommending City Council approval of a Zoning Text Amendment to Section 17.70.350 to remove reference to the CD, Downtown Commercial Zoning District and incorporate the Downtown Mixed Use Master Plan was adopted by the following vote:

Ayes: Commissioners Dean, Oakes, Syracuse, Thomas and Chair Sherry

Noes: None

Absent: Commissioners Grossman and Smith

Abstain: None

V. PRESENTATION – INDUSTRIAL ZONING DISTRICTS TEXT AMENDMENTS

Presentation on a city-initiated proposal to amend Industrial zoning to promote business retention and attraction in the Benicia Industrial Park.

Amy Million, Principal Planner, provided a verbal presentation on this item. She stated that the purpose of this report is to update the Commission with a brief history, staff's current efforts and the timing of a new ordinance. The next step in the process is to discuss the potential ordinance amendments with the Economic Development Board and the Benicia Industrial Park Association with a more detailed review of these amendments drafted for the Planning Commission's consideration in September 2012.

Commissioners and staff discussed the Industrial Zoning Amendment history, its current status, purpose of this meeting's update, and timeframe for review and further action.

Chair Sherry emphasized the need to provide surety of the process to potential businesses interested in locating to Benicia.

Mario Giuliani, Economic Development Manager, assured the Commission that from the community feedback he has received, the two guiding principles desired are certainty and speed, in that order.

No public comment was received.

Commissioner Dean asked for clarification on the timeframe of when the ordinance will be presented to the Planning Commission.

Mr. Giuliani stated that the goal is to bring back a portion of the draft ordinance (the entire draft ordinance may not be ready) for the Planning Commission's review in September.

VII. COMMUNICATIONS FROM STAFF

Kat Wellman updated the Commission on Commissioner Smith's recent request for additional training. Ms. Wellman stated that she will work on this request and provide the Commission with a progress report.

VIII. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Oakes mentioned that the City of Concord just finished a full revision of their zoning ordinance.

VIII. ADJOURNMENT

The meeting was adjourned at 7:55 pm.