



BENICIA HISTORIC PRESERVATION REVIEW COMMISSION

SPECIAL JOINT MEETING WITH THE BENICIA PLANNING COMMISSION CITY COUNCIL CHAMBERS

**SPECIAL MEETING MINUTES
Thursday, October 22, 2009**

6:30 P.M.

I. CALL TO ORDER – JOINT MEETING OF PLANNING COMMISSION AND HISTORIC PRESERVATION REVIEW COMMISSION

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

Planning Commission:

Present: Commissioners Dean, Ernst, Syracuse and Chair Healy

Absent: Commissioners Bortolazzo and Sherry (excused). Commissioner Thomas arrived late at 6:55 pm.

Historic Preservation Review Commission:

Present: Commissioners Donaghue, Mang, McKee, Taagepera and Chair Haughey

Absent: Commissioners Crompton and White (excused)

Staff Present:

Charlie Knox, Public Works & Community Development Director

Lisa Porras, Senior Planner

Rhonda Corey, Senior Administrative Clerk

Heather McLaughlin, City Attorney

- 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

A. Approval of Agenda

On motion of Commissioner Donaghue, seconded by Commissioner Mang, the agenda was approved by the following vote:

Planning Commission

Ayes: Commissioner Dean, Commissioner Ernst, Commissioner Ernst and Chair Healy
Noes: None
Absent: Commissioners Bortolazzo, Sherry and Thomas (arrived late at 6:55 pm)
Abstain: None

Historic Preservation Review Commission

Ayes: Commissioner Donaghue, Commissioner Mang, Commissioner McKee,
Commissioner Taagepera and Chair Haughey
Noes: None
Absent: Commissioners Crompton and White
Abstain: None

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

None.

B. PUBLIC COMMENT

None.

IV. PRESENTATIONS

A. REPORT FROM OPEN GOVERNMENT COMMISSION

Clare McFadden gave an Open Government Presentation to both Commissions.

V. PLANNING COMMISSION CONSENT CALENDAR

The Planning Commission Consent Calendar was continued to the meeting of November 12, 2009 due to Commissioners Dean and Ernst being absent at the last meeting and the absence of Commissioners Bortolazzo, Sherry and Thomas from tonight's meeting and the lack of a quorum.

A. Approval of Planning Commission Minutes of October 8, 2009

VI. HISTORIC PRESERVATION REVIEW COMMISSION CONSENT CALENDAR

Minutes from September 24, 2009 pulled with changes to item IV with the following addition:

Commissioner Donaghue nominated Commissioner Haughey as Chair and Commissioner Crompton as Vice Chair. Commissioner Crompton stated he would do it. Commissioner McKee reconsidered and stated that he would serve as Vice Chair.

Item VI (B) amended to reflect the following addition:

Staff noted that it did not find evidence of a wood porch originally, but made a recommendation based on other properties in town. Staff recommended adding language to indicate no evidence of porch.

On motion of Commissioner Donaghue, seconded by Commissioner Mang, the Historic Preservation Review Commission Consent Calendar with the above changes was approved by the following vote:

Ayes: Commissioners Donaghue, Mang, McKee, Taagepera and Chair Haughey

Noes:

Absent: Commissioners Crompton and White (excused)

Abstain:

A. Approval of Historic Preservation Review Commission Minutes of September 24, 2009

B. Approval of 2010 Meeting Schedule

VII. REGULAR AGENDA ITEMS

A. LOWER ARSENAL MIXED USE SPECIFIC PLAN - DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)

City of Benicia

PROJECT LOCATION: The project site is located in the City of Benicia in Solano County. The project site consists of approximately 50 acres east of Downtown Benicia, and is a portion of Benicia's former Arsenal known as the Lower Arsenal. The site is generally bounded by lands adjoining I-780 on the north, lands adjoining I-680 on the east, Port of Benicia land and the Carquinez Strait on the south, and residential neighborhoods extending into downtown Benicia on the west.

BRIEF DESCRIPTION OF PROJECT: The proposed project includes implementation of a Specific Plan for the Lower Arsenal site, which is designated for mixed uses in the Benicia General Plan. The Specific Plan covers four distinct zones, each of which exhibits a unique physical character. The Specific Plan would implement a form-based code to shape future development on the project site, with primary emphasis on the physical form and character of new development. After build-out of the Specific Plan, the area would contain approximately 741,865 square feet of mixed uses, 22 residential units, and 6.39 acres of open space. The Specific Plan area currently contains approximately 525,000 square feet of mixed uses. The Draft Specific Plan is available for public review at the City's Public Works & Community Development Department or on the City's website (www.ci.benicia.ca.us).

Recommended Action: Confirm, modify, and/or augment the August 2008 Planning Commission recommendation that the City Council certify the Environmental Impact

Report and adopt the Lower Arsenal Mixed Use Specific Plan, including modification of Specific Plan Action 4.6.2 to prohibit granting of City permit for alteration of any structure in the Plan area more than 50 years old until the Lower Arsenal historic resource inventory has been updated.

Adam Weinstein from LSA gave a presentation regarding the Draft EIR for the Lower Arsenal Mixed Use Specific Plan.

Commissioner Syracuse expressed concern about pollution and the Ozone Layer. Adam Weinstein stated that toxic air contaminants are an issue addressed in the EIR.

Commissioner Taagepera questioned how noise is measured. Adam Weinstein advised that the Leq Standard is used in the EIR in accordance with City regulations.

Charlie Knox gave an overview of the Lower Arsenal Mixed Use Specific Plan process.

He advised commissioners that there are two reasons for recirculating the noise and greenhouse gas sections of the EIR. The Port wants its noise study analyzed in the EIR and the City needs to follow direction from the Attorney General's Office to meet greenhouse gas emission reduction targets per Senate Bill AB32.

Staff believes the document is ready for approval by both Commissions. Residential / industrial compatibility remains the primary issue. The Planning Commission already recommended approval to City Council in August 2008. The City Council directed that another public workshop be held and a recommendation on the EIR be obtained from HPRC.

Commissioners had questions regarding the following issues: What considerations do developer applicants face in regard to zoning? Are permits going to be required? Are interior alterations subject to CEQA review? What is the current zoning for 1025 Grant Street and how long has the current zoning classification been in affect? For housing uses, is it currently zoned work/live? Could a deed restriction be put in place so tenants or residents could not complain about the Port operations? How will cross-contamination issues be addressed?

Charlie Knox addressed these questions. The top third of the Arsenal is zoned office, the middle third is general commercial, except for the 1025 Grant Street property. The area south of Grant Street is zoned planned development. Minor interior alterations are allowed without HPRC or CEQA review as long as the structural integrity of the building is not compromised the work complies with the Secretary of the Interior's Standards. Two options exist regarding housing and contamination issues: - a comprehensive characterization of the Plan area, or site-by-site analysis. The Army Corps of Engineers and DTSC have not yet been able to agree on a comprehensive process. The only feasible mitigation measure for the Environmental Impact Report is to allow individual property owners to perform their own analyses of issues of contamination and pay for any necessary

clean up. Charlie Knox agreed with HPRC Commissioner Taagepera's idea of requiring HPRC review for exterior alteration of all structures, instead of what she called a moratorium on alteration of all structures more than 50 years old.

The public hearing was opened.

Marilyn Bardet- 333 East K- Expressed concern regarding the hazards section. Asked where the record is to substantiate the claim by DTSC regarding full disclosure adequacy. She stated that the public has not been made aware of the details. She feels the DTSC and the Army Corps of Engineers need to get together and coordinate a clean up similar to the Tourtelot site clean up. Feels public health and safety are at risk and understands that funding is a problem. She stated that lead hazards, oil and ordinance will be a problem. Requests that the commissions recommended that Council ask that the Army be determined the primary responsible party. If others are determined to be responsible, maybe funding for clean up could be paid for by subsequent property owners. If the Department of Defense is the primary responsible party, the City of Benicia needs to solicit political support for DTSC to come in and fix the problem.

Robert Whitehead- 755 West 6th- Stated he is 50% owner of the "8-acre" vacant lot on the ridge of the Lower Arsenal area. Stated that regarding the issue of contamination, \$80,000 has already been spent on that site with a report finding the area clean with exception of one small area near the tennis court. Supports approval of the EIR. Said it is about time to act on this plan, develop the area and stop putting it off. Feels that a handful of people continue to delay the project. Recommends City approval for housing purposes.

Andy Siri- 716 West H- Stated he owns 2 developed properties in the Industrial Park and is a member of the Benicia Industrial Park Association. Feels that the lower area of the Arsenal needs something but is not convinced that housing is the answer. His main concern is the Port as it is vital to the Industrial Park and feels no restrictions should be placed on the Industrial Park. Believes noise should not be a concern as it is a pre-existing condition. Prospective buyers should be asked to sign a waiver preventing them from filing complaints

Dana Dean- 835 First- She stated that her submittal of written comment was not intended to be "new" information. Noise measurement is still an issue. The fact that noise averaging was not used, does not mean the conclusions are invalid. She asked that the Commission not recommend adoption of the Plan. She stated that housing might run businesses out. Mere disclosure of potential noise issues is not sufficient as it only protects the seller, not the City.

If Commissioners recommend adoption of the plan, she requested:

- Limit residential to work/live
- Require deed restrictions and nonsuit waiver
- Include an ordinance requiring real estate disclosures

Belinda Smith- In regard to the response to comments in the Draft EIR she believes it is not thorough enough as there would be significant impact to air quality. She is concerned

about design standards not being in line with the Secretary of Interior's standards. Requested that the district be evaluated as a whole. Would like to see an analysis of the impact the historic areas may have on each other which is not included in the plan. Asked that a response to comments be done on the re-circulated sections. Charlie Knox advised her that it was already done on July 22, 2008.

Bonnie Silveria- 641 West I- Stated that when it was first called the Lower Arsenal there was no industry there. Officers' residences were above Adams Street. When she was on the Planning Commission she asked that residences not be built to the West side of Polk Street south of Grant Street, as reflected in the Draft Plan. She thinks industry can be compatible with housing above Grant Street. Stated the lower area is of concern due to weaponry and industry that previously existed.

Mark Hajjar- 1025 Grant Street- Stated that the Commission can provide a vision of the area. The property he owns used to have barracks and he doesn't think that anyone would have been so careless as to leave munitions behind. A Phase One Study found nothing to indicate that a Phase Two Study would be required. The current zoning on Grant Street allows work-live and commercial businesses. He stated this part of the city is not operating at full capacity. Looking at the big picture, there is not much of a difference between work-live and live-work. Housing units would bring vitality to the area. Requests that the EIR and the Lower Arsenal Specific Plan be approved.

Jon Van Landschoot-175 West H- Feels the Plan is incomplete and there are a lot of incompatibilities with the General Plan. Stated that the historic context needs to be preserved. Questioned whether or not there will be full disclosure regarding toxics. Stated that the City of Benicia is financially solvent because of the Industrial Park and the Port. Feels houses don't create value. Factories do and warehousing slightly. Said that in the downtown area we do not have to be worried about toxics. In his opinion, it would be unfair to approve the plan due to incompleteness. Suggested following the clean up procedure used for Tourtelot.

The public hearing was closed.

Commissioner Comments:

Commissioner Ernst questioned whether or not there might be more retail opportunities in the area. Doesn't see any need to raise rents on Tyler Street. Feels there is not sufficient economics to promote a thriving artist community but would like to see it. Had questions about DTSC being the lead agency. Envisions the area becoming similar to Cannery Row in Monterey. Is it possible for the plan to be broken down into smaller pieces to consider individually? Historic integrity needs to be a priority.

Commissioner Dean stated that when the Army was there it was industrial land. Historically, it was not typically residential family units. Feels the push for more residential development is financially driven. Would not want to jeopardize the Port. Culturally, an artist community is important. Integrity of the Historic District needs to be

preserved and the number one priority. Feels the plan overshadows that. If developed, it could be detrimental to cultural and artist community as well as historic integrity in the district as a whole. Feels the City and the community have neglected the area. The area needs revitalization but not by the current plan. Parts of the original EIR need to address mitigation measures for land use, cultural, biology prior to an application instead of on a case-by-case basis. Criteria needs to already be in place.

Commissioner Thomas stated that the clean up issue is important but the historic uses are most important. Feels work/live needs to be supported.

Commissioner Syracuse feels the plan needs to include specific criteria with regard to historic integrity for the future. How it looked in the past and how it will look in the future.

Planning Commission Chair Healy expressed the desire for Valero representatives to show up to the meetings instead of sending comments in letterform. Rejects the idea that commenters are anti-development or anti-City. Has concerns about “developer roulette” and believes that the City owes the community a better plan than that. Expressed concern that there may be a big price tag for clean up by the Army as it is unknown what is hidden underneath the ground. Questioned whether or not we should incorporate additional measures into the EIR in regard to contaminants.

Commissioner Donaghue expressed concern about residential uses not being compatible with the General Plan and that the General Plan is inconsistent by allowing residential in industry’s back yard. Said that artists need to put up with noise from the Port. There is too much uncertainty regarding residential housing that the General Plan does not adequately address. Would like to exclude interior changes in HPRC’s purview. The Plan needs to simplify things and doesn’t in its current form.

Commissioner Taagepera feels that the Historic Preservation Review Commission is at a disadvantage due to not being consulted on the original EIR. She would have preferred a workshop on the issue. She stated that there are too many outstanding issues and more specific mitigation measures need to be developed and asked if this is a program level EIR (which Charlie Knox confirmed). She also questioned whether there would be design standards, to which Charlie Knox responded the Specific Plan, includes architectural design standards. She also questioned if the EIR addresses the ratio of historic to non-historic buildings. Charlie Knox stated that the plan did not specifically control the ratio, but the vision was for several large buildings on the Ridge.

Commissioner Healy asked if the Arsenal Historic Conservation Plan could be included in the Arsenal Specific Plan. Charlie Knox advised that unfortunately they needed to be separate due to State requirements for conservation plans.

City Attorney Heather McLaughlin asked Commissioners if they have all received the full EIR. Charlie Knox responded that they should have all received the document. Commissioner Taagepera stated that she believed she had not received a hard copy and had only reviewed it online. Commissioner Donaghue stated that he borrowed a copy from

Gina Eleccion. Heather McLaughlin advised Commissioners that they could not make a decision on a document that they have not adequately reviewed. If not, the item needs to be continued. Commissioner Donaghue stated that he has adequately reviewed the document. Commissioner Mang did review the document and feels comfortable making a decision. HPRC Chair Haughey stated that she is not comfortable with a decision due to lack of adequate review of the document.

Commissioner Mang asked when DTSC would get involved. Charlie Knox advised the earliest would be July. Commissioner Mang expressed interest in knowing more about the difference between Phase I and Phase 2 studies.

HPRC Chair Haughey stated that contamination needs to be addressed before housing issues. Agrees with other Commissioners that the site needs to have a clean up procedure similar to the Tourtelot clean up. Feels historic review is inadequate. Stated that previously only three Planning Commissioners supported the plan.

Commissioner Donaghue stated that ceiling heights listed in the plan need adjustments.

Planning Commission Motion

On motion of Commissioner Ernst, seconded by Commissioner Syracuse the item was continued to the next meeting of each Commission separately to recommend to the City Council to have DTSC become lead agency on clean up and to clarify the historic integrity of the area by the following vote:

Ayes: Commissioners Dean, Ernst, Syracuse and Chair Healy
Noes: Commissioner Thomas
Absent: Commissioners Bortolazzo and Sherry
Abstain: None

HPRC Motion

There was no motion or second recorded and the item was continued to the next meeting of each Commission separately to recommend to the City Council to have DTSC become lead agency on clean up and to clarify the historic integrity of the area by the following vote:

Ayes: Commissioners Donaghue, Mang, Taagepera and Chair Haughey.
Noes: None
Absent: Commissioners Crompton and White
Abstain: Commissioner McKee

Planning Commission adjourned their portion of the meeting at 9:55 pm

Recess at 9:55 pm. Reconvened at 10:01 pm.

**ADJOURNMENT OF JOINT MEETING WITH PLANNING COMMISSION;
CONTINUATION OF REGULAR MEETING OF HISTORIC PRESERVATION
REVIEW COMMISSION**

B. 127 FIRST STREET (TANNERY) – BAY TRAIL PUBLIC ACCESS

Design Review

127 First Street, APN: 089-244-050

PROPOSAL:

Design review request of a new public access bay trail located along the waterfront and behind the existing building at 127 First Street.

Recommendation:

Approve the design of a new public access bay trail located along the waterfront and behind the existing building at 127 First Street, based on the findings and subject to the conditions listed in the proposed resolution.

Lisa Porras announced to the Commissioners that the item needs to be continued due to CEQA requirements. Ms. Porras provided an overview of the proposed trail.

Commissioners discussed questions they had about the project as follows: Lights along the Bay Trail, handrail dimensions, removal of construction debris, what type of rock may be used, will path be continued to Captain Blythers, are the benches going to be the same as those that already exist at 221 First, is the location of Shoreline protection in place and where exactly is the property line,

James Morgan – Applicant- will look into handrail issue. BCDC worked with the applicant to make sure continuity exists with 221 First Street.

Commissioner McKee feels design of the benches is nice and thinks that non-uniformity of the benches may be a nice touch.

On motion of Commissioner Donaghue, seconded by Commissioner Mang, the above item was continued without a resolution by the following vote:

Ayes: Commissioners Donaghue, Mang, McKee, Taagepera, and Chair Haughey
Noes: None
Absent: Commissioners Crompton and White
Abstain: None

**D. CITYWIDE HISTORIC CONTEXT STATEMENT – Formation of Ad Hoc
Committee**

City of Benicia

PROPOSAL

The City of Benicia has received Certified Local Government (CLG) grant funds for the development of a historic context statement. The City has entered into a contract with Page

& Turnbull to prepare this context statement. As part of the matching funds for the grant, in-kind staff and volunteer services have been committed to the consultant for research and public outreach purposes.

Recommendation: Authorize formation of a committee consisting of two Commission members, two Benicia Historical Society representatives, and one City staff member to perform research on behalf of the consultant and staff regarding the development of a historic context statement, and appoint 2 members of the Commission to this committee.

Commissioners nominated Commissioner Taagepera and Commissioner Donaghue.

On motion of Commissioner Mang, seconded by Commissioner McKee, formation of the committee and the above nominations were approved by the following vote:

Ayes:	Commissioners Donaghue, Mang, Taagepera, and Chair Haughey
Noes:	None
Absent:	Commissioners Crompton and White
Abstain:	None

VIII. COMMUNICATIONS FROM STAFF

Charlie Knox advised Commissioners that the Intermodal Workshops scheduled for Tuesday October 27 and Wednesday November 18, 2009 are being postponed while staff is in the process of exploring additional design and site options.

IX. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Taagepera asked a question regarding Mills Act property taxes seeming to vary from year to year. She was advised that the taxes are re-evaluated year to year by the Solano County Assessor's Office and that the number will vary from year to year. Demand for rental units has increased property taxes.

Commissioner Mang suggested that members of the Commission go out on field visits with staff to meet homeowners to help them understand the process.

Chair Haughey advised that it would need to be agendaized and discussed at the next HPRC meeting.

X. ADJOURNMENT

Chair Haughey adjourned the meeting at 10:30 pm.