

December 13, 2007

BENICIA PLANNING COMMISSION

CITY COUNCIL CHAMBERS

REGULAR MEETING AGENDA

Thursday, December 13, 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

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 November 8, 2007](#)

VII. REGULAR AGENDA ITEMS

A. [149 WEST F STREET - APPEAL](#)

07PLN-80 Appeal

149 West F Street. APN: 0089-115-190

PROPOSAL:

The applicant has appealed the Historic Preservation Review Commission design review condition of approval No. 5 for a proposal to modify a structure in the Downtown Historic District.

Recommendation: Uphold the appeal and overturn the decision of the Historic Preservation Review Commission amending condition of approval No. 5 regarding the window openings.

B. 126 EAST E STREET - APPEAL

06PLN-52 Appeal

126 East E Street APN: 0089-372-050

PROPOSAL:

The applicant has appealed the Historic Preservation Review Commission's denial of a demolition permit request involving a structure designated as a potential contributor to the Downtown Historic District.

Recommendation: Uphold the decision of denial by the Historic Preservation Review Commission.

VIII. COMMUNICATIONS FROM STAFF

IX. COMMUNICATIONS FROM COMMISSIONERS

X. 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 agenda and non-agenda 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.

 [November 8, 2007 Minutes](#)

 [149 West F Appeal](#)

 [126 East E Appeal](#)



**BENICIA PLANNING COMMISSION
CITY COUNCIL CHAMBERS**

REGULAR MEETING MINUTES

Thursday, November 8, 2007

7:00 P.M.

I. OPENING OF MEETING

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

Present: Commissioners Rick Ernst, Dan Healy, Rod Sherry, Lee Syracuse, Brad Thomas and Chair Railsback

Absent: Commissioner Richard Bortolazzo (excused)

Staff Present: Senior Planner Damon Golubics
City Attorney Heather McLaughlin
Management Analyst 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

Damon Golubics noted that based on City Council action on a billboard ordinance at the November 6th meeting, Item VII-A will not be heard.

Heather McLaughlin suggested moving her Open Government presentation to the end of the meeting.

III. ELECTION OF OFFICERS

On motion of Commissioner Healy, seconded by Commissioner Syracuse, Chair Railsback was nominated to continue as Chair. This was approved by the following vote:

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

On motion of Chair Railsback, seconded by Commissioner Sherry, Commissioner Healy was nominated as Vice Chair. This was approved by the following vote:

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

IV. OPPORTUNITY FOR PUBLIC COMMENT

- A. WRITTEN**
No written comment was received.

- B. PUBLIC COMMENT**
None.

V. PRESENTATIONS

A. PROCLAMATION OF COMMENDATION FOR BONNIE SILVERIA AND ACKNOWLEDGMENT OF PLANNING COMMISSIONERS STRAWBRIDGE, IOAKIMEDES, AND DALEY’S SERVICE TO THE COMMUNITY

Chair Railsback presented the proclamation to Bonnie Silveria and thanked the previous Commissioners for their service. Commissioner Bortolazzo, in his absence, provided a cake to celebrate.

Bonnie Silveria thanked the Commission and stated that it was a pleasure to serve.

- B. OPEN GOVERNMENT PRINCIPLES**
The City Attorney will be giving an overview of the Open Government Ordinance, including Brown Act, Conflict of Interest, Ethics, Public Records and Ex-Parte Communication.

Heather McLaughlin, City Attorney, gave a presentation.

V. CONSENT CALENDAR

On motion of Commissioner Healy, seconded by Commissioner Ernst, the Consent Calendar was approved, with agenda as amended, by the following vote:

Ayes: Commissioners Ernst, Healy, Sherry, Syracuse, Thomas and Chair Railsback
Noes: None
Absent: Commissioner Bortolazzo
Abstain: Chair Railsback (Item V-B only)

- A. Approval of Agenda**
- B. Planning Commission Minutes of October 11, 2007**

VII. REGULAR AGENDA ITEMS

A. 3300 PARK ROAD

07PLN-27 Use Permit for Billboard
3300 Park Road, APN: 80-080-710

PROPOSAL:

The applicant requests approval of a use permit to allow for the installation of a new billboard at the U-Store-It storage facility. The new illuminated double-sided billboard, which has a display face measuring 14 feet by 48 feet, will be installed adjacent to Interstate 680 if approved by the Planning Commission.

**** This item has been removed from the agenda and will be scheduled for the December 13, 2007 Planning Commission meeting if the City Council determines on November 6, 2007 that the application may be considered.**

Damon Golubics stated that the City Council adopted a ban on billboards and directed staff not to make an exception for the existing application. This item will not be coming back before the Commission.

B. DISCUSSION ITEM - METRO PCS (1400 EAST SECOND STREET) – Staff will give a status report on the previously approved use permit.

BACKGROUND:

In 2006, the applicant received design review approval and a use permit to install three (3) wireless communications antennas on the existing Heritage Presbyterian Church steeple, with associated mechanical equipment located in an equipment shelter.

Damon Golubics, Senior Planner, gave a brief history of the project. Staff has been working the property owner and MetroPCS to address any noise issues.

Don Wong, MetroPCS – He noted that he has been working with the adjacent property owners to alleviate the noise issues.

Greg Gartrell, 213 Military East – He spoke regarding the noise level of the equipment. He would have liked to have had the equipment relocated prior to construction. He has been working with staff and MetroPCS to resolve the noise issues.

Mary Eichbauer, 213 Military East – She commented on the noise level, particularly in the evening.

Damon Golubics noted that this was a report only and that there is no action for the Commission to take.

VIII. COMMUNICATIONS FROM STAFF

Damon Golubics notified the Commission that there will be two appeals coming before them in December.

In addition, Damon Golubics wished the Commissioners a Happy Thanksgiving.

IX. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Railsback welcomed the new Commissioners and thanked the previous Commissioners for their service.

X. ADJOURNMENT

Chair Railsback adjourned the meeting at 8:05 p.m.

Public Participation

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AGENDA ITEM
PLANNING COMMISSION MEETING: DECEMBER 13, 2007
REGULAR AGENDA ITEMS

DATE : December 4, 2007
TO : Planning Commission
FROM : Gina Eleccion, Management Analyst
SUBJECT : **APPEAL OF HISTORIC PRESERVATION REVIEW
COMMISSION DESIGN REVIEW CONDITION 5 APPROVAL
FOR 149 WEST F STREET**

RECOMMENDATION:

Amend Historic Preservation Review Commission (HPRC) approval Condition 5 regarding window openings.

EXECUTIVE SUMMARY:

The applicant has appealed a condition of the October 25, 2007 HPRC approval to modify a structure at 149 West F Street in the Downtown Historic District. Specifically, the applicant is appealing the portion of Condition 5 that requires preservation of 2 existing window openings for the wall of a secondary structure along the alley. The appellant seeks to construct a single window as proposed.

BUDGET INFORMATION:

There is no budget impact.

ENVIRONMENTAL ANALYSIS:

Staff has determined that this project is Categorical Exempt under Section 15301 of the California Environmental Quality Act (CEQA). This exemption applies to projects involving minor alterations to existing structures.

BACKGROUND:

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

SUMMARY:

The appellant seeks to amend a portion of a condition of HPRC design review approval. The Downtown Historic Conservation Plan (DHCP; page 30) states:

Except for certain signage guidelines which specify maximum allowable areas or heights, applications of the design guidelines which follow is intended to be flexible rather than rigid. Most of the guidelines are stated in terms of general principles, rather than absolutes, so that innovation and originality in design are not precluded. Therefore, staff and decision making bodies should use discretion in applying them, allowing exception as warranted by the particular circumstances, characteristics or qualities of an individual building or site.

The secondary residence on the alley is not a designated historic structure, and the existing construction with two small, high windows does not lend itself to comfortable or efficient use of the kitchen within. The flexibility provided in the DHCP appropriately allows a modified design in such a case, as proposed by the appellant.

FURTHER ACTION:

The Planning Commission action will be final unless appealed to the City Council within ten business days.

Attachments:

- Appeal dated October 11, 2007
- Draft Resolution
- Project Plans (Exhibit A)
- Historic Preservation Review Commission staff report, including Resolution No. 07-18 approving project
- Historic Preservation Review Commission minutes of September 27, 2007

APPEAL



Community Development Department Planning Division

APPEAL FORM

1. Project Information.

Address/location 149/153 West F Street
Project Name/Number 07 PLN-62
Project Sponsor/Applicant Verna Gollnick

2. Type of Appeal. Indicate which type of decision you are appealing.

- Zoning Administrator
- Community Development Director
- Historic Preservation Review Commission
- Planning Commission

Hearing/Decision Date 9/27/07
Decision Rendered See Attached Resolution No. 07-18 (HPRC)

3. Reason(s) for Appeal. State the reasons for the appeal, and the grounds on which the reasons are based. See separate "Appeal Information" handout. Please use a separate sheet of paper if necessary.

See Attached

4. Appellant Information.

Name Verna Gollnick Organization _____
Mailing address 149 West F Street
Phone 707 745-5099 Phone (2) 925 285-5400
E-mail vjgollnick@sbcglobal.net Fax 707 745-5099

5. Signature.

Appellant Verna Gollnick Date 10/11/07

For Staff Use: Appl. # <u>07 PLN-80</u>		Date Filed <u>10-11-07</u>
Date Entered <u>10-11-07</u>	Entered By <u>GDF</u> Receipt # <u>1110775</u>	Total Fees Paid \$ <u>150⁰⁰</u>

APPEAL FORM
Addendum

149/153 West F Street
07 PLN-62

General Note: This property was frequently referred to as historic in various proceedings, and the 1800's maps were referred to. However, I have copies of those maps and the house that was there in the 1800's is not the same house. It is my understanding that the original house was a story and a half, similar to the house 2 doors to the west, it is unknown whether it fell down, burned down or was torn down. The existing carpenter's craftsman style house was built in 1916. The outbuildings at the back of the property (on the 1800's maps) were replaced with the 153 cottage at some point, possibly in the 1940's which is when I believe the one car garage was constructed (or at least the concrete floor was put in from a date etched in it). We have dug an 1800's outhouse on the property and there remains another under the southwest corner of the cottage, and there could be others. The property has charm and the main house is approximately 91 years old, any claim to significance in history is unlikely. On current city reports it is termed contributing not historical. It has been a rental property for a good part of its life, one former owner Mr. Olson told me how he had to remove a bedroom window to shovel out the 6" deep dog feces after he purchased it. It hasn't been owner occupied and cared for during a good part of its life. Most of the existing improvements were made by owner occupants in recent years.

Item 3 Reasons for Appeal.

Resolution #5.

Respectfully request reconsideration of height limitation and request a variance. Properties across the alley are of a greater height (photos included). One is much older and neglected and in bad condition, probably a fire hazard, the oak tree on that property blocks a lot more daylight than my cottage. The other property is much newer and larger. My project would not block anyone's "daylight". Also, it seems inappropriate for a commissioner to oppose the height and bring up the "daylight" issue because he had a project that was restricted by that issue.

In addition, the requirement to maintain position of existing windows. Consideration should be given to the esthetics of the architects design and the users comfort and functionality. This will be a small unit with limited storage and the existing two windows restrict the kitchen cabinet options, if you review the intended interior design you'll see the one window was to be placed above the sink, a position popular in most new homes. Due to the alley location those windows are not usable for ventilation because of the traffic. My property is at the highest point on the alley; the traffic seems to reach its highest speed behind my unit leaving a cloud of choking dust.

Resolution #6.

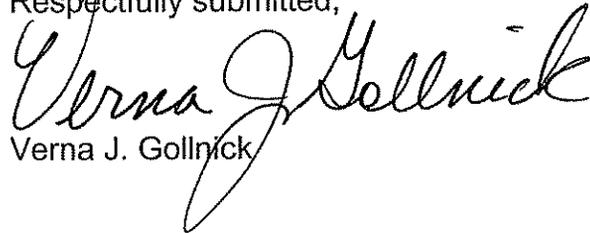
The commissioners had agreed that 7" hardiplank lap siding was acceptable for the project during the meeting. And, now that is stated otherwise. Please explain that change. The cottage is not attached to the main house and it is my understanding that in some cases remodels should use materials to differentiate the new from the old. So that representations of originality cannot be made. The benefit of the hardiplank is that, in addition to an appearance that is difficult to tell from wood when primed and painted properly, the hardiplank resists termites and rot. Wood rot is currently deteriorating the old wood siding on the cottage.

By requesting this reconsideration, I do not feel that it is unreasonable considering the surrounding property. You can see by the photos that the cottage is dwarfed by the properties opposite on the alley. I would just like to improve the property for best use.

All other resolutions to be accepted as stated.

Thank you for your consideration.

Respectfully submitted,



Verna J. Gollnick

DRAFT RESOLUTION

RESOLUTION NO. 07- (PC)

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF BENICIA UPHOLDING AN APPEAL OF THE HISTORIC
PRESERVATION REVIEW COMMISSION'S CONDITIONS OF APPROVAL FOR A
PROJECT AT 149 WEST F STREET**

WHEREAS, the applicant, Verna Gollnick, has applied for design review approval to modify a structure at 149 West F Street in the Downtown Historic District; and

WHEREAS, the Historic Preservation Review Commission conducted a public hearing and reviewed the proposed project on September 27, 2007 and approved the project;

WHEREAS, an appeal was filed on October 11, 2007 by the applicant, Verna Gollnick;

WHEREAS, the Planning Commission at a regular meeting on December 13, 2007 conducted a public hearing, considered the appeal, staff report and all public testimony and plans;

NOW, THEREFORE, BE IT RESOLVED THAT the Benicia Planning Commission hereby upholds the appeal of Verna Gollnick and overturns the September 27, 2007 action of the Historic Preservation Review Commission to approve this project, with stipulated conditions and incorporates by reference the staff report and attachments dated September 18, 2007 on this matter and finds that:

- A. This project is Categorically Exempt under Section 15303(b) of the State CEQA Guidelines, New Construction or Conversion of Small Structures. Class 3 exempts small residential projects, including duplexes, from the provisions of CEQA.
- B. The proposed development is consistent with the objectives and provisions of Title 17 of the Benicia Municipal Code and the purposes of RM (Medium Density Residential) zoning district.
- C. The proposed location of the design review and the proposed conditions of approval will be consistent with the General Plan and with Title 17 of the Benicia Municipal Code and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of the proposed use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city;
- D. The proposed design review will comply with the provisions of Title 17 (Benicia Zoning Ordinance), including specific conditions required for use in the district in which it will be located.

BE IT FURTHER RESOLVED THAT the Planning Commission of the City of Benicia approves the proposed project subject to the following conditions:

1. The plans submitted for approval and development of the site shall be in substantial compliance with the plans dated received "August 6, 2007" prepared by Steven McKee-Architect marked Exhibit "A" and consisting of 4 sheets on file in the Community Development Department.
2. This approval shall expire two years from the date of approval, unless made permanent by the issuance of a building permit and the commencement of work that is diligently pursued to completion. Alternatively, the time period may be extended, by the Community Development Director, if the application for time extension is received prior to the end of the initial two year deadline and there has been no change in the City's development policies which affect the site, and there is no change in the physical circumstances nor new information about the project site which would warrant reconsideration of the approval.
3. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
4. Any alteration of the approved plans, including substitution of materials or changes in paint colors, shall be requested in writing and approved by the Community Development Director, or designee prior to changes being made in the field.
5. The applicant shall revise the project plans to reduce the height of the building to the existing 14 feet within the 15 foot rear yard setback area by preserving the roofline along the alley. Revised plans shall be reviewed and approved by the Community Development Director, or designee, prior to issuance of a building permit for the project. Windows shall be placed and constructed per plans dated received "November 30, 2007" prepared by Steven McKee-Architect marked Exhibit "A" and consisting of 3 sheets on file in the Community Development Department
6. The siding shall be 7" hardiplank lap siding.
7. The Community Development Department shall obtain a determination from the Community Development Director regarding the expansion of the non-conforming structure. This determination will ensure that the proposed expansion meets the intent of Zoning Ordinance Chapter 17.98 (Non-Conforming Uses and Structures). This determination shall be done prior to issuance of a building permit for the project.
8. If the proposed paint colors are different than the existing yellow hue, the Community Development Director, or designee, shall review the color scheme of the building and shall approve the color scheme prior to issuance of a building permit.
9. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development,

variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

On motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted by the Planning Commission of the City of Benicia at a regular meeting of said Commission held on December 13, 2007 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

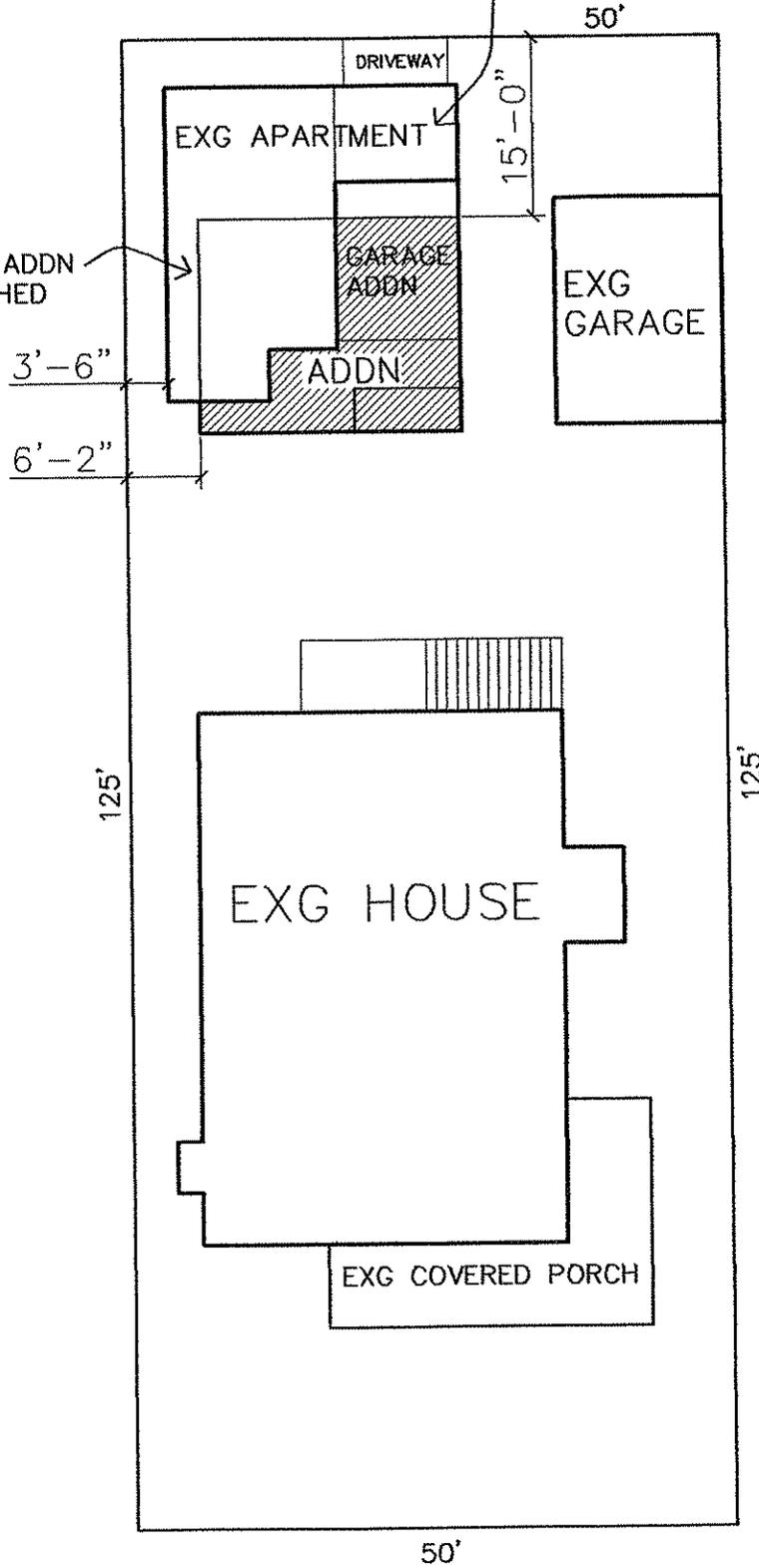
Charlie Knox
Planning Commission Secretary

PROJECT PLANS

ALLEY

PORTRION OF EXG APARTMENT
CONVERTS TO GARAGE DURING
REMODEL

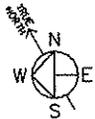
2ND FLOOR ADDN
SHOWN DASHED



Steven McKee - Architect 11/16/07
 975 West K Street (707) 746-6788
 Benicia CA 94510 (707) 746-6767 fax

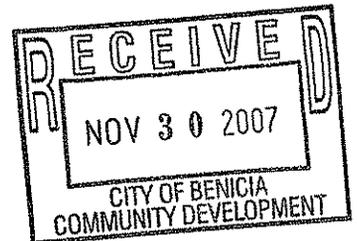
REMODEL AND ADDITION
 GOLLNICK ACCESSORY STRUCTURE
 149 WEST "F" STREET
 BENICIA CA

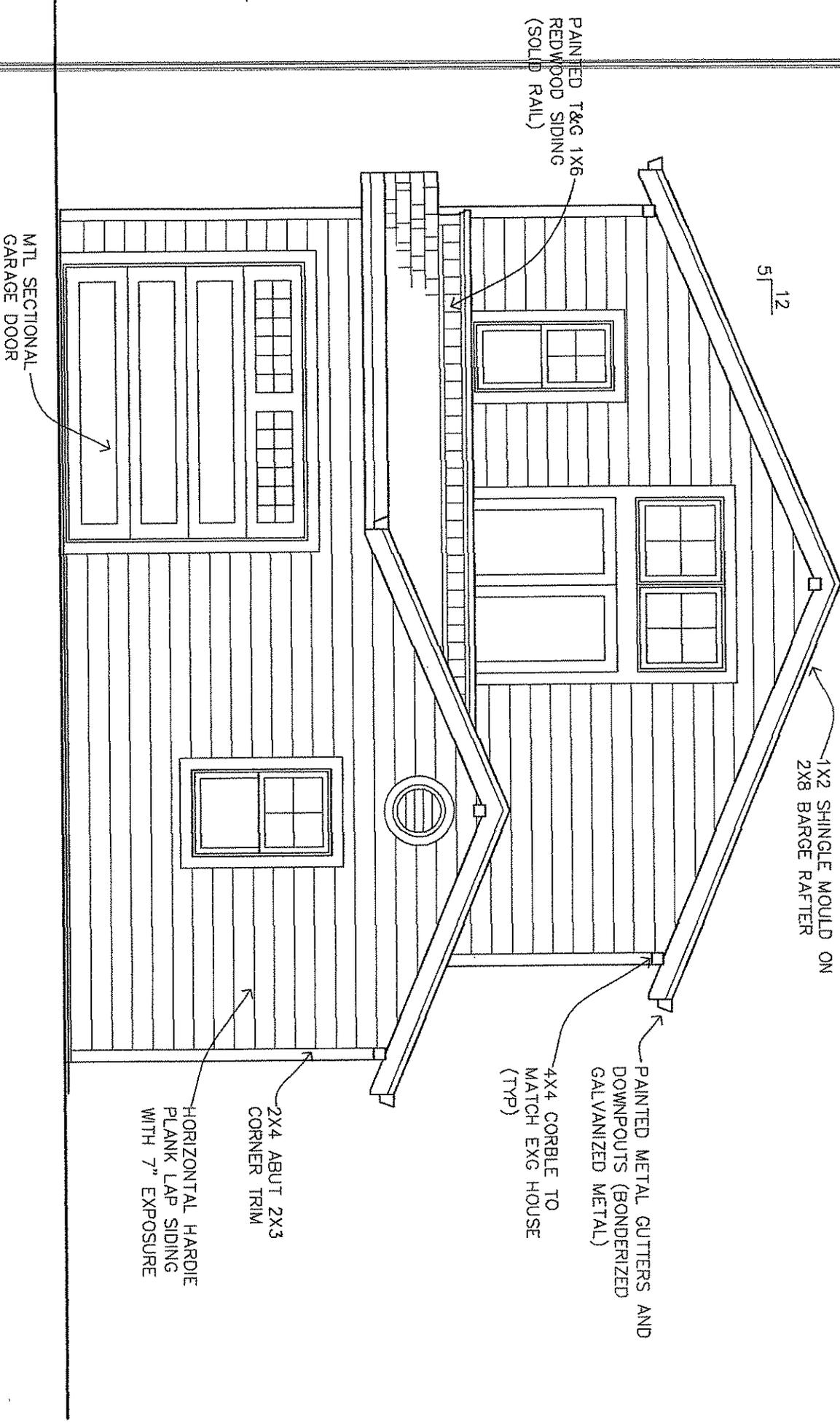
WEST "F" STREET



SITE PLAN

1/16" = 1'





5 | 12

PAINED T&G 1X6
REDWOOD SIDING
(SOLD RAIL)

1X2 SHINGLE MOULD ON
2X8 BARGE RAFTER

PAINED METAL GUTTERS AND
DOWNPOUTS (BONDERIZED
GALVANIZED METAL)

4X4 CORBLE TO
MATCH EXG HOUSE
(TYP)

2X4 ABUT 2X3
CORNER TRIM

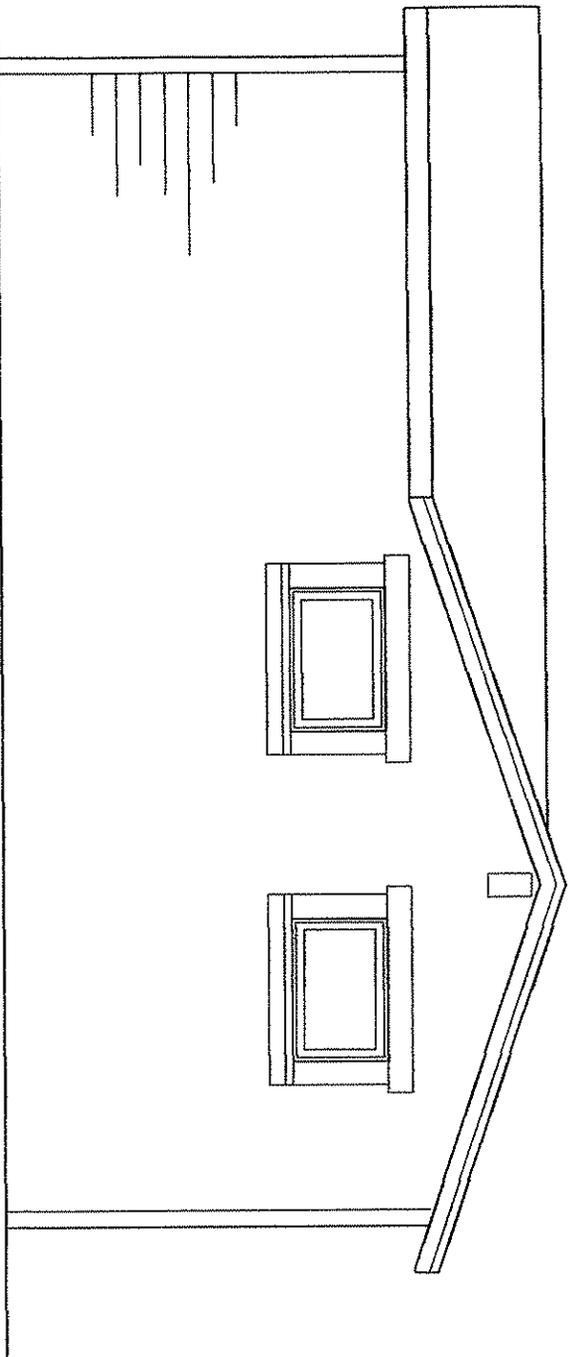
HORIZONTAL HARDIE
PLANK LAP SIDING
WITH 7" EXPOSURE

MTL SECTIONAL
GARAGE DOOR

NORTH ELEVATION

1/4"

<p>Steven McKee - Architect 975 West K Street Berinda CA 94510</p>	<p>(707) 746-6788 (707) 746-6787 fax</p>	<p>11/16/07</p>	<p>REMODEL AND ADDITION GOLLNICK ACCESSORY STRUCTURE 149 WEST "F" STREET BENICIA CA</p>
----------------------------------------------------------------------------	----------------------------------------------	-----------------	-----------------------------------------------------------------------------------------------------



EXISTING NORTH ELEVATION

Steven McKee - Architect 11/16/07
975 West K Street (707) 746-6788
Benicia CA 94510 (707) 746-6767 fax

REMODEL AND ADDITION
GOLLNICK ACCESSORY STRUCTURE
149 WEST "F" STREET
BENICIA CA

HPRC STAFF REPORT
(Including Resolution No. 07-18 approving project)

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

DATE : September 18, 2007

TO : Historic Preservation Review Commission

FROM : Community Development Department

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

RECOMMENDATION:

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

EXECUTIVE SUMMARY:

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

ENVIRONMENTAL ANALYSIS:

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

BACKGROUND:

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

SUMMARY:

STAFF ANALYSIS OF BASIS OF APPEAL

A. Project Description

The proposed project is to expand the existing detached residential unit located in the rear of the subject property. The alteration would include the expansion of the first story and addition of a partial second story. The project would add a total of 499 square feet to the existing dwelling unit. No alteration to the primary residential structure is proposed as part of this application.

B. Site Description

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

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

C. Project Analysis

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

Downtown Historic Conservation Plan (DHCP)

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

Zoning Ordinance

The RM, Medium Density Residential zoning district requires a rear yard setback of 15 feet. The existing detached residential unit is located 4 feet from the rear property line and projects 11 feet into the required rear yard. Zoning Ordinance Section 17.98.030 D states that *no nonconforming structure shall be altered so as to increase the discrepancy between existing conditions and the standards for front yards, side yards, rear yards, height of structures, etc.* Under this requirement, no expansion or alteration can be made to the portion of the building located within the required setbacks.

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

Conclusion

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

FURTHER ACTION:

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

Attachments:

- Draft Resolution
- Project Plans**

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

DRAFT RESOLUTION

RESOLUTION NO. 07-18 (HPRC)

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

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

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

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

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

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

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

4. Any alteration of the approved plans, including substitution of materials or changes in paint colors, shall be requested in writing and approved by the Community Development Director, or designee prior to changes being made in the field.
5. The applicant shall revise the project plans to reduce the height of the building to the existing 14 feet within the 15 foot rear yard setback area by preserving the existing window openings and roofline along the alley. Revised plans shall be reviewed and approved by the Community Development Director, or designee, prior to issuance of a building permit for the project.
6. The siding on the unit located at 153 West F Street shall be wood lap similar to the siding on the primary structure located at 149 West F Street. The proposed siding as stated on the approved plans (7" hardiplank lap siding) is considered an inappropriate material for the historic property. A material sample of the proposed siding shall be reviewed and approved by the Planning Division of the Community Development Department prior to issuance of a building permit for the project.
7. The Community Development Department shall obtain a determination from the City Attorney regarding the expansion of the non-conforming structure. This determination will ensure that the proposed expansion meets the intent of Zoning Ordinance Chapter 17.98 (Non-Conforming Uses and Structures). This determination shall be done prior to issuance of a building permit for the project.
8. If the proposed paint colors are different than the existing yellow hue, the Community Development Director, or designee, shall review the color scheme of the building and shall approve the color scheme prior to issuance of a building permit.
9. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * *

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

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

Gina Eleccion
Historic Preservation Review Commission Secretary

HPRC MINUTES
September 27, 2007

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

IV. REGULAR AGENDA ITEMS

A. STRAW HAT PIZZA

07PLN-68 Design Review
1401 East Fifth Street, APN: 88-092-040

PROPOSAL

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

Recommendation: Continue to the October 25, 2007 meeting.

Damon Golubics, Senior Planner, noted that a formal continuance has been requested. The applicant will be submitting additional drawings prior to the next meeting.

The public hearing was opened.

Son of property owner - He commented that the plans are being revised.

The public hearing was closed.

On motion of Commission White, seconded by Commissioner Conlow, the consensus of the Commission was to continue this project.

B. GOLLNICK RESIDENCE - ALTERATION

07PLN-62 Design Review
149 West F Street, APN: 89-115-190

PROPOSAL

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

Recommendation: Approve design review for the proposed addition.

Damon Golubics, Senior Planner, introduced Amy Million, Consulting Planner, who gave a brief overview of the project. She noted a change to finding B of the Resolution to add consistency with the DMUMP.

Commissioners discussed the project.

Commissioners questioned the discussion of accessory units over garages. Staff noted that the new construction is conforming. The siding does not match the existing structure.

The public hearing was opened.

Verna Gollnick, Applicant – She presented pictures of an adjacent property. She noted that the architect attempted to match the house siding. She would like to get a variance to maintain the height of the house based on the adjacent properties. She commented on the existing windows on the alley.

Steve McKee, Architect – He commented on the height of the structure. He worked with staff to meet the setback requirements. The siding is intended to match the main house.

Jon Van Landschoot, 175 West H Street – He stated his concern with not having pictures on the wall of the project. He disagreed with the determination to use both plans in reviewing the project. He believes the Downtown Mixed Use Master Plan should be followed. He does not want to see windows looking onto someone else's property.

A citizen stated that she is impressed with the applicant's efforts to restore the property. The property is in need of improvement.

The public hearing was closed.

Commissioners questioned if this is going to the Planning Commission. Damon Golubics stated that this would go to the Planning Commission either on appeal, or to request a variance. Staff can't make the findings to support the granting of a variance.

Commissioners commented on the nonconforming use of the existing structure. Amy Million noted that the plans show a 2 ½' extension, however to meet code this has to be moved back..

Steve McKee would like to see the Commission find this consistent considering two sets of regulations apply.

RESOLUTION NO. 07-18 (HPRC) - A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA APPROVING DESIGN REVIEW PERMIT TO EXPAND THE EXISTING DETACHED RESIDENTIAL UNIT LOCATED IN THE REAR YARD OF 149 WEST F STREET (07PLN-62)

Amendments requested:

Daylight setback requirement applied correctly to the design, and expansion of existing non-conforming structure.

On motion of Commissioner Donaghue, seconded by Commissioner White, the above Resolution was approved, with amendments noted, by the following vote:

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

V. COMMUNICATIONS FROM COMMISSIONERS

Commissioner Haughey requested site visits to all of the properties. In addition, she requested a report on the Mills Act inspections.

Commissioners commented on the possibility of having a discussion on the Mills Act contracts. Gina Eleccion noted that this can be agendized as a discussion item.

Commissioner White thanked Commissioner Haughey for her thorough research.

VI. COMMUNICATIONS FROM STAFF

Damon Golubics, Senior Planner, thanked Commissioner Haughey for her research. He suggested having a study session on the Mills Act program.

Damon Golubics stated that we have new staff, Mike Marcus, Assistant Planner and Lisa Porras, Senior Planner.

Damon Golubics noted that Charlie Knox and his wife Leila had a baby girl, Hazel.

A. HISTORIC SURVEY AD HOC COMMITTEE UPDATE
Gina Eleccion gave an oral report.

VII. ADJOURNMENT

Commissioner Wilson adjourned the meeting at 10:07 p.m.

AGENDA ITEM
PLANNING COMMISSION MEETING: DECEMBER 13, 2007
REGULAR AGENDA ITEM

DATE : December 4, 2007

TO : Planning Commission

FROM : Damon Golubics, Principal Planner

SUBJECT : **APPEAL OF A DECISION BY THE HISTORIC PRESERVATION REVIEW COMMISSION TO DENY PROPOSED DEMOLITION OF A STRUCTURE AT 126 EAST E STREET**

RECOMMENDATION:

Uphold the decision of denial by the Historic Preservation Review Commission.

EXECUTIVE SUMMARY:

On October 25, 2007, the Historic Preservation Review Commission (HPRC) denied a request from applicant Pat Donaghue to demolish a structure at 126 East E Street designated as a potential contributor to the Downtown Historic District. The Downtown Historic Conservation Plan states that, "no application for demolition permit should be considered without concurrent design review of the structure or project which will replace it" (page 27). The only type of project that would not require design review is a new single-family residence. At the October 25 HPRC meeting, Mr. Donaghue did not indicate intent to build a single-family home.

BUDGET INFORMATION:

No City budgetary impacts are anticipated.

ENVIRONMENTAL ANALYSIS:

In accordance with the California Environmental Quality Act (CEQA), an Initial Study was conducted to determine whether the proposed project could have a significant adverse effect on the environment. The Initial Study identified environmental issues regarding air quality and cultural resources that can be alleviated with specific mitigation measures pertaining to the proposed demolition. The proposed Mitigated Negative Declaration and Initial Study were available for public review from September 12, 2007 to October 11, 2007.

BACKGROUND:

Applicant/Owner: Pat Donaghue
General Plan designation/Zoning: Downtown Mixed Use/ Neighborhood General - Open

Existing use: Mixed Use Commercial/Residential
Proposed use: Mixed Use Commercial/ Residential
Adjacent zoning and uses:

- North: Downtown Commercial, Vacant lot (used for parking) and Single Family Residential Uses
- East: Downtown Commercial, Single Family Residential and Commercial (Hair salon) uses
- South: Downtown Commercial, Kuhland Alley and Mixed Use (Residential and Commercial uses)
- West: Downtown Commercial, Single Family Residential and Mixed Use (First Street Café)

The existing structure sought for demolition is designated as a potential contributor to the Downtown Historic District. The ongoing update of the downtown historic resources inventory anticipates eliminating the potential contributor category (in compliance with State law) and no longer listing the structure at 126 East E Street as a historic resource.

SUMMARY:

The only type of project in the Downtown Historic District that does not require design review is a new single-family home. If the appellant submits a building permit application for a new single-family home on the site, no design review would be required and no additional environmental review would be necessary. Any other type of project would require design review and additional environmental analysis. Pursuant to the Downtown Historic Conservation Plan guidance against considering a demolition permit when design review is also needed, the Mitigated Negative Declaration is only valid if the existing structure is replaced with a single-family residence.

FURTHER ACTION:

Planning Commission action on this item shall be final unless appealed to the City Council within ten business days.

Attachments:

- Draft Minutes of October 25, 2007 HPRC meeting
- October 25, 2007 HPRC Staff Report
- Applicant's Appeal Form
- Page 27 of the Downtown Historic Conservation Plan

**DRAFT MINUTES
OCTOBER 25, 2007 HPRC MEETING**

Absent: Commissioner White
 Abstain: None

A. 126 EAST E STREET – DEMOLITION PERMIT
 126 East E Street, APN: 89-372-050 and 89-372-060

PROPOSAL

The proposed project consists of demolishing the existing building located on the northern side of the lot, which is currently used as an office. This building is designated as a potentially contributing structure in the Downtown Historic Conservation Plan.

Recommendation: Approve a permit for demolition of a structure at 126 East E Street because it no longer retains substantial historical, architectural or cultural interest or value; and adopt the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project, based on the findings, and subject to the conditions listed in the attached resolution.

Chair Delgado and Commissioner Donaghue recused themselves on this project.

A recess was called at 8:08 p.m. The meeting was reconvened at 8:15 p.m.

Gina Eleccion gave an overview of the project.

She noted that the Commission previously recommended approval of a demolition permit with direction to staff to prepare an Initial Study identifying the impacts of the demolition only. However, the Downtown Historic Conservation Plan does not allow for demolition permits to be considered without concurrent design review. Based on the fact that the applicant does not have a current proposal of the site, staff cannot recommend approval at this time. She noted that staff should have advised the Commission that current regulations do not allow an Initial Study to address the demolition only without looking at the entire project. Damon Golubics stated that the Initial Study could be expanded to include the applicant's future design review proposal.

The public hearing was opened.

Pat Donaghue, Applicant – He gave a history of the project. The project has been previously reviewed. Staff was directed to prepare an Initial Study identifying the impacts of the demolition only. The adequacy of the Initial Study/Mitigated Negative Declaration is the only issue at this point. Any future proposal will meet the criteria in the Downtown Mixed Use Master Plan.

He stated that he lost the opportunity to move the Napa structure and he does not know what he is going to do.

Ken Buske, 302 Marina Village Way – He supports demolition of the existing structure.

Donald Dean, 257 West I Street – He questioned if a new Initial Study will be prepared when a new design is submitted. The issue over the demolition is not a new issue.

Jon Van Landschoot, 175 West H Street – He agrees with staff that the entire project needs to be evaluated in the Initial Study. He would like to see this project move forward with a design that complies.

Steve Gizzi – He stated that he was one of the Council Members to vote to form this Commission. He commented that the intent of the Commission is to preserve and protect the valuable historic assets. He noted that not everything that is old, is historic. There are questions as to the historic integrity of the structure.

Gretchen Burgess, 28 Buena Vista – She commented that this building has no historic significance. She does not believe that demolition of this structure will impact Benicia. There are many buildings that have been neglected. All time delays cost the applicant money.

Pat Donaghue, Applicant – He commented on the amount of work that has been done already. He does not have a project proposal to submit at this point. He will design his project based on the Downtown Mixed Use Master Plan.

He stated that Benicia Municipal Code Section 17.54 gives the Community Development Director the discretion to interpret the guidelines of the Downtown Historic Conservation Plan.

The public hearing was closed.

Commissioners discussed the project and the demolition process. Damon Golubics noted that there is no excuse for staff's error regarding the demolition process.

Commissioner Conlow questioned if a variance can be granted regarding the process.

Commissioner Wilson commented that it is unfortunate, but there is a need to identify the impacts of the entire project.

Patrick Donaghue, Applicant – He questioned what the Commission wants in terms of design of the project. He requested a finding to provide guidance on his project. Staff suggested scheduling a workshop to discuss the design of the project.

RESOLUTION NO. 07- (HPRC) - A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA RECOMMENDING APPROVAL OF A DEMOLITION PERMIT AND ASSOCIATED INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION FOR A PROJECT LOCATED AT 126 EAST E STREET (06PLN-52)

On motion of Commissioner Wilson, seconded by Commissioner Haughey, the above Resolution was denied by the following vote:

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

V. COMMUNICATIONS FROM COMMISSIONERS

None.

VI. COMMUNICATIONS FROM STAFF

A. HISTORIC SURVEY AD HOC COMMITTEE UPDATE

Gina Eleccion gave an update on the progress of the committee.

Damon Golubics, Acting Department Head, noted that an appeal was filed on 149 West F Street. This will be going to the Planning Commission on December 13th.

In addition, Damon Golubics noted that Charlie Knox will be returning to the office on October 29th.

VII. ADJOURNMENT

Chair Delgado adjourned the meeting at 9:10 p.m.

HPRC STAFF REPORT
OCTOBER 25, 2007

**AGENDA ITEM
HISTORIC PRESERVATION REVIEW COMMISSION
OCTOBER 25, 2007
REGULAR AGENDA ITEMS**

FILE COPY

DATE : October 3, 2007
TO : Historic Preservation Review Commission
FROM : Gina Eleccion, Management Analyst
SUBJECT : **126 EAST E STREET – DEMOLITION PERMIT**
PROJECT : 126 East E Street
06PLN-52
0089-372-050, -060

RECOMMENDATION:

Approve a permit for demolition of a structure at 126 East E Street because it no longer retains substantial historical, architectural or cultural interest or value; and adopt the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project, based on the findings, and subject to the conditions listed in the attached resolution.

EXECUTIVE SUMMARY:

Patrick Donaghue requests demolition of a structure he owns at 126 East E Street that is currently listed as a potential contributor to the Downtown Historic District. Two independent evaluations concluded that the structure no longer retains substantial historical, architectural or cultural interest or value. One of these analyses, conducted on behalf of the City as part of the ongoing update of downtown historic resources, finds that the structure is no longer eligible for designation as a historic resource.

The applicant proposes to demolish the existing structure. A previous proposal included a mixed-use project for the site, however, as the applicant has formally withdrawn that project from consideration by the City, the original Initial Study/Mitigated Negative Declaration no longer applies. A new Initial Study was prepared for the proposed demolition of the existing on-site “potentially contributing” structure.

BUDGET INFORMATION:

No City budgetary impacts are anticipated.

ENVIRONMENTAL ANALYSIS:

Staff has determined that this project is subject to the California Environmental Quality Act (CEQA). An Initial Study was prepared. The Initial Study identified air quality and cultural resources that could be potentially affected by the project. Based on the Initial Study, staff found there would not be a significant effect on the environment.

A Mitigated Negative Declaration (MND) was prepared and circulated for 30-day public review on September 12, 2007. No comments were received. A Mitigation Monitoring and Reporting Program was also prepared for the project

BACKGROUND:

Applicant/Owner: Pat Donaghue

General Plan designation/Zoning: Downtown Mixed Use/ Downtown Commercial

Existing use: Mixed Use Commercial/Residential

Proposed use: Mixed Use Commercial/ Residential

Adjacent zoning and uses:

North: Downtown Commercial, Vacant lot (used for parking) and Single Family Residential Uses

East: Downtown Commercial, Single Family Residential and Commercial (Hair salon) uses

South: Downtown Commercial, Kuhland Alley and Mixed Use (Residential and Commercial uses)

West: Downtown Commercial, Single Family Residential and Mixed Use (First Street Café)

SUMMARY:

A. Project Description

The project site consists of two parcels (APN: 89-372-050 and 89-372-060), with a combined area of 8,250 square feet zoned Downtown Commercial and located in the Downtown Historic Overlay district. Three structures exist on Parcel 89-372-060: the first (the building requested to be demolished) is used as a construction office, the second (125 Kuhland Alley) is used as a bead shop, and the third (127 Kuhland Alley) is a residence. The two buildings on the alley are designated as contributing structures in the Downtown Historic Conservation Plan. The combined size of all existing structures is approximately 3,385 square feet. The structure that is being proposed for demolition is 1,450 square feet.

B. Project Analysis

1. Historic Evaluation

ARC Inc. prepared a Historic Review and Evaluation of 126 East E Street, and 125 and 127 Kuhland Alley and concluded that the 126 East E Street structure has had "several drastic remodeling and two additions, obliterating any obvious original detailing, porches, or fenestration on the exterior." Although some original architectural features

have been retained, the alterations to the structure have “irreversibly compromised the historic integrity of the architectural design, and leave [the structure] a confusing assemblage of forms and materials.” Based on that evaluation, the applicant contends the structure should not be designated a potential contributor to the historic overlay district.

A separate analysis of the 126 East E Street structure conducted by Rowland-Nawi Preservation Associates for the ongoing update of downtown historic resources inventory concludes that the structure, currently listed as a potential contributor, is not eligible for listing as a contributor. (The potential contributor category is not recognized by the State and is being eliminated from the Downtown Historic Conservation Plan, pursuant to the City’s new status as Certified Local Government.)

2. The following General Plan policy (2.1.2) is applicable to the project proposal for the purpose of demolition:

Make efficient use of land in new development areas consistent with the surrounding neighborhood.

3. The following Zoning Ordinance sections are applicable to the project proposal for the purpose of design review:

According to Chapter 17.54 (Historic Overlay District) the specific purpose of the historic overlay district is to implement the city’s general plan; deter demolition, destruction, alteration, misuses, or neglect of historic or architecturally significant buildings that form an important link to Benicia’s past; promote the conservation, preservation, protection, and enhancement of each historic district; stimulate the economic health and residential quality of the community and stabilize and enhance the value of property; and to encourage development tailored to the character and significance of each historic district through a conservation plan that includes goals, objectives, and design criteria.

According to Section 17.54.100 (Demolition and design review procedures) the Historic Preservation Review Commission shall consider the proposed demolition in the context of the adopted Downtown Conservation Plan and the architectural or historical value and significance of the site and structure in relation to the overlay district. No demolition permit shall be issued for demolition of any historic structure within an H district without prior review and approval by the design review commission.

If, after review of the request for demolition permit, the Commission determines that the structure itself has historical, architectural or cultural interest or value, the Commission may withhold approval for demolition. The demolition permit shall be issued if environmental review determines there will not be a significant impact on the environment and all requirements of this title are met or, if there may be substantial environmental damages, that specific economic, social or other considerations make infeasible the mitigation measures or alternatives identified during environmental review.

4. Findings

The following findings would need to be made prior to approval of the project:

- a) The Historic Preservation Review Commission considered and approved the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.
- b) The proposed project is consistent with the objectives and provision of Title 17 of the Benicia Municipal Code and the purpose of the Downtown Commercial zoning district.
- c) The proposed project with the recommended mitigation measures and conditions of approval will be consistent with the General Plan and will not be detrimental to public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of the proposed use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city.
- d) The structure located at 126 East E Street no longer retains substantial historical, architectural or cultural interest or value.
- e) The structure located at 126 East E Street is no longer eligible for designation as a historic resource to the Historic Overlay District.
- f) The issuance of a demolition permit will not be a significant impact on the environment because the historic designation of the structure is no longer applicable.

FURTHER ACTION:

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

Attachments:

- Draft Resolution
- Initial Study/Mitigated Negative Declaration
- Mitigation Monitoring and Reporting Program
- Historic Review and Evaluation

DRAFT RESOLUTION

RESOLUTION NO. 07- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA RECOMMENDING APPROVAL OF A DEMOLITION PERMIT AND ASSOCIATED INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION FOR A PROJECT LOCATED AT 126 EAST E STREET (06PLN-52)

WHEREAS, Patrick Donaghue requested approval of a demolition permit for the structure located at 126 East E Street;

WHEREAS, the Historic Preservation Review Commission, at a regular meeting on October 25, 2007 conducted a public hearing and reviewed the request; and

WHEREAS, in accordance with state and local procedures regarding the California Environmental Quality Act (CEQA), the Community Development Department conducted an Initial Study (with the 30-day comment period ending on October 11, 2007) to determine whether the proposed project could have a significant adverse effect on the environment, and on the basis of that study, proposed adoption of a Mitigated Negative Declaration.

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

- A. The Historic Preservation Review Commission considered the Initial Study/ Mitigated Negative Declaration, and Mitigation Monitoring and Reporting Program.
- B. The proposed project is consistent with the objectives and provisions of Title 17 of the Benicia Municipal Code and the purpose of the Downtown Commercial zoning district.
- C. The proposed project with the recommend mitigation measures and conditions of approval will be consistent with the General Plan and will not be detrimental to public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of the proposed use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city.
- D. The structure located at 126 East E Street no longer retains substantial historical, architectural or cultural interest or value.
- E. The structure located at 126 East E Street is no longer eligible for designation as a historic resource to the Historic Overlay District.
- F. The issuance of a demolition permit will not be a significant impact on the environment because the historic designation of the structure is no longer applicable.

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

1. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
2. Construction activities shall meet all municipal code requirements for hours of operation. Construction equipment shall be adequately muffled and controlled. These requirements shall be made a condition of all related contracts for the project.
3. The applicant shall abide by all mitigation measures as identified in the Mitigation Monitoring and Reporting Program.
4. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director's, Historic Preservation Review Commission or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

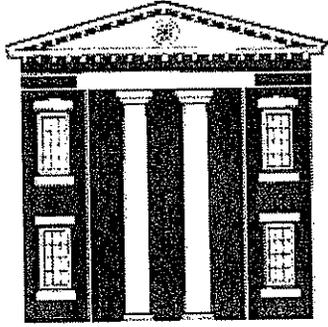
On motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted at a regular meeting of the Historic Preservation Review Commission on October 25, 2007 by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Gina Eleccion
Historic Preservation Review Commission Secretary

**INITIAL STUDY/MITIGATED NEGATIVE
DECLARATION**

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION



THE CITY OF
BENICIA
CALIFORNIA

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

Project Title:	126 East E Street Project
Lead Agency Name and Address:	City of Benicia 250 East L Street Benicia, CA 94510
Project Location:	126 East E Street Benicia, California
Project Sponsor's Name and Address:	Patrick M. Donaghue 390 West K Street Benicia, CA
General Plan Designation(s):	Downtown Commercial
Zoning:	Downtown Commercial
Assessor's Parcel No.	089-372-050 and 089-372-060
Contact Person:	Damon Golubics, Senior Planner
Phone Number:	707-746-4280
Date Prepared:	September 2007

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

PROJECT DESCRIPTION

The project site consists of parcels 089-372-050 and 089-372-060. The property is zoned Downtown Commercial and is located within the Historic Overlay district of the city's downtown. Parcel 89-372-060 contains three structures.

The proposed project consists of demolishing the existing building located on the northern side of the lot, which is currently used as an office. This building is designated as a potentially contributing structure in the Downtown Historic Conservation Plan.

ENVIRONMENTAL SETTING AND SURROUNDING LAND USES

North: Single-family residential

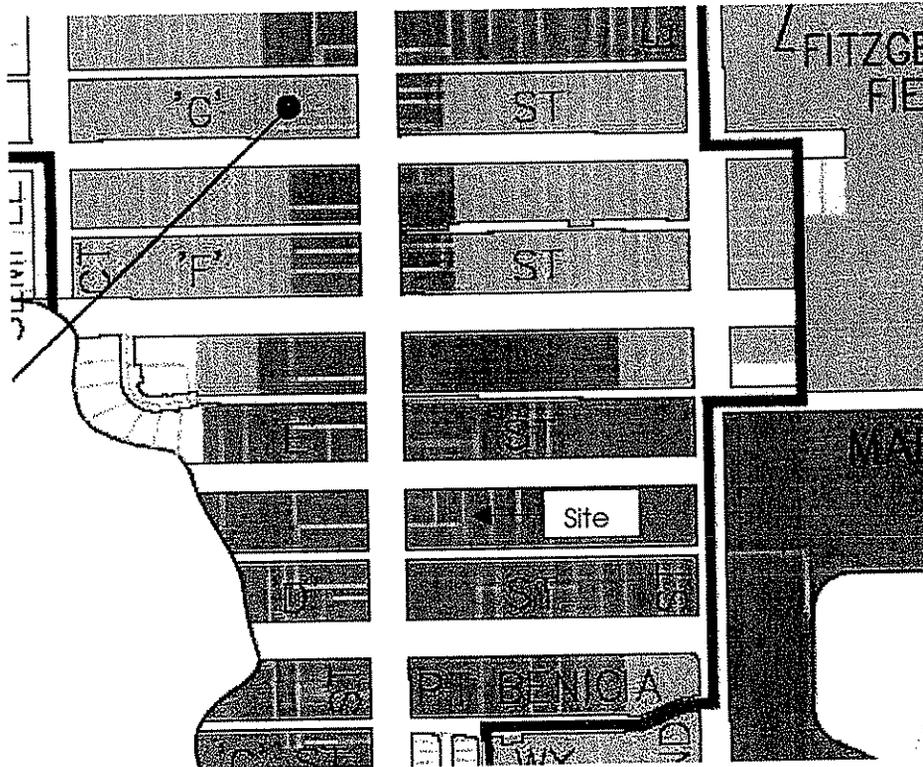
West: Single-family residential

South: Art studio/gallery, single-family residence

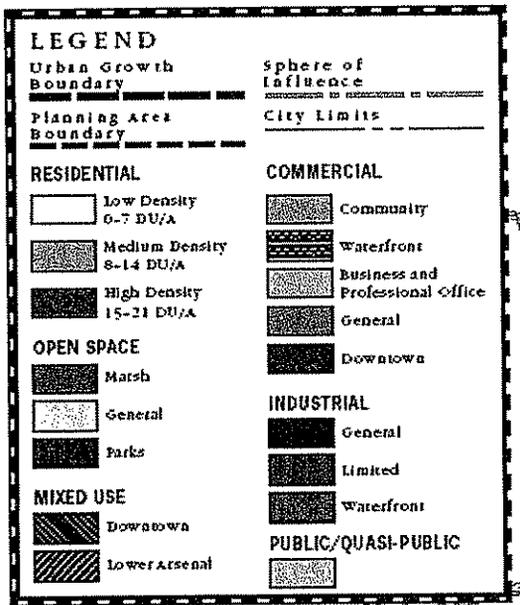
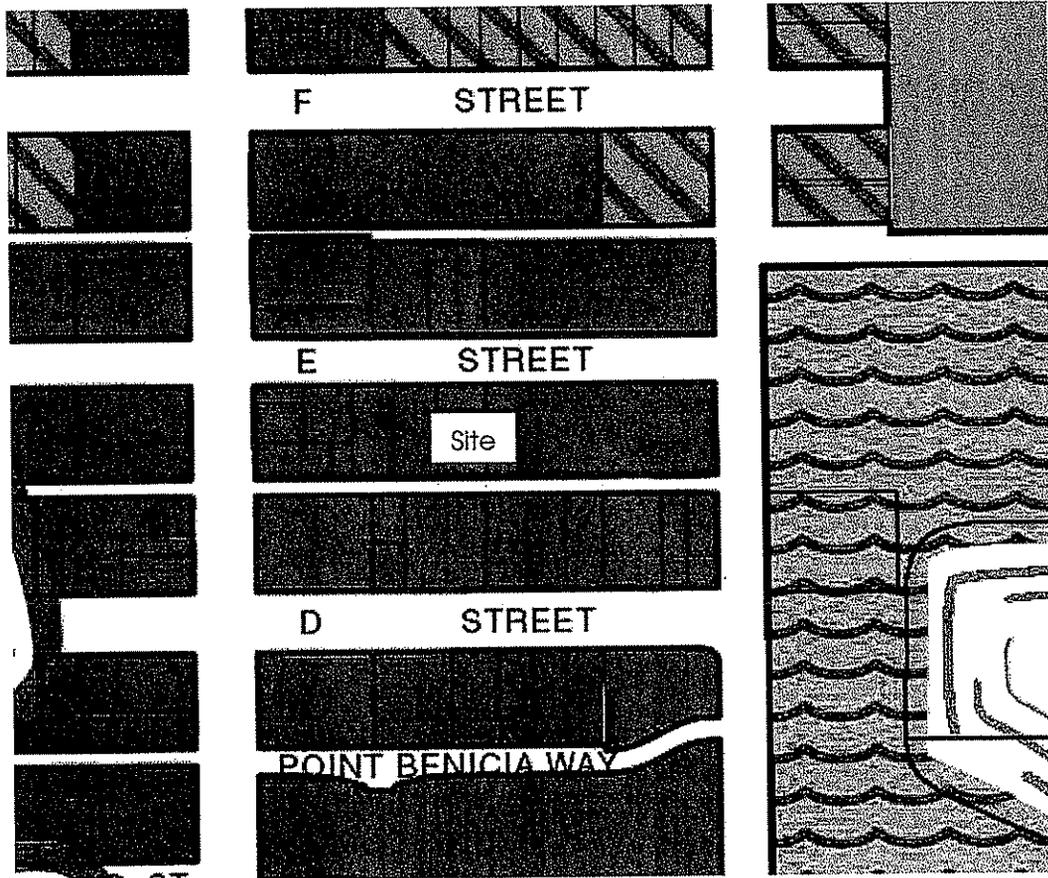
East: Single-family residential

No approval is required for the proposed demolition from other public agencies.

PROJECT VICINITY MAP



LAND USE MAP OF BENICIA



INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, as indicated by the checklist and corresponding discussion on the following pages.

- | | | |
|--------------------------------------------------------|-------------------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agricultural Resources | <input checked="" type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology/Soils |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use/Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population/Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

DETERMINATION: The City of Benicia Planning Department

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Planner's Signature

Date

Damon Golubics
Senior Planner

PURPOSE OF THIS INITIAL STUDY

This Initial Study has been prepared consistent with CEQA Guidelines Section 15063, to determine if the project, as proposed, may have a significant effect upon the environment. Based upon the findings contained within this report, the Initial Study will be used in support of the preparation of a mitigated negative declaration.

EVALUATION OF ENVIRONMENTAL IMPACTS

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on project-specific screening analysis).
- 2) All answers must take into account the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

- c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impacts to a less than significance.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- a) The project is located in the Downtown Historic Overlay District. The General Plan and the Downtown Historic Conservation Plan contain detailed policies for new development in order to protect historic and harmonious appearance of the downtown. The Downtown Historic Conservation Plan also contains specific design guidelines for new construction within the Transitional Area, in which this project is located. The subject property is not directly part of any designated sight line or view corridor.
- b) The project site is located on a relatively level improved lot. No scenic resources on or near the site would be affected, and the site is not near or within view of a state highway.
- c) The structure has undergone remodels and additions that have irreversibly compromised its original architectural design.
- d) Demolition activities would occur during daylight hours.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>II. AGRICULTURAL RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997), prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:</p>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- a) The Farmland Mapping and Monitoring Program of the California Resources Agency has not designated the project area as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. Therefore no impact to farmland would occur.
- b) The proposed project site is zoned for commercial uses and is not covered by a Williamson Act contract. Furthermore, no Williamson Act Contracts are located in the immediate vicinity of the project site. Therefore, no impacts to Williamson Act Contracts would occur.
- c) The proposed project is designated for downtown commercial uses. Implementation of the proposed project would therefore not result in conversion of farmland to non-agricultural uses. No impacts to conversion of agricultural land would occur.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in significant construction-related air quality impacts?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The project site and the City of Benicia are located in the San Francisco Bay air basin and are within the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The 2004 Ozone Attainment Plan and the 2000 Bay Area Clean Air Plan contain District-wide control measures to reduce ozone precursor and carbon monoxide emissions.

The BAAQMD monitoring site in Benicia monitors SO₂ and gross hydrocarbons. The Inspection Program of the Compliance and Enforcement Division of BAAQMD routinely conducts inspections and audits of potential polluting sites to ensure compliance with applicable federal, State, and BAAQMD regulations.

a) Vehicle trips associated with the proposed project would result in the emission of ozone precursor and carbon monoxide. However, the *BAAQMD CEQA Guidelines* indicate that demolition of a commercial structure of the size proposed is below the established threshold for the generation of potentially significant emissions resulting from trip generation during project operation. Therefore, trips generated by the proposed project are not expected to result in a significant increase in ozone, carbon monoxide, or other pollutants associated with fuel combustion, or obstruct implementation of the Ozone Attainment Plan or the Clean Air Plan.

The City's *General Plan* is in conformance with the Clean Air Plan. The proposed project is consistent with the City's *General Plan*; as a result, the project would not conflict with implementation of the Clean Air Plan. The EIR for the Benicia General Plan found the City to be consistent with the regional Clean Air Plan. The project would not conflict with or obstruct implementation of the BAAQMD air quality plan, nor would it require a permit from BAAQMD.

b-d) The San Francisco Bay air basin is in non-attainment for ozone and particulate matter – 10 micron (PM10) per State standards. The air basin is preliminarily in non-attainment for particulate matter – fine (PM2.5) per State standards. The air basin is in marginal attainment for ozone at the federal level. As noted previously, the demolition proposed is below the established BAAQMD threshold for the generation of potentially significant emissions resulting from trip generation during project operation. Therefore, implementation of the proposed project would not generate sufficiently high amounts of ozone that would substantially contribute to the air basin's existing nonattainment status for ozone.

Activities associated with the project could result in the generation of emissions and dust that would contribute to the air basin's non-attainment status for particulate matter. BAAQMD has identified feasible control measures for pollutants from such construction activities. Grading and storm water management practices required by the City, plus the following mitigation measure identified by BAAQMD, would reduce air quality impacts to a less-than-significant level:

Mitigation Measure - AIR QUALITY

MM AIR 1 During all phases of activity at the project site:

- (1) Water all active lot areas at least twice daily during the dry season; a backflow device is required on all hoses used for watering.
- (2) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- (3) Weather permitting, sweep twice daily (with regenerative air type sweepers) all paved access roads, parking areas and staging areas at the site; and
- (4) Sweep streets twice daily (with regenerative air type sweepers) if visible soil material is carried onto adjacent public streets.

e) No sensitive receptors are located in close proximity to the project site.

f) The proposed project would not generate objectionable odors affecting a substantial number of people.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands, as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal wetlands, etc.), through direct removal, filling, hydrological interruption or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The General Plan does not indicate that there are any sensitive biological resources on this developed site. The proposed project would remove one moderately size tree, which may required a permit from the Parks and Community Services Department.

a) The project site, an improved infill lot, has low habitat value for wildlife. Wildlife species that do occupy the site are common species that easily adapt to disturbed, urban conditions. No protected species are known to exist within the project site. Therefore, implementation of the proposed project would not have a substantial direct or indirect effect on protected species.

b) No riparian habitat or wetlands are located within or in the immediate vicinity of the project site.

c) The proposed project would not have a substantially adverse effect on federally protected wetlands.

d) The project site is a developed infill site. The project site is not used by native resident or migratory fish or wildlife species. The project would not destroy, impede the use of, or otherwise modify native wildlife nursery sites. Therefore, implementation of the proposed project would not substantially interfere with the movement of native or migratory wildlife species, or adversely affect native resident or migratory wildlife corridors or native wildlife nursery sites.

e) The proposed project does not conflict with any local policies or ordinances protecting biological resources.

f) The project site is not located in any area subject to the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) The subject property is located in the Historic Overlay District. The building proposed for demolition is designated as a potentially contributing historic resource in the Downtown Historic Conservation Plan.

According to a Historic Review and Evaluation prepared by ARC Inc., date stamped January 9, 2007, the existing building located on the northern side of the lot facing East E Street proposed for demolition was constructed in the 1870's as a 1,200 square foot single-family residence but is currently used as an office. The building as it exists now is approximately 1,450 square feet with one story and basement/garage area below the main section. The evaluation concludes that the structure has undergone several major remodels and two additions that together have eliminated any obvious original detailing, porches, or fenestration on the exterior. Although some original wainscoting and interior doorframes remain, the remodeling has irreversibly compromised the historic integrity of the architectural design both inside and out, rendering it a confusing assemblage of forms and materials.

The architectural historian hired by the City to update the inventory of downtown historic resources also has concluded that the building does not retain substantial historical, architectural or cultural interest or value and is therefore not eligible for City historic resource designation.

Approximately 60 other structures currently designated as historic resources have likewise been determined to be ineligible for continued historic designation. The potential for these to be demolished could have a significant impact on the overall integrity of the downtown historic district. While still designated as historic resources, activities involving their exterior appearance will need to comply with the provisions of the Downtown Historic Conservation Plan.

Mitigation Measures - CULTURAL RESOURCES:

MM CULT 1 The Downtown Historic Conservation Plan shall apply to all designated historic resources.

b,d) The General Plan does not identify the project site as containing any archaeological resources and is not considered likely to contain human remains. Demolition will involve only limited and very shallow ground disturbance

c) There are no known paleontological resources or unique geological features on the site.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death, involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a-d) The project site is not located in an Alquist-Priolo Special Studies Zone designated by the California Department of Conservation, Division of Mines and Geology. The Green Valley Fault is about 3.6 miles to the northeast of the site. While this area is subject to frequent seismic activity, fault rupture on the site is unlikely. The project site is located in an area shown in the *General Plan* as having the potential for liquefaction and other seismic-related ground failure. Standard construction safety practices are intended to protect site workers from hazards that include building failure during demolition. The site is not in a potential landslide or area expansive soils zone.

e) Not applicable.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code §65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan area or, where such a plan has not been adopted, within two miles of a public airport or a public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

a,c-h) Demolition activities could involve transport of small volumes of commercially available hazardous materials, such as oil, gasoline, paint, and solvent; however use of any such materials would be governed by hazardous materials regulations and would not pose a substantial adverse threat to either on-site construction workers or the public. The proposed project would not result in the emission or handling of hazardous materials within the near vicinity of an existing or proposed school.

b) The Benicia General Plan (Appendix G) does not identify the project site as a Hazardous Materials Site.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of a failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

a) The project would be required to conform to the City grading and storm water standards.

b) The City does not use groundwater for water supply.

c-f) Implementation of the proposed project would not result in the alteration of a stream or river. City regulations require post-project runoff to not exceed pre-project levels.

g-i) The project is located outside the 100-year flood and hazard area and would not impede or redirect flood flows nor place persons in a flood or inundation hazard area.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- a) The demolition of one building would not create a divisive land use pattern.
- b) A City-designated historic structure may be demolished if it no longer "has substantial historical, architectural or cultural value" (Downtown Historic Conservation Plan, pp. 26)
- c) The project site is not located in an area included in a habitat conservation plan or natural community conservation plan.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
X. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a,b) The General Plan does not designate any mineral resources on the site.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. NOISE. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance or of applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan area or, where such a plan has not been adopted, within two miles of a public airport or a public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a,b,d) Noise levels on the project site and immediately adjacent properties would increase temporarily during demolition phases of the project. The project will be required to comply with the City noise ordinance.

c) The project will be of temporary duration.

e,f) The proposed project is not within an airport land use plan or located within two miles of a public or public use airport.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a-c) The building proposed for demolition is used as an office.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:				
a) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a-e) The proposed demolition would not create demand for municipal services.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities, or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a,b) The proposed demolition would not create demand for park or recreational services or facilities.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC. Would the project:				
a) Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) Because the 100 block of East E Street functions as a cul-de-sac, all project-related traffic will affect the intersection of First and E Streets. However, the level of traffic generated by transport of workers, equipment, and material to/from the site will be well within the design capacity of that intersection and the city street system.

b) The Solano Transportation Agency operates as the Congestion Management Agency for Solano County, which sets a significance threshold for requiring an analysis of regional roadways at 100 PM peak hour trips, far above any level reasonable associated with the demolition project.

c) The project proposal is not expected to result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.

d) East E Street is adequately designed to accommodate demolition-related vehicle trips. The project would not result in the creation of sharp curves, dangerous intersections, or other design hazards.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

- e) The project site is served by East E Street and the public alley to the rear. East E Street is paved and readily accessible to emergency vehicles. The alley to the rear of the project site will require improvements to ensure access for emergency vehicles.

- f) No parking requirement is associated with the project.

- g) This project is not in conflict with adopted policies, plans or programs supporting alternative transportation.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand, in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a-e) The project will not result in new demand for water supply or wastewater treatment or require new sewer or storm water facilities.

f,g) Solid waste collected in the City is transported to Keller Canyon Landfill in Pittsburg for disposal. Keller Canyon Landfill is duly permitted and anticipated to have sufficient capacity to operate until 2037 and would accommodate solid waste generated by the proposed project.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. MANDATORY FINDINGS OF SIGNIFICANCE Does the Project:				
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wild-life population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of rare or endangered plants or animals, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

- a) **Less than Significant Impact.** The proposed project would not degrade the quality of the environment; result in an adverse impact on fish, wildlife, or plant species including special status species, or prehistoric resources. The structure proposed for demolition has lost the attributes necessary for it to continue to qualify as a City-designated historic resource. Therefore the impact to cultural resources would less than significant.
- b) **Less than Significant Impact.** The requirement that this and any other City-designated historic resource proposed for demolition be evaluated independently on the basis of retention or loss of substantial historic, architectural, and cultural integrity remains in place in the Downtown Historic Conservation Plan and the City zoning ordinance (Section 17.54.100). All potential impacts would be reduced to less than significant levels by adhering to basic regulatory requirements and/or conditions of approval. Therefore the cumulative impact of future similar demolitions would be less than significant.
- c) **Less than Significant Impact.** Only adherence to City regulations governing demolition procedures is necessary to render potential impacts less than significant.

REFERENCES:

1. City of Benicia General Plan, 1999, Land Use Diagram
2. City of Benicia General Plan
3. City of Benicia Zoning Ordinance
4. City Staff
5. Project description
6. Downtown Historic Conservation Plan
7. Historic Review and Evaluation, prepared by ARC Inc., date stamped January 9, 2007
8. Final Report: Downtown Benicia Parking Study, June 2004
9. Bay Area Air Quality Management District Guidelines, 1999

**MITIGATION MONITORING
AND REPORTING PROGRAM**

MITIGATION MONITORING AND REPORTING PROGRAM

FOR 126 EAST E STREET DEMOLITION APPLICATION

Introduction

This document describes the mitigation monitoring and reporting program (MMRP) for ensuring the effective implementation of the mitigation measures required for City of Benicia approval of the demolition of the structure at 126 East E Street.

City of Benicia

When a lead agency approves findings pursuant to §15074 upon completion of a Mitigated Negative Declaration, it is required to adopt a reporting and monitoring program. The purpose of the reporting and monitoring program is to ensure that measures adopted to mitigate or avoid significant environmental impacts are implemented. A mitigation monitoring and reporting program does not need to be included with the Mitigated Negative Declaration as at times the findings which trigger the program are made after considering the MND. Note that mitigation measures are enforced through permit conditions, agreements, or other measures. The reporting and monitoring program will not only direct the implementation of mitigation measures by the applicant, but also facilitate the monitoring, compliance and reporting activities of the City and any monitors it may designate.

Project Background

The applicant is requesting approval for demolishing the existing building located on the northern side of the lot, which is currently used as an office. This building is designated as a potentially contributing structure in the Downtown Historic Conservation Plan.

The Mitigated Negative Declaration for the 126 East E Street Demolition Project found that the resulting actions would have potentially significant impacts in the areas of:

- Air Quality
- Cultural Resources
- Mandatory Findings of Significance

In addition, no mitigation measures were identified for the following areas as all potential project impacts were determined to be either no impact or less than significant:

- Aesthetics
- Agricultural Resource
- Biological Resources
- Hydrology and Water Quality
- Mineral Resources
- Noise
- Population/Housing

- Public Services
- Recreation
- Transportation/Traffic
- Geology and Soils
- Hazards & Hazardous Materials
- Land Use Planning
- Utilities/Service Systems

Roles and Responsibilities

As the lead agency under CEQA, the City of Benicia will be responsible for ensuring full compliance with the provisions of this monitoring program and has primary responsibility for implementation of the monitoring program. The City of Benicia has the authority to halt any activity associated with the demolition if the activity is determined to be a deviation from the approved project or the adopted mitigation measures. The City of Benicia will act as the mitigation monitor and will designate to the applicant (Pat Donahue) how to contact the monitor.

Mitigation Monitoring and Reporting Program

The table attached presents a compilation of the mitigation measures in the Mitigated Negative Declaration together with the required monitoring and reporting actions, effectiveness criteria, and timing.

Mitigation Monitoring Table

Impact	Mitigation Measure	Monitoring/Reporting Action	Effectiveness Criteria	Timing	Non-Compliance Sanction
<p>AIR QUALITY</p> <p>3c) Construction activities associated with the proposed project could result in the generation of emissions and dust that would contribute to the air basin's non-attainment status for particulate matter.</p>	<p>MM AIR 1 During all phases of activity at the project site:</p> <p>(1) Water all active lot areas at least twice daily during the dry season; a backflow device is required on all hoses used for watering.</p> <p>(2) Cover all trucks hauling soil, sand, and other loose materials <i>or</i> require all trucks to maintain at least 2 feet of freeboard;</p> <p>(3) Weather permitting, sweep twice daily (with regenerative air type sweepers) all paved access roads, parking areas and staging areas at the site; and Sweep streets twice daily (with regenerative air type sweepers) if visible soil material is carried onto adjacent public streets.</p>	<p>Reporting action: Builder shall specify air quality construction practices at time of grading plan submittal.</p> <p>Monitoring action: Field survey by mitigation monitor.</p> <p>Monitoring action: Complaints by neighbors.</p>	<p>Receipt by the mitigation monitor of the described documentation.</p> <p>If construction practices are not followed: Stop Work Order.</p>	<p>Prior to issuance of grading plan and continued during all phases of activity at the project site</p>	<p>Stop Work Order.</p>

Impact	Mitigation Measure	Monitoring/Reporting Action	Effectiveness Criteria	Timing	Non-Compliance Sanction
<p>CULTURAL RESOURCES</p> <p>5a) Structures currently designated as historic resources in the Downtown Historic Conservation Plan to be demolished could have a significant impact on the overall integrity of the downtown historic district. The structure has undergone several major remodels that have irreversibly compromised the historic integrity of the architectural design. The building does not retain substantial historical, architectural or cultural interest or value and is therefore not eligible for future City historic resource designation.</p>	<p>MM CULT 1 The Downtown Historic Conservation Plan shall apply to all designated historic resources.</p>	<p>Monitoring/Reporting action: The City shall monitor all work through building permit inspections to insure that no designated historic resources are affected.</p>	<p>If the project activity extends to any designated structure, a Stop Work Order shall be placed.</p>	<p>During all activity phases of the project.</p>	<p>Stop Work Order.</p>

HISTORIC REVIEW AND EVALUATION

ARC Inc.

ARCHITECTS

616 Marin Street
Vallejo, CA 94590
Tel: 707.745.0502
Fax: 707.556.1121
ARCIncArchitects.com

Historic Review and Evaluation

126 East E Street, Benicia, CA 94510

Overview

There are three distinct structures on this parcel (1996 Solano Assessors Parcel #89-372-06) with three different addresses. This report primarily addresses the structure at 126 East E Street that was constructed in 1900, according to records at the Solano County Assessor's records.

The Historic Resource Inventory of the area completed by City of Benicia in 1986 describes the structure as a remodel with an estimated construction date in the 1870s, and lists the property size as 56 feet of frontage and 125 feet deep. An attached 1919 assessment form describes the building as a residence with a foundation made of brick and wood, encompassing 1200 square feet.

Current Description

The residence at 126 East E Street is currently a 1450 square-foot, single-story structure with a basement/garage area below the main section. The structure consists of an apparently original hipped-roof cottage structure circa 1900, a later single-gable addition on the rear, and a third, flat-roofed addition adjoining the gabled portion. The exterior of the original portion of the house has been altered drastically with no original doors, windows, or porches visible.

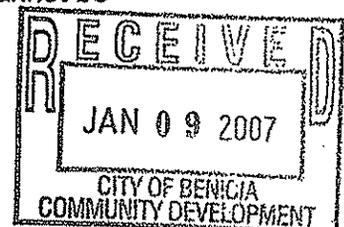
Historic Evaluation

The structure has had several drastic remodelings and two additions, obliterating any obvious original detailing, porches, or fenestration on the exterior. Although some original wainscoting and door frames remain in the interior, such remodeling, both inside and out, have irreversibly compromised the historic integrity of the architectural design, and leave it a confusing assemblage of forms and materials. Several interior walls have been removed.

Although of different design and dates of construction, the other two structures on the site (125 and 127 Kuhland Alley) have undergone similar layered remodelings.

A review of the historic documentation of the city of Benicia (see Bibliography) has uncovered no social significance connected to any of these structures, or to any of its previous inhabitants or owners.

The structures fall within "The Benicia Downtown Historical District", but cannot be considered as contributing structures in their current state.



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

Page 1 of 2

*Resource Name or #: - 126 East E St.

P1. Other Identifier: none

***P2. Location:** _

*a. County: Solano

and (P2b and P2c or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad: Benicia T2N R3W MDM

c. Address: 126 East E Street

City: Benicia

Zip: 94510

d. UTM: N/A

e. Other Locational Data: APN# 89-372-06

***P3a. Description:** (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

The residence at 126 E. E St. is a 1450 sq. ft. irregular shaped single story structure with a small basement/garage below the main section. The building consists of an apparently original hipped-roof cottage structure circa 1900, a later single-gable addition on the rear, and a third, flat-roofed addition adjoining the gabled portion. It has stucco siding. It is unclear whether any original windows remain. On the front of the building there is a double hung window and a multi-paned picture window that may be original. The four remaining windows are vinyl replacements; one is aluminum, a sheet of Plexiglas has replaced one, and one has been reglazed with Plexiglas. Doors have also been replaced.

***P3b. Resource Attributes:** (List attributes and codes) single family structure

***P4. Resources Present:** X Building Structure Object Site District Element of District
 Other (Isolates, etc.)

P5a. Photo or Drawing (Photo required for buildings, structures, and objects.)

P5b. Description of Photo: (View, date, accession #)

Front façade, view south

***P6. Date Constructed/Age and Sources:**

circa 1900, Solano County Assessor

***P7. Owner and Address:**

Patrick M. Donaghue

126 E. E St.

Benicia, CA 94510

***P8. Recorded by:** (Name, affiliation, and address) A. Kinane

Andy Kinane, Historic Evaluation. Benicia, CA

***P9. Date Recorded:** Dec. 22, 2006

***P10. Survey Type:** (Describe) General Reconnaissance

***P11. Report Citation:** (Cite survey report and other sources, or enter "none.")



***Attachments:** NONE Location Map Sketch Map Continuation Sheet X Building, Structure, and Object Record
 Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record
 Artifact Record Photograph Record X Other (List): Selected references (appendix)

DPR 523A (1/95)

*Required Information

State of California The Resources Agency
 DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

Primary #
 HRI#
 *NRHP Status Code

Page 2 of 2

*Resource Name or # (Assigned by recorder) 126 E. E St.

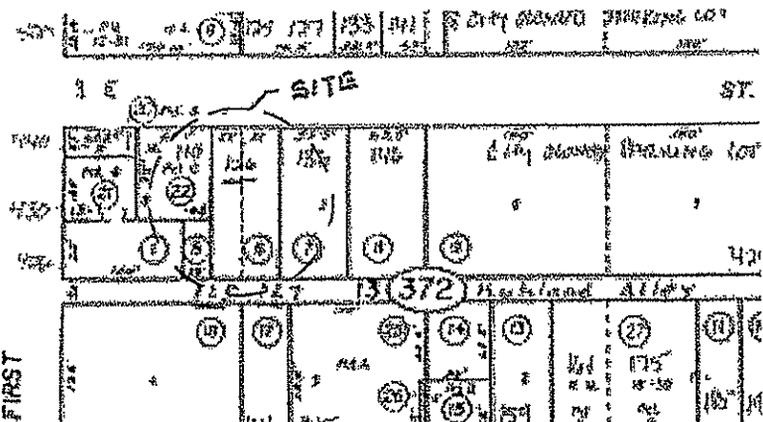
- B1. Historic Name: N/A
 B2. Common Name: none
 B3. Original Use: residential
 B4. Present Use: residential
 *B5. Architectural Style: vernacular
 *B6. Construction History: (Construction date, alterations, and date of alterations) The house was built circa 1900. Retaining wall was added in 1966. Major repairs in 1983. 1980's to 1990's: extensive remodeling.
 *B7. Moved? X No Yes Unknown Date: Original Location: same
 *B8. Related Features: none

- B9a. Architect: unknown
 b. Builder: unknown
 *B10. Significance: Theme: N/A Area: Benicia Downtown Historic District
 Period of Significance: N/A Property Type: Single Family Applicable Criteria: N/A
 (Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)

While the house has some elements of an early vernacular residential building associated with the establishment of the town of Benicia, it has been heavily modified. This includes additions. Extensive remodeling occurred in the 1980's and 1990's. Due to this drastic remodeling there appears to be little of the original structure in the current residence and little if any historic significance of this or either of the other two structures on the property. Additionally, as part of the review of the historic documents and books on the history and development of Benicia (see references) no significance was found related to any previous owners or of the structures themselves.

The site is in an established historic district. The other two structures on the property: 125 and 127 Kuhland Alley are also of little or no historic importance. The structure at 127 was heavily modified in the early 1990's with new siding, stucco, a new roof, and vinyl windows. 125 Kuhland was likely constructed at a similar time as 126 E. E St. but has been heavily modified as part of the remodeling done in the 1980's to 1990's period.

*B12. References: Historic Resources Inventory (on State of California Form) prepared Mar. 1986 by City of Benicia volunteer City of Benicia Building Valuation Appraisal Form for 126 E. E St., 1919 Assessment. Sanborn Insurance Atlas of Benicia, 1886, Sheet 4 showing E. E St. and Kuhland Alley between 1st and E. 2nd. 'Benicia, Portrait of an Early California Town', An Architectural History by Robert Brueggemann. Charles Scribner's Sons, New York. 1980 Great Expectations, The Story of Benicia, California', by Richard Dillon, Benicia Heritage Book, Inc. 1980. 'Images of America: Benicia', Julia Bussinger and Beverly Phelan, Arcadia Publishing, San Francisco, CA. 2004



*B14. Evaluator: Andy Kinane in association with John Howland, architect, of ARC Inc. Benicia, CA

*Date of Evaluation: Dec. 22, 2006

Appendix (Selected References)

Historic Resources Inventory (on State of California Form) prepared Mar. 1986 by
City of Benicia volunteer?

City of Benicia Building Valuation Appraisal Form for 126 E. E St., 1919
Assessment.

Photographs of buildings at 125 and 127 Kuhland Alley

Sanborn Insurance Atlas of Benicia, 1886, Sheet 4 showing a portion of E. E St. and
Kuhland Alley between 1st and E. 2nd.

7-6

HISTORIC RESOURCES INVENTORY

HABS	HAER	Loc	Ser. No.	SHL No.	NR Status
UTM: A			B	C	D

IDENTIFICATION

- Common name: _____
- Historic name: _____
- Street or rural address: 126 E. E St.
City _____ Zip _____ County _____
- Parcel number: 89-372-6 BIK 13 E 25' 08" + W 31' 07"
- Present Owner: L. Bordini Address: 401 C. St.
City Martinez Zip 94553 Ownership is: Public _____ Private _____
- Present Use: _____ Original use: _____

DESCRIPTION

- Architectural style:
- Briefly describe the present *physical appearance* of the site or structure and describe any major alterations from its original condition:

Remodel



- Construction date: Estimated 1870 Actual _____
- Architect _____
- Builder _____
- Approx. property size (in feet):
Frontage 56 Depth 125
or approx. acreage .110
- Date(s) of enclosed photograph(s)
3-28-86

4:3

126 E E

Mary Kuby 5
1867

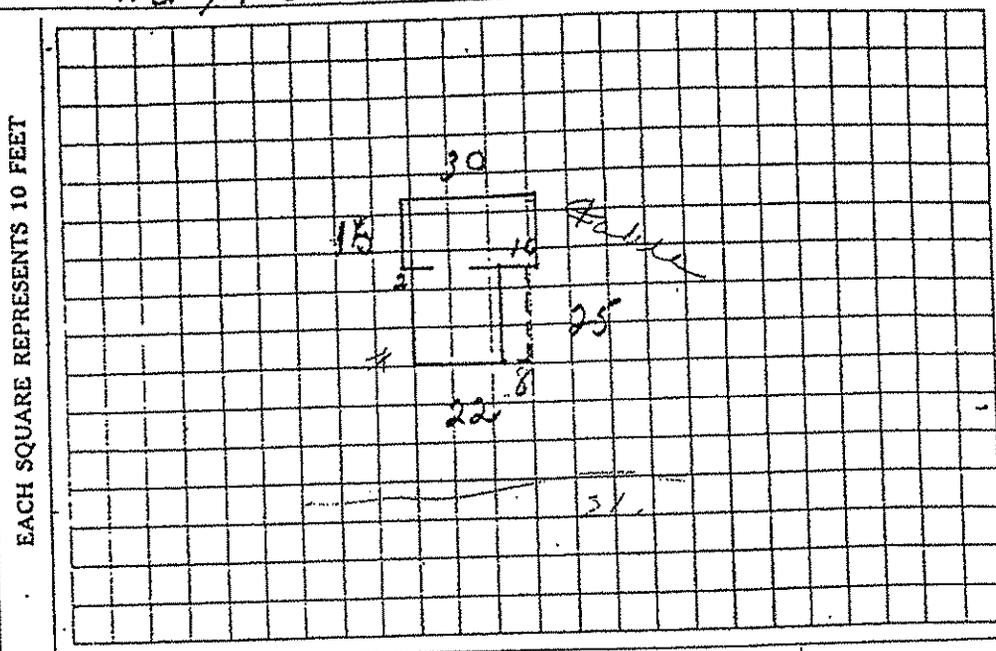
BUILDING VALUATION APPRAISAL FORM

REVALUATION OF REAL ESTATE FOR THE 1919 ASSESSMENT
CITY OF BENICIA, CALIFORNIA

J. C. McARAYY
City Clerk

CHAS. M. PRINCE
Deputy Assessor.

NO. 12 East E ST. EXAMINED BY _____
OWNER C. Bergstrom DATE _____
LOT NO. W 7-8 BLOCK NO. 13 TRACT OR SUBDIVISION _____



BUILDING VALUES.

Class 4

Total sq. ft. 1000

Price per sq. ft. 1.10

Building, \$ 1320

Basement, \$ _____

Heat \$ _____

Out Buildings _____

Total Cost. \$ 1320

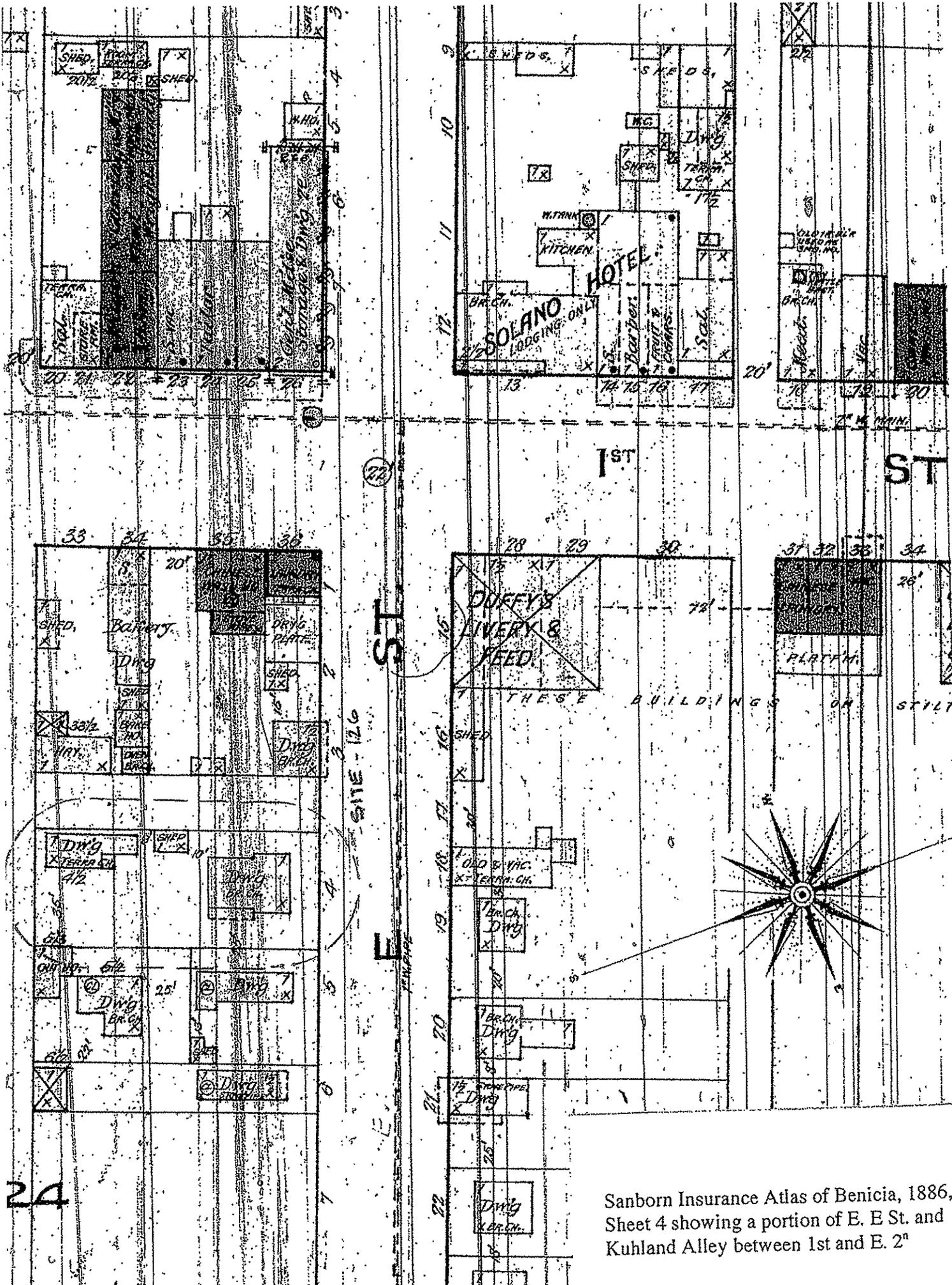
Per cent. Dep. 45

Dep. Value, \$ 594

Per cent. Utility Dep. _____

Present Value, \$ 725

CLASS	Construction	ROOF	LIGHTING	OCCUPANCY—Owner, Rented, Vacant.
Hotels	Class A—	Flat, Hip	Gas, Electric	BASEMENT, ft. x ft. x ft. Des
Loft Bldgs.	Structural Steel	Gables, Dormers	Good, Medium	WALLS, <u>Wood</u> Lot Grade <u>2-6"</u>
Warehouses	Terra cotta floors	Cut up Ordinary	Cheap	CONDITION, Good, Medium, Poor. BUILT <u>4</u>
Stores & Offices	Rein. concrete "	Plain	ELEVATOR	Bas't 1 2 - TYPICAL -
" & Aparts.	" " Frame	Tile, Shingle	Sidewalk Elev.	Living Room
" & Theatres	Heavy	Tin, Gravel	Freight	Bed
Offices	Medium	Composition	Passenger	Bath
& Theatres	Light	PARTITIONS	Electric	Kitchen
Hospitals	Class B—	Brick, Tile	Hydraulic	Hardwood Floor
Library	Class C—	Concrete	TRIMMINGS	Hardwood Fin.
California	Class D—	Plaster	Cobblestone	Storage
Residence	Good, Med.	Plain	Brick, Plaster	Store
Flat	Cheap	Ornamental	Stone, Wood	Cement Floor
Apartment	EXTERIOR	Special	Plain	Unfinished
Garage	Bay Windows	Built-In Features	Ornamental	Lobby
Shed	Balconies, No. 1	Chuff, Pat. Beds	Miscellaneous	Offices
Barn	Enameled Dr.	Refrigerator	Fire Escapes	REMARKS: Enumerate Special Features:
Church	Pressed Brick	Bookcases	Metal Windows	<u>Lot = 25' x 101-8 331 in</u>
School	Blue Brick	Plain, Ornament.	Cornice	<u>30</u>
Shop	Terra Cotta	HEATING	Sprinkler	
Garage	Art Stone	Fire places, Stoves	Marquise	
FOUNDATION	Plaster, Met. Lath	Wood, Coal, Oil, & Gas Furnace	Ventilating	
Stone	" Wood Lath	Steam, hot Water	Ceilings	
Concrete	Shakes, Rustic	PLUMBING	Stairways	
Brick	Siding, Board and Batten	No. of Fixtures	DECORATING	
Wood	and Dallen	Good, Medium	Ornamental	
Deep, Shallow	Corr. Iron	Cheap	Medium	
	Sheet Glass	Sewer	Cheap	
		Cesspool		



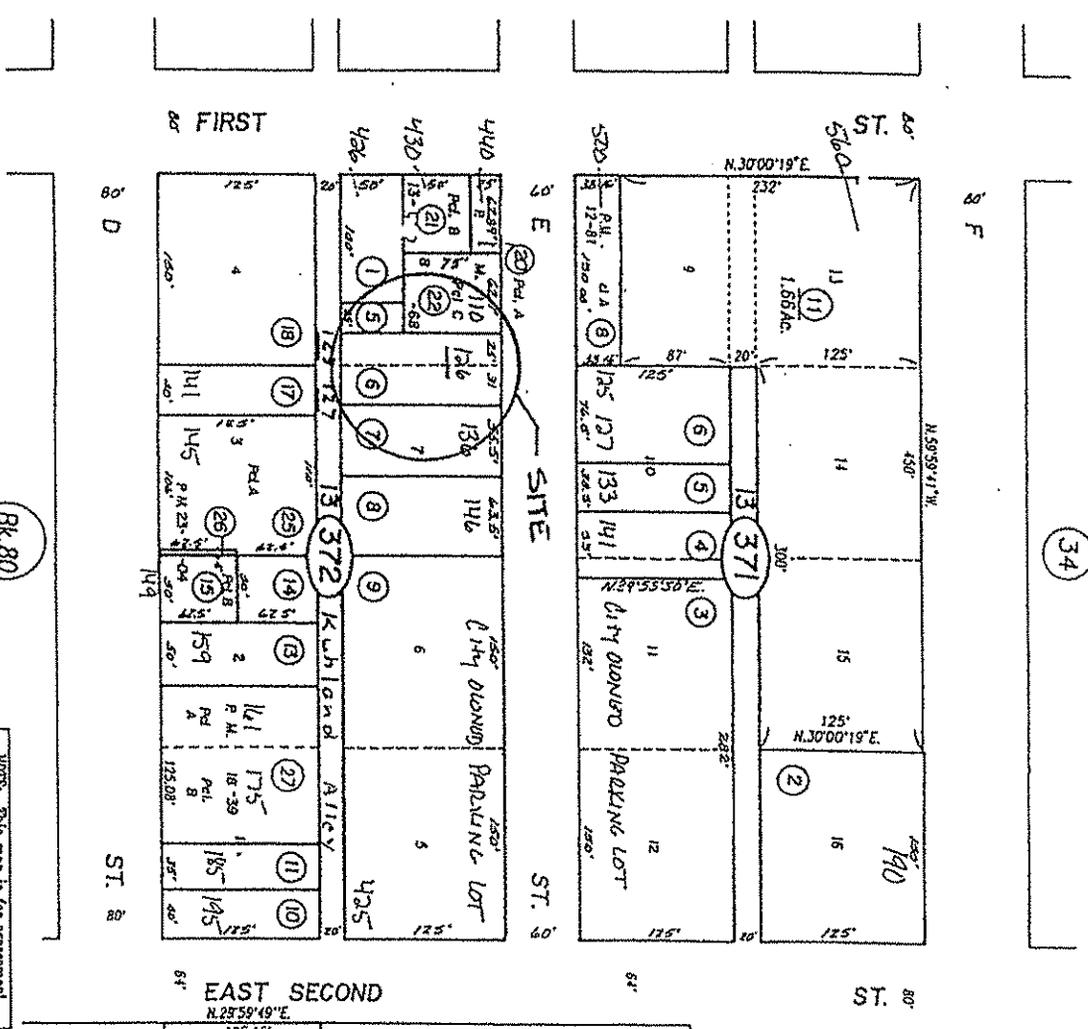
Sanborn Insurance Atlas of Benicia, 1886, Sheet 4 showing a portion of E. E St. and Kuhland Alley between 1st and E. 2ⁿ

5089-372-060

POR. SEC. 2, T.2N., R.3W., M.D.B.& M.

Tax Area Code 1000

89-37



Bk. 80

Bk. 80

NOTE: This map is for assessment purposes only and is not for the intent of interpreting legal boundary rights, zoning regulations and/or legality of land division laws.

NOTE: Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

374-01 Reg. Bond	1-28-01	PA
373-07 DU	1-28-01	PA
373-05 & 08 (AD)	1-28-01	PA
372-27 PA	1-20-00	AC
REVISION	DATE	BY

CITY OF BENICIA
Assessor's Map Bk. 89 Pg. 37
County of Solano, Calif.

02 03

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Benicia, City of R.M. Bk. 04 Pg. 45

w/ Klr 1915 f. Dist. (Dimension)

Historic Review and Evaluation
126 East E Street, Benicia, CA 94510
1/5/2007

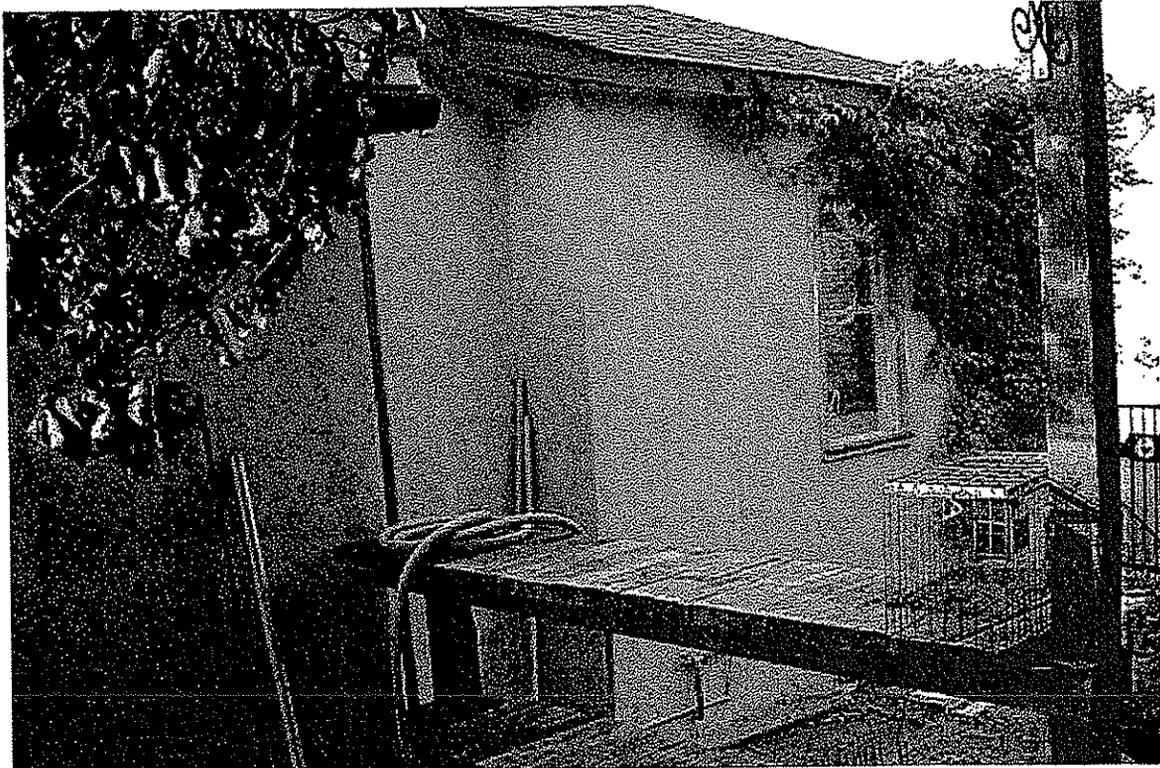


1.) 126 East E North Elevation.jpg

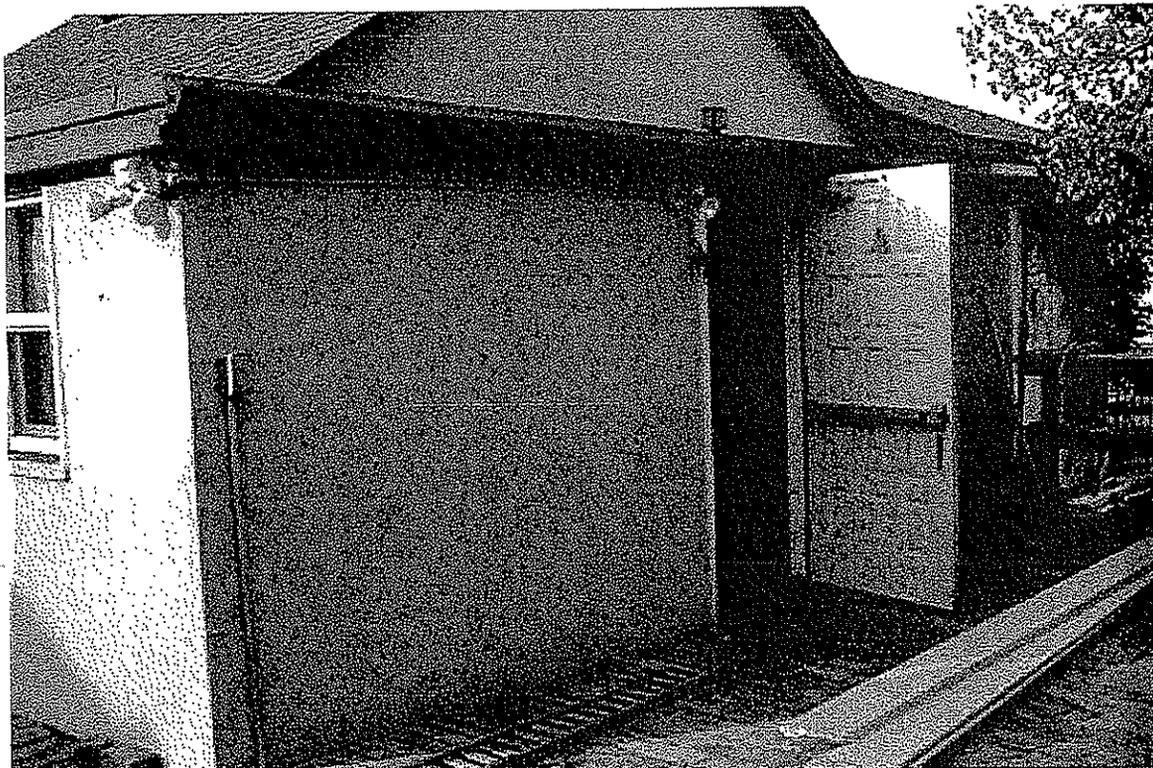


2.) 126 East E North Elevation.jpg

Historic Review and Evaluation
126 East E Street, Benicia, CA 94510
1/5/2007



3.) 126 East E East Elevation.jpg

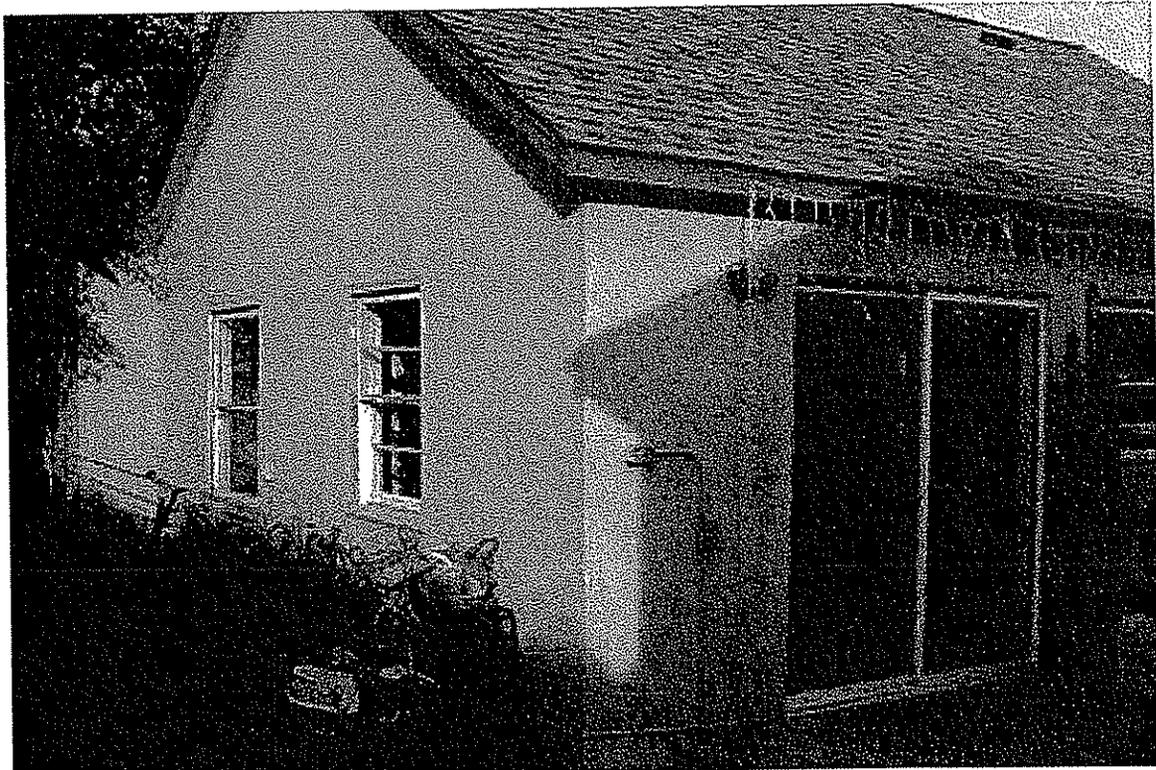


4.) 126 East E South Elevation.jpg

Historic Review and Evaluation
126 East E Street, Benicia, CA 94510
1/5/2007



5.) 126 East E West Elevation.jpg



6.) 126 East E West Elevation.jpg

Historic Review and Evaluation
126 East E Street, Benicia, CA 94510
1/5/2007



7.) 126 East E South Elevation.jpg

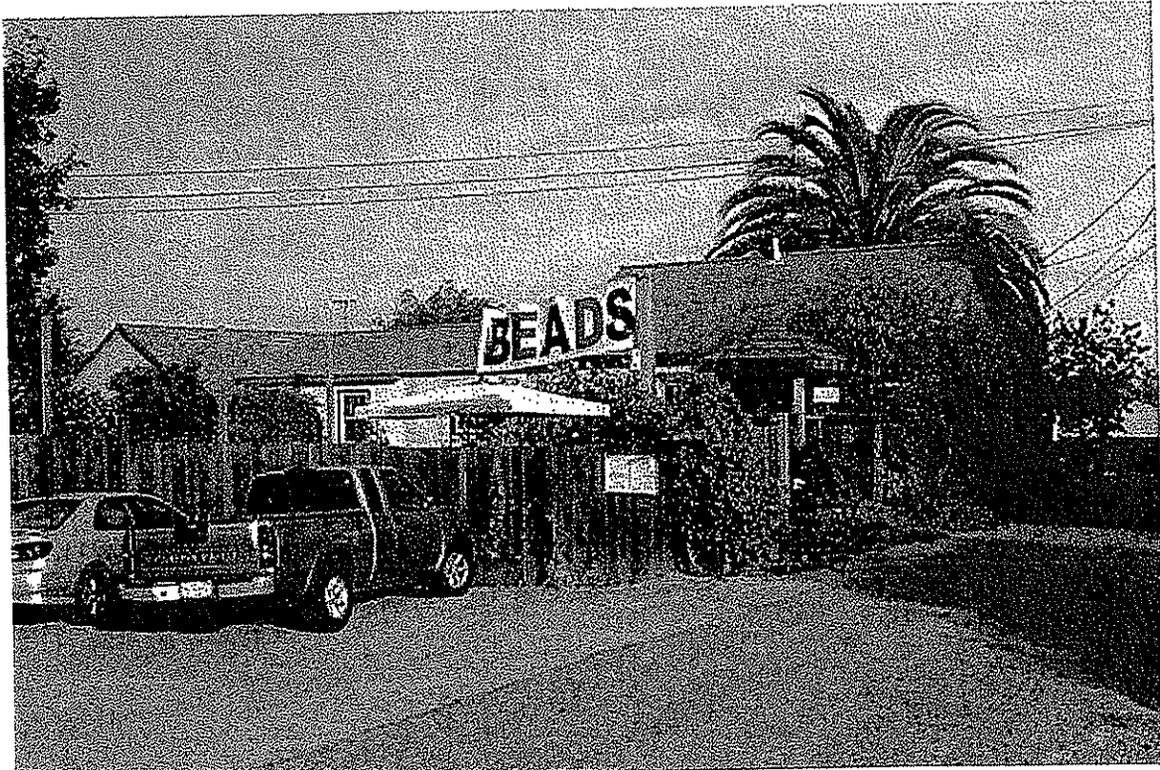


8.) 125 Kuhland Alley East Elevation.jpg

Historic Review and Evaluation
126 East E Street, Benicia, CA 94510
1/8/2007



9.) 125 kuhland Alley East Elevation.jpg

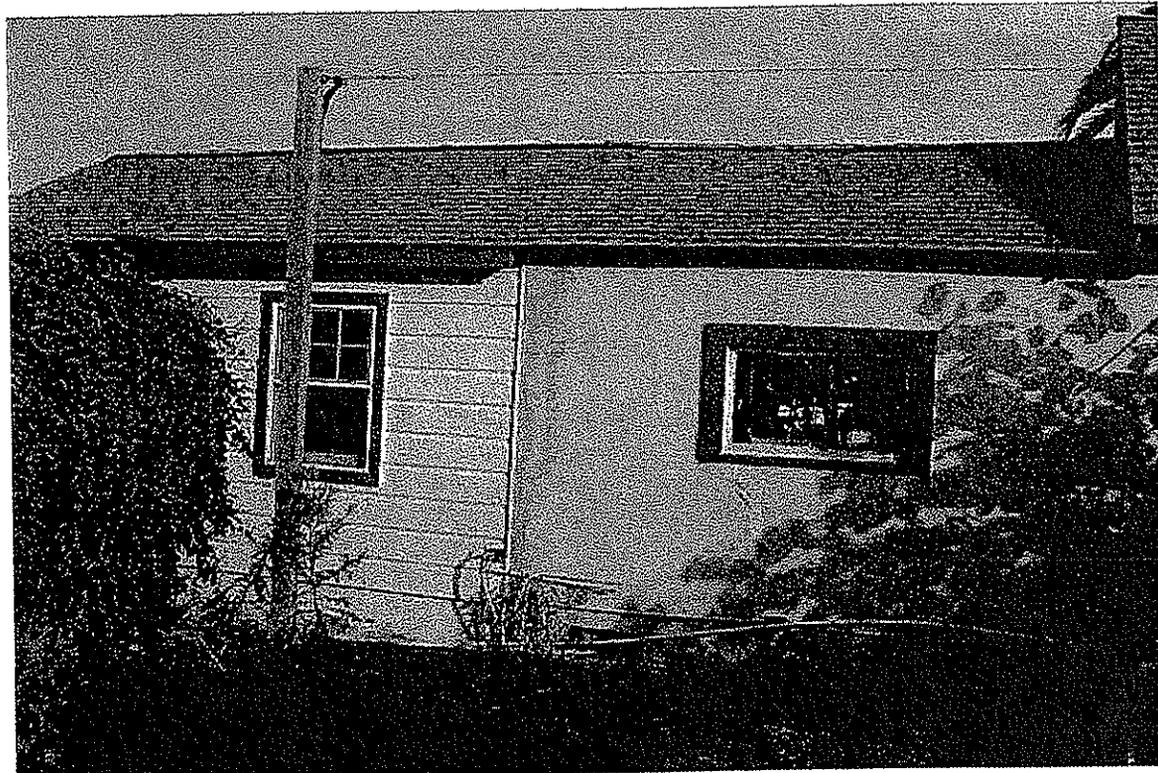


10.) 125 Kuhland Alley West Elevation.jpg

Historic Review and Evaluation
126 East E Street, Benicia, CA 94510
1/8/2007

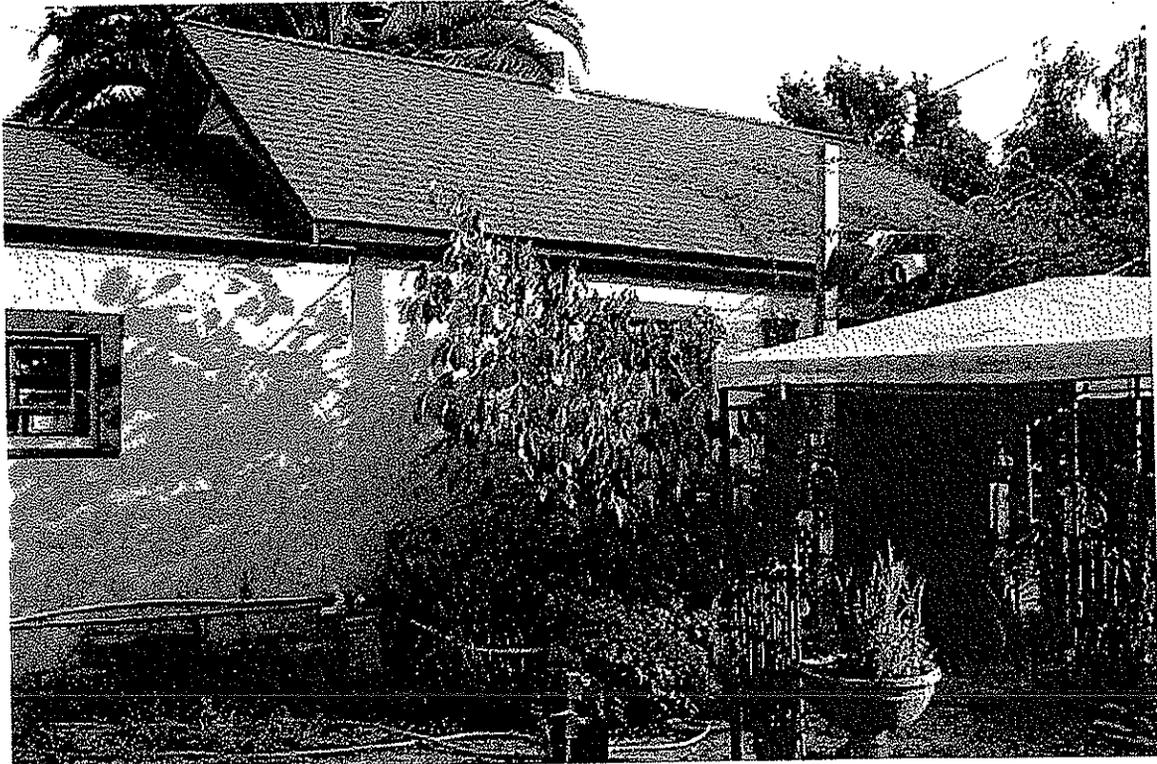


11.) 125 Kuhland Alley North Elevation.jpg



12.) 125 Kuhland Alley West Elevation.jpg

Historic Review and Evaluation
126 East E Street, Benicia, CA 94510
1/8/2007

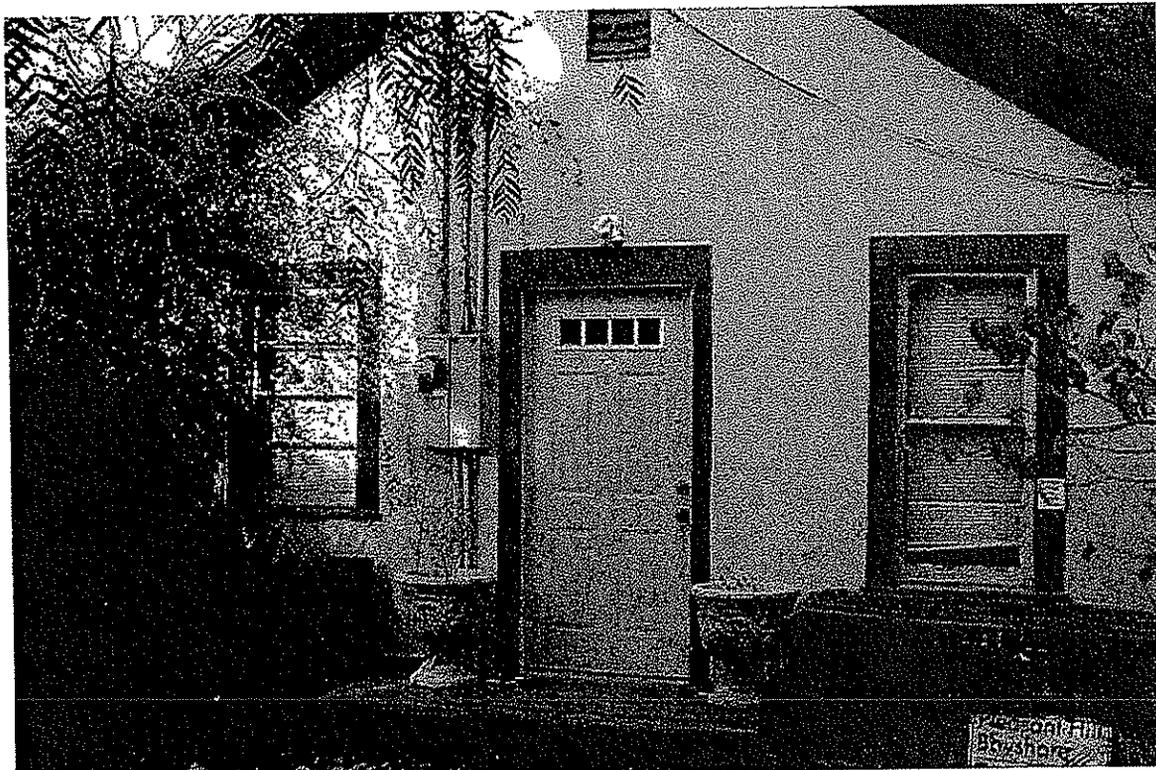


13.) 125 Kuhland Alley West Elevation.jpg

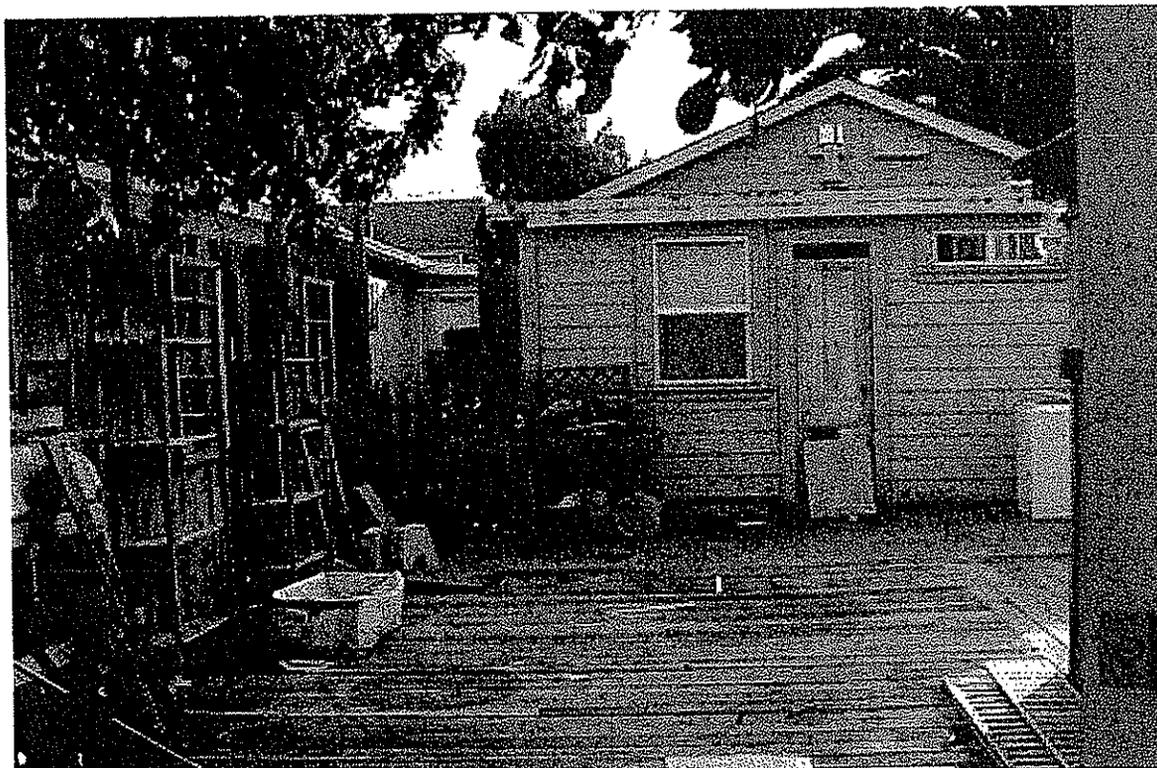


14.) 125 Kuhland Alley West Elevation.jpg

Historic Review and Evaluation
126 East E Street, Benicia, CA 94510
1/8/2007

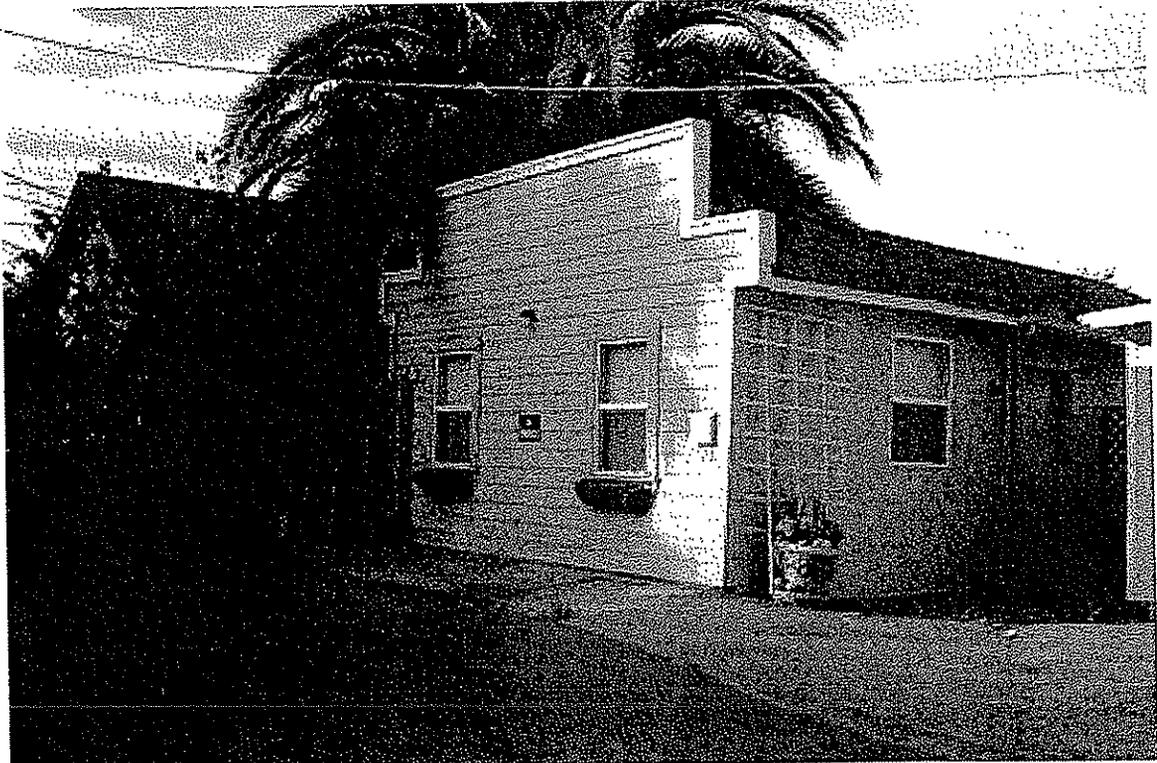


15.) 125 Kuhland Alley North Elevation.jpg

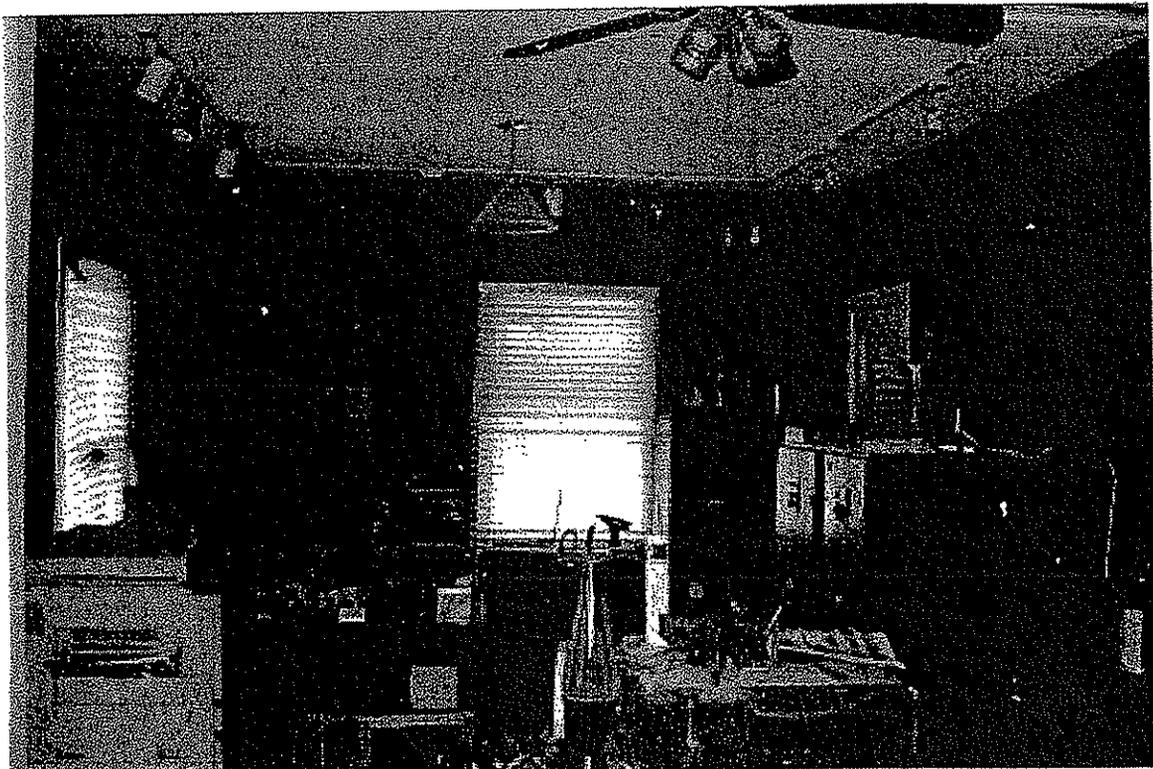


16.) 127 Kuhland Alley North Elevation.jpg

Historic Review and Evaluation
126 East E Street, Benicia, CA 94510
1/8/2007



17.) 127 Kuhland Alley North Elevation.jpg



18.) 126 East E Interior West Elevation.jpg



19.) 126 East E Interior East Elevation.jpg



20.) 126 East E Interior West Elevation .jpg



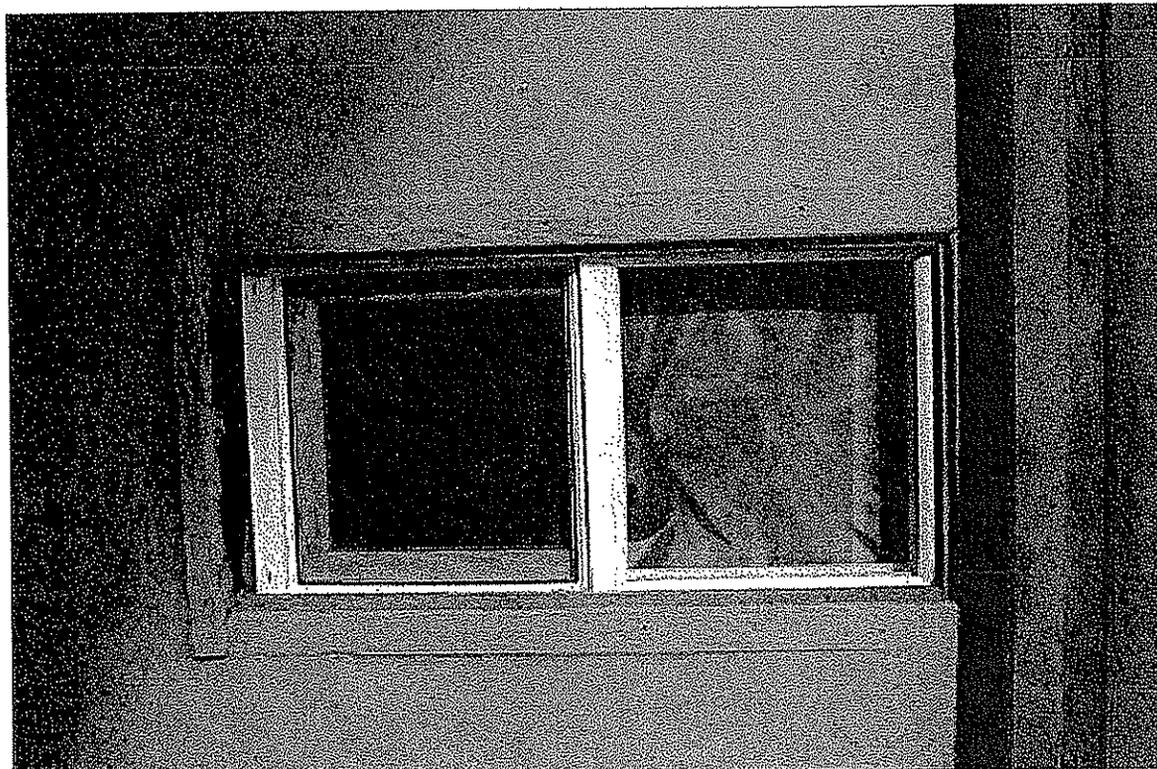
21.) 126 East E Interior East Elevation.jpg



22.) 126 East E Interior West Elevation.jpg



23.) 126 East E Original Window.jpg



24.) 126 East E Window replacement.jpg

APPLICANT'S APPEAL FORM



250 East L Street • Benicia, CA 94510 • (707) 746-4280 • Fax (707) 747-8121

Community Development Department Planning Division

APPEAL FORM

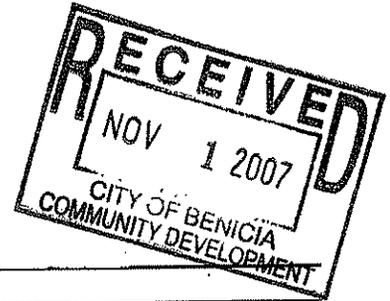
1. Project Information.

Address/location 126 East E Street
Project Name/Number 06PLN-52
Project Sponsor/Applicant Patrick Donoghue

2. Type of Appeal. Indicate which type of decision you are appealing.

- Zoning Administrator
- Community Development Director
- Historic Preservation Review Commission
- Planning Commission

Hearing/Decision Date October 25, 2007
Decision Rendered Denial of Demolition Permit



3. Reason(s) for Appeal. State the reasons for the appeal, and the grounds on which the reasons are based. See separate "Appeal Information" handout. Please use a separate sheet of paper if necessary.

--- see attachment ---

4. Appellant Information.

Name Patrick Donoghue Organization _____
Mailing address 126 East E Street, Benicia
Phone 707 746 1721 Phone (2) _____
E-mail _____ Fax 707 746 6416

5. Signature.

Appellant [Signature] Date October 31, 2007

For Staff Use:	Appl. # <u>07PLN-88</u>	Date Filed <u>11-1-07</u>
Date Entered <u>11-8-07</u>	Entered By <u>GDE</u>	Receipt # <u>1110931</u>
		Total Fees Paid \$ <u>150⁰⁰</u>

ATTACHMENT TO DONAGHUE APPEAL
OF HPRC 10/25/07 DECISION

I am appealing the decision of the Benicia Historic Preservation Review Commission ("HPRC") to deny my demolition permit for 126 E East Street, and to not adopt the initial Mitigated Negative Declaration for my project. The basis for my appeal is as follows:

- The demolition of 126 E East Street should have been approved because the demolition is a standalone project under CEQA guidelines – particularly because there are two other existing structures on the property.
- The HPRC found that the structure in question no longer retained "substantial historical, architectural or cultural interest or value", which is key criterion for continued listing as a contributing historical structure. This structure, currently listed as "potentially contributing", should not be listed as a historical structure at all. There is no current method for delisting of the property.
- Benicia Municipal Code (BMC) Section 17.54.100 Demolition and Design Review Procedures, Subdivision C, states in pertinent part:

Required Findings. No demolition permit shall be issued for demolition of any historic structure within an H district or for demolition of a designated landmark without prior review and approval by the design review commission. Demolition for non-historic structures within the H district may be approved by the community development director. (emphasis added)

Section 17.54.100, Subdivision C.1.a. For Demolitions states:

If, after review of the request for a demolition permit, the design review commission determines that the structure itself has historical, architectural or cultural interest or value, the commission may withhold approval for demolition for 180 days, or until environmental review is completed, whichever occurs later.

The HPRC determined that this structure has lost its "substantial historical, architectural or cultural interest or value" (see Resolution No. 07-23, D.) at its August 23, 2007 meeting and is not an historical structure. The Resolution also states that review of demolition permits is regulated by BMC Section 17.54.100 and the Downtown Historic Conservation Plan (DHCP). Section 17.54.100 specifically authorizes the Community Development Director to approve demolition permits for non-historic structures in the historic overlay district. DHCP, Table 1, specifies that "Final Review Authority" is an administrative function for non-historic structures in the historical district.

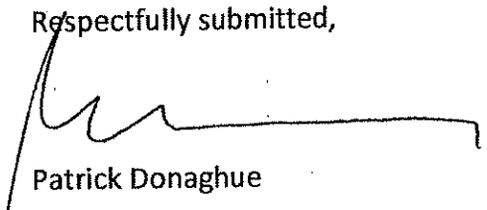
The only reason that my demolition permit has been denied is because of the improper designation of the structure as "potentially contributing". The designation is not recognized by the State of California for historical structures, and there is no formal method for delisting the property.

The decision demolition permit, therefore, was reviewed by the HPRC.

- City staff prepared an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and recommended approval of the project. However, at the commencement of the hearing, City staff abruptly announced to the HPRC commissioners that they could not approve the project because of language in the Downtown Historic Conservation Plan which mandated denial of the project. The language was then read into the record by City staff. During the public hearing, several commissioners lamented the fact that they were only voting against the project because of staff's orders. The commission then voted to unanimously reject the project.
- City staff was wrong in asserting that the language in the Downtown Historic Conservation Plan was governing. First, the Plan itself is not an adopted code or ordinance but rather is a set of "... goals, objectives, guidelines and criteria..." to be considered in guiding development in the historic district. (DHCP @ pg.2) Further, the specific language cited by City staff uses the word "should" consider - not the more restrictive and mandatory - "must" consider. It is clear that the decision of whether or not to approve the demolition permit was a discretionary one that rested with the HPRC. However, as presented to the commission at the meeting by staff, all discretion was removed and the commission acted as directed. This resulted in an unfair hearing for the project and a negative result for the applicant. Had staff not incorrectly intervened with the commission, it is likely that the project would have been approved as was initially recommended.
- Whether considered as a non-historical structure only subject to administrative review, or as a historical structure subject to HPRC scrutiny, the demolition decision is discretionary by the language of the DHCP and need not be accompanied by plans for a replacement structure.

I request the planning commission adopt the initial Mitigated Negative Declaration and approve my demolition permit.

Respectfully submitted,



Patrick Donaghue

PAGE 27
DOWNTOWN HISTORIC CONSERVATION PLAN

an H district are spelled out in more detail in Chapter 17.54 of the Benicia zoning ordinance. The appeals procedure for decisions rendered by the Planning Director or the Commission is described in Chapter 17.124. The determination of a structure's historical, architectural, or cultural significance or value should be made by the Design Review Commission based in part on its rating in the historic resource inventory; that is, a landmark structure has a higher degree of significance than a potentially contributing structure. But additional factors such as the building's integrity, its potential to be restored, its role in the district and any new research or information brought to light at public hearings should also be carefully weighed. Furthermore, except for applications of an emergency nature, no application for demolition permit should be considered without concurrent design review of the structure or project which will replace it. In this way, the relative merits and feasibility of the proposals can be compared.

Application and Intent of Design Guidelines

The proposed boundaries of the Downtown Historic District encompass a mixture of land uses and building types - residential, commercial, civic, religious and institutional - as well as architectural styles. Within the area zoned for commercial use are former residences used for business purposes and residences used for dwellings. To further blur the distinctions, some of Benicia's earliest commercial structures bear more resemblance to dwellings than to the commercial blocks that followed in subsequent decades. Interspersed among residential and commercial building types are civic, religious and institutional buildings dating from various periods. Regardless of their present use, buildings in Benicia can be

divided into three types, based on their form and original use: commercial, institutional and residential.

The commercial buildings fall into two broad categories, those with clearly visible pitched roofs and those with roofs concealed wholly or partially behind a vertical parapet wall. The former predominate on lower First Street, the latter on upper First Street. The styles of commercial buildings are loosely related to these two types, with the early buildings on lower First Street favoring the simpler forms and lines of the classical revival styles popular in the 1850s and 1860s.

The institutional category as used here includes buildings intended for civic, religious public and quasi-public uses such as schools, churches, fraternal lodges, and civic buildings. The elements commonly shared by buildings of this type are the visible roof form and landscaped setback from the street and/or adjacent structures. These buildings encompass almost all of the architectural styles found in downtown Benicia and mirror what was popular in their time.

Residential buildings in downtown Benicia represent the third category of building type. Virtually all of the residential buildings which contribute to the character of the district were built as single family residences, although some may have been converted to multi-family residential or commercial use. Apartment houses came much later to downtown Benicia. Residential building types are found throughout the downtown but particularly on the east-west streets of the district's central area. The buildings found in the district's eastern residential area are all residential building types. Again, a wide range of styles is represented by this type, but they share common features similar to those of institutional buildings: visible roof forms and landscaped setbacks. A further characteristic of the residential



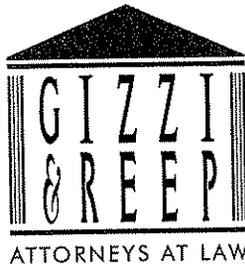
Community Development Department
MEMORANDUM

Date: December 7, 2007
To: Planning Commissioners
From: Damon Golubics, Principal Planner
Re: Late Correspondence for 126 East E Street Appeal

The attached letter was received after the finalization of the Planning Commission packets and is submitted as an attachment to the staff report.

Attachments:

- Letter dated December 6, 2007



Scott D. Reep, Esq.

Stephen Gizzi, Esq.

December 6, 2007

**VIA FASCIMILE AND
FIRST CLASS MAIL**

Mr. Damon Golubics, Senior Planner
City of Benicia
250 East L Street
Benicia, CA 94510

Re: 126 East E Street Appeal 06PLN-52, Demolition Permit

Dear Mr. Golubics,

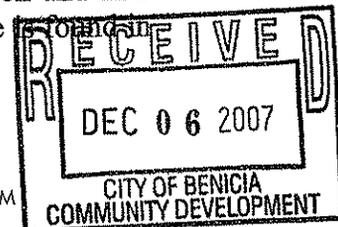
This letter is to provide additional information for the Planning Commission to consider in above referenced appeal. Pursuant to CEQA, Title 14, California Code of Regulations, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act, demolition of the subject structure located at 126 East E Street is categorically exempt from the provisions of CEQA. The applicable CEQA Sections are specified below:

Section 15300. Categorical Exemptions states:

Section 21084 of the Public Resources Code requires these Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

CEQA also recognizes certain exceptions to the categorical exemption and lists them in Section 15300.2. The only possible applicable exception in this case is found in



Subdivision (f) of Section 15300.2 regarding historical structures. Section 15300.2(f) states:

Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Although the structure in question at 126 East E Street is currently designated as a "potentially contributing" historical structure, the applicant has offered ample evidence that the structure is of no historical significance. As stated in the applicants appeal papers, the Historical Preservation Review Commission ("HPRC") in resolution No. 07-23 found that the building has lost its "substantial historical, architectural or cultural interest or value" because of the number of remodels over the years.

Moreover, the HPRC'S determination is supported by the intent of the Downtown Historic Conservation Plan. The plan states three criteria to be used in evaluating historic resources, the second of which is Architectural Integrity. To qualify as an historic resource "buildings must retain enough of their original materials and stylistic character to convey a strong impression of their period. Those buildings which, through alterations, additions, and deterioration no longer convey a strong impression of their style or period have lost their integrity."¹ 126 East E Street clearly does not meet this standard and is not an exception to categorical exemption under Section 15300.2.(f).

Since there are no applicable exceptions, demolition and removal is categorically exempt from the provisions of CEQA pursuant to Section 15301, Existing Facilities, Subdivision 1. Section 15301(l) states in pertinent part:

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.

(l) Demolition and removal of individual small structures listed in this subdivision;

¹ Downtown Historical Conservation Plan, November 1990, page 5.

(1) One single-family residence. In urbanized areas, up to three single-family residences may be demolished under this exemption.

(2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished.

(3) A store, motel, office, restaurant, or similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.

The applicant's property consists of three small structures, zoned "downtown commercial". One building is a small one-bedroom structure currently used as a single family residence. Another is a small commercial bead shop. The subject of the demolition permit is currently in use as small office space with an occupant load of less than the thirty (30) person limit as specified in paragraph (1)(3). The applicant is requesting to demolish only the latter structure however the area in question is arguably "urban" and all structures may qualify as categorically exempt pursuant to this section.

Demolition of 126 East E Street also qualifies as categorically exempt under Section 15302. Replacement or Reconstruction. Section 15302 establishes guidelines for Class 2 Categorical Exemptions and states:

Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

(a) Replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structures which do not increase capacity more than 50 percent.

(b) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.

(c) Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.

(d) Conversion of overhead electric utility distribution system facilities to underground including connection to existing overhead electric utility distribution lines where the surface is restored to the condition existing prior to the undergrounding.

The intent of the applicant is to replace the existing structure with one of substantially the same purpose and capacity. 126 East E Street also qualifies as categorically exempt pursuant to Section 15302.

Conclusion

There is no valid reason to deny the applicant a demolition permit for the subject property. Demolition is categorically exempt from the requirements of CEQA as specified above. Moreover, as stated in the applicants appeal, Benicia City Code Section 17.54.100 vests authority to approve a demolition permit for 126 East E Street in the community development director for non-historic buildings. The only thing delaying the applicant's demolition and replacement of the existing structure is its improper designation as an historic resource. Because of this improper designation, the applicant has been forced into numerous needless meetings, review and expense to demolish the existing building and replace it with a more economically viable structure.

The applicant requests that the Planning Commission consider the totality of the circumstances surrounding this property and authorize the issuance of the demolition permit.

Sincerely,

Gizzi & Reep, LLP



Mark L. Mitchell