



**BENICIA PLANNING COMMISSION  
CITY COUNCIL CHAMBERS**

**REGULAR MEETING MINUTES**

**Thursday, December 13, 2007**

**7:00 P.M.**

**I. OPENING OF MEETING**

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

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

Absent: None

Staff Present: Charlie Knox, Community Development Director  
Principal 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**

None.

**III. OPPORTUNITY FOR PUBLIC COMMENT**

- A. WRITTEN**

Three written comments regarding 126 East E Street were previously submitted to the Commission. Copies of the comments were made available to the public. In addition, a letter from a citizen was submitted at the meeting and distributed to the Commission and public.

**B. PUBLIC COMMENT**

None.

**IV. CONSENT CALENDAR**

On motion of Commissioner Ernst, seconded by Commissioner Syracuse, the Consent Calendar was approved by the following vote:

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

**A. Approval of Agenda**

**B. Planning Commission Minutes of November 8, 2007**

Charlie Knox introduced Lisa Porras, Senior Planner and Mike Marcus, Assistant Planner. In addition, he announced that Damon Golubics was promoted to Principal Planner. He stated that he is pleased to have such a great staff. The Commission welcomed the new staff.

**VI. 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 (HPRC) 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.

Commissioner Bortolazzo recused himself due to property ownership within 500’ of the project.

Gina Eleccion, Management Analyst, gave a brief overview. The only basis of appeal is the location of the window opening. She recommended the Commission reconsider this condition of approval based on the flexibility allowed in the Downtown Historic Conservation Plan (DHCP).

The public hearing was opened.

Steve McKee, Architect – He gave a brief overview. He noted that the proposed window on the north elevation is in addition to a garage door that was accepted. The proposed

window is more functional for the property owner as it provides more use of the kitchen wall.

Commissioners questioned the need for the window placement. Steve McKee noted that it was for functionality of the kitchen and to approve the design and reduce dust issues.

No public comment. The public hearing was closed.

Commissioner Ernst commented that the design seems appropriate and the existing windows only look out onto a fence.

Chair Railsback and Commissioner Ernst expressed concerns with overturning decisions of another Commission, however, based on the information presented, this seems appropriate.

**RESOLUTION NO. 07-18 (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**

On motion of Commissioner Ernst, seconded by Commissioner Sherry, the above Resolution was approved by the following vote:

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

**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.

Damon Golubics, Principal Planner, gave an overview of the project and the appeal. Background of the demolition process was given. The applicant at this point has not committed to the use of the project, thus an Initial Study can't be prepared evaluating the impacts of the project as a whole. Staff is recommending the Planning Commission uphold the decision of the Historic Preservation Review Commission.

Commissioners questioned whether the Commission felt that they had a choice in making this decision. Heather McLaughlin noted that the word “should” in our regulations, particularly in this case, can be construed as “shall”.

Commissioners questioned if this is a CEQA issue, or simply an issue that our demolition regulations do not allow this. Charlie Knox noted that because this is a potential contributor it is the purview of the HPRC to approve the demolition permit without delisting the property.

Charlie Knox noted that the State Office of Historic Preservation tends to err on the side of protecting all resources. He further noted that the only type of development that does not require design review is a new, single-family residence.

Commissioners questioned if it’s possible to ask the applicant to submit a design. Damon Golubics noted that it is dependent on the type of design proposed. Charlie Knox noted that a Mitigated Negative Declaration for the worst case scenario would have to be prepared if a project has not been proposed.

Commissioners questioned whether anyone is saying this can or can’t be torn down, but if it really is an issue of process. Charlie Knox stated that it is uncertain whether the demolition will be approved. There are certainly members of the community that believe all historic resources should be protected.

Charlie Knox noted that if a new application is submitted, it will be subject to the Downtown Mixed Use Master Plan, which has a mitigation measure of a demolition ordinance. The only way this can continue is for the Planning Commission to remand this back to HPRC pending a new design.

Commissioners commented on the requirements of Neighborhood General Open. Charlie Knox noted that the concept is to create an opportunity to build structures that fit into the historic context of downtown, but that can have multiple uses.

Damon Golubics noted that there was evidence presented that the structure lost its historic integrity, however it was not found to be non-historic. Charlie Knox noted that the applicant has not asked for this structure to be delisted, but that a demolition permit can be approved for a historic structure.

Commissioner Ernst questioned the process. Charlie Knox clarified the process. Commissioner Ernst questioned the demolition process for a landmark vs. a contributor. Charlie Knox noted that it is most likely to see a request to demolish a potential contributor.

The public hearing was opened.

Mark Mitchell, Attorney for Applicant – He noted that the issue is that this structure is a potential contributor. Mr. Donaghue has owned the property for over 10 years. He noted that the historic survey update has been delayed. Based on the recommendation of that survey, this property would no longer be listed as a contributor. He believes that the

HPRC determined that this structure no longer retains historic character. He believes there should have been a CEQA exemption on this structure. He commented on the demolition permit provisions of the DHCP. He does not believe the proper process was followed. He noted that the applicant has plans for a residence.

Commissioner Bortolazzo questioned whether the applicant would rather have this mandated back to HPRC or they would have to resubmit under the guidelines of the Downtown Mixed Use Master Plan.

Bill Royal, 490 East Second Street – He commented on the delays and the misdirection of staff. He believes that this project has been declared non-historic. This project has been delayed and is costing the applicant money.

Sandra Shannonhouse, 110 East E Street – She owns property immediately west of the project. She supports the staff recommendation and would like the rules applied equally. She noted that this project has many effects on neighbors and the City as a whole. All categories of buildings have value. The loss of any old structure diminished the value of the entire downtown historic district. She believes the applicant needs to submit plans.

Donald Dean, 257 West I Street – He previously submitted a letter to the Commission. He supports the staff recommendation. The DHCP is firmly in place to regulate the district. The process exists to protect both the applicant and the public. There is a genuine public that has interest in the historic district. The demolition is subject to CEQA Guidelines.

Jon Van Landschoot, 175 West H Street – He attended all of the previous meetings. He commented on demolition by neglect. He commented on HPRC's knowledge of the DHCP. The City has not delisted this structure. The project can't be segmented and the law needs to be applied.

Pat Donaghue, Applicant – He commented that his project is difficult to approve. He will follow the Downtown Mixed Use Master Plan, but wants something concrete to work with.

Mark Mitchell, Attorney – He commented that the DHCP allows a demolition permit to be issued for a property that has lost its architectural integrity. He disagreed with the comment on neglect. He noted that this is recommended for removal as a potential contributor. The applicant wants to work with the City to produce a good project.

The public hearing was closed.

Charlie Knox noted that HPRC can make the finding that the property no longer retains historic integrity and can approve a demolition permit without delisting. He noted that had the applicant committed to a single-family residence, then staff would have recommended approval of the demolition permit. If the Commission remands this back to HPRC and the applicant submits a single-family residence, staff could support approval of a demolition permit.

The Commission discussed the appeal.

The applicant stated that the Historic Preservation Review Commission asked that a Mitigated Negative Declaration be prepared for demolition only. He was not prepared to submit plans for a single-family residence. He stated that he has plans for a single-family residence and is ready to submit them. He noted that the interaction with staff has been positive and does not believe there is a problem with staff, but rather that the rules and regulations don't work.

Mark Mitchell, Attorney commented that the Commission can issue the permit. The applicant stated that he is willing to go back to HPRC with the single-family residence he is submitting. He noted that a full set of plans will be submitted to the Building Department and will pay all of the necessary fees. The project will meet the requirements of the Downtown Mixed Use Master Plan.

Commissioners discussed the proposal. There is a challenge in discussing historic issues in this city. There is a complicated set of rules. There is still a question as to the historic nature of the property. Any change to historic properties affect all residents of Benicia.

On motion of Commissioner Healy, seconded by Commissioner Bortolazzo, the project was remanded back to the Historic Preservation Review Commission for further review by the following vote:

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

**VII. COMMUNICATIONS FROM STAFF**

Charlie Knox noted that the January 24<sup>th</sup> HPRC meeting will be a meeting dedicated to the State Office of Historic Preservation regarding Historic Context, CEQA and the Mills Act.

Damon Golubics wished everyone a Happy Holiday!

**VIII. COMMUNICATIONS FROM COMMISSIONERS**

None.

**IX. ADJOURNMENT**

Chair Railsback adjourned the meeting at 8:39 p.m.