

**AGENDA ITEM  
PLANNING COMMISSION  
SEPTEMBER 13, 2018  
BUSINESS ITEMS**

**TO :** Planning Commission

**SUBJECT :** **ADOPTION OF THE DOWNTOWN HISTORIC DISTRICT DESIGN GUIDELINES; AN AMENDMENT TO THE DOWNTOWN HISTORIC CONSERVATION PLAN (DHCP); AND AMENDMENTS TO THE BENICIA MUNICIPAL CODE CHAPTER 17.108 (DESIGN REVIEW) AND CHAPTER 18.08 (SIGN PERMITS) REGARDING DESIGN REVIEW PROCEDURES; AFTER A DETERMINATION THAT THE PROJECT IS EXEMPT FROM CEQA.**

**EXECUTIVE SUMMARY:**

The City of Benicia proposes adoption of design guidelines that address the treatment of historic properties, alterations to non-historic buildings, and the design of new infill structures in the Downtown Historic District; as well as amendments to the design review procedures of Benicia Municipal Code Chapter 17.108 and sign permit requirements of Chapter 18.08. The Historic Preservation Review Commission recommended approval of the design guidelines and zoning amendment on June 28, 2018. The Planning Commission (PC) will make recommendations to the City Council on two separate actions:

1. Adopt Downtown Historic Design Guidelines and amend the Downtown Historic Conservation Plan (DHCP) to remove Chapters 3, 4, 5 plus appendices, which will be superseded by the guidelines and subsequent code amendments for design review procedures.
2. Amend the Benicia Municipal Code Chapter 17.108 (Design Review) and Chapter 18.08 (Sign Permits) to update design review requirements and procedures and require that signs in a historic district comply with adopted design guidelines.

**RECOMMENDATION:**

Adopt resolutions recommending City Council approval of the proposed design guidelines, amendments to the Downtown Historic Conservation Plan (DHCP) and amendments to the Benicia Municipal Code.

**OVERVIEW:**

The City of Benicia is updating the design guidelines within the Downtown Historic Conservation Plan (DHCP) to provide user-friendly guidelines for the treatment of historic properties, alterations to non-historic buildings, and the design of new infill structures within the

historic district, as well as to update design review procedures. This project would align Benicia with historic preservation “best practices,” including the Secretary of Interior Standards for Treatment of Historic Properties, and streamline design review procedures. The design guidelines are partially funded by a Certified Local Government (CLG) grant from the California Office of Historic Preservation.

The proposed amendments to the Benicia Municipal Code will facilitate application of the guidelines and enact procedural recommendations received from the community and HPRC.

### **Open Government**

Consistent with the findings of the Fair Political Practices Commission determinations regarding ownership of property in the downtown, commissioners with a financial conflict of interest related to this agenda item due to ownership of property or businesses in the downtown must recuse themselves.

### **BACKGROUND:**

The design guidelines for the Downtown Historic District were established in 1990 with the adoption of the DHCP. The guidelines are being updated to ensure consistency in the design review process, reinforce the character of the historic district, and provide the basis for clear and fair decision-making in the district.

On September 19, 2017, the City Council adopted a resolution approving an agreement with the State Office of Historic Preservation for a Certified Local Government Grant in the amount of \$40,000, to update the Historic Design Guidelines within the DHCP, authorizing the City Manager to execute the agreement on behalf of the City, and allocating funds in the FY2017-18 Budget.

On October 26, 2017 the HPRC adopted Resolution No. 17-10 supporting initiation of an update to the DHCP design guidelines and appointing Chair Tim Reynolds to serve on the ad hoc advisory group for the project.

### *Ad Hoc Advisory Group*

An ad hoc advisory group was assembled in November 2017 to provide guidance and feedback through the process of developing the draft guidelines. The advisory group included individuals with design or construction expertise and with experience working on projects or owning property in the historic district. The group met on four occasions and provided feedback on specific topics relating to the usability of the design guidelines and design review procedures. Feedback from the advisory group was summarized for the HPRC through monthly updates and staff reports and is also available on the project webpage at [www.ci.benicia.ca.us/downtowndesign](http://www.ci.benicia.ca.us/downtowndesign).

*Community Outreach*

The Planning Division conducted stakeholder and public meetings for the design guidelines on January 18 and 19, 2018 to obtain community comments, concerns and priorities. A community open house was held on April 26, 2018 to present the public review draft document. In addition to ongoing web updates and periodic media releases, the city mailed notice of the design guidelines to district residents in April and June 2018. City staff provided information to the public via “GovDelivery” email alerts and also provided monthly agenda items to the HPRC to provide updates and obtain feedback. Despite sparse attendance at the public meetings, some community members provided comments on the public review draft, which are included as an attachment to this memorandum.

**SUMMARY**

*Downtown Historic Conservation Plan*

The DHCP contains five chapters plus appendices, which will be revised to make way for adoption of the new Downtown Historic District Design Guidelines and the zoning text amendment for design review procedures. The remaining elements of the DHCP will be retained for the time being. At a future date staff will evaluate whether they are redundant with more recent documents, such as the Downtown Mixed Use Master Plan and Historic Context Statement.

<b>DHCP Chapter</b>	<b>Proposed Amendment</b>
Preface	Retain
1 Plan Overview	Retain
2 Historic Resources	Retain
3 Design Review Procedures	<i>Remove</i> – will be addressed in amendment to BMC Chapter 17.108
4 Design Guidelines for Commercial Building Types	<i>Remove</i> – will be replaced by Downtown Historic District Design Guidelines
5 Design Guidelines for Residential Building Types	<i>Remove</i> – will be replaced by Downtown Historic District Design Guidelines

**DHCP Appendices**

A Designation of Historic Properties within the Downtown Historic H Overlay District	<i>Remove</i> – Included in Appendix of Downtown Historic District Design Guidelines
B Glossary of Terms	<i>Remove</i> – Included in Appendix of Downtown Historic District Design Guidelines
C Historic Conservation Plan Resource Survey Form	<i>Remove</i> – Superseded by Historic Survey (2009) - used DPR 523 form
D City Council Resolution No. 92-201 Amending DHCP	<i>Remove</i> – this Resolution amended sections of the DHCP that would be replaced by proposed guidelines and text amendment.

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E	City Council Resolution No. 05-91 Delisting 195 East F Street	<i>Remove</i> – this action is captured in subsequent adoption of Historic Survey.
F	City Council Resolution No.08-62 Amending DHCP re: Design Review for non-historic residences	<i>Remove</i> – this Resolution amended sections of the DHCP that would be replaced by proposed guidelines and text amendment.
G	City Council Resolution No. 09-26 adopting historic survey and amending DHCP	<i>Remove</i> – this Resolution is referenced in the Appendix of the Downtown Historic District Design Guidelines.

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The elements of the downtown policy framework will be assembled into an online compendium of information that is readily available to inform decision-making in the historic district including:

1. Downtown Historic District Design Guidelines plus appendices
2. DHCP (remaining sections, pending evaluation of overlap with other documents)
3. Downtown Mixed Use Master Plan
4. Historic Context Statement
5. Historic Survey
6. Downtown Streetscape Plan

#### *Downtown Design Guidelines*

The Downtown Design Guidelines are a graphic and resource-based approach to preservation, rehabilitation and new construction in the Downtown Historic District. The guidelines carry over some aspects of the current DHCP; additionally, they provide additional information about planning a preservation project and align with the Secretary of Interior Standards for Treatment of Historic Properties. The outline of the Guidelines is as follows:

1. Introduction
2. General Design Guidelines for All Projects
3. Design Guidelines for Historic Structures
4. Guidelines for New Construction
5. Signs

#### *Appendix*

- Glossary
- Historic Property Addresses in the Downtown District
- Advisory Guidance for Environmental Sustainability

The public review draft of the guidelines was presented to the HPRC on April 26, 2018; commissioners provided individual comment. On May 24, 2018 the commission provided additional comments on guidelines for awnings and canopies, balconies and galleries, building additions, and window materials. The proposed final draft reflects commission feedback and public review comments.

*Design Review Procedures*

The Historic Preservation Review Commission discussed new design review procedures on May 24, 2018. Based on HPRC and community comments, the overall objective for design review procedures is threefold:

- Preserve existing historic buildings;
- Encourage property owners to renovate historic buildings and restore those buildings to their original materials and design;
- Provide a framework and guidelines for property owners when designing remodels, additions, or new buildings.

The proposed approach results in two levels of review in addition to an exempt category. The HPRC recommends changing current procedures to provide notice to nearby property owners for any activity subject to administrative design review citywide. Currently, the Zoning Ordinance allows for appeals of administrative design review decisions but does not provide notice of pending applications. The draft text amendments are provided in Attachment 3 and shown as redline markup in Attachment 4.

<b>Level of Review</b>	<b>Nature of Activity</b>	<b>Notice/Hearing</b>
Commission	<ul style="list-style-type: none"> <li>- Demolish, partially demolish or remove historic structure;</li> <li>- Relocate historic structure;</li> <li>- Remove, destroy, alter, obscure character-defining feature of historic structure;</li> <li>- Install alternative exterior building materials on historic structure;</li> <li>- Alter primary or highly visible secondary façade of historic structure;</li> <li>- Construct new building or addition visible from public street.</li> </ul>	Notice of Public Hearing / HPRC public hearing.
Administrative	Any activity that is not exempt and does not require HPRC review	Notice of Pending Action / No hearing unless appealed.

Exempt	- Alteration to non-historic structure in Eastern Residential Area. - Repair and maintenance of minor routine nature that does not modify the exterior appearance of a structure including: <ul style="list-style-type: none"> <li>• Emergency stabilization of unsafe condition excluding demolition;</li> <li>• Roof replacement without structural or architectural changes;</li> <li>• Landscaping, fences or landscape features;</li> <li>• Activities that do not require a building or demolition permit;</li> <li>• Replacement of windows or doors that restore original materials and design.</li> </ul>	None
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The proposed amendment to Chapter 17.108 of the Benicia Municipal Code would apply these design procedures to all H- Overlay districts, which currently include the Downtown Historic District, the Arsenal Historic District and designated landmarks outside of either district.

The proposed zoning amendments reorganize Chapter 17.108 to consolidate information and eliminate outdated or unnecessary procedures. Many of the procedural steps outlined in Chapter 17.108 are now in State law (Permit Streamlining Act), Additionally, the city maintains up-to-date submittal requirements that are readily available on the city website and in the Community Development Department. Staff also proposes to allow the Community Development Director to determine when a project is exempt or subject to administrative design review, or refer an application to the HPRC. Under the proposed amendments, an application may be deemed withdrawn if there is no activity (including submission of information or plans) after a period of 120 days (four months).

The Zoning Ordinance specifies that signs are exempt from Design Review (Section 17.108.020). Proposed amendments to the Sign Ordinance (Chapter 18.08) clarify that signs in an H- overlay district are subject to adopted design guidelines. Sign guidelines are in place for both the Downtown and Arsenal Historic Conservation Districts.

*Public Comments*

The City of Benicia received three community comment letters in response to the public review draft in Spring, 2018 (see Attachment 7). The comments were reviewed by staff and the consultant, provided to the HPRC, and given consideration in revisions to the draft guidelines and design review procedures as reflected in changes related to:

- Improved organization through numbering and table of contents;
- Clarification in relation to Downtown Mixed Use Master Plan (p. 4 and 12);
- References to California Historic Building Code (p.76);

- Additional references that support preservation requirements, notably the Secretary of Interior Standards and Technical Preservation Briefs (p. 16, 25, 53, 59, 60, 61, 64, 67, 74, 75, 79, 82, 168);
- Clarification of guidelines applicability to historic and non-historic building types (p.13);
- Revisions to guidelines for outdoor dining (p. 35-36);
- Guidelines for additions and alterations that have gained significance (p.77);
- Clarification re: new and raised foundations (p.85);
- Increased opportunities for administrative review of projects that conform to guidelines;
- Clarification of projects subject to design review via proposed text amendment.

On August 8, 2018 the City of Benicia received a public comment letter regarding the proposed design guidelines and zoning amendment. The comment letter is included as Attachment 7. Staff reviewed the letter and has found that many of the comments are addressed in the Zoning Ordinance or within the proposed amendment and guidelines. In response to the letter, the city has revised the proposed text amendment to ensure that exemptions are applicable to all structures in the district (not only historic) and that paint is exempt except where it would be applied to an unpainted wall surface of a historic building, such as brick or masonry, to avoid an irreversible change that would not be consistent with the Secretary of Interior Standards. A response to summarized comments received prior to August 29, 2018 is provided as Attachment 9.

Attachment 10 contains additional correspondence received after August 29, 2018.

#### *HPRC Action*

The HPRC conducted the public hearing on the final draft guidelines and zoning text amendment on June 28, 2018. Two members of the public provided comments in support of the proposal; one resident commented on images used in the document and another supported providing a keyword index. During their discussion, the HPRC recommended additional amendments to the guidelines, which are summarized in Attachment 1C. At the conclusion of the public hearing, the HPRC recommended approval of the proposed guidelines and text amendments as provided in Resolutions No. 18-10 and 18-11 (Attachments 4 and 5).

#### *Solano Airport Land Use Commission*

Pursuant to the Public Utilities Code (PUC) Section 21676, any local agency whose general plan includes areas covered by an airport land use compatibility plan shall refer a proposed zoning ordinance or building regulation to the airport land use commission for review. The commission shall determine whether the proposal is consistent with the adopted airport land use compatibility plan. Benicia falls within the jurisdiction of the Travis Air Force Base Airport Land Use Compatibility Plan; therefore, proposed zoning amendments must be reviewed by the Solano County Airport Land Use Commission (ALUC).

On July 12, 2018 the ALUC conducted a public hearing and deemed the proposed amendments consistent with the Travis Air Force Base Airport Land Use Plan.

**NEXT STEPS**

Following the Planning Commission public hearing, this matter will be forwarded to the City Council for adoption. The City Council hearing on the proposed project is tentatively scheduled for October 2, 2018.

Staff recommends the city adopt the design guidelines and review the amended regulations one-year after adoption. The purpose of the review is to evaluate the effectiveness of the guidelines and regulations and make minor adjustments as needed. This recommended review is reflected in the draft Resolutions.

**GENERAL PLAN:**

<b>General Plan</b>	<p>Community Development and Sustainability</p> <p>Goal 2.1 Preserve Benicia as a small-sized city.</p> <ul style="list-style-type: none"> <li>➤ Policy 2.1.1: Ensure that new development is compatible with adjacent existing development and does not detract from Benicia’s small town qualities and historic heritage.</li> </ul> <p>Goal 2.12 Strengthen the Downtown as the City’s central commercial zone.</p> <ul style="list-style-type: none"> <li>➤ Policy 2.12.3: Seek to make Downtown a thriving and vigorous community center offering a variety of activities and attractions for residents and visitors.</li> </ul>
	<p>Community Identity</p> <p>Goal 3.1: Maintain and enhance Benicia’s historic character</p> <ul style="list-style-type: none"> <li>➤ Policy 3.1.4 Promote the preservation and enhancement of historic neighborhoods, commercial areas and governmental districts.</li> <li>➤ Policy 3.1.5 Permit new development, remodeling and building renovation in historic districts when consistent with the policies of the applicable Historic Conservation Plan.</li> </ul> <p>Goal 3.7: Maintain and reinforce Benicia’s small-town visual characteristics.</p> <p>Policy 3.7.1: Ensure that new development is compatible with the surrounding architectural and neighborhood character.</p>

**CEQA:**

<b>CEQA Analysis</b>	<p>The project is exempt from environmental review under California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15331 which exempts projects that are consistent with the Secretary of Interior’s Standards for the Treatment of Historic Properties, and Section 15305 Minor Alterations in Land Use Limitations, which consists of minor changes to land use limitations which do not result in any changes in land use or density. The project establishes design guidelines that advance local historic preservation priorities, implement</p>
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	the Secretary of Interior Standards, and modify procedures for design review to implement the guidelines.
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**CONCLUSION:**

The Planning Commission's action will be a recommendation to the City Council.

**Attachments:**

1. Draft Resolution – Amendment to Downtown Historic Conservation Plan and Adoption of Downtown Historic District Design Guidelines
  - A. Downtown Historic District Design Guidelines
  - B. Downtown Historic Conservation Plan
  - C. Recommended further guideline revisions.
2. Draft Resolution – Amendments to BMC Chapter 17.108 Design Review and Chapter 18.08 Sign Permits.
  - A. Draft Text Amendments
3. Draft Ordinance- Design Review Procedures
4. Draft Text Amendments – redline
5. Resolution No. 18-10 (HPRC)
6. Resolution No. 18-11 (HPRC)
7. Community comments on Public Review Draft
  - A. Trevor Macenski – April 19, 2018
  - B. Leann Taagepera – May 16, 2018
  - C. Brian Harkins – June 6, 2018
8. Public Comment Letter on Final Draft
  - A. Leann Taagepera – August 8, 2018
9. Response to summarized public comment.
10. Additional correspondence received after August 29, 2018.
  - A. Leann Taagapera – August 30, 2018 (received September 5, 2018)

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**RESOLUTION NO. 18- (PC)**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO THE DOWNTOWN HISTORIC CONSERVATION PLAN AND ADOPTION OF THE DOWNTOWN HISTORIC DISTRICT DESIGN GUIDELINES**

**WHEREAS**, City of Benicia is updating the design guidelines within the Downtown Historic Conservation Plan (DHCP) to provide user-friendly guidelines for the treatment of historic properties, alterations to non-historic buildings, and the design of new infill structures within the historic district, as well as to update design review procedures; and

**WHEREAS**, this project is expected to bring Benicia into alignment with historic preservation “best practices,” including the Secretary of Interior Standards for Treatment of Historic Properties, and streamline design review procedures. The design guidelines are partially funded by a Certified Local Government (CLG) grant from the California Office of Historic Preservation; and

**WHEREAS**, the Downtown Historic Conservation Plan was adopted in 1990 and has been subsequently amended; and

**WHEREAS**, the city conducted public meetings for the design guidelines on January 18 and 19, 2018 to obtain community comments, concerns and priorities; held a community open house on April 26, 2018 to present the public review draft; provided complete information on the city webpage and periodic media releases; made monthly updates to the Historic Preservation Review Commission and mailed notice of the design guidelines to district residents in April and June 2018; all in the interest of public information and outreach; and

**WHEREAS**, the proposed design guidelines are a graphic and resource-based approach to preservation, rehabilitation and new construction that carry over many existing guidelines, provide additional information and align with the Secretary of Interior Standards for Treatment of Historic Properties; and

**WHEREAS**, proposed amendments to the Design Review procedures in Title 17 of the Benicia Municipal Code will replace Chapter 3 of the Downtown Historic Conservation Plan; and

**WHEREAS**, the Downtown Historic District Design Guidelines will replace Chapters 4 and 5 of the Downtown Historic Conservation Plan; and

**WHEREAS**, the Historic Preservation Review Commission recommended approval of the proposed design guidelines and amendments to the Downtown Historic Conservation Plan on June 28, 2018 with recommended revisions; and

**WHEREAS**, the Planning Commission at a regular meeting on August 9, 2018, conducted a hearing, heard public comment and reviewed the guidelines and found them to be

consistent with the City of Benicia General Plan and Secretary of Interior Standards for Treatment of Historic Properties;

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Benicia hereby recommends the City Council adopt a Resolution amending the Downtown Historic Conservation Plan to remove Chapters 3, 4 and 5 plus the appendices and to adopt the Downtown Historic District Design Guidelines (Exhibit A) with amendments (Exhibit B) as reflected in the proposed amended Downtown Historic Conservation Plan (Exhibit C). The Commission recommends that the City Council authorize review of the guidelines after one year, whereby the effectiveness of the guidelines may be evaluated and subsequent amendments considered as appropriate

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

- a) The proposed amendments and design guidelines are exempt from environmental review under California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15331 which exempts projects that are consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties, and Section 15305 Minor Alterations in Land Use Limitations, which consists of minor changes to land use limitations which do not result in any changes in land use or density. The project establishes design guidelines that advance local historic preservation priorities, implement the Secretary of Interior Standards, and modify procedures for design review to implement the guidelines.
- b) The proposed amendments and design guidelines are consistent with the Benicia General Plan, particularly Goal 2.1 Preserve Benicia as a small-size city; Goal 3.1 Maintain and enhance Benicia's historic character; and Goal 3.7 Maintain and reinforce Benicia's small-town visual characteristics. The proposed action supports implementation of guidelines for historic preservation and compatible new development consistent with the city's preservation priorities, the Secretary of Interior Standards for Treatment of Historic Properties, and current best practices.

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On motion of Commissioner , seconded by Commissioner , the above Resolution is introduced by the Planning Commission of the City of Benicia at a regular meeting of the Commission held on the 13<sup>th</sup> day of September 2018 and adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

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Kari Birdseye, Chair

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Date

# DOWNTOWN HISTORIC DISTRICT DESIGN GUIDELINE

*Attachment 1 is online*

**RESOLUTION NO. 18- (PC)**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO THE BENICIA MUNICIPAL CODE TITLE 17 (ZONING) AND TITLE 18 (SIGNS) REGARDING DESIGN REVIEW PROCEDURES**

**WHEREAS**, City of Benicia is updating the design guidelines within the Downtown Historic Conservation Plan (DHCP) to provide user-friendly guidelines for the treatment of historic properties, alterations to non-historic buildings, and the design of new infill structures within the historic district, as well as to update design review procedures; and

**WHEREAS**, design review requirements are currently contained within the DHCP while procedures are referenced in the Benicia Municipal Code; and

**WHEREAS**, it is in the interest of public convenience and clarity to include design review requirements and procedures within the Benicia Municipal Code; and

**WHEREAS**, the objective of the amendments for design review procedures is to clarify and update regulations, preserve existing historic buildings, encourage property owners to renovate and restore historic buildings, and provide a framework for property owners when designing new construction; and

**WHEREAS**, the proposed amendments to Chapter 17.108 Design Review are consistent with the objectives, support implementation of design guidelines and uphold the purposes of the H- overlay district designation; and

**WHEREAS**, the proposed amendments to Chapter 18.08 (Sign) Permits are intended to support implementation of design guidelines for signage in the H- overlay districts through the review of sign permits; and

**WHEREAS**, the Planning Commission at a regular meeting on August 9, 2018, conducted a hearing, heard public comment, and reviewed the draft ordinance and found it to be consistent with the City of Benicia General Plan;

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Benicia hereby recommends the City Council approve an Ordinance amending the Benicia Municipal Code to update the Chapter 17.108 Design Review and Chapter 18.08 (Sign) Permits relating to design review procedures (Exhibit A). The Commission recommends that the City Council authorize review of the amended regulations after one year, whereby the effectiveness of the regulations may be evaluated and subsequent amendments completed as appropriate

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

- a) The proposed amendments are exempt from environmental review under California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15331 which exempts projects that are consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties, and Section 15305 Minor Alterations in Land Use Limitations, which consists of minor changes to land use limitations which do not result in any changes in land use or density. The project establishes design guidelines that advance local historic preservation priorities, implement the Secretary of Interior Standards, and modify procedures for design review to implement the guidelines.
- b) The proposed amendments are consistent with the Benicia General Plan, particularly Goal 2.1 Preserve Benicia as a small-size city; Goal 3.1 Maintain and enhance Benicia's historic character; and Goal 3.7 Maintain and reinforce Benicia's small-town visual characteristics. The amendments support implementation of guidelines for historic preservation and compatible new development and establish design review procedures for exterior alterations in a H-overlay district.

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On motion of Commissioner , seconded by Commissioner , the above Resolution is introduced by the Planning Commission of the City of Benicia at a regular meeting of the Commission held on the 13<sup>th</sup> day of September 2018 and adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

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Kari Birdseye, Chair

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Date

# **TITLE 17: ZONING**

## **17.108.010 Purposes.**

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Design review is intended to implement general plan policies. More specifically, the purposes of design review are to:

- A. Ensure that the location and configuration of structures are visually harmonious with their sites and with surrounding sites and structures, and do not unnecessarily block scenic views from other buildings or public parks or dominate their surroundings to an extent inappropriate to their use;
- B. Ensure that the architectural design of structures, their materials and colors are visually harmonious with surrounding development and with the natural landforms and vegetation of the areas in which they are proposed to be located;
- C. Ensure that plans for the landscaping of open spaces conform with the requirements of this title, and that they provide visually pleasing settings for structures on the site and on adjoining and nearby sites and blend harmoniously with the natural landscape;
- D. Prevent excessive and unsightly grading of hillsides, and preserve natural landforms and existing vegetation where feasible;
- E. Ensure the provision of adequate, safe and efficient parking and circulation areas, which conform to the requirements of this title;
- F. Provide a functional, efficient, and attractive site design which is sensitive to existing uses in the area and to the topography and conditions of the site;
- G. Ensure that new development is consistent with specific design guidelines developed for use within the community, where applicable, and to any specific plan or planned development plan.

## **17.108.020 Applicability.**

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- A. In an H Historic Overlay District. Design approval shall be required prior to issuance of a permit for any project that involves demolition, construction, or exterior alterations as provided in Section 17.108.030.
- B. In All Other Districts. Design approval shall be required prior to issuance of a permit for all projects that involve new construction, exterior alterations and additions or requests for an exception to criteria.
- C. Exemptions. The following projects are exempt from design review:

1. Single-family residences and related accessory buildings that are located outside of an H- overlay district, unless otherwise specified in an adopted planned development plan;
2. Site alterations and buildings in the IL, IG, IW, and IP districts that are less than 50,000 square feet in gross floor area and do not require a use permit or variance;
3. Emergency shelters;
4. Accessory dwelling units; and
5. Signs.

#### **17.108.030 Review responsibilities.**

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A. Administrative. The community development director shall be responsible for design review for the following applications:

1. In the industrial districts: for projects greater than 50,000 square feet of gross floor area;
2. Outside the industrial districts: for projects that involve construction of less than 2,500 square feet of floor area;
3. In a H- overlay district: for projects that are specified in Section 17.108.040;
4. Exceptions to criteria: for exceptions to zoning criteria where specifically authorized in this Title, after a determination that the exception conforms to the purposes of Design Review as specified in section 17.108.010.

B. Commission. The historic preservation review commission shall be responsible for design review of the following applications:

1. Projects that are not exempt as specified in Section 17.108.020 and that are not subject to administrative review.
2. In an H- overlay district: for projects that are specified in Section 17.108.040
3. Administrative projects that the community development director refers to the commission where the director determines that the project may substantially change the design of a building or character of a neighborhood; generate significant public interest; involve matters of public policy; or require other land use entitlements subject to approval by the zoning administrator or planning commission.

#### **17.108.040 Design review in an H- Overlay District.**

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The design review procedures specified herein shall apply to exterior alterations of any structure in a H- overlay district; except for exterior alteration of a non-historic residence in the Eastern Residential Area of the Downtown Historic District or as modified by the Arsenal Historic Conservation Plan.

A. H- overlay exemptions. In addition to the exemptions of section 17.108.020, no design review shall be required for repairs and replacements of a minor, routine nature that do not modify the exterior appearance of a structure, as determined by the community development director, including the following activities:

1. Emergency stabilization of an unsafe condition to address an imminent threat to public health and safety, without demolition;
2. Replacement of a roof when there are no structural or architectural changes;
3. Landscaping, fences or landscape features;
4. Exterior paint, except that application of paint to unpainted wall surfaces (e.g., concrete, stone or brick) shall not be exempt;
5. Projects that do not require a building or demolition permit;
6. Replacement of doors or windows that restore a building to its original materials and design.

B. Administrative. The community development director shall review any project in an H-overlay district that is not subject to review by the historic preservation review commission as specified herein. The director shall refer a project to the commission for a public hearing upon a determination that it does not conform to the adopted design guidelines for the historic district.

C. Commission. The historic preservation review commission shall review projects that would:

1. Demolish, partially demolish or remove a historic structure;
2. Relocate a historic structure;
3. Remove, destroy, alter or obscure a character-defining feature of a historic structure as determined by the community development director;
4. Install alternative (non-original) exterior building materials on a historic structure as such materials are described in the adopted design guidelines;
5. Alter the primary or highly visible secondary façade for any historic structure; or
6. Construct a building or new addition that is visible from the public street, except as otherwise specified in Section 17.108.020.C.

#### **17.108.050 Procedures.**

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A. Initiation. A design review project shall be initiated by filing a completed application, signed by the property owner or authorized agent, accompanied by a fee established by city council resolution, and such plans and documentation as shall be prescribed by the community development director. Projects in an H-overlay district that are exempt from design review as provided in section 17.108.040 shall be subject to staff review and a

fee, established by city council resolution, to evaluate the exemption and determine compliance with the purposes of this chapter.

**B. Public notice.**

1. Exempt. No notice shall be required for projects that are exempt from design review.
2. Administrative. Notice of pending administrative action shall be given to owners of property located within 100 feet of the subject property and posted prominently on the project site. Notice shall be provided at least 10 days prior to the administrative action on a form set by the community development director and shall include the project location, a description of the project, a reference to materials on file in the community development department, a statement that any interested party may provide comment, and a date on which the decision is to be made.
3. Commission. A public hearing shall be required for design review by the historic preservation review commission. Notice of public hearing shall be given pursuant to the procedures prescribed herein and the requirements of California Government Code sections 65090 and 65091.
  - a. Posted Notice. Notices shall be posted at least 10 days prior to the hearing on the site of the project.
  - b. Mailed or Delivered Notice. At least 10 days prior to the hearing, notice shall be mailed to the applicant and all owners of property within 500 feet of the boundaries of the site, as shown on the last equalized property tax assessment roll.

**C. Decision.** A decision to approve, conditionally approve, or deny an application shall be based on the findings that the application complies with the purposes of this chapter and any applicable design guidelines or planned development plan. Any conditions imposed shall be reasonable and designed to assure attainment of the purposes and standards established by this title. Changes in a project required as a condition of approval shall not include use, density, floor area ratio, parking or loading requirements more restrictive than those prescribed by applicable district regulations or a valid use permit or variance.

**D. Applications deemed withdrawn.** The community development director may deem an application withdrawn if the applicant has been notified that more information is needed to process the application and there is no submittal of new or revised information to complete the application for a period of 120 days, unless the community development director determines there is good reason to grant a further extension to provide the needed information.

**17.108.090 Effective date – Lapse and renewal – Alterations.**

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A. Effective Date. Design review decisions shall become effective at the end of the appeal period, unless appealed as provided in Chapter 1.44 BMC.

B. Lapse of Approvals. Design approval shall lapse two years from its effective date unless:

1. A building permit has been issued and construction diligently pursued; or
2. An occupancy permit has been issued; or
3. The approval is renewed.

C. Renewal. The community development director may renew design approval for a period of one year upon determining that the findings made remain valid. Application shall be made in writing prior to the lapse of the original approval, but no more than 120 days prior to that date.

D. Changed Plans. The community development director may approve changes to approved plans or in conditions of approval without a public hearing upon determining that the changes in conditions are minor and are consistent with the intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications.

#### **17.108.100 Appeals.**

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A. Rights of Appeal and Review. Design review decisions of the community development director may be appealed by any interested party to the historic preservation review commission. Design review decisions of the historic preservation review commission may be appealed, by any interested party, to the planning commission.

B. Procedures – Public Hearings. Procedures for appeals shall be as prescribed by Chapter 1.44 BMC.

C. Limits on Appeals. Appeal decisions of the historic preservation review commission shall be final.

## TITLE 18: SIGNS

### 18.08.040 – Filing – Revision.

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A. The sign application shall be filed with the planning department. The city planner, who shall be guided by the design criteria in BMC 18.12.010, any adopted sign program, and the relevant design guidelines of any H- overlay district, may require that changes be made in the design of the sign as necessary to comply with design guidelines or carry out the purposes of this title.

B. In the case where no variance is requested in the application and the city planner finds that a variance would be required for approval of the permit, or where the commission finds that the sign as proposed should be modified, the planning commission shall deny the application and advise the applicant of the reasons for denial. In this case the applicant may submit a revised application without payment of an additional fee, unless a variance fee is payable, within 90 days following denial. All actions of the city planner may be appealed to the planning commission by an aggrieved applicant within 10 days of the action.

**CITY OF BENICIA**

**ORDINANCE NO. 18 -**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 17.108 (DESIGN REVIEW) OF THE BENICIA MUNICIPAL CODE**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA HEREBY ORDAINS AS FOLLOWS.**

**Section 1.**

Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended in its entirety to read as follows:

**17.108.010 Purposes.**

Design review is intended to implement general plan policies. More specifically, the purposes of design review are to:

- A. Ensure that the location and configuration of structures are visually harmonious with their sites and with surrounding sites and structures, and do not unnecessarily block scenic views from other buildings or public parks or dominate their surroundings to an extent inappropriate to their use;
- B. Ensure that the architectural design of structures, their materials and colors are visually harmonious with surrounding development and with the natural landforms and vegetation of the areas in which they are proposed to be located;
- C. Ensure that plans for the landscaping of open spaces conform with the requirements of this title, and that they provide visually pleasing settings for structures on the site and on adjoining and nearby sites and blend harmoniously with the natural landscape;
- D. Prevent excessive and unsightly grading of hillsides, and preserve natural landforms and existing vegetation where feasible;
- E. Ensure the provision of adequate, safe and efficient parking and circulation areas, which conform to the requirements of this title;
- F. Provide a functional, efficient, and attractive site design which is sensitive to existing uses in the area and to the topography and conditions of the site;
- G. Ensure that new development is consistent with specific design guidelines developed for use within the community, where applicable, and to any specific plan or planned development plan.

**17.108.020 Applicability.**

- A. In an H Historic Overlay District. Design approval shall be required prior to issuance of a permit for any project that involves demolition, construction, or exterior alterations as provided in section 17.108.030.

B. In All Other Districts. Design approval shall be required prior to issuance of a permit for all projects that involve new construction, exterior alterations and additions or requests for an exception to criteria as provided in section 17.108.030.

C. Exemptions. The following projects are exempt from design review:

1. Single-family residences and related accessory buildings that are located outside of an H- overlay district, unless otherwise specified in an adopted planned development plan;
2. Site alterations and buildings in the IL, IG, IW, and IP districts that are less than 50,000 square feet in gross floor area and do not require a use permit or variance;
3. Emergency shelters;
4. Accessory dwelling units; and
5. Signs.

#### **17.108.030 Review responsibilities**

A. Administrative. The community development director shall be responsible for design review for the following applications:

1. In the industrial districts: for projects greater than 50,000 square feet of gross floor area;
2. Outside the industrial districts: for projects that involve construction of less than 2,500 square feet of floor area;
3. In a H- overlay district: for projects that are specified in Section 17.108.040;
4. Exceptions to criteria: for requests for exceptions to zoning criteria as specifically authorized in this Title, after a determination that the exception conforms to the purposes of Design Review as specified in section 17.108.010.

B. Commission. The historic preservation review commission shall be responsible for design review of the following applications:

1. Projects that are not exempt as specified in Section 17.108.020 and that are not subject to administrative review.
2. In an H- overlay district: for projects that are specified in Section 17.108.040
3. Administrative projects that the community development director refers to the commission where the director determines that the project may substantially change the design of a building or character of a neighborhood; generate significant public interest; involve matters of public policy; or require other land use entitlements subject to approval by the zoning administrator or planning commission.

#### **Section 17.108.040 Design review in an H- Overlay District**

The design review procedures specified herein shall apply to exterior alterations of any

structure in a H- overlay district; except for exterior alteration of a non-historic residence in the Eastern Residential Area of the Downtown Historic District or as modified by the Arsenal Historic Conservation Plan.

A. H- overlay exemptions. In addition to the exemptions of section 17.108.020, no design review shall be required for repairs and replacements of a minor, routine nature that do not modify the exterior appearance of a structure, as determined by the community development director, including the following activities:

1. Emergency stabilization of an unsafe condition to address an imminent threat to public health and safety, without demolition;
2. Replacement of a roof when there are no structural or architectural changes;
3. Landscaping, fences or landscape features;
4. Exterior paint, except that application of paint to unpainted wall surfaces (e.g., concrete, stone or brick) shall not be exempt;
5. Projects that do not require a building or demolition permit;
6. Replacement of doors or windows that restore a building to its original materials and design.

B. Administrative. The community development director shall review any project in an H- overlay district that is not subject to review by the historic preservation review commission as specified herein. The director shall refer a project to the commission for a public hearing upon a determination that it does not conform to the adopted design guidelines for the historic district.

C. Commission. The historic preservation review commission shall review projects that would:

1. Demolish, partially demolish or remove a historic structure;
2. Relocate a historic structure;
3. Remove, destroy, alter or obscure a character-defining feature of a historic structure as determined by the community development director;
4. Install alternative (non-original) exterior building materials on a historic structure as such materials are described in the adopted design guidelines;
5. Alter the primary or highly visible secondary façade for any historic structure; or
6. Construct a building or new addition that is visible from the public street, except as otherwise specified in Section 17.108.020.C.

### **Section 17.108.050 Procedures**

A. Initiation. A design review project shall be initiated by filing a completed application, signed by the property owner or authorized agent, accompanied by a fee established by city council resolution, and such plans and documentation as shall be prescribed by the community development director. Projects in an H-overlay district that are exempt from design review as provided in section 17.108.040 shall be subject to staff review and a fee,

established by city council resolution, to evaluate the exemption and determine compliance with the purposes of this chapter.

**B. Public notice.**

1. Exempt. No notice shall be required for projects that are exempt from design review.

2. Administrative. Notice of pending administrative action shall be given to owners of property located within 100 feet of the subject property and posted prominently on the project site. Notice shall be provided at least 10 days prior to the administrative action on a form set by the community development director and shall include the project location, a description of the project, a reference to materials on file in the community development department, a statement that any interested party may provide comment, and a date on which the decision is to be made.

3. Commission. A public hearing shall be required for design review by the historic preservation review commission. Notice of public hearing shall be given pursuant to the procedures prescribed herein and the requirements of California Government Code sections 65090 and 65091.

a. Posted Notice. Notices shall be posted at least 10 days prior to the hearing on the site of the project.

b. Mailed or Delivered Notice. At least 10 days prior to the hearing, notice shall be mailed to the applicant and all owners of property within 500 feet of the boundaries of the site, as shown on the last equalized property tax assessment roll.

**C. Decision.** A decision to approve, conditionally approve, or deny an application shall be based on the findings that the application complies with the purposes of this chapter and any applicable design guidelines or planned development plan. Any conditions imposed shall be reasonable and designed to assure attainment of the purposes and standards established by this title. Changes in a project required as a condition of approval shall not include use, density, floor area ratio, parking, or loading requirements more restrictive than those prescribed by applicable district regulations or a valid use permit or variance.

**D. Applications deemed withdrawn.** The community development director may deem an application withdrawn if the applicant has been notified that more information is needed to process the application and there is no submittal of new or revised information to complete the application for a period of 120 days, unless the community development director determines there is good reason to grant a further extension to provide the needed information.

**Section 17.108.060 Design review in an H- Overlay District**

**A. Effective Date.** Design review decisions shall become effective at the end of the appeal period, unless appealed as provided in Chapter 1.44 BMC.

**B. Lapse of Approvals.** Design approval shall lapse two years from its effective date unless:

1. A building permit has been issued and construction diligently pursued; or

2. An occupancy permit has been issued; or
3. The approval is renewed.

C. Renewal. The community development director may renew design approval for a period of one year upon determining that the findings made remain valid. Application shall be made in writing prior to the lapse of the original approval, but no more than 120 days prior to that date.

D. Changed Plans. The community development director may approve changes to approved plans or in conditions of approval without a public hearing upon determining that the changes in conditions are minor and are consistent with the intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications.

### **Section 17.108.070 Appeals**

A. Rights of Appeal and Review. Design review decisions of the community development director may be appealed by any interested party to the historic preservation review commission. Design review decisions of the historic preservation review commission may be appealed, by any interested party, to the planning commission.

B. Procedures – Public Hearings. Procedures for appeals shall be as prescribed by Chapter 1.44 BMC.

C. Limits on Appeals. Appeal decisions of the historic preservation review commission shall be final.

### **Section 2.**

Section 18.08.040 (Filing – Revision) of Chapter 18.08 (Permits) of Title 18 (Signs) of the Benicia Municipal Code is amended to read as follows:

A. The sign application shall be filed with the planning department. The city planner, who shall be guided by the design criteria in BMC 18.12.010, any adopted sign program, and the relevant design guidelines of any H- overlay district, may require that changes be made in the design of the sign as necessary to comply with design guidelines or carry out the purposes of this title.

B. In the case where no variance is requested in the application and the city planner finds that a variance would be required for approval of the permit, or where the commission finds that the sign as proposed should be modified, the planning commission shall deny the application and advise the applicant of the reasons for denial. In this case the applicant may submit a revised application without payment of an additional fee, unless a variance fee is payable, within 90 days following denial. All actions of the city planner may be appealed to the planning commission by an aggrieved applicant within 10 days of the action.

**Section 3.**

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

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

\*\*\*\*\*

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing ordinance was introduced at a regular meeting of the City Council on the 2<sup>nd</sup> day of October, 2018, and adopted at a regular meeting of the Council held on the 16<sup>th</sup> day of October, 2018, by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

Attest:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

\_\_\_\_\_  
Date

## TITLE 17: ZONING

### 17.108.010 Purposes.

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Design review is intended to implement general plan policies. More specifically, the purposes of design review are to:

- A. Ensure that the location and configuration of structures are visually harmonious with their sites and with surrounding sites and structures, and do not unnecessarily block scenic views from other buildings or public parks or dominate their surroundings to an extent inappropriate to their use;
- B. Ensure that the architectural design of structures, their materials and colors are visually harmonious with surrounding development and with the natural landforms and vegetation of the areas in which they are proposed to be located;
- C. Ensure that plans for the landscaping of open spaces conform with the requirements of this title, and that they provide visually pleasing settings for structures on the site and on adjoining and nearby sites and blend harmoniously with the natural landscape;
- D. Prevent excessive and unsightly grading of hillsides, and preserve natural landforms and existing vegetation where feasible;
- E. Ensure the provision of adequate, safe and efficient parking and circulation areas, which conform to the requirements of this title;
- F. Provide a functional, efficient, and attractive site design which is sensitive to existing uses in the area and to the topography and conditions of the site;
- G. Ensure that new development is consistent with specific design guidelines developed for use within the community, where applicable, and to any specific plan or planned development plan.

### 17.108.020 Applicability.

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A. In an H Historic Overlay District. Design approval shall be required prior to issuance of a ~~zoning~~ permit for ~~all~~ any projects that involves demolition, construction, or exterior alterations as provided in Section 17.108.030.

B. In All Other Districts. Design approval shall be required prior to issuance of a ~~zoning~~ permit for all projects ~~in all other zones~~ that involve new construction, ~~or exterior alterations and additions~~ or requests for an exception to criteria. ~~, except single-family residences and related accessory buildings, buildings in the IL, IG, IW, and IP districts that are less than 50,000 square feet, emergency shelters subject to BMC 17.70.390(D), and signs.~~

C. Exemptions. The following projects are exempt from design review:

1. Single-family residences and related accessory buildings that are located outside of an H- overlay district, unless otherwise specified in an adopted conservation plan or planned development plan;
2. Site alterations and buildings in the IL, IG, IW, and IP districts that are less than 50,000 square feet in gross floor area and do not require a use permit or variance;
3. Emergency shelters;
4. Accessory dwelling units; and
5. Signs.

**17.108.030 Sequence of design review. Review responsibilities.**

A. ~~By the Community Development Director~~ Administrative. The community development director shall be responsible for design review for the following applications:

1. In the industrial districts: for projects greater than 50,000 square feet of gross floor area in the IG, IL, IW and IP districts;
2. Outside the industrial districts: for and for projects outside the industrial districts that involve construction of less than 2,500 square feet of floor area;
3. In a H- overlay district: for projects that are specified in Section 17.108.040;
4. Exceptions to criteria: for exceptions to zoning criteria where specifically authorized in this Title, after a determination that the exception conforms to the purposes of Design Review as specified in section 17.108.010.

B. ~~By the Historic Preservation Review Commission~~ Commission. The historic preservation review commission shall be responsible for design review of the following applications in the RS (nonresidential structures only), RM, RH, C, OS, PS, PD and the H overlay districts, for:

1. ~~Projects that are not exempt as specified in Section 17.108.020 and that are not subject to community development director~~ administrative review.
2. In an H- overlay district: for projects that are specified in Section 17.108.040
3. Administrative projects that the community development director refers to the commission where the director determines that the project may substantially change the design of a building or character of a neighborhood; generate significant public interest; involve matters of public policy; or require other land use entitlements subject to approval by the zoning administrator or planning commission. The historic preservation review commission shall hold a public hearing, as provided in BMC 17.108.080, and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the design review commission may be appealed to the planning commission in accordance with Chapter 1.44 BMC.

~~Design review shall consist of two steps:~~

~~A. Preliminary consultation between the project sponsor and the community development director to discuss design guidelines and establish design criteria applicable to the site and use.~~

~~B. Design review by the community development director or the historic preservation review commission, as prescribed by this chapter. Approval shall require the findings prescribed in BMC 17.108.040(A).~~

**17.108.040 Scope of design review. Design review in an H- Overlay District.**

The design review procedures specified herein shall apply to exterior alterations of any structure in a H- overlay district; except for exterior alteration of a non-historic residence in the Eastern Residential Area of the Downtown Historic District or as modified by the Arsenal Historic Conservation Plan.

A. H- overlay exemptions. In addition to the exemptions of section 17.108.020, no design review shall be required for repairs and replacements of a minor, routine nature that do not modify the exterior appearance of a structure, as determined by the community development director, including the following activities:

1. Emergency stabilization of an unsafe condition to address an imminent threat to public health and safety, without demolition;
2. Replacement of a roof when there are no structural or architectural changes;
3. Landscaping, fences or landscape features;
4. Exterior paint, except that application of paint to unpainted wall surfaces (e.g., concrete, stone or brick) shall not be exempt;
5. Projects that do not require a building or demolition permit;
6. Replacement of doors or windows that restore a building to its original materials and design.

B. Administrative. The community development director shall review any project in an H- overlay district that is not subject to review by the historic preservation review commission as specified herein. The director shall refer a project to the commission for a public hearing upon a determination that it does not conform to the adopted design guidelines for the historic district.

C. Commission. The historic preservation review commission shall review projects that would:

1. Demolish, partially demolish or remove a historic structure;
2. Relocate a historic structure;

3. Remove, destroy, alter or obscure a character-defining feature of a historic structure as determined by the community development director;
4. Install alternative (non-original) exterior building materials on a historic structure as such materials are described in the adopted design guidelines;
5. Alter the primary or highly visible secondary façade for any historic structure; or
6. Construct a building or new addition that is visible from the public street, except as otherwise specified in Section 17.108.020.C.

~~A. Required Findings. Design approval shall require a finding that the design of a project is consistent with the purposes of this title.~~

~~B. Limits on Conditions Required. Changes in a project required as a condition of design approval shall not include use, density, FAR, private open space, parking, or loading requirements more restrictive than those prescribed by applicable district regulations or a valid use permit or variance.~~

#### **17.108.050 Initiation of design review. Procedures.**

A. Initiation. A design review project shall be initiated by filing a completed application, signed by the property owner or authorized agent, accompanied by a fee established by city council resolution, and such plans and documentation as shall be prescribed by the community development director. Projects in an H-overlay district that are exempt from design review as provided in section 17.108.040 shall be subject to staff review and a fee, established by city council resolution, to evaluate the exemption and determine compliance with the purposes of this chapter.

#### **B. Public notice.**

1. Exempt. No notice shall be required for projects that are exempt from design review.
2. Administrative. Notice of pending administrative action shall be given to owners of property located within 100 feet of the subject property and posted prominently on the project site. Notice shall be provided at least 10 days prior to the administrative action on a form set by the community development director and shall include the project location, a description of the project, a reference to materials on file in the community development department, a statement that any interested party may provide comment, and a date on which the decision is to be made.
3. Commission. ~~The historic preservation review commission shall hold a public hearing, as provided in BMC 17.108.080, and shall approve, conditionally approve, or disapprove applications for design approval.~~ A public hearing shall be required for design review by the historic preservation review commission. Notice of public

hearing shall be given pursuant to the procedures prescribed herein and the requirements of California Government Code sections 65090 and 65091.

a. Posted Notice. Notices shall be posted at least 10 days prior to the hearing on the site of the project.

b. Mailed or Delivered Notice. At least 10 days prior to the hearing, notice shall be mailed to the applicant and all owners of property within 500 feet of the boundaries of the site, as shown on the last equalized property tax assessment roll.

C. Decision. A decision to approve, conditionally approve, or deny an application shall be. ~~All decisions shall be based on the findings that the application complies with the purposes of this chapter required by BMC 17.108.040 and any applicable design guidelines or planned development plan.~~ Any conditions imposed shall be reasonable and designed to assure attainment of the purposes and standards established by this title. Changes in a project required as a condition of ~~design~~ approval shall not include use, density, FAR floor area ratio, ~~private open space~~, parking, or loading requirements more restrictive than those prescribed by applicable district regulations or a valid use permit or variance.

D. Applications deemed withdrawn. The community development director may deem an application withdrawn if the applicant has been notified that more information is needed to process the application and there is no submittal of new or revised information to complete the application for a period of 120 days, unless the community development director determines there is good reason to grant a further extension to provide the needed information.

~~A. Preliminary Consultation. Preliminary consultation shall be initiated by requesting an appointment with the community development director or a designated representative.~~

~~B. Design Review. Design review shall be initiated by filing the following with the community development director:~~

~~1. A completed application form; and~~

~~2. Six sets of tThe following information:~~

~~a. A fully dimensioned site plan showing the locations of existing and proposed structures, driveways, walks, walls, fences and open spaces, property lines, right-of-way lines, dedications and easements, and the relation of the site to the surrounding area;~~

~~b. A fully dimensioned landscape plan if required by BMC 17.70.190;~~

~~c. An improvement plan or preliminary engineering plan including stormwater management;~~

~~d. Architectural drawings, renderings, or sketches drawn to scale showing elevations of proposed structures and describing exterior materials. Perspective drawings or scale models also may be required at the discretion of the community development director;~~

~~d. Floor plans showing the proposed use and exterior wall openings;~~

~~e. Proposed screening of all exterior equipment and electrical equipment;~~

~~f. Proposed exterior lighting fixtures using catalog cuts or sketches; and~~

~~g. Samples or descriptions of all proposed exterior materials and paint colors, including surfacing materials for paved areas.~~

~~C. Consolidated Review. An applicant may request simultaneous design review and approval of development plans under Chapter 17.112 BMC if:~~

~~1. Development plans and materials are submitted in lieu of, or in addition to, plans and materials required for design review;~~

~~2. All other requirements for a zoning permit have been met; and~~

~~3. The applicant acknowledges in writing an understanding of the risk of loss if development plans are disapproved or substantial redesign is required. (Ord. 87-4 N.S., 1987).~~

#### **~~17.108.060 Review responsibilities.~~**

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~~Except as modified by an adopted conservation plan the following review responsibilities will apply:~~

~~A. By the Community Development Director. The community development director shall be responsible for design review for projects greater than 50,000 square feet of gross floor area in the IG, IL, IW and IP districts and for projects outside the industrial districts that involve construction of less than 2,500 square feet of floor area;~~

~~B. By the Historic Preservation Review Commission. The historic preservation review commission shall be responsible for design review in the RS (nonresidential structures only), RM, RH, C, OS, PS, PD and the H overlay districts, for projects not subject to community development director review. The historic preservation review commission shall hold a public hearing, as provided in BMC 17.108.080, and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the design review commission may be appealed to the planning commission in accordance with Chapter 1.44 BMC.~~

#### **~~17.108.070 Review process and time limits.~~**

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~~A. Prerequisite for Review. Unless an applicant selects consolidated review, as provided in BMC 17.108.050(C), review of development plans shall follow design review.~~

~~B. By Community Development Director (IG, IL, IW, and IP Districts). The community development director shall review plans submitted for design approval within 30 days of receipt and shall approve, conditionally approve, or disapprove the plans. Within five working days after a decision, notice shall be mailed to the applicant.~~

~~C. By Design Review Commission (R, C, OS, PS and PD Districts, and H Overlay District). After a duly noticed public hearing, the design review commission shall approve, conditionally approve or disapprove the plans. Within five working days of a design review commission decision, the secretary of the commission shall mail notice of the decision to the applicant.~~

~~D. Action Required. All decisions shall be based on the findings required by BMC 17.108.040. Any conditions imposed shall be reasonable and designed to assure attainment of the purposes and standards established by this title.~~

**~~17.108.080 Notice and public hearing by historic preservation review commission.~~**

~~A. Time of Hearing. Within three working days after acceptance of a complete application for design review, the community development director shall set a date, time, and place for the hearing. A public hearing shall be held within 60 days of receipt of the application, unless the applicant agrees to a later date.~~

~~B. Notice. Notice of a public hearing required by this chapter shall be given in the following manner:~~

- ~~1. Posted Notice. Notices shall be posted at least 10 days prior to the hearing on the site of the project.~~
- ~~2. Mailed or Delivered Notice. At least 10 days prior to the hearing, notice shall be mailed to the applicant and all owners of property within 500 feet of the boundaries of the site, as shown on the last equalized property tax assessment roll.~~

~~C. Public Hearing. At the time and place set for the public hearing, the commission shall hear comments on the proposed design. The commission may continue a public hearing without additional notice.~~

**~~17.108.090 Effective date – Lapse and renewal – Alterations.~~**

~~A. Effective Date. Design review decisions shall become effective at the end of the appeal period, unless appealed as provided in Chapter 1.44 BMC.~~

~~B. Lapse of Approvals. Design approval shall lapse two years from its effective date unless:~~

1. A building permit has been issued and construction diligently pursued; or
2. An occupancy permit has been issued; or
3. The approval is renewed.

C. Renewal. The community development director ~~or the historic preservation review commission, as the case may be,~~ may renew design approval for a period of one year upon determining that the findings made remain valid. Application shall be made in writing prior to the lapse of the original approval, but no more than 120 days prior to that date.

D. Changed Plans. The community development director ~~or the historic preservation review commission, as the case may be,~~ may approve changes to approved plans or in conditions of approval without a public hearing upon determining that the changes in conditions are minor and are consistent with the intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications.

#### **17.108.100 Appeals.**

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A. Rights of Appeal and Review. Design review decisions of the community development director may be appealed by any interested party to the historic preservation review commission. Design review decisions of the historic preservation review commission may be appealed, by any interested party, to the planning commission.

B. Procedures – Public Hearings. Procedures for appeals shall be as prescribed by Chapter 1.44 BMC.

C. Limits on Appeals. Appeal decisions of the historic preservation review commission shall be final.

#### **17.108.110 Design review guidelines.**

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~~The historic preservation review commission may adopt guidelines for design review consistent with the purposes of this chapter to facilitate the review process.~~

## TITLE 18: SIGNS

### 18.08.040 – Filing – Revision.

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A. The sign application shall be filed with the planning department. The city planner, who shall be guided by the design criteria in BMC 18.12.010, any adopted sign program, and the relevant design guidelines of any H- overlay district, may require that changes be made in the design of the sign as necessary to comply with design guidelines or carry out the purposes of this title.

B. In the case where no variance is requested in the application and the city planner finds that a variance would be required for approval of the permit, or where the commission finds that the sign as proposed should be modified, the planning commission shall deny the application and advise the applicant of the reasons for denial. In this case the applicant may submit a revised application without payment of an additional fee, unless a variance fee is payable, within 90 days following denial. All actions of the city planner may be appealed to the planning commission by an aggrieved applicant within 10 days of the action.

**RESOLUTION NO. 18-10 (HPRC)**

**A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA RECOMMENDING TO CITY COUNCIL APPROVAL OF AMENDMENTS TO THE DOWNTOWN HISTORIC CONSERVATION PLAN AND ADOPTION OF THE DOWNTOWN HISTORIC DISTRICT DESIGN GUIDELINES**

**WHEREAS**, City of Benicia is updating the design guidelines within the Downtown Historic Conservation Plan (DHCP) to provide user-friendly guidelines for the treatment of historic properties, alterations to non-historic buildings, and the design of new infill structures within the historic district, as well as to update design review procedures; and

**WHEREAS**, this project is expected to bring Benicia into alignment with historic preservation “best practices,” including the Secretary of Interior Standards for Treatment of Historic Properties, and streamline design review procedures. The design guidelines are partially funded by a Certified Local Government (CLG) grant from the California Office of Historic Preservation; and

**WHEREAS**, the Downtown Historic Conservation Plan was adopted in 1990 and has been subsequently amended; and

**WHEREAS**, the city conducted public meetings for the design guidelines on January 18 and 19, 2018 to obtain community comments, concerns and priorities; a community open house on April 26, 2018 to present the public review draft; provided complete information on the city webpage and periodic media releases; made monthly updates to the Historic Preservation Review Commission and mailed notice of the design guidelines to district residents in April and June 2018; all in the interest of public information and outreach; and

**WHEREAS**, the proposed design guidelines are a graphic and resource-based approach to preservation, rehabilitation and new construction that carry over many existing guidelines, provide additional information and align with the Secretary of Interior Standards for Treatment of Historic Properties; and

**WHEREAS**, proposed amendments to the Design Review procedures will replace Chapter 3 of the Downtown Historic Conservation Plan; and

**WHEREAS**, the Downtown Historic District Design Guidelines will replace Chapters 4 and 5 of the Downtown Historic Conservation Plan; and

**WHEREAS**, the Historic Preservation Review Commission at a regular meeting on June 28, 2018, conducted a hearing, heard public comment and reviewed the guidelines and found them to be consistent with the City of Benicia General Plan and Secretary of Interior Standards for Treatment of Historic Properties;

**NOW, THEREFORE, BE IT RESOLVED** that the Historic Preservation Review Commission of the City of Benicia hereby recommends the City Council adopt a Resolution

amending the Downtown Historic Conservation Plan to remove Chapters 3, 4 and 5 plus the appendices and to adopt the Downtown Historic District Design Guidelines. The Commission recommends that the City Council authorize review of the guidelines after one year, whereby the effectiveness of the guidelines may be evaluated and subsequent amendments considered as appropriate

**BE IT FURTHER RESOLVED THAT** the Historic Preservation Review Commission of the City of Benicia finds that:

- a) The proposed amendments and design guidelines are exempt from environmental review under California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15331 which exempts projects that are consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties, and Section 15305 Minor Alterations in Land Use Limitations, which consists of minor changes to land use limitations which do not result in any changes in land use or density. The project establishes design guidelines that advance local historic preservation priorities, implement the Secretary of Interior Standards, and modify procedures for design review to implement the guidelines.
- b) The proposed amendments and design guidelines are consistent with the Benicia General Plan, particularly Goal 2.1 Preserve Benicia as a small-size city; Goal 3.1 Maintain and enhance Benicia's historic character; and Goal 3.7 Maintain and reinforce Benicia's small-town visual characteristics. The proposed action supports implementation of guidelines for historic preservation and compatible new development consistent with the city's preservation priorities, the Secretary of Interior Standards for Treatment of Historic Properties, and current best practices.

\*\*\*\*\*

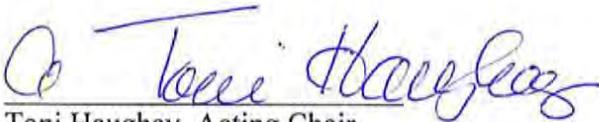
On motion of Commissioner McKee, seconded by Commissioner Delgado, the above Resolution is introduced by the Historic Preservation Review Commission of the City of Benicia at a regular meeting of the Commission held on the 28<sup>th</sup> day of June 2018 and adopted, subject to consideration of comments provided by the HPRC, by the following vote:

Ayes: Delgado, Haughey, Maccoun, McKee

Noes: None

Absent: von Studnitz

Abstain: Reynolds, Van Landschoot

  
Toni Haughey, Acting Chair

7.23.18  
Date

**RESOLUTION NO. 18-11 (HPRC)**

**A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO THE BENICIA MUNICIPAL CODE TITLE 17 (ZONING) REGARDING DESIGN REVIEW PROCEDURES**

**WHEREAS**, City of Benicia is updating the design guidelines within the Downtown Historic Conservation Plan (DHCP) to provide user-friendly guidelines for the treatment of historic properties, alterations to non-historic buildings, and the design of new infill structures within the historic district, as well as to update design review procedures; and

**WHEREAS**, design review requirements are currently contained within the DHCP while procedures are referenced in the Benicia Municipal Code; and

**WHEREAS**, it is in the interest of public convenience and clarity to include design review requirements and procedures within the Benicia Municipal Code; and

**WHEREAS**, the objective of the amendments for design review procedures is to preserve existing historic buildings, encourage property owners to renovate and restore historic buildings, and provide a framework for property owners when designing new construction; and

**WHEREAS**, the proposed amendments to Chapter 17.108 Design Review are consistent with the objectives, support implementation of design guidelines and uphold the purposes of the H- overlay district designation; and

**WHEREAS**, the Historic Preservation Review Commission at a regular meeting on June 28, 2018, conducted a hearing, heard public comment and reviewed the draft ordinance found it to be consistent with the City of Benicia General Plan;

**NOW, THEREFORE, BE IT RESOLVED** that the Historic Preservation Review Commission of the City of Benicia hereby recommends the City Council approve an Ordinance amending the Benicia Municipal Code to update the Design Review chapter and establish historic district design review procedures. The Commission recommends that the City Council authorize review of the amended regulations after one year, whereby the effectiveness of the regulations may be evaluated and subsequent amendments completed as appropriate

**BE IT FURTHER RESOLVED THAT** the Historic Preservation Review Commission of the City of Benicia finds that:

- a) The proposed amendments are exempt from environmental review under California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15331 which exempts projects that are consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties, and Section 15305 Minor Alterations in Land Use Limitations, which consists of minor changes to land use limitations which do not result in any changes in land use or density. The project establishes design

guidelines that advance local historic preservation priorities, implement the Secretary of Interior Standards, and modify procedures for design review to implement the guidelines.

- b) The proposed amendments are consistent with the Benicia General Plan, particularly Goal 2.1 Preserve Benicia as a small-size city; Goal 3.1 Maintain and enhance Benicia's historic character; and Goal 3.7 Maintain and reinforce Benicia's small-town visual characteristics. The amendments support implementation of guidelines for historic preservation and compatible new development and establish design review procedures for exterior alterations in a H-overlay district.

\*\*\*\*\*

On motion of Commissioner Delgado, seconded by Commissioner McKee, the above Resolution is introduced by the Historic Preservation Review Commission of the City of Benicia at a regular meeting of the Commission held on the 28<sup>th</sup> day of June 2018 and adopted by the following vote:

Ayes: Delgado, Haughey, Maccoun, McKee

Noes: None

Absent: von Studnitz

Abstain: Reynolds, Van Landschoot

  
Toni Haughey, Acting Chair

7.23.18  
Date

## Summary of Comments on Downtown\_Design\_Guidelines\_PublicReview\_04062018\_WE B TWM4-19-2018.pdf

Page: 3

Author: tmacenski Subject: Sticky Note Date: 4/19/2018 8:31:20 AM

I think we should give a short list of the activities right up front... something like this. Please edit those that do not apply.

These Guidelines apply to the following types of projects and require some level of design review:

- Rehabilitation, remodel, or any alteration affecting the exterior appearance of a building, including, but not limited to:
- a change in exterior materials;
- a change in paint colors;
- cleaning, repair, or replacement of masonry;
- window replacement, including transom windows;
- replacing or removing design features such as molding and cornices;
- replacing or removing threshold features such as marble, tile, and stairs;
- awnings and canopies;
- rear entrances;
- all mechanical equipment;
- placement of security gates or grills;
- repair or replacement of damaged or worn materials.
- Signs, including the removal, repair, or repainting of historic signs;

CHAPTER 1: INTRODUCTION



**Why Have Design Guidelines?**

The design guidelines promote preservation of historic, cultural and architectural heritage within Benicia. They seek to maintain Benicia as a cohesive, livable place and avoid the inappropriate alteration or demolition of historic resources. Maintaining historic fabric and the context is a fundamental concept.

The design guidelines provide a basis for making consistent decisions about the appropriateness of improvements that are subject to approval in the City's design review process. In addition, they serve as educational and planning tools for property owners and design professionals who wish to improve a historic property or who propose new construction in the Downtown District.

While the design guidelines are written for use by the layperson to plan improvements, property owners are strongly encouraged to enlist the assistance of qualified design and planning professionals, including architects and preservation consultants, before beginning a project in the historic district.

**Who Uses the Design Guidelines?**

**Property Owners**

Owners should use the guidelines when planning improvements to properties in the Downtown District to establish an appropriate approach for rehabilitation and new construction. For owners of historic properties, the guidelines also provide information that will help promote good stewardship.

**City Staff and the Historic Preservation Review Commission**

City staff and the Historic Preservation Review Commission use the design guidelines to review historic rehabilitation and new construction projects. In doing so, they consider how each project meets the guidelines and promotes the design goals set forth here.

**The Community**

The guidelines also convey the City's expectations to the public so they can better understand what design elements are appropriate in Benicia.

These Design Guidelines have been developed to help preserve the Benicia Downtown Historic District's ("Downtown District") character and historic resources. This document provides guidance to assist in the preservation, treatment and maintenance of their buildings and properties in the district. In addition, this document provides design guidelines for construction of new buildings that are compatible with the district.

**Benicia Historic Preservation Goals**

- > The method that requires the least intervention is always preferred.
- > The highest degree of integrity will be maintained.

Benicia Downtown Historic District Design Guidelines | PUBLIC REVIEW DRAFT April 6, 2018
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**NATIONAL REGISTER OF HISTORIC PLACES**  
 For a building to be listed on the National Register of Historic Places, either individually or as part of a district, means it must be determined to be historically significant for its association either with an important event, person, and/ or architectural style. For a property to qualify for the National Register it must meet the National Register Criteria for Evaluation by:

- being associated with an important historic context; and
- retaining the historic integrity of those features necessary to convey its significance.

Benicia's Historic Conservation District represents the development of commerce in the City from X to Y. It also provides a diverse and well designed collection of commercial buildings, the architecture of which is unmatched in Solano County. Although the district has changed its appearance somewhat since 19XY, it retains a high degree of architectural integrity, and building improvements have maintained an association to the historic period.

**PRESERVATION AND ENHANCEMENT**

**PHILOSOPHY**

The intent of the Design Guidelines is to ensure that the characteristics, which justified designating the Benicia Historic Conservation District are maintained and, where necessary, revitalized. Thus, it is crucial that the existing harmony of proportions and materials be enhanced and revitalized with new construction, reconstruction, alterations, and additions. The characteristics of each individual structure must remain within the vocabulary of details consistent with its particular style. Construction, reconstruction, or rehabilitation of any building within the district must be accomplished within the parameters of scale, materials, and detailing typical of pre-19XY structures, and must be of a design that is consistent or compatible with an architectural style authentic to the District.

**CHAPTER I: INTRODUCTION**

**CULTURAL**

This component of sustainability relates to the maintenance of the community's cultural traditions. Preserving historic places and patterns promotes cultural sustainability by supporting everyday connections between residents and the cultural heritage of the community. Benicia's history and a description of many of its historic buildings can be found in its [Historic Context Statement](#) that is available at the Benicia City Hall, Planning Division.

Many properties in the Benicia Historic Conservation District provide direct links to the past. These links convey information about earlier ways of life that help build an ongoing sense of identity within the community. It is this sense of a connection with the past and participation within a broader tradition that engages residents, business owners and visitors to celebrate Benicia through civic participation and individual investment.

The historic development pattern of the district promotes a high quality of life and helps build a sense of community. Benicia developed as a small town centered around the First Street business district and waterfront industries. As a result, the neighborhoods around First Street are compact and walkable with vistas toward the Carquinez Strait. The physical arrangement of the downtown provides opportunities to meet and greet along the street and waterfront paths. Street fronts, plazas, sidewalks and other direct connections to the public spaces provide opportunities for community interaction.

**ENVIRONMENTAL**

This is the most often cited component of sustainability. It relates to maintenance of the natural environment and the systems that support human development.

Rehabilitation of historic resources is an important part of environmental sustainability and green building initiatives. It directly supports environmental sustainability through conservation of embodied energy, adaptability and other factors that keep historic buildings in use over long periods of time.

**Embodied Energy**

Embodied energy is the amount of energy used to create and maintain the original building and its components. Preserving a historic structure retains this embodied energy by preserving the energy and resources invested in its construction, and reduces the need for producing new construction materials, which require more energy to produce. Studies confirm that the loss of embodied energy by demolition takes three decades or more to recoup, even with the reduced operating energy costs in a replacement building.

**Building Materials**

Many of the historic building materials used in the district contribute to environmental sustainability through local sourcing and long life cycles. Buildings constructed with locally sourced material, such as wood and stucco, were



Figure 4. Creating a sense of a connection with the past and participation within a broader tradition engages residents, business owners and visitors.



Figure 5. Preserving a historic structure retains its embodied energy by preserving the energy and resources invested in its construction.

CHAPTER I: INTRODUCTION

Step 3: What Type of Existing Building?

All existing structures in the Downtown District are classified with respect to their historic significance, using criteria established by the National Park Service. A historic survey inventory serves as the starting point for determining historic significance. However, in some cases, conditions may have changed or new information is now available that would influence a determination of significance. The City will work with the property owner to confirm the status of historic significance. Three classifications are used:



Landmark Structure

A "landmark" is a building that is determined to be historically significant. Designations of historic significance are based upon the period between 1847-1940, which is defined as the historic district's "period of significance." A landmark will possess sufficient integrity to convey its history, or is capable of yielding important information about that period, and is a unique resource to the community. They are significant in national and/or local history, architecture, engineering and culture. For all landmark properties, the Preservation Track shall apply. The design guidelines will be applied rigorously.



Contributing Property

A "contributing property" is one determined to be historically significant. Designations of historic significance are based upon the period between 1847-1940, which is defined as the historic district's "period of significance." A contributor will possess sufficient integrity to convey its history, or is capable of yielding important information about that period.

Note that some designated historic properties may have been altered from their original designs. These alterations may include window replacement, cornice removal, a porch enclosure or covering of a building's original materials. Nonetheless, these altered properties may retain sufficient building fabric to be considered contributors. For all contributing properties, the Preservation Track shall apply. Some flexibility may be allowed in the application of the design guidelines.



Non-Contributing Property

The classification of "non-contributing" applies to those lacking historic significance. This includes a range of properties. Some are of more recent construction (those less than 50 years old.) Others are older (more than 50 years) but have been so substantially altered that they no longer retain their integrity. The New Construction Track applies to these properties, except as noted below.

Author: tmacenski Subject: Highlight Date: 4/19/2018 8:46:07 AM  
which retains its original architecture, scale, mass, and other features to the degree that it contributes to the historical sense of time and place of the district.

Author: tmacenski Subject: Sticky Note Date: 4/19/2018 8:45:52 AM  
A noncontributing building may become contributing through rehabilitation and the application of the design criteria. Therefore, non-contributing buildings may also have historic relevance of their own associated with their period of construction, and are also subject to the provisions of these Guidelines.

It is the storefront, which includes many of these elements, that is often considered the most important architectural feature of a commercial building. The storefront also plays a crucial role in a store's advertising and merchandising strategy to draw customers and increase business. Not surprisingly, then, the storefront has become the feature most commonly altered in a historic commercial building.

**Metal Storefronts**

Rehabilitating metal storefronts can be a complex and time consuming task. Before steps are taken to analyze or treat deteriorated storefronts, it is necessary to know the type of metal involved because each has unique properties and distinct preservation treatments. Storefronts were fabricated using a variety of metals, including cast iron, bronze, copper, tin, galvanized sheet iron, cast zinc, and stainless steel. Cast iron is shaped by molds and can withstand great compressive loads and is the most commonly used metal storefront material in Benicia's Downtown. (Insert Picture of East I and 1st Street)

**Wood Storefronts**

The key to the successful rehabilitation of wooden storefronts is a careful evaluation of existing physical conditions. Moisture, vandalism, insect attack, and lack of maintenance can all contribute to the deterioration of wooden storefronts. Paint failure should not be mistakenly interpreted as a sign that the wood is in poor condition and is therefore irreparable. Wooden storefronts were historically painted to deter the harmful effects of weathering, as well as to define and accent architectural features. Repainting exterior woodwork is thus an inexpensive way to provide continued protection from weathering and to give the storefront a fresh appearance. (Insert Picture of Pacifica Pizza) Storefront.

**Masonry Storefronts**

Some storefronts are constructed of brick or stone, and, like their metal and wooden counterparts, also may have been subjected to physical damage or alterations over time. Although mortar may have disintegrated, inappropriate surface coatings applied, and openings reduced or closed, careful rehabilitation will help restore the visual and physical integrity of the masonry storefront. (Insert Picture of Adobe Building East J and 1st)

**CHAPTER 3: DESIGN GUIDELINES  
HISTORIC STRUCTURES**

**Character-Defining Features**

This section provides specific guidance for historic building types and identifies character-defining features that should be maintained. These guidelines should be followed in addition to the guidelines beginning in the "Architectural Details" section on page 55.

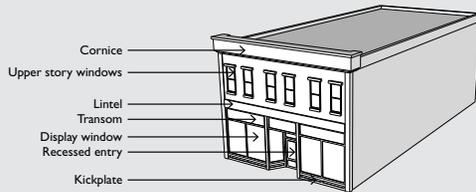
**HISTORIC COMMERCIAL PROPERTIES**

Many building fronts along First Street in Benicia's downtown have commercial building components, such as storefronts, that should be preserved. The repetition of these character-defining features creates a visual unity at the street level that defines the historic use of the buildings and encourages patrons to explore the business district. These features should not be altered, obscured or removed.

- 3.4 Preserve these character-defining features on a commercial building front:
  - > Cornice: A decorative band at the top of the building
  - > Upper-story windows: Windows located above the street level, often having a vertical orientation
  - > Lintel or mid-belt cornice: A decorative band at the top of the first floor
  - > Sign band: A flat band running above the transoms to allow for the placement of signs
  - > Storefront: A composition of the following features:
    - Transom: The upper portion of the storefront system, separated by a frame

- Display windows: The main portion of glass, often located within the storefront system, where goods and services are displayed. In Benicia, display windows also appear as ganged and individual windows placed within the building facade.
- Entry: Usually set back from the sidewalk in a protected recess, also sometimes a part of a storefront system; in Benicia entries for corner buildings may be set at an angle to the corner
- Kickplate: Found beneath the display window within the storefront system
- Architectural details: Trim, moldings, etc. (sometimes with stylistic influence)

**CHARACTER-DEFINING FEATURES OF A COMMERCIAL FAÇADE**



The following illustration represents some, but not all, of the typical character-defining elements of commercial building façades. See the Architectural Styles section in the Appendix to identify key features of other commercial façade styles.

**AWNINGS**

Awnings can become an important element of storefront design. The use of awnings is an effective means of creating an inviting space in front of a store where people may step away from the flow of traffic and find a shady, protected area. An awning should not dominate the storefront; instead, it should be an effective element coordinated with the overall building or storefront image. The valance of an awning can be used as an integral and creative location for signs, perhaps serving as the primary message area.

The canvas awning was an important design element in the traditional storefront. It provided cover, added color, and served as a transition between the storefront and the upper facade. Most buildings that face the sun had awnings. An awning can be attached above the display windows and below the cornice or sign panel. It may be mounted between the transom and the display window, which allows light into the store while shading the merchandise and pedestrians from the sun. An awning should reinforce the frame of the storefront and should not cover the piers or the space between the second-story window sills and the storefront cornice.

Awnings, like signs, can be used to excess on building facades. Care must be taken not to overpower a building with awnings, and not to cover up or destroy the architectural quality of a building. Illustration #1 is an example of how NOT to improve your building with awnings (Insert Picture of East G and 1st St North/West Corner). Instead, a more appropriate solution would have been to install individual awnings at each window. Some buildings, because of their design, will not adapt to awnings successfully, as shown in Illustration #2. (Insert Picture of East G and 1st St South/East Corner)

**CHAPTER 3: DESIGN GUIDELINES FOR HISTORIC STRUCTURES**



Figure 71. Provide a storm window that is simple in design. Its framing components should be designed to match the width of the historic windows side, top, middle and bottom rails, if placed externally.



Figure 72. Unfinished metal storm windows such as these alter the character of window openings, and should not be used on primary elevations. A metal storm window may be appropriate if the frame matches the proportions and profiles of the original window, and has a painted finish.



Figure 73. Restore a historic window opening that previously existed.

**3.22 Design a storm window to minimize its visual impacts.**

- › Install full exterior storm windows to provide protection and enhance energy efficiency.
- › If a window did not historically have a storm window, consider locating a new storm window internally to avoid exterior visual impacts, when feasible.
- › Provide a storm window that is simple in design. Its framing components should be designed to match the width of the historic windows side, top, middle and bottom rails, if placed externally.
- › It should also match the material and finish of the historic window.
- › Storm windows should provide a full view of the original window.

**3.23 Restore a historic window opening that has been altered, when feasible.**

- › Restore a historic window opening that previously existed.
- › Place a new window to fit within the historic opening.

**3.24 When necessary, locate and design a new window opening to preserve the overall rhythm and arrangement of windows on a secondary or rear building wall.**

- › Locate a new window opening to match the general arrangement of historic windows in a building wall.
- › Design a new window opening to match historic window proportions on the same façade.

## Leann Taagepera's Comments on DHCP Draft May 16, 2018

Acknowledgement Page - The DHCP "Stakeholder" Group seems to have been inadvertently left out of the Acknowledgements at the beginning of the document. This group is composed of individuals with long histories of involvement in historic preservation in Benicia. I respectfully ask that you give this group credit by including it on this page. Curiously, the "Ad Hoc Advisory Group" was included on the Acknowledgement page. While this group has members with an interest in Benicia, it must be known that the individuals were chosen by staff to participate, with the exception of the specific members of the two Commissions, and other members of the community were not provided the opportunity to become members of this group.

Same page – the disclaimer on the right appears to term this document a "historic context statement" instead of a conservation plan.

Overall comment - Many times the term "rehabilitation" is used, but it is not apparent that the document is referring to this term as defined in the Standards. It seems like it is also referring potentially to restoration/rehabilitation as the case may be with specific projects that could come up.

Page 3 – Under "Goals" is stated "The highest degree of integrity will be maintained." This is not currently required by the DHCP and the Secretary of the Interior Standards offers flexibility. I would add "while also considering cost."

Page 4 – First sentence "The ...Guidelines...and updated in 2017." Is this date referring to this current update? Perhaps this should say 2018. The "Downtown District Design Guidelines" is not a separate document. There is only one design review document for the Downtown District and that is the Downtown Historic Conservation Plan. I think it is confusing for the reader to have a heading on the top of "Background for the Design Guidelines" and then talking about the subject when the Design Guidelines and the DHCP are the same thing – the same document. So when it says at the end of that paragraph that "The documents described below provide the basis for the design guidelines" and then it lists and describes the DHCP, these two documents are the same document.

Same page, under BMC. Last paragraph says that "The BMC also sets parameters for land use and site development that are applied in combination with the design guidelines in the Downtown Historic District." Is this accurate? The DMUMP took the place of zoning within those blocks of the District that it regulates. So the other areas of the District follow the zoning in the BMC.

Same page, under Benicia DMUMP. This section states that "The Form-Based Code replaces many zoning aspects of the Benicia Municipal Code..." What zoning aspects does it not replace? I thought it completely replaced zoning. The last sentence should be revised to reflect that part of the District falls under regular zoning in the BMC and part under the DMUMP. So, it should say "Where there is a conflict between the DMUMP or the BMC and the guidelines, as determined through the design review process, the guidelines take priority."

Page 5 – Three properties are subject to the design guidelines, but are outside of boundaries. Beware that if the boundary ever changes, this page and the document need to be reprinted. The boundary line should wrap around the southwest boundary as part of the boundary line appears to be have left off.

As a separate matter, staff should consider analyzing the appropriate location for the District boundary. As it apparent, it has been gerrymandered in different locations to take out properties. The boundary line in location makes no design or historic sense. It was probably moved away from a property owner who asked to not be included.

Strangely, the map depicts my western property line in an inaccurate location as it shows the garage/ 2nd unit of the neighboring property on W H St (perhaps 286 W H St.) as being on my property. Here and there, the property lines look skewed and perhaps others are inaccurate. A new lot was created at W. 2<sup>nd</sup> and W. I St. and a house was built in that location, but the base map doesn't reflect this. Also the new house on W I St. one house from W. 2<sup>nd</sup> St. is not shown on the map. This needs to be checked for all sites.

Page 6 - The photo above that with a caption about preserving the City's historic places shows the non-historic tannery building. I suggest using a photo that shows a historic building, such as the really nice one below in Figure 2Page 12 does not show the whole district Eastside areas not shown.

P 7 – Second paragraph. The “District” is called here the “Benicia Historic Conservation District” but in other locations and in the current DHCP, it is referred to as the “Downtown Historic District.” The language should be consistent.

P 8 – Figure 6 shows the Tannery building, which is not a historic building. Use a photo of a historic building instead to illustrate the point in the caption.

P 9 – While Carol’s house in Figure 8 is really great, this photo is the third one used in the document. I suggest using other photos to include more examples of historic properties.

P 9 – The HPRC currently does not review signs – will this be changed in the new design review process tables?

P 11 – First paragraph about “Which Zoning District?” - It would be helpful for the user of the document if this stated that the DMUMP applies to First Street, the 100 blocks and the first parcel of the 200 blocks (I believe this is correct.) So, some properties refer to the BMC and others refer to the DMUMP.

P 11 – First paragraph – this says that in the DMUMP, “the design guidelines MAY supersede the Form-Based Code where in conflict...” This is not what the current DHCP plan and what is stated earlier in this document. This needs to be changed to be consistent with the earlier language that says “Where there is a conflict between the DMUMP or the BMC and the guidelines, as determined through the design review process, the guidelines take priority.” If this is left at “MAY supersede” this is the huge loophole that will be used to make sure that it does not supersede. There wouldn't be a point to the DHCP if zoning could supersede when there was a conflict and this seems like it would be inconsistent with the Secretary of the Interior Standards and then not exempt from CEQA.

P 11 - Different standards of review for “Landmark” and non-landmark buildings – we have never done this before. This status was applied without criteria and somewhat haphazardly. Why should there be flexibility for non-landmarks? Are they less important? Why should owners of properties that were somewhat arbitrarily termed to be Landmarks be subject to more stringent requirements? The standards should be the same for all contributing properties. There’s never been a problem with applying design review requirements in the same way for all buildings before. It even would seem to be more difficult for a commission if it could decide to let a Contributor get away with not following some design requirements. Which requirements are those buildings allowed not to follow? This would be setting up an inherent inconsistency in the review of buildings in the District, creating unfairness between property owners. This has already occurred over time and it results in a lot of resentment and a loss of support of preservation planning by the affected property owners.

P 12 – This combination zoning map, DMUMP map, and partial boundary of the Downtown Historic District is confusing to the reader. Also the entire Downtown District is not included. Is there a reason to include this in the DHCP? A note on the map states “See downtown mixed use master plan zoning districts map on right for larger view.” There isn’t a map on the right and view is incorrectly spelled. Consider removing this figure unless it furthers something in the DHCP.

P 13 – Under Step 3, it says “The City will work with the property owner to confirm the status of historic significance.” Why is this sentence here? The City recently adopted a list of designated historic structures. This County-adopted list provides the status of each building and if it was determined to be listed as historic or not. There would appear to be no need to “confirm the status of historic significance.” I suggest removing this sentence.

P 13 – This page states that for Landmark buildings “The design guidelines will be applied rigorously” and that for Contributors “Some flexibility may be allowed in the application of design standards.” Did someone request that this change be made to the DHCP? All properties have always received the same level of protection before and all of them have been reviewed with the standards. I believe this is a mistake and that it should be removed from this revised DHCP. Who will decide what “some flexibility” “may be allowed?” So, some property owners get a free pass to not follow some parts of the design guidelines and the Secretary of the Interior Standards? As I said below, this is a recipe for disaster and method to help property hate the preservation requirements as some buildings would arbitrarily be required different standards than others.

Page 14 - shows the district boundary and buildings historic status. Every dot should be checked as 251 W G St is not listed and there could be other errors. From looking at this map, it may be that other blue dots are missing. I don’t see a dot on 216 W I St. After the newest historic resource survey was approved, a map was first produced that had errors, so staff should be aware that this map may not be correct.

However, I have always said that this map showing designated structures should not be included this in the DHCP. I think it should be a living document so that if here are additions or deletions the City doesn't have to reprint it and so people's copies won't have different versions.

Page 18 and 19 - The before and after photos do not show the success of Benicia's historic preservation program! These are just some older photos and more recent photos. The second photos on page 18 show inappropriate alterations and don't illustrate some sort of success. Also, the dates of the top photos stated that they are from 1977. The photo of the Majestic Theater is clearly not from 1977.

P 19 1<sup>st</sup> St. looking toward I St. – this photo wasn't taken from the same location, so it isn't a good comparison.

P 22 – Top paragraph states “The rear wall is sometimes the least important (except for free-standing landmark, those along waterfronts or certain institutional buildings)...” Why would a rear wall not be the least important for a “freestanding” landmark (could the consultant define this?) or along waterfront or the institutional building. If the point is that the back wall can't be seen from a public place, shouldn't it still remain the least important and not being able to be seen be the criteria and not whether it is along a waterfront, etc.?

P 22 – B states “Preservation is preferred, especially on Historic Landmark buildings.” I recommend striking out “especially on Historic Landmark buildings.” If preservation is preferred, it should be preferred on all buildings or no buildings. There should be consistency in the treatment of buildings.

P 22 and 23 – Shouldn't this also present a situation of a building on a corner lot? Which façade is considered primary – both?

P 24 – The three approaches refer to a “financial assistance” – who would be getting and giving such assistance? What form would this assistance take?

P 29 – Figure 14 doesn't show entire district. This map doesn't look accurate either. There's no boundary on the SW and it looks wrong on Gull Point.

P 34 – This appears to not allow dining on First St. – why would we want to do this? It says “A dining area should be located to the side or rear of a building. See the city for other potential locations.” This seems very odd and I think it should be removed. This means that we couldn't have all of the outdoor seating that we have at restaurants with tables on First Street now. Also, the part that says “See the city for other potential locations” should be stricken. What would staff say if someone walked in and asked – what other locations? This seems odd and not appropriate.

P 34 – The section states that dining areas are to be “flush with the sidewalk.” Does this mean not raised above the sidewalk? I don't understand why we would allow dining to the side of a building to be raised anyway or why a property owner would want it to be raised.

P 34 – It then says that if the dining area not on First St. isn't flush with the sidewalk, but is greater than 2 feet above the sidewalk, it should be set back at least 15 feet from the front façade. Why should this be and since most buildings not on First St. are of a different type (smaller and actually mostly single family homes), why would the not-flush dining need to be 15 feet from the front façade. Maybe this isn't appropriate in Benicia, but worked in another area with a different layout.

P 34 - Why does it say that “outdoor dining should be open to the sky?” What does that mean; diners can’t have an umbrella, awning or any shade? What does that have to do with historic preservation?

Page 36 – Is this section proposing regulating fencing? Are we saying that the City will require design review and fees for fencing? This is currently not done and fences do not need building permits either. It should be clear that this is for advisory purposes only and that property owners will not be required to follow these standards or be charged fees for a review.

P 36 – This section states “Do not increase the height of a retaining wall or fence.” Is this saying that a house or other building in the District is not allowed the increase the height of a wall or fence? I believe this should be removed. This does not appear to further the historic preservation of buildings or the district and presents an unfair requirement only to buildings in the district.

Page 37 – “Site Lighting” – would the addition of this section require that lighting on houses be subject to design review? It should be clear that this is for advisory purposes only and that property owners will not be required to follow these standards or be charged fees for a review.

P 39 – This section states “Do not damage or remove existing street trees.” Trees are allowed to be removed under the municipal code and if trees are damaging sidewalks or other property, those trees should be removed. Perhaps more information could be added here or this section should be removed.

P 50 – This section states “The highest degree of historic integrity should be maintained when improving a historic property.” This would unfairly financially burden historic property owners. Who decides what the “highest degree” is? This is not consistent with the Standards as replacement materials are allowed under various circumstances. This section also says “the method that requires the least intervention is always preferred.” I recommend that “always” be removed. It would appear that cost should be a factor for the historic property owner.

P 58 – the word “Metal” is listed as a bullet point, when it appears to be a heading.

P 59 – Are the alternative materials recommended to be used? These types of materials (aluminum siding etc.) were not allowed on historic buildings in the past. Is Figure 64 indicating that “hardi-plank” is acceptable? In the past, I don’t believe it was considered so.

P 62 – Some windows cannot be repaired and this section should acknowledge that.

P 62 – Windows – what about using wavy glass? Re-using historic glass should be encouraged. Also, any divided windows were required to be true-divided windows in the past.

P 66 - The section is correct that “Preservation of historic garages is encouraged, but isn’t required.” Since currently no mechanism exists for preserving accessory buildings, as none were adopted as “historic” by the Council, design review cannot be required for them. Section states “Garage doors and windows may be replaced with alternative material when they are located along an alley.” Since this section is encouraging the preservation of historic garages, why would it state that “garage doors and windows may be replaced with alternative material when they are located along the alley?” The alley

may be the only place from which the public could view the garage/carriage house, so the alley façade would be the prominent, easily view-able wall. I think the writer of this section may not have realized that the alley is probably the only way to access these buildings and the only way the public could see them. 3.30 states “Maintain historic garage doors on the front of the building, when feasible.” The front of the building, to the public, is the side facing the garage, it would seem. This contradicts 3.29 saying that the garage doors and windows could be replaced with other materials. If these buildings are encouraged to be preserved, then I suggested that it state that garage doors and windows may be replaced with alternative material when they cannot be seen from a public location. The next section (3.31) speaks about when replacing a garage door that faces the street. Perhaps this where it should say “that faces the street or alley.” Where there are alleys in the District, the garages or carriage houses typically face them.

P 66 – This states that “a new garage door should not compete with the architectural style of the historic building.” This is vague and open to a lot of interpretation. This section should be revised to indicate what the door should look like. How will staff or the public interpret “compete?”

P 67 and 69 – Light fixtures and gutters are currently not regulated. These sections should make clear that they are advisory. It is not financially feasible for most property owners to install wooden or even metal gutters. I don’t want the light fixture and gutter police going around the District and regulating these items and charging property owners fees.

P 71 Section on paint – Paint for historical residences is currently not regulated. It is only regulated for non-historic due to a fluke when adding design review for these buildings. It should be clear that this is for advisory purposes only and that property owners will not be required to follow these standards or be charged fees for a review. Paint can always be changed. The section states “Using a historic color scheme is encouraged.” Originally houses older than a certain time were painted entirely white as paint technology had not evolved. A “historic color scheme” may be a modern invention. Also, if houses were required to only have paint that was used during a certain time period, we never would have gotten San Francisco’s Painted Ladies.

P 72 – It would be helpful if guidelines for accessibility for commercial building be included. How should buildings on First Street include accessibility so that the integrity of the District is protected?

P 74 – It would be helpful if this section provided suggestions for replacement a non-historic door with a more appropriate door in a commercial building. Many buildings on First St. do not have original doors.

P 80 – Some porches were enclosed decades ago and have obtained significance. The City should not require that already-enclosed historical porches be un-enclosed and this section does not call for that. Also, section 3.65 states “do not enclose an open porch.” I recommend this refer to a porch that can be seen by the public or a front porch. If a back porch were enclosed that faces a private yard, the public wouldn’t see it.

P 83 – Section 3.73 and 3.74 refer to allowing a residential building to be raised. Is this section allowing a single-story house to be raised to be a two-story house? This is currently not allowed. There was at least one building that was de-listed during the last survey due to being raised an entire level and being turned into a two-story house. This section appears to be allowing such raising, which I thought was not consistent with the Standards.

P 85 – This section should provide guidance on the size allowed for an addition to a historic building. During the last survey and designation process, at least two building were de-listed as a result of additions which were larger than the original building and another building was denied listing for this reason. Figure 101 appears to show a large addition that may be larger than the original house.

P 91 – What is the point of these photo montages? It seems like they should relate to a standard or some point that the document is making. Text should accompany the figures or else they are just photos with no meaning.

P 112 – The section states “The preferred location of a balcony is on the rear or secondary façade of the home.” Some historic homes in Benicia include balconies on the front façade so this isn’t unheard of, historically in the District. Also, this pushes the new balcony onto the back of a house which could result in the removal of privacy from all adjoining and even nearby yards as the new balcony creates a location from which those residents can easily look into other people’s properties.

P 112 – and nearby sections – why not clarify that new additions or new construction should not place windows that look directly into historic or existing residence’s windows or back yards? New additions should respect the layout of the existing neighborhood and privacy of residences.

Chapter 4 and overall DHCP – The previous DHCP had design guidelines for Lower First Street and Upper First Street and transitional areas. The Lower First and Upper First historical context seems to have been lost. Previously, this was considered important. Does the new plan address what was termed “transitional” areas anymore? If not, why not?

P 126 – Sustainability. This section should make it clear that it is partly advisory as landscaping is not included in design review for residential buildings.

P 143 – A-board signs – are they really that bad? Why say they “aren’t appropriate on First Street”? These signs are already on First Street. Is this already in the BMC? If they aren’t allowed, then staff would need to visit all the business owners with these signs on First Street now. Otherwise, why not take this out of the BMC and the design guidelines and let businesses have A-board signs. These signs can have information that is helpful to potential customers.

Also regarding signs, the updated regulatory table should be clear as to whom or what body approves signs. In the past, signs were not allowed to be approved by the HPRC, yet sign regulations are in the DHCP and signs can be very important to the aesthetics of the District. If a project is before the HPRC for design review approval, it doesn’t make sense and doesn’t seem fair to the applicant by forcing the

project to go before the PC also or to pay separate and more fees for sign review. Is this section consistent with the existing regulations for signs in the BMC? Does this supersede the BMC regarding signs? What if the guidelines are silent on a type of sign if the BMC is not?

P 155 – It looks like “Barber Pole” above the graphic was copied from previous page and the graphic should be labeled something else.

**From:** Brian Harkins  
**To:** [Suzanne Thorsen](#)  
**Cc:** [Adrian Lopez](#)  
**Subject:** Comments Historic District Design Guidelines  
**Date:** Wednesday, June 6, 2018 11:10:17 AM

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Dear Suzanne,

Thank you for the opportunity to review the DOWNTOWN HISTORIC DISTRICT DESIGN GUIDELINES PUBLIC REVIEW DRAFT 04.06.2018. My comments are as follows:

General:

1. Explain the relationship of the CBC to the California Historic Building Code (CHBC). I believe the CHBC does not apply to non-contributing structures or new structures (ref CHBC Preface). Assuming that is correct, please state clearly that compliance to CBC is required and use of CBHC is not allowed for projects on non-contributing and new structures.
2. By definition non-contributing structures are not equal in historic value to contributing or landmark structures. Still, to benefit the Historic District it may be appropriate to require non-contributing structures to comply with certain guidelines. However, any guidelines that increase project costs should be justified considering other goal like reducing exposure to lead (and other toxic materials often present in older residential units), conserving energy, environmental sustainability, encouraging owners to perform basic property maintenance, low cost housing, and improving life safety (from falls, fire and seismic events).
3. Consider the Impact of historic preservation guidelines on the cost of multi-family housing. Particularly since owners of multi-family structures will likely pass costs for historic preservation on to tenants.
4. The document outline format is confusing. The relationship of guidelines to each other is not clear because the document lacks a traditional paragraph outline system. Specifically, clarify which guidelines are the topics, subtopics, sub-subtopics etc. Also provide cross references to reduce subjectivity and contradictions.
5. Ministerial guidelines are needed for decisions on changes to windows on historic and non-contributing structures. The consultant and staff should review and pre-approve specific materials, designs, and functional requirements to limit and clarify what is allowed and what is not allowed, without requiring subjective reviews by staff and HPRC. The current practice of paying fees, preparing staff reports, and submitting proposals for subjective HPRC review is burdensome to the community, yields inconsistent results, and is generally unproductive.
6. The Draft Guide lacks supporting references. In the Introduction please identify and cite references that serve as the fundamental basis for preservation requirements. Particularly for requirements that impact new construction and non-contributing structures that are also required by law and the Benicia Building Department to comply with current California Building Code (CBC).
7. Please cite references that allow and govern deviations from current building codes for purposes of historic preservation. Identify any limitations on the use of those references.

Additional comments with document references:

In the Table on Page 10 add a separate track to better focus guidelines for non-contributing structures instead of combining them with guidelines for new structures. Particularly since goals

and code status of non-contributing structures are not the same as new construction.

On pages 29 and 110 identify specific routine projects that can be approved by staff over the counter without design review, possibly to include upgrades to windows and roofing materials and other changes that comply with CBC, addition of solar panels, and maintenance painting. Historic preservation guidelines should be sufficiently clear so that routine projects can be approved by staff over the counter without requiring subjective reviews by HPRC. It is particularly important to provide the community with as many ministerial decisions as possible given recent fee increases effecting cost and the time and effort it requires to have HPRC review.

On Page 11, provide separate guidelines to cover existing non-contributing buildings, so that differences from new construction are identified and addressed appropriately and consistent with overall goals (reference general comments above). Existing structures face difficulties and complexities not found in new construction. Separate guidelines are required to ensure that all priorities are evaluated and considered on non-contributing and multi-family structures, not just historic preservation of the community as is currently the case at HPRC.

On Page 13, add specific citations for the sentence that reads “The New Construction Track applies to these properties, except as noted below.”

On Page 18, provide words to explain the claim “the before and after photos show success of Benicia HPRC program.”

On Page 97, clarify that “inappropriate materials” on this page apply to wall surfaces only, and not roofs. Composition shingles are valid options to meet cool roof and fire rating requirements in CBC.

On Page 136, add a note that deconstruction of structures built before 1978 must address risk of exposure to lead, asbestos and other toxic materials.

**Please feel free to contact me if you have any questions about my comments.**

Regards,

**Brian Harkins**

707-853-5108



August 8, 2018

Hello Suzanne,

Thank you for your email response to questions I provided. Please answer my questions below and provide my e-mail to the Planning Commission for their meeting tomorrow. I frankly don't have time to re-review the entire DHCP Design Guidelines to find out if any of my comments from earlier this year were incorporated. I do hope that the "Guidelines" document clearly states what was the situation with the DHCP, in that it trumps the DMUMP/zoning, in the event of a conflict. While they are called "Guidelines" it is my understanding they are still a part of the DHCP which is a part of the General Plan and so hold the appropriate force of law. My questions and comments follow.

Did you mean to leave out designated buildings outside of the District? By changing the wording, that's what has happened. I am referring to 17.108.020 Applicability C .1. When you strike out "conservation plan" you eliminate the buildings that are designated individually outside of the District. "Conservation plan" is replaced with "planned development plan." What "plan" is this referring to?

Don't forget that the HPRC is tasked with conducting design review for City-owned historic buildings. Please include this in your proposed Design Review update.

Also the HPRC is tasked with supporting decisions by specific findings based on the "Secretary of the Interior's Standards for the Treatment of Historical Properties." This is also true of staff decisions in regards to alterations of historic buildings, in compliance with CEQA. I see no reference in your Design Review proposed changes to the Secretary of the Interior Standards. Not only do projects that involve historic buildings or in-fill projects in the District need to comply with the DHCP Guidelines, they need to comply with the Standards or they will not be exempt from CEQA. Please include a reference to this in the revised Design Review procedures. This means that staff will also need to find projects consistent with the Standards, if it approves projects administratively.

The issue with #5 below is the word "restore" which typically would mean that something is in need of restoration because it is not the appropriate material or whatever. If something is already correct, such as replacing wooden porch stairs with other wooden stairs, then are you saying that that action would fall under "repairs and replacements of a minor, routine nature that do not modify the exterior appearance of a historic structure" so those actions would then continue to be exempt from design review? It is confusing, as the term "in-kind" is not being used, as would typically be the case. Please clarify this.

I noticed that the authority of the HPRC is proposed to be limited in the new design review procedures, with some duties of the HPRC being transferred to staff. Since there was no July HPRC meeting, I have been unable to review the June HPRC minutes. Was the HPRC fully aware that staff is proposing to limit the review and responsibilities of the HPRC (assuming my understanding below is correct)?

Is staff recommending that the HPRC no longer perform review of commercial buildings or multi-family buildings outside the Districts? Is this what is being proposed in 17.108.030 B. and 17.108.060 B? I don't see any design review responsibilities listed for commercial or multi-family buildings at all. Is staff proposing no design review whatsoever for these buildings?

Is staff recommending that the HPRC no longer perform review of alterations of non-historic buildings? If so, then non-historic single-family residences would only need over-the-counter staff review and historic buildings would require HPRC review? Would there be then different fees for design review based on whether the building is historic or non-historic as it was in the older days? If this is what is being proposed, then staff would be taking residents back to the days of the historic property owner and historic property owner being treated differently and unequally by the City, with one subject to much more onerous procedures, and potentially fees, than the other. This is a step backwards, if this is what is proposed.

Is staff proposing that the HPRC no longer perform review of alterations to a historic building if the alteration is on a part of the building that staff deems is not the primary or "highly visible secondary façade"? So the HPRC would not review any alterations to the back of a structure or a façade that staff says is not "highly visible" even an addition? The Secretary of the Interior Standards applies to the entirety of a building, although it may allow considering of differing facades when treatment decisions are made. This proposal eliminates another duty of the HPRC and puts the decision behind closed doors without a public hearing or a notice of 500 feet.

Would there any chance for the HPRC to be able to review these pending administrative decisions? When I was on the HPRC, we spoke of recommending a procedure that Vallejo follows in which such administrative decisions are provided to the HPRC, who are then allowed to bring the decision to the Commission for a decision, if they believe it appropriate.

Since staff is apparently proposing that it take over many duties of the HPRC through the design process, what training does the City propose that staff be required to complete in order to make sure that staff is qualified to make these decisions? As a CLG, the City is required to attend appropriate training annually.

What is the rationale for proposing to require that any staff decision appealed to the HPRC be not-appealable to a higher body? Why deny a member of the public the opportunity to appeal a project to their elected representatives? This just seems, frankly, very undemocratic.

Do the DHCP/Guidelines or proposed Design Review procedures propose to require City approval for painting? I can't find a mention of paint in the Design Review procedures. As I already commented, I am not in favor of the City charging fees and telling people what color they can paint their houses.

Since the fees charged for design review are based on minor and major projects, etc., and the design review procedures are proposed to be changed, how will the City update the corresponding fees since the old fee schedule will no longer be applicable?

Is staff proposing to also update Chapter 17.54 "H Historic Overlay District" of the Code? This section still refers to the DRC, which hasn't existed for some years, among other issues.

When is staff going to update/create a demolition ordinance? A short demolition section is included in 17.54 now. Drafts of such an ordinance were created by previous staff and discussions about those drafts took place by the HPRC when I served. This was a mitigation in the DMUMP MND, is a requirement of being a CLG, and a direction provided to staff by the City Council in its resolution (section 4, #4) granting the appeal of the City's issuance of a demolition permits for the historic buildings located at 678 East H St. (attached.) The direction of the Council in this resolution states "The City Council directs staff to undertake the following actions: ...4. To continue to develop an ordinance (Demolition by

Neglect) to address problems, such as the one before the City Council that would place affirmative duties beyond what the City's current ordinance requires of a property owner to secure and maintain their historic properties." Please provide an update of the preparation of this ordinance.

I would like reiterate that I request acknowledgement of the members of the Stakeholder's Committee in the beginning of the new DHCP Guidelines. Staff simply replies that they will not include the names of the Committee. I guess it just isn't important to you or them. However, I state for the record that it is important to me and to others, that the contribution of the Committee and particularly, those of Donnell Rubay be included in the document. I again, ask you kindly, to please provide credit or acknowledgement, as you did for the other committee. The contributions that Donnell made to preservation planning and to fairness to historic property owners cannot be overstated.

Regards,

A handwritten signature in black ink, reading "Leann Taagepera". The signature is written in a cursive style with a large, prominent initial "L".

Leann Taagepera



**Response to Comments on Final Draft Planning Commission Hearing (comments received prior to August 29, 2018)**

- Relation of Downtown Historic District Design Guidelines to Downtown Mixed Use Master Plan.

*Per p. 4, “Where there is a conflict between the DMUMP and the guidelines, as determined through the design review process, the guidelines take priority.”*

*Per p. 12, “Where there is a conflict between the DMUMP and the guidelines, as determined through the design review process, the guidelines take priority.”*

- Acknowledgements page.

*The standard practice for acknowledgement pages is to recognize committees, commissions, city council, consultants and staff involved in the preparation of a plan or document. Though the city deeply appreciates public participation, it is infeasible to give individual acknowledgement to all community members who dedicate time to the development of such documents. A list of attendees to stakeholder, public workshop and open house meetings is provided for the public record.*

*The contributions of Ms. Donnell Rubay to historic preservation in Benicia were much greater than could be ever be reflected on the acknowledgements page of a design guidelines document. A Mayoral Proclamation in her honor was made on August 2, 2018 and on August 23, 2018 and the Historic Preservation Review Commission dedicated their meeting to her memory, including a synopsis of her book, Emma and the Oyster Pirate.*

**Summary of Public Comments: Design Review Procedures**

- Applicability of design review procedures to designated buildings outside of the historic district.

*Per BMC 17.54.050, individual historic buildings that are not within a historic district are subject to the same procedures as buildings and structures within an H district.*

*“Individual buildings may be designated as historic or architecturally significant landmarks if one or more of the criteria set forth in BMC 17.54.040 are met. A landmark so designated shall be eligible for the same review procedures as buildings and structures within an H district.”*

- Meaning of Planned Development Plan.

*The Zoning Ordinance establishes Planned Development zoning per BMC 17.44. Each planned development has an adopted Planned Development Plan that is*

*site-specific. Certain planned development plans require design review for single-family dwellings which are otherwise exempt from design review if they are not located in a historic district. The proposed amendment to BMC 17.74.020 is a clean-up to address inconsistencies in current zoning.*

- *Applicability to city buildings.  
Design review procedures are applicable to city-owned property, including designated historic buildings.*

*Per BMC 17.08.020, General rules for applicability of zoning regulations, “Zoning regulations shall apply to all land within the city of Benicia, including land owned by the city and other local, state or federal agencies, where applicable. Application of regulations to specific lots shall be governed by the zoning map.”*

- *Relation to Secretary of Interior Standards for Treatment of Historic Properties  
A primary objective of the design guidelines was to align the city design review policies to the Secretary of Interior Standards for Treatment of Historic Properties. The guidelines are drafted in deference to the Secretary of Interior Standards and are interwoven with additional guidance from the National Park Service technical “preservation briefs” which exist to facilitate implementation of the standards.*

*In order to approve design review at the administrative or commission level, the city must find that the project conforms to the guidelines, which are aligned with the Secretary of Interior Standards. For a historic property, the city must also make findings pursuant to CEQA that specifically address the Secretary of Interior Standards. Though the standards are not mentioned as a specific finding for design review, they are embedded in the policy framework for design review in the downtown, as well as State law.*

- *“In kind” replacement  
The term “in kind” has been problematic in application of design review procedures for many years. First, it is ill-defined and subject to interpretation. Second, it rewards replacement of inappropriate materials (such as an aluminum window on an Italianate cottage) with a new inappropriate material. The HPRC and community requested that the city prepare a procedural approach that makes it easier to take the “preferred” action (such as replacing an aluminum window with a wood window). The HPRC reviewed the proposed language in June, 2018 during a public hearing and recommended approval as drafted.*
- *Paint.  
Paint is considered a routine maintenance activity and would fall under the exempt category. Staff has revised the draft text amendment to clarify the paint*

*exemption, with the note that paint applied to unfinished surfaces (such as unpainted brick or stone) requires design review. The draft design guidelines address such activities on p. 37, 47, 49, 61 and 75.*

- *Review authority for commercial, multi-family outside of historic district. Staff does not propose to change to the review framework for commercial, multi-family and industrial buildings outside of the historic district. Per Section 17.108.030 (proposed), the HPRC is responsible for design review of applications that are not exempt as specified in Section 17.108.020, and that are not subject to administrative review.*
- *Increased scope of administrative review. The proposed design review procedures were developed as a result of community feedback including an online forum, open house, and HPRC workshop. The HPRC and community members requested that minor projects and projects that are consistent with the design guidelines be reviewed at an administrative level. The proposed amendment reflects the feedback of the community and the framework presented to the HPRC in May, 2018.*

*Administrative design review would not be subject to additional consideration by the HPRC unless an appeal is filed. Any member of the public may submit comments on a pending application or may subsequently appeal an administrative decision.*

- *Appeals. Staff does not propose any change to the current appeal procedures. Per BMC 17.108.100, “Design review decisions of the community development director may be appealed by any interested party to the historic preservation review commission. Design review decisions of the historic preservation review commission may be appealed, by any interested party, to the planning commission.”*
- *Alterations to non-historic buildings. Per BMC 17.108.040 (proposed), the HPRC would review alterations to non-historic buildings and new additions that are visible from the public street; additionally, the commission would review any application (historic or non-historic) that does not conform to the adopted design guidelines.*
- *Fees. Fees for design review are under consideration and will be presented to the City Council at the second reading of the draft text amendment.*
- *Alterations to rear and secondary facades.*

*The design guidelines define primary, secondary, rear and highly visible secondary facades on p. 21-22. As proposed, design review would be conducted at the commission level for alterations to the primary (front) or highly visible secondary façade; alterations to the rear areas of a structure would be conducted administratively if they conform to the adopted guidelines.*

- **Public notice.**

*The proposed amendment increases transparency around administrative design review actions by establishing a notice of pending action to property owners within a distance of 100 feet. Currently, no notice is provided for administrative design review activities.*

*A public hearing (i.e., commission level design review) requires notice within a 500 foot radius.*

- **Qualifications of staff.**

*City staff currently conducts administrative design review on a variety of projects and is hired on the basis of professional training, experience and qualifications. The city provides ongoing training opportunities and additionally reports on annual training for staff and commissioners as part of the reporting requirements for a Certified Local Government (CLG).*

- **Additional Code amendments.**

*The City Council has established its work program for the current fiscal year. No additional amendments to the Benicia Municipal Code relating to historic preservation or demolition review have been prioritized at this time.*



August 30, 2018

**Comments from Leann Taagepera on Design Review Ordinance proposed revisions.**

Below is shown my comment from August 8, 2018, staff's response, and then my response.

My comment:

I do hope that the "Guidelines" document clearly states what was the situation with the DHCP, in that it trumps the DMUMP/zoning, in the event of a conflict. While they are called "Guidelines" it is my understanding they are still a part of the DHCP which is a part of the General Plan and so hold the appropriate force of law. My questions and comments follow.

Staff's response:

Relation of Downtown Historic District Design Guidelines to Downtown Mixed Use Master Plan.

*Per p. 4, "Where there is a conflict between the DMUMP and the guidelines, as determined through the design review process, the guidelines take priority."*

*Per p.12, "Where there is a conflict between the DMUMP and the guidelines, as determined through the design review process, the guidelines take priority."*

My response:

Part of the Downtown historic district and three listed buildings (plus the Pacific Main Steamship buildings) are not a part of the DMUMP. I propose the following change for the buildings in the downtown district:

Per p. 4, "Where there is a conflict between the DMUMP/zoning and the guidelines, as determined through the design review process, the guidelines take priority."

Per p.12, "Where there is a conflict between the DMUMP/zoning and the guidelines, as determined through the design review process, the guidelines take priority."

My comment:

Did you mean to leave out designated buildings outside of the District? By changing the wording, that's what has happened. I am referring to 17.108.020 Applicability C .1. When you strike out "conservation plan" you eliminate the buildings that are designated individually outside of the District. "Conservation plan" is replaced with "planned development plan." What "plan" is this referring to?

Staff's Response:

Applicability of design review procedures to designated buildings outside of the historic district.

*Per BMC 17.54.050, individual historic buildings that are not within a historic district are subject to the same procedures as buildings and structures within an H district.*

*“Individual buildings may be designated as historic or architecturally significant landmarks if one or more of the criteria set forth in BMC 17.54.040 are met. A landmark so designated shall be eligible for the same review procedures as buildings and structures within an H district.”*

My response:

BMC 17.54.050 does not specifically indicate that design review applies to designated Landmark buildings located out of a historic district. Chapter 17.54 is entitled “H Historic District Overlay” which gives the impression that it applies to buildings within a “District.” Section 17.54.050 “Criteria for designating landmark buildings” does not state that it is referring to buildings either inside or outside of a District.

Section 17.54.050 states “Individual buildings may be designated as historic or architecturally significant landmarks if one or more of the criteria set forth in BMC 17.54.040 are met. A landmark so designated shall be eligible for the same review procedures as buildings and structures within an H district.” This does not state that it is referring to structures outside of a District.

Again, in your proposed changes to 17.108.020 Applicability C .1. When you strike out “conservation plan” you eliminate the buildings that are designated individually outside of the District.

To solve this issue, I propose the following:

17.108.020 Applicability.

A. In an H Historic Overlay District and for individually designated historic buildings outside of an H Historic Overlay District. Design approval shall be required prior to issuance of a zoning permit for all any projects that involves demolition, construction, or exterior alterations as provided in Section 17.108.030.

17.108.040 Scope of design review. Design review in an H- Overlay District.

The design review procedures specified herein shall apply to exterior alterations of any structure in a H- overlay district and for individually designated historic buildings outside of an H Historic Overlay District; except for exterior alteration of a non-historic residence in the Eastern Residential Area of the Downtown Historic District or as modified by the Arsenal Historic Conservation Plan.

My Question - What design guidelines apply to the listed buildings located outside of the Downtown District? Can the revised DHCP/Guidelines state that design review outside the District is also to follow their requirements?

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My comment:

Don't forget that the HPRC is tasked with conducting design review for City-owned historic buildings. Please include this in your proposed Design Review update.

Staff's Response:

Applicability to city buildings.

*Design review procedures are applicable to city-owned property, including designated historic buildings. Per BMC 17.08.020, General rules for applicability of zoning regulations, "Zoning regulations shall apply to all land within the city of Benicia, including land owned by the city and other local, state or federal agencies, where applicable. Application of regulations to specific lots shall be governed by the zoning map."*

My response:

Staff's statement that "Zoning regulations shall apply to all land within the city of Benicia" does not support staff's assertion that "Design review procedures are applicable to city-owned property, including designated historic buildings" Zoning regulations are not design review regulations.

BMC 2.84.080 Powers and duties states that "The [HPRC] shall:

A. Conduct design reviews for restoration, remodeling and development projects in the historic overlay (H) zones in accordance with Chapter 17.08 BMC and/or Chapter 17.54 BMC, or which involve city-owned historical buildings."

In order to be consistent with BMC 2.84.080, I propose that BMC 17.108.030 Review Responsibilities B. Commission be revised as follows:

"The [HPRC] shall be responsible for design review of the following applications:...

2. In an H- overlay district: for projects that are specified in Section 17.108.040, and for individually designated historic buildings outside of an H Historic Overlay District, and for City-owned historical buildings.

In order to cover all historic buildings for staff-level design review, I propose the following

"17.108.030 A. Administrative. The community development director shall be responsible for design review for the following applications:

3. In a H- overlay district: for projects that are specified in Section 17.108.040, and for individually designated historic buildings outside of an H Historic Overlay District, and for City-owned historical buildings."

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My comment:

Also the HPRC is tasked with supporting decisions by specific findings based on the "Secretary of the Interior's Standards for the Treatment of Historical Properties." This is also true of staff decisions in regards to alterations of historic buildings, in compliance with CEQA. I see no reference in your Design Review proposed changes to the Secretary of the Interior Standards. Not only do projects that involve historic buildings or in-fill projects in the District need to comply with the DHCP Guidelines, they need to

comply with the Standards or they will not be exempt from CEQA. Please include a reference to this in the revised Design Review procedures. This means that staff will also need to find projects consistent with the Standards, if it approves projects administratively.

Staff's Response:

Relation to Secretary of Interior Standards for Treatment of Historic Properties

*A primary objective of the design guidelines was to align the city design review policies to the Secretary of Interior Standards for Treatment of Historic Properties. The guidelines are drafted in deference to the Secretary of Interior Standards and are interwoven with additional guidance from the National Park Service technical "preservation briefs" which exist to facilitate implementation of the standards.*

*In order to approve design review at the administrative or commission level, the city must find that the project conforms to the guidelines, which are aligned with the Secretary of Interior Standards. For a historic property, the city must also make findings pursuant to CEQA that specifically address the Secretary of Interior Standards. Though the standards are not mentioned as a specific finding for design review, they are embedded in the policy framework for design review in the downtown, as well as State law.*

My response:

Staff desires that the public trust them, that although the design review section of the BMC does not mention or refer to the Standards at all, somehow staff can guarantee that the Standards will be analyzed and adhered to. This is not sound planning policy. The Standards can change, while the DHCP/Guidelines can become frozen in time, such that occurred to the current version of the DHCP. In addition, the Standards are more extensive than the Guidelines. Just because a project complies with a part of the DHCP/Guidelines, doesn't mean it won't be found to conflict with a part of the Standards not included in the Guidelines.

BMC 2.84.080 Powers and duties states that "The [HPRC] shall:

A. Conduct design reviews for restoration, remodeling and development projects in the historic overlay (H) zones in accordance with Chapter 17.08 BMC and/or Chapter 17.54 BMC, or which involve city-owned historical buildings. Ensure that restoration, remodeling and new development complies with the "Secretary of the Interior's Standards for the Treatment of Historical Properties," the criteria contained in the general plan and the criteria in the adopted historic plans for each district. Support decisions by specific findings based on the "Secretary of the Interior's Standards for the Treatment of Historical Properties," the general plan and the adopted historic plans for each district, as detailed in the relevant sections of the Benicia Municipal Code, as they may be amended from time to time."

Design review in Benicia was originally not created to be historic building design review and did not require compliance with the Standards. Perhaps that is why the Design Review section of BMC (17.108.010 Purposes) makes no mention of the Standards or refers to historic resources. Now is our chance to rectify that.

My proposed changes are below:

Section 17.108.010 Purposes G. “Ensure that new development and alterations to historic buildings and non-historic buildings found with an H Historic Overlay District are is consistent with specific design guidelines development for use within the community, where applicable, and to a specific plan or planned development plan and found in the Secretary of the Interior Standards for projects that affect historic resources, either individually, or the District(s) as a whole.

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My comment:

The issue with #5 below is the word “restore” which typically would mean that something is in need of restoration because it is not the appropriate material or whatever. If something is already correct, such as replacing wooden porch stairs with other wooden stairs, then are you saying that that action would fall under “repairs and replacements of a minor, routine nature that do not modify the exterior appearance of a historic structure” so those actions would then continue to be exempt from design review? It is confusing, as the term “in-kind” is not being used, as would typically be the case. Please clarify this.

Staff’s Response:

Staff doesn’t respond to the question underlined above. Staff responded by speaking about the term “in-kind.”

My response:

To provide more clarity in the proposed Code section, I propose the following:

BMC 17.108.040 “Design Review in an H-Overlay District” “ A. H- overlay exemptions. In addition to the exemptions of section 17.108.020, no design review shall be required for repairs and replacements of a minor, routine nature that do not modify the exterior appearance of a historic structure, as determined by the community development director, including the following activities:

5.Replacement of doors or windows that restore a building to its original materials and design or rehabilitate or maintain a building per its current original materials and design.

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My comment:

I noticed that the authority of the HPRC is proposed to be limited in the new design review procedures, with some duties of the HPRC being transferred to staff. Since there was no July HPRC meeting, I have been unable to review the June HPRC minutes. Was the HPRC fully aware that staff is proposing to limit the review and responsibilities of the HPRC (assuming my understanding below is correct)?

Staff’s Response:

Increased scope of administrative review.

The proposed design review procedures were developed as a result of community feedback including an online forum, open house, and HPRC workshop. The HPRC and community members requested that minor projects and projects that are consistent with the design guidelines be reviewed at an administrative level. The proposed amendment reflects the feedback of the community and the framework presented to the HPRC in May, 2018.

Administrative design review would not be subject to additional consideration by the HPRC unless an appeal is filed. Any member of the public may submit comments

My response:

Staff did not provide a response as to whether the HPRC was fully aware of the proposed changes. The regulatory changes in design review were not presented to the public until the June HPRC meeting and they were not specifically called out in notices. The minutes did not describe any discussion of the regulatory changes staff is proposing. In speaking to a couple of the commissioners, it is unclear as to whether commissioners understood the proposal to remove some regulatory authority from the HPRC and move it to staff with no possible involvement of the HPRC proposed in those instances, except if a person appealed a project.

The staff report to the HPRC for the June meeting stated that there was "sparse attendance at the public meetings." Only three people, myself included, provided community comments on the public review draft of the Guidelines and these did not include the proposed change to the regulatory review. FYI, the "stakeholder committee" of which I was a part, was never presented the draft Guidelines or the proposal for a change in the regulatory part of design review. I see now, though that the Ad Hoc Advisor Group was provided an opportunity to review a proposal for this and provide comments. Why wasn't this proposal brought to the "stakeholder committee?" I wasn't aware that this was discussed at the HPRC's May meeting under the title "Procedural Recommendations: Downtown Historic District" until I looked it up today. The first time the actual proposal for changes to design review procedures was released to the public was for the meeting in late June.

An online survey was used to support proposed changes to design review procedures; however, this survey appears to be virtually meaningless. It appears that only seven people who live in the downtown District responded, with 21 people who live in Benicia responding. It could be that only 28 people responded. This is no mandate for anything and there were no open-ended question to the wording of questions influenced the responses.

17.108.040 Scope of design review. Design review in an H- Overlay District. C. Commission states that "The historic preservation review commission shall review projects that would: ...

3. Remove, destroy, alter or obscure a character-defining feature of a historic structure as determined by the community development director;"

This removes discretion from the HPRC in a public, noticed meeting and transfers it staff.

My concern is that decisions regarding whether a proposed alteration was consistent with the Guidelines and Standards are currently made by the HPRC in a noticed, public meeting. Under the proposed changes, staff would determine, out of public view, whether a proposed alteration was consistent with the Standards/Guidelines and there would be no checks and balances in the system. We could revert to inconsistent treatment between property owners, between staff members, and all in a secretive system with no public involvement.

I am not sure if I specifically stated this before, but another concern I have is reducing public knowledge and input by allowing that an Administrative review only requires a notice of 100 feet of the subject property, per 17.108.050 –“ 2. Administrative. Notice of pending administrative action shall be given to owners of property located within 100 feet of the subject property and posted prominently on the project site. Notice shall be provided at least 10 days prior to the administrative action on a form set by the community development director and shall include the project location, a description of the project, a reference to materials on file in the community development department, a statement that any interested party”

When I was on the HPRC, we had discussed a procedure which Vallejo follows, whereby staff would review minor items and then provide a notice to the HPRC regarding is recommendation. HPRC would be allowed the opportunity to call the item up for commission review at a public meeting if a commissioner wanted. I would be in favor with allowing staff to have more power/discretion if there was an ability for the public and commission to be able to review a proposal, if desired, and also if the noticing and appeal requirements/procedures for administrative and commission review were the same.

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My comment:

Is staff recommending that the HPRC no longer perform review of commercial buildings or multi-family buildings outside the Districts? Is this what is being proposed in 17.108.030 B. and 17.108.060 B? I don't see any design review responsibilities listed for commercial or multi-family buildings at all. Is staff proposing no design review whatsoever for these buildings?

Staff's Response:

Review authority for commercial, multi-family outside of historic district.  
*Staff does not propose to change to the review framework for commercial, multi-family and industrial buildings outside of the historic district. Per Section 17.108,030 (proposed), the HPRC is responsible for design review of applications that are not exempt as specified in Section 17.108.020, and that are not subject to administrative review.*

My response:

The proposed changes to the BMC are:

~~B. By the Historic Preservation Review Commission Commission.~~ The historic preservation review commission shall be responsible for design review of the following applications in the RS (nonresidential structures only), RM, RH, C, OS, PS, PD and the H overlay districts, for:

- ~~p~~Projects that are not exempt as specified in Section 17.108.020 and that are not subject to community development director administrative review.
- In an H- overlay district: for projects that are specified in Section 17.108.040
- Administrative projects that the community development director refers to the commission where the director determines that the project may substantially change the design of a building or character of a neighborhood; generate significant public interest; involve matters of public policy; or require other land use entitlements subject to approval by the zoning administrator or planning commission. The historic preservation review commission shall hold a public hearing, as provided in BMC 17.108.080, and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the design review commission may be appealed to the planning commission in accordance with Chapter 1.44 BMC.

We need to discuss what staff is proposing in this area, as the above proposed changes involves eliminating review for the following items, per the strike-out above " in the RS (nonresidential structures only), RM, RH, C, OS, PS, PD and the H overlay districts,"

This appears to remove design review authority for all of the zones listed, which include RM, RH, and C.

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My comment:

Is staff recommending that the HPRC no longer perform review of alterations of non-historic buildings? If so, then non-historic single-family residences would only need over-the-counter staff review and historic buildings would require HPRC review?

Would there be then different fees for design review based on whether the building is historic or non-historic as it was in the older days? If this is what is being proposed, then staff would be taking residents back to the days of the historic property owner and historic property owner being treated differently and unequally by the City, with one subject to much more onerous procedures, and potentially fees, than the other. This is a step backwards, if this is what is proposed.

Staff's Response:

Alterations to non-historic buildings.

*Per BMC 17.108.040 (proposed), the HPRC would review alterations to non-historic buildings and new additions that are visible from the public street; additionally, the commission would review any application (historic or non-historic) that does not conform to the adopted design guidelines.*

*Fees.*

*Fees for design review are under consideration and to the City Council at the second reading of the draft text amendment.*

My response:

BMC 17.108.040 does not state that that "the HPRC would review alterations to non-historic buildings and new additions that are visible from the public street." Staff needs to clarify where the proposed code states such. BMC 17.108.040 states that:

"C. Commission. The historic preservation review commission shall review projects that would:

1. Demolish, partially demolish or remove a historic structure;

2. Relocate a historic structure;

- Remove, destroy, alter or obscure a character-defining feature of a historic structure as determined by the community development director;
- Install alternative (non-original) exterior building materials on a historic structure as such materials are described in the adopted design guidelines;
- Alter the primary or highly visible secondary façade for any historic structure; or
- Construct a building or new addition that is visible from the public street, except as otherwise specified in Section 17.108.020.C."

The above does not state that the HPRC would review alterations to non-historic buildings.

BMC 17.108.040 states that:

"B. Administrative. The community development director shall review any project in an H- overlay district that is not subject to review by the historic preservation review commission as specified herein. The director shall refer a project to the commission for a public hearing upon a determination that it does not conform to the adopted design guidelines for the historic district."

This led me to believe that staff would review alterations to non-historic buildings in the District.

---

My comment:

Is staff proposing that the HPRC no longer perform review of alterations to a historic building if the alteration is on a part of the building that staff deems is not the primary or "highly visible secondary façade"? So the HPRC would not review any alterations to the back of a structure or a façade that staff says is not "highly visible" even an addition?

Staff's Response:

Alterations to rear and secondary facades.

*The design guidelines define primary, secondary, rear and highly visible secondary facades on p. 21-22. As proposed, design review would be conducted at the commission level for alterations to the primary (front) or highly visible secondary façade; alterations to the rear areas of a structure would be conducted administratively if they conform to the adopted guidelines.*

My response:

The Secretary of the Interior Standards applies to the entirety of a building, although it may allow considering of differing facades when treatment decisions are made. This proposal eliminates another duty of the HPRC and puts the decision behind closed doors without a public hearing or a notice of 500 feet.

If a proposal contains alterations on various facades, would staff split the project up into parts, so that the HPRC approves part and staff approves the other part? This proposal does not appear to be consistent with CEQA, as CEQA requires that the whole of the project be analyzed at the same time.

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My comment:

Would there any chance for the HPRC to be able to review these pending administrative decisions? When I was on the HPRC, we spoke of recommending a procedure that Vallejo follows in which such administrative decisions are provided to the HPRC, who are then allowed to bring the decision to the Commission for a decision, if they believe it appropriate.

Staff's Response:

I do not see a response to this comment.

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My comment:

Since staff is apparently proposing that it take over many duties of the HPRC through the design process, what training does the City propose that staff be required to complete in order to make sure that staff is qualified to make these decisions? As a CLG, the City is required to attend appropriate training annually.

Staff's Response:

Qualifications of staff.

*City staff currently conducts administrative design review on a variety of projects and is hired on the basis of professional training, experience and qualifications. The city provides ongoing training opportunities and additionally reports on annual training for staff and commissioners as part of the reporting requirements for a Certified Local Government (CLG).*

My response:

The City has normally hired staff that did not have a background in preservation planning. In my long history in Benicia and my involvement in planning here, I can tell you that staff has been employed in Benicia typically for a fleeting amount of time and there has been an almost-constant turnover. What can the City do to make sure that staff is adequately trained in the Standards?

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My comment:

What is the rationale for proposing to require that any staff decision appealed to the HPRC be not-appealable to a higher body? Why deny a member of the public the opportunity to appeal a project to their elected representatives? This just seems, frankly, very undemocratic.

Staff's Response:

Appeals.

*Staff does not propose any change to the current appeal procedures. Per BMC 17.108.100, "Design review decisions of the community development director may be appealed by any interested party to the historic preservation review commission. Design review decisions of the historic preservation review commission may be appealed, by any interested party, to the planning commission."*

My response:

I don't believe I worded my comment correctly. What I meant to call to people's attention is that since more decisions will be made by staff and not by the HPRC, under this current proposal, the ability of a citizen to appeal a decision would be further limited. Currently, many projects are approved or not approved by the HPRC. If a citizen wishes, he/she can appeal this decision all the way up to their elected officials. In the new proposal, many of the items that currently could be appealed to the PC and the CC would be final at the HPRC. This is because the Code states that "Appeal decisions of the historic preservation review commission shall be final" per 17.108.100.

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My comment:

Do the DHCP/Guidelines or proposed Design Review procedures propose to require City approval for painting? I can't find a mention of paint in the Design Review procedures. As I already commented, I am not in favor of the City charging fees and telling people what color they can paint their houses.

Staff's Response:

*Paint is considered a routine maintenance activity and would fall under the exempt category. In addition to the markup at the beginning of this memo, staff will propose clarifying language in draft Code amendment to specify that paint applied to a "raw" or unfinished surface (such as brick, stone, etc). is not exempt from Design Review.*

My response:

Where is the “markup at the beginning of the memo?” Please provide the proposed language, as I can’t find it.

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My comment:

Since the fees charged for design review are based on minor and major projects, etc., and the design review procedures are proposed to be changed, how will the City update the corresponding fees since the old fee schedule will no longer be applicable?

Staff’s Response:

Fees.

*Fees for design review are under consideration and to the City Council at the second reading of the draft text amendment.*

My response:

As I stated, I am concerned that a new fee structure will put us back to the days of higher fees for historic property owners. This reduces support for preservation planning.

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My comment:

Is staff proposing to also update Chapter 17.54 “H Historic Overlay District” of the Code? This section still refers to the DRC, which hasn’t existed for some years, among other issues.

Staff’s Response:

Additional Code amendments.

*The City Council has established its work program for the current fiscal year. No additional amendments to the Benicia Municipal Code relating to historic preservation or demolition review have been prioritized at this time.*

My response:

It seems like it wouldn’t take long to delete the references to the DRC and other easy changes, while this other effort is going on.

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My comment:

When is staff going to update/create a demolition ordinance? A short demolition section is included in 17.54 now. Drafts of such an ordinance were created by previous staff and discussions about those drafts took place by the HPRC when I served. This was a mitigation in the DMUMP MND, is a requirement of being a CLG, and a direction provided to staff by the City Council in its resolution (section 4, #4) granting the appeal of the City's issuance of a demolition permits for the historic buildings located at 678 East H St. (attached.) The direction of the Council in this resolution states "The City Council directs staff to undertake the following actions: ...4. To continue to develop an ordinance (Demolition by Neglect) to address problems, such as the one before the City Council that would place affirmative duties beyond what the City's current ordinance requires of a property owner to secure and maintain their historic properties." Please provide an update of the preparation of this ordinance.

Staff's Response:

Same as above.

My response:

I don't understand why staff would ignore a specific direction from Council. There was no direction to update the regulatory decision-making for design review and staff completed that work. I don't understand this.

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My comment:

I would like reiterate that I request acknowledgement of the members of the Stakeholder's Committee in the beginning of the new DHCP Guidelines. Staff simply replies that they will not include the names of the Committee. I guess it just isn't important to you or them. However, I state for the record that it is important to me and to others, that the contribution of the Committee and particularly, those of Donnell Rubay be included in the document. I again, ask you kindly, to please provide credit or acknowledgement, as you did for the other committee. The contributions that Donnell made to preservation planning and to fairness to historic property owners cannot be overstated.

Staff's Response:

Acknowledgements page.

*The standard practice for acknowledgement pages is to recognize committees, commissions, city council, consultants and staff involved in the preparation of a plan or document. The city deeply appreciates public participation and notes that many individual community members dedicate time to the development of such documents. A list of attendees to stakeholder, public workshop and open house meetings is provided for the public record.*

My response:

If it is "standard practice for acknowledgement pages is to recognize committees," then why isn't the Stakeholder's Committee, of which I am a member, included? I again, ask staff to please provide credit or acknowledgement, as you did for the other committee.

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