

CITY OF VALLEJO PLANNING COMMISSION

REVISED

Kent Peterman, Chairperson
Gail Manning, Vice-Chair
Norm Turley
Bruce P. Gourley
Suzanne Harrington Cole
Wanda Chihak
Lori Reese-Brown

MONDAY
17 November 2008
7:00 P.M.

City Hall
555 Santa Clara Street
Vallejo, California 94590

Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection on the table in front of Council Chambers during normal business hours. Such documents are also available on the City of Vallejo website at <http://www.ci.vallejo.ca.us> subject to staff's ability to post the documents before the meeting.

Those wishing to address the Commission on a scheduled agenda item should fill out a speaker card and give it to the Secretary. Speaker time limits for scheduled agenda items are five minutes for designated spokespersons for a group and three minutes for individuals.

Those wishing to address the Commission on any matter not listed on the agenda but within the jurisdiction of the Planning Commission may approach the podium during the "Community Forum" portion of the agenda. The total time allowed for Community Forum is fifteen minutes with each speaker limited to three minutes.

Government Code Section 84308 (d) sets forth disclosure requirements which apply to persons who actively support or oppose projects in which they have a "financial interest", as that term is defined by the Political Reform Act of 1974. If you fall within that category, and if you (or your agent) have made a contribution of \$250 or more to any commissioner within the last twelve months to be used in a federal, state or local election, you must disclose the fact of that contribution in a statement to the Commission.

The applicant or any party adversely affected by the decision of the Planning Commission may, within ten days after the rendition of the decision of the Planning Commission, appeal in writing to the City Council by filing a written appeal with the City Clerk. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by the City Clerk or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or City holiday, then the deadline shall be extended until the next regular business day.

Notice of the appeal, including the date and time of the City Council's consideration of the appeal, shall be sent by the City Clerk to all property owners within two hundred or five hundred feet of the project boundary, whichever was the original notification boundary.

The Council may affirm, reverse or modify any decision of the Planning Commission which is appealed. The Council may summarily reject any appeal upon determination that the appellant is not adversely affected by a decision under appeal.

If any party challenges the Planning Commission's actions on any of the following items, they may be limited to raising only those issues they or someone else raised at the public hearing described in this agenda or in written correspondence delivered to the Secretary of the Planning Commission.

If you have any questions regarding any of the following agenda items, please call the assigned or project planner at (707) 648-4326.

- A. ORDER OF BUSINESS CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. ROLL CALL
- D. APPROVAL OF THE MINUTES: November 3, 2008.
- E. WRITTEN COMMUNICATIONS: None.
- F. REPORT OF THE SECRETARY

None.
- G. CITY ATTORNEY REPORT
- H. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE PLANNING COMMISSION AND LIAISON REPORTS
 - 1. Report of the Presiding Officer and members of the Planning Commission
 - 2. Council Liaison to Planning Commission
 - 3. Planning Commission Liaison to City Council

I. COMMUNITY FORUM

Members of the public wishing to address the Commission on items not on the agenda are requested to submit a completed speaker card to the Secretary. The Commission may take information but may not take action on any item not on the agenda.

J. CONSENT CALENDAR AND APPROVAL OF THE AGENDA

Consent Calendar items appear below in section K, with the Secretary's or City Attorney's designation as such. Members of the public wishing to address the Commission on Consent Calendar items are asked to address the Secretary and submit a completed speaker card prior to the approval of the agenda. Such requests shall be granted, and items will be addressed in the order in which they appear in the agenda. After making any changes to the agenda, the agenda shall be approved.

All matters are approved under one motion unless requested to be removed for discussion by a commissioner or any member of the public.

K. PUBLIC HEARINGS

- 1. Use Permit 08-0012 is an application requesting to serve beer and wine at the Glen Cove Marina Waterfront café. Alcohol would be served during normal business hours. The applicant's proposal would include both interior and exterior alcohol service on the marina grounds. Proposed CEQA Action: Exempt. Staff Planner: Marcus Adams, 648-5392.

Staff recommends **approval** based on the findings and conditions.

- 2. Use Permit 08-0010, Variance 08-0001, and PCN 08-0002 are applications for off-site beer and wine sales at a new Springstowne Center Fresh & Easy store. The requested variance is for an exception to the 1000 foot rule due to the fact that the proposed store location is within 1,000 feet of two off-site sale alcohol establishments. A finding of Public Convenience or Necessity is required because the proposed store location is located within a census tract (2502) that is over-concentrated with off-sale alcohol establishments. Proposed CEQA Action: Exempt. Staff Planner: Marcus Adams, 648-

5392.

Staff recommends **approval** based on the findings and conditions.

3. Specific Plan Amendment 08-0005 is a City-initiated amendment of the Downtown Vallejo Specific Plan and Downtown Master Plan (Ordinance No 1553 N.C., 2d) to permit a broader range of land uses along the Georgia Street Corridor, modify the entitlement procedures of certain specified uses, and repeal the temporary land use regulations adopted in Ordinance No. 1591 N.C., (2d) and Resolution #07-155.

Staff recommends the Planning Commission make a recommendation of **approval** to the City Council.

L. OTHER ITEMS

1. None.

M. ADJOURNMENT

MINUTES

- A. The meeting was called to order at 7:02 p.m.
- B. The pledge of allegiance to the flag was recited.
- C. ROLL CALL:

Present: Harrington- Cole, Gourley, Chihak, Reese-Brown, Manning.

Absent: Peterman, Turley.

- D. APPROVAL OF THE MINUTES.

On Page 4, Item 2, Commissioner Gourley's name is misspelled. With that correction he moved that the minutes be approved. The motion was unanimously approved.

- E. WRITTEN COMMUNICATIONS

None.

- F. REPORT OF THE SECRETARY

None.

- G. CITY ATTORNEY REPORT

None.

- H. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE PLANNING COMMISSION AND LIAISON REPORTS

1. Report of the Presiding Officer and members of the Planning Commission. None.
2. Council Liaison to Planning Commission. None.
3. Planning Commission Liaison to City Council. None.

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None.

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All matters are approved under one motion unless requested to be removed for discussion by a commissioner or any member of the public.

Commissioner Gourley: I make a motion that we approve the agenda and the consent calendar. Motion was unanimously approved.

K. PUBLIC HEARINGS

1. Use Permit 07-0012 is an application to request to serve beer and wine at Danny's Kitchen located at the Quality Inn at 38 Admiral Callaghan Lane. Proposed CEQA Action: Exempt. Staff Planner: Marcus Adams, 648-5392. *Continued from the meeting of 10/6/08.*

Staff recommends **approval** based on the findings and conditions.

Marcus Adams: *Marcus showed a PowerPoint presentation. This is an application for beer and wine service at Danny's Kitchen located at 38 Admiral Callaghan Lane. Marcus showed pictures of the front and the parking lot. It is right over from the ramp at Tennessee Street. We had a community meeting in October including myself, the property owner/applicant, and some members from the Church of Christ. This meeting was continued because of some opposition that was expressed to staff right before the last scheduled public hearing. Staff did meet with both parties to try and resolve some of the issues. Basically the remainder of the presentation will focus on two of those issues; the first being parking. Marcus showed an overhead view of the site which showed both the church and the restaurant and the parking for both parties. In the past, when it was the Good Day Café, patrons would park in the church parking lot. The church has some issues with that especially in regards to liability. They were continuing to be concerned about future patrons parking in their parking lot. Marcus showed some more pictures of the parking lots including the accesses into and out of the parking lots. What sometimes happens is that people park in the church parking lot and walk to the restaurant.*

Some of the suggestions that staff had because of this parking issue, because the applicant did not desire that her customers use the church parking lot, in fact she discourages that, as far as the church was concerned we could not condition them, however, we had some recommendations. One recommendation is that they retain the bollixes which would prevent restaurant customers from accessing their parking lot the most convenient way. People would actually have to drive all the way around on Lassen Street, which, in staff's opinion would not be the logical thing to do if they were going to access the restaurant. Secondly, we would like the church to increase their signage in the parking lot. *Marcus showed a slide of the existing signage. They have some church only parking signs but on the day that I was out there, there was none at the walls which are close to the restaurant. A condition that we do have for the restaurant is that they increase their signage as to where their parking is available. There is limited parking right in the front of the restaurant but there is plenty of parking back in the hotel parking lot. Danny's Kitchen patrons can use that parking. We have a condition that a sign be put here at the entrance so that customers know they can park in the hotel parking lot.*

Another issue that the church patrons did express was the actual alcohol use that the applicant has petitioned for. After conversations with the church, not only at the meeting we had, but in subsequent conversations staff was not made aware of any specific concerns related to the alcohol use and potential problems. It is more of a fundamental issue that the church has with the use of alcohol and especially alcohol within 1000 feet of the church itself. They have consistently opposed alcohol use within 1000 feet. If you read the staff report you know that we here in Vallejo do not have a 1000 foot rule. Sometimes you do see that in

other cities. Our code says there should be no other alcohol sales within 1000 feet of each other. There are alcohol uses in their vicinity, Grocery Outlet which has just moved in, and Wagon Wheel Liquor. The reason why they can be in such close proximity is because there are two ways you can be exempt from it: 1) if you have a sales display area that exceed 11,000 square feet, which Grocery Outlet has; 2) if you have a bona fide restaurant, which Danny's Kitchen qualifies as. Danny's Kitchen is on-site sales not off-site which Grocery Outlet and Wagon Wheel are. Some of the conditions that we do have to limit the alcohol use and we feel can address some of the concerns are: 1) limited hours of operation. This would provide limited hours of conflict with the church. Only one service would be meeting at the same time. 2) no bar service is allowed; 3) have the responsible beverage service training; 4) we always have the use permit revocation or suspension tool.

I want to make a few other comments. The applicant is not here tonight but I have spoken with her on numerous occasions. We did try to come to a compromise with the church but we could not work anything out beyond what you see here as far as these conditions. She was aware of that and was willing to meet with them. I will let the church members get more into some of their issues. I am available to answer any questions you may have.

Commissioner Gourley: How far in footage is the Grocery Outlet and the Wagon Wheel from the restaurant?

Marcus Adams: The Wagon Wheel is 633 feet and the Grocery Outlet is 369 feet away.

Commissioner Reese-Brown: Are there any schools in close proximity?

Marcus Adams: Not within close proximity. There is the North Bay Hills Church which has a private school. That would probably be the nearest one.

Commissioner Reese-Brown: What is the reason that the applicant could not be here?

Marcus Adams: I do not know the exact reason she could not be here. She did know about the hearing but I also know that she was pretty comfortable with the report and with staff representing the project tonight. There are also a lot of church members here tonight and I do not want to speak any more as to why she is not here.

Commissioner Harrington-Cole: I am surprised that our ordinance does not have a measurement for schools. Were you around when that was written? I wasn't.

Marcus Adams: I was not around when it was deemed approved. I don't know.

Vice-Chairperson Manning opened the Public Hearing. Since the applicant was not present the hearing started with comments from the public.

John Harrington, 1129 Oakwood Ave: Thank you Planning Commission. I appreciate that you were here to hear this issue. As you know we were not here on October 6th. That is because we were not notified. We would have been here had we known. If she was here then and we are here now it is an even score. As you know the opposition was not here on October 6th because we were not notified. The process, whatever it is, is flawed. It is not working. What we are experiencing as a church is not good. We are not having a good experience. We

did not have enough notification. We are not happy at all that the rules do not help us. None of the proceedings that have gone on, up until the time that we met with Marcus, have given us any information or given us a chance to come and talk to you. This is our chance to talk to you. Also, I thought that we were supposed to be on the November 17 agenda and we were notified last Wednesday that we were going to be on tonight's agenda. We are not getting enough information and we would really like to ask for some more time. To his credit, Marcus did mediate a meeting between the church and Mrs. Kang. I did not realize that it was a community meeting. Frankly, I just thought it was giving her information. She does not agree with us. Obviously we welcome Marcus's suggestions. I don't think the answer is building walls or putting up more signs. I represent the Lassen Street Church of Christ which has been at this location since 1954. We understand about community. I don't think Mrs. Kang does. I have live here since 1978. I raised a family here. I have owned a business here for 23 years; a business which has received many awards. I co-founded the Great Vallejo Kentucky Derby. I married a Vallejo native that has worshiped at the Lassen Street Church of Christ her entire life. We do not want liquor sold 33 feet from the church's property. We do understand the difference between on-site and retail but it is just too close. It is just too close. I have a vision for Vallejo. A vision where police and fire are less needed because there are no alcohol related fires, injuries, brawls, or domestic disputes, or accidents, or trash, or crimes, or murders. This vision is only attainable if we stop issuing alcohol licenses so easily. The Planning Commission has a rule for 1000 feet from bona fide establishments, what about bona fide churches which need 1000 feet from both kind of liquor sales? Exhibit A clearly states they can sell alcohol from 7:00 AM to 10:00 PM. That is unacceptable to us. Last year Mr. Kang applied for a liquor license from ABC. Now Mrs. Kang is doing a flanking procedure going through you, the Planning Commission. You are being used as a vehicle for her stubbornness. Years ago, in Vallejo, a world-wide corporation saw the wisdom in not selling alcohol in such close proximity to a well established church. Why can't she. Honestly, we have been caught way behind in this issue. We need time to get up to speed. Please vote no, or at least give us more time to talk to the doctors, the businesses, the neighbors about this situation. I spoke to five businesses in the area and they are all opposed to this license but they did not have time to schedule anything. One more minute, please. If there is not a parking problem why are cars prominently displayed on Loop Street in the photo staff used? There are two lanes only on Loop Street. There is no parking. It seems that we both have some homework to do. By the way, I am not related to Suzanne Harrington-Cole.

Mike Rehmus, 737 Elmwood Ave: I am a Vallejo citizen. I am also a business owner, I run a publishing company. I am a member of the Lassen Street Church of Christ. Our property lines abut the restaurant. Section 2389A of the California ABC Act says, "The Department is specifically authorized to refuse the issuance, other than renewal or transfer, of any retail license located within the immediate vicinity of churches and hospitals." That is a 1000 foot rule. We opposed this before to the ABC and the application was withdrawn by the applicant. We will do that again. There really is no way through the ABC that she is going to get a license to serve liquor. That is the way it goes. Since we do share this land boundary we do want to talk to you a little bit about some experience. I have been there long enough; I was a patron of the café in its previous incorporation. There is no way there is enough parking there for the patrons to use. There simply is not. When it is a popular café they are going to park in the church parking lot because it is a shorter walk than walking around. I don't care if they have 100 parking spots or not those patrons do not use those. They use those in the immediate vicinity of that restaurant, which is very limited and frequently is

full of cars from people staying there. The real effective number of parking spaces is probably less than 10. I just patronize the place enough to know what happens there. I disagree with the conclusion that the restaurant patrons won't use our parking lot unless we have to go to the point of basically blocking it, which is not a really good solution for us. Now, I am a local citizen, I teach high school Bible classes in this location. I can tell you right now I don't need having liquor sold next door. That is one issue I would have to work harder with, with my students. They have enough distractions, attractions in the world that we are trying to teach them to be better Christians and here is this place serving alcohol. It just does not mix as far as I am concerned. I ask you to vote no on this. Thank you.

Jimmie Jones, 319 Howard Ave: I am an Elder at the Lassen Street Church of Christ. I am here in opposition to this Use Permit being sought by Danny's Kitchen to sell beer and wine. This business is located within approximately 30 feet of our back parking lot. It has only four parking spaces of its own for non-handicapped customers. The restaurant customers are constantly using our parking lot for parking even though it is clearly posted as private property. I previously provided staff with a Google map to show the close proximity of our lot to the restaurant and I believe that is included in your packet. During the restaurants regular hours of operation and expansion into evening hours on Fridays and Saturdays it would be attracting patrons to our lot during times when we schedule activities. For instance, last Friday night we had about 35 youngsters there having a Halloween party. We are opposed to having anyone who has been drinking utilizing our property, putting into jeopardy our members who have been walking or driving. We could gate off our parking lot to prevent use from outsiders but it is used by the neighborhood as a shortcut to the Jack-In-The-Box and the new Grocery Outlet. We wish to be good neighbors to those residents. We respectfully urge the Planning Commission to reject this permit. Thank you.

Jackie Donald, 51 Flamingo Ct, American Canyon: I have been a member of the Lassen Street Church of Christ since 1961. I grew up in Vallejo, taught in Vallejo, lived in American Canyon, which was then Vallejo, my whole adult life. Most of what I was going to say has already been said but I would like to leave you with three questions. First, I would like to ask what the City of Vallejo has to gain by assisting this business in securing a liquor license that is out of compliance with State guidelines. Second, what could it cost the City, which I have loved my life, in further loss of respect and trust that has been taking place over the last decade and what could it cost this neighborhood in potential harm? Finally, I would just like to ask, if you issue this variance what is next, liquor sales next to our schools? Surely Vallejo already has plenty of liquor licenses in appropriate places without supporting one in the backyard of a church and family neighborhood. Please do the right thing and stop this right here. I would respectfully ask that you vote no on this variance. Thank you.

Stan Williams, 110 Manhattan Dr: I am the minister of the Lassen Street Church of Christ. I live within 500 feet of Danny's Kitchen. I have a double interest by being in the neighborhood and being the minister of the church. Most of the things that I was going to say so brilliantly have already been said. I won't take very much of your time. I have a recreation in my life and I get teased about it but I like to go in the morning and have my little breakfast. I used to have eggs and bacon but beings as I have gotten old its oatmeal. I read the paper and I visit. Cindy's won awards year after year when they were at that location. When you have a good business (the present place doesn't have a good business) you see, and I was there about 4 times a week.... If you have ever been there you

know that there is no parking on that two-way street. The hotel is many times full, especially when Six Flags is open. There is no parking in that parking lot. That is an absolutely ridiculous suggestion. That does not happen much of the time. We saw the people parking. We were not trying to be unkind about it. We did not push the issue because there was no alcohol being sold. Cindy had talked to her insurance agent about the issue and before the fire she was working on getting a rider to cover the liability for our parking lot then things would have been fine. For that and all the other reasons I would like you to consider a church that has been there for 52 years. If that doesn't amount for something in Vallejo, that we have served thousands of people through the years, and are still serving through benevolence work, feeding the homeless. We try to serve and be a good neighbor in the community. The State has these guidelines that are clear. The manager of the Vallejo Market thanked me because they were glad they did not have to sell beer and wine there. They really liked that. Here you have a convenience store, how many convenience stores do you know that don't sell beer and wine? They do not and they happily agreed to that because of respect. I am sure the Planning Commission, and the State, and Valero, would have the same respect for people that have been there 52 years, serving the people faithfully. This is a deep conviction with us. It is not shallow. It is not some axe to grind. It has our deepest convictions for the good of our community. Thank you very much.

Jack Lewis, 119 Hackett Ct: I also attend the Lassen Street Church of Christ. I have lived in Vallejo since 1948. I have attended church there since it was build there in the 1950s. I have a question for Mr. Adams. Your suggestion was that we post signs in that parking lot. Who will police those signs? Who will police that lot when they are parking there at night and we are not having service? Also if they come in they might not be able to read those signs if they drink too much. Why does Vallejo not have that 1000 foot rule? Are we behind and cannot keep up with other cities. If we had that rule you would not even have to have this meeting tonight. I would not have to wait to go to ABC to get denied. The rest of my statements have been covered. Thank you very much.

Vice-Chairperson Manning closed the Public Hearing.

Commissioner Reese-Brown: The church mentioned that they have a school on site. Was that school passed by the Planning Commission?

Marcus Adams: They do not have a school on site just Sunday School and bible study.

Commissioner Reese-Brown: The notices that are sent to the residents in the area where are they sent?

Marcus Adams: Actually the church is on our mailing list. We showed them the list and they are there. They also say they did not get a notice when Grocery Outlet was approved but once again they were on the list and the notices were mailed out. I don't know what happens after the notices go out but the notices definitely went out. We do have a record of that.

Commissioner Reese-Brown: And it is also posted in the local newspaper?

Marcus Adams: That is correct.

Commissioner Reese-Brown: This is for on-site consumption and for beer and wine only?

Marcus Adams: Correct.

Commissioner Reese-Brown: What type of alcohol does Grocery Outlet sell?

Marcus Adams: They sell beer and wine too.

Commissioner Reese-Brown: No other type of alcohol?

Marcus Adams: No.

Commissioner Reese-Brown: How far are they from Danny' Kitchen?

Marcus Adams: 369 feet.

Commissioner Harrington-Cole: When you sent out notices do you happen to remember if Tim Manhattan was also on your list since he was within 500 feet? It seems to me that there would have been notification to all of the neighbors within 500 feet.

Marcus Adams: Within 500 feet, that would be correct. I can look. I know he said he was within 500 feet but we would have to check.

Commissioner Harrington-Cole: I know that in our neighborhood sometimes we sometimes don't get noticed as quickly as we would like but we do get noticed eventually and legally. In this case, at least, the church did get noticed. It did not go by without anybody finding out anything at all. 500 feet is really a small area when you consider that that is also a shopping area. This is on-site only, beer and wine, they are not going to do any catering, are they?

Marcus Adams: She did mention catering, however, when they have done catering in the past the caterer will be the one that has the license and the caterer brings in alcohol. That is how they have done it in the past for special events.

Commissioner Harrington-Cole: They would have to get a one day license for the catering.

Marcus Adams: That is right.

Commissioner Harrington-Cole: Was there any complaints with the parking before the beer and wine license request?

Marcus Adams: Apparently there were some issues before the current owner where parking was concerned. As far as staff I have not known of a big parking issue. I don't want to counter act what was stated by the church members. As far as that hotel filling up, I have never seen the parking lot full. That may happen but as far as being something that has been on staff's radar, not since I have been here.

Commissioner Harrington-Cole: It is only going to get worse when Grocery Outlet comes in. They really don't have adequate parking there but I don't know what the solution is. I do think the ABC License will not be approved. I do not know what you are going to do about parking.

Commissioner Chihak: The Grocery Outlet is already there. In your report, Marcus, you mentioned that the police did have some concerns about them serving alcohol. Could you expand on that a little bit?

Marcus Adams: I can't expand much more than what is in the report. Their initial comments were that they were not in opposition. They just had the condition as far as the hours. Once Grocery Outlet was located there, and because of the opposition, I talked to police again. Basically their response was that they were concerned with the increasing homeless population, pan handlers, and loiters. Staff's view is just that these things could be in issue for off-site sales but for on-site sales we just did not see a strong connection between these concerns, and the concerns given to us from the church, and the restaurant. Now, I do want to say, there are specific findings that need to be made, or that you can't make, regarding the use permit. Just from the reasons that the church gave us, although we are sensitive to them, we did not feel that we could not make those findings. As far as the parking, the owners of the restaurant and the owners of the hotel are the same. That is all one parcel. Danny's Kitchen does have access to that parking. They do not need to get permission for the restaurant patrons to use the hotel parking lot.

Commissioner Chihak: Because they own the hotel?

Marcus Adams: That is all one parcel. The hotel and restaurant are all on one single parcel, under one ownership.

Commissioner Chihak: If someone at the hotel calls over and orders alcohol do they deliver it to them?

Marcus Adams: There is a condition that says that the beer and wine has to be served at the tables in the restaurant only.

Commissioner Chihak: Is there any restriction that it has to be served with food?

Marcus Adams: There is a restriction that says that it has to be served during their normal business hours and that they cannot have bar service. That is usually how we address that.

Commissioner Gourley: There was some mention in the packet about food service only. With that said, I certainly want the church members here to understand that I have nothing but respect for your beliefs and your concerns and ABC may, in fact, not allow the permit but with the findings and conditions that we are presented with I find that it is appropriate to offer approval of use permit 07-0012. That is my motion.

Vice-Chairperson Manning: Before we vote on that motion I want to ask a couple of questions. Marcus, can you explain what the procedures are for ABC approval?

Marcus Adams: Normally what happens is the applicant goes to ABC. ABC asks them if they have approval from the City. There is a form that they bring to us that says if they need a use permit, and if they do, did they receive that use permit. In this case when she came to us staff told her she does need the use permit because the previous restaurant did not have one. That is when she applied with the City. If she gets the approval here she can go back to ABC and go through their process. Sometimes there is a finding of Public Convenience or Necessity that needs to be made if the census tract has an oversaturation of

establishments or because of high crime. This census tract does not have that so they won't need a PCN finding but they still need to go to ABC.

Vice-Chairperson Manning: Does the ABC alcohol permit have the 1000 foot rule? Do you know?

Marcus Adams: I will take the church members' word for it. I don't have that information.

Vice-Chairperson Manning: Can I ask our attorney?

Janet Coleson: There are two separate requirements that this owner is going to have to comply with. One is the use permit from the City of Vallejo and we have our requirements. They need that. The second thing is the permit from ABC, a State agency. They have their set of requirements. These are two separate things. The owner is required to get both of them. Our issue tonight, and our only issue, is the use permit. That permit from ABC is completely separate from the issue of the use permit. She needs both of them but they are from two separate agencies.

Vice-Chairperson Manning: They do have a 1000 foot rule?

Janet Coleson: I don't know.

Vice-Chairperson Manning: I think, again, here is a reason why we need the City to update our General Plan. This is something that, as a community, we could come together and make a decision about the 1000 foot rule. It seems like, at least once in every meeting something comes up where we need an updated General Plan. I want to keep bringing that up. Based on the information that we have and the rules that we have today is there any procedural reason for us that we could use to not approve this?

Janet Coleson: You have to be able to make the findings for the use permit. Those are contained at the end of your staff report and in the resolution. The findings mostly have to do with compatibility: 1) The location, size, design and operating characteristics of the proposed conditional use will be compatible with adjacent uses, buildings or structures, with consideration given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities, to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity and physical character of surrounding streets; and to any other relevant impact of the proposed use. 2) The impacts, as described in subsection 1 above and the location of the proposed conditional uses are consistent with the City's General Plan. If you can make findings of incompatibility they you could deny the application. If you cannot find findings of incompatibility then you must make findings of compatibility.

Vice-Chairperson Manning: I believe that on-site liquor sales are taxed. Is that correct?

Marcus Adams: I believe that is correct.

Commissioner Reese-Brown: Is there anything in here that will give a temporary permit to see how this will work?

Janet Coleson: There is not a temporary permit but there is always, if you find that they are not meeting the conditions, the revocation process.

Commissioner Reese-Brown: I really wish the applicant was here. There are things I would like to ask her and she is not here to answer.

Vice-Chairperson Manning: I just have one more comment. I do not feel that this is compatible. I also feel that it is a dilemma for me but I am going to vote against this. The dilemma is that we need sales tax revenue and we also, as a Commission, want to show that we are in support of business in this community. If we had updated the General Plan I think this is one of the things that we would have, as a community, discussed and handled. That being said we have a motion on the floor and I am going to call for the vote.

AYES: Gourley, Harrington-Cole.

NOS: Manning, Chihak, Reese-Brown.

ABSENT: Turley, Peterman.

Motion fails, application denied.

2. Specific Plan Amendment 08-0005 is a City-initiated amendment of the Downtown Vallejo Specific Plan and Downtown Master Plan (Ordinance No 1553 N.C., 2d) to permit a broader range of land uses along the Georgia Street Corridor, modify the entitlement procedures of certain specified uses, and repeal the temporary land use regulations adopted in Ordinance No. 1591 N.C., (2d) and Resolution #07-155.

Staff recommends the Planning Commission make a recommendation of approval to the City Council.

Vice-Chairperson Manning recused herself because she owns property in the project area.

Commissioner Reese-Brown recused herself because she owns property in the project area.

We do not have a quorum. Meeting was continued to the meeting of November 17, 2008.

3. Use Permit 08-0012 is an application to serve beer and wine at the existing waterfront café located at 2000 Glen Cove Marina Road. The proposal includes both interior and exterior alcohol service on the marina grounds. Proposed CEQA Action: Exempt. Staff Planner: Marcus Adams, 648-5392.

Staff recommends continuance to a date uncertain. Project will be readvertised.

Commissioner Gourley made a motion to continue the project to a date uncertain with the project to be readvertised in the appropriate time before returning to the Planning Commission.

AYES: Manning, Chihak, Harrington-Cole, Gourley, Reese-Brown.

NOS: None.

ABSENT: Turley, Peterman.

Motion carries.

Vallejo Planning Commission Minutes
November 3, 2008

L. OTHER ITEMS

1. Appointment of Liaison to City Council.

Commissioner Harrington-Cole volunteered for this position and was appointed.

M. ADJOURNMENT

There being no further business to discuss, this session of the Vallejo Planning Commission is now adjourned at 8:00 pm.

Respectfully submitted,



(for) DON HAZEN, Secretary



Item K-1

**STAFF REPORT – PLANNING
CITY OF VALLEJO
PLANNING COMMISSION**

DATE OF MEETING: November 17, 2008

PREPARED BY: Marcus Adams *MA*

PROJECT NUMBER: UP #08-0012

**PROJECT
DESCRIPTION:**

The applicant is requesting a conditional use permit to serve beer and wine at the Glen Cove Marina Waterfront café. Alcohol would be served during normal business hours, Tuesday-Friday and Sunday, 10a.m.-9p.m, Friday and Saturday 10a.m.-11p.m. The applicant's proposal would include both interior (current seating capacity is 34) and exterior alcohol service on the marina grounds.

RECOMMENDATION: Approve with Conditions

CEQA: Categorically Exempt (Section 15301)
(Class 1- Existing Facilities)

PROJECT DATA SUMMARY

Name of Applicant: Glen Cove Marina Waterfront Café,
c/o: Nima Gabby

Date of Completion: February 26, 2008

General Plan Designation: Commercial Waterfront

Zoning Designation: Waterfront Commercial (CW)

Site/Surrounding Land Use:

Site: 2000 Glen Cove Marina Road
APN 0079-340-230

North: Residential
South: Carquinez Strait
East: Residential

West: Carquinez/Mare Island Strait

Lot Area: 133,293
square feet

Total Floor Area: 39,774 square feet

Landscape Area/Coverage: Not Applicable

Parking Required/Provided: **16** required **restaurant** spaces (817 s.f.)
4 required office spaces (1,179 s.f.)
4 required **workroom/storage** spaces (1,270 s.f.)
2 required **single family residence** spaces

26 total req. spaces/ 37 provided spaces

BACKGROUND SUMMARY

The Glen Cove Marina Waterfront Café was originally a small store which sold ice cream, candy and other items. In 1986, the store was granted a use permit for off-sale of beer and wine. The store went dormant for a period of time consequently, deeming the use permit abandoned. In 2005, a business license was issued for a café in the store location. The current owner of the Marina purchased ownership of the café this year (2008) and as part of his plans to expand the interior floor area of the café, would like to offer beer and wine during normal business hours, Tuesday-Friday and Sunday, 10a.m.-9p.m, Friday and Saturday 10a.m.-11p.m.

On October 22, 2008, staff hosted a community meeting at the Café to inform neighbors of the project and to give the applicant an opportunity to answer questions regarding the use permit application. The meeting is discussed in the following section.

ANALYSIS

On-sale alcohol establishments are allowed within the Waterfront Commercial district upon conditional use permit approval, per Section 16.82.060(Q) of the Vallejo Zoning Ordinance. The major issues staff analyzes when reviewing such establishments are whether the restaurant meets the Municipal Code definition of a "bona fide eating establishment" in order to qualify for the 1,000 foot exemption for locating near another on-sale establishment; whether the restaurant will include bar service only; and potential negative impacts to the neighborhood.

Bona Fide Eating Establishment

Following is the definition and standards for bona fide eating establishment qualification:

"Bona fide eating place" means a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation which has: 1) suitable kitchen facilities; 2) a primary use of sit down service to patrons; 3) adequate seating arrangements for patrons provided on the premises; 4) alcoholic beverages served for consumption on the premises only when served at tables or counters. A bona fide public eating place, which includes, but is not limited to, any facility which has obtained a State Department of Alcoholic Beverage Central license Type 41, On-Sale Beer and Wine Eating Place or Type 47, On-Sale General Eating Place, does not include any billiard or pool hall, video arcade, bowling alley or adult entertainment business. (Adapted in part from the California ABC Central Act, Business and Professions Code, s 23038); and 5) a minimum of sixty-seven percent of the bona fide eating place's gross receipts shall be from the sale of meals and other non-alcoholic products. The owner/operator shall submit at the time of city business license renewal certified evidence of the total meal and other non-alcoholic products sales upon request by city officials, for the purpose of verifying compliance.

Based on conversations with the applicant and the submitted floor plan (see Attachment 2) staff believes the restaurant will meet the definition of a bona fide eating establishment.

Bar Service

The existing café does not have a bar and the applicant has stated to staff that a bar is not planned as part of the current building permit to expand the café area. Staff recommends as a condition of approval any future tenant improvement including a bar receive Planning Commission approval.

Potential Negative Neighborhood Impacts

At the October 22nd community meeting, twelve Glen Cove residents were given the opportunity to express their comments and concerns regarding proposed alcohol sales at the café. On October 28th, staff received a letter from a Glen Cove resident, in opposition to the application (see Attachment 4). Following are the concerns expressed at the meeting and in the opposition letter:

1. Hours of operation
2. Customer access to the dock/marina area from the outdoor dining area
3. Designated areas of outdoor dining
4. Noise
5. Impact on Bay Ridge Trail public access
6. Café sold at reduced price to current owner based on expected neighborhood opposition to beer/wine permit issuance
7. Increase in property value due to alcohol permit should be shared with neighboring homeowners and the City to off-set interruption of peaceful enjoyment and increased cost of public services to the City
8. Eliminates ability of visitors to the Marina from bringing their own beer and wine, with inflated prices being charged for Café alcohol

9. Marina boat owners silenced due to potential retribution of rent increase on berths

- Items 1-5

To address neighbor concerns about the hour's café patrons would be able to dine outside and associated noise, the applicant has agreed to a condition of approval limiting outdoor dining to sunset and indoor dining to 11 p.m Friday and Saturday. Extension of outdoor dining hours beyond sunset will require a notice to the Glen Cove Community Association and Planning Division approval.

The applicant originally proposed to have two designated outdoor dining areas; one located east of the café and a larger area west of the café. The proposed area west of the café is adjacent to a trailhead along the Bay Area Ridge Trail (see Attachment 3). Neighbors were concerned about alcohol being served in such close proximity to a public area used by families and the adjacent single family homes. Staff was also concerned that the two areas would be hard to monitor with the limited café staff. Based on these concerns, the applicant has agreed to limit the outdoor dining area to the east side of the café, with the west side only being used for special events. Special events which include live entertainment will require Planning Division approval and notification to the Glen Cove Community Association.

One resident expressed concern that café patrons would have access to take their drinks down to the dock area (see Attachment 3). He also expressed concern that visitors to the dock would have to walk through the outdoor dining area. The applicant explained that beer and wine would not be served by the bottle or allowed outside the dining area. To further discourage alcohol being taken down to the visiting dock area, staff recommends as a condition of approval that a gate be installed at the top of the dock ramp with signage prohibiting alcohol beyond the dining area.

- Items 6-9

Upon receiving the opposition letter from the Glen Cove resident, Staff spoke with the resident to get clarification on his four reasons why he felt the application should be denied. Staff explained that even if the property was sold to the current owner at a reduced price due to lack of an alcohol permit, and subsequently, the property value for the café increased, the City does not have the ability to require the applicant to share the increase in profits, due to alcohol sales, with neighboring residents or the City.

Staff also explained that the purpose of the community meeting, and the public hearing, is to give neighbors the opportunity to express their concerns and opposition to the proposed alcohol use. The resident was also informed that the applicant agreed, at the request of the neighbors, to continue the Commission hearing from its scheduled date (November 3rd)

so that the hearing would be held after his November 12th meeting with the Vallejo Alcohol Policy Coalition (VAPC).

Staff stated to the resident that though the ability of Glen Cove residents to bring their own beer and wine to the Marina grounds may be eliminated, it would be in the café's best interest to offer their beer and wine at reasonable prices since the café's primary clientele will be the boating community and Glen Cove residents.

Finally, staff informed the resident that they were sensitive to all the points he was making regarding the application, but that these objections (except for greater neighborhood opposition) would not be grounds for denial based on the required findings for a use permit.

Third Party Comments

The VAPC board met with the applicant on November 12, 2008. VAPC's formal recommendation will be provided to the Planning Commission at the November 17th hearing. The Police Department did not comment on the project.

ENVIRONMENTAL DETERMINATION

The proposed project is categorically exempt due to the fact that the existing use would involve no expansion or new construction outside of the existing building footprint (CEQA Section 15301, Class 1, Existing Facilities).

CONCLUSION/RECOMMENDATION

Staff believes that the concerns raised by neighbors can be sufficiently addressed with responsible Marina management and the associated conditions of approval and that the addition of beer and wine will enhance the dining experience for café patrons. Staff has determined that the proposed use, as conditioned, is consistent with the City's General Plan and Municipal Code, and all applicable ordinances, standards, guidelines, and policies.

Staff recommends that the Planning Commission approve Conditional Use Permit #UP 08-0012 based on the attached findings and subject to the attached Conditions of Approval (See Attachment 1).

EXPIRATION

Approval of a use permit shall expire automatically twenty-four months after its approval unless authorized tenant improvements have commenced prior to the expiration date.

APPEAL

The applicant or any party adversely affected by a decision of the Planning Commission may within ten days after the rendition of the decision of the

CITY OF VALLEJO PLANNING COMMISSION

RESOLUTION NO. PC 08-__

**A RESOLUTION OF THE PLANNING COMMISSION
APPROVING A CONDITIONAL USE PERMIT APPLICATION
USE PERMIT #08-0012**

Glen Cove Marina Waterfront Café

The project is located within the Marina "Lighthouse" building @ 2000 Glen Cove Marina Road.

APN# 0079-340-230

I. GENERAL FINDINGS

WHEREAS an application was filed by Nima Gabbay seeking approval for a conditional use permit to serve beer and wine at a bona fide eating establishment; and

WHEREAS the City of Vallejo Planning Commission conducted a duly noticed public hearing to consider the application for the Conditional Use Permit on November 17, 2008 at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission; and

WHEREAS based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

II. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

Section 1. The Planning Commission finds that on the basis of the whole record before it there is no substantial evidence that the project will have a significant effect on the environment per Section 15301, Class 1 Categorical Exemption, "Existing Facilities" of the California Environmental Quality Act.

III. FINDINGS RELEVANT TO USE PERMIT AND FINDINGS FOR PROJECT APPROVAL AND FOR DETERMINATION OF PROJECT CONSISTENCY WITH APPLICABLE GENERAL PLAN

Section 2. The Planning Commission finds that applicant submitted Major Use Permit application 08-0012 for an "on-sale general" liquor establishment pursuant to the City of Vallejo Municipal Code Chapter 16.82 Conditional Use Permit Procedure.

Section 3. Planning Commission finds, based on the facts contained in the staff report attached herein and incorporated herein by this reference, and given and the evidence

presented at the public hearing, and subject to the conditions attached to this resolution that:

1. The location, size, design and operating characteristics of the proposed conditional use will be compatible with adjacent uses, building or structures, with consideration given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities, to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity and physical character of surrounding streets; and to any other relevant impact of the proposed use, *as outdoor dining will be limited to sunset and outdoor live entertainment will require Planning Division approval and notice to the Glen Cove Community Association.*
2. The impacts, as described in subsection 1 and the location of the proposed conditional use are consistent with the City's General Plan, *specifically, the stated purpose of a "waterfront village in Glen Cove providing a focal point and services for the Glen Cove community and visitors to the Benicia State Recreation Area (pg. III-11)."*

IV. RESOLUTION APPROVING THE CONDITIONAL USE PERMIT APPLICATION FOR AN ON-SALE LIQUOR ESTABLISHMENT LOCATED AT 2000 GLEN COVE MARINA ROAD.

NOW, THEREFORE, LET IT BE RESOLVED that the Planning Commission hereby APPROVES the Conditional Use Permit application (UP# 08-0012) for an "on-sale general" liquor establishment, based on the findings contained in the staff report attached hereto and incorporated herein and subject to the Conditions of Approval attached to this resolution.

V. VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Vallejo, State of California, on the 17th day of November, 2008, by the following vote to-wit:

AYES:
NOES:
ABSENT:

KENT PETERMAN, CHAIRPERSON
City of Vallejo PLANNING COMMISSION

Don Hazen
Planning Commission Secretary

CONDITIONS OF APPROVAL
MAJOR USE PERMIT #08-0012
(APN# 0079-340-230)

CONDITIONS OF APPROVAL:

Planning Division

1. Future tenant improvements, which would include a bar, will require Planning Commission approval.
2. Outdoor dining hours shall not extend beyond sunset unless approved by the Planning Division after notice to the Glen Cove Community Association.
3. Indoor dining hours shall be Tuesday-Friday and Sunday, 10a.m.-9p.m, Friday and Saturday 10a.m.-11p.m. Modification of these hours will require Planning Division approval after notice to the Glen Cove Community Association
4. The outdoor dining area shall be limited to the west side of the café, with the east side being utilized only for special events.
5. Prior to ABC license approval, the applicant shall install a gate, with signage prohibiting alcohol beyond the dining area, at the top of the visiting dock ramp landing.
6. The applicant shall provide to the Planning Division confirmation of Public Convenience or Necessity from the Department of Alcohol and Beverage Control prior to service of alcohol.
7. The applicant shall establish a recycling program for the building in coordination with the Planning Division and when established, either participate in the Citywide commercial recycling program or demonstrate to the satisfaction of the Planning Division that the established recycling program is sufficient or is not required.
8. On-sale liquor establishments shall not sell alcohol for off-site consumption.
9. The percentage of alcohol sales shall be less than thirty three percent of gross receipts. The owner/operator shall submit at the time of city business license renewal certified evidence of the total meal and other non-alcoholic products sales upon request by the police department or other city officials, for the purpose of verifying compliance.
10. No malt liquors and/or fortified wines will be sold at this location.
11. Any live entertainment must comply with the Adult Use Regulations, Section 16.59 of the Vallejo Municipal Code.

12. No exterior vegetation shall be planted that is susceptible to use as a hiding place for persons on the premises.
13. All graffiti shall be removed from the walls, fences, and/or buildings within one hundred twenty hours of its appearance on the property. If the property is controlled by a "management company," then the tenant shall, within two days, notify the company by "certified mail," of the graffiti.
14. Establish and maintain a "complaint response/community relations" program which includes the following:
 - a. Coordinate with the local community division of the Vallejo police department regarding appropriate monitoring of community complaints concerning activities associated with the subject facility.
 - b. A local phone number for the area commander of the local police substation in the geographical area where the establishment is located for the receipt of complaints from the community regarding the subject facility and the main Vallejo police department phone number shall be posted at the entry or at the reception desk.
 - c. A representative of the subject facility should voluntarily meet with representatives of the neighbors and/or neighborhood association, at their request, to resolve neighborhood complaints regarding the establishment.
15. Sign and Advertising:
 - a. The following signs shall be prominently posted in English, Spanish, and the predominant language of the facilities' clientele:
 - (1) A sign shall be prominently posted within any subject establishment, and outside so as to be seen by anyone entering the establishment, stating that "California State Law prohibits the sale of alcoholic beverages to persons under twenty-one years of age." (A notice shall also be placed on all menus.)
 - (2) "No Loitering or Public Drinking" signs shall be posted in the alcohol beverage display areas in a readily visible manner.
16. A copy of the conditions of approval of the conditional use permit must be kept on the premises of the establishment and presented to any police officer or any authorized city official upon request.
17. The restaurant owners and all servers shall within ninety days of employment, complete an approved course in "responsible beverage service training". The outlet shall within ten days provide evidence of the employee's completion of this

training to the planning division. A copy of the certification for completion of the training course shall be posted in a readily visible public location. If the restaurant is leased, the lessee and staff will also be required to complete the training.

18. Whenever any of the situations identified in Section 16.82.140 occurs, a use permit issued for on-site alcohol sales in accordance with this chapter shall become null or void, and a new use permit shall be required prior to resuming the sale of alcoholic products.

STANDARD CONDITIONS

Crime Prevention

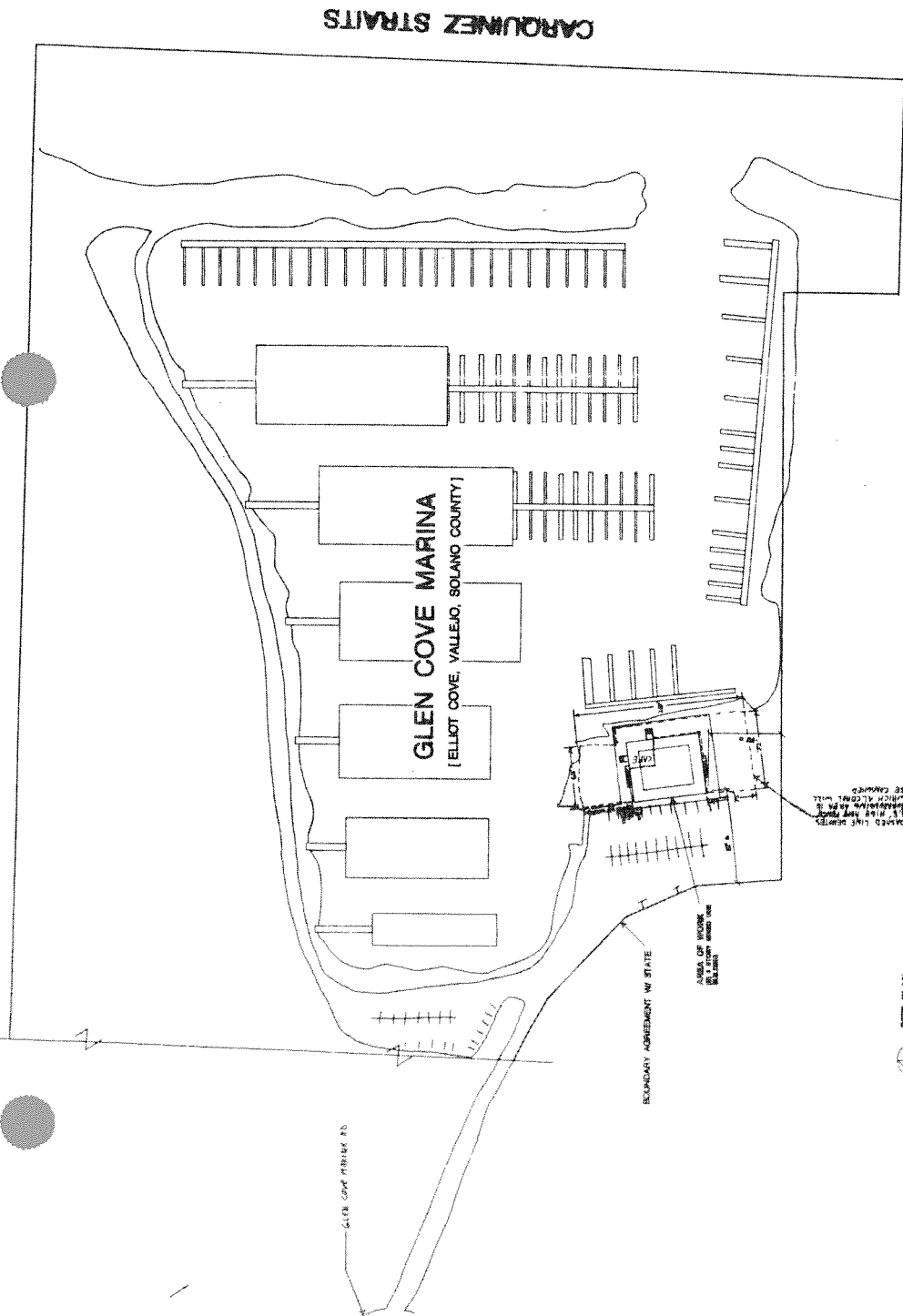
1. The premise shall be equipped and maintained in good faith and shall possess, in operative condition, such convenience for cooking foods as stove, ovens, broilers, or other devices as well as pots, pans or containers which can be used for cooking or heating foods on the type of heating device employed.
2. The area surrounding the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the stated area.
3. All employees must complete the LEAD training provided by ABC or similar training such as the RBS training.
4. This shall not convert to a public premises license.

Planning Division

1. The premises shall be subject to fire and health inspection by the city and the use permitted thereon shall be contingent upon compliance with fire and health regulations and requirements (VMC 16.58.040[D][5])
2. Such use shall not adversely affect the neighborhood in which it is located. For the purposes of this subsection, "adversely affect" shall mean to impact in a substantial, negative manner the economic value, habitability, or enjoyability of properties in the immediate area (VMC 16.58.040[D][6]).
3. If the Planning Division, either independently or as a result of complaints from the public, becomes aware that the use is being conducted in a manner which violates the conditions of this use permit or other applicable City regulations, and Planning staff is unable to obtain compliance or abatement, staff will refer the use permit to the Planning Commission for possible suspension or revocation per Section 16.82.110, Vallejo Municipal Code.

GENERAL CONDITIONS

1. The applicant shall defend, indemnify, and hold harmless the City of Vallejo and its agents, officers, and employees from any claim, action, or proceeding against the City and its agents, officers, and employees to attack, set aside, void, or annul this approval by the City. The City may elect, at its discretion, to participate in the defense of any action.
2. The conditions herein contained shall run with the property and shall be binding on the applicant and all heirs, executors, administrators, and successors in interest to the real property that is the subject of this approval.



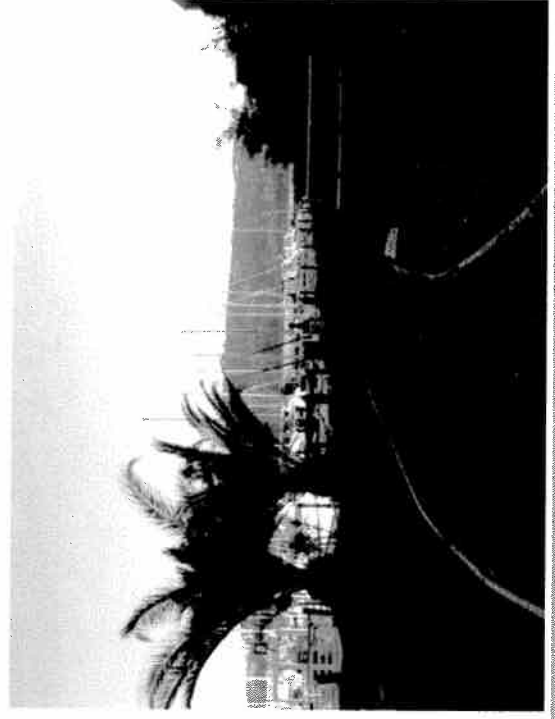
GLEN COVE MARINA

2000 GLEN COVE PARKWAY VALLEJO, CALIFORNIA

707-551-1111 AND 077-340-110

East side outdoor dining area

Attachment 3



West side outdoor dining area



Attachment 3



Dock ramp

Glen Cove Marina Waterfront Café

Attachment 3



ATTACHMENT 3: GLEN COVE MARINA WATERFRONT CAFE



To: Planning Commission, City of Vallejo

Subject: Use Permit App. # 08-0012 - Glen Cove Marina Waterfront Café

Issue: To allow or not allow beer and wine service interior (seating capacity 34) and exterior alcohol (beer/wine?) service on Marina grounds Wed.-Sunday, 11am to 7pm.

OPPOSITION TO BEER/WINE LICENCE

Reason #1: The Glen Cove Marina Waterfront Café (hereinafter GCMWC) was purchased at a reduced price because there was no beer/wine license in place and the seller knew that the prospect of gaining such a license without serious neighbor opposition was remote. With a brand new beer/wine permit in hand, the owners of GCMWC can immediately resell the Café for a profit (or for less of a loss) without spending a dime to actually install beer/wine service.

Reason #2: The increase in value to GCMWC property because of the alcohol license belongs not to GCMWC but to the neighbors whose peaceful enjoyment will be impaired and to the City of Vallejo for additional public safety requirements that won't be sufficiently funded with license fees.


(Question) Will the Marina property be re-appraised for property tax increase purposes if the license is granted?

(Questions) If the City places a condition on the license that would require GCMWC to distribute to the City of Vallejo and neighboring homeowners the accretion in Marina value arising from granting the beer/wine license, will GCMWC still want the beer/wine license? Would GCMWC trade rent control on its' berths for a beer/wine license?

Reason #3: Trust the input of immediate neighbors of the Waterfront Café on license benefits/detriments. And be aware that lack of negative input from Marina boat owners/residents is the silence of persons who know they are subject to an immediate GCMWC rent increase on berths.

Reason #4: Presently, visitors of the Marina can bring their own beer and wine to enjoy inside while dining and outside, while viewing the marina. If GCMWC is granted a license, the Waterfront Café will charge whatever the market will bear for beer/wine and prohibit BYOB, both inside the Café and outside on Marina grounds. Qui bono?

Respectfully submitted,


Art Krannawitter
135 Camino del Sol
Vallejo, Ca 94591
557-5909

10-28-08P01:10 RCVD

Cc: Glen Cove Marina Waterfront Café, Mayor Davis/City Council













Sorry! When printing directly from the browser your directions or map may not print correctly. For best results, try clicking the Printer-Friendly button.

555 Santa Clara St
Vallejo, CA 94590-5922

2000 Glen Cove Rd
Vallejo, CA 94591-7225

Total Estimated Time: 11 minutes
Total Estimated Distance: 5.03 miles

▼ Directions from A to B:

-  1: Start out going SOUTH on SANTA CLARA ST toward GEORGIA ST. 0.1 mi
-  2: Turn RIGHT onto GEORGIA ST. 0.2 mi
-  3: Turn LEFT onto MARE ISLAND WAY. 0.3 mi
-  4: MARE ISLAND WAY becomes CURTOLA PKWY. 1.4 mi
-  5: CURTOLA PKWY becomes I-780 E. 1.2 mi
-  6: Take the GLEN COVE RD exit, EXIT 10. 0.2 mi
-  7: Turn RIGHT onto GLEN COVE RD. 0.2 mi
-  8: Stay STRAIGHT to go onto GLEN COVE PKWY. 1.2 mi
-  9: Turn LEFT onto GLEN COVE MARINA RD E. 0.2 mi
-  10: End at 2000 Glen Cove Rd Vallejo, CA 94591-7225

Estimated Time: 11 minutes Estimated Distance: 5.03 miles

Total Estimated Time: 11 minutes

Total Estimated Distance: 5.03 miles

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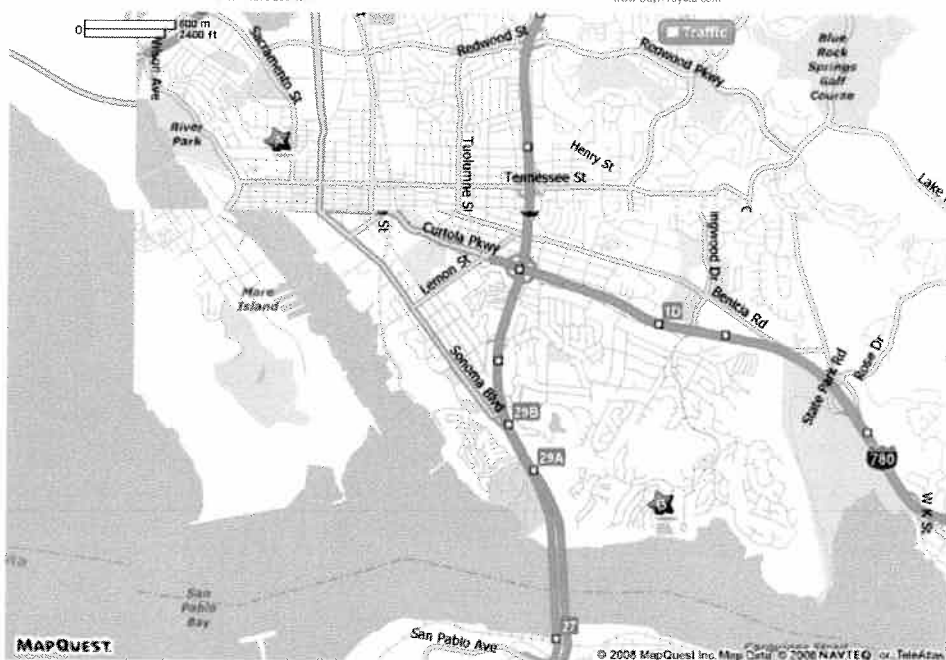
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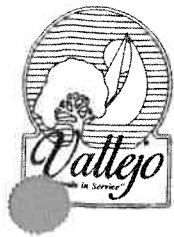


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Attachment 6

500' Conflict of Interest Map



**STAFF REPORT – PLANNING
CITY OF VALLEJO
PLANNING COMMISSION**

DATE OF MEETING: November 17, 2008

PREPARED BY: Marcus Adams *MA*

PROJECT NUMBERS: Variance #08-0001, PCN #08-0002, UP #08-0010

PROJECT

DESCRIPTION: The use permit application is a request by Fresh & Easy Neighborhood Market to sell liquor (beer and wine) “off-site” at their new Springstowne Center store. Fresh & Easy will be constructing a new 14,000 square foot retail store offering fresh groceries, dry goods, a bakery, and prepared meals. Traditionally, the stores feature wines exclusively available at their stores at relatively affordable prices.

The requested variance is required due to the fact that the proposed store location is within 1,000 feet of two off-sale alcohol establishments (Island Pacific supermarket and Springstown Bottle Shop). A finding of Public Convenience or Necessity is required because the proposed store location is located within a census tract (2502) that is over-concentrated with off-sale alcohol establishments. The conditional use permit is required for alcohol sales. Planning Commission approval is not required for site development permits therefore; site design and architecture are not analyzed in this report.

RECOMMENDATION: Approve with Conditions

CEQA: Categorically Exempt (Section 15332)
(Class 32, In- Fill Development Project)

PROJECT DATA SUMMARY:

Name of Applicant: The Bergman Companies (Fresh & Easy)

Date of Completion: September 10, 2008

General Plan Designation: Commercial Retail

Zoning Designation: Pedestrian Commercial (CP)

Site/Surrounding Land Use: **Springstowne Center
2143 Springs Road**

APN 0071-610-540

North: Commercial
South: Residential
East: Commercial
West: Commercial

Lot Area: 133,293
square feet

Total Floor Area: 14,000 square feet

Landscape Area/Coverage: 22.9% lot coverage

BACKGROUND SUMMARY

Fresh & Easy, a self-described "neighborhood market" is opening its first Vallejo grocery store on a vacant parcel within the Springstowne Shopping Center (see Attachment 2, site plan). Fresh & Easy, with traditional beer and wine sells at its stores, has requested a variance for alcohol sells at its Springstowne market. The variance is required due to two other off-sale alcohol establishments within 1,000 feet of their location. A conditional use permit and finding of Public Convenience or Necessity will also be required. Proposed hours of operation are 6a.m. to midnight. Following is an analysis of the three requested entitlements.

ANALYSIS

REQUIRED VARIANCE FINDINGS

Section 16.84.030 of the Vallejo Zoning Ordinance spells out the specific findings that must be made for the Planning Commission to approve a variance request. The following is a list of the required findings and an analysis of how the proposal relates to each.

A. *That a hardship peculiar to the property and not created by any act of the owner exists. In this context, personal, family or financial difficulties, loss of prospective profits and neighboring violations are not hardships justifying a variance. Further, a previous variance can never have set a precedent, for each case must be considered only on its individual merits.*

The proposed sales floor area of 10,244 square feet is 756 square feet short of qualifying from an exemption from the "1,000 foot" alcohol establishment separation requirement. The applicant has stated that the hardship is the "strict interpretation and application" of the 1,000 foot requirement [Section

16.82.060(R)(16)VMC], which would result in deprivation of property rights enjoyed by others in the area (see Attachment 3).

B. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity and that a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his neighbors.

The existing grocery store within the shopping center, Island Pacific, exceeds 11,000 square feet of sales floor area and sells beer and wine. Granting of the variance would not "constitute a special privilege" not enjoyed by Island Pacific.

C. That the granting of the variance will not be materially detrimental to the public health, safety or welfare or will not impair an adequate supply of light and air to adjacent property.

Staff believes because the proposed beer and wine sales are part of a full-service grocery store and not a liquor store, public health, safety or welfare will not be negatively impacted.

The proposed building has adequate setbacks from adjacent residential uses and will not impair supply of light or air.

D. That the conditions upon which the requested variance is based would not be applicable, generally, to other property within the same zoning classifications.

Shopping centers within Pedestrian Commercial zoning classifications do not have more than one grocery market so the subject condition is not applicable to other properties in Vallejo.¹

E. That either the variance is so insignificant that granting it will not be incompatible with the Vallejo General Plan; or the potentially adverse effects of the variance on said plan, which would be avoided by denying the variance, are exceeded by the individual hardship which would be relieved by granting the variance.

The potential adverse effects of increasing the amount of alcohol available to the adjacent neighborhood would be avoided by denying the variance. Staff believes, however, the benefit of a full service, non-ethnic grocery to the neighborhood and the city as a whole outweighs these potential effects.

REQUIRED PUBLIC CONVENIENCE or NECESSITY FINDINGS

Because of an over-concentration of retail alcohol outlets within the census tract, a finding that the applicant's license would serve "public convenience or necessity" is required for license approval by the Department of Alcoholic

¹ This is usually due to a grocer's fear of cannibalized sales or "exclusivity agreements, land holding/land use agreements" imposed by a grocery store and/or commercial property owner within a shopping center.

Beverage Control (ABC). As part of the formula to make a finding of public convenience or necessity, responses to the following questions approved by the Planning Commission (10/16/95) are considered in their PCN application determination:

1. *How significant is the "undue concentration?"*

Fresh & Easy is located in Census Tract 2502 which has an over-concentration of one off-sale alcohol establishment.

2. *How close is the proposed site to a residential neighborhood?*

The nearest residential area is approximately 30 feet to the south of the store (see Attachment 2-site plan).

3. *How close are other alcohol outlets?*

Island Pacific, an ethnic grocery market located within Springstowne Center, is approximately 320 feet from the subject parcel. Springstown Bottle Shop (a liquor store) is located across Springs Road, approximately 600 feet from the subject parcel.

4. *Are there similar businesses already in the area?*

(See Question #3 response)

5. *Do similar businesses have a liquor license?*

Although no small neighborhood full-service grocers are located in Vallejo, similar grocers such as Trader Joes and Wal-Mart Neighborhood Markets do sell beer and wine.

6. *Is the sale of alcohol a normal part of the business?*

(See Question #5 response)

7. *Is there a history of alcohol-related problems in the area?*

According to the Vallejo Alcohol Policy Coalition (VAPC), there was a past history of alcohol related problems in the area, but statistics have not been kept for the past few years. To their knowledge, there has only been one incident in the area, i.e. census tract, in the past few years.

VAPC did express concern regarding the self-check out system used by Fresh & Easy (aka, assisted check out) to the applicant at their board meeting on November 12, 2008. VAPC's formal recommendation(s) will be provided to the Planning Commission at the November 17th hearing.

REQUIRED USE PERMIT FINDINGS

To determine if the proposed alcohol sales would have a negative impact on desirable neighborhood character, staff analyzed the following issues: over-concentration of off-sale establishments in consideration of the neighborhood demographic; the proposed midnight store closing hour; self-service check-out registers; General Plan consistency; and noise.

- Over-Concentration/Neighborhood Demographic

Though Fresh & Easy features wine at affordable prices, these wines are quality wines not normally associated with alcohol abuse. The grocery store is a full-service market with alcohol sales, not a corner grocery store with alcohol being the bulk of sales.

While conducting a site visit, staff spoke with neighboring residents about the proposed use and the neighborhood in general. They stated to staff that there has been a reduction in undesirable activities that once plagued the area. Residents welcomed the idea of a non-ethnic grocery to their neighborhood and staff has not received any comments in opposition to the proposed alcohol sales.

- Midnight Close

The Springtown Bottle Shop closes at 1 a.m. so Fresh & Easy would not be the only off-sale alcohol establishment open late at night.

- Self-Service Registers

Staff is aware of legislation which if passed, would ban alcohol sales at stores in California that offer only self-checkout lanes (AB 523), but upon research, staff confirmed the applicant's statements that security measures in place at their stores have been effective in preventing under-age alcohol sales.

- Noise

Because of the loading dock proximity to the adjacent residences, staff recommends that deliveries and refrigerated trailers be prohibited between 9 p.m. and 7 a.m. at the rear loading dock.

- General Plan

The addition of a non-ethnic grocery market with alcohol sales to the neighborhood is compatible with the Vallejo General Plan, specifically, Commercial Development Goal 5: "To have neighborhood convenience centers to serve new and existing residential areas."

ENVIRONMENTAL DETERMINATION

The proposed project is categorically exempt from CEQA Section 15332, Class 32, "In-Fill Development Projects" due to the fact that the proposed new building is:

- ❖ Consistent with the Vallejo General Plan designation of 'General Commercial' and all applicable general plan policies as well as the Pedestrian Commercial zoning designation and regulations.
- ❖ The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- ❖ The project site has no value as habitat for endangered, rare or threatened species.
- ❖ Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- ❖ The site can be adequately served by all required utilities and public services.

CONCLUSION/RECOMMENDATION

Fresh & Easy alcohol sales target a different clientele than the nearby Springstown Bottle Shop as well as larger national or ethnic grocery stores. Based on this fact, staff believes approval of the alcohol sales, which is a vital component of Fresh & Easy business operation, would not negatively impact the neighborhood and would be a welcomed addition to the neighborhood and the City.

The proposed project, as conditioned, is consistent with the City's General Plan and Municipal Code, and all applicable ordinances, standards, guidelines, and policies.

Staff recommends that the Planning Commission **APPROVE** Variance #08-0001, PCN #08-0002 and Conditional Use Permit #UP 08-0010 based on the findings found in the attached resolution and subject to the attached Conditions of Approval.

EXPIRATION

Approval of a variance and use permit shall expire automatically twenty-four months after its approval unless authorized construction has commenced prior to the expiration date.

APPEAL

The applicant or any party adversely affected by a decision of the Planning Commission may within ten days after the rendition of the decision of the Planning Commission appeal in writing to the City Council by filing a written appeal with the City Clerk and Planning Division. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is

adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by the City Clerk or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or city holiday, then the deadline shall be extended until the regular business day.

ATTACHMENTS

1. Resolution/conditions of approval
2. Development plan package
3. Variance supplemental questionnaire, applicant project description
4. Pictures of site
5. Driving Directions
6. Conflict of Interest Map

CITY OF VALLEJO PLANNING COMMISSION

RESOLUTION NO. PC-08-__

**A RESOLUTION OF THE PLANNING COMMISSION
APPROVING A VARIANCE PERMIT APPLICATION, USE PERMIT
APPLICATION AND FINDINGS OF PUBLIC CONVENIENCE OR NECESSITY**

Variance #08-0001, UP #08-0010, PCN #08-0002

Fresh & Easy off-site alcohol sales

The proposed project is located at 2143 Springs Road, within the Springstowne Shopping Center.

APN# 0071-061-540

I. GENERAL FINDINGS

WHEREAS an application was filed by The Bergman Companies seeking approval for a variance permit, use permit, and public convenience or necessity finding to allow off-site alcohol sales; and

WHEREAS the City of Vallejo Planning Commission conducted a duly noticed public hearing to consider the application for the variance permit, use permit, and public convenience or necessity finding on November 17, 2008 at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission; and

WHEREAS based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

II. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

The Planning Commission finds that on the basis of the whole record before it there is no substantial evidence that the project will have a significant effect on the environment per Section 15332, Class 32 Categorical Exemption, "In-Fill Development Projects" of the California Environmental Quality Act.

III. FINDINGS RELEVANT TO VARIANCE PERMIT AND FOR PROJECT APPROVAL

The Planning Commission finds, based on the facts contained in the staff report attached herein and incorporated herein by this reference, and given the evidence presented at the public hearing, and subject to the conditions attached to this resolution that:

1. A hardship peculiar to the property and not created by any act of the owner exists, *due to the strict interpretation and application of Section 16.82.060(R)(16)VMC of the Vallejo Municipal Code*
2. Such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity and granting of the variance would not constitute a special privilege of the recipient not enjoyed by his neighbors, *as the neighboring grocery store offers beer and wine for off-site consumption.*
3. The granting of the variance will not be materially detrimental to the public health, safety or welfare or will not impair an adequate supply of light and air to adjacent property, *because alcohol product, primarily composed of quality wines, will be part of a full service grocery and the proposed building will be adequately setback from the adjacent residential neighborhood.*
4. The conditions upon which the requested variance is based would not be applicable, generally, to other property within the same zoning classifications, *as other shopping centers in Vallejo contain only one grocery store.*
5. That either the variance is so insignificant that granting it will not be incompatible with the Vallejo General Plan; or the potentially adverse effects of the variance on said plan, which would be avoided by denying the variance, are exceeded by the individual hardship which would be relieved by granting the variance, *as the benefit of a full-service, non-ethnic grocery store in the neighborhood exceeds potential negative neighborhood impacts associated with the proposed use.*

IV. FINDINGS RELEVANT TO USE PERMIT FOR PROJECT APPROVAL AND FOR DETERMINATION OF PROJECT CONSISTENCY WITH APPLICABLE GENERAL PLAN

1. The location, size, design and operating characteristics of the proposed conditional use will be compatible with adjacent uses, building or structures, with consideration given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities, to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity and physical character of surrounding streets; and to any other relevant impact of the proposed use, *as the proposed alcohol sales and new building will be compatible with existing grocery store uses, building setbacks and heights in the shopping center.*
2. The impacts, as described in subsection 1 above and the location of the proposed conditional uses are consistent with the City's General Plan, *as the grocery market and associated alcohol sales within the shopping center are consistent with the General Plan goal of, "To have neighborhood convenience centers to serve new and existing residential areas."*

V. FINDINGS RELEVANT PUBLIC CONVENIENCE OR NECESSITY APPROVAL AND FOR PROJECT APPROVAL

1. The proposed use will be taking place in a new structure located in a shopping center that has an approved Use Permit (#UP1823A) for the sale of alcoholic beverages
2. The proposed use is for a grocery market, which commonly offers beer and wine for off-site consumption. Denial of the application would result in an unfair competitive advantage to other grocery markets.

VI. RESOLUTION APPROVING THE VARIANCE PERMIT, USE PERMIT AND PUBLIC CONVENIENCE OR NECESSITY FINDINGS FOR OFF-SITE ALCOHOL SALES AT 2143 SPRINGS ROAD

NOW, THEREFORE, LET IT BE RESOLVED that the Planning Commission hereby APPROVES Variance permit #08-0001, Conditional Use Permit # 08-0010, and Public Convenience or Necessity findings for off-site alcohol sales, based on the findings contained in the staff report attached hereto and incorporated herein and subject to the Conditions of Approval attached to this resolution.

VII. VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Vallejo, State of California, on the 17th day of November, 2008, by the following vote to-wit:

AYES:

NOES:

ABSENT:

KENT PETERMAN, CHAIRPERSON
City of Vallejo Planning Commission
Attest:

Don Hazen
Planning Commission Secretary

CONDITIONS OF APPROVAL
Variance #08-0001, PCN #08-0002, UP #08-0010
(APN# 0071-061-540)

CONDITIONS OF APPROVAL:

Planning Division

1. Fresh & Easy shall restrict deliveries and staging/parking of refrigerated operated trailers in the rear dock area between the hours of 9 p.m. and 6 a.m.

STANDARD CONDITIONS

Planning Division

1. The conditions herein contained shall run with the property and shall be binding on the applicant and all heirs, executors, administrators, and successors in interest to the real property that is the subject of this approval.
2. All graffiti shall be removed from the walls, fences, and/or buildings within one hundred twenty hours of its appearance on the property.
3. Exterior lighting should be high pressure sodium, or equivalent type, and shall have an illumination intensity of between one and four footcandles. Lights shall be directed and shielded so as not to glare onto adjoining residential properties. Lights shall have a housing to protect against breakage. Broken or burnt out lights shall be replaced within one hundred twenty hours.
4. Trash receptacles, sixty gallons or less in size, shall be located at convenient locations outside the establishment, and the operators of the business shall remove all trash on a daily basis.
5. The sale of alcoholic beverages for on-site consumption shall be prohibited.
6. Pay telephones on the site of the establishment must be of the type that only allows outgoing calls.
7. In establishments with glass storefronts, windows shall allow for unobstructed interior viewing of the cash register area from the street.
8. Establish and maintain a "complaint response/community relations" program which includes the following:
 - a. Monitoring of Complaints. The applicant shall:
 - (1) Post at the entry, the reception desk, and provide to the immediate neighbors and the local neighborhood association, if any, the local phone number for the area commander of the local police substation in the geographical area. The phone number posted shall be one which is answered during normal business hours

(eight a.m. to five p.m., Monday through Friday).

(2) Coordinate with the local community division of the Vallejo police department regarding appropriate monitoring of community complaints concerning activities associated with the subject facility.

b. A representative of the subject facility should voluntarily meet with representatives of the neighbors and/or neighborhood association, at their request, to resolve neighborhood complaints regarding the establishment.

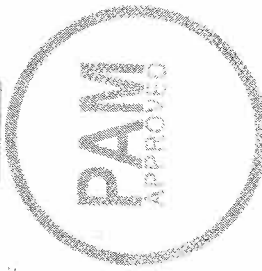
9. Sign and Advertising. The following signs shall be prominently posted in English, Spanish, and the predominant language of the facilities' clientele:
 - a. "California State Law prohibits the sale of alcoholic beverages to persons under twenty-one years of age." (A notice shall also be placed on all menus.)
 - b. "No Loitering or Public Drinking" signs shall be posted in the alcohol beverage display areas in a readily visible manner.
 - c. Signs, noting that it is illegal to consume alcoholic beverages in public parks, except in designated areas where the consumption of alcoholic beverages is permitted.
 - d. Signs, noting that it is illegal to possess an open container of alcohol in the vicinity of the selling establishment.
10. A copy of the conditions of approval of the conditional use permit must be kept on the premises of the establishment and presented to any police officer or any authorized city official upon request.
11. Applicant shall operate subject facility in a manner appropriate with mitigating alcohol-related problems, including, but not limited to: sales to minors, the congregation of individuals, violence on-site, drunkenness, public urination, solicitation, and litter, which negatively impact those individuals living or working in the neighborhood.
12. All sales clerks in off-site outlets less than five thousand feet in total area shall, within ninety days of employment, complete an approved course in "responsible beverage service training". The outlet shall within ten days provide evidence of the employee's completion of this training to the planning division.
13. All off-site outlets which also sell motor vehicle fuels shall comply with the restrictions contained in Section 23790.5 of the Business and Professions Code, to wit:
 - a. No beer or wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler as of January 1, 1988;
 - b. No advertisement of alcoholic beverages shall be displayed at motor fuel islands;
 - c. No sale of alcoholic beverages shall be made from a drive-in window;
 - d. No display of beer or wine shall be made from an ice tub;
 - e. No beer or wine advertising shall be located on motor fuel islands, and no self-illuminated advertising for beer or wine shall be located on building or windows;

and

f. Employees on duty between ten p.m. and two a.m. who sell beer or wine shall be at least twenty-one years of age.

14. Whenever any of the situations identified in Section 16.82.140 occurs, a use permit issued for off-site alcohol sales in accordance with this chapter shall become null or void, and a new use permit shall be required prior to resuming the sale of alcoholic products.
15. Such use shall not adversely affect the neighborhood in which it is located. For the purposes of this subsection, "adversely affect" shall mean to impact in a substantial, negative manner the economic value, habitability, or enjoyability of properties in the immediate area (VMC 16.58.040[D][6]).
16. If the Planning Division, either independently or as a result of complaints from the public, becomes aware that the use is being conducted in a manner which violates the conditions of this use permit or other applicable City regulations, and Planning staff is unable to obtain compliance or abatement, staff will refer the use permit to the Planning Commission for possible suspension or revocation per Section 16.82.110, Vallejo Municipal Code.

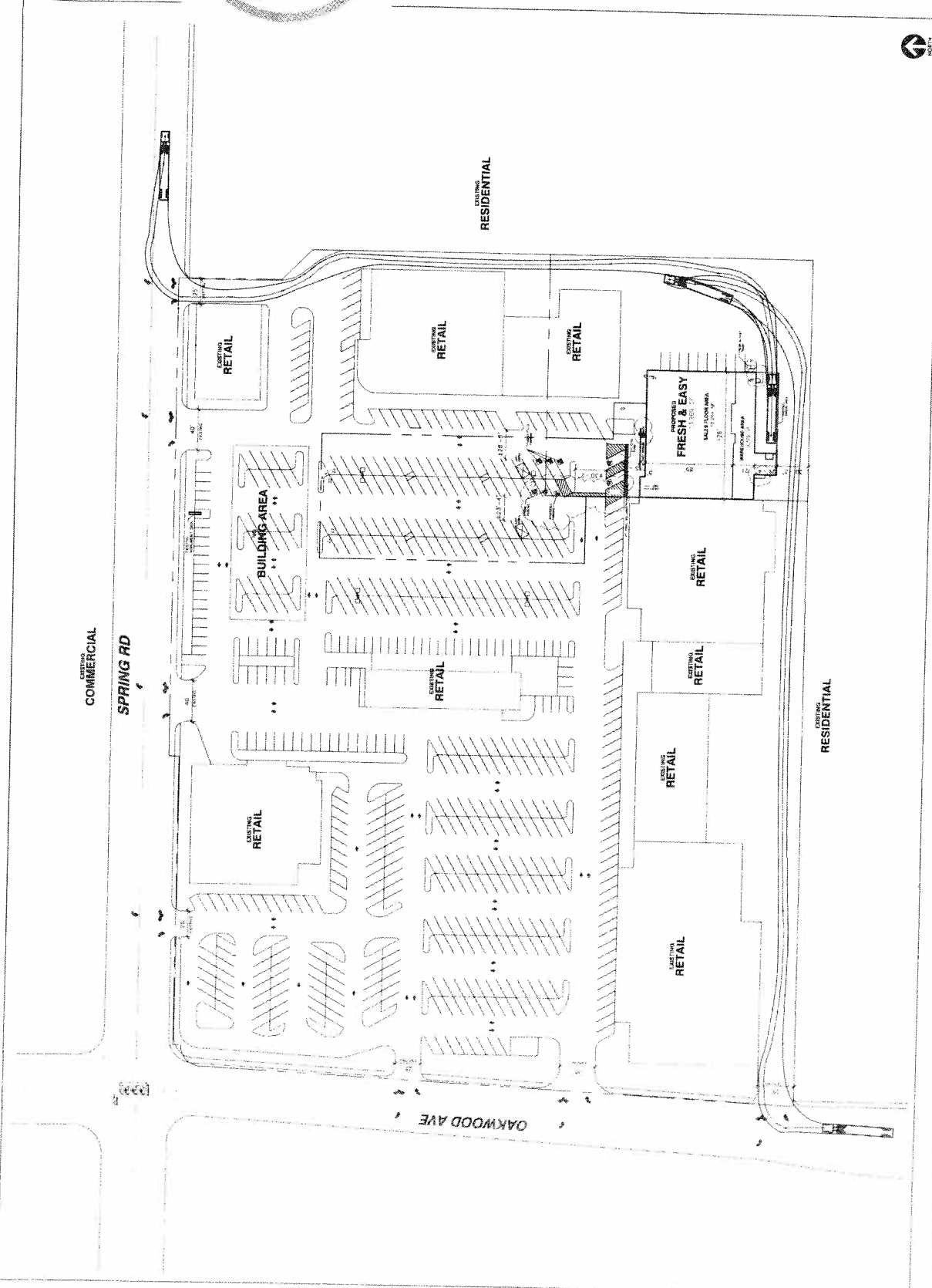
Center-Burgess
Civil & Building Inc.
10000 Wilshire Blvd., Suite 100
Beverly Hills, CA 90210



FRESH & EASY
10000 WILSHIRE & SPRING ROAD
BEVERLY HILLS, CA

fresh to & easy
10000 WILSHIRE & SPRING ROAD
BEVERLY HILLS, CA

A-110

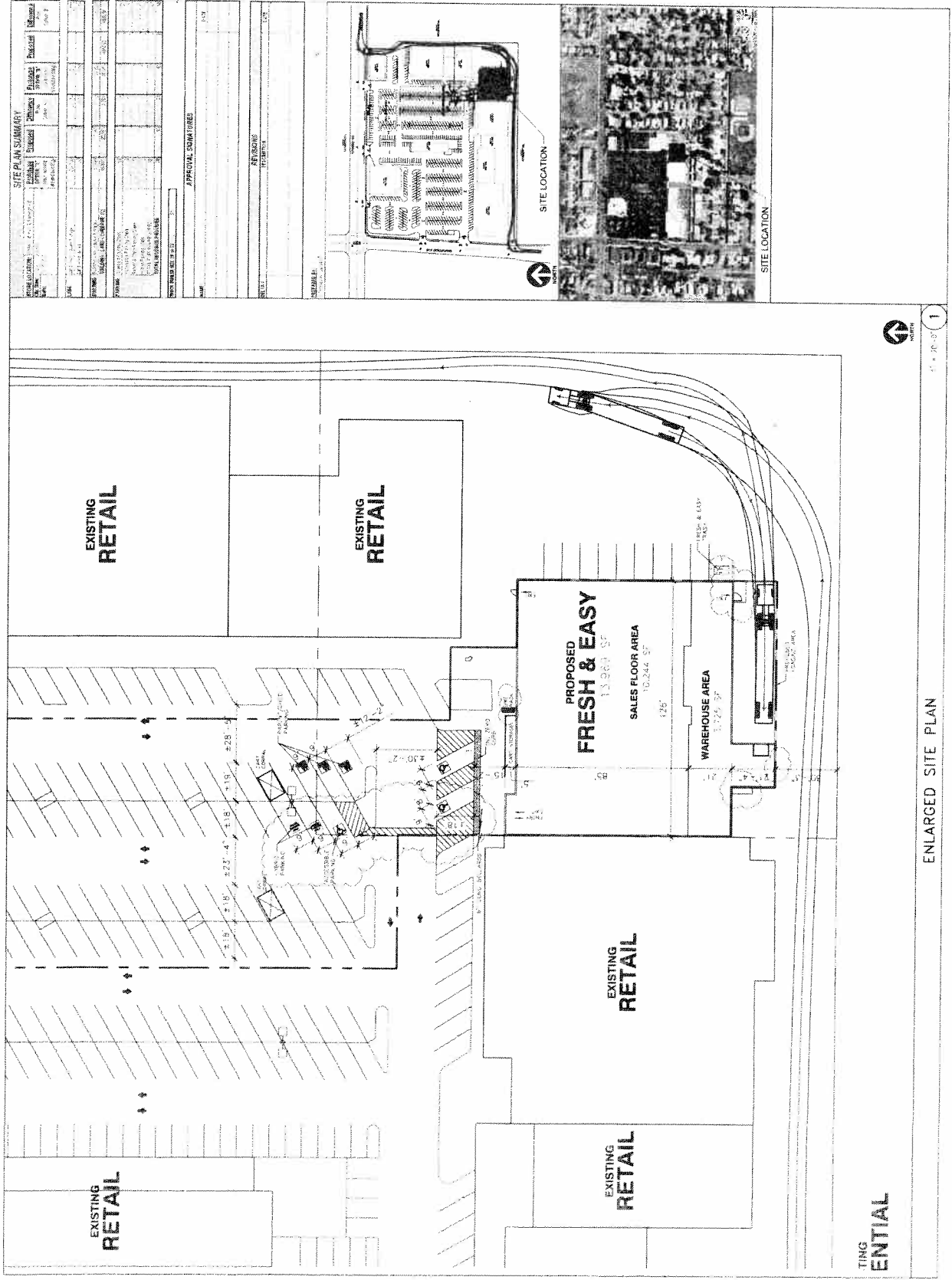


OVERALL SITE PLAN



1 OF 1

Project: 10000 Wilshire & Spring Road, Beverly Hills, CA. Prepared by: Center-Burgess Civil & Building Inc. Date: 10/15/10. Scale: As Shown. Drawing No: A-110.00. 10/15/10. 10:00 AM. 10/15/10.

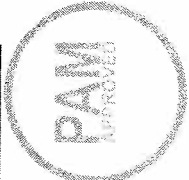


ENLARGED SITE PLAN

1

TING
ENTIAL

SITE PLAN SUMMARY			
DESCRIPTION	AREA (SQ. FT.)	PERCENTAGE	REMARKS
SALES FLOOR AREA	10,244	75.6%	
WAREHOUSE AREA	11,725	86.5%	
TOTAL FLOOR AREA	21,969	162.1%	
EXISTING RETAIL			
PROPOSED FRESH & EASY	13,969	103.3%	
TOTAL DEVELOPABLE AREA			



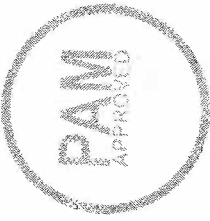
Carroll Burgess
 11111 Valley Springs Rd
 Suite 100
 Dallas, TX 75244
 Phone: 972.440.1111
 Fax: 972.440.1112

FRESH & EASY

11111 VALLEY SPRINGS RD & OAKWOOD DR

A-120

ENLARGED
SITE PLAN



FINISH MATERIAL:

- 1. PRIME ORIENTAL PLYWOOD
- 2. SHEAR PLATE
- 3. 1/2" OAK VENEER
- 4. GYPSUM BOARD
- 5. FIBERGLASS REINFORCED PLASTER
- 6. METAL ANGLE
- 7. 1/2" X 4" X 8" SIPS
- 8. 1/2" X 4" X 8" SIPS
- 9. 1/2" X 4" X 8" SIPS
- 10. 1/2" X 4" X 8" SIPS
- 11. 1/2" X 4" X 8" SIPS
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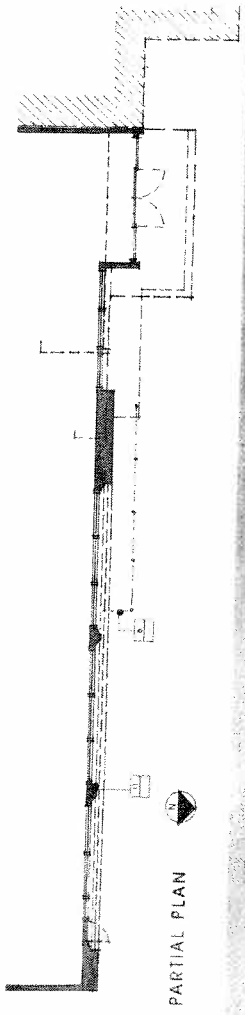
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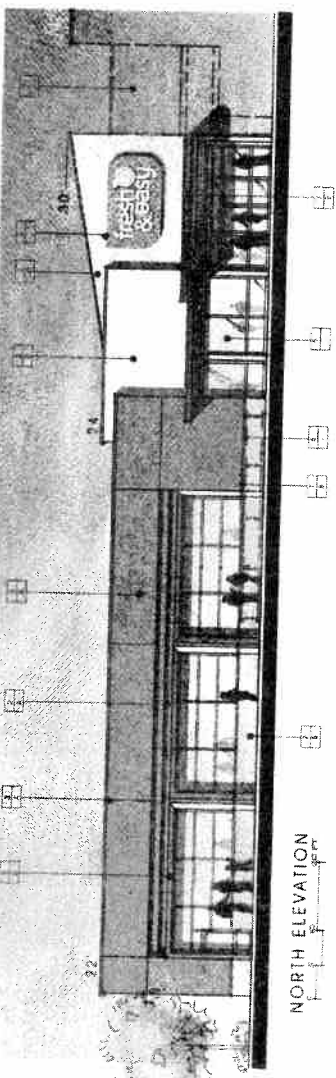
FRESH & EASY MARKET
 VALLEJO, CALIFORNIA
 10000 AVENUE
 SPRINGFIELD

DATE: 10/10/00
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO.: [Number]

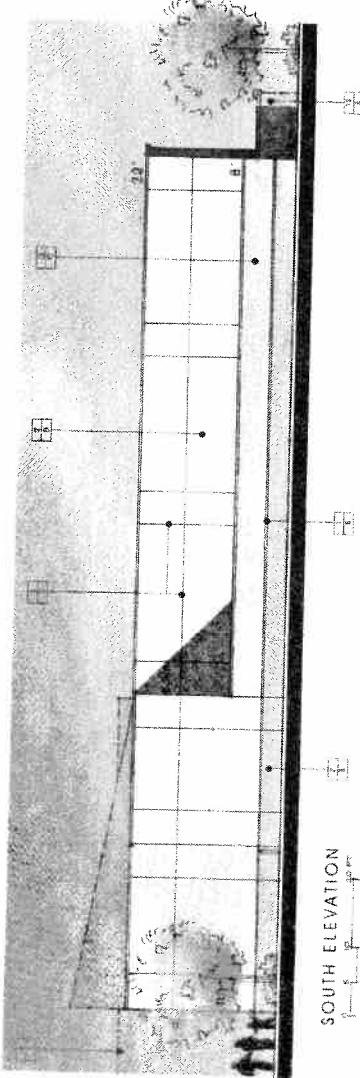
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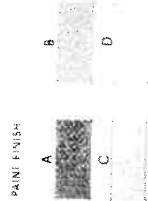
PARTIAL PLAN



NORTH ELEVATION



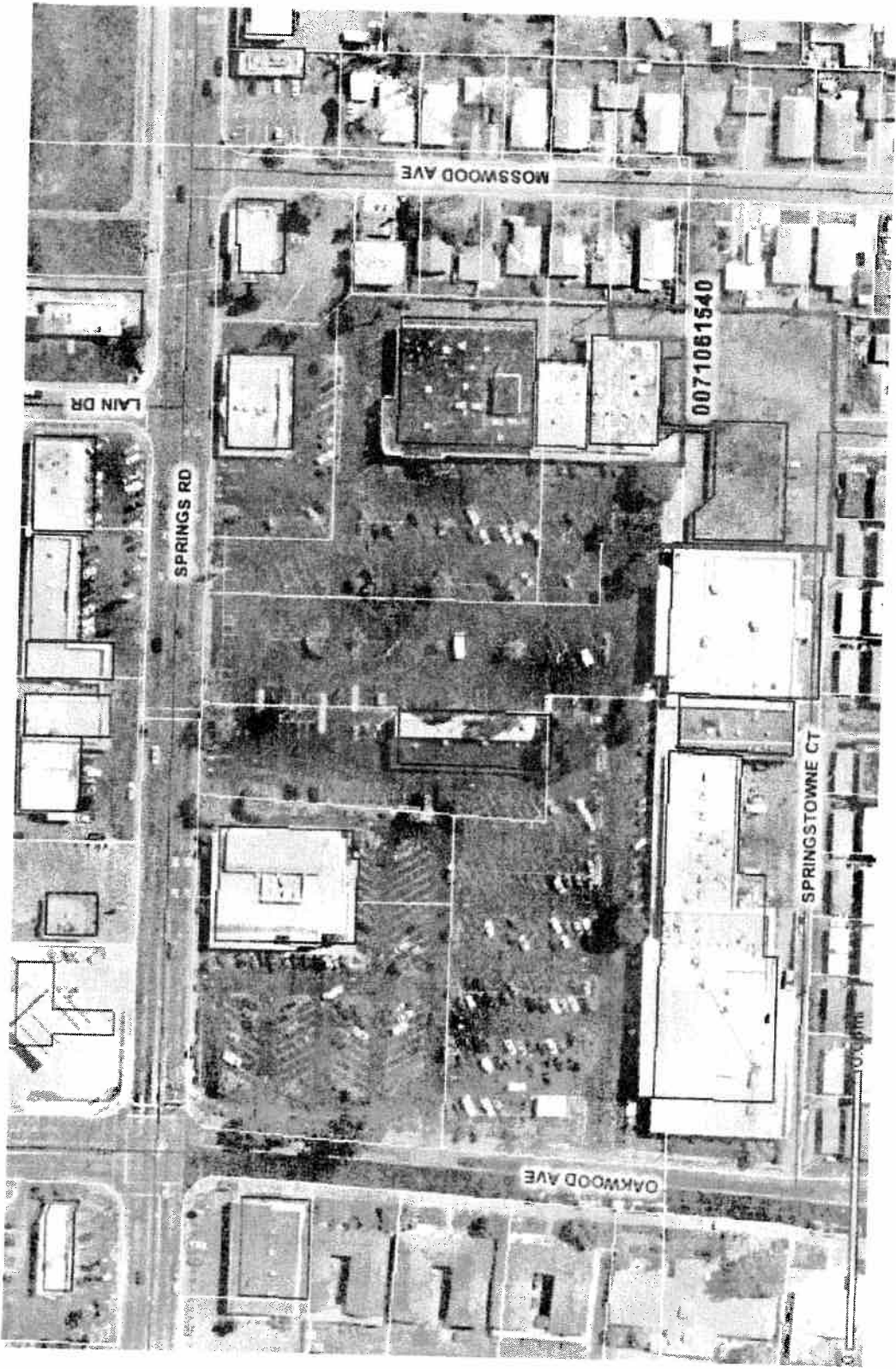
SOUTH ELEVATION



PAINT FINISH



METAL AWNING



City of Vallejo**Planning Division**

555 Santa Clara Street, Vallejo, CA 94590
 Phone: (707) 648-4326 Fax: (707) 552-0163

*Planning Handout No. PH-48***VARIANCE SUPPLEMENT INFORMATION****PROJECT INFORMATION**PROPERTY ADDRESS 2143 Spring RoadASSESSOR'S PARCEL NO. 0071-061-540 .EXISTING ZONING CP**APPLICANT**NAME The Bergman Companies - Fresh & Easy Neighborhood MarketADDRESS: 1735 North First Street, Suite 116 DAYTIME PHONE 408-346-9118
San Jose, CA 95112**VARIANCE REQUEST**

DESCRIBE TYPE OF VARIANCE BEING APPLIED FOR Request variance from the 1,000 foot separation
required between any new alcohol off-sale use having less than 11,000 s.f. of sales floor, and
existing on-sale or off-sale alcohol outlets on commercial zoned property (per Section
16.82.060.R.16 of the Vallejo Municipal Code.

CITY LAW STATES THAT A VARIANCE CANNOT BE APPROVED UNLESS CERTAIN CIRCUMSTANCES EXIST. PLEASE ANSWER THE FOLLOWING QUESTION IN JUSTIFICATION OF YOUR VARIANCE REQUEST.

DESCRIBE THE CIRCUMSTANCES PECULIAR TO YOUR PROPERTY WHICH PRECLUDE YOUR ABILITY TO ENJOY THE SAME PRIVILEGES AS THOSE OF OTHER PROPERTIES IN THE VICINITY. (Such things as property size, shape, topography, or location may qualify the property for a variance. Such things as personal, family or financial difficulties, loss of prospective profits and neighboring violations do not apply.)

1. Special Circumstances apply to the subject case, whereby the strict interpretation and application of the Code would deprive the project proponent of property rights enjoyed by similarly situated properties within the area and the same Pedestrian Commercial (CP) zoning classification. The proposed use is a retail grocery store providing sales of fresh food, dry goods and everyday essentials including off-sale of alcohol, so that patrons may procure all of their shopping needs in one convenient location. The discrepancy in proposed sales floor area (10,584) and the 11,000 s.f. that is the threshold for the required 1,000 foot separation between alcohol outlets, is di minimus. Application of the standard would arbitrarily penalize a legitimate land use that otherwise complies with all other Code criteria.

2. Granting the Variance will not constitute a grant of special privilege inconsistent with the limitations placed on similarly situated properties in the same zoning classification, but will allow the applicant to operate a full-service retail grocery store in the same manner as enjoyed by other, similar business owners in the same shopping center and same zoning classification.

PROJECT DESCRIPTION
FRESH AND EASY NEIGHBORHOOD MARKET
2143 Spring Road (SEC Spring Road and Oakwood Avenue)
Vallejo, CA

The proposal is to construct a new retail grocery store on a 1.22 acre vacant portion of an existing 11.45 acre commercial shopping center in the Pedestrian Commercial (CP) zone district. The proposed building is one story in height, of wood-frame construction, with an Occupancy Classification of M (per CBC) and an occupant load of 363 persons. The building interior will be fully equipped with a sprinklered fire suppression system.

The subject site has already been graded and compacted, and is partially paved. In addition to the building, site improvements include paving of drive aisles and loading areas on the south and east sides of the building, striping for 10 new 90-degree parking stalls along the east building wall, adjustments in the parking area north of the building to remove six stalls for creation of accessible parking stalls and two cart corrals, and a new sidewalk and accessible path of travel to the building entry.

Access to the use is provided via the established drive aisles, service aisles and parking lots developed for the existing shopping center. There exist three customer access driveways and one service driveway from Spring Avenue, and two customer driveways and one service driveway from Oakwood Avenue. Utilities (water, sewer and storm drainage) exist on the shopping center property to serve the new use. The project will utilize existing sewer (10") and storm drain lines that stub at the terminus of Lain Dr. to the south, and a water line within the alleyway along the south boundary of the site. No upsizing of existing lines is anticipated. The City of Vallejo GIS database indicates the southwest quadrant of the building is within the Zone A flood zone. As such a flood plain development permit (which typically involves raising the finished building floor above the base flood elevation contour) may be required.

The proposed use of the building is a full service retail grocery offering fresh foods including meats, bakery and produce, beverages (including beer and wine) and housewares. The use will employ 20 persons, recruited mainly from the local area, and hours of operation will be 6 AM to 12 Midnight, seven days a week.

The subject use and overall shopping center are bordered on the south by existing multi-family residences, and on the east by existing single family homes. Commercial uses are located across Spring Drive to the north, and a neighborhood library and multi-family residences are located across Oakwood Avenue to the east. Photos of the immediate building site and surrounding uses are attached on the following pages for reference.

K-2



Photo 1:
View of site from existing center, looking south (fence runs along site flush w/
adjacent retail store.



Photo 2:
View of site from adjacent retail, facing east.



Photo 3:
View of site and adjacent retail store to west, facing south (fence encloses majority of vacant site).

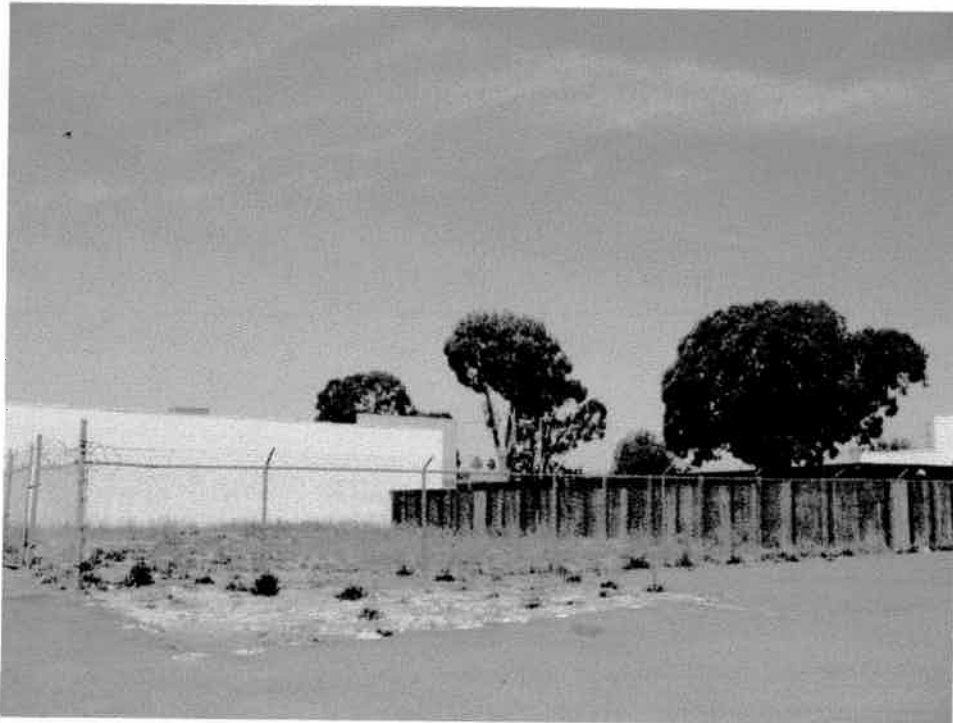


Photo 4:
View of site from rear service aisle, facing northwest.

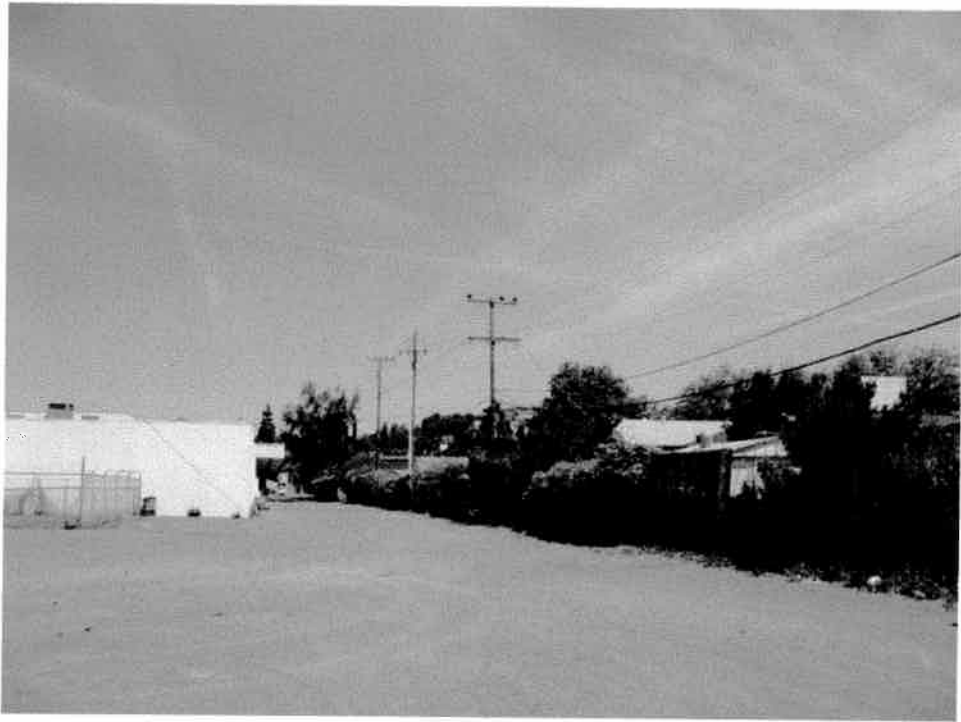


Photo 5:
View of service drive aisle and east ½ of project site, facing north. Adjacent residential to the east.

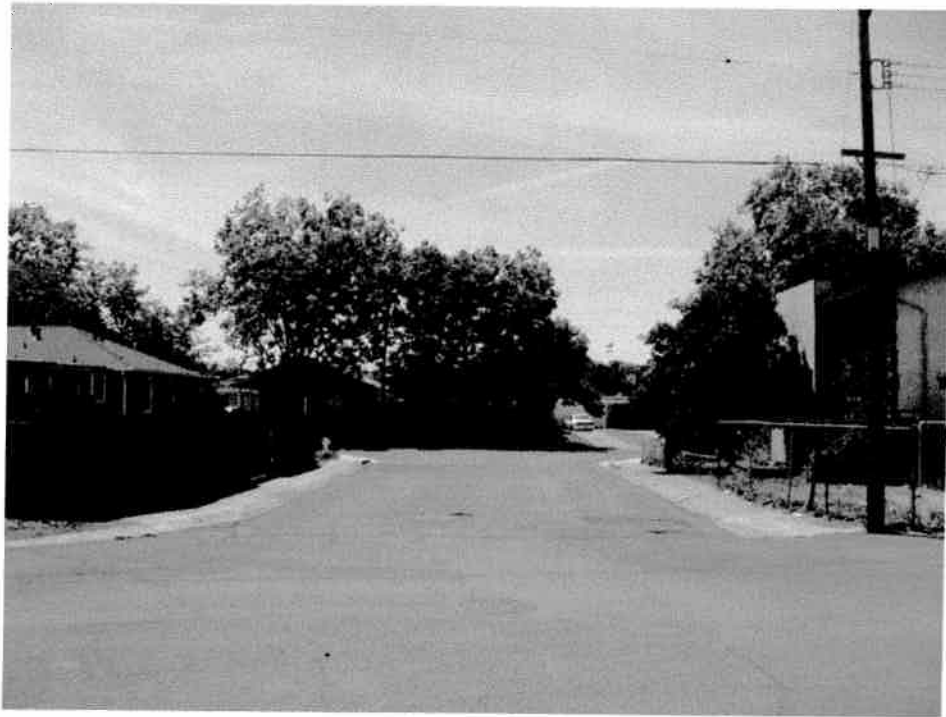


Photo 6:
View south from site of existing stub street and residential.



Photo 7:

View of site w/ adjacent retail to the east and residential to the south, facing west.

Attachment 5



Sorry! When printing directly from the browser your directions or map may not print correctly. For best results, try clicking the Printer-Friendly button.

555 Santa Clara St
Vallejo, CA 94590-5922

2143 Springs Rd
Vallejo, CA 94591

Total Estimated Time: 7 minutes
Total Estimated Distance: 2.55 miles

▼ Directions from A to B:

- 1: Start out going SOUTH on SANTA CLARA ST toward GEORGIA ST. 0.1 mi
- 2: Turn LEFT onto GEORGIA ST. 1.1 mi
- 3: Turn SLIGHT LEFT onto SOLANO AVE. 0.7 mi
- 4: SOLANO AVE becomes SPRINGS RD. 0.7 mi
- 5: End at 2143 Springs Rd Vallejo, CA 94591

Estimated Time: 7 minutes Estimated Distance: 2.55 miles

Total Estimated Time: 7 minutes

Total Estimated Distance: 2.55 miles

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Budget at YellowPages.com

Hotels.YellowPages.com/SanFrancisco

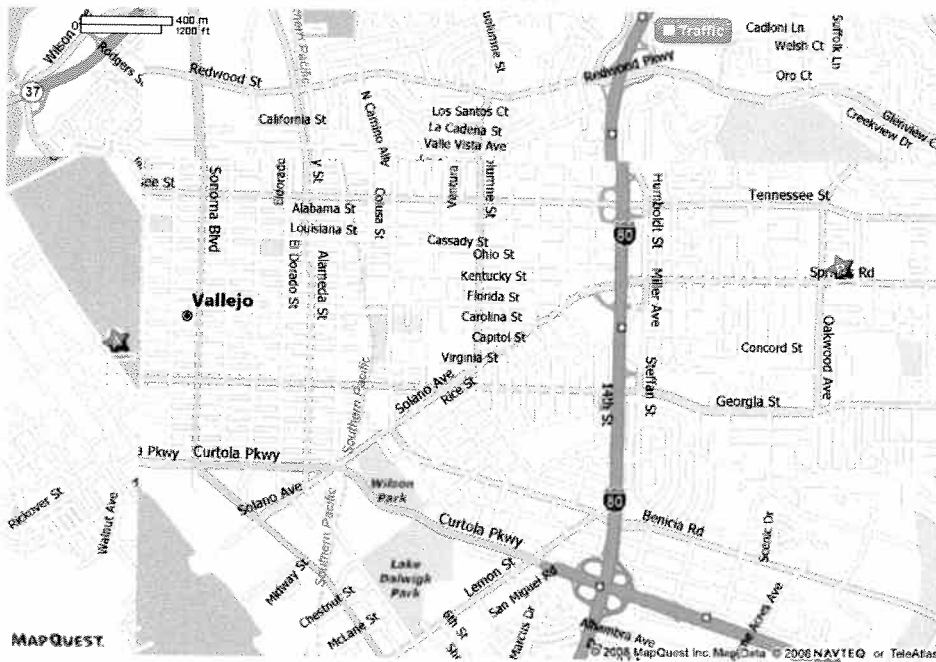
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Escorted Tours - Online
Bookings
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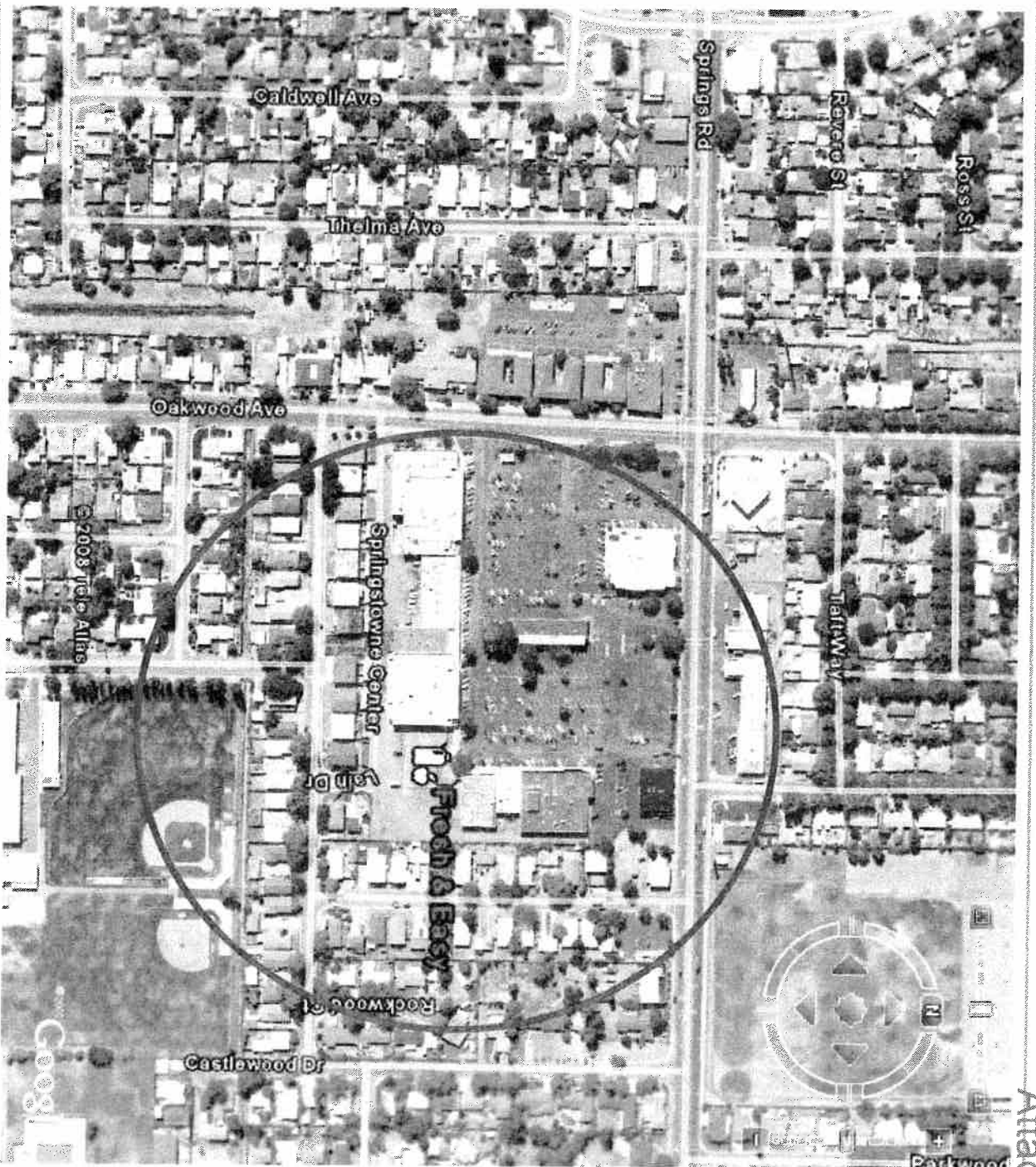
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500' Conflict of Interest Map

**STAFF REPORT – PLANNING
CITY OF VALLEJO
PLANNING COMMISSION**

- DATE OF MEETING:** November 17, 2008
- PREPARED BY:** Don Hazen, Planning Manager
- APPLICATION:** City-initiated amendment of the Downtown Vallejo Specific Plan and Downtown Master Plan (Ordinance No. 1553 N.C., 2d) to permit a broader range of land uses along the Georgia Street Corridor, modify the entitlement procedures of certain specified uses, and repeal the temporary land use regulations adopted in Ordinance No. 1591 N.C. (2d) and Resolution No. 07-155.
- RECOMMENDATION:** Recommend City Council approval
- CEQA:** Categorically Exempt (Sec. 15301 – Negligible or no expansion of uses)

BACKGROUND SUMMARY

On September 20, 2005, the City Council approved Ordinance No. 1553 N.C. (2d) and Resolution No. 05-321, which rezoned properties in the downtown to Mixed-Use Planned Development, and established the Downtown Vallejo Specific Plan as the Master Plan for Downtown. Included in the Specific Plan were land use regulations intended to maintain and enhance Georgia Street as the “primary retail corridor” of downtown.

On June 12, 2007, the City Council approved an amendment of the Specific Plan to create temporary land use regulations for the Georgia Street Corridor. The intent was to temporarily permit a broad range of “non-retail” uses on the ground floor until 2015 to help reduce the vacancy rate and stimulate economic development. After 2015, the uses established under the temporary regulations would be required to vacate their tenant space.

On July 22, 2008, staff reported to the City Council that only one application for a temporary use had been received during the past year (an indoor children’s recreational facility). However, staff had continued to receive numerous inquiries from potential tenants proposing uses that were neither permitted as permanent or temporary.

In September 2008, the City Council prioritized the preparation of another Specific Plan amendment to provide greater land use flexibility for the ground floors of the Georgia Street Corridor, and requested that such an amendment be presented to them for action by November 18, 2008. n

On October 9, 2008, staff held a public meeting to solicit input on desired Plan amendments for the downtown. Notices were mailed to each property owner in the Downtown Specific Plan area and the various business groups. Nine people attended the meeting and several letters and e-mails were received. The bulk of the discussion appeared to focus on the Georgia Street Corridor and staff concluded that the current Specific Plan was generally viewed as being adequate in all other respects.

On October 21, 2008, the City Council passed a Resolution of Intention to amend the Downtown Specific Plan and requested the Planning Commission forward its recommendation to them for action in November.

ANALYSIS

The recommended Specific Plan text amendments are attached to the draft Ordinance, which is incorporated by reference as part of the Planning Commission resolution.

The key objectives of the Specific Plan analysis were as follows:

- Provide a broader range of land uses for the ground floors of Georgia Street without compromising the Plan's intent for Georgia Street to be the primary retail corridor.
- Identify opportunities to simplify the entitlement process for new uses by eliminating unnecessary layers of review for non-controversial uses.
- Repeal the temporary land use regulations to provide greater certainty and allow longer amortization periods for building investments.

Georgia Street Corridor

As part of the public participation process, the various downtown interest groups formed the Georgia Street Corridor task Force and prepared recommended amendments for staff consideration. The staff recommendations for the Georgia Street Corridor essentially mirror the recommendations of the Task Force and participants of the public meeting. The amendments propose to add the same type of uses that are permitted for the Central Downtown Specific Plan District #2 (i.e. Virginia, York, Maine, and Sacramento Streets, etc.). This includes uses that are not retail by definition but are thought to still contribute to the vitality of Downtown.

The Task Force also recommended specifying certain uses within the broader use classifications that should be prohibited. While the Specific Plan is considered a "permissive" document, (i.e. if it is not listed as permitted, then it is prohibited), the Task Force did not want to rely on future staff interpretations that might be inconsistent over time. Staff concurs with this approach, because it also provides greater clarification for landlords and prospective tenants interested in searching for locations to start a business.

While the land use restrictions for the ground floors of Georgia Street is an effective method for ensuring a viable long-term retail pedestrian corridor, the current Plan fails to address how that transition should occur in a weak retail market with no major construction underway. As a result, vacancy rates have risen and staff has been rejecting occupancy requests by prospective tenants that could have helped provide lease revenue for building owners during this transition period. The proposed land use amendments along the Georgia Street Corridor will essentially permit the corridor to be on an equal footing as the surrounding Central Downtown district in terms of market competitiveness.

The key policy issue is how will Georgia Street establish itself as the primary retail corridor if it permits the same type of non-retail uses as the other downtown areas. Staff raised this question to the participants of the public meeting on October 9th, and it was suggested that the Plan could revert back to the current land use limitations once the first phase of the Mixed-use housing project on Virginia Street was occupied. The other approach that was discussed by the group was to let the proposed land use amendments be permanent and rely on the free-market which would encourage owners to charge the highest lease that the market will bear--which would typically be retail.

Staff does not recommend a “sunset” clause tied to a specific development project, because the market dynamics of downtown development are far too complex for this approach. Investors in Downtown need to be assured that the Specific Plan is relatively stable and not subject to excessive amendments or revolving timelines for implementation. The Downtown Specific Plan should be viewed as a “living” document having a 10-25 year vision—but one which will likely require periodic evaluations and possible “mid-course adjustments” to ultimately realize the vision for Downtown. Staff considers this amendment to be one of those “mid-course adjustments”, and one that might be amended or modified at some point in the future if market conditions support a more restrictive land use policy for Georgia Street.

Simplified Entitlement Process

The Specific Plan currently stipulates one of four processes for entitling new uses:

- Permitted (No planning permit)
- Administrative Permit (Planning staff approval; current fee: \$538)
- Minor Use Permit (Planning staff approval, noticing required; current fee: \$1,801)
- Major Use Permit (Planning Commission approval; current fee: \$3,600)

Staff looked for opportunities to provide further simplify land use entitlements in terms of time and cost. It was hoped that more areas of the Plan would be identified for improvements; however the Plan appears to have been well structured and offered very little in the way of permit streamlining improvement. Nevertheless, the recommended amendments do include reducing the level of approval for several uses that staff considered to be non-controversial and generally compatible with the character of downtown.

Temporary Land Use Regulations

In June, 2007, the City Council responded to a slowing downtown economy by adopting temporary land use regulations for the Georgia Street Corridor. The regulations permitted certain non-retail uses for the ground floor on an interim basis. Those new uses established before July 26, 2009, would be permitted to continue business until July 26, 2015, but then be required to cease operation at that time. The City Council was not entirely supportive of this clause, but indicated it would monitor this as part of an annual update. For the reasons previously indicated (Plan stability and amortizing building investments), staff recommends incorporating the temporary land uses into the permanent amendment and eliminating the temporary nature of the regulations.

Consistency with General Plan and Downtown Specific Plan

The Downtown Specific Plan was found to be consistent with the General Plan when it was approved by the City Council in 2005. The proposed amendment to the Downtown Specific Plan to provide a broader range of permitted land uses on the ground floor of Georgia Street and to simplify the entitlement process for some uses is consistent with the Downtown Vallejo Specific Plan goals and policies which include:

- *“Identifying appropriate interim uses in retail spaces until such time as there is a market for retail uses, and prohibiting boarded up storefronts even during transition periods” (Goal 4.2 and Policy 4.2.2)*
- *“Encouraging flexibility in land use regulations to promote as much development and redevelopment with a mix of uses, by not having separated land uses identified on a land use map” (Goal 4.2 and Policy 4.2.2).*

ENVIRONMENTAL DETERMINATION

This proposal is categorically exempt pursuant to CEQA Guidelines 15301. The amendment to the Downtown Specific Plan and the Downtown Master Plan involves permitting a negligible or no expansion of the uses beyond those existing or analyzed at the time of the City’s consideration and determination on the Downtown Vallejo Specific Plan Environmental Impact Report.

CONCLUSION/RECOMMENDATION

The proposed amendments are consistent with the Downtown Specific Plan’s objectives to identify interim uses that will help reduce the vacancy rate while the retail market strengthens over time, provide for expedient processing, and eliminate the uncertainty associated with temporary regulations. The proposed regulations appear to have widespread support of the downtown stakeholders and staff finds that the amendments will not adversely impact the overall vision of the Specific Plan. Staff recommends that the Planning Commission recommend City Council approval of the proposed amendments to the Master Plan/Downtown Specific Plan with the findings outlined in the attached resolution.

ATTACHMENTS

1. Planning Commission Resolution recommending City Council approval of the attached resolution holding on first reading, an ordinance amending the Downtown Master Plan/Specific Plan.

CITY OF VALLEJO PLANNING COMMISSION

RESOLUTION NO. PC-08-28

A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO THE DOWNTOWN MASTER PLAN AND DOWNTOWN VALLEJO SPECIFIC PLAN TO PERMIT A BROADER RANGE OF LAND USES FOR THE GEORGIA STREET CORRIDOR, SIMPLIFY THE ENTITLEMENT PROCESS FOR CERTAIN SPECIFIED USES, AND REPEALING THE TEMPORARY LAND USES ADOPTED IN ORDINANCE NO. 1591 N.C. (2d) AND RESOLUTION NO. 07-155

I. GENERAL FINDINGS

WHEREAS, Ordinance No. 1553 N.C. (2d) was approved by the Vallejo City Council on September 20, 2005 and intended that the Downtown Vallejo Specific Plan serve as the Master Plan of development for the downtown area; and

WHEREAS, the Downtown Vallejo Specific Plan was adopted by the Vallejo City Council on September 20, 2005, with the stated vision that “Downtown will become the focus of community pride as the revitalized “heart” of Vallejo; and

WHEREAS, the Downtown Vallejo Specific Plan and Downtown Master Plan of development was amended by the Vallejo City Council on June 12, 2007 to incorporate temporary land use regulations aimed at stimulating economic development; and

WHEREAS, the Vallejo City Council determined on October 21, 2008 that it was necessary to further stimulate economic development and reduce the building vacancy rate within the Downtown, and passed a Resolution of Intention to amend the Downtown Vallejo Specific Plan to provide for a broader range of permitted uses along the Georgia Street Corridor, simplify the land use entitlement process, and repeal the temporary land use regulations; and

WHEREAS, the Downtown Specific Plan Land Use Goal 4.2c strives to enrich the mix of Downtown uses by “identifying appropriate interim uses in retail spaces until such time as there is a market for retail uses and prohibiting boarded up storefronts even during transition periods”; and

WHEREAS, it is necessary to allow a broader range of land uses on the ground floors of buildings along the Georgia Street Corridor in order to provide a transition of land uses until the retail market improves:

II. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

Section 1. The project qualifies for a Class 1 categorical exemption from the requirements of CEQA per Section 15301 of Title 14 of the California Code of Regulations as it involves permitting a negligible or no expansion of the uses beyond those existing at the time of the City's consideration and determination on the Downtown Vallejo Specific Plan Environmental Impact Report.

III. FINDINGS RELEVANT FOR PROJECT APPROVAL AND FOR DETERMINATION OF PROJECT CONSISTENCY WITH APPLICABLE GENERAL PLAN

Section 2. The Planning Commission finds that the Downtown Specific Plan was found to be consistent with the General Plan when it was approved by the City Council in 2005. The proposed amendments to the Downtown Specific Plan to provide interim land uses during this transition period is consistent with the Downtown Vallejo Specific Plan goals and policies which include encouraging an active pedestrian corridor and identifying measures intended to implement the Plan's goals and policies. Goal 4.2 and Policy 4.2.2 of the Specific Plan include "Identifying appropriate interim uses in retail spaces until such time as there is a market for retail uses, and "Encouraging flexibility in land use regulations to promote as much development and redevelopment with a mix of uses, by not having separated land uses identified on a land use map" (SP pg. 4.3).

NOW, THEREFORE, LET IT BE RESOLVED that the Planning Commission hereby RECOMMENDS CITY COUNCIL APPROVAL of the attached draft City Council Ordinance amending the Vallejo Downtown Specific Plan and the attached draft City Council Resolution approving amendments to the permitted land uses for the Georgia Street Corridor, simplifying the land use entitlements for certain specified uses, and repealing the temporary land use regulations provided therein.

V. VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Vallejo, State of California, on the _____ day of _____, 2008, by the following vote to-wit:

AYES:

NOES:

ABSENT:

KENT PETERMAN, CHAIRPERSON
City of Vallejo PLANNING COMMISSION

8. Land Use Regulations

General Land Use Provisions

The Downtown Vallejo Specific Plan regulates land uses by District. Table 8.1 presents each District and a list of land use classifications. This table identifies which land uses are permitted or prohibited within each District. In administering this table, the following items must be considered:

- The table relies on the land use classification system adopted in Vallejo Municipal Code (VMC) Chapter 16.06 (Zoning Ordinance). Most of the land uses listed in Table 8.1 are described and defined in VMC Chapter 16.06. Therefore, where applicable, it is appropriate to refer to VMC Chapter 16.06 when providing land use interpretations. Some of the land use classifications provided in VMC Chapter 16.06 are not included in Table 8.1. Land use classifications that are not included in Table 8.1 are not permitted in the Downtown Vallejo Specific Plan area. However, when an ambiguity or dispute arises over a proposed land use, the Director of Development Services shall have the authority to render an interpretation and decision, consistent with the provisions of VMC Chapter 16.02 (Zoning – General Provisions)
- Some of the land uses listed in Table 8.1 are not identified or defined in VMC Chapter 16.06. Refer to legend symbol (2) for these land uses. A definition for these land uses is provided in this chapter (see p.8.9), which is to be used in providing land use interpretations
- Permitted land uses (P) are allowed by right, subject to the securing of a business license, when needed, however some classifications within a broader land use category may be prohibited by the special regulations and limitations provided for in Table 8.2
- Conditional land uses are subject to a Conditional Use Permit. A Minor Use Permit (MNUP) normally is processed and acted on at an administrative level, and a Major Use Permit (MJUP) requires review and action by the Vallejo Planning Commission. Temporary uses are subject to an Administrative Permit (AP). Refer to VMC Chapters 16.82 (Conditional Use Permit) and 16.96 (Administrative Permit) for application and processing procedures
- In the event this chapter of the Specific Plan does not address or provide provisions for a specific land use, then the provisions of the VMC Chapter 16 (Zoning) that are most applicable to the specific land use shall apply
- A land use that exists at the time of the adoption of this Specific Plan that is not consistent or is in conflict with the provisions of this section shall be permitted to continue as a legal, nonconforming use. The land use is permitted to continue, but may not be expanded or intensified. Any modifications or changes to a legal, nonconforming land use shall conform to the provisions of VMC Chapter 16.78 (Nonconforming Use Regulations).

8. Land Use Regulations

LAND USE (1)	SPECIFIC PLAN DISTRICTS				
	1 Georgia Street Corridor	2 Central Downtown	3 Civic Center	4 Outer Downtown	5* Southwest Downtown

Residential Use Types					
Assisted living (2)	--	--	--	MJUP(H)	MJUP*
Continuing care retirement community (2)	--	--	--	MJUP(H)	MJUP*
Group residential	MNUP (A,F,H)	MNUP (A,F,H)	--	MNUP (F,H)	MNUP(F)*
Guest residential	--	--	--	P (H)	--
Independent/congregate living(2)	P(A,H)	P(A,H)	--	P (H)	p*
Live-work (2)	P	P	--	P	MNUP*
Mobile home residential	--	--	--	--	--
Multi-family residential (2)	P(A,H)	P(A,H)	--	P (H)	P
Single-family residential (2)	--	--	--	P (H)	--
Single resident occupancy (2)	MJUP (A,F,H)	MJUP (A,F,H)	--	--	--
Two-family residential (2)	--	--	--	P (H)	--
Commercial Use Types					
Administrative & professional services	P	P	--	P	p*
Animal sales & service- Retail sales, grooming & Veterinary (small animals)	P(I)	P(I)	--	MNUP(I)	MNUP*
Automotive & equipment	P(G)	P(G)	--	MJUP(G)	--
Building maintenance services	--	--	--	MNUP	--
Business equipment sales & services	P	P	--	--	p*
Business support services	P	P	--	P	p*
Communication services	P	P	P	P	p*
Construction sales and services	P(O)	--	--	MJUP	--

LEGEND	
P	= Permitted
AP	= Administrative Permit
MJUP	= Major Use Permit Required
MNUP	= Minor Use Permit Required
--	= Use not permitted
(1)	= Use defined in Vallejo Zoning Ordinance, Vallejo Code Chapter 16.06, unless as otherwise noted
(2)	= Use defined in Specific Plan
(A-K)	= See special land use regulations
*	= Land uses permitted only when a Master Plan has been approved for redevelopment of entire District 5.

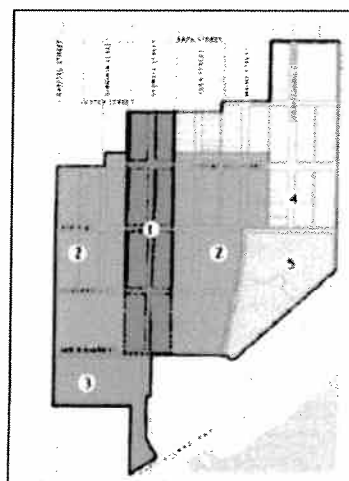


Table 8.1: Permitted and Conditional Land Uses

Key Map

8. Land Use Regulations

LAND USE (1)	SPECIFIC PLAN DISTRICTS				
	1 Georgia St Corridor	2 Central Downtown	3 Civic Center	4 Outer Downtown	5* Southwest Downtown
Convenience sales and personal services (e.g., drug stores and convenience markets less than 5,000 square feet in size)	P (B,C,I)	P (B,C,I)	--	P (B,C,I)	p* (B,C,I)
Eating and drinking Establishments Fast food/take-out (2)	P (B,C,D) MNUP (B,C,D,K)	P (B,C,D) MNUP (B,C,D,K)	P (B,C,D) MNUP (B,C,D,K)	P (B,C,D) MNUP (B,C,D,K)	p* (B,C,D) MNUP (B,C,D,K)
Financial, insurance and real estate services	P(B)	P(B)	--	P (B)	MNUP(B)*
Food and beverage retail sales 11,000 square feet and under Greater than 11,000 square feet Fast food/take-out (2)	P(B,C,I) MNUP (C,C,I) MNUP (B,C,I,J,K)	P(B,C,I) MNUP (C,C,I) MNUP (B,C,I,J,K)	MNUP (B,C)	MNUP (B,C,I) MJUP (B,C,I) MNUP (B,C,I,J,K)	p* (B,C,I) MJUP* (B,C,I) MNUP* (B,C,I,K)
Funeral and interment services Cremating Interring Undertaking	-- -- --	-- -- --	-- -- --	-- MJUP MJUP	-- -- --
Gasoline (fueling) sales	--	--	--	MJUP(C,I)	--
Laundry services	MNUP	MNUP	--	MNUP	MNUP*
Medical offices	P(L)	P(A)	--	P	p*
Medical services	P(L)	P(A)	--	P	p*
Parking facilities (2)	MNUP or MJUP(R)	MJUP(A)	MJUP	MJUP	MJUP*
Participant sports and recreation Indoor (E.G., includes health and fitness clubs) Outdoor Bingo	P or MNUP (C,Q) -- MNUP(C)	MNUP(C) -- MNUP(A,C)	MNUP (c) -- MNUP(c)	MNUP (c) -- MNUP(c)	MNUP(C)* -- --
Personal services, general	P or MNUP (E,M,N)	P(E)	--	P(E)	P(E)*
Personal services, functional community training for developmentally disabled	MNUP(A)	MNUP(A)	--	MNUP	MNUP*

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*	= Land uses permitted only when a Master Plan has been approved for redevelopment of entire District 5.

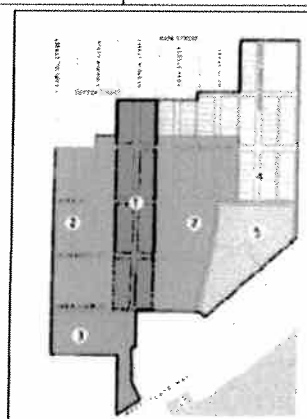


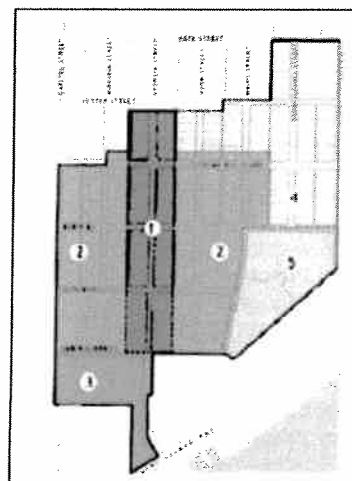
Table 8.1: Permitted and Conditional Land Uses: continued

Key Map

8. Land Use Regulations

LAND USE (1)	SPECIFIC PLAN DISTRICTS				
	1 Georgia Street Corridor	2 Central Downtown	3 Civic Center	4 Outer Downtown	5* Southwest Downtown
Repair services, consumer	P	P	--	P	P*
Research services	--	--	--	MJUP	--
Retail sales General	P (B,C,E,I,J)	P (B,C,E,I,J)	--	P (B,C,E,I,J)	P* (B,C,E,I)
Swap meets	--	--	--	--	--
Adult Uses	--	MJUP(E)	--	MJUP(E)	--
Spectator sports and entertainment (e.g., includes theaters, cabarets, performing art studios, galleries)					
Limited	MNUP(c)	MNUP(c)	MNUP(c)	MNUP(c)	MNUP(c)*
General	MNUP(C)	MNUP(C)	MNUP(C)	MNUP(C)	MNUP(C)*
Adult uses	--	MJUP(C,E)	--	MJUP(C,E)	--
Transient habitation					
Lodging (e.g., hotel, motel)	P(A,C,D)	P(A,C,D)	--	P(C,D)	P(C,D)*
Bed & breakfast	P(A,C,D)	P(A,C,D)	--	P(C,D)	P(C,D)*
Wholesaling, storage & distribution					
Light	--	--	--	MJUP	--
Heavy	--	--	--	--	--
Industrial Use Types					
Custom manufacturing (e.g., includes bakeries)	MNUP	MNUP	--	MNUP	--
General industrial	--	--	--	--	--
Packing and processing	--	--	--	--	--
Civic Use Types					
Administrative services	P(P)	P	P	P	P*
Ambulance services	--	--	--	MJUP	--
Clinic services	--	P(A)	--	P	P*

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(2)	= Use defined in Specific Plan
(A-K)	= See special land use regulations
*	= Land uses permitted only when a Master Plan has been approved for redevelopment of entire District 5.



Key Map

Table 8.1: Permitted and Conditional Land Uses

8. Land Use Regulations

LAND USE (1)	SPECIFIC PLAN DISTRICTS				
	1 Georgia Street Corridor	2 Central Downtown	3 Civic Center	4 Outer Downtown	5* Southwest Downtown

Community education				MNUP	MNUP*
Day care center	--	--	--		--
Elementary, middle, high School	--	--	--		--
College/university	MNUP	P(A)	p	P	P*
Community recreation	MJUP	MJUP	MJUP	MJUP	MJUP*
Cultural exhibits & library services	P(C,D)	P(C,D)	P(C,D)	P(C,D)	P(C,D)*
Essential services	P	P	P	P	P
Group care	--	--	--	MJUP	MJUP*
Major impact health care services	--	--	--	MJUP	MJUP*
Major impact services & utilities	--	--	--	--	--
Parking services	MNUP or MJUP(R)	MJUP(A)	MJUP	MJUP	MJUP*
Public park & open space (2)	P	P	P(J)	P	P
Postal services	P	P	P	P	P*
Religious assembly	--	--	--	MJUP	MJUP*
Telecommunication facility	MNUP(A)	MNUP(A)	MNUP	MNUP	MNUP
Accessory and Temporary Use Types					
Accessory uses See VMC Section 16.58.040 For list of accessory uses	P/AP Per VMC Section 16.58.040	P/AP Per VMC Section 16.58.040	P/AP Per VMC Section 16.58.040	P/AP Per VMC Section 16.58.040	P/AP Per VMC Section 16.58.040
Home occupations See VMC Chapter 16.60 for Standards and limitations	AP Per VMC Section 16.60.020	AP Per VMC Section 16.60.020	AP Per VMC Section 16.60.020	AP Per VMC Section 16.60.020	AP Per VMC Section 16.60.020

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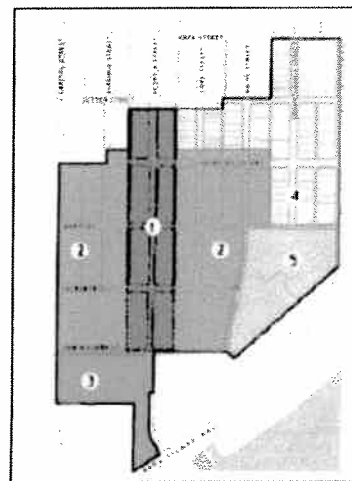


Table 8.1: Permitted and Conditional Land Uses

Key Map

8. Land Use Regulations

	Land Use or Use Condition	Conditions, Limitations or Prohibitions
G	Automotive and equipment	Limited to automotive and equipment sales and display only in District 1 and District 2. Limited to automotive and equipment sales, display, cleaning, repair (light equipment), rental (light equipment) and service only in District 4.
H	Residential use types	These use classifications are prohibited on the street or ground floor level in the Sonoma Boulevard Overlay District.
I	Outdoor display (2)	Permitted with an Administrative Permit in District 1 (Georgia Street Corridor), District 2 (Central Downtown) and District 4 (Outer Downtown) subject to the regulations set forth in VMC Chapter 16.77
J	Outdoor street vending (2)	Permitted in District 1 (Georgia Street Core), District 2 (Central Downtown), District 3 (Civic Center) and District 4 (Outer Downtown) subject to the following: <ul style="list-style-type: none"> • Approval of an Administrative Permit (AP). • Approval of an Encroachment Permit if conducted within the public right-of-way. • Securing a general liability insurance policy naming the City as additional insured if conducted within the public right-of-way. Subject to Development Standards in Section 9 of the Specific Plan.
K	Fast food/take-out (2)	Permitted with a Minor Use Permit (MNUP). Subject to Development Standards in Section 9 of the Specific Plan.
L	Medical offices and Medical services, if the primary purpose is to treat and/or counsel patients in the fields of drug abuse, alcohol abuse, sexual abuse, spousal abuse, and/or anger management	These classifications are prohibited in District 1 (Georgia Street Corridor)
M	Personal services, general, if the use consists primarily of any of the following or a combination thereof: (i) Barber shops; (ii) Bath (steam, Turkish or other); (iii) Beauty shops; (iv) Dating services; (v) Escort services; (vi) Massage parlor; or (vii) Shoeshine stands.	These classifications are prohibited in District 1 (Georgia Street Corridor), except for those buildings east of Sonoma Blvd.
N	Personal services, general, if the use consists primarily of any of the following or a combination thereof: (i) Schools; (ii) Service organizations; or (iii) Tattoo parlors.	These uses require a Minor Use Permit in District 1 (Georgia Street Corridor).

Table 8.2: Special Land Use Regulations: continued

8. Land Use Regulations

	Land Use or Use Condition	Conditions, Limitations or Prohibitions
O	Construction sales and services.	The following uses are allowed in District 1 (Georgia Street Corridor): (i) Building maintenance materials sales; (ii) Building materials sales; (iii) Burglar alarm system services and sales; (iv) Electrical supplies sales; (v) Firefighting equipment and supplies sales; (vi) Fixture sales; (vii) Glass sales; (viii) Hardware sales; (x) Heating equipment sales; (xi) Janitorial supplies sales; (Xii) Lumber (specifically species, hobby) sales; (Xiii) Ornamental iron sales; (xiv) Paint sales; (XV) Plumbing equipment sales; (xvi) Swimming pool equipment and supplies service and sales; and (xvii) Tool sales. ("Sales" shall refer to retail and/or wholesale sales.)
P	Administrative services if the primary purpose is a welfare office.	This use is prohibited in District 1 (Georgia Street Corridor)
Q	Participant sports and recreation, Indoor, if the use consists primarily of any of the following or a combination thereof: (i) Body building; (II) Clubs, athletic; (iii) Gymnastics/aerobic studios; and (iv) Health clubs and spas.	These uses are permitted in District 1 (Georgia Street Corridor). (All other uses under the Participant sports and recreation, Indoor, classification require a Minor Use Permit in District 1).
R	"Parking facilities" and "Parking services," if privately owned.	These uses require a Minor Use Permit. (Kf publically owned, a Major Use Permit is required.)

Table 8.2: Special Land Use Regulation: continued

8. Land Use Regulations

General Land Use Provisions

The Downtown Vallejo Specific Plan regulates land uses by District. Table 8.1 presents each District and a list of land use classifications. This table identifies which land uses are permitted or prohibited within each District. In administering this table, the following items must be considered:

- The table relies on the land use classification system adopted in Vallejo Municipal Code (VMC) Chapter 16.06 (Zoning Ordinance). Most of the land uses listed in Table 8.1 are described and defined in VMC Chapter 16.06. Therefore, where applicable, it is appropriate to refer to VMC Chapter 16.06 when providing land use interpretations. Some of the land use classifications provided in VMC Chapter 16.06 are not included in Table 8.1. Land use classifications that are not included in Table 8.1 are not permitted in the Downtown Vallejo Specific Plan area. However, when an ambiguity or dispute arises over a proposed land use, the Director of Development Services shall have the authority to render an interpretation and decision, consistent with the provisions of VMC Chapter 16.02 (Zoning – General Provisions)
- Some of the land uses listed in Table 8.1 are not identified or defined in VMC Chapter 16.06. Refer to legend symbol (2) for these land uses. A definition for these land uses is provided in this chapter (see p.8.9), which is to be used in providing land use interpretations
- Permitted land uses (P) are allowed by right, subject to the securing of a business license, when needed, however some classifications within a broader land use category may be prohibited by the special regulations and limitations provided for in Table 8.2
- Conditional land uses are subject to a Conditional Use Permit. A Minor Use Permit (MNUP) normally is processed and acted on at an administrative level, and a Major Use Permit (MJUP) requires review and action by the Vallejo Planning Commission. Temporary uses are subject to an Administrative Permit (AP). Refer to VMC Chapters 16.82 (Conditional Use Permit) and 16.96 (Administrative Permit) for application and processing procedures
- In the event this chapter of the Specific Plan does not address or provide provisions for a specific land use, then the provisions of the VMC Chapter 16 (Zoning) that are most applicable to the specific land use shall apply
- A land use that exists at the time of the adoption of this Specific Plan that is not consistent or is in conflict with the provisions of this section shall be permitted to continue as a legal, nonconforming use. The land use is permitted to continue, but may not be expanded or intensified. Any modifications or changes to a legal, nonconforming land use shall conform to the provisions of VMC Chapter 16.78 (Nonconforming Use Regulations).

LAND USE (1)	SPECIFIC PLAN DISTRICTS				
	1 Georgia Street Corridor	2 Central Downtown	3 Civic Center	4 Outer Downtown	5* Southwest Downtown

Residential Use Types					
Assisted living (2)	--	--	--	MJUP(H)	MJUP*
Continuing care retirement community (2)	--	--	--	MJUP(H)	MJUP*
Group residential	MNUP (A,F,H)	MNUP (A,F,H)	--	MNUP (F,H)	MNUP(F)*
Guest residential	--	--	--	P (H)	--
Independent/congregate living(2)	P(A,H)	P(A,H)	--	P (H)	p*
Live-work (2)	MNUPP	MNUPP	--	MNUPP	MNUP*
Mobile home residential	--	--	--	--	--
Multi-family residential (2)	P(A,H)	P(A,H)	--	P (H)	P
Single-family residential (2)	--	--	--	P (H)	--
Single resident occupancy (2)	MJUP (A,F,H)	MJUP (A,F,H)	--	--	--
Two-family residential (2)	--	--	--	P (H)	--
Commercial Use Types					
Administrative & professional services	P	P	--	P	p*
Animal sales & service- Retail sales, grooming & Veterinary (small animals)	P(I)	P(I)	--	MNUP(I)	MNUP*
Automotive & equipment	P(G)	P(G)	--	MJUP(G)	--
Building maintenance services	--	--	--	MNUP	--
Business equipment sales & services	P	P	--	--	p*
Business support services	P	P	--	P	p*
Communication services	P	P	P	P	p*
Construction sales and services	P(O)	--	--	MJUP	--

LEGEND	
P	= Permitted
AP	= Administrative Permit
MJUP	= Major Use Permit Required
MNUP	= Minor Use Permit Required
--	= Use not permitted
(1)	= Use defined in Vallejo Zoning Ordinance, Vallejo Code Chapter 16.06, unless as otherwise noted
(2)	= Use defined in Specific Plan
(A-K)	= See special land use regulations
*	= Land uses permitted only when a Master Plan has been approved for redevelopment of entire District 5.

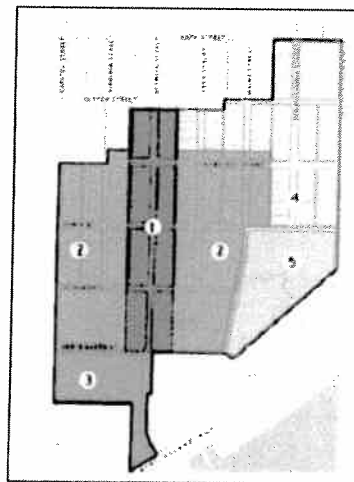


Table 8.1: Permitted and Conditional Land Uses

Key Map

	Land Use or Use Condition	Conditions, Limitations or Prohibitions
G	Automotive and equipment	Limited to automotive and equipment sales and display only in District 2 : District 1 and District 2. Limited to automotive and equipment sales, display, cleaning, repair (light equipment), rental (light equipment) and service only in District 4.
H	Residential use types	These classifications are prohibited on the street or ground floor level in the Sonoma Boulevard Overlay District.
I	Outdoor display (2)	Permitted with an Administrative Permit in District 1 (Georgia Street Corridor), District 2 (Central Downtown) and District 4 (Outer Downtown) subject to the regulations set forth in VMC Chapter 16.77.
J	Outdoor street vending (2)	Permitted in District 1 (Georgia Street Corridor), District 2 (Central Downtown), District 3 (Civic Center) and District 4 (Outer Downtown) subject to the following: <ul style="list-style-type: none"> • Approval of an Administrative Permit (AP). • Approval of an Encroachment Permit if conducted within the public right-of-way. • Securing a general liability insurance policy naming the City as additional insured if conducted within the public right-of-way. Subject to Development Standards in Section 9 of the Specific Plan.
K	Fast food/take-out (2)	Permitted with a Minor Use Permit (MNUP). Subject to Development Standards in Section 9 of the Specific Plan.
L	Medical offices and Medical services, if the primary purpose is to treat and/or counsel patients in the fields of drug abuse, alcohol abuse, sexual abuse, spousal abuse, and/or anger management.	These classifications are prohibited in District 1 (Georgia Street Corridor).
M	Personal services, general, if the use consists primarily of any of the following or a combination thereof: (i) Barber shops; (ii) Bath (steam, Turkish or other); (iii) Beauty shops; (iv) Dating services; (v) Escort services; (vi) Massage parlor; or (vii) Shoeshine stands.	These classifications are prohibited in District 1 (Georgia Street Corridor).
N	Personal services, general, if the use consists primarily of any of the following or a combination thereof: (i) Schools; (ii) Service organizations; or (iii) Tattoo parlors.	These uses require a Minor Use Permit in District 1 (Georgia Street Corridor).

8. Land Use Regulations

LAND USE (1)	SPECIFIC PLAN DISTRICTS				
	1 Georgia St Corridor	2 Central Downtown	3 Civic Center	4 Outer Downtown	5* Southwest Downtown
Convenience sales and personal services (e.g., drug stores and convenience markets less than 5,000 square feet in size)	P (B,C,I)	P (B,C,I)	--	P (B,C,I)	P* (B,C,I)
Eating and drinking Establishments Fast food/take-out (2)	P (B,C,D) MNUP (B,C,D,K)	P (B,C,D) MNUP (B,C,D,K)	P (B,C,D) MNUP (B,C,D,K)	P (B,C,D) MNUP (B,C,D,K)	P* (B,C,D) MNUP (B,C,D,K)
Financial, insurance and real estate services	P(B)	P(B)	--	P (B)	MNUP(B)*
Food and beverage retail sales 11,000 square feet and under	P(B,C,I) MJUP MNUP (C,C,I)	P(B,C,I) MJUP MNUP (C,C,I)	MNUP (B,C)	MNUP (B,C,I) MJUP (B,C,I) MNUP (B,C,I,J,K)	P* (B,C,I) MJUP* (B,C,I) MNUP* (B,C,I,K)
Greater than 11,000 square feet Fast food/take-out (2)	MNUP (B,C,I,J,K)	MNUP (B,C,I,J,K)			
Funeral and interment services Cremating Interring Undertaking	-- -- --	-- -- --	-- -- --	-- MJUP MJUP	-- -- --
Gasoline (fueling) sales	--	--	--	MJUP(C,I)	--
Laundry services	MNUP	MNUP	--	MNUP	MNUP*
Medical offices	P(L)	P(A)	--	P	P*
Medical services	P(L)	P(A)	--	P	P*
Parking facilities (2)	MNUP or MJUP(R)	MJUP(A)	MJUP	MJUP	MJUP*
Participant sports and recreation Indoor (E.G., includes health and fitness clubs) Outdoor Bingo	P or MNUP (C,Q) -- MNUP(C)	MNUP(C) -- MNUP(A,C)	MNUP (c) -- MNUP(c)	MNUP (c) -- MNUP(c)	MNUP(C)* -- --
Personal services, general	P or MNUP (E,M,N)	P(E)	--	P(E)	P(E)*
Personal services, functional community training for developmentally disabled	MNUP(A)	MNUP(A)	--	MNUP	MNUP*

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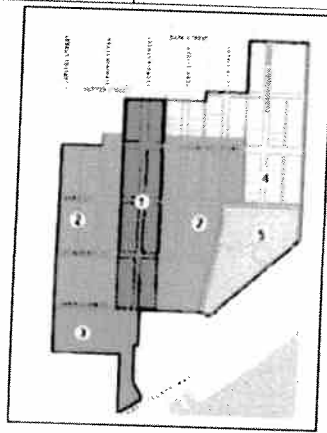


Table 8.1: Permitted and Conditional Land Uses: continued

Key Map

8. Land Use Regulations

LAND USE (1)	SPECIFIC PLAN DISTRICTS				
	1 Georgia Street Corridor	2 Central Downtown	3 Civic Center	4 Outer Downtown	5* Southwest Downtown
Repair services, consumer	P	P	--	P	P*
Research services	--	--	--	MJUP	--
Retail sales					
General	P (B,C,E,I,J)	P (B,C,E,I,J)	--	P (B,C,E,I,J)	P* (B,C,E,I)
Swap meets	--	--	--	--	--
Adult Uses	--	MJUP(E)	--	MJUP(E)	--
Spectator sports and entertainment (e.g., includes theaters, cabarets, performing art studios, galleries)					
Limited	MNUP(c)	MNUP(c)	MNUP(c)	MNUP(c)	MNUP(c)*
General	MNUP(C)	MNUP(C)	MNUP(C)	MNUP(C)	MNUP(C)*
Adult uses	--	MJUP(C,E)	--	MJUP(C,E)	--
Transient habitation					
Lodging (e.g., hotel, motel)	P(A,C,D)	P(A,C,D)	--	P(C,D)	P(C,D)*
Bed & breakfast	P(A,C,D)	P(A,C,D)	--	P(C,D)	P(C,D)*
Wholesaling, storage & distribution					
Light	--	--	--	MJUP	--
Heavy	--	--	--	--	--
Industrial Use Types					
Custom manufacturing (e.g., includes bakeries)	MNUP	MNUP	--	MNUP	--
General industrial	--	--	--	--	--
Packing and processing	--	--	--	--	--
Civic Use Types					
Administrative services	P(P)	P	P	P	P*
Ambulance services	--	--	--	MJUP	--
Clinic services	--	P(A)	--	P	P*

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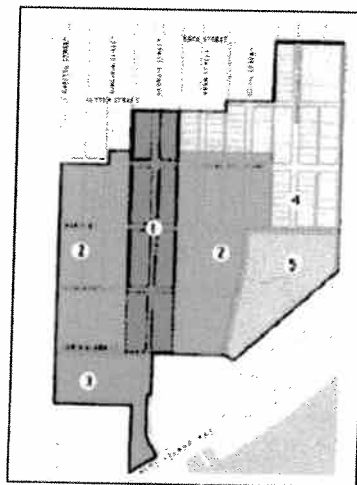


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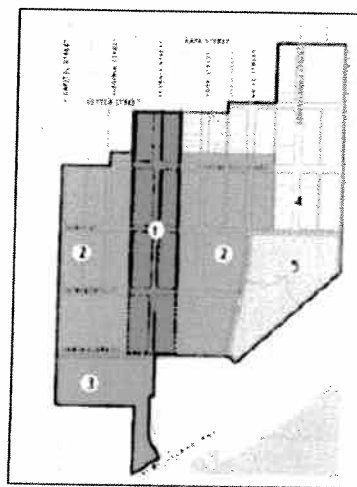
Key Map

B. Land Use Regulations

LAND USE (1)	SPECIFIC PLAN DISTRICTS				
	1 Georgia Street Corridor	2 Central Downtown	3 Civic Center	4 Outer Downtown	5* Southwest Downtown

Community education	--	--	--	MNUP	MNUP*
Day care center	--	--	--	--	--
Elementary, middle, high School	MNUP	P(A)	p	P	p*
College/university	MJUP	MJUP	MJUP	MJUP	MJUP*
Community recreation	P(C,D)	P(C,D)	P(C,D)	P(C,D)	P(C,D)*
Cultural exhibits & library services	P	P	P	P	P
Essential services	--	--	--	MJUP	MJUP*
Group care	--	--	--	MJUP	MJUP*
Major impact health care services	--	--	--	--	--
Major impact services & utilities	MNUP or MJUP(R)	MJUP(A)	MJUP	MJUP	MJUP*
Parking services	P	P	P(J)	P	P
Public park & open space (2)	P	P	P	P	p*
Postal services	--	--	--	MJUP	MJUP*
Religious assembly	MNUP(A)	MNUP(A)	MNUP	MNUP	MNUP
Telecommunication facility	Accessory and Temporary Use Types				
Accessory uses	P/AP	P/AP	P/AP	P/AP	P/AP
See VMC Section 16.58.040 For list of accessory uses	Per VMC Section 16.58.040	Per VMC Section 16.58.040	Per VMC Section 16.58.040	Per VMC Section 16.58.040	Per VMC Section 16.58.040
Home occupations	AP	AP	AP	AP	AP
See VMC Chapter 16.60 for Standards and limitations	Per VMC Section 16.60.020	Per VMC Section 16.60.020	Per VMC Section 16.60.020	Per VMC Section 16.60.020	Per VMC Section 16.60.020

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M	Personal services, general, if the use consists primarily of any of the following or a combination thereof: (i) Barber shops; (ii) Bath (steam, Turkish or other); (iii) Beauty shops; (iv) Dating services; (v) Escort services; (vi) Massage parlor; or (vii) Shoeshine stands.	These classifications are prohibited in District 1 (Georgia Street Corridor), except for those buildings east of Sonoma Blvd.
N	Personal services, general, if the use consists primarily of any of the following or a combination thereof: (i) Schools; (ii) Service organizations; or (iii) Tattoo parlors.	These uses require a Minor Use Permit in District 1 (Georgia Street Corridor).

Table 8.2: Special Land Use Regulations: continued

8. Land Use Regulations

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Table 8.2: Special Land Use Regulation: continued