

August 14, 2008

BENICIA PLANNING COMMISSION

CITY COUNCIL CHAMBERS

REGULAR MEETING AGENDA

Thursday, August 14, 2008

7:00 P.M.

I. OPENING OF MEETING

- A. Pledge of Allegiance
- B. Roll Call of Commissioners
- C. Reference to Fundamental Rights of Public - A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030 of the City of Benicia's Open Government Ordinance.

II. AGENDA CHANGES AND DISCUSSION

III. OPPORTUNITY FOR PUBLIC COMMENT

- A. WRITTEN
- B. PUBLIC COMMENT

IV. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for removal for discussion or explanation is received from the Planning Commission or a member of the public by submitting a speaker slip for that item.

*Any Item identified as a Public Hearing has been placed on the Consent Calendar because it has not generated any public interest or dissent. However, if any member of the public wishes to comment on a Public Hearing item, or would like the item placed on the regular agenda, please notify the Community Development Staff either prior to, or at the Planning Commission meeting, prior to the reading of the Consent Calendar.

- A. Approval of Agenda
- B. [Approval of Minutes of June 12, 2008](#)
- C. [Approval of Minutes of July 10, 2008](#)

V. REGULAR AGENDA ITEMS

A. [USE PERMIT FOR BODY ART AS AN ANCILLARY USE](#)

08PLN-34 Bombshell Hair and Ink

120 East G Street; APN: 89-342-030

PROPOSAL:

In accordance with Downtown Mixed Use Master Plan Town Core (TC) development regulations, the applicant requests approval of a Use Permit for the establishment of an ancillary body art business as part of an existing hair salon.

Recommendation: Adopt a resolution approving application 08PLN-34 to establish an ancillary body art use at 120 East G Street, with the condition that body art other than only facial aesthetic treatments customarily incidental to salon use not be allowed.

B. RECOMMENDATION TO CITY COUNCIL ON THE LOWER ARSENAL MIXED USE SPECIFIC PLAN AND EIR

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

PROPOSAL:

The proposed project includes implementation of a Specific Plan for the Lower Arsenal site, which is designated for mixed uses in the Benicia General Plan. The Specific Plan covers four distinct zones, each of which exhibits a unique physical character. The Specific Plan would implement a form-based code to shape future development on the project site, with primary emphasis on the physical form and character of new development. After build-out of the Specific Plan, the area would contain approximately 741,865 square feet of mixed uses, 22 residential units, and 6.39 acres of open space. The Specific Plan area currently contains approximately 525,000 square feet of mixed uses.

Recommendation: Planning Commission recommend City Council certification of the Environmental Impact Report and adoption of the Lower Arsenal Mixed Use Specific Plan, with modification of Action 4.6.2 to prohibit granting of City permit for alteration of any structure in the Plan area more than 50 years old until the Lower Arsenal historic resource inventory has been updated.

VI. COMMUNICATIONS FROM STAFF

VII. COMMUNICATIONS FROM COMMISSIONERS

VIII. ADJOURNMENT

Public Participation

The Benicia Planning Commission welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The Planning Commission allows speakers to speak on non-agendized matters under public comments, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the Planning Commission.

Should you have material you wish to enter into the record, please submit it to the Commission Secretary.

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Dan Pincetich, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Meeting Procedures

All items listed on this agenda are for Commission discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the Planning Commission.

The Planning Commission may not begin new public hearing items after 11 p.m. Public hearing items which remain on the agenda may be continued to the next regular meeting of the Commission, or to a special meeting.

Pursuant to Government Code Section 65009; if you challenge a decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the Public Hearing. You may also be limited by the ninety (90) day statute of limitations in which to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

Appeals of Planning Commission decisions which are final actions, not recommendations, are considered by the City Council. Appeals must be filed in the Community Development Department in writing, stating the basis of appeal with the appeal fee within 10 business days of the date of action.

Public Records

The agenda packet for this meeting is available at the City Clerk's Office, the Benicia Public Library and the Community Development Department during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the Community Development Department's office located at 250 East L Street, Benicia, or at the meeting held in the City Hall Council Chambers. If you wish to submit written information on an agenda item, please submit to Gina Eleccion, Management Analyst, as soon as possible so that it may be distributed to the Planning Commission.

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 [June 12, 2008 minutes \(pdf\)](#)

 [July 10, 2008 minutes \(pdf\)](#)

 [120 East G \(pdf\)](#)

 [Arsenal Specific Plan \(pdf\)](#)



**BENICIA PLANNING COMMISSION
CITY COUNCIL CHAMBERS**

REGULAR MEETING MINUTES

Thursday, June 12, 2008

7:00 P.M.

I. OPENING OF MEETING

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

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

Absent: Commissioner Brad Thomas (excused)
Commissioner Richard Bortolazzo (excused)

Staff Present: Damon Golubics, Principal Planner
Kat Wellman, Contract Attorney
Terry Baldwin, Senior Administrative Clerk

- C. Reference to Fundamental Rights of Public - A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030 of the City of Benicia’s Open Government Ordinance.**

II. AGENDA CHANGES AND DISCUSSION

No agenda changes.

III. OPPORTUNITY FOR PUBLIC COMMENT

- A. WRITTEN**

None

- B. PUBLIC COMMENT**

None

IV. CONSENT CALENDAR

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

- Ayes: Commissioners Rick Ernst, Dan Healy, Rod Sherry, Lee Syracuse, and Chair Fred Railsback
- Noes: none
- Absent: Commissioners Thomas, Bortolazzo
- Abstain: none

- A. **Approval of Agenda**
- B. **Planning Commission Minutes of May 8, 2008**

V. REGULAR AGENDA ITEMS

- A. **LOWER ARSENAL MIXED USE SPECIFIC PLAN – DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) – PUBLIC COMMENT ON RECIRCULATED SECTIONS:**
(1) HAZARD AND HAZARDOUS MATERIALS AND (2) CULTURAL AND PALEONTOLOGICAL RESOURCES

PROJECT LOCATION:

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

BRIEF DESCRIPTION OF PROJECT:

The proposed project includes implementation of a Specific Plan for the Lower Arsenal site, which is designated for mixed uses in the Benicia General Plan. The Specific Plan covers four distinct zones, each of which exhibits a unique physical character. The Specific Plan would implement a form-based code to shape future development on the project site, with primary emphasis on the physical form and character of new development. After build-out of the Specific Plan, the area would contain approximately 741,865 square feet of mixed uses, 22 residential units, and 6.39 acres of open space. The Specific Plan area currently contains approximately 525,000 square feet of mixed uses.

The Draft Specific Plan is available for public review on the City’s website (<http://www.ci.benicia.ca.us/downtown-arsenalimprovements.php>) or at the City’s Community Development Department.

Recommendation: The City of Benicia is requesting that reviewers limit their comments to the recirculated materials, consistent with CEQA Guidelines section 15088.5(f)(2). Comments on the DEIR should focus on the sufficiency of the DEIR in discussing possible impacts on the environment, ways in which adverse effects might be minimized, and alternatives to the project. Comments may be made at the public hearing

described above, or in writing. There is no fee for commenting, and all comments received will be considered by the City prior to finalizing the EIR and making a decision on the project.

Principal Planner Damon Golubics gave a brief overview of the project and then introduced Adam Weinstein from LSA Associates.

Mr. Weinstein explained the new impacts to the project that have been added to the DEIR. The DEIR is being recirculated and the new items identified to have impact on the project include (1) hazard and hazardous materials and (2) cultural and paleontological resources.

Chair Railsback asked for questions on the process from commissioners to which there were none.

Damon Golubics mentioned that new correspondence was received by the Department and copies were provided for the Commissioners.

Commissioners discussed the monitoring process, inspections and remediation and related costs. Adam Weinstein explained that the project will be monitored by an independent monitor and cost to be worked out between the City and developer.

The public hearing was opened.

Kitty Griffin commented on the contents of two new sections of the DEIR. She expressed concerns regarding the significant and unavoidable impact this project will have.

Belinda Smith stated that she is concerned about statements in the cultural section being adequate. She will submit all of her comments in writing.

Don Dean spoke regarding the project and agreed with Belinda Smith's comments.

Dana Dean stated that she feels this is a first draft of many to come. She expressed concern with some of the language in new sections.

Marilyn Bardet stated that she will be submitting another letter addressing her concerns to the DEIR. She has concerns that LSA has not properly been informed by Staff.

Commission Comments:

Chair Railsback stated that this meeting was for public comment and that no action would be taken by the Commission.

Commissioners discussed the EIR process. Adam Weinstein gave an overview of the project and the EIR process. Staff will confirm that the new commissioners have all documents pertaining to this project.

Damon Golubics stated that August 14, 2008 is the deadline for the Final EIR Response to Comments for final consideration and recommendation to send project to City Council.

VI. COMMUNICATIONS FROM STAFF

Damon Golubics mentioned that the July 10, 2008 meeting will be dedicated to the Valero Improvement Project. Commissioners should have received the original EIR and the new addendum.

VII. COMMUNICATIONS FROM COMMISSIONERS

The Commission requested a discussion item in July or August regarding the Seeno/Benicia Business Park project, specifically the traffic study required for City Council review on October 7, 2008.

VIII. ADJOURNMENT

Chair Railsback adjourned the meeting at 8:08pm



**BENICIA PLANNING COMMISSION
CITY COUNCIL CHAMBERS**

REGULAR MEETING MINUTES

Thursday, July 10 2008

7:00 P.M.

I. OPENING OF MEETING

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

Present: Commissioners Richard Bortolazzo, Rick Ernst, Lee Syracuse, Brad Thomas and Chair Fred Railsback

Absent: Commissioners Dan Healy (arrived late) and Rod Sherry (excused)

Staff Present: Charlie Knox, Community Development Director
Dan Schiada, Public Works Director
Gina Eleccion, Management Analyst
Kitty Hammer, Consultant
Kat Wellman, Contract Attorney

- C. Reference to Fundamental Rights of Public - A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030 of the City of Benicia’s Open Government Ordinance.**

II. AGENDA CHANGES AND DISCUSSION

None.

III. OPPORTUNITY FOR PUBLIC COMMENT

- A. WRITTEN**
None.

- B. PUBLIC COMMENT**
None.

IV. CONSENT CALENDAR

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

Ayes: Commissioners Bortolazzo, Ernst, Syracuse, Thomas and Chair Railsback
Noes: None
Absent: Commissioner Healy (arrived late) and Commissioner Sherry (excused)
Abstain: None

A. Approval of Agenda

V. REGULAR AGENDA ITEMS

**A. USE PERMIT FOR VALERO IMPROVEMENT PROJECT (VIP)
AMENDMENTS**

07PLN-32
3400 East Second Street

BRIEF DESCRIPTION OF PROJECT:

Valero Refining Company requests approval of a Use Permit amending the Valero Improvement Project (VIP) Use Permit approved in 2003. The VIP, as approved in 2003, is comprised of a number of project elements that Valero hoped to undertake at the refinery over the ensuing seven years. Only a few of the project elements have been constructed. Valero now wishes to modify portions of the VIP to improve air pollution control, energy efficiency, and flare minimization, and to make other technical modifications to VIP project elements based upon detailed engineering analysis of the project as originally proposed. Valero requests that the December 31, 2009 use permit expiration date be extended to December 31, 2014 to allow for construction of the project as amended.

Recommendation: Approve the Use Permit for the Valero Improvement Project Amendments, based on the findings, and subject to the conditions listed in the proposed resolution.

Charlie Knox noted that an agreement has been reached between Valero and the Good Neighbor Steering Committee for additional conditions to commit to Provision 5 of the June 5, 2003 Settlement Agreement regarding conservation efforts. Charlie Knox thanked Dana Dean, Marilyn Bardet, Chris Howe and Valero staff for their efforts in negotiating this agreement.

Kitty Hammer, Consultant, gave an overview of the project. She gave a history of the refinery and the Valero Improvement Project (VIP). She noted that Valero is currently working on crude tanks and low-sulphur diesel projects. The Federal EPA requires a better scrubber be constructed by the end of 2010. The scrubber and a new hydrogen unit are the main components of the VIP. An environmental assessment determined that an addendum was the appropriate CEQA document. The addendum was circulated and one comment was received from the Good Neighbor Steering Committee. The VIP amendments would further reduce emissions from those identified in the original VIP Environmental Impact Report. The City has determined it can meet the water demands,

including those related to the VIP. The refinery has reduced its water need. One condition of approval is to incorporate the 2003 Settlement Agreement as a formal condition of approval. Staff is recommending the permit be conditioned to enforce a cap regarding emissions. In addition, the color of the scrubber is being conditioned. The scrubber will be stainless steel, with painted lattice work. Valero requested changes in six of the conditions of approval. Valero also requested to extend the Use Permit expiration date to December 31, 2014. Staff recommends granting this extension. The requested Use Permit would allow improvements to decrease emissions. Staff recommends approval with conditions.

Kitty Hammer introduced Tim Morgan and his staff from ESA, who assisted on the environmental assessment. In addition, she introduced Anna Shimko, an attorney working with ESA. Charlie Knox noted that Condition #13 should incorporate the new agreement between Valero and the Good Neighbor Steering Committee distributed at the meeting.

Commissioners discussed the changes to condition #13 related to Valero and the Good Neighbor Steering Committee.

The peer analysis was discussed. Kitty Hammer noted that the peer review was conducted by environmental experts. ESA employs such experts, who carefully reviewed the CEQA analysis provided by Valero in relation to the impacts of the project.

The addendum was discussed. The City oversaw the analysis performed by ESA.

The increase in property tax revenue was discussed. Charlie Knox noted that an additional \$500,000 per year in revenue is anticipated at buildout.

Mitigations related to water use were discussed. Kitty Hammer noted that these mitigations are related only to the VIP project. Any water shortage would require a reduction in use.

The need for a Use Permit, based on the legal, nonconforming use, was discussed. Charlie Knox noted that there wasn't a requirement for a Use Permit in 1968 when the refinery came to Benicia.

The Mitigation Monitoring and Reporting Program (MMRP) was discussed. Kitty Hammer noted that there were no new significant impacts, so the MMRP remains the same and should be incorporated as an exhibit to the approved Resolution.

This project was discussed in relation to the Benicia Business Park project. All of the effects of the refinery were considered in the environmental analysis of the Benicia Business Park project. Kat Wellman noted that Valero already has approval for the project. This amendment simply allows additional facilities that result in reduction in emissions.

AB32 was discussed in relation to the project. Anna Shimko noted that the standard for environmental review beyond an addendum to be new significant impacts, which has

been determined is not the case. Therefore no further environmental analysis beyond the addendum is required. The addendum includes a quantification of the greenhouse gas emission, which shows a decrease in emissions if the amendments are approved.

Kitty Hammer noted that the City has obtained more water, so there is an additional water supply available. Regarding this condition, there is less impact with the additional water supply. Dan Schiada, Public Works Director, noted that the additional water added an additional 10,500 acre feet. There is still enough water to provide for this project, as well as other projects called out in the General Plan, including the Benicia Business Park project.

Condition #14b was discussed. It is intended to ensure that the scrubber gets built.

Regarding AB32 Charlie Knox noted that the City is completing a greenhouse gas emissions inventory.

Don Cuffel, Principal Environmental Engineer, Valero , gave a brief presentation on the amendments. The amendments refine the previously approved project, and do not increase emissions. An overview of the scrubber operation was given. The existing hydrogen plant will be decommissioned. The new hydrogen plant will consume internal refinery fuel gas, thereby reducing flaring.

Commissioners questioned where Valero purchases its crude oil. A Valero representative noted that it varies. Don Cuffel noted that the amendments also reduce water use.

Commissioners questioned Valero's approach to AB32 requirements. Chris Howe, Valero, noted that the agreement with the Good Neighbor Steering Committee specifies Valero's commitment to environmental issues. Valero would like to be recognized as an environmental partner with the City.

Don Cuffel commented on flare issues. He noted that flare is a safety critical device. It safely combusts material that cannot be contained in the plant. Steam is injected with material going to the flare.

It was noted that up to 50 jobs may be created as a result of the VIP.

The possibility of participation with other refineries in a hydrogen grid was discussed. There are no plans at this time related to this project.

The public hearing was opened.

Dana Dean, Good Neighbor Steering Committee (GNSC) – She noted that there have been a lot of changes in the last 5 years that have been positive. The GNSC disagreed with an addendum as the appropriate CEQA document. Climate change, water supply, and reduction of greenhouse gas emissions are major concerns. She noted that the GNSC will not appeal if all items from Exhibit A are incorporated as conditions of approval. Air quality and monitoring have always been a major focus of the GNSC. An

overview of the agreement between Valero and the GNSC was given. The agreement secures a reduction in water need. She noted that this will reduce energy consumption as well. She noted there is \$1,000,00 for buffer land and \$1,000,000 for watershed land acquisition.

Marilyn Bardet, founding member of Good Neighbor Steering Committee – She noted that safety and environmental protection have always been big issues and she appreciates the current refinery staff. She commented on the spirit of AB32. The required reductions are going to be difficult to achieve. She credited Valero with the reductions and acknowledged Don Cuffel for his work with the Citizen Action Panel (CAP). She commented on impacts from global warming. She is supportive of the additional conditions noted in Exhibit A.

Kevin Coleman, Business Agent for Local IBEW 180 – He commented on the work between Valero and the Good Neighbor Steering Committee. He believes this is a win-win for Valero and the City, based on the amended conditions of approval.

The public hearing was closed.

Commissioners commented on the collaboration between Valero and the GNSC. Air quality, water consumption and AB32 were all noted as concerns to the community.

There were questions regarding soil analysis, particularly in relation to the original EIR. Charlie Knox noted that there has been some soil analysis for the Arsenal. Kitty Hammer noted the Regional Water Quality Control Board has been monitoring water quality and soils in the ground at the refinery. They are working to mitigate any contamination.

Don Cuffel noted that there is a limit of 6 tons per year for fugitive VOC emissions so that Valero is responsible for monitoring the inventory. He noted that BAAQMD requires immediate repairs of any leaks.

Commissioners thanked Dana Dean and Marilyn Bardet for their work. In addition, Valero was recognized for their work. The importance of AB32 was reiterated. The Benicia Business Park project was referenced, specifically a bike/pedestrian trail. The potential for a hybrid transportation system was suggested.

RESOLUTION NO. 08 -5 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A USE PERMIT FOR AMENDMENTS TO THE VALERO IMPROVEMENT PROJECT (07PLN-32)

Kat Wellman suggested the following:

1. Eliminate #13
2. Leave #23, add “as amended by the July 10, 2008 Settlement Agreement which specifically sets forth in Exhibit A conditions of approval, which are incorporated by reference and included as additional conditions of approval of this amended use permit.”

Don Cuffel agreed with the changes proposed. He requested that conditions not be renumbered. Dana Dean noted there is an easement on the property that can be used for a bike path. Chris Howe noted that Valero would work with the City on the use of buffer zones for bike/pedestrian traffic.

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

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

VI. COMMUNICATIONS FROM STAFF

Charlie Knox noted that the Arsenal Specific Plan will be on the August agenda.

VII. COMMUNICATIONS FROM COMMISSIONERS

Chair Railsback questioned if Tesla was looking for space in Northern California and wondered if Benicia had been contacted. Charlie Knox noted that he believes they are looking at 2 specific South Bay locations.

VIII. ADJOURNMENT

Chair Railsback adjourned the meeting at 9:17 p.m.

**AGENDA ITEM
PLANNING COMMISSION MEETING: AUGUST 14, 2008
REGULAR AGENDA ITEM**

DATE : August 4, 2008

TO : Planning Commission

FROM : Damon Golubics, Principal Planner

SUBJECT : **USE PERMIT FOR BODY ART AS AN ANCILLARY USE**

PROJECT : Bombshell Hair and Ink
120 East G Street
08PLN-34
APN: 089-342-03

RECOMMENDATION:

Adopt a resolution approving application 08PLN-34 to establish an ancillary body art use at 120 East G Street, with the condition that body art other than only facial aesthetic treatments customarily incidental to salon use not be allowed.

EXECUTIVE SUMMARY:

A use permit is requested for body art use ancillary to an existing hair salon in the Town Core zoning district per the Downtown Mixed Use Master Plan. Such use is consistent with the directive of General Plan Policy 2.1.1 to support the historic small-town character of the downtown, provided that body art at the salon is limited to facial aesthetic treatments customarily incidental to salon use. The proposed ancillary use would require expansion of the salon into an adjacent vacant area of the same building.

ENVIRONMENTAL ANALYSIS:

The proposal is Categorically Exempt under Section 15301 of the California Environmental Quality Act (CEQA), which applies to interior alterations of existing facilities.

BACKGROUND:

General Plan designation/Zoning: Downtown Commercial/Town Core (TC)

Existing use: Hair salon

Proposed use: Hair salon and body art as an ancillary use

Adjacent zoning and uses:

North: Neighborhood General (NG) / Commercial & multi-family residential

East: Neighborhood General (NG) / Leary residence (single-family residential)

South: Town Core (TC) & Neighborhood General-Open (NG-O) / Mixed use

West: Town Core (TC) / Sandoval's Restaurant

SUMMARY:

Cheri Graf, owner of Bombshell Hair and Ink, seeks to expand existing salon services to include body art. The hair salon currently occupies 568 square feet at 120 East G Street. The proposed body art area would occupy an additional 261 square feet of currently vacant commercial space adjacent to the existing salon.

Permanent Make-up vs. Non-facial Tattoos

The Downtown Mixed Use Master Plan requires use permit approval for any body art or piecing business in the Town Core zoning district, which may only be considered as an ancillary use to a permitted use. Body art customarily ancillary to a salon use consists of “permanent make-up,” typically defined as:

Pigment applied to or under the skin of a person for the purpose of permanently or semi-permanently changing the color or appearance of eyebrows, eyelids and lips.

Permanent make-up as part of a salon is consistent with General Plan Policy 2.1.1, which seeks to:

Ensure that new development is compatible with adjacent existing development and does not detract from Benicia’s small town qualities and historic heritage, (and to the extent possible, contributes to the applicable quality of life factors...)

These “factors” include safe neighborhoods, pedestrian-friendly streets, the “Main Street” character of First Street, strong sense of community and civic pride, low-crime, small town atmosphere, and numerous community-wide celebrations, cultural events, and family-oriented activities. Allowing permanent make-up at Bombshell also would be consistent with provision of facial body art by other salons in operation in the Town Core zoning district since prior to adoption of the Downtown Mixed Use Master Plan. This type of body art was discussed by the City Council when the use permit provision was added to the Downtown Mixed Use Master Plan at the time of its adoption. Other forms of body art not typically incidental to salons, such as tattooing of other regions of the body, were not desired and would be inconsistent with General Plan Policy 2.1.1 by detracting from Benicia’s small town qualities and not contributing to the “quality of life factors” referenced.

Use Permit Findings

Benicia Municipal Code Section 17.104.060 requires the following findings be made by the Planning Commission in order to approve any Use Permit request:

- a) That the proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located;
- b) That the proposed location of the conditional use and the proposed conditions under which it would operate or be maintained will be consistent with the General Plan and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of

such use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city; and

- c) That the proposed conditional use will comply with the provisions of this title, including any specific conditions required for the proposed conditional use in the district in which it would be located.

Conclusion

The proposal by Bombshell Hair and Ink is consistent with the required findings and General Plan Policy 2.1.1 regarding the small-town atmosphere and character of downtown, provided that body art at the salon is limited to semi-permanent and permanent make-up treatments that are customarily incidental to salon use.

FURTHER ACTION:

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

Attachments:

- Draft Resolution
- Application (Project Description, Applicant's Written Statement, Floor Plan)
- Signatures in Support of the Request

DRAFT RESOLUTION

RESOLUTION NO. 08- (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A USE PERMIT (08PLN-34) FOR AN ANCILLARY BODY ART USE AT 120 EAST G STREET

WHEREAS, on June 3, 2008, Cheri Graf submitted an application for a body art use ancillary to an existing personal service use (hair salon) at 120 East G Street in the Town Core zoning district; and

WHEREAS, the Planning Commission at a regular meeting on August 14, 2008, conducted a public hearing, considered all testimony and documents and reviewed the proposed project.

WHEREAS, the Planning Commission at a regular meeting on August 14, 2008, finds that the proposed project is Categorically Exempt under Section 15301 of the California Environmental Quality Act (CEQA) because the ancillary use would be accommodated in existing developed commercial space.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia hereby approves a use permit for an ancillary body art use at 120 East G Street.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Benicia hereby approves a use permit allowing an ancillary body art use as part of an existing hair salon at 120 East G Street, provided that body art at the salon is limited to facial permanent make-up treatments, specifically: pigment applied to or under the skin of a person for the purpose of permanently or semi-permanently changing the color or appearance of eyebrows, eyelids and lips.

BE IT FURTHER RESOLVED that the City Council of the City of Benicia finds that:

- a) The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located. Adding an ancillary body art use limited to permanent facial make-up to downtown would not detract from the small-town character of Benicia and would be consistent with the purpose and intent of the Downtown Mixed Use Master Plan;
- b) The proposed location of the ancillary use and the conditions under which it would operate and be maintained will be consistent with the General Plan and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city. The proposed body art business is compatible with adjacent existing development and policies in the General Plan; and

- c) The proposed ancillary use will comply with the provisions of Title 17 of the Benicia Municipal Code, including any specific conditions required for the proposed conditional use in the district in which it would be located. As referenced in the General Plan, new businesses should support safe neighborhoods and streets, pedestrian-friendly streets, the “Main Street” character of First Street, open vistas of historic sites and buildings, strong sense of community and civic pride, low-crime, small town atmosphere, and numerous community-wide celebrations, cultural events, and family-oriented activities.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Benicia hereby approves the Use Permit subject to the following conditions:

1. The plans and information submitted for the project [dated received June 3, 2008] shall be on file with the Community Development Department.
2. “Body art” as allowed in the Town Core zoning district shall be defined as “pigment applied to or under the skin of a person for the purpose of permanently or semi-permanently changing the color or appearance of eyebrows, eyelids and lips,” and may also be referred to as “permanent make-up.”
3. “Tattooing,” which shall not be allowed as “body art” in the Town Core zoning district, shall be defined as:

Indelible marking or coloring of the skin with a needle by injecting ink, dye, or other coloring material upon or under the skin so as to leave a permanent mark or designs on the skin, except that tattooing does not include “permanent make-up” provided as an ancillary use to a beauty shop, hair salon, day spa or other similar service or retail establishment.
4. At no time shall “tattooing” be allowed at the subject location or elsewhere within the area of the Downtown Mixed Use Master Plan and shall be considered a zoning violation and grounds for use permit revocation.
5. The permittee shall obtain all necessary permits from the Solano County Environmental Health Department or other jurisdictional agency prior to commencement of the use.
6. Hours of operation of the ancillary body art business shall be limited to 9:00 a.m. to 9:00 p.m. daily.
7. The ancillary body art business shall not be visible from any public area outside of the subject building and shall not have private work stations, in order to maintain adequate interior visibility.

8. City staff shall be allowed to inspect the ancillary body art business for compliance with these conditions of approval. Adequate notice of inspection shall be given to the permittee.

9. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

On a motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted by the Planning Commission of the City of Benicia at the regular meeting of said Commission held on the 14th day of August, 2008, and adopted by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Charlie Knox
Planning Commission Secretary

APPLICATION

Planning Application Form

Regarding question #3

Project Description:

Addition of permanent art studio inside existing Hair Salon "Bombshell Hair and Ink". Hair Salon space existing square footage 568.15. Proposed separate space for permanent art studio 261.25 square feet.

Hours of operation are Tuesday thru Saturday, 10:00am thru 9:00pm. Mostly by appointment only.

Existing space to be used for tattooing has hand washing facilities inside room per Osha Standards. Door leading to G street from tattoo room is an EXIT only, and does not open from the outside. Two doors leading in and out of tattoo room from the hair salon, one for employees only, and one for clients who are of age. Legal age for tattooing in state of California is 18 years of age with proper I.D. will be strictly enforced.

Windows that lead to G Street will be covered during any type of tattooing service, so as the public will not see a tattoo being performed.

Written Statement:

The number of people in the Hair Salon are 4 stylists, and a part-time assistant. The number of customers could be 0-2 people per stylist at any given time. There will be one part/full time tattoo artist, and myself, a part time tattoo artist by appointment only. Each tattoo artist will only have one client at a time.

Our location is limited to side-street parking or parking on First Street. There is currently a 30 minute green zone on East G Street. We will have normal vehicle traffic as does any customer related business in Benicia.

Our Days of operation are Tuesday thru Saturday. Closed on Sunday and Monday. Business hours range from 10:00am till as late as 10:00pm, while most of the time we are closed by 8:30pm.

We have no outdoor areas except the sidewalk area in front of our store windows.

No new structures are being added at any time.

The former use of this site for a 5-6 months was "The Computer Doctors" a computer repair store.

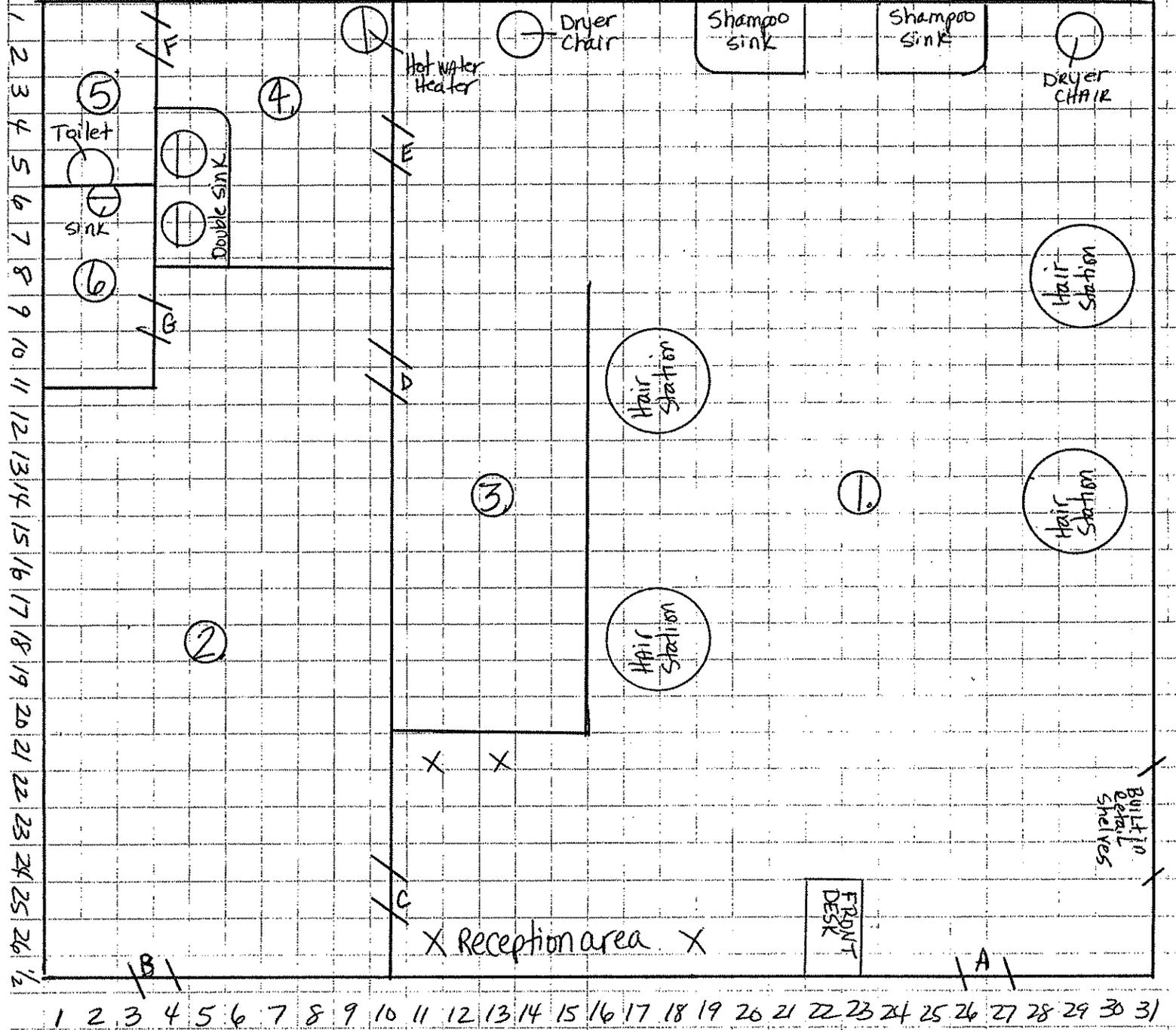
Previous to that it was a golf store called "The Shaft Shop".

There will be no noise, or anything that would be considered unlawful.

There are no hazardous materials or chemicals involved in this business.

120 East G St set • Bombshell Hair and Ink

Scale - = ONE SQUARE FOOT



120 EAST G Street • Bombshell Hair and Ink

1. Main Room Hair Salon
Reception + waiting area
21 feet by 26.9 feet
2. Permanent Art Studio
9 1/2 feet by 19 feet
3. Employee area
5 1/2 feet by 12 feet
4. Hand Washing sink, supply area
6.4 feet by 7.5 feet
5. Bathroom, toilet only
2.9 feet by 5.5 feet
6. Sink + Storage
2.9 feet by 5.6 feet

Doors

- A. Front entrance + Exit
- B. Exit only
- C. Private entrance to
Permanent art Studio
- D. employee entrance to/from
permanent art studio
- E. entrance to sink + bathroom
- F. entrance to toilet
- G. hand washing sink entrance
from art studio

**SIGNATURES IN SUPPORT
OF THE REQUEST**

Bombshell Hair and Ink is a high-end hair salon that would like to add permanent art "tattooing" to their list of services. Please sign below if you would like to support our request of adding this service.

Name:	Address	Signature
1. <u>CHERI GRAF</u>	<u>120 East G Street. 94510</u>	<u>[Signature]</u>
2. <u>DAYA Birnbaum</u>	<u>75 A Carolina Dr Benicia 94510</u>	<u>Daya B</u>
3. <u>MICHAEL L PERKINS</u>	<u>20 BUENA VISTA BENICIA 94510</u>	<u>[Signature]</u>
4. <u>Vicki Stief</u>	<u>940 Adams St E Benicia 94570</u>	<u>[Signature]</u>
5. <u>NICOLE Slavik</u>	<u>187 W Shirley Dr. Benicia</u>	<u>Nicole Slavik</u>
6. <u>Bobbi Williams</u>	<u>300 E H St. #145, Benicia 94510</u>	<u>Bobbi Williams</u>
7. <u>Shen Hoffman</u>	<u>73 Linda Vista Benicia</u>	<u>Shen Hoffman</u>
8. <u>Rachel Williams</u>	<u>527 East K St.</u>	<u>Rachel Williams</u>
9. <u>Alexandra Cervelli</u>	<u>423 O'Farrell</u>	<u>[Signature]</u>
10. <u>Sheila Ambrose</u>	<u>900 Southampton Apt 102</u>	<u>[Signature]</u>
11. <u>Tracy Springer</u>	<u>962 West L St. Benicia</u>	<u>Tracy Springer</u>
12. <u>SARAH CHAKRA</u>	<u>1419 Grandact</u>	<u>[Signature]</u>
13. <u>LANA MYERS</u>	<u>300 E H St. #128 Benicia</u>	<u>Lana Myers</u>
14. <u>Lisa Habib</u>	<u>570 Cooper Drive Benicia</u>	<u>[Signature]</u>
15. <u>AND Cervelli</u>	<u>1612 Susan Ct. Benicia</u>	<u>[Signature]</u>
16. <u>Jen Campbell</u>	<u>837 East 2nd St Benicia</u>	<u>[Signature]</u>
17. <u>Archie Stemmeyer</u>	<u>190 East F St Benicia</u>	<u>[Signature]</u>
18. <u>Wendy Dogan</u>	<u>141 Shea Drive West Vjo</u>	<u>Wendy Dogan</u>
19. <u>Kelley Curtis</u>	<u>185 Delgado Ct Vallejo</u>	<u>[Signature]</u>
20. <u>Devlen Fox</u>	<u>210 Panarama Dr Benicia</u>	<u>[Signature]</u>
21. <u>Tommy B</u>	<u>412 Mills</u>	<u>[Signature]</u>
22. <u>Haron Schulte</u>	<u>301 Simon St Vallejo CA 94591</u>	<u>[Signature]</u>
23. <u>STEPHANIE GRAY</u>	<u>557 WILLOW CT BENICIA 94510</u>	<u>[Signature]</u>
24. <u>Andrea Hill</u>	<u>205 Panarama Dr. Benicia 94510</u>	<u>[Signature]</u>
25. <u>Gretchen Treitmae</u>	<u>412 Longridge Dr. Vallejo</u>	<u>Gretchen Treitmae</u>
26. <u>Janis O'Harek</u>	<u>7602 Anita Ave Benicia</u>	<u>[Signature]</u>
27. <u>STEP BIRNBAUM</u>	<u>405 EAST N ST. BENICIA</u>	<u>[Signature]</u>

Name:	Address	Signature
28. Michele Runyon	246 East E Benicia	Michele Runyon
29. Rose Paraiso	124 Plow Way, Vallejo 94590	R Paraiso
30. MICHAEL BASSIG	2668 SIMAS AVE PINOLE CA 94504	[Signature]
31. Kelly Mann	24 Selfridge St Vallejo 94590	[Signature]
32. Hernan Perez	1205 Proggys Ct Vallejo	[Signature]
33. Cately Donohue	124 White Chapel DR.	Cately Donohue
34. Andrew Campbell	[Address]	Andrew Campbell
35. Sumanthala Man	327 East L St Benicia	[Signature]
36. Jason McManis	327 East L St Benicia	[Signature]
37. [Name]	694 Regis Ct. Benicia, Ca	[Signature]
38. Lory Hammond	686 Vincent Ct Benicia	[Signature]
39. Shawna Arden	581 Vintage Valley Dr. Fairfield	[Signature]
40. NICK BERRY	205 CARLISLE WAY BENICIA	[Signature]
41. Erin Whalen	827 East Fourth St Benicia	[Signature]
42. Chip Whalen	827 East 4th St Benicia	[Signature]
43. Kary Chambers	334 Cooper Drive Benicia	[Signature]
44. Scott White	1049 North Regatta Dr	[Signature]
45. Chappas	1050 West K St Benicia	[Signature]
46. Mark Chappas	1050 West K St	[Signature]
47. David Billing	2004 Haven Hills Benicia	[Signature]
48. Tyler Polley	291 Seaview Dr Benicia	[Signature]
49. Angela Adams	210 Outrigger Vallejo	[Signature]
50. Phyllis Hartzel	480 Wic	[Signature]
51. JOHN JOHNSON	416 EAST J ST	[Signature]
52. MARK HANCOCK	234 EAST 2ND ST	[Signature]
53. LORNE HANCOCK	234 E 2ND ST BENICIA	[Signature]
54. JOE FERRANDO	523 FUCHSIA DR BENICIA CA	[Signature]
55. Sandra Cox	659 Snapdragon Pl Benicia	[Signature]
56. David Cox	659 Snapdragon Pl	[Signature]
57. Eric weld	690 Knight Dr.	[Signature]
58. Kristi Ferrando	523 Fuchsia Dr Benicia	[Signature]

Name:	Address	Signature
59. Jill Madron	2 Palencia Ct Am Cyn CA 94503	Jill Madron
60. Vance Madron	2 Palencia Ct Am Cyn CA 94503	Vance Madron
61. Matthew Madron	2 Palencia Ct Am Cyn CA 94503	Matthew Madron
62. Scott Zimmer	371 Viewmont St Benicia CA	Scott Zimmer
63. Sara Michaud	777 Burton Way Benicia CA	Sara Michaud
64. Jessica Cheatham	322 Greenwood St Vallejo, CA	Jessica Cheatham
65. Jillian Hallgren	1415 Devlin Dr Vjo Ca 94591	Jillian Hallgren
66. Brian Jenkins	460 E C St Benicia ca 94591	Brian Jenkins
67. Chuli Sasikumar	801 S Hampton Benicia CA 94510	Chuli Sasikumar
68. Mervyn Cowan	108 Menlo Ct Vallejo Ca 94589	Mervyn Cowan
69. James Pire	836 B South Hampton Rd Benicia CA 94510	James Pire
70. Dean Hallgren	1415 Devlin Dr Vallejo CA 94591	Dean Hallgren
71. Brenda Craft	430 Skyline Dr Vallejo CA 94591	Brenda Craft
72. Jennifer Wilson	150 Parkin Way #10 Benicia CA 94510	Jennifer Wilson
73. TREVOR WILSON	150 Parkin Way #10 Benicia, CA	Trevor Wilson
74. ERIKA NEAL	3727 GEORGIA ST VALLEJO CA 94591	Erika Neal
75. ROB BENSTIN	3727 GEORGIA ST VALLEJO CA 94591	Rob Benstin
76. MICHAELA MATTEPOLI	3727 GEORGIA ST VALLEJO CA 94591	Michela Mattepoli
77. Roger Moore	19 Buena Vista Benicia	Roger Moore
78. Debi Moore	19 Buena Vista Benicia	Debi Moore
79. Joan Miller	150 Greenfield Ave Vjo. 94590	Joan Miller
80. Debbie White	150 Greenfield Ave Vjo. 94590	Debbie White
81. Hank ALVA	244 EDGEMONT AVE, Vjo 94590	Hank Alva
82. PAUL ALVA	244 EDGEMONT, VJO 94590	Paul Alva
83. JESSICA PERKINS	20 Buena Vista Benicia	Jessica Perkins
84. Lane Cayford	2071 Bennington Dr Vallejo	Lane Cayford
85. THOMAS SAUCIER	912 ST CLAIRS Pky Vallejo CA 94591	Thomas Saucier
86. Lynda R Jones	74 B St. Vallejo, Ca 94590	Lynda R Jones
87. Monica Huddleston	4038 Senate Ave, WH 94560	Monica Huddleston
88. MARIEL MURGIA	900 RANOKO DR. MARTINEZ, CA 94553	Mariel Murgia
89. Dale Knight	2 Oriole Ct. American Cyn 94503	Dale Knight

Name:	Address	Signature
90. Shelly Bruffin	463 Hawthorne Ave Benicia 4	Shelly Bruffin
91. Shelly Butter	1344 West K Benicia	Shelly Butter
92. Felix ^{SANDY} Sandoz	24 Selfridge St. Vallejo CA 94590	Felix Sandoz
93. ANDREW TREMAIN	367 SILAS CT. 94510 BENICIA	Andrew Tremain
94. Rachael Lustan	1361 Anita Cir 94510 Benicia	Rachael Lustan
95. Marcell Bidou	825 Corrigan Ct, Benicia CA 94510	Marcell Bidou
96. Tynia Chavez	743 Barton Way Benicia	Tynia Chavez
97. monique chavez	743 Barton Way benicia	Monique Chavez
98. Heidi Hegle	687 Ampidon, Benicia	Heidi Hegle
99. Jeff Jones	921 Jefferson St	Jeff Jones
100. Barb Jones	921 Jefferson	Barb Jones
101. Jessica Bagnara	574 WILLOW CT BENICIA	Jessica Bagnara
102. David Titmas	449 East D Street Benicia CA	David Titmas
103. Robert Webster	860 Benicia RD Vallejo CA 94591	Robert Webster
104. Lauren M. Browning	20 Buena Vista Dr. Benicia 94510	Lauren M. Browning
105. Chris Poccinelli	2002 3rd St #214 S.F. CA 94107	Chris Poccinelli
106. Ken Leach	1385 E. 3rd St. BENICIA, CA	Ken Leach
107. Teara Lomen	715 El Centro, El Sobrante	Teara Lomen
108. Ian Wilson	355 Stinking Nail St V.V. 94587	Ian Wilson
109. FIL VIGIL	224 ROSITA CT V.V. 94587	Fil Vigil
110. Margie Talbot	755 Monaghan Cir 94688	Margie Talbot
111. Tracy Clark	865 West L St.	Tracy Clark
112. JENELL HERNANDEZ	101 Primrose Lane Vallejo 94591	Jenell Hernandez
113. Annette Dalmo	1830 Richardson St Martinez 94553	Annette Dalmo
114. Bob Canvey	301 SNOW EGRET DR. Ukiahville	Bob Canvey
115. JAMIE ARANAS	277 REDSTONE CIRCLE, SUISUN 94565	Jamie Aranas
116. Presille Sidney	1310 WILLOWING LN, Valley 94591	Presille Sidney
117. Miguel Cohn	323 Steven Cir Benicia, 94510	Miguel Cohn
118. Tammy Cruz	409 Ladera Dr., Vallejo, CA 94591	Tammy Cruz
119. Roland Garcia	460 EAST L, VALLEJO, CA 94510	Roland Garcia
120. Greg Ellwell	827 OXFORD Way, Benicia, CA 94510	Greg Ellwell

Name:	Address	Signature
121. CARL LIUDEMANN	521 COTTONWOOD ST. VALLEJO	
122. Sonja Larsen	443 Turm Dr	
123. Cristina Comendador	976 Dillo St. San Leandro, CA.	
124. Amy Mattie	463 Currey Ct. Benicia, CA	
125. William Mattie	463 Currey Ct Benicia, CA	
126. Anja Thiel	415 MARSHALL PL BENICIA CA	
127. Louise Scott Hob	678 SUNDAY PL BENICIA	
128. Ken Sarna	206 Outrigger Dr VSO	
129. Lisa Sarna	206 Outrigger Dr	
130. Patricia Simon	203 Randall Ave Vacaville	
131. Kyle Womack	412 O'FARRELL DR BENICIA	
132. MATTHEW WARREN	412 O'FARRELL DR BENICIA	
133. Matt Owens	542 Poppy Circle	
134. LIZ AMEZCUA	183 JAMES ROAD VALLEJO CA	
135. MIKE SWELL	68 LA PRENSA BENICIA CA	
136. Rich Davis	5072 Golden Plover Ct	
137. Simone Saletta	1909 Berkeley Wy, Berkeley	
138. NICOLE AMM	1400 TECHNOLOGY LN #1057 PEBBLERMA	
139. Wendy Gonzales	784 Burton Way Benicia CA	
140. Ola Peters	644 East W Street Benicia CA	
141. Martha DUS	1007 KILARNY ST BENICIA	
142. Kenneth White	586 PERTWILLAR PL BENICIA, CA	
143. MIKO WHITE	"	
144. Autumn Parrott	75 Carolina Dr	
145. Danielle Littleton	75 Carolina Dr	
146. Craig Parrott	75 Carolina Dr	
147. Angelina Sarchett	103 Sunset Cir. # 21	
148. Jane Zavitz	677 WJ St. Benicia	
149. Connie Adam	139 West F St.	
150. Mandy Zimmer	371 Viewmont St Benicia	
151. Jennifer Surges	5049 Athlamba Valley Mtz.	

Name:	Address	Signature
152. Mike Klug	145 Dartmouth Benicia	Mike Klug
153. Denise Baumer	534 Cooper Dr Benicia	Denise Baumer
154. ART CHOY	140 WILDFLOWER AVE., VALLEJO	Art Choy
155. Pam Vaughn	71 Emerald Circle Vallejo	Pamela Vaughn
156. BARBARA UBERTO	850 CHANNING CR BENICIA	Barbara Uberto
157. JERODELLE LORENA	85 PARKHAVEN DR, VALLEJO	J. Lorena
158. Lori Bates	440 Regents Park Dr. Vallejo	Lori Bates
159. Sue Albeyta Kovach	37 Buena Vista, Benicia	Sue Albeyta
160. Michael Guide	450 Skyline Dr, Vallejo	M. Guide
161. Christine Tobey	1300 East 3rd St Benicia	Christine Tobey
162. Chandra Cambra	160 Brandon Pl	Chandra Cambra
163. Kim Kiser	157 Cardinal Lane	Kim Kiser
164. Becky Laney	417 El Dorado Vallejo	Becky Laney
165. Elizabeth Gray	131 First St. Suite D	Elizabeth Gray
166. Brian Buck	142 Mansail Ct. Vallejo	Brian Buck
167. Bobbi Westrich	400 Raymond Ben	Bobbi Westrich
168. John Estabrook	Chepel Way Benicia	John Estabrook
169. Sandra Jozue	445 729 Selby Ln.	Sandra Jozue
170. CAROLINE JONES	2040 HARROG, SAN JOSE, CA	Caroline Jones
171. AMELIA GARCIA	1006 Caldwell Ave Vallejo CA	Amelia Garcia
172. DIANNE PAGE	6316 PEBBLE BEACH VALLEJO	Dianne Page
173. SHELLY FARRIS	735 BUCHANAN ST, BENICIA	Shelly Farris
174. Danielle Littleton	75 Carolina Dr. Benicia	Danielle Littleton
175. Billy Michael	50 Cheban Hills Dr Benicia	Billy Michael
176. Debbie Arnfield	1015 First St Benicia	Debbie Arnfield
177. Monique Flaxton	715 Spigler Dr	Monique Flaxton
178. Alyson Cassity	775 Juniper St	Alyson Cassity
179. Melody McKee	915 West K	Melody McKee
180. Karen Fournre	4680 E 2nd St	Karen Fournre
181. Tauli Bookman	230 Carlisle Way Benicia, CA	Tauli Bookman
182. Darcy Bookman	230 Carlisle Way Benicia CA	Darcy Bookman

Name:	Address	Signature
183. Tami DiGrande	1569 Whispering Wind	Tami
184. Jonell Gonzalez	444 THOMAS DR Benicia	Jonell Gonzalez
185. Stacy Edwards	1826 Shirley drive Benicia	Stacy Edwards
186. Stacey Stewart	1826 Shirley dr Benicia	Stacey Stewart
187. Shannon Bourke	387 East 1st St Benicia	Shannon Bourke
188. MIKE ROSENQUIST	334 Weldon Ct Benicia	Mike Rosenquist
189. LORI MARTIN	162 W. J. St. # Benicia	Lori Martin
190. Kathy Haskins	461 O. Farrell Dr Benicia	Kathy Haskins
191. PAM PAGEKOPF	1052 Sterling St Vallejo CA 94591	Pam Kopf
192. LUISICA PANGELINA	900 Southampton RD #34	Luisica Pangelina
193. CHRISTINA GALOMELLI	511 Timberlake St #4 Vallejo	Christina Galomelli
194. Tanya Georgevitch	1422 E. 2nd St, Benicia, CA 94510	Tanya Georgevitch
195. Linda Green	1081 Donaldson Wy, American Lyn, CA 94503	Linda Green
196. James Green	1081 Donaldson Way, American Lyn, CA 94503	James N. Green
197. Joann Maurry	1750 Broadway St. #30 Vallejo, CA 94590	Joann Maurry
198. Jessica Rothrop	2525 Floden Dr. #213 Amer. Lyn 94503	Jessica Rothrop
199. Lori Forbes	2525 Floden Dr #213 American Lyn 94503	Lori Forbes
200. Tyler VanaCott	649 Snel dr on Pl Benicia CA 94510	Tyler VanaCott
201. ANTHONY CATRINO	749 TULIP CT BENICIA	Anthony Catrino
202. Lynn Hoyle	479 Mills Benicia	Lynn Hoyle
203. Sharon Shepherd	869 Rosewood, Vallejo	Sharon Shepherd
204. Marty Schwindel	715 El Centro, El Sobrante	Marty Schwindel
205. Rick Herington	1881 Shirley Dr. Benicia CA	Rick Herington
206. Mike Hart	266 E B St Benicia CA	Mike Hart
207. Alex Harlander	485 West I. St Benicia CA	Alex Harlander
208. David G. Klago	535 Raymond Dr. Benicia ca.	David Klago
209. Amy Tharpe	710 Virginia St, Vallejo Ca 94590	Amy Tharpe
210. JONATHAN ORTIZ	166 W. H ST, BENICIA CA 94510	Jonathan Ortiz
211. Lindsay Di	109 Mountview Ter.	Lindsay Di
212. L. DELLAMONICA	503 SARBERT CT. 94510	L. Dellamonica
213. Jason Lingual	1000 Grant St. 94510	Jason Lingual

214. Janet Oatis ^{PN} 107 Fairfax Ct, Vallejo, Ca 94589
 94589
 Oatis

AGENDA ITEM
PLANNING COMMISSION MEETING: AUGUST 14, 2008
PUBLIC HEARING

DATE : August 4, 2008

TO : Planning Commission

FROM : Charlie Knox, Community Development Director

SUBJECT : **RECOMMENDATION TO CITY COUNCIL ON THE LOWER ARSENAL MIXED USE SPECIFIC PLAN AND EIR**

RECOMMENDATION:

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

EXECUTIVE SUMMARY:

An Environmental Impact Report (EIR) has been completed for the Draft Lower Arsenal Mixed Use Specific Plan. Public comment on the Plan and EIR has focused on whether historic resources will be adequately protected, and whether residential uses should be included given potential hazards and compatibility with nearby industrial operations.

The suggested modification to Specific Plan Action 4.6.2 is intended to ensure preservation of historic resources, including the Plan area as a whole and the National Register Historic Districts within it.

The only single-family component of the Plan is 22 homes at 1025 Grant Street, but the appropriateness of live/work and mixed-use residences has also been a topic of public comment. Accordingly, the Planning Commission may wish to make a specific recommendation to Council regarding whether these types of residential uses should be allowed in the Plan area. (Work/live units, in which living space is subordinate to relatively intensive manufacturing-type activities, have not been identified by EIR commenters as potentially incompatible with existing nearby uses.)

BUDGET INFORMATION:

General Fund monies for the Plan and EIR were allocated in FY 2006-2007.

ENVIRONMENTAL ANALYSIS:

The Draft EIR (DEIR) was released for public review from July 19, 2007 to September 6, 2007. In response to public comment, "significant new information" (as defined by California Environmental Quality Act (CEQA) Guidelines Section 15088.5) was added to the DEIR, and the revised document was recirculated from April 22, 2008 to July 22, 2008. The significant new information included hazards and cultural resource impacts not previously identified in the DEIR.

Previously, there were two mitigation measures identified in the Hazards and Hazardous Materials section of the EIR. The original measures dealt with what must occur when hazardous materials are uncovered. An additional measure was added in the recirculated DEIR that acknowledges the potential presence of hazardous materials throughout the lower Arsenal area and directs property owners to investigate and remediate contaminated areas if discovered.

The Cultural and Paleontological Resources section of the recirculated DEIR retained eight of the original 13 mitigation measures pertaining to cultural resources and added a mitigation measure to address construction of new buildings that could adversely affect National Historic Register District D in the South of Grant Street Zone. Information contained in the five deleted mitigation measures were incorporated into other mitigation measures based on the significant new information added to the DEIR.

BACKGROUND:

The Benicia General Plan establishes a Lower Arsenal Mixed Use designation for approximately 50 acres generally bounded by I-780, the Port of Benicia, and residences east of East 7th Street. In August 2006, the City began a process to involve citizens in planning for preservation and change in the lower Arsenal with a community workshop and stakeholder interviews, followed by a multi-day charrette in September 2006. In January 2007, the Planning Commission recommended the Draft Lower Arsenal Mixed Use Specific Plan to the City Council, and Council initiated environmental review of the Draft Plan in February 2007. The Planning Commission held an EIR scoping hearing in April 2007, and the DEIR was published in July 2007. The recirculated DEIR was published in April 2008, and the Planning Commission held a public hearing on the recirculated DEIR in June 2008.

SUMMARY:

The Draft Plan includes a different set of development and land use standards for the Lower Arsenal area than are presently established by the zoning ordinance. The Plan includes standards for building form, architecture, open space, and circulation. These standards will replace current zoning provisions for allowable uses, permit requirements and site development; however, the Arsenal Historic Conservation Plan will continue to provide additional design guidelines that will supersede the Specific Plan provisions in the event of any conflict (Appendix B compares Specific Plan provisions to the Conservation Plan).

The DEIR describes “the project” per CEQA as Option 2 in the March 30, 2007 Lower Arsenal Mixed Use Specific Plan Draft for Environmental Review. The DEIR also presents alternatives to Option 2, which differ only in their treatment of the Jefferson Ridge area. Option 2 and the DEIR alternatives are set forth below:

- Option 2 calls for 185,000 sq. ft. of new mixed-use development on the Jefferson Ridge in seven major buildings designed to complement the existing formal military architectural and spatial arrangement of the site.

The DEIR alternatives to Option 2 are:

- Option 1 identified in the Draft Specific Plan, which would preserve and rehabilitate existing structures without the addition of new ones. This alternative would require financial control of the ridge area by an entity able to afford the conservation effort without additional development. Possibilities include purchase, conservation easement, and/or transfer of development rights.
- Option “1.5,” which would allow two new commercial buildings of approximately 35,000 sq. ft. each, and dedicate most of the existing open space to a memorial park.
- Senior Housing, which would place 50 below-market-rate apartments in one new building above Jefferson Street and 30 market-rate townhouses in nine structures below Jefferson Street.

Option 1 and the Senior Housing alternative propose to utilize existing streets; Option 1.5 would add a new street and remove an existing one; and Option 2 calls for construction of several new rights-of-way. Option 1 is identified as the environmentally superior alternative.

FURTHER ACTION:

The Planning Commission recommendation will be forwarded to the City Council for action.

Attachments:

- Draft Resolution
- City Attorney Response to Marilyn Bardet
- Environmental Impact Report (Recirculated Draft EIR plus Responses to Comments) **
- Lower Arsenal Mixed Use Specific Plan **

*** If viewing online, these attachments are available to view in the Community Development Department or the Benicia Public Library in the August 14, 2008 Planning Commission packet. In addition, all documents are available on the City’s website (www.ci.benicia.ca.us) under Community Development/Current Projects/Arsenal Plan.*

DRAFT RESOLUTION

RESOLUTION NO. 08- (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF THE LOWER ARSENAL MIXED USE SPECIFIC PLAN AND CERTIFICATION OF THE ACCOMPANYING ENVIRONMENTAL IMPACT REPORT

WHEREAS, a Draft Lower Arsenal Mixed Use Specific Plan to implement the Lower Arsenal Mixed Use Designation of the Benicia General Plan has been prepared and subject to public review; and

WHEREAS, the Community Development Department prepared an Initial Study consistent with the California Environmental Quality Act (CEQA), as amended; and

WHEREAS, the Planning Commission held a public hearing on April 12, 2007 to solicit public comment on the scope of the Draft Environmental Impact Report (DEIR); the DEIR was published July 19, 2007, and the public comment period ran until September 6, 2007; the DEIR was recirculated from April 22, 2008, to July 22, 2008 to disclose significant new information in the form of hazards and cultural resource impacts not previously identified and mitigation measures to address those impacts; and the Planning Commission held a public hearing on June 12, 2008 to receive public comment on the recirculated DEIR; and

WHEREAS, the Planning Commission at a regular meeting of August 14, 2008 held a public hearing on the draft Lower Arsenal Mixed Use Master Plan and proposed Final Environmental Impact Report for the project, and considered other pertinent documents, information and all public comment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia recommends that the City Council approve the Draft Lower Arsenal Mixed Use Specific Plan and certify the accompanying Final Environmental Impact Report (EIR), based on the following findings:

1. The Draft Lower Arsenal Mixed Use Specific Plan shall incorporate by reference all of the EIR mitigation measures to lessen all potentially significant environmental effects described in the EIR to a less-than-significant level.
2. Any development proposals resulting from the implementation of the Lower Arsenal Mixed Use Specific Plan will be evaluated in accordance with Section 15002 (d) of the CEQA Guidelines. Prior to approval of any new projects within the Lower Arsenal Mixed Use Specific Plan area requiring Use Permit or Design Review approval, the City shall conduct project-specific environmental review to determine whether the project would cause any significant environmental impacts and, where possible, identify measures to mitigate any potential significant environmental impacts.

3. Implementation of the Lower Arsenal Mixed Use Specific Plan would not result in a significant environmental impact on the Arsenal District, and would not eliminate important examples of major periods of California history or prehistory.
4. The Lower Arsenal Mixed Use Specific Plan has impacts that are individually limited but cumulatively considerable, and based on the findings of the Environmental Impact Report, the Lower Arsenal Mixed Use Specific Plan would not result in significant cumulative environmental effects, except for Air Quality as the City of Benicia is in an area of regional “nonattainment” status. The City Council will be required to consider a Statement of Overriding Consideration for this air quality impact.
5. Adoption of the Lower Arsenal Mixed Use Specific Plan by the City Council would fulfill provisions of the General Plan that specify that the Lower Arsenal area promote mixed use development through a proactive master plan created by stakeholders that, among other things, evaluates historic preservation of buildings, public access, circulation, affordable housing, live/work space, infrastructure needs, potential for economic development and revenue enhancement of the City, reconsideration of uses in the lower Arsenal, restrictions on hazardous materials and waste, and improving the public process for project approval.

* * * * *

On motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted by the Planning Commission of the City of Benicia at a regular meeting of said Commission held on the 14th day of August, 2008 by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Charlie Knox
Planning Commission Secretary

**CITY ATTORNEY RESPONSE
TO MARILYN BARDET**



City Attorney's Office
MEMORANDUM

Date: August 5, 2008
To: Charlie Knox, Community Development Director
From: Heather C. Mc Laughlin, City Attorney
Re: Marilyn Bardet's Questions on the Lower Arsenal Mixed Use Plan

Below please see my brief answers in *italics to Ms. Bardet's questions.*

1) What is the nature of the city's liability if the council approves the LAMUSP with the inclusion of residential, if now, or at any time in the future, residential use can be entertained, under Form Based Code, for any particular new infill or rehabbed building in the lower Arsenal?

There is no particular liability since any uses will be reviewed and go through the planning process. Projects will be conditioned as appropriate.

2) From a legal standpoint, what is the necessary context in which to discuss the standards to be set for "site characterization", "scope of investigation", "cleanup levels" for lower Arsenal properties considered for "highest and best use", e.g., for residential development now or at any time in the future?

Standards should be set at the time a project is proposed. This allows "state of the art" technologies and practices to be considered. It also allows the type of project to factor into the scope of the investigation and proposed cleanup.

3) Based on our (yours, the City's, the community's, the CAG's) knowledge of CAL-EPA's requirements and standards developed for designing a scope of work for the Tourtelot investigation and cleanup of contaminated soils and "OE", please describe how those standards will bear on Arsenal property owners if and when any one stakeholder is determined to build family housing on his or her property.

The applicable standards at the time of a proposal will apply. Typically, residential projects require a much more thorough cleanup or barrier to prevent contact with contaminants.

4) Please discuss the feasibility, from a legal standpoint, of developing consensus among all property owners, if and when any one property owner decides to pursue "residential" development. Could the Specific Plan itself insist on complete characterization and investigation of the entire lower Arsenal for the protection of any one property developer's interest in building residential?

It is only feasible to develop consensus if all the parties are willing and interested. Based on my knowledge of the Arsenal, it does not seem legally possible to require, as part of the Specific Plan, "complete characterization and investigation" to allow one specific project. Other property owners may have no interest in "complete characterization and investigation."

5) Please identify the main precedent-setting standards developed by Cal-EPA as lead agent to address the Tourtelot site investigation and cleanup of military hazards for prospective residential development.

How do those standards affect our legal understanding of the LAMUSP DEIR's assertions (in the Hazards Section, under "Mitigations") that individual property owners will be responsible for investigating their properties, if and when they should "discover anything"? Please discuss the use of hindsight here, since we know Granite Management's knowledge of the problem of the existence of the "North Valley tunnels" didn't really stop them from "going forward", excavating over 600,000 cubic yards of soil, against fed RCRA laws. . . It was much later that live ordnance and metal frag were found.

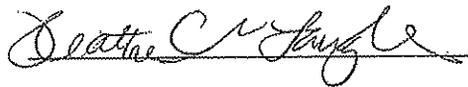
The Tourtelot standards provide us a starting point for cleanup and investigation. In the years since the Tourtelot project, advances have probably been made in technology and should be considered. Although the State and Federal agencies have not finished their work in the Arsenal, the work to date does provide a pretty good indication of which parcels need more investigation. Property owners will be required to do the necessary investigation and remediation for their projects.

6) Now that we have hindsight, thanks to 7-year Tourtelot investigation, about what quite potentially could be encountered in the lower Arsenal (ordnance, OE frags, powders, contaminated soils, TCE, hydrocarbons, etc. etc...) on properties and in nearby existing Army landfill identified below the Clocktower, is it possible to allow ANY property owner, including the City, to turn over a teaspoon of dirt without prior authorization from Cal-EPA?

Yes. For most areas of the Arsenal it is very possible to turn over small quantities of dirt. The City is working with the Department of Toxic Substances Control on an "ordnance ordinance" to allow excavations in the Arsenal. The ordinance would allow digging to a depth of 12 inches without special permits.

7) Describe, from a city legal perspective, your view of the controversy between the Army Corp and DTSC, involving standards of site characterization used by the Army Corps for its "Arsenal FUDS Restoration Program" ,~1997-2005. Also, describe the impact of the suspension of the investigation for lack of funding on the conclusions of the LAMUSP DEIR re-circulated Hazards Section.) and the standards that Cal-EPA implicitly references in its several letters to the city dated March 27, 2007 and Sept 6 (?) 2007. by the Tourtelot for levels of site characterization and investigation and cleanup required for residential development where the site has been a "formerly used defense site".

The current controversy further highlights that the Tourtelot project approach was a good idea in terms of "getting it done." The lack of cooperation between the State and Feds is bureaucracy at its finest.



cc: City Manager
Kat Wellman

FINAL ENVIRONMENTAL IMPACT REPORT

*(** If viewing online, this attachment is available to view in the Community Development Department or the Benicia Public Library in the August 14, 2008 Planning Commission packet. In addition, all documents are available on the City's website (www.ci.benicia.ca.us) under Community Development/Current Projects/Arsenal Plan.)*

LOWER ARSENAL MIXED USE SPECIFIC PLAN

*(** If viewing online, this attachment is available to view in the Community Development Department or the Benicia Public Library in the August 14, 2008 Planning Commission packet. In addition, all documents are available on the City's website (www.ci.benicia.ca.us) under Community Development/Current Projects/Arsenal Plan.)*