

1
2 Ms. Hersch indicated that the same contractor was not scheduled to be used. In
3 fact, the applicant became familiar with the AT&T site and assisted staff by
4 providing contact information of planners at AT&T who might be able to help
5 address the design concerns associated with that project.
6

7 Commissioner Toms asked for a brief description of the aesthetics of the existing
8 telecommunications facilities on site.
9

10 Ms. Hersch noted that the Metro PCS monopole is 35 ft. in height and is plain,
11 painted white with no stealthing treatment of any sort. The T-Mobile antenna is
12 affixed to a light standard located in the parking lot.
13

14 Commissioner Toms asked if Verizon had proposed alternative stealthing
15 besides the faux tree.
16

17 Ms. Hersch explained that Verizon indicated at the on-set that a faux tree was
18 the preferred stealthing method based on existing site conditions.
19

20 Commissioner Martinez-Rubin asked about the additional information provided
21 on the dais.
22

23 Ms. Hersch indicated that two items had been distributed prior to the meeting.
24 The first item provided is a photograph of a story pole that was installed on the
25 church property to illustrate monopole height. The second item is a letter
26 received by staff from Cindy Sage, a consultant retained by citizens to review the
27 proposed application. The letter received in June 13, 2010 is in response to the
28 report and materials published on the City's website.
29

30 Commissioner Sekins asked if there were any new residential units constructed
31 in the vicinity of the project site.
32

33 Ms. Hersch identified the Heritage Park cottages which are currently under
34 construction. However, there had been no additional residential construction
35 nearby.
36

37 Commissioner Sekins asked about the proximity of the current and proposed
38 monopoles to residential uses.
39

40 Ms. Hersch explained that Attachment J shows the nearest distance to
41 residential structures. She noted that the nearest distance to a residential
42 structure is 244 ft.
43

44 PUBLIC HEARING OPENED.
45

1 GABRIELLA BARR, representing the applicant Verizon Wireless, provided a
2 project overview. She identified information related to the coverage gap, radio
3 frequency report, alternative sites, and stealthing of the facility. She noted that
4 additional information required by staff had been provided at considerable
5 expense to Verizon. She also highlighted the letter provided by Verizon's legal
6 counsel identifying the federal statutes and relevant case law pertaining to the
7 request.

8
9 Commissioner Martinez-Rubin noted that Verizon has provided considerable
10 additional information. She asked when the information was made public so that
11 Sage & Associates could review it and respond.

12
13 Ms. Hersch explained that the information was posted at 3 pm on Thursday June
14 10. Once that information is posted online, it becomes public and accessible to
15 anyone who accesses the City's website.

16
17 Commissioner Martinez-Rubin asked for additional explanation regarding
18 significant level of coverage. She asked the applicant if there was a quantitative
19 measurement to demonstrate coverage.

20
21 STEFANO IACHELLA, Radiofrequency Engineer for Verizon Wireless, noted low
22 signal strength, the number of dropped calls, data service deficiency, and
23 customer complaints which all help to identify where there is a coverage gap.

24
25 Commissioner Martinez Rubin asked about the eight additional sites that were
26 considered for facilities. She asked the applicant to provide a brief overview on
27 the alternative sites and why they did not work.

28
29 Ms. Barr explained that alternative sites were considered and referred to
30 Attachment E which highlighted other sites considered for Pinole. She noted that
31 Pinole Valley High School and the Pinole Valley Shopping Center were
32 considered and the respective property owners were not interested. St. Josephs
33 Church and Fernandez Ballpark were also considered but the height required for
34 a facility was not feasible.

35
36 Commissioner Martinez-Rubin asked the applicant what information, if any, was
37 received from the property owners who were uninterested in a lease.

38
39 Ms. Barr noted that some property owners have a policy to not allow a
40 telecommunications facilities. In some of the highlighted cases, other property
41 owners expressed satisfaction with their ownership and lease revenue and did
42 not want to work with Verizon.

43
44 Commissioner Toms noted a 40 ft. height difference between the Methodist
45 Church site and San Pablo Ave. in Old Town Pinole. If the facility is 40 ft. above

1 the base street level, what is the necessary base height to obtain adequate
2 coverage?
3

4 Mr. Iachella explained that the site is a knoll with a plateau. The facility could be
5 designed at a lower height but multiple structures would need to be installed to
6 achieve the coverage resulting from the taller monopole.
7

8 Commissioner Kurrent noted that household appliances produce electromagnetic
9 waves. He asked how household appliances compare to cellular telephones.
10

11 Mr. Iachella noted that many cordless phones have greater power than a cellular
12 phone. Current cellular phone technology creates a very low emission of
13 frequency and radiation. Cordless phones are not regulated in the same fashion
14 as cellular phones. Cordless phones are designed to be more powerful than a
15 cellular phone.
16

17 PUBLIC HEARING OPENED

18
19 CINDY SAGE, 1396 Danielson Rd., Santa Barbara, CA, noted that she has
20 served as an expert witness to testify in court cases involving radiofrequency
21 emissions and land use. She stated that she is an environmental scientist based
22 in Santa Barbara, though her daughter and son-in-law live in Pinole.
23

24 Ms. Sage emphasized that she understood health impacts could not be
25 discussed due to federal regulations which preclude the issue from municipal
26 decisions. However, she did note that land use regulation and aesthetics are in
27 the purview of the Planning Commission and maybe discussed and used to
28 make a determination on the use permit. She noted that she thought the
29 proposed application was not consistent with the Zoning Code. She also noted
30 case law from 2009 involving the City of Rancho Palos Verdes making findings
31 for denial based on aesthetic concerns.
32

33 Ms. Sage considered the proposed site inadequate for a cellular facility. She
34 considered six of the eight alternative sites unrealistic for cellular use and asked
35 that the Commission consider requesting tables which show the specific level of
36 radio frequency that would be emitted by the proposed facility. She noted that
37 citizens have a right to know about health effects even though it is precluded by
38 federal law.
39

40 SCOTT THOMSEN, 2359 Prune St., Pinole, CA, reviewed the local development
41 standards contained within the Pinole Municipal Code. He expressed concern
42 about the subject parcel retaining a split land use classification in the General
43 Plan yet retaining a residential zoning designation. He noted Section 17.33.040
44 (A) (20) contains a provision which prohibits cellular facilities within 100 ft. of a
45 residentially zoned property. He questioned how this facility could be legal given

1 the primary residential zoning classification. He also noted a different provision of
2 the Code which requires significant evidence that visual impacts are being
3 reduced. He expressed concern about the height of the facility extending to 41 ft.
4 for appurtenance and stealthing and stated that the facility would be visible from
5 prominent parts of Old Town Pinole, such as the Farmers' Market.
6

7 He noted that he is a Verizon Wireless customer and that he experienced no
8 difficulty with dropped calls in Pinole.
9

10 Mr. Thomsen noted that he prepared an exhibit which he believed showed the
11 proposed facility contained within a knoll designated in the Visual Resource Map
12 in the Pinole General Plan.
13

14 AMY THOMSEN, 2359 Prune St., noted that she is a Verizon customer and has
15 experienced no service issues. She noted that she understood Federal
16 regulations precluded her from speaking to health concerns. When she and her
17 husband purchased a home in Pinole, they looked for a community which had
18 great character. They appreciate the character and history of Pinole and think
19 that a faux tree monopole would detract from the character and create visual
20 concerns. She noted that she spoke to business owners in Old Town who had
21 spent substantial sums of money for renovations and thought that a faux tree
22 would detract from their efforts. She complimented the Planning Commission for
23 their previous efforts to make the City of Pinole an attractive community.
24 However, she thought that Methodist Church site was quickly becoming an
25 antenna farm and expressed abhorrence that Verizon could bring a
26 discrimination suit forward if the project was not approved.
27

28 KEITH NOLAND, representing the PINOLE UNITED METHODIST CHURCH,
29 noted the recently approved monopole tree in Hercules, off of San Pablo Ave.,
30 and its realistic appearance. He noted that the same manufactured tree would be
31 installed at the Methodist Church site and would enhance the area by helping to
32 shield the existing, non-stealthed facilities from view.
33

34 Ms. Barr noted that Verizon accommodated Ms. Sage's original request and
35 continued the item for nearly two months to prepare additional exhibits. She
36 noted that while Cindy Sage acknowledged that health was precluded from
37 discussion, she continued to emphasize the health and safety concerns
38 associated with cellular facilities and made that evident in her letters to staff and
39 the Commission. She noted that the permitted facility is 35 ft. in height, with the
40 additional 5 ft. of branching for aesthetic purposes only.
41

42 Commissioner Martinez-Rubin asked if the radio frequency engineer, Mr.
43 Iachella, could provide greater detail on worst case assumptions.
44

45 Mr. Iachella noted that the calculation included full power being run 24 hours,

1 seven days a week. This amounts to a usage of 15% of the overall power from
2 the proposed facility.

3
4 PUBLIC HEARING CLOSED.

5
6 Commissioner Brooks expressed concern about the equipment at the Pinole
7 United Methodist Church, the longevity of the materials (bark and branches), and
8 noted that the height should not exceed 35 ft.

9
10 Commission Kurrent noted the he also had concerns about aesthetics, though he
11 had seen faux trees done elsewhere that were successful. He simply didn't want
12 to see a "Charlie Brown" tree in Pinole and requested that a condition be
13 prepared to prevent future concerns. He also shared the concern about the
14 Methodist Church becoming an antenna farm.

15
16 Planning Manager, WINSTON RHODES, noted that collocation of wireless
17 communications facilities is encouraged within the Municipal Code, though the
18 Zoning Code allows a maximum height of 35 ft., which makes collocation difficult.
19 He noted that the 5 ft. stealthing is for aesthetic purposes only. The proposed
20 facility was designed to blend in with existing pine trees and eucalyptus trees on-
21 site.

22
23 Commissioner Kurrent asked what the proposed zoning would be for the United
24 Methodist Church site in the San Pablo Ave. Corridor.

25
26 Mr. Rhodes noted that the site is excluded from the Specific Plan, but that the
27 Open Space designation has been proposed for the project site as part of the
28 General Plan update.

29
30 Commissioner Kurrent asked staff what language could be included to address
31 consistency with plans and insure that the facility is constructed in substantial
32 compliance with the approved plans.

33
34 Mr. Rhodes noted that branching density could be specified and reviewed at the
35 staff level at the time of building permit submittal. A meeting with the Planning
36 Commission chair could also be scheduled.

37
38 Commissioner Bender supported Commissioner Kurrent's concerns. He noted
39 that the City of Hercules included a condition specifically addressing branch
40 density. He had no concerns about the additional appurtenance as architectural
41 features, such as a parapet wall, could be extended beyond the permitted
42 building height for aesthetics.

43
44 Commissioner Sekins noted that Verizon had provided a great deal of
45 information as part of their application and that he supported the request.

1
2 Commissioner Martinez-Rubin noted that the staff report was thorough and
3 asked if radiofrequency levels, for future discussion could be addressed.

4 Commissioner Toms noted that she had several concerns about the aesthetics.
5 She noted that the site is prominent and that the tree would be noticeable when
6 travelling on San Pablo Ave.
7

8 Commissioner Sekins asked for an approximation of the height of the
9 surrounding eucalyptus trees.
10

11 Mr. Rhodes noted that the eucalyptus trees are mature, though he did not have a
12 specific height measurement for these existing trees.
13

14 Commissioner Toms explained that there are existing pine and fir trees on site as
15 well.
16

17 Mr. Rhodes estimated that those trees are less than 35 ft. in height, possibly 20
18 ft. in height, but are not mature and will grow over time.
19

20 Commissioner Brooks asked about future shared use of the facility for other
21 wireless providers.
22

23 Ms. Hersch noted that collocation design is a requirement of the Code and also a
24 Condition of Approval. She also explained that Verizon provided a written
25 statement as part of the application that the facility had been designed to
26 encourage future collocation.
27

28 Commissioner Sekins noted that he did not see language within the Conditions
29 that addressed the height issue.
30

31 Commissioner Toms asked if the project had been noticed as a variance.
32

33 Mr. Rhodes explained that this was not noticed as a variance as the site has an
34 underlying designation of Open Space.
35

36 Commissioner Kurrent asked that language be included in the resolution to
37 reflect the 35 ft. and 41 ft. height discrepancy.
38

39 Commissioner Toms asked why this wouldn't have qualified as a variance since
40 41 ft. exceeds the height limit specified within the Pinole Municipal Code.
41

42 Mr. Rhodes explained that the actual permitted structure is 35 ft. and the
43 additional height is purely aesthetic and does not impact the functioning of the
44 facility. If the Commission so desired, they could condition the height not to
45 exceed 35 ft., eliminating the tapered branching.

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MOTION: KURRENT SECONDED: McGoldrick OPPOSED: Toms

1. Additional language be included in the resolution to reflect the height discrepancy
2. Additional language be included in Condition #11 for branching to be reviewed at the time of building permit submittal by the Planning Manager and Planning Commission Chair

Approved: 6-1

2. Gateway East Site Plan Modifications (CUP 10-04 and VAR 10-01): – Continued from May 24, 2010

- Request:** Site plan modifications for the Gateway East site located on the east side of Pinole Valley Road between Henry Avenue and Interstate 80. Entitlement requests include:
- Amending the master site plan to replace a 3,500 square foot bank use with a drive through on Pad “C” to a 7,500 sq. ft. maximum sit down restaurant use without a drive through
 - Proposed reconfiguration and expansion of parking area to create additional 46 parking spaces for the site on a vacated Caltrans easement
 - Consideration of Use Permit request for a future pylon sign location with a height of up to 100’
 - Variance request for a reduction of required parking spaces in conjunction with a planned future sit-down restaurant use

Ms. Hersch presented the staff report dated June 14, 2010.

Commissioner Sekins asked for clarification on the required amount of parking for the facility.

Ms. Hersch explained that ninety-five (95) spaces are required by Code. With credits for transit proximity and motorcycle parking, seventy-nine (79) parking spaces are required. Currently, there are sixty-eight (68) spaces proposed.

Commissioner Sekins asked about site circulation and vehicular entrances and exits.

Ms. Hersch noted there is an entrance heading northbound on Pinole Valley Rd.

1 and reciprocal access easements on the entire Gateway East site. For patrons
2 travelling southbound on Pinole Valley Rd., they will have to access the
3 restaurant pad through the Kaiser entrance.
4

5 Commissioner Sekins asked about grade change on-site compared to the street
6 level.
7

8 DARCIE DELASHMUTT, project landscape architect, noted that she did not
9 prepare a grading study, but did verify that the plan satisfied ADA requirements.
10 ADA parking can only be provided immediately around the building and it cannot
11 be provided on the vacated easement.
12

13 Commissioner Toms asked about the photo simulation of the proposed pylon
14 sign from Linda Heights facing south. Will the sign also be visible from I-80
15 travelling westbound and eastbound?
16

17 MARY DRAZBA, applicant for the Pinole Redevelopment Agency, explained that
18 the sign was specifically located higher on the vacated easement to make the
19 sign visible from either I-80 travel direction.
20

21 Commissioner Toms asked about permitted business signage.
22

23 Ms. Drazba noted that Kaiser, a future restaurant user, and the future user of the
24 medical pad site located at the northeast corner of Gateway East could
25 potentially utilize the future pylon sign. Users at the Gateway West site could also
26 have an opportunity to advertise on the pylon sign.
27

28 Commissioner Kurrent asked about project timing why the Commission was
29 reviewing a conceptual plan without a user.
30

31 Ms. Hersch explained that the applicant had engaged in extensive discussions
32 with commercial real estate brokers and determined that the site would be more
33 valuable for sale if entitlements (variance and use permit) were approved prior to
34 sale. The future user would only secure Design Review entitlements for
35 construction.
36

37 Ms. Drazba noted that the vacated Caltrans easement adds significant value to
38 the site. Additionally, the proposed building area range allows the commercial
39 real estate brokers to market to a certain type of user, based on their basic
40 building footprint needs.
41

42 Commissioner Kurrent asked about ADA requirements for parking.
43

44 DEWEY CHONG, project architect, the number of parking spaces is determined
45 by the number of cars which travel to the site. The number of ADA spaces

1 provided is consistent with the requirements of the Code. The adjacent vacated
2 easement does not have topography that would allow ADA compliant parking
3 spaces on-site.

4
5 Commissioner Brooks expressed concern about the trash enclosure.
6

7 Ms. Hersch noted that the trash enclosure issue would be addressed and
8 reviewed at a later date once a user purchases the site. The footprint shown on
9 the plans is merely for illustrative purposes and did not reflect any proposed
10 development.

11
12 Commissioner Brooks reiterated his concern about the trash enclosure as he
13 found other businesses in the City that did not properly maintain their enclosures.
14

15 PUBLIC HEARING OPENED.

16
17 No speakers were present.

18
19 PUBLIC HEARING CLOSED.
20

21 Commissioner Sekins did not have any concerns with the parking count, but he
22 did have concerns about the sign. He thought the sign resembled something
23 designed for a regional commercial corridor, not a neighborhood commercial
24 corridor.

25
26 Commissioner Martinez-Rubin remembered the project from her previous tenure
27 on the City's Economic Development and Housing Advisory Committee. She was
28 glad to see the requests moving forward.

29
30 Commissioner Toms was not comfortable with the proposed height of 100 ft. She
31 referred to the pylon sign in Hercules at Willow Ave., which is 125 ft. tall and
32 noted that that was too much.

33
34 Mr. Rhodes noted that the pylon sign will come back for full Commission review
35 at a later date and that the height had not yet been determined. The request
36 allowed for up to 100 ft., though it could be less.

37
38 Commissioner Brooks identified the pylon sign as a low priority in comparison to
39 getting a user.
40

41 Commissioner Kurrent expressed concern about parking variances and noted
42 that Outback, Applebee's, and Roundtable often have full parking lots. He
43 reiterated his concerns about ADA accessibility. He thought a flashing pylon sign
44 would be distracting for neighboring residents.
45

1 Commissioner Bender referenced the parking code and noted that the parking
2 count must also include the kitchen, food prep, and office areas in a restaurant
3 which can often take up to 50% of the overall floor area. He was pleased with the
4 landscaping choices. He disliked the pylon sign design intensely.

5
6 Commissioner McGoldrick also expressed concerns about the proposed pylon
7 sign.

8
9 Commissioner Martinez-Rubin asked if the sign would be rented for revenue
10 purposes.

11
12 Ms. Drazba noted that a height must be established prior to making advertising
13 and revenue decisions.

14
15 Mr. Rhodes explained that the height is not set in stone and could be altered by
16 the Commission as part of tonight's action.

17
18 Commissioner Toms asked if the neighborhood had been noticed.

19
20 Ms. Hersch explained that notices were sent but no inquiries were received from
21 the public. She noted that the item was continued to a date certain, June 14,
22 2010, and did not need to be renoticed.

23
24 Commissioner Toms expressed concern about the proposed 100 ft. tall height.
25 She had no issue with the parking variance.

26
27 Commissioner Sekins proposed reducing the overall height to 75 ft.

28
29 Ms. Drazba noted that the 100 ft. height was proposed by the sign company as
30 that height would give motorists sufficient time to exit and utilize site services.
31 She explained that the Pinole Valley Shopping Center pylon sign is a little shorter
32 when factoring in the site grade.

33
34 Commissioner McGoldrick reiterated the need for additional photo simulations to
35 get a better understanding of potential visual issues associated with the pylon
36 sign.

37
38 Commissioner Brooks asked about the consideration of the medical pad site
39 located at the northeast corner of Gateway East and if that had been considered
40 for a restaurant use.

41
42 Ms. Hersch noted that that site had been designated for a medical facility at the
43 time the master site was approved in 2004, and was currently being marketed for
44 sale based on the approved use.

1 Commissioner Brooks reiterated his concerns previously stated in the meeting
2 about design review issues being an issue.

3
4 Commissioner Toms noted that the issue for discussion is an amendment to the
5 master site plan, not architectural aesthetics.

6
7 Commissioner Toms recommended that the request for the pylon sign be
8 approved at 75 ft. with the possibility that the height could be increased at a later
9 date pending review of the photo simulations.

10
11 Commissioner Sekins asked that the total number of parking spaces (68) be
12 memorialized in the resolution.

13
14 *Motion to approve Resolution 10-08 Pylon sign with the pylon sign not to exceed*
15 *75 ft. with the exception that the sign height could be increased at later date*
16 *pending review of photo simulations.*

17
18 **Motion: Toms Seconded: Sekins Noe: Bender, Brooks**

19
20 **Approved 5-2**

21
22 *Motion to approve Resolution 10-09 (Variance) with modified language in the*
23 *resolution to reflect sixty-eight (68) parking spaces & a reduced maximum sign*
24 *height of up to 75 ft.*

25
26 **Motion: Toms Seconded: Sekins Noe: Brooks**

27
28 **Approved 6-1**

29
30 Commissioner Martinez-Rubin & Commissioner Bender volunteered to serve on
31 a future pylon sign subcommittee prior to the sign design being brought forward
32 for future Planning Commission review.

- 33
34 **3. TUP 10-01 ABC Tree Farms Seasonal Sales Lot:** Consideration to allow
35 seasonal sales of pumpkins and Christmas trees at 1450 Fitzgerald Drive.

36
37 Ms. Hersch presented the staff report dated June 14, 2010.

38
39 Commissioner Kurrent expressed confusion about page 4 of the staff report
40 where the total area is 462,000 sq. ft. He noted that if this is the total building
41 area, the site is under parked.

42
43 Ms. Hersch explained that this area includes the entire site including the parking
44 lot, landscape area, as well as the building area.

45

1 Commissioner Kurrent noted that the parking on-site had been altered in the past
2 twenty years due to building modifications/expansions, decreasing available
3 parking supply.

4
5 Commissioner Toms asked if actual building area could be provided by staff.

6
7 Ms. Hersch explained that she did not have the information readily available but
8 that it could be provided.

9
10 Commissioner Toms asked what the actual ratio of required parking is for
11 seasonal sales.

12
13 Ms. Hersch explained that the Code does not specify a specific ratio and that it is
14 reviewed on a discretionary basis for each application.

15
16 Commissioner Toms asked if staff had directed the applicant to seek alternative
17 locations given the recent concern expressed by the Commission and Council.
18 She specifically asked if the Krispy Kreme site had been considered.

19
20 Ms. Hersch noted that there is a long standing lease between the property owner
21 and the applicant. Suggesting that this be broken and alternative site pursued,
22 could have legal implications.

23
24 Commissioner Sekins asked how much physical space is occupied by the
25 seasonal sales operation.

26
27 Ms. Hersch noted that the operation occupies 13,500 sq. ft. based on the scaled
28 version of the site plan. The actual lease does not contain a specific area
29 amount.

30
31 Commissioner Martinez-Rubin noted that a previous discussion from 2009
32 involved concern about placement of temporary toilets. She asked staff what was
33 considered public visibility and what had been incorporated to address this issue.

34
35 Ms. Hersch explained that toilets were proposed to be located facing into the
36 parking lot, not Fitzgerald Drive.

37
38 PUBLIC HEARING OPENED.

39
40 JERRY KLIMA, PRESIDENT OF ABC TREE FARMS, explained that his
41 business has been in operation in Pinole for nearly sixteen years. He noted that
42 he had not experienced public complaints in the past and that he was familiar
43 with the concerns related to parking. He noted that safety is the primary concern
44 and a parking attendant is proposed to be on-site at the peak times of operation.
45 He noted that online sales and home delivery will be provided this year in an

1 effort to alleviate traffic at the site. Christmas tree sales have declined in recent
2 years due to the popularity of artificial trees.

3
4 Commissioner Sekins stated that he had purchased trees from ABC in the past
5 and that the business is nice. However, the concerns he expressed are not with
6 the operation but with the full occupancy of the shopping center. Since safety is
7 his primary concern, he asked if other ABC operations are staffed with parking lot
8 attendants.

9
10 Mr. Klima explained that he does not have attendants at other operations. Pinole
11 would be the first location to have parking lot staffing. It is expected that two
12 people would serve as parking staff, one directs patrons to park and one directs
13 traffic. He also explained that he could impose time limits among patrons to
14 encourage shorter visits, helping turnover at the site.

15
16 Commissioner Kurrent asked who retains the leasing rights for the site.

17
18 Mr. Klima explained that the lease is with the owners of Michael's Arts & Crafts.

19
20 Commissioner Kurrent asked if alternative sites had been considered.

21
22 Mr. Klima explained that he did not consider alternative sites as he wanted to
23 have a determination for the Michael's site before embarking on alternative
24 site/leasing arrangements.

25
26 Commissioner Brooks asked if the applicant had consulted with the Police and
27 Fire Departments for feedback about the proposed operation.

28
29 Mr. Klima noted that staff has required Conditions of Approval to contact these
30 respective departments prior to business commencing.

31
32 Ms. Hersch explained that Fire and Police are consulted about the operation
33 closer to commencement of sales as Fire must conduct an inspection to insure
34 proper exiting. When this request is processed administratively, these conditions
35 are included as part of the permit. Since this permit is not yet approved, these
36 departments were not involved in preliminary review.

37
38 TERRY PRIES, PROPERTY OWNER, explained that common areas are
39 maintained through fees paid by all of the property owners and the site patrolled
40 regularly by a security company.

41
42 Commissioner Toms asked what the square footage is for Michael's Arts &
43 Crafts.

44
45 Mr. Pries noted that the store is 24,000-26,000 sq. ft.

1
2 Commissioner Kurrent asked precisely what Mr. Pries owns and retains rights to.

3
4 Mr. Pries explained that he owns the ground and building which contains
5 Michael's as well as the leasing rights with Michael's. ABC Tree Farms maintains
6 a land lease with him. He explained that there are five property owners total for
7 Pinole Vista Phase III.

8
9 Commissioner McGoldrick asked about the inflatables and if the number of
10 inflatables had increased in recent years.

11
12 Mr. Klima explained that inflatable rides have been used on-site since 1998. Prior
13 to that, hard rides had been installed on-site.

14
15 Commissioner McGoldrick asked if he had been the operator on the site while
16 the rides had been installed.

17
18 Mr. Klima explained that the company became an LLC but had previously been
19 a DBA. Including the time as a DBA, he has been operating at the site for nearly
20 sixteen years. Prior to that, there had been another operator on-site.

21
22 Commissioner McGoldrick asked who supervises the children on rides.

23
24 Mr. Klima explained that his staff monitors the children on rides, though children
25 are not allowed to be on-site unattended. Parents must be present and each
26 child must enter and exit with a parent.

27
28 Commissioner Kurrent recalled the Pet Food Express Design Review application
29 and asked if Mr. Pries had been involved in previous discussions about the CRR
30 condition that became an issue.

31
32 Mr. Pries explained that he had been involved and had previously expressed
33 concern about the CCRS being modified to reflect the site changes. He explained
34 that all five owners are required to enter into a legal agreement which is recorded
35 with the property acknowledging the expansion and related site changes. To
36 date, that issue had not been resolved.

37
38 Commissioner Kurrent reiterated concerns about the occupancy of Chuck E.
39 Cheese and Grocery Outlet and asked if the CCRs had been amended to reflect
40 new occupancy and any loss of parking.

41
42 Mr. Pries noted that no amendments had occurred. He also stated that the
43 seasonal sales creates a temporary loss of parking, not permanent.

44
45 Mr. Klima stated that Chuck E. Cheese and ABC Tree Farms share a similar

1 clientele and that families may patronize both businesses simultaneously.
2

3 Mr. Pries stated that when he acquired the property he reviewed all ordinances
4 and related documentation for temporary uses.
5

6 Commissioner Brooks asked if the parking is shared among all tenants.
7

8 Mr. Pries acknowledged that reciprocal access easements are retained on the
9 entire property and that parking is shared commonly.
10

11 PUBLIC HEARING CLOSED.
12

13 Commissioner Kurrent was not comfortable with the operation as proposed due
14 to new occupancy. He did not feel comfortable authorizing the temporary
15 elimination of thirty-eight spaces. He could not support the request.
16

17 Commissioner Toms expressed concern that a shared parking arrangement will
18 negatively impact surrounding businesses. She also could not support the
19 application request as proposed.
20

21 Commissioner Martinez-Rubin reiterated the concerns identified by the
22 Commissioners and was especially troubled by potential safety concerns. She
23 also suggested that alternative sites be reviewed by the applicant.
24

25 Mr. Pries expressed confusion about the heightened scrutiny surrounding this
26 application request when it had been approved in the past without issue. He also
27 noted the lease arrangement was in place for this operation and that there had
28 been no previous complaints.
29

30 Commissioner Toms explained that a lease was not an entitlement to insure
31 seasonal sales as the operation is subject to annual permit review. Approval is
32 not always guaranteed if circumstances change or extenuating matters arise.
33

34 Commissioner Martinez-Rubin inquired about liability on-site should an accident
35 occur.
36

37 Mr. Rhodes explained that if the site was constructed in substantial compliance
38 with City requirements, the liability would rest with the property owners and
39 business operators.
40

41 Commissioner Sekins reiterated safety concerns. He explained that citizens in
42 Pinole have identified the site as “an accident waiting to happen”. He
43 acknowledged the lease arrangement in place, but thought that traffic controllers
44 should be involved, as well as Public Works staff, and support from neighboring
45 businesses. He could not support the seasonal sales as proposed.

1
2 Mr. Klima asked if the Planning Commission would be willing to include a
3 condition to provide traffic controllers.

4
5 Commissioner Sekins suggested continuing the item to a date certain to allow for
6 more extensive discussions with Public Works to better address circulation and
7 safety issues.

8
9 Commissioner Brooks stated that he saw insufficient pedestrian access to the
10 site.

11
12 Mr. Rhodes asked if the Commission would review the application differently if
13 the site size was reduced. He acknowledged that the seasonal sales operation
14 had not operated with current occupancy at the shopping center.

15
16 Mr. Pries stated that he and Mr. Klima would be willing to hire traffic controllers if
17 it was the consensus of the Commission.

18
19 Commissioner Martinez-Rubin acknowledged that there is a big uncertainty with
20 this year's seasonal sales.

21
22 Commissioner Toms stated that if the site was reduced by 10 ft., this would
23 increase available parking by six spaces. Would the applicant be willing to make
24 such modifications?

25
26 Mr. Klima agreed that he could make reductions and operate the site.

27
28 Commissioner Kurrent indicated that regardless of modifications made to the
29 application, he could not support seasonal sales at the site. He urged to the
30 applicant to seek out alternative sites.

31
32 Commissioner Sekins suggested continuing the meeting and have the
33 Commission review revised plans at the next Planning Commission hearing.

34
35 *Motion to continue the item to July 12, 2010 Planning Commission to allow the*
36 *applicant to have a meeting with Planning staff and Public Works staff to reduce*
37 *the operation area and address site circulation issues.*

38
39 **Motion: Kurrent Seconded: Brooks Approved 7-0**

- 40
41 **4. General Plan Amendment (GPA 10-01) - 2009 Housing Element Update:**
42 Review the proposed Revised Draft Housing Element and consider a resolution
43 recommending the City Council approve the Negative Declaration prepared for
44 this project and approve a General Plan Amendment (GPA 10-01) updating the
45 Housing Element of the General Plan.

1
2 Winston Rhodes and Leslie Carbahal presented the staff report dated June 14,
3 2010.

4
5 PUBLIC HEARING OPENED.

6
7 No speakers were present.

8
9 PUBLIC HEARING CLOSED.

10
11 *Motion to recommend approval of the 2009 Housing Element Update.*

12
13 Motion: Kurrent Seconded: Bender Approved: 7-0

14
15 **F. OLD BUSINESS:**

16
17 None.

18
19 **G. NEW BUSINESS**

20
21 None.

22
23 **H. CITY PLANNER'S/COMMISSIONER'S REPORT:**

24
25 1. Planning Commission Design Review Ad Hoc Subcommittees

26
27 Mr. Rhodes solicited the input of the Commission to determine if they wanted to
28 form a Design Review Subcommittee to evaluate projects on a case by case
29 basis.

30
31 Commissioner Brooks questioned this idea as Design Guidelines had been
32 adopted to resolve design issues.

33
34 Commissioner Bender spoke about the recently reviewed development for 1431
35 Nob Hill Ave. He noted that the depending upon whom the applicant hires for
36 design work, there may be a lack of imagination and experience which restricts
37 the designer/architect's ability to understand and interpret the guidelines. There
38 may be more applications and situations in the future that may require greater
39 scrutiny.

40
41 He also noted that there are no Commercial/Industrial Design Guidelines. He
42 participated on the 2301 San Pablo Ave. which he found to be a valuable
43 experience. In that case, an experienced architect was hired who wanted to
44 design a variation of the Pinole Valley Shopping Center for Old Town Pinole which
45 was not compatible with the surrounding area.

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Commissioner Toms agreed with Commissioner Bender and asked that the Planning Commission review the project first before subcommittee review. This would also give an opportunity to everyone on the Commission to participate. Subcommittees then could be scheduled on a case by case basis if needed.

2. Municipal Code Construction Hours

Mr. Rhodes referenced Title 15 of the Pinole Municipal Code where construction hours are specified. He noted that weekend work and extended hours can be granted on a case by case basis. However, it is the trend of the industry to start work early and end early.

I. **ADJOURNMENT:** 11:00 P.M.

Transcribed by: Associate Planner Anne Hersch