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2
3 **MINUTES OF THE REGULAR**
4 **PINOLE PLANNING COMMISSION**

5 **February 25, 2019**
6
7

8 **A. CALL TO ORDER:** 7:06 P.M.
9

10 **B. PLEDGE OF ALLEGIANCE AND ROLL CALL**

11
12 Commissioners Present: Brooks, Kurrent, Thompson, Chair Wong

13
14 Commissioners Absent: Hartley

15
16 Staff Present: Winston Rhodes, Planning Manager
17 Justin Shiu, Contract Planner
18 Alex Mog, Legal Counsel, City Attorney's Office
19

20 **C. CITIZENS TO BE HEARD**

21
22 There were no citizens to be heard.
23

24 **D. CONSENT CALENDAR**

25
26 1. Planning Commission Meeting Minutes from January 28, 2019
27

28 **MOTION** to approve the Planning Commission Meeting Minutes from January 28,
29 2019, as shown.

30
31 **MOTION: Kurrent**

SECONDED: Thompson

APPROVED: 4-0-1

ABSENT: Hartley
32
33

34 **E. PUBLIC HEARINGS:**

35
36 1. **Conditional Use Permit 18-11: Bear Claw Bakery and Café Alcohol**
37 **Sales**

38
39 **Request:** Consideration of a use permit to sell beer, hard cider and wine
40 within an approximately 1,800 square foot existing bakery and
41 café.
42

43 **Applicant:** Teresa Stott
44 Bear Claw Bakery and Café
45 2340 San Pablo Avenue
46 Pinole, CA 94564

1
2 **Location:** 2340 San Pablo Avenue (APN 401-150-008)
3

4 **Project Staff:** Justin Shiu
5

6 Contract Planner Justin Shiu presented the staff report dated February 25, 2019,
7 and advised the applicant had requested a modification to Condition 19 of
8 Resolution 19-02, as follows:
9

10 *No more than one pitcher of beer shall be served at a time for each party of*
11 *up to three persons, and the number of pitchers served at a time may be*
12 *increased by one for every three additional persons in the party in excess of*
13 *three. Pitchers shall be removed by employees prior to serving the next*
14 *round of pitchers.*
15

16 *For example, a party of two to three persons may be served one pitcher at a*
17 *time. A party of five persons may be served one pitcher at a time. A party of*
18 *six persons may be served two pitchers at a time. A party of nine persons*
19 *may be served three pitchers at a time.*
20

21 Mr. Shiu recommended the Planning Commission adopt Resolution 19-02,
22 approving a conditional use permit for alcohol sales for on-premises consumption
23 within the building interior only, subject to the conditions of approval as shown in
24 Exhibit A to the staff report, as modified.
25

26 Responding to the Commission, Mr. Shiu clarified that Condition 19 had been
27 intended to address potential concerns with one or more people purchasing
28 multiple pitchers of alcohol.
29

30 Planning Manager Winston Rhodes explained the condition had been added given
31 the multiple alcohol establishments in the vicinity of the establishment and was
32 intended as a way for the applicant to control the amount of alcohol consumed by
33 one party at one time. The condition had been discussed with the applicant who
34 was comfortable with regulating the number of pitchers of alcohol, as modified.
35

36 Mr. Shiu added the hours of operation had been provided by the applicant in the
37 project description and as outlined in Condition 12; as part of Condition 19, there
38 were no plans to include a requirement for signage identifying the condition
39 restrictions although a condition could be added upon direction from the Planning
40 Commission.
41

42 **PUBLIC HEARING OPENED**
43
44
45

46 TERESA STOTT, Bear Claw Bakery and Café, 2340 San Pablo Avenue, Pinole,

1 explained she had not managed a drinking establishment but came from a family
2 that operated several bars and a disco in the City of San Francisco. Her son would
3 operate the business and they will have an employee who has had had 15 years of
4 experience with alcohol sales. She preferred that signage not be required to
5 identify the restrictions on the sale of alcohol pursuant to Condition 19 and stated
6 the request for modification to that condition was to allow some flexibility. She also
7 clarified the hours of operation were as identified in the application with the bakery
8 to be open from 6:00 A.M. to 2:00 P.M, and with the café to reopen at 5:00 P.M.
9 The business was described as a casual European pub for families and would
10 reconfigure the interior to allow for more seating. Food was the primary item and
11 alcohol sales offered a nice amenity adding to the atmosphere. The business
12 would have local small brews and only four taps. She acknowledged an expansion
13 of the hours of operation could be considered.
14

15 RAFAEL MENIS, Pinole, supported the application from the Bear Claw Bakery and
16 Café since the City Council had made a finding of public necessity to show the
17 request would not cause undue impact to another business serving alcohol in the
18 same region, which was in fairness to the business and would ensure marketplace
19 competition. He asked whether Condition 19 would also be imposed on other
20 businesses in the same region or just apply to the subject application.
21

22 DAVID RUPORT, Jr. Pinole, supported the applicant's request and suggested that
23 Bear Claw Bakery Café was an ideal fit for the City. He also supported an
24 extension of the hours of operation, had expressed the same comments with the
25 City Council, and hoped the Planning Commission would favorably support the
26 request.
27

28 Mr. Rhodes commented that whether or not Condition 19 was imposed on similar
29 businesses in the future would depend upon the direction from the Planning
30 Commission. Commissioner Kurrent pointed out the condition could not be
31 retroactively imposed on previously approved applications.
32

33 PUBLIC HEARING CLOSED
34

35 The Planning Commission discussed Conditional Use Permit 19-02, and offered
36 the following comments, recommendations, and/or direction to staff:
37

- 38 • Consensus to strike Condition 19 given concerns with enforcement, the
39 condition was too restrictive, and the applicant was the only business where
40 the condition would apply.
41
- 42 • Opposed an expansion of the hours of operation to 11:00 P.M. given that the
43 environment of the establishment was primarily food extending the hours of
44 operation could change the environment. Supported the applicant's
45 proposed hours of operation but recommended they be modified to

1 Wednesdays through Fridays and Saturdays, 12:00 P.M. to 10:00 P.M.
2 (Kurrent)

- 3 • Recommended the hours of operation be expanded to 11:00 P.M.
4 (Thompson)

5
6 JOHN JAMES STOTT, Owner, Bear Claw Bakery and Café, suggested extending
7 the hours of operation beyond 10:00 P.M. in the future could prove useful given
8 plans to serve food from local vendors. There was no intention at this time to
9 remain open beyond 10:00 P.M. but it would be nice to have the flexibility to extend
10 the hours from 10:00 to 11:00 P.M. When asked, he was not opposed to the hours
11 of operation being extended to 11:00 P.M. and restricting the sale of alcohol to
12 10:00 P.M.

- 13
14 • Recommended Condition 11 be modified with the hours of operation from
15 6:00 A.M. to 11:00 P.M. all week; and Condition 12 be modified to reflect
16 that alcohol would be allowed to be served from 11:00 A.M. to 10:00 P.M.,
17 Monday through Friday, or the close of business, whichever was earlier.
18 (Wong)
- 19
20 • Recommended Condition 12 be modified to reflect that alcohol would be
21 allowed to be served from 11:00 A.M. to 10:00 P.M. all week with Condition
22 11 to be modified accordingly. (Kurrent)

23
24 **MOTION** to adopt Planning Commission Resolution 19-02, with Exhibit A:
25 Conditions of Approval, Resolution of the Planning Commission of the City of
26 Pinole, County of Contra Costa, State of California, Approving a Conditional Use
27 Permit (CUP 18-11) to Allow Beer, Wine, and Hard Cider Sales for On Site
28 Consumption in an Existing Approximately 1,800 Square Foot Café Located at
29 2340 San Pablo Avenue, APN 401-150-008; and subject to modification as follows:

- 30
31 • Condition 11 to be modified with the hours of operation to be Monday
32 through Sunday, 6:00 A.M. to 11:00 P.M. (retaining the last sentence of the
33 condition as reflected in Exhibit A);
- 34
35 • Condition 12 to be modified to reflect the sale of alcohol shall only be sold
36 when the business is open and only during the following alcohol sales
37 business hours of 11:00 A.M. to 10:00 P.M., Monday through Sunday
38 (retaining the last sentence as reflected in Exhibit A); and
- 39
40 • Strike Condition 19 in its entirety.

41
42 **MOTION: Thompson** **SECONDED: Brooks** **APPROVED: 4-0-1**
43 **ABSENT: Hartley**

44
45 Chair Wong identified the 10-day appeal process of a decision of the Planning

1 Commission in writing to the City Clerk.

2
3 **F. OLD BUSINESS:** None

4
5 **G. NEW BUSINESS:**

6
7 **1. Small Cell Wireless Communication Facility Deployment**
8 **Informational Presentation**
9 **Project Staff: Legal Counsel Alex Mog**

10
11 Legal Counsel Alex Mog presented a PowerPoint presentation on Small Cell
12 Wireless Communication Facility Deployment and explained that the same
13 presentation had been made to the City Council. He described the background of
14 Public Utilities Code Section 7901, with the definition of a telephone company
15 having been defined broadly by the California Public Utilities Commission (CPUC)
16 and the courts. He also outlined the Telecommunication Act of 1996; the Shot
17 Clock Rule where local governments must act on a request for authorization to
18 place, construct, or modify a wireless service facility within a reasonable period of
19 time; new Federal Communications Commission (FCC) Small Cell Order; and
20 Small Cell Deployment for new technology. Additional details were provided on
21 local fees under the FCC Order, what had been defined as a reasonable fee, and
22 FCC examples of reasonable fees; aesthetic requirements with an April 15
23 deadline; and non-fee requirements. The FCC Order was currently being
24 challenged by the City Attorney's Office, which with the Planning Department, was
25 working to develop and publish design guidelines prior to the April 15 deadline.
26 Staff would return to the Planning Commission during its March meeting for a public
27 hearing to consider changes to the zoning code, and a review of the design
28 guidelines to allow feedback to be forwarded to the City Council.

29
30 Mr. Mog and Mr. Rhodes responded to questions from the Planning Commission
31 on the presentation.

32
33 Commission concerns included what penalties could occur if the City did not meet
34 the April 15 deadline to publish design guidelines, particularly given the tight
35 timeline to meet the deadline, potential attachment and processing fees as
36 compared to the cost to the City to process a cell facility deployment application,
37 and a suggestion the City could borrow from the guidelines drafted by the City of
38 San Francisco.

39
40 DAVID RUPORT, Jr., Pinole, suggested it behooved the Planning Commission to
41 become educated on cell towers given technology was changing fast. He urged
42 the Commission to consider the information from the League of California Cities on
43 the topic, referenced HR Bill 530 which opposed the deregulation of cell towers;
44 stated he had brochures of an event to be held in Diablo to view a presentation of
45 Generation Zapped, emphasized that not only San Francisco, but other local
46 jurisdictions were considering or had in place local regulations on the

1 reasonably of installing such technologies, and recommended interaction and
2 discourse with the cell companies that may want to locate in Pinole.
3

4 **H. CITY PLANNER'S / COMMISSIONERS' REPORT**

5
6 Mr. Rhodes reported the CVS Pharmacy project was now open with a temporary
7 Certificate of Occupancy (CO) but the Cell on Wheels (COWs) were still in place
8 given there were active leases in place and issues affecting two parcels which had
9 created some construction challenges and involved separate building permits. He
10 identified a number of the improvements yet to be completed as part of the project.
11 Planet Fitness was open and close to completion, a new yogurt shop was due to
12 open in the Pinole Vista Crossing Shopping Center, and the Lucky store was
13 making progress on its renovation. Progress had also been made with DaVita
14 Dialysis Clinic, which was expected to be completed by the end of the year.
15

16 Commissioner Brooks expressed concern with the lack of operable lighting at the
17 Lucky Shopping Center parking lot which had been inoperable prior to the remodel.
18

19 Commissioner Kurrent reminded everyone to submit their Form 700. He inquired of
20 the status of recruitment for the vacant Planning Commission seats; and Mr.
21 Rhodes reported that recruitment efforts were ongoing and current Commissioners
22 whose terms were due to expire were encouraged to reapply.
23

24 In response to Commissioner Thompson as to the status of the creek
25 improvements behind Sprouts, Mr. Rhodes reported the developer required
26 confirmation in writing from the City that stated the overlay of the trail was a
27 maintenance activity and would not require an Army Corps of Engineers permit,
28 although there was a difference of opinion with Country Flood Control staff
29 regarding other planned improvements. Planned interpretive signage being placed
30 on private property which did not affect County Flood Control property could be
31 entertained. He would bring up the issue of the interpretative signage with the
32 Development Services Director/City Engineer.
33

34 **I. COMMUNICATIONS: None**

35
36 **J. NEXT MEETING**

37
38 The next meeting of the Planning Commission will be a Regular Meeting to be
39 held on Monday, March 25, 2019 at 7:00 P.M.
40

41 **K. ADJOURNMENT: 8:56 P.M**

42
43 Transcribed by:

44
45
46 Anita L. Tucci-Smith

1 Transcriber