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DRAFT

**MINUTES OF THE REGULAR
PINOLE PLANNING COMMISSION**

March 25, 2019

A. CALL TO ORDER: 7:06 P.M.

B. PLEDGE OF ALLEGIANCE AND ROLL CALL

Commissioners Present: Brooks, Kurrent, Thompson, Chair Wong

Commissioners Absent: None

Staff Present: Daniel Hortert, Interim Planning Manager
Tamara Miller, Development Services Director
Justin Shiu, Contract Planner
Alex Mog, Legal Counsel

C. CITIZENS TO BE HEARD

There were no citizens to be heard.

D. CONSENT CALENDAR

1. Planning Commission Meeting Minutes from February 25, 2019

MOTION to approve the Planning Commission Meeting Minutes from February 25, 2019, as shown.

MOTION: Thompson SECONDED: Brooks APPROVED: 4-0

E. PUBLIC HEARINGS:

1. **Vesting Tentative Parcel Map – MS 651-2019-01**

Request: Consideration of a vesting tentative parcel map to establish a three-lot subdivision.

Applicant: Keith Bush and Ryan Engel
Bay Area Land Surveying, Inc.
3065 Richmond Parkway, Suite 101

1 Richmond, CA 94806
2 **Location:** 2150 Appian Way, 1402 Tara Hills Drive, and 1500 Tara Hills
3 Drive (APN: 402-281-005, 402-281-004, and 402-281-002)
4

5 **Project Staff:** Justin Shiu
6

7 Contract Planner Justin Shiu presented the staff report dated March 25, 2019, and
8 recommended the Planning Commission adopt Resolution 19-03 approving a
9 Vesting Tentative Parcel Map (VTM) to establish a three-lot subdivision, subject to
10 conditions of approval contained in Exhibit A to Attachment A of the staff report.
11

12 Responding to the Commission, Mr. Shiu clarified the action to be taken by the
13 Planning Commission, and explained that approval of the VTM required recordation
14 of the Final Map after finalization of the easements on the map, to be recorded with
15 the County Recorder's office. At this time, there had been no request to change the
16 zoning of the parcels.
17

18 **PUBLIC HEARING OPENED**
19

20 KEITH BUSH, Bay Area Land Surveying Inc., 3065 Richmond Parkway, Suite 101,
21 Richmond, the applicant, explained that the subdivision had originally been a lease
22 parcel with three Assessor Parcel Numbers (APNs) assigned to the lease. The
23 Subdivision Map Act required a VTM, which was the purpose of the request to be
24 able to actualize the property in the eyes of the record. The maintenance of the
25 easement would be defined in a separate document to be filed concurrently with the
26 map and portioned out as part of that document.
27

28 JIM ESWAY, Managing Partner, Crossroad Ventures Group, clarified the property
29 had been owned by Appian and Associates for many years. McDonald's was
30 located on one of the parcels and had an over 50-year lease agreement; the
31 property was not located in a redevelopment area; and the properties at 2150, 2160
32 and several other addresses on Tara Hills Drive comprised over 65,000 square feet
33 of offices occupied by doctors. While the VTM should have been approved years
34 ago, finalizing the parcel map would provide fee simple interest for the ownership.
35 The maintenance and management of the ingress and egress had been managed
36 by Appian and Associates for a number of years and most of the leases ranged
37 between two- and ten-year lease terms. One parcel located at 1500 Tara Hills
38 Drive had over 70 parking spaces where City code required parking in the mid-50
39 space range. The ownership requested an exception to the requirement for
40 reciprocal parking since that address had more than sufficient parking.
41

42 The Planning Commission commended the property management for the upkeep
43 and maintenance of the properties.
44

45 **PUBLIC HEARING CLOSED**
46

1
2 The Planning Commission discussed Vesting Tentative Map MS 651-2019-01 and
3 offered the following comments and/or direction to staff:
4

- 5 • Recommended a condition to address the fact the driveway was under the
6 control of the property owner, with staff noting the applicant must provide
7 documentation on the access easement establishing use maintenance
8 agreements. (Thompson)
9

10 Mr. Bush clarified that as long as the agreement was the maintenance of the
11 driveway it should not matter who was identified to pay since proposed Parcels 1
12 and 2 were currently paying for that maintenance for the benefit of the three
13 parcels. Parcel 3 desired to be independent and Parcels 1 and 2 could have a
14 reciprocal parking easement.
15

- 16 • Suggested the resolution remain as is since Condition 5 had addressed the
17 reciprocal access and parking agreement. (Kurrent)
18

19 **MOTION** to adopt Planning Commission Resolution 19-03, with Exhibit A:
20 Conditions of Approval, Resolution of the Planning Commission of the City of
21 Pinole, County of Contra Costa, State of California, Approving a Vesting Tentative
22 Parcel Map (MS 561-2019-01) to Establish a Three-Lot Subdivision at 2150 Appian
23 Way, 1402 Tara Hills Drive, and 1500 Tara Hills Drive, APN: 402-281-005, 402-
24 281-004, and 402-281-002.
25

26 **MOTION: Kurrent SECONDED: Thompson APPROVED: 4-**
27 **0**

28 Chair Wong identified the 10-day appeal process of a decision of the Planning
29 Commission in writing to the City Clerk.
30

31 **2. Conditional Use Permit CUP 18-03: U-Haul Truck Rental**
32

33 **Request:** Consideration of a use permit request to operate a truck
34 rental business on an approximately 20,038 square foot lot
35 shared with an existing approximately 1,440 square foot glass
36 company building and two existing dwellings totaling
37 approximately 2,700 square feet
38

39 **Applicant:** Karen McMullen
40 1123 Willow Avenue
41 Pinole, CA 94564
42

43 **Location:** 795 San Pablo Avenue (APN: 402-166-026)
44

45 **Project Staff:** Justin Shiu

1
2 Contract Planner Justin Shiu presented the staff report dated March 25, 2019, and
3 reported that additional exhibits had been provided to the Planning Commission at
4 the dais titled Exhibit 1: photographs of the site and existing lighting conditions, and
5 Exhibit 2: an assessment from the Pinole Police Department of lighting conditions.
6 The Pinole Police Department also recommended along with motion sensors that
7 lighting be fully operational and gating be installed to provide security. He added
8 that the applicant had requested a modification to Condition 17, to read as follows:
9

10 *A site security plan shall be provided. The plan shall describe measures to*
11 *prevent rental vehicle theft and vandalism.*
12

13 Mr. Shiu commented that the request to modify Condition 17 was reasonable, and
14 both Conditions 16 and 17 would be reviewed by the Pinole Police Department.
15

16 Mr. Shiu recommended the Planning Commission adopt Resolution 19-04,
17 conditionally approving a conditional use permit to allow a truck rental business at
18 795 San Pablo Avenue, subject to the conditions of approval as contained in Exhibit
19 A, to Attachment A of the staff report, as modified.
20

21 Responding to the Commission, Mr. Shiu clarified again Conditions 16 and 17, as
22 modified, and advised that at this time no condition had been imposed to require a
23 gate as the Pinole Police Department had recommended.
24

25 PUBLIC HEARING OPENED

26
27 KAREN McMULLEN, Owner/Operator, U-Haul Truck Rental, 1123 Willow Avenue,
28 Pinole, introduced herself to the Planning Commission.
29

30 SEAN BERNARDO, Area Field Management, U-Haul East Bay, described his work
31 with franchisees and business owners to establish a business.
32

33 Ms. McMullen clarified, when asked, that she had not had any trucks vandalized or
34 stolen from her lot in the past three years. A police report in the record had
35 involved a truck that had been reserved at her location but that had not been
36 returned. She also clarified the facility would have trucks and one trailer, which had
37 been assigned to the location, although she had requested two trailers be allowed
38 on the property, separate from the parking of the trucks.
39

40 PUBLIC HEARING CLOSED

41
42 The Planning Commission discussed Resolution 19-04, U-Haul Truck Rental, and
43 offered the following comments and/or direction to staff:
44

- 45 • Revise the second sentence of Condition 9 to read: The plan provided to

1 *staff shall include striping the designated truck rental parking area to*
2 *accommodate the vehicles shown in the site plan received February 14,*
3 *2019. (Brooks)*
4

- 5 • *Revise the last sentence of Condition 16 to read: Any new lighting shall*
6 *include downward shielding to prevent off-site light and glare, especially*
7 *shielding for adjacent residential units consistent with the requirements of*
8 *the Pinole Municipal Code; and revise Condition 13 to add the following*
9 *sentence: Vehicle returns may be allowed outside of regular operating*
10 *hours except in no case shall vehicles be returned between 10:00 P.M. and*
11 *7:00 A.M. (Kurrent)*

12
13 **MOTION** to adopt Planning Commission Resolution 19-02, with Exhibit A:
14 Conditions of Approval, Resolution of the Planning Commission of the City of
15 Pinole, County of Contra Costa, State of California, Approving a Conditional Use
16 Permit (CUP 18-03) to Allow the Operation of a Truck Rental Use at 795 San Pablo
17 Avenue, APN: 402-166-026, subject to the following:
18

- 19 • The second sentence of Condition 9 revised to read:

20
21 The plan provided to staff shall include striping the designated truck rental
22 parking area to accommodate the vehicles shown in the site plan received
23 February 14, 2019.
24

- 25 • An additional sentence added to Condition 13 to read:

26
27 Vehicle returns may be allowed outside of regular operating hours except in
28 no case shall vehicles be returned between 10:00 P.M. and 7:00 A.M.
29

- 30 • The last sentence of Condition 16 revised to read:

31
32 Any new lighting shall include downward shielding to prevent off-site light
33 and glare, especially shielding for adjacent residential units consistent with
34 the requirements of the Pinole Municipal Code.
35

- 36 • Condition 17 revised to read:

37
38 A site security plan shall be provided. The plan shall describe measures to
39 prevent rental vehicle theft and vandalism.
40

41 **MOTION: Brooks**

SECONDED: Kurrent

APPROVED: 4-

42 **0**

43 Chair Wong identified the 10-day appeal process of a decision of the Planning
44 Commission in writing to the City Clerk.
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3. Zoning Code Amendment 19-01: Small Cell Wireless Facilities

Request: Consideration of a Zoning Code Text Amendment modifying Chapters 17.10, 17.12, 17.20, 17.76, 17.98 and adding Chapter 17.77 to regulate the deployment of small cell wireless facilities in the City, including provisions regulating placement, location, and design; permitting procedures; as well as design guidelines.

Applicant: City of Pinole
2131 Pear Street
Pinole, CA 94564

Location: Citywide

Project Staff: Alex Mog, Legal Counsel

Legal Counsel Alex Mog presented a PowerPoint presentation and recommended the Planning Commission approve Resolution 19-05, a Zoning Code Text Amendment (ZCA) to add Chapter 17.77 to the Zoning Code to regulate small cell wireless facilities and make other minor amendments to Title 17. In addition, the Planning Commission was asked to consider proposed design guidelines for small cell wireless facilities.

Responding to the Commission, Mr. Mog advised he was unaware of any city that had outright banned 5G service for small cell wireless facilities but it could be an option for the Planning Commission to recommend to the City Council; the Planning Commission may make any recommendation it saw fit that would be incorporated into the ordinance for City Council consideration with the City Council to take final action; and existing wireless facilities were required to go through design review, although the process was currently subjective and under the Federal Communications Commission (FCC) order objective standards were required.

Mr. Mog provided an overview of the discussions of the Municipal Code Update Committee which had encouraged small cell wireless facilities be more than 800 feet away from any residential structure, and while he acknowledged that number could be less or more, the greater the distance the greater the suggestion of an effective prohibition. He also clarified the permitted and conditional uses as part of the zoning use table in the ZCA. In addition, he had not reviewed the ordinance for the Town of Ross, but had reviewed an emergency ordinance adopted by Mill Valley.

Additionally, the City's existing Noise Ordinance had catch-all language but had not created an objective standard that could be considered for the small cell wireless

1 facilities such as a limit on the decibel level.
2
3

4 The ordinance could be further clarified when addressing the preference for
5 undergrounding ancillary equipment; and the size of the unit could be addressed
6 with the equipment required to be narrower to ensure it was small. Surface
7 mounted facilities would require an encroachment permit if located within the right-
8 of-way (ROW); ownership of light poles varied throughout the city whether owned
9 by the City or the utility company and whether or not the light pole was owned by
10 the City the applicant would still be required to comply with the design guidelines
11 and operation.
12

13 Mr. Mog also clarified the shot clock process; stated staff was unaware of any
14 health studies related to small cell wireless facilities but from a legal perspective the
15 City was bound by the FCC guidelines; reported that applicants were required to
16 submit a Radio Frequency (RF) report with an application, which was a public
17 document; and applicants were also required to submit annual reports as part of an
18 application to ensure compliance with FCC requirements. An applicant may
19 request an exception from the design guidelines but it would require a full
20 discretionary process. As to the permitted locations, distance from schools had not
21 been identified in the ordinance but could be identified with a preference that a
22 small cell wireless facility not be located within 800 feet of a school.
23

24 PUBLIC HEARING OPENED 25

26 DAVID RUPORT, Jr. Pinole, stated he had previously offered certain basic
27 resources to the City and had e-mailed City staff a series of items that would have
28 been beneficial on the discussion of cell towers and associated health issues,
29 which could have added to the discussion. He provided details of Section 74 of the
30 Telecommunications Act of 1996, and recognized due to changes in technology,
31 such as 5G technology, that there were multiple towers and wireless facilities, an
32 issue that all communities were required to address. The City was under a
33 mandate, the ordinance was not perfect, and he urged the Planning Commission to
34 review all information provided since there could be a problem with compliance,
35 enforcement, and application.
36

37 PUBLIC HEARING CLOSED 38

39 The Planning Commission discussed ZCA 19-01: Small Cell Wireless Facilities and
40 offered the following comments and/or direction to staff:
41

- 42 • Recommended the design guidelines include a requirement not only for
43 photo simulations but a mock-up or story poles; expressed concern with
44 potential noise impacts and suggested the City's Noise Ordinance be taken
45 into consideration; the language in the ordinance to be strengthened

1 regarding the preference for ancillary equipment to be underground; if an
2 applicant chose a light pole that was owned by a utility, efforts should be
3 made to transfer that small cell wireless facility to a pole owned by the City,
4 and notification should be provided to both the owner and the tenant of a
5 property. (Thompson)

- 6 • Recommended a new Section 4 be added to Permitted Facilities of Chapter
7 17.77, with language that small cell wireless facilities outside of the public
8 right-of-way shall not be located on any school structure without prior
9 issuance of a Conditional Use Permit; to Section C, Permitted Locations,
10 add *or school building* to any reference to residential development; and
11 suggested the 800- foot distance could be overly restrictive to wireless
12 carriers and there should be some scientific evidence to justify the
13 requirement while recognizing the burden was on the applicant to request an
14 exception to the ordinance. (Kurrent)
- 15 • Agreed the 800-foot distance could be overly restrictive to the cell phone
16 companies but was uncertain what the number should be and
17 recommended the City Council be provided information on what other cities
18 had considered. (Wong)

19
20
21 Mr. Mog summarized the Commission's comments for the equipment to be
22 underground; notices mailed to tenants and property owners of the home, if
23 different; ban the placement of small cell wireless facilities on school properties
24 (places where children gather but not apply to parks); the 800-foot rule to apply to
25 schools; with the City Council asked to consider whether the 800-foot distance
26 requirement was overly restrictive. He also clarified any changes to the ordinance
27 would come to the Planning Commission and thereafter to the City Council for a
28 first and second reading. The design guidelines, with any modifications, would be
29 adopted separately by the City Council by resolution but could also be referred
30 back to the Planning Commission for additional input.

31
32 **MOTION** to Adopt Planning Commission Resolution 19-05, Recommending that
33 the City Council Adopt an Ordinance Adding Chapter 17.77 Regulating Small Cell
34 Wireless Facilities and Making Other Related Minor Amendments to Title 17 as set
35 forth in Exhibit A, and Also Recommends the City Council Adopt the Additional
36 Design Guidelines Set Forth in Exhibit B, subject to the modifications discussed by
37 the Planning Commission.

38
39 **MOTION: Kurrent**

SECONDED: Brooks

FAILED: 3-1
NOES: Thompson

40
41
42 Mr. Mog explained that since there were only four Planning Commissioners
43 present of the seven-member board the motion did not carry. He recommended
44 the Planning Commission make a motion to recommend City Council
45 consideration of the item, with a notation of the dissent. The Commission could

1 consider a new motion to adopt the resolution with an additional statement that
2 one Planning Commissioner dissented on the motion, or make a recommendation
3 to consider the resolution subject to the comments discussed by the Planning
4 Commission.
5

6 The Planning Commission discussed various options at length.

7 **MOTION** to Recommend the City Council Consider the Changes to Chapter 17.77
8 of the Zoning Code to Regulate Small Cell Wireless Facilities and Make Related
9 Minor Amendments to Other Title 17, As Well as Recommend Approval of Certain
10 Design Guidelines, subject to the modifications discussed by the Planning
11 Commission and communicating to the City Council that three Planning
12 Commissioners recommended approval and one Planning Commissioner had
13 dissented.

14
15 **MOTION: Kurrent SECONDED: Thompson APPROVED: 4-**
16 **0**

17
18 **F. OLD BUSINESS: None**

19
20 **G. NEW BUSINESS: None**

21
22 **H. CITY PLANNER'S / COMMISSIONERS' REPORT**

23
24 Interim Planning Manager Daniel Hortert reported that Dr. Lee's medical office
25 project at 1289 Pinole Valley Road had been revised with an informal presentation
26 to be provided to the City Council on April 16. Based on comments from that
27 meeting, the item would be agenized for the Planning Commission meeting of April
28 22. Additional upcoming Planning Commission items included Valero Gas Station
29 to be converted into a 7-Eleven/Union 76; revised plan for the extra space mini-
30 storage facility at 890 San Pablo Avenue; a joint work session with the City Council
31 on May 20 for the Pinole Woods 100-unit senior development; and a proposal for
32 30 to 35 full service residential units at 2801 Pinole Valley Road.
33

34 The Planning Commission welcomed Mr. Hortert to the City; thanked and
35 recognized former Planning Manager Winston Rhodes for his service to the City;
36 and recognized former Planning Commissioner Ruskin Hartley for his service to the
37 City. The Planning Commission had vacancies and applicants desirous to serve on
38 the Commission were encouraged to make application at City Hall.
39

40 **I. COMMUNICATIONS: None**

41
42 **J. NEXT MEETING**

43
44 The next meeting of the Planning Commission will be a Regular Meeting to be
45 held on Monday, April 22, 2019 at 7:00 P.M.
46

1 K. ADJOURNMENT: 9:28 P.M

2

3

Transcribed by:

4

5

Anita L. Tucci-Smith

6

Transcriber