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

5
6 **August 8, 2016**
7

8
9 **A. CALL TO ORDER:** 7:06 P.M.
10

11 **B. PLEDGE OF ALLEGIANCE AND ROLL CALL:**
12

13 Commissioners Present: Brooks, Martinez-Rubin, Tave, Thompson, Wong,
14 Chair Kurrent
15

16 Commissioners Absent: Hartley
17

18 Staff Present: Winston Rhodes, Planning Manager
19

20 **C. CITIZENS TO BE HEARD:**
21

22 DIMITRI MAGGANAS, 2550 Appian Way, Pinole, introduced himself to the
23 Planning Commission; spoke to his family's experience with development and
24 property management; and offered his business card to the Commission.
25

26 **D. CONSENT CALENDAR:**
27

28 1. **Planning Commission Meeting Minutes from July 11, 2016**
29

30 **MOTION** to approve the minutes of the July 11, 2016 meeting, as submitted.
31

32 **MOTION:** Thompson **SECONDED:** Martinez-Rubin **APPROVED:** 6-0-1
33 **ABSENT:** Hartley
34

35 **E. PUBLIC HEARINGS:**
36

37 1. **Design Review (DR 16-11): Flyer's Gas Station Convenience Store**
38 **Removal and Replacement**
39

40 ***This item has been continued until further notice***
41

42 **Request:** Consideration of a design review request to modify an
43 existing gas station including removal of an existing
44 approximately 528 square foot convenience store and
45 replacing it with an approximately 1,283 square foot
46 new convenience store

1 **Applicant:** Nasreen Saleem
2 2467 Hill View Lane
3 Pinole, CA 94564

4
5 **Location:** 1390 San Pablo Avenue, APN 402-023-012

6
7 **Project Planner:** Winston Rhodes

8
9 **2. Conditional Use Permit 16-03: Better Cloud Vapor**

10
11 **Request:** Consideration of a use permit to operate an
12 approximately 1,461 square foot electronic cigarette
13 retail sales establishment within a vacant portion of an
14 existing commercial building

15
16 **Applicant:** Sonephet Manikhong
17 2531 Faria Avenue
18 Pinole, CA 94564

19
20 **Location:** 2564 Appian Way, APN 426-391-001

21
22 **Project Staff:** Winston Rhodes, Planning Manager

23
24 Planning Manager Winston Rhodes presented the staff report dated August 8,
25 2016, and reported that although Commissioner Hartley was not in attendance he
26 had provided written comments via e-mail, the City Attorney had responded to
27 those comments, and the comments and responses had been made available to
28 the Planning Commission and to the public. A revised resolution and conditions of
29 approval had also been provided along with a revision to Condition 5 that had been
30 revised since the distribution of the staff report, to read:

- 31
32 5. *The proposed area on the site plan labeled as employment area kitchenette*
33 *shall function as a break room for employees. No food or beverages shall*
34 *be prepared, sold, or served by applicant on-site for customer consumption.*

35
36 Mr. Rhodes explained that the sale of tobacco was not part of the proposed use
37 and any expansion of use would require Commission approval. A receiving area
38 where a television was located was area where people would come in and
39 purchase the products; sit, relax, and partake in the products. The City Attorney
40 had opined that as long as food and beverages were not served on the premises,
41 the use met the standards for a tobacco smoking lounge allowing the use of the
42 product (vaping) on-site. The kitchenette area could only be used by employees
43 and not by the public nor for the sale of food or beverages on-site.

44
45 PUBLIC HEARING OPENED

1 SONEPHET (STEVE) MANIKHONG, 2531 Faria Avenue, Pinole, explained that
2 he had a store in the City of Albany for the past three years and wanted to expand
3 the business to the City of Pinole. He detailed the process for checking
4 identification to ensure customers were 21 years of age similar to the process used
5 for the sale of alcohol. The business would operate as a retail space and not as a
6 lounge.

7
8 DIMITRI MAGGANAS, representing the owner of the 2550 Appian Way property,
9 provided a historical context of what he characterized as the economic
10 depression of the shopping center including ongoing vacancies over the past ten
11 years. He did not see that allowing customers the ability to stay on the premises
12 to vape would be an issue, although he understood the concerns with health and
13 safety; emphasized the time, cost, and effort to upgrade the shopping center;
14 and advised that neighboring tenants supported the proposed business.

15
16 PUBLIC HEARING CLOSED

17
18 The Planning Commission discussed the application and offered comments,
19 recommendations, and revisions to Resolution 16-08:

- 20
21 • Page 1, Paragraph 2 under the last WHEREAS CLAUSE revised to read:

22
23 *The use permit request, as conditioned, is consistent with the Zoning Code,*
24 *in that it furthers the proposed Commercial Mixed Use Zone, by*
25 *strengthening the commercial services in Pinole; and providing local*
26 *employment opportunities; and*

- 27
28 • Suggested the business did not belong in Pinole while recognizing that was
29 not under the purview of the Commission. (Thompson, Wong)
30
31 • Encouraged the continued review of State legislation and if there were any
32 issues would require a return to the Commission. (Tave)
33
34 • Revise Condition 7 to require signage to include information on Proposition
35 65, and add the following statement to any signage:

36
37 *No smoking or vaping shall be allowed within 20 feet of the store entrance.*

38
39 Mr. Rhodes advised the project was not subject to Proposition 65.

- 40
41 • Concerns expressed if information about Proposition 65 was not included
42 on signage given the unknown health effects.

43
44 Mr. Rhodes clarified that Condition 2 required the use to comply with all state and
45 federal regulations now and in the future.

46

1 When asked, Mr. Manikhong stated he could install a filtration system now.

2
3 Mr. Rhodes recommended a modification to the first and last sentences of
4 Condition 10, as follows:

5
6 *The applicant shall install odor and/or air quality control features to the*
7 *satisfaction of the Development Services Department to address odor and*
8 *air quality concerns. Odor or air quality control features shall be approved*
9 *in advance of installation and a building permit shall be secured if required.*

10
11 **MOTION** to adopt Resolution 16-08 (Revised), with Exhibit A; Conditions of
12 Approval, a Resolution of the Planning Commission of the City of Pinole Approving
13 a Conditional Use Permit (CUP 16-03) To Allow the Operation of An Approximately
14 1,461 Square Foot Electronic Cigarette Retail Establishment Within 2564 Appian
15 Way APN 426-391-001, subject to the following revisions:

- 16
17 • Page 1, Paragraph 2 under the last WHEREAS CLAUSE revised to read:

18
19 *The use permit request as conditioned, is consistent with the Zoning Code,*
20 *in that it furthers the proposed Commercial Mixed Use Zone by*
21 *strengthening the commercial services in Pinole, and providing local*
22 *employment opportunities; and*

- 23
24 • Modify Condition 5 to read:

25
26 *The proposed area on the site plan labeled as employment area kitchenette*
27 *shall function as a break room for employees. No food or beverages shall*
28 *be prepared, sold, or served by applicant on-site for customer consumption.*

- 29
30 • Revise Condition 7 to require signage to include the statement:

31
32 *No smoking or vaping shall be allowed within 20 feet of the store entrance.*

- 33
34 • Modify the first and last sentences of Condition of Approval 10, as follows:

35
36 *The applicant shall install odor and/or air quality control features to the*
37 *satisfaction of the Development Services Department to address odor and*
38 *quality concerns. Odor or air quality control features shall be approved in*
39 *advance of installation and a building permit shall be secured if required.*

40
41 **MOTION: Brooks** **SECONDED: Martinez-Rubin** **APPROVED: 4-1-1-1**
42 **NOES: Thompson**
43 **ABSTAIN: Wong**
44 **ABSENT: Hartley**

45
46 Commissioner Wong stepped down from the dais due to a potential conflict of

1 interest with the next agenda item and left the meeting at this time.

2
3 **F. OLD BUSINESS:**

4
5 **1. Design Review (DR 16-15): San Francisco Bay Trail: Pinole Shores to**
6 **Bayfront Park**

7
8 **Request:** Review of elevated trail railing and concrete design
9 and color details in conjunction with a previously
10 approved design review request to construct an
11 approximately 0.5 mile segment of the San Francisco
12 Bay Trail extending a non-motorized paved
13 recreational trail along the San Pablo Bay Shoreline in
14 Pinole from a hillside bluff across from Hazel Drive in
15 Pinole Shores east over the Union Pacific Railroad
16 (UPRR) tracks to connect to an existing path in
17 Bayfront Park.

18
19 **Applicant:** East Bay Regional Park District
20 P.O. Box 5381
21 Oakland, CA 94605-0381

22
23 **Location:** East Bay Regional Park District property between
24 Union Pacific Railroad and Burlington Northern Santa
25 Fe Railroad tracks, Union Pacific right of way, and
26 Bayfront Park along the San Pablo Bay Shoreline
27 (APN 402-140-007, 402-140-001, 401-010-009, and
28 401-010-007)

29
30 **Project Staff:** Winston Rhodes, Planning Manager

31
32 Mr. Rhodes described the item as a follow-up from the meeting of July 11, 2016,
33 and at the discretion of the Planning Commission the item could be considered as
34 a Planning Commission Workshop. The Commission considered the item as a
35 workshop.

36
37 Mr. Rhodes presented the staff report dated August 8, 2016, detailed the four
38 design options, and recommended that the Commission take public input, consider
39 the public testimony, and provide direction on the four design topics including
40 railing configuration, railing color, concrete pattern, and concrete color.

41
42 SEAN DOUGAN, Trails Development Program Manager, East Bay Regional Park
43 District (EBPRD), presented the most current iteration of a PowerPoint on the
44 Pinole Bay Trail Extension. He walked through the changes to the project design
45 in response to Planning Commission and public concerns including the removal of
46 the observation platform, which would require a complete recalculation of the

1 bridge structure, Caltrans peer review, and engineering time; the railing still
2 needed to be redesigned to address the Commission's design review concerns;
3 the changes to the bridge color and staining would add to the bridge construction
4 costs; and the changes could delay the project approximately two months.
5 Construction costs had been estimated at over \$10 million, although with the
6 proposed changes including some required by UPRR, the total project cost was
7 currently unknown at this time. Due to the time constraints to meet the process
8 and review schedule from all related agencies, he asked for final approval of the
9 bridge curtain wall color, bridge deck and pier color, bridge railing type, and bridge
10 railing color.

11 PUBLIC COMMENTS OPENED

12
13
14 JOHN MORAN, 2235 Orleans Drive, Pinole, recommended Option 3 minus the top
15 railing as the best option; he liked the use of squares rather than a cyclone fence;
16 suggested a green color for the railing; and preferred the use of the bluish rocks as
17 shown in Option 1.

18 PUBLIC COMMENTS CLOSED

19
20
21 The Planning Commission discussed the design options and offered the following
22 comments and/or recommendations to the applicant and staff:

- 23
24 • Supported the railing to serve a functional purpose, with a place to lean or
25 rest when walking. (Kurrent)
- 26
27 • Option 3 was consistent with the requests from the Commission and the
28 public.
- 29
30 • Expressed concern with the second railing with a recommendation to
31 consider a design element to prevent climbing, or eliminate the railing that
32 was located two feet off the ground; and a recommendation for the top rail
33 tubing to be turned with the sharp edge placed up to deter climbing.
34 (Thompson, Tave, Kurrent)

35
36 SAMI KALANTARI, Senior Engineer, AECOM, Technology Corporation, explained
37 that the lower railing could be eliminated or placed outside the wire mesh, although
38 the hand rail at the top should be preserved due to the horizontal load.

- 39
40 • Supported a green-colored bridge railing as more consistent with the colors
41 of the Bay and based on the views from Bayfront Park and the hillside.
42 (Kurrent)
- 43
44 • Given the stone had blue tones, suggested it would be a benefit to consider
45 a gray color that leaned toward a blue color for the railing, which would be
46 less obtrusive. (Thompson)

1
2 JEFF NOLEEN, 2246 Orleans Drive, Pinole, identified the following for
3 consideration for the railing; Air Superiority Blue #35450 and Light Blue #25550 for
4 Rail #3. He urged some color on the rail to offer some identity and allow it to be
5 part of an art piece.
6

7 In response to the Commission's desire for an art element from Bayfront Park, Mr.
8 Dougan explained he had researched cities' public art policies and programs.
9 Since the EBRPD had no guidelines for public art, he asked the City of Pinole to
10 take the lead on any public art and allow the EBRPD to focus on the design of the
11 bridge structure. He discouraged any art on the bridge structure since it would add
12 to the design complexity, could be a maintenance concern, and could be perceived
13 as protected requiring the artist to be compensated for subsequent changes.
14

15 Mr. Rhodes suggested the schedule for an art feature in Bayfront Park could be
16 considered separately from the subject project and would require City Council
17 approval. The City Council would be provided a copy of the meeting minutes and
18 would be aware of the Commission's desire, or the Chair could attend a future City
19 Council meeting and report on the Commission's input concerning public art.
20

21 PETE MURRAY, speaking as a member of the public, suggested a proposal for
22 public art could be considered by the City Council in that it had discussed a policy
23 for public art in the past. Given the timeline for the project and the need to meet
24 the requirements for grant opportunities, he urged the Commission to approve the
25 project.
26

27 Mr. Rhodes identified the Commission's consensus for Option 3, eliminating
28 climbing features or anything that would attract climbing; consideration for the
29 stamped concrete pattern to be Option 1, a gray beige stacked block pattern; the
30 railing to consist of a green color pursuant to the desires of the community and to
31 the recommendations of the EBRPD; with the specific green color to be
32 determined; and a gray beige curtain wall.
33

34 With repeated suggestions for various colors, Mr. Murray suggested the EBRPD
35 create a mockup of two colors to help the community decide what was preferred.
36 He suggested the lightest green with the lightest beige would allow something that
37 looked weathered with antiquated bronze patina, with a light shade of green, and
38 recommended the blue and green colors be selected to allow a mockup to be
39 created for further public review.
40

41 Mr. Rhodes recommended a meeting on-site to review the final mockup options
42 with two Planning Commissioners assigned to attend that meeting to allow some
43 continuity, with input from the neighbors. He understood Commissioner Hartley
44 would be interested in serving on any Subcommittee and suggested that no action
45 be taken at this time to allow the full Planning Commission to be present to select
46 the Sub-committee members and review the mock-up in the field.

1
2 On the discussion related to graffiti, Mr. Kalantari affirmed that graffiti was a
3 problem for many bridges with anti-graffiti coating to be applied which could be
4 easily washed and cleaned.
5

6 The Planning Commission preferred the Option 3 railing design with the bridge
7 deck color and piers to consist of a sandy beige color as proposed by the EBRPD,
8 but recommended it be included in the mockup of the proposed colors with a
9 sample to be viewed in the field. The Commission also recommended the City
10 Council consider a public art policy for the City of Pinole, with a future agenda item
11 to include the selection of a two-member Planning Commission Subcommittee to
12 review a mockup of the proposed colors in the field once prepared by the EBRPD.
13

14
15 **G. NEW BUSINESS:** None
16

17 **H. CITY PLANNER'S / COMMISSIONERS' REPORT:**
18

19 Mr. Rhodes reported that a Special Meeting of the Planning Commission had
20 been scheduled for the second Monday of the month of September and would
21 tentatively include Orange Theory Fitness, alcohol sales for CVS, Flyer's Gas
22 Station, and the annual finding of General Plan consistency of the City's Capital
23 Improvement Program (CIP). Information on the upcoming League of California
24 Cities Planning Commissioners Institute Conference would also be provided to
25 the Commission, and AB 1234 Training had been scheduled for August 29,
26 although on-line training was available. The Planning Commission meeting
27 scheduled for August 22 would be cancelled although cancellation notices had
28 not yet been distributed. The next meeting of the Planning Commission would
29 likely be September 12.
30

31 **I. COMMUNICATIONS:** None
32

33 **J. NEXT MEETING:**
34

35 The next meeting of the Planning Commission will be a Regular Meeting to be
36 held on Monday, August 22, 2016 at 7:00 P.M.
37

38 **K. ADJOURNMENT:** 9:58 P.M.
39

40 Transcribed by:

41
42 Anita L. Tucci-Smith
43 Transcriber
44
45