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**MINUTES OF THE REGULAR
PINOLE PLANNING COMMISSION**

June 26, 2017

A. CALL TO ORDER: 7:05 P.M.

B. PLEDGE OF ALLEGIANCE AND ROLL CALL:

Commissioners Present: Brooks, Hartley, Kurrent, Martinez-Rubin, Tave,* Chair
Thompson
*Commissioner Tave arrived after Roll Call

Commissioners Absent: Wong (excused)

Staff Present: Winston Rhodes, Planning Manager
Eric Casher, City Attorney

C. CITIZENS TO BE HEARD:

There were no citizens to be heard.

D. CONSENT CALENDAR:

1. Planning Commission Meeting Minutes from May 22, 2017

MOTION to approve the minutes of the Planning Commission meeting on May 22, 2017, as submitted.

MOTION: Brooks SECONDED: Martinez-Rubin APPROVED: 5-0-2
ABSENT: Tave, Wong

E. PUBLIC HEARINGS:

1. **Conditional Use Permit 17-05: 2395 San Pablo Avenue Live Music, Entertainment, and Special Events**

Request: Consideration of a use permit request for live music, entertainment, and special events at Pear Street Bistro at 2395 San Pablo Avenue. The request includes live music every Saturday night and up to 12 special events per year.

The live music on Saturday nights could last up until 10 P.M. and the 12 special events per year could last up

1 until 1:15 A.M.
2

3 **Applicant:** Francisco Flores
4 2395 San Pablo Avenue
5 Pinole, CA 94564
6

7 **Location:** 2395 San Pablo Avenue
8

9 **Project Staff:** Winston Rhodes, Planning Manager
10

11 Planning Manager Winston Rhodes presented the staff report dated June 26, 2017.
12 He reported the application had been reviewed by the Planning Commission
13 Development Review Subcommittee on June 5, 2017, where concerns about
14 security had been clarified with four to five security staff to be present; the Pinole
15 Police Department had reported no problems with special events held under the
16 2016 issued temporary use permit; additional concerns regarding impacts to
17 existing tenants and the surrounding neighborhood would be addressed by
18 spreading the special events over the year; and concerns with the occupancy limit
19 would be addressed with a draft condition requiring the applicant to comply with all
20 applicable federal, state and local regulations.
21

22 Mr. Rhodes recommended the Planning Commission adopt Resolution 17-07,
23 approving a Conditional Use Permit for live music every Saturday night and 12
24 special events per year within the building interior only, subject to conditions.
25

26 Responding to the Commission, Mr. Rhodes clarified that the sale of alcohol for the
27 Pear Street Bistro was not being considered by the Planning Commission at this
28 time; the applicant was only operating the ground floor commercial space; two
29 spaces above were occupied and used as dwellings and the tenants submitted
30 letters of support for the request; the applicant had provided copies of lease
31 language from the property owner stating that existing and future tenants be aware
32 of the hours of the restaurant and inclusion of the special events; and the applicant
33 did not have the authority to set lease terms which was under the purview of the
34 property owner.
35

36 The draft conditions of approval could be modified to clarify the property owner's
37 responsibility; Condition 6 could be amended to reflect the owner of the property
38 shall clarify all future leases; Condition 9 could be amended to reflect that *five (5)*,
39 not four (4) private buyout special evening events shall occur on either Fridays,
40 Saturdays or Sundays; Conditions 8, 11, and 26 could be deleted as redundant;
41 and Condition 25 could be amended to read: *No signs advertising the sale of*
42 *alcohol shall be displayed or visible from outside the store.*
43

44 Mr. Rhodes again clarified the use permit ran with the property; while the applicant
45 was not the property owner, the application had been signed by the property owner;
46 the conditions of approval had been provided to the applicant 72 hours in advance

1 of the public meeting; the Pear Street Bistro had been operating at the site for some
2 time and while the operator had recently changed during that time the property
3 owner has remained the same.
4

5 Eric Casher, City Attorney, stated the conditions of approval were required to be
6 satisfied by the tenant and failure to do so would result in the use permit being
7 revoked, negatively impacting the applicant's ability to conduct business. It was in
8 the best interests of both the applicant and the property owner to satisfy all
9 obligations vis-à-vis the conditions of approval. While there was limited authority to
10 bind the property owner, the conditions must be met by the applicant.
11

12 PUBLIC HEARING OPENED 13

14 FRANCISCO FLORES, project applicant , 2395 San Pablo Avenue, Pinole, clarified
15 that proposed special events would occur on Friday and Saturday evenings, and
16 not after 8:00 P.M. on Sundays. In response to concerns raised by the
17 Development Review Subcommittee, he clarified the last call for the sale of alcohol
18 during special events would be proposed to occur at 1:15 A.M., with food and water
19 to be served up to that time based on a small menu of appetizers. He also
20 described and had flyers available for installation of free-of-charge breathalyzer
21 equipment, which he planned to install for customers voluntary use regardless of
22 whether or not the CUP was approved.
23

24 Mr. Flores clarified the time period for special events for the live music and
25 entertainment would be proposed to run until 1:15 A.M. given the use of a disc
26 jockey (DJ); the restaurant would be open until 10:00 P.M.; special events would
27 occur only 12 times a year with the use of the DJ; if the hours of live music were
28 required to be reduced during special events it would negate the purpose of the
29 request; and the main dining and back rooms, and he noted that 30 percent of the
30 bar area was carpeted and to help reduce noise levels associated with live music,
31 which would not be much different from the noise in the dining area during the
32 dinner period. Two speakers would be used for live music; there was no intention
33 to use the restaurant as a club, no cover charge would be imposed although there
34 would be a dress code; and it was preferred buyouts not be required on Fridays,
35 which was the busiest day of the week, but could be acceptable on Saturdays or
36 Sundays.
37

38 Mr. Flores requested the option to utilize a jazz band on Saturdays to increase
39 patronage since Saturdays were not always busy, and was willing to end live music
40 and entertainment at 8:00 P.M. on Sundays only. He clarified the seating
41 arrangements inside the bistro; suggested there would be fewer customers during
42 special events due to available seating reduction; occupancy could be no more
43 than 140 persons; tables could be made available at the bar to be used as
44 communal tables; and professional security staff would be utilized for special
45 events; two security guards at the door and two located inside.
46

1 The emergency contact person would be located on-site and he would serve as the
2 emergency contact person for the foreseeable future; buyouts for special events
3 could be Fridays and Saturdays, but on Sundays not after 8:00 P.M.; there would
4 be five special event buyouts on those days, with a special permit; and no cover
5 charge would be imposed for any special events.
6

7 PUBLIC HEARING CLOSED
8

9 The Planning Commission and staff discussed the following revisions to Resolution
10 17-07:
11

- 12 • Condition 3 was clarified by staff to only apply on Saturdays;
13
- 14 • Condition 4, first sentence revised to read: *The 12 special events per year*
15 *shall conclude no later than 1:30 A.M. except for Sundays when the*
16 *conclusion time shall be 9:00 P.M.*; and the second paragraph revised to be
17 consistent with the project description as detailed on Page 2 of the staff
18 report, to be further modified with the last special event bullet revised to
19 read: *Private buyout event dates to be determined (up to five (5) per year*
20 *and always on Saturday and Sunday during the day);*
21
- 22 • Condition 6 revised to read: *The property owner shall ensure that all future*
23 *leases for the residential units above the existing restaurant shall notify the*
24 *tenants of the live music and special events of the restaurant on the first*
25 *floor and the hours of these events;*
26
- 27 • Condition 8 to be deleted;
28
- 29 • Condition 9, first sentence to be revised to read: *The five (5) private buyout*
30 *special evening events shall occur on either Fridays, Saturdays or Sundays;*
31
- 32 • Condition 11, revised to read: *An on-site emergency contact person(s)*
33 *information shall be provided to the Pinole Police Department at least seven*
34 *days prior to each special event,*
35
- 36 • Condition 25 revised to read: *No signs advertising the sale of alcohol shall*
37 *be displayed or visible from outside the establishment, and*
38
- 39 • Condition 26, revised to read: *Kitchen food and water service shall be*
40 *provided during all business operating hours to assure food and water is*
41 *available while alcohol is being served.*
42

43 **MOTION** to adopt Resolution 17-07 Approving a Conditional Use Permit (CUP 17-
44 05), to Allow for Live Music Every Saturday and Up to 12 Special Events Per Year
45 Within the Existing Restaurant at 2395 San Pablo Avenue, as modified.

1 MOTION: Martinez-Rubin SECONDED: Brooks

APPROVED: 6-0-1

2 ABSENT: Wong

3
4 **2. Design Review (DR 15-10) and Conditional Use Permit (CUP 15-02)**
5 **Extension: Gateway Medical Center project – Continued to July 24,**
6 **2017**

7
8 **Request:** Consideration of a design review and conditional use
9 permit extension request to construct a new
10 approximately 9,182 square foot two-story medical
11 office building with 10 new automobile parking spaces
12 and accompanying improvements for an ambulatory
13 surgical center on an approximately 26,090 square foot
14 parcel with 21 existing automobile parking spaces and
15 allow a proposed six auto parking space reduction in
16 the normally required number of parking spaces.

17
18 **Applicant:** AGAPE, LLC
19 1214 McDonald Drive
20 Pinole, CA 94564

21
22 **Location:** Southeast corner of the intersection of Pinole Valley
23 Road and Henry Avenue, APN 401-211-033

24
25 **Project Staff:** Winston Rhodes, Planning Manager

26
27 Mr. Rhodes reported the application would be continued to the Planning
28 Commission meeting of July 24, 2017 to allow discussions with legal staff as to
29 whether the land use entitlements had been activated or should be extended.

30
31 **F. OLD BUSINESS: None**

32
33 **G. NEW BUSINESS: None**

34
35 **H. CITY PLANNER'S / COMMISSIONERS' REPORT:**

36
37 Mr. Rhodes reported a Tree Removal Permit had been issued for property at
38 1251 Marionola Way in the East Bluffs Homeowners' Association (HOA) for the
39 removal of eleven pine trees; and Mr. Casher reported the Municipal Code
40 Update Subcommittee planned to review the City's existing Tree Removal
41 Ordinance to address recent concerns from the public.

42
43 Mr. Rhodes added there had been ongoing discussions with the Appian 80
44 Shopping Center property owner representatives, and execution of a long-term
45 lease with Safeway had occurred, with an application for renovating portions of
46 the shopping center anticipated later in the year.

1 Mr. Casher reported a Special City Council meeting had been scheduled for July
2 11 to discuss Proposition 64, and any changes to the Pinole Municipal Code
3 (PMC) as a result would be brought to the Planning Commission at a later date.
4

5 Commissioner Kurrent reported the draft Accessory Dwelling Unit (ADU)
6 Ordinance had been presented to the City Council, had not been well received
7 and had been continued to a future City Council meeting. He suggested the
8 ordinance be brought back to the Planning Commission for further discussion.
9 He also reported that the Contra Costa Transportation Authority (CCTA) would
10 make a presentation on June 29, 2017 to set the parameters for a transportation
11 plan for the next 20 to 30 years.
12

13 Commissioner Martinez-Rubin also spoke to the City Council discussions of the
14 ADU Ordinance.
15

16 Chairperson Thompson reported she attended the June 22 Bay Area Air Quality
17 Management District (BAAQMD) Public Scoping Meeting regarding a Marine
18 Terminal Permit Revision for the Phillips 66 refinery in Rodeo.
19

20 Commissioner Brooks reported on a proposal for East Bay Municipal Utility
21 District (EBMUD) water rate increases for 2018/19.
22

23 **I. COMMUNICATIONS:** None
24

25 **J. NEXT MEETING:**
26

27 The next meeting of the Planning Commission will be a Regular Meeting to be
28 held on Monday, July 24, 2017 at 7:00 P.M.
29

30 **K. ADJOURNMENT:** 9:12 P.M
31

32 Transcribed by:
33

34
35 Anita L. Tucci-Smith
36 Transcriber
37