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

5  
6 **April 11, 2022**  
7

8 **THIS MEETING WAS HELD IN A HYBRID FORMAT BOTH IN-PERSON AND ZOOM**  
9 **TELECONFERENCE**

10  
11 **A. CALL TO ORDER: 7:02 P.M.**  
12

13 **B1. PLEDGE OF ALLEGIANCE**  
14

15 **B2. LAND ACKNOWLEDGEMENT:** *Before we begin, we would like to acknowledge the*  
16 *Ohlone people, who are the traditional custodians of this land. We pay our respects to*  
17 *the Ohlone elders, past, present and future, who call this place, Ohlone Land, the land*  
18 *that Pinole sits upon, their home. We are proud to continue their tradition of coming*  
19 *together and growing as a community. We thank the Ohlone community for their*  
20 *stewardship and support, and we look forward to strengthening our ties as we continue*  
21 *our relationship of mutual respect and understanding*  
22

23 **B3. ROLL CALL**  
24

25 Commissioners Present: Benzuly, Kurrent\*, Martinez\*, Menis, Wong\*, Vice  
26 Chairperson Moriarty, Chairperson Banuelos  
27 \*Zoom teleconference  
28

29 Commissioners Absent: None  
30

31 Staff Present: David Hanham, Planning Manager  
32 Alex Mog, Assistant City Attorney  
33 Justin Shiu, Contract Planner  
34

35 **C. CITIZENS TO BE HEARD**  
36

37 Debbie Long, Pinole, commented that while the Kmart project had yet to be heard  
38 by the Planning Commission, she wanted to provide her thoughts on the project.  
39 She suggested the project would take away from the City's commercial sites for  
40 the purpose of sales tax revenue. The loss of property tax generated from the site  
41 would equate to a financial hardship for the City. The area and roadways had  
42 never been designed for this type of residential traffic and the topography was not  
43 designed for ingress/egress for residential traffic. A 2017/2018 traffic study  
44 recommended the City increase the speed of traffic along the roadway to 45 mph  
45 but the recommendation had been denied by the then City Council.

1 Ms. Long suggested heavy residential use coupled with increased pedestrian and  
2 bicycle traffic would not have an overall positive effect. A new traffic study was  
3 warranted given the past two years of the pandemic and people working from  
4 home. If the project was approved, she suggested it was only a matter of time  
5 before a thriving shopping center became a blighted residential area. The Fire  
6 Department lacked a ladder tall enough to reach the height of the building being  
7 proposed and public safety could be in jeopardy. The building would be solar ready  
8 and she asked who would be responsible to install the solar. There would be no  
9 covered parking stalls, which was a City requirement, and no definition between  
10 the parking for the project and the shopping complex, with only guides to stop  
11 vehicles. Also, the applicant had requested a reduction in the required parking.  
12

13 Ms. Long added the owner of the shopping center was also the applicant for the  
14 project and was well aware that spillover traffic from the residential complex due  
15 to the reduced parking stalls would end up in the shopping center. Children from  
16 the residential development would likely ride their scooters and bicycles in the  
17 shopping center or just loiter and an evaluation of the types of service calls for  
18 police needed to be fully evaluated. She emphasized the project was too large  
19 and the area was never intended for residential use. She suggested there were  
20 other sites in Pinole that could be considered or the applicant could be directed to  
21 consider commercial on the bottom to avoid a financial hardship to the City with  
22 some residential units on the top.  
23

24 Bob Kopp, Pinole, agreed with the comments of the previous speaker and  
25 suggested the Planning Commission should speak to the businesses in the  
26 shopping center to learn about the increase in crime. If the proposed residential  
27 development was permitted, he was concerned crime would only increase in the  
28 area. The project included no recreational opportunities for children and he agreed  
29 with the concerns with the loss of commercial revenue for the City. He also  
30 expressed concern that the District Attorney was not hard on criminals and urged  
31 that the District Attorney be voted out of office.  
32

33 Peter Murray, Pinole, also referenced the proposed residential project for the  
34 former Kmart property and commented on the difficulties assessing the project.  
35 He agreed if the project was approved it would impact the City financially and there  
36 was a question whether there would be adequate fire access that could further  
37 financially impact the City. He questioned whether the property was, in fact,  
38 located on a transportation corridor and pointed out Pinole had not been permitted  
39 to request an extension for BART whereas extensions had been permitted in other  
40 communities in the Bay Area.  
41

42 Irma Ruport, Pinole, suggested the speakers were politicians and former City  
43 Council members opposed to affordable housing. She supported affordable  
44 housing and suggested the Kmart property was a good solution for such housing  
45 but it must be done right with adequate protections in place. She emphasized that  
46 affordable housing was essential and a clear need in the community.

1 David Rupert, Jr. Pinole, thanked the Planning Commission and the Planning  
2 Manager for addressing the community's needed affordable housing. He too found  
3 that much of the opposition was only speaking of negatives with none of the  
4 positives related to affordable housing. He found that modular housing had been  
5 built successfully and he hoped the City Council would consider such models and  
6 use them successfully. He emphasized the state mandates to consider new types  
7 of housing and stated the City had to move forward since failure was not an option.

8  
9 Commissioner Kurrent responded to the public comments and spoke to the  
10 benefits of affordable housing. He stated the Planning Commission had not  
11 received detailed information about the proposed development on the former  
12 Kmart property but all issues would be reviewed at the time an application was  
13 presented for consideration.

14  
15 **D. MEETING MINUTES:**

16  
17 1. Planning Commission Meeting Minutes from March 28, 2022.

18  
19 **MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes  
20 from March 28, 2022, as shown.

21  
22 Commissioner Wong reported that although he had to leave the March 28, 2022  
23 meeting early he had watched the meeting video.

24  
25 **MOTION: Moriarty                      SECONDED: Wong                      APPROVED: 6-0-1**  
26 **ABSTAIN: Benzuly**

27  
28 **E. PUBLIC HEARINGS:**

29  
30 1. **Comprehensive Design Review DR-21-06; VTM21-06/PL21-0016**  
31 **Appian Village Condominium Complex**

32  
33 **Request:** Consideration of a Comprehensive Design Review and  
34 Vesting Tentative Subdivision Map for the purpose of  
35 constructing 65 two-bedroom Stacked Flats and Townhomes;  
36 89 three-bedroom Stacked Flats and Townhomes, outdoor  
37 play area and sitting area on 7.38 acres. The complex will  
38 provide 308 parking spaces for residents, 47 guest parking  
39 spaces, as well as bicycle parking. The project will be  
40 providing the fourth leg of the traffic signal at Mann Drive and  
41 Appian Way.

42  
43 **Applicant:** DeNova Homes  
44 1500 Willow Pass Court, Concord, CA 94520

45  
46 **Location:** 2151 Appian Way, (APN: 401-240-017 &18)

1                   **Planner:**     David Hanham

2  
3       Planning Manager David Hanham provided an extensive PowerPoint presentation  
4       which included an overview of the staff report dated April 11, 2022. He  
5       recommended the Planning Commission adopt Resolution 22-01 approving  
6       Comprehensive Design Review, Vesting Tentative Subdivision Map (VTSM) and  
7       California Environmental Quality Act (CEQA) Notice of Exemption for the  
8       construction of Appian Village, which consisted of 26 three-story all-electric  
9       buildings housing 154 units of for-sale market rate, Moderate- and Low-income  
10      housing, with 308 parking spaces with garages, 47 visitor parking spaces as well  
11      as bicycle parking and all new landscaping located at 2151 Appian Way, subject  
12      to Attachment A, Draft Resolution 22-01, with Exhibit A, Conditions of Approval.  
13

14      Responding to the Commission, Mr. Hanham and Assistant City Attorney Alex Mog  
15      clarified the following:  
16

- 17           • The applicant would be required to have a Homeowner's Association (HOA)  
18           and Covenants, Conditions and Restrictions (CC&Rs) to be reviewed by staff  
19           to ensure compliance with state law.  
20
- 21           • The HOA would have to allow Accessory Dwelling Units (ADUs) although  
22           ADUs had not been proposed as part of the project. If and when an individual  
23           homeowner of one of the individual townhomes proposed or decided to  
24           convert a garage to an ADU, as an example, the application would be  
25           processed by the City pursuant to the laws in effect at that time. Pursuant to  
26           current state laws, the City was limited in its ability to deny an ADU. State law  
27           prohibited the City from requiring a replacement parking space once covered  
28           parking or a garage was converted into an ADU, but HOAs may have greater  
29           ability to prevent ADUs than a city.  
30
- 31           • The applicant would have to clarify whether or not there were any exhaust  
32           concerns with the tandem garages or functionality issues with ingress and  
33           egress.  
34
- 35           • The applicant had agreed as part of the Community Benefits to include wiring  
36           for electric vehicles (EVs) in all 154 units.  
37
- 38           • A condition of approval could not be added to require an incentive for  
39           teachers, as an example, to purchase the units. The City's Inclusionary  
40           Housing Ordinance allowed a general preference for individuals who lived or  
41           worked in Pinole.  
42
- 43           • A traffic study had been prepared as part of the project which reviewed the  
44           intersections closest to the project site. The applicant would be required to  
45           pay traffic impact fees for the mitigation of potential traffic issues. The addition

1 of the fourth leg of the traffic signal at Mann Drive and Appian Way would help  
2 alleviate some of the traffic issues. The applicant had also taken into account  
3 Vehicle Miles Traveled (VMTs) and trips to the nearby stores and the Traffic  
4 Consultant had determined there would not be a significant impact from the  
5 project based on the split phase and pedestrian activities to the commercial  
6 areas.

7  
8 The project would be a 24-hour development and there had been a  
9 comparison of the traffic conditions from the former hospital use at the site.  
10 Due to the split phase that had been proposed and the nearby middle school  
11 that would dismiss at different hours, the additional intersection and restriping  
12 of Appian Way for a bicycle lane and not allowing left hand turns would  
13 streamline Appian Way for pass through traffic.

- 14  
15 • The units would be for-sale units.
- 16  
17 • The applicant would comply with the lower end (Bronze certification or more)  
18 of the Leadership in Energy and Environmental Design (LEED) standards as  
19 part of the project and the applicant could provide additional clarification. The  
20 applicant was unable to meet the Gold LEED standard since the proposal was  
21 not a commercial project.
- 22  
23 • The General Plan requirement for three Community Benefits and the  
24 Community Benefits the applicant had proposed had been outlined in Table  
25 3: Appian Village Community Benefits, Pages 11, 12 and 13 of the staff report.
- 26  
27 • A condition of approval could be imposed requiring a “208” electric charger  
28 which could be included as a Community Benefit.
- 29  
30 • Condition No. 107 was clarified and would be an ongoing condition, with the  
31 applicant required to provide a plan for ongoing maintenance for the building’s  
32 HVAC air filtration system and with the applicant to maintain the plan.
- 33  
34 • Violation of the conditions of approval could subject the property owner to  
35 citations and fines pursuant to the requirements of the Pinole Municipal Code  
36 (PMC).
- 37  
38 • The CEQA Environmental Checklist for Streamlined Review, as shown in  
39 Attachment B, was highlighted, with an overview of how Statements of  
40 Overriding Consideration were prepared for significant and unavoidable  
41 impacts.

42  
43 Olivia Ervin, Environmental Consultant, Metropolitan Planning Group, provided  
44 further clarification and answered questions specific to the CEQA Environmental  
45 Checklist contained in Attachment B. She stated that an Overriding Statement of

1 Considerations had been adopted for each of the significant and unavoidable  
2 impacts. She also clarified how the regional transportation model had been set up  
3 and how Traffic Analysis Zones (TAZ) had been calculated as defined in the area.  
4

- 5 • Additional clarifications were provided with respect to numerous questions  
6 related to the appendices included in Attachment B. CEQA Determination –  
7 Notice of Exemption, with Environmental Studies, specifically related to  
8 Appendix B. Air Quality and Greenhouse Gas Analysis; Appendix C.  
9 Biological Technical Memorandum , C-1 Arborist Report, with staff clarifying  
10 that Tree No. 439 must be removed or destroyed. Appendix D. Cultural  
11 Resources Constraints Analysis, D-1 Historic Resource Evaluation, if  
12 anything was found as part of excavation activities the applicant must stop  
13 work immediately and require Native Americans to be on-site, which had been  
14 included as a condition of approval.  
15

16 The question related to Appendix G. Environment Noise Assessment and  
17 whether there would be heat pumps or resistive heating as part of the build  
18 out would have to be clarified by the applicant. With respect to Appendix H.  
19 Traffic Impact Study as part of the Inclusionary Housing Ordinance, the project  
20 would be required to provide 15 percent affordable units. The applicant  
21 planned another 5 percent for a total of 20 percent affordable units consistent  
22 with the conditions of approval as shown in Exhibit A, Conditions of Approval  
23 of Attachment A. As to Appendix F. Phase 1, Environment Site Assessment  
24 Report, staff clarified the removal of an underground storage tank and the  
25 stated findings.  
26

- 27 • Further clarifications were provided in response to numerous questions  
28 related to Attachment C. Development Plan Package, with staff clarifying that  
29 the slip right-hand turn lane would remain. Sheet 4. Preliminary Utility Plan,  
30 most of the dry utilities would be in the easement/front/edges of the property.  
31 Plan Line Study, staff identified a future bus stop on Canyon Drive with an  
32 existing bus stop shelter across from CVS, to be enhanced and moved a bit  
33 to be on land as flat as possible since it was currently located on a grade.  
34 Staff also clarified that while Route No 17 had been discontinued by  
35 WestCAT, there had been recent discussions with WestCAT about the  
36 possibility of reopening that line.  
37
- 38 • A neighborhood meeting had been held with the developer in June 2021. A  
39 summary of the discussions was provided and included concerns with an  
40 increase of traffic and cut through traffic from, and on, Mann Drive along with  
41 concern with the height of the buildings and impacts to residents of Poquito  
42 Court and issues regarding public safety.  
43
- 44 • Confirmed there had been an effort to reach out to the Principal of Pinole  
45 Middle School as part of the initial phase and staff explained that few students

1 would be using Mann Drive given that few junior high students would be  
2 traveling in that direction. No comments had been received from the West  
3 Contra Costa Unified School District (WCCUSD) about the project.  
4

- 5 • A newly striped fog line for bicyclists would be provided along the project  
6 frontage with enough right-of-way (ROW) for a comprehensive bicycle lane  
7 from Appian Way to San Pablo Avenue in the future as part of a signal project  
8 at Marlesta Road. Extending the restriping to Marlesta Road as a Community  
9 Benefit would have to be reviewed by staff in terms of cost and whether there  
10 was a nexus to the project.  
11
- 12 • The HOA would be reviewed by staff to ensure it met all legal requirements  
13 and was consistent with the General Plan. City staff did not have final  
14 approval of the HOA or the CC&Rs.  
15
- 16 • Potential wiring/conduit had been discussed with the applicant for future EV  
17 charging stations for the guest parking spaces. Building Code required the  
18 conduit for the parking spaces to be EV ready but the applicant was not  
19 required to actually install EV charging stations.  
20
- 21 • All units must be accessible pursuant to the building code.  
22
- 23 • Stacked units were defined as units stacked on top of one another with the  
24 garages underneath, vertical rather than horizontal.  
25
- 26 • The project would be under the purview of the Pinole-Hercules Wastewater  
27 Treatment Plant and the project had received an At Will letter that the Plant  
28 would be able to handle the capacity proposed by the project.  
29
- 30 • The heating system for each unit should be clarified by the applicant.  
31
- 32 • The applicant would be required to comply with CalGreen and Title 24  
33 pursuant to the building code and would be installing solar panels to make the  
34 project solar ready.  
35

#### 36 PUBLIC HEARING OPENED 37

38 Trent Sanson, Vice President of Land and Acquisition Entitlements, DeNova Homes,  
39 1500 Willow Pass Road, Concord, described DeNova Homes as a local, private,  
40 family owned and operated construction company. DeNova Homes concurred with  
41 all of the recommended conditions of approval and acknowledged that staff had  
42 presented a thorough staff report.  
43

44 Kerri Watt, Director of Entitlements, DeNova Homes, provided a PowerPoint  
45 presentation and detailed the plans to demolish the existing abandoned hospital and

1 small medical office building parking lot to construct 154 new condominium units in  
2 26 three-story buildings on 7.4 acres, with a proposed density of 20.8 units per acre,  
3 and with 20 percent affordable housing (8 for Low Income and 23 for Moderate  
4 Income families), two building styles, stacked flats and row townhomes. Six stacked  
5 flats would face Canyon Drive and Appian Way and all of the other buildings would  
6 face paseos and courtyards. All residences would include garages and most would  
7 include bicycle parking, with all on-site guest parking. The new development area  
8 was similar to the existing development footprint and the hillsides to the east and  
9 north would be retained as undeveloped open space.

10  
11 The chronology of the development application and outcome of the June 2021  
12 neighborhood meeting was highlighted. In response to public comment, the  
13 developer had added new landscaping where possible to help screen the new  
14 buildings and had addressed Fire Department concerns by providing two Emergency  
15 Vehicle Accesses (EVAs) and a Fire-Hose pull access to the northern hillside.

16  
17 As staff had identified, the project would be in conformance with the General Plan,  
18 Three Corridors Specific Plan and Zoning, with multifamily residential development  
19 a land use permitted by right in the Three Corridors Specific Plan.

20  
21 Speaking to the site plan, the development footprint would be nearly identical to the  
22 existing footprint of the hospital; setbacks met all setback requirements for Appian  
23 Way, Canyon Drive and the setbacks adjacent to the residential properties to the  
24 east; the buildings would be 32 feet from the property line when required to be 20  
25 feet from the property line; and access from Appian Way at Mann Drive would include  
26 a four-legged intersection and one on Canyon Drive to be located further to the east  
27 downhill from the current drive.

28  
29 The current retaining wall would remain in place undisturbed. The eastern and  
30 northern hillslopes would also be undisturbed. Pursuant to the Arborist's Report,  
31 while all trees were to be removed many of the trees along the northern hillslope  
32 between the property and the reservoir would remain. New retaining walls would be  
33 installed upslope and be closer to the developed area.

34  
35 The stacked flat buildings would face Canyon Drive and Appian Way, with all other  
36 buildings to be row townhomes just under 35 feet in height consistent with the  
37 Specific Plan. Paseos would be provided throughout the entire community, buildings  
38 along the perimeter would face outward, and buildings along the perimeters that  
39 faced east and north would include a perimeter walkway all along the edge. Buildings  
40 that faced Canyon Drive and Appian Way would have sidewalks throughout. All  
41 sidewalks would be Americans with Disabilities Act (ADA) compatible and  
42 accessible, with ADA units identified on the site plan. The perimeter areas would  
43 have pedestrian walkways, an open rail fence along the path retaining wall, and trees  
44 along the fronts of the buildings as well as green spaces.

1 As staff had requested, additional landscaping had been included along the Canyon  
2 Drive frontage with drought tolerant/resistant landscaping. The common open space  
3 area met the requirements of the Specific Plan and would include an open turf play  
4 area, child play area and adult seating areas.  
5

6 The Appian Way streetscape would include buildings in a contemporary style, each  
7 new home would have a front entry, porch and deck. On Appian Way and Canyon  
8 Drive the front entries would relate to the streetscape. The building materials would  
9 consist of stucco, Hardie type horizontal siding with the elements differentiated  
10 through both color and materials. Care had been taken to ensure the buildings were  
11 well articulated.  
12

13 The stacked flat buildings would face Appian Way and Canyon Drive consisting of  
14 (Floor Plans 1, 2 and 3) and each home would have a ground floor porch and entry  
15 facing the street with the garage located along the internal street. Some units would  
16 have the main living area on the second floor while others would have the entire living  
17 area on the third floor. Examples were provided. Each home would have a deck on  
18 the second and third level and the dimensions of the private open spaces were in  
19 conformance with the Specific Plan. Each home had a two-car garage, Unit 1 would  
20 have a tandem two-car garage and each garage had the ability to accommodate two  
21 totes for garbage and recycling and all two-car garages would have space for bicycle  
22 parking. These buildings would not exceed 38 feet in height in conformance with the  
23 Specific Plan.  
24

25 The row townhome buildings made up the majority of the site (Floor Plans, 4, 5 and  
26 6). Each two-car garage would have the ability to contain a bicycle as well as trash  
27 totes, generous front porches leading to each front door entry, with the front doors  
28 facing the interior courtyards and paseos or the interior paseo. Each row townhome  
29 had a variety with a 4, 5 and 7-unit building, with the 7-unit building only used three  
30 times. All buildings would be just under 35 feet in height meeting all Specific Plan  
31 requirements for being adjacent to residential development.  
32

33 A shade shadow study had been done to show that during the Winter Solstice, the  
34 windows of the homes to the east would not be shaded longer than three consecutive  
35 hours.  
36

37 The HOA would own all land, including the newly created residential lots, common  
38 area parcels, private streets, landscaping, common area and bio-retention areas and  
39 all buildings and amenities. Homeowners would not own the land but their own units  
40 with right of access to and the use of all common areas.  
41

42 The HOA would be formed to maintain the exterior of all buildings including the  
43 rooftop equipment, certain interior of building utilities (i.e. fire sprinklers), private  
44 interior streets, sidewalks and streetlights, private interior storm drain systems, bio-  
45 retention facilities, and common area landscaping (irrigation) and hardscape  
46 including paseos and special hardscape, common open space areas and amenities

1 (seating), landscape in and any fencing around the bio-retention areas and all  
2 landscaping and irrigation.

3  
4 Ms. Watt emphasized the project conformed to and was consistent with the General  
5 Plan, Three Corridors Specific Plan, all City design standards, provided community  
6 benefits, 20 percent of the proposed for-sale units would be reserved as affordable  
7 and there would be no density bonus or developer incentive requests. DeNova  
8 Homes concurred with all conditions of approval and sought approval from the  
9 Planning Commission for the project.

10  
11 Responding to the Commission, Mr. Sanson expressed the willingness to accept a  
12 condition of approval regarding a recommendation for the building colors for  
13 Buildings 4 and 20, working with the Planning Manager to ensure consistency of the  
14 color palettes. He clarified the rules related to ADUs where state law trumped  
15 anything and everything but it was DeNova Homes' standard policy for the CC&Rs  
16 for the project to outline the requirements of the HOA. There would be a HOA  
17 Architectural Review Committee (ARC) to enforce to the best of its abilities that  
18 garages were to be maintained as such. DeNova Homes had never had any exhaust  
19 issues/complaints in its 30 years of home building related to tandem garages.  
20 Providing an EV conduit was the standard in the building code but DeNova Homes  
21 had offered to pre-wire every garage bay in the community for future EV charging  
22 stations.

23  
24 In response to concerns with a jobs/housing balance and a preference for housing  
25 for teachers, Mr. Sanson explained that DeNova Homes must be careful and adhere  
26 to fair housing laws in California but would be more than happy to give preference to  
27 the local work force in parallel with the PMC goals and objectives. He stated the  
28 traffic report had been completed and submitted to the City with a less than significant  
29 impact finding.

30  
31 Mr. Sanson commented that DeNova Homes did not see a correlation between  
32 CalGreen and Title 24 for residential LEED on a commercial development. DeNova  
33 Homes would be closer to the Gold LEED standard through CalGreen and going  
34 above and beyond Title 24 means and methods including higher-rated windows,  
35 standard solar panels, provision of an all-electric program, EV charging stations, and  
36 upgraded and higher efficient HVAC systems and appliances, paired with water use  
37 restrictions.

38  
39 As to providing EV charging stations for potential guest parking spaces, the building  
40 code did not require it for guest parking spaces in a residential project but DeNova  
41 Homes could work with staff on potentially providing a handful of EV charging stations  
42 intermixed throughout the project in a reasonable fashion. He clarified the City had  
43 the right to review the draft CC&Rs to be prepared in conjunction with the Final Map  
44 but the Department of Real Estate (DRE) would provide full approval of the CC&Rs  
45 and HOA budgets.

1 In response to the request for an extension of the bicycle lane striping beyond the  
2 project frontage, Mr. Sanson explained that they could only control their project  
3 frontage and that was where the traffic signal had been proposed along with bus stop  
4 upgrades and bicycle lane striping to the extent possible. The developer would also  
5 be required to pay traffic impact fees and he hoped that would be enough for the City  
6 to pool with its pre-collected traffic impact fees from other projects to fund some of  
7 those capital improvements. The project must also work within the guidelines of  
8 Senate Bill (SB) 330 and within objective rather than subjective standards.  
9

10 Mr. Sanson reiterated the project had not proposed to follow LEED but have the  
11 equivalent they could feasibly control for a residential project. DeNova Homes had  
12 worked with staff on a program where the developer would go above and beyond  
13 Title 24 requirements, as earlier described. In terms of the plant palette, DeNova  
14 Homes had proposed the use of native trees. He acknowledged a request that they  
15 consider more than the Western Red Bud as a native plant or mix and match the  
16 proposed tree species.  
17

18 Alicia Chandler, Senior Project Manager, vanderToolen & Associates, confirmed  
19 they would be more than capable of changing some of the plant material, if desired,  
20 with the intent to have as much native plant material as possible.  
21

22 Mr. Hanham explained as a condition of approval the applicant would be required to  
23 submit a Final Landscape Plan and once done staff would be able to look at the Plan  
24 and ensure a more diverse native set of tree species. He could report out to the  
25 Planning Commission on the percentage of native trees proposed.  
26

27 Ms. Watt also clarified there would be a range of 24- and 36-inch box trees with a  
28 range of sizes to be planted throughout.  
29

30 Mr. Sanson also confirmed that DeNova Homes would be the builder of the project.  
31 A preliminary phasing and staging plan had been developed with City staff and  
32 temporary staging areas with designated parking throughout had been identified to  
33 be retained on the project site without overflow. He was not opposed to a condition  
34 prohibiting overflow construction parking.  
35

36 Mr. Hanham clarified the preliminary phasing and staging plan would be required to  
37 be submitted prior to the issuance of permits.  
38

39 Mr. Sanson explained that DeNova Homes was also not opposed to a condition of  
40 approval for DeNova Homes to work with City staff to the satisfaction of the Planning  
41 Manager and Community Development Director to create a more diverse and vibrant  
42 color palette and possibly a Planning Commission Ad Hoc Committee could be  
43 helpful in providing input. He also understood the project would be conditioned to  
44 prepare and provide a photometric study with the improvement plans and any light  
45 pollution would be addressed through that condition.  
46

1 Responding to concerns with affordable housing and the income guidelines for  
2 affordable housing, Mr. Sanson again detailed the background of DeNova Homes  
3 and the creation of the Yellow Roof Foundation, which goal was to create affordable  
4 housing for working class citizens that served the community. He acknowledged  
5 there was a misconception about lower income qualified homeowners or tenants.  
6 He reported the current Average Median Income (AMI) level in Contra Costa County  
7 was just under \$104,000, and he detailed the percentages of maximum eligible  
8 allowable incomes for the various income categories. For the deed restricted units,  
9 DeNova Homes would enter into an affordable housing agreement with the City to  
10 ensure the deed restricted units in perpetuity were enforced.

11  
12 Mr. Sanson again clarified the affordable housing component noting that the PMC  
13 included a baseline for for-sale housing projects, which required 15 percent at the  
14 Moderate Income level.

15  
16 Mr. Hanham explained that Condition 86, Public Area Lighting, was a condition  
17 required by the Police Department given the proximity of the street where additional  
18 lighting was preferred. As part of the project, the applicant would be required to  
19 submit a Lighting Plan. He confirmed that Condition 86 (b) could be modified to read:  
20 *Parking areas for residential buildings shall be lighted to a standard of 2-foot candles,*  
21 *minimum measured at ground level where beams overlap.* Staff would work with the  
22 applicant to ensure the site would not be over-lit.

23  
24 Peter Murray, Pinole, questioned the baseline traffic study due to the pandemic and  
25 noted there was no realistic data for traffic patterns that may exist, including the traffic  
26 from Pinole Middle School, which already impacted Mann Drive particularly during  
27 drop-off/pick up times. He also commented on the proposed entrance on Canyon  
28 Drive and given the steepness of the hill, was uncertain there would be a clear line  
29 of sight for those traveling below. He questioned whether the driveway was the most  
30 appropriate location given the potential sight line concerns. He also questioned the  
31 fact the traffic study had not included Henry Avenue down to Pinole Valley Road,  
32 which would be a path of travel for many out of the development and a short cut to  
33 surrounding businesses and the school. The staff report had indicated the traffic  
34 study would be done after approval and would be ratified by the Public Works  
35 Department, which he found to be a poor and arbitrary process.

36  
37 Mr. Murray added that drainage was a concern given the downslope with a basin  
38 below and the developer should be required to provide a separate bond for a period  
39 of at least five years to cover any earth movement that may affect homes below the  
40 project. Additionally, construction on Saturdays should not be permitted given the  
41 proximity of nearby homes that would be impacted by relentless noise. He clarified  
42 that the property had been vacant not by choice but because the owners of the  
43 property had prevented another hospital from occupying the site. Further, he  
44 understood the project would not be counted towards the City's affordable housing  
45 requirement and he suggested a good example of an affordable housing project in  
46 Pinole was the project located on Buena Vista Drive.

1 Debbie Long, Pinole, agreed with the concerns with ingress and egress along  
2 Canyon Drive, particularly with CVS' ingress and egress across the street and given  
3 the semi-blind canyon and curve. She suggested the driveway should be relocated  
4 closer towards Appian Way to allow dependable sight lines. She asked whether any  
5 City funds were being used for the affordable units, found the units were not  
6 affordable as defined, and asked whether any of the units would be for handicapped  
7 individuals. If not, she suggested some units should be set aside for those with  
8 special needs. She also inquired of the monthly fees for the HOA, how much DeNova  
9 Homes would cede to the HOA, and understood that DeNova Homes had employees  
10 on HOA Boards which was a potential conflict. She suggested WestCAT should not  
11 be responsible for any upgrades and it should be on DeNova Homes as to who would  
12 receive the transportation benefits. She reiterated she was not opposed to affordable  
13 housing but wanted good development for the community.

14  
15 Bob Kopp, Pinole, was not opposed to affordable housing but was opposed to the  
16 proposed development on the Kmart property since the property should, in his  
17 opinion, remain commercial. He urged the developer to consider a double left turn  
18 off of Canyon Drive towards the freeway, with a through and right turn lane which  
19 would resolve some of the traffic issues. He wanted to see the project be successful,  
20 but was uncertain how a three-story building would be handicap accessible other  
21 than through the installation of an elevator, which was not part of the plan.

22  
23 Sharla Harlow, a resident of Poquito Court, Pinole, explained that she had met with  
24 representatives of DeNova Homes in June 2021 to address privacy concerns. She  
25 wanted more information on plant material and any screening proposed to obstruct  
26 noise impacts since Buildings 20 and 21 would view directly into her rear yard. She  
27 also wanted information on the construction schedule and opposed any construction  
28 on Saturdays since it would impact the lives of those families living close to the site.  
29 She sought a more reasonable construction schedule than a start time of 7:00 a.m.  
30 and end time of 7:00 p.m.

31  
32 Dr. Carey Hawkins Ash, Vice President, Community Development and Social Impact,  
33 Making Waves Foundation, reported that Making Waves supported the project.  
34 Making Waves had served the community for more than 30 years through its  
35 commitment to students and through various programs that he described at this time.  
36 Approval of the project would support the Foundation and empower the students  
37 given the proceeds from the property. Making Waves supported DeNova Homes  
38 and the affordable housing component.

39  
40 Karen J. Denton, Pinole, a resident of Marlesta Road, commented on the difficulties  
41 traveling from Marlesta Road onto Appian Way, particularly since students had gone  
42 back to school. She asked how the fourth leg of the traffic signal at Mann Drive and  
43 Appian Way would impact existing traffic conditions and while she supported the  
44 project, she remained concerned with the traffic challenges.

1 Summer Davis, Pinole, reported there had been a sinkhole in the area which had  
2 prolapsed on Appian Way near the MRI Building, a situation that had not been  
3 discussed. She too expressed concern with existing traffic conditions on Mann Drive  
4 onto Appian Way, particularly during school drop-off/pick-up and the fact the area  
5 had been used as a through-way which would be exacerbated with additional traffic.  
6

7 Mr. Hanham was unaware of a sinkhole that had not been identified in the geology  
8 report for the project but staff would review the matter.  
9

10 Laura Baker, Pinole, a resident of Poquito Court, was not opposed to the  
11 development but had safety concerns since the prior owners had not maintained the  
12 drainage on the hill causing significant damage to her property and she was  
13 concerned it could happen again. She reported she had sent City staff photographs  
14 and a copy of a letter from her attorney that had been sent to the current owner of  
15 the property (Making Waves). She also had concerns with the stability of the hillside  
16 once the property was developed and concern with future water runoff impacts. She  
17 asked that the City work with all involved parties to address the situation.  
18

19 Jason Baunwall, Pinole, expressed concern with safety related to children in the area  
20 kicking soccer balls over the fence, and stated an additional sidewalk would be a  
21 benefit. He too was concerned with additional traffic impacting an already congested  
22 traffic situation. He questioned whether accessible units would be provided, whether  
23 overflow parking would be provided inside the complex given the limited parking in  
24 the area, and expressed concern for the two entrances/exits into the complex. He  
25 urged mitigations to address these concerns.  
26

27 Warren Clayton, Pinole, also raised concerns with traffic and suggested it would be  
28 prudent for the members of the Planning Commission to drive on Mann Drive at 8:00  
29 a.m. to see the traffic conditions and visualize the additional vehicles that could be  
30 realized. As to the bio-retention areas, he asked what mitigation measures would be  
31 provided for mosquito abatement. As the City's liaison to the Contra Costa Mosquito  
32 & Vector Control District, he stated that was a concern of the District and the residents  
33 of Pinole.  
34

35 Melissa McMullen, Pinole, suggested the project was too large for the residential area  
36 which was already crowded by school traffic and traffic trying to reach the freeway.  
37 While she supported the use of the site for affordable housing, she found that 154  
38 units in such a small area was excessive. She agreed the Planning Commission  
39 should visit the site at 8:00 a.m. and 5:00 p.m. to view the condition of traffic on  
40 Canyon Drive and Appian Way, and the blind hill and dangerous corner particularly  
41 when the sun set. She was surprised CVS had been able to put in a driveway that  
42 was not dangerous. She added that given the sight line constraints, there was a  
43 greater risk of potential accidents with the location of the driveway proposed for this  
44 project.  
45  
46

1 Rebecca Pessagno, Pinole, expressed concern for the potential number of vehicles  
2 that could be involved with the project, and whether overflow parking would be  
3 provided given the two-car garages and limited guest parking. She too commented  
4 on the traffic conditions due to the school traffic in the neighborhood.  
5

6 In response to the public comments, Mr. Sanson explained that many of the  
7 questions asked had been answered in the staff report and in the applicant's  
8 materials. He clarified as part of the future grading and development plan to be  
9 implemented on site that all future improvements would be done with detailed care  
10 to ensure all drainage remained on the project site via the C.3 bio-retention basins to  
11 be filtered, treated and discharged into the City's storm drain system to prevent  
12 overflow into the neighborhoods. The C.3 basins were not designed to hold any  
13 standing water, and the only time one would see anything retained in the basins  
14 would be during a major rain event, which would take time to filter out properly. With  
15 those measures, he was confident there would be no vector control issues.  
16

#### 17 PUBLIC HEARING CLOSED

18  
19 Vice Chairperson Moriarty referenced the Traffic Impact Report which had collected  
20 data in July 2021 but stated the collected counts were unreliable given the pandemic  
21 and school closures. While the collected data had been amended to reflect non-  
22 pandemic existing conditions, there was no information provided to show how the  
23 amendments had been done.  
24

25 Mr. Hanham explained the traffic consultant had likely obtained information from  
26 other sources.  
27

28 Mr. Sanson clarified the Level of Service (LOS) and trip generation items were  
29 information based. He clarified that in the past year the state had switched from an  
30 LOS to a VMT measurement as part of the required analysis. DeNova Homes had  
31 made it a practice to provide information on LOS, with the evaluation of the project  
32 based on VMTs, which was not attributed to pre- or post-pandemic times.  
33

34 Mr. Hanham reiterated that the state had switched from LOS to VMT in terms of  
35 CEQA environmental review, with a focus on the road sections themselves in terms  
36 of VMTs. He clarified that General Plans may use an LOS analysis and he described  
37 the methodology that had been used with the new VMT standard. He acknowledged  
38 that based on the peak times, there would be an increase in traffic but based on the  
39 LOS in the General Plan and in the project Environmental Impact Report (EIR), the  
40 LOS and VMTs would be within the thresholds established by the state.  
41

42 Ms. Ervin also described the shift in CEQA from LOS to VMT, with the analysis based  
43 on what the driver was experiencing in the vehicle from a delay and how long it took  
44 to get from Point A to Point B based on VMT. There was no longer a requirement  
45 under CEQA to discuss the LOS in that the state had prohibited looking at  
46 environmental impacts from the lens of LOS and it must now be looked at from the

1 lens of a VMT metric with the TAZ used to find the indicator or the average VMT in  
2 the area. Chapter 4.17 of the Environmental Analysis, had discussed the historical  
3 context of LOS and how it applied along with the VMT findings.  
4

5 Commissioner Wong recognized that whatever was built would increase traffic. He  
6 suggested commercial uses would be worse in terms of increases in traffic than a  
7 residential development and the only way to reduce or mitigate the traffic concerns  
8 was to develop nothing on the site. He found the project would provide adequate  
9 mitigation measures to address concerns.  
10

11 Commissioner Menis understood LOS could not be considered to analyze the  
12 environmental impacts but he identified the LOS for the Appian Way and Mann Drive  
13 intersection at the current LOS levels during the peak a.m. and p.m. periods as  
14 reflected in Attachment B, CEQA Determination – Notice of Exemption, with  
15 Environment Studies, Appendix H. Traffic Impact Study. While LOS could not be  
16 considered, as shown in the Traffic Impact Study, there would be a significant  
17 increase in traffic on Mann Drive in particular and they should recognize that the  
18 residents on Mann Drive would be negatively impacted by increased traffic. He also  
19 spoke to the potential consequences if they were to consider lower densities or take  
20 a do nothing approach.  
21

22 Commissioner Martinez agreed that Canyon Drive was a dangerous intersection and  
23 asked if there was a way to install a stop sign as one comes up Canyon Drive at “C”  
24 Street to stop traffic from flying up the blind curve, and possibly another stop sign at  
25 “C” Street or at the CVS.  
26

27 Assistant City Attorney Mog explained that traffic stop signs were not private  
28 improvements and were something that the City’s Traffic Engineer would decide as  
29 necessary, or not. He imagined there could be problems with stop signs so close to  
30 another intersection which may result in back-ups on Appian Way.  
31

32 Commissioner Wong pointed out there was already a stop sign at CVS. He agreed  
33 the City’s Traffic Engineer be asked to review the concerns and see what could be  
34 done to address the dangerous traffic conditions that had been identified.  
35

36 Mr. Sanson stated the developer was willing to work with City staff and the City’s  
37 Traffic Engineer to implement a stop sign on the uphill side after review with City staff.  
38

39 Mr. Hanham clarified in response to the Chair that the City’s Traffic Engineer had  
40 reviewed the plans and had provided no comments on the intersections since both  
41 the project and CVS had stop signs before allowing vehicles to enter the intersection.  
42 Again, he would discuss the recommendation for stop signs with the Traffic Engineer.  
43

44 Vice Chairperson Moriarty expressed concern that the Commission was not dealing  
45 with the existing infrastructure and recommended that the Council address those  
46 issues.

Chairperson Banuelos was disappointed with the time period the Traffic Study had been prepared and agreed the traffic conditions in the project area were challenging.

Commissioner Kurrent suggested consideration of the approach taken for Pinole Valley Road which included directional signage and striping to direct traffic on which lanes to access the freeway, as an example, which may solve a lot of the traffic issues. He also recommended a traffic study for the Mann Drive and Appian Way intersection, a suggestion he had made for the last ten years. He otherwise found that regardless of any road improvements, school traffic would always be an issue and people needed to adjust their travel times as a result.

As to the limited parking and concerns with overflow parking, Commissioner Kurrent found that oftentimes people figured it out. He agreed that the start of construction at 7:00 a.m. was a real issue and recommended Condition 35 be amended to reflect a start time of construction activities at 8:00 a.m. with an end time of 6:00 p.m., Monday through Friday. He stated the applicant was entitled to build the project, the project was consistent with the findings of the General Plan and the Three Corridors Specific Plan, and there was no valid reason to deny the project.

**MOTION** with a Roll Call vote to extend the Planning Commission meeting to 11:25 p.m.

**MOTION: Wong                      SECONDED: Benzuly                      APPROVED: 7-0**

Mr. Sanson commented that for Saturdays the developer would be happy to shorten the construction window from 9:00 a.m. to 5:00 p.m., and on Monday through Friday he would like to be allowed the opportunity to mobilize at 7:00 a.m. with no heavy machinery operating until 7:30 a.m.

There was Planning Commission consensus to modify Condition 35 as follows:

- a. Site excavation (grading) activities are restricted to between 7:30 A.M. and 5:00 P.M., Monday through Friday, and 9:00 A.M. to 5:00 P.M. on Saturday.

Assistant City Attorney Mog explained that the PMC set the requirements for construction noise and he read into the record Condition 79, General Construction Regulations and noted the applicant was building 100 percent residential development, and as the condition stated Saturday construction was only allowed for commercial construction. The conditions of approval could be amended to reflect what was in the PMC.

Assistant City Attorney Mog summarized additional conditions to be imposed on the project as follows:

- Conditions of Approval to be modified so that the construction hours reflect the requirements in the Pinole Municipal Code.
- The applicant to modify the color palette to use brighter colors as approved by the Planning Manager.
- A stop sign to be installed on Canyon Drive for traffic headed towards Appian Way if reviewed and approved by the Traffic Engineer; and
- The landscape plan to maximize native trees.

Commissioner Benzuly understood the applicant's LEED strategy but he remained concerned with the Community Benefit points and suggested the applicant was falling short of the LEED goal. He suggested another LEED point or another Community Benefit should be considered.

Chairperson Banuelos suggested the applicant was following the LEED Gold by following CalGreen, Title 24, plus 15 percent, which was a good deal.

Commissioner Wong agreed that CalGreen was more stringent than LEED in terms of residential development.

Mr. Sanson asked what Commissioner Benzuly would like to see added to the mix, and Commissioner Benzuly suggested greywater, an art program, or another element of a Community Benefit to bring the project to the intent of LEED.

Mr. Sanson pointed out the applicant was only required to provide three Community Benefits which had been outlined in the staff report. He suggested DeNova Homes actually would provide more than three Community Benefits and would build the best product everyone would be proud of with the units to be the most efficient in West County and the equivalent to a LEED commercial project.

Commissioner Benzuly reiterated his comments and suggested an equivalent to LEED Gold would be better.

The Planning Commission discussed whether or not to consider another Community Benefit and supported even greater standards, although there was recognition from the majority of the Planning Commission that the developer had proposed what was required.

**MOTION** with a Roll Call vote to extend the Planning Commission meeting to 11:45 p.m.

**MOTION: Menis**

**SECONDED: Wong**

**APPROVED: 7-0**

Commissioner Menis reiterated a request for Condition 86 (b) to be modified to read:

*Parking areas for residential buildings shall be lighted to a standard of 2-foot candles, minimum measured at ground level where beams overlap.*

In response to a recommendation from Commissioner Menis to prohibit the use of bamboo for the drainage area since it was a non-native plant material, Mr. Hanham explained that a Final Detailed Landscape Plan would be required with the species along the open undisturbed area to be reviewed.

**MOTION** with a Roll Call vote to adopt Planning Commission Resolution 22-01 with Exhibit A: Conditions of Approval; a Resolution of the Planning Commission of the City of Pinole Approving Comprehensive Design Review (DR21-06) and a Vesting Tentative Subdivision Map (VTSM 21-06) To Construct a 154-Unit Condominium Complex at 2151 Appian Way (APNs 401-240-017 & 018), subject to:

- The applicant to modify the color pallet to use brighter colors as approved by the Planning Manager.
- A stop sign to be installed on Canyon Drive for traffic headed towards Appian Way if reviewed and approved by the Traffic Engineer.
- The construction hours to be limited as required by the General Plan.
- The landscape plan to maximize native trees; and
- Condition 86 (b) to be modified to read: Parking areas for residential buildings shall be lighted to a standard of 2-foot candles, minimum measured at ground level where beams overlap.

**MOTION: Kurrent**

**SECONDED: Martinez**

**APPROVED: 7-0**

Assistant City Attorney Mog identified the 10-day appeal process in writing to the City Clerk.

**F. OLD BUSINESS:** None

**G. NEW BUSINESS:** None

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

Mr. Hanham reported the Planning Commission Ad Hoc Committee would meet on April 14 at 5:30 p.m. to discuss parklets and a residential project, and a ribbon cutting ceremony for Vista Woods had been scheduled for April 12. He added the next meeting of the Planning Commission had been scheduled for April 25 with

1 meetings to continue to be held in a hybrid format.  
2

3 **I. COMMUNICATIONS:** None  
4

5 **J. NEXT MEETING**  
6

7 The next meeting of the Planning Commission to be a Regular Meeting scheduled  
8 for April 25, 2022 at 7:00 P.M.  
9

10 **K. ADJOURNMENT:** 11:32 P.M.  
11

12 Transcribed by:  
13

14 Sherri D. Lewis  
15 Transcriber  
16