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

5
6 **July 25, 2022**

7
8 **THIS MEETING WAS HELD IN A HYBRID FORMAT**
9 **BOTH IN-PERSON AND ZOOM TELECONFERENCE**
10

11
12 **A. CALL TO ORDER:** 7:00 p.m.
13

14 **B1. PLEDGE OF ALLEGIANCE**
15

16 **B2. LAND ACKNOWLEDGEMENT:** *Before we begin, we would like to acknowledge the*
17 *Ohlone people, who are the traditional custodians of this land. We pay our respects to*
18 *the Ohlone elders, past, present and future, who call this place, Ohlone Land, the land*
19 *that Pinole sits upon, their home. We are proud to continue their tradition of coming*
20 *together and growing as a community. We thank the Ohlone community for their*
21 *stewardship and support, and we look forward to strengthening our ties as we continue*
22 *our relationship of mutual respect and understanding*
23

24 **B3. ROLL CALL**
25

26 Commissioners Present: Banuleos, Benzuly, Menis, Kurrent Vice Chairperson
27 Martinez and Chairperson Moriarty
28

29 Commissioners Absent: None
30

31 Staff Present: Lilly Whalen, Community Development Director
32 David Hanham, Planning Manager
33 Alex Mog, Assistant City Attorney
34 Justin Shiu, Contract Planner
35

36 **C. CITIZENS TO BE HEARD**
37

38 There were no citizens to be heard.
39

40 **D. MEETING MINUTES:**
41

42 1. Planning Commission Meeting Minutes from June 27, 2022
43

44 **MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes from
45 June 27, 2022, as shown.
46

47 **MOTION:** Kurrent

SECONDED: Banuelos

APPROVED: 5-0-1
ABSTAIN: Moriarty
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49
50

1 **E. PUBLIC HEARINGS:**

2
3 **1. Design Review DR21-12 Pinole Vista Project**

4
5 **Request:** Consideration of a Design Review request for demolition of the
6 existing vacant Kmart building and the development of a new five-
7 story residential building containing 223 units, as well as associated
8 site improvements.

9
10 **Applicant:** Chris Cole, Metrovation, 25 Bridge Avenue, Suite 150, Red Bank,
11 New Jersey, 07701

12
13 **Location:** 1500 Fitzgerald Drive (APN 426-391-010)

14
15 **Planner:** David Hanham

16
17 Community Development Director Lilly Whalen provided an extensive PowerPoint
18 presentation which included an overview of the Comprehensive Design Review for the Pinole
19 Vista Apartment Complex located at 1500 Fitzgerald Drive, as detailed in the July 25, 2022
20 staff report.

21
22 Ms. Whalen recommended the Planning Commission adopt Resolution 22-05
23 recommending approval of the Comprehensive Design Review and CEQA Exemption for the
24 Pinole Vista Project located at 1500 Fitzgerald Drive (PL21-0035 & DR21-12), subject to
25 Exhibit A, Conditions of Approval.

26
27 Responding to the Commission, Ms. Whalen, Planning Manager David Hanham and
28 Assistant City Attorney Alex Mog clarified:

- 29
30
 - Residents would access the shopping center from a covered walking path from the
31 apartment building to the western edge of the shopping center. The applicant
32 would be required to fence the project for the purpose of delineating the existing
33 shopping center parking and the apartment complex.
 - A sample of the fence material had been included in the design package with staff
34 to work with the applicant on that design element in association with the Planning
35 Commission Ad Hoc Subcommittee pursuant to Condition 58. Landscaping had
36 been proposed to be planted around the fence and it was anticipated that as the
37 landscaping matured it would surround the fence.
 - As part of the initial rendering an “East Coast Block” design had been proposed but
38 pursuant to the current design renderings, there would be more pop-outs and
39 undulations of the buildings to reduce the massing.
 - The colors chosen for the building were to be clarified by the applicant but staff
40 understood the proposed colors would be used elsewhere in the shopping center as
41 part of future improvements to the center. The original color palette had included
42 more reds, dark browns and oranges with the current color palette consisting of white
43 wash and tans.

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- A sun shade study had not been required for this project.
- Water and sewer utilities had been determined to be adequate to accommodate the project being proposed with the Engineering Department to review all improvement plans to ensure the site was balanced.
- The City of Pinole had not adopted an Electric Vehicle (EV) standard for these types of projects but had required the applicant to install all conduit in the parking lot so that when the need arose in the future more EV parking spaces beyond the eight EV parking spaces currently being proposed could be installed.
- The applicant would be required to comply with C.3 requirements. There would be some bio-retention areas proposed at the front of the property. The Public Works Department had reviewed the plans and determined the proposed bio-retention areas would meet C.3 requirements. There were also additional conditions that when the drainage plans were submitted they would all match what had been proposed.
- Rooftop access would be through the building only via an elevator taking residents from an individual floor to the rooftop access (with corresponding stairs for fire exiting).

Commissioner Menis reported he had ex-parte conversations with Pinole resident Peter Murray and Vice Chairperson Martinez related to various concerns with the project. He also took the opportunity to identify minor typographical errors in Exhibit A: Planning Commission Resolution 22-05, Conditions of Approval as follows: Condition 10 (b); Condition 31; and Condition 35; and Condition 81 (b) was a carryover from another project and should be stricken. Condition 85 was missing some text; there was a typographical error in Condition 87; with respect to Condition 91, the building should meet certain high-rise standards but staff stated that condition was not needed in this case; and with respect to Condition 113 subsection (1), the project was in a residential not a commercial zone. He also found some of the appendices difficult to read given the small print.

- Although there was no condition requiring solar panels on the top of the roof and only the conduit for solar panels was required, staff reported an agreement had been reached with the applicant to install solar panels when constructing the building.

Responding to Commissioner Menis, Olivia Ervin, M-Group, Environmental Consultant, provided an overview of the California Environmental Quality Act (CEQA) analysis and clarified the Bay Area Air Quality Management District (BAAQMD) guidelines for review of Greenhouse Gas Emissions (GHGs). She explained that the higher density the lower per capita GHG emissions. Pursuant to the guidelines of the BAAQMD, the project must meet the GHG threshold to be considered to be significant and it had been concluded that the project would have a less than significant impact due to the per capita brightline threshold that fell below the threshold of significance.

- Attachment F, Fiscal Impact Analysis (FIA) had been funded by the City of Pinole. Staff also clarified as best as possible specific questions related to Table A-10, Projected General Fund Costs, with staff reporting the consultant who had prepared the FIA, The Natelson Dale Group (TNDG), was not present.

1 Specific questions from the Planning Commission on the FIA could be assembled
2 and forwarded to the consultant prior to the City Council's consideration of the project.
3

- 4 • The building would have the same orientation as the former Kmart building with
5 the main entrances facing the existing shopping center. The front façade (east
6 elevation) and the parking lot would be changed from its initial orientation of 45-
7 degree parking stalls to 90-degree parking stalls. The benefits of parking at a 45-
8 as opposed to 90-degree parking should be clarified by the applicant.
9

10 Vice Chairperson Martinez reported he had been contacted by the developer to discuss
11 improvements to the project and during those discussions he had requested the use of larger
12 windows, soft rooftop areas, a higher quality of design with the use of balconies and the like.
13 He had also met with Commissioner Menis to discuss the loss of retail at the location as well
14 as potential options to include additional retail.
15

- 16 • Staff acknowledged recommendations offered by Vice Chairperson Martinez for
17 possible shuttle service from the project to the Richmond Transit Center on I-80 and
18 the Richmond Parkway from 6:00 to 9:00 a.m. and 4:00 to 7:00 p.m. on a constant
19 loop every 30-minutes, Monday through Friday. To set aside \$100,000 for the
20 development of a clean walkway on the southern side of the facility behind the former
21 Kmart building and Best Buy buildings for a path for West Contra Costa Unified
22 School District (WCCUSD) students as part of Safe Routes to Schools, with the
23 pathway to connect to Stallion Road located at the end of a cul-de-sac. The
24 WCCUSD had verified the enrollment for nearby schools was low enough to
25 accommodate new students from the project using an open enrollment platform. The
26 WCCUSD and the Public Works Department would work together on how to develop
27 a Safe Routes to Schools pathway.
28
- 29 • The choice of trees and landscaping would be approved by the Planning Commission
30 Ad Hoc Subcommittee.
31
- 32 • The solar to be installed would be identified when the building permits were submitted
33 and should be clarified by the applicant.
34
- 35 • The final plan check would identify the location of Low and Very Low Income units to
36 be distributed throughout the development.
37
- 38 • Level Two EV parking stalls would be provided.
39
- 40 • The passive play area was defined as an area absent amenities but room for children
41 to roam and play and could also include stationary activities for children. Condition
42 65 was clarified and could be modified to be more specific as to the play structures
43 desired for the area.
44
- 45 • The Pinole Fire Department had reviewed the plans and had determined there would
46 be enough clearance for all necessary fire apparatus on both sides of the building.
47 The Pinole Fire Department had a mutual aid agreement with the Hercules-Rodeo
48 Fire Protection District.
49

- Whether or not the pandemic had been taken into consideration as part of the FIA conclusions would have to be clarified by the consultant TNDG.

PUBLIC HEARING OPENED

Chris Cole, Metrovation, 25 Bridge Avenue, Suite 150, Red Bank, New Jersey, speaking on behalf of Retail Opportunity Investment Corporation (ROIC) California, the owner of the shopping center and Kmart building, explained that Metrovation had been working on the project for about two years. The plan had evolved over the initial submittal with a more articulated building with brighter colors and a safer design. A PowerPoint presentation was provided and included an overview of the former Kmart building which had sat vacant for four years. ROIC proposed a project where the shopping center and the proposed project had synergy and connectivity and acted as a Mixed-Use project with the existing shopping center.

The project included no variances, exceptions, no waivers and one concession. The building would be 20 feet below that allowed under the Pinole Municipal Code (PMC). It would include market rate and affordable housing and consist of a high-quality aesthetically pleasing building with articulation, Juliet balconies and large windows, along with a secure fence that would be covered in landscaping to allow vegetation to grow and act as a green fence. The site would have gates and cameras to access the building and would reduce the average daily traffic to the site and keep the Level of Service (LOS) along Fitzgerald Drive as it was now. An illuminated crosswalk had been proposed across Fitzgerald Drive to create better connectivity on both sides of the street. Sustainable features would include solar on the roof, covered carports with solar and EV charging stations. The project would offer a net positive revenue to the City of Pinole and was supported by existing tenants who welcomed additional foot traffic.

Rick Schoebel, Chief Operating Officer (COO), ROIC, continued the PowerPoint presentation which included an overview of ROIC, a real estate investment company that specialized in owning and operating grocery-anchored centers and the revitalization and repositioning of shopping centers up and down the West Coast. ROIC had been attracted to the Pinole Vista Shopping Center due to the grocery component and had acquired the property in 2011. Since the acquisition of the property, ROIC had made façade improvements and Americans with Disabilities Act (ADA) improvements. He also clarified the purchase of the Lucky ground lease and land in 2015, the purchase of the Kmart underlying lease in 2018, and acquisition of the Goodyear building in 2021. ROIC was the majority owner of the Pinole Vista Shopping Center.

Before and after photographs of improvements made to date were provided and Mr. Schoebel also highlighted the effort to find tenants to occupy the Kmart building but given changes in the marketplace and a lower demand for big box retail the building remained vacant. He also highlighted the fundamental shifts in retail and while it would have been more economically viable to re-tenant the building as-is, that had proven to be unsuccessful leading to alternative uses. Various alternatives for the site had been examined including office, medical, warehouse and residential. The consultants had been engaged to assist in the best project for this setting with residential determined to be the most synergistic with the existing retail.

1 Mr. Cole highlighted the project traits including strengthened neighborhood connections to
2 and across Fitzgerald Drive to retail and walkability to services and transit-oriented
3 development, including a covered bus shelter and a close-to regional transit station. Twenty
4 seven of the units would be affordable. The project would be amenity rich with abundant
5 open spaces, themed courtyards, natural open space, rooftop deck, secured and fenced
6 parking and with sustainable features to include drought-tolerant plantings, rooftop solar, EV
7 car and bicycle charging stations. Additional safety measures would include a fence around
8 the perimeter of the building, security cameras, safety lighting on during the evening, key
9 FOB required to enter the building and property management and maintenance to be on-site
10 daily.

11
12 Isaiah Stackhouse, Principal, Tractenberg Architects, described the project design which
13 included a State Density Bonus. The project would consist of a five-story, 54-foot 6-inch
14 tall, (below the allowable height limit) 263,862 square-foot 223-unit apartment building on
15 an existing parcel within the Pinole Vista Shopping Center located at 1500 Fitzgerald
16 Drive, with 27 below market rate units. The building would be fully parked with 275 parking
17 spaces, eight more than required; 160 bicycle parking spaces; 82,000 square feet of open
18 space; and over 5,600 square feet of indoor residential amenity rooms that met and
19 exceeded all setback requirements. The project also fully complied with all architectural
20 requirements for height, setbacks, parking and open space without any requests for
21 waivers or architectural variances.

22
23 A high-quality palette with warm earthy materials had been proposed with the use of
24 stucco, metal horizontal siding at the top, a green planted active base with a classic middle
25 base with a highly-articulated façade with bay windows, Juliet balconies, a strong cornice
26 line and a carefully detailed and crafted building designed to stand the test of time.

27
28 The front yard area would consist of two large courtyards and a large rear yard area.
29 Along the new sidewalk system private patios would be included on all ground level units
30 with a rooftop deck on the top floor. The design would be based around two courtyards
31 that opened up and engaged with the existing larger plaza. The leasing office would be
32 situated where one entered the site, there would be a residential café lounge further into
33 the site, a fitness center and club rooms off of the courtyards, three distinct lobbies on the
34 plaza side and another distinct lobby on the west side. New pedestrian sidewalks had
35 been proposed along with a new pedestrian link to connect the new residential to the
36 existing plaza.

37
38 The Level Five plan included an additional community room opening to an outdoor rooftop
39 deck. The typical unit plans would be good sized, furnishable, with the unit mix 39 percent
40 two bedrooms, 44 percent one bedrooms and 16 percent studios. The plans at the ground
41 level were identified and would include private patios. The middle level plans would have
42 bay windows and Juliet balconies and the top floor units would be pulled back a bit to
43 create an articulated top. Renderings of each elevation from all sides were provided along
44 with entry views from Fitzgerald Drive and the pedestrian connection. A covered trellis
45 walkway had been proposed over the pedestrian connection with accented paving and
46 landscaping. Renderings of the sidewalk along the west elevation from the plaza, from
47 the parking field and site sections were also provided.

Casey McDonald, Project Manager, Adobe Associates, Civil Engineers, highlighted the overall grading and bio-retention areas along Fitzgerald Drive at the main entrance, along the east side in the planter area between the two drive aisles, the south side near the play area and more on the west side. All of the new impervious areas would travel to the new bio-retention areas to allow for infiltration and treatment prior to connecting to the existing storm drain system on-site. There would be fewer impervious surface areas with all of the planter areas and as such there would be less of an impact on the existing storm drain system in addition to having some retention for storm water for all of the areas.

Don MacNair, MacNair Landscape Architecture, detailed the intent to create a highly aesthetic space with lots of variety, little mono-culture, creation of a number of common spaces and extensive landscape of the parking areas. He identified the City street trees as Golden Rain tree species and other trees species would include Island Oaks. The bio-retention area would consist of native California sod, a grassy meadow area. Two trees at the entry would be Oklahoma Red Buds, and as they lined the driveways, Acer Armstrong, a red-maple species would offer a vertical element surrounding the entire building. As one entered the parking lot, the first row of trees would include Chinese Pistache, drought tolerant and seedless and in the center would be Chinese Elms, a partially deciduous species. Towards the rear of the property more Island Oaks would be planted at the corners along with Chinese Elms, with the same on the west side of the parking lot along the existing edge.

The courtyards themselves would include a water feature in the front of each one, with a formal pathway leading to a fire pit circle that would pass through a BBQ area, with Japanese Maples and Crepe Myrtle trees around the fire pit. As one moved to Courtyard B, more lawn, a BBQ area, and a water feature would be provided and was where small play equipment for children could be considered. As one came out of the courtyard and headed south they would cross the parking lot into a passive area that had been designed as a picnic area and a space for children to roam. The intention was not to use lawn but keep the area as natural as possible, and possibly use shrubs along the fence line. The area was intended for children to play and be an enclosed space for parents to sit with their children and play. The remainder of the hillside would remain natural and the existing trees would remain in place.

Mr. MacNair clarified that staff had reported as part of its PowerPoint presentation a total of 83 trees would be planted, although pursuant to his plans a total of 175 trees would be planted. Overall, 36 existing trees would be removed and of those trees nine were considered to be protected trees. He also clarified that the Italian Stone Pine tree species were not protected trees but were of a size that could count for mitigation and protected tree status. He suggested those trees were not actually Italian Stone Pines but Canary Island Pine trees. He also noted that the plant legend that had been proposed was typical and would be something that would be used to choose plant material for the project and was not necessarily all-inclusive.

The lighting in the main parking lot was scheduled to be downward facing light, to be Dark Sky compliant, and to be on 20-foot poles. Sidewalk lighting would also have luminaries on 14-foot poles and be in the pedestrian and walkway areas, and a bollard would be primarily in the courtyards and be 42-inches in height.

1 The fence would consist of a panel with two sides to be connected with a gap in between
2 called a green screen. A 48-inch tall panel would be used to become an 8-foot by 4-foot
3 panel, designed to have vines grow on them to completely cover the fence.
4

5 Mr. MacNair otherwise understood the push to use California native species but explained
6 that parking lots were historically bad for California native species due to the hot, dry and
7 reflected heat with few parking lots supporting such species. Rather, he had chosen a
8 plant palette that had been proven and had a good look and should survive the long term.
9 In terms of water use, the state maximum allowed water use would be 426,000 gallons
10 per year based on the square footage. With the way the project had been designed, a total
11 of 364,000 gallons of water would be used and the project was well under the maximum
12 allowed water usage, and if lawn, which had also been proposed to be included in the
13 landscape plan was included, he was confident it would not impact the maximum water
14 usage allowed.
15

16 Brian Canepa, Principal, W-Trans, provided an overview of the traffic and circulation
17 including the Traffic Demand Management Plan which included strategies on a ride share
18 program, education, outreach and marketing and a bike share program. He also
19 highlighted the existing retail parking analysis that had concluded the proposed shopping
20 center parking supply significantly exceeded the estimated peak demand of 459 parking
21 spaces by 217 parking stalls.
22

23 Mr. Canepa also clarified whether 45- or 90-degree parking was more efficient would
24 depend. There had been much debate amongst planners and engineers and it depended
25 on the size and shape of the land where oftentimes 45- and 90-degree parking was more
26 efficient based on the footage and where 90-degree parking tended to be more efficient.
27 He also highlighted the traffic analysis with the residential uses to have 877 fewer daily
28 trips compared to the retail uses. The project was also transit-oriented with both WestCAT
29 and AC Transit service within walking distance from the site itself, and given the affordable
30 housing component there would be a fair amount of transit usage in the area.
31

32 Mr. Canepa further highlighted the LOS for existing conditions and a comparison of
33 existing plus the project with no difference in the amount of performance in each of the
34 intersections, with the new project and the intersections to perform within the City's
35 standards.
36

37 Mr. Cole provided an overview of the economic analysis based on the construction of the
38 223 units where the City would see an increase in business revenues over two years and
39 in the surrounding areas; an increase in revenues in permit and City fees; the creation of
40 hundreds of jobs; state and local taxes; and additional funds in annual property tax
41 revenues to Pinole. A comparison of the sales taxes generated from the former Kmart as
42 compared to the apartment development was also provided. As a result, the net gain for
43 Pinole could be as much as \$80,000 on an ongoing basis.
44

45 Mr. Cole also highlighted the sustainability features as part of the project which included
46 transit-oriented development, walking distance to groceries, restaurants and services,
47 drought-tolerant plant material, rooftop solar, bike parking for up to 160 bicycles, new
48 pedestrian crosswalks, electric appliances, approximately 175 to 200 new trees, non-
49 invasive plant species, on-site stormwater control, new covered bus stops and a low flow
50 irrigation system.

1 Additional features to be explored included EV charging stations, conduit installed for
2 future expansion, Energy Star appliances, EV bike charging, and solar carport.

3
4 Mr. Cole reported that ten percent of the 275 parking stalls would have conduit, with four
5 EV charging stations to be provided adjacent to the building and with more possible in the
6 future. An agreement had been reached with Tesla to provide 16 charging stations in front
7 of Big 5 and the developer was also working with a solar company to create solar on top
8 of the carports.

9
10 Mr. Cole further highlighted the tenant support for the project with Lucky, the largest tenant
11 being fully supportive of the project along with Saigon 2 and Noah's Bagels.

12
13 Responding to questions from the Commission, the project team clarified:

- 14
15 • The building plans had evolved over time. Initially the colors were darker, there
16 were no Juliet balconies, the top floors had not been stepped back as much and
17 the building materials were different with the first floor not offering as much
18 articulation.
- 19
20 • The new building was intended to ultimately look like one cohesive site. As the
21 residential project came on line the retail building colors would be updated but the
22 landscaping for the center had been done with new plants and irrigation. There
23 were no wholesale plans to redo the entire parking lot, with parking stalls and
24 striping to be redone as needed and on a regular basis to always appear fresh.
- 25
26 • A crosswalk from the sidewalk traveled directly to the enclosed natural play area
27 and a gate would be installed in front of that area on the main parking lot side
28 where signage could be included to advise motorists of the need to slow down
29 since there were children at play. There were no plans to bring that play area
30 closer to the building. It had been added upon a recommendation from the City to
31 include more play area and was the only viable location in that placing it closer to
32 Fitzgerald Drive would be too close to traffic.
- 33
34 • The fence would consist of a panel with two sides, connected with a gap in between
35 a green screen with a 48-inch tall panel, to become an 8-foot by 4-foot panel
36 designed to have vines grow on them and intended to be covered completely. The
37 fence would be closed off at the top with the entire property secured but with a
38 request for a pathway at the rear for school access. A gate would be required in
39 that area that could be opened, closed and locked/unlocked during the day. The
40 smaller fence around the enclosed natural play area was intended to create a safe
41 space for children to play and prevent them from entering the driveway. At the top
42 of the play area a slope took off quickly along the southern edge of the play area
43 with a concrete V-ditch collecting runoff to the storm drain, and while children may
44 wander into that area it was intended to be passive.
- 45
46 • The developer had not reached the level of detail for the permit drawings in relation
47 to the electric appliances proposed for the apartment units, but in general
48 everything within the units would be all-electric appliances. Hot water systems
49 would likely be gas due to cost. All those details had yet to be determined.

- Ten percent of the parking under CalGreen must be EV capable with conduit run to it. The developer had already volunteered to install some of the EV charging stations and Tesla EV charging stations had been agreed upon for the plaza.
- Acknowledged a recommendation for drought-tolerant sod or native grasses rather than lawns for Courtyard 2. New hybrid grasses, which were moderate water users, could be considered but it was not a big area and those details had yet to be determined. Artificial turf could be another option but lawn had been recommended since it was intended to be used as a play area.
- The units would be ADA compliant with the elevator and all units to meet accessibility requirements.
- The traditional truck delivery route around the Kmart building would be blocked as part of this development. W-Trans had confirmed through computer analysis the truck paths through the plaza, which had been coordinated with the retailers.
- Whether the units would have A/C units was another level of detail yet to be worked out but the plan had allowed for that possibility. Either a split system with rooftop condensers that fed down to air handlers within the units or a PTAC system could be considered. That level of detail would be addressed as part of the design development and construction document process.

John Haveman, Principal, Marin Economic Consulting, speaking to Attachment F, FIA, and in response to the Chair, explained that he had prepared a separate economic report for the applicant. The FIA had been commissioned by the City and he just become aware of that report and could not speak to the statement in the report: *The development of the subject site with the proposed residential project would generate a slightly negative fiscal impact to the City's General Fund in the amount of approximately \$2,500 per year.*

Ms. Whalen further clarified in response to the Chair that if the former Kmart building were re-tenanted at full capacity there would be a surplus of approximately \$313,000 per year pursuant to TNDG's calculations, with the caveat the re-tenanting scenario was subject to change and based on potential scenarios with no applicant or plans to re-tenant, and with a 10-year timeframe to realize those revenues.

- The landscape architect acknowledged the Planning Commission preference for native plant material and opposition to the use of artificial turf.
- As to Courtyard B, the landscape architect also acknowledged a recommendation for the small lawn area to consider a small play structure accessible to small children.

Michael Baum, Pinole, commented that the project was a bad idea and emphasized there were reasons to separate residential from commercial uses. There would be an incredible amount of increased traffic in and out of the shopping center and vehicles would be unable to access the intersection without violating the gridlock law of the Motor Vehicle Code. He also suggested there was inadequate access, ingress and egress in and out of the parking lot.

1 Mr. Baum stated those same concerns had been raised about the absence of a right hand
2 turn lane to westbound I-80 into the Sprouts Center. He also questioned the use of
3 Japanese Maples as a drought-tolerant tree species since the trees grew quite tall and
4 could be a maintenance issue. He also found there were many promises being made that
5 issues would be addressed throughout the process but residents needed specifics now.
6 He noted that the City of Antioch had turned its former Kmart building into a cannabis
7 dispensary but such use was not permitted in the City of Pinole. If people wanted cannabis
8 they had to go to neighboring cities. In this case, nothing would have to do be done to the
9 building if allowed to be a cannabis dispensary, which could provide the City with a great
10 deal of revenue.

11
12 Debbie Long, Pinole, understood the public would be allowed five minutes as opposed to
13 three minutes to speak, to which Assistant City Attorney Mog explained that was a
14 standard period of time for public speakers but the three-minute time was set at the
15 discretion of the Chair in anticipation of high demand as allowed under the Brown Act.

16
17 Ms. Long wanted the best project for the City and suggested there was room for
18 improvement. She suggested for economic development in the City some aspects of
19 commercial development should be retained regardless of the entitlements the applicant
20 had requested such as the Density Bonus Law, which allowed for concessions to
21 development standards. If the standard of allowing the applicant to claim the density
22 bonus was applied to other applicants within the City it may erode Pinole's retail area
23 without an amendment to the Specific Plan. Pinole would then open itself up to losing a
24 lot of retail space by concessions not by planning, and changing the comprehensive plan.
25 If the City did not explore this opinion, which was shared by other planners, the City would
26 set a precedent for the future.

27
28 Ms. Long noted the shopping center had been built to be the tax base for the City of Pinole,
29 it had gotten the City through the recession in 2008, and was still viable and the tax base
30 should not be lost based upon concessions. She found the project to be too dense while
31 Mixed-Use residential with commercial on the bottom would be a win-win situation for both
32 the developer and the City. She suggested that such an intense high-density residential
33 use would be a safety issue since the Pinole Fire Department did not have a 55-foot ladder
34 truck that could reach a 70-foot high building and currently must borrow a ladder truck
35 from another agency with no guarantee the truck would be available if needed. Residential
36 sprinklers may help control fire but all residents on the top floors, including the rooftop
37 deck with BBQs, could not be evacuated

38
39 Ms. Long added that the traffic along Fitzgerald Drive was not designed for residential use
40 including casual pedestrian, bicycle and recreational use by children. In 2018, a traffic
41 study had been done for Fitzgerald Drive as mandated by the state regarding speed limits
42 and at that time the study had indicated the Council needed to adopt a change in the
43 speed limit for both Fitzgerald Drive and Appian Way from 35 mph to 40 mph since that
44 was more indicative of the speed. The Council had refused because of the topography of
45 the road and the ingress and egress from the shopping centers. It was likely what had
46 changed since that time was that the speed of traffic was faster.

47
48 Ms. Long suggested the Planning Commission needed to fully address pedestrian
49 crosswalks with vehicles traveling on average 40 mph, and in light of a recent fatality in
50 the City with someone in a crosswalk this must be scrutinized more carefully.

1 Ms. Long noted that anyone who used Fitzgerald Drive also knew the only way to make
2 Appian Way upon exiting, as an example from Burger King, was to make a U-turn where
3 Firestone Tires was located, a situation that also needed to be addressed. She suggested
4 either no right turns be allowed out of the shopping center exit or that a right turn lane be
5 considered.
6

7 Ms. Long asked whether or not any of the units would be designed for people with
8 disabilities. She questioned the proposed parking and disputed the economic fiscal
9 analysis but did not have the time to address her concerns. She also hoped the Planning
10 Commission would not make a decision at this time but fully vet the comments from the
11 public and all of the changes that had been brought to the Planning Commission.
12

13 Chairperson Moriarty confirmed the Planning Commission had also been provided with an
14 email from Ms. Long detailing her comments on the conditions of approval.
15

16 Tom Hansen, Business Manager, IBW, Local 302, representing the mechanical crafts in
17 Contra Costa County including plumbers, sprinkler fitters and sheet metal workers,
18 advised the union had a Project Labor Agreement (PLA) with the developer for the project
19 to bring middle class jobs, apprenticeship opportunities and local workers to the project.
20 The project would bring a walkable/livable community to the City of Pinole. The retail was
21 already in place and it would be a good project with local workers and be sustainable over
22 the long term.
23

24 Peter Murray, Pinole, suggested there were too many questions unanswered leading him
25 to question how the Planning Commission could move forward with the project. He also
26 found there was a misunderstanding about the use and the reprogramming of the site.
27 Based on conversations he had in 2018, the development group had asked the Planning
28 Department about the use on the site, which was the time a change had been made to
29 the Specific Plan. He questioned the figures in the FIA and had calculated different figures
30 than shown in the report. If the project were to move forward it should have a net zero
31 impact on the City.
32

33 Mr. Murray added that concessions were being made to allow the development itself with
34 nothing in the land use to suggest those concessions overlapped and there could be a
35 serious issue as they moved forward and as more information was provided, which should
36 be considered if the project were to be challenged. He also agreed with the concerns
37 about parking, and suggested this was the beginning of the end of the shopping center.
38 He was surprised the developer owned the majority of the shopping center and hoped the
39 Planning Commission would consider the final outcome because if the project were
40 allowed to proceed it could set a precedent for other applicants.
41

42 Marshall Lowery, Pinole, stated he resided south of the proposed development and
43 expressed concern with the volume of foot traffic that could come up towards Mitchell Way
44 where he resided. He also had concerns with the traffic on Fitzgerald Drive and disagreed
45 that the volume of traffic would be less than when Kmart had been open. Kmart had been
46 closed for the past four years, yet during the holiday season the Fitzgerald Drive/Appian
47 Way Corridor had been backed up to Best Buy and he questioned how the traffic could be
48 remediated with just traffic signals and other steps. He suggested the project density was
49 not a good idea and should be revisited.
50

1 RESPONSE:

2
3 Mr. Cole thanked the members of the public for their comments. He emphasized the
4 developer had been working with the community and had held community meetings. In
5 terms of the traffic, studies had been done, the LOS would be reduced and there would
6 be less traffic with a residential use versus a retail use. As to the financial impacts, the
7 developer was not required to provide a financial impact report but a report had been
8 provided and it was up to the City to make that evaluation. The developer was of the
9 opinion the project would be a net positive with new people in Pinole and a new use of the
10 building.

11
12 PUBLIC HEARING CLOSED

13
14 Chairperson Moriarty reminded Planning Commissioners that the Planning Commission
15 would be making a recommendation to the City Council and she urged Planning
16 Commissioners to identify any concerns that would be forwarded to the City Council.

17
18 Commissioner Kurrent was excited about the project. He spoke to the loss of retail and
19 intermix of retail and residential but he found the handwriting was on the wall that shopping
20 centers were on their way out. The mix of residential and commercial would be a positive
21 with the future residents walking to the retail and there were many examples of a mix of
22 residential and commercial uses in the Bay Area prior to the advent of shopping centers.
23 There were also examples in neighboring cities where retail had been removed to build
24 residential. In 2010, the General Plan included a residential overlay in the Appian 80
25 Shopping Center, with the thought it would be a good place to mix retail and residential.
26 The new Pinole Square did not want residential but now they had the opportunity to
27 achieve that idea. The applicant had also stated they had tried to bring new retail to the
28 former Kmart building without success and suggested they had to put that idea aside and
29 had merged retail and commercial, which made sense.

30
31 Commissioner Kurrent agreed a pathway for students to walk to school should be pursued
32 and there were opportunities that should be evaluated more thoroughly. In terms of the
33 traffic, anytime there was rush hour traffic and students going to school there would be
34 problems and they would have to work things out and people may have to learn when to
35 shop to avoid the peak traffic periods. He agreed the occupants in the development would
36 likely walk to the nearby retail and was very much in support of the project and found it to
37 be well designed with the future occupants to really enjoy living in Pinole. He supported
38 a favorable recommendation to the City Council for the approval of the project.

39
40 Commissioner Menis asked the Assistant City Attorney to clarify the State Density Bonus
41 as it applied to this project.

42
43 Mr. Mog explained that the concessions had been defined in the Density Bonus Law and
44 as stated in the staff report: *The State Density Bonus law provides special multiple*
45 *incentives to projects that include affordable housing units. First, projects that provide*
46 *affordable units are entitled to "bonus units" that allow the project to include more units*
47 *than would otherwise be allowed by a city's adopted density requirements. The greater*
48 *the percentage of affordable units in the project, the greater the percentage bonus a*
49 *project is entitled to receive, with the specific percentages established by state law.*
50

1 *In addition to a density bonus, the State Density Bonus law provides projects with*
2 *“concessions.” An applicant may use a concession to reduce or eliminate any specific site*
3 *development standards, zoning code requirements or architectural design requirements.*
4 *An applicant is entitled to between 1-4 concessions based on the percentage of affordable*
5 *units in the project. In addition, projects are automatically entitled to reduced parking*
6 *requirements even without the use of any concession. Finally, density bonus projects are*
7 *also entitled to “waivers.” An applicant may use a waiver to reduce or eliminate any*
8 *standard that would physically prevent the project from being built at the density allowed*
9 *(with the density bonus units included).*

10
11 *In addition to the Density Bonus Law, the Housing Accountability Act prohibits a city from*
12 *denying, or reducing the density of, any project that complies with all of the City’s adopted*
13 *objective standards. Conditions imposed on the project must not make the project*
14 *infeasible. Under state law, a project complies with an adopted objective standard if that*
15 *standard has been reduced or eliminated pursuant to the Density Bonus Law. The City*
16 *may only deny the use of a concession or waiver under the Density Bonus Law or deny*
17 *or reduce the density of a project that complies with all adopted objective standards if the*
18 *City can make very specific and narrow findings that the project would cause a “specific,*
19 *adverse impact upon the public health or safety” that cannot be mitigated. A “specific,*
20 *adverse impact” is defined under state law as “a significant, quantifiable, direct, and*
21 *unavoidable impact, based on objective, identified written public health or safety*
22 *standards, policies, or conditions as they existed on the date the application was deemed*
23 *complete.*

24
25 Commissioner Menis referenced Attachment F, the FIA, and the information contained
26 therein specifically Section B, Feasibility of Retail Re-Tenancing of Existing Kmart Building.
27 He found there was reliance on optimistic projections to reach the values shown.
28 Specifically, speaking to the information shown in Table A-11, Projected General
29 Government Costs, he questioned the Police Department costs for a fully occupied retail.
30 He also referenced the applicant’s unsuccessful efforts to retain new retail for the former
31 Kmart building for a number of reasons and commented in terms of Section B, Feasibility
32 of Retail Re-Tenancing of Existing Kmart Building of the FIA, questioned how feasible it
33 would be to actually have re-tenancing done.

34
35 Commissioner Menis questioned whether or not the projections in the FIA should include
36 customers as part of the cost base for assigning cost basis for police and fire and other
37 subcategories, otherwise it may be slanted negatively on residences. He questioned how
38 realistic Section B, Feasibility of Retail Re-Tenancing of Existing Kmart Building was given
39 the applicant’s failure to gain a new tenant over a multi-year period.

40
41 Mr. Mog clarified what was before the Planning Commission was design review and not a
42 use permit as to whether this was a good use. He read into the record the section of the
43 PMC related to design review and reiterated that the Planning Commission was looking
44 at the design and layout of the project and had been asked to make a recommendation
45 on that information and to possibly consider modifications to the conditions of approval.
46 The studies included in the various attachments had been provided for informational
47 purposes but not for the basis of the Planning Commission’s recommendation to the City
48 Council.

1 Commissioner Menis asked if the design was to create a negative economic impact to the
2 City of Pinole, whether the Planning Commission may consider that and Mr. Mog
3 reiterated a use permit was not before the Planning Commission. If there were economic
4 impacts due to design elements such as a discussion about right turns in and out of the
5 parking lot which could cause circulation problems, as an example, those types of issues
6 could be addressed as part of the Planning Commission's consideration. The consultant
7 for the FIA was not present and possibly could be contacted to provide additional
8 information that may be desired.

9
10 Commissioner Menis understood the fiscal impact could not be a determinative factor but
11 understood it could be discussed as part of the Planning Commission's recommendation.

12
13 Mr. Mog reiterated the recommendation from the Planning Commission to the City Council
14 would be on the design and layout of the comprehensive design review pursuant to the
15 regulations of the PMC.

16
17 Commissioner Banuelos found the issue to be complex and disagreed with the guidance
18 provided by the Assistant City Attorney. He suggested the additional reports should not
19 have been provided to the Planning Commission and should just have been provided to
20 the City Council. In his opinion, there were economic impacts due to the design elements
21 due to the ramifications involved and while he understood the direction being provided by
22 the Assistant City Attorney, this was the first time where money and certain building types
23 would have economic ramifications. He again disagreed with the opinion being offered by
24 the Assistant City Attorney on what the Planning Commission may evaluate.

25
26 Chairperson Moriarty agreed this specific discussion was important and should continue
27 to allow citizens to hash out the issues, but it would also be heard at the City Council level.
28 She acknowledged that the recommendation from the Planning Commission to the City
29 Council must be based on design review and then the Commission could include any
30 concerns that may be outside of that recommendation.

31
32 Mr. Mog confirmed that additional concerns could be forwarded with any recommendation
33 to the City Council.

34
35 Commissioner Menis otherwise asked for the following modifications to the Conditions of
36 Approval, as shown in Exhibit A of Attachment A, as follows:

- 37
- 38 • Condition 81, remove subsection (b) and remove the condition from
 - 39 subsequent conditions of approval.
 - 40
 - 41 • Condition 85 was incomplete and should be clarified.
 - 42
 - 43 • Condition 87, subsections (a) and (b), questioned why commercial and
 - 44 industrial buildings had been flagged in the condition.
 - 45
 - 46 • Condition 113, (1), asked whether or not Saturday work would be allowed with
 - 47 staff clarifying the project was located in a commercial zone where Saturday
 - 48 work was allowed.
 - 49

1 Commissioner Menis also asked that the larger of the two lawns located in Courtyard 2 be
2 not just straight water thirsty grass but less water thirsty material such as hybrid grass that
3 could still be used as a play area.
4

5 Commissioner Banuelos commented that as part of his day job he saw similar projects in
6 places where streets were busier than in Pinole, which had some of the same issues. He
7 questioned if an illuminated crosswalk was included across Fitzgerald Drive to create better
8 connectivity on both sides of the street, as the applicant had described, how it could be done
9 absent a signal given the need for safety considerations. He also recognized the state
10 was facing a massive housing shortage, had taken much of the power out of the hands of
11 local municipalities and had given developers incentives to build such projects.
12

13 Commissioner Banuelos recognized the building could have been taller but the applicant
14 had decided not to go so high and it could have been worse and that should be kept in
15 mind when considering what to recommend to the City Council. He would rather see a
16 thriving development than a vacant building and he accepted the applicant's statement
17 they had done all they could to find a tenant to lease the space. Rather than have a vacant
18 building and end up with a vacant center like Hilltop Mall in the City of Richmond, the City
19 had to have an open mind to mixed use development. He also recognized if retail were
20 to falter, the property owner had to think out of the box as well. Mixed use development
21 had been discussed for years in Pinole and the City was now getting the projects that had
22 been expected years ago. While there had been economic challenges along the way and
23 with the state housing challenges and legislation limiting local jurisdictions, the City had to
24 consider what was before it right or wrong.
25

26 Commissioner Banuelos commented in terms of the project many Commissioners had
27 seen the project at its earlier stages. He found the applicant had responded to the input
28 provided during earlier discussions, with articulation offering a sophisticated project better
29 than similar projects in other communities. He agreed there would always be concerns
30 with traffic, some of which had nothing to do with the subject project, but there would be
31 transit provided. With respect to the actual land use, he found the applicant had taken
32 many concerns into account via the courtyards and green fencing, which were things that
33 would make the project successful.
34

35 Commissioner Banuelos agreed the project was different contextually since it was larger
36 in size but it would be fairly similar to other developments in Pinole that had been approved
37 or were anticipated. He suggested the City would benefit from the mix of uses, he could
38 foresee residents of the building walk to the nearby retail uses and suggested the project
39 would be successful in many ways in terms of architecture and land use. He
40 acknowledged there were many issues that would have to be considered by the City
41 Council but he supported the project that would benefit the City and he recognized that
42 change would happen whether they liked it or not.
43

44 Commissioner Benzuly agreed with the comments related to the nature, use and change
45 of retail spaces over time and the move from big box retailers and finding ways to re-use
46 those spaces. He found the project was a good use of the space and a way to reuse
47 space that had sat vacant for years. He would like to see the grass/lawn area remain in
48 Courtyard 2 since he saw the development as a residential island in a sea of commercial
49 uses, and a more natural grass lawn should be retained as much as possible given the
50 limited amenities for the tenants to utilize.

1 Commissioner Benzuly also wanted to see the children's play area at the southern border
2 be expanded to allow for children to congregate and play. He urged the City Council to
3 consider the nature of the retail space and what could be done in the future in terms of
4 economic impacts before a final decision was made.

5
6 Vice Chairperson Martinez supported the project and was excited about the investment
7 into the community. He recognized the property owner had carrying costs related to the
8 vacant building and had tried to aggressively market the building to potential retail tenants
9 but to no avail. He did not want to see the City's retail centers become ghost towns and
10 supported investment into the community bringing in union jobs and increased sales tax
11 revenues.

12
13 Vice Chairperson Martinez reiterated a recommendation as part of Safe Routes to School
14 that the City set aside \$100,000 to build a pathway around the southern border connecting
15 to Stallion Street to ensure students could safely reach the neighboring schools within the
16 WCCUSD.

17
18 Chairperson Moriarty clarified Commissioner Menis' recommendation for the greenspace
19 in Courtyard 2 to be green space but not lawn and be a space that children could play on,
20 although the preference of the majority of the Commission was that the area consist of
21 lawn and green space regardless.

22
23 Chairperson Moriarty asked that the City Council consider the movement of pedestrians
24 and bicycles on Fitzgerald Drive which was an incredibly dangerous road. She also
25 wanted the City Council to see how that fit into the Bike | Pedestrian Plan in terms of what
26 the developer planned for public transportation and getting new covers over the bus stops.
27 She asked for consideration of some type of transportation during high peak traffic hours
28 to the transit center, such as a shuttle service, and suggested that having residential closer
29 to retail made sense. While she realized that change would be challenging, she found the
30 applicant and developer had been responsive to ideas.

31
32 Chairperson Moriarty otherwise spoke to Condition 3 and clarified with staff that the
33 reference to "unfinished work" would include work to the crosswalks and permanent
34 fencing as examples; Condition 12 should be modified to reflect the specific approved
35 routes for hauling activities; Condition 85 should be amended to reflect that each individual
36 unit would be equipped with smoke and carbon monoxide (Co2) detectors; and Condition
37 101 should also be modified to include a requirement to survey the roadway prior to
38 construction and issue a bond to cover any repairs needed post-construction.

39
40 Mr. Hanham clarified that Condition 7 read: *PERMITS, BONDS, AND INSURANCE – The*
41 *applicant shall obtain an encroachment permit, posting the required bonds and insurance,*
42 *for all work to be done in the City's right-of-way. This encroachment permit shall be*
43 *obtained prior to the issuance of a building permit and prior to any work being done in the*
44 *City's right-of-way.*

45
46 Mr. Mog stated the Planning Commission could recommend a condition be added to
47 require a survey of the roadway prior to construction and issue a bond to cover any repairs
48 needed post-construction, with staff to provide the City Council with further analysis of any
49 limitations.

1 Chairperson Moriarty suggested that condition should be forwarded to the City Council as
2 well as the recommendation for funds to be set aside for a pathway to be provided behind
3 the project for school children; the lawn area in Courtyard 2 to be reviewed by the Planning
4 Commission Ad Hoc Subcommittee; and the City Council to explore the possibility of a
5 signalized crosswalk with either a flashing yellow, red or green light for the safety of
6 pedestrians walking across the street.
7

8 Ms. Whalen reported a site visit had been conducted with the Public Works Director and
9 there had been discussion about the possibility of additional signals given concerns with
10 the proximity of other signals along Fitzgerald Drive, but all options would be presented to
11 the City Council.
12

13 Commissioner Menis referenced Conditions 20, 117, 118 and 119 with none of the
14 conditions having called out the sidewalk and curb conditions related to the final conditions
15 of roads, and the Chair pointed out that would be highlighted as a concern for the City
16 Council to consider.
17

18 Ms. Whalen added the applicant's landscape architect had stated as part of their
19 presentation there would be nine protected trees on-site to be removed. The staff report
20 had indicated only three trees would be removed with a condition requiring enhanced
21 larger boxed trees to replace those protected trees and the condition would have to be
22 modified accordingly to reflect the true number of protected trees to be removed.
23

24 Ms. Whalen summarized the direction from the Planning Commission as follows:
25

- 26 • Condition 85 to be updated to reflect the inclusion of smoke and Co2 detectors in
27 each individual unit;
28
- 29 • Staff to look into the request for a survey of the roadway prior to construction and
30 issue a bond to cover any repairs needed post-construction;
31
- 32 • Staff to look into the Safe Routes to Schools funding for a pathway behind the
33 project site and work with the applicant on designs for fencing;
34
- 35 • Staff to look at the possibility of enhanced safety at the crosswalk area and bring
36 forward to the City Council the most aggressive safety improvements possible;
37
- 38 • Staff to update the number of protected trees (9);
39
- 40 • Condition 3 to be reviewed by staff to clarify that "unfinished work" would include
41 all unfinished work to the crosswalks and permanent fencing as examples;
42
- 43 • Condition 12 to be modified to include the specific routes for material hauling;
44
- 45 • The children's play area to be enhanced, as discussed;
46
- 47 • Condition 81 subsection (b) to be eliminated; and
48

- Condition 87 amended to eliminate the reference to commercial and industrial uses.

MOTION by a Roll Call vote to extend the Planning Commission meeting to 11:15 p.m.

MOTION: Banuelos SECONDED: Benzuly APPROVED: 6-0

MOTION by a Roll Call vote to adopt Resolution 22-05, Recommending Approval of the Comprehensive Design Review and CEQA Exemption for the Pinole Vista Shopping Center at 1500 Fitzgerald Drive (PL21-0035 & DR21-12), with Exhibit A: Conditions of Approval, as modified and subject to the list of concerns as discussed to be dealt with by the City Council, as summarized by staff.

MOTION: Banuelos SECONDED: Martinez APPROVED: 6-0

F. OLD BUSINESS: None

G. NEW BUSINESS: None

H. CITY PLANNER'S / COMMISSIONERS' REPORT

Mr. Hanham reported staff was continuing to work on Pinole Shores II and on parklet regulations.

Ms. Whalen reported the draft of the Economic Development Strategy was available on the Economic Development page of the City website with a link to a recent community workshop and survey.

Commissioner Kurrent reported the Valero Gas Station on Appian Way had been demolished and asked whether it was part of a permit to redesign the gas station for a convenience store. He also referenced the former Toys R' Us which was undergoing major construction and asked the status of that construction.

Mr. Hanham reported the work at the Valero Gas Station had been based on a prior Planning Commission approval.

Contract Planner Justin Shiu reported Toys R' Us had a building permit issued for the demolition and the plan was to split the space into two spaces, one for HomeGoods and the other for a currently unknown tenant.

Commissioner Menis reported the Land Use Planning for Pinole website remained up with a deadline of July 29, 2022 to participate in the survey.

Chairperson Moriarty requested the meeting adjourn in honor of Simon Wong, a former long-term Planning Commissioner who had recently retired.

I. COMMUNICATIONS: None

1 **J. NEXT MEETING**

2
3 The next meeting of the Planning Commission to be a Regular Meeting scheduled for
4 August 8, 2022 at 7:00 p.m.
5

6 **K. ADJOURNMENT: 11:08 p.m. *In Honor of Simon Wong.***

7
8 Transcribed by:

9
10
11 Sherri D. Lewis
12 Transcriber