

AGENDA FOR THE



CITY OF PINOLE PLANNING COMMISSION REGULAR MEETING

Monday, June 27, 2022

7:00 P.M.

Via Zoom Videoconference and In Person

WAYS TO WATCH THE MEETING

- IN PERSON. Attendance at the Pinole City Council Chambers (2131 Pear St).
- LIVE ON CHANNEL 26. The Community TV Channel 26 schedule is published on the City's website at www.ci.pinole.ca.us. The meeting can be viewed again as a retelecast on Channel 26.
- VIDEO-STREAMED LIVE ON THE CITY'S WEBSITE, www.ci.pinole.ca.us. and remain archived on the site for five (5) years.
- ZOOM VIDEOCONFERENCE. Zoom details are included below.
- If none of these options are available to you, or you need assistance with public comment, please contact Planning Manager David Hanham at (510) 724-8912 or ghanham@ci.pinole.ca.us.

HOW TO SUBMIT PUBLIC COMMENTS

In Person:

Attend meeting at the Pinole City Council Chambers, fill out a yellow public comment card and submit it to the Planning Manager.

Via Zoom:

Members of the public may submit a live remote public comment via Zoom video conferencing. Download the Zoom mobile app from the Apple Appstore or Google Play. If you are using a desktop computer, you can test your connection to Zoom by clicking [here](#). Zoom also allows you to join the meeting by phone.

From a PC, Mac, iPad, iPhone or Android:

<https://us02web.zoom.us/j/87637149010>

OR

<https://zoom.us/join>

Webinar ID: 876 3714 9010

By phone: +1 (669) 900-6833 or +1 (253) 215-8782 or +1 (346) 248-7799

- Speakers will be asked to provide their name and city of residence, although providing this is not required for participation.
- Each speaker will be afforded up to 3 minutes to speak.
- Speakers will be muted until their opportunity to provide public comment.

When the Chair opens the comment period for the item you wish to speak on, please use the “raise hand” feature (or press *9 if connecting via telephone) which will alert staff that you have a comment to provide. Once you have been identified to speak, please check to make sure you have unmuted yourself in the videoconference application (or press *6 if connecting via telephone).

WRITTEN COMMENTS

Please submit public comments to Planning Staff before the meeting via email to ghanham@ci.pinole.ca.us. Please include your full name, city of residence and agenda item you are commenting on.

AMERICANS WITH DISABILITIES ACT

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in a City meeting or you need a copy of the agenda, or the agenda packet in an appropriate alternative format, please contact the Development Services Department at (510) 724-8912. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

CITIZEN PARTICIPATION:

Persons wishing to speak on an item listed on the Agenda may do so when the Chair asks for comments in favor of or in opposition to the item under consideration. After all of those persons wishing to speak have done so, the hearing will be closed and the matter will be discussed amongst the Commission prior to rendering a decision.

Any person may appeal an action of the Planning Commission or of the Planning Manager by filing an appeal with the City Clerk, in writing, within ten (10) days of such action. Following a Public Hearing, the City Council may act to confirm, modify or reverse the action of the Planning Commission and the Planning Commission may act to confirm, modify, or reverse the action of the Planning Manager. The cost to appeal a decision is \$500 and a minimum \$2,500 deposit fee.

Note: If you challenge a decision of the Commission regarding a project in court, you may be limited to raising only those issues you or someone else raised at the public hearing or in writing delivered to the City of Pinole at, or prior to, the public hearing.

A. CALL TO ORDER

B1. PLEDGE OF ALLEGIANCE

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

B3. ROLL CALL

C. CITIZENS TO BE HEARD:

The public may address the Planning Commission on items that are within its jurisdiction and not otherwise listed on the agenda. Planning Commissioners may discuss the matter brought to their attention, but by State law (Ralph M. Brown Act), action must be deferred to a future meeting. Time allowed: five (5) minutes each.

D. MEETING MINUTES:

1. Planning Commission Meeting Minutes from May 9, 2022

E. PUBLIC HEARINGS:

At the beginning of an item, the Chair will read the description of that item as stated on the Agenda. The City Staff will then give a brief presentation of the proposed project. The Commission may then ask Staff questions about the item.

For those items listed as Public Hearings, the Chair will open the public hearing and ask the applicant if they wish to make a presentation. Those persons in favor of the project will then be given an opportunity to speak followed by those who are opposed to the project. The applicant will then be given an opportunity for rebuttal.

The Public Hearing will then be closed and the Commission may discuss the item amongst themselves and ask questions of Staff. The Commission will then vote to approve, deny, approve in a modified form, or continue the matter to a later date for a decision. The Chair will announce the Commission's decision and advise the audience of the appeal procedure.

Note: No Public Hearings will begin after 11:00 p.m. Items still remaining on the agenda after 11:00 p.m. will be held over to the next meeting.

1. Conditional Use Permit CUP22-01 East Bay Coffee Alcohol Sales Use Permit Modification

Request: Consideration of a Use Permit request for modification of an existing Use Permit, currently allowing beer and wine sales, to expand alcoholic beverage options under a Type 47 liquor license.

Applicant: Lisa Ancira, 2529 San Pablo Ave, Pinole, CA 94564

Location: 2529 San Pablo Ave (APN 401-184-015)

Planner: David Hanham

F. OLD BUSINESS:

None

G. NEW BUSINESS:

None

H. CITY PLANNER'S/COMMISSIONER'S REPORT:

I. COMMUNICATIONS:

J. NEXT MEETING(S):

Planning Commission Regular Meeting, July 11, 2022 at 7:00PM

K. ADJOURNMENT

POSTED: June 23, 2022

David Hanham
Planning Manager

1 DRAFT

2
3 MINUTES OF THE REGULAR MEETING
4 PINOLE PLANNING COMMISSION

5
6 May 9, 2022

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

10
11 A. CALL TO ORDER: 7:03 p.m.

12
13 B1. PLEDGE OF ALLEGIANCE

14
15 B2. LAND ACKNOWLEDGEMENT: *Before we begin, we would like to acknowledge*
16 *the Ohlone people, who are the traditional custodians of this land. We pay our*
17 *respects to the Ohlone elders, past, present and future, who call this place, Ohlone*
18 *Land, the land that Pinole sits upon, their home. We are proud to continue their*
19 *tradition of coming together and growing as a community. We thank the Ohlone*
20 *community for their stewardship and support, and we look forward to strengthening*
21 *our ties as we continue 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 **Arrived at 7:25 p.m.

29
30 Commissioners Absent: None

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

35
36 C. CITIZENS TO BE HEARD

37
38 David O. Ruport, Jr., Pinole, congratulated the aggressive stance the current
39 Planning Commission had taken to provide moderate and affordable housing in
40 the City of Pinole to ensure compliance with state requirements and enough
41 housing for the citizens of Pinole. He had submitted correspondence to the City
42 Clerk which he understood had been distributed to the City Council, Planning
43 Commission and the City Attorney's Office, would not comment on the letter at this
44 time, but hoped that he would receive a response from the City Attorney and the
45 Planning Manager on the multiple issues he had outlined in his letter.
46

1 **D. MEETING MINUTES:**

2
3 1. Planning Commission Meeting Minutes from April 11, 2022

4
5 Vice Chairperson Moriarty referenced the discussion regarding the hours of
6 construction as related to Item E1, Appian Village Condominium Complex, as shown
7 in the April 11, 2022 meeting minutes. While the comments in the minutes were
8 correct, she asked staff whether construction would be allowed on Saturdays.

9
10 Planning Manager David Hanham clarified that what had been approved would be
11 consistent with the Pinole Municipal Code (PMC), which prohibited construction on
12 Saturdays.

13
14 **MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes
15 from April 11, 2022, as shown.

16
17 **MOTION: Moriarty**

18 **SECONDED: Menis**

19 **APPROVED: 6-0-1**

20 **ABSENT: Wong**

21 **D1. PLANNING COMMISSION REORGANIZATION:**

22 1. Chair, Vice Chair and Committee Selections for 2022-2023

23
24 Commissioner Kurrent nominated Frankie Martinez as the Vice Chair of the
25 Planning Commission. Vice Chairperson Moriarty seconded the nomination.
26 There being no further nominations, **Frankie Martinez** was unanimously selected
27 as the Vice Chair of the Planning Commission for 2022-2023.

28
29 Commissioner Menis nominated Ann Moriarty as the Chair of the Planning
30 Commission. Commissioner Benzuly seconded the nomination. There being no
31 further nominations, **Ann Moriarty** was unanimously selected as the Chair of the
32 Planning Commission for 2022-2023.

33
34 Chairperson Moriarty chaired the meeting at this time.

35
36 The Planning Commission expressed its appreciation to Tim Banuelos for his
37 tenure as Chair during 2021-2022.

38
39 Mr. Hanham asked that three Commissioners and an alternate be appointed to the
40 Design Review Ad Hoc Committee.

41
42 **MOTION** with a Roll Call vote to appoint Chairperson Moriarty, Vice Chairperson
43 Martinez, and Commissioner Menis as members, and Commissioner Benzuly as the
44 Alternate to the Design Review Ad Hoc Committee for 2022-2023.

45
46 **MOTION: Banuelos**

SECONDED: Wong

APPROVED: 7-0

1 Assistant City Attorney Alex Mog clarified in order to ensure that a quorum of the
2 Planning Commission did not meet to discuss a project, if a Commissioner had
3 previously been a member of the Design Review Ad Hoc Committee and if a
4 project that had already been discussed by the Ad Hoc Committee needed further
5 guidance, the Ad Hoc Committee would still be comprised of those members from
6 last year to ensure there was not a quorum to discuss a specific project. He
7 advised that staff would keep Commissioners apprised of any conflicts.
8

9 **E. PUBLIC HEARINGS:**

10
11 **1. Comprehensive Design Review DR20-10/PL20-0072 BCRE Project**

12
13 **Request:** Consideration of a Comprehensive Design Review for the
14 purposes of constructing an approximately 17,280 square foot
15 addition to the existing 25,161 square foot commercial/office
16 building, a new five-story 29-unit apartment building, and
17 associated modifications on the property.
18

19 **Applicant:** Toby Long Design, 6114 La Salle Avenue #552, Oakland, CA
20 94611
21

22 **Location:** 2801 Pinole Valley Road (APN 360-010-029)
23

24 **Planner:** Justin Shiu
25

26 Project Planner Justin Shiu provided an extensive PowerPoint presentation which
27 included an overview of the staff report dated May 9, 2022, for consideration of a
28 Comprehensive Design Review for the purposes of constructing an approximately
29 17,280 square foot addition to the existing 25,161 square foot commercial/office
30 building, a new five-story 29-unit apartment building, and associated modifications
31 on the property.
32

33 Mr. Shiu recommended the Planning Commission adopt Resolution 22-02,
34 approving the Comprehensive Design Review and California Environmental Quality
35 Act (CEQA) Exemption for the BCRE Project at 2801 Pinole Valley Road, (PL20-
36 0072 and DR20-10) subject to the Conditions of Approval contained in Exhibit A,
37 Conditions of Approval, as shown in Attachment A to the staff report.
38

39 Responding to the Commission, Mr. Shiu, Mr. Hanham and Mr., Mog clarified:
40

- 41
- 42 • In response to concerns with the adequacy of fire response to a proposed
43 five-story apartment building, the City of Pinole currently had automatic aid
44 with the Rodeo-Hercules Fire District and the City of San Pablo Fire
45 Department, both of which had ladder trucks. The applicant would also be
required to pay a Fire Impact Fee, consistent with other projects and there

1 had been some discussions about Pinole combining its fire services with
2 the Contra Costa County Fire Protection District (Con Fire). The project
3 would also be required to comply with the High-Rise Guidelines, as required
4 by the Fire Department.
5

- 6 • The lift parking was described as three-level automated parking that had
7 the ability to move vehicles around and the ability to bring the vehicle to the
8 space where the occupant could drive the vehicle off the lot.
9
- 10 • Table 5, Percentage of Affordable Units and Incentives/Concessions
11 Allowed, as shown in the staff report, identified what was allowed under
12 State Density Bonus law and included as a reference a table summarizing
13 the number of allowable concessions based on state law. The applicant's
14 requested waivers and concessions had been outlined in the staff report.
15
- 16 • The Fire Department had reviewed the project and provided High-Rise
17 guidelines. The applicant was noted as being available to provide
18 clarification on high rise details.
19
- 20 • Exhibit A identified the proposed height of the building at five stories and
21 the Shade Analysis had shown that even if the building was reduced in
22 height, it would shade a significant area during the 4:00 p.m. hour pursuant
23 to the Shade Analysis.
24
- 25 • Staff acknowledged there had been interest from some Planning
26 Commissioners for modeling to show the massing more clearly to provide a
27 better sense of what would be the first high-rise building in Pinole.
28
- 29 • Staff acknowledged a request for solar shades to provide shading if trees
30 were not practical in the parking area, which consideration could be
31 discussed with the applicant. Solar panels would be provided on the top of
32 the apartment building and solar would be provided as part of the non-
33 residential addition.
34
- 35 • The units would be designed to be accessible with elevator access to each
36 of the floors.
37
- 38 • The units would be pre-fabricated consisting of partial modular construction.
39
- 40 • As part of the submittal of the building permit application to the Public Works
41 Department, the applicant would be required to submit an application for the
42 movement of structures throughout the City. Any work in the public right-
43 of-way (ROW) would require an encroachment permit.
44
45

- Staff acknowledged a recommendation that the new structures be required to have continuity between the existing structures given their age and possibly consider a color combination and apply it to the front of the existing structure to refresh it, and if possible ask the applicant to consider a uniform appearance for all signage across the entire scope of the building.
- Staff acknowledged a recommendation that vehicles parked in front of the building be angled to make it easier for egress/ingress for those parking stalls.
- State Density Bonus Law was again clarified; the applicant was allowed to have seven additional density bonus units but would only have five, which had led to the total number of 29-units.
- The building height had been calculated at approximately 70-feet with the massing concentrated in the top 60-feet that encompassed the top portion of the structure.

PUBLIC HEARING OPENED

Brian Baniqued, Property Owner, Pinole Valley Partners, LLC, 2801 Pinole Valley Road, Pinole, the owner of the building at 2801 Pinole Valley Road for the last 22 years, explained that he operated three of his businesses at the site and had been able to form a close bond with his tenants and the businesses in the area. While he was currently a resident of the City of Hercules, he had been a resident and homeowner in Pinole, had lived here all his life, and was familiar with the area and the building. When he had initially considered the project, his first plan was to expand the back of the building in order to bring in ancillary services given his background in real estate, finance and construction. As he had gone through the process, he had learned the property was zoned for workforce housing and the project had evolved from there.

Given changes in the workforce environment, Mr. Baniqued had been inspired to create an environment for workforce housing that would be affordable and allow employees to have the ability to live and walk to their places of employment while also simultaneously being able to provide parking for all 29-units. He reiterated he wanted to be able to take advantage of the location to provide workforce housing while also provide additional employment for residents without having to travel outside of the area, and also take advantage of nearby bicycle and pedestrian paths. He requested that the Planning Commission approve the project.

Abby Whitman, Toby Long Design, 6114 La Salle Avenue, #552, Oakland, provided a PowerPoint presentation that included numerous views from Pinole Valley Road of the refreshed façade of the building, the four-story addition for the commercial building and in the distance the apartment building at the southeast corner.

1 The site faced various commercial uses and included the existing commercial
2 building that had plentiful parking around the vicinity. Aerial views were also provided
3 along with a three-dimensional format of the office addition and new residential
4 building. The residential building would be five stories in height and the office addition
5 would be four stories. The project would address sustainability due to the proximity
6 of services, and walkability would be provided for residents and commercial tenants
7 and patrons. Other sustainable features would include low water use, native plants,
8 solar exposure and potential solar panel incorporation. The building would be mostly
9 electric and the main feature would be modular because the buildings could be built
10 off-site with little site disturbance during construction, and the modules could be
11 constructed in a matter of days and brought to the site. Given the busy area,
12 construction transportation would be limited via the modular strategy.
13

14 The basic circulation of the site was identified and the front parking lot would remain
15 virtually unchanged but with the addition of Americans with Disabilities Act (ADA)
16 access at the front of the site, and with bicycle parking and new landscaping at the
17 front of the street. The ADA access would travel to the back of the site to access the
18 new office and residential buildings. There would be two-way traffic throughout the
19 site as well as fire access which had been discussed with the Fire Department with
20 adequate space to accommodate fire apparatus.
21

22 Additional parking would be available in the residential building in the garage with a
23 total of 31 parking spaces. Thirty parking spaces would be provided with the parking
24 lift and one ADA space. There would be other ADA parking spaces provided
25 throughout the site. Shared parking was identified with four parking spaces adjacent
26 to the office building, to be shared with the commercial uses during business hours
27 and the residential uses during the evening hours.
28

29 The commercial building would be refreshed with the use of cement board siding,
30 stucco and some wood siding. The signage package would be refreshed as well to
31 ensure consistency. The addition at the back would be four stories and be consistent
32 with the plans for the facade for the front of the building with matching tile roof and
33 include the newer materials as described.
34

35 The south view had shown the relationship between the new office building to the old
36 office building with some of the material distribution identified with the use of arch top
37 windows at the back of the building to ensure consistency in the language and
38 introduction of new forms while also maintaining the shape of the roof at the rear
39 similar to the front. The rear of the new addition to the east had shown the relationship
40 between the existing new building carried through with the roof forms and some
41 additional design elements to reflect the modern language of the new addition. The
42 north view on the Arco Gas Station side would have similar themes, with the new
43 versus the existing roof forms carried through, arch top windows and incorporation
44 of the wood siding on both buildings as well as the stucco treatment.
45
46

1 The concessions and waivers were identified with the setback at the rear, the east
2 elevation prescribed at 15-feet. The applicant had made a waiver request to reduce
3 that to 10-feet in order to accommodate the parking clearances and with a
4 concession requested for modified parking requirements, together with use of some
5 compact parking spaces. Another waiver had also been requested for landscaping
6 in order to accommodate the parking and circulation required for Fire Department
7 clearances. Landscaping nodes had been created throughout the property but were
8 fairly limited based on the required clearances.
9

10 The building height waiver was also identified. While there was a 50-foot standard
11 height limit for the zone, based on the waivers requested, the applicant was allowed
12 additional height for an additional story that would bring it to 60-feet in height and
13 penthouse required for the stairs and elevator access to the roof and roof deck that
14 would bring it up to 70 feet. The unit distribution for the affordable units would provide
15 one affordable unit on each floor. There would be two Very Low income studios, and
16 two one-bedroom Low Income units.
17

18 Elevations of the residential building identified the entry, lobby, gym and
19 management office as well as access to the parking garage. The parking and lobby
20 would be on the first floor, access to all units would be via an elevator, and all units
21 pursuant to the code were required to be adaptable. Numerous renderings of the
22 building facades from different elevations with the building materials and tree
23 screening against the property line were provided along with the results of the
24 Shadow Study, which was highlighted.
25

26 Tony Vossbrink, Pinole, a long-time resident who was very familiar with the area,
27 expressed concern with the speed of traffic and safety for pedestrians and other
28 vehicles that traveled the corridor, particularly in the intersection and on both sides
29 of the existing building, the 7-Eleven and the Trader Joe's Shopping Center. He
30 reported there had been accidents on both sides of the street, and currently three
31 light poles had been removed by the latest three accidents that had occurred over
32 the past few months. He asked for traffic calming measures, better signage and a
33 blinking crosswalk for pedestrians.
34

35 Mr. Vossbrink added the area experienced bottlenecks throughout the day and the
36 City should address that situation with the builder since the development may
37 exacerbate that issue. He also asked whether the driveway on the 7-Eleven side of
38 the street and into the building site could be widened to prevent another
39 ingress/egress problem as had occurred at the Pinole Library. He urged the City to
40 work with Caltrans to widen the I-80 west on-ramp to the City of Hercules where there
41 was congestion and bottleneck traffic during commute periods.
42

43 Mr. Vossbrink otherwise asked that the webinar information on the meeting agenda
44 be clearly stated at the start of each meeting to allow for public input.
45

46 Mr. Vossbrink commented on the challenges he had experienced accessing the

1 Zoom meeting to provide comments under Citizens to be Heard. He urged the
2 Planning Commission to consider following the City Council protocols and allow
3 public comment both at the beginning and at the end of each meeting agenda.
4

5 Cedric Gousse, who lived on the border of the cities of Pinole and El Sobrante,
6 explained that he routinely patronized the Trader Joe's Shopping Center. He
7 generally supported the project but shared the traffic concerns raised by the prior
8 speaker. He was involved in construction, followed the Bay Area housing market
9 and recognized the state was falling behind on the number of housing units
10 constructed. He emphasized the challenges to get housing projects approved and
11 where increasingly homes were being used to house wealth and not be used as
12 housing. If more single-family homes continued to be built on sprawling lots, it would
13 reward inflationary investor behavior and not house people. He urged the Planning
14 Commission to think about local housing, local building in the community and not
15 have people drive from far away and contribute to environmental damage. He
16 supported the approval of the project.
17

18 Ms. Whitman suggested the congestion on Pinole Valley Road was an existing global
19 issue but the applicant may address the various dimensions of the driveway as part
20 of the building permit review. The applicant had addressed Vehicles Miles Traveled
21 (VMTs) through its traffic report, which had shown the increase in traffic would not be
22 as predicted.
23

24 Sam Tabibnia, Senior Associate, Fehr & Peers, Traffic Engineers for the project,
25 explained as part of the CEQA review Fehr & Peers had analyzed VMTs as required
26 by state law but not traffic delay or congestion, which could not be evaluated in the
27 CEQA documents based on the latest CEQA guidelines. For VMTs, state law
28 allowed for some projects to be screened out if certain criteria had been met. The
29 subject project met that criteria given it was located in a Transit Priority Area (TPA)
30 and was within a half mile of a transit service that had less than 15-minute headways.
31 The project had fairly high density with low parking and encouraged residents, visitors
32 and employees not to drive and use other modes of transportation. Due to the project
33 meeting that criteria, it had been determined to have less than a significant impact
34 on VMTs.
35

36 Mr. Shiu added the project would be required to pay Development Impact Fees as
37 part of new development.
38

39 Grace also expressed concern with the traffic congestion in the area particularly near
40 Trader Joe's during the commute hours, school traffic and traffic circulation into the
41 7-Eleven, which may not be sufficient after the construction of a 29-unit apartment
42 building. She was also concerned with views of a five-story apartment building from
43 her residence on Estates Avenue and would prefer to see the building be spread out
44 rather than up. She also expressed concern with the number of additional occupants
45 with associated vehicles in an already congested area.

46 Ms. Whitman described the constraints with respect to parking on the site. She

1 stated the building was not a high-rise building, and while the building would be 70-
2 feet in height, a high-rise building had been classified at 75-feet pursuant to the
3 Building Code. In this case, the bulk of the building would be in the 60-foot range.
4

5 Atol of Estates Avenue, which was located behind the proposed project up the hill,
6 shared the concerns raised by the previous speaker. He liked the fact he could
7 currently enjoy plenty of sunlight at his home, particularly in the afternoon which
8 would be impacted by a five-story building. For that reason, he opposed the project
9 and agreed it should be expanded out rather than up.

10
11 Toby Long, Applicant, Toby Long Design, 6114 La Salle Avenue, #552, Oakland,
12 also commented on the building height and stated that the Building Code had clearly
13 defined a high-rise building at 75-feet or higher for a story or level of occupancy, with
14 the penthouse projections for the stair and elevator allowable exceptions to the height
15 restrictions. The building was a typical four-over-one, four stories over wood
16 construction on a concrete podium, a typical multifamily construction method seen
17 across the Bay Area and metropolitan areas in the United States, with costs
18 substantially less than the use of wood construction.
19

20 Ms. Whitman added that a neighborhood meeting had been held about a year ago.
21 There had been only one attendee from the community, the Pastor of an adjacent
22 church, with no input from neighbors at that time.
23

24 Mr. Shiu advised that public notification had been provided in excess of the
25 requirements when residents within 1,500 square feet of the application site had been
26 notified of the project.
27

28 PUBLIC HEARING CLOSED

29

30 Commissioner Wong agreed that the proposed building would be the tallest building
31 in the City of Pinole. He appreciated the renderings and liked the design but given
32 the input from citizens on Estates Avenue, he asked whether or not views could be
33 generated from that elevation to allay residents' concerns about building height and
34 potential impacts.
35

36 Mr. Long confirmed that was something that could be considered.
37

38 Mr. Hanham also confirmed that information could be requested as part of the
39 building permit submittal.
40

41 Assistant City Attorney Alex Mog added that information could be a condition of
42 approval or the Planning Commission may continue the item and ask the applicant
43 to provide that information.
44

45 Mr. Long reiterated the project was compliant with the height restrictions and with the
46 additional story granted under state law as part of their application for affordable

1 housing. The applicant was not requesting anything other than what the state already
2 permitted pursuant to affordable housing.
3

4 Mr. Baniqued suggested the project would not obstruct the views of the Estates
5 Avenue residents since the project was downhill from the Senior Center and the
6 actual height did not exceed the height of the Senior Center. A three-dimensional
7 rendering had been prepared and he suggested that could be submitted as part of
8 the construction drawings submittal rather than continuing the item.
9

10 Assistant City Attorney Mog recalled in response to Commissioner Wong, who
11 suggested the project be referred back to the Design Review Ad Hoc Committee for
12 a final review, that when the Planning Commission had delegated authority to the
13 Design Review Ad Hoc Committee in the past it had involved an issue related to
14 landscaping for a commercial building. In this case, the Planning Commission may
15 decide to continue the public hearing and request that additional documentation/
16 visualization be provided but that would not change the Planning Commission's
17 limited authority since the Commission could not require that the building be reduced
18 in height since the project complied with the City's height requirement within the
19 applicable density bonuses.
20

21 The Planning Commission discussed potential additional renderings, including a
22 three-dimensional rendering, at length in response to residents' concerns with the
23 building height, particularly for those residing on Estates Avenue and in response to
24 concerns the building was not consistent with the surrounding buildings. There were
25 also questions whether the project conformed to the Three Corridors Specific Plan.
26 Planning Commissioners recognized the limitations due to state law, the fact the
27 building height was in conformance with state law, the City's development standards
28 and the inability to deny the project and require substantial changes.
29

30 Mr. Long explained that the lot was uniquely zoned in the Three Corridors Specific
31 Plan and the project was largely designed for Office use with limited allowable space
32 for residential development on the property.
33

34 Mr. Baniqued reiterated that as the 22-year owner of the property and being
35 employed on the site with three different businesses, he understood the effects of the
36 hybrid working environment and understood the need for workforce housing. He
37 again detailed the merits of the project. While the street was busy, it was only during
38 specific hours of the day and primarily due to the high school, which this project would
39 not change. He suggested the renderings would show the building would not
40 obstruct views and he emphasized the project met all requirements.
41

42 Vice Chairperson Martinez appreciated the covered balconies. He hoped that terms
43 and conditions would be imposed on the tenants that the balconies would not be
44 used for storage.

45 Vice Chairperson Martinez appreciated that the applicant had worked with the
46 adjacent church to obtain additional parking spaces. As to the main entry, he used

1 the shopping center regularly, the entry was tight, and he suggested increasing the
2 entry width would be appreciated. As to the affordable housing components, prior
3 developers had been asked to earmark some units for Pinole residents and he asked
4 that under the property management umbrella the applicant implement a strategy for
5 those applying for the units to be those who lived and worked in Pinole. Additionally,
6 while he had no concern with the size of the building, for the east elevation facing
7 Estates Avenue and the senior housing, he asked the applicant to consider planting
8 potted trees on the roof to provide privacy and soften the appearance of the building
9 for those facing that elevation.

10
11 Mr. Baniqued appreciated setting specific guidelines not to use the balconies for
12 storage and given the proximity of his businesses he would be able to police that use.
13 He too would like to make the units available to local residents but cautioned the
14 need to comply with state law. He recognized the existing building was in need of a
15 facelift which would be addressed and he wanted to be a good neighbor. He also
16 clarified that a roof deck garden had been proposed for recreational purposes and
17 would be visible to nearby residents. The goal was to use the modular construction
18 to limit the amount of time under construction and also provide an aesthetically
19 pleasing environment for all.

20
21 Mr. Long cited Sheet L2.0 of the Landscape Plan which had shown potted plants on
22 the roof deck. He noted the roof deck would also include a half play structure. The
23 area was intended as a quiet space for residents.

24
25 Ms. Whitman reiterated that trees had been added at the property line to provide
26 additional softening against the parking with existing trees on-site to be replaced in-
27 kind, if not intensified.

28
29 Commissioner Menis referenced the Conditions of Approval contained in Exhibit A
30 to the resolution of approval and commented that some of the conditions appeared
31 to be misnumbered. He read into the record Condition 38, Parking Occupancy
32 Survey, and commented as part of that condition it may offset some of the parking
33 along the line. As to Condition 51, he commented the Geotechnical Report had not
34 provided a specific opinion on the method to be used to provide stabilization below
35 the foundation. Condition 73 included a technical error carried over from a prior
36 approval, and he recommended that Condition 73 (b) be eliminated.

37
38 Commissioner Menis also recommended that Condition 74, Crosswalk, be modified
39 to remove the language "as feasible." For Condition 80, he suggested the condition
40 should be modified to require fencing on the rooftop. As to Condition 81, Video
41 Surveillance, he questioned how broad the condition had been written and expressed
42 concern there could be privacy concerns. With respect to Condition 83, High-Rise
43 Building Guidelines, he pointed out the Pinole Fire Department had determined the
44 project was a high-rise building even if the State Building Code disagreed.
45 Commissioner Menis referenced the CEQA document as it related to the fact the
46 project would not result in the substantial relocation of existing utilities, and he

1 assumed undergrounding would only apply to new utilities. He recommended a new
2 condition of approval that the building be all electric and would not have a gas line
3 but he was uncertain whether the modular building could accommodate that
4 stipulation.

5
6 Commissioner Menis referenced Appendix H, VMT and Trip Generation and the
7 information on Page 5 of 5 that identified the net new vehicle trips, whereas the
8 CEQA document had shown that currently the daily trip value was 19,000 with the
9 Environmental Impact Report (EIR) having planned for 19,900 trips. Given this would
10 be a residential building with "x" number of units, if the City were to consider more
11 housing in the immediate area there could be conflicts with the limits set in the EIR.

12
13 Commissioner Menis spoke to Attachment D, Parking Management Plan and
14 TDM/Shared Parking Study, Page 7 of 9, Means of Transportation to Work, and he
15 commented that flagged the importance of focusing on Transit Oriented
16 Development (TOD) and altering patterns of transit use. He highlighted the tables
17 as shown in that section. He noted that concerns with parking were worth
18 considering given that the tables stated that household vehicle ownership was higher
19 than the Bay Area average as compared to biking or walking. He expressed concern
20 the potential TDM measures VMT may project at the lower end of the range.

21
22 Commissioner Menis further referred to Attachment C, Plan Set 3.25.22 – received
23 4.13.22, and provided a number of comments about each of those plans. He liked
24 the massing of the apartment building broken up by the balconies and the three-
25 dimensional space but would like to see more of a hacienda appearance and possibly
26 the tops of the windows could be rounded with a curved shaped. As to the parking
27 garage module stacking system, he asked how difficult it would be to repair the
28 system in the event of a failure.

29
30 Commissioner Menis suggested that plants and trees be considered in the balcony
31 below the rooftop. He understood the modular structure had no exterior fire exits and
32 wanted more information on the implementation of fire safety for the interior of the
33 building, particularly in the event of a fire or elevator failure.

34
35 Mr. Long explained that the applicants had just received the Conditions of Approval
36 on May 6 and had concerns with Condition 83, High-Rise Building Guidelines, which
37 classified the project beyond the minimum requirements of the California Building
38 Code. He asked that Condition 83 be removed or modified. He noted the intent was
39 not to provide landscaping in areas that could be accessible to the tenants, which
40 would be difficult to manage and enforce. As to the parking stackers, he described
41 that feature as common technology produced from reputable companies, reliable
42 systems with warranties from the manufacturers and which included monthly
43 maintenance.

44
45 Mr. Long added that round windows had been explored but were too expensive to
46 build. The project was difficult to cost and included some expensive amenities such

1 as the balconies and rooftop areas. He reiterated that the building exceeded all of
2 the requirements of the Building Code with two interior exits using fire rated
3 assemblies, spaced within the requirements of the Building Code and with the
4 building fully sprinklered. In addition, there would be an area of refuge as required
5 by the Building Code where people in wheelchairs or the disabled could use to exit
6 in the event the elevator was not working or the staircase was blocked. The building
7 would meet all of the requirements of the Building Code at the time of building permit
8 submission.

9
10 Commissioner Banuelos clarified with Mr. Long pursuant to Page 1 of the survey of
11 the property that a concrete swale was located on the adjoining property.

12
13 Commissioner Banuelos suggested this was not an easy project with an existing
14 building that was very dated and with a requirement for a specific number of units on
15 a lot that was very challenging. He commended the sensitivity of the design team's
16 efforts. He agreed this was the first kind of building in this area and again recognized
17 that a lot of sensitivity in design had been provided. He liked the articulation,
18 balconies, changes in form, but would not include more arch windows since too many
19 would appear cheesy and fake. He found the applicant had the right number of
20 windows and he recognized they had borrowed from the existing building which was
21 one of the things on the existing building that was nice.

22
23 Commissioner Banuelos referenced the south elevation, liked the materials
24 proposed, the retention of the basic form of the building but found the arch window
25 appeared to be floating and recommended the use of trim along the sill line about 6
26 to 8 inches across the wall to echo what was being done with the change of the
27 material on the bottom, and which would not cost too much. That design modification
28 would provide a connection between the old and the new building.

29
30 Commissioner Banuelos suggested that the arch window in the front in the center
31 with a tower element above appeared to be blank, and given the large façade that
32 was being modernized, he suggested the bottom portion of the wainscot could be
33 cement board as opposed to stucco. He found there was a bit of sophistication in all
34 of the different sized openings, and not just windows planted on but had a meaning
35 and place, with a hierarchy he found to be successful. He suggested the building
36 height was appropriate for the site given what needed to be done and given the
37 challenges of the site.

38
39 Commissioner Banuelos also found the parking was being maximized at the rear but
40 suggested the landscaping was too sparse. He wanted to see more greenery
41 between the building and the parking spaces and more of an edge between the
42 building and the pavement. He clarified with the architect that impervious paving
43 would be against the residential building.

1 Commissioner Banuelos also liked the rooftop balconies and the interior exiting was
2 basic and worked fine. As to the areas of refuge, he was informed those areas were
3 needed unless there was an elevator with a backup generator.
4

5 Commissioner Banuelos commented that based on what the applicant had started
6 with the design should be very successful. He was pleased with the massing,
7 articulation of the façade, recapturing the roof for places to use for residents, and
8 stated the project would provide a lot of nice things offering a nice and special place.
9 He had no issues with the conditions of approval. He also clarified the color scheme
10 and liked the contrast and lightness along with the use of the wood material. He was
11 informed by the architect that there would be other colors in the building in the interior,
12 with the exterior of the proposal as shown on the renderings.
13

14 Commissioner Benzuly liked the project and the incorporation of the existing building
15 as articulated by Commissioner Banuelos. He liked the modular construction which
16 was the wave of the future and suggested that Condition 83 could be worked out.
17 He was concerned with the height and mass of the building given the Pinole Valley
18 Specific Plan, specifically Section 6.0-27 Service Subarea, as to whether the scale
19 and massing of the existing versus the new would be compatible with the Pinole
20 character. He wanted to see additional viewpoints as to how the large and tall
21 building would present with the surrounding uses in the area, and as compared to
22 the existing hillside. He wanted to see more work on the renderings in that regard.
23

24 Commissioner Kurrent had issues with the building height but was cognizant that the
25 Planning Commission was limited as to what could be done. He understood if there
26 were any issues the property owner would address them and he wanted to see any
27 changes to the conditions of approval adequately addressed. He recognized they
28 were entering a new arena, housing was needed, and he understood it would cause
29 impacts and there would be impacts on traffic.
30

31 Commissioner Kurrent agreed an additional traffic lane to enter I-80 was needed and
32 while not connected to the project was something the City should consider. He
33 supported the project while acknowledging it would be a big change for Pinole,
34 although the City was limited on what could be done and could not deny the project.
35

36 Chairperson Moriarty highlighted the issues raised by the Design Review Ad Hoc
37 Subcommittee as outlined in the staff report. She clarified with Ms. Whitman that
38 diagonal parking had been sketched out for staff but would take up more space in
39 the front parking lot, would impact the ADA parking spaces and would not be as
40 efficient.
41

42 Rachel Brinkerhoff, landscape architect in coordination with Toby Long Design,
43 provided an overview of the plant list, which was consistent with what was on the
44 images provided and would consist of shrubs and perennials, with trees along the
45 front to be based off of the Specific Plan Tree List.

1 There had been no native trees on that list which was why no native trees had been
2 proposed along the front edge but other trees had been based on the arborist's
3 recommendations. The applicant was open to the installation of more native trees.
4

5 Chairperson Moriarty wanted the applicant to consider 40 percent of the trees to be
6 native and 50 percent of the shrubs to be native, particularly given the limited
7 landscaping on the site, and Ms. Whitman expressed the willingness to be open to
8 that recommendation.
9

10 Chairperson Moriarty also clarified that a condition of approval had been included to
11 address spillover light. She asked whether permeable paving could be considered
12 throughout the entire project, and was informed by Ms. Whitman that permeable
13 pavers would be included to accomplish the stormwater goals but it was expensive
14 and not as effective in the long term. The applicant would rather retain the current
15 system to work as the collection system as engineered.
16

17 Chairperson Moriarty also spoke to the width of the driveway entrance and clarified
18 with Ms. Whitman that the driveway was wider than 20-feet if accounting for the 7-
19 Eleven portion of the curb cut.
20

21 Commissioner Wong commented he had calculated the dimension at 32-feet.
22

23 Chairperson Moriarty referenced the parking calculations and clarified with Ms.
24 Whitman the location of the bicycle parking on the south side of the office building
25 and adjacent to the ADA access ramp as actually in the planting strip but on the
26 property. Bicycle parking was also located towards the east of the residential building
27 near the trash enclosure.
28

29 Chairperson Moriarty further clarified the access to the church parking spaces and
30 Mr. Baniqued explained that he had discussions with the Pastor about creating a
31 pedestrian entrance to allow parking at the wall of the church, with an opportunity for
32 parishioners to live in the building. The church did not want a driveway thoroughfare.
33

34 Chairperson Moriarty reported she had visited the site this date to see for herself how
35 the shading may impact the nearby senior housing but she found the senior housing
36 had a fence covering all of the windows of its property and residents would not have
37 views of the building at all. She liked the idea of the residential building being down
38 the hill as opposed to up the hill and found it would not be as massive, and while she
39 was sympathetic to the residents' concern with the appearance, the building was
40 stepped up and back from Pinole Valley Road.
41

42 Commissioner Wong was not opposed to the idea of the project, liked the building
43 design, and understood someone had to make the first move in terms of such
44 development. He liked the design, articulation and the colors for the residential
45 building and liked it better than the colors of the commercial building.
46

1 Commissioner Wong disliked pink as a color and suggested that Condition 35,
2 Exterior Materials and Colors, as shown, would address any concerns with the
3 building colors. He did not oppose the building height but urged caution while
4 recognizing that the building stepped down from the senior housing.
5

6 Commissioner Benzuly reiterated his desire to see additional viewpoints to see how
7 the massing worked with the rest of the area and recommended the item be
8 continued for two weeks so that information could be provided.
9

10 Assistant City Attorney Mog reiterated it was within the authority of the Planning
11 Commission to continue the item and request the additional depictions. As to the
12 residential portion of the project, it complied with the City's objective standards with
13 the inclusion of the density bonus, and the State Housing Accountability Act
14 prohibited the City from denying the project or approving it at a lower density.
15

16 The Planning Commission discussed either continuing the item with a request for
17 more visuals of the massing or approving the project subject to the conditions of
18 approval, with modifications.
19

20 Ms. Whitman explained that the applicant had worked through the project for some
21 time, reiterated a neighborhood meeting had been held with one attendee, the project
22 had gone through design review with no comments on height in relation to the hillside
23 and she found those concerns coming in late in that the applicant had addressed all
24 comments and the property owner was eager to proceed.
25

26 Mr. Long reiterated the time involved with the project as one of the reasons that
27 housing had become so expensive in the state. While visualizations could be
28 provided as good will, there was limited information on the adjoining lots or the hillside
29 behind the property which had never been surveyed. He reiterated the project was
30 in compliance with all laws presented by the City and the state and the applicant had
31 successfully navigated all of those laws. He suggested if a tall building were to be
32 proposed the best opportunity was at the back of an existing lot rather than directly
33 on the street. He looked forward to Planning Commission approval.
34

35 Commissioner Benzuly reiterated his desire for more information via renderings of
36 the mass, as discussed, and suggested it was worth another look to see how the
37 project interplayed with the rest of the area; Commissioner Wong agreed that the
38 applicant had put in a lot of effort but this was the first time the full Planning
39 Commission was seeing the project; Commissioner Kurrent opposed a continuance;
40 and Vice Chairperson Martinez agreed and recognized the project could not be
41 adjusted without significant cost to the developer but he was willing to follow Planning
42 Commission consensus.
43

44 Commissioner Benzuly offered a motion, seconded by Chairperson Moriarty to
45 continue Comprehensive Design Review DR20-10/PL20-0072 BCRC Project, to a
46 date certain of May 23, 2022, and requested additional renderings from both the

1 street and sides to show the building massing and height against adjacent structures,
2 to be presented for consideration at the May 23, 2022 Planning Commission meeting.
3

4 Mr. Baniqued asked the Planning Commission to take action on the project at this
5 time and reiterated the time and cost involved thus far. If the project was approved,
6 as part of the approval renderings could be provided in real time. He added he would
7 be out of town for the next two weeks and a continuance would impact his own
8 schedule.
9

10 **MOTION** to continue Comprehensive Design Review DR20-10/PL20-0072 BCRE
11 Project to a date certain of May 23, 2022, and to request additional renderings from
12 both the street and sides to show the building massing and height against adjacent
13 structures, to be presented for consideration at the May 23, 2022 Planning
14 Commission meeting.
15

16 **MOTION: Benzuly**

16 **SECONDED: Moriarty**

16 **FAILED: 3-4**

17 **AYES: Benzuly, Wong, Moriarty**

18 **NOES: Kurrent, Menis, Banuelos, Martinez**
19

20 The Planning Commission walked through each of the Conditions of Approval and
21 offered the following modifications and/or additions:
22

- 23 • Condition 22 modified to read: *The project is within the service area of the*
24 *Pinole/Hercules Water Pollution Control Plant. The proposed project shall have*
25 *a unique connection to the public sewer collection system. The connection to*
26 *the sewer system will require a permit from the City of Pinole, the payment of*
27 *sewer users' fees (see Condition 13), and payment of a sewer connection fee*
28 *(see Condition 12) prior to the issuance of building permit.*
29
- 30 • Condition 73, Construction Nuisance Prevention modified to eliminate section
31 (b) which was not relevant to the project.
32
- 33 • Add an additional condition to require the building to be all electric and not have
34 a gas line.
35

36 Mr. Long explained that the applicant was motivated by Reach Codes being
37 passed across the Bay Area and the de-carbonization effort. He fully supported
38 the City's move towards passing Reach Codes but at this time gas was still
39 permitted for building construction in the area and they would like to leave that
40 option open for affordability reasons. While all electric had been pursued for most
41 of their projects, supply chain issues associated with heat pump technology was
42 challenging and they wanted to take advantage of all the opportunities allowed by
43 the Building Code.
44

1 As to Condition 51, Geotechnical Report and Foundation Design, Mr. Long asked
2 that the applicant be allowed to comply with the condition by other means than as
3 stated since the applicant had not yet engaged in the geotechnical work at this
4 time. He clarified there were no plans to consider the use of driven piles as
5 described in the condition.
6

7 On the discussion, Condition 51 was revised to read: *The project shall implement*
8 *the recommendations of the Geotechnical Investigation prepared by Miller Pacific*
9 *Engineering Group, November 1, 2021.*
10

11 **MOTION** with a Roll Call vote to extend the Planning Commission meeting to 11:15
12 p.m.
13

14 **MOTION: Wong** **SECONDED: Banuelos** **APPROVED: 7-0**
15

16 Further discussing the language in Condition 51, Mr. Hanham suggested that
17 Condition 97, EVN-GEO-1 could be referenced in Condition 51 and vice versa.
18

19 Mr. Long reiterated that after speaking with his team it was unlikely they would
20 consider driven piles and the condition should be restructured.
21

22 Condition 51 was again re-stated to be revised to read: *The project shall*
23 *implement the recommendations of the Geotechnical Investigation prepared by*
24 *Miller Pacific Engineering Group, November 1, 2021.*
25

26 Condition 83, High-Rise Building Guidelines was also discussed and although the
27 applicant preferred that the condition be eliminated the Planning Commission
28 determined it would be retained.
29

30 **MOTION** to adopt Resolution 22-02, with Exhibit A: Conditions of Approval, A
31 Resolution of the Planning Commission of the City of Pinole Approving
32 Comprehensive Design Review (DR20-10) to Construct an Office Addition and 29-
33 Unit Apartment Building at 2801 Pinole Valley Road (APN 360-010-029), subject to:
34

- 35 • Condition 22 modified to read:

36 The project is within the service area of the Pinole/Hercules Water Pollution
37 Control Plant. The proposed project shall have a unique connection to the
38 public sewer collection system. The connection to the sewer system will require
39 a permit from the City of Pinole, the payment of sewer users' fees (see
40 Condition 13), and payment of a sewer connection fee (see Condition 12) prior
41 to the issuance of building permit;
42

- 43 • Condition 73, Construction Nuisance Prevention, eliminate section (b); and
44
45

- 1 • Condition 51 modified to read:

2
3 The project shall implement the recommendations of the Geotechnical
4 Investigation prepared by Miller Pacific Engineering Group, November 1, 2021.

5
6 **MOTION: Banuelos**

SECONDED: Kurrent

APPROVED: 6-1

NOES: Benzuly

7
8
9 **F. OLD BUSINESS:** None

10
11 **MOTION** with a Roll Call vote to extend the Planning Commission meeting to 11:30
12 p.m.

13
14 **MOTION: Banuelos**

SECONDED: Moriarty

APPROVED: 7-0

15
16 **G. NEW BUSINESS:**

- 17
18 1. Review of the Draft Five-Year Capital Improvement Plan for Consistency
19 with the General Plan

20
21 **Request:**

Review of the Draft 2022/23 – 2026/27 City Capital
Improvement Plan for Consistency with the City's
General

22
23
24
25 **Project Staff:**

Misha Kaur

26
27 Capital Improvement and Environmental Program Manager Misha Kaur provided
28 a PowerPoint presentation of the Draft 2022/23 – 2026/27 City Capital
29 Improvement Plan, and asked the Planning Commission to review the Plan and
30 adopt the resolution of approval contained in Attachment B to the May 9, 2022 staff
31 report.

32
33 Responding to the Commission, Ms. Kaur provided an update on the San Pablo
34 Avenue Bridge over the BNSF Railroad Project with the preliminary and
35 engineering design work underway and with the project having been presented to
36 the City Council as the Preferred Alternative to build the bridge in its current
37 configuration. A funding request would be submitted to the Highway Bridge
38 Program (HBP) which identified the request to seek additional funding to advance
39 the project through construction. It was hoped the preliminary engineering design
40 work would be completed by the next fiscal year and then proceed into
41 construction.

42
43
44 Assistant City Attorney Mog clarified in response to Commissioner Menis, who had
45 a potential conflict with the Hazel Street Gap Closure project, that as long as the

1 project was not specifically discussed, he would not have a conflict of interest and
2 could take action on the subject agenda item and would not have to recuse himself.

3
4 Commissioner Menis added that funded and unfunded projects were part of the
5 CIP but had not been included in Attachment A, General Plan – Capital
6 Improvement Plan Consistency Matrix.

7
8 Commissioner Banuelos was informed by staff the Faria House had been listed on
9 the Unfunded Project List.

10
11 Ms. Kaur also reported that prior to presentation to the Planning Commission, the
12 Draft Five-Year CIP had been presented to the Finance Subcommittee, which had
13 a list of the Unfunded Projects and which may recommend certain projects for
14 funding. The same list had been presented to the City Council and the projects
15 identified were those that had attached funding sources. When the document was
16 next presented to the City Council at its next meeting there may be movement of
17 some of the projects sooner rather than others. The projects had been identified
18 in the Five-Year period since the City Council may decide to change the scheduling
19 and fund a project from the Unfunded List.

20
21 Ms. Kaur also clarified the Pinole Valley Road Improvements Project that would
22 consist of only a slurry seal may not conform to the General Plan. Staff was aware
23 of that concern and was working with the arterial rehab project and looking at bike
24 lanes. Concerns with Pinole Valley Road would also be discussed as part of an
25 upcoming Traffic and Pedestrian Safety Committee (TAPS) meeting

26
27 Assistant City Attorney Mog explained if there was one item that the Planning
28 Commission was concerned did not conform to the General Plan, the Planning
29 Commission may decide to vote no on this agenda item or vote to move the item,
30 with the exception of the project of concern, which could be communicated to the
31 City Council.

32
33 **PUBLIC COMMENTS OPENED**

34
35 There were no comments from the public.

36
37 **PUBLIC COMMENTS CLOSED**

38
39 **MOTION** with a Roll Call vote to adopt Resolution 22-03, A Resolution of the Planning
40 Commission of the City of Pinole Recommending the City Council of the City of Pinole
41 Find that the Preliminary Proposed Capital Improvement Plan for Fiscal Years 2022-
42 2023 Through 2026-2027 is in Conformance with the City of Pinole General Plan.

43
44 **MOTION: Menis**

SECONDED: Benzuly

APPROVED: 7-0

45
46 **H. CITY PLANNER'S / COMMISSIONERS' REPORT**

1 Mr. Hanham reported a Virtual Interactive Community Workshop would be held on
2 Wednesday, May 11, 2022 at 7:00 p.m. regarding land use planning in Pinole with a
3 focus on efforts to update the City's Housing Element, Health and Safety and
4 Environmental Justice Elements with additional information on the City's website at
5 www.landuseplanningforpinole.com. Planning Commissioners and City Council
6 members were invited to participate.
7

8 Chairperson Moriarty inquired of the status of a sinkhole on the DeNova property,
9 and Mr. Hanham explained the developer had not submitted a grading plan and staff
10 would review that plan when received.
11

12 Chairperson Moriarty inquired of the status of the Historic Overlay District, to which
13 Assistant City Attorney Mog reported there had been some delays due to the
14 passage of Senate Bill (SB) 9, California Home Act, and now it was just a matter of
15 scheduling with the City Council, which had been focused on other projects at this
16 time.
17

18 Commissioner Kurrent reported he had participated in the AB 1234, Ethics Training
19 for Local Officials class and was uncertain what to do with his certificate.
20

21 Mr. Hanham advised that a copy should be mailed to staff to be filed. He added that
22 the next meeting of the Planning Commission had been scheduled for May 23 and
23 at this time would be held in the hybrid format.
24

25 **I. COMMUNICATIONS:** None
26

27 **J. NEXT MEETING**
28

29 The next meeting of the Planning Commission to be a Regular Meeting scheduled
30 for May 23, 2022 at 7:00 p.m.
31

32 **K. ADJOURNMENT:** 11:24 p.m.
33

34 Transcribed by:
35

36 Sherri D. Lewis
37 Transcriber
38



Memorandum

TO: PLANNING COMMISSION MEMBERS

FROM: David Hanham, Planning Manager

SUBJECT: CUP22-01 Use Permit Modification, Amendment to CUP 17-03 for East Bay Coffee Co. at 2529 San Pablo Avenue

DATE: June 27, 2022

Applicant: East Bay Coffee Company c/ Lisa Ancira 2529 San Pablo Avenue Pinole, CA 94564	Property Owner: East Bay Coffee Company c/ Lisa Ancira 2529 San Pablo Avenue Pinole, CA 94564
File:	CUP22-01 Use Permit Modification, Amendment to CUP 17-03
Location:	2529 San Pablo Ave
APN:	401-184-015
General Plan: Specific Plan: Zoning:	Old Town Sub-Area (OTSA) Old Town Sub-Area (OTSA – San Pablo Ave Corridor) Commercial Mixed Use (CMU)

BACKGROUND

East Bay Coffee Company (EBCC) is proposing an amendment to its Conditional Use Permit (CUP) for the purpose of upgrading their liquor license. Currently, the EBCC has a Type 41 liquor license, which allows for the sale of beer and wine. EBCC is seeking to upgrade to a Type 47 liquor license, which allows the sale of beer, wine, and distilled liquor.

- In 2012: EBCC was established at 2529 San Pablo Avenue as a principally permitted café.
- On April 22, 2013: CUP 13-02 granted by the Planning Commission for amplified music and live entertainment.
- On September 5, 2017: The City Council approved the Public Convenience and Necessity (PCN) Determination to support a request for on premise sale of beer and wine.
- On October 23, 2017: CUP 17-03 (Resolution 17-11) was granted by the Planning Commission for on premise sale of beer and wine.

- On July 27, 2020: CUP 20-03 (Resolution 20-13) and CUP 20-04 (Resolution 20-14), were granted by the Planning Commission for amendments to CUP 17-03 to allow for outdoor dining and on-site alcohol sales in the outdoor dining patio.

On April 2, 2022, EBCC applied for an amendment to their CUP 17-03 to allow for the on-premises sale of distilled liquor in addition to their existing offerings of beer and wine. Prior to the Planning Commission considering this request a PNC Determination by the City Council is required. At its regular meeting of June 7, 2022, the City Council adopted Resolution 2022-40 (see **Attachment B**) approving a PCN Determination with the required findings to allow EBCC to change their liquor license from a Type 41 license to a Type 47 license.

SITE LOCATION

The project site is a 12,500-sf parcel located along the south side of San Pablo Avenue between Pinole Valley Road and John Street (See **Figure 1**). Adjacent land uses are summarized in **Table 1** below.

Figure 1: Site Location

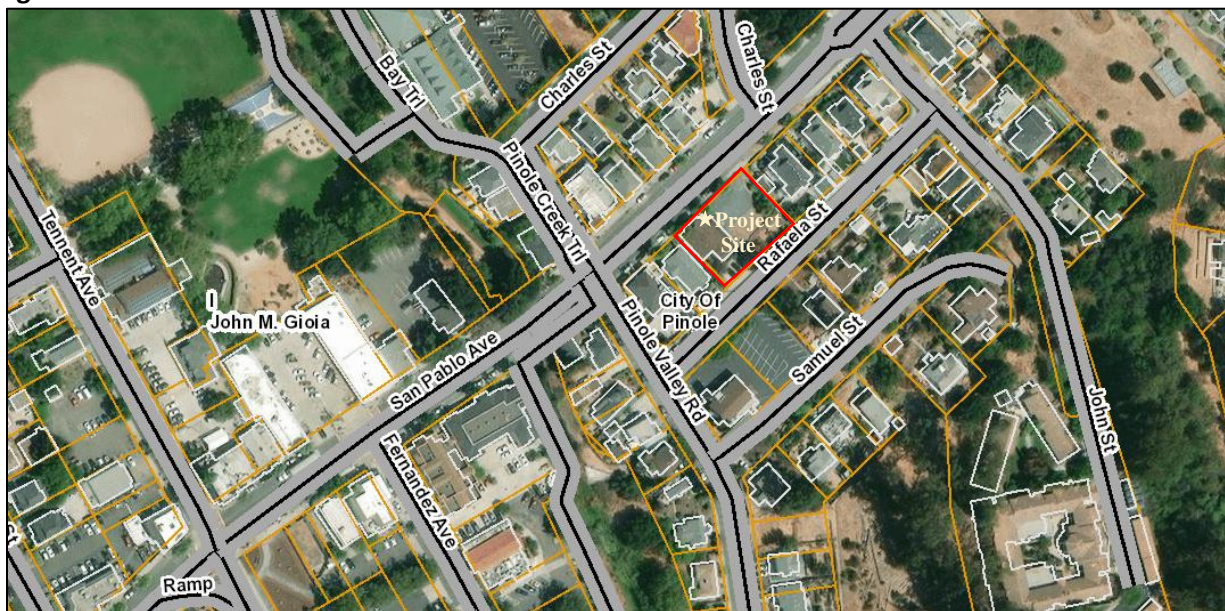


Table 1: Adjacent Land Uses

Direction from Project Site	Existing Land Use
North (San Pablo Avenue)	Office commercial uses, residential and auto repair shop
West	Commercial office uses
South (Rafaela Street)	Private parking for Church of Christ, and single-family residence
East	Single family residence

ANALYSIS

Alcohol Sales Conditional Use Permit

EBCC has applied for a modification of their liquor license from a Type 41 to a Type 47 through the State Department of Alcoholic Beverage Control (ABC). ABC enforces the licensing of alcoholic retailers regulated by State Law under Section 23958 of the Business and Professions Code. The Type 41 license allows for the onsite sales of beer and wine within an eating establishment, whereas the Type 47 license allows for additional on-site sales of distilled spirits. The approval of the requested action to obtain a Type 47 license for full-service alcohol will require EBCC to both obtain a PCN Determination from the City Council and, pursuant to Section 17.59 of the Pinole Municipal Code (PMC), Planning Commission approval of an amendment to the current CUP.

When a business establishment applies for a new or different on-site sales license, ABC determines if there is an “undue concentration” of licenses in a particular census tract. The State relies on a ratio of on-sale retail licenses to population in the census tract to determine if an area is over concentrated. In this case, ABC considers an “undue concentration,” or overconcentration, to be present if there are more than five on-site sale Type 41 and or Type 47 licenses within the census tract 3591.03.

Census tract 3591.03 includes the portion of Pinole north of Interstate 80 and east of Appian Way. **Table 2** below includes a complete list of existing businesses with on-site alcohol sales licenses within Census Tract 3591.03, as of May 2022. Currently, including EBCC, there are ten on-site alcohol sales licenses in Census Tract 3591.03, with five Type 47 licenses.

Table 2: On Site Retail Alcohol Sales Establishments in Census Tract 3591.03

Business Establishment	Location	License Type
AMF Pinole Valley Lanes	1580 Pinole Valley Lanes	On-site, full alcohol
Pinole Creek Cafe	2454 San Pablo Avenue	On-site, full alcohol
Pear Street Bistro	2395 San Pablo Avenue	On-site, full alcohol
Tina’s Place	2300 San Pablo Avenue	On-site, full alcohol
Antlers Tavern	2284 San Pablo Avenue	On-site, full alcohol
King Valley	795 Fernandez Avenue	On-site, beer and wine
Nu Gu Na	2400 San Pablo Avenue	On-site, beer and wine
China House Restaurant	1971 San Pablo Avenue	On-site, beer and wine
Bear Claw Restaurant/Café	2340 San Pablo Avenue	On-Site beer and wine
East Bay Coffee Company	2539 San Pablo Avenue	On-Site beer and wine

Source: State Department of Alcoholic Beverage Control, May 23, 2022.

Once an “undue concentration” is identified by ABC, the local governing body may choose to allow additional alcohol sales establishments in an area where there is an overconcentration by determining a PCN. Section 17.59.030 (B) of the Municipal Code designates the City Council as the approving authority for a PCN request and requires a PCN Determination as a prerequisite for Planning Commission consideration of a CUP for alcohol sales.

The City Council approved a PCN Determination at its regular meeting June 7, 2022. This Determination allows EBCC to continue to pursue their request for a modification of their license from a Type 41 to a Type 47 for the sale of beer, wine, and distilled spirits in Census Tract 3591.03.

East Bay Coffee Company representatives have stated that beer, wine, and distilled spirit sales will enable them to offer a more complete dining experience including soups, salads, sandwiches, and dinner meals as well as provide greater convenience for customers seeking alcoholic beverages with their meal, similar to offerings available at several nearby restaurants. Proposed beer, wine, and distilled consumption would be allowed both inside the restaurant as well as the outdoor dining area of the restaurant.

The applicant submitted documentation of company procedures for alcohol sales for staff review. Cashiers and servers at EBCC are required to complete ABC Form 299 which addresses sales to underage persons, purchase of alcoholic beverage by underage persons, attempts to purchase alcoholic beverages by underage persons, verification of minimum age by checking identification, sales to intoxicated patrons, and other sales related matters. Birth date entry at cash registers is required for all alcohol sales at EBCC. The business hours are 6:00 am-9:00 pm Monday-Saturday and 7:00 am-9:00 pm on Sundays and there are no changes.

Findings

In addition to the project Conditions, there are other findings that must be met to support a CUP for alcohol sales. The required findings pursuant to PMC Section 17.59.030 are listed below in italics, followed by staff determination.

- 1) *A list of all establishments within one thousand (1,000) foot radius with similar size and array of products. If there is any other establishment, other than a food service establishment with incidental service of beer and/or wine within a one thousand (1,000) foot radius of the site of the proposed use that is in the same category of alcoholic beverage sales or service, the City of Pinole shall not approve the application unless it makes all of the following findings of "Public Convenience or Necessity,"*

All of the establishments within 1,000 feet are serve food as well as alcohol. A determination of Public Convenience or Necessity (PCN) was approved by Pinole City Council on June 7, 2022.

- 2) *The number of businesses having authority to sell alcoholic beverages in the census tract of applicant,*

ABC indicated that there is an over concentration of off-sale alcohol licenses in Census Tract 3591.03. However, the Pinole City Council approved a determination of Public Convenience and Necessity which satisfies requirements through Alcohol Beverage Control to have an overconcentration in the Census Tract.

- 3) *The extent to which the crime reporting district in which applicant is located exceeds the average for crime reporting districts subject to the jurisdiction of the Pinole Police Department,*

A formal review by the Police Department has determined that crime reporting for the district does not exceed the average for crime reporting districts. The Police Department did not raise any objections or concerns related to the alcohol sales request for EBCC.

- 4) *The proximity of the applicant to school, park, playground, recreational center, day care, or similar use.*

Based on measurements tools that are used on Google Earth, the nearest playground is approximately 765 feet away from the EBCC premises (at Fernandez Park). The nearest school (St. Joseph's Private School) is approximately 1,700 feet from the EBCC premises. The nearest recreational center (the Playhouse and Youth Center) is approximately 1,200 feet from the EBCC premises. The nearest park (Fernandez Park) is approximately 640 feet from the EBCC premises. The nearest daycare is approximately 1,290 feet (La Casita Bilingue Montessori).

- 5) *The extent to which products other than alcoholic beverages are sold by applicant and the extent to which alcoholic beverages are incidental to the other products.*

EBCC serves breakfast, lunch, and dinner menu items throughout the day. Food sales would be complemented by, not incidental to, the alcohol service.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) provides several "categorical exemptions" which are applicable to categories of projects and activities that the Lead Agency has determined generally do not pose a risk of significant impacts on the environment. This project is categorically exempt per Section 15301 Existing Facilities of the CEQA Guidelines in that it consists of no physical expansion of existing business within an existing mixed-use commercial building

STAFF RECOMMENDATION

Staff recommends that the Planning Commission take the following action after holding a public hearing:

Adopt Resolution 22-04 approving an Amendment to Conditional Use Permit 17-03 to allow EBCC to upgrade its liquor license from a Type 41 to a Type 47 for the purpose of selling beer, wine, and distilled spirits in the café as well as in an approved outdoor dining area.

ATTACHMENTS

- A. Draft Resolution 22-04 – with Exhibit A, Conditions of Approval
- B. City Council Resolution No. 22-40 PCN Determination for EBCC (not signed at this time)

**PLANNING COMMISSION RESOLUTION 22-04
WITH EXHIBIT A: CONDITIONS OF APPROVAL**

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW ON-SITE ALCOHOL SALES FOR THE EAST BAY COFFEE COMPANY OUTDOOR PATIO LOCATED AT 2529 SAN PABLO AVENUE, PINOLE, CA 94564, APN: 401-184-015

WHEREAS, the owners of East Bay Coffee Company filed an application for a use permit (CUP 22-01) with the City of Pinole to allow indoor and outdoor alcohol sales including beer, wine, and distilled spirits at 2529 San Pablo Avenue (the "Property"); and

WHEREAS, the Planning Commission of the City of Pinole is the appropriate authority to hear and act on this project; and

WHEREAS, the State Department of Alcoholic Beverage Control (ABC) did confirm to the City of Pinole that there will be an undue concentration resulting from this use permit request to add a new Type 47 alcohol sales license within Census Tract 3591.03 requiring Public Convenience or Necessity Findings for this request; and

WHEREAS, the City Council approved the required Public Convenience or Necessity Findings for this request on June 7, 2022; and

WHEREAS, the Property is located within the Old Town Sub-Area in the Pinole General Plan; and

WHEREAS, the Property is in a Commercial Mixed Use (CMU) Zoning District; and

WHEREAS, the Pinole Municipal Code permits alcohol sales subject to securing a Use Permit in commercial and mixed-use zones including the CMU zone; and

WHEREAS, the current use permit for the Property allows the sale of beer and wine, but not liquor; and

WHEREAS, the business is in compliance with all conditions of approval for the existing Use Permit for the Property, and the existing sale of beer and wine has not caused any problems; and

WHEREAS, The Police Department has confirmed that the addition of beer, wine, and distilled spirits sales as conditioned is not expected to increase calls for service or crime activity at this location; and

WHEREAS, the project meets the criteria for a Categorical Exemption as an Existing Facility pursuant to Section 15301 of the California Environmental Quality Act (CEQA);

WHEREAS, the Planning Commission of the City of Pinole has conducted a duly noticed public hearing to consider CUP 22-01 on June 27, 2022; and

WHEREAS, after the close of public hearing, the Planning Commission considered all public comments received both before and during the public hearing, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed development.

NOW, THEREFORE, the Planning Commission hereby finds that:

1. The use permit request is consistent with General Plan in that it expands the range of commercial services available in Pinole and provides added convenience for customers who patronize the East Bay Coffee Company at 2529 San Pablo Avenue and strengthens the commercial competitiveness of an existing business within the City;
2. The use permit request, as conditioned, is consistent with the Zoning Code and will help ensure the protection and preservation of public health, safety, and welfare.
3. The requested use permit request will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of the Property or to the general welfare of the City.
4. The Property is physically suitable for the proposed use, and the proposed use is compatible with other land uses, transportation, and service facilities in the vicinity.
5. The use permit request is Categorical Exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines because it involves minor physical improvements to an existing commercial mixed-use building without expanding the building.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pinole hereby approves CUP 22-01, as provided in the staff report, and subject to the Conditions of Approval attached as Exhibit A to this Resolution. These Conditions of Approval shall supersede and replace any other previously approved Conditions of Approval for 2529 San Pablo Avenue.

PASSED AND ADOPTED by the Planning Commission of the City of Pinole on this 27th day of June 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Ann Moriarty, Chair (2022-2023)

ATTEST:

David Hanham, Planning Manager

3575228.1

PLANNING COMMISSION RESOLUTION 17-11 EXHIBIT A, AMENDED BY RESOLUTION 20-13, AND RESOLUTION 22-04, CONDITIONS OF APPROVAL: EAST BAY COFFEE COMPANY ALCOHOL SALES CONDITIONAL USE PERMIT

		<u>Timing/ Implementation</u>	<u>Monitoring Department / Division</u>	<u>Verification</u>
1.	If any of conditions are found to be disregarded, the use permit for alcohol sales will be subject to revocation. If necessary, the Planning Commission may modify the use permit or may revoke the use permit after holding a noticed public hearing and making applicable findings.	Ongoing	Police/ Community Development	
2.	The proposed use shall be operated in a manner consistent with the business operation description date stamped received May 4, 2017 and September 15, 2017 unless modified by the conditions of approval below and in a manner which is consistent with all applicable federal, State and local regulations.	Ongoing	Police/ Community Development	
3.	The business owner shall hold harmless the City, its Council Members, its Planning Commission, officers, agents, employees, and representatives from liability for any award, damages, costs and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.	Ongoing	Community Development	
4.	There shall be no sale of alcohol for off-site or outdoor consumption. All alcoholic drinks shall be made inside restaurant. No patrons can take alcohol from indoor eating to outdoor eating area.	Ongoing	Police / Community Development	
5.	Signage concerning the California Law Prohibiting Minors to Drink Alcohol and signage prohibiting loitering or public drinking must be posted at the establishment in clear public view to the satisfaction of the Police Department and Development Service Department.	Ongoing	Police / Community Development	

PLANNING COMMISSION RESOLUTION 17-11 EXHIBIT A, AMENDED BY RESOLUTION 20-13, AND RESOLUTION 22-04, CONDITIONS OF APPROVAL: EAST BAY COFFEE COMPANY ALCOHOL SALES CONDITIONAL USE PERMIT

		<u>Timing/ Implementation</u>	<u>Monitoring Department / Division</u>	<u>Verification</u>
6.	A copy of the conditions of approval shall be kept on premises and made available upon request.	Ongoing	Police/ Community Development	
7.	All servers or employees selling alcohol to customers shall receive “responsible alcoholic beverage service training” prior to serving alcohol to any customers. Any employee serving alcohol shall be at least twenty-one (21) years of age.	Ongoing	Police	
8.	Any outdoor expansion of the café in the future, including changes in the alcohol sales or alcohol consumption area, shall require further Planning Commission review and approval of an amendment to this conditional use permit at a public hearing.	Ongoing	Community Development	
9.	Proposed modification of the hours or other aspects of the business shall be submitted for review and approval by the City Planning Manager. The Planning Manager will determine if changes are substantial and require further review by the Planning Commission.	Ongoing	Community Development Department	
10.	The applicant and property owner shall ensure that the property is regularly maintained. The surrounding area shall be maintained in a clean and orderly manner at all times. Existing landscaping material shall be regularly pruned around the site so it thrives and cannot be used as a hiding place. All exterior on-site lighting shall be maintained in good working condition at all times. The cafe site shall be kept clear of graffiti vandalism on a regular and continuous basis. Any graffiti that appears in the future shall be removed or painted over within 72 hours.	Ongoing	Police / Community Development	

PLANNING COMMISSION RESOLUTION 17-11 EXHIBIT A, AMENDED BY RESOLUTION 20-13, AND RESOLUTION 22-04, CONDITIONS OF APPROVAL: EAST BAY COFFEE COMPANY ALCOHOL SALES CONDITIONAL USE PERMIT

		<u>Timing/ Implementation</u>	<u>Monitoring Department / Division</u>	<u>Verification</u>
11.	Applicant/tenant shall comply with all applicable State Alcoholic Beverage Control (ABC) laws, rules and license requirements. A copy of the license shall be submitted to the Community Development and Police Departments prior to commencement of alcohol sales.	Prior to Commencement of Alcohol Sales	Police / Community Development	
12.	The operator shall provide a phone number and email address for customers or neighbors to bring forward concerns or complaints that directly relate to the operation of the establishment.	Prior to Commencement of Alcohol Sales And Ongoing	Police / Community Development	
13.	<p>The use permit operator shall ensure that all employees of East Bay Coffee Company shall park their personal auto vehicles offsite in underutilized public parking lots listed below. The designated employee parking lots are as follows and are cross-referenced in the Location of Public Parking Lots Map hereby incorporated by reference as Exhibit B to Planning Commission Resolution 17-09:</p> <ul style="list-style-type: none"> - Lot 1: Main City Hall public parking lot south of Plum Street and west of Tennant Avenue; - Lot 7: Public parking lot at the southeast corner of Pear Street and Fernandez Avenue (south of the King Valley Restaurant); and - Lot 9: Public parking lot on the east end of Charles Street. 	Ongoing	Community Development	
14.	The use permit operator shall work with the property owner to ensure that the vacant portion of Assessor Parcel Number 401-184-015 is not used, in any way, by the business until such time as improvements consistent with City requirements are submitted, reviewed, approved, and constructed. Failure to comply with this condition of approval shall be grounds for reconsideration of property use permits and may include modification or revocation of property use permits.	Prior to Commencement of Alcohol Sales And Ongoing	Police / Community Development	

PLANNING COMMISSION RESOLUTION 17-11 EXHIBIT A, AMENDED BY RESOLUTION 20-13, AND RESOLUTION 22-04, CONDITIONS OF APPROVAL: EAST BAY COFFEE COMPANY ALCOHOL SALES CONDITIONAL USE PERMIT

		<u>Timing/ Implementation</u>	<u>Monitoring Department / Division</u>	<u>Verification</u>
15.	The use permit operator shall notify customers of nearby available public parking lots and encourage parking lot use during operating hours.	Ongoing	Police / Community Development	
16.	The operating hours shall be 6:00 AM - 9:00 PM Monday-Friday and 7:00 AM – 9:00 PM Saturday and Sunday. <i>All alcohol sales shall end 30 minutes prior to closing.</i> Patrons must leave the premises 30 minutes after the end of operating hours.	Ongoing	Police / Community Development	
17.	The use permit operator shall make transit and rideshare information available on premises for customers and employees.	Ongoing	Community Development	
18.	If the operation of the use results in documented valid conflicts pertaining to parking, lighting, noise, nuisance, traffic or other impacts, at the direction of staff, the use permit may be referred to the Planning Commission for subsequent review at a public hearing and possible revocation in accordance with Title 17 of the Pinole Municipal Code.	Ongoing	Police / Community Development	
19.	The use permit operator shall arrange for an employee/management security training event with the Police Department prior to commencement of the alcohol sales operations.	Prior to Commencement of Alcohol Sales	Police	
20.	The use permit operator shall complete an updated Police Department Business Emergency Information Form.	Prior to Commencement of Alcohol Sales	Police	
21.	The use permit operator shall comply with all applicable Pinole Municipal Code requirements including any Security Ordinance requirements.	Ongoing	Community Development/ Police	

PLANNING COMMISSION RESOLUTION 17-11 EXHIBIT A, AMENDED BY RESOLUTION 20-13, AND RESOLUTION 22-04, CONDITIONS OF APPROVAL: EAST BAY COFFEE COMPANY ALCOHOL SALES CONDITIONAL USE PERMIT

		<u>Timing/ Implementation</u>	<u>Monitoring Department / Division</u>	<u>Verification</u>
22.	The restaurant operator shall work cooperatively with the Pinole Police Department on an ongoing basis to establish an effective theft prevention and security program.	Ongoing	Police	
23.	No wine shall be sold with alcohol content greater than seventeen percent (17%) by volume except ports, sherries, madeiras or dessert wines which are vintage dated and/or aged for two years or more.	Ongoing	Community Development/ Police	
24.	No signs advertising the sale of alcoholic beverages shall be displayed outside of the cafe or inside the cafe windows.	Ongoing	Community Development/ Police	
25.	A maximum of 8 kegs of beer and four 5-gallon wine kegs will be kept on site to meet customer alcohol services requests at any given time.	Ongoing	Community Development/ Police	
26.	No alcoholic beverage deliveries shall be made to the site between the hours of 9:00 PM and 7:00 AM	Ongoing	Community Development/ Police	
27.	Licensee or its employees shall regularly police the area under the licensee's control in an effort to prevent the loitering of persons about the premises.	Ongoing	Community Development/ Police	
28.	Kitchen food service shall be provided during all business operating hours.	Ongoing	Community Development/ Police	
29.	All lighting in the outdoor area shall not be invasive on neighbors and will be approved by the Planning Director . Community Development Director or his/her designee	Ongoing	Community Development	

RESOLUTION NO. 2022-40

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, APPROVING A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY FOR TYPE 47 ALCOHOL SALES INCLUDING BEER, WINE, AND DISTILLED SPRITS AT THE EXISTING EAST BAY COFFEE COMPANY CAFE LOCATED AT 2529 SAN PABLO AVENUE, PINOLE, CA 94564, APN: 401-184-015

WHEREAS, the owner of East Bay Coffee Company intend to file an application for a Type 47 on-site alcohol license with the State Department of Alcohol Beverage Control (ABC) and have filed an application for the amendment of an existing Conditional Use Permit with the City of Pinole to allow alcohol sales for their restaurant and patio including beer, wine and spirits; and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (CEQA) the project is Categorically Exempt and meets the eligibility requirements of Section 15301 of the CEQA Guidelines related to existing facilities in that the proposed use involves the operation of an existing cafe within an existing private structure and therefore no further environmental review is required; and

WHEREAS, the ABC notified the City of Pinole that an undue concentration of on-site alcohol sales licenses exist within Census Tract 3591.03; and

WHEREAS, a determination of Public Convenience or Necessity is required to allow additional on-site licenses in an over concentrated Census Tract; and

WHEREAS, the Police Department has confirmed that the sale of beer, wine, and spirits is not expected to increase calls for service or crime activity at this location; and

WHEREAS, the City has considered the request for Public Convenience or Necessity, the staff report and the required associated findings pursuant to Section 17.59.030 (C) of the Pinole Municipal Code to justify a determination of Public Convenience or Necessity.

NOW THEREFORE, BE IT RESOLVED that the Pinole City Council does hereby take the following actions:

A. Makes the following findings:

1. The proposed East Bay Coffee Company Type 41 alcohol sales will promote the City's economic health consistent with the General Plan and any applicable Specific Plan policies to further Commercial Mixed-Use Zoning District purposes.
2. The economic benefits associated with the East Bay Coffee Company Type 41 alcohol sales could not reasonably be achieved without the proposed alcohol sales.

3. The applicant has not operated a licensed establishment, which has been the subject of verified complaints or violations regarding alcohol, public safety or nuisance statues or regulations.
 4. The Police Department has reported that the proposed beer and wine sales at the existing establishment would not be expected to add to crime in the area; and
 5. Alcoholic beverages sold by the applicant are incidental to the other products available for sale at the establishment located at 2529 San Pablo Avenue.
- B. Affirms a determination of Public Convenience or Necessity to support a Type 47 alcohol sales license request for on-site beer, wine and spirits sales at the East Bay Coffee Company cafe located at 2529 San Pablo Avenue and as a prerequisite to obtaining a Conditional Use Permit as required by Chapter 17.59 of the Pinole Municipal Code.

PASSED AND ADOPTED at a regular meeting of the Pinole City Council held on the 7th day of June, 2022 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

I hereby certify that the foregoing resolution was introduced, passed and adopted on adopted on this 7th day of June 2022

Heather Bell
City Clerk