

1
2
3 **MINUTES OF THE REGULAR MEETING**
4 **PINOLE PLANNING COMMISSION**

5
6 **June 27, 2022**
7

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

11
12 **A. CALL TO ORDER:** 7:01 p.m.
13

14 **B1. PLEDGE OF ALLEGIANCE**
15

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

24 **B3. ROLL CALL**
25

26 Commissioners Present: Banuleos, Benzuly, Menis, Acting Chairperson Kurrent
27

28 Commissioners Absent: Chairperson Moriarty, Vice Chairperson Martinez and
29 Commissioner Wong
30

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

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

37 Tony Vossbrink, Pinole, asked the Planning Commission for assistance and
38 direction related to a prior request for an update on repairs of two large creek banks
39 along Pinole Creek behind the Gateway Shopping Center, which area was full of
40 weeds. The City was to have kept residents updated on County repairs prior to
41 the next major rain storm but no progress had been made. A breach on the trail
42 behind the Adobe Road dog park, which property was shared between the City of
43 Pinole and the East Bay Regional Park District (EBRPD) was to have been
44 addressed but involved numerous agencies and only signs had been posted to
45 indicate the trail was closed.

1 In addition, Mr. Vossbrink stated that residents had been unable to get information
2 about the permanent closure of the Pinole Animal Shelter on San Pablo Avenue.
3 Contra Costa County Animal Services had provided no firm information during a
4 recent presentation to the City Council; there were potential new tenants for the
5 facility; the City Council had approved an agreement for animal services with the
6 County without holding the County accountable or obtaining information on the
7 status of the building; and an update had been requested for the Safeway/Tara
8 Hills buildout and former Doctors Hospital site that involved numerous extensions
9 with no firm build out, start up, and completion dates provided to the public. In the
10 case of the development of the former Doctors Hospital property, a formal traffic
11 study had been requested.
12

13 Planning Manager David Hanham reported staff was working with the applicant for
14 the Safeway property, which involved an extension request to be approved by the
15 City Council at a future meeting. Also, staff attempted to contact the County Flood
16 Control District relative to the creek and trail issues to learn of their improvement
17 schedule and that effort was ongoing. As to the Adobe Road breach and trailhead
18 repairs, staff would need to review agency responsibility and would work with the
19 Fire Chief on that issue.
20

21 **D. MEETING MINUTES:**

- 22
23 1. Planning Commission Meeting Minutes from May 9, 2022
24

25 **MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes
26 from May 9, 2022, as shown.
27

28 **MOTION: Banuelos SECONDED: Menis APPROVED: 4-0-3**
29 **ABSENT: Martinez, Moriarty, Wong**
30

31 **E. PUBLIC HEARINGS:**

- 32
33 1. **Conditional Use Permit CUP22-01, East Bay Coffee Alcohol Sales Use**
34 **Permit Modification**
35

36 **Request:** Consideration of a Use Permit request for modification of an
37 existing Use Permit, currently allowing beer and wine sales,
38 to expand alcoholic beverage options under a Type 47 liquor
39 license.
40

41 **Applicant:** Lisa Ancira, 2529 San Pablo Avenue, Pinole, CA 94564
42

43 **Location:** 2529 San Pablo Avenue (APN 401-184-015)
44

45 **Planner:** David Hanham
46

1 Planning Manager David Hanham provided the staff report dated June 27, 2022, and
2 clarified he had made modifications to the Conditions of Approval contained in Exhibit
3 A to the staff report, as follows:
4

5 Condition 4, now reads: *All alcoholic drinks shall be made inside restaurant. No*
6 *patrons can take alcohol from indoor eating to outdoor eating area.*
7

8 Condition 16 now reads: *The operating hours shall be 6:00 AM - 9:00 PM Monday-*
9 *Friday and 7:00 AM - 9:00 PM Saturday and Sunday. All alcohol sales shall end*
10 *30 minutes prior to closing. Patrons must leave the premises 30 minutes after the*
11 *end of operating hours.*
12

13 And Condition 29, now reads: *All lighting in the outdoor area shall not be invasive*
14 *on neighbors and will be approved by the Community Development Director or*
15 *his/her designee.*
16

17 Mr. Hanham recommended the Planning Commission adopt a resolution approving
18 an amendment to Conditional Use Permit 17-03 to allow East Bay Coffee Company
19 (EBCC) to upgrade its liquor license from Type 41 to Type 47 for the purpose of
20 selling beer, wine and distilled spirits in the café as well as in an approved outdoor
21 dining area, subject to the Conditions of Approval contained in Exhibit A, as modified.
22

23 Responding to the Commission, Mr. Hanham explained that the intent of modifying
24 Condition 4 had been to ensure that if a patron was in the outdoor eating area and
25 ordered a cocktail, the patron could not walk into the restaurant and order a meal
26 and vice-versa since there was no direct access. Patrons must come out of the
27 building and out onto San Pablo Avenue to reach the outdoor dining area. He
28 wanted to prevent alcohol crossing back and forth other than by business staff.
29 The condition was intended to address safety and ensure alcohol was not being
30 passed outside on San Pablo Avenue but he acknowledged the condition may
31 have to be modified further, if necessary.
32

33 Mr. Hanham also clarified that any time a business applied for an alcohol license
34 or was required to update its alcohol license it was required to obtain a Conditional
35 Use Permit (CUP). Since EBCC had a CUP, the permit just had to be modified for
36 the license upgrade; however, the State Department of Alcoholic Beverage Control
37 (ABC) had determined there was an oversaturation of alcohol licenses within the
38 census tract and ABC had informed the City of Pinole that certain findings must be
39 made to allow EBCC to sell beer and wine. EBCC must also obtain a Public
40 Convenience and Necessity (PCN) determination from the City Council.
41

42 As shown in the June 27, 2022 staff report, at its June 7, 2022 meeting, the City
43 Council had adopted a resolution approving a PCN Determination with the required
44 findings to allow EBCC to change its liquor license from Type 41 to Type 47.
45
46

1 Mr. Hanham added that based on discussions with the applicant, there were
2 entrances at the front and back of the building, with one of the entrances to the
3 outdoor patio from the rear of the building. The staff in the lower cantina area
4 would monitor whether or not patrons went in or out with alcohol. He reiterated the
5 intent of modifying Condition 4 was from a safety standpoint to ensure beer and
6 wine would remain in the outdoor area. Until there was access from the building
7 to the outdoor area, alcohol would not be permitted out on San Pablo Avenue.
8 Given that indirect access to the outdoor patio area, it made sense to limit patrons
9 going back and forth with alcohol. He added that the Planning Commission may
10 decide otherwise.

11
12 As to whether a parklet could be an option in front of the building, Mr. Hanham
13 stated that had not been part of the subject application and such a request would
14 require a modification to the CUP and Planning Commission review and approval.
15 The sale of alcohol in a parklet would not likely involve patrons moving around into
16 the public right-of-way (ROW) and EBCC staff would monitor those areas to
17 address any patron needs.

18 PUBLIC HEARING OPENED

19
20
21 Lisa Ancira, 2529 San Pablo Avenue, Pinole, East Bay Coffee Company, responded
22 to questions from the Planning Commission and concurred with the concerns with
23 the sale of alcohol outdoors, which was why a fence had been installed consistent
24 with the specifications as directed by the Planning Commission, with the height and
25 gap closure of an Americans with Disabilities Act (ADA) rail to provide a clear
26 entrance off of the sidewalk for any passageway, and which could be revisited as
27 needed. The fence had been addressed as part of the original request from EBCC.

28
29 Referencing Condition 16, Ms. Ancira asked that the condition be modified to allow
30 dinner service from 7:00 a.m. to 10:00 p.m. Sunday through Wednesday and 7:00
31 a.m. to 11:00 p.m. Thursday, Friday and Saturday, with the rest of the condition as
32 shown to remain as written. She also clarified when asked that the outside space
33 was not being used as yet but the original intention was for servers to deliver food
34 and drinks to the outdoor space.

35
36 In response to the Acting Chairperson, Assistant City Attorney Alex Mog confirmed
37 the conditions of approval as part of the original CUP were open for discussion and
38 potential modification.

39
40 Ms. Ancira explained that the existing hours of operation were the hours the business
41 had been able to be open. Since the business had reopened post COVID-19, the
42 hours of operation had included an opening at 7:00 a.m. across the board. The
43 opening hours of operation could be left as is at this time if the Planning Commission
44 preferred. She also confirmed when asked that EBCC had discussed its business
45 plan in extensive detail with the Pinole Police Department and had reviewed the
46 precedent set by Pear Street Bistro which had a similar business model and hours of

1 operation. EBCC had also discussed the proposed change in hours of operation with
2 its neighbors. As part of the original documents for the business, the hours of
3 operation were actually a bit later, and again the hours would be in keeping with
4 EBCC's services pre-COVID while also allowing dinner service on the weekends.
5

6 Ms. Ancira also clarified the change in the liquor licenses. Since the business had
7 evolved on a regular basis and in keeping with the post-COVID nature of the
8 business, adding the sale of craft beer, Napa Valley wine and cocktail service would
9 round out their food menu to better serve the community. The Type 47 liquor license
10 would allow EBCC to serve a list of craft cocktails and standard cocktails that could
11 be ordered by a patron.
12

13 Ms. Ancira further clarified that live amplified entertainment would be brought back
14 via an intimate and well-curated space with community musicians, a house band,
15 and singer/songwriter nights. In the future, EBCC also hoped to be able to live stream
16 its live music. She acknowledged there were apartments above the space but as
17 part of the original agreement with the property owner, those tenants understand the
18 nature of the business and accepted the current scenario.
19

20 In response to Acting Chairperson Kurrent who expressed concern expanding the
21 hours of operation due to the neighbors, Ms. Ancira expressed the willingness to
22 expand the hours of operation for the indoor area only. She acknowledged there had
23 been concerns with the neighbors early on and while there had been a lot of new
24 neighbors over the years, EBCC had been a good neighbor and worked to protect
25 the integrity of the neighborhood. Again, the reason for the fence was highlighted, it
26 was actually taller adjacent to the most impacted neighbors, and there had been
27 extensive communication with those neighbors who would be most affected to
28 ensure their privacy was intact while also allowing EBCC to operate.
29

30 PUBLIC HEARING CLOSED 31

32 Commissioner Benzuly had no issues with the change in liquor license or the hours
33 of operation, which as the applicant had requested would be consistent with similar
34 businesses in the area. He agreed that limiting the hours of operation outdoors would
35 be acceptable given the potential noise impacts to residents.
36

37 Commissioner Menis found there were no conditions related to the use of amplified
38 music, and clarified with staff the intent of Condition 26, as written.
39

40 Mr. Hanham explained that Condition 16 could be modified to change the hours of
41 operation indoors and outdoors. He also confirmed there had been no condition
42 related to the hours for amplified music.
43

44 Assistant City Attorney Mog recalled that when the original CUP had been approved
45 for EBCC there was no outdoor component at that time which was why there were
46 no conditions related to amplified music.

1 Commissioner Banuelos commented that EBCC had evolved over time which was
2 natural and a good thing. He had no problem with the request, had no issues with
3 the amplified music or extending the hours of operation since it would be nice to
4 patronize a business later at night, which added to the options in Old Town. He
5 pointed out that Old Town was shared commercial and residential uses and both
6 entities were aware of each other. He saw it as more of a shared co-existence of
7 uses and part of the nature of what made Pinole. He also found EBCC the type of
8 business character the City was trying to get back into the downtown, and he
9 reiterated that the applicant's request was a natural progression for the business.

10
11 Acting Chairperson Kurrent agreed with the evolution of the business and the fact
12 there were other similar venues but he found EBCC to be unique given its closeness
13 to residential areas. He was concerned with noise impacts on the neighbors from
14 the outdoor area and was hesitant to expand the hours of operation for the entire
15 facility but was not opposed to expanding the hours indoors. He sought guidance on
16 a condition that would address the concerns.

17
18 Commissioner Benzuly agreed with limiting the hours of operation outdoors but was
19 uncertain how that could be enforced.
20

21 Assistant City Attorney Mog explained that once the applicant was granted approval
22 to operate in a certain way, that would be a vested right and if the City wanted to take
23 it away after six months or a year (as an example, the extension of the hours of
24 operation) the City would have to go through the process to revoke a use permit and
25 there was a burden the City would have to meet to make that change.
26

27 Ms. Ancira responded to the staff recommended modification to Condition 4 and
28 explained that there was a rear service entrance to the outdoor area for servers and
29 it was the intention to use that area for a runner/employee to take orders to the
30 outdoor area. She confirmed that all alcoholic service would be table service only.
31

32 The Planning Commission walked through Exhibit A, Conditions of Approval and
33 made additional modifications to the conditions, as follows:
34

35 Condition 4, amended to read:

36
37 All alcoholic drinks shall be made inside restaurant and all alcoholic service
38 shall be table service only.
39

40 Condition 23, to be eliminated.

41
42 Condition 16, amended to read:

43
44 The operating hours for the exterior portion of the restaurant shall be 6:00
45 AM - 9:00 PM daily. The operating hours for the interior portion of the
46 restaurant shall be Sunday through Wednesday 6:00 AM - 10:00 PM. and

Thursday, Friday, Saturday from 6:00 AM - 11:00 PM. All alcohol sales shall end 30 minutes prior to closing. Patrons must leave the premises 30 minutes after the end of operating hours.

MOTION by a Roll Call vote to adopt Resolution 22-04, with Exhibit A: Conditions of Approval, a 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, subject to the following modifications:

Condition 4, to be amended to read:

All alcoholic drinks shall be made inside restaurant and all alcoholic service shall be table service only.

Condition 23, to be eliminated.

Condition 16, to be amended to read:

The operating hours for the exterior portion of the restaurant shall be 6:00 AM - 9:00 PM daily. The operating hours for the interior portion of the restaurant shall be Sunday through Wednesday 6:00 AM - 10:00 PM and Thursday, Friday, Saturday from 6:00 AM - 11:00 PM. All alcohol sales shall end 30 minutes prior to closing. Patrons must leave the premises 30 minutes after the end of operating hours.

MOTION: Banuelos SECONDED: Benzuly APPROVED: 4-0-3
ABSENT: Martinez, Moriarty, Wong

The 10-day appeal process in writing to the City Clerk was not identified.

F. OLD BUSINESS: None

G. NEW BUSINESS: None

H. CITY PLANNER'S / COMMISSIONERS' REPORT

Mr. Hanham reported the Pinole Vista project should be presented to the Planning Commission at its second meeting in July; Pinole Square/Appian 80 would require an extension from the City Council to be considered at a meeting in July; Pinole Shores II project was ongoing and would likely be considered by the Planning Commission in the fall; and virtual workshops had been held on the Housing Element.

A Joint City Council/Planning Commission meeting had been scheduled for July 12, 2022 for the Housing Element Update, with more information to be provided to the

Commission. Staff continued to work on parklet regulations to be presented to the Planning Commission Ad Hoc Committee and the Planning Department had contracted to upgrade its permitting software. The Pinole Perks Program was also highlighted.

Assistant City Attorney Mog reported there had been delays on the Old Town Guidelines due to Senate Bill (SB) 9, The California HOME Act, and guidance from the State Attorney General regarding the City of Pasadena's Historic Preservation Guidelines. Staff's goal was to present the guidelines to the City Council in the fall.

Acting Chairperson Kurrent extended his condolences to Commissioner Banuelos on the passing of his mother, Mary-Helen Banuelos, and asked that the meeting be adjourned in her memory. He also recognized a member of the public who wished to comment.

Vincent Salimi, Mayor, City of Pinole, extended his condolences to Commissioner Banuelos on the passing of his mother and reported the June 7, 2022 City Council meeting had adjourned in her memory. He also took the opportunity on behalf of the City Council to express his appreciation to the Planning Commission for its work over the years.

I. COMMUNICATIONS: None

J. NEXT MEETING

The next meeting of the Planning Commission to be a Regular Meeting scheduled for July 11, 2022 at 7:00 p.m.

K. ADJOURNMENT: 8:52 p.m. *In Memory of Mary-Helen Banuelos*

Transcribed by:

Sherri D. Lewis
Transcriber