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

5  
6 **May 8, 2023**

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

10  
11 **A. CALL TO ORDER:**

12  
13 The Planning Commission meeting was called to order by Vice Chairperson Martinez at 7:08  
14 p.m. with the agenda rearranged with Item B4, Planning Commission Organization, Oath of  
15 Office heard prior to Roll Call.

16  
17 **B4. PLANNING COMMISSION ORGANIZATION**

18  
19 1. Oath of Office

20  
21 Planning Manager David Hanham presented the Oath of Office to new Planning  
22 Commissioners John Bender, Christy Lam-Julian, and Gabriel Sandoval.

23  
24 **B1. PLEDGE OF ALLEGIANCE**

25  
26 **B2. LAND ACKNOWLEDGEMENT:** *Before we begin, we would like to acknowledge the*  
27 *Ohlone people, who are the traditional custodians of this land. We pay our respects to*  
28 *the Ohlone elders, past, present and future, who call this place, Ohlone Land, the land*  
29 *that Pinole sits upon, their home. We are proud to continue their tradition of coming*  
30 *together and growing as a community. We thank the Ohlone community for their*  
31 *stewardship and support, and we look forward to strengthening our ties as we continue*  
32 *our relationship of mutual respect and understanding.*

33  
34 **B3. ROLL CALL**

35  
36 Commissioners Present: Bender, Benzuly, Lam-Julian, Menis, Sandoval, Vice  
37 Chairperson Martinez

38  
39 Commissioners Excused: Banuelos

40  
41 Staff Present: David Hanham, Planning Manager  
42 Alex Mog, Assistant City Attorney  
43 Justin Shiu, Contract Planner

44  
45 **C. CITIZENS TO BE HEARD**

46  
47 Members of the public attempted to call into the meeting but due to technical difficulties  
48 with the Zoom feed the Planning Commission took a brief recess at 7:20 p.m. to allow  
49 Pinole Community Television (PCTV) to resolve the issue.

1 The Planning Commission meeting reconvened at 7:32 p.m. with all Planning  
2 Commissioners present with the exception of Commissioner Banuelos.

3  
4 Anthony Vossbrink, Pinole, thanked the Vice-Chair for the thorough and detailed  
5 introduction at the start of the meeting and welcomed new Planning Commissioners. He  
6 pointed out that no telephone number had been posted on Zoom for the meeting making  
7 it difficult for the public to participate, and even though he had been informed that PCTV's  
8 equipment did not have the capability to provide that information, he suggested an attempt  
9 should be made to provide the information and the needed equipment needed to be  
10 requisitioned for PCTV.

11  
12 Mr. Vossbrink referenced the land acknowledgement on the meeting agenda and asked  
13 whether there was any dedicated trail, park or open space within the City of Pinole with  
14 the Ohlone name. He suggested the City of Pinole should adopt the Ohlone Trail  
15 alongside Pinole Creek behind the bowling alley or the dog park on Adobe Road after  
16 cleaning up debris from the area. He explained that while former staff had stated the area  
17 would be identified on a priority list for needed maintenance that had never been done. In  
18 addition, a number of City street lights were in need of repair or were completely out along  
19 San Pablo Avenue and Pinole Valley Road to Henry Avenue.

20  
21 The Planning Commission returned to the remaining items under Item B4.

22  
23 **B4. PLANNING COMMISSION ORGANIZATION**

- 24  
25 2. Selection of Chair, Vice-Chair and the Ad Hoc Planning Commission Subcommittee  
26 for 2023/24

27  
28 Vice-Chairperson Menis reported on ex parte communications and stated he had past  
29 discussions with the Vice Chairperson at which time he had expressed his willingness to  
30 serve as Chair or Vice-Chair of the Planning Commission. He also had a conversation with  
31 Irma Ruport whose opinion was that Commissioner Bender would be a great Chair. He had  
32 also sent out notices of the meeting to his email list.

33  
34 **MOTION** with a Roll Call vote to Select **Adam Benzuly** as **Chair** and **Rafael Menis** as **Vice-**  
35 **Chair** of the Planning Commission for 2023/24.

36  
37 **MOTION: Martinez**

**SECONDED: Bender**

**APPROVED: 6-0**  
**ABSENT: Banuelos**

38  
39  
40 **MOTION** with a Roll Call vote to Select Commissioners Bender, Martinez and Vice-  
41 Chairperson Menis to serve on the Ad-Hoc Planning Commission Subcommittee for 2023/24.

42  
43 **MOTION: Benzuly**

**SECONDED: Lam-Julian**

**APPROVED: 6-0**  
**ABSENT: Banuelos**

44  
45  
46 Chairperson Benzuly Chaired the meeting at this time.

- 47  
48 3. Planning Commission Orientation and Presentation

Assistant City Attorney Alex Mog provided a PowerPoint presentation on the Brown Act, role of the Planning Commission and the purpose of the most common use permits including a Conditional Use Permit (CUP) and Site Development Review. He also highlighted fair and due processes and welcomed any questions from the Planning Commission.

#### PUBLIC COMMENTS OPENED

Anthony Vossbrink, Pinole, asked whether newly-elected Council members and appointed Planning Commissioners were required to attend a formal workshop on the Brown Act as mandated by Contra Costa County or the State of California. He added that pursuant to the Brown Act, the public had the right to comment and Planning Commissioners also had the right to redirect comments and take action on any comments, as had been done in the past, which process he would like to see continued. He asked that the City Manager and City Attorney reiterate that process and provide a response.

Assistant City Attorney Mog explained that staff would not proactively respond to comments from members of the public but the Planning Commission may always request a response. He recommended such a request be made after everyone had the opportunity to comment. He also reported Planning Commissioners and City Council members were required to take a two-hour ethics course every two years after assuming office.

#### PUBLIC COMMENTS CLOSED

### D. MEETING MINUTES

1. Planning Commission Meeting Minutes from April 24, 2023

**MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes from April 24, 2023, as shown.

**MOTION: Menis**

**SECONDED: Martinez**

**APPROVED: 5-0-2**

**ABSTAIN: Bender**

**ABSENT: Banuelos**

### E. PUBLIC HEARINGS

1. Comprehensive Design Review DR21-19, Conditional Use Permit CUP23-03, and Parcel Map PM23-01 – Pinole Shores Phase II

**Request:** Consideration of a Comprehensive Design Review, Conditional Use Permit, and Parcel Map request to develop a project consisting of construction of two tilt up wholesale distribution and warehouse buildings with accessory office space for a total of 117,943 square feet of warehouse and approximately 10,000 square feet of office floor area, as well as site preparation of the vacant 7.37-acre site. The facility will include loading docks, exterior parking and circulation, and stormwater treatment facilities. The project qualifies for CEQA streamlining and exemptions under CEQA Guidelines Sections 15168 and 15183.

**Applicant:** Herdman Architecture + Design  
16201 Scientific Way  
Irvine, CA 92618

**Location:** 830-848 San Pablo Avenue (APN: 402-230-015, 402-230-016, 402-230-017, 402-230-018 and 402-230-020)

**Planner:** David Hanham

Planning Manager Hanham provided an extensive PowerPoint presentation of the May 8, 2023 staff report, and recommended the Planning Commission adopt Resolution 23-04, approving the Comprehensive Design Review, Conditional Use Permit, Parcel Map and California Environmental Quality Act (CEQA) exemption for the Pinole Shores II Project at 830-848 San Pablo Avenue (DR21-19/PL21-0090), subject to the conditions of approval contained in Exhibit A to the staff report.

Assistant City Attorney Mog identified an amendment to the last BE IT FURTHER RESOLVED clause as shown on Page 2 of Attachment A, Resolution 23-04, which had been modified to read:

*BE IT FURTHER RESOLVED, that the Planning Commission of the City of Pinole hereby approves DR-21-19, CUP 23-03 for Wholesale Distribution and a Parking Reduction to provide only 147 parking spaces, and PM 23-01 for the parcel map attached hereto as Exhibit B to this resolution and incorporated herein, subject to the Conditions of Approval, applicable to the entire Project, attached as Exhibit A to this Resolution and incorporated herein, and hereby makes the following findings, for the reasons provided in the Planning Commission Staff Report dated May 8, 2023 and incorporated by reference:*

Commissioner Martinez reported on ex parte communications he had with Vice-Chairperson Menis regarding the Environmental Impact Report (EIR) and with incoming Commissioner Lam-Julian regarding the traffic analysis and semi-truck traffic noise in/out of the site.

Vice-Chairperson Menis confirmed he had ex parte communications with Commissioner Martinez regarding potential different uses for the site.

Responding to Commission questions, Mr. Mog, Mr. Hanham, and Oliva Ervin, Environmental Principal Planner, M-Group, clarified the following:

- Acknowledged a request for renderings with views of what the building would look like from different nearby streets in the community to show the height of the project from nearby high-density residential housing and views from San Francisco Bay.
- With respect to Attachment C, Plan Set A5, Site Photos, acknowledged a request to maintain existing overgrown eucalyptus trees that were part of the parcel due to wildfire concerns. None of the trees had been proposed for removal at this time with the area to remain open space for the project. The proposed landscaping would be another 10 to 15 feet inward and be tree lined where the walkway was located, with additional trees on the outside of the existing open space area and with the buildings to be obstructed from view as the trees matured.

- Given how the buildings would be sited with one building about six feet lower and with the larger building dropped down with the buildings tucked back from San Pablo Avenue, the landscaping over time should shield the appearance of the buildings on both sides from nearby residences as the landscaping matured. Pinole Shores I and II included maintenance provisions for the property with both Pinole Shores Business Park Association and GRP Pinole Shores, LLC, owner/developer responsible. Clarified most of the woodlands were located on the Pinole Shores I property.
- Railroad tracks separated the Bay Trail and the project was required to be at least 50 feet off of the centerline of the railroad tracks plus an additional setback. The total parcel size was 7.37 acres; both buildings would be one-story and 43 feet in height, and the total building square footage would be 117,943 square feet. Building One would be 37,482 square feet and Building Two 80,461 square feet in size. The buildings would have no effect on the Bay Trail.
- Reiterated Pinole Shores I and II included maintenance provisions for the property and clarified that when the original project had been for all four projects, the property owner and the City had created a Development Agreement (DA) for the entire property. Much of the language in that DA had been included in the current DA for the new developer who would be responsible, along with the other Light Industrial users that could be in the second set of two industrial buildings, who would all be included in the maintenance provisions that would outline who was responsible for what.
- Acknowledged the question of whether it was possible to install infrastructure for electric vehicle (EV) charging stations in all loading bays to make them zero emission/EV charging station ready to be clarified by the applicant.
- The end user type would be established by the permit for wholesale distributor but if there were specific requirements the Planning Commission wanted to see pertaining to a specific use, such as hours of operation that could be added to the conditions of approval.
- Clarified Attachment C, Plan Set A1.1 showed a ramp for the pedestrian access across the way to Building D (Pinole Shores I), which offered an idea of the property line/phase line and where the existing building started.
- Parking Reduction Findings, as shown on Pages 21 and 22 of the May 8, 2023 staff report were again highlighted, specifically Section 17.48.060(c) which read: *The site plan is consistent with the objectives of the zoning district and incorporates features such as unobtrusive off-street parking placed below the ground level of the project with commercial uses above or enclosed parking on the ground floor.* In this case, the project was “providing unobtrusive off-street parking through other means” by tucking it behind the building so it was not visible from San Pablo Avenue.

- 1 • Acknowledged Vice-Chairperson Menis had a number of questions he had raised  
2 with staff prior to the meeting related to Attachment A, Exhibit A, Conditions of  
3 Approval, who had also identified typographical questions and requests for  
4 clarification on Conditions 24, 99, 114, and 116. (At this time, Vice-Chairperson Menis  
5 highlighted each of the questions he had with each of the conditions which staff had  
6 clarified prior to the meeting).  
7
- 8 • Attachment B, Pinole Shores II, Environmental Checklist, Page 10 of the CEQA  
9 Analysis, the reference to *Site preparation would initiate with grading to remove*  
10 *ruderal vegetation, level, and compact the site. Grading and import of fill soils to*  
11 *prepare the project site for Phase 2 occurred during the 2006 development of*  
12 *Phase 1 of the Pinole Shores Business Park*, and a discussion on Page 2 of 68 of  
13 Appendix D-1, Report of Testing and Observation During Super Pad Grading  
14 Operations, which stated *The site is proposed to be filled with import soils from the*  
15 *Pinole Hercules Water Pollution Control Plant Upgrade Project and rough graded,*  
16 *provide two super pads for future commercial development.* Staff clarified there  
17 had been fill from the Pinole Hercules Water Pollution Control Plant site, about  
18 twelve feet of soil imported from the Plant and imported to the site, with the City  
19 having done all of the grading, all of which had been reviewed and found to be  
20 satisfactory by the Regional Water Quality Control Board (RWQCB). The past  
21 import of soil had been done and no further modification was required or needed  
22 in the Environmental Impact Report (EIR).  
23
- 24 • Attachment B, Pinole Shores, Environmental Checklist, Page 26, 4.1(a) (Scenic  
25 Vistas) No Substantial Change Relative to the 2010 FEIR, as compared to  
26 Attachment C, Plan Set A5, and clarified the consistency analysis had stated the  
27 findings of the EIR. "Scenic vistas" was a term of art, with the City having made a  
28 determination on the scenic vistas area, although the EIR had stated there were no  
29 designated scenic vistas but that did not mean there were no lovely view corridors or  
30 views. From an environmental perspective, there was no acknowledgment in the EIR  
31 adopted for the General Plan that there were "designated" scenic vistas. Given the  
32 location of the project site and its visibility, it had been concluded there were no  
33 substantial changes relative to the findings in the EIR.  
34
- 35 • Attachment B, Pinole Shores, Environmental Checklist, Phase 1 Environmental Site  
36 Assessment, Page 59, staff was unaware of any federal, state or county level  
37 funding/grants to address contaminated soil and the clean-up parcels as it related to  
38 Controlled Recognized Environmental Conditions (CRECs).  
39
- 40 • Appendix E-1, Soil Management Plan 2002 had been prepared for the former  
41 Anthony's Auto Wrecking property, specifically Figure 2 as shown, and clarified  
42 current staff had not been present when original meetings had been held with the  
43 RWQCB. The Soils Management Plan had been a result of meetings and  
44 negotiations between the City and the original owner of the Pinole Shores Project.  
45 The subject project would still fall under the Soils Management Plan but because  
46 prohibited uses were not being built, as shown on Page 68, it was a non-issue.  
47
- 48 • The applicant contended the project would not impede on any of the native soil and  
49 the entire project would be within the fill area of the property.

1 The restricted covenants in the Soil Management Plan covered the current site, these  
2 covenants had never been modified, and the project before the Planning Commission  
3 was not a hypothetical project but one which had applied for entitlements.  
4

- 5 • Appendix B, Biological Resources Analysis, Pinole Shores Project, Page 1, Findings,  
6 a protected tree grove to the east had been identified as a riparian habitat "...with a  
7 lot of best management practices in the overall conditions of approval to bind damage  
8 from being done to the grove..." and staff confirmed the grove was not being cut  
9 down since the area was riparian habitat.  
10
- 11 • Attachment G, Noise and Vibration Assessment, Page 38, Condition 1(B) as  
12 compared to Attachment A, Conditions 109 and 110, and clarified the conditions were  
13 what would be enforced as part of the project.  
14
- 15 • Appendix H-1 Pinole Shores Project Transportation Demand Management Plan and  
16 Attachment D, Transportation Analysis, clarified Appendix H-1 was the Traffic  
17 Demand Management Program. When the original traffic analysis had been done,  
18 staff had placed the Traffic Demand Management Plan as part of the project and  
19 when the wholesale retail use had been added to the project staff wanted to ensure  
20 the Traffic Demand Management Plan was part of the Analysis. It was the same  
21 thing but with two different analyses.  
22
- 23 • Attachment D, Traffic Demand Management Plan, Pages 10, 11 and 12, Table 2,  
24 Required TDM Measures and Table 3, Encouraged TDM Measures. Staff clarified  
25 that most other newer projects that had required TDM Measures had not yet been  
26 built and staff was uncertain how effective they would be. For the subject  
27 development, the developer may pick and choose putting the TDM Measures in  
28 place. The overall transportation impact for the project would be less than significant.  
29 Higher level TDM Measures would have more impacts as part of an overall project.  
30 In this case, the Low and Medium TDM strategies would be consistent with the  
31 impacts from the project.  
32
- 33 • Attachment C, Plan Set Site Plan A1, clarified the differences between the truck  
34 loading docks and the "trailer parking ramps," as shown on the plans, were smaller  
35 delivery trucks such as Federal Express (FedEx) trucks as an example.  
36
- 37 • Attachment B, CEQA Determination – CEQA Exemption, with Environmental  
38 Studies, Pages 103 and 104, 4.21(b), clarified the CEQA Analysis was a consistency  
39 determination with the General Plan, which anticipated cumulative build out and  
40 effects of the entire City. The individual level project analysis would not take into  
41 account the cumulative effects from the actions or decisions from outside agencies.  
42
- 43 • The specific tenants were unknown and possible tenants that may require  
44 refrigerated storage, as an example, may require further CEQA review.  
45  
46  
47  
48

- Appendix H-2, Pinole Shores Project – Supplemental Analysis for Warehouse/ Distribution Use, clarified the new scenario for Building 2 for 100 daily trips was one truck coming in and then the next one going out, and each time the truck came would be one trip and when it left would be a second trip.
- Reiterated the recommendations from the Planning Commission Ad-Hoc Subcommittee, as shown on Pages 9 and 10 of the May 8, 2023 staff report. Clarified that 4 (a), (b), (c) and (d), would be installed at the beginning of the project and prior to the occupancy of the building. A traffic signal would be installed after the end user had been identified and pursuant to a warrant study.
- As part of the conditions of approval and as part of the Noise Study, a noise wall would be required to be installed in front of Building 1 since the building was the closest to the residents in terms of truck traffic. The applicant must also adhere to and could not exceed the allowable decibel levels in the City's Noise Ordinance within certain timeframes.
- Clarified "EV ready" meant all electrical conduit and electrical wiring would be ready to go with the exception of the EV charging stations.
- Clarified all appeals to the City Council were de novo with the City Council to take into consideration the Planning Commission's discussion and would then make a decision independently. Confirmed the City Council would be provided copies of the May 8, 2023 meeting minutes of the Planning Commission's discussion.
- The project qualified for CEQA streamlining and exemptions under CEQA Guidelines Sections 15168 and 15183, but it was the City's discretion to determine the relevancy of the General Plan and whether the General Plan EIR was still appropriate.
- The recommendations from the Planning Commission Ad-Hoc Subcommittee as shown on Pages 9 and 10 of the May 8, 2023 staff report were again detailed. In terms of the recommendations related to architecture, Pinole Shores I had been set up for a smaller condominium project in terms of smaller uses, whereas Pinole Shores II was for larger more robust industrial projects, which was why the architecture for Pinole Shores II differed from Pinole Shores I. If the architecture for Pinole Shores II was required to be consistent with the architecture for Pinole Shores I it would not have provided the functionality needed. There was some similar coloring between the buildings for Pinole Shores I and II although it was not the same for both.
- Clarified the Planning Commission Ad-Hoc Subcommittee primarily dealt with the building massing, with the buildings square as opposed to rectangular in style. The Ad-Hoc Subcommittee desired that the two buildings that faced each other would be similar in nature, although the one building had 2,500 square feet of office space which the other did not. There had been discussions about matching the color or differentiating the color along that elevation adjacent to Pinole Shores I.



- Page 22 of the May 8, 2023 staff report, Section 66474 of the Subdivision Map Act, Finding (e) was clarified and it was noted the Soils and Biological Studies had found no infiltration of animals since there was nothing on the site. The main animals on the site were birds due to the riparian area. If the developer found something on the site (wildlife) the work must cease to determine whether or not it was mating season, as an example, which had been outlined in the Soils and Biological Studies, although most of the area of construction had nothing there at this point.
- The applicant had requested the entitlements as outlined in the May 8, 2023 staff report and PowerPoint presentation for design review, CUP and Parcel Map. There was no requirement to separate each entitlement with separate actions to be taken by the Planning Commission.

Assistant City Attorney Mog clarified, when asked, that as noted on the meeting agenda no public hearing was to be considered after 11:00 p.m.; however, if the Planning Commission opened the public hearing prior to 11:00 p.m. the Planning Commission may complete the public hearing this evening.

#### PUBLIC HEARING OPENED

Kevin Alcantra, Herdman Architecture & Design, 16201 Scientific Way, Concord, thanked staff for the thorough report and welcomed any questions from the Planning Commission on the site and building design. He had no further comments given the very comprehensive staff presentation.

Hector Vinas, GRP Shores, LLC, 2350 N. University Drive, #848300, Pembroke Pines, FL, thanked the Planning Commission for consideration of the project, commended Planning Manager Hanham for his tremendous job in preparing the staff report and all City staff who had been involved in the long and detailed process, with compromises on many items. He stated that GRP Shores, LLC was based in the State of Florida but had roots in the State of California and had done projects in different parts of the country for infill sites that had already been developed so they were not tearing down any new habitats. The subject project had a long history, had been formerly owned by Chevron and a demolition vehicle business, which had created a lot of contamination on the site. The proposed plan was to develop some beautiful buildings and create jobs.

Responding to questions from the Commission, Mr. Vinas clarified with respect to Pinole Shores I that the buildings had been designed to be condominiums and smaller units and there had been a market for that design prior to the financial crisis. Once the financial crisis had occurred that market had disappeared. GRP Shores, LLC had built a couple of warehouses in the City of Richmond which had leased immediately, one by Amazon, and while the proposed buildings in Pinole were not the size of buildings a business like Amazon would be interested in there had been a push to bring back manufacturing with technology to the U.S. and many companies had been looking to leave China and return to the U.S. As productivity and technology increased there would be the need for wholesale warehouses.

Mr. Vinas stated based on statistics, the City of Richmond had less than five percent vacancy and while some buildings appeared to be large there was a market for their use. The proposed building height at 40-feet was critical for new users and he suggested the appearance, location and shape of the building would allow them to be leased fairly quickly.

1 Mr. Vinas clarified in response to questions related to Appendix A, Air Quality and  
2 Greenhouse Gas Assessment and details on the Operational Truck Traffic Emissions, as  
3 shown on Pages 7, 15, 26 and 30, and the discussion around sales targets for medium  
4 duty/heavy duty vehicles which required 100 percent of sales to be zero emission vehicle  
5 (ZEV) by 2040, that while the technology was improving quickly meeting that deadline would  
6 depend on many factors.  
7

8 Mr. Vinas further responded to questions related to the same Assessment regarding Table  
9 5, Operational Period Emissions, as shown on Page 16 regarding project truck trips, and  
10 commented that some of the reports had taken a worst-case scenario in terms of the number  
11 of truck trips. Given the number of loading bays for the building, it would take seven trucks  
12 turning in and out every hour for one day to meet the worst-case scenario, and for that size  
13 building it would be highly unlikely with a low probability of meeting that scenario. He also  
14 clarified that EV charging stations would be provided for passenger vehicles and not the truck  
15 docks.  
16

17 Mr. Vinas also clarified that no end user occupant had been identified. Most of the buildings  
18 were not being built for a specific end user given the time required for the process and the  
19 fact that users did not plan that far in advance and a delivery date could not be guaranteed.  
20 Once the building was ready, he suggested it would not be difficult to obtain an end user. As  
21 to the market value of the land, he was uncertain since it had not been appraised but given  
22 that interest rates had increased the value may have stayed the same since negotiations had  
23 begun with the City.  
24

25 Assistant City Attorney Mog advised a sales price for the property had been included in the  
26 agreement between the City and the developer and was around \$3 million.  
27

28 Mr. Vinas added that a professional broker who represented national tenants would be hired  
29 to market the property. GRP Shores, LLC had relationships with those brokers who would  
30 bring customers to them and that process could take six to twelve months. He suggested  
31 the type of business that would be interested in the project would be Light Manufacturing and  
32 a use with a lot less truck traffic but more employment. He clarified that GRP Shores, LLC  
33 was the owner/developer of the property and generally owned their properties on average  
34 three to four years, and he acknowledged potentially in the future the property could be sold  
35 to another developer. He reiterated the types of uses that could be interested in the building  
36 may include small manufacturers that worked with the Defense Department or small  
37 pharmaceuticals, as examples, but it could really be anything from bio-tech to mechanical or  
38 electronic. Once a tenant was secured and depending on the tenant needs, GRP Shores,  
39 LLC would help the tenant with approvals. He acknowledged some refrigeration companies  
40 had been turned down due to the amount of work that would be needed along with extensive  
41 tenant improvements relative to what the tenant was able to pay as rent or what their credit  
42 capabilities were able to handle.  
43

44 As to whether GRP Shores, LLC had established a relationship with local businesses, Mr.  
45 Vinas stated that was not something they normally did but encouraged their tenants to be a  
46 good corporate citizen and work with the local area. Depending on the type of tenant, the  
47 workforce for the project could be anywhere from 100 to 150 people.  
48  
49

1 Kevin Carmichael, speaking on behalf of Contra Costa Residents for Responsible  
2 Development, an unincorporated association of individuals and labor organizations who lived  
3 and worked in Contra Costa County, urged the Planning Commission not to approve the  
4 project since the City had not complied with the CEQA environmental disclosure and  
5 mitigation requirements. He suggested the project did not qualify for the streamlining  
6 exemptions claimed in the CEQA analysis and staff report.  
7

8 Mr. Carmichael read into the record CEQA Guidelines Sections 15168 and 15183 and stated  
9 the City's CEQA analyses claimed the project was consistent with the 2010 General Plan  
10 and Three Corridors Specific Plan, and the Program EIR for the General Plan and Specific  
11 Plan, and that the project would not pose any new or more severe impacts than analyzed in  
12 the prior EIR. This conclusion was not supported by the evidence in the record, which  
13 indicated the project may have significant impacts on air quality, public health and biological  
14 resources and would be more severe than the impacts analyzed by the prior EIR. He  
15 suggested those impacts would require project specific mitigation measures.  
16

17 In this circumstance, CEQA Guidelines 15169 and 15183 required the City to prepare a  
18 Project Level EIR to address the impacts and give the public the opportunity to comment.  
19 The City could not rely on streamlining exemptions. As an example, pursuant to the air  
20 quality analysis prepared by the City, the project construction diesel particulate matter (DPM)  
21 emissions would exceed the Bay Area Air Quality Management District (BAAQMD) single  
22 source threshold resulting in a significant impact without mitigation and a potentially  
23 significant cancer risk to nearby residents and workers. The air quality analysis assumed the  
24 use of U.S. EPA Tier 4 Interim Engine Standards and these standards would reduce the  
25 project's construction emission cancer risk. He stated that a future plan to reduce the project  
26 DPM emissions by 75 percent would reduce the cancer risk to nearby residents below the  
27 BAAQMD single source threshold; however, the City's standard conditions of approval did  
28 not mandate the use of Tier 4 Interim equipment and instead COAQ-2 allowed the use of  
29 Tier 2 and Tier 3 equipment and required the applicant develop a construction operations  
30 plan to reduce the projects DPM by no less than 70 percent.  
31

32 Mr. Carmichael explained that Tier 2 and Tier 3 construction equipment was older and had  
33 much higher DPM than Tier 4 equipment and the City's reliance on Tier 4 equipment was  
34 misplaced since it was not required by the conditions of approval. As a result, the existing  
35 conditions of approval did not mitigate the project's cancer risk to a less than significant level  
36 resulting in new and more severe quality impacts than previously analyzed and one which  
37 required additional mitigation. The City may not rely on streamlining exemptions and must  
38 prepare an EIR to accurately disclose and mitigate this impact.  
39

40 The project also proposed new and more severe biological resources impacts than  
41 previously analyzed and to comply with the requirements of the 2010 General Plan and FEIR,  
42 mitigation measure 4.7.2B, the City had prepared a project specific biological resources  
43 assessment which found the project would have significant site specific impacts on nesting  
44 birds including special status passerine and raptors. The CEQA analysis included a new  
45 condition of approval BIO-2 that required several site specific measures to avoid and  
46 minimize impacts to the nesting birds. The BIO-2 measure required the City to prepare a  
47 Focused EIR under CEQA Guidelines Section 15183, and precluded the City from relying on  
48 a streamlined checklist and required project specific mitigation measures to reduce the  
49 impact above and beyond the standard conditions of approval required under the prior EIRs.  
50

1 CEQA Guideline Section 15168 also required the City to prepare a Project Level EIR to  
2 analyze those impacts. Additional mitigation measures were required to reduce the project's  
3 potentially significant air quality impacts and without additional analysis and enforceable  
4 mitigation measures the project may result in harm to nearby residents.  
5

6 Mr. Carmichael again urged the City to remand the project to staff to prepare a legally  
7 adequate subsequent EIR before bringing the project back for a public hearing.  
8

#### 9 PUBLIC HEARING CLOSED

10  
11 Commissioner Martinez found Mr. Carmichael's statements to be significant. He wanted  
12 assurance the City was in compliance with all state requirements and would not be exposed  
13 to a potential lawsuit. He asked for guidance from the Planning Manager and the Assistant  
14 City Attorney as to how to interpret the comments.  
15

16 Assistant City Attorney Mog advised the City was comfortable that the CEQA exemptions  
17 cited were appropriate and justified. The City had hired a very qualified CEQA expert who  
18 reported to the City and who was not beholden to the developer to analyze the evaluation of  
19 the impacts, who also worked with the City on all of the City's residential housing projects,  
20 and who had a long-standing relationship with the City. While someone may always sue to  
21 challenge the City's CEQA determination, ultimately the developer would have to defend  
22 such a lawsuit. He was not concerned with any liability to the City.  
23

24 Vice-Chairperson Menis understood that Mr. Carmichael's core argument was that any time  
25 there was a potential significant impact that should be mitigated by a project specific  
26 mitigation would require a Project-Specific EIR rather than use of the streamlining measures,  
27 and he asked staff to provide clarification if that was an accurate assessment of CEQA and  
28 the EIR process.  
29

30 Ms. Ervin explained that the question was whether or not a mitigation was being added if that  
31 automatically required an EIR, and he stated there were many levels of environmental review  
32 and interpretation of how mitigation, a condition of approval or a uniformly-applied  
33 development standard could be imposed. There was a lot of nuance, CEQA case law and  
34 different things to take into consideration when considering adequacy. She reassured the  
35 Planning Commission that staff had done that in advance and had worked closely with the  
36 City Attorney to review all of the documents. The information before the Planning  
37 Commission at this time was the culmination of that effort. She agreed with the Assistant  
38 City Attorney that a reasonable and adequate analyses had been provided and it could be  
39 supported for the project.  
40

41 Vice-Chairperson Menis understood the City's opinion was that if it adopted any mitigation  
42 measures they weren't such that would require a Project Specific EIR, which Assistant City  
43 Attorney Mog confirmed.  
44

45 Given the points raised by Mr. Carmichael, Commissioner Sandoval asked the Assistant City  
46 Attorney why a Project-Specific EIR had not been required.  
47

48 Assistant City Attorney Mog stated the CEQA exemptions, as outlined in the staff report,  
49 applied and as such a Project-Specific EIR was not necessary.  
50

1 Ms. Ervin added that an exhaustive effort had been done to demonstrate compliance with  
2 the General Plan and each of the environmental categories, as outlined by staff during the  
3 PowerPoint presentation and in the staff report, which had identified the relevant General  
4 Plan policies and corresponding mitigation measures, and tracked consistency with those to  
5 explain the status and how they were being implemented and how the project would carry  
6 those mitigation measures forward, as previously identified in the General Plan. For those  
7 reasons, she was comfortable the scope of the analysis and the impacts caused by the  
8 project had been anticipated in the General Plan with no new or more severe impacts, which  
9 was the determination leading to the comfortableness with using the CEQA exemptions.

10  
11 Chairperson Benzuly was concerned not knowing the end users and the potential impacts  
12 from noise, traffic, mechanical roof equipment and the like. He liked Condition 38, End User  
13 Parking Analysis and suggested that could be applied to Conditions 42 and 46, whereby  
14 once an end user was identified another analysis for noise and the HVAC equipment could  
15 be done to determine whether or not any additional mitigation measures needed to be  
16 implemented.

17  
18 Chairperson Benzuly commented on the building massing and was uncertain whether  
19 Commissioners had any comments or whether they were comfortable with what had been  
20 provided. As to the maintenance of the eucalyptus trees, he understood that was a moot  
21 point since they were related to Pinole Shores I. He suggested a maintenance agreement  
22 for the road should be added as a condition of approval and EV charging for the trucks and  
23 trucks bays should be discussed further with a possible condition of approval.

24  
25 Vice-Chairperson Menis referenced Mr. Carmichael's comments and understood he had  
26 concerns with Conditions 96 and 97 of Exhibit A of Attachment A. He read each condition  
27 into the record and found that Condition 96 had been stringently written, particularly for  
28 subpart 2 as opposed to subpart 1, as shown. He found either of the two sub conditions to  
29 be strong enough. As to Condition 97, sub-conditions 2 and 3, as shown, would cover routine  
30 protections for nesting birds and he assured the public the conditions, as written, would  
31 provide significant protections for nesting birds and raptors.

32  
33 Commissioner Martinez commented that while he looked favorably on the project, before it  
34 moved forward, he wanted it to go back to the Planning Commission Ad-Hoc Subcommittee  
35 to review what the building would look like in the community since the building would be  
36 significantly higher than development around it. He wanted to see the buildings from all  
37 different angles from Pinole Shores I, from the high density residential around it and from the  
38 Bay, to ensure that something as large as what had been proposed would not be built before  
39 anything could be done.

40  
41 Mr. Hanham advised the Planning Commission may continue the item to the next Planning  
42 Commission meeting for the additional information to be provided and have the architect  
43 submit drawings to show what the elevations looked like from various points of view or a  
44 condition of approval could be added that required prior to issuance of a building permit or  
45 submittal of a building permit, the elevations be reviewed to allow the project to move forward.  
46 He clarified the height of the building was within and met the Zoning Code requirements even  
47 though it may appear to be substantial. He recommended the elevations be reviewed by the  
48 Planning Commission Ad-Hoc Subcommittee prior to issuance of building permits.

1 Mr. Vinas understood the concerns but he was uncertain how the building could be changed.  
2 He suggested the architect had done a good job. He cautioned that any changes may impact  
3 marketing, the value of the property and eventual tenants and they wanted a property that  
4 was the most marketable to allow them to choose the right tenant. He added there would be  
5 a lot of landscaping and once mature it would appear different from the initial day of planting.  
6

7 Commissioner Martinez appreciated the comments and while he was okay with the project,  
8 he preferred to defer the final approval and allow two weeks to allow a review of the artists'  
9 renderings to ensure the building would not result in a substantial change and would not  
10 impact the quality of life of nearby residents. He wanted to be thoughtful and methodical in  
11 the approach to the project.  
12

13 Mr. Hanham stated that direction would be at the discretion of the majority of the Planning  
14 Commission; however, he did not see the project would return in two weeks given the desired  
15 review by the Planning Commission Ad-Hoc Subcommittee and noticing requirements for  
16 Planning Commission meetings. He again recommended the elevations be reviewed by the  
17 Planning Commission Ad-Hoc Subcommittee prior to issuance of the building permit given  
18 that the project met the parameters for height and the requirements of the Zoning Code. He  
19 cautioned that any changes to the siting of the building would result in major consequences  
20 including impacts to the environmental review.  
21

22 Commissioner Bender stated as a retired architect he was in agreement with the staff  
23 recommended direction. He also commented that pursuant to the site plan and landscape  
24 plan, there would be some screening from the residents and from the Bay Trail, which was  
25 far below the grade of the project. With the trees and existing homes, the project would not  
26 be clearly visible and would eventually be partially screened from view and the project would  
27 not be clearly visible from many vantage points. He further commented that he did not  
28 necessarily believe buildings had to look like the buildings next to them and while Pinole  
29 Shores II was different in appearance than Pinole Shores I that did not bother him. He was  
30 also not concerned with the coloration differences between Pinole Shores I and II given the  
31 siting and truck loading dock location. As a resident of San Pablo Avenue in Old Town Pinole,  
32 he appreciated the effort to minimize truck impacts to the surrounding areas.  
33

34 Commissioner Bender complimented the landscape architect for the plant palette with almost  
35 all plant material sustainable and with trees in the moderate category. He was pleased with  
36 the trees on the east side which did not mimic the trees on the east side for Pinole Shores I,  
37 and suggested the ginkgo tree species would be handsome against the building.  
38

39 Commissioner Bender referenced Exhibit A of Attachment A and Condition 110, ENV-COA  
40 NOI-3 sub-condition (1), and suggested that either be stricken or be modified to eliminate the  
41 reference to redesigning Building 1. He asked that the applicant be allowed to address the  
42 Planning Commission to respond to this condition.  
43

44 Vice-Chairperson Menis understood as part of the discussion and as part of questions he  
45 had asked of staff that the redesign of Building 1 had already been reflected in the packet of  
46 materials provided to the Planning Commission and the condition had been met, and Mr.  
47 Hanham clarified the wall had been redesigned.  
48

49 Commissioner Bender again asked that Condition 110, ENV-COA NOI-3 sub-condition (1)  
50 of Exhibit A of Attachment A be stricken.

1 Speaking to the same condition, sub-condition (5), Vice-Chairperson Menis clarified his  
2 understanding the requirement for a noise barrier along the eastern boundary of the project  
3 site was permitted to be taller than the minimum 10-feet.  
4

5 Mr. Hanham explained that since the wall was adjacent to the building, the wall would rise  
6 adjacent to the building and not reach out.  
7

8 Vice-Chairperson Menis thanked staff for generating all of the reports and for answering all  
9 of his questions. As to the project, while it may take time to bring tenants in he suggested it  
10 would be a net benefit to the City. He suggested the conditions of approval broadly speaking  
11 addressed most of the concerns he had with the project about potential negative outcomes  
12 and potential EIR violations.  
13

14 Vice-Chairperson Menis stated in terms of the architecture that he had asked whether it  
15 would be possible for Condition 110, ENV-COA NOI-3 sub-condition (5) to include a  
16 requirement for the applicant to provide a conceptual drawing of north aerial view 1 and  
17 project forward the existing design to provide an idea of any height impacts.  
18

19 Vice-Chairperson Menis found the design to be interesting, striking, it was not bland or cookie  
20 cutter, with glass working with different colors, which he characterized as remarkable and  
21 with the architecture distinctive, which would be a draw for future tenants even if not a perfect  
22 match to Pinole Shores I. His main hesitancy with the project was the truck traffic and the  
23 pollution that would be generated by the trucks. Depending how quickly the zero emission  
24 mandate would become effective for heavy trucks and pursuant to the conditions of approval,  
25 there would be a build out requirement whenever it happened, which would mitigate his  
26 concern on that point. At this time, he supported the project.  
27

28 Commissioner Sandoval also felt quite well about the project but he shared the concerns  
29 about the potential impacts to existing residents and commented that it would be nice to see  
30 the views of the building from that residential area. He generally felt good about the project  
31 that would be a net benefit to the City and while he was wary about not having an end user,  
32 the developer had reassured him it would be occupied relatively quickly.  
33

34 Commissioner Lam-Julian stated she had been leery with the lack of knowledge about the  
35 end user but she appreciated the developer/owner had been transparent and offered an  
36 understandable explanation. She too wanted to see the additional visuals that had been  
37 requested. She thanked staff for the comprehensive information that had been presented.  
38

39 Chairperson Benzuly referenced Condition 38, End User Parking Analysis, and suggested  
40 similar language be added to Conditions 42 and 46, and once an end user had been  
41 identified, the mechanical equipment and noise generated by the operations, mechanical  
42 equipment and traffic in and out be reviewed again to determine whether any changes were  
43 needed, with staff to determine the appropriate language.  
44

45 Assistant City Attorney Mog stated the objective standards would apply to whatever user was  
46 identified and the noise standards had already been met. Condition 46 could be modified to  
47 reflect the noise standards established in the General Plan shall be applicable to all  
48 developments and staff would review proposed end users to ensure compliance.  
49

1 Mr. Hanham agreed the end user would still have to fall within the City's noise standards and  
2 as the end user was identified staff would review the use to ensure those standards were not  
3 exceeded.  
4

5 Chairperson Benzuly understood that modification would only apply to Condition 42 based  
6 on the future tenant, and Assistant City Attorney Mog clarified staff could modify Condition  
7 42 with staff to review to ensure compliance with the standards shown in Condition 46.  
8

9 Commissioner Bender commented the hours of operation for exterior activities had not been  
10 identified in the Conditions of Approval, and Mr. Hanham explained as part of Condition 46,  
11 the hours of operation would be from 7:00 a.m. to 7:00 p.m.  
12

13 Assistant City Attorney Mog cited Page 18 of 24 of the May 8, 2023 staff report, which stated:  
14 *The operating hours for this type of use which generally are 7 a.m. to 7 p.m. on weekdays;*  
15 *however, some uses could require 24/7 operations, with the largest shift of employees*  
16 *being from 7 a.m. to 3 p.m.* There were no specific conditions on the hours of operation,  
17 but how noisy the use could be changed depending on the time of day, as noted, with no  
18 nighttime operations allowed to exceed 50 dba in the residential district.  
19

20 Vice-Chairperson Menis suggested that regulation would be relevant to the tenant as part  
21 of a CUP and Mr. Hanham clarified when the end user was identified as long as they were  
22 operating within the decibel levels of the Noise Ordinance that would be one thing but the  
23 statement in the staff report was more of a generalization based on the different end users.  
24

25 Commissioner Bender explained that he had raised the issue given his concerns with the  
26 truck traffic not what was occurring in the interior of the tenant space.  
27

28 Assistant City Attorney Mog clarified the truck noise would not be allowed to exceed the  
29 decibel limit overnight in a residential neighborhood. As an example, if a truck was driving  
30 in overnight and honked its horn that could be a violation of the City's Noise Ordinance  
31 and subject to enforcement if not corrected. Ultimately, the CUP could be revoked or  
32 modified as necessary.  
33

34 Vice-Chairperson Menis offered a motion to adopt Resolution 23-04, with the various  
35 associated exhibits and subject to modification to Condition 42, as indicated by Chair  
36 Benzuly.  
37

38 On the motion, Commissioner Martinez wanted the opportunity to review the plans in two  
39 weeks. He seconded the motion with that amendment.  
40

41 Vice-Chairperson Menis clarified his motion did not include the additional "six weeks" for the  
42 architect to draft and return with drawings as requested by Commissioner Martinez.  
43

44 Commissioner Martinez asked that the motion be modified for the project to come back to  
45 the Planning Commission Ad-Hoc Subcommittee for review to ensure there were no  
46 significant impacts to the neighboring properties. With that addition, he could support moving  
47 forward.  
48

49 Vice-Chairperson Menis asked staff what impact that direction would have on the project as  
50 opposed to a continuance to the next Planning Commission meeting.



Assistant City Attorney Mog understood the request was to approve the entitlements at this time but have the developer/applicant submit plans to the Planning Commission Ad-Hoc Subcommittee for review and provide comments to the developer. The motion could be restated to approve Resolution 23-04, as previously stated with the requirement to submit building elevations for the Planning Commission Ad-Hoc Subcommittee to review and provide comment.

Chairperson Benzuly pointed out that not much would change, but Commissioner Martinez reiterated his concern with the potential impacts to nearby residents and rather he would appreciate the extra step to advocate for the neighbors and look at the building elevations.

Vice-Chairperson Menis understood Commissioner Martinez sought, as an example, adequate shading via adequate tree growth was provided to ensure no glaring impacts to the residential areas, to be reviewed by the Planning Commission Ad-Hoc Subcommittee, which he was not opposed to as direction to the applicant.

Assistant City Attorney Mog reiterated the direction would be for the applicant to submit building elevations for the Planning Commission Ad-Hoc Subcommittee to review and provide comment with the Planning Manager to work with the Planning Commission Ad-Hoc Subcommittee to provide comments to the developer on ways to soften any impacts. He added there were also some minor discrepancies in the square footage that would be corrected and made consistent in the final plans.

**MOTION** to adopt Resolution 23-04, with Exhibit A: Conditions of Approval, Resolution of the Planning Commission of the City of Pinole Approving Comprehensive Design Review (DR21-19), Conditional Use Permit for Wholesale Distribution and Parking Reduction (CUP23-03) and Tentative Parcel Map (PM23-01) to Construct Two Buildings Totaling 117,692 Square Feet and Merging Five Parcels into One Located at 830-848 San Pablo Avenue (APNs 402-230-015, -016, -017, -018 & -020) and Finding the Project Exempt from the California Environmental Quality Act, and subject to:

- Including the various exhibits as attached to the staff report.
- Modification to Condition 42, as indicated by Chair Benzuly, and
- The applicant to submit building elevations for the Planning Commission Ad-Hoc Subcommittee to review and provide comment with the Planning Manager with the Planning Commission Ad-Hoc Subcommittee to provide comments to the developer on ways to soften any impacts.

**MOTION: Menis**

**SECONDED: Martinez**

**APPROVED: 6-0-1  
ABSENT: Banuelos**

Chairperson Benzuly identified the 10-day appeal process in writing to the City Clerk.

**F. OLD BUSINESS:** None

**G. NEW BUSINESS:**

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

2 Mr. Hanham thanked Planning staff for their work on the Pinole Shores II Project and  
3 Stephanie Downs with Meyers Nave who helped with some of the background. He reported  
4 that staff continued to work on the objective development design standards and the Safety  
5 and Environmental Justice Elements to be presented to the Planning Commission during the  
6 summer.

7  
8 Commissioner Bender suggested it would be helpful moving forward for future projects to  
9 have three dimensional visuals provided. He added that consistency in the plans was also  
10 helpful.

11  
12 Mr. Hanham advised that staff would be reviewing the submittal of application materials and  
13 that may be something that could be added.

14  
15 **I. COMMUNICATIONS: None**

16  
17 **J. NEXT MEETING**

18  
19 The next meeting of the Planning Commission to be a Regular Planning Commission  
20 Meeting scheduled for May 22, 2023 at 7:00 p.m.

21  
22 **K. ADJOURNMENT: At 12:14 a.m.**

23  
24  
25 Transcribed by:

26  
27  
28 Sherri D. Lewis  
29 Transcriber