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

5
6 **August 14, 2023**

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

11
12 **A. CALL TO ORDER:** 7:02 p.m.

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14 **B1. PLEDGE OF ALLEGIANCE**

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

24 **B3. ROLL CALL**

25
26 Commissioners Present: Bender, Lam-Julian, Sandoval, Vice Chairperson Menis,
27 Chairperson Benzuly*
28 *Via Zoom
29

30 Commissioners Absent: Banuelos, Martinez
31

32 Staff Present: David Hanham, Planning Manager
33 Alex Mog, Assistant City Attorney
34 Justin Shiu, Contract Planner
35

36 Reporting on ex parte communications, Vice Chairperson Menis reported he had sent out
37 email messages about the meeting to his email list.
38

39 Assistant City Attorney Alex Mog reported Chairperson Benzuly was using the just cause
40 provisions in Assembly Bill (AB) 2449 to participate remotely.
41

42 **C. CITIZENS TO BE HEARD**

43
44 There were no comments from the public.
45

46 **D. MEETING MINUTES**

47
48 1. Planning Commission Meeting Minutes from June 26, 2023
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1 **MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes from
2 June 26, 2023, as submitted.

3
4 **MOTION: Bender**

SECONDED: Benzuly

APPROVED: 5-0-2

ABSENT: Banuelos, Martinez

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6
7 **E. PUBLIC HEARINGS:**

8
9 **1. Comprehensive Design Review (PL23-003 & DR23-01) 2550 Appian Way**

10
11 **Request:** Consideration of a request to enclose a 1,960 square foot
12 parking area below the first floor of the existing commercial
13 building to create additional three areas and to close off
14 utilities areas to deter congregation and nuisances. The
15 project qualifies for a CEQA exemption under CEQA
16 Guidelines Section 15301.

17
18 **Applicant:** Pinole Terrace LLC
19 Athan Magganas
20 2550 Appian Way #201
21 Pinole, CA 94564

22
23 **Location:** 2550 Appian Way (APN: 426-391-001)

24
25 **Planner:** David Hanham

26
27 Planning Manager David Hanham presented the staff report dated August 14, 2023. He
28 recommended the Planning Commission adopt Resolution 23-07 approving
29 Comprehensive Design Review and the California Environmental Quality Act (CEQA)
30 exemption, for the construction of 1,960 square feet of commercial and office space
31 located at 2550 Appian Way, subject to Exhibit A, Conditions of Approval.

32
33 Responding to the Commission, Mr. Hanham and Mr. Mog clarified the following:

- 34
35
 - 36 • Pursuant to Condition 22, EV Parking: The applicant shall be required to install
37 wiring for seven electronic vehicle (EV) parking stalls and provide two EV chargers,
38 to be located anywhere in the center with staff to work out the location with the
39 property owner as part of the building plans.
 - 40 • The project was before the Planning Commission since staff had spotted the
41 construction of the parking area, which had been unpermitted. Pursuant to the
42 entitlement section of the Pinole Municipal Code (PMC), all non-residential
43 additions of more than 500 square feet required comprehensive design review.
44 The Planning Commission had the review authority over comprehensive design
45 review.
 - 46 • Traffic entering and exiting the project site did not have protected turns and while
47 a traffic signal could be considered as part of a Capital Improvement Plan (CIP),
48 project the square footage of the project was small and the remainder of the center
49 had already been approved.

50

- It would be a challenge to require a major transportation improvement at this time since the 1,960 square-foot addition had not triggered any thresholds for traffic, which was why there was no change to the project in that regard.
- Consideration 4, as detailed on Page 13 of the staff report was clarified whereby the applicant would be required to install new green infrastructure in compliance with the most current Contra Costa Clearwater Program Guidelines Program, as required under the current Regional Water Quality Control Permit. The Project would also be required to add trash capture device basins within interior parking lot prior to the issuance of an occupancy permit. The project would be reviewed as part of C.3 requirements. The existing drainage that had been installed as part of the initial project would be able to accommodate the additional 1,960 square feet.
- Sheet 1 had identified accessibility requirements for 2019, which should be corrected to read 2022.
- Condition 74, Fire Code Conformance: The dates in the condition should also be corrected from 2019 to read 2022.
- Condition 41, Master Sign Program: The owner/applicant would be required to submit a Master Sign Program for the property for review and action by the Planning Commission. The Master Sign Program that had been approved for the initial project would be reviewed to incorporate any new signs. Any changes in square footage to the Master Sign Program in terms of the “pylon” sign would be brought back to the Planning Commission.
- All comments from the Pinole Police Department had been included as conditions of approval, as shown in Exhibit A.
- Condition 25, Certified Graded Pad: The applicant shall be required to have a California-Licensed Engineer certify that the graded construction pads had been adequately compacted and designed to support the proposed buildings.
- Condition 72, Tenant Collaboration with Police: Since the addition would be behind the building, the Police Department wanted assurance the area would be monitored and had required some type of surveillance such as cameras so if there were issues they could be reported to the Police Department.
- Condition 19, Sidewalk, Curb and Gutter Repair: The condition applied to the entire project area.
- Condition 69, Public Area Lighting (g) was corrected to read: *The rear parking lot is dark. The recommendation is to update lighting to LEDs and follow the current footcandle requirement as part of the overall project*
- Pursuant to the Site Plan, 2550A had been approved in 1991 and 2550B had been partially constructed and what was currently before the Planning Commission.

- The property owner also wanted to do the same thing with 2550C as they had with 2550B, and staff recommended it be brought together as one project so that the property owner could finish it off and not have to come back to the Planning Commission for approval.

PUBLIC COMMENTS OPENED

Athan Magganas, 2550 Appian Way, #201, Pinole, Pinole Terrace LLC, explained that the property was part of the Pinole Vista Shopping Center but was also an oddity in that the terrain was steeply up from Pinole Vista. They had tried to attract retailers and they needed a good amount of people in the upper areas to support the lower spaces. The project had originally been built in 1987, and the portion under discussion, the lower level/rear, was an area people did not really like. An effort had been made to bring more interest to the area which had been a challenge due to the steep terrain, people did not want to be there, parking in the rear had been rarely used since people had to walk around and the solution was to enclose a portion of that area.

Conditions had been exacerbated due to the pandemic and the Pinole Police Department had different attitudes about enforcement given the problems with homeless individuals, which had created threats and risks for the building. While efforts had been made with enforcement and increased surveillance, there were constant challenges to move things out and dispose of accumulated debris due to the homeless population that had necessitated the need to protect and enclose the building as much as possible and find ways to bring in more life to that area of the center.

Mr. Magganas expressed his hope that with the additional space it would be easier for other businesses to locate and utilize the space. He emphasized the extensive interaction with the Police Department which wanted to see infrared lights in the area that would come on with any movement, and which would make the space nicer and more acceptable to people.

Mr. Magganas added there were a series of huge trees along Appian Way that were an impediment to traffic and potential customers to the site. The Public Works Department had considered a traffic signal years ago but ultimately had determined it would be better without a traffic signal. He was uncertain that would be a solution but a study in discussion with the applicant could improve things in the future.

PUBLIC COMMENTS CLOSED

Chairperson Benzuly supported the project and recognized the need to increase the amount of general office space.

Commissioner Bender commented with respect to Conditions 21 and 22 that the EV and bicycle parking had not been identified on the drawings but he would rely on staff to ensure follow through. Having recently visited the site, he understood the potential issues the applicant had with people in the secluded rear of the site and he understood the security concerns.

Commissioner Sandoval supported the project and hoped the applicant had success finding tenants for the space.

Vice Chairperson Menis clarified with staff the trees along Appian Way were located in the median, which he understood were covered in the City's Tree Ordinance and could not be removed unless they were eucalyptus trees. He also clarified with staff the use of the future spaces and tying them in with the City's future Economic Development Plan was outside the Planning Commission's consideration; however, in his opinion the project was reasonably scoped to handle a clear and present public safety risk as the applicant had noted and Commissioners had observed directly, and had various conditions of approval to create public improvements to the site to ensure it looked better and was more sustainable through increased EV parking, trash capture devices and improved lighting and which would overall improve the health and safety of the region. He was overall in favor of the project.

MOTION to adopt Resolution 23-07, with Exhibit A: Conditions of Approval, a Resolution of the Planning Commission of the City of Pinole Approving Comprehensive Design Review (DR23-01) to Construct a 1,960 Square-Foot Addition of Commercial/Professional Office Space at Pinole Terrace Center, 2550 Appian Way (APN: 426-391-001), subject to modification to references in Exhibit A: Conditions of Approval and other associated documents to update 2019 relative codes to 2022.

MOTION: Benzuly

SECONDED: Lam-Julian

APPROVED: 5-0-2

ABSENT: Banuelos, Martinez

H. CITY PLANNER'S / COMMISSIONERS' REPORT

Mr. Hanham reported the City's Housing Element had been certified by the State of California and the City was now in compliance with State law. Staff was working on the Safety and Environmental Justice Elements, to be presented to the Planning Commission in late fall/early winter and with staff also working on the policies and programs in the Housing Element.

Commissioner Bender asked the status of the former Pinole Creek Café and its use given that the business had been closed since the start of the pandemic, to which Mr. Hanham reported that while nothing had been proposed staff was working with the property owner.

Vice Chairperson Menis reopened public comment at this time.

PUBLIC COMMENTS OPENED

Anthony Vossbrink, Pinole, reported he had tried to call in earlier in the meeting but had experienced technical difficulties, which issue had occurred in the past during other meetings. He was unsure whether the technical difficulties were at his end or the City's and was unsure whether that could be verified moving forward. He asked the status of the following: Tara Hills I-80 Safeway Shopping Center given rumors in the community about a new gas station; a new spay/neuter facility for feral animals at the former Pinole Animal Shelter, which building had signage posted for months advertising it as the new home of a spay/neuter clinic; and the caretaker's home and Adobe Trail, where soil was to have been taken from the caretaker's home site to fill a sinkhole in the middle of the trail after repairs to the parking lot, although nothing had been done.

1 Mr. Vossbrink asked about the crossbar bridge over I-80 on Appian Way where a concrete
2 barrier had been knocked out over a year or two ago with no repair. He also referenced a
3 past application for Verizon to install an artificial tree behind Fire Station 74 before the build
4 out of the station on Indian land, which should be vetted as a possible connection to the lack
5 of progress for the caretaker's property that was losing money for the City as it was being
6 allowed to remain vacant. He asked for an investigation related to the Fire Marshal's
7 cancellation of the Fourth of July fireworks at the last minute due to concerns with the
8 proximity of the fireworks to the Pinole-Hercules Wastewater Treatment Plant, although the
9 event had been approved by the City Council. He emphasized the need for tree and
10 vegetation maintenance around the plant and commented on discussions he had with an
11 individual who suggested there was no risk with the proximity of the plant to a fireworks
12 display other than the need for maintenance of the vegetation. He suggested the fireworks
13 display could have been relocated as opposed to being canceled at the last minute.
14

15 Mr. Vossbrink further suggested that any trail improvements to Adobe Road behind the
16 caretaker's home should be renamed after the indigenous Ohlone people given the City of
17 Pinole had no sites named in recognition of the Ohlone people as surrounding jurisdictions
18 had done.
19

20 PUBLIC COMMENTS CLOSED
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22 Mr. Mog clarified in response to the Vice Chair that members of the public may comment on
23 items that had been discussed and considered by the Planning Commission separate from
24 the general statements under Citizens to be Heard.
25

26 I. **COMMUNICATIONS:** None
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28 J. **NEXT MEETING**
29

30 The next meeting of the Planning Commission to be a Regular Planning Commission
31 Meeting scheduled for August 28, 2023 at 7:00 p.m.
32

33 K. **ADJOURNMENT:** 8:20 p.m. *In Memory of Amber Swartz.*
34

35 Transcribed by: Reviewed and edited by:
36

37
38 Sherri D. Lewis City Staff
39 Transcriber