

# AGENDA FOR THE



## CITY OF PINOLE PLANNING COMMISSION REGULAR MEETING

**Monday, September 26, 2016**

**7:00 P.M.**

**City Council Chambers, 2131 Pear Street, Pinole, CA 94564**

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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) 724-9014. 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.

Assistant listening devices are available at this meeting. Ask staff if you desire to use this device.

### **CONSENT CALENDAR:**

All matters listed under the Consent Calendar are considered to be routine and non-controversial. These items will be enacted by one motion and without discussion. If, however, any interested party or Commissioner(s) wishes to discuss a consent item, it will be removed from the Consent Calendar and taken up in order after the last item under New Business.

### **PROCEDURE FOR CONSIDERING AN AGENDA ITEM:**

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.

### **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.

Prior to speaking on an item, you must fill out one of the speaker cards (available at the back of the Council Chambers) and hand it to the Secretary. If a number of persons wish to speak on an item, the Chair may limit each speaker to a set time period in which to address the Commission.

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 or Planning Manager. The cost to appeal a decision is \$803.

**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**

**B. PLEDGE OF ALLEGIANCE AND 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. CONSENT CALENDAR:**

1. None

**E. PUBLIC HEARINGS:**

**1. Conditional Use Permit 16-04: CVS Off-Premises Alcohol Sales**

**Request:** Consideration of a conditional use permit request to sell beer, wine, and distilled spirits within an approved approximately 14,806 square foot CVS pharmacy retail store located at the southeast corner of the intersection of Appian Way and Canyon Drive.

**Applicant:** Armstrong Development  
2400 Del Paso Road, Suite 140  
Sacramento, CA 95834

**Location:** 1617 Canyon Drive (APN: 401-273-043, -044, -045, and -046)

**Project Staff:** Winston Rhodes

**2. Conditional Use Permit 16-05: Orange Theory Fitness Studio**

**Request:** Consideration of a use permit request to open an approximately 3,022 square foot health and fitness studio within a vacant portion of an approved commercial building that is under construction.

**Applicant:** Santara Pinole LLC  
22709 Rancho Palomares Place  
Castro Valley, CA 94552

**Location:** 1400 Pinole Valley Road APN: 401-410-017

**Project Staff:** Winston Rhodes

F. **OLD BUSINESS:** None

G. **NEW BUSINESS:** None

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

I. **COMMUNICATIONS:**

J. **NEXT MEETING:**

Planning Commission Regular Meeting, October 24, 2016 at 7:00PM

K. **ADJOURNMENT**

**POSTED: SEPTEMBER 22, 2016**



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**Winston Rhodes, AICP**  
**Planning Manager**



## Memorandum

**TO:** PINOLE PLANNING COMMISSION

**FROM:** WINSTON RHODES, AICP, PLANNING MANAGER

**SUBJECT:** CVS PHARMACY RETAIL STORE ALCOHOL SALES USE PERMIT

**DATE:** SEPTEMBER 26, 2016

**Applicant:**

Armstrong Development Properties  
2400 Del Paso Road, Suite 140  
Sacramento, CA 95834

<b>PROJECT:</b>	CVS Pharmacy Retail Store Alcohol Sales Use Permit
<b>FILE:</b>	Conditional Use Permit (CUP) 16-04
<b>LOCATION:</b>	1617 Canyon Drive
<b>APN:</b>	401-273-043, -044, -045, and -046
<b>ZONING:</b>	Commercial Mixed Use
<b>SPECIFIC PLAN:</b>	Appian Way Corridor
<b>GP LU Designation:</b>	Service Sub-Area

### **REQUEST**

The applicant is seeking approval of a use permit to allow beer, wine, and distilled spirits sales within an approximately 14,806 square foot approved commercial building.

### **STAFF RECOMMENDATION**

Adopt Resolution 16-11(Attachment A) conditionally approving a use permit request (CUP 16-04), which permits the beer, wine, and distilled spirits for off-site consumption.

**SITE LOCATION**

**Figure 1 - Vicinity Map**





**Figure 2 - Site Location Map**



Direction from Project Site	Land Use
North	Vacant Medical Facility
West	Commercial
South	I-80 Corridor
East	Single-Family Residential

**PROJECT DESCRIPTION**

The applicant is seeking approval for a Conditional Use Permit for off-premises beer, wine, distilled spirits sales in conjunction with an approximately 14,806 square foot new CVS pharmacy retail store (see Attachment B) through a new (Type 21) alcohol sales license at 1617 Canyon Drive.

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## **BACKGROUND**

Armstrong Development Properties on behalf of CVS pharmacy retail store has requested a conditional use permit for alcohol sales within the approved CVS commercial development. Currently, the existing CVS store at 1401 Tara Hills Drive within the Appian 80 Shopping Center sells alcohol. CVS wishes to provide the same range of retail services at its approved new location. The project site is located within a different Census Tract than the current store and the State Department of Alcoholic Beverage Control (ABC) has determined that there is currently an overconcentration of off-premises alcohol sales licenses with Census Tract 3591.03 where the new store is located. Consequently, the applicant requested that the City consider making a public convenience or necessity (PCN) finding so that this use permit request could be considered by the Planning Commission. The City Council approved the PCN finding on July 5, 2016. Chapter 17.59 of the Municipal Code requires all new businesses desiring to sell alcoholic beverages to obtain a conditional use permit. The Planning Commission is the approving authority for conditional use permits.

## **ANALYSIS**

The applicant has provided an operational statement, site plan and floor plan that summarize the request (See Attachment B). The applicant is proposing operating hours from 7:00 a.m. to 10:00 p.m., seven days a week to match anticipated store hours.

All employees will be required to complete an alcohol sales training program before they are permitted to sell alcoholic beverages to customers. Employees must be 18 years of age to sell alcohol. Identification is checked for all alcohol purchases. Employees will receive training on alcohol sales laws, how to properly check acceptable forms of identification, and how to handle intoxicated customers or minors attempting to acquire alcohol illegally.

### **General Plan Consistency**

Goal LU.7 of the Land Use and Economic Development Element calls for balancing housing and employment opportunities to reduce trips in and out of the region and encourages commercial development which maintains and enhances the quality of the City's commercial areas, creates a climate that supports existing businesses, provides basic goods and services for residents and broadening the tax base of the community to provide revenues for public services. The use permit request is consistent with this goal in that the proposed CVS store expects to employ 25-30 employees. The new CVS store would retain the range retail sales products and medicine in the northwest portion of the City and provide better access to a more modern shopping venue that generates sales tax revenue for the City.

The request is also consistent with Goal LU.8 of the Land Use and Economic Development that calls for concentrating commercial development and mixed-use activity areas within major City transportation corridors including Appian Way.

### **Zoning Consistency**

The Zoning Code specifies that the following information be provided in order to approve a CUP request for alcohol sales.

- 1) As part of the application, the applicant must provide a list of all establishments within a 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 and the State Department of Alcoholic Beverage Control finds that the request will result in an overconcentration of alcohol sales within the applicable Census Tract, the City of Pinole shall not approve the application unless it makes all of the following findings of "Public Convenience or Necessity,"

*This requirement applies to this proposed CVS store and the City Council approved a finding of Public Convenience or Necessity on July 5, 2016.*

- 2) The number of businesses having authority to sell alcoholic beverages in the Census Tract of applicant.

*This requirement applies to new alcohol licenses or license type changes. Census Tract 3591.03 includes the portion of Pinole north of Interstate 80 and east of Appian Way. There are currently three off-sale alcohol sales licenses within the Census Tract with all issued within Pinole. The table below includes a complete list of existing Pinole businesses with alcohol licenses within Census Tract 3591.03 as of September 21, 2016.*

Census Tract 3591.03  
Pinole Off-Sale and On-Sale  
Retail Alcohol Sales Establishments

Business Establishment	Location	License Type
Bills Liquors	2350 San Pablo Avenue	Off-sale, full alcohol
Pump House	700 Tennent Avenue	Off-sale, full alcohol
Appian Liquors	1677 San Pablo Avenue	Off-sale, full alcohol
AMF Pinole Lanes	1580 Pinole Valley Road	On-sale, full alcohol
Pinole Creek Cafe	2454 San Pablo Avenue	On-sale, full alcohol
Pear Street Bistro	2395 San Pablo Avenue	On-sale, full alcohol
Tina's Place	2300 San Pablo Avenue	On-sale, full alcohol
Antlers Tavern	2284 San Pablo Avenue	On-sale, full alcohol
China House Restaurant	1971 San Pablo Avenue	On-sale, beer and wine
King Valley	795 Fernandez Avenue	On-sale, beer and wine
Taqueria Sanchez	2400 San Pablo Avenue	On-sale, beer and wine

Source: State Department of Alcoholic Beverage Control, September 21, 2016.



- 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 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 expansion request.*

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

*Pinole Middle School is within 1,000 feet of the new CVS site. The project site has a commercial General Plan Designation and is located in a Commercial Mixed Use Zoning District. The new CVS store is approximately the same distance as the current CVS store on Tara Hills Drive.*

#### Parking Demand

*The 62 spaces of planned off-street auto parking exceed the City's requirement of 60 spaces. A pedestrian walkway will allow direct access to CVS from the Appian Way/Canyon Drive intersection and there is an existing bus stop adjacent to the site on Canyon Drive.*

#### Proposed Conditions of Approval

The Pinole Municipal Code includes standard conditions of approval that apply to alcohol sales establishments. The applicable conditions are listed below and have been included in the conditions of approval of the accompanying resolution (see Exhibit A of Resolution 14-03 in Attachment A).

#### *Standard Conditions of Approval All Alcohol Sales Establishments*

- The applicant shall be responsible for maintaining free of litter that area in front of and adjacent to the premises over which they have control.
- No signs advertising the sale of alcoholic beverages shall be displayed outside of the store.
- Licensee of its employees shall regularly police the area under the licensee's control in an effort to prevent the loitering of persons about the premises.
- If any of these 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.
- Establish and maintain a "complaint response/community relations" program with the Police Department or similar method to assure cooperation with the Police Department.

#### *Off-sale Conditions*

- No sale of alcohol is allowed for on-site consumption.

- Trash receptacles shall be located at convenient locations outside the establishment, and operators of the business shall remove all trash on a daily basis.
- In establishments with glass storefronts, windows shall allow for unobstructed interior viewing of the cash register area from the street.
- A sign concerning the California law prohibiting minors to drink alcohol and a sign prohibiting loitering or public drinking must be posted.
- A copy of any use permit conditions of approval will need to be kept on premises and available upon request.
- All employees within ninety (90) days of employment shall receive "responsible beverage service training" and the City is to receive documentation of the training and copies shall be retained on premises.

In addition to the conditions mentioned above, Staff has included within Exhibit A of the proposed Resolution 16-11 security-related conditions of approval calling for preparation of a crime prevention security plan, completing a business emergency information form, and scheduling an on-site training event with the Police Department prior to commencement of alcohol sales.

#### **ENVIRONMENTAL REVIEW**

The CVS pharmacy and retail store building was previously considered as part of a project for which there was an approved Mitigated Negative Declaration that included a Mitigation Monitoring and Reporting Program (MMRP). The proposed alcohol sales would occupy approximately 129 square feet of retail floor space plus storage and handling area within an approved approximately 14,806 square foot building. Based on the size of the proposed use and its location it would be eligible for a Categorical Exemption per Section 15332 of the California Environmental Quality Act (CEQA) Guidelines in that the project meets the criteria for an infill development. The alcohol sales project is consistent with the City's General Plan; substantially surrounded by urban uses and is no more than 5 acres in size; has no value as habitat for endangered, rare, or threatened species; approval of the use permit would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the project site can be adequately served by all required utilities and public services.

#### **ATTACHMENTS**

- A. Resolution 16-11 with Exhibit A: Conditions of Approval
- B. Applicant's Operational Statement, Vicinity Map, Site Plan and Floor Plan Received June 13, 2016

**PLANNING COMMISSION RESOLUTION 16-11 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 BEER, WINE, AND DISTILLED SPIRITS SALES FOR OFF SALE CONSUMPTION AT AN APPROVED 14,806 SQUARE FOOT CVS PHARMACY RETAIL STORE LOCATED AT 2617 CANYON DRIVE, PINOLE, CA 94564, APN: 401-273-043, -044, -045, and -046**

**WHEREAS**, Armstrong Development Properties, Inc. (hereinafter referred to as applicant) is seeking a Type 21 off-sale alcohol license with the State Department of Alcohol Beverage Control (ABC) and has filed an application for a Conditional Use Permit (CUP 16-04) with the City of Pinole to allow alcohol sales; and

**WHEREAS**, the Planning Commission of the City of Pinole is the appropriate authority to hear and take action on this request; and

**WHEREAS**, the State Department of Alcohol Beverage Control has concluded that there is an undue concentration of Type 21 off-sale alcohol sales licenses within Census Tract 3591.03; and

**WHEREAS**, the City Council has approved a determination of public convenience and necessity (PCN) for the proposed alcohol sales on July 5, 2016; and

**WHEREAS**, Said property is designated for Service Sub-Area (SSA) in the Pinole General Plan; and

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

**WHEREAS**, Chapter 17.59 (Use Permits) of the Pinole Municipal Code permits alcohol sales in commercial and mixed use zoning districts subject to securing a Conditional Use Permit; and

**WHEREAS**, The Police Department has verified that there are no outstanding crime issues or excessive calls for service at this location; and

**WHEREAS**, The Police Department has confirmed that the sale of alcohol at the future CVS pharmacy retail store is not expected to increase calls for service or crime activity at this location; and

**WHEREAS**, no active disciplinary actions have been taken against other CVS pharmacy retail stores for alcohol sales license violations in California; and

**WHEREAS**, the project is proposed within an approved new development that has previously been analyzed in a Mitigated Negative Declaration (MND) and prepared a Mitigation Monitoring and Reporting Program (MMRP) pursuant to the California Environmental Quality Act (CEQA) and the currently requested use permit would not result in new significant effects;

**WHEREAS**, the sale of alcohol meets the criteria for a Categorical Exemption as Infill

Development pursuant to Section 15332 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 16-04 on September 26, 2016;

**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:

A. Finds as follows:

1. The above recitals are true and correct.
2. 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 adult members of the public desiring to purchase beer, and distilled spirits for off-sale consumption.
3. The use permit request, as conditioned, is consistent with the applicable portions of the Three Corridors Specific Plan and Zoning Code and will help ensure the protection and preservation of public health, safety, and welfare.
4. The establishment, maintenance or operation of the alcohol sales use applied for, as conditioned, will not, under the circumstances be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood or the City as a whole.
5. The site of the proposed alcohol sales use is physically suitable for the type and intensity of the use and related structures.
6. The alcohol sales use, as conditioned, will not be contrary to the specific intent clauses, development regulations, or performance standards established for the Commercial Mixed Use Zoning District.
7. The proposed alcohol sales use, as proposed, and related structures are compatible with other land uses, service facilities in the vicinity.
8. The use permit request is proposed within an approved development that has previously been analyzed within an approved MND for which a MMRP has been prepared consistent with CEQA requirements.
9. The sale of alcohol for off-site consumption within the retail pharmacy once built meets the criteria of a Categorical Exempt from CEQA pursuant to Section 15332 of the CEQA Guidelines because the alcohol sales use is consistent with General Plan policies; occurs on a site of no more than 5 acres substantially surrounded by urban uses; would occur on a site that has no value as habitat for endangered, rare, or threatened species; and would not result in any significant effects related to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services.

- B. Hereby approves Conditional Use Permit 16-04 as provided in the staff report, and subject to the Conditions of Approval attached as Exhibit A to this Resolution.
- C. Stipulates that this approval of a Conditional Use Permit 16-04 shall terminate on September 26, 2016, unless exercised and actual construction of the pharmacy and retail store under valid permits has begun within said period or a written request has been submitted to the City, prior to the expiration date, for an extension of time as allowed under the Zoning Ordinance.

The above action is final unless an appeal is filed pursuant to Chapter 17.10 of the Pinole Municipal Code within ten (10) calendar days following Planning Commission action.

**PASSED AND ADOPTED** by the Planning Commission of the City of Pinole on this 26th day of September 2016, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
David Kurrent, Chair, 2016-2017

ATTEST:

\_\_\_\_\_  
Winston Rhodes, AICP, Planning Manager



**PLANNING COMMISSION RESOLUTION 16-11 EXHIBIT A  
CONDITIONS OF APPROVAL: CVS ALCOHOL SALES CONDITIONAL USE PERMIT**

	<u>Timing/ Implementation</u>	<u>Enforcement Department / Division</u>	<u>Verification (date and Signature)</u>
1. If any of conditions are found to be disregarded, the use permit will be subject to revocation and the business subject to potential closure. If necessary, the Planning Commission may modify or may recommend to the City Council revoking the use permit after making applicable findings.	On-Going	Police and Development Services	
2. The proposed use shall be operated in a manner consistent with the statement of operations dated June 13, 2016 and in a manner which is consistent with all federal, state & local laws.	On-Going	Police and Development Services	
3. The Applicant 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.	On-Going	Development Services and City Attorney	
4. There shall be no sale of alcohol for on-site consumption.	On-Going	Police and Development Services	
5. A sign concerning the California Law Prohibiting Minors to Drink Alcohol and a sign prohibiting loitering or public drinking must be posted inside and outside the establishment in clear public view to the satisfaction of the Police Department. No signs advertising the sale of alcoholic beverages shall be displayed outside of the store.	On-Going	Police and Development Services	
6. A copy of the conditions of approval will need to be kept on premises and available upon request.	On-Going	Police and Development	

**PLANNING COMMISSION RESOLUTION 16-11 EXHIBIT A**  
**CONDITIONS OF APPROVAL: CVS ALCOHOL SALES CONDITIONAL USE PERMIT**

		<u>Timing/ Implementation</u>	<u>Enforcement Department / Division</u>	<u>Verification (date and Signature)</u>
7.	All staff, within 90 days of employment, shall receive "responsible beverage service training." Applicant shall include these training details as part of the "complaint response/community relations." Documentation of employee training shall be stored on premises and made available upon request.	On-Going	Police and Development Services	
8.	Proposed modification of the hours or other aspects of the business shall be submitted for review and approval by staff. Staff will determine if changes are substantial and require further review by the Planning Commission.	On-Going	Development Services	
9.	The surrounding area shall be maintained in a clean and orderly manner at all times. Trash receptacles shall be located at convenient locations outside the CVS store, and the store operator shall arrange for proper removal and/or recycling of all trash on a daily basis. Landscaping material shall be regularly maintained around the site so that it cannot be used as a hiding place. On-site lighting shall be maintained in good working condition at all times.	On-Going	Development Services	
10.	Applicant shall obtain the applicable State Alcohol Beverage Control license and no alcohol shall be sold for on-site consumption. A copy of the license shall be submitted to the Community Development and Police Departments prior to commencement of alcohol sales.	On-Going	Police and Development Services	
11.	The operating hours shall be 7:00AM-10:00PM seven days a week.	On-Going	Police and Development Services	

**PLANNING COMMISSION RESOLUTION 16-11 EXHIBIT A  
CONDITIONS OF APPROVAL: CVS ALCOHOL SALES CONDITIONAL USE PERMIT**

		<u>Timing/ Implementation</u>	<u>Enforcement Department / Division</u>	<u>Verification (date and Signature)</u>
12.	If the operation of the use results in conflicts pertaining to parking, noise, nuisance, traffic or other impacts, at the discretion of staff, the use permit may be referred to the Planning Commission for subsequent review at a public hearing.	On-Going	Police and Development Services	
13.	If use permit conditions are not adhered to, the City Council may revoke the permit after giving 10-day notice following a public hearing.	On-Going	Police and Development Services	
14.	Establish and maintain a "complaint response/community relations" program with the Police Department.	On-Going	Police and Development Services	
15.	Any graffiti that appears on the project site shall be cleaned promptly to return the area to its original condition within 72 hours.	On-Going	Police and Development Services	
16.	<b><u>SECURITY PLAN</u></b> The applicant in conjunction with the operator shall prepare and shall submit a security plan for the property for review and approval by the Police Department. The security plan shall include business hours of operation, alarm information, security cameras, and a completed "Business Site Emergency Information Form." As part of the plan, storefront windows shall allow for unobstructed interior viewing of the cash register area from the street on an ongoing basis. Additionally, the operator shall provide full cooperation with the Police Department to	Prior to Issuance of Building Permit	Police and Development Services	

**PLANNING COMMISSION RESOLUTION 16-11 EXHIBIT A**  
**CONDITIONS OF APPROVAL: CVS ALCOHOL SALES CONDITIONAL USE PERMIT**

		<u>Timing/ Implementation</u>	<u>Enforcement Department / Division</u>	<u>Verification (date and Signature)</u>
	prevent and investigate criminal activity at the property.			
17.	The store operator shall schedule an on-site training event with the Police Department prior to commencement of alcohol sales.	Prior to Final Store Occupancy	Police and Development Services	

Operational Statement  
CVS/pharmacy #9299  
SEC Canyon & Appian; Pinole, CA

**Project Summary**

Armstrong Development Properties, Inc. proposes to build a 13,013 square foot CVS/pharmacy retail store providing health and beauty aids, personal care items, gift items, beer, wine, distilled spirits, common household goods, vitamins, and retail pharmaceutical products available over-the-counter or by prescription from the in-store pharmacy. In addition to these products, the proposed store will also provide one-hour photo processing, as well as standard photo processing from standard negatives or digital photography. Other than photographic prints, products are not produced onsite, but a full range of products are available in-store, with an emphasis on convenience to the consumer.

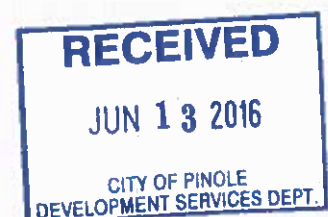
Armstrong Development Properties, Inc. (ADPI), on behalf of CVS/pharmacy, is requesting a Conditional Use Permit for the proposed sale of liquor at the new requested location. The current CVS store located at 1401 Tara Hills Drive, Pinole holds a type 21 liquor license for the sale of hard alcohol, beer and other spirits. With the approval of the PCN, CVS will be surrendering the current license at the Tara Hills Drive location upon opening of the new location.

The proposed CVS/pharmacy will be located at the southeast corner of Canyon Drive and Appian Way. The Assessor Parcel Numbers for the project are 401-273-043, -044, -045, and -046. As it exists today, the project site is currently a multi-tenant medical building. The project site is currently zoned "CMU" Commercial Mixed Use. The proposed CVS/pharmacy project is consistent with both the current "CMU" Commercial Mixed Use land use designation as well as the Pinole General Plan.

The intent of this development project is to create a sustainable and viable project that will be an asset to the community for years to come. Accordingly, the layout of the development project has been designed to create a functional balance between the anticipated automotive and pedestrian clientele. Strong pedestrian connections are provided along both frontages to encourage customers to walk to the CVS/pharmacy site from neighboring residential developments or from other businesses located in the area. Bike racks are provided to further promote the use of alternative modes of transportation while substantial landscaping and pedestrian features are also proposed along both frontages and throughout the parking area in order to create an attractive commercial project.

**Alcohol Sales**

Currently, the proposed CVS/ Pharmacy in Pinole will consist of a 129 S.F. of Total Area Liquor Display. This measurement will represent a Ratio of liquor to total store area of 1.00% and 1.20% ratio of Liquor to Retail Area. CVS/Pharmacy will be applying for a type 21 off-sale license and is aware of the requirement to obtain a letter of PCN in order to obtain such license.





2400 Del Paso Road  
Suite 140  
Sacramento, CA 95834  
916-643-9610 Phone  
916-643-9613 Fax

CVS/pharmacy is committed to taking all feasible steps to address law enforcement concerns about the site with regard to the sale of alcoholic beverages. For instance, CVS/pharmacy has an extensive employee-training program and is a responsible retailer of alcoholic beverages. CVS/pharmacy is a large corporate retailer with a national presence. CVS/pharmacy has the resources to be a responsible retailer of all types of goods including alcoholic beverages

CVS/pharmacy recognizes the seriousness of loitering, delinquency, crime, and underage drinking. Therefore, through over 40 years of experience, CVS/pharmacy has developed stringent operational standards and training programs to teach techniques for the lawful selling of alcoholic beverages. CVS/pharmacy will require all employees selling alcoholic beverages to complete its training program and execute a semi-annual acknowledgement of its alcohol sales policies. In addition CVS/pharmacy is open to operating conditions that the Police Department considers necessary to ameliorate significant concerns that do exist.

**Hours of Operation / Employee Information Related to Alcohol Sales**

Initially the CVS/pharmacy will operate approximately from the hours of 7 a.m. to 10 p.m., seven days week, CVS/pharmacy will request to keep the current hours of alcohol sale to opening and closing of store hours. The typical CVS/pharmacy generally has between 25-30 employees on payroll, therefore all 25-30 employees will each be required to go through the extensive alcohol sales training before stepping foot in store. The typical number of employees staffed at a given time throughout the day may be between 4-12 depending on time of day, year and other factors. Most part-time employees will work between 20-25 hours per week and most full-time employees will work approximately 40 hours per week. Typical shifts can range from 6am – 2pm for first shift and 2pm – 8pm for second shift.

Armstrong Development Properties, Inc. believes that the proposed new location for CVS/pharmacy would be a valuable upgrade to the services provided to this area and the redevelopment of this property will be an added benefit to the entire community. Should Staff have any questions or concerns regarding this application, please do not hesitate to contact Armstrong Development Properties, Inc. at any time.

Sincerely,

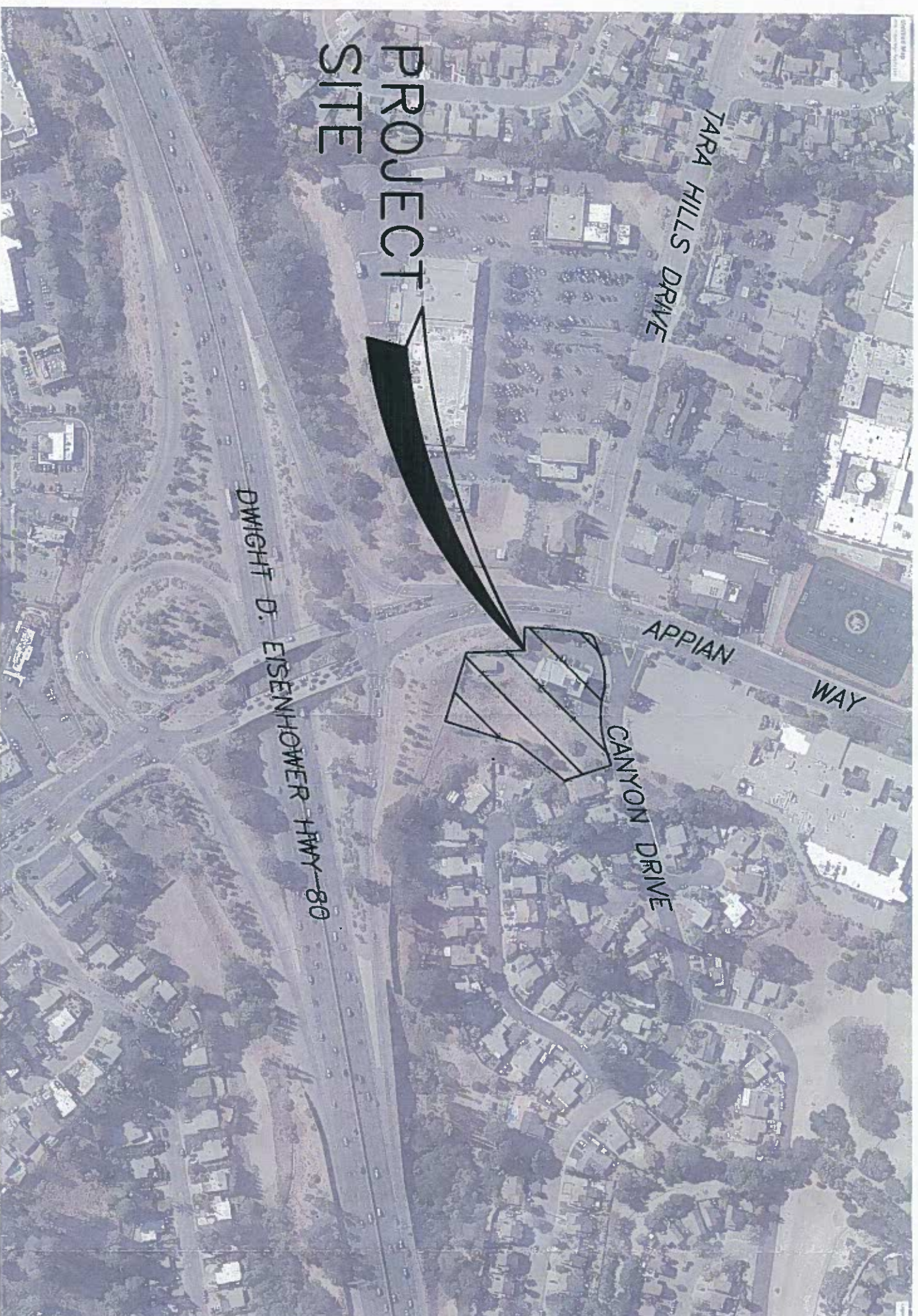


Julieann Martin

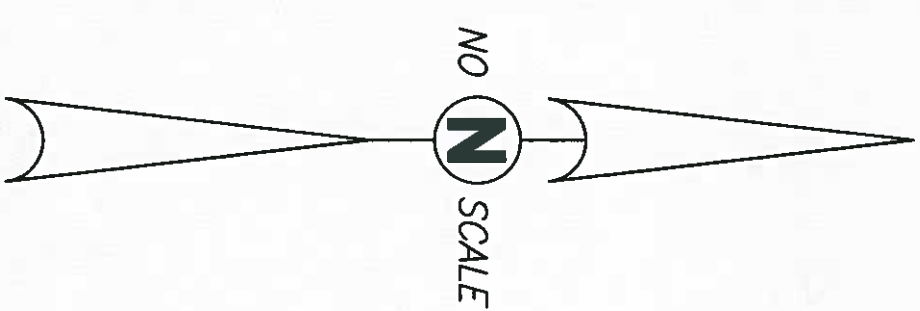
Armstrong Development Properties, Inc.

[jmartin@agoc.com](mailto:jmartin@agoc.com)





VICINITY MAP  
NOT TO SCALE



**RECEIVED**  
JUN 13 2016  
CITY OF PINOLE  
DEVELOPMENT SERVICES DEPT.







[illegible]

TOTAL STORE AREA  
= 13,013 S.F.

RE #09299, PINOLE, CA  
NEW STORE

JUN 13 2016

CITY OF PINOLE  
DEVELOPMENT SERVICES DEPT.



## Memorandum

**TO:** PINOLE PLANNING COMMISSION  
**FROM:** WINSTON RHODES, AICP PLANNING MANAGER  
**SUBJECT:** Orange Theory Fitness Facility Conditional Use Permit  
**DATE:** September 26, 2016

**Property Owner:**  
Thomas Gateway, LLC  
c/o Thomas Properties  
3100 Oak Street, Suite 140  
Walnut Creek, CA 94597

**Applicant/Representative:**  
Ruchit Rane  
Santara Pinole, LLC  
22709 Rancho Palomares Place  
Castro Valley, CA 94552

**PROJECT:** Orange Theory Fitness Training Facility Conditional Use Permit  
**FILE:** CUP 16-05  
**LOCATION:** 1400 Pinole Valley Road  
**APN:** 401-410-017  
**GP DESIGNATION:** Service Sub-Area (SSA)  
**SPECIFIC PLAN & ZONING:** Pinole Valley Rd. Corridor Office Professional Mixed Use(OPMU)

### **BACKGROUND**

The proposed fitness facility would be located within the approved shops space building located within the portion of Gateway Shopping Center west of Pinole Valley Road that is currently under construction. The approved building where the fitness training facility would be located has five separate tenant spaces under construction.

### **REQUEST**

The applicant is seeking conditional use permit approval to operate a health and fitness training facility within an approved commercial building space located at 1400 Pinole Valley Road. The proposed use includes a reception area; fitness training area; storage area; and restroom shower area (see Attachment B Proposed Floor Plan).

### **STAFF RECOMMENDATION**

Adopt Resolution 16-12 approving the conditional use permit request to allow the operation of a fitness training facility at 1400 Pinole Valley Road with project conditions.



## **SITE LOCATION**



The project site is located at the northwest of the intersection of I-80 and Pinole Valley Road. Adjacent land uses are summarized below.

Direction from Project Site	Existing Land Use
North	Retail (Sprouts Market under construction)
West	Personal Commercial Service (planned Hair and Nail Salon)
South	Pinole Lanes and I-80
East	Pinole Valley Road and Retail (Starbucks Coffee Shop under construction)

## **PROJECT DESCRIPTION**

The applicant is seeking a Conditional Use Permit to operate an approximately 3,022 square foot health and fitness facility within an approved portion of a multi-tenant commercial building that is under construction. The proposed Orange Theory fitness facility would be a new business intended for adults of all fitness levels. No structural exterior changes are proposed at this time to what was previously approved by the City as part of the Gateway Shopping Center (See approved site plan and commercial shops building elevations within Attachment C).

### ***Proposed Facility Use Overview***

The applicant provides group cardiovascular and strength training classes to individuals of all fitness levels. The applicant is proposing operating hours seven days a week from 5:00 AM to 10:30 PM. It is anticipated that 3 - 4 employees will be needed to operate the facility. Hour-long classes are offered throughout the day and are pre-scheduled. The applicant anticipates 15 - 25 participants per class with 8-9 classes offered each day. Fitness coaches will make use of a proposed speaker system with amplified music. The applicant proposes 15-minute intervals between class sessions to help manage parking demand. Additionally, the applicant is proposing to require employees to park away from the main entrance and the most convenient parking spaces. Peak class activity times are anticipated to be in the early morning and late afternoon hours.

## **ANALYSIS**

### ***Land Use***

The project site is designated Service Subarea SSA in the General Plan. The General Plan SSA land use designation for this portion of the Pinole Valley Corridor is intended to maintain and increase employment opportunities and encourage mixed use development including commercial uses that serve residential neighborhoods and serves as a community gateway south of the historic Old Town.

The Gateway Shopping Center approval included a 15-year Development Agreement that currently terminates on June 15, 2030. The Development Agreement is silent on fitness training facilities and does not specify that they are permitted uses or prohibited uses. Therefore, the current zoning regulations apply.

The proposed project is located within the OPMU Zoning District within the Pinole Valley Road corridor of the Three Corridors Specific Plan. Within this portion of the Pinole Valley Road corridor OPMU zone fitness training facilities are allowed subject to obtaining a conditional use permit. Under the City Zoning Code the Planning Commission has the authority to review and approve conditional use permit requests. The Planning Commission Development Review Sub-committee met on July 11 to discuss the proposed Orange Theory fitness facility. The Subcommittee was supportive of the project but was concerned about parking demand and was interested in more operational details.

The proposed facility is within an approved multi-tenant building located north of the Pinole Lanes bowling facility and south of the approved Sprouts Market that is under construction. The facility would be located in the northeast corner portion of the building along Pinole Valley Road. The proposed tenant space would share a rear wall with a planned Habit Burger restaurant and would share a common side wall with an anticipated nail and hair salon. The proposed new fitness facility is consistent with several General Plan policies that support economic development and job

creation. Below are General Plan goals and policies that support the proposed use

#### Community Character Element

**GOAL CC.3** Support the development and retention of local-oriented services in Old Town Pinole and other commercial areas, and encourage and support the local economy.

**POLICY CC.3.2** Support locally owned businesses with the goals of promoting a strong business base, encouraging joint marketing and improving the City's business climate. Encourage residents and employees to obtain their goods and services locally

#### Land Use and Economic Development Element

**GOAL LU.7** Balance housing and employment opportunities to reduce trips in and out of the region and encourage commercial development which maintains and enhances the quality of the city's commercial areas, provides services for residents and broadens the tax base of the community to provide needed revenues for public services.

**POLICY LU.7.1** Provide sufficient land for commercial and industrial uses to allow for development that provides basic goods and services to Pinole residents.

**POLICY LU.7.2** Provide for economic development which (1) maintains the City's ability to finance services and the construction and maintenance of public improvements; (2) offers local employment opportunities for Pinole residents to reduce inter-city commuting; and (3) assures the availability and diversity of resident-serving goods and services.

**GOAL LU.8** Concentrate commercial development and mixed-use activity areas within the Fitzgerald Drive, San Pablo Avenue, Pinole Valley Road, and Appian Way corridors.

#### Circulation Element

**GOAL CE.5** Provide adequate parking and loading facilities while encouraging alternative means of transportation.

The proposed project helps implement the General Plan by bringing an additional small business to Pinole and increasing the range of recreational and fitness services available within the community.

#### Zoning

The Zoning District for the project is OPMU. The purpose of the OPMU zone is to allow the development of office buildings and business parks with supporting retail and services uses. Commercial uses may be located horizontally in free-standing buildings. All commercial uses are encouraged to be on the ground floor on the street front wherever possible. The proposed fitness facility provides a complementary use near the Kaiser medical facility and the future Sprouts Market by providing a convenient exercise option for workers and residents nearby the site. In order to ensure compatibility between the proposed use and the planned adjacent tenants, staff has added a draft condition of approval that the applicant shall install noise control measures if complaints are received in order to minimize disruption of the proposed salon and restaurant while the fitness classes are in progress.

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### ***Circulation***

Access to the project site is provided by Pinole Valley Road. The project site is in close proximity to existing and approved West Contra Costa Transit Authority (WestCAT) bus stops along this segment of Pinole Valley Road (between I-80 Henry Avenue) that is served by several bus routes (i.e., the 16, 19, and JX/JPX) along Pinole Valley Road. The bus routes provide direct transport between Richmond and Pinole Valley; between Hilltop Mall and the Hercules Transit Center; and between the Hercules Transit Center and the Del Norte BART Station.

### ***Parking***

There are approximately 105 off-street parking spaces located in a parking lot immediately south and north the project site between Pinole Lanes and the main signalized driveway into the western portion of the Gateway Shopping Center. The known anticipated surrounding uses in the shops space building include two food establishments within the southern half with outdoor dining and a hair/ nail salon in addition to the proposed project. The parking requirement for this use is 1 auto parking space per 300 feet. Based on the proposed gross square footage 11 parking spaces are required for the fitness facility. Since classes last 60 minutes, potential parking demand may be as high as 29 spaces. Staff does not anticipate parking conflicts based on the proposed operating hours of the fitness training facility given that many of the surrounding planned businesses are closed or anticipated to have light parking demand during the early mornings and late evenings which is anticipated to be the peak usage period for the proposed project. Additionally, the 15 minute break between scheduled classes may help spread out project parking demand. Nevertheless, staff has included parking demand management proposed conditions requiring employees to park in the least convenient spaces of the project site and make rideshare and transit literature available on an ongoing basis to employees and facility participants in order to help manage future parking demand. Additionally, the project has been conditioned to provide two bicycle parking spaces for employees or fitness facility users to satisfy zoning requirements.

### ***Signage***

The applicant is not proposing specific signage in conjunction with the use permit request. Signage will be proposed at a later date. A proposed condition of approval has been added to the attached resolution to require that the applicant provide signage for review and approval by staff prior to occupancy.

### **ENVIRONMENTAL REVIEW**

The project building was previously considered as part of the Gateway Shopping Center project for which there was an approved Mitigated Negative Declaration that included a Mitigation Monitoring and Reporting Program (MMRP). The proposed fitness facility would occupy approximately 3,022 square feet with a portion of one of the four approved Gateway Shopping Center buildings. Based on the size of the proposed use and its location it would be eligible for a Categorical Exemption per Section 15332 of the California Environmental Quality Act (CEQA) Guidelines in that the project meets the criteria for an infill development. The project is consistent with the City's General Plan; substantially surrounded by urban uses and is no more than 5 acres in size; has no value as habitat for endangered, rare, or threatened species; approval of the use permit would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the project site can be adequately served by all required utilities and public services.

## **CONCLUSION**

The proposed use would add a new business to the Pinole Valley Road corridor to help strengthen the economic vitality of the business area. The proposed project provides a beneficial private recreational service within the north end of Pinole Valley Road that would promote good health and is consistent with General Plan policies, the Three Corridors Specific Plan and applicable Zoning Code requirements.

## **ATTACHMENTS**

- A. Resolution 16-12 with Exhibit A: Conditions of Approval
- B. Project Description Narrative with project plans date stamped received September 14, 2016
- C. Approved Gateway Shopping Center Site Plan and Shops Building Elevations
- D. Sprouts Letter to property owner dated September 6, 2016



**PLANNING COMMISSION RESOLUTION 16-12  
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 (CUP 16-05) TO ALLOW THE OPERATION OF AN APPROXIMATELY 3,022 SQUARE FOOT HEALTH AND FITNESS STUDIO WITHIN AN APPROVED BUILDING AT 1400 PINOLE VALLEY ROAD, APN: 401-410-017**

**WHEREAS**, Santara Pinole LLC has filed an application for a Conditional Use Permit (CUP 16-05) with the City of Pinole to allow the operation of a health and fitness training facility within an approved commercial building at 1400 Pinole Valley Road; and

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

**WHEREAS**, Said property is designated Service Sub-Area (SSA) in the Pinole General Plan and is intended to attract private investment and encourage additional development, increase existing employment opportunities, accommodate commercial uses that serve residential neighborhoods and community visitors; and

**WHEREAS**, The property is located within the Pinole Valley Road corridor of the Three Corridors Specific Plan and is zoned Office Professional Mixed Use (OPMU) that allows indoor fitness and sports facilities subject to securing a Conditional Use Permit; and

**WHEREAS**, The project is located within an approved building located within the Gateway Shopping Center for which a Mitigated Negation Declaration (MND), Mitigation Monitoring and Reporting Program (MMRP) was prepared and approved by the City Council on April 21, 2015 in compliance with the California Environmental Quality Act (CEQA); and

**WHEREAS**, The Planning Commission of the City of Pinole has conducted a duly noticed public hearing to consider CUP 16-05 on September 26, 2016;

**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:

A. Finds as follows:

1. The recitals above are true and correct.
2. The use permit request is consistent with General Plan in that it encourages commercial development, expands the range of services for residents, and as conditioned encourages alternatives to single occupancy auto travel by providing new bicycle parking and transit information and supports General Plan Goals and Policies found in the Community Character, Land Use and Economic Development, and Circulation Elements.
3. The use permit request, as conditioned, is consistent with the applicable provisions of the Three Corridors Specific Plan and Zoning Code, in that it furthers the purpose of the OPMU Zone, and will help ensure the protection and preservation of public health, safety, and

welfare by expanding the commercial services in Pinole, providing local employment opportunities and will encourage improved public fitness; and

4. The establishment, maintenance or operation of the fitness training facility applied for, as conditioned, will not, under the circumstances be detrimental to the to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood or the City as a whole.
  5. The site of the proposed fitness training facility use is physically suitable for the type and intensity of the use and related structures.
  6. The fitness training facility, as conditioned, will not be contrary to the specific intent clauses, development regulations, or performance standards established for the OPMU Zoning District.
  7. The proposed fitness training use, as proposed, and related structures are compatible with other existing and approved land uses, and service facilities in the vicinity.
  8. The use permit request is proposed within an approved development that has previously been analyzed within an approved MND for which a MMRP has been prepared consistent with CEQA requirements.
  9. The fitness training facility within a portion of an approved commercial building currently under construction meets the criteria for a Categorical Exempt from CEQA pursuant to Section 15332 of the CEQA Guidelines because the fitness training use is consistent with General Plan policies; occurs on a site of no more than 5 acres substantially surrounded by urban uses; would occur on a site that has no value as habitat for endangered, rare, or threatened species; and would not result in any significant effects related to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services.
- B. Hereby approves CUP 16-05 as provided in the staff report, and subject to the Conditions of Approval attached as Exhibit A to this Resolution.
- C. Stipulates that this approval of Conditional Use Permit 14-05 shall expire on September 26, 2017, unless exercised and actual construction or alteration under valid permits has begun within said period or a written request has been submitted to the City, prior to the expiration date, for an extension of time as allowed under the Zoning Ordinance.

The above action is final unless an appeal is filed pursuant to Chapter 17.10 of the Pinole Municipal Code within ten (10) calendar days following Planning Commission action.

**PASSED AND ADOPTED** by the Planning Commission of the City of Pinole on this 26th day of September 2016, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

David Kurrent, Chair, 2016-2017

**ATTEST:**

Winston Rhodes, AICP, Planning Manager

**PLANNING COMMISSION RESOLUTION 16-12**  
**EXHIBIT A**  
**CONDITIONS OF APPROVAL ORANGE THEORY FITNESS**  
**CONDITIONAL USE PERMIT 16-05**

	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
1.	If any of these conditions are found to be disregarded, the use permit for the fitness training facility may 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.	Development Services Department	
2.	The proposed use shall be operated in a manner consistent with the project description and site plans provided by the applicant date-stamped received September 14, 2016 unless otherwise specified in these conditions of approval and shall be conducted in a manner which is consistent with all federal, state & local laws.	Police and Development Services Departments	
3.	The Applicant 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.	Development Services Department	
4.	The regular operating hours of the use shall be 5:00AM – 10:30PM Monday through Sunday.	Development Services Department	
5.	The applicant shall submit proposed signage for review and approval by City staff prior to occupancy.	Prior to Building Occupancy Development Services Department	

**PLANNING COMMISSION RESOLUTION 16-12**  
**EXHIBIT A**  
**CONDITIONS OF APPROVAL ORANGE THEORY FITNESS**  
**CONDITIONAL USE PERMIT 16-05**

	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
6.	If the City receives noise complaints from adjacent building tenants, then the applicant shall install noise control features to the satisfaction of the property owner and the Development Services Department to remedy the situation. This may include adding noise insulation, wall treatments or other features to absorb sound to ensure long-term compatibility with adjacent businesses. Noise control features shall be approved in advance of installation and a building permit shall be secured if required.	Development Services Department	
7.	A copy of the use permit conditions of approval will need to be kept on premises and available upon request.	Development Services/Police Departments	
8.	Proposed modification of the operating hours or other aspects of the business shall be submitted for review and approval by staff. Staff will determine if changes are substantial and require further review by the Planning Commission.	Development Services Department	
9.	The surrounding area shall be maintained in a clean and orderly manner at all times. Landscaping material shall be regularly maintained around the site so that it cannot be used as a hiding place. On-site lighting shall be maintained in good working condition at all times.	Development Services Department	
10.	If the operation of the use results in conflicts pertaining to parking, noise, nuisance, traffic or other impacts, at the discretion of staff, the use permit may be referred to the Planning Commission for subsequent review at a public hearing.	Development Services Department	
11.	All fitness studio employees shall be required to park in the least convenient available spaces southwest of the building trash enclosures to	Development Services	

**PLANNING COMMISSION RESOLUTION 16-12**  
**EXHIBIT A**  
**CONDITIONS OF APPROVAL ORANGE THEORY FITNESS**  
**CONDITIONAL USE PERMIT 16-05**

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
	maximize efficient available parking for fitness studio customers, and for customers of adjacent businesses.		Department	
12.	Any outdoor promotional display will require a separate use permit request for review and approval by the owner and Development Services Department.	On-Going	Development Services Department	
13.	Fitness studio employees trained in cardiopulmonary resuscitation (CPR), First Aid, and in the proper use of an automated external defibrillator (AED) shall be present during fitness studio operating hours.	On-Going	Development Services Department	
14.	The applicant shall make rideshare and public transit information available on premises to employees and customers.	On-Going	Development Services Department	
15.	The applicant shall provide at least two secure bicycle parking spaces within the fitness studio facility or within 50 feet of the entrance.	Prior to Building Occupancy	Development Services Department	



### **About the Orange Theory Fitness (OTF):**

Orange Theory Fitness Pinole located in the Pinole Gateway Plaza is an independently owned and operated franchise offering one-of-a-kind, group personal training workout broken into intervals of cardiovascular and strength training that produce maximum calorie burn. Backed by science, the heart-rate-based, 5-zone interval training is designed to maintain a target zone that stimulates metabolism and increases energy. Fitness coaches lead each 60-minute session using a variety of equipment including treadmills, rowing machines, suspension training and free weights, getting heart rates in the target Orange Zone for the desired time to produce the Orange Effect. The result is more energy, visible toning and extra calorie burn after the workout.

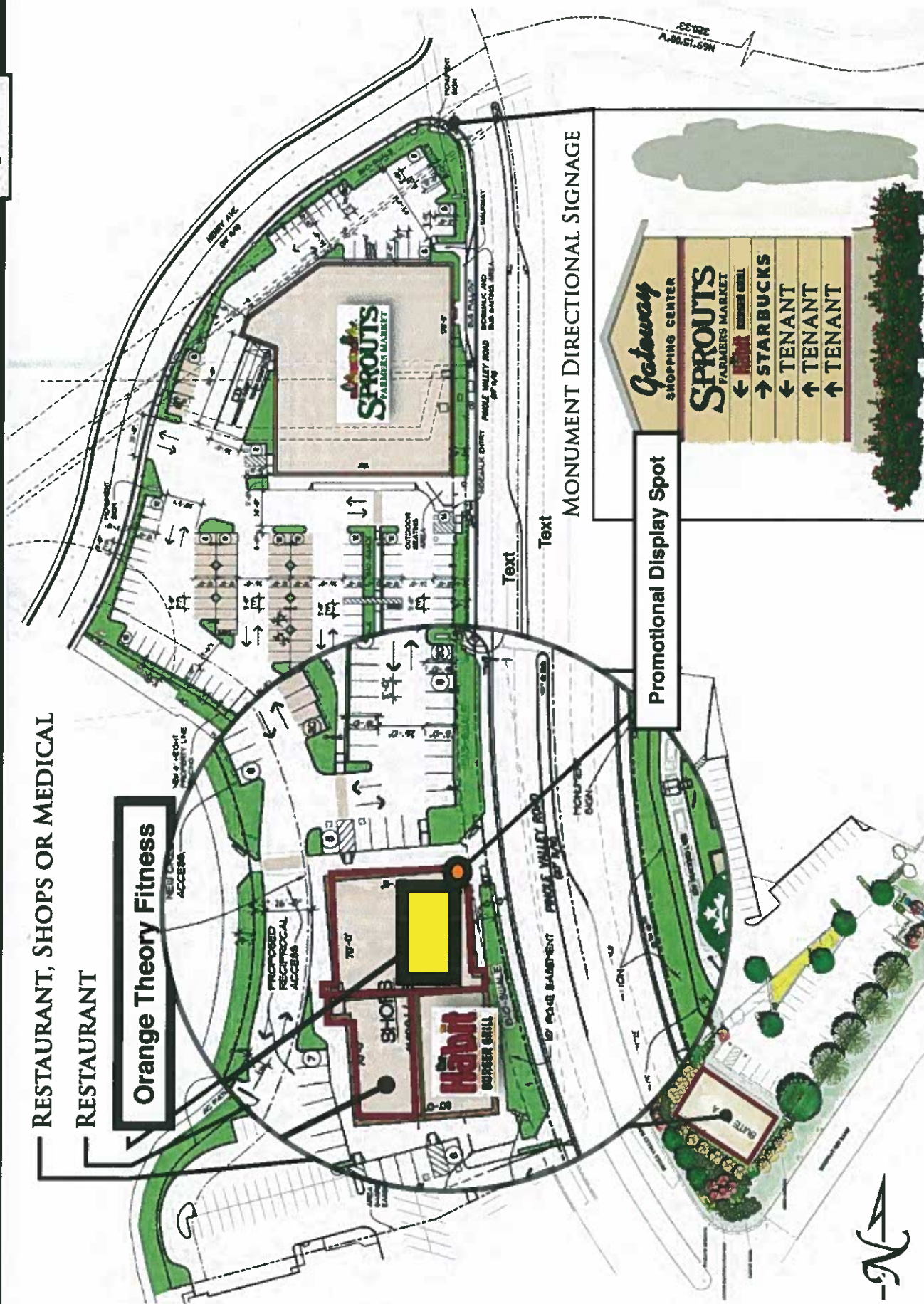
### **Key Facts and Information:**

- Orangetheory Fitness has been recognized on Entrepreneur's 2015 Franchise 500® list of the top franchises in the world.
- We market our services to customers of different age groups, fitness abilities, economic levels and meet the needs of the demographics of Pinole.
- The studio is a good match with the other Pinole Gateway Plaza tenants including Sprouts, The Habit Burger, Tropical Smoothie Café, and other where we can all market and support each other.
- Orange Theory Studios normally require staff of 3 to 4 employees, that include Trainer, Front Desk reception, Janitorial and Management.
- Hours of Operation range from 5am to 10:30pm depending on the numbers of session scheduled early morning or late night.
- Typical attendees range from 15 to 25 people for each hour long session.
- 15 minute intervals between each one hour session reduces the number of parking spaces used and studio traffic.
- Total daily sessions range from 8 to 9. Mostly scheduled during early morning and late afternoon, 7 days a week.
- Fitness Coaches use only our built in speaker system within our double walls. All music has been franchise approved and licensed.
- Employees are required to park away from normally busy parking spots.



RESTAURANT, SHOPS OR MEDICAL  
RESTAURANT

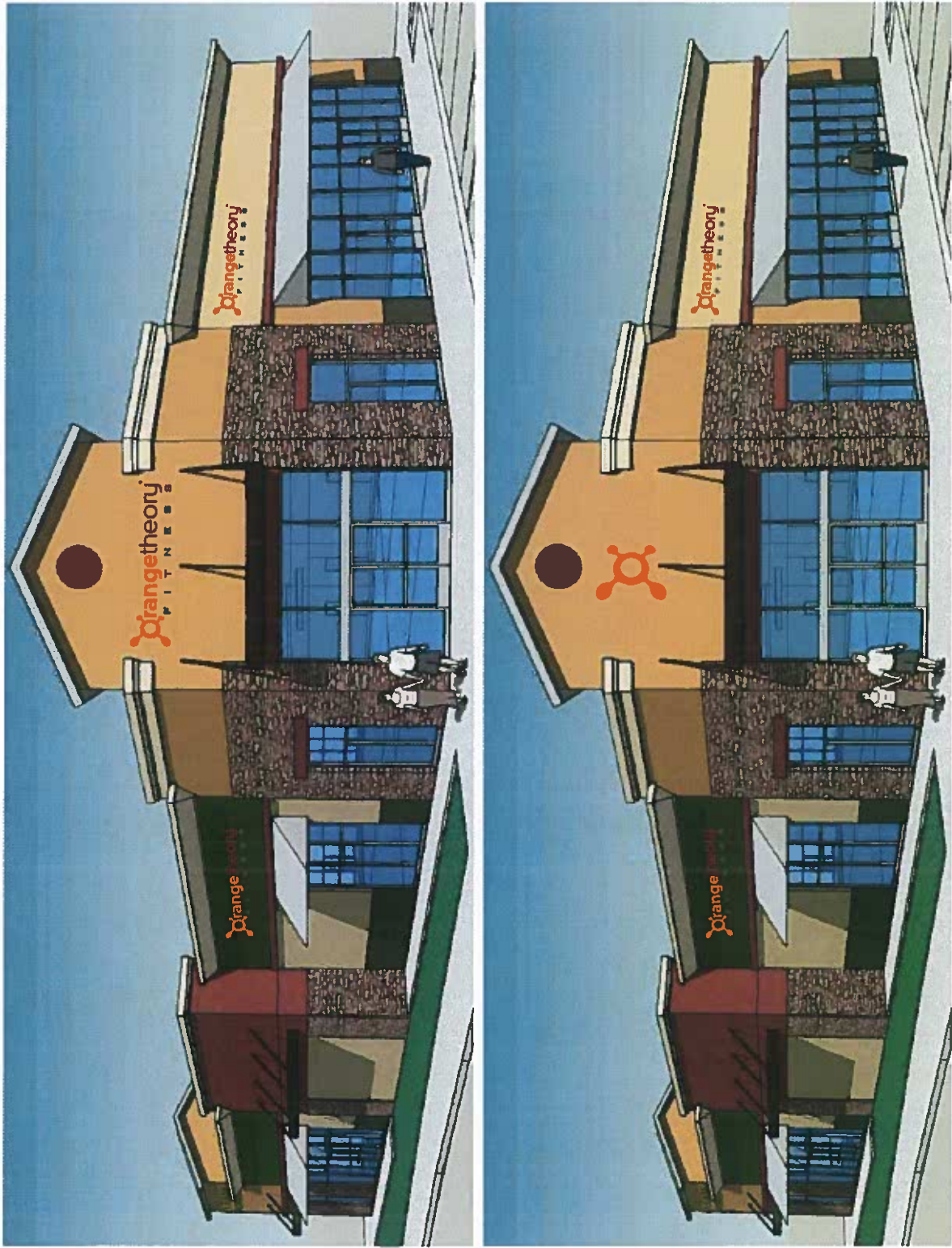
## Orange Theory Fitness



74



<b>SIGNDESIGNLAB</b> 1430 Barba Way Concord, CA 94018 (925) 822-8123 <a href="http://www.signdesignlab.com">www.signdesignlab.com</a>		<b>PROJECT:</b> GATEWAY PLAZA PIMPLE, CA	
<b>DATE:</b> 8/30/2018 <b>SALES REP:</b> Patrick McCombs <a href="mailto:patrick@signdesignlab.com">patrick@signdesignlab.com</a> <b>DESIGNER:</b> Amy <a href="mailto:amy@signdesignlab.com">amy@signdesignlab.com</a> <b>DESIGN FILE:</b> SDUOT/PIMPLE		<b>MRG. FILE:</b> -	
ALL DIMENSIONS ARE IN FEET AND INCHES. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.			
<b>SIGNATURE OF APPROVAL:</b>			
<input type="checkbox"/> APPROVED AFTER CHANGES REQUIRED	<input type="checkbox"/> APPROVED AFTER CHANGES REQUIRED	<input type="checkbox"/> APPROVED AFTER CHANGES REQUIRED	<input type="checkbox"/> APPROVED AFTER CHANGES REQUIRED
NOTE: PLEASE READ CAREFULLY & CHECK THE APPROVALS FOR PRODUCTION SCHEDULES FROM APPROVAL OF LAYOUT.			

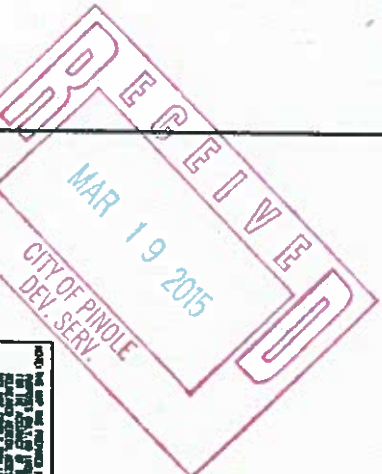


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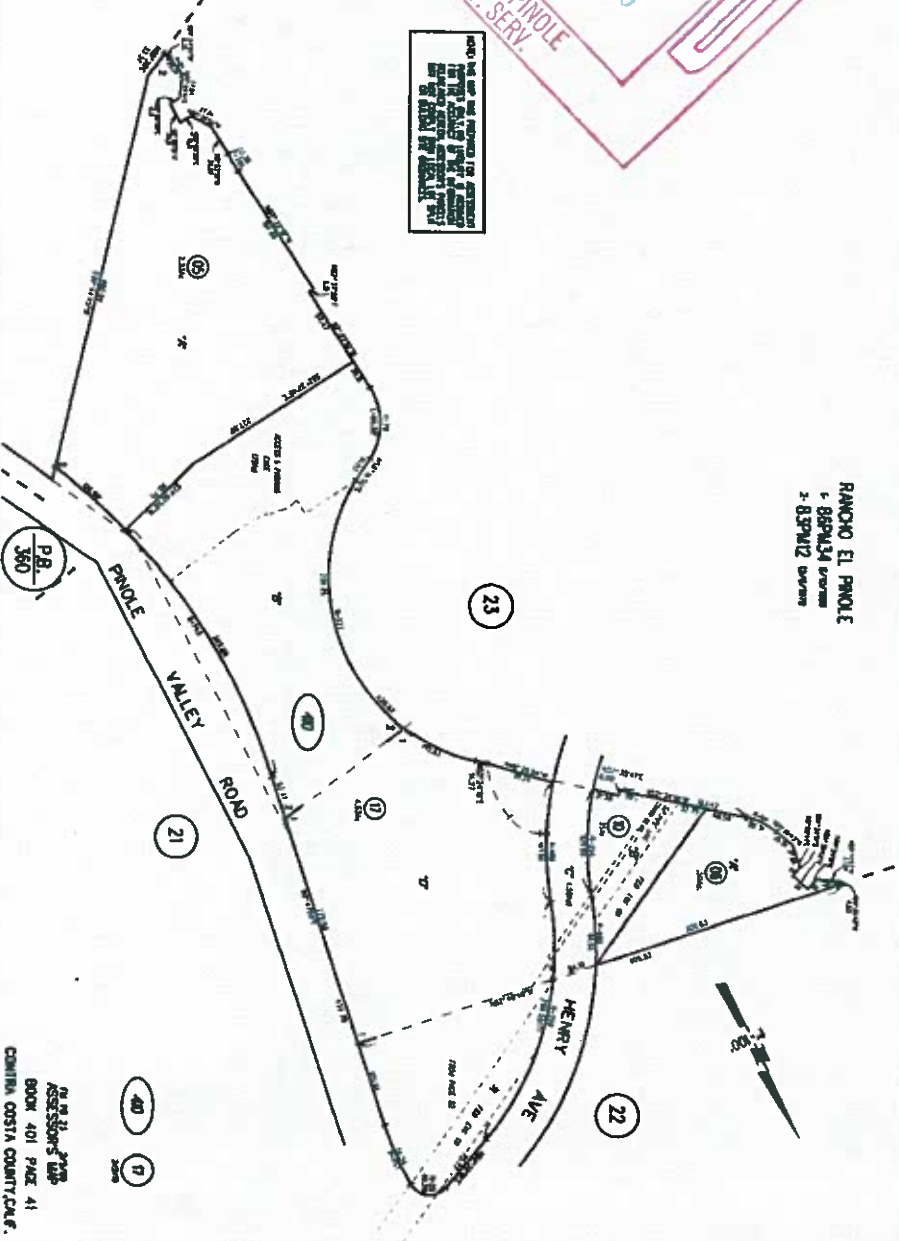




RANCHO EL PINOLE  
1-88P434 Section  
2-85P412 Section

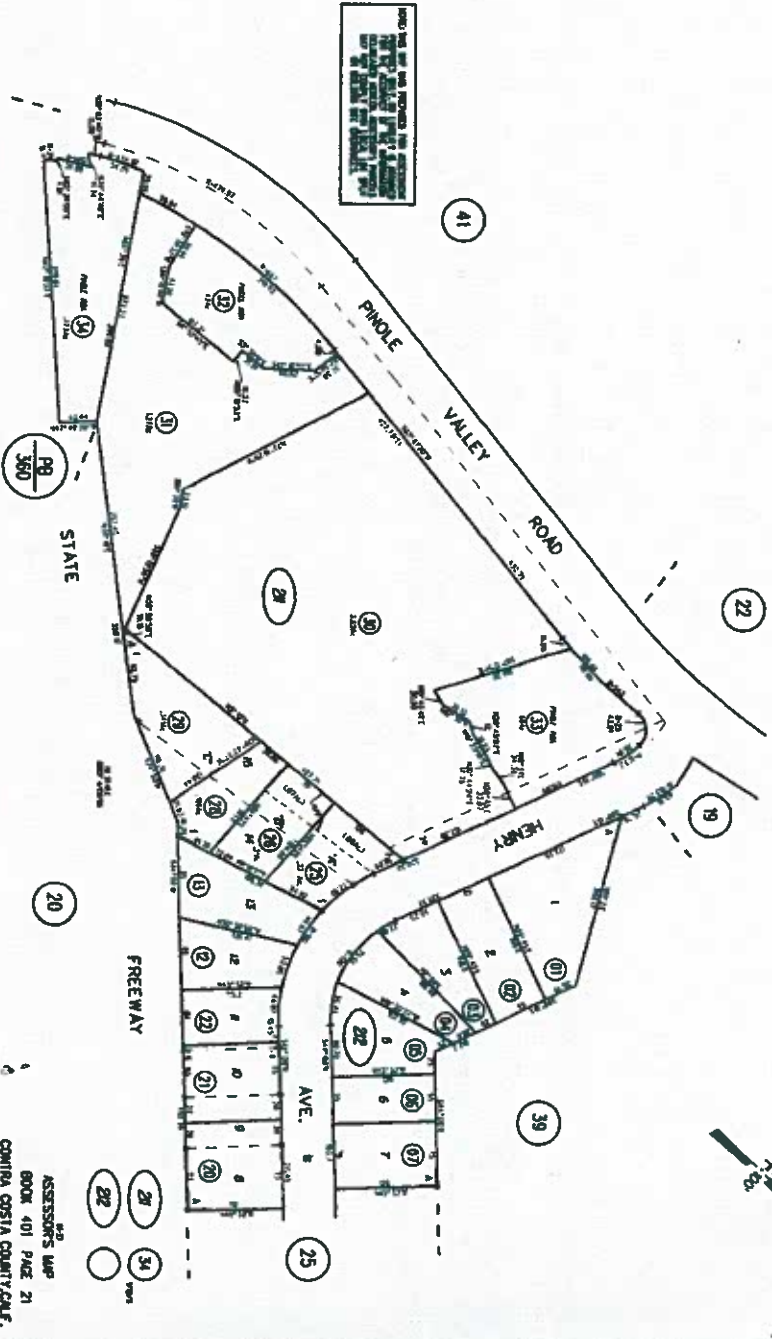


DO NOT SCALE THIS MAP FOR ANY PURPOSES  
IT IS THE USER'S RESPONSIBILITY TO OBTAIN  
ALL NECESSARY INFORMATION FROM THE  
LOCAL AGENCIES AND THE PROJECT OWNER  
BEFORE ANY CONSTRUCTION BEGINS



AS SHOWN ON THE  
ASSASSIN'S MAP  
BOOK 401 PAGE 41  
CONTRA COSTA COUNTY, CALIF.

RD EL PINOLE FOR DW 446  
TRACT 2317 AS SHOWN ON THE  
ASSASSIN'S MAP  
BOOK 401 PAGE 41  
CONTRA COSTA COUNTY, CALIF.



AS SHOWN ON THE  
ASSASSIN'S MAP  
BOOK 401 PAGE 21  
CONTRA COSTA COUNTY, CALIF.

CONTRA COSTA COUNTY ASSESSOR'S PARCEL MAPS

# GATEWAY SHOPPING CENTER

LOCATED AT  
PINOLE VALLEY ROAD  
BETWEEN I-80 AND HENRY AVENUE  
PINOLE, CALIFORNIA

## PROJECT CONTACTS

**PROJECT DEVELOPER/OWNER**  
THOMAS GATEWAY, LLC  
C/O THOMAS PROPERTIES

**DEVELOPMENT MANAGER**  
THOMAS PROPERTIES  
3100 OAK STREET, SUITE 1440  
WALNUT CREEK, CA 94591  
TEL: (925) 945-6766

**CIVIL ENGINEER/SURVEYOR**  
AHS ASSOCIATES, INC.  
807 YGNACIO VALLEY ROAD  
SUITE 210  
WALNUT CREEK, CA 94596  
TEL: (925) 943-2711  
FAX: (925) 943-2718

**SIGNAGE DESIGNER**  
CORPORATE GRAPHICS  
132 WILLOW PARK COURT  
CONCORD, CA 94520  
TEL: (925) 933-7457

**SITE ARCHITECT**  
GEORGE MEU ASSOCIATES  
459 EMBARCADERO, SUITE 6  
THE FIFTH AVENUE MARINA  
OAKLAND, CA 94606  
TEL: (510) 434-9888

**LANDSCAPE ARCHITECT**  
JAMES SWANSON  
LANDSCAPE ARCHITECT  
TEL: (925) 673-9040

**MARKET ARCHITECT**  
ADD: FITCH, INC.  
16435 NORTH SCOTTSDALE ROAD  
SUITE 195  
SCOTTSDALE, AZ 85254  
TEL: (480) 998-4700  
FAX: (480) 998-7223

**EAST SITE RESTAURANT  
DEVELOPMENT MANAGER**  
SCM SOLUTIONS, LLC  
4181 SOUTH ROBERT BLAKE AVE.  
INVERNESS, FL 34452  
TEL: (352) 209-9531  
FAX: (352) 716-8229

**SITE ELECTRICAL ENGINEER**  
SACRAMENTO ENGINEERING  
CONSULTANTS  
10955 OLD PACEVILLE ROAD  
SACRAMENTO, CA 95821  
TEL: (916) 368-4468  
FAX: (916) 368-4450

## PROJECT DATA

**ZONING:** OPM (OFFICE PROFESSIONAL MIXED USE ZONING DISTRICT)

**SPECIFIC PLAN DESIGNATION:** PINOLE VALLEY ROAD PROJECT AREA

**ASSESSOR'S PARCEL NOS.:**

- ALTA PARCEL ONE (NEST SITE) 460-460-001
- ALTA PARCEL THREE (EAST SITE) 460-210-002
- ALTA PARCEL FOUR (EAST SITE) 460-210-003
- ALTA PARCEL FIVE (EAST SITE) 460-210-004

**PARCEL AREAS:**

- ALTA PARCEL ONE (NEST SITE) 4.337 ACRES
- ALTA PARCEL THREE (EAST SITE) 0.431 ACRES
- ALTA PARCEL FOUR (EAST SITE) 0.513 ACRES

**BUILDING AREA:**

- ALTA PARCEL ONE (NEST SITE) 27,894 SQ. FT.
- ALTA PARCEL THREE (EAST SITE) 2,396 SQ. FT.
- ALTA PARCEL FOUR (EAST SITE) 4,000 SQ. FT.

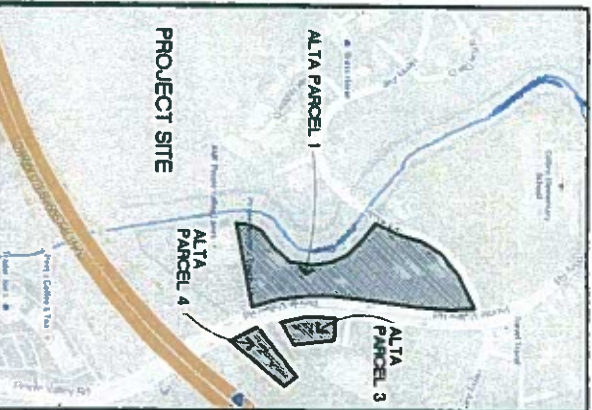
**TOTAL GROSS SQ. FT.:** 34,290

## PROJECT SCOPE

TO EXISTING SITES ON TWO SIDES OF A PUBLIC WAY PROVIDE PHASED NEW SITE IMPROVEMENTS, BUILDINGS, AND RELATED STRUCTURES.

A PORTION OF THE NEST SITE (ALTA PARCEL 1) HAS EXISTING ON-SITE IMPROVEMENTS THAT WILL BE ALTERED AND/OR REPLACED.

THE EAST SITES (ALTA PARCELS 3 AND 4) ARE SUBSTANTIALLY UNIMPROVED AND ARE WITHIN A DEVELOPED MEDICAL OFFICE CORPUS.



## LOCATION MAP

## SHEET INDEX

A001	PROJECT INFORMATION
A002	PROPOSED SITE PLAN
A003	OVERLAY SITE PLAN
A004	ANNOTATED SITE PLAN
A005	PRELIMINARY GRADING PLAN (NEST)
A006	PRELIMINARY UTILITY PLAN (NEST)
A007	STORMWATER CONTROL PLAN (NEST)
A008	PRELIMINARY UTILITY PLAN (EAST)
A009	STORMWATER CONTROL PLAN (EAST)
A010	TESTATIVE PARCEL MAP (NEST)
A011	WEST SITE TRUCK CIRCULATION
A012	EAST SITE TRUCK CIRCULATION (HENRY AVE.)
A013	ALTA SURVEY
A014	ALTA SURVEY
A015	ALTA SURVEY
A016	CROSS SECTION
A017	(PARCEL 1)
A018	SHOP SCHEMATIC PLANS
A019	SHOP EXTERIOR ELEVATIONS
A020	LEASE EXH. PARCEL SHELL FLOOR AND ROOF PLANS
A021	LEASE EXH. PARCEL PRELIMINARY PICTURE PLAN
A022	LEASE EXH. PARCEL PRELIMINARY EXTERIOR ELEVATIONS (PARCEL 3)
A023	PRELIMINARY EXT. ELEVATIONS (RESTAURANT)
A024	DRIVE-THRU ELEMENTS (RESTAURANT)
A025	(PARCEL 4)
A026	SITE EX-TERMINAL SERVICES EXT. ELEVATIONS
A027	CONCEPTUAL LANDSCAPE PLAN
A028	CONCEPTUAL LANDSCAPE PLAN
A029	CONCEPTUAL LANDSCAPE PLAN
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A100	CONCEPTUAL LANDSCAPE PLAN

GEORGE MEU ASSOCIATES  
ARCHITECTS  
PLANNING

459 EMBARCADERO  
OAKLAND, CA 94606  
CALIFORNIA  
94606  
PHONE 510 434 9888

PROPOSED NEW COMMERCIAL DEVELOPMENT

# GATEWAY SHOPPING CENTER

FOR THOMAS GATEWAY, LLC

PINOLE VALLEY ROAD BETWEEN I-80 AND HENRY AVENUE  
PINOLE, CALIFORNIA

APPLICANT:  
THOMAS GATEWAY, LLC  
C/O THOMAS PROPERTIES  
3100 OAK ROAD, SUITE 1440  
WALNUT CREEK, CA 94597

## PROJECT INFORMATION

A001

GEORGE MEU ASSOCIATES  
ARCHITECTS  
PLANNING

at drawing and writing, providing professional services, and the preparation of all documents and reports required for the development and construction of the project.



**GEORGE MEU  
ASSOCIATES  
ARCHITECTURE  
PLANNING**

499 EMBARCADERO  
OAKLAND, CALIFORNIA  
94100  
PHONE 010 434 0800

10 MAR 1975 ENTITLEMENT  
APPLICATION  
SUBSTITUTION


 JULY 2014 DEVELOP APPLIC

PROPOSED NEW COMMERCIAL DEVELOPMENT

**GATEWAY SHOPPING CENTER**

FOR THOMAS GATEWAY, LLC

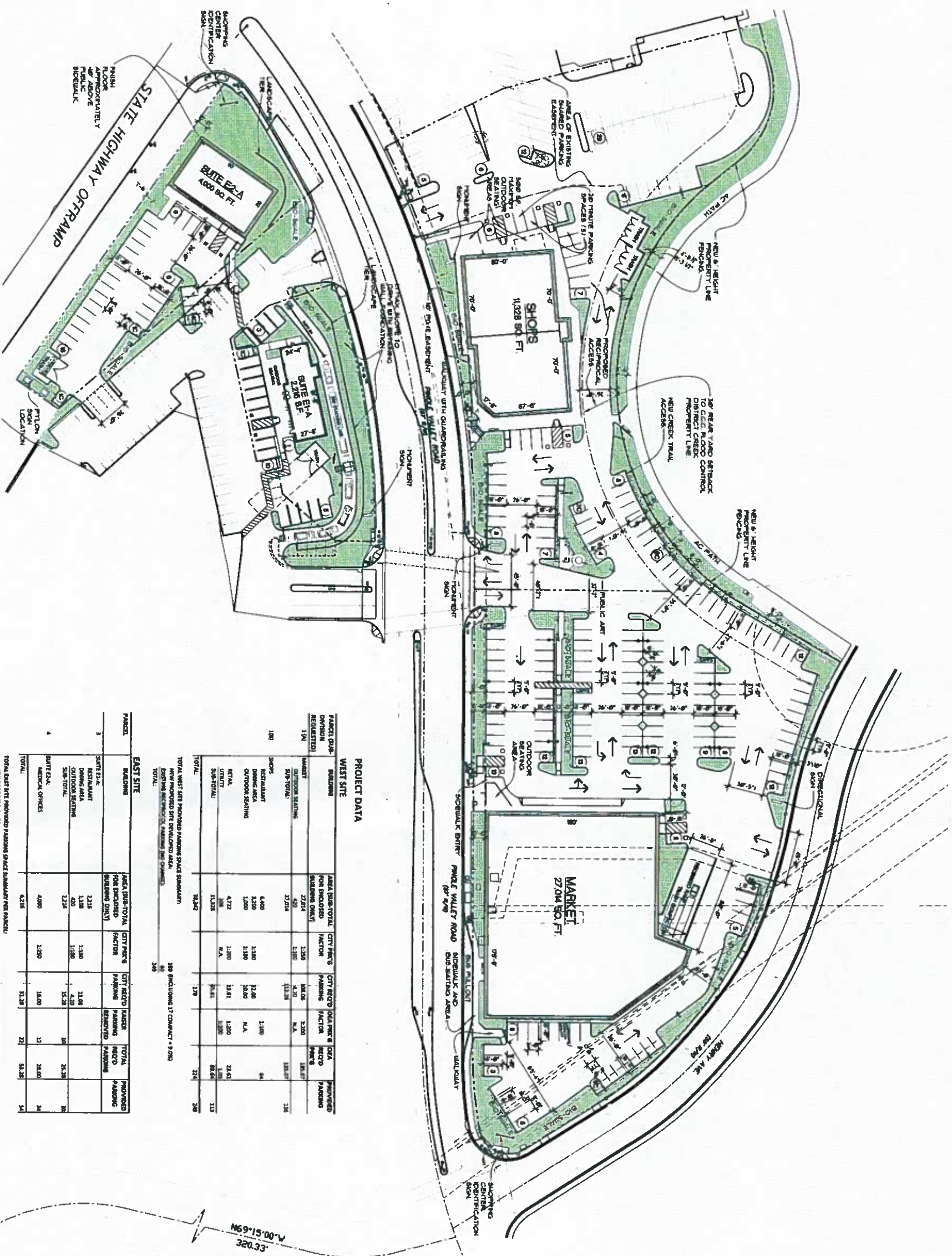
PINOLE VALLEY ROAD BETWEEN I-80 AND HENRY AVENUE  
PINOLE, CALIFORNIA

**APPLICANT:**  
THOMAS GATEWAY, LLC  
C/O THOMAS PROPERTIES  
3100 OAK ROAD, SUITE 1140  
WALNUT CREEK, CA 94597

# SITE PLAN

AS101

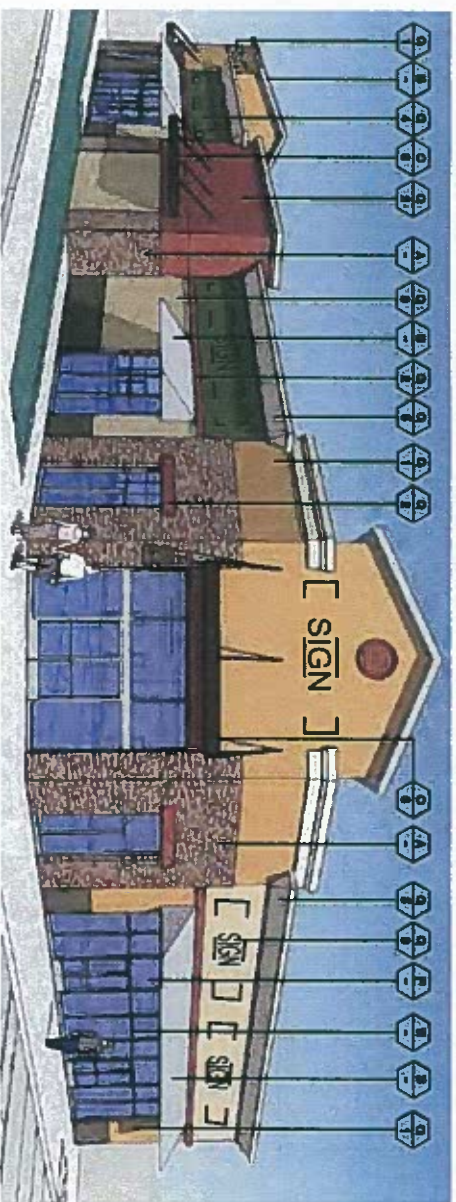
**GEORGE MBU ASSOCIATES**



## SCHEMATIC SITE PLAN

SCALE: 1" = 40'-0"





VIEW TO THE SOUTHWEST



VIEW TO THE NORTHWEST FROM PINOLE VALLEY ROAD

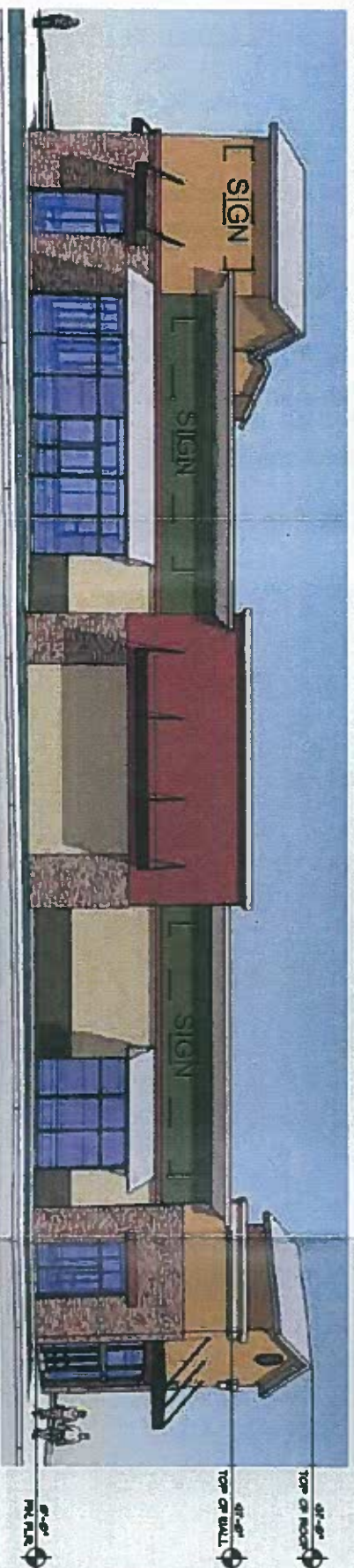
PERSPECTIVE VIEWS (WITH TYPICAL FINISHES)  
SCALE: 1/8" = 1'-0"



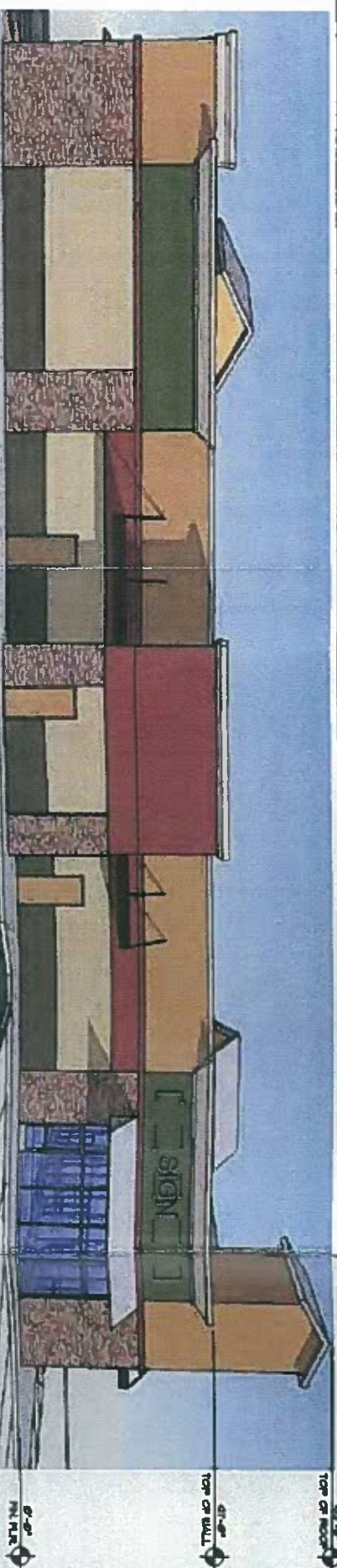
PROPOSED NORTH EXTERIOR ELEVATION  
SCALE: 1/8" = 1'-0"



PROPOSED SOUTH EXTERIOR ELEVATION  
SCALE: 1/8" = 1'-0"



PROPOSED EAST EXTERIOR ELEVATION  
SCALE: 1/8" = 1'-0"



PROPOSED WEST EXTERIOR ELEVATION  
SCALE: 1/8" = 1'-0"

COLOR AND MATERIAL  
LEGEND

- MATERIALS:
- 1. MANUFACTURED STONE VENEER (TO MATCH HARBERT)
  - 2. STAINED METAL, ANTIQUE PAC-CLOD, GALVULITE
  - 3. PLAT METAL CANOPY
  - 4. HOLLOW METAL DOOR
  - 5. ALUMINUM STORMDOOR
  - 6. CLEAR ANODIZED ALUMINUM
  - 7. GLASS
  - 8. CLEAR LOUISIANA LAMINATED GLASS
  - 9. EXTERIOR PLASTER
- COLORS:
- 1. DUN-EDWARDS PAINTS DE 8004, TRICKLAY
  - 2. DUN-EDWARDS PAINTS DE 801, REDWOOD CITY
  - 3. DUN-EDWARDS PAINTS DE 703, WOLFE BROD
  - 4. DUN-EDWARDS PAINTS DE 6034, TANK SPRESS
  - 5. DUN-EDWARDS PAINTS DE 6032, VERNITACT WHITE
  - 6. DUN-EDWARDS PAINTS DE 6038, L'VINO

GEORGE MEU  
ASSOCIATES  
ARCHITECTS  
PLANNING

400 EMERALDADE  
OAKLAND  
CALIFORNIA  
810 434 9000

21 FEB 2008 PLANNING COMM.  
26 APRIL 2004 INITIAL PRELIMINARY APPLICATION

PROPOSED NEW COMMERCIAL DEVELOPMENT  
GATEWAY SHOPPING CENTER  
FOR THOMAS GATEWAY, LLC  
PINOLE VALLEY ROAD BETWEEN I-80 AND HENRY AVENUE  
PINOLE, CALIFORNIA

APPLICANT:  
THOMAS GATEWAY, LLC  
C/O THOMAS HORTON  
3800 OAK ROAD, SUITE 1400  
WALNUT CREEK, CA 94597

SHOPS  
EXTERIOR  
ELEVATIONS  
A201

GEORGE MEU ASSOCIATES  
ARCHITECTS  
PLANNING





September 6, 2016

ATTACHMENT D

**VIA FEDEX**

Thomas Gateway LLC  
3100 Oak Road, Suite 140  
Walnut Creek, CA 94597  
Attn: Sam Thomas

RE: Tenant's consent to Orangetheory Fitness  
Sprouts Store #401 located at Gateway Shopping Center West in Pinole, CA  
Shopping Center Lease Agreement dated August 5, 2014, as amended (the "Lease") by and between  
Thomas Gateway LLC ("Landlord"), and SFM, LLC ("Tenant")

Dear Landlord:

This letter is in response to Landlord's request for Tenant's consent so as to allow Landlord to lease approximately 3,022 square feet of Gross Floor Area in the Shopping Center to Orangetheory Fitness ("OTF") for the operation of a group personal training fitness studio and the retail sale of related nutritional items, food, beverages and clothing items in the location indicated on the site plan attached hereto as Exhibit A (the "OTF Premises").

Capitalized terms not defined herein shall have the meaning ascribed to them in the Lease.

Exhibit G of the Lease prohibits, among other things, a health club, gym or exercise facility occupying more than 2,500 square feet of Gross Floor Area. Tenant hereby agrees to waive this restriction for the limited purpose of allowing Landlord's lease of certain premises to OTF, subject to the following conditions ("Conditions"):

1. The OTF Premises shall be located only in the premises identified as "Orangetheory" as indicated on the attached Exhibit A.
2. The OTF Premises shall not exceed 3,022 square feet of Gross Floor Area.
3. Tenant shall incur no fees, costs and/or expenses associated with the construction and operation of the OTF Premises.
4. Tenant's parking ratio shall remain unchanged as provided in the Lease.



5. This consent is given by Tenant only for the benefit of OTF as they currently operate in the majority of their locations.

6. This consent shall not be construed as the consent of Tenant to any other current or future use that is prohibited or restricted by the Lease. The site plan attached is solely for the purpose of identifying the permitted location of the OTF Premises and shall not be deemed Tenant's consent to any other matter thereon.

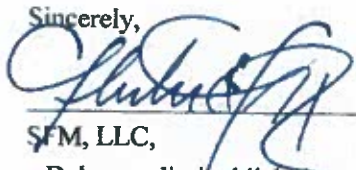
7. This consent is not intended to, and shall not be construed to, amend or modify in any way whatsoever the Lease. This consent shall not be deemed to release or discharge any person or party from liability for any of the obligations to be performed by such person or party under the Lease.

Notwithstanding the consent of Tenant contained herein, Landlord shall be solely responsible for obtaining the consent/approval(s) of any and all other required third parties. Any violation of the Conditions set forth above shall be a default by Landlord under the Lease.

Please sign below to indicate your agreement to the terms of this letter and return a copy of the signed letter. Thank you for your assistance with this matter.

Please note in the event Tenant is not in receipt of this document executed by Landlord within 30 days following the date hereof, Tenant's consent as set forth herein is rescinded and shall be of no further force and effect.

Sincerely,

  
\_\_\_\_\_  
SFM, LLC,  
a Delaware limited liability company

ACKNOWLEDGED AND AGREED TO this 12<sup>th</sup> day of September, 2016

**LANDLORD**

**THOMAS GATEWAY LLC,**  
*a California limited liability company*

By: S. B. Thomas

*Samuel B. Thomas, its Manager*

