

AGENDA FOR THE



CITY OF PINOLE PLANNING COMMISSION SPECIAL MEETING

**Monday, August 8, 2016
7:00 P.M.**

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

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. **Planning Commission Meeting Minutes from July 11, 2016**

E. PUBLIC HEARINGS:

1. **Design Review (DR 16-11): Flyer's Gas Station Convenience Store Removal and Replacement**

This item has been continued until further notice.

Request: Consideration of a design review request to modify and existing gas station including removal of an existing approximately 528 square foot convenience store and replacing it with an approximately 1,283 square foot new convenience store.

Applicant: Nasreen Saleem
2467 Hill View Lane
Pinole, CA 94564

Location: 1390 San Pablo Avenue, APN: 402-023-012

Project Planner: Winston Rhodes

2. **Conditional Use Permit 16-03: Better Cloud Vapor**

Request: Consideration of a use permit request to operate an approximately 1,461 square foot electronic cigarette retail sales establishment within a vacant

portion of an existing commercial building.

Applicant: Sonephet Manikhong
2531 Faria Avenue
Pinole, CA 94564

Location: 2564 Appian Way APN: 426-391-001

Project Planner: Winston Rhodes

F. OLD BUSINESS:

1. Design Review (DR 16-15): San Francisco Bay Trail: Pinole Shores to Bayfront Park

Request: Review of elevated trail railing and concrete design and color details in conjunction with a previously approved design review request to construct an approximately 0.5 mile segment of the San Francisco Bay Trail extending a non-motorized paved recreational trail along the San Pablo Bay Shoreline in Pinole from a hillside bluff across from Hazel Drive in Pinole Shores east over the Union Pacific Railroad (UPRR) tracks to connect to an existing path in Bayfront Park.

Applicant: East Bay Regional Park District
P.O. Box 5381
Oakland, CA 94605-0381

Location: East Bay Regional Park District property between Union Pacific Railroad And Burlington Northern Santa Fe Railroad tracks, Union Pacific Railroad Right-of-way, and Bayfront Park along the San Pablo Bay shoreline (APN:402-140-007, 402-140-001, 401-010-009, and 401-010-007)

Project Planner: Winston Rhodes

G. NEW BUSINESS: None

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

I. COMMUNICATIONS:

J. NEXT MEETING:

Planning Commission Regular Meeting, August 22, 2016 at 7:00PM

K. ADJOURNMENT

POSTED: AUGUST 4, 2016



Winston Rhodes, AICP
Planning Manager

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DRAFT

**MINUTES OF THE SPECIAL
PINOLE PLANNING COMMISSION**

July 11, 2016

A. CALL TO ORDER: 7:04 P.M.

B. PLEDGE OF ALLEGIANCE AND ROLL CALL:

Commissioners Present: Brooks, Hartley, Martinez-Rubin, Tave, Thompson,
Wong, Chair Kurrent

Commissioners Absent: None

Staff Present: Winston Rhodes, Planning Manager

C. CITIZENS TO BE HEARD:

There were no citizens to be heard.

D. CONSENT CALENDAR:

1. Planning Commission Meeting Minutes from June 27, 2016

MOTION to approve the Planning Commission Meeting Minutes of June 27, 2016,
as submitted.

MOTION: Thompson SECONDED: Brooks APPROVED: 7-0

Commissioner Wong recused himself from the discussion of the next item due to
a potential conflict of interest and stepped down from the dais at this time.

E. PUBLIC HEARINGS:

**1. Design Review (DR 16-15): San Francisco Bay Trail: Pinole Shores to
Bayfront Park**

Request: Consideration of a design review request to construct an
approximately 0.5-mile long and 14-foot wide segment of
the San Francisco Bay Trail extending a non-motorized
paved recreational trail along the San Pablo Bay
Shoreline in Pinole from a hillside bluff across from Hazel

1 Drive in Pinole Shores east over the Union Pacific
2 Railroad (UPRR) tracks to connect to an existing path in
3 Bayfront Park.
4

5 **Applicant:** East Bay Regional Park District
6 P.O. Box 5381
7 Oakland, CA 94605-0381
8

9 **Location:** East Bay Regional Park District (EBRPD) property
10 between Union Pacific Railroad and Burlington Northern
11 Santa Fe Railroad tracks, Union Pacific Railroad right of
12 way, and Bayfront Park along the San Pablo Bay
13 Shoreline (APN 402-140-007, 402-140-001, 401-010-
14 009, and 401-010-007)
15

16 **Project Staff:** Winston Rhodes, Planning Manager
17

18 Mr. Rhodes identified material that had been provided after the distribution of the
19 staff report including a PowerPoint presentation from the EBRPD supplemental to
20 information that had been presented to the Planning Commission on June 27,
21 2016, photographs from segments of the Bay Trail from the City of Hercules from
22 Steve Morrow and Linda Jane Kole, PowerPoint slides from Commissioner
23 Martinez-Rubin, and a large number of approved colors provided by the EBRPD to
24 assist in the discussion of the color of the railing and concrete to be used for the
25 elevated portion of the trail. He reported a meeting had been held on July 8, 2016
26 with some residents of Orleans Drive that he, Chair Kurrent, and Sean Dougan with
27 the EBRPD had attended. The Commission had also been provided a revised
28 resolution with track changes to clarify the findings of the California Environmental
29 Quality Act (CEQA).
30

31 Mr. Rhodes presented the staff report dated July 11, 2016, and recommended the
32 Planning Commission adopt Revised Resolution 16-07, approving the design
33 review request subject to conditions.
34

35 Responding to the Commission, Mr. Rhodes explained the Environmental Impact
36 Report (EIR) prepared by EBRPD could be relied upon as long as the project
37 description had not substantively changed or there were no changes in the
38 surrounding area that would change the environmental analysis, and he was of the
39 opinion there were no substantial changes in the area that would change the
40 conclusions of the EIR, and a supplemental document to the EIR would not be
41 required. The new trail extension would be Americans with Disabilities Act (ADA)
42 compliant. The City had noticed the hearing to property owners within 1,000 square
43 feet while EBRPD had previously noticed property owners within at least 300
44 square feet pursuant to State law, and while a prohibition of pile driving had not
45 been included as a condition of approval, it could be added as a condition.
46 Commissioner Martinez-Rubin presented a PowerPoint presentation to identify

1 different bridge structures she had found on the Internet to offer further design and
2 material options for consideration.

3
4 PUBLIC HEARING OPENED

5
6 SEAN DOUGAN, EBRPD Trails Development Program Manager, presented a
7 PowerPoint on the San Francisco Bay Trail, Pinole Shores to Bayfront Park
8 segment; described the history of the project; walked through the design and
9 material details; identified and responded to concerns raised during the
10 environmental review process, and at the June 27 Planning Commission workshop;
11 identified the project schedule; investment sources; and advised a copy of the
12 geotechnical report for the project had been made available to the Planning
13 Commission and to the public.

14
15 SAMI KALANTARI, Senior Engineer, AECOM, Technology Corporation, clarified
16 the project would involve drilling of the piles into bedrock and no pile driving would
17 occur.

18
19 Mr. Dougan sought more input about the proposed observation deck he described
20 as an amenity, although if the Commission sought its relocation off the bridge it
21 could be relocated to the bluff area on EBRPD property. In response to questions,
22 he referenced the potential for installation of infrared cameras, and had
23 recommended the Reconyx brand which were solar powered and could be installed
24 at face level to deter criminal activity; a graffiti resistant coating could be considered
25 for the bridge to allow graffiti to be more easily removed; the railing could be moved
26 to the very outer edge of the deck to prevent climbing; the proposed railing had
27 been a custom design although other options could be considered; construction
28 access would occur on Tennant Avenue; skateboards were allowed on EBRPD
29 trails; the bridge would be ADA compliant; the surface could consist of non-slip
30 material which while not attractive to skateboarders would not restrict wheelchair
31 access; the decking and railing coating needed to be determined; and
32 acknowledged that vegetative screening and trees could be considered for the
33 portion of the bridge that would land on the bluffs where there was a potential for
34 trail users to view directly into properties on Orleans Drive.

35
36 Mr. Kalantari responded to Commissioner Martinez-Rubin's presentation and noted
37 some of the examples were of pre-fabricated steel bridges; the subject bridge had
38 been designed to be 1,100 feet in length with columns on either side of the tracks
39 while prefabricated steel bridges were typically shorter spans. Various alternatives
40 had been considered for the bridge and the design presented had been based on
41 the preferred alternative identified in 2003. The EBRPD would own and operate the
42 bridge subject to permission from the UPRR, and the bridge's structural design
43 could not be changed at this point without EBRPD potentially losing its funding
44 source, although railing and color options could be considered. The bridge would
45 be complete in less than 12 months once construction commenced. The bridge
46 design had been reviewed on several occasions and had been approved by

1 Caltrans; any changes to its design would cause delays.
2

3 Mr. Dougan and Mr. Kalantari both clarified the railing could be adjusted as long as
4 it met the standards in terms of height, safety, and types of materials pursuant to
5 UPRR guidelines; an existing high pressure pipeline was owned by Kinder Morgan
6 and would not be impacted by the project; the new trail segment would be ADA
7 accessible, EBRPD was focused on the area of potential effect which would have
8 to be ADA accessible. The trail dead ended within EBRPD property and access to
9 the new trail segment would be from Pinole Shores Drive and Bayfront Park.
10

11 PUBLIC COMMENTS

12
13 STEVEN MORROW, 1140 Hazel Drive, Pinole, sought a less prominent profile for
14 the bridge and supported cyclone fencing as opposed to tubular fencing.
15

16 JEFF NOLEEN, 2246 Orleans Drive, Pinole, expressed concern for views; for
17 unstable soils through landslides, weather, train vibration and careless
18 mismanagement of the landslides by the railroad; and with impacts to the marsh
19 habitat during construction.
20

21 JOHN MORAN, 2235 Orleans Drive, Pinole, preferred a more attractive structure;
22 supported cyclone as opposed to tubular fencing although in a grayish color to
23 blend in with the environment; appreciated EBRPD's willingness to consider
24 vegetation to help screen the structure from his residence; and suggested granite
25 boulders could also be considered. He remained concerned with the height of the
26 bridge, questioned the integrity of the hillside, and identified an existing sewer line
27 problem near the site which raised concern.
28

29 JANICE KWIATKOWSKI, 2250 Orleans Drive, Pinole, spoke to the surrounding
30 horizontal lines and hillsides although the project would involve vertical railings,
31 which she found to be unattractive and contrary to the natural lines of the area.
32 She urged a reduction in the thickness of the railing, and a reduction in the width of
33 the trail.
34

35 ANN TARABINI, 2239 Orleans Drive, Pinole, liked the different options offered by
36 Commissioner Martinez-Rubin; requested a different color and railing material for
37 the structure; and expressed concern with the observation deck and suggested it
38 be relocated or eliminated entirely, she mentioned the instability of the bluffs and
39 suggested the EBRPD work with the Federal Emergency Management Agency
40 (FEMA) to address the slide activity; and asked whether the City of Pinole or the
41 EBRPD would patrol the area.
42

43 JENNY CHEW, Pinole, clarified with Mr. Dougan the location of the bridge, funding
44 for the maintenance and security of the structure, and security to be finalized
45 between the EBRPD and the Pinole Police Department.
46

1 ED ROBERTS, 2161 Cypress Avenue, Pinole, suggested a cyclone fencing
2 material would blend in with the horizon; found the bridge design to be beautiful, not
3 that wide, not like a freeway since it would be narrower, and encouraged approval
4 of the project.
5

6 CAROL MARSH, 332 Wildrose Circle, Pinole, opposed the bridge but if it must be
7 built preferred it be made more attractive and not as wide. She sought more
8 information on security for the trail; and asked whether restroom facilities would be
9 provided for trail users, and mentioned concern with debris and other impacts to the
10 nearby residents.
11

12 JOHN INNES, 490 Dohrmann Lane, Pinole, was pleased with the project but also
13 sought more information on security measures and additional restroom facilities.
14

15 Mr. Dougan and Mr. Kalantari reiterated that the trail width was due to the need to
16 allow a light duty/patrol vehicle to access the bridge; if too narrow sightlines would
17 be impeded; 12 feet was a standard width. The proposed fencing had been
18 changed in response to input from the City; the railing design was curved at the top
19 and was intended to reflect a historic railroad trestle, although black vinyl clad chain
20 link fencing or other color could be considered; a change in the railing height was
21 not recommended but the railing could be redesigned; and no additional restroom
22 facilities had been proposed or were part of the project scope.
23

24 Mr. Rhodes reported a new temporary restroom facility had been placed at Bayfront
25 Park during the construction of the Water Pollution Control Plant upgrade, and the
26 City and EBRPD had an agreement for maintenance of Bayshore Park which had
27 recently been amended and updated, although it could be revisited by the City
28 Council as part of the easement issue.
29

30 Mr. Kalantari spoke to the specifics of the final geotechnical report which had been
31 revised by Caltrans on several occasions, and reported that the project would not
32 have any adverse impacts on the existing slopes.
33

34 PUBLIC HEARING CLOSED

35
36 The Planning Commission offered the following comments and/or direction to staff
37 and the applicant:
38

- 39 • Include a condition in the Mitigating Monitoring and Reporting Program
40 (MMRP) that no pile driving shall occur.
41
- 42 • Include an appropriate finish to the concrete decking of the bridge, and staff
43 recommended a condition to read: *A finish to the concrete decking that*
44 *provides a rough texture to maximize safety.*
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- Recommend a modification to Condition 13 requiring the security plan be brought back to the Planning Commission for approval, and that infrared cameras with motion detector sensors be installed; although staff recommended the Police Department have discretion over the security plan.
 - Consensus to remove the observation platform from the elevated portion of the trail and add it further west closer to Pinole Shores Drive.
 - Recommend the addition of a restroom facility while recognizing it was not part of the scope of the project; and if there could be no new restroom facility recommend that signage be posted to identify the location of the nearest restroom facility.
 - Recommend consideration of public art on the trail.
 - Recommend various options for the railing, such as a galvanized welded wire fabric material consisting of 2-inch squares with a framework within a horizontal rail, posted every 8 feet, with the infill of the rail to consist of the 2-inch square mesh fabric; did not support the use of wood due to the maintenance issues but its appearance could be replicated with a rustic finish; rather than the use of a cyclone fence material recommend incorporating mesh material with something more architecturally pleasing, and incorporating the historical railroad elements; recommend a silhouette of art with the mesh which could be done at the beginning and middle of the trail offering visual interest.
 - Recommend the formation of a Subcommittee of the Planning Commission to review the final design of the rail to be brought back to the full Planning Commission, although Mr. Dougan reiterated the timeline for the project and asked that such direction be memorialized in a condition of approval.

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Mr. Rhodes noted that whatever alternatives EBRPD crafted for further review would also have to be reviewed by UPRR, and recommended direction on the intent. Based on the comments, he understood the consensus for something that was visually unobtrusive, could be seen through to see the natural features beyond, with a framework consistent with the existing railroad development requirements.

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Mr. Rhodes recommended an additional condition to read: *Modify the railing design to utilize a design that is visually unobtrusive and for further review by the full Planning Commission.* He sought direction from the Planning Commission on the decking and faux stone material, color of the cement and the mesh material, and specific direction from the Planning Commission to allow the EBRPD to review the possible options and allow review by all involved entities.

45

Mr. Dougan asked for approvals that would help the City Council move forward with

1 its action on the easements at Bayshore Park. He did not want to come back with
2 changes of an artistic element that might not be acceptable and which could require
3 further modification. The UPRR would neither approve the final design nor sign the
4 construction or easement agreements until the design was final. Also, Caltrans
5 structures required review of design changes.
6

7 Mr. Kalantari clarified the separated railroad crossing above the railroad property
8 would be "one structure" with the seismic calculations in one piece, and if separated
9 would result in delays. He could provide options for the railing in response to the
10 Commission's discussion.
11

12 Mr. Dougan advised the decking would be stained to match either a gray or brown
13 color as shown on the sample color and materials board, and identified the sample
14 which had the most positive feedback.
15

16 On the discussion of when options could be returned to the Commission for review,
17 Mr. Rhodes advised that the soonest the application could return would be the
18 Special Planning Commission meeting on August 8, 2016. The Planning
19 Commission could approve the project with a return of the railing design.
20

21 Mr. Rhodes restated the additional conditions as follows:
22

- 23 • *The applicant shall ensure that any piers shall be drilled rather than pile*
24 *driven.*
- 25
- 26 • *Finish to concrete decking to provide a rough texture to maximize safety.*
27
- 28 • *Remove the observation deck from the elevated portion of the trail and add*
29 *an observation area further west closer to Pinole Shores Drive.*
30
- 31 • *Modify the railing design to utilize a design that is visually unobtrusive for*
32 *further review by the full Planning Commission.*
33

34 And modify Condition 7 to read:
35

- 36 • *The applicant shall include bicycle parking, seat benches, trash receptacles*
37 *and signage with information about nearest restrooms, with pet waste*
38 *stations and interpretive signage locations on the construction plans with*
39 *accompanying design specifications.*
40

41 **MOTION** to approve Planning Commission Resolution 16-07, (Revised), a
42 Resolution of the Planning Commission of the City of Pinole Approving a Design
43 Review Request to Construct an Approximately 0.5-mile section of the San
44 Francisco Bay Trail Along the San Pablo Bay Shoreline in Pinole from Pinole
45 Shores to Bayfront Park, subject to findings, and Exhibit A, Conditions of Approval,

1 with a modification to Condition 7, and with the additional conditions as shown.

2
3 **MOTION: Thompson SECONDED: Hartley APPROVED: 6-0-**
4 **1**

5 **Recused: Wong**

6
7 **2. Design Review (DR 16-11): Flyer's Gas Station Convenience Store**
8 **Removal and Replacement**

9
10 **This item has been continued to a Special Meeting on August 8, 2016**

11
12 **Request:** Consideration of a design review request to modify an
13 existing gas station including removal of an existing
14 approximately 528 square foot convenience store and
15 replace it with an approximately 1,283 square foot new
16 convenience store

17
18 **Applicant:** Nasreen Saleem
19 2467 Hill View Lane
20 Pinole, CA 94564

21
22 **Location:** 1390 San Pablo Avenue, APN 402-023-012

23
24 **Project Staff:** Winston Rhodes, Planning Manager

25
26 **F. OLD BUSINESS: None**

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28 **G. NEW BUSINESS: None**

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

31
32 Mr. Rhodes reported that a special meeting of the Planning Commission had
33 been scheduled for August 8 and would include the continuation of Agenda Items
34 DR 16-15 for the San Francisco Bay Trail, and DR 16-11 for Flyer's Gas Station,
35 along with a Conditional Use Permit application for CVS for alcohol sales; with
36 Orange Theory Fitness scheduled for the September 26 Planning Commission
37 meeting. He provided an update on the progress of the Gateway Shopping
38 Center and East Bluff Apartments projects. Acknowledging concerns with the
39 appearance of the drive through, he clarified that the retaining wall at Starbucks
40 had been discussed by the Planning Commission when the project had been
41 considered.

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43 **I. COMMUNICATIONS: None**

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45 **J. NEXT MEETING:**
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1 The next meeting of the Planning Commission will be a special meeting to be
2 held on Monday, August 8, 2016 at 7:00 P.M.

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4 **K. ADJOURNMENT: 10:41 P.M**

5
6 Transcribed by:

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8
9 **Anita L. Tucci-Smith**
10 **Transcriber**
11



Memorandum

TO: PINOLE PLANNING COMMISSION
FROM: WINSTON RHODES, AICP PLANNING MANAGER
SUBJECT: Better Cloud Vapor Electronic Cigarette Retail Store Conditional Use Permit
DATE: August 8, 2016

Property Owner: Pinole Terrace LLC 2550 Appian Way #201 Pinole, CA 94564	Applicant/Representative: Sonephat Manikhong 2531 Faria Avenue Pinole, CA 94564
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PROJECT:	Better Cloud Vapor Conditional Use Permit
FILE:	CUP 16-03
LOCATION:	2564 Appian Way
APN:	426-391-001
GP DESIGNATION:	Mixed Use Sub-Area (MUSA)
SPECIFIC PLAN & ZONING:	Appian Way Corridor Commercial Mixed Use (CMU)

REQUEST

The applicant is seeking conditional use permit approval to operate an approximately 1,461 square foot electronic cigarette retail sales establishment within the existing retail space located at 2564 Appian Way. The proposed use includes a receiving area and display counter area; office; employee kitchenette area, storage area, and toilet room (see Attachment B Floor Plan).

STAFF RECOMMENDATION

Adopt Draft Resolution 16-08 approving the conditional use permit request to allow the operation of a new electronic cigarette retail store within the retail space located at 2564 Appian Way with project conditions.

SITE LOCATION



The project site is located at west of the intersection of Appian Way and Michael Drive. Adjacent land uses are summarized below.

Direction from Project Site	Existing Land Use
North	Retail Commercial (Pinole Vista Plaza Shopping Center)
West	Professional Office
South	Days Inn Motel
East	Appian Way and Single Family Residential

BACKGROUND

In May 2016 Governor Jerry Brown signed SBX2 5 which regulates electronic cigarettes just as all other tobacco products. Both electronic cigarettes and traditional cigarettes products are nicotine delivery systems. As such they are subject to the same smoke-free laws currently in place and also now fall under the 1994 Stop Tobacco Access to Kids Enforcement Act (STAKE) Act. Also in May, the U.S. Food and Drug Administration (FDA) announced the federal electronic cigarette regulations. The states and the federal government oversee different aspects of how the product is sold, marketed, and consumed. Manufacturers now must report to the FDA the contents of electronic cigarette fluid, which is heated into a mist or vapor that can be inhaled. A typical battery-operated electronic cigarette contains a cartridge of liquid, or juice, which usually contains nicotine and the chemical propylene glycol. The juices come in a wide array of flavors. When used, the battery powers an atomizer that vaporizes the liquid in the cartridge for the user to inhale.

The federal rules will bar electronic cigarette advertisements from making health claims and require product warning labels. Prior to the enactment of the most recent California legislation, people under the age of 18 were prohibited from buying electronic cigarettes. The recently passed State legislation raised the legal age for buying both tobacco cigarettes and electronic cigarettes to 21. Much of the concern about the legal age for nicotine consumption resulted from concerns about the increase in electronic cigarette smoking by high school students. According to an April 2016 study by the federal Centers for Disease Control and Prevention the use of electronic cigarettes by high school students increased from 1.5% in 2011 to 13.4% in 2014.

Mr. Manikhong has operated an electronic cigarette store in Albany since 2013 at 600 San Pablo Avenue, #105. According to the Albany Police Department no unlawful activity has taken place at this store location. The proposed retail store in Pinole would be a second location to serve a wider geographic area.

The Zoning Code allows smoke shops with a conditional use permit within the CMU zoning district. The definition of smoke shops encompasses electronic cigarette retail sales. The City's Municipal Code provides the Planning Commission with the authority to review Conditional Use Permit requests. The Planning Commission Development Review Subcommittee met to discuss the proposed use on June 16, 2016. There were concerns about several initially proposed accessory uses in conjunction with the primary electronic cigarette retail sales use relating to amplified music and video gaming. The applicant subsequently modified the project description (see Attachment A) to simplify the proposed use.

PROJECT DESCRIPTION

The applicant is seeking a Conditional Use Permit to operate an approximately 1,461 square foot electronic cigarette retail sales establishment within an existing multi-tenant commercial building. The proposed establishment would be a new business intended to serve those interested in partaking in this new product as an alternative to smoking traditional tobacco products. No structural exterior changes are proposed in conjunction with this request.

Proposed hours of operation are Monday through Saturday 10:00AM - 9:00PM and Sundays 12 noon – 6:00 PM. There are anticipated to be 2-3 employees.

ANALYSIS

Land Use

The project site is located within a partially occupied Appian Way multi-tenant commercial center which includes a variety of office, retail, and personal services uses within two buildings totaling approximately 47,289 square feet built in 1987. The project site is located within the Appian Way corridor of the Three Corridors Specific Plan and is zoned Commercial Mixed Use (CMU) and is intended to accommodate a wide range of uses.

The project site is designated MUSA in the General Plan. The General Plan MUSA land use designation description that applies to the site is provided below. The MUSA General Plan designation on Appian Way includes the properties that front the west and east side of Appian Way from the Michael Drive vicinity south the current city limits. It includes existing retail, office, independent senior housing and motel uses as well as future planned housing sites along the portions of both sides of Appian Way.

MUSA - Mixed-Use Sub-Area (10.1 to 50.0 dwelling units per acre). The Mixed-Use Sub-Area encourages mixed residential and commercial development that is united by transit and pedestrian improvements, parks and public spaces. This land use designation allows all types of commercial and residential uses as either a single use or in combination with other allowable commercial and residential uses at densities and intensities that support transit service. The designation is intended to encourage ground-floor, pedestrian-friendly retail sales and service uses with upper floors of office and residential uses. Commercial activity can include a range of retail activity from neighborhood convenience stores and community shopping centers to regionally oriented specialty stores and office uses, including administrative, professional, medical and dental offices. Residential uses may include single-family and multi-family residential uses.

The proposed electronic cigarette retail sales establishment 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 products available within the community.

Zoning

The Zoning District for the site is CMU. Below is a description of the CMU Zoning District:

Commercial Mixed Use Zoning District. *The predominant use of this zoning district is commercial. This category is designed to provide for the integration of retail and service commercial uses with office and/or residential uses.*

The proposed use is consistent with the intent of the CMU zone in that it includes a commercial use that complements existing businesses within the established Pinole Terrace commercial center and has the potential to help reduce tobacco use for those interested in an alternative to traditional cigarettes. The new business could attract community residents and visitors to the area that are seeking electronic cigarettes. In order to ensure compatibility between the proposed use and the existing adjacent tenants, staff has added a condition that the applicant shall install odor and air quality control measures if complaints are received in order to minimize disruption to nearby personal service or restaurant uses. Draft conditions have also been included requiring compliance with all applicable local, State, and Federal laws.

In the past there have been code enforcement cases relating to residential occupancy within this existing Pinole Terrace commercial center. A draft condition of approval has been added prohibiting any residential occupancy of the project site given that the store space includes amenities with the potential to invite overnight use.

Circulation

Access to the project site is provided by Appian Way. The project site is within a ½ mile of West Contra Costa Transit Authority (WestCAT) bus stops that are located on Fitzgerald Drive near the Appian Way intersection.

Parking

The 1,461 square foot retail shop currently requires 5 off-street parking facilities based on a ratio of 1 parking space per 300 feet. There are more than 100 off-street parking spaces located on the property. Many spaces located north and west of the building are infrequently utilized and portions of the two building on site are unoccupied or occupied by uses with staggered peak periods. Draft conditions have been added requiring the provision of bicycle parking and transit information to encourage multi-modal travel. Additionally, a draft condition has been included requiring the business employees to park in the least convenient parking spaces on site to encourage turnover of prime parking spaces based on the current business mix present on the property. Parking supply is anticipated to be more than adequate to accommodate the anticipated parking demand for the proposed use.

ENVIRONMENTAL REVIEW

The project is Categorically Exempt per Section 15301, Existing Facilities of the California Environmental Quality Act (CEQA) Guidelines in that the project consists of the operation of an electronic cigarette business within an existing commercial building involving no expansion.

CONCLUSION

The proposed use would add a new business to the Appian Way corridor to help strengthen the economic vitality of the Pinole Terrace Center. As conditioned, the project is consistent with General Plan policies, the Three Corridors Specific Plan and applicable Zoning Code requirements.

ATTACHMENTS

- A. Draft Resolution 16-08 with Exhibit A: Conditions of Approval
- B. Updated project information date stamped received July 20, 2016

**PLANNING COMMISSION RESOLUTION 16-08
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 16-03) TO ALLOW THE OPERATION OF AN APPROXIMATELY 1,461 SQUARE FOOT ELECTRONIC CIGARETTE RETAIL ESTABLISHMENT WITHIN 2564 APPIAN WAY, APN: 426-391-001

WHEREAS, Sonephet Manikhong has filed an application for a Conditional Use Permit (CUP 16-03) with the City of Pinole to allow the operation of electronic cigarette retail sales establishment within 2564 Appian Way; 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 Mixed Use Sub-Area (MSA) in the Pinole General Plan and is intended to attract private investment and encourage ground-floor, pedestrian friendly retail sales and services uses; and

WHEREAS, The property is located within the Appian Way corridor of the Three Corridors Specific Plan and is zoned Commercial Mixed Use (CMU) that allows smoke shops which includes electronic cigarettes sales and related products subject to securing a Conditional Use Permit; and

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

WHEREAS, The Planning Commission of the City of Pinole has conducted a duly noticed public hearing to consider CUP 16-03 on August 8, 2015;

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

NOW, THEREFORE, the Planning Commission hereby finds that:

1. The use permit request is consistent with General Plan in that it 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.
2. The use permit request, as conditioned, is consistent with the Zoning Code, in that it furthers the purpose of the Commercial Mixed Use Zone, and will help ensure the protection and preservation of public health, safety, and welfare by strengthening the commercial services in Pinole, providing local employment opportunities and will encourage cessation of tobacco smoking; and
3. The use permit request is Categorical Exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines because it involves minor physical changes and no expansion to an existing building.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pinole:

- A. Hereby approves CUP 16-03 as provided in the staff report, and subject to the Conditions of Approval attached as Exhibit A to this Resolution.
- B. The approval of CUP 16-03 shall expire on August 8, 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 8th day of August 2016, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

David Kurrent, Chair, 2016-2017

ATTEST:

Winston Rhodes, AICP, Planning Manager

**PLANNING COMMISSION RESOLUTION 16-08
EXHIBIT A
CONDITIONS OF APPROVAL BETTER CLOUD RETAIL STORE
CONDITIONAL USE PERMIT 16-03**

	<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 sales of electronic cigarettes and E-liquid 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.	Ongoing	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 July 20, 2016 unless otherwise specified in these conditions of approval and shall be conducted in a manner which is consistent with all applicable federal, state and local laws.	Ongoing	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.	Ongoing	Development Services Department	
4. The operating hours of the use shall be 10:00 AM – 9:00 PM Monday through Saturday and 12 Noon – 6:00 PM on Sunday.	Ongoing	Development Services Department	
5. The area on the site plan labeled as an Employee Area "Kitchenette" shall function as break room for employees. No food shall be prepared on site for sale or for customer consumption.	Ongoing	Development Services Department	

**PLANNING COMMISSION RESOLUTION 16-08
EXHIBIT A
CONDITIONS OF APPROVAL BETTER CLOUD RETAIL STORE
CONDITIONAL USE PERMIT 16-03**

	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
6.	No residential use of the premises including overnight stays shall be permitted.	Development Services Department	
7.	The premises shall not be open to individuals under the age of 21. Signage shall be posted at all times specifying that individuals under the age of 21 are not allowed inside the store.	Development Services Department	
8.	The applicant shall prepare and provide written store operating procedures to all employees. The written procedures shall be made available upon request. The procedures shall describe how the store will prevent access to e-cigarettes and related products sold at the store to individuals under the age of 21.	Development Services Department	
9.	Information related to smoking cessation of tobacco products and the documented health effects of long-term effects of tobacco product use shall be provided on site at all times for store customers to review.	Development Services Department	
10.	If the City receives odor or air quality complaints substantiated by City staff from existing adjacent tenants or members of the public outside the retail store, then the applicant shall install odor and/or air quality control features to the satisfaction of the Development Services Department to remedy the situation. This may include adding air filtration systems within the establishment. Odor or air quality control features shall be approved in advance of installation and a building permit shall be secured if required.	Development Services Department	

**PLANNING COMMISSION RESOLUTION 16-08
EXHIBIT A
CONDITIONS OF APPROVAL BETTER CLOUD RETAIL STORE
CONDITIONAL USE PERMIT 16-03**

	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
11.	A copy of the use permit conditions of approval shall be kept on premises and made available upon request.	Development Services/Police Departments	
12.	BUSINESS EMERGENCY INFORMATION FORM – The property owner shall complete a Police Department "Business Emergency Information Form" and shall deliver it to the Police Department for review and approval prior to project completion.	Police Department	
13.	The applicant shall provide full cooperation to the Pinole Police Department and all law enforcement personnel at all times.	Police Department	
14.	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	
15.	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	
16.	If the operation of the use results in conflicts pertaining to parking, noise, odor, air quality, 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	

**PLANNING COMMISSION RESOLUTION 16-08
EXHIBIT A
CONDITIONS OF APPROVAL BETTER CLOUD RETAIL STORE
CONDITIONAL USE PERMIT 16-03**

	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
17.	All store employees shall be required by the operator to park in the least convenient available spaces to maximize efficient available parking for customers.	Development Services Department	
18.	The operator shall make rideshare and public transit information available on premises to employees and customers.	Development Services Department	
19.	The operator shall provide at least two secure bicycle parking spaces either within the retail store facility or within 50 feet of the entrance.	Prior to Building Occupancy and Ongoing Development Services Department	

Better Cloud Vapor

Albany

600 San Pablo Ave #105

Albany CA, 94706

Pinole

2564 Appian Way

Pinole CA, 94564

Steve Manikhong

2531 Faria Ave

Pinole CA, 94564

510-375-4845

Manikhong@yahoo.com

March 2016

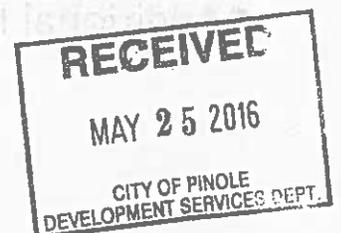
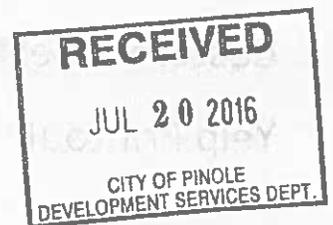


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Yelp Printout

- **Additional Information on Electronic Cigarette**

Project description

Better Cloud is a family owned and operated specialty retail store that provides the sale and services of electronic cigarettes and E-liquid. Our first location opened in Albany, CA in 2013, and has been helping its customers find an alternative solution to their tobacco addiction. Some of the services we offer include: Sales of hardware and e-liquid, maintenance and repair, and advice and information for customers looking to make the switch. As many people know, quitting cigarettes is very difficult, and many people find it to be the hardest thing they've ever done. We truly believe this is a much better, safer alternative to traditional cigarettes. We also provide a public forum for people to talk, and encourage others on their path towards being tobacco-free.

Many customers have expressed that they would appreciate if we open a location near the Pinole area. We are a local business that caters to bettering the community around us. Our Albany location has become the premier electronic cigarette retail store in the East Bay area. We pride ourselves in providing our community with excellent service. We hope that we can bring this level of service and community to the Pinole area.

Sincerely,

Steve Manikhong

Number of Employees: 2-3

Hours: 10am-9pm Monday-Saturday, 12pm-6pm Sunday

REGARDING ELECTRONIC CIGARETTES

Electronic Cigarettes are smoking cessation devices, designed to help cigarette smokers quit, or curb their cigarette addiction. Typically electronic cigarettes consist of: the device itself "Hardware", and the "refills" known as "E-Liquid". Electronic cigarettes have helped millions of people quit smoking as a popular alternative. In as little as 3 years, electronic cigarettes have grown into the most popular smoking cessation tools. Unlike traditional cigarettes, electronic cigarettes do not contain, burn, or rely at all on tobacco, therefore making it a much safer alternative. It is lawful to sell and use electronic cigarettes, and though they are not the same, we always recommend users to conform to traditional cigarette rules, and refrain from use where regular cigarette smoking is not permitted.

Electronic cigarettes are meant for adult (21+) personal use. As with our Albany location, we will take great measure to prevent use by minors. Our mission is to provide services to adults looking to quit smoking tobacco; ***we do not condone the usage of electronic cigarettes to non-smokers***. Measures to prevent minors from obtaining our products include: Posting signs stating that only individuals 21+ may enter, carding individuals that look under the age of 35 (only government-issued identification is considered), and declining the sale of electronic cigarettes to non-smokers.

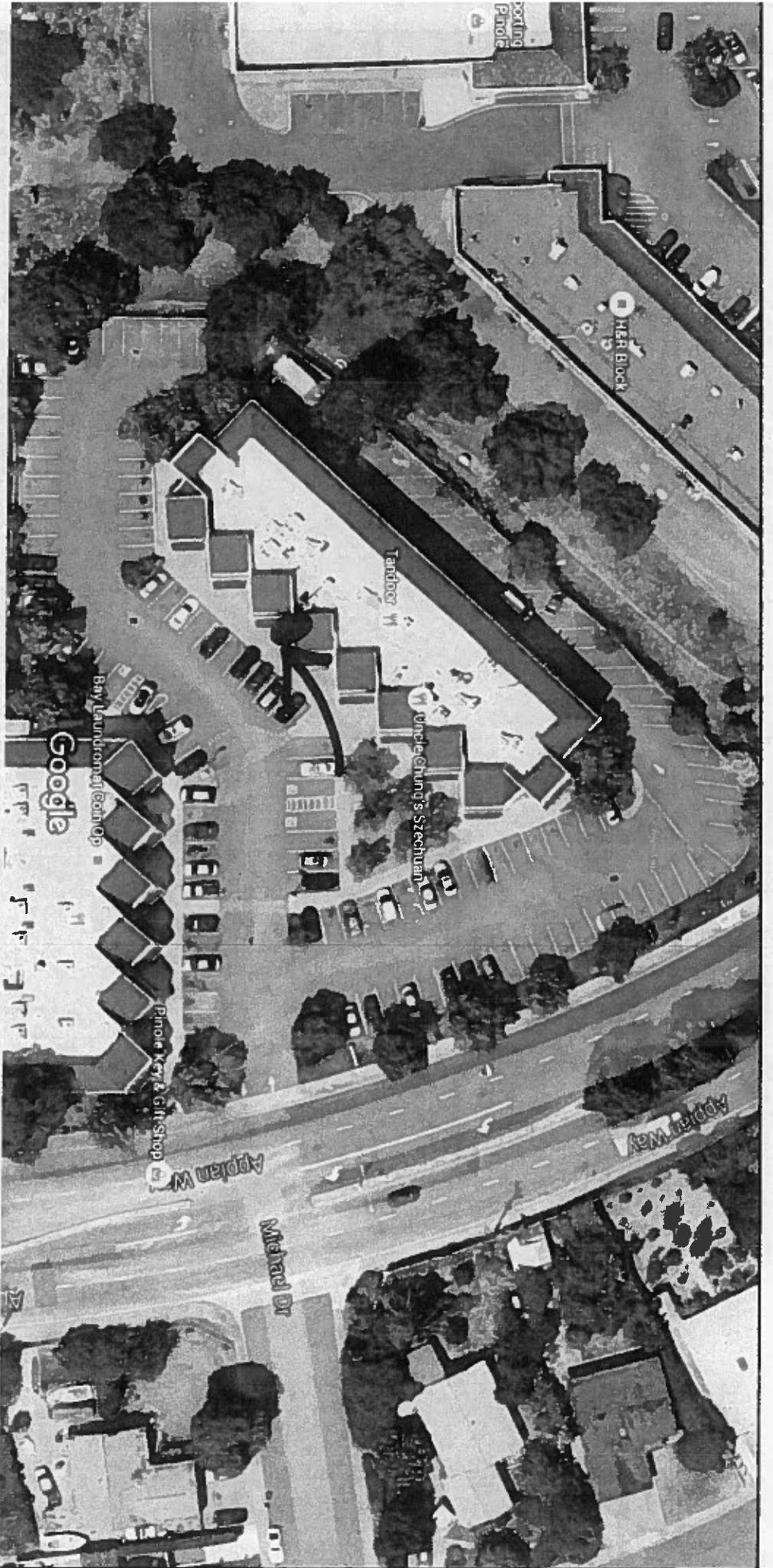
Google Maps 2564 Appian Way Vicinity Map



Imagery ©2016 Google, Map data ©2016 Google 500 ft

Google

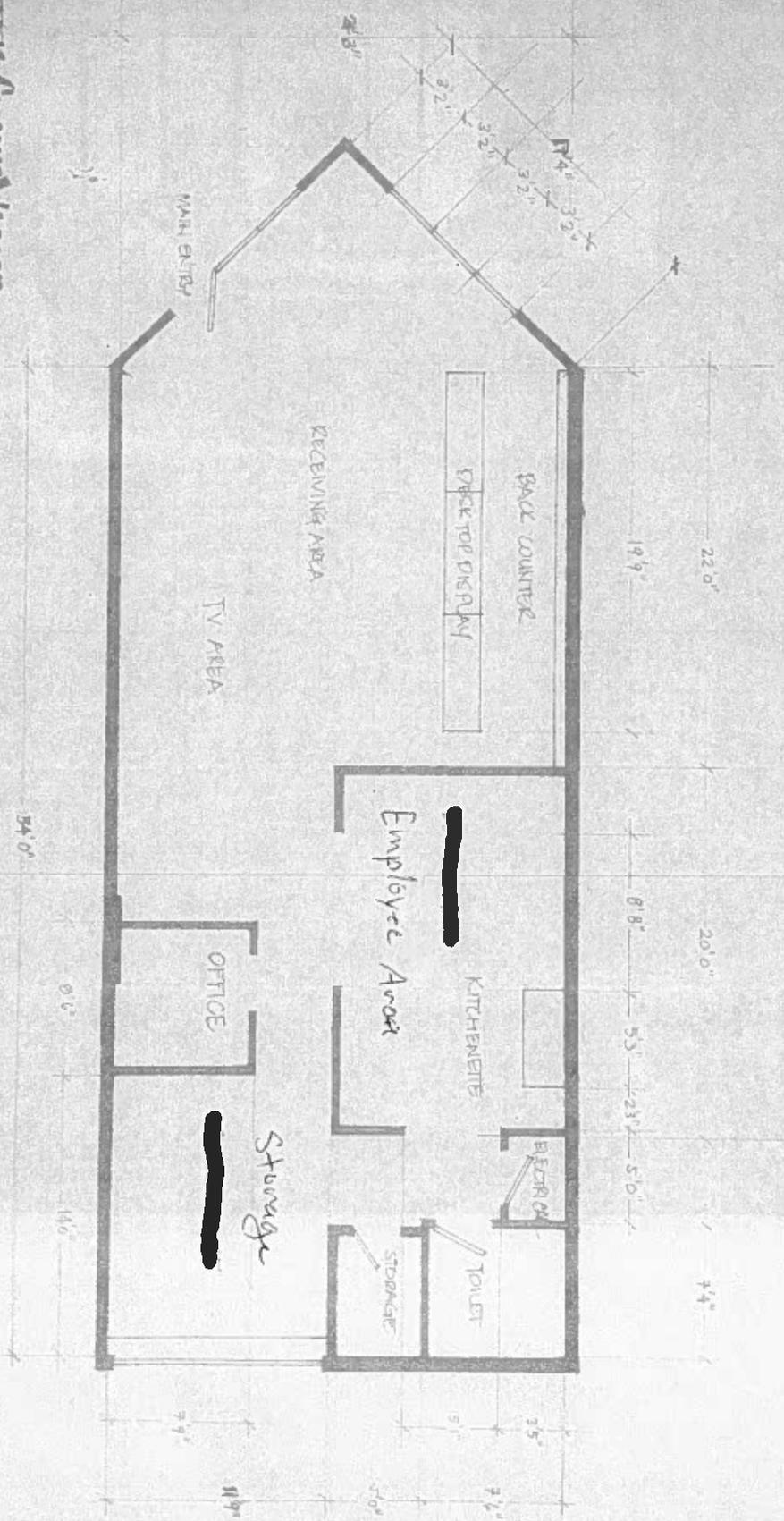
Project location

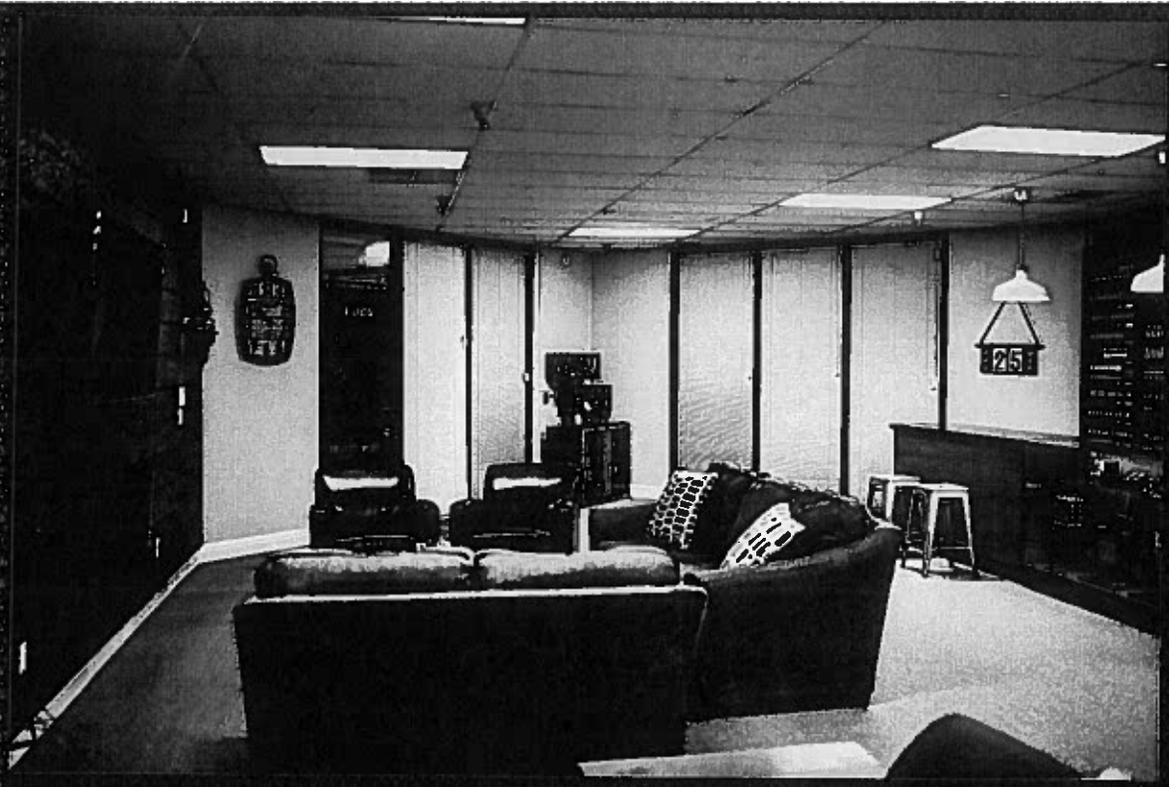


Imagery ©2016 Google, Map data ©2016 Google 50 ft

Google Maps

not found 3/29/07





Better Cloud
600 San Pablo Ave unit 105
Albany CA, 94706

It has been more than a pleasure doing business in, serving, and giving back to the community of the greater Albany/Berkeley area.

Attached are statements from neighboring tenants/landlord of the Albany Square Plaza, as well as statements from the Albany Police Department. We hope that these testimonials will help you to understand the type of business that we conduct, as well as give further insight to the type of business owners that we are.

Sincerely,

Steve Manikhong

ALBANY CALIFORNIA

CITY OF ALBANY



POLICE DEPARTMENT
1000 SAN PABLO AVENUE
ALBANY, CA 94706
510 525-7300
510 525-1360 FAX

MICHAEL MCQUISTON
CHIEF OF POLICE

www.AlbanyCA.org/police

April 9, 2016

To Whom It May Concern:

A review has been conducted of the official police records maintained by the Albany Police Department. The results of our criminal data base did not reveal any record that Manikhong, Steve verified by California Divers License# D3521204, date of birth May 5, 1986; had any unlawful activity at Better Cloud, 600 San Pablo Ave., #105, Albany, CA 94706. Mr. Manikhong has been a business owner in the City of Albany since October of 2013.

Sincerely,

A handwritten signature in cursive script that reads "Darla Majors".

Darla Majors
Communications Clerk
Records Division

Police & Sheriffs Law Enforcement Yearbook

Official Publication of the Retired & Disabled Police of America

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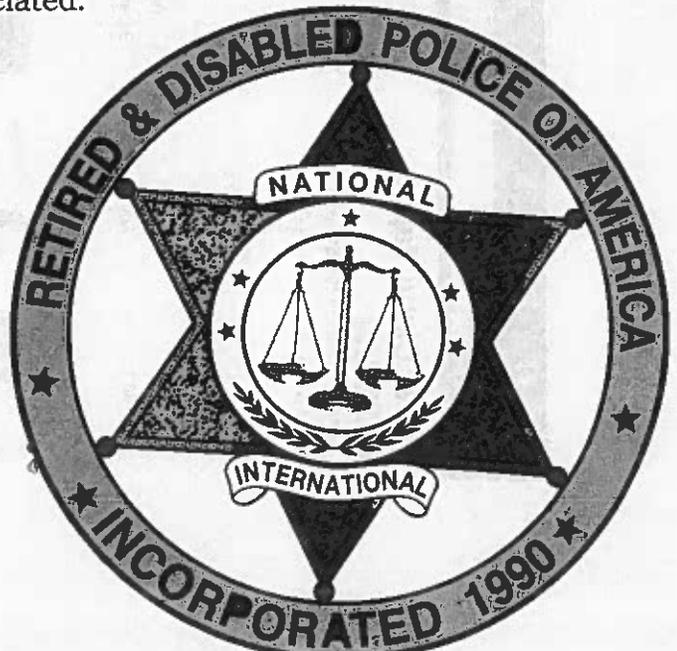
Enclosed you will find your receipt, a Certificate of Appreciation, decals, and a list of benefits. These benefits may be shared with your family and employees.

Your generous support is sincerely appreciated.



Executive Director
Retired & Disabled Police of America

Enclosures



Better Cloud Vapor

62 Reviews
 Tobacco Shops, Vape Shops
 Hours today: 10:30 am - 8:00 pm

- Write a Review
- Add Photo
- Add Tip
- Bookmark



Mark E.
 ++ 156

Saw Steve here, and I really have nothing but super positive things to say about him. He was pleasant, approachable, and super knowledgeable about his products and others.

He allows you to try any and all of their flavors, and they have a broad variety (displayed in a menu), including their own excellent concoctions.

Dave K.
 ++ 3

Mango boba fresh from those Boba dudes stocked here before any SF spots. Actually my first time trying BC's house juice Peach Honeydew... [Read More](#)

Ratanak K.
 ++ 53

12/11/2014

Jonathan A.
 ++ 0

Best Vape shop in the east bay hand down. Steve knows what he is doing three king of vape in the east bay. Mikey very helpful and a great builder for RBA's. Jake customer service is his number 1 priority helps everyone he can and knows which juice to offer to every customer. Anthony knows builds and juice a Jack of all trades. If you need beginners vape setup come here if you need vaperstar setups come here they have anything and everything vape related. Friendly and welcoming atmosphere here.

Joe N.
 ++ 0

A large selection of mods and juices to choose from. Heavy on the fruit flavors, missing some other flavor profiles. The guys that work here are hilarious. They were very helpful and patient with my questions. Want 7%? They can do it. They mix whatever percentage you want. The space is small, but they do have a couch and video games if you want. Really, over all, this is the best shop I've been

Tzushyang L.
 104

★★★★★

Hands down the best vape shop ive been to. I buy all of my vape necessities from this shop. If you need a good build, im not going to... [Read More](#)

Useful

Funny

Cool

Andy C.
 0

★★★★★

Excellent guest service! I came at closing time for coils and needed juice. Who helped me out oh so much was Steve and Mikey swell guys.... [Read More](#)

Useful

Funny

Cool

Brandon L.
 26

★★★★★

This is my go to vape shop. Always have a good experience here. Wide selection of vape products, and really REALLY amazing juices. Friendly... [Read More](#)

Brandon L.
 26

★★★★★

This is my go to vape shop. Always have a good experience here. Wide selection of vape products, and really REALLY amazing juices. Friendly... [Read More](#)

Useful

Funny

Cool

Annie W.
 111

★★★★★

Small hidden in the corner, but so many options and flavors, love the guys that work there so honest n cool def. recommend this spot if u want more options

Useful

Funny

Cool

Carrie L.
 75

★★★★★

I'd like to consider myself an e-juice connoisseur, but Better Cloud puts it to the test. This is truly a juice megastore. They have an... [Read More](#)

Christine N.
 92

★★★★★

The guys at BCV are awesome! They've got a great selection of juices (I got Jazzy Boba) and their house juices are good too! If you go with... [Read More](#)

Useful

Funny

Cool

Marty R.
 68

★★★★★

Hands down, the best vape shop in town. I used to be obsessed with Kool Apple, you could not find me Vaping any other juice nor can you find... [Read More](#)

Useful

Funny

Cool

Marty R.
 68

★★★★★

Amazing vape shop. great service n pricing. lots of ejuice selection. I Always go to this shop when I'm in the area

Useful

Funny

Cool

Robert Kuo
Broker Notary Public Property Manager

600 San Pablo Ave suite 209
Albany Ca. 94706

(O) 510-527-8278, 510-526-5858
(E) Robertkuo@aol.com
(C) 510-813-6988 (F) 510-527-8278

Robert Kuo
600 San Pablo Ave
Albany, CA 94706
(510) 527-8278

Steve Manikhong has been a tenant for 2+ years here at the Albany Square Plaza. They run a good, honest business, and have been beneficial to the atmosphere of the plaza. We are happy to have them as tenants of the Albany Square Plaza.

Robert Kuo



Property Manager

Albany Pizza Company
600 San Pablo Ave #104
Albany CA, 94706
510-524-3824

Better Cloud Vapor has been a great neighbor to us since its opening. We have appreciated the increase in foot traffic in the plaza, and our business has seen an improvement since they have arrived.

The staff of Better Cloud are very friendly, and have helped us out on numerous occasions, pertaining to business or otherwise, as any good neighbor would. We have grown past just being neighbors and consider Steve and his team as friends. We highly recommend welcoming them into business in any community; time will show they are definitely an asset.

Sincerely,

A handwritten signature in black ink, appearing to be a stylized name, possibly "Steve".

Albany Pizza Company

Golden State Tanning
600 San Pablo Ave unit
Albany Ca 94706
510-528-1555

\$50
2 SPRAY
TANS*



\$19.99 Mo
UNLIMITED TANNING

* SOME RULES APPLY. CALL FOR DETAILS.

510.528.1555
600 SAN PABLO AVE @ CLAY ST • ALBANY
WWW.GSTANNING.COM



As far as I know they haven't been a problem I've been here working in this plaza for 4 years now and they all are very nice, outgoing people.

Sincerely,



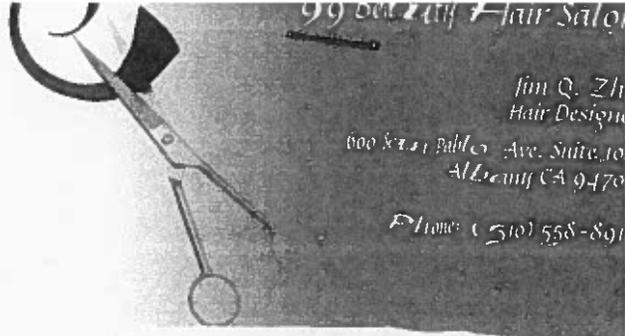
Golden State Tanning

Jim Zhu

600 San Pablo Ave unit 104

Albany CA 94706

510-558-8918



Steve has been my next door neighbor for 2+ years. He also is my customer. I don't have any problems with him as a neighbor.

Sincerely,

A handwritten signature in black ink that reads "Jim Zhu".

Jim Zhu

Bellissima Nails & Waxing

600 San Pablo Ave #101

Albany Ca 94706

510-528-6925



BELLISSIMA
Nails & Waxing

(510) 528-6925
600 San Pablo Ave. #101
Albany, CA 94706

Very nice owner and staff. Their store is 3 doors down from us, and their business and customers do not cause any disruption to my business or the plaza.

Sincerely,

Bellissima Nail and Waxing

Dear Pinole

When Steve the owner asked me if I would like to write a letter about my experiences with his store and my thoughts on their second location in Pinole, I was more than thrilled to give back to him as his shop is my savior. I am a 57 year old lady who spent the majority of her life smoking. I have tried countless times to quit smoking. I've tried going cold turkey, using patches and even the nicotine gums. Nothing seem to work, not even these electronic cigarettes in the beginning. I have been determine to quit not just for myself but for my children. The reason why I am passionate about this letter is that it is because of Better Cloud that I was able to quit. What changed my life was Better Cloud Vapor. It may seem easy, making the switch to electronic cigarette; but there is a lot of maintenance involved. There is a difference between Better Cloud and other vapor stores, or tobacco stores that sell electronic cigarettes. The staff are very knowledgeable and friendly. Unlike many stores or even buying these products online, they are patient with their customers. They are willing walk through their products and make sure you understand what you are buying, how to use it and answer any questions you may have. They gave me the support, and the encouragement I needed to stay committed, and smoke free. When I walk into Better Cloud I am always greeted with a warm welcome. They care about their customers and always thrive to provide the best current products to their customers at a reasonable price before other local shops. Better Cloud is an honest business, they never push to make a sale. From my experiences, they will never take advantage of their customers. They always suggest products that best fit my need instead of higher priced items. Having the Pinole shop will be very beneficial to me. I live in Hercules and work in Pinole and I make a trip to Albany 2-3 times a week. I know there are closer electronic cigarette retailers, but Better Cloud is a dedicated electronic cigarette store only. They have the largest e-liquid selection and only carry all USA made E-liquids from well known, reputable companies. Because of this I was able to stay on track and not get bored. They helped me lower my nicotine level over time. I started at 12 mg and now I am at 3mg. I plan to go all the way down to 0 nicotine and eventually quit. They are truly one of a kind. Having a Better Cloud in Pinole will give other people the resources, inspiration, and support they need.

A true believer,

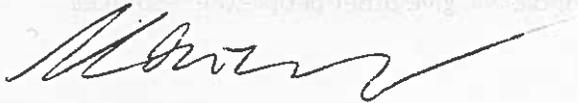
Anh Nguyen

March 2016

To whom it may concern,

I was a 10 year smoker looking for a change. I didn't like how I felt in the morning after smoking all day. I had heard about vaping from a friend who used it to quit and I thought I would give it a shot. I like how much better I feel after being off of cigarettes for 3 years. Better Cloud Vapor is a great place that has helped me quit smoking and move on to a better alternative. I heard that they were planning on opening a location in Pinole and I think that would be a great idea for people like me who live in Crockett. It would be nice to have a location closer to home where I could purchase my Vapor products.

Sincerely,



Miguel Canteras

March 15 2016

To whom it may concern,

My name is Jake and I have been a smoker for 6 years and I didn't like the way I was feeling and how they affected me, so I turned to vaping and it has changed my life drastically in so many ways. I can breathe now without coughing, I can partake in activities with my daughter as well without losing my breath. I just feel better about life and I have Better Cloud Vapor and all of the employees to thank. I was driving 20 minutes to their Albany location and was informed that a possible Pinole location were in the works. It is so much more convenient for me travel wise because I live 5 minutes away in Pinole as well, so I'm really looking forward to this new location and excited to see how many more lives can be saved.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jake Adair', written in a cursive style.

Jake Adair

**IOWA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL**

Thomas J. Miller, Attorney General

www.iowaAttorneyGeneral.gov

CONTACT: Geoff Greenwood • Communications Director • 515-281-6699 • geoff.greenwood@iowa.gov

FOR IMMEDIATE RELEASE

December 23, 2015

**Statement by Attorney General Tom Miller on Electronic
Cigarette Key Facts**

"The harm of the combustible cigarette is dramatically greater than the harm of the e-cigarette"

"The harm of the combustible cigarette is dramatically greater than the harm of the e-cigarette. The combustible cigarette is by far the most harmful consumer product known to mankind, killing 480,000 people each year in the United States alone. This is largely due to the many deadly toxins created and released by the combustion. A panel of experts estimates that the e-cigarette is 95% less harmful. Some push back on this study, in part questioning the ability to put an exact number on it. Another estimate is 90-98% less harmful. But whatever number is correct, e-cigarettes are dramatically less harmful than combustible cigarettes.

"There has been an effort to say that combustible cigarettes and e-cigarettes are equally harmful, that their companies are equally evil, and that they should be strongly regulated the same way. This view is incorrect, but it has gotten significant traction. Polling indicates that 32% of Americans believe that combustible cigarettes and e-cigarettes are equally harmful. This means that as many as 13 million adult smokers believe them to be equally harmful, and are very unlikely to switch when switching may save their lives. People making misstatements about e-cigarettes have the best of intentions—to keep kids from being addicted to nicotine through e-cigarettes. But adults misleading kids to get them to do what we want has always been a failed strategy.

"There also is a misconception about the prevalence of teen e-cigarette smoking. According to the National Youth Tobacco Survey, 13% of American high school students smoked an e-cigarette once or more in the last 30 days. This includes regular use and experimental use. As the figure is repeated, the number 13% is used without that qualification. After a few repetitions, people then tend to assume that 13% are regular users. However, regular use—if defined by usage in 20 or more days in the last 30 days—is actually 2%. The numbers should be seen together—13% used e-cigarettes once or more in the last 30 days; 2% have used an e-cigarette 20 or more days in the last 30 days."

###

Public Health England: Vaping is 95% Less Hazardous Than Smoking

U.S. public health groups should tell the truth to smokers



WASHINGTON, D.C. – The American Vaping Association, a leading advocate for the benefits of vapor products such as electronic cigarettes, is calling for a reexamination of U.S. views on vapor products following the issuance of a new expert report on the subject by Public Health England. The results of the groundbreaking 111-page government report are front page news in England today.

Key findings of the review include:

- the current best estimate is that e-cigarettes are around 95% less harmful than smoking
- nearly half the U.K. population (44.8%) don't realise e-cigarettes are much less harmful than smoking
- there is no evidence so far that e-cigarettes are acting as a route into smoking for children or non-smokers
- e-cigarettes may be contributing to falling smoking rates among adults and young people

"My reading of the evidence is that smokers who switch to vaping remove almost all the risks smoking poses to their health," said Professor Peter Hajek of Queen Mary University. Hajek co-authored the report with Professor Ann McNeill of King's College London.

In light of this new report, the AVA is calling for U.S. organizations and government agencies like the American Cancer Society, American Lung Association, Campaign for Tobacco-Free Kids, and Centers for Disease Control & Prevention (CDC) to reassess their views on vaping. Additionally, the AVA is calling on these groups to issue corrective statements clarifying prior misleading or inaccurate statements.

"This report represents a major win for public health. Smokers need to know that vapor products are far less hazardous than smoking and effective for quitting," says Gregory Conley, President of the American Vaping Association. "With over 42 million Americans still smoking cigarettes, there is no excuse for major public health organizations to continue to propagandize against these lifesaving products."

Public Health England is not the first respected institution in the U.K. to come out in favor of vapor products. The Royal College of Physicians has declared that vapor products have the ability to "prevent many deaths and episodes of serious illness." The country's largest anti-smoking group, Action on Smoking & Health (ASH), has long argued against extending smoking bans to include vaping. On Monday ASH released a report finding no evidence of a 'gateway' effect from vaping to smoking, with virtually a habitual usage being found in smokers and ex-smokers.

Contact: Gregory Conley
 Tel: 609-947-8059
 Email: gconley@vaping.info

FOR IMMEDIATE RELEASE

10/13/2015 at 9:00 am EST

New Vaping Study Slammed by Researchers for “Severe” Bias

Vaping opponents accused of misleading the public

WASHINGTON, D.C. – The American Vaping Association, a leading advocate for the benefits of vapor products such as electronic cigarettes, is joining anti-smoking researchers in calling attention to possible misconduct by a group of Spanish authors who appear to be intentionally misstating their research findings for political purposes. In a new paper published in *Current Environmental Health Reports* (full text [here](#)), the authors conclude that “secondhand” exposure to exhaled e-cigarette aerosol is toxic because it contains particulate matter.

There’s just one problem — the authors are blowing smoke. They didn’t actually find a significant difference between the particulate matter present in a home with vaping occurring versus homes that were vape-free and smoke-free home.

This has researchers calling foul and accusing the authors of “severe bias” (see below the graph).

The small observational study sought to measure and compare levels of fine particulates in a home with smoking taking place, a home with vaping taking place, and two homes that were completely smoke-free and vape-free. The study found that the levels of particulate matter in the home with vaping were virtually indistinguishable from the vape-free and smoke-free homes. Meanwhile, the levels of particulate matter in the home with the smoker were about 60 times higher than all other homes.

The results for the median PM_{2.5} levels (in micrograms per cubic meter):

Home with smoker: 572.52

Home with vaper: 9.88

Smoke-free, vape-free home #1: 9.53

Smoke-free, vape-free home #2: 9.36



Dr. Michael Siegel, a longtime anti-smoking researcher and activist, as well as a Professor at the Boston University School of Public Health, commented:

“The truth is that exposure to the e-cigarette aerosol is no more ‘toxic’ than baseline exposure in a completely smoke-free, vape-free home. In other words, in terms of fine particulate matter exposure, secondhand vaping appears to represent no risk.

“It has the appearance that because the results didn’t come out the way the authors wanted it to, they misreported the conclusion to conform with what was apparently their predetermined conclusions against e-cigarettes.

“This is a fine example of severe bias by anti-tobacco researchers in the reporting of scientific results about e-cigarettes. Sadly, it is just one of many examples we have seen in recent years.

“Not only can’t the public trust information they are hearing about e-cigarettes from anti-smoking and health groups, they cannot even trust the information being reported in the scientific literature itself!”

Dr. Konstantinos Farsalinos, a cardiologist and researcher at Onassis Cardiac Surgery Center in Athens-Greece, as well as the author of numerous studies on vapor products, commented:

“It seems that the conclusion is contrary to the findings of their small observational study. Indeed, the published figure which displays the PM2.5 [particulate matter] concentration in homes clearly showed that the levels in the vaper’s and the non-smoker’s home are virtually indistinguishable, besides some very small peaks at the time of taking e-cigarette puffs. At the same time, levels of PM2.5 in the smoker’s home were about 60 times higher.

“The Spanish study is a classical and obvious example of misinterpretation of study findings. Their conclusion should be that PM2.5 levels in a home of a vaper are hardly distinguishable from a home of a non-smoker, and significantly lower from the levels in a smoker’s home.”

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You can learn more about AVA and vaping by visiting the AVA website. You can also find us on Facebook and Twitter.

About the American Vaping Association:

The American Vaping Association is a nonprofit organization that advocates for policies that encourage the growth and sustainability of small- and medium-sized businesses in the rapidly growing vaping and electronic cigarette industry. The AVA was founded by Gregory Conley, a consumer and industry advocate with a long track record of advocating for vapor products dating back to 2010.

We are dedicated to educating the public and government officials about public health benefits offered by vapor products, which are battery-powered devices that heat a liquid nicotine or nicotine-free solution and create an inhalable vapor. The AVA is not a trade group and does not speak for any particular businesses, including our industry sponsors.

CLEARING THE Air

What you need to know
about the vaping industry

A special advertising supplement

Get THE FACTS

What scientific research currently says about vaping

Are electronic cigarettes a better alternative to smoking or the same set of health concerns in different packaging? With vaping on the rise, many scientists have been researching electronic cigarettes — and the studies suggest vaping isn't as bad as some might think.

Smoking



1.3 billion
tobacco smokers
in the world



6 million
smoking-related
deaths every year*

No other cause of death is so
preventable

*World Health Organization

A better alternative

“ Right now the overwhelming majority of people seeking nicotine are getting it from the deadliest and most toxic delivery system, and that's the conventional cigarette. ”

MITCH ZELLER, Director of the
U.S. Food and Drug Administration's
Center for Tobacco Products

www.fda.gov/oc/pubs/ohf/2013/11/regulating_tobacco.html

“ Electronic cigarettes are by far a less harmful alternative to smoking and significant health benefits are expected in smokers who switch from tobacco to electronic cigarettes. ”

2014 University of Catania study
www.ncbi.nlm.nih.gov/pmc/articles/PMC411062/

Giving up tobacco products

According to one study of smokers who received professional advice from vape shops,



41% quit smoking within 12 months.
In addition, **25%** reduced their cigarette consumption.

www.health.com/10074601/1124/0328/11a

A study by State Budget Solutions estimated that e-cig adoption, and the resulting tobacco smoking cessation and harm reduction, could have saved

\$48 billion
in Medicaid costs in 2012

www.statebudgetsolutions.com/wp-content/uploads/2012/03/20120321-2012-Medicaid-Cost-Savings-Analysis.pdf

Understanding the ingredients



Cigarettes contain more than **7,000 known toxins**, while e-liquids contain substantially fewer.

A 2013 study by Drexel University examined more than 9,000 clouds of vapor and found:

“ There was no evidence of potential exposures of e-cigarette users to contaminants that are associated with risk to health. ”

<http://pubs.tobaccoindustry.com/doi/10.1186/1745-7214-13-108>

Vapor
dissipates in

11
SECONDS.

Smoke, however,
lingers for

20
MINUTES.

Not Big Tobacco



Vaping is a consumer-created solution to the tobacco problem. Big Tobacco only got into the vaping industry when it started to eat away at its profits.

Not a gateway

A recent survey of Welsh teens (ages 13-18) asked respondents who had used both e-cigarettes and tobacco products which they had tried first.

98%

had tried tobacco products FIRST.

<http://ashwales.org.uk/en/informationresources/topics/electronic-cigarettes>

Visit www.vapingeducation.org for more on the industry's response to misleading statements about vaping.

Protecting Your Right to Vape

As a smoker, you have a choice. According to the Centers for Disease Control and Prevention, smoking tobacco products harms nearly every organ in the body. One in five deaths in the United States are smoking-related. Vapor products have allowed many to reduce or completely quit smoking conventional cigarettes. Learn more about how these organizations are protecting people's access to vapor products.

SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION

The Smoke-free Alternatives Trade Association (SEATA) is the largest trade association in the vapor and electronic cigarette industry. Members include distributors, manufacturers, retailers and consumers of vapor products. The organization is committed to protecting the industry's right to provide an alternative to combustible tobacco products for adult smokers.

For more information about SEATA, visit www.seata.org.

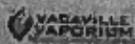


CONSUMER ADVOCATES FOR SMOKE-FREE ALTERNATIVES ASSOCIATION

The Consumer Advocates for Smoke-free Alternatives Association (CASAA) is a nonprofit advocacy group that raises awareness and protects people's access to vaping products. The organization is currently collecting testimonials from smokers who used smoke-free alternatives to quit or reduce their smoking to display on its website.



For more information about CASAA, visit www.casaa.org.

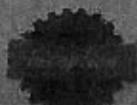


THE VAPERS

PLANET VADES

Smoking Alternatives

ColdBotCo



Classics

503

503

503

WHY DO YOU LIKE VAPING?



Testimonials from seasoned vapers

"I was introduced to vaping by my son. He wanted me to quit smoking because he was concerned about the chemicals that they put into cigarettes. They are dangerous — and kind of nasty. I liked the different flavors that you could get and that the chemicals seem to be less harmful. I also liked the cost. It's much cheaper than smoking and cigarettes are only going to go up. A pack of cigarettes will eventually cost \$10 a pack. That's a rich man's sport!"



KARLA DELAOSSA, 67, retired

"I started dipping snuff over 18 years ago. I had tried to quit several times, never making it more than a week or so. I tried gums, pills, classes and cold turkey. About a year ago, a buddy talked me into getting a vape pen. I have no urge to dip snuff and have leveled down to 1 to 3 mg nicotine juices. I plan to go to 0 mg eventually, and never look back!"



MICHAEL OWENS, 33, military

"I smoked since I was 14 years old and switched to vaping about a year ago when my asthma was acting up. Since then, I have been able to reduce the level of nicotine in my e-cigarettes to almost nothing. People are more willing to be around me now. I think it's ridiculous that the state is trying to lump vapor users with tobacco smokers, because vapor is not the same as smoke. The whole reason I quit smoking is so I wouldn't have to be around it, or smell like it."



KATARINA RIGGS-GURTWRIGHT, 21, preschool food coordinator

Testimonials are based on the user's own words. All other testimonials are subject to the same disclaimer. All trademarks are the property of their respective owners. All rights reserved. © 2014 Vaping.com. All other trademarks are the property of their respective owners.



Memorandum

TO: PLANNING COMMISSION MEMBERS

FROM: WINSTON RHODES, AICP, PLANNING MANAGER

SUBJECT: San Francisco Bay Trail Pinole Shores to Bayfront Park Workshop

DATE: August 8, 2016

Applicant: East Bay Regional Park District P.O Box 5381 Oakland, CA 94605-03381	Property Owner: East Bay Regional Park District Union Pacific Railroad City of Pinole
File: Design Review (DR 16-15) APN: 402-140-007, 402-140-001, 401-010-009, and 401-010-007 Zoning: Parks and Recreation (PR) and San Pablo Bay Conservation Area (SPBCA) General Plan Designation: Parks and Recreation (PR) and San Pablo Bay Conservation Area (SPBCA)	

REQUEST

Approval of elevated trail railing and concrete design details in conjunction with previously approved trail design review request.

BACKGROUND

At its July 11, 2016 meeting the Planning Commission approved the design review request to construct an approximately 0.5 mile long and 14 foot wide segment of the San Francisco Bay Trail extending a non-motorized paved recreational trail along the San Pablo Bay Shoreline in Pinole from a hillside bluff across from Hazel Drive in Pinole Shores east over the Union Pacific Railroad (UPRR) tracks to connect to an existing path in Bayfront Park. A condition was placed on this approval requiring further review of the elevated trail railing design and decorative concrete features. Based on public testimony received, the Commission wanted to consider further options that provide less visual disruption of San Pablo Bay views from the Hazel and Orleans Drive neighborhood yet provide a distinctive high quality appearance.

Fifteen years ago, the Park District began to evaluate the alternatives for providing a trail alignment in this area and as a result of those studies determined to construct a new segment of the San Francisco Bay Trail including a bridge over the Union Pacific Railroad. The development of the proposed Bay Trail segment represents a long effort to add a trail connection along an inaccessible portion of the San Pablo Bay Shoreline in Pinole.

The East Bay Regional Park District (EBRPD) is the lead agency for the project and has previously prepared and certified an Environmental Impact Report for the project in 2012. As part of that environmental review process in 2011 the City mentioned that the project requires a design review by the City of Pinole based upon Zoning Code Section 17.12.150. The City's Municipal Code authorizes the Planning Commission to take final action on the design review request.

This is a unique public project that requires permits from multiple public agencies in addition to the City of Pinole including Caltrans and the State Public Utilities Commission as well as railroad approval of the design, construction process, and long-term maintenance of the separated railroad right-of way crossing. Additionally, an easement from the City is required and has been approved by the City Council for the use of Bayfront Park property. Maintenance and operation of Bayfront Park is subject to the terms of a Joint Shoreline Park Operating Agreement between the City and EBRPD.

Railing Design

Below are three Park District proposed configuration option types shown in four different colors options (black, tan, light green, or light blue) to consider. All of the options include a simple metal grid design that reflects the concern about protecting views of San Pablo Bay from nearby homes while also attempting to anticipate Caltrans and Union Pacific Railroad requirements. Design Option 1 includes a metal grid with a diagonal steel railing pattern. It is more distinctive than the other two options but is the least transparent choice. Option 2 is a simpler more transparent design than Option 1 and is intended to block less of the San Pablo Bay view from nearby homes. Option 3 is the most transparent option and is perhaps the simplest most transparent design. According to the Park District the top rail will need to be added along the lower railing height but not along the highest portion of the railing above the railroad tracks.

Option 1A



Option 1B



Option 1C



Option 1D



Option 2A



Option 2B



Option 2C



Option 2D



Option 3A



Option 3B



Option 3C



Option 3D



Concrete Pattern

The Park District is proposing stamped concrete for the side of the elevated concrete trail. Three options were presented at the July meeting. Final direction on the concrete design and color is requested. All three options are a simulated “drystack” stone pattern in various colors. Further information will be provided at the meeting.

Concrete Color

The Park District has proposed a grey concrete color in the visual simulations above. However, other options are available that may be preferable depending on the railing color selection.

STAFF RECOMMENDATION

Provide an opportunity for further public input, consider public testimony, and provide direction on the following four design topics:

- 1) Railing configuration;
- 2) Railing color;
- 3) Concrete pattern; and
- 4) Concrete color

ATTACHMENTS

- Attachment A: Correspondence Received Since July 11, 2016 (Commissioner Harley local design context information and Joel Gannotti railing design sketch)
- Attachment B: Proposed Color and Material Information (to be provided at the meeting)

PINOLE BAY TRAIL EXTENSION

local design references

Ruskin K. Hartley
Pinoles Planning Commissioner
May 15, 2016

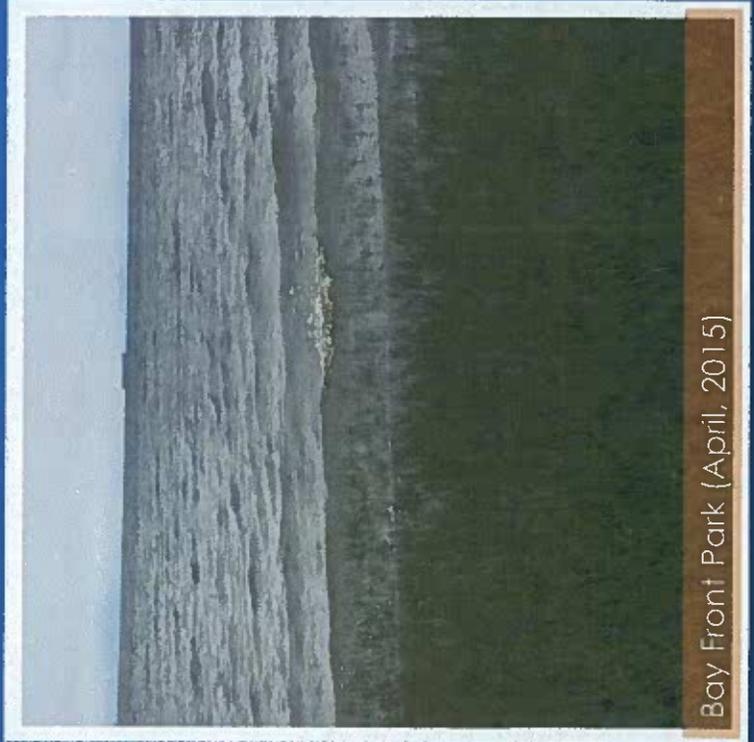
At the July 11 2016 Planning Commission meeting, the commission requested the applicant return with two or more design concepts that:

- were **visually unobtrusive** while being **visually appealing**;
- **enhanced the bay view** for trail users while **minimizing impacts** to neighbors views.

On July 12 2016, I walked the Pinole Creek trail and took photos of the interpretive panels, trail bridges and railroad bridges. These provide a **local design reference** for the proposed Bay Trail bridge

There are **3 trail bridges** and **2 railroad bridges** in close proximity – all but one north of San Pablo Ave. Two of the trail bridges are associated with the Pinole Creek trail project, along with associated interpretive signage.

I focused primarily on the Pinole Creek trail as it is the newest trail segment, is well developed, and connects the proposed Bay Trail to downtown Pinole and hence is likely to get most use as an access point.

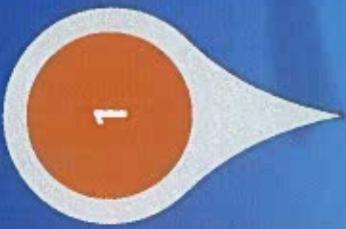


Bay Front Park (April, 2015)

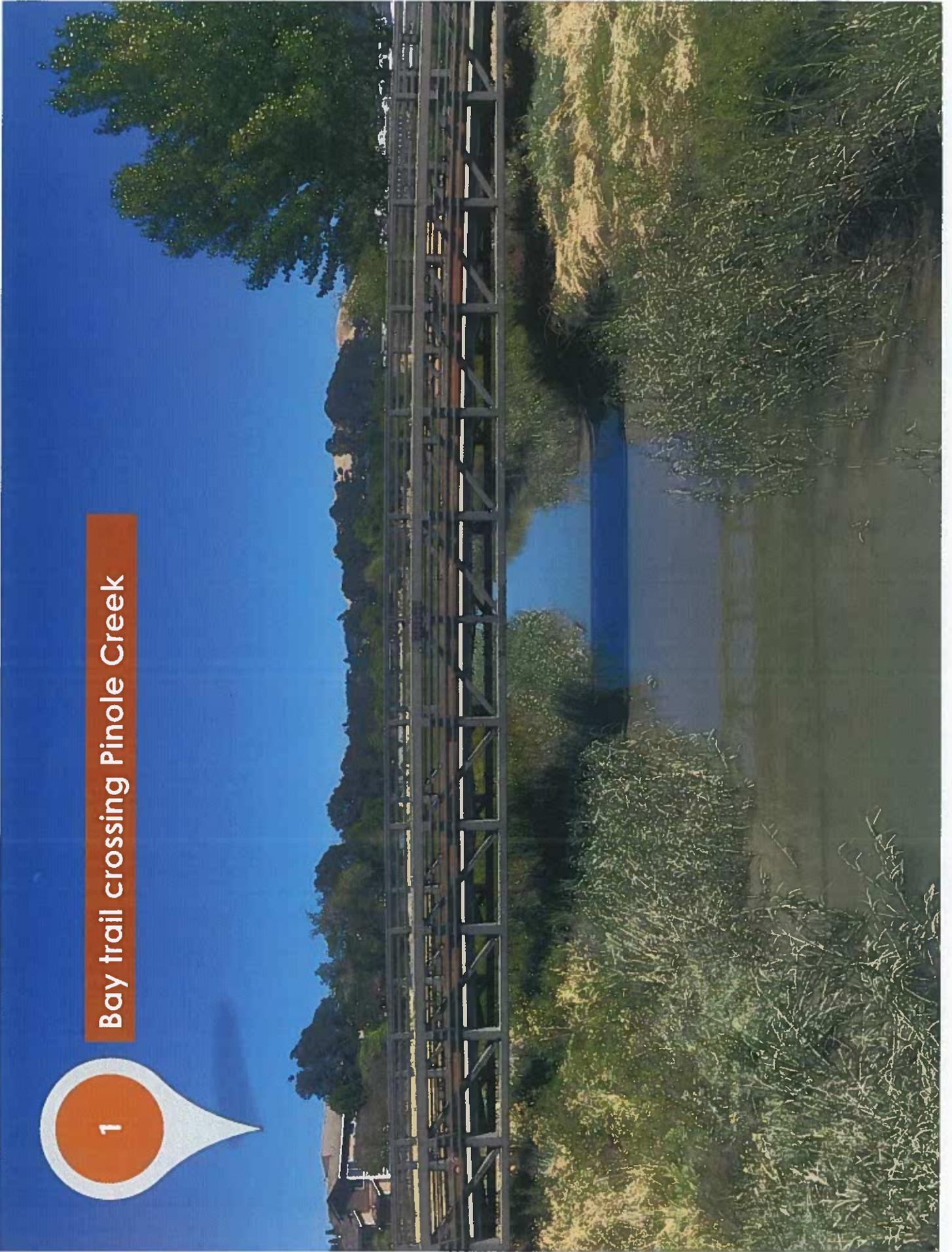
Photo Locations

- 1 - 3 Trail bridges
- A - B Railroad bridges



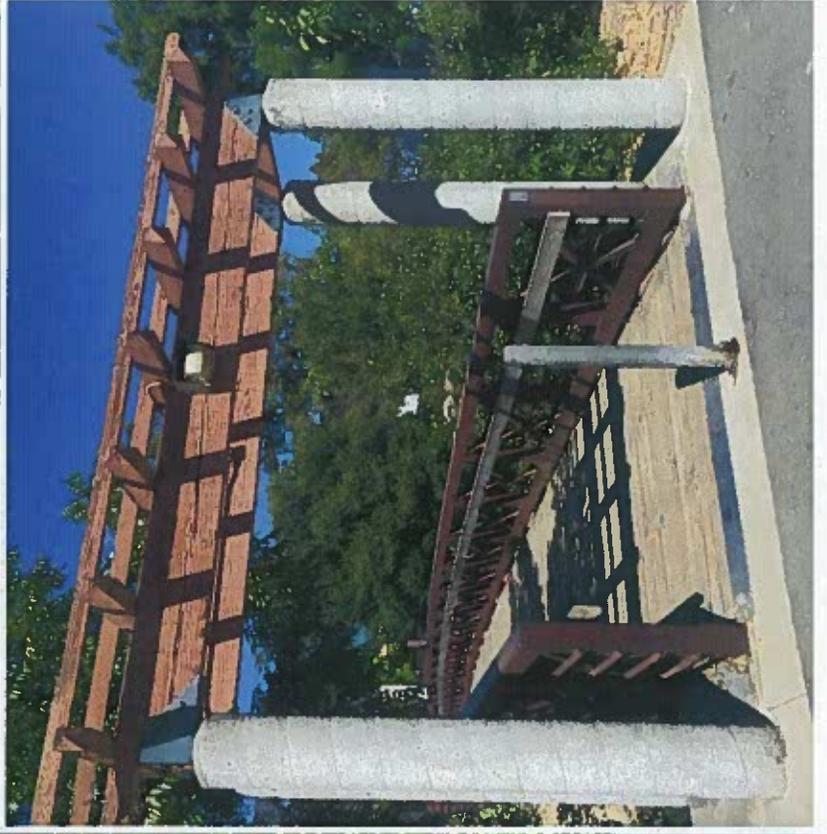
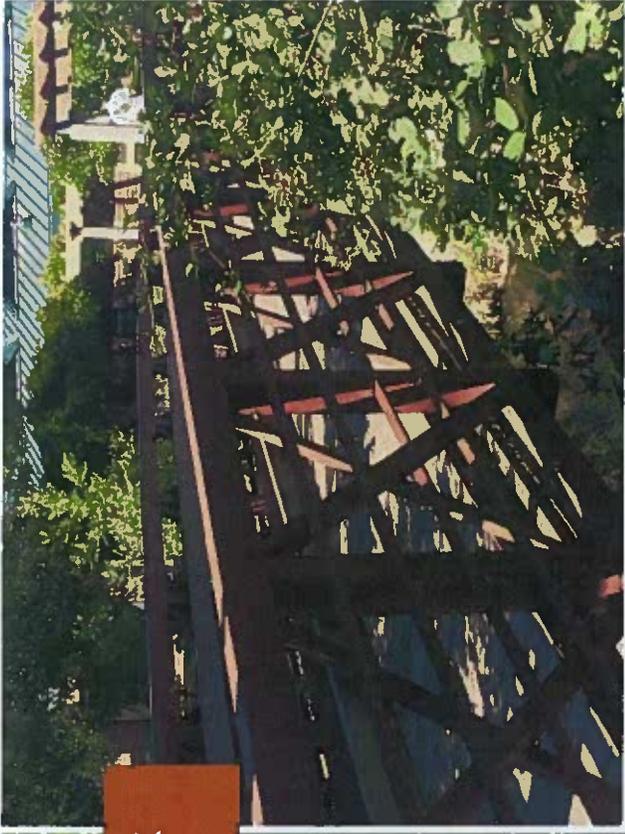


Bay trail crossing Pinole Creek



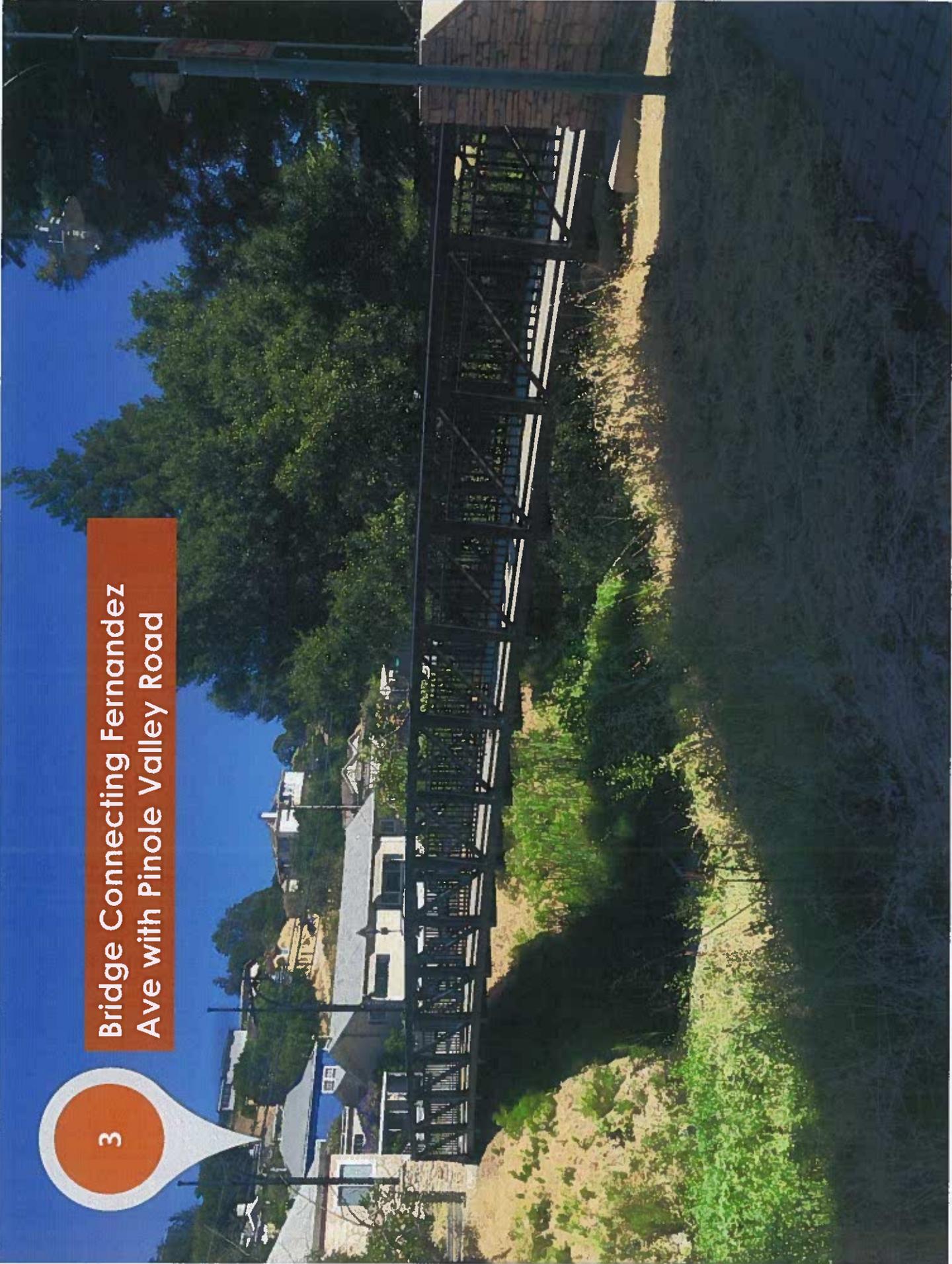


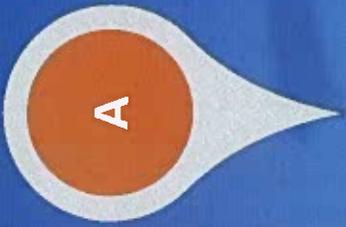
Bridge connecting Pinole Creek trail to Pinole Senior Center



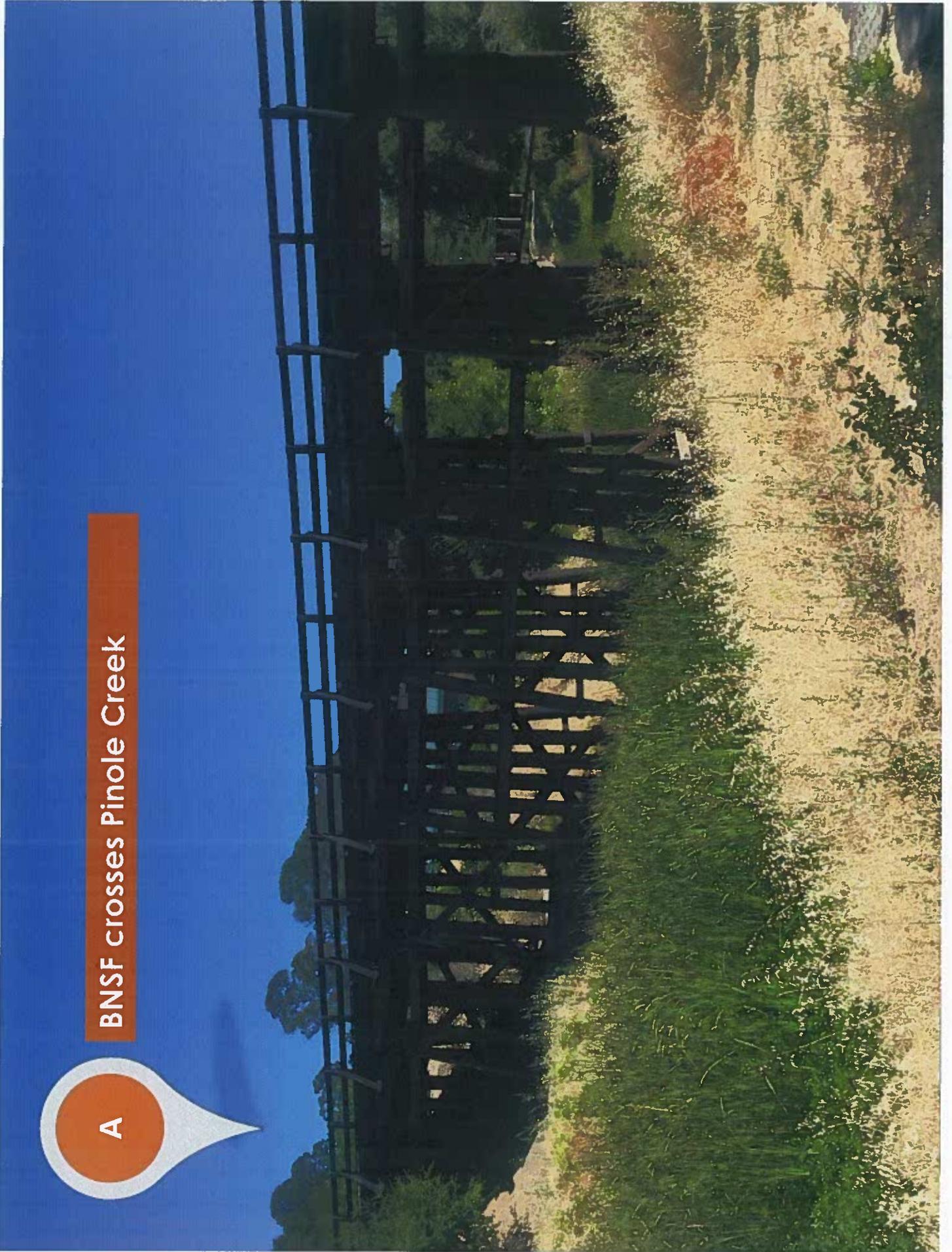
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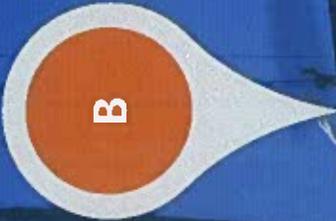
Bridge Connecting Fernandez Ave with Pinole Valley Road



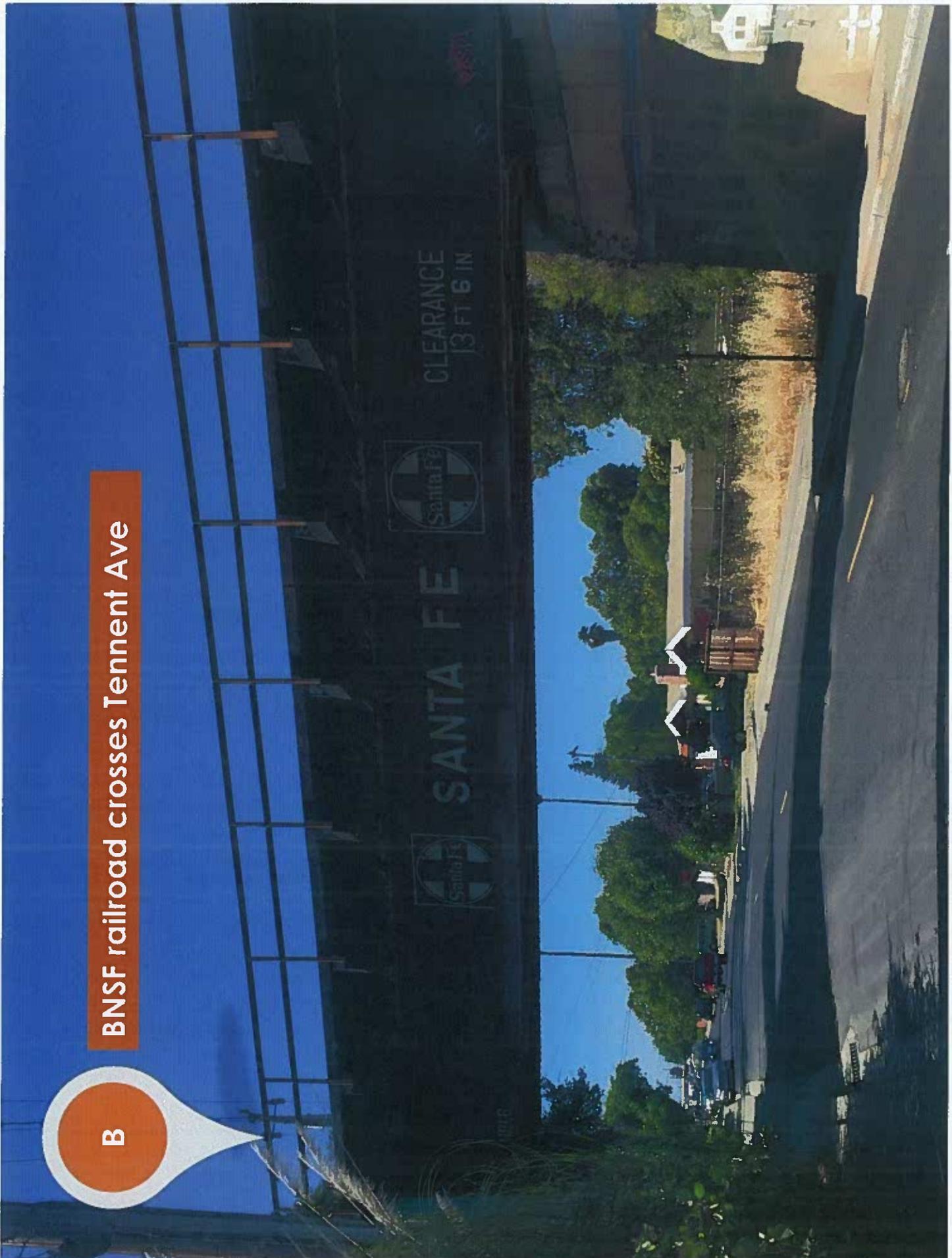


BNSF crosses Pinole Creek





BNSF railroad crosses Tennent Ave



Pinole Creek Interpretive Trail



Design Elements Common to Vicinity

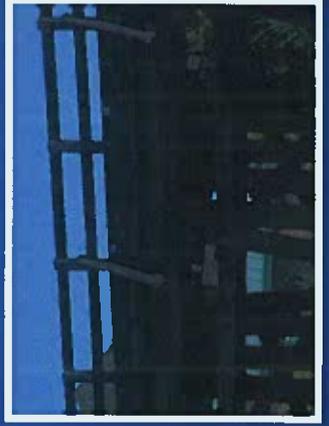
Colors

- rusted steel and browns

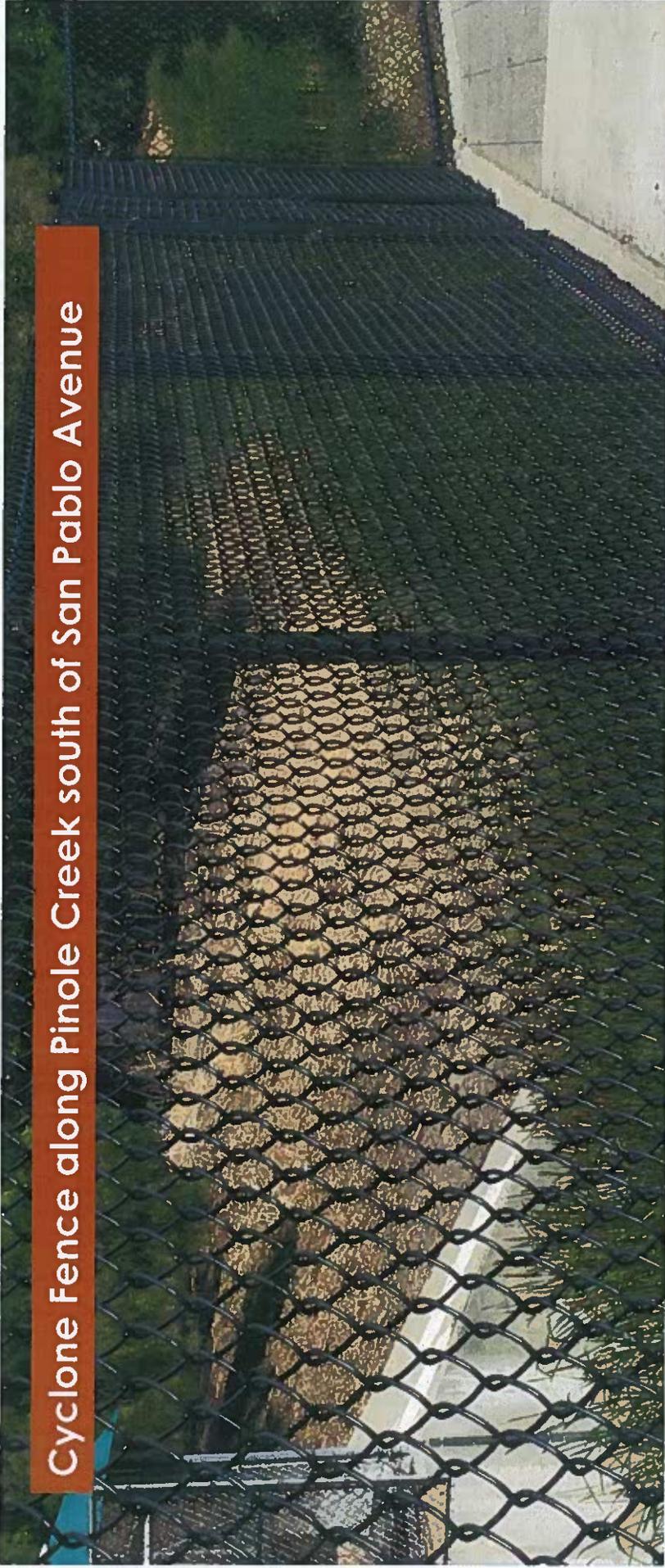


Elements

- horizontal lines dominate
- square sections

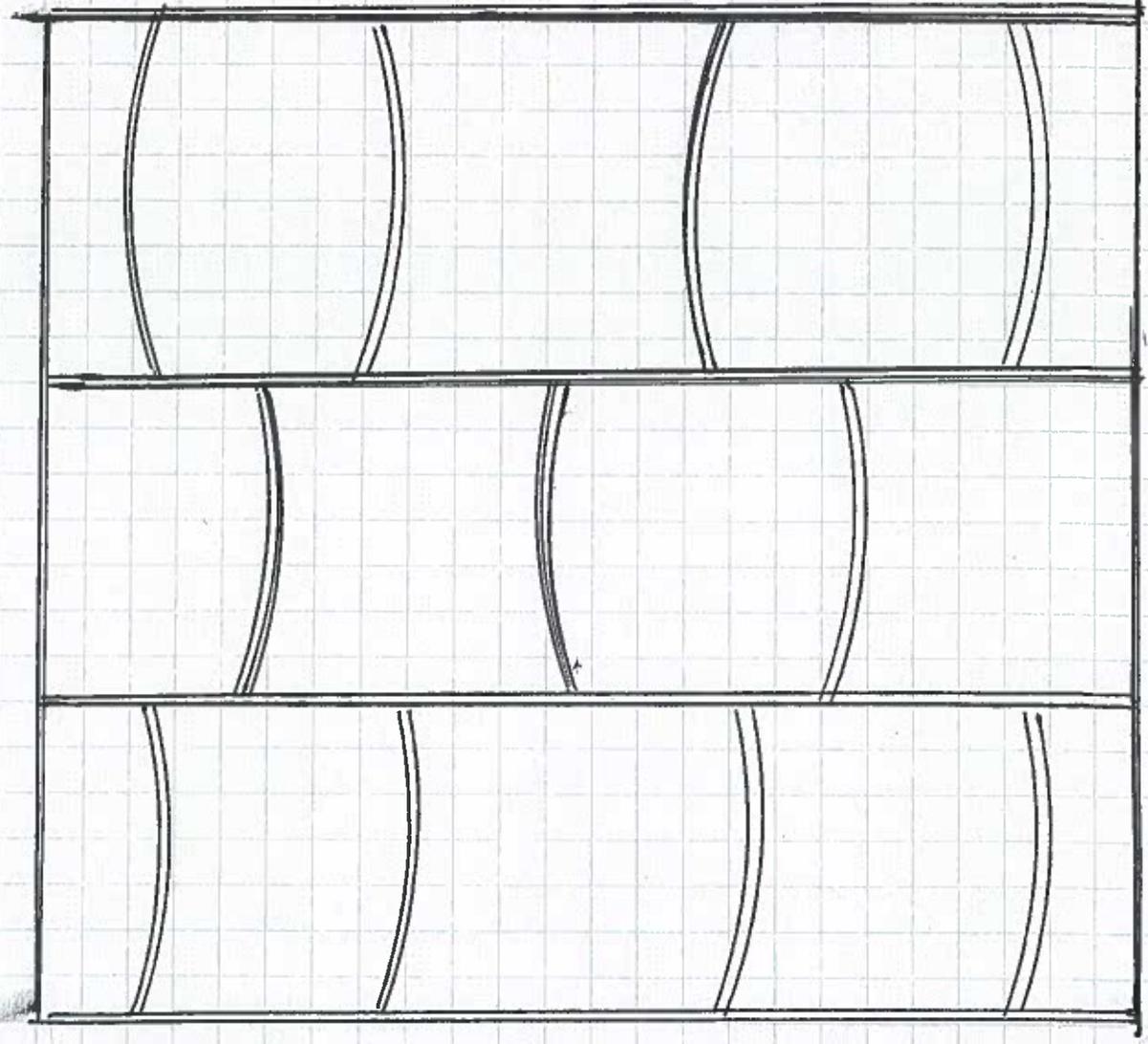


Cyclone Fence along Pinole Creek south of San Pablo Avenue



Joel GANNOTTI
1460 BRETT CT
PINOLE

10 FT Railing
idea



RECEIVED
AUG 3 2016
CITY OF PINOLE
DEVELOPMENT SERVICES DEPT.