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

5  
6 **January 25, 2016**  
7

8  
9 **A. CALL TO ORDER:** 7:05 P.M.  
10

11 **B. PLEDGE OF ALLEGIANCE AND ROLL CALL:**  
12

13 Commissioners Present: Bender, Brooks, Martinez-Rubin, Tave,\* Thompson,  
14 Chair Kurrent  
15 \*Commissioner Tave arrived at 7:07 P.M.  
16

17 Commissioners Absent: None  
18

19 Staff Present: Winston Rhodes, Planning Manager  
20 Neil Gang, Chief of Police  
21 Eric Casher, Meyers Nave, Legal Counsel  
22 Mike Moore, MIG Incorporated  
23 Nick Pappani, Raney Planning and Management  
24

25 **C. CITIZENS TO BE HEARD:**  
26

27 JAMES TILLMAN, Pinole, understood that Pinole Councilmember Long had  
28 appealed the CVS Pharmacy development, to be considered by the City Council  
29 as a single item apart from the relocation of the wireless communication facility.  
30 Given that both developments had been considered as one project, he questioned  
31 why both projects were not being heard on appeal.  
32

33 Planning Manager Winston Rhodes affirmed that an appeal had been received on  
34 the action taken by the Planning Commission on December 14, 2015 relative to  
35 the CVS Pharmacy building, and that a portion of the project had been continued  
36 to this meeting. He affirmed that one environmental document had addressed  
37 both the CVS building and the wireless telecommunication facility, although the  
38 appeal had not made reference to the portion of the project before the Planning  
39 Commission at this time.  
40

41 SAL SPATARO, 2550 Stokes Avenue, Pinole, asked whether any Planning  
42 Commissioner had a conflict of interest when discussing wireless  
43 telecommunication facilities or telecomm companies, and was informed by Chair  
44 Kurrent that Planning Commissioners must fill out a Form 700 reporting any  
45 potential conflicts of interest.  
46

1 Chair Kurrent acknowledged that his wife owned shares in AT&T, although she  
2 had no material interest in the company, and pursuant to the City Attorney's Office  
3 he did not have a conflict of interest.  
4

5 When asked, Mr. Rhodes stated he did currently own stock in AT&T, which he had  
6 received after the passing of a relative, and which had been reported on the  
7 appropriate disclosure form; however; he had no material substantial financial gain  
8 from that investment and it would not affect his ability to represent the City.  
9

10 Eric Casher, Meyers Nave, representing the City Attorney's Office, further clarified  
11 the potential for a conflict of interest and stated that one could own stock but it  
12 must be very significant to rise to the level of a conflict of interest. He was  
13 unaware of any conflicts for any Planning Commissioner.  
14

15 **D. CONSENT CALENDAR:**

- 16  
17 1. Planning Commission Meeting Minutes from December 14, 2015  
18

19 **MOTION** to approve the Planning Commission Meeting Minutes for December 14,  
20 2015, as shown.  
21

22 **MOTION: Martinez-Rubin SECONDED: Thompson APPROVED: 6-0**  
23

24 **E. PUBLIC HEARINGS:**

- 25  
26 1. **Design Review (DR 14-20) and Conditional Use Permits (CUP14-10 and**  
27 **14-15) for Wireless Communication Facility Relocation**  
28

29 **Project Requests:**

30 Continued consideration of design review requests to construct a new  
31 approximately 70-foot pylon tower structure with wireless communication  
32 antennas and ground-based equipment areas and related use permits for  
33 the relocation of two existing wireless communication facilities within the  
34 project site; and consideration of a lot line adjustment/lot merger request for  
35 the approximately 1.9-acre site  
36

37 **Environmental Review:**

38 The City prepared a draft Mitigated Negative Declaration (MND) to identify  
39 the potential environmental impacts of the project. The Planning  
40 Commission will consider the adequacy of the draft MND and the related  
41 Mitigation Monitoring and Reporting Program (MMRP).  
42

43 **Applicant:** Armstrong Development Properties, Inc.  
44 2400 Del Paso Road, Suite 140  
45 Sacramento, CA 95834  
46

**Location:** Southwest corner of Appian Way, and Canyon Drive, just

1 north of Interstate 80. APNs 401-273-043, -044, -045, and -  
2 046 addressed as 1617 Canyon Drive

3  
4 **Project Planner:** Mike Moore, Contract Planner

5  
6 Planning Manager Rhodes introduced Contract Planner Mike Moore, with MIG  
7 Incorporated; and Nick Pappani, Raney Planning and Management.

8  
9 Mike Moore, MIG Incorporated, presented a PowerPoint presentation on the  
10 project requests including the continued consideration of design review requests to  
11 construct a new now approximately 61-foot pylon tower structure with wireless  
12 communication antennas and ground-based equipment areas, and related use  
13 permits for the relocation of two existing wireless communication facilities within  
14 the project site; and consideration of a lot line adjustment/lot merger request for  
15 the approximately 1.9 acre site. The project had been considered by the Planning  
16 Commission on December 14, 2015, when the Commission had taken action on  
17 the CVS Design Review, Conditional Use Permit, Variance, and the Initial  
18 Study/MND; and had continued the public hearing on the two Conditional Use  
19 Permit applications and Design Review for the relocation of the Wireless  
20 Communication Facilities.

21  
22 Nick Pappani, Raney Planning and Management, provided a recap of the  
23 California Environmental Quality Act (CEQA) documents that had been prepared  
24 for the project including an MND, a MMRP, and Initial Study; the technical  
25 analyses that had been prepared as part of the required environmental review; and  
26 the mitigation measures contained in the MND and MMRP. No public comment  
27 had been received during the public review period. The Initial Study and MND for  
28 the new CVS building and wireless telecommunication facility relocation had been  
29 approved by the Planning Commission on December 14, 2015.

30  
31 Raney Planning and Management had reviewed the proposal for the original  
32 approximately 70-foot pylon tower structure and the now revised 61-foot high pylon  
33 tower structure and had determined it would not change the conclusions of the  
34 approved Initial Study or MND, the mitigation measures identified in the Initial  
35 Study and MND, or the MMRP approved in December 2015. An addendum  
36 document had been included in the January 25, 2016 staff report, identified as  
37 Attachment F, which identified whether any changes had resulted to the  
38 environmental document as a result of the revised plans, including any potential  
39 visual impacts, and radio frequency (RF) exposure. The analyses in Attachment F  
40 had identified the changes as less than significant. Therefore recirculation of the  
41 CEQA documents was not required. Also, a potential faux tree alternative would  
42 likely not have an impact on the MND, although the height of such a design would  
43 have to be verified for confirmation.

44  
45 Mr. Moore presented the staff recommendations for the Commission to adopt  
46 Planning Commission Resolution 16-01, A Resolution of the Planning Commission

1 of the City of Pinole, Approving by Reference a Mitigated Negative Declaration and  
2 Mitigation Monitoring and Reporting Program; to approve Conditional Use Permit  
3 Requests (CUP 14-10 and CUP 14-15); and to approve Design Review Request  
4 (DR 14-20) For the Relocation of Two Existing Co-Located Wireless  
5 Communications Facilities to a 61-Foot Pylon Structure Located on Property South  
6 of a New CVS Pharmacy Southeast of the Intersection of Appian Way and Canyon  
7 Drive, subject to the conditions of approval.

8  
9 Julie Ann Martin, Armstrong Development, 2400 Del Paso Road #140,  
10 Sacramento, representing CVS Pharmacy, reported that both Verizon and T-  
11 Mobile had agreed to the tower design. She presented slides of the initial 70-foot  
12 high tower option which had a “*Welcome to Appian Way*” message at the top, and  
13 which included options for the message to be either higher or lower on the tower  
14 structure; and another option for a 61-foot high tower structure reading “*Welcome*  
15 *to Pinole*” with options for the message to be higher or lower on the sign. Efforts  
16 related to the creation of the design were to avoid shadow effects for the carriers  
17 that needed to preserve existing network coverage.

18  
19 Ms. Martin described a neighbor’s request for additional landscaping, and CVS  
20 had discussed the planting of trees and landscaping in an opening to camouflage  
21 the tower structure or a faux tree design from view. Numerous vantage points of  
22 the tower structures views were presented. Mapping from Verizon was also  
23 provided, although T-Mobile had been unable to provide coverage maps for the  
24 current meeting. The Verizon maps had identified the coverage if the approved  
25 CVS building was not present, the current coverage area with the proposed 61-foot  
26 tower, and the current coverage for T-Mobile.

27  
28 Ms. Martin emphasized that CVS was aware of the concerns in the community for  
29 the height and bulk of the tower structure and had offered an alternative faux tree  
30 design. While CVS was open to build either the tower structure or the faux tree  
31 design, the new faux tree option had just been presented to the carriers and  
32 Armstrong Development had not yet received approval for the faux tree design. If  
33 the carriers disagreed with the faux tree option, CVS could not move forward with  
34 the project. CVS was on a month-to-month lease at its current location and all  
35 efforts had been made to move the project forward to allow CVS to relocate. If the  
36 carriers did not agree to a faux tree, or CVS could not reach a resolution with the  
37 City of Pinole for the tower structure, the City could lose CVS in the community.

38  
39 Ms. Martin clarified the faux tree design that had been presented had been shown  
40 at 65 feet in height although it would actually be 70 feet and could accommodate  
41 three carriers. CVS was willing to landscape the area with foliage at 10 feet and  
42 up. She provided photo simulations of the faux tree and reiterated that CVS had  
43 discussed the planting of trees and providing landscaping near the base of the  
44 structure to help camouflage the tower structure or the faux tree from view.

45  
46 Responding to the Commission, Ms. Martin referenced the Concrete Masonry Unit

1 (CMU) retaining wall and the willingness of CVS for the wall to be more decorative.  
2 It was currently being shown as a CMU wall consisting of cement blocks, which  
3 could be screened from view with landscaping.  
4

5 Ms. Martin reiterated the height of the tower structure was needed to  
6 accommodate the stacked antennas. A smaller monument sign in addition to what  
7 had been proposed could also be considered by CVS if desired by the  
8 Commission. She stated that only one faux tree had been proposed, although  
9 CVS was open to the possibility for more.

10  
11 Mr. Rhodes clarified that concerns with truck egress/ingress to the project site was  
12 a component of the appeal to be before the City Council, and that CVS building  
13 and related circulation was part of the portion of the project that had been reviewed  
14 and approved by the Planning Commission in December 2015.  
15

16 Mr. Rhodes clarified the recommendation for a reciprocal access agreement was  
17 intended to address two issues; to share the three parking spaces that straddled  
18 the proposed property line, and to provide access to the CVS parking spaces for a  
19 future user in the event the cellular sites may not be in place whereby a future use  
20 that may be allowed in the subject zoning district could share parking with CVS.  
21 Regardless of the camouflage design for the wireless communication facilities, he  
22 recommended that the additional condition for reciprocal parking and a reciprocal  
23 access agreement be part of any approval. He added that branches on the faux  
24 tree would go no lower than 10 feet from grade, and trees at the base of the faux  
25 tree, or in the vicinity, could be planted to provide screening.  
26

27 Ms. Martin clarified the intent to place the faux tree where one of the legs of the  
28 pylon closest to the freeway was located to offer the best coverage for the carriers.  
29 She understood such placement in the same general vicinity and height would  
30 involve the same RF exposure. If the faux tree was placed, as proposed, the faux  
31 tree with a 15-foot diameter would not extend beyond the property line.  
32

33 TOM McIVER, On-Air LLC, representing Verizon Wireless, 465 First Street, West,  
34 Sonoma, stated he had transposed the 70-foot with the 61-foot high tower on the  
35 signal coverage maps provided to the Planning Commission. He acknowledged a  
36 request from the current Chair during the December 2015 meeting as to whether  
37 he could reduce the tower height and still make it work for Verizon. He reported  
38 that Verizon's RF Engineer was willing to do the modeling and acknowledged they  
39 could go down nine feet, although anything lower would be affected by the CVS  
40 building on the project site. He suggested a reduction in height of nine feet would  
41 work and Verizon could work that out with T-Mobile.  
42

43 Mr. McIver stated that Verizon Wireless could accept a 61-foot high tower. He  
44 requested that the Planning Commission take the action recommended by staff.  
45 When asked by the Chair, he reiterated that the antennas could not be reduced by  
46 ten feet although nine feet would be acceptable. Verizon could accept the 61-foot

1 high pylon structure based on 6-foot high antennas.  
2

3 Mr. McIver also clarified the signal coverage maps the Planning Commission had  
4 been provided to identify what would be viable for the site. He affirmed that  
5 accommodating another stack of antennas below what existed would not be viable  
6 for Verizon Wireless, although he could not speak for the other carriers. Based on  
7 the Planning Commission's direction in December 2015, he had gone back to  
8 Verizon and assuming the pylon structure would be nearest to the freeway, both  
9 primary carriers on the property wanted that geographic location. Verizon had  
10 been informed of the location of T-Mobile's 8-foot high antennas and the  
11 community's resistance to a 70-foot high pylon structure; Verizon desired to be on  
12 the pylon structure closest to the freeway, had signed off on a secondary location  
13 below T-Mobile's antennas, and would use a shorter antenna. He stated that was  
14 the best that could be done before the site did not work.  
15

16 Responding to the option for the faux tree design, Mr. McIver cautioned that option  
17 was not a panacea since faux trees faded, degraded, and branches may fall out,  
18 although they could be effective in a well-designed, planned out application. He  
19 suggested the lower branches of the faux tree would actually be 15 feet off the  
20 ground, rather than 10 feet because otherwise they could be reached, with tapered  
21 tree poles. He could not confirm that Verizon would accept a faux tree design and  
22 stated that a reduction of the pylon tower by 10 feet was not a feasible option due  
23 to CVS building shadowing conflicts. He supported co-location where possible; and  
24 again requested that the Planning Commission follow the staff recommendation for  
25 approval.  
26

27 PUBLIC HEARING OPENED  
28

29 JAMES TILLMAN, Pinole, spoke to the cell on wheels (COW) facility to be located  
30 on the property line near residences, questioned why an Environmental Impact  
31 Report (EIR) had not been prepared to address the proximity to residences, and  
32 expressed concern the project had not been well defined noting that two  
33 ownerships were involved raising concerns as to who would be responsible in the  
34 event the project failed. In addition, CVS had an area for prescription pickup near  
35 the tower; there was no information on the potential RF exposure to small children;  
36 the wireless communication facility would be a new co-location facility; and there  
37 was a lack of mockups for the project, a lack of property descriptions, and the  
38 project had been presented in pieces. He asked that the project be continued to  
39 allow the preparation of an EIR, and to allow a review of the faux tree design.  
40

41 JENNIFER SCHICK, 1679 El Toro Way, Pinole, had views of the building site from  
42 her front yard; commented on her understanding that the soil of the property  
43 located on the other side of Appian Way was contaminated; questioned whether  
44 the soil on the site had been tested; and inquired about what dust mitigation  
45 measures would be utilized during construction.  
46

1 Mr. Rhodes clarified the contamination issues on property located at the Appian  
2 80 shopping center south Tara Hills Drive were currently being remediated. As  
3 part of its due diligence, the applicant had conducted a Phase 1 Environmental  
4 Assessment to determine whether there had been a high risk use on the subject  
5 site. Given the age of the structure which had been built at a time when asbestos  
6 and lead paint had been used, any asbestos would have to be appropriately  
7 removed prior to demolition and the applicant would have to comply with the City's  
8 Grading Permit requirements and applicable Bay Area Air Quality Management  
9 District requirements.

10  
11 Mr. Pappani further detailed the Phase 1 Environmental Assessment and Phase 2  
12 analysis performed. Based on the analyses, there was no need for detailed soils  
13 sampling of the site based on its previous history. He clarified the potential  
14 hazards that had been identified with respect to the existing structure in terms of  
15 lead based paint, asbestos materials, and RF exposure, which would be mitigated  
16 pursuant to the mitigation measures contained in the environmental documents.

17  
18 Ms. Schick also clarified with the Planning Commission the proposed text copy on  
19 the pylon structure reading *Welcome to Pinole* would not be illuminated.

20  
21 VICTOR BERUMEN, 1658 El Toro Way, Pinole, inquired of the percentage of RF  
22 exposure based on a 50- or 70-foot high pylon structure, the RF exposure from the  
23 COW facility, and the potential impacts of RF exposure on property values. He  
24 had spoken with his neighbors about the faux tree design and noted that many  
25 were pleased, although having heard some of the negatives during this meeting he  
26 suggested there should be more research into that option. Having seen the plans  
27 for the retaining walls, he suggested the neighbors would be pleased with the  
28 retaining walls as long as their privacy was retained. He sought a wall to obstruct  
29 views of the site to ensure privacy, to include landscaping, and when asked was  
30 willing to allow access on his property to allow that to occur.

31  
32 LURINA TURNAI, Pinole, understood the pylon tower structure had been lowered  
33 to 61 feet, but recommended the flat top portion, which was unattractive, be  
34 designed with a faux roof with possibly red tiles to improve the aesthetics. She  
35 agreed the faux tree design could degrade over time and be unattractive.

36  
37 **PUBLIC HEARING CLOSED**

38  
39 The Planning Commission discussed the application and offered the following  
40 comments, concerns, and/or direction to staff:

- 41  
42
  - 43 • Recommended other design options for cellular towers other than trees or  
44 signs, with a recommendation for a more artistic option, like an obelisk,  
45 which could accommodate the antennas and still be attractive. (Tave,  
46 Thompson)

- 1 • Expressed concern with the pylon tower structure as compared to the faux  
2 tree design option, with concerns that delaying the project to allow more  
3 time to consider more options may still not allow a consensus on a design.  
4 (Martinez-Rubin)  
5
- 6 • Expressed concern the gateway design approach may have derailed the  
7 project in some way given the large bulky pylon structure, whether at 61 or  
8 70 feet; whether the removal of the roof to lower the height would actually  
9 help the design of the structure; the orientation of the tower did not match  
10 the site plan; the photo simulations that had been provided during the  
11 course of the application may be misleading; questioned the long-term  
12 viability and potential negatives for the faux tree design. (Bender)  
13
- 14 • Urged research on the best opportunity; more research on the COW facility;  
15 and requested a mockup. (Brooks)  
16
- 17 • Expressed concern the antennas would be stacked and not be parallel;  
18 preferred not to hold up the project but sought a way to proceed while  
19 recognizing the intent for the relocation of the cell tower; opposed to holding  
20 up CVS and making it difficult for CVS to meet its commitments; suggested  
21 more time spent on the design of the pylon or faux tree design;  
22 recommended the formation of a Planning Commission subcommittee to  
23 discuss alternatives; recommended consideration of an additional condition  
24 that the project be approved but the final design be resolved in the next  
25 month or so; and a willingness to accept a height of 61 feet for the pylon  
26 tower structure based on the applicant's testimony. (Kurrent)  
27

28 Mr. Rhodes agreed an additional condition could be considered whereby the final  
29 design for screening the antennas could come back and be considered by a  
30 Planning Commission subcommittee, although the Planning Commission needed  
31 to provide guidance. He acknowledged the new information that the antennas  
32 would be stacked offered more potential design options, although based on the  
33 applicant's testimony there was little flexibility with the height of the pylon tower  
34 structure. He suggested the Planning Commission could approve the project with  
35 the design for the camouflage to return to the Planning Commission.  
36

37 Chair Kurrent acknowledged the Commission's consensus for a relocation of the  
38 existing carriers, a narrowing of the width of the structure, and design alternatives.  
39

40 Mr. Rhodes acknowledged the applicant had made it clear that for the cell site to  
41 be viable it must be located on the project site. He acknowledged a request for a  
42 comparison of other comparable gateway pylon sign structures along I-80 in the  
43 City of Pinole given the perception that the pylon structure was massive. There  
44 were three recently built pylon signs in Pinole along I-80; two at Pinole Vista  
45 Crossings at 75 feet in height but with a different thickness, and Pinole Valley  
46 Shopping Center pylon sign that was visible from I-80. Another sign had been

1 approved for the Gateway Shopping Center near Kaiser but had yet to be built.

2  
3 Mr. Rhodes commented that one of the techniques used for a narrower sign was a  
4 wide diameter flag pole, with an example at the interchange of I-680 and State  
5 Route 4, and along I-80, which method offered another way to address cell sites  
6 that had been stacked. He was uncertain how the neighborhood or the Planning  
7 Commission would react to that technique. Given more time, other alternatives  
8 could be considered with input from the applicant and the affected carriers.

9  
10 Mr. McIver stated that he may have some suggestions to mitigate the massive  
11 columns, but was not privy to an arrangement with the current landowner. He  
12 asked that the applicant be allowed to address the Planning Commission to  
13 respond to the Commission's concerns.

14  
15 KEVIN PARKER, Vice President, Armstrong Development, 2400 Del Paso Road  
16 #140, Sacramento, explained that this project had been ongoing for the past two  
17 years and the applicant had been directed during the course of the project to  
18 consider a gateway sign, when several different examples had been offered. The  
19 two-year effort involved contracts with CVS which would expire quickly. The  
20 relocation of the cell towers would be required prior to any other work on the  
21 project. CVS would not close on the property until it had approval to do something  
22 similar to what had been proposed. He reported that modeling had been done to  
23 show the lowest possible height of the tower while still meeting the needs of the  
24 carriers. He added that AT&T had been issued a lease for the third piece on the  
25 tower and was eager to proceed given a gap in its coverage area.

26  
27 Mr. Parker explained that the blocking on the tower had been done for aesthetic  
28 reasons with input from different architects; suggested the faux tree design had  
29 initially been a good idea; the blocking on the legs of the tower could be removed;  
30 he sought approval of the general two-legged appearance of the pylon tower with  
31 the 61-foot height, and four carriers. He asked that the item not be continued and  
32 affirmed that different colors, materials, and sizes of the legs of the tower could be  
33 considered to make it as unobtrusive as possible.

34  
35 Responding to concerns from the Planning Commission that new information was  
36 being presented, particularly based on his comments about AT&T, Mr. Parker  
37 clarified there had always been four carriers. The COW had always been intended  
38 as an interim measure while the site was graded. While he sought guidance from  
39 the Planning Commission on the design of the pylon structure, he reiterated the  
40 applicant's desire for something like what had been proposed, while also  
41 recognizing there was an ability to modify the design to make it more appealing.  
42 The COWs would not be placed on the site until a grading permit had been issued,  
43 or was about to be issued.

44  
45 The Planning Commission discussed its concerns with the design of the pylon  
46 structure at length; expressed concern with the amount of redirection during the

1 course of the meeting making it difficult to focus on the design that satisfied all  
2 needs; the formation of a subcommittee was again recommended to review the  
3 available design options; with a recommendation for an architect to be on the  
4 subcommittee if one were formed; and concerns expressed about further  
5 prolonging this portion of the application.  
6

7 Mr. Rhodes understood there were no concerns about the use permit and  
8 suggested a motion could be made to approve the use permits at this time. The  
9 design of the antennas could be approved based on a maximum height of 61 feet,  
10 with a requirement that the final design of the pylon tower structure return for  
11 Planning Commission review and approval. He stated a workshop could be  
12 considered prior to final Planning Commission action with more input from the  
13 public and with more design options, although he was uncertain whether that level  
14 of approval would address some of the time constraints the applicant had  
15 identified. He recognized the Planning Commission as a whole did not want to  
16 lose CVS in the community.  
17

18 Mr. Parker stated that CVS was poised to close on the property once approval was  
19 provided, and CVS was willing to work with staff or a subcommittee of the Planning  
20 Commission to address alternatives. With respect to the testing of the COWs, he  
21 commented that the project environmental review document required an RF  
22 emissions test on the COWs prior to their placement and activation. He reiterated  
23 that CVS could not proceed absent an approval or an agreement on the tower  
24 structure.  
25

26 Mr. Rhodes pointed out there was an environmental analysis that had been  
27 prepared for the cell towers based on a specific height which must be taken into  
28 consideration for any design in terms of the RF levels. The construction drawings  
29 would require plan check, and the key was how to keep the process moving  
30 forward while providing the entitlements and sufficient control of the final design.  
31

32 The Planning Commission discussed the fact that with four carriers massing may  
33 be unavoidable, and expressed concern that some of the information related to the  
34 project had changed during the course of the meeting.  
35

36 Chair Kurrent declared a recess at 10:06 P.M. to allow staff the opportunity to craft  
37 a condition that may address the concerns discussed. The Planning Commission  
38 meeting reconvened at 10:16 P.M. with all Commissioners present.  
39

40 Mr. Rhodes recommended the following direction to the Planning Commission:  
41 Approval of the two use permits for two carriers; the design for the wireless  
42 telecommunication facility for the two carriers; and a third carrier or more would  
43 require separate design review or use permit approval, which would address some  
44 of the massiveness when the future carriers proposed to co-locate to ensure they  
45 fit on the site. Such direction would provide certainty for the applicant to move  
46 forward to allow something that could be reviewed and approved at the staff level.

1  
2 Given the potential visual impacts, Mr. Rhodes stated he would recommend not  
3 making a decision without input from at least two Planning Commissioners, which  
4 could include the appointment of a Planning Commission subcommittee. He also  
5 recommended an identified timeframe in terms of a design that would be  
6 submitted to ensure that component of the project did not linger.  
7

8 Chair Kurrent recommended an additional condition for the design review process  
9 to be allowed one month to submit a redesign, to be submitted to staff, with the  
10 final design to be returned to the full Planning Commission.  
11

12 Mr. Moore recommended the following additional condition for consideration.  
13

14 *The Planning Commission supports the relocation of the existing wireless*  
15 *facilities, subject to the two Conditional Use Permits CUP 14-10 and CUP*  
16 *14-15 and the related conditions of approval, and the Planning Commission*  
17 *supports a structure for two carriers not lower than 61 feet in height, and*  
18 *subject to further design review. Said design review process shall be a*  
19 *combination of a Planning Commission appointed subcommittee and staff,*  
20 *and shall be completed within 30 days with final approval by the full*  
21 *Planning Commission.*  
22

23 Chair Kurrent expressed the willingness and desire to serve on a Planning  
24 Commission Subcommittee; Planning Commissioners Tave and Thompson also  
25 expressed the willingness to serve.  
26

27 Mr. Rhodes clarified that a motion for approval would include approval of the two  
28 Conditional Use Permits CUP 14-10 and CUP 14-15; approval of the Mitigated  
29 Negative Declaration and Mitigation Monitoring and Reporting Program; with a  
30 condition that the final design allow antennas not lower than 61 feet; with the  
31 design to be reviewed by staff and a Planning Commission Subcommittee, with the  
32 final design to come back to the Planning Commission within 30 days.  
33

34 The following revision was made to Resolution 16-01, as follows:  
35

- 36 • Revise Condition 13 to read: *The applicant and property owner shall*  
37 *ensure that the landscape material located in the vicinity of the pylon*  
38 *structure and equipment area is well maintained. A site inspection to verify*  
39 *the condition of the landscaping shall be conducted within one year of*  
40 *installation. Any landscape planting material that dies shall be promptly*  
41 *replaced;*  
42

43 By consensus, the Planning Commission added the following new condition, as  
44 prepared by staff and further modified, as follows:  
45

46 *The final design for the mounting of the antennas for two carriers shall be*



1                   **Location:**    Citywide  
2

3                   **Project Planner:** Eric Casher, Legal Counsel  
4

5                   Eric Casher, Meyers Nave, representing the City Attorney's Office along with  
6                   Chief of Police Neil Gang, presented a PowerPoint presentation on the  
7                   consideration of a Zoning Code Text Amendment modifying Chapters 17.20 and  
8                   Chapter 17.98 in order to disallow Medical Marijuana cultivation and delivery within  
9                   the City of Pinole. On January 19, 2016, the Pinole City Council adopted an  
10                  Urgency Ordinance prohibiting the cultivation and delivery of medical marijuana  
11                  anywhere in the City of Pinole. The Planning Commission Subcommittee met on  
12                  January 14, 2016 and recommended the text amendments be forwarded to the full  
13                  Planning Commission for consideration. Mr. Casher recommended the Planning  
14                  Commission adopt Resolution 16-02, recommending the City Council amend Title  
15                  17 of the Pinole Municipal Code (PMC) to prohibit both medical marijuana  
16                  cultivation and delivery anywhere in the City of Pinole. He added that the State  
17                  Legislature had imposed a March 1, 2016 deadline for cities to adopt some form of  
18                  regulation.  
19

20                  Police Chief Gang outlined the reasons why the Pinole Police Department  
21                  supported the resolution, as proposed, related to public health, safety, and welfare.  
22                  When asked, Chief Gang was unaware of the specific number of grow houses in  
23                  the City of Pinole at this time but could return at a later date with that information.  
24

25                  **PUBLIC HEARING OPENED**  
26

27                  There were no comments from the public.  
28

29                  **PUBLIC HEARING CLOSED**  
30

31                  Responding to the Commission as to whether this action would allow the City to  
32                  regulate other forms of medicine, Mr. Casher suggested this situation was  
33                  unique given that the State Legislature had adopted legislation specifically  
34                  related to medical marijuana cultivation.  
35

36                  Mr. Rhodes reported that the Planning Commission Subcommittee had  
37                  discussed the fact the State had adopted the legislation with a timeline that  
38                  offered little time for the jurisdictions to consider the complex policy issues  
39                  involved. He stated if the City did not act with a complete ban by the March 1  
40                  deadline, the City would lose its ability to consider more refined regulations later  
41                  based on the current State legislation.  
42

43                  Chair Kurrent added that the Planning Commission Subcommittee had also  
44                  discussed the legitimate use of medical marijuana and the recommended action  
45                  would make it more difficult for one to grow their product. He recognized the City  
46                  was faced with the March 1, 2016 deadline and if the City did not take action it

1 would default to the State. The Planning Commission Subcommittee had not  
2 discussed banning the delivery of medical marijuana. He suggested it would be  
3 Draconian to eliminate the delivery of marijuana, and was informed by Mr.  
4 Casher the State would allow delivery in any form and capacity unless a City  
5 specifically and explicitly prohibited it. The City Council had taken up that issue  
6 and had prohibited the delivery of medical marijuana as well.  
7

8 Mr. Casher clarified the definition of “delivery” of medical marijuana for any type  
9 of delivery including use by a dispensary; acknowledged the Chair’s opposition to  
10 the prohibition on the delivery of medical marijuana; reiterated the City Council’s  
11 recent passage of an Urgency Ordinance which included the prohibition and  
12 delivery of medical marijuana; and stated once the second reading of the  
13 ordinance was passed by the City Council, a prohibition on the delivery of  
14 medical marijuana would go into effect within the City.  
15

16 Responding to the Chair’s recommendation to strike any references to delivery  
17 from the action under consideration by the Commission, Mr. Casher stated that  
18 some public entities had passed similar zoning code amendments including  
19 prohibition for both cultivation and delivery given the State legislation related to  
20 both, although some allowed dispensaries and regulated the issue differently.  
21

22 Given the March 1 deadline, the majority of the Planning Commission supported  
23 the staff recommendation. Chair Kurrent again objected to the inclusion of  
24 delivery, and as such stated he would vote no on any motion for approval.  
25

26 **MOTION** to adopt Resolution 16-02, A Resolution of the City of Pinole Planning  
27 Commission Recommending that the City Council Approve a Zoning Code  
28 Amendment Modifying Chapter 17.20 and Chapter 17.98 to prohibit the  
29 Cultivation and Delivery of Medical Marijuana in the City of Pinole (ZCA 16-01).  
30

31 **MOTION: Martinez-Rubin                      SECONDED: Brooks                      APPROVED: 5-1-0**  
32 **NOES: Kurrent**  
33

34 Chair Kurrent identified the 10-day appeal process in writing to the City Clerk  
35 subject to the applicable appeal fee.  
36

37 **MOTION** to continue the Planning Commission meeting beyond 11:00 P.M. in  
38 order to complete the remaining agenda items.  
39

40 **MOTION: Tave                                      SECONDED: Brooks                                      APPROVED: 6-0**  
41

42 **F. OLD BUSINESS:** None  
43

44 **G. NEW BUSINESS:**  
45

46 1. Selection of Planning Commission Vice Chair

1  
2 Mr. Rhodes described the rotation for Planning Commission Chair and Vice  
3 Chair, with the Chair and Vice Chair routinely selected at the last Planning  
4 Commission meeting in March, although since former Chair Toms had been  
5 appointed to the City Council, Vice Chair Kurrent was now the Commission  
6 Chair. The terms of Chair and Vice Chair would run through March 2017.  
7

8 **MOTION** to appoint Commissioner Thompson as the Vice Chair of the Planning  
9 Commission through March 2017.

10  
11 **MOTION: Martinez-Rubin                      SECONDED: Brooks                      APPROVED: 6-0**

12  
13 **H. CITY PLANNER'S / COMMISSIONERS' REPORT:**

14  
15 Mr. Rhodes reported that no new applications requiring Planning Commission  
16 review had been received. Development Review Subcommittee meetings had  
17 been held on the proposed eye surgery center proposed at the southeast corner  
18 of Henry Avenue and Pinole Valley Road, with a Planning Commission workshop  
19 to be scheduled soon. A workshop would be scheduled with the Commission to  
20 consider text amendments to help implement actions in the Housing Element,  
21 and the Housing Element Subcommittee would review the actions to ensure  
22 consistency with State law. Commissioner Tave had expressed the willingness  
23 to serve on the Housing Element Subcommittee due to the vacancy left by  
24 Maureen Toms.  
25

26 Commissioner Brooks suggested there was a need for the full Planning  
27 Commission to meet jointly with the City Council for direction given a number of  
28 recent applications that had raised issues in the public.  
29

30 Mr. Rhodes expressed the willingness to work with the City Manager and City  
31 Clerk on a potential agenda for a joint Planning Commission/City Council  
32 meeting later this year.  
33

34 Chair Kurrent requested that when the Commission reviewed options for the  
35 wireless communication tower for the CVS project that staff provide information  
36 as to how other jurisdictions had addressed the camouflage issue.  
37

38 **I. COMMUNICATIONS: None**

39  
40 **J. NEXT MEETING:**

41  
42 The next meeting of the Planning Commission will be held on Monday, February  
43 22, 2016 at 7:00 P.M.  
44

45 **K. ADJOURNMENT: 11:33 P.M.**  
46

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Transcribed by:

Anita L. Tucci-Smith  
Transcriber