



City Attorney's Office

AGENDA REPORT

DATE:	March 26, 2024
TO:	Mayor Martinez and Members of the City Council
FROM:	Dave Aleshire, City Attorney
Subject:	Update on the Craneway Pavilion Request
FINANCIAL IMPACT:	This is an informational item. There is no financial impact.
PREVIOUS COUNCIL ACTION:	None
STATEMENT OF THE ISSUE:	The Craneway Pavilion was previously advised by the State Lands Commission that its proposed modification of use to member only pickleball was inconsistent with the Public Trust Easement. A modified proposal is now being undertaken. Councilmembers have received inquiries from residents regarding the new proposed use at the facility and have requested a public report.
RECOMMENDED ACTION:	PROVIDE update regarding the Craneway Pavilion and the proposed use. Dave Aleshire, City Attorney (510-620-6509).

DISCUSSION:

The public has been seeking more information about the status of the Craneway Pavilion along our Richmond waterfront. Information has been distributed from various

sources, some of it incorrect. The City Council has requested that staff provide an open session update to the public at large on the current status of the Craneway and next steps, which report follows:

A. BACKGROUND

The City is the current owner of the Craneway Pavilion. In 2004 the City and the State of California, acting through the State Lands Commission (“SLC”), entered into a Title Settlement Agreement to encumber the Craneway Pavilion with a Public Trust Easement, which restricts the uses of the Craneway and the surrounding parcel to ensure public access for certain activities *related to overnight accommodations, restaurants and cafes, water-related industry and museums, visitor service retail, or boating and ferry services.*

The Property was originally the Ford Motor plant which abandoned the property in 1956, and subsequent uses ceased in 1976, whereupon the property sat vacant for over 20 years and deteriorated. It was damaged by an earthquake in 1989. It became derelict with a fallen roof and standing water.

Renovation was proposed through private and public investment through Orton Development (“Orton”). The City, acting through its Redevelopment Agency, approved a disposition and development agreement (“DDA”) and a 55-year lease in 2004 for the Craneway which specified certain permitted uses that were consistent with the Public Trust Easement on the property. In addition, the City approved multiple use permits beginning with CU/V1100454 in 2004 to authorize a mixture of office, live/work, research and development, light industrial, retail, event and public gathering space and a variance to allow a reduction in the required parking and landscaping and increase in the allowable floor area ratio for the rehabilitation of the Historic Ford Assembly Plant, including the Craneway. In addition, CU1104689 (2008) as amended by PLN13-137 (2013), was also granted for the Craneway. CU1104689 authorized the sale of alcoholic beverages (type 47 license) for an eating establishment and as an entertainment venue. PLN13-137, amended CU1104689, by authorizing outdoor dining. Since then, the facility has operated as an event space with the Assemble Restaurant, including outdoor dining.

Orton undertook the development and completed all improvements in accordance with the agreements, including a blend of industrial, research and development businesses. Additional public service uses were provided including Rosie the Riveter Visitor Center, exhibition space, educational and cultural functions, retail and café uses, and public waterfront access.

B. CURRENT PERMIT

For many years Orton operated as an event venue and restaurant, but the event usage was declining even before COVID. Due to business losses, Orton sought new uses. In July 2023, an Administrative Use Permit (AUP) (PLN23-193) application was submitted to operate an indoor pickleball facility at the Craneway Pavilion for members and public use, including a retail pro shop and fitness/wellness lounge that would also offer healthy and quick service food and beverage items such as smoothies, salads, and wraps. Since this use represented a change from the restaurant/event center use and was not specifically listed as a permitted use in the lease, City staff ran this proposed project through State Lands Commission (SLC) for their opinion regarding the use's consistency with the Public Trust Easement. The City received a response from SLC on July 31, 2023, that the proposed use was inconsistent with Public Trust Easement limitations, as the proposed use did not fall within the definition of visitor-serving retail or other enumerated uses within such limitations. Staff shared this information with the applicant and suggested they withdraw their AUP application as the City would not be able to approve it as submitted.

On January 12, 2024, the City received an email from Craneway tenant withdrawing the AUP application. Following receipt of the withdrawal letter, on January 22, 2024, City staff met with Eddie Orton and Rachel Hong (manager of the Assemble Restaurant and Craneway Pavilion) to discuss proposed revisions to their project to align the use with the existing City approvals and Public Trust Easement limitations. Mr. Orton and Ms. Hong proposed to keep the restaurant use throughout the facility and introduce games (specifically pickleball) within the restaurant which is permitted under CU1104689 and is consistent with the Lease. The facility would operate a full-service restaurant from 7 AM to 10 PM, daily, but seeks to offer as an accessory use commercial entertainment gaming activities, including 12 pickleball courts, 3 ping pong tables, and 1 on-the-ground giant chess board for customers to enjoy with their food and/or beverages.

C. RECENT MEETINGS

City staff met with Ms. Hong at the Craneway on March 4, 2024, to visit the project site and discuss the proposed floor plan. City staff informed Ms. Hong that the City is in the process of seeking an opinion from SLC to review and approve the proposed use of the Craneway under public trust limitations. During the site visit, City staff recognized that the floor plan being installed differed from the floor plans provided to the City on January 30, 2024. Due to this difference, the City requested that it be provided with an updated floor plan for review by the City and SLC. The City received updated floor plans and project descriptions on March 7th and 8th. Orton contends the square-footage

space allocated to the games area covers less than 30% of the total square-footage, which includes space allocated for outdoor dining.

Pursuant to the proposed floor plans and discussions with Ms. Hong, seating for the restaurant will be offered throughout the Craneway Pavilion, restaurant dining room, and outdoor patio area. Food and drinks will be ordered from the restaurant and bar via quick-response (“QR”) code and delivered to guests within the restaurant, bar, games area, and outdoor dining areas. The restaurant will include over 300 hundred seats available to guests in several forms, including two, four, and six top dining tables, communal high-top tables and lounge seating. The proposed floor plan also includes a small retail area that will include sports and Craneway-related themed merchandise.

On March 1, the City Attorney advised Orton that as SLC had on July 31 ruled the use was inconsistent with the Public Trust Easement, he would need to submit the modified use for review. In response, on March 3, Orton stated that the new revised proposed use of the Craneway Pavilion pursuant to the revised floor plan was (i) consistent with Public Trust Easement limitations, and (ii) is materially consistent with the existing entitlements under the Lease agreement with the City, which allows Orton as tenant to use the Craneway Pavilion as an event space and restaurant. It appears that Orton does not intend to submit to the SLC. Due to the delay in obtaining the revised floor plans, to verify the areas of use, the City has not sought an opinion from the SLC as to whether the proposed use is in fact consistent with the limitations imposed by the Public Trust Easement that currently encumbers the Craneway.

NEXT STEPS

1. Weekend Event

Orton has been promoting a weekend event for March 23-24. Given the lack of definition in the CUPs and Lease over permissible events, Staff believes this is likely a permitted activity.

2. SLC

City has sent a letter to the SLC seeking a consistency (with Public Trust Easement) determination.

3. Conformance of Plan with Zoning

Based on the current plan, Staff believes the space allocated to pickleball exceeds the 33% permitted for accessory uses and Orton must eliminate some of the courts, or approach the matter as if the pickleball use was the primary use, leading to other uses.

4. Potential Resolution

The City Attorney has discussed several alternative approaches with Mr. Orton which could be implemented through a compliance agreement. Both parties share the desire to bring more visitors to the Craneway Area. Terms of the agreement may include:

- a. Develop more specific agreement on sponsorship and criteria for events.
- b. Mutual participation in programs to encourage visitation including rebirthing of Liberty Ship and other objects complimenting Rosie the Riveter Visitor Center.
- c. Facilitate Ferry Terminal Development.
- d. Development of Community Benefits.
- e. Acknowledge current use is temporary as other long-term uses are explored.
- f. Other provisions which may be developed by dialogue of the parties.

DOCUMENTS ATTACHED:

Attachment 1 – Site Plan

Attachment 2 -- Floor Plan