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

5
6 **September 9, 2024**
7

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

11
12 **A. CALL TO ORDER:** 7:04 p.m.
13

14 **B. PLEDGE OF ALLEGIANCE**
15

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

24 **D. ROLL CALL**
25

26 Commissioners Present: Bender, Huey, Lam-Julian, Sandoval, Uch, Vice-Chairperson
27 Martinez*, Chairperson Menis
28 *(Via Teleconference: Location: Hotel in Burlington, Vermont)
29

30 Commissioners Absent: None
31

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

36 Assistant City Attorney Alex Mog reported due to the rules for teleconference attendance,
37 Vice-Chairperson Martinez was asked to identify where he was participating via
38 teleconference and whether or not he was the only member of the public in the room.
39

40 Vice-Chairperson Martinez stated he was participating from a hotel room in Burlington,
41 Vermont and was the only individual in the room.
42

43 Chairperson Menis reported he had ex parte communications from his usual email list
44 covering the meeting and other upcoming events in the City. He also spoke with Vice-
45 Chairperson Martinez about the procedures for connecting remotely and some of the
46 topics to be discussed during the meeting.
47

48 **E. CITIZENS TO BE HEARD**
49
50

1 Anthony Vossbrink, Pinole, commented on the number of new No Parking signs installed
2 along Pinole Valley Road on both sides of the street and on the sidewalk, taking up
3 sidewalk space, distracting drivers and littering the City with excessive signage. He asked
4 that the City's Sign Ordinance be discussed as a future agenda item and expressed
5 concern the City had installed the signs at great expense. He noted that red curbs only
6 required repainting once a year and the new signs had been placed every 150-feet. He
7 asked the Planning Manager who had authorized the destruction and renovation of the
8 Adobe Road Trail behind the caretaker's home over the past two weeks, which had
9 disfigured the trail and was witnessed, with photographs that could be shared. No notice
10 had been provided to the public about the work as typically done for most City projects.
11 Also, a major sewer project behind the left field ballpark at Fernandez Park had not been
12 signed with the area closed off. He asked the status of the trail behind the dog park and
13 suggested there had been violations of the City's ordinances with the dumping of soil in
14 that area and behind the caretaker's home, the status of which was unknown.
15

16 Planning Manager David Hanham expressed the willingness to follow-up with the Public
17 Works Director.
18

19 Commissioner Sandoval asked whether the parking signs on Pinole Valley Road had been
20 installed due to the upcoming Pinole Valley High School Homecoming Parade.
21

22 Mr. Hanham was uncertain whether the signs were portable signs or No Parking signs
23 and he would have to check but acknowledged the signs could have been related to the
24 upcoming homecoming parade.
25

26 **F. MEETING MINUTES**

27 **1. Planning Commission Meeting Minutes for August 12, 2024**

28 Chairperson Menis requested the following revisions to the August 12, 2024 Planning
29 Commission meeting minutes: Page 6 (Page 10 of 61 of the agenda packet), Lines 14
30 through 16:
31
32

33 *Chairperson Menis and the Planning Commission expressed their appreciation to*
34 *former Commissioner Tim Banuelos for his service to the City of Pinole and in*
35 *recognition of his tenure on the Planning Commission and his background as an*
36 *architect.*
37
38

39 And Page 6 (Page 10 of the agenda packet), Lines 29 through 32:
40

41 *Chairperson Menis reported the low-income seniors' food distribution would be*
42 *held at the Senior Center on August 13, 2024; Coffee with the City would be held*
43 *on August 14, 2024 from 8:00 to 10:00 a.m., and a Traffic and Pedestrian Safety*
44 *Committee (TAPS) meeting had been scheduled for August 14, 2024 at 6:00 p.m.*
45

46 **MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes for
47 August 12, 2024, as amended.
48

49 **MOTION: Menis**

SECONDED: Sandoval

APPROVED: 6-0-1

ABSTAIN: Martinez

1 **G. PUBLIC HEARINGS**

2
3 **1. PA24-01 Municipal Code and Specific Plan Amendments for Housing**
4 **Element Implementation and Regulatory Consistency**

5
6 Senior Planner Justin Shiu provided a PowerPoint presentation for PA24-01, Pinole
7 Municipal Code (PMC) and Specific Plan Amendments for Housing Element
8 Implementation and Regulatory Consistency. The proposed amendments were exempt
9 from the California Environmental Quality Act (CEQA) based on the rule set forth in the
10 CEQA Guidelines Section 15061 (b)(3), CEQA applied only to projects which had the
11 potential for causing significant effect on the environment.
12

13 Mr. Shiu recommended the Planning Commission adopt Resolution 24-05, recommending
14 to the City Council the adoption of proposed Municipal Code and Specific Plan
15 Amendments as provided in Resolution 24-05, Attachment A, Exhibit A, or with additional
16 recommendations for revisions provided by the Planning Commission.
17

18 Responding to questions from the Planning Commission Mr. Shiu, Mr. Hanham and Mr.
19 Mog clarified:
20

- 21 • Page 34 of 61 of the agenda packet, Attachment A, Chapter 17.38 Density Bonus,
22 Section 17.38.050 Affordable Units, (F), Local Preference. Local Preference was
23 not mandated by state law. Many local jurisdictions had this requirement and the
24 City of Pinole implemented the requirement on a case-by-case basis. (Bender)
25
- 26 • Pages 34 and 35 of 61 of the agenda packet, Chapter 17.38, Density Bonus,
27 Section 17.38.060 Application Procedure and Review, B. Application Review. The
28 project at 1500 Fitzgerald Drive is an example of a density bonus project but if the
29 project were to be proposed today, it would just go to the Planning Commission
30 and not the City Council. The reason the project had been reviewed and approved
31 by the City Council was that the PMC included language regarding density bonus
32 requirements requiring City Council approval. Any project approved by the
33 Planning Commission may still be appealed to the City Council. While the City's
34 existing Density Bonus Ordinance did not reference a Local Preference, the City's
35 Inclusionary Ordinance did reference Local Preference. (Bender)
36
- 37 • Page 47 of 61 of the agenda packet, Chapter 17.62, Emergency Shelters, Section
38 17.62.020 Permit Requirements and Exceptions, A. Permit Requirements.
39 Acknowledged a request for a correction to clarify the State of California was under
40 the California Building Code (CBC) and not the Uniform Building Code (UBC), but
41 some codes, such as the Residential Property Maintenance Code was not part of
42 the CBC. The intent of this section is to refer to what was applicable. (Bender)
43
- 44 • Pages 28 and 29 of 61 of the agenda packet, Section 17.22.020 Allowed Use
45 Definitions, 11. Group Residential/Home. Clarified this definition would apply to
46 those residential homes under state law that are overseen by different state
47 agencies for recovery or special care with the definition broad and expansive. 11
48 (a) Shared Living Residences, read: *Shared Living Residences – housing shared*
49 *by unrelated persons such as recovery residences, boarding houses, dormitories,*
50 *etc.* (Uch)

- The Density Bonus requirement is 10 percent above whatever State Density Bonus Law allowed. Some jurisdictions provided a local bonus to whatever the State Density Bonus allowed and the City of Pinole had in the past provided some allowances based on concessions the City Council may consider. (Huey)
- The September 9, 2024 staff report identified those revisions as mandated by state law to ensure consistency with the additional Density Bonus, a requirement in part from the City of Pinole. The potential to increase the Density Bonus could be something staff was directed to investigate. (Sandoval)
- Pages 21 through 29 of 61 of the agenda packet included various requirements for day care centers and there had been changes in language for uses that no longer required a Conditional Use Permit (CUP), which would now be a permitted use absent checks and balances in the City. How such a use in a multifamily environment may impact neighborhoods in the City were clarified. State law required the City to treat Large Family Day Care Facilities as residential uses of property, which would be allowed by right, would not require a CUP, and were only required to comply with the same rules that any residential use of property would comply with such as setbacks, as an example. The use would still be subject to state requirements for childcare facilities as established and regulated by the state, not the City. (Vice-Chairperson Martinez)
- The proposed PMC and Specific Plan Amendments for Housing Element implementation and regulatory consistency were overwhelmingly required by the state, although not required by the state was the bonus for senior facilities. Some of the requirements the City promised to do as part of discussions with the State Department of Housing and Community Development (HCD) for the Housing Element certification, such as an amendment to the definition of Family. (Vice-Chairperson Martinez)
- It would be difficult to reduce an existing standard once it was set, such as lowering the percentage of the Density Bonus. It would also be prudent to consider whether the current percentage level was right and whether the standard should be higher, which could be subject to further research and investigation. (Vice-Chairperson Martinez)
- Staff was uncertain what would happen with the next Housing Element cycle update but in terms of implementing the current Housing Element and ensuring a good working relationship with HCD and with the knowledge the City must have a certified Housing Element, the City must ensure consistency with HCD requirements and state law. HCD submitted letters to some cities about promises made in their Housing Elements with respect to meeting certain requirements by a certain date with a request for an update, and HCD was verifying cities were doing what they said they were going to do. (Vice-Chairperson Martinez)
- Acknowledged the City had been designated as a pro-housing organization and gained benefits from that designation but the state had the power to revoke that designation if the City were to do things that were not considered pro-housing. (Chairperson Menis)

- Page 41 of 61 of the agenda packet, Chapter 17.38 Density Bonus, Section 17.38.060 Continued Availability, D. This requirement is the equivalent of Local Preference and Section 17.38.060 Continued Availability F, was further clarified with staff noting that when there is a 100 percent affordable project receiving incentives, state or federal funding sources precluded something like that, although this section which reads: *All affordable units shall be occupied by the household type specified in the written agreement required under Section 17.38.030 I. The developer's obligation to maintain these units as affordable housing shall be evidenced by the master regulatory agreement which shall be recorded as deed restriction running with the land*, still applied for many market rate projects that used a Density Bonus and may be only 15 or 20 percent affordable, which was how this requirement had been applied in the City of Pinole the last few years. This requirement was in the agreement for the for-sale project at Appian Village, as an example. (Chairperson Menis)
- Clarified the approval authority for Density Bonus approvals and approvals for affordable housing projects. There was no requirement for these projects to go to the City Council for approval with these text amendments. Projects that had normally gone to the City Council were 100 percent affordable projects that were receiving some sort of funding from the City, such as the project at 811 San Pablo Avenue, where the Three Corridors Specific Plan had been amended to allow 100 percent affordable housing. A project would still go before the Planning Commission for approval of entitlements but the affordable housing agreement could be signed by the City Manager based on the project approved, which was a ministerial act. (Chairperson Menis)
- Page 33 of 61 of the agenda packet, Chapter 17.38 Density Bonus, Section 17.38.030 Density Increase, B. Local Density Bonus Enhancement (1) Senior Housing Project, which reads: *Senior Housing Project. Senior housing projects may request density bonus of at least ten (10) percent above the density bonus provided under State Density Bonus Provisions. For example, a senior housing project that is eligible for a thirty percent (30%) density bonus under State Density Bonus Provisions would be eligible for a forty percent (40%) density bonus with application of the Local Density Bonus Enhancement.* This clause came from discussions with HCD on what they wanted to see for a Senior Housing Project density bonus increase beyond the state law standard. (Chairperson Menis)

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

Commissioner Sandoval wanted to increase the percentage for the Density Bonus from 10 percent and he asked his fellow Commissioners to opine.

Chairperson Menis suggested the difficulties that staff had raised in potentially reducing that percentage in the future and the fact impacts from the actual increase in that value could be, meant he preferred to err on the same or lower percentage to start with and the percentage could be raised if proven to be sufficient.

1 Commissioner Huey agreed with the Chair's comments but wanted to see where nearby
2 local jurisdictions were in their percentages and where the early adopters were in the
3 process.
4

5 Commissioner Lam-Julian wanted to see the options explored if the percentage was to be
6 increased.
7

8 As to whether staff could be directed to explore increasing the percentage while the
9 Planning Commission also moved forward with the current recommendation, and in
10 response to the Chair, Mr. Shiu suggested the Planning Commission could adopt the
11 ordinance with the 10 percent, with direction to staff to examine what other jurisdictions
12 had done to address the Density Bonus beyond the state standard and bring that
13 information back to the Planning Commission, or it could be a recommendation for the
14 City Council to consider.
15

16 Mr. Mog suggested if the Planning Commission preferred, it may adopt the staff
17 recommendation, as stated or with changes, with direction to staff to explore other cities
18 and with staff to bring that information to the City Council as the ultimate decision maker.
19 He understood staff may be able to do that research since this item had not yet been
20 scheduled for City Council consideration.
21

22 Mr. Hanham agreed with the comments from the Assistant City Attorney.
23

24 Commissioner Sandoval was open to staff exploring the potential to increase the
25 percentage for the Density Bonus.
26

27 Chairperson Menis understood there were two different motions that could be made on
28 this item. He suggested the first option was to work with the 10 percent for now and direct
29 staff to investigate and report back to the City Council with updates on what neighborhood
30 jurisdictions were doing along that line. The second option could be for the Planning
31 Commission to continue the item and ask staff to return with that information to allow the
32 Planning Commission to make that decision, to then be forwarded to the City Council.
33

34 Commissioner Sandoval preferred the Planning Commission approve the rest of the items
35 and direct staff to explore the other topic, as discussed.
36

37 Commissioner Uch understood there was no limit for the density bonus and theoretically
38 a project could have a 100 percent density bonus with a minimum of 10 percent.
39

40 Mr. Shiu clarified there were density maximums set by State Density Bonus Law and it
41 also depended on the type of development. The affordable level being proposed for each
42 project had a density cap based on the state standards and the 10 percent would be in
43 addition to that.
44

45 Commissioner Sandoval offered a motion to direct staff to explore, investigate and report
46 back to the Planning Commission and the City Council on the potential to increase the
47 density bonus for senior housing projects beyond the 10 percent and approve the rest of
48 the item as is.
49

50 Commissioner Lam-Julian seconded the motion.

1 Mr. Mog clarified the statement “approve as is” meant the adoption of Resolution 24-05
2 recommending to the City Council the adoption of proposed Municipal Code and Specific
3 Plan Amendments as provided in Resolution 24-05, Attachment A, Exhibit A.
4

5 Commissioner Sandoval confirmed that was his motion.
6

7 Chairperson Menis understood it was only for that particular subclause since the
8 Commission had not completed the discussion of everything else. The motion had been
9 made and seconded, and in the discussion of the motion he asked if the Commission
10 could discuss other items and come back on the motion.
11

12 Mr. Mog clarified the motion was to adopt the resolution, as stated, which dealt with the
13 entire item and if the Planning Commission had any other comments on the item those
14 comments should be made prior to calling the item.
15

16 Commissioners Sandoval, Lam-Julian, Huey, and Uch had no further comments beyond
17 the motion.
18

19 Commissioner Bender appreciated staff’s density bonus not going through the specific
20 things that were outlined by the state this time around in this new document, and because
21 of that issue which may potentially change from one year to the next, he had reviewed
22 Government Code Section 65915 and found all of the things that staff had discussed
23 regarding percentages for the various categories and the various things that could
24 potentially be changing in the future. He appreciated staff’s attempt to avoid an endless
25 loop of revisiting what the state could determine in the future on those specific
26 percentages.
27

28 Commissioner Bender otherwise commented that having read Section 17.38.060
29 Application Procedures and Review, as shown on Page 35 of 61 of the agenda packet, on
30 more than one occasion he was not clear about the issue of who would be the reviewing
31 body. Attachment B, Housing Element Programs Associated with Revisions made that
32 issue even clearer in non-legalese and non-bureaucratic language. He did not see any
33 necessary changes to the language on Page 35 of 61 of the agenda packet as a result.
34

35 Chairperson Menis asked for a revision to the motion, as stated, to revise Page 47 of 61
36 of the agenda packet, Chapter 17.62, Emergency Shelters, Section 17.62.020 Permit
37 Requirements and Exceptions, A, with Permit Requirements to read: *In addition to*
38 *satisfying the requirements listed below, emergency shelters shall comply with all federal*
39 *and California licensing requirements and all applicable California or Uniform Building and*
40 *Fire Codes, including maximum occupancy restrictions.*
41

42 Commissioner Sandoval accepted the amendment to the motion.
43

44 Commissioner Bender clarified the UBC was something that was a model code, with the
45 state using the UBC but actually having modified it and added things such as seismic
46 design for buildings among other items. He noted California was the first state to introduce
47 CALGreen to its code, which other states did not have since they were using the UBC. As
48 an architect, when a building was designed, plans must be submitted based on the
49 California Building Code and in other states the UCB, unless that state had adopted
50 another code.

1 Chairperson Menis understood some things the City did referred to the UBC, not just the
2 State Building Code.

3
4 Mr. Mog commented he did not have specific examples, but it would address all concerns
5 to have the original language as applicable, and to the extent the UBC or one of the
6 uniform codes did not apply since there was a California Code, then it would be the
7 California Code that was applicable. For clarity, he suggested that language could be
8 added "for all applicable building codes and Uniform Codes and all applicable California
9 Building Codes and Uniform Codes."

10
11 Chairperson Menis reiterated that was why he had offered the language revision.

12
13 Mr. Mog suggested the language revision would be acceptable since to the extent there
14 was a California Building Code that applied, not just the UBC.

15
16 Chairperson Menis clarified with the Assistant City Attorney the amendment to the motion
17 needed approval from the maker of the motion and the second.

18
19 Both the maker of the motion and the second to the motion accepted the amendment, as
20 stated.

21
22 Mr. Shiu recommended the revision to the definition of Family be part of the motion.

23
24 Chairperson Menis identified Article VI., Chapter 17.98, Glossary of Terms, Page 50 of 61
25 of the agenda packet, Section 17.98.020 General Definitions, which modified the definition
26 of Family to read: *All persons living in a household whether or not related by blood,*
27 *marriage, or adoption* and Household, to read: *One (1) or more persons sharing a dwelling*
28 *unit in a living arrangement that may include shared facilities, resources, and living*
29 *expenses, such as rent or mortgage payments, food costs, and utilities.*

30
31 Both the maker of the original motion and the second to the motion accepted the additional
32 amendment to the original motion.

33
34 **MOTION** with a Roll Call vote to direct staff to explore, investigate and report back to the
35 Planning Commission and the City Council an increase in the density bonus for senior
36 housing projects beyond the 10 percent, and approve Resolution 24-05, recommending
37 to City Council the adoption of proposed Municipal Code and Specific Plan Amendments
38 as provided in Resolution 24-05, Attachment A, Exhibit A, as is, and subject to the
39 following revisions:

- 40
41
42 • Page 47 of 61 of the agenda packet, Chapter 17.62, Emergency Shelters,
43 Section 17.62.020 Permit Requirements and Exceptions, A. Permit Requirements
44 to read: *In addition to satisfying the requirements listed below, emergency shelters*
45 *shall comply with all federal and California licensing requirements and all*
46 *applicable California or Uniform Building and Fire Codes, including maximum*
47 *occupancy restrictions; and*

- Page 50 of 61 of the agenda packet, Chapter 17.98, Glossary of Terms, Section 17.98.020 General Definitions, revise the definitions for Family and Household, as recommended by staff.

MOTION: Sandoval

SECONDED: Lam-Julian

APPROVED: 7-0

2. Modification of Conditional Use Permit 10-06 for the addition of Live Music and the approval of Administrative Use Permit for permanent outdoor dining at 2300 San Pablo Avenue [Continue to October 28, 2024]

Mr. Hanham reported more information was needed for the project. Staff recommended the item be continued to the regular Planning Commission meeting on October 28, 2024.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

MOTION with a Roll Call vote to continue Modification of Conditional Use Permit 10-06 for the addition of Live Music and the approval of Administrative Use Permit for permanent outdoor dining at 2300 San Pablo Avenue to the Regular Planning Commission meeting on October 28, 2024.

MOTION: Menis

SECONDED: Sandoval

APPROVED: 7-0

H. OLD BUSINESS: None

I. NEW BUSINESS: None

J. CITY PLANNER'S/COMMISSIONER'S REPORT

Mr. Hanham reported staff was working on Phase II of the Housing Element Implementation changes; parklet designs policies and guidelines; the Objective Development Design Standards would be presented to the Planning Commission by the end of the year. The next meeting of the Planning Commission was scheduled for September 23, 2024. There would only be one meeting for the months of October, November and December but additional meetings could be scheduled if needed. Staff also hoped to return with Phase III of the Housing Element Implementation in January/February 2025, and the Safety and Environmental Justice Elements would be reviewed by the Planning Commission Ad Hoc Subcommittee soon and be presented to the Planning Commission in early 2025. In addition, the City was working on a grant application with Contra Costa County for sea level assessments and vulnerability assessments.

Chairperson Menis reported the Planning Commission Ad Hoc Subcommittee had been provided the Safety Element but had not yet received the Environmental Justice Element, and Mr. Hanham clarified all information had been sent but could be resent, if needed.

Chairperson Menis asked about the status of tree removal in the City in response to public comments raised during the August 12, 2024 Planning Commission meeting.

1 Mr. Hanham clarified a couple of trees removed had been located on City property, another
2 tree involved work with a private property owner and staff was working with the property
3 owner on that situation since there may be some mitigation required as part of that process.
4 Trees removed on West Contra Costa Unified School District (WCCUSD) property did not
5 involve the City.
6

7 Commissioner Lam-Julian reported several members of the community had reached out
8 about construction workers involved in the Appian Village Project causing additional
9 congestion with truck traffic. Also, when digging occurred, the dirt on the site was to be
10 watered down.
11

12 Mr. Hanham advised he would check with the Public Works Department on the status of the
13 work and the requirements for the project.
14

15 Chairperson Menis confirmed at one point in the grading process, he had witnessed the dirt
16 related to the Appian Village project not being watered down as required.
17

18 **K. COMMUNICATIONS**
19

20 Chairperson Menis reported the City's calendar was still not showing community events
21 and only City meetings. Major events such as National Night Out, Food Drives, Blood
22 Drives or Coffee with the City had not been shown and he asked staff to look into that
23 situation.
24

25 Chairperson Menis made the following announcements: Senior Low Income Food
26 Distribution September 10, 2024 from 10:00 to 11:00 a.m. with application required at the
27 Senior Center or City website; Coffee with the City at Panera Bread on September 11,
28 2024 from 8:00 to 10:00 a.m.; Traffic and Pedestrian Safety (TAPS) Committee meeting
29 on September 11, 2024 at 6:00 p.m. and Blood Drive from 9:00 a.m. to 3:00 p.m. on
30 September 12, 2024 at the Youth Center, with appointments required online and with more
31 information at the American Red Cross.
32

33 **L. NEXT MEETING(S)**
34

35 The next meeting of the Planning Commission to be a Regular Planning Commission
36 Meeting scheduled for September 23, 2024 at 7:00 p.m.
37

38 **M. ADJOURNMENT: 8:44 p.m.**
39

40 Transcribed by:

Reviewed and edited by:

41 Sherri D. Lewis
42 Transcriber
43

City Staff