



PINOLE PLANNING COMMISSION MEETING AGENDA

December 9, 2024

7:00 PM

**Attend in Person: PINOLE CITY COUNCIL CHAMBERS - 2131 PEAR STREET
OR**

Attend VIA ZOOM TELECONFERENCE – Details provided below

How to Submit Public Comments:

In Person:

Attend meeting at the Pinole City Council Chambers, fill out a yellow public comment card and submit it to the City Clerk.

Via Zoom:

Members of the public may submit a live remote public comment via Zoom video conferencing. Download the Zoom mobile app from the Apple Appstore or Google Play. If you are using a desktop computer, you can test your connection to Zoom by clicking [here](#). Zoom also allows you to join the meeting by phone.

From a PC, Mac, iPad, iPhone or Android:

<https://us02web.zoom.us/j/86505375301>

Webinar ID: 865 0537 5301

By phone: +1 (669) 900-6833 or +1 (253) 215-8782 or +1 (346) 248-7799

- Speakers will be asked to provide their name and city of residence, although providing this is not required for participation.
- Each speaker will be afforded up to 5 minutes to speak
- Speakers will be muted until their opportunity to provide public comment.

When the Chair opens the comment period for the item you wish to speak on, please use the “raise hand” feature (or press *9 if connecting via telephone) which will alert staff that you have a comment to provide and press *6 to unmute. To comment with your video enabled, please let the City Clerk know you would like to turn your camera on once you are called to speak.

Written Comments:

Please submit public comments to Planning Staff before the meeting via email to ghanham@ci.pinoles.ca.us. Please include your full name, city of residence and agenda item you are commenting on.

OTHER WAYS TO WATCH THE MEETING

LIVE ON CHANNEL 26. They are retelecast the following week. The Community TV Channel 26 schedule is published on the city's website at www.ci.pinole.ca.us.

VIDEO-STREAMED LIVE ON THE CITY'S WEBSITE, www.ci.pinole.ca.us and remain archived on the site for five (5) years.

If none of these options are available to you, or you need assistance with public comment, please contact Planning Manager David Hanham at (510) 724-8912 or ghanham@ci.pinole.ca.us.

Americans With Disabilities Act: 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 City Clerk's Office at (510) 724-8928. Notification 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.

Note: Staff reports are available for inspection on the City Website at www.ci.pinole.ca.us. You may also contact the City Clerk via e-mail at hbell@ci.pinole.ca.us.

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.

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 and the Planning Commission may act to confirm, modify, or reverse the action of the Planning Manager. The cost to appeal a decision is \$500 and a minimum \$2,500 deposit fee.

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.

Ralph M. Brown Act. Gov. Code § 54950. In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies, which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. LAND ACKNOWLEDGMENT

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

D. ROLL CALL

E. 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.

F. MEETING MINUTES:

1. Planning Commission Meeting Minutes for November 18, 2024

G. NEW BUSINESS

1. Planning Commission Regular Meeting Schedule 2025

H. PUBLIC HEARINGS

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.

1. VA24-0002 and DR24-0004 Marathon Sign at 1007 San Pablo Ave
2. UP24-02 Sprouts Farmer's Market upgrade of Liquor License to Type 21 located at 1300 Pinole Valley Road
3. PA24-0002 Municipal Code Amendments for Housing Element Implementation

I. OLD BUSINESS

J. CITY PLANNER'S/COMMISSIONER'S REPORT

K. COMMUNICATIONS

L. NEXT MEETING(S)

1. Planning Commission Regular Meeting, January 13, 2025, at 7:00PM

M. ADJOURNMENT

I hereby certify under the laws of the State of California that the foregoing Agenda was posted on the bulletin board at the main entrance of Pinole City Hall, 2131 Pear Street Pinole, CA, and on the City's website, not less than 72 hours prior to the meeting date set forth on this agenda.

David Hanham
Planning Manager
POSTED: _____ pm

DRAFT

MINUTES OF THE REGULAR MEETING
PINOLE PLANNING COMMISSION

November 18, 2024

THIS MEETING WAS HELD IN A HYBRID FORMAT
BOTH IN-PERSON AND ZOOM TELECONFERENCEA. **CALL TO ORDER:** 7:05 p.m.B. **PLEDGE OF ALLEGIANCE**

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

D. **ROLL CALL**

Commissioners Present: Huey, Lam-Julian, Sandoval, Uch, Vice-Chairperson
Martinez, Chairperson Menis

Commissioners Absent: Bender

Staff Present: David Hanham, Planning Manager
Justin Shiu, Senior Planner

Chairperson Menis reported he had ex parte communications having sent emails to his mailing list covering the items on the meeting agenda.

E. **CITIZENS TO BE HEARD**

Anthony Vossbrink, Pinole, asked what could be done with the telephone pole obstructions on the street corner of Granada Court and Shea Drive, which had been reported to the City on numerous occasions. The poles had been banded together by plastic duct tape and metal bands, were an eyesore and safety hazard and blocked Americans with Disabilities Act (ADA) access on a marked crosswalk. He asked the City to address the situation before someone was hurt. He also asked whether the City had reduced funds for the self-service sand bags typically provided in the auxiliary parking lot across from the Police Department given the inclement weather expected in the next week, and the status of a prior request for trash bins with covers or recycling green trash bins in Pinole Valley Park and dog park that had been promised years ago by former City staff.

1 Mr. Vossbrink added that staff had not provided an update on the numerous No Parking
2 signs installed along Pinole Valley Road and more signs had since been installed
3 throughout the City on Appian Way and other locations. He further asked that the lights
4 along Pinole Valley Road and the door locks to the restrooms at City facilities be adjusted
5 for the change in daylight savings.
6

7 Chairperson Menis asked whether the City had to adjust its timers for various street lights
8 and the door locks for the restrooms at City facilities for the end of daylight savings and
9 was informed by Planning Manager David Hanham he would have to check with Public
10 Works Manager Joe Bingaman.
11

12 Commissioner Huey agreed that it was extremely dark in the Pinole Valley and she would
13 appreciate staff looking into the matter of updating the timers for street lights.
14

15 Commissioner Sandoval also asked about the status of the No Parking signs.
16

17 Mr. Hanham understood as part of a new law that went into effect in 2023, no parking was
18 permitted within 20 feet of intersections. He was uncertain whether the new signs had
19 been installed in conjunction with the new law but there would be more painting of red
20 curbs pursuant to this new law. He would follow up with the Public Works Manager.
21

22 Chairperson Menis reported the City Council would discuss the new daylighting law at the
23 City Council meeting of November 19, 2024.
24

25 Commissioner Lam-Julian reported several community members had noticed the self-
26 service sand bags were not available.
27

28 Mr. Hanham understood some coordination would be required between the Contra Costa
29 County Fire Protection District (CCCFPD) and the Public Works Department and he would
30 have to follow-up on that issue as well.
31

32 Chairperson Menis suspected the No Parking signs were not related to Assembly Bill (AB)
33 413, which was about painting curbs and not signage. As to the covers for the trash bins
34 at the Pinole Valley dog park, he inquired of the timeline.
35

36 Mr. Hanham stated he would have to check with the Public Works or Community Services
37 Departments.
38

39 Chairperson Menis asked about the telephone poles at Granada Court and Shea Drive
40 and whether the current situation would continue to remain in place or be addressed. He
41 also asked whether the City had bound/taped the telephone poles together.
42

43 Mr. Hanham was uncertain the telephone poles were City poles and again he would have
44 to check with the Public Works Department.
45

46 Chairperson Menis also spoke to the sand bags and asked whether Public Works and the
47 CCCFPD could coordinate providing the sand bags by tomorrow given the upcoming
48 inclement weather, and Mr. Hanham stated he would raise the concern with the Public
49 Works Department in the morning.
50

1 **F. MEETING MINUTES**

2
3 **1. Planning Commission Meeting Minutes for October 7, 2024**

4
5 **MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes for
6 October 7, 2024, as shown.

7
8 **MOTION: Menis**

9 **SECONDED: Martinez**

10 **APPROVED: 6-0-1**

11 **ABSENT: Bender**

12 **G. PUBLIC HEARINGS: None**

13 **H. OLD BUSINESS**

14 **1. Density Bonus Augmentation Information**

15
16 Senior Planner Justin Shiu presented a PowerPoint presentation on the Density Bonus
17 Augmentation, which had also been detailed in the November 18, 2024 staff report. The
18 Planning Commission was asked to receive the report and provide feedback to staff.

19
20 Responding to comments from the Planning Commission, Mr. Shiu clarified the following:

- 21
- 22 • Commercial development partnerships allowed for opportunities for infill
23 development and allowed for mixed-use development but would not specify the
24 type or design of development. Those projects would be reviewed to ensure
25 compliance with density bonus law. (Uch)
 - 26
27 • The density bonus law for the City of Richmond was again clarified as detailed in
28 the staff report as: *Senior Housing with Income Restriction or Housing for Persons*
29 *with Disabilities. 40 percent density bonus if 5 percent of total base units are set*
30 *aside for extremely low income and 20 percent for low income; more than 4*
31 *bedrooms per unit. 35 percent density bonus if 5 percent of total base units are set*
32 *aside for extremely low income, 10 percent for very low income, and 15 percent*
33 *for low income, and Density Bonus for Extremely Low Income. 30 percent density*
34 *bonus if 5 percent of total based units are set aside for extremely low income, with*
35 *a 1 percent density bonus increase for each 1 percent above 5 percent (with a cap*
36 *of a 40 percent density bonus).* (Uch)
 - 37
38 • If the Planning Commission decided to pursue a blanket type of additional density
39 bonus for senior housing, Pinole may be one of the first cities in the area to do that.
40 A sliding scale for senior housing on top of that had not been tested with a
41 developer as yet but if the Planning Commission wanted to recommend something
42 in the future additional analysis may be possible. (Sandoval)
 - 43
44 • Staff had not looked into the shift within the disability community in the State of
45 California. The State's General Plan was up for final review in March 2025, with
46 transitional housing for this population to be a focus but reasonable
47 accommodations within development had been reviewed to ensure accessibility
48 needs were met in housing. Additional materials could be evaluated as well.
49 Clarified building code standards would also be updated in 2025. (Lam-Julian)

- The Town of Moraga's Housing Element included no specific regulations for units beyond State Law but its Housing Element contained a program to adopt a local density program that supplemented State Density Bonus and included higher densities for senior housing and student housing. (Chairperson Menis)
- The City of San Pablo included no specific regulations for units beyond State law, but its Housing Element included a program to adopt a local density bonus program that offered additional density over the maximum base as an incentive for projects that consolidated small, adjacent lots and/or developed 2- and 3-bedroom units. As to how that interacted with Senate Bill (SB) 9, that bill focused more on single-family residential types of properties and was only available for Single-Family Residential Zoning. (Chairperson Menis)
- Clarified the differences between the definitions of intensity versus density with no specific maximum density limit. (Chairperson Menis).
- Per the staff report: *Housing development not restricting more than 50 percent of the total units to moderate- income, lower-income, or very low-income households are eligible for an additional density bonus if the development provides additional units affordable to very low or moderate-income households under Government Code Section 65915(v); Development must have reached the cap for density bonus-based percentage of affordable units (i.e., it provides 15 percent of the total units to very low-income households, 24 percent of the total units to lower-income households, or 44 percent of the total units in for-sale developments to moderate-income households); and the additional density bonus is provided based on the additional units beyond the standard caps that are set aside for very low income and moderate income households.* Also clarified Tables 1 and 2, as shown on Pages 20 and 22 of the staff report. (Chairperson Menis)

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

Commissioner Sandoval was interested in increasing the percentage for senior housing, which would be a nice idea and lean into Pinole as a bedroom community that could house more people. He was curious what his fellow Commissioners' opinions were on what the percentage should be and he was not opposed to a much higher percentage than the 10 percent. He also wanted to see other options for change since there appeared to be other ways to increase the density bonus for other types of projects, including commercial and student development, but was uncertain what was best for Pinole.

Commissioner Sandoval was also interested in a sliding scale of much higher density bonuses for Low, and Very Low incomes, similar to how it had been done in the City of Richmond.

Commissioner Lam-Julian was also interested in exploring a higher percentage in addition to the partnership and workforce housing opportunities specifically helping teachers to live where they worked.

1 Commissioner Uch wanted to build more housing, particularly in the Bay Area where many
2 people struggled with housing, whether single-family or multi-family units and there should
3 be more options in the country for housing. He also suggested there could be many
4 opportunities to consider incentivizing infill development, particularly in Pinole. As an
5 example, the City's shopping centers where most of the space was taken up by parking
6 lots and where more housing could be considered and the people living there could serve
7 as a new tax base for the City. He suggested the Commission look into density bonuses
8 for infill development, if possible.
9

10 Commissioner Huey thanked staff for the great recap and the information on what other
11 jurisdictions were doing. While not opposed to raising the density bonus, she asked
12 whether there was a cap on the density bonus and would like more information on the Bay
13 Area regionwide if there was a cap for other jurisdictions and whether there were any
14 unintended consequences that were not foreseen at this time.
15

16 Mr. Hanham commented the other component of the density bonus was units per acre
17 and in the denser cities of the Bay Area when adding the density bonuses it increased the
18 number of units. The density bonus was key to adding more units in terms of adding
19 affordability and they may have to consider increasing the density per acre. As an
20 example, the Vista Woods project had a base of 50 units per acre, was the largest in the
21 City of Pinole and allowed the developer to have 180 units with an 80 percent density
22 bonus making the project 100 percent affordable. The City's Commercial Mixed Use
23 (CMU) and Residential Mixed Use (RMU) Zoning Districts were at the maximum of 35
24 units per acre. Or, if the units per acre was okay, using the density bonus would always
25 increase the units and be on top of the City's 15 percent inclusionary requirements.
26

27 Mr. Hanham added that for the Regional Commercial Zoning Districts where residential
28 was not allowed, there was no unit per acre number, which must also be considered.
29

30 Mr. Shiu also noted that the density bonus would vary project by project and would depend
31 on the site, the area they were working with and what a developer wanted to achieve.
32 Density bonuses were a tool to incentivize affordability, where possible.
33

34 Mr. Hanham also cited the Appian Village project that had used the minimum in terms of
35 density at the lower end at 20 units per acre, with 20 percent density and a 15 percent
36 affordability factor, and since it was located in a CMU District, an additional 10 percent for
37 community benefit had been provided and there were other options in the General Plan to
38 build more units. A sliding scale also worked well and they could almost stack everything
39 on top of each other depending on the different affordability factors in a project.
40

41 Another example was the Pinole Vista project that was 90 percent market rate, and
42 depending on the number of market rate units in the project there could still be a density
43 bonus if 25 percent of the project was affordable.
44

45 Vice-Chairperson Martinez thanked the Commission for the great questions and staff for
46 the additional details on the CMU District. He referenced the senior housing project on
47 San Pablo Avenue with 170+ units, and suggested with different types of housing they
48 could create an ecosystem allowing it to flourish within the City and ensure they met all of
49 the different needs within the community. He understood there were sites in the City that
50 had been identified for potential projects and he found the density bonus tool a good idea.

1 Chairperson Menis also thanked staff for the presentation, information from other
2 jurisdictions, various options and Planning Commissioners for their comments and
3 questions. He understood no decision was being made, the information provided was
4 informational only with the Planning Commission to discuss potential options and the City
5 Council would be the body that would take action. While he agreed it would be a good
6 idea to have a broad variety of housing types available, he was curious as to what extent
7 increasing the density permitted would tend to standardize housing types, such as whether
8 it would allow the City to develop more senior housing over other types of housing.
9

10 Mr. Shiu commented on the variety of projects proposed in the City over the years and
11 stated it would depend on the type of proposal a developer proposed and what they
12 wanted to achieve, and depend on the properties that were available and what the
13 developer wanted to develop. Development of a project would also depend on available
14 grants and financing with a lot of variables involved in any development.
15

16 Chairperson Menis asked whether it would be possible to create a density bonus
17 specifically for infill development.
18

19 Mr. Shiu understood density bonuses worked inherently well with infill development since
20 infill development was concentrated development in limited or built-up space or
21 redeveloped at higher densities, but if the question was whether there could be additional
22 density bonuses to promote infill development could be further evaluated.
23

24 Chairperson Menis asked about the possibility of a sliding scale and asked whether a
25 developer tended to find the idea of a sliding scale for density bonuses useful or not.
26

27 Mr. Shiu commented it was something a developer worked within to see what was
28 available and to see whether it could be incorporated into a development or not. He
29 suggested developers were good at using a sliding scale to internally calculate what was
30 right for a project.
31

32 Mr. Hanham noted that density bonuses had been available and part of State law for
33 decades, but had not been used by developers until the last 10 to 12 years given the cost
34 of housing and increased fees, and developers needed more unit yields to make a project
35 work, with density bonus programs allowing maximum flexibility to pencil out the maximum
36 number of units. It was found that developers liked having the variables and different
37 options and it also allowed cities a chance to work with developers to get the lot yields.
38 He suggested the sliding scales were good and would help the City work with developers
39 with all of its income categories to allow them to get the units they needed.
40

41 Chairperson Menis asked whether a density bonus could be considered for workforce
42 housing. As an example, building on school district property or whether that would lead
43 into a conflict with another jurisdiction.
44

45 Mr. Hanham advised if the school district provided housing on its property, it had
46 jurisdiction on that property. If the developer wanted to pursue a density bonus on school
47 district property since the school district was an entity of the state, sliding scales on the
48 property would be allowed. He was unaware of anything that allowed the City to override
49 anything on school district property. Any development on school district property would
50 go through the State Architect's process and not the City's process.

1 Chairperson Menis commented if it was found that 10 percent additional for senior housing
2 was or was not working, how difficult would it be to change in the future.
3

4 Mr. Shiu explained it would require a Zoning Ordinance amendment and could be
5 something the Planning Commission could request staff look into, with a recommendation
6 from the Planning Commission to the City Council for final approval, and could be revisited
7 at any time.
8

9 Commissioner Sandoval supported revisiting the City's density requirements to promote
10 more dense housing in specific areas and have the opportunity to increase that as a way
11 to promote the construction of housing on top of the potential increase in density bonuses
12 for other groups besides seniors including transitional, workforce, veterans and disabled
13 housing. He also supported considering a sliding scale that would offer more options and
14 provide for flexibility for developers and also consider what kinds of places in Pinole could
15 be transformed, citing the Safeway lot where a lot of redevelopment could occur and where
16 additional housing and economic growth would benefit the City.
17

18 Mr. Hanham suggested staff could take some of the project areas and corridors and build
19 hypothetical projects to show examples and an idea of the percentages involved and with
20 the density bonuses already there, but would allow staff to provide an example of how
21 potential development with all of the options may appear.
22

23 Commissioner Sandoval asked whether such information could be shown to prospective
24 developers.
25

26 Mr. Hanham commented that staff would operate within the specific codes but could
27 consider different areas, add a project, offer an idea of what could be done in terms of unit
28 yields to allow the Planning Commission to see what the different percentages and
29 stacking on top may look like in comparable locations in Pinole. He suggested that could
30 be easily done.
31

32 Commissioner Sandoval agreed it would be helpful to visually see what could be done.
33

34 Mr. Hanham suggested staff could return with another informational item at a future
35 meeting. He also confirmed in response to the Chair that the Planning Commission may
36 request future agenda items with a request for additional information.
37

38 Chairperson Menis suggested a motion be made for the item.
39

40 Commissioner Sandoval offered a motion to direct staff to provide additional information on
41 unit yields and potential density bonuses in sizeable lots throughout the City of Pinole.
42

43 Mr. Hanham advised that staff could chose different lots sizes in the City of Pinole.
44

45 **MOTION** with a Roll Call vote to direct staff to provide additional information on unit yields
46 and potential density bonuses in sizeable lots throughout the City of Pinole.
47

48 **MOTION: Sandoval**

SECONDED: Martinez

APPROVED: 6-0-1

ABSENT: Bender
49
50

1 Mr. Hanham advised the information could be brought back at the December Planning
2 Commission meeting or the first meeting in January 2025.

3
4 **I. NEW BUSINESS:** None

5
6 **J. CITY PLANNER'S/COMMISSIONER'S REPORT**

7
8 Mr. Hanham advised he had provided a staff report in writing that had been provided to the
9 Planning Commission prior to the meeting. The staff report was not a part of the agenda
10 packet, had outlined the status of major projects and could be posted on the City website.
11 When asked by the Chair, he clarified a request for a Public Convenience and Necessity
12 (PCN) Finding for Sprouts Farmers Market at 1300 Pinole Valley Road was on the City
13 Council agenda for November 19, and if approved it would come back to the Planning
14 Commission at its December 9, 2024 meeting; a Conditional Use Permit (CUP) for a
15 radiology office at 825 San Pablo Avenue required the applicant to submit a drawing for an
16 awning and the permit could not be activated until that was done; and staff was working with
17 the applicant to have the former Kmart building demolished and planned to meet with the
18 applicant prior to the holidays. He confirmed the property had been fenced.

19
20 Commissioner Lam-Julian encouraged residents to provide their feedback and thoughts on
21 Pinole Community Television (PCTV) at Pinole Speaks online via the City website.

22
23 Chairperson Menis reported the Parks and Recreation Department subsection of the City
24 website included updated information to the City's calendar, although the Food Drive
25 remained to be added to the City calendar and he asked if it was because the service was
26 conducted by a third-party agency or another reason.

27
28 Mr. Hanham advised he would have to check with the Community Services Director.

29
30 Chairperson Menis suggested it would be a significant benefit to the community to have that
31 information directly available on the City's calendar. He added the Draft Active
32 Transportation Plan (ATP) was available for public comment until December 7, 2024, was
33 available for review on the City website and the City Council meeting of November 19 would
34 include a discussion of the creation of a City Council Ad-Hoc Subcommittee to serve on a
35 Downtown Pedestrian Improvements Subcommittee. The meeting would start at 5:00 p.m.
36 at City Hall and no Closed Sessions had been scheduled.

37
38 **K. COMMUNICATIONS**

39
40 Commissioner Lam-Julian reported the November 19, 2024 City Council meeting would
41 include a discussion of speed limits at various areas of the City, which would offer a good
42 opportunity for the public to raise concerns with the potential lowering of speed limits.

43
44 Chairperson Menis also reported the City Council meeting of November 19, 2024 would
45 include a discussion of Development Impact Fees and there were a number of Consent
46 Calendar items that may be of interest to the community.

47
48 PUBLIC COMMENTS OPENED
49
50

1 Anthony Vossbrink, Pinole, asked whether the City Planner had already provided the City
2 Planner's Report and was informed the report had been provided. He asked the status of
3 the sale of the Faria House and other related City-owned properties that had been
4 evaluated for possible sale, and the caretaker's home on Adobe Road with Public Works
5 employees having recently spent time repairing lights at the property. He recommended
6 signage be posted at the property to inform the public of the status of the property. He
7 also asked the status of the Adobe Park Trail behind the caretaker's home and updates
8 on the recruitment efforts for a new Public Works Director and Police Chief. He also asked
9 what happened with the salaries for the vacant positions and how they had been
10 incorporated into the City's budget.

11
12 **PUBLIC COMMENTS CLOSED**

13
14 Responding to the public comment, Mr. Hanham clarified he had been informed that
15 materials that had been dropped off at the Adobe Trail were to be used to repair the trail
16 but he had no information on the timeline. There had been work on the caretaker's home
17 but he was unaware of any plans for the sale of the property, and a company was working
18 with the City of Pinole on the sale of the Faria House.

19
20 As to the recruitment efforts for Public Works Director and Police Chief, Mr. Hanham
21 understood the Public Works Director/City Engineer position was out for recruitment and
22 the recruitment of Police Chief was being handled by the City Manager. As to the impacts
23 to the budget, the funds for these positions would remain in the General Fund until the
24 positions had been filled. He acknowledged there could be some cost savings until the
25 positions had ultimately been filled. Presently, the City had an Interim Police Chief and
26 he understood interviews were ongoing for the new Police Chief.

27
28 Chairperson Menis noted the City accounted for vacant positions in the City's budgeting
29 process.

30
31 Commissioner Lam-Julian asked the status of a parcel across the street from the U.S.
32 Post Office and asked whether it was City or privately owned.

33
34 Mr. Hanham advised the City owned the vacant lot between St. Joseph and the U.S. Post
35 Office, which was zoned for Commercial Mixed-Use. The City still owned the Faria House
36 and the community corner.

37
38 **L. NEXT MEETING(S)**

39
40 The next meeting of the Planning Commission to be a Regular Planning Commission
41 meeting scheduled for December 9, 2024 at 7:00 p.m.

42
43 **M. ADJOURNMENT: 8:51 p.m.**

44
45 Transcribed by:

46
47 Sherri D. Lewis
48 Transcriber



PLANNING COMMISSION REPORT

G.1.

DATE: DECEMBER 9, 2024
TO: PLANNING COMMISSION
FROM: DAVID HANHAM, PLANNING MANAGER
SUBJECT: PLANNING COMMISSION REGULAR MEETING SCHEDULE 2025

RECOMMENDATION

Adopt the regular Planning Commission meeting schedule

BACKGROUND

REVIEW AND ANALYSIS

Review and adopt the regular Planning Commission meeting schedule for 2025, following discussion and any proposed modifications.

FISCAL IMPACT

ATTACHMENTS

A. Attachment A. 2025 Planning Commission Regular Meeting Schedule

Item G.1. Attachment A

2025 Planning Commission Regular Meeting Schedule

MONTH	DATE	TIME
January	Monday, 1/13/25	7:00 PM
January	Monday, 1/27/25	7:00 PM
February	Monday, 2/10/25	7:00 PM
February	Monday, 2/24/25	7:00 PM
March	Monday, 3/10/25	7:00 PM
March	Monday, 3/24/25	7:00 PM
April	Monday, 4/14/25	7:00 PM
April	Monday, 4/28/25	7:00 PM
May	Monday, 5/12/25	7:00 PM
June	Monday, 6/9/25	7:00 PM
June	Monday, 6/23/25	7:00 PM
July	Monday 7/14/25	7:00 pm
July	Monday, 7/28/25	7:00 PM
August	Monday 8/11/23	7:00 PM
August	Monday, 8/25/23	7:00 PM
September	Monday 9/8/25	7:00 PM
September	Monday 9/22/25	7:00 PM
October	Monday, 10/27/25	7:00 PM
November	Monday 11/10/25	7:00 PM
December	Monday, 12/8/25	7:00 PM
	TOTAL MEETINGS: 20	



PLANNING COMMISSION REPORT

H.1.

DATE: DECEMBER 9, 2024
TO: PLANNING COMMISSION
FROM: JUSTIN SHIU, CONSULTANT PLANNER
SUBJECT: VA24-0002 AND DR24-0004 MARATHON SIGN AT 1007 SAN PABLO AVE

RECOMMENDATION

Adopt Resolution 24-07 (Attachment A) approving VA24-0002 and DR24-0004, a Variance and Administrative Design Review application allowing for a pole sign with modified setbacks at a commercial business at 1007 San Pablo Avenue.

BACKGROUND

Aaron Hamilton (Applicant) submitted an application requesting approval consideration for Variance VA24-0002 and Administrative Design Review DR24-0004 to install a pole sign with modified setbacks to replace an existing nonconforming pole sign for Marathon Fuel at 1007 San Pablo Avenue. The project consists of the installation of a pole sign serving as a commercial identification and fuel price display on site.

Under Pinole Municipal Code Chapter 17.98, a pole sign means:

An on-site free-standing sign supported by a sign structure from the ground which identifies businesses or institutions located on the same parcel or in the same development on which the sign is located. Generally, pole signs are supported by one (1) or more metal or wood posts, pipes, or other vertical supports. The support structure is not integrated into the overall design of the sign.

The project site at 1007 San Pablo Avenue (APN 402-110-032) is located at the corner of San Pablo Avenue and Rogers Way. The site is occupied by the Smart Stop existing gas station use, with a convenience store, fueling canopy, and four fuel pumps. The business is in the process of transitioning to Marathon as the fuel provider and is undergoing rebranding.

Prior to this application, the applicant received permits for replacement signage for the fueling canopy and existing pole sign reflecting the rebranding for Marathon. While digging footings for the sign, the applicant encountered utilities that prevented completion of the work. The applicant determined that in order to clear the utilities and the existing protected tree, a modification to the setback would be needed and is requesting variance from the strict application of the Zoning Ordinance through this application.

The project is located along San Pablo Avenue, within an area regulated by the Three Corridors Specific Plan. The site has a Specific Plan land use/zoning designation of Commercial Mixed Use (CMU) and is within the Mixed-Use Sub-Area of the San Pablo Avenue

corridor. Properties to the east and west share the same CMU designation as well as Mixed Use Sub-Area; the property to the north has split CMU/R-4 zoning and is in the Mixed Use Sub-Area; adjacent properties to the south have R-1 zoning. A commercial office is located across Rogers Way to the east, a restaurant is located to the west, a lumber yard is located across San Pablo Avenue to the north, and single-family residential is located to the south.

The existing use on the site is a “Service Station” use as defined in the Three Corridors Specific Plan. New service stations are no longer permitted in the CMU district of the Mixed Use Sub-Area in the San Pablo Avenue corridor. However, the use is an existing use and is considered an existing legal nonconforming use that is allowed to continue operating unless the use is discontinued for more than six months. Consistent with the gas station moratorium adopted by the Council in 2024, the proposed use maintains the same number of fueling pumps and does not intensify the Service Station use.

The pole sign is considered an existing nonconforming structure with setbacks less than those set under current general standards. Per Pinole Municipal Code Section 17.14.050, exterior improvements and expansions of nonconforming structures may be considered under Administrative Design Review.

The Planning Commission is the approval authority for Variance applications. The Planning Commission is also responsible for making Administrative Design Review findings when Administrative Design Review requests are brought together with other entitlements requiring Planning Commission consideration. A draft resolution and conditions of approval are attached for approval consideration (Attachment A).

REVIEW AND ANALYSIS

Proposed Project

The project is a Variance and Administrative Design Review application for the installation of a pole sign with modified setbacks at 1007 San Pablo Avenue. The scope of the Variance and Administrative Design Review is limited to the pole sign; the existing convenience store, fueling canopy, and fueling pumps would not be further modified by the project. The proposed pole sign design and location are shown in the attached plan set (Attachment B).

The proposed sign would be a business identification and fuel pricing sign. The sign is approximately 59 square feet. It would be suspended approximately 10 feet above the ground by two poles on either edge of the sign; the resulting total height of the sign structure is approximately 20 feet. The sign would feature illumination of the logo and text, as well as displays for electronic fuel pricing.

The project requests a modification to the standard setback for pole signs through a Variance approval. Instead of the typical 10 feet from the right-of-way, the proposed adjustment would reduce the setback to 2 feet from the property line along the San Pablo Avenue side and 6 feet from the Rogers Way side.

General Plan Consistency

The project meets the intent of the General Plan Land Use designation “Mixed Use Sub-Area (MUSA)”, which is further expanded upon in the Three Corridors Specific

Plan. MUSA as described in the General Plan, Chapter 5 Land Use and Economic Development, is intended to allow for “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” and “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.” The project contributes to supporting commercial use in the MUSA.

The project supports the commercial operation of the business on-site that contributes to the variety of commercial services along San Pablo Avenue, and is consistent with the following applicable General Plan policies:

POLICY LU.1.1 Increase land use diversity along the San Pablo Avenue, Pinole Valley Road and Appian Way corridors; reduce residential density on large land holdings designated for Suburban Residential land use; and maintain other land use designations for a variety of residential, commercial, light industrial, recreational, open space and public purposes which (1) protect environmental resources; (2) provide a mix of housing types, densities and tenure; (3) ensure that a variety of commercial and industrial goods, services and employment opportunities are available; and (4) offer a range of recreational and public facilities to meet the needs of 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.

Specific Plan Consistency

The site is located in the San Pablo Avenue corridor of the Three Corridors Specific Plan. The Specific Plan provides several guidelines for consideration of sign design under Chapter 7 Private Realm Design Guidelines.

a. Design signs in harmony with the style and character of the development and as an integral design component of the building architecture. Signs shall coordinate with building design, colors, materials, and scale. Signs shall not dominate the building façade.

Staff Review: The sign is not attached to the building and does not detract from the building design. The design reflects branding applicable to the business.

b. Signage shall not obstruct or cover up architectural details or windows.

Staff Review: The sign does not obstruct or cover up architectural details or windows.

c. Sign letters and materials should be professionally designed and fabricated.

Staff Review: The sign letters and materials are professionally designed and fabricated.

d. All signs shall be maintained in good repair, including the display surface, which shall be kept neatly painted or posted.

Staff Review: The sign will be maintained in good repair as conditioned.

e. Pole signs are not allowed.

Staff Review: The site contained an existing nonconforming pole sign for fuel information display that the proposed sign replaces. As an existing nonconforming structure, the sign meets the standards for relocation and expansion as described in the findings below.

f. A-frame signs are not allowed anywhere with the exception of Old Town.

Staff Review: The sign is not an A-Frame sign.

g. Signage for businesses that have ceased operation for 90 days shall be removed.

Staff Review: The business has not ceased operation for 90 days.

The project furthers the commercial use of the site in the Mixed Use Sub-Area of the San Pablo Avenue Corridor by providing business identification and information related to the commercial use of the site. The Mixed Use Sub-Area in the San Pablo Avenue corridor is envisioned in the Specific Plan as “creating a bridge between historic Old Town Pinole and the Service sub-area” and having “a varied mix of uses (low density residential, multi-family residential, professional office, and service commercial) will play a vital role in fulfilling this vision”, from Three Corridors Specific Plan Chapter 6, Section 6.5. The project contributes to supporting the commercial use that is an existing part of the mix of commercial offerings along San Pablo Avenue.

Zoning Code Consistency

The Zoning Code (Title 17 of the Pinole Municipal Code) establishes the standards applicable to the project, including general sign regulations outlined in Chapter 17.52. While the project requests modified setbacks that deviate from the standard 10-foot requirement from the right-of-way, it complies with all other applicable standards. The total proposed sign structure height is 20 feet, which is below the maximum allowed height of 25 feet. The sign area is 59.82 square feet, slightly under the maximum allowed area of 60 square feet. The bottom of the sign is approximately 10 feet above the ground, exceeding the minimum clearance requirement of 7.5 feet. Additionally, as a condition of approval, landscaping around the base of the sign will be maintained in accordance with standard requirements.

The sign is an internally illuminated cabinet, with illumination from the logo and lettering, and electronic fuel pricing numbers. The Zoning Code provides general requirements for standard sign illumination in Section 17.52.100. Applicable requirements include not casting stray light on surrounding rights-of-way and properties; not being of an intensity or brightness that will create glare or negative impact on residential properties in direct line of sight of the sign; not having blinking, flashing, or fluttering lights, or other illumination devices that have a changing light intensity, brightness, or color; and utilizing energy-efficient fixtures to the greatest extent possible. The proposed sign would be internally lit and does not feature exposed external light sources. The structure is located close to the corner of the property, near to the San Pablo Avenue and Rogers Way intersection, to minimize visibility to nearby

residential. The sign would not feature blinking, flashing or fluttering lights. Signage is required to comply with energy-efficient requirements through the Building Permit application. Additionally, the sign illumination requirements from the Zoning Code have been incorporated into the conditions of approval to reiterate requirements for ongoing operation and maintenance.

The pole sign at the site was an existing nonconforming structure. Addition, enlargement, extension, or relocation of a nonconforming structure may be allowed under Section 17.14.050 provided the structure conforms with applicable provisions and modifications do not expand the nonconforming aspect or result in new nonconforming conditions. The proposal under this application would not increase the number of pole signs or result in new encroachment into the setback area.

CEQA Determination

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Sections 15303 (Class 3). Construction and location of limited numbers of new, small facilities or structures, such as the pole sign, are categorically exempt under CEQA under Class 3. Exceptions that may otherwise preclude the exemption do not apply: the project is located on a developed site and would not have a significant effect on the environment, is not part of successive projects that would result in cumulative impacts, would not have a significant effect on the environment due to unusual circumstances, does not cause adverse change to a historical resource, and is not located along a scenic highway or hazardous waste site.

Approval Findings

In reviewing a Variance application, Planning Commission will consider approval findings under Pinole Municipal Code Section 17.12.130, copied below. Planning Commission may approve and/or modify any variance application in whole or in part, with or without conditions, if it determines the applicant demonstrated the circumstances of their particular case can justify making all of the findings under Section 17.12.130.

In Administrative Design Review, Planning Commission will consider approval findings under Pinole Municipal Code Section 17.12.080.

The findings are copied below, and Staff has provided the Staff assessment of the Project's consistency with the findings. For project approval, the draft resolution and conditions of approval are included as Attachment A.

Variance Findings

1. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, topography, or other conditions), so that the strict application of this Zoning Code denies the property owner privileges enjoyed by other property owners in the vicinity and within the same zoning district.

Staff Review: The configuration of the property and existing features presents special circumstances that constrain options for pole signs. The location of the previous pole sign on site was located between underground utility lines and a large protected tree. While removal of the tree adjacent to the sign would provide

additional room for more configuration options that could meet the current 10 foot general setback standards, the removal of the protected tree was not desirable to the owner and Pinole Municipal Code Chapter 17.96 Tree Removal generally encourages the preservation of protected trees. Nearby properties with pole signs include Nob Hill Plaza and Treasure Hunt, which are both in the Mixed Use Sub-Area, and Pump House at the San Pablo Avenue and Tennent Avenue intersection has the same land use and CMU designation. Therefore, strict application of general standards in the zoning code may deny privileges for pole signs enjoyed by owners in the vicinity and the same zoning district.

2. Granting the variance is necessary for the preservation and enjoyment of substantial property rights enjoyed by other property owners in the same vicinity and zoning district and denied to the property owner for which the variance is sought.

Staff Review: The site previously contained a pole sign that was located closer to the right of way than provided under the current general setback for pole signs. The smaller setback of the previous sign was comparable to other existing pole signs in the vicinity that are located approximately one to three feet from the sidewalk. The pole signs for Nob Hill Plaza and Treasure Hunt along San Pablo Avenue are located within 600 feet of the project site and have pole signs that do not meet current general setback standards. These nearby sites host commercial uses similar to the project site and have pole signs for commercial identification and are located in the same Mixed Use Sub-Area. At the San Pablo Avenue and Tennent Avenue intersection, the Pump House service station has a similar business identification and fuel information sign located adjacent to the sidewalk. This site shares the same use and CMU designation as the project site. The granting of the variance would preserve substantial property rights enjoyed by other owners in the vicinity and zoning designation.

3. Granting the variance will not adversely affect the interests of the public or the interests of residents and property owners in the vicinity of the premises in question.

Staff Review: The location of the proposed sign would encroach into standard setback areas for pole signs but replaces a prior pole sign located in the same general location. The proposed sign would be able to avoid location of structures within the clear vision triangle as shown in the plans. As provided in Chapter 17.98, a clear vision triangle has two sides that are each 10 feet long, measured from an intersection of two lines following the curb line of two streets, and a third side connecting the remaining points of the other two side. The sign would be clear of the clear vision triangle, which is intended to maintain visibility. The sign would identify the business and fuel price information for the use on the site. The sign would be required to be operated and maintained to minimize glare as conditioned and consistent with general requirements in the Zoning Code. Therefore, the variance would not adversely affect the interests of the public or those in the vicinity.

4. The variance is consistent with the general plan, any applicable specific plan or development agreement, and the intent of this title.

Staff Review: The project is consistent with the General Plan, Specific Plan, and applicable provisions of the Zoning Code, as described above in the General Plan, Specific Plan, and Zoning Code Consistency sections, and as conditioned (Attachment A). The project provides signage that serves the commercial use on the

site and meets general sign design standards except the alternate minimum setbacks requested under this variance. The project is consistent with applicable provisions of the Zoning Code as conditioned.

Administrative Design Review Findings

1. Compliance with the general plan and any applicable specific plans.

Staff Review: See Variance finding 4.

2. Compliance with applicable provisions of the zoning code.

Staff Review: See Variance finding 4.

3. Compatibility with the surrounding neighborhood.

Staff Review: The sign is located along the San Pablo Avenue corridor that features a varied mix of commercial development and signage. Other signage in the area includes freestanding signs close to the sidewalk and the proposed sign would be compatible with the location of other signage. As conditioned, the sign would be required to be well-maintained and minimize glare. Except for deviations requested under the variance, the sign meets applicable development standards.

4. Qualifying single-family residential, multi-family residential, and residential mixed-use projects shall comply with all relevant standards and guidelines in the city's currently adopted design guidelines for residential development.

Staff Review: This finding does not apply.

Attachments

Attachment A. Resolution 24-07, with Exhibit A. Conditions of Approval

Attachment B. Plan Set

FISCAL IMPACT

ATTACHMENTS

A. Attachment A. Reso 24-07 with Exhibit A. COAs

B. Attachment B. Plan Set

**PLANNING COMMISSION RESOLUTION 24-07
WITH EXHIBIT A: CONDITIONS OF APPROVAL**

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, APPROVING VARIANCE VA24-0002 AND ADMINISTRATIVE DESIGN REVIEW DR24-0004 TO INSTALL A NEW POLE SIGN WITH MODIFIED SETBACKS TO REPLACE A PREVIOUS POLE SIGN FOR MARATHON AT 1007 SAN PABLO AVENUE

WHEREAS, Aaron Hamilton, applicant, has filed an application for Variance VA24-0002 and Administrative Design Review DR24-0004 with the City of Pinole to install a new pole sign with modified setbacks to replace an existing nonconforming pole sign for Marathon at 1007 San Pablo Avenue (APN 402-110-032); and

WHEREAS, general standards for signage are provided in Pinole Municipal Code Title 17 (Zoning Code) under Pinole Municipal Code Chapter 17.52, including minimum setback distances of ten feet from the right of way for pole signs; and

WHEREAS, the applicant requests a modification of general standards to reduce the minimum setback distances as shown in the applicant's proposed plan set in order to avoid utility infrastructure and impacts to an existing protected tree; and

WHEREAS, a variance from general standards contained in the Zoning Code may be requested through a Variance application; and

WHEREAS, an addition, enlargement, extension, or relocation of a nonconforming structure may be requested through an Administrative Design Review application; and

WHEREAS, the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303 (Class 3). Construction and location of limited numbers of new, small facilities or structures, such as the pole sign, are categorically exempt under CEQA under Class 3. Exceptions that may otherwise preclude the exemption do not apply: the project is located on a developed site and would not have a significant effect on the environment, is not part of successive projects that would result in cumulative impacts, would not have a significant effect on the environment due to unusual circumstances, does not cause adverse change to a historical resource, and is not located along a scenic highway or hazardous waste site; and

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

WHEREAS, the Planning Commission of the City of Pinole has conducted a duly noticed public hearing to consider VA24-0002 and DR24-0004 on December 9, 2024; and

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. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, topography, or other conditions), so that the strict application of this Zoning Code denies the property owner privileges enjoyed by other property owners in the vicinity and within the same zoning district; and
2. Granting the variance is necessary for the preservation and enjoyment of substantial property rights enjoyed by other property owners in the same vicinity and zoning district and denied to the property owner for which the variance is sought; and
3. Granting the variance will not adversely affect the interests of the public or the interests of residents and property owners in the vicinity of the premises in question; and
4. The variance is consistent with the general plan, any applicable specific plan or development agreement, and the intent of this title; and
5. The project would be in compliance with the general plan and any applicable specific plans; and
6. The project would be in compliance with applicable provisions of the zoning code; and
7. The project would be compatible with the surrounding neighborhood; and
8. The project is Categorically Exempt from CEQA pursuant to Section 15303.

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

- A. Hereby approves VA24-0002 and DR24-0004 as provided in the staff report, and subject to the Conditions of Approval attached as Exhibit A to this Resolution.
- B. The approval of VA24-0002 and DR24-0004 shall expire on December 9, 2025, unless exercised or a written request has been submitted to the City, prior to the expiration date within the timeframe and procedures established under Chapter 17.10 of the Pinole Municipal Code.

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 9th day of

December 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Rafael Menis, Chair 2024-2025

ATTEST:

David Hanham, Planning Manager



Exhibit A PLANNING COMMISSION RESOLUTION 24-07 CONDITIONS OF APPROVAL

		<u>Timing/ Implementation</u>	<u>Monitoring Department / Division</u>	<u>Verification</u>
1.	GENERAL CONSISTENCY – The project shall be consistent with the approved plan set and project description unless otherwise specified in these conditions of approval and shall be consistent with all applicable federal, state & local laws, including the California Subdivision Map Act and pertinent sections of the Pinole Municipal Code.	Ongoing	Community Development Department	
2.	MODIFICATIONS – Any proposed modifications to the plans and operations shall be submitted to the Planning Manager for evaluation. The Planning Manager will determine whether changes need to be brought to Planning Commission for approval.	Ongoing	Community Development Department	
3.	HOLD HARMLESS – The owner 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. The owner further agrees to provide a defense for the city in any such action.	Ongoing	Community Development Department	
4.	DESIGN MAINTENANCE – The sign appearance shall be maintained in good condition, including paint colors being neatly kept and any damage being promptly repair.	Ongoing	Community Development Department	
5.	SITE MAINTENANCE – The owner shall ensure orderly maintenance of the site, including clearance of any waste and debris on site. The surrounding area shall be cleaned of any waste and debris that may result from the project. All exterior on-site lighting shall be maintained in good condition at all times. Any graffiti that appears shall be removed or painted over within 72 hours.	Ongoing	Community Development Department	



Exhibit A
PLANNING COMMISSION RESOLUTION 24-07 CONDITIONS OF APPROVAL

		<u>Timing/ Implementation</u>	<u>Monitoring Department / Division</u>	<u>Verification</u>
6.	LANDSCAPING MAINTENANCE - The owner shall ensure orderly maintenance of landscaping around the base of the sign and at the corner of the property. Landscaping shall be provided at the base of the sign equal to the area of the sign. Landscaping shall be complementary to overall landscaping on the property. The owner shall ensure trees and landscaping in the project site area are maintained in good condition. Dead vegetation shall be replaced promptly. Plantings shall be maintained so that clear visibility is maintain between 2.5 feet to 7 feet above grade.	Ongoing	Community Development Department	
7.	ILLUMINATION - Illuminated signs shall be designed, operated, and maintained to minimize glare to abutting properties, and consistent with applicable requirements in Pinole Municipal Code Section 17.52.100(B). The section is copied below: Sign illumination. The artificial illumination of signs, either from an internal or external source, shall be designed so as not to cast stray light on surrounding rights-of-way and properties. The following requirements shall apply to all illuminated signs: 1. External light sources shall be directed and shielded to limit direct illumination of an object other than the sign; 2. The light from an illuminated sign shall not be of an intensity or brightness that will create glare or other negative impacts on residential properties in direct line of sight to the sign; 3. Unless otherwise permitted by another requirement of this chapter, signs shall not have blinking, flashing, or fluttering lights, or other illumination devices that have a changing light intensity, brightness, or color;	Ongoing	Community Development Department	



Exhibit A
PLANNING COMMISSION RESOLUTION 24-07 CONDITIONS OF APPROVAL

		<u>Timing/ Implementation</u>	<u>Monitoring Department / Division</u>	<u>Verification</u>
	4. Colored lights shall not be used at a location or in a manner so as to be confused or constructed as traffic control devices; 5. Reflective type bulbs and incandescent lamps that exceed fifteen (15) watts shall not be used on the exterior surface of signs so that the face of the bulb or lamp is exposed to a public right-of-way or adjacent property; and 6. Light sources shall utilize energy-efficient fixtures to the greatest extent possible and shall comply with Title 24 of the California Code of Regulations (California Building Standards Code).			
8.	<u>ELECTRONIC DISPLAY</u> - Electronic displays shall be operated in compliance with any applicable portions of Electronic Message Sign operation standards in Pinole Municipal Code Section 17.52.110(F)(3). The section is copied below: Sign brightness. The electronic message sign (including both graphic and video displays) must not exceed a maximum illumination of six thousand (6,000) nits (candelas per square meter) during daylight hours and a maximum illumination of one thousand (1,000) nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness. All electronic message centers shall be designed and operated with automatic dimming features and have the capability for the owner/operator of the sign to reduce the illumination and/or brightness to adjust to background and ambient light conditions. These controls may include an auxiliary photocell on or near the sign.	Ongoing	Community Development Department	



Exhibit A

PLANNING COMMISSION RESOLUTION 24-07 CONDITIONS OF APPROVAL

		<u>Timing/ Implementation</u>	<u>Monitoring Department / Division</u>	<u>Verification</u>
9.	BUILDING PERMIT - The owner shall obtain a Building Permit for proposed construction, unless an extension request in accordance with PMC Chapter 17.10 is submitted.	Within one year of approval	Community Development Department	
10.	PUBLIC WORKS PERMITS AND REQUIREMENTS - The owner shall submit obtain all applicable approvals and permits from the Public Works Department, which may include but are not limited to: - Encroachment permit for any work within or temporary obstructions to the public right-of-way	Prior to construction or occupancy	Community Development Department/ Public Works Department	
11.	CONSTRUCTION ACTIVITY - The following provisions shall be followed for any construction activities for the project: a. Consistent with PMC 15.02.070, work is allowed from seven a.m. (7:00 a.m.) to five p.m. (5:00 p.m.) Monday through Friday. Work is allowed, but no inspections will be performed on non-federal holidays, which are holidays that are not acknowledged federally but are recognized by the City of Pinole. These holidays include, but are not limited to, Cesar Chavez's Birthday and the Day After Thanksgiving. Saturday work is allowed in commercial zones only, from nine a.m. (9:00 a.m.) to six p.m. (6:00 p.m.), if it is interior work and does not generate significant noise. Any exceptions must be reviewed according to PMC 15.02.070. b. Earth haul and materials delivery to and from the site will be prohibited between the hours of 7:00 - 9:00 A.M. and 3:00 - 6:00 P.M. c. All construction vehicles should be properly maintained and equipped with exhaust mufflers and meet State and Federal standards.	During Construction	Community Development Department/ Public Works Department	



Exhibit A
PLANNING COMMISSION RESOLUTION 24-07 CONDITIONS OF APPROVAL

		<u>Timing/ Implementation</u>	<u>Monitoring Department / Division</u>	<u>Verification</u>
	d. Work must be controlled to prevent causing a public nuisance due to dust, noise, vibrations, and the like. e. Newly disturbed soil surfaces shall be watered down regularly by a water truck maintained on site during all day light hours and construction grading activity shall be discontinued in wind conditions greater than 10 miles per hour. f. Construction activities shall be scheduled so that paving and foundation placement begin immediately upon completion of grading operation. g. All excavated materials shall be covered with a tarp during transit to and from the site			
12.	<u>ACCESS TO PUBLIC ROADWAY</u> – Vehicles associated with the project, including construction vehicles, shall not block access to any public roadway, unless City approval has been provided.	During Construction	Public Works Department	
13.	<u>INSPECTIONS</u> – The applicant shall arrange all inspection with the Building Division and Public Works Department, as applicable to construction. The owner shall notify the Community Development Department at least 48 hours prior to starting any work pertaining to on-site drainage facilities, grading, or paving, as well as any work in the City's right-of-way. All Building Division inspection requests shall be made at least 24 hours in advance.	Prior to final inspection	Community Development Department/ Public Works Department	



Exhibit A
PLANNING COMMISSION RESOLUTION 24-07 CONDITIONS OF APPROVAL

		<u>Timing/ Implementation</u>	<u>Monitoring Department / Division</u>	<u>Verification</u>
14.	REPAIR AND REPLACEMENT – The owner shall repair and replace to existing City standards, any sidewalks, curb, gutter, and driveway abutting the project site, as required by the Public Works Department. The owner shall be responsible for the repair and replacement of any sidewalk, curb, gutter, driveway, or public property that was damaged or demolished in connection with the project and was not previously approved by the Public Works Department. The owner shall coordinate with the Public Works Department to ensure repair and replacement is done consistent with City standards.	Prior to final inspection	Community Development Department/ Public Works Department	

MARATHON PERMIT PACKAGE

1007 San Pablo Avenue, Pinole, California 94564

ATTACHMENT B

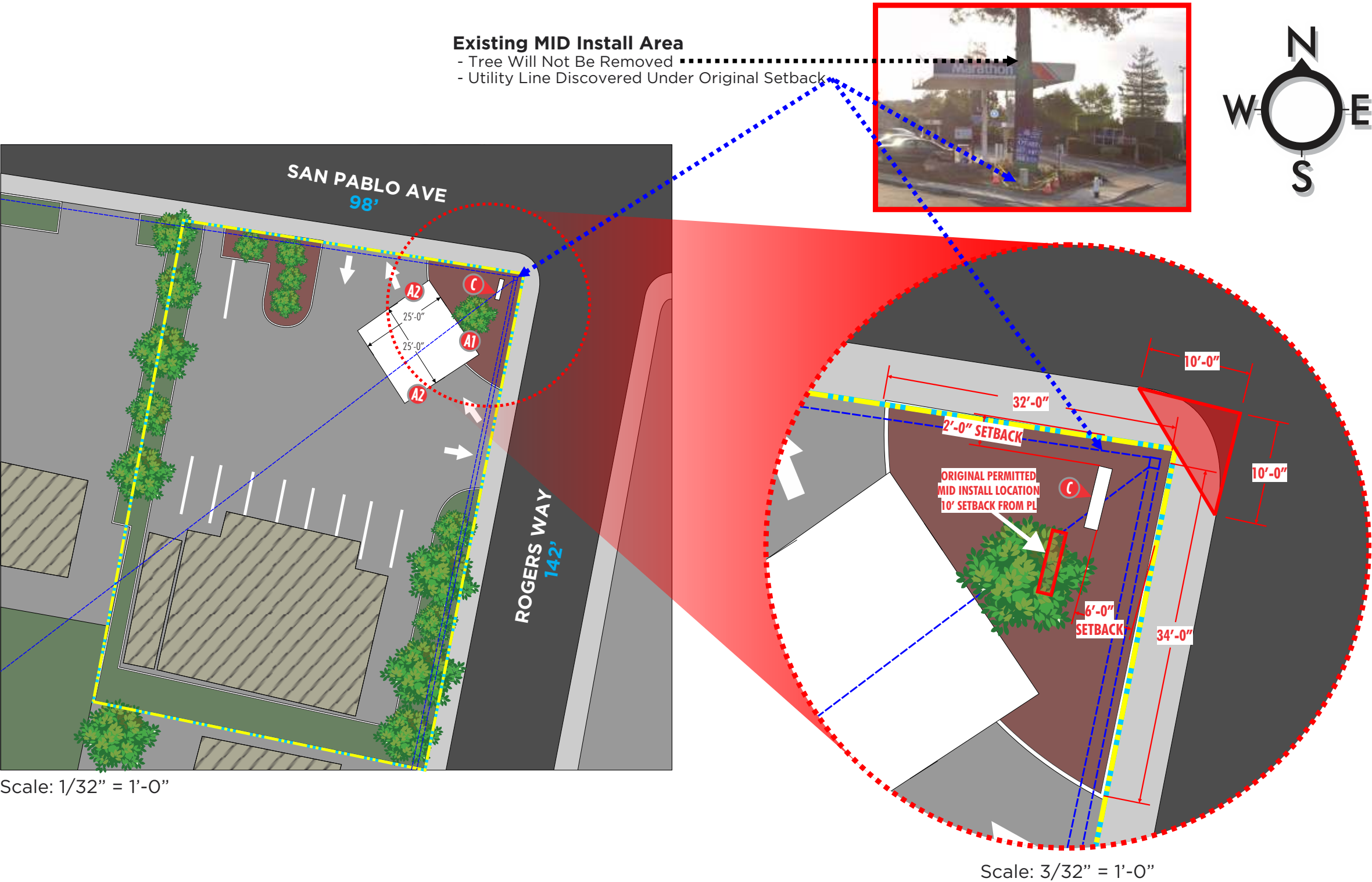
Package Corrections

- 1. Added existing electrical lines to site plan.



**PROMOTION PLUS
SIGN CO., INC.**
"The Imaging Experts"

Revised 11/26/2024



Additional Info

APN: 402-110-032
Acreage: 0.29
Zoning: Commercial Mixed Use (CMU)

Project Overview (Legend)

- A1 — Marathon Wordmark
- A2 — Marathon Badge Sign
- C — Main ID Sign

 PROMOTION PLUS SIGN CO., INC. "The Imaging Experts" Check Us Out On  zoomsupply.com 21034 Osborne St. Canoga Park, CA 91304 State License: 853228 	Job Location Site #: 1007/Pinole 1007 San Pablo Avenue, Pinole, California 94564	Owner Information Synergy Petroleum 510 Myrtle Ave #209 South San Francisco, CA 94080 Moe Hamadi 650-267-0523 moe@casynergy.com	Project Information Project: Marathon Endurance Est: 137864 Date: 12/4/2024 Rev: 09 Designer: RH/LR/PS	Approval X Owner I have reviewed all renderings and I am satisfied with the look and the scope of work listed within. This rendering is property of Promotion Plus Sign Co., Inc. and cannot be reproduced without written consent of owner X Date
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EXISTING

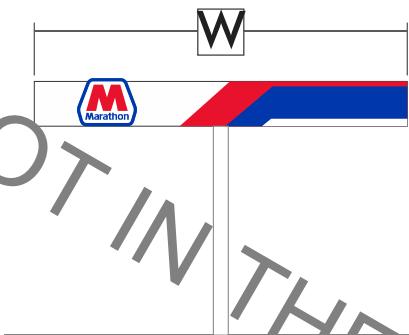


PROPOSED

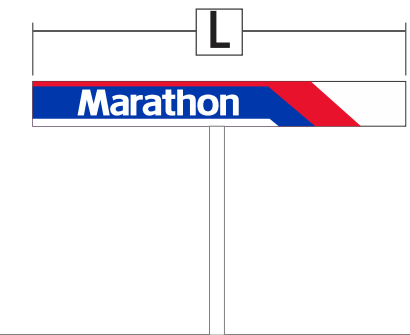
 PROMOTION PLUS SIGN CO., INC. “The Imaging Experts” Check Us Out On zoomnsupply.com  21034 Osborne St. Canoga Park, CA 91304 (P) 818.993.5406 (F) 818.993.3174 State License: 853228	Job Location Site #: 1007/Pinole 1007 San Pablo Avenue, Pinole, California 94564	Owner Information Synergy Petroleum 510 Myrtle Ave #209 South San Francisco, CA 94080 Moe Hamadi 650-267-0523 moe@casynergy.com	Project Information Project: Marathon Endurance Est: 137864 Date: 12/4/2024 Rev: 09 Designer: RH/LR/PS	Approval × × Owner I have reviewed all renderings and I am satisfied with the look and the scope of work listed within. This rendering is property of Promotion Plus Sign Co., Inc. and cannot be reproduced without written consent of owner Date
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L Canopy Length: 25'-0"	W Canopy Width: 25'-0"	Fascia Height: 36"	Clearance: 14'-0"
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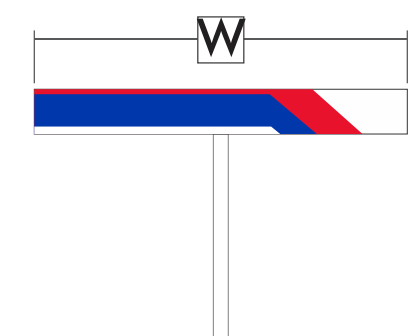
A North-West Elevation | Illuminated



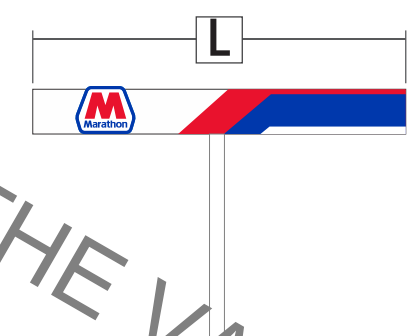
A North-East Elevation | Illuminated



A South-West Elevation | Non-Illuminated

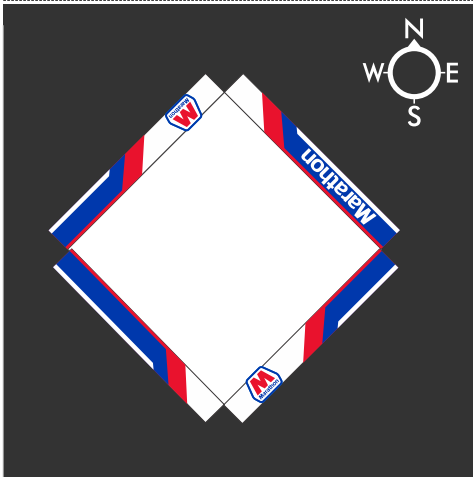


A South-East Elevation | Illuminated



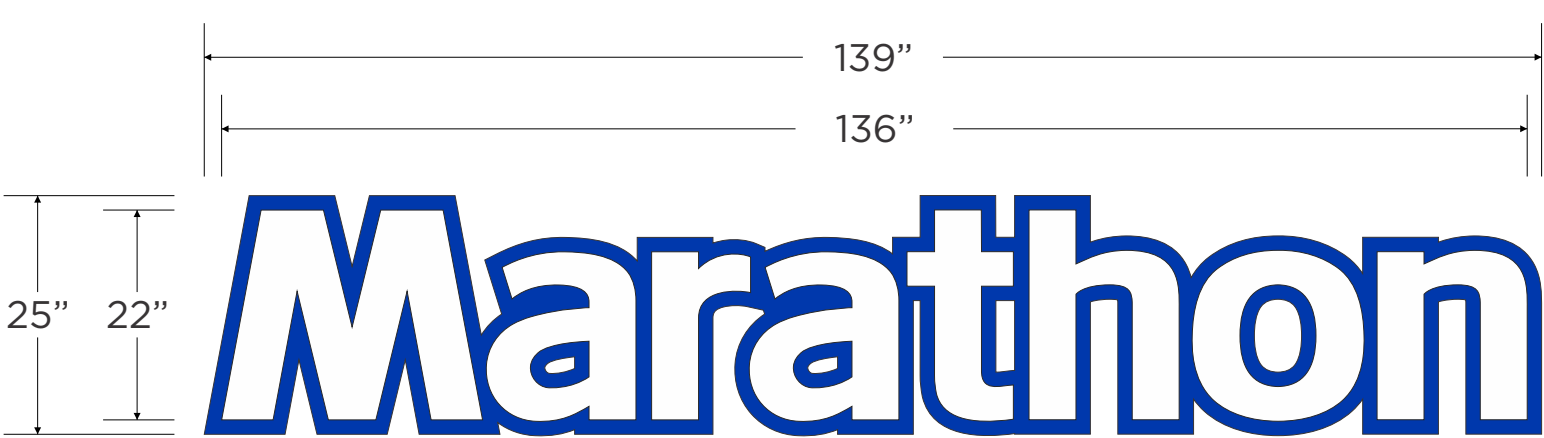
Additional Info

- Remove all non-marathon imaging.
- Install new fascia system.
- Install new Marathon Logos



NTS

SEE ATTACHMENT DETAIL
ON FOLLOWING PAGE



25" Wordmark Front Illuminated Channel Letters | Qty x1 | 1:20
24.13 SQ FT

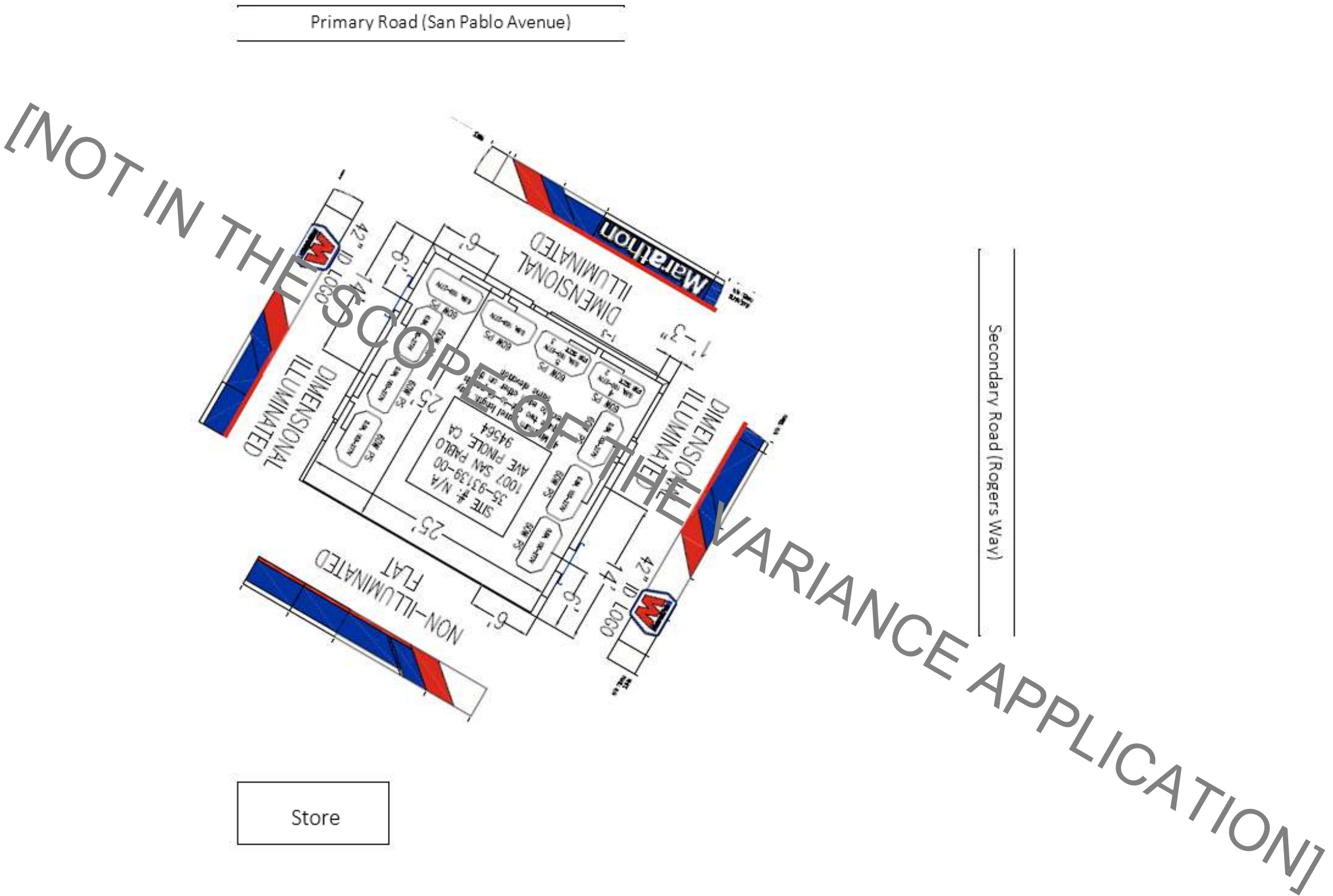


Front Illuminated LED Channel Logo | Qty x2 | 1:20
15.31 SQ FT

PMS 286 C 3M 3630-43
PMS 185 C 3M 3630-43

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	Site #: 1007/Pinole 1007 San Pablo Avenue, Pinole, California 94564	Synergy Petroleum 510 Myrtle Ave #209 South San Francisco, CA 94080 Moe Hamadi 650-267-0523 moe@casynergy.com	Project: Marathon Endurance Est: 137864 Date: 12/4/2024 Rev: 09 Designer: RH/LR/PS	X Owner	X Date
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Approved Layout





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State License: 853228



Job Location

Site #: 1007/Pinole
1007 San Pablo Avenue,
Pinole, California 94564

Owner Information

Synergy Petroleum
510 Myrtle Ave #209
South San Francisco, CA 94080

Moe Hamadi
650-267-0523
moe@casynergy.com

Project Information

Project: Marathon Endurance
Est: 137864

Date: 12/4/2024
Rev: 09
Designer: RH/LR/PS

Approval

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×

Owner

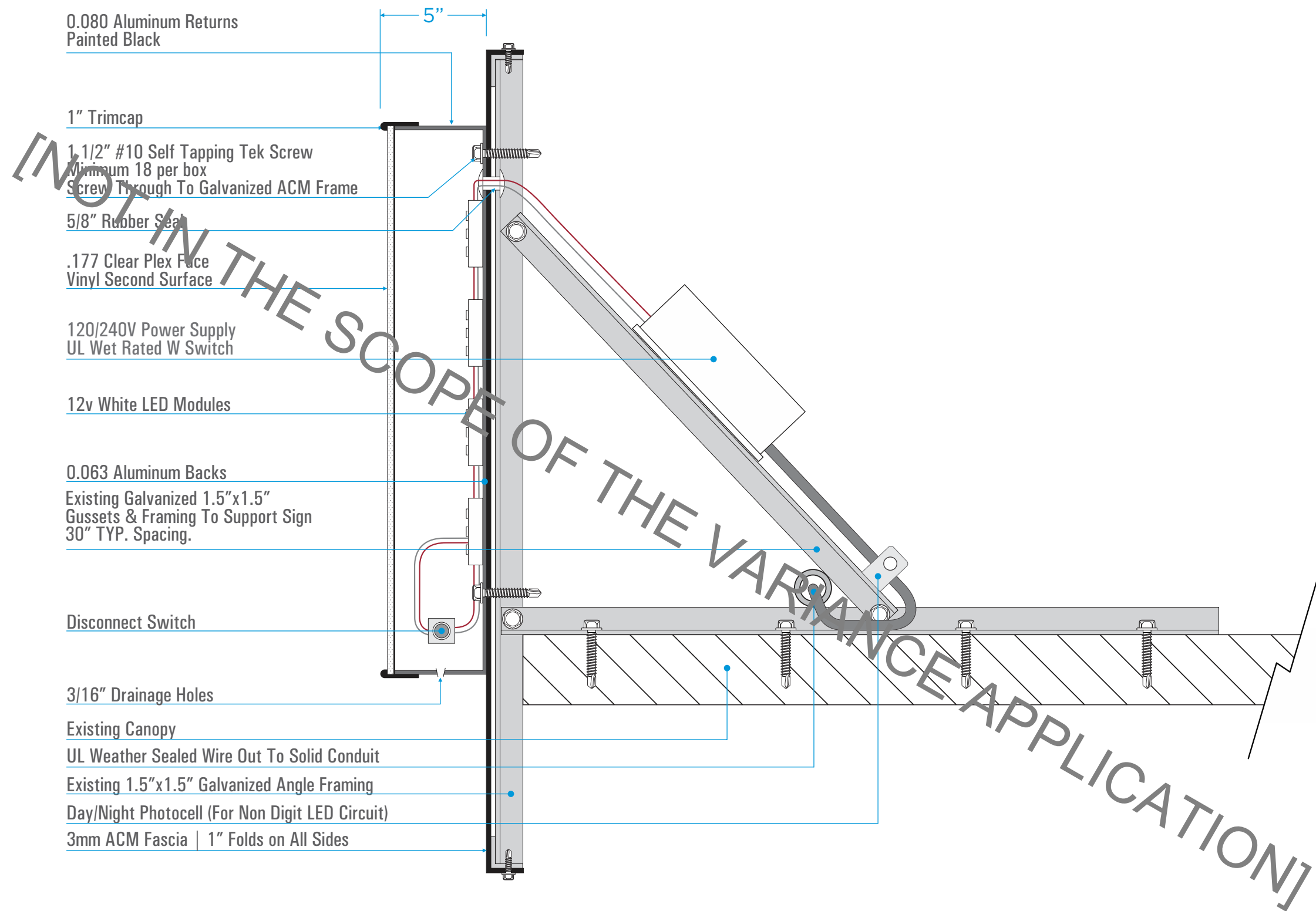
Date

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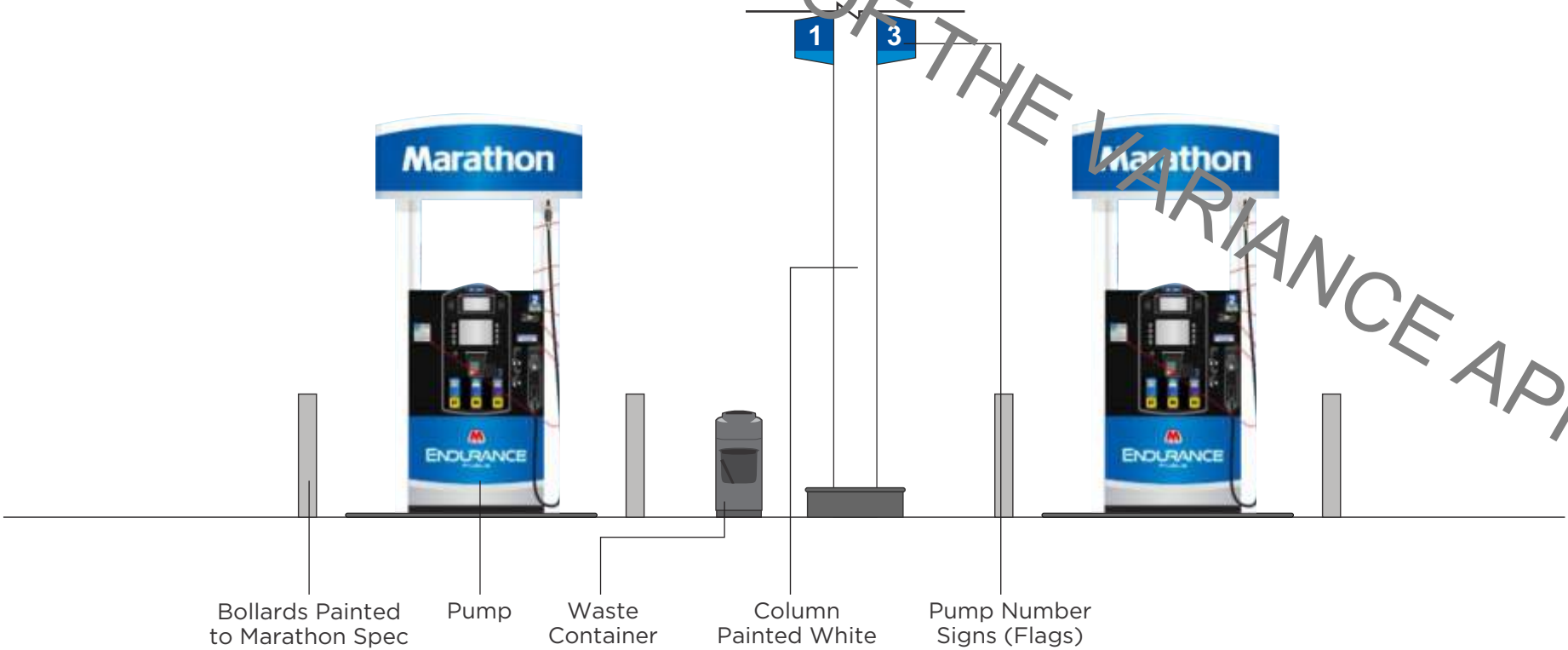
Approval	
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B Under Canopy Layout



Notes/Disclaimers	
Scope/Elements	
Pump Flags	Pump Number Signs, Includes Set of Vinyl Numbers Decal Number Set (1-4)
CSU	New CSU units w/ Windshield Service Center Secure
Bollards	Paint to brand specs (Dark Grey or Stainless Steel)
Columns	Painted to Brand Specs (White)
Island	Painted to Brand Specs (Gray, Black, or Concrete)

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X	X
Owner	Date
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Existing Dispenser

SITE WILL RECEIVE
NEW GILBARCO
ENCORE 700s

- 2 New Gilbarco Encore 700s (3+0)
- | | |
|-----------|---|
| Valance | Marathon Dispenser valance decal kit |
| Decals | <ul style="list-style-type: none">•PID Overlays•Display Overlays•Credit Card Decal•Grade Decals•Operation•Gasoline•Warning Decals•Ethanol Decal•Boot Nozzle Overlays•Additional Regulatory as Needed |
| Tank Tags | New Tank Tags Needed |



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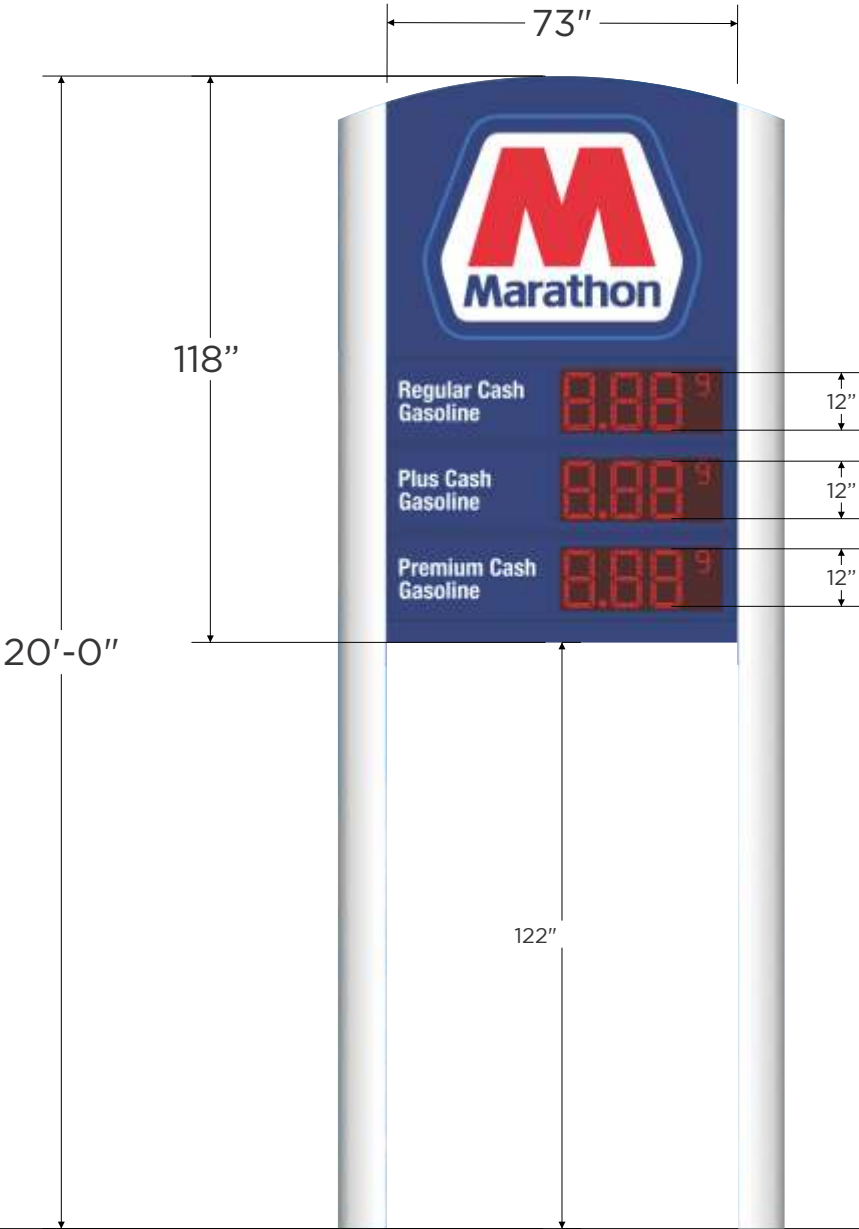
State License: 853228



Job Location	Owner Information	Project Information	Approval						
Site #: 1007/Pinole 1007 San Pablo Avenue, Pinole, California 94564	Synergy Petroleum 510 Myrtle Ave #209 South San Francisco, CA 94080 Moe Hamadi 650-267-0523 moe@casynergy.com	Project: Marathon Endurance Est: 137864 Date: 12/4/2024 Rev: 09 Designer: RH/LR/PS	× × <table><tr><th>Owner</th><th>Date</th></tr><tr><td>I have reviewed all renderings and I am satisfied with the look and the scope of work listed within.</td><td></td></tr><tr><td colspan="2">This rendering is property of Promotion Plus Sign Co., Inc. and cannot be reproduced without written consent of owner</td></tr></table>	Owner	Date	I have reviewed all renderings and I am satisfied with the look and the scope of work listed within.		This rendering is property of Promotion Plus Sign Co., Inc. and cannot be reproduced without written consent of owner	
Owner	Date								
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Pole Illuminated Cladding
Side View | NTS

1T 3P Marathon V10 MID System
Double Sided | 1:40 | 59.82 sqft
Internally Illuminated Cabinet
Formed Face Logo | 12" Priceline Red LED Digits
Twin Pole Cladding

Tree will not be Removed

Existing MID



SCOPE 1T 3P - New V10 MID System	
Install	Removal of existing faces, cabinets, and retainers. Cut existing pole to grade. Install new V10 system in place. New foundation needed. Twin pole cladding.





PLANNING COMMISSION REPORT

H.2.

DATE: DECEMBER 9, 2024
TO: PLANNING COMMISSION
FROM: DAVID HANHAM, PLANNING MANAGER
SUBJECT: UP24-02 SPROUTS FARMER'S MARKET UPGRADE OF LIQUOR LICENSE
TO TYPE 21 LOCATED AT 1300 PINOLE VALLEY ROAD

RECOMMENDATION

Adopt Resolution 24-08 (Attachment A) approving Conditional Use Permit UP 24-02 for Sprouts Farmer's Market (1300 Pinole Valley Road) to upgrade its existing liquor license to a Type 21, off-site consumption of beer, wine, and spirits subject to conditions of approval

BACKGROUND

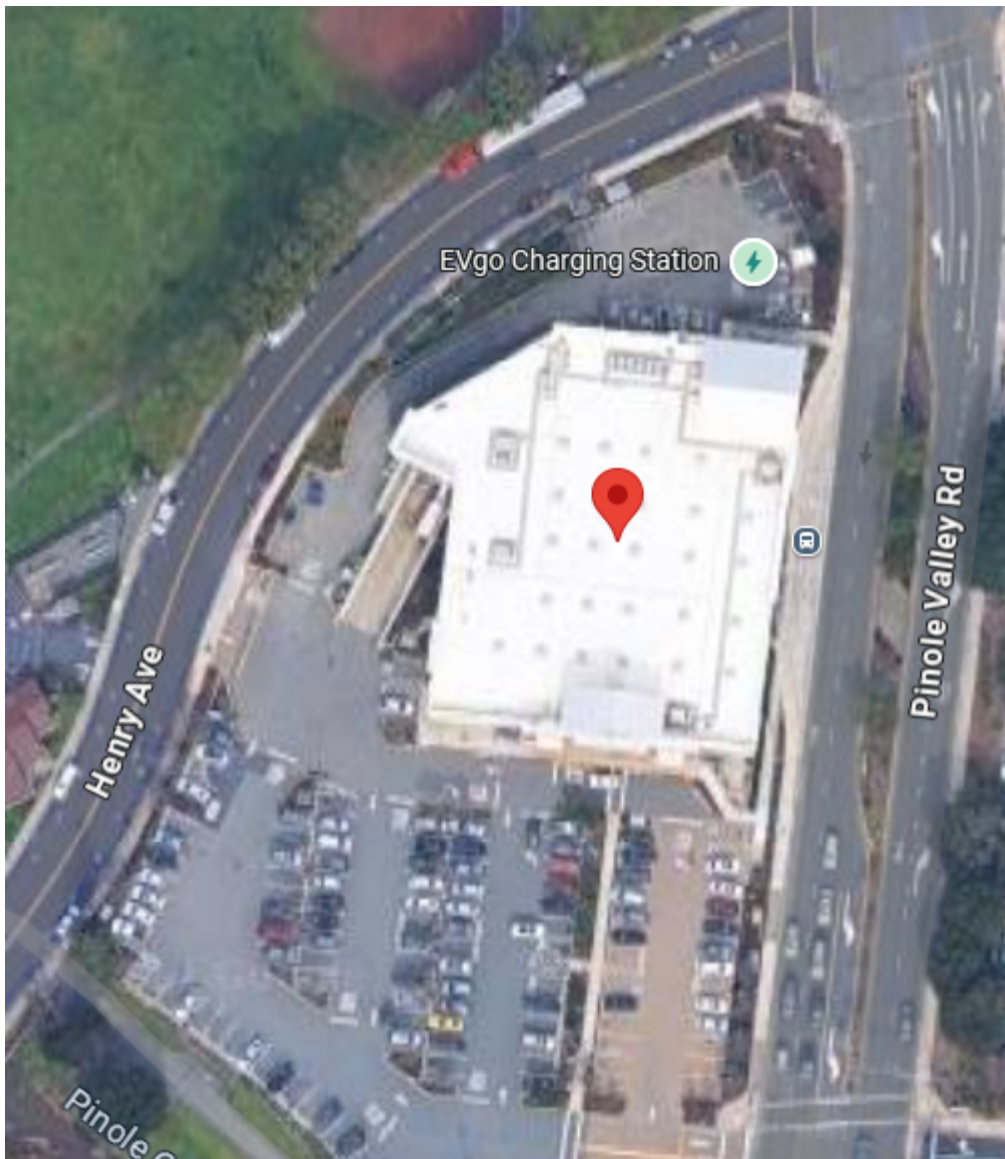
Business Owner / Applicant:

Sprouts Farmer's Market
1300 Pinole Valley Road
Pinole, CA 94564

PROJECT:	Sprouts Farmer's Market Alcohol Sales Use Permit
FILE:	Conditional Use Permit (UP) 24-02
LOCATION:	1300 Pinole Valley Road
APN:	401-410-020
ZONING:	OPMU, Office Professional Mixed Use
SPECIFIC PLAN:	Service Sub=Area – Pinole Valley Road Corridor
GP LU Designation:	SSA – Service Sub Area

Terri Dickerhoff on behalf of Sprouts Farmers Market has requested a Conditional Use Permit (UP24-02) to sell beer, wine, and distilled spirits for off-site consumption for their store located at 1300 Pinole Valley Road. Currently, Sprouts Farmers Market has a Type 20 License to sell beer and wine for off-site the premises consumption that was approved by the Planning Commission in 2014 as part of the Gateway Shopping Center Project. Sprouts Farmers Market representatives have stated that beer, wine and spirits will enable them to offer a greater convenience for customers seeking alcoholic beverages that are available at several nearby locations. Figure 1 shows the location of Sprouts Farmer's Market.

Figure 1 Site Location



The project site is located along the west side of Pinole Valley Road at the southwest corner of the signalized intersection to the Gateway West Shopping Center. Adjacent land uses are summarized below.

Direction of Project Site	Existing Land Use
North	Elementary School
West	R-1, Suburban Residential
South	Retail Commercial (Gateway Commercial area & Bowling Alley)
East	Kaiser Permanente/Starbucks

The State Department of Alcoholic Beverage Control (ABC) enforces the licensing of alcoholic retailers regulated by State Law under Section 23958 of the Business and Professions Code.

A Type 21 license allows sales of beer, wine, and distilled spirits for off-premises consumption. In order to sell beer, wine and distilled spirits at a retail establishment, a business must apply to ABC for a Type 21 license and obtain a conditional use permit from

the City. Sprouts Farmer's Market applied and was approved for a Type 20 License (selling of beer and wine for off-site consumption) in 2016.

REVIEW AND ANALYSIS

Alcohol Sales Conditional Use Permit

Alcohol Sales within the Pinole Valley Road Corridor, OPMU Zone District of the Three Corridor Specific Plan requires a business to obtain a Conditional Use Permit for the purpose of allowing alcohol sales. To supplement offerings provided as part of the business operation, Sprouts Farmer's Market has applied for a Type 21 Alcohol License through the Department of Alcohol Beverage Control (ABC). The Type 21 License allows the business to sale beer, wine and spiritis for off-site consumption. Chapter 17.59 Alcohol Sales and Section 17.12.140 of the Pinole Municipal Code (PMC) govern the requirements for alcohol sales in the City of Pinole.

Staff has reviewed Section 17.59.030 and Section 17.12.140 of the Pinole Municipal Code (PMC) for the review and approval of a Conditional Use Permit for alcohol sales for Sprouts Farmer's Market located at 1300 Pinole Valley Road..

Review Process

PMC Section 17.59.030 prescribes the review process which is required before the opening of a new business or upgrading a liquor license, extending the hours of operation of any establishment that sells or serves any alcoholic beverage, or adding to the capacity, floor area or shelf space devoted to alcoholic beverages of any establishment that sells or serves any alcoholic beverages. The criteria required to approve the conditional use permit are as follows:

Section 17.59.030 of the Pinole Municipal Code:

A. Conditional Use Permit. The Planning Commission shall review all conditional use permit requests for proposed alcohol sales. The following information must be provided to approve conditional use permit requests:

1. A list of all establishments within a one thousand (1,000) foot radius with a similar size and array of products. If there is any other establishment, other than a food service establishment with incidental service of beer, wine and/or spirits within a one thousand (1,000) foot radius of the site of the proposed use that is in the same category of alcoholic beverage sales or service, the City of Pinole shall not approve the application unless it makes all the following findings of "Public Convenience or Necessity."

Staff Analysis/Response: *Based on the information provided by the Applicant dated 8/20/2024, there are no other establishments that have a similar array of products that sell alcohol within the 1,000-foot radius of the Sprouts Farmer's Market grocery store, and therefore, this standard is met.*

2. The number of businesses having authority to sell alcoholic beverages in the census tract of the applicant.

Staff Analysis: Based on the information provided by the applicant and by the Alcoholic Beverage Control (ABC), there are six (6) businesses including Sprouts Farmer’s Market that have the authority to sell alcoholic beverages for off-site consumption within Census Tract 3591.03. Since there are six businesses that sell alcohol for off-site consumption, ABC determined that there is an over concentration of off-site alcohol licenses in Census Tract 3591.03. However, the Pinole City Council approved a determination of Public Convenience or Necessity (PCN) on November 19, 2024, which satisfies the requirement of the Alcohol Beverage Control to have an over-concentration of liquor licenses for off-site consumption in the Census Tract, and allowed the applicant to apply for a Conditional Use Permit. **Table 1** shows the active licenses for off-site consumption within Census Tract 3591.03.

Business Establishment	Location	License Type
Bills Liquors	2350 San Pablo Ave	21
Appian Liquors	1677 San Pablo Ave	21
Pump House	700 Tennent Ave	21
CVS Pharmacy	1617 Canyon Dr	20
Sprouts Farmer’s Market	1300 Pinole Valley Road	20
Safeway**	4000 San Pablo Avenue	20

*Source: State Department of Alcoholic Beverage Control, October 2024

** Represents stores outside of the City limits.

Staff Response: After reviewing the information provided by the applicant and ABC, the staff determined that a PCN was required for this project. The City Council at its regular meeting on November 19, 2024, approved a Resolution making the required findings for a PNC for Sprouts Farmer’s Market grocery store to sell beer, wine, and spirits.

3. The extent to which the crime reporting district in which the applicant is located exceeds the average for crime reporting districts subject to the jurisdiction of the Pinole Police Department.

Staff Analysis: A formal review by the Police Department has determined that crime reporting for the district does not exceed the average for crime reporting districts. The Police Department did not raise any objections or concerns related to the alcohol sales request.

Staff Response: Since the Police Department has determined that the crime reporting for the district does not exceed the average for crime reporting, this standard has been met.

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

Staff Analysis: After reviewing all the materials from the applicant as well as reviewing the CCMAPS parcel information system provided by Contra Costa County

GIS, staff have identified three schools, the library and sports center, Fernandes Park, and youth center within an approximate one-half (1/2) mile of the Sprouts Farmer’s Market Grocery Store. Table 2 shows the approximate distances of the facilities.

Table 2- Proximity of Local Schools & Facilities

Facilities	Approximate Distance
Collins Elementary	60 feet
St. Joseph School (north of Sprouts)	1500 feet
Fernandes Park and Youth Center (North of Sprouts)	2,900 feet
Pinole Valley High School (South of Sprouts)	2,800 feet
Library and Youth Sports Area (South of Sprouts)	2,900 feet

Staff Response: Based on the information above, most of the facilities are approximately a half mile from the Sprouts Farmer’s Market grocery store. Only Collins Elementary School is within less than a half mile of Sprouts.

B. Public Convenience and Necessity– A determination of Public Convenience or Necessity (PCN) is required by the Department of Alcoholic Beverage Control (ABC) when there is an over-concentration of alcohol sales licenses within a defined census tract. ABC determines if there is an over-concentration of licenses in a census tract and will require a determination of public convenience or necessity from the city. The City Council is the appropriate authority to review and make a PCN determination. This determination must be made prior to Planning Commission review of a conditional use permit to allow alcohol sales.

Staff Analysis: Based on the information provided by the Applicant and ABC, identifying the overconcentration of alcohol sales license with Census Tract 3591.03, a determination of Public Convenience or Necessity (PCN) was required for this project.

Staff Response: After reviewing Sections 17.59.030 (B) and (C) of the Pinole Municipal Code, The City Council approved a PCN with the required findings on November 19, 2024, for Sprouts Farmer’s Market (see Attachment X). This determination allows an additional off-site alcohol sales license in Census Tract 3591.03. All the conditions of approval outlined in 17.59.030 (C) have been included within the Conditions of Approval of this project.

Section 17.12.140 (F) Findings for Conditional Use Permit:

1. The proposed use is consistent with the general plan, any applicable specific

plans, and all applicable provisions of this title.

Staff Response: *The subject property is consistent with the general plan and specific zoning of the Pinole Municipal Code. Pursuant to Pinole Muni Code §17.20.020, the Applicant submits this Conditional Use Permit (CUP) Application to request approval for the sale of beer, wine, and spirits. The site is an existing grocery store that operates from 7:00am – 10:00 pm Monday through Sunday, and is located next to Interstate 80 in the OPMU Zone. The subject property is a commercial use within an area designated for general commercial land use. The proposed alcohol sales hours would be from 7 a.m. to 10:00pm, as allowed by the State Department of Alcoholic Beverage Control. There are no changes being requested with this Application to the premises' footprint or its current operations, other than the Applicant's request to add the incidental sale of beer, wine, and spirits for offsite consumption (Type 21 ABC License).*

2. The establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such use or to the general welfare of the city.

Staff Response: *The proposed use will not adversely affect the welfare of the present community because, as stated above, the premise has continuously been operated as a full scale grocery store for many years. This is an existing business that provides most goods and services that have come to be expected from a full scale grocery store. The request to add a small amount of spirit sales will better serve the needs of its customers and will allow the existing grocery inventory to better serve its customers and diminish the need for customers to travel to multiple locations to retrieve all necessary items. The subject property is commercial use within an area designated for General Commercial land use and has been operating this neighborhood grocery market as a "one-stop" shopping experience for its customers and the surrounding neighborhood. Approval for adding the incidental sale of beer, wine and spirits would ensure the applicant's ability to continue providing this desired convenience to the surrounding community. The business has been a long-standing anchor in the shopping center and the applicant will continue to operate and improve the store with this goal.*

3. The site of the proposed use is physically suitable for the type, density and intensity of the use and related structures being proposed.

Staff Response: *The site of the use is physically suitable for the requested addition of an ancillary amount of beer, wine, and spirits sales for off-site consumption. The applicant already owns and operates the grocery store on the property, which carries a wide range of grocery and utility items. The sale of beer, wine, and spirits for off-site consumption, while incidental to the overall goods and services provided by the Shell Station, is an important aspect in maintaining the ability to act as a full-service grocery store. The grocery store occupies a footprint of 15,991 feet, and the entire area encompassing the sales area of the beer, wine, and spirits is approximately 132 square feet. The proposed addition of beer, wine, and spirits would not physically*

impact the site at all and would only represent an addition of some items to the store's already existing shelves and coolers. The continued operation of this store, with strict adherence to the imposed conditions, proper management, and supervision, will continue to provide a retail service that is beneficial, convenient, and necessary for the community. As a result, the proposed use will not require physical alteration of the applicant's property, and no additional construction is proposed at this time.

4. It will not be contrary to the specific intent clauses, development regulations, or performance standards established for the zoning district in which it is located. The proposed use and related structures are compatible with other land uses, transportation, and service facilities in the vicinity.

Staff Response: *The Applicant is located in the Office Professional Mixed-Use zoning district. Per the Three Corridor Specific Plan, sites in the zoning district are wide range of uses that should be encouraged and accommodated along Pinole Valley Road to ensure that needed goods and services are available and to provide opportunity for new and unique businesses. The applicant's business is aimed at both functions. The grocery items sold in the store serve local residents who want to purchase food items and/or any other goods offered by the other establishments within the City of Pinole. Allowing an expansion of the grocery offerings to include beer, wine, and spirits would be in keeping with the requirements of the OPMU zone by expanding the diversity of goods and services offered to customers, as well as improving local convenience by reducing the number of trips required by residents who want to make a quick and simple shopping trip or impulse buy.*

Conditions of Approval

Staff worked with the Community Preservation Team in the Police Department to impose appropriate conditions for alcohol sales. The Police Department requires that the standard alcohol conditions listed in PMC 17.59.040 be included for this project. The standard Conditional Use Permit alcohol sales conditions are included as Exhibit A in Resolution 23-09 (**See Attachment A**).

Applicable Standard Conditions of Approval for Alcohol Sales Establishments

- Beer, malt beverages, and wine coolers in containers of sixteen (16) ounces or less cannot be sold as single items but must instead be sold in manufacturer prepackaged multi-unit quantities.
- There shall be no sales of beers, ales or wines that have screw tops in bottles less than three hundred and seventy-five (375) milliliters, unless sold in manufacturer prepackaged multi-unit quantities.
- The applicant shall be responsible for maintaining the area of litter in front of and adjacent to the premises over which they have control.
- No signs advertising the sale of alcoholic beverages shall be displayed outside the store.
- A license or its employees shall regularly police the area under the licensee's control in

an effort to prevent the loitering of persons about the premises.

- The sale of liquor in the store shall be limited to no more than two hundred (200) linear feet of display, which shall include the use of multi-tiered shelving not to exceed thirty-six (36) inches in depth.
- If any conditions are found to be disregarded, the use permit for alcohol sales will be subject to revocation. If necessary, the Planning Commission may modify the use permit after holding a noticed public hearing and making applicable findings.
- Establish and maintain a “complaint response/community relations” program with the Police Department.

Off-sale Conditions

- No sale of alcohol is allowed for on-site consumption.
- Trash receptacles shall be located at convenient locations outside the establishment, and operators of the business shall remove all trash on a daily basis.
- Pay telephones on the site of the establishment, when applicable, must be of the type that only allows outgoing calls.
- In establishments with glass storefronts, windows shall allow for unobstructed interior viewing of the cash register area from the street.
- A sign concerning the California law prohibiting minors from drinking alcohol and a sign prohibiting loitering or public drinking must be posted.
- A copy of any use permit conditions of approval will need to be kept on premises and available upon request.
- All employees shall receive “responsible beverage service training,” and any employee on duty between 10:00 p.m. and 2:00 a.m. will be at least twenty-one (21) years of age, and documentation of this training shall be retained on the premises and made available upon request.
- Make attempts to limit alcohol-related problems which negatively impact those living or working in the neighborhood.

In addition to the conditions mentioned above, Staff has included within Exhibit A of the proposed Resolution 24-08 security-related conditions of approval calling for updating a business emergency information form and holding an on-site training event with the Police Department prior to the commencement of alcohol sales. These security related conditions have been discussed with the applicant and the applicant has no objections.

ENVIRONMENTAL REVIEW

This project is categorically exempt per Section 15301 Existing Facilities of the California Environmental Quality Act Guidelines in that it consists of no physical expansion of existing business within an existing commercial building.

FISCAL IMPACT

ATTACHMENTS

- A. Attachment 1- PC Reso Sprouts Liquor CUP dec 9 2024

- B. Attachment 2- Exhibit A Conditions of Approval UP 24-02 dec 9 2024
- C. Attachment 3- Floor Plan - Alcohol Highlighted
- D. Attachment 4- PCN Reso

**PLANNING COMMISSION RESOLUTION 24-08
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 TO ALLOW THE SALE OF BEER, WINE, AND SPIRITS FOR OFF-SITE CONSUMPTION AT 1300 PINOLE VALLEY ROAD, PINOLE, CA 94564, APN: 401-410-020

WHEREAS, the Sprouts Farmer's Market filed an application for a use permit (UP 24-02) with the City of Pinole to request a Conditional Use in order to allow for the sale of beer, wine and spirits for off-site consumption; and

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

WHEREAS, the State Department of Alcoholic Beverage Control (ABC) did confirm to the City of Pinole that there will be an undue concentration resulting from this use permit request for a Type 21 alcohol sales license within Census Tract 3591.03 requiring Public Convenience or Necessity Findings for this request; and

WHEREAS, the City Council approved the required Public Convenience or Necessity Findings for this request on November 19, 2024; and

WHEREAS, said property is designated Service Sub-Areal in the Pinole General Plan; and

WHEREAS, the property has a SSA-Pinole Valley Road Designation and an Office Professional Mixed-Use (OPMU) zoning designation in the Three Corridor Specific Plan and

WHEREAS, the Pinole Municipal Code permits alcohol sales subject to securing a Use Permit in the OPMU zone; and

WHEREAS, The Police Department has confirmed that the sale of alcohol as conditioned is not expected to increase calls for service or crime activity at this location; and

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

WHEREAS, The Planning Commission of the City of Pinole has conducted a duly noticed public hearing to consider UP 24-02 on December 9, 2024; and

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 proposed use is consistent with the general plan, any applicable specific plans, and all applicable provisions of this title.
2. The establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such use or to the general welfare of the city.
3. The site of the proposed use is physically suitable for the type, density and intensity of the use and related structures being proposed.
4. It will not be contrary to the specific intent clauses, development regulations, or performance standards established for the zoning district in which it is located. The proposed use and related structures are compatible with other land uses, transportation, and service facilities in the vicinity.
5. The use permit request is Categorical Exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines because it involves minor physical improvements to an existing commercial mixed-use building without expanding the building.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pinole hereby approves UP 24-02, as provided in the staff report, and subject to the Conditions of Approval attached as Exhibit A to this Resolution.

PASSED AND ADOPTED by the Planning Commission of the City of Pinole on this 9th day of December 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Rafael Menis, Chair (2024-2025)

ATTEST:

David Hanham, Planning Manager

PLANNING COMMISSION RESOLUTION 24-08 EXHIBIT A

CONDITIONS OF APPROVAL: SPROUTS FARMER'S MARKET ALCOHOL SALES CONDITIONAL USE PERMIT

Conditions of Approval UP 24-02 Sprouts Farmers Market December 9, 2024		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
1.	The proposed use shall be operated in a manner consistent with the development application material dated 08/24/2024 and in a manner which is consistent with all federal, state & local laws.	On-Going	Police/ Community Development	
2.	The Applicant shall hold harmless the City, its Council Members, its Planning Commission, officers, agents, employees, and representatives from liability for any award, damages, costs, and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.	On-Going	Community Development	
3.	There shall be no sale of alcohol for on-site consumption.	On-Going	Police/ Community Development	
4.	A sign concerning the California Law Prohibiting Minors to Drink Alcohol and a sign prohibiting loitering or public drinking must be posted inside the establishment in clear public view to the satisfaction of the City of Pinole Police Department.	On-Going	Police/ Community Development	
5.	A copy of the conditions of approval will need to be kept on premises and available upon request.	On-Going	Police/ Community Development	
6.	All staff within 90 days of employment receive "responsible beverage service training." Applicant shall include these training details as part of the "complaint response/community relations."	On-Going	Police/ Community Development	
7.	Proposed modification of the hours or other aspects of the business shall be submitted for review and approval by staff. Staff will determine if changes are substantial and require further review by the Planning Commission.	On-Going	Community Development	

PLANNING COMMISSION RESOLUTION 24-08 EXHIBIT A

CONDITIONS OF APPROVAL: SPROUTS FARMER'S MARKET ALCOHOL SALES CONDITIONAL USE PERMIT

Conditions of Approval UP 24-02 Sprouts Farmers Market December 9, 2024		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
8.	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.	On-Going	Community Development	
9.	Applicant shall obtain the applicable State Alcohol Beverage Control license and no alcohol shall be sold for on-site consumption. A copy of the license shall be submitted to the Community Development and Police Departments prior to commencement of alcohol sales.	On-Going	Police/ Community Development	
10.	The operating hours of the Sprouts Farmer's Market shall be Monday through Sunday 7:00 am to 10:00 pm. Any change to the business hours shall be reviewed and approved by the Community Development Department.	On-Going	Police/ Community Development	
11.	If the operation of the use results in conflicts pertaining to parking, noise, nuisance, traffic, or other impacts, at the discretion of staff, the use permit may be referred to the Planning Commission for subsequent review at a public hearing. Subsequent review may result in modification of conditions of approval or revocation of the use permit.	On-Going	Police/ Community Development	
12.	If use permit conditions are not adhered to, the use permit is subject to subsequent review by the Planning Commission. Action by the review body may include but are not limited to imposing corrective action for the project to adhere to conditions, modifications to conditions, or revocation of the permit after giving 10-day notice following a public hearing.	On-Going	Police/ Community Development	
13.	Establish and maintain a "complaint response/community relations" program with the Police Department.	On-Going	Police	
14.	The sale of liquor in the store shall be limited to no more than two hundred (84 linear feet of display, which shall include the use of multi-tiered shelving not to exceed twenty-two (22) inches in depth.	On-Going	Community Development	

PLANNING COMMISSION RESOLUTION 24-08 EXHIBIT A

CONDITIONS OF APPROVAL: SPROUTS FARMER'S MARKET ALCOHOL SALES CONDITIONAL USE PERMIT

Conditions of Approval UP 24-02 Sprouts Farmers Market December 9, 2024		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
15.	Beer, malt beverages, and wine coolers in container of sixteen (16) ounces or less cannot be sold as single items, but must instead be sold in manufacturer prepackaged multi-unit quantities.	Ongoing	Community Development	
16.	There shall be no sales of beers, ales or wines that have screw tops in bottles less than three hundred and seventy-five (375) milliliters, unless sold in manufacturer prepackaged multi-unit quantities.	Ongoing	Community Development	
17.	No sale of alcohol is allowed for on-site consumption.	Ongoing	Community Development	
18.	Trash receptacles shall be located at convenient locations outside the establishment, and operators of the business shall remove all trash on a daily and as-needed basis.	Ongoing	Community Development	
19.	The applicant shall be responsible for maintaining free of litter that area in front of and adjacent to the premises over which they have control.	Ongoing	Community Development	
20.	No signs advertising the sale of alcoholic beverages shall be displayed outside of the store.	Ongoing	Community Development	
21.	Licensee or its employees shall regularly police the area under the licensee's control to prevent the loitering of persons about the premises.	Ongoing	Community Development	
22.	If any of these conditions are found to be disregarded, the use permit for alcohol sales will be subject to revocation. If necessary, the Planning Commission may modify the use permit or may revoke the use permit after holding a noticed public hearing and making applicable findings.	Ongoing	Community Development	
23.	The Applicant shall establish and maintain a "complaint response/community relations" program with the Police Department or similar method to assure cooperation with the Police Department.	Ongoing	Community Development	

PLANNING COMMISSION RESOLUTION 24-08 EXHIBIT A
CONDITIONS OF APPROVAL: SPROUTS FARMER'S MARKET ALCOHOL SALES CONDITIONAL USE PERMIT

Conditions of Approval UP 24-02 Sprouts Farmers Market December 9, 2024		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
24.	In establishments with glass storefronts, windows shall allow for unobstructed interior viewing of the cash register area from the street.	Ongoing	Community Development	
25.	All employees shall receive "responsible beverage service training," and any employee on duty between 10:00 p.m. and 2:00 a.m. will be at least twenty-one (21) years of age, and documentation of this training shall be retained on the premises and made available upon request.	Ongoing	Community Development	
26.	Make attempts to limit alcohol related problems which negatively impact those living or working in the neighborhood.	Ongoing	Community Development	
27.	Coolers containing alcohol shall be locked between 2:00 am and 6:00am	Ongoing	Community Development	



F1.0

RESOLUTION NO. 2024-____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, APPROVING A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY FOR A TYPE 21 ALCOHOL SALES INCLUDING BEER, WINE, AND SPIRITS AT THE EXISTING SPROUTS FARMERS MARKET LOCATED AT 1300 PINOLE VALLEY ROAD, PINOLE, CA 94564, APN: 401-410-020

WHEREAS, since 2014 Sprouts Farmers Market has had a Conditional Use Permit and a licensed from the State Department of Alcohol Beverage Control (ABC) allowing for the sale of beer and wine for off-site consumption; and

WHEREAS, the owner of Sprouts Farmers Market intends to file an application for a Type 21 off-site alcohol license with the State Department of Alcohol Beverage Control (ABC) and have filed an application for a Conditional Use Permit with the City of Pinole to allow the sale of spirits, in addition to beer and wine; and

WHEREAS, the State Department of Alcohol Beverage Control (ABC) notified the City of Pinole that an undue concentration of on-site alcohol sales licenses exist within Census Tract 3591.03 and

WHEREAS, a determination of Public Convenience or Necessity is required to allow additional on-site licenses in an over concentrated Census Tract; and

WHEREAS, ABC has indicated no active disciplinary action have been taken against other Sprouts Farmers Market stores for alcohol sales licenses in California; and

WHEREAS, The Police Department has confirmed that the sale of beer and wine is not expected to increase calls for service or crime activity at this location; and

WHEREAS, the City has considered the request for Public Convenience or Necessity, the staff report and the required associated findings pursuant to Section 17.59.030 (C) of the Pinole Municipal Code to justify a determination of Public Convenience or Necessity;

NOW THEREFORE, BE IT RESOLVED that the Pinole City Council does hereby take the following actions:

A. Makes the following findings:

1. The proposed Sprouts Farmers Market Type 21 alcohol sales will promote the City's economic health consistent with the General Plan and any applicable Specific Plan policies to further Commercial Mixed-Use Zoning District purposes.

2. The economic benefits associated with the Sprouts Farmers Market Type 21 alcohol sales could not reasonably be achieved without the proposed alcohol sales.
 3. The applicant has not operated a licensed establishment, which has been the subject of verified complaints or violations regarding alcohol, public safety or nuisance statutes or regulations;
 4. The Police Department has reported that the proposed beer and wine sales at the existing establishment would not be expected to add to crime in the area; and
 5. Alcoholic beverages sold by the applicant are incidental to the other products available for sale at the establishment located at 1300 Pinole Valley Road
- B. Affirms a determination of Public Convenience or Necessity to support a Type 21 alcohol sales license request for off-site beer, wine and spirits sales at the Sprouts Farmers Market cafe located at 1300 Pinole Valley Road and as a prerequisite to obtaining a Conditional Use Permit as required by Chapter 17.59 of the Pinole Municipal Code.

PASSED AND ADOPTED at a regular meeting of the Pinole City Council held on the 19th day of November 2024 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

I hereby certify that the foregoing resolution was introduced, passed and adopted on adopted on this 19th day of November 2024

Heather Bell
City Clerk

3569955.1



PLANNING COMMISSION REPORT

H.3.

DATE: DECEMBER 9, 2024
TO: PLANNING COMMISSION
FROM: JUSTIN SHIU, CONSULTANT PLANNER
SUBJECT: PA24-0002 MUNICIPAL CODE AMENDMENTS FOR HOUSING ELEMENT IMPLEMENTATION

RECOMMENDATION

Adopt Resolution 24-09 (Attachment A) recommending to City Council the adoption of proposed Municipal Code amendments as provided in Resolution 24-09 Attachment A, Exhibit A, or with additional recommendations for revisions provided by Planning Commission.

BACKGROUND

The Planning Commission previously reviewed the first set of Municipal Code Amendments related to Housing Element Program Implementation on September 9, 2024. The Municipal Code Amendments presented under this item contain the second set of amendments which focus on accessory dwelling units (ADUs), junior accessory dwelling units (JADUs), and unit and lot split projects proposed under Senate Bill 9 (SB 9). A final set, covering parking standards and administrative review processes, is targeted for review by the Planning Commission on January 13, 2025.

The 2023-2031 Housing Element contains programs identifying amendments to the municipal code in order to implement the Housing Element. The Housing Element identifies certain provisions in the existing zoning ordinance that need to be updated to be consistent with current text and regulatory procedures in State law related to housing legislation. Although the City abides by requirements under State and federal law where there are inconsistencies and provides information about current regulations when inquiries are received, proposed revisions to the municipal code and City policy documents would minimize potential confusion and provide greater clarity on requirements. Additionally, the adoption of proposed revisions would further the implementation of the Housing Element programs.

General zoning regulations are found in Title 17, Zoning of the Pinole Municipal Code (i.e., Zoning Code), where most regulations related to land use and zoning standards are contained. Most revisions identified in the Housing Element programs relate to this portion of the municipal code.

ADU and JADU Projects

The Zoning Code sets standards and requirements for ADUs and JADUs under Chapter 17.70. Local ADU and JADU regulations must comply with California Government Code Sections 66310 to 66342, which establish State standards for these units. Recent State updates have prioritized increasing ADU and JADU production. The proposed amendments to Chapter 17.70

align local ADU requirements with current State law and implement Housing Element Program 4: Facilitate ADU Production.

SB 9 Projects

Senate Bill 9 (SB 9), adopted in 2021 and later amended by SB 450 in 2024, established ministerial approval processes for lot splits and unit development in single-family residential zoning districts. These changes, codified under California Government Code Sections 65852.21 and 66411.7, enable the creation of up to two primary dwelling units on a single-family residential parcel and/or the division of one lot into two. State law standards supersede local zoning where conflicts arise, enhancing feasibility for these projects.

Ministerial review limits evaluation to objective standards, excluding subjective guidelines or discretionary decisions. Currently, the City lacks a dedicated Zoning Code chapter for SB 9 projects, relying instead on direct implementation of State law. The proposed amendments will establish a new Zoning Code chapter specifically addressing SB 9 standards and processes, providing greater clarity and consistency for local implementation.

Design Guidelines for Single-Family Residential Development

The City of Pinole Residential Design Criteria and Guidelines, adopted in 2007, contains subjective guidelines for evaluating single-family residential development. However, SB 9 projects must be reviewed solely against objective standards, rendering subjective design guidelines inapplicable for these proposals. The proposed amendments ensure alignment with this requirement.

Planning Commission Role

The Planning Commission serves as the body conducting review and providing recommendations to the City Council, which is the final review and approval body for amendments to the Pinole Municipal Code. Following Planning Commission review, further modifications may be made to the zoning code amendments for City Council review.

REVIEW AND ANALYSIS

The proposed revisions in the Zoning Code and Specific Plan are provided in **Attachment A, Exhibit A**. These revisions address Housing Element Programs 4, 5, 12, and 13, with the relevant program text and portions impacted by the revisions highlighted in **Attachment B**.

Program text not covered in these proposed revisions was either addressed in the first set of revisions or will be included in future updates, which will be presented to the Planning Commission at a later meeting. The target timeline for completing all revisions is within two years of the Housing Element's adoption, by April 2025.

Proposed revisions are summarized below:

Chapter 17.70 Accessory Dwelling Units and Junior Accessory Dwelling Units

1. Updates to the existing chapter to align with recent changes in State law.
2. Revisions to incorporate recent State law updates for ADUs and to provide greater clarity.
3. Establishment of an "Operations" section to consolidate requirements for ADU use,

previously located in the Declaration of Restrictions section.

4. Clarified details on mandated allowances for separate sales and conveyances of ADUs developed by qualified nonprofit corporation, as permitted under State law. Jurisdictions may adopt a local ordinance allowing separate sales and conveyances more generally through new provisions in Government Code 66342, but this is not a requirement and has not been included as a part of these update.
5. Updates to setback distance requirements to align with standards for accessory structures.
6. Revisions to exterior stair visibility requirements for improved clarity.
7. Replacement of subjective design language with objective standards, specifying colors and materials for attached ADUs.

Chapter 17.71 SB 9 Urban Lot Split and Unit Development

1. Introduction of a new chapter to incorporate SB 9 provisions based on State law.
2. Explanation of the permit process for SB 9 projects.
3. Clarification of “single-family residential zoning” as LDR and R-1 zones in Pinole, referencing their classification under Chapter 17.18.020, allowance for single-family residential in Chapter 17.20.020, and exclusion of multifamily residential.
4. Addition of front and structural setback distance requirements, drawing from existing standards in the Zoning Code for LDR and R-1 zones. A qualifier specifies these standards apply unless they physically preclude the units, consistent with SB 9.
5. Specification of a ministerial-only tree removal permit process for SB 9 projects.
6. Inclusion of references to new objective design standards, proposed for addition to Chapter 17.24.

Section 17.12.150 Comprehensive Design Review

1. Clarification that JADUs, like ADUs, are exempt from Comprehensive Design Review.
2. Removal of square footage text in the addition exception, as Administrative Design Review under 17.12.080 applies to all single-family additions regardless of size (e.g., less than or greater than 500 square feet). This edit reduces ambiguity and enhances consistency within the Zoning Code.
3. Inclusion of references to SB 9 units to ensure alignment with updated standards.

Section 17.24.040 Objective Design Standards for Single Family Districts

1. Incorporation of objective design standards based on existing subjective Residential Design Criteria and Guidelines for single-family residential districts. Since subjective guidelines can no longer be applied to ministerial reviews under SB 9, guidelines that could be converted to objective standards are proposed to maintain the intent of the original guidelines. Objective standards for SB 9 projects must be uniformly applicable to the underlying zoning district. To address this, a section for objective design standards for single-family residential districts was added to Chapter 17.24: Development Standards by Zoning District.
2. Presentation of objective design standards for consideration. While establishing these standards based on Residential Design Criteria and Guidelines is not mandatory, their inclusion would ensure alignment with existing design principles. If these standards are not adopted, SB 9 unit development would rely solely on the objective standards outlined in the new Chapter 17.71 and other applicable sections of the Zoning Code.

Attachments

Attachment A. Resolution 24-09, with Exhibit A. Municipal Code Amendments

Attachment B. Housing Element Programs Associated with Proposed Revisions

FISCAL IMPACT**ATTACHMENTS**

A. Attachment A. Resolution 24-09 with Exhibit A

B. Attachment B. Housing Element Programs Associated with Second Set Revisions

**PLANNING COMMISSION RESOLUTION 24-09
WITH EXHIBIT A: MUNICIPAL CODE AMENDMENTS**

RESOLUTION OF THE CITY OF PINOLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING CHAPTERS 17.12, 17.24, AND 17.70 OF THE PINOLE MUNICIPAL CODE AND ADDING CHAPTER 17.71 TO THE PINOLE MUNICIPAL CODE.

WHEREAS, Pinole Municipal Code (“PMC”) Title 17 Zoning Code establishes general regulations on land uses and development standards within the City; and

WHEREAS, the City of Pinole 2023-2031 Housing Element contains programs identifying various zoning ordinance amendments; and

WHEREAS, implementation of Housing Element programs requires amendments revising text in the PMC; and

WHEREAS, amendments to the municipal code are required for accessory dwelling unit and junior accessory dwelling unit regulations to reflect current State Law for these units under California Government Code Sections 66310 to 66342; and

WHEREAS, amendments to the municipal code are required to incorporate regulations and procedures for urban lot splits and unit development proposed under Senate Bill 9 (SB9) and reflect the provisions of California Government Code Sections Section 65852.21 and 66411.7; and

WHEREAS, the City of Pinole Residential Design Criteria and Guidelines, adopted November 20, 2007, contains subjective guidelines for review of single family residential development; and

WHEREAS, a ministerial review process is required for the review of unit development proposed under SB 9 and subjective guidelines cannot be used to approve projects; and

WHEREAS, it is desirable to maintain aspects of the Residential Design Criteria and Guidelines by creating objective design standards based on subjective guidelines where possible; and

WHEREAS, objective standards would apply uniformly to the underlying single family residential districts, which include R-1 and LDR, and thereby would be applicable to SB 9 unit development projects; and

WHEREAS, the proposed revisions to amend the Zoning Code are attached hereto as Exhibit A; and

WHEREAS, the Planning Commission held a duly noticed public hearing related to the proposed Zoning Code amendment on December 9, 2024; and

WHEREAS, after close of the 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 zoning code amendment; and

WHEREAS, the proposed ordinance amendments are exempt from the California Environmental Quality Act (CEQA) based on the rule set forth in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

NOW THEREFORE, BE IT RESOLVED, that the above recitals are true and correct and made part of this Resolution.

BE IT FURTHER RESOLVED, that the Planning Commission of the City of Pinole hereby recommends that the City Council adopt an ordinance amending Chapters 17.12, 17.24, and 17.70 of the Pinole Municipal Code and adding Chapter 17.71 to the Pinole Municipal Code, as set forth in Exhibit A, attached hereto and incorporated herein.

PASSED AND ADOPTED by the Planning Commission of the City of Pinole on this 9th day of December, 2024, by the following vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

Rafael Menis, Chair, 2024-2025

ATTEST:

David Hanham, Planning Manager

ATTACHMENT A, EXHIBIT A. MUNICIPAL CODE AMENDMENTS

1. Pinole Municipal Code Section 17.12.150 Comprehensive Design Review [Amendment]

2. Pinole Municipal Code Chapter 17.24 Development Standards by Zoning District [Amendment]

3. Pinole Municipal Code Chapter 17.70 Accessory Dwelling Units and Junior Accessory Dwelling Units [Amendment]

4. Pinole Municipal Code Chapter 17.71 SB9 Urban Lot Split and Unit Development [New Chapter]

1. Pinole Municipal Code Section 17.12.150 Comprehensive Design Review [Amendment]

Section 17.12.150 included (excerpt of Chapter 17.12 Entitlements).

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Text to be added shown in **bold and underline**.

17.12.150 COMPREHENSIVE DESIGN REVIEW.

A. Purpose. The purpose of comprehensive design review is to provide a process for promoting the orderly and harmonious growth of the city, to encourage development in keeping with the desired character of the city, and to ensure physical and functional compatibility between uses. This comprehensive design review is intended to provide a process for consideration of development proposals to ensure that the design and layout of commercial, retail, industrial or institutional uses, or multi-family residential development will constitute suitable development and will not result in a detriment to the City of Pinole or to the environment.

B. Applicability. A comprehensive design review permit is required for the following items:

1. New single-family and multi-family residential development, **except for unit development under Government Code section 65852.21, as amended and renumbered from time to time (also known as SB 9)**;
2. New non-residential development (e.g., commercial, office, industrial, public/quasi-public);
3. Additions to existing multi-family and non-residential structures equal to or greater than 500 square feet; and
4. Any item not listed in Section 17.12.150.C, for which the Community Development Director determines that a comprehensive design review permit is required.

C. Exemptions. The following structures and activities are exempt from comprehensive design review. However, such structures may require additional permits, such as a building permit, and plan check to ensure compliance with adopted Building Code and related construction code standards and applicable Zoning Code provisions and public works encroachment permits.

1. Accessory dwelling units **and junior accessory dwelling units**, ~~regardless of size.~~
2. Additions to a single-family home ~~of less than 500 square feet~~ when consistent with the City of Pinole Residential Design Criteria and Guidelines.
3. Additions to multi-family and non-residential structures less than five hundred (500) square feet in size.
4. Accessory structures consistent with the provisions of this title.
5. Installation of signs.
6. Repairs and maintenance to the site or existing structures that do not add to, enlarge, or expand the area occupied by the structure or the gross floor area of the structure.
7. Interior alterations that do not increase the gross floor area within the structure or change/expand the permitted use of the structure (e.g., tenant improvements).
8. Construction, alteration, or maintenance by a public utility or public agency of underground or overhead utilities intended to service existing or nearby approved developments (e.g., water, gas, electric or telecommunication supply or disposal systems, including wires, mains, drains, sewers, pipes, conduits, cables, fire-alarm boxes, police call boxes, traffic signals, hydrants, and similar facilities and equipment).
9. Alteration or maintenance of public park and recreation facilities.

10. Unit development under SB 9 (Government Code section 65852.21).

D. Approving Authority. The designated approving authority for comprehensive design review is the Planning Commission. Comprehensive design review approval is required prior to issuance of any ministerial building permits or site improvement plans and prior to or in conjunction with discretionary action of corresponding development applications (e.g., conditional use permit, variance). Comprehensive actions include, but are not limited to, new construction and wholesale redevelopment of existing sites.

E. Application Content. The application for a comprehensive design review shall be on a form prepared as prescribed by the Community Development Director.

F. Public Hearing/Notice. The city shall provide notice and a public hearing for continuation of the approval, modification, revocation or appeal of an application for a comprehensive design review in accordance with Section 17.10.050 (Public Hearing and Public Notice).

G. Approval Findings. A comprehensive design review permit or any modification thereto shall be granted only when the designated approving authority makes all of the following findings:

1. The proposed project is consistent with the objectives of the general plan and complies with applicable zoning regulations, planned development, master plan or specific plan provisions, improvement standards, and other applicable standards and regulations adopted by the city;
2. The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation;
3. The site layout (orientation and placement of buildings and parking areas), as well as the landscaping, lighting, and other development features, are compatible with and complement the existing surrounding environment and ultimate character of the area under the general plan and applicable specific plans; and

4. Qualifying single-family residential, multi-family residential, and residential mixed-use projects shall comply with all relevant standards and guidelines in the city's currently adopted design guidelines for residential development.

A. Considerations. In conducting comprehensive design review, the designated approving authority shall consider the following:

1. Considerations relating to site layout, the orientation and location of building, signs, other structures, open spaces, landscaping, and other development features in relation to the physical characteristics, zoning, and land use of the site and surrounding properties.

2. Considerations relating to traffic, safety, and traffic congestion, including the effect of the development plan on traffic conditions on abutting streets, the layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, driveways, and walkways, the adequacy of off-street parking facilities to prevent traffic congestion, and the circulation patterns within the boundaries of the development.

3. Considerations necessary to ensure that the proposed development is consistent with the general plan and all applicable specific plans or other city plans, including, but not limited to, the density of residential units.

4. Considerations relating to the availability of city services, including, but not limited to, water, sewer, drainage, police and fire, and whether such services are adequate based upon city standards.

B. Conditions/Guarantees. The approving authority may impose conditions and/or require guarantees for comprehensive design review to ensure compliance with this section and other applicable provisions of this title and to prevent adverse or detrimental impact to the surrounding neighborhood.

C. Permit Issuance. The final action on comprehensive design review by the approving authority shall constitute approval of the permit. Such permit shall only become valid after the designated appeal period has been completed, per the provisions as set forth in Section 17.10.080 (Effective Date).

D. Appeals. Appeal of the approving authority's action on the request for a comprehensive design review permit shall be made in accordance with the procedures specified in Section 17.10.070 (Appeals).

E. Expiration. All approved comprehensive design review permits are subject to the provisions set forth in Section 17.10.100 (Permit Time Limits, Extensions and Expiration).

(Ord. 2020-01, § 3, 2020: Ord. 2012-07, § 3, 2012: Ord. 2010-02 § 1 (part), 2010)

2. Pinole Municipal Code Chapter 17.24 Development Standards by Zoning District [Amendment]

Full Chapter included.

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Text to be added shown in **bold and underline**.

CHAPTER 17.24

DEVELOPMENT STANDARDS BY ZONING DISTRICT

Sections:

- 17.24.010 Purpose.
- 17.24.020 Development standards.
- 17.24.030 Additional standards for multi-family zoning districts.
- 17.24.040 Objective design standards for single family zoning districts.**

17.24.010 PURPOSE.

The purpose of this chapter is to establish development standards for lot area, allowed density, building setbacks, height, and lot coverage as appropriate for each of the city's base zoning districts as listed in Table 17.18.020-1 (Zoning Districts). These standards, along with other development standards (e.g., fences and walls, parking, sign standards) listed in Article III (Site Planning Standards) are intended to assist property owners and project designers in understanding the city's minimum requirements and expectations for high quality development. (Ord. 2010-02 § 1 (part), 2010)

17.24.020 DEVELOPMENT STANDARDS.

Table 17.24.020-1 (Development Standards for City of Pinole Base Zoning Districts) includes lot area, allowed density, building setbacks, height, and lot coverage requirements for each of the city's base zoning districts. Additional site planning requirements (e.g., landscaping, lighting) are listed in Article III (Site Planning Standards). Development within the city is also subject to compliance with all adopted Uniform Building and Fire Codes. Qualifying single family residential, multi-family residential, and residential mixed-use projects shall comply with all relevant standards and guidelines in the city's currently adopted design guidelines. Zoning district names for the zoning district symbols used in the table are as follows:

- LDR = Low Density Residential Zoning District
- R-1 = Suburban Residential Zoning District
- R-2 = Medium Density Zoning District
- R-3 = High Density Zoning District
- R-4 = Very High Density Zoning District
- R = Rural Zoning District
- RC = Regional Commercial Zoning District
- RMU = Residential Mixed Use Zoning District
- CMU = Commercial Mixed Use Zoning District
- OPMU = Office Professional Mixed Use Zoning District
- OIMU = Office Industrial Mixed Use Zoning District
- OS = Open Space Zoning District
- PR = Parks and Recreation Zoning District
- PQI = Public Quasi-Public Institutional Zoning District
- SPBCA = San Pablo Bay Conservation Zoning District

TABLE 17.24.020-1:

DEVELOPMENT STANDARDS FOR CITY OF PINOLE BASE ZONING DISTRICTS

Development Standard\Zoning District	LDR	R-1	R-2	R-3	R-4	R	RC	RMU	CMU	OPMU	OIMU	OS	PR	PQI	SPBCA
Lot Area (minimum square footage/unit)	43,560	6,000	3,000	1,500	N/A	5 ac. (1)	5,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Allowed Density (units per acre)															
Minimum Density	0.21	1.1	10.1	20.1	35.1	N/A	N/A	20.1	20.1	20.1	N/A	N/A	N/A	N/A	N/A
Maximum Density	1.0	10.0	20.0	35.0	50.0	0.2	N/A	35.0	30.0	30.0	N/A	N/A	N/A	N/A	N/A
Setback (minimum distance between structure and property line in feet)															
Front Yard	20	20	0	0	0	30	0	0	0	0	0	0	10	0	10
Side Yard	10 (2)	5 (3)	5	5	5	15	0	0	0	10	10	0	10	10	10
Side Yard for Second Story	15	12	10	5	5	15	0	0	0	10	10	0	10	10	10

Street Side Yard	15 (4)	10 (4)	10	10	10	20	0	10	10	10	10	0	10	0	10
Rear Yard	20 (4)	20 (4)	15	15 (5)	15 (5)	30	0	15 (5)	15 (5)	15 (5)	15 (5)	0	10	10	10
Distance Between Buildings (minimum feet)															
For Dwelling Purposes	6	6	6	6	0	6	0	0	0	0	0	N/A	N/A	N/A	N/A
Accessory Buildings (6)	6	6	3	3	3	6	6	6	6	6	6	6	6	6	6
Building Height (maximum feet)															
Primary Buildings	35	35	35	35	50	35	50	50	50	50	50	35	35	40	35
Accessory Buildings	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15
Floor Area Ratio (maximum ratio of building to lot square footage)	N/A	N/A	N/A	N/A	N/A	N/A	0.40	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Notes:

- (1) The approving authority may approve lots less than five (5) acres in size and reduced setbacks for clustering of units to preserve open space or other resources as part of comprehensive design review.
- (2) The combined side yard setbacks shall not be less than twenty (20) feet.
- (3) Within required side yards, at least one (1) side shall provide four (4) feet of unobstructed surface to allow unobstructed access between the front and rear yards.
- (4) Listed setback distance or twenty percent (20%) of lot width in side yard and twenty percent (20%) of lot depth in rear yard, whichever is less.
- (5) If abutting non-residential property, there is no minimum rear yard setback.
- (6) See additional development standards for accessory structures in Chapter 17.30.

(Ord. 2010-02 § 1 (part), 2010)

17.24.030 ADDITIONAL STANDARDS FOR MULTI-FAMILY ZONING DISTRICTS.

In addition to the development standards listed in Table 17.24.020-1, the following development standards apply to multi-family residential development in the Medium Density Residential (R-2), High Density Residential (R-3), Very High Density Residential (R-4), and mixed use zoning districts including residential uses.

A. Open Space Requirements for Multi-Family Residential.

1. Multi-family, attached dwelling units that are all or partially located at ground level shall have not less than eighty (80) square feet of private open space.
2. Not less than twenty percent (20%) of the total lot area of multiple-family residential projects shall be provided as improved, private or semi-private useable open space and not less than three hundred (300) square feet of improved useable open space per dwelling unit shall be provided in each multi-family development project.
3. Not less than thirty percent (30%) of the total lot area of multiple-family residential projects shall be provided as improved, landscaped open space.

B. Screening and Vegetation for Multi-Family Residential. Projects within multi-family residential zoning districts shall include vegetative screening at the project perimeter to ensure the privacy of existing and future homeowners. The city shall determine the location and extent of vegetative screening required based on site conditions and surrounding existing and planned land uses. Where required, such vegetative screening shall be maintained in a healthy and vigorous condition. Areas used as vegetative screening shall not be counted as open space. (Ord. 2010-02 § 1 (part), 2010)

17.24.040 OBJECTIVE DESIGN STANDARDS FOR SINGLE FAMILY ZONING DISTRICTS.

In addition to the development standards listed in Table 17.24.020-1, the following objective development standards apply to applicable residential development in single family residential zoning districts.

A. Applicability

- 1. The project consists of constructing a primary dwelling unit, such as single family residence or a duplex, or modifying an existing structure to create a primary dwelling unit; and**
- 2. The project is located in the Low Density Residential (LDR) or Single Family Residential (R-1) zoning district.**

B. Design Standards

- 1. Units shall be designed with an entry feature or outdoor living area, such as a porch or courtyard, when located on a lot adjacent to the street, and include a path to the sidewalk/street.**

2. Projects resulting in the creation of a two-story dwelling shall step back the second floor wall plane at least five (5) feet from the first floor wall plane on at least two sides. On corner lots, the second floor wall plane shall be stepped back at least five (5) feet from the first floor wall plane along street frontages.

3. Two-story designs shall provide visual separation between the two stories by incorporating projections, reliefs, accents, roof forms, decks, balconies, and/or variation in materials between the two stories.

4. Unit design shall minimize the appearance of long blank walls by including design features on each building face at intervals of no less than fifteen (15) feet. Such features may include changes in the wall plane, inclusion of different materials, windows, doors, openings, and/or architectural detailing.

5. Consistent materials and colors shall be applied for each type of architectural detail, including door trim, window trim, window sills, shutters, and fascia, when such architectural details are located in more than one location on the building facade. For example, when white, wood window trim is used at one location on the building, any window trim used at other locations shall be white, wood window trim.

6. Windows shall be offset so that they are not lined up with windows of adjoining structures, or windows shall include non-transparent glazing to obscure direct views into adjoining structures.

3. Pinole Municipal Code Chapter 17.70 Accessory Dwelling Units and Junior Accessory Dwelling Units [Amendment]

Full Chapter included.

Text to be removed shown in ~~strikeout text~~.

Text to be added shown in **bold and underline**.

CHAPTER 17.70

ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

Sections:

- 17.70.010 Purpose.
- 17.70.020 Applicability.
- 17.70.030 Permit requirements.
- 17.70.040 Performance standards.
- 17.70.050 Declaration of restrictions
- 17.70.060 Affordable housing incentive.

17.70.010 PURPOSE.

The purpose of this chapter is to establish procedures for reviewing the placement of accessory dwelling units and junior accessory dwelling units in residential and mixed-use zoning districts, address the state's accessory dwelling unit (ADU) and junior accessory dwelling unit (JADU) requirements, as set forth in California Government Code § ~~66310 to 66342~~ **65852.2- and 65852.22** and implement the general plan policies which encourage more affordable rental housing, while maintaining the quality of existing residential neighborhoods.

(Ord. 2020-04 § 2, 2020; Ord. 2017-08 § 2 (part), 2017; Ord. 2010-02 § 1 (part), 2010)

17.70.020 APPLICABILITY.

The regulations and standards contained in this chapter shall apply to all new accessory dwelling units (ADU) and junior accessory dwelling units (JADU) in the city, including previously unpermitted ADUs that are legalized, and shall be in addition to any other development standards and regulations contained elsewhere within Title 17 Zoning Code that apply to primary dwelling units (e.g., lighting). ADUs are permitted on all lots zoned to allow single-family and multi-family residences that have an existing or proposed single-family or multi-family residence. JADUs are permitted on lots with an existing or proposed single-family residence. For the purposes of this title, ADUs and JADUs are not considered accessory structures as otherwise regulated in Chapter 17.30.

(Ord. 2020-04 § 2, 2020; Ord. 2017-08 § 2 (part), 2017; Ord. 2010-02 § 1 (part), 2010)

17.70.30 PERMIT REQUIREMENTS.

A. Application Review

1. All accessory dwelling units (ADU) and junior accessory dwelling units (JADU) require review and approval through the plan check process, pursuant to the requirements of Section 17.12.030 (Plan Check).

a. Applications for ADUs and JADUs shall be ministerially reviewed by the City within sixty (60) days from the date a **completed application is received if there is an existing single-family or multifamily dwelling on the lot**~~complete-application is submitted.~~

b. If the permit application to create an ADU or JADU is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the application for the ADU or JADU until the City acts on the permit application to create the new single-family dwelling. The application to create the ADU or JADU shall still be considered ministerially without discretionary review or a hearing.

B. All ~~plan check~~ applications for ADUs and JADUs shall include, but are not limited to, the following:

1. A completed building permit application;
2. Proof of ownership of the property or permission from the property owner;
3. ~~Site~~**Site** plan showing the location of any and all easements, structures, parking for both the primary and accessory dwelling units, other improvements, and trees over four (4) inches in diameter;
4. Floor plan showing the square footage of the structure, the floor area, the lot, and the percentage of the lot area covered by the foundations of the accessory and primary dwelling units;
5. Elevations showing all sides of the ADU or changes being made to the single-family home in order to add an ADU or JADU;
6. Colors and materials board, or aesthetic details noted in plan sets;
7. Such other information which the Community Development Director determines is necessary to evaluate the proposed project.
8. Completed declaration of restrictions, **including a notarized property owner signature on the form as**

~~required in Section 17.70.050, signed and ready for recordation.~~

9. Address assignment application for the proposed unit.

10. Permit applications required by the Public Works Department to serve the proposed unit, which may include but is not limited to sewer lateral and encroachment permits.
(Ord. 2020-04 § 2, 2020; Ord. 2017-08 § 2 (part), 2017; Ord. 2010-02 § 1 (part), 2010)

17.70.040 PERFORMANCE STANDARDS.

An accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU) shall meet all of the applicable zoning regulations for the specific zoning district in which it is located, except as provided in this chapter. An ADU or JADU that conforms to the requirements of this chapter, and any other applicable development standards and regulations contained in Title 17 Zoning Code, shall not be considered to exceed the allowable density for the lot upon which such unit is proposed to be established and shall be deemed a residential use which is consistent with the existing general plan and zoning designations for the lot. **Correction of nonconforming zoning conditions shall not be required as a condition for ministerial approval of a permit application for the creation of an ADU or JADU.**

A. Unit Types and Facilities Definitions.

1. Accessory Dwelling Unit (ADU)

a. An ADU shall consist of complete independent living facilities including permanent facilities for sleeping, living, eating, cooking, and sanitation. The ADU shall include independent heating and cooling controls, its own kitchen and sink and standard built-in or freestanding appliances, its own bathroom with bathtub or shower, and a separate exterior entrance.

b. The ADU may either be within an existing structure, attached to the primary dwelling, or detached from the primary dwelling.

2. **Junior Accessory Dwelling Unit (JADU).** A JADU shall consist of a unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

~~B. ADUs and JADUs may not be sold separately from the primary residential dwelling on the lot.~~

C. Maximum Number of ADUs and JADUs. Any of the following shall be permitted in a residential or mixed-use zone:

1. One (1) ADU **and one (1)** ~~or~~ JADU per lot with a proposed or existing single-family dwelling.

~~2. One (1) detached, new construction, ADU that does not exceed four (4) foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The proposal may be combined with a JADU, for one (1) ADU and one (1) JADU on the single-family lot. The ADU shall not exceed eight hundred (800) square feet and sixteen (16) feet high.~~

~~23. Within existing multi-family dwelling structures, a number of ADUs based on at least one (1) ADU and not more than twenty-five percent (25%) of the number of existing multi-family dwelling units, **with a minimum of one (1) ADU allowed,** if all of the following apply:~~

~~a. The unit is within the portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages.~~

~~b. The unit complies with state building standards for dwellings.~~

~~34. Not more than two (2) ADUs **Multiple ADUs, not to exceed either of the numbers established below,** that are located on a lot that has an existing multi-family dwelling, but are detached from that multi-family dwelling and are subject to a height limits **and** of sixteen (16) feet and four (4) foot rear and side yard setbacks **under this Chapter.**~~

~~**a. On a lot with an existing multifamily dwelling, not more than eight detached accessory dwelling units. However, the number of accessory dwelling units allowable pursuant to this clause shall not exceed the number of existing units on the lot; or**~~

~~**b. On a lot with a proposed multifamily dwelling, not more than two detached accessory dwelling units.**~~

D. Development Standards and Requirements for Accessory Dwelling Units.

1. Maximum floor area for attached or detached ADUs.

a. Fifty percent (50%) of the existing living area of the primary dwelling unit, with a limit of eight hundred fifty (850) square feet for an ADU with one or fewer bedrooms or one thousand (1,000) square feet for an ADU with two (2) or more bedrooms.

b. Where fifty percent (50%) of the existing living area does not allow for an eight hundred (800) square foot ADU, an ADU of up to eight hundred (800) square feet may be allowed;

2. Setbacks.

a. New ADUs shall have a minimum setback of four (4) feet from the side and rear property lines, and setbacks shall be sufficient for fire and safety;

~~**b3.**~~ No setback shall be required for an existing legal structure that is converted to an ADU;

~~c4.~~ Detached ADUs shall not be less than ~~six (6)~~^{eight (8)} feet from the primary dwelling unit, except if this would prohibit the construction of an eight hundred (800) square foot ADU with four (4) foot rear and side setbacks;

d. No setback shall be required for an ADU constructed within an existing legal structure, or in the same location and to the dimensions of an existing legal structure. Such ADUs may include an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

3. Height

a. Detach ADUs shall not exceed sixteen (16) feet in height, unless the ADU is located within an existing structure.

i. The maximum allowable height shall be eighteen (18) feet if the lot is within a half-mile walking distance of a transit stop or high quality transit corridor, as defined in Section 21155 of the Public Resources Code;

ii. The maximum allowable height shall be eighteen (18) feet if the detached ADU is located on a lot with a multistory, multifamily building.

b. Attached ADUs shall not exceed the maximum allowable height of the zoning district;

4. Exterior Access and Design.

a. The ADU shall have its own exterior access, ~~and no~~.

b. Any exterior stairs to a second story attached ADU shall be located behind the residence. If location behind the residence is not possible due to site constraints, the project shall include at least one of the following features to obscure visibility shall be visible from the public right-of-way: incorporate screening into the architectural design; addition of trees or landscaping as screening; and/or use of colors on the stairway that match those used on the structure where the stairs are attached to minimize contrasts.

c. Attached ADUs shall use exterior colors, materials, and architectural details that match the appearance of existing corresponding features on the residence.

d. No passageway shall be required in conjunction with the construction of an ADU. A passageway means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU;

5. Location. Detached ADUs shall be constructed at the rear or side of an existing single-family residence, and otherwise appear secondary in nature, and not be constructed in front of the primary dwelling unit;

~~6. The ADU should be compatible with the primary dwelling unit, and should use similar style, materials, and colors;~~

~~7. No passageway shall be required in conjunction with the construction of an ADU;~~

~~8. If ADUs are rented, rental must be for terms longer than thirty (30) days; and~~

~~9. No setback shall be required for an ADU constructed within an existing legal structure, or in the same location and to the dimensions of an existing legal structure. Such ADUs may include an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.~~

6. Rentals. Any rental of ADUs must be for terms longer than thirty (30) days.

E. Development Standards and Requirements for Junior Accessory Dwelling Units.

1. The JADU shall be constructed within the walls of the proposed or existing single-family residence and shall not exceed five hundred (500) square feet.

2. The owner shall occupy the primary residence or JADU.

3. The JADU shall include a separate entrance from the main entrance to the proposed or existing single-family residence.

4. The JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure.

5. The JADU shall include an efficiency kitchen, which shall include all of the following:

a. A cooking facility with appliances.

b. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

6. Modifications to the exterior of the residence in order accommodate a proposed JADU shall use exterior colors, materials, and architectural details that match the appearance of existing corresponding features on the residence.

F. Parking and Vehicle Access.

1. The ADU shall be provided with one (1) additional off-street parking space per ADU or bedroom, whichever is less. However, no additional parking spaces shall be required for an ADU which is:

- a. Part of the existing or proposed primary residence or an existing accessory structure;
- b. Located within one-half mile of a public transit stop;
- c. Located within an architecturally and historically significant historic district;
- d. Is located within one (1) block of a car share vehicle; or
- e. In a location where on-street parking permits are required, but not provided to the occupant of the ADU.

2. Replacement parking shall not be required where a garage, carport, ~~or~~ covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU.

a. A demolition permit for a detached garage that is to be replaced with an ADU shall be reviewed with the application for the ADU and issued at the same time. An applicant shall not be required to post any written notice or placards for demolition of a detached garage that is to be replaced with an ADU, where posting of such written notice or placard may otherwise be required.

3. The parking spaces required for the accessory dwelling unit can be in tandem to the required parking of the primary dwelling unit, as tandem parking on a driveway, may be uncovered, and or can be located within the front setback if it can be demonstrated that no other option exists. Such parking is allowed unless specific findings that are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

4. The ADU shall utilize the same vehicular access that serves the primary dwelling unit. If the parcel is a through lot, access for both the single-family home and the ADU shall be limited to one (1) point or side of the lot for both dwelling units.

5. No additional parking spaces shall be required for a JADU.

G. Construction, and Utilities, **Connections, and Impact Fees.**

1. The ADU shall meet all applicable building and construction requirements as adopted by the city that apply to the construction of single-family detached dwellings, ~~as appropriate~~, including but not limited to sewer and utility services, as appropriate and unless otherwise exempt by State law.

2. An ADU shall be served by public water and sewer and shall have access to an improved street.

3. An ADU is not considered a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the ADU was constructed with a new single-family dwelling.

4. An ADU is not required to provide fire sprinklers if they are not required for the primary residence. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

5.2a. An ADU within a primary dwelling unit or an existing accessory structure, ~~or a JADU~~, is not required to install a new or separate utility connection directly between the ADU and the utility or impose a related connection fee or capacity charge, unless the ADU was constructed with a new single-family home or upon separate conveyance of the ADU.

~~b. For purposes of providing service for water, sewer, or power, including a connection fee, a JADU is not to be considered a separate or new dwelling unit from the single-family residence.~~

~~4. The ADU shall be served by public water and sewer and shall have access to an improved street.~~

6. JADU Regulations Related to the Primary Residence

a. For the purposes of providing service for water, sewer, or power, including a connection fee, a JADU is not considered a separate or new dwelling unit from the single-family residence. Service or connection fees for water, sewer, or power established by ordinances and regulations that uniformly apply to all single-family residences shall apply to a single-family residence that contains a JADU.

b. A JADU is not considered a separate or new dwelling unit for the purposes of fire and life protection ordinances. Fire and life protection ordinances and regulations that uniformly apply to all single-family residences shall apply to a single-family residence that contains a JADU.

c. A permit to create a JADU shall not be denied due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the JADU.

~~75.~~ Impact fees shall not be charged for ADUs less than seven hundred fifty (750) square feet. Any impact fees charged for an ADU of seven hundred fifty (750) square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

H. Operations

1. Separate Sales

a. A JADU shall not be sold or conveyed separately from the primary dwelling unit.

b. An ADU shall not be sold or conveyed separately from the primary dwelling unit, except:

i. The ADU or the primary dwelling was built or developed by a qualified nonprofit corporation, and the

proposal meets the requirements of Government Code Section 66340 to 66341.

ii. As otherwise mandated by the California Government Code, or as otherwise allowed if a local ordinance is adopted to provide for the separate conveyance of the primary dwelling unit and accessory dwelling unit or units as condominiums beyond what is described in subsection (i).

2. Rental Term. An ADU shall only be rented for rental terms longer than thirty (30) days.

3. Occupancy. If a project proposes a JADU, the owner of the property shall live in either the primary residence or JADU.

(Ord. 2020-04 § 2, 2020; Ord. 2017-08 § 2 (part), 2017; Ord. 2010-02 § 1 (part), 2010)

17.70.050 DECLARATION OF RESTRICTION.

Prior to issuance of a building permit final, all property owners of record shall sign and record a Declaration of Restrictions with the County Recorder in a form satisfactory to the Zoning Administrator **consenting to the operations and requirements described in this chapter and as otherwise permitted by State law** stating, as applicable, that ~~1) the ADU or JADU shall not be sold separately from the primary residential unit on the lot, 2) the ADU shall only be rented for rental terms longer than thirty (30) days, and 3) an owner of the property shall live in either the primary residence or JADU, if there is a JADU on the property.~~ The ADU or JADU shall be found to be in non-compliance with the Zoning Code if the City finds the Declaration of Restrictions has been breached.

(Ord. 2020-04 § 2, 2020; Ord. 2017-08 § 2 (part), 2017; Ord. 2010-02 § 1 (part), 2010)

17.70.060 AFFORDABLE HOUSING INCENTIVE.

The city may, subject to the availability of funds and approval of the City Council, allow any applicable city development impact fees for accessory dwelling units to be paid from the city's available affordable housing fund for any new accessory dwelling unit rented to eligible very low and low income households after recording a Housing Affordability Control Agreement, subject to the review and approval of the City Attorney that shall run with the property for fifty five (55) years. Owners of accessory dwelling units affordable to very low income households shall be eligible for complete reimbursement of city development impact fees upon recordation of the Affordability Control Agreement. Owners of accessory dwelling units affordable to low income households shall be eligible for reimbursement of seventy-five percent (75%) of the city development impact fees based on the available balance of the city's affordable housing fund established by the City Council for this purpose. Maximum annual rents, adjusted for accessory dwelling unit household size, shall be calculated by the City Manager or his/her designee annually based on published Contra Costa County income limits provided by the State Department of Housing and Community Development. Any reimbursement payment shall be repaid, along with five percent (5%) monthly interest charge, as well as the city's housing affordability monitoring expenses if an affordability control agreement is violated during the affordability period.

(Ord. 2020-04 § 2, 2020; Ord. 2017-08 § 2, 2017)

4. Pinole Municipal Code Chapter 17.71 SB9 Urban Lot Split and Unit Development [New Chapter]

Full Chapter included.

All text is new text, shown in **bold and underline**.

CHAPTER 17.71

SB9 URBAN LOT SPLIT AND UNIT DEVELOPMENT

Sections:

- 17.71.010 Purpose.
- 17.71.020 Applicability.
- 17.71.030 Definitions.
- 17.71.040 Eligibility.
- 17.71.050 Application Review Process.
- 17.71.060 Standards and Requirements for Urban Lot Splits.
- 17.71.070 Standards and Requirements for Unit Development.
- 17.71.080 Declaration of Restriction.

17.71.010 PURPOSE

The purpose of this chapter is to establish procedures and standards for reviewing urban lot split and unit development projects proposed under the provisions of Senate Bill 9 (SB 9), as set forth in California Government Code § 65852.21 and 66411.7.

17.71.020 APPLICABILITY

The regulations and standards contained in this chapter shall apply to projects proposing to use the provisions of SB 9 to create a unit, urban lot split, or both, and shall be in addition to any other applicable development standards and regulations contained elsewhere within Title 17 Zoning Code. Projects proposed under SB 9 shall meet eligibility criteria established in this Chapter, consistent with California Government Code § 65852.21 and 66411.7. This Chapter does not apply to construction of accessory dwelling units and junior accessory dwelling units under Chapter 17.70.

17.71.030 DEFINITIONS

For the purposes of this Chapter, the following definitions apply to projects proposing an urban lot split or unit development under the provisions of SB 9.

A. Single Family Residential Zoning District. Single family residential zoning districts, for the purposes of this Chapter, include Low Density Residential (LDR) and Suburban Residential (R-1).

B. Unit Development. The development of a primary dwelling unit, subject to the standards and requirements of this Chapter.

C. Urban Lot Split. A subdivision of one parcel located in a single family residential zoning district into two parcels, subject to the standards and requirements of this Chapter.

D. High-quality Transit Corridor. As defined in subdivision (b) of Section 21155 of the Public Resources Code, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

E. Major Transit Stop. As defined in Section 21064.3 of the Public Resources Code, a major transit stop means a site that contains any of the following: (a) An existing rail or bus rapid transit station, (b) A ferry terminal served by either a bus or rail transit service, or (c) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

F. Specific, Adverse Impact. As defined in Section 65589.5(d)(2), specific, adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety:

1. Inconsistency with the zoning ordinance or general plan land use designation.
2. The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

17.71.040 ELIGIBILITY

A. General Criteria. Projects for a proposed urban lot split or unit development are required to meet the general eligibility criteria provided below:

1. Single Family Residential Zoning District. The parcel must be located in a single family residential zoning district.

2. Not Withdrawn from Rental. The property is not a parcel where the owner had withdrawn accommodations

from rent or lease (as a residential hotel), under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1, within the last fifteen (15) years.

3. Not Historic. The property is not listed as a historic property or in a historic district under local or State register of historic resources.

B. Urban Lot Split Criteria. Projects for a proposed urban lot split are required to meet additional eligibility criteria provided below:

1. Previous Urban Lot Split Limitations. An urban lot split may be conducted only where all of the following applies:

a. The parcel has not been established through a prior SB9 urban lot split.

b. Neither the owner nor any person acting in concert with the owner has subdivided an adjacent parcel through a prior SB9 urban lot split.

2. Limitations on demolition or alteration of certain existing housing:

a. No demolition or alteration of housing with a recorded affordability restriction.

b. No demolition or alteration of housing under rent or price control.

c. No demolition or alteration of housing that has been occupied by a tenant in the last three (3) years.

C. Unit Development Criteria. Projects for a proposed unit development are required to meet additional eligibility criteria provided below:

1. Floor Area. Units shall be consistent with maximum unit sizes established under this Chapter.

2. Limitations on demolition or alteration of certain existing housing:

a. No demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

b. No demolition or alteration of housing under rent or price control.

c. No demolition or alteration of housing that has been occupied by a tenant in the last three (3) years.

D. Locational Limitation Criteria. Projects shall not be located on a site that is any of the following, consistent with California Government Code Section 65913.4(a)(6)(B) to 65913.4(a)(6)(K):

1. Prime Farmland or Farmland of Statewide Importance. Prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

2. Wetlands. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

3. Very High Fire Hazard Severity Zone. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within the state responsibility area, as defined in Section 4102 of the Public Resources Code.

a. This does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development, including, but not limited to, standards established under all of the following or their successor provisions: (i) Section 4291 of the Public Resources Code or Section 51182, as applicable; (ii) Section 4290 of the Public Resources Code; (iii) Chapter 7A of the California Building Code (Title 24 of the California Code of Regulations).

4. Hazardous Waste Site. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless either of the following apply:

a. The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Section 65962.5.

b. The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.

5. Earthquake Fault Zone. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

6. Flood Hazard Zone. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

a. The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

b. The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

7. Floodway. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

8. Conservation Land. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

9. Habitat for Protected Species. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

10. Conservation Easement. Lands under a conservation easement.

17.71.050 APPLICATION REVIEW PROCESS

A. Application Approval Consideration.

1. Applications for urban lot splits and unit development meeting the standards and requirements of this Chapter shall be ministerially approved without public hearings or discretionary review.

2. Applications under this Chapter shall be approved or denied within 60 days from the date the Planning Division receives a completed application, consistent with the provisions of California Government Code Section 65852.21 and 66411.7.

a. If an application is denied, the Planning Division shall provide the applicant a full set of written comments with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

B. Urban Lot Split Application. The applicant shall submit an application for a proposed urban lot split to the Planning Division for ministerial review to verify consistency with eligibility criteria under SB 9, required application checklist items, and compliance with standards and requirements under this Chapter and the Subdivision Map Act (commencing with Government Code Section 66410). An application that meets the standards and requirements under this Chapter and all applicable objective requirements of the Subdivision Map Act shall be approved ministerially. Notwithstanding anything in this Code to the contrary, such approval shall be granted by the City Engineer, and shall not require approval from the Planning Commission or City Council.

C. Unit Development Application. The applicant shall submit an application for the design of a proposed unit to the Planning Division for ministerial review to verify consistency with eligibility criteria under SB 9, required application checklist items, and compliance with standards and requirements under this Chapter. An application that meets the standards and requirements under this chapter shall be approved ministerially by the Zoning Administrator.

D. Tree Removal in Conjunction with Applications. The removal of any protected tree in conjunction with construction proposed under the provisions of this Chapter shall require a tree removal permit. Notwithstanding the requirements of Chapter 17.96 Tree Removal, a tree removal permit application shall be processed ministerially at the staff level and concurrently with an application proposed under this Chapter.

17.71.060 STANDARDS AND REQUIREMENTS FOR URBAN LOT SPLITS

A. General Development Standards. The project shall be consistent with the standards of the zoning district applicable to the site, except as provided under this Chapter. Except for the standards set forth in this chapter, no development standards shall apply if they would have the effect of physically precluding the construction of two units of at least 800 square feet on the parcel(s).

B. Total Lots. An urban lot split conducted under the provision of this chapter shall result in no more than two (2) lots.

C. Total Units per Lot. No more than two (2) total units, inclusive of primary dwelling units, accessory dwelling units, and junior accessory dwelling units, may be located on each parcel created through the urban lot split.

D. Lot Sizes.

1. Each parcel shall be a minimum of one thousand two hundred (1,200) square feet.

2. A parcel may be no smaller than forty percent (40%) of the original parcel size and no larger than sixty percent (60%) of the original parcel size.

E. Setbacks

1. Each parcel shall allow for minimum side and rear setbacks that are minimum four (4) feet. Parcels with a front lot line shall provide for a front setback that is a minimum of twenty (20) feet, except as otherwise allowed per Chapter 17.56 Yard and Setback Regulations.

2. No setback required for an existing structure or a structure constructed in the same location with the same dimensions.

F. Access to Streets and Services

1. Parcels created through the urban lot split shall have access to, provide access to, or adjoin the public right-of-way.

a. Access shall meet objective design standards for circulation, pedestrian and vehicular access, or driveways, as may be applicable.

2. Project may be required to establish easements if required by the City for the provision of public services and facilities, as provided under Government Code Section 66411.7(e).

G. Parking.

1. A minimum of one off-street parking space shall be required per unit, except for the following:

a. The parcel is located within a half mile of a high-quality transit corridor or major transit stop; or

b. The parcel is located within one block of a car share vehicle.

2. Parking may be provided in any configuration on the parcel, including in the driveway, provided the project complies with the following requirements:

a. Parking design and dimensions are consistent with the standards under Chapter 17.48 Parking and Loading Requirements.

b. Parking does not obstruct pedestrian or vehicular access to other units and parking spaces.

H. Ongoing Requirements.

1. Residential Use. Primary uses on lots created through an urban lot split under this Chapter are limited to residential uses.

2. Occupancy. The property owner must intend to occupy one of the units as their principal residence for a minimum of three (3) years from the date of urban lot split approval. Except, such occupancy is not required for community land trusts or qualified nonprofit corporations, as provided by Government Code Section 66411.7.

a. As part of the application, the owner shall submit a signed affidavit stating that they intend to occupy one of the housing units on the site as their principal residence for a minimum of three (3) years from the date of the approval of the urban lot split.

3. No Short-Term Rentals. Rental of any units created through SB 9 are required to be for terms longer than thirty (30) days.

17.71.070 STANDARDS AND REQUIREMENTS FOR UNIT DEVELOPMENT

A. General Development Standards. The project shall be consistent with the standards of the zoning district applicable to the site, except as provided under this Chapter.

B. Total Units.

1. Up to two (2) primary units per parcel may be created through the provisions of this Chapter. Additionally, a project may not result in more than two (2) primary units per parcel.

C. Setbacks.

1. Front setback. On a parcel with a front lot line separating the lot from a street, the front setback shall be a minimum of twenty (20) feet or as otherwise allowed per Chapter 17.56 Yard and Setback Regulations, unless such setbacks would physically preclude the construction of the unit(s) or preclude the unit(s) from being at least eight hundred (800) square feet.

2. Side setback. The side setback shall be a minimum of four (4) feet.

3. Rear setback. The rear setback shall be a minimum of four (4) feet.

4. Setbacks from Other Structures. The minimum distance between structures on the same parcel shall be six (6) feet, unless this would physically preclude the construction of the unit(s) or preclude the unit(s) from being at least eight hundred (800) square feet.

5. Existing Structure Setback Exceptions. No setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

E. Parking.

1. A minimum of one off-street parking space shall be required per unit, except no minimum parking shall be required for the following:

a. The parcel is located within one-half mile walking distance of a high-quality transit corridor or major transit stop; or

b. The parcel is located within one block of a car share vehicle.

2. Parking may be provided in any configuration on the parcel, including in the driveway, provided the project complies with the following requirements:

a. Parking design and dimensions are consistent with the standards under Chapter 17.48 Parking and Loading Requirements.

b. Parking does not obstruct pedestrian or vehicular access to other units and parking spaces.

F. Ongoing Requirements.

1. No Short-Term Rentals. Rental of units created through SB 9 are required to be for terms longer than thirty (30) days.

G. Objective Design Standards. Projects shall be consistent with the development standards of the zoning district applicable to the site, except as provided under this Chapter. Except for the standards set forth in this chapter, no development standards shall apply if they would have the effect of physically precluding the construction of two units of at least 800 square feet on the parcel(s).

17.71.080 DECLARATION OF RESTRICTION

Prior to building permit final, all property owners of record shall sign and record a Declaration of Restrictions with the County Recorder in a form satisfactory to the Zoning Administrator consenting to the operations and requirements described in this chapter and as otherwise permitted by State law. An urban lot split or unit development shall be found to be in non-compliance with the Zoning Code if the City finds the Declaration of Restrictions has been breached.

17.71.090 INTERPRETATION

If any portion of this Chapter conflicts with applicable State law, State law shall supersede this Section. Any ambiguities in this Section shall be interpreted to be consistent with State law.

Attachment B. Housing Element Programs Associated with Second Set of Revisions

[Highlighted text was addressed in the revisions]

Program 4. Facilitate ADU Production

To encourage and increase ADU production in the City, a number of efforts are included. The programs are intended to help the City meet its target projection of three ADUs per year. This program works in conjunction with Program 23, ADU, JADU, and SB 9 Education. If annual production and affordability rates do not match the estimates included in the Housing Resources Section, the City will update the ADU strategy to ensure that the City continues to maintain adequate capacity for all income levels.

- **Updated ADU Ordinance.** The City has submitted its ADU ordinance to the State and the State acknowledge that the ordinance was received. Should the State require revisions to the ordinance, it will be modified to reflect the requested revisions within one year upon receipt of the comments.

- **ADU Tracking.** The City will track and monitor its ADU production to ensure that annual production achieves the RHNA projections (3 ADUs/year). The City will begin to request information about ADU rents from applicants to better track the affordability of proposed ADUs. As a part of ADU tracking, the City will analyze geographic distribution of ADUs biennially to understand which neighborhoods are building ADUs.

- **ADU Fast Track Program.** The City will develop a process to fast track ADU applications through plan check by moving them to the top of the queue and reducing plan check turnaround times.

- **ADU Amnesty Program.** To ensure safe and adequate housing, the City will develop an ADU amnesty program for existing, unpermitted ADUs to receive inspections and bring units into compliance with code and permits without risk of code enforcement action, significant fee reductions and assistance in determining necessary improvements.

- **Fee Waivers for Affordable ADUs.** Current successor funds require an affordability covenant length of 55 years. The City will modify Zoning Ordinance Section 17.70.060 to shorten the required ADU covenant length (for example, for 5 – 15 years) pending alternate funding to offset the fee waivers for ADUs over 750 square feet that are made available to lower or moderate income households for a shorter period of time. The City will pursue funding sources, such as PLHA or in-lieu fees, funds for this effort.

Program 5. SB 9 Technical Assistance and Facilitation

The City is in the process of creating informational materials to assist applicants and property owners in submitting applications for the development of SB 9 projects, which would highlight permit requirements and development standards to promote greater clarity in preparing submittals. Materials are anticipated to be completed in 2023. In the interim, City staff provides guidance to applicants and owners through correspondences by phone, email,

and counter meetings to help applicants understand State standards and provisions under SB 9, discuss preliminary design concepts, and explain permit procedures. Additionally, the City is in the process of establishing objective design standards. Objective design standards would provide greater predictability and clarity regarding design attributes for new residential development and support ministerial review and are anticipated to be completed within two years of Housing Element adoption.

The City has recently received its first SB 9 application. In an effort to encourage and facilitate development in single family zone, the City will pursue a number of technical assistance and facilitation efforts including:

- Updating the zoning code. This will include a review of developmental standards that could constrain SB 9 development and updating the zoning code to remove such constraints.
- Creating a simplified lot split form to process SB 9 projects and provide the form online
- Ensure objective design standards for SB 9 units (Program 13)
- Provide enhanced technical assistance through Program 4, which includes implementing new software to provide residents and developers with tools to determine if an ADU or SB 9 unit can be put on their property. The software will provide information regarding zoning, rebate opportunities, opportunities for fee waivers available for affordable ADU and SB 9 development, and the ADU amnesty program. The objective design standards and simplified lot form for SB 9 units will be made available through the software.

This program works in conjunction with Program 23, ADU, JADU, and SB 9 Education, which provide a variety resources and outreach to homeowners regarding SB 9.

Program 12. Zoning Amendments

The City is including a number of zoning amendments as identified in the constraints section to ensure compliance with state law and remove constraints to development. Amendments to the zoning ordinance are as follows.

- Amend the Emergency Shelter ordinance to comply with AB 139 and to ensure that standards for emergency shelters are subject to the same standards as other uses in the same zone and parking requirements are based on staffing levels only.
- Amend the zoning ordinance pursuant to Government Code Section 65583 to allow for Low Barrier Navigation Centers by right in areas zoned for mixed uses and nonresidential zones that permit multifamily uses.
- Amend the zoning ordinance in RMU to permit manufactured homes on permanent foundations as if they were single-family homes.
- Amend the zoning ordinance to comply with SB 9 standards (California Government Code section 65852.21).
- Review and revise standards and definitions for both group homes and residential care facilities to ensure that they are fully compliant with all appropriate state laws and that there are no constraints on group homes in the Zoning Code. This includes

an amendment to allow group homes in the R zone as a permitted use by right as is allowed in all other residential zones and adding a definition of group residential to the Zoning Code.

- Review the definition of family and revise as appropriate to ensure that the definition does not require, or imply that it requires a single lease or rental agreement.
- Amend the zoning ordinance to comply with state density bonus law (California Government Code section 65915). Specifically the update will increase the maximum density bonus from 35 to 50 percent, add student housing as a housing type that is eligible for density bonus incentives, reduce parking from 2 to 1.5 spaces for two and three bedroom units and from 2.5 to 2 spaces for four or more bedroom units. The City is complying with state density bonus law though the code is not yet updated.
- The City will reduce the level of approval for a parking reduction or shared parking agreement from a conditional use permit to an administrative use permit, which approval by the Zoning Administrator. The City will review the four criteria for a parking reduction to evaluate additional criteria or/and reduce the minimum number of required criteria.
- The City will further study parking requirements and reduce them so they do not post a constraint on development. Specifically, the City will do one or more of the following: remove or reduce guest parking, remove covered parking requirements, allow tandem parking, or reduce minimum parking requirements. The City is pursuing assistance with parking evaluation and reduction through MTC-ABAG's parking policy technical assistance.

Program 13. SB 330 Objective Design Standards and SB 35 Streamlining Compliance

SB 330 enacts changes to local development policies, permitting, and processes that will be in effect through January 1, 2025. SB 330 places new criteria on the application requirements and processing times for housing developments; prevents localities from decreasing the housing capacity of any site, such as through downzoning or increasing open space requirements, if such a decrease would preclude the jurisdiction from meeting its RHNA housing targets; prevents localities from establishing non-objective standards; and requires that any proposed demolition of housing units be accompanied by a project that would replace or exceed the total number of units demolished. Additionally, any demolished units that were occupied by lower-income households must be replaced with new units affordable to households with those same income levels.

The City will ensure compliance with SB 330, by requiring any demolished units that were occupied by lower-income households to be replaced with new units affordable to households with those same income levels and establishing objective design standards.

Pursuant to SB 330, the City will review and amend the Zoning Ordinance and Design Review Guidelines to ensure that all development standards, design guidelines, and findings are objective, and promote certainty in the planning and approval process. The objective standards will also include standards for SB 9 projects. The City has begun the process and is currently cataloging existing objective and subjective standards. Through implementing

objective design standards, the City is aiming to reduce the time it takes to complete the comprehensive design review process.

The City will review its approval processes to accommodate SB 35 streamlined applications and by-right applications for permanent supportive housing and navigation centers. The City will provide information regarding the SB 35 process on its website.