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

5  
6 **May 22, 2023**

7  
8 **THIS MEETING WAS HELD IN A HYBRID FORMAT**  
9 **BOTH IN-PERSON AND ZOOM TELECONFERENCE**  
10

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

14 **B1. PLEDGE OF ALLEGIANCE**  
15

16 **B2. LAND ACKNOWLEDGEMENT:** *Before we begin, we would like to acknowledge the*  
17 *Ohlone people, who are the traditional custodians of this land. We pay our respects to*  
18 *the Ohlone elders, past, present and future, who call this place, Ohlone Land, the land*  
19 *that Pinole sits upon, their home. We are proud to continue their tradition of coming*  
20 *together and growing as a community. We thank the Ohlone community for their*  
21 *stewardship and support, and we look forward to strengthening our ties as we continue*  
22 *our relationship of mutual respect and understanding.*  
23

24 **B3. ROLL CALL**  
25

26 Commissioners Present: Banuelos, Bender, Lam-Julian, Sandoval, Vice Chairperson  
27 Menis, Chairperson Benzuly  
28

29 Commissioners Excused: Martinez  
30

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

35 **C. CITIZENS TO BE HEARD**  
36

37 Nels Delander, Field Representative, Norcal Carpenter's Union, speaking on behalf of  
38 working class construction workers of the community, spoke to the importance of projects  
39 having prevailing wages, health care, local hires and skilled apprentices. Workers needed  
40 to be paid prevailing wages to ensure they made enough money to care for their families  
41 given the cost of living in the Bay Area, which had increased with inflation. Health care  
42 was needed on projects in the event someone was hurt and no one should have to pay  
43 for injuries that occurred on the job site. Local hire should also be included with workers  
44 allowed to work and live in the community rather than having to drive outside of the area  
45 further exacerbating existing traffic conditions. Apprentices should also be included on  
46 future projects who had been appropriately trained making job sites safer while also  
47 producing quality work with projects on budget and on time. He again asked that all future  
48 workers on jobs be safe and be taken care of for a successful project the community could  
49 enjoy.  
50

1 Anthony Vossbrink, Pinole, asked of the rules or regulations for posting banners in the  
2 City. As an example, over the past few weeks over a dozen banners had been posted in  
3 the City of Pinole by the City of Hercules to promote its Fourth of July festivities. He  
4 understood that while a permit was not required the banners could only be installed 30-  
5 days before the actual event. Given the banners were in violation of the City's regulations,  
6 he asked who had permitted the banners to be posted and why the City of Hercules was  
7 being allowed to thwart the City of Pinole's regulations. He suggested the banners be  
8 removed and the City of Pinole promote its own community activities.  
9

10 Mr. Vossbrink also asked the status of the Safeway project in Tara Hills at I-80 Appian  
11 Way since little information had been provided on the progress of the project. He reported  
12 that lights continued to be out up and down Pinole Valley Road and San Pablo Avenue  
13 near the animal shelter, some poles were missing or light bulbs were needed to be  
14 installed or poles had been knocked down in the median strip. He asked that the Public  
15 Works Director provide a status report. He further asked that someone patrol the City in  
16 the evening and questioned whether Directors and Managers on staff lived in the City of  
17 Pinole.  
18

19 Planning Manager David Hanham reported staff would work with Code Enforcement on  
20 the banners and clarified a Temporary Sign Permit would be required. He would also  
21 provide a status report on the Safeway at Tara Hills during the City Planner's/  
22 Commissioner's Report as part of agenda Item H.  
23

#### 24 **D. MEETING MINUTES**

##### 25 1. Planning Commission Meeting Minutes from May 8, 2023

26 In response to Vice Chairperson Menis, Mr. Hanham confirmed that after the reorganization  
27 of the Planning Commission, as shown on Page 2 of the May 8, 2023 Planning Commission  
28 meeting minutes, all further references to Commissioner Menis in the minutes should be  
29 corrected to read: *Vice Chairperson Menis*.  
30  
31

32 Commissioner Bender requested the following modifications to Page 14, Lines 26 through  
33 27:  
34

35  
36 *With the trees and existing homes, the project would not be clearly visible and*  
37 *would eventually be partially screened from view and the project would not be*  
38 *clearly visible from many vantage points.*  
39

40 And Page 8, Lines 41 through 46:  
41

42 *Clarified the Planning Commission Ad-Hoc Subcommittee primarily dealt with the*  
43 *building massing, with the buildings square as opposed to rectangular in style. The*  
44 *Ad-Hoc Subcommittee desired that the two buildings that faced each other would*  
45 *be similar in nature, although the one building had 2,500 square feet of office space*  
46 *which the other did not. There had been discussions about matching the color or*  
47 *differentiating the color along that elevation adjacent to Pinole Shores I.*  
48

49 **MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes from  
50 May 8, 2023, as amended.

1 **MOTION: Menis**

2 **SECONDED: Sandoval**

3 **APPROVED: 5-0-2**

4 **ABSENT: Martinez**

5 **ABSTAIN: Banuelos**

6 **E. PUBLIC HEARINGS**

7 **1. Minor Subdivision (PL23-0001 & MS652-23) 2801 Pinole Valley Road Lot Split**

8  
9 **Request:** Consideration of a lot split request to modify lot lines on the  
10 approximately 1.74-acre parcel to split the existing parcel into two  
11 parcels of approximately 0.27 acres and 1.46 acres. The project  
12 qualifies for a CEQA exemption under CEQA Guidelines Section  
13 15315.

14  
15 **Applicant:** Brian Baniqued, Pinole Valley Partners, LLC  
16 2801 Pinole Valley Road  
17 Pinole, CA 94564

18  
19 **Location:** 2801 Pinole Valley Road (APN: 360-010-029)

20  
21 **Planner:** Justin Shiu

22  
23 Contract Planner Justin Shiu provided a PowerPoint presentation of the staff report. He  
24 recommended the Planning Commission adopt Resolution 23-05 approving the subdivision  
25 of one lot into two lots at 2801 Pinole Valley Road (PL23-0001 & MS652-23), subject to  
26 Exhibit A, Conditions of Approval.

27  
28 Vice Chairperson Menis reported on ex parte communications and stated he had sent out  
29 notices of the meeting to his email list, had spoken about the project with some people who  
30 had attended Community Service Day, and had referenced the meeting agenda at a  
31 community meeting he had attended on May 21, 2023.

32  
33 Responding to the Commission, Mr. Shiu, Mr. Hanham and Assistant City Attorney Alex Mog  
34 clarified the following:

- 35
- 36 • The proposed reciprocal easement for parking, as shown on the plans, identified the  
37 two parcels where a Reciprocal Access Agreement (RAA) would be required to be  
38 drafted by the applicant and be reviewed by City staff to ensure that both Parcels A  
39 and B would share parking and circulation.  
40
  - 41 • Recordation of the new RAA would not affect the existing easement on site but would  
42 recognize that easement.  
43
  - 44 • Any new application for commercial development would have to come back to the  
45 Planning Commission for review and approval.  
46
  - 47 • The RAA would help to preserve the parking and the continued use throughout the  
48 site.  
49

- Condition 5 of Exhibit A stipulated: *Any proposed reduction in the total number parking spaces on one parcel shall consider the number of parking spaces on the other parcel. The owner/applicant shall aim to avoid a reduction in net parking spaces on site, based on the total parking spaces from the two parcels. Where a reduction in net parking spaces on site is proposed, the property owner/applicant shall notify the Planning Manager who shall determine the applicable process to consider the proposal.*
- Reiterated any net change in parking or in circulation would be brought back to the Planning Commission for review. If the property fell into separate hands, the recorded RAA would continue to maintain parking and circulation access.
- The primary reason for the lot split from one to two parcels was due to the request of the construction lender in conjunction with its lending terms and requirements. With the lot split, the current first loan on the property was segregated on one of the lots while allowing the second lot to be free and clear of any debt. This would provide opportunity for the newly-created lot to receive a better primary construction loan to fund the approved new apartment building and office expansion. The applicant could provide more clarification.
- The financing itself was not relevant to the Planning Commission's determination on the lot split, but presumably the Deed of Trust for the existing loans would only be on that parcel and be reconveyed from the other parcel, attached to one parcel with the other parcel not having that burden.
- Parcel B would include the existing building, driveway to the rear of the lot, and the rear of the lot that contained the approved office/commercial addition and new apartment building. When the project had previously been approved for a certain number of affordable housing units, it was found to be consistent with the City requirements and the recorded deed restriction on the property would ensure the affordable units were maintained as affordable for the entire 55-year period. The agreement would be recorded prior to issuance of building permits.

#### PUBLIC HEARING OPENED

Brian Baniqued, Pinole Valley Partners, LLC, 2801 Pinole Valley Road, Pinole, explained the lot split was simply to obtain construction financing that involved an interim/short term loan during the time of construction. The long-time lender he had worked with had senior debt with other properties in which he was involved and also had a construction lending division and had recommended the lot split. The lot split, as configured, would conform to the City's requirements, with Parcel A to be used as the original parcel and for the sole purpose of being able to segregate the existing senior debt, which was small in comparison to the overall value of the property, to the parcel.

Mr. Baniqued stated there were twelve small businesses operating out of the property and would continue to operate and be able to support the senior debt, to be segregated to Parcel A. A new construction loan would then be allowed on the newly-created parcel. He clarified that during construction his business and the other small businesses on the property would face minimal disruption due to modular construction for the apartments, with the financing for the office remaining to be worked out, all coming into play for the financing for Parcel B.

1 Mr. Baniqued also clarified that during the time of the office building and newly-constructed  
2 apartment building a Certificate of Occupancy would be obtained. It was his intent at that  
3 time to consolidate the debt so that the new permanent loan could pay off the construction  
4 loan as well as the old debt for Parcel A in the hope of encumbering both parcels again, or  
5 merge all parcels again originally inspired and instructed by the lender of the construction  
6 loan that he described as the senior debt.

7  
8 Responding to the Commission, Mr. Baniqued again walked through the financing scenario  
9 and clarified the construction loan could not be behind the existing debt; a new permanent  
10 loan could not be obtained until something had been built but there was a permanent loan in  
11 that his business and the existing twelve businesses that paid rent supported the existing  
12 senior debt (30-year loan) and the financing scenario was intended to obtain construction  
13 financing. He also clarified that he had initially wanted to include the existing building in the  
14 lot split but additional issues had come into play where the ratio to office and residential would  
15 be off the calculation. He described the efforts to achieve the goals which had led to the  
16 proposed lot split configuration. He reiterated that he was in good standing with his long-  
17 term lender.

18  
19 Mr. Baniqued explained in this case it made financial sense to obtain a construction loan on  
20 the vacant lot and when the development was complete and eligible for a new loan, obtain a  
21 brand new loan to pay off the construction loan and new loan. He further clarified he had not  
22 considered the lot split when he had proceeded with the entitlements for the property since  
23 the issue had not come up at that time.

24  
25 Mr. Baniqued updated the Planning Commission on the status of the initial entitlements and  
26 reported he was in the process of going through the construction drawings now and had  
27 submitted a grading plan to the City, and while going through those other aspects he had  
28 considered the lot split. He described the financing scenario as a positive.

29  
30 PUBLIC HEARING CLOSED

31  
32 Commissioner Bender found the request to be unusual but with the Conditions of Approval  
33 regarding the reciprocal easements he had no issues.

34  
35 Commissioner Banuelos understood the size of the lots was because the applicant needed  
36 a way in and out. He had no issue with the lot split other than assurance the parking would  
37 remain for Parcel A.

38  
39 Mr. Baniqued reiterated the lot split was simply for the purpose of obtaining the construction  
40 loan.

41  
42 Vice Chairperson Menis thanked the applicant for his responses to the questions which  
43 answered many of the concerns he had with the lot split. He asked staff whether it was worth  
44 it to raise an issue with future applications if they were to consider a similar lot split to ensure  
45 the properties were unencumbered.

46  
47 Mr. Shiu commented that this particular strategy may not be applicable to other projects but  
48 staff could suggest applicants consult with their construction lenders as part of the process.  
49

Commissioner Lam-Julian asked staff to send her what had been presented as part of the initial project and include information on the City's requirements related to Mixed-Use projects.

Mr. Shiu stated there was a link in the staff report but he could also email the information separately.

Commissioner Sandoval also requested copies of the same information. He too found it to be an odd request but had no issues with the application.

Chairperson Benzuly agreed that this was an odd request but he wanted to see the project move forward. He had no further questions or comments.

**MOTION** to adopt Resolution 23-05, with Exhibit A: Conditions of Approval, Resolution of the Planning Commission of the City of Pinole Approving Minor Subdivision (PL23-0001 & MS652-23) to Subdivide One Lot into Two Lots at 2801 Pinole Valley Road (APN: 360-010-029).

**MOTION: Banuelos**

**SECONDED: Menis**

**APPROVED: 6-0-1**

**ABSENT: Martinez**

Chairperson Benzuly identified the 10-day appeal process in writing to the City Clerk.

**F. OLD BUSINESS:** None

**G. NEW BUSINESS:**

1. Review of Proposed Preliminary Capital Improvement Plan for Consistency with the General Plan

**Request:** Review of the Proposed Preliminary Capital Improvement Plan (CIP) for FY 2023/24 through 2027/28 for Consistency with the General Plan

**Project Staff:** Misha Dhillon

Capital Improvement and Environmental Program Manager Misha Dhillon provided a PowerPoint presentation of the Proposed Preliminary Five-Year Capital Improvement Plan (CIP) which the Planning Commission was asked to review. She recommended the Planning Commission adopt Resolution 23-06, finding the projects proposed in the CIP for Fiscal Years (FY) 2023/2024 through 2027/2028 consistent with the Pinole General Plan.

Responding to the Commission, Ms. Dhillon, Assistant City Attorney Mog and Mr. Hanham clarified:

- The Planning Commission may recommend approval of the Proposed Preliminary Five-Year Capital Improvement Plan (CIP) if it finds it met any part of the General Plan and it was up to the Planning Commission to determine compatibility.

- Oftentimes there was some contradicting language in the General Plan but the Planning Commission was asked to determine compliance with the General Plan overall. If not, the Planning Commission should identify that incompatibility.
- All City Departments had a goal to identify and seek opportunities for funding for projects. As an example, the City completed the Local Road Safety Plan (LRSP) which identified several road safety projects, allowed for grant ready materials and had identified funding sources to complete those improvements. There was a process in which staff leveraged and provided through the capital budget to seek additional funds and there was also an unfunded list of projects.
- The City had recently conducted a kick-off meeting for the Active Transportation Plan (ATP) with the project currently in the preliminary phase. It was anticipated the project would take nine to twelve months to complete.
- Staff had recently submitted a Bridge Selection Report to Caltrans regarding the San Pablo Avenue Bridge. Caltrans was behind due to the number of agencies that had requested funding through the Highway Bridge Program (HBP) and had not yet responded to the City's request. Review of the document could take several weeks. The project would require coordination with the Northern Santa Fe Railroad (NSFRR) and the City was restricted by the railroad's design guidelines since NSFRR had right-of-way (ROW) under the bridge.
- Acknowledged concerns the CIP report was difficult to read.
- Projects that were deferred and considered low priority were identified as shown in the staff report and attachments.
- Clarified the City Council had directed staff to develop a prioritization methodology for prioritizing projects given the City's limited resources and ability to complete the number of projects in one year. Some projects had been added or removed per City Council direction or had been added if there was a grant. Once that process was complete staff would prepare a prioritization matrix to rank the projects. In order to balance all resources, staff identified the projects that could be initiated this fiscal year. While some projects had moved into future years of the CIP, they were not removed and some timing had shifted.
- The infrastructure assessments, as included in Attachment B, General Plan Consistency Matrix for Proposed Preliminary Fiscal Year 2023/2024 through 2027/2028 CIP, included some projects that were underway but were all scheduled to take place this year.
- The City would be incorporating the recommendations into the Long-Term Financial Plan (LTFP), with the goal to have the assessments done and properly budgeted for the assessments in the future.
- The Old Town Parking Study had been reviewed by the City Council in 2020 and was due for review again in the next couple of years.

- Staff would provide a presentation to the City Council at its next meeting on The Inflation Reduction Act (IRA), at which time staff would also identify which projects may qualify for different pots of money.
- Project #UF029, Signalized Intersections included the potential funding source of the Highway Safety Improvement Program (HSIP) but was otherwise unfunded.
- The City Council may ask the Planning Commission for input on funding an additional project, as an example, but there was no requirement to go back to the Planning Commission once a CIP project had gone from unfunded to a funded project.

#### PUBLIC COMMENTS OPENED

In response to an unidentified member of the public, Mr. Hanham clarified there was an approved project (which neither the speaker nor staff identified) for a four-lot subdivision, with three of the lots market rate for-sale units and with one of the homes an affordable unit for 80 percent of the Area Median Income (AMI).

#### PUBLIC COMMENTS CLOSED

Vice Chairperson Menis found most of the items to be in compliance with the General Plan. He commented that some of the projects flagged for the LRSP were notable for meeting multiple elements of the General Plan and there would be no issue if funded in the future. In particular the following projects were referenced: Project #UF029, Signalized Intersections; #UF028, San Pablo Avenue Complete Streets; and #UF016, Shale Hill Retaining Wall and sidewalk gap. He assumed the sewer pump project that had been removed from the CIP was because it had been consolidated with other sewer projects, which Ms. Dhillon confirmed.

Vice Chairperson Menis also referenced #UF031, Safety at Unsignalized Intersections and commented that he had received a number of comments about the intersection at Pinole Valley Road and Simas Avenue, which CIP project tied into several elements of the General Plan and the LRSP. He noted while several items were on the unfunded list, there were parts of them in the General Plan which would merit their consideration by various bodies.

Commissioner Bender commented on the various street projects and suggested that the Pinole Smart Signals project could be the first out of the gate since the other projects were unfunded; however, the General Plan goals and policies reflected the traffic moving in an efficient way on San Pablo Avenue and Appian Way. He hoped this project would not exacerbate the existing freeway like conditions on San Pablo Avenue and noted there was no information on pedestrian safety.

Ms. Dhillon explained the Pinole Smart Signals project had been led by the Contra Costa Transportation Authority (CCTA), and although it may appear to be focused on vehicles part of the project would be focused on improving pedestrian safety. She added CCTA was currently forming a Memorandum of Understanding (MOU) to be provided to cities when additional details would be provided. CCTA was scheduled to make a presentation to the City Council at a future meeting in the next two months.



Commissioner Lam-Julian asked whether the facilities projects in the CIP had been run through the Sustainability Element of the General Plan.

Ms. Dhillon did not believe that had occurred since a lot of the projects, with the exception of one, were new projects with the goals and policies carried over from previous project sheets but if that was the desire of the Planning Commission that could be done.

Vice Chairperson Menis commented that although Sustainability Goal SE3 or General Plan Policy SE1.3, as shown, had not been mentioned with respect to the various policies listed in terms of actual implementation, the City would still proceed with those elements.

Ms. Dhillon confirmed the Vice Chairperson's understanding and stated there could be additional policies associated with a project and even more than those listed in the staff report, but those listed had been identified by staff and others that could also be in-line could be considered as well. Most of the projects had carried over from past years but if the Planning Commission suggested other policies should be listed for a particular project that could be incorporated by staff.

Vice Chairperson Menis referenced Energy Policy SE1.3, which directly applied to all City facilities and upgrades and suggested when the CIP was presented to the City Council some of the Sustainability Element goals should be added.

Commissioner Banuelos suggested to help support some of the projects there should be greater grant exploration to help get some of the projects on the unfunded list.

Commissioner Lam-Julian understood there was a program for grant writers the City could research, which recommendation had been raised by Irma Ruport during a recent City Council meeting. She referred to the IRA Conference and a discussion about philanthropic monies and different partnerships for cities to be actively and aggressively thinking out of the box. Given the City was one of the first in the County with a Sustainability Element, she suggested the City should aggressively consider other avenues to fund these projects and make them green.

**MOTION** to adopt Resolution 23-06, A Resolution of the Planning Commission of the City of Pinole Recommending the City Council of the City of Pinole Find that the Preliminary Proposed Capital Improvement Plan for Fiscal Years 2023/2024 through 2027/2028 is in Conformance with the City of Pinole General Plan.

**MOTION: Banuelos**

**SECONDED: Bender**

**APPROVED: 6-0-1**  
**ABSENT: Martinez**

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

Mr. Hanham provided an update on the Safeway project in Tara Hills and advised staff was working with the new property owner on the existing and possibly new entitlements and ideas for the project, with the existing entitlements due to expire in June 2023. Staff was also working with the developer for Pinole Shores II to get their construction plans in to allow for construction in 2024; staff continued to work with Pinole Vista on their construction drawings for a 2024 construction period; and Appian Village had demolished the MRI building and permits were close for the first three buildings, hopefully by the end of the summer.

1 Mr. Hanham reported that future projects included a lot split in a residential area, a new  
2 single-family residential project, a Conditional Use Permit (CUP) for live music for a  
3 downtown business, and staff continued to work on the development design standards and  
4 regulations and policies for the Parklet Regulations.  
5

6 Mr. Hanham added that the framework for the Parklet Regulations had been approved by  
7 the City Council, which had directed staff to move forward with a policy document. The  
8 Planning Commission would likely see the regulations again and be asked to make a  
9 recommendation to the City Council and the Planning Commission Ad-Hoc Development  
10 Review Subcommittee would be involved in those discussions. Additionally, staff was  
11 working on the Health and Safety and Environmental Justice Elements as part of the Housing  
12 Element Update, to be presented to the Planning Commission in July/August.  
13

14 In response to Vice Chairperson Menis, Mr. Hanham reported he had met with the developer  
15 for Pinole Shores II and would meet again this week to discuss some of the Planning  
16 Commission's issues with the project. The Planning Commission Ad-Hoc Development  
17 Review Subcommittee would meet soon to further discuss those issues.  
18

19 Chairperson Benzuly asked the status of the former Kmart site, and Mr. Hanham reported  
20 the developer had moved forward with construction drawings, would be considering a Lot  
21 Line Adjustment (LLA) for access purposes and was preparing the Affordable Housing  
22 Agreement. He understood the developer was considering a late summer/fall build in 2024.  
23 In addition, he provided an update on City Council approval of a house moving permit for a  
24 residence to be moved from the City of Hercules to Pinole, with the project in the building  
25 permit review process to allow the relocation of the home.  
26

#### 27 PUBLIC COMMENTS OPENED

28

29 Anthony Vossbrink, Pinole, asked the Planning Manager about the status of the former  
30 Animal Shelter on San Pablo Avenue commenting there had been a lot of discussion at the  
31 Contra Costa County Board of Supervisors about the use of the property as a low-cost animal  
32 clinic. He also asked the status of the vacant lot across the street from Pinole Valley High  
33 School adjacent to the storage facility and the status of the reconstruction of the sidewalk  
34 wall on the I-80 Appian Way Overpass.  
35

#### 36 PUBLIC COMMENTS CLOSED

37

38 Mr. Hanham was unaware of the status of the former animal shelter in that no development  
39 applications had been submitted for the property. The property at 2975 Pinole Valley Road  
40 had some interest although he understood agreements between the developer and property  
41 owner had not come to fruition. The I-80 Appian Way Overpass was under the jurisdiction  
42 of Caltrans and he would check with the Public Works Director on that issue.  
43

44 Vice Chairperson Menis reported on his attendance at the IRA Conference and briefed the  
45 Commission on the discussions.  
46

47 Commissioner Lam-Julian also reported on her attendance at the IRA Conference. She too  
48 briefed the Commission on the discussions and stated she had materials from the conference  
49 she could share with staff.  
50

1 **I. COMMUNICATIONS:** None

2  
3 **J. NEXT MEETING**

4  
5 The next meeting of the Planning Commission to be a Regular Planning Commission  
6 Meeting scheduled for June 12, 2023 at 7:00 p.m.  
7

8 **K. ADJOURNMENT:** At 9:14 p.m.

9  
10 Transcribed by: Reviewed and edited by:

11  
12  
13 Sherri D. Lewis City Staff  
14 Transcriber