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

5  
6 **June 26, 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:** 7:02 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: Bender, Lam-Julian, Martinez, Sandoval, Vice Chairperson  
27 Menis, Chairperson Benzuly

28  
29 Commissioners Absent: Banuelos

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 There were no comments from the public.  
38

39 **D. MEETING MINUTES**

40  
41 1. Planning Commission Meeting Minutes from May 22, 2023

42  
43 Commissioner Bender requested a revision to Page 8, Lines 39 through 41 as follows:

44  
45 *He [Commissioner Bender] hoped this project would not exacerbate the existing*  
46 *freeway like conditions on San Pablo Avenue and noted there was no information on*  
47 *pedestrian safety.*  
48  
49  
50

**MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes from May 22, 2023, as amended.

**MOTION: Menis**

**SECONDED: Bender**

**APPROVED: 5-0-2**

**ABSENT: Banuelos**

**ABSTAIN: Martinez**

**E. PUBLIC HEARINGS:** None

**F. OLD BUSINESS:** None

**G. NEW BUSINESS:**

**1. Objective Development Design Standards (ODDS)**

Introduction to the start of work on preparing objective development design standards, the proposed timeline, and the role of the Planning Commission/Ad-Hoc Committee.

Planning Manager David Hanham reported the Planning Commission had been provided an additional attachment to the June 26, 2023 staff report, titled Objective Design and Development Standards: Timeline of Milestones Later Revised: June 2023.

Mr. Hanham presented the staff report dated June 26, 2023, and explained that pursuant to Program 13 of the City's Adopted Housing Element, the City was developing objective development design standards (ODDS) for the review of multi-family housing and mixed-use development applications. In addition to Senate Bill (SB) 9 projects, Housing Element Program 13 had been developed in response to state housing laws, including the Housing Accountability Act (HAA), SB 330, and SB 35.

Those laws significantly restricted localities from applying non-objective (subjective) development standards to the review of a housing project of two or more units. Only adopted objective standards that did not require interpretation would be allowed to be used to deny eligible housing projects. The implementation of Program 13 would ensure that the City had a robust set of adopted objective development standards that would provide multi-family developers with more predictability and a clear and streamlined review and approval process. In turn, the City would set clear expectations for the design of multi-family developments in Pinole.

Mr. Hanham requested the Ad-Hoc Design Review Committee assist in the development of the standards that would ultimately be reviewed by the full Planning Commission for a recommendation for adoption by the City Council. The ODDS work included review and updates to the following: The Three Corridor Specific Plan (last updated: 2020); Zoning Code (last updated: 2020) and Old Town Design Guidelines (last updated: 1997).

Mr. Hanham recommended the Planning Commission take the following actions for the purpose of creating objective standards for eligible multi-family projects and carry out the provisions of Housing Element Program 13: provide feedback regarding the proposed timeline (Attachment 1), Schedule of Activities and assign the Ad-Hoc Design Review Committee to work with staff to prepare a set of amendments to the Pinole Municipal Code (PMC) Three Corridor Specific Plan and the Old Town Design Guidelines.

1 Responding to the Commission Mr. Hanham and Assistant City Attorney Alex Mog  
2 clarified:

- 3
- 4 • State housing law defined a housing development project as anything with two or  
5 more units, which covered all housing projects with the exception of one single-  
6 family unit being built.
- 7
- 8 • The Old Town Design Guidelines, which had last been updated in 1997 would be  
9 the basis for the discussion for the ODDS for Old Town since that was the latest  
10 adopted map.
- 11
- 12 • A typographical error was identified in the last sentence of the second paragraph  
13 of Page 3 of the staff report under Table 1: Subjective vs Objective Standards, with  
14 staff clarifying the statement that read: *If an application*, should be stricken.
- 15
- 16 • Discretionary versus ministerial design review was again clarified as outlined on  
17 Pages 4 and 5 of the June 26, 2023 staff report. Ministerial review would not  
18 describe who the decision maker was but described the review. Ministerial review  
19 was essentially a checkbox. It was sometimes possible that would be a Planning  
20 Commission approval or a staff level decision depending on the language in the  
21 Zoning Code. There were some staff level permits that allowed for discretionary  
22 elements with the discretion exercised by staff (Planning Manager). There were  
23 also cases separate from ministerial review that were a mix of both discretionary  
24 and ministerial review. The Zoning Code determined who the decision maker  
25 would be for certain types of projects but state law occasionally superseded that.
- 26
- 27 • An overview of the Housing Accountability Act (HAA) was provided and which  
28 *established the State's overarching policy that a local government may not deny,*  
29 *reduce the density of, or make infeasible affordable or market rate housing*  
30 *development projects, emergency shelters, or farm worker housing that are*  
31 *consistent with objective local development standards. This provides developers*  
32 *more certainty about the standards, conditions, and policies that apply to their*  
33 *projects. Local Governments that deny a project due to subjective standards (e.g.,*  
34 *standards that are not objective) could be a violation of the HAA.*
- 35
- 36 • There was room in the HAA for the Planning Commission to exercise some  
37 discretion on Conditions of Approval within reason and depending on the  
38 application and how State law and the Zoning Code determined who the decision  
39 maker would be.
- 40
- 41 • The City Council did not adopt the Planning Commission recommendations for  
42 updating the Old Town Design Guidelines but the Ad-Hoc Design Review  
43 Committee may refer to any materials it wanted to review that may be helpful and  
44 could review the draft recommendations that had not been adopted by the City  
45 Council.
- 46
- 47 • The City could not adopt any new subjective design standards, although the  
48 subjective design standards the City currently had could be maintained and  
49 depending on what approval was being sought there may still be discretion.

1 As an example, if someone applied for SB 35 approval that involved a ministerial  
2 process and there was no discretion the City may execute. Projects recently  
3 approved in the City were governed by the HAA whereby the City could not deny  
4 a project if the project met the City's objective standards. The point of adopting  
5 ODDS was to have in place clear rules so that the projects the City got were the  
6 projects the City wanted.

- 7
- 8 • If someone was seeking discretionary approval, there was some "wobble room" to  
9 use discretion on elements of a project. As an example, if a project was seeking  
10 ministerial approval, it must be approved however it was applied. If seeking  
11 discretionary approval and the City did not have that standard it could not deny the  
12 project but may approve it subject to conditions. At a certain point, the conditions  
13 could amount to being so onerous or significant that it could be a denial of a project.  
14
- 15 • Page 4, Table 3: Regulatory Document Contents, as shown in the staff report was  
16 clarified.  
17
- 18 • State Density Bonus Law was clarified and allowed a project to obtain a density  
19 bonus if a certain amount of affordable housing was provided and allowed a  
20 developer to go over and above a city's density cap. The amount of the density  
21 bonus depended on the percentage of units that were affordable and how they  
22 were affordable. Concessions and waivers were also clarified and allowed a  
23 developer not to comply with certain standards a city had adopted, although those  
24 concessions and waivers were limited. Language could be added to the City's  
25 findings that a project complied with the City of Pinole's standards or complied with  
26 the standards subject to the use of a density bonus. A program had been included  
27 in the Housing Element to update the City's Density Bonus Ordinance with the  
28 ordinance to be updated on a separate track from the development of the ODDS.  
29
- 30 • Page 7 of the staff report, Old Town Design Guidelines, Historic Structures  
31 required the following: *Address the protection of historic structures in consultation*  
32 *with qualified cultural resource consultants.* As part of this standard, a qualified  
33 cultural resources expert would be required to confirm the historic structure and  
34 use Department of Interior standards to repair historic structures. As to whether  
35 the City could assist a Mom and Pop or small business to comply with this  
36 standard, as an example, the City Council may choose to provide assistance but  
37 those design guidelines only applied prospectively to new projects.  
38
- 39 • Existing buildings with a Conditional Use Permit (CUP) request may use the same  
40 subjective standards but anything new must use the new standards. Objective  
41 standards could be enforced by the City and if not would become a gray area in  
42 terms of how far was too far.  
43
- 44 • Attachment 1, Schedule of Activities was clarified in terms of the number of Ad-  
45 Hoc Design Review Committee meetings that may be needed to review the ODDS.  
46 Staff had currently shown six meetings on the timeline.  
47  
48  
49

- The City had contracted with professional planning consulting firms WRT and Sustainable Community Planning (SCP) to evaluate and make recommendations for updating the City's three major design documents; the Zoning and Subdivision Code of the Pinole Municipal Code (PMC), the Three Corridor Specific Plan and the Old Town Design Standards. After reviewing the three documents, the consulting team and staff had catalogued all existing standards as being either objective or subjective. All existing subjective standards had been evaluated in terms of ease of conversion to an objective standard. Recommendations had been produced regarding how to best refine, and in many cases develop, objective development standards.

Based on Attachment 1, Schedule of Activities, the Specific Plan was the first document the Ad-Hoc Design Review Committee would be asked to review for feedback since it led to the other two documents. Also, as shown in Attachment 1, staff intended the Ad-Hoc Design Review Committee to meet and work on each of the three documents one at a time, with the last meeting of the Ad-Hoc Design Review Committee to ensure all documents were in line and met all criteria. If there were other subjective standards desired to be changed beyond the three documents that had been identified, that could be done but most of the work would focus on design standards.

- Dates could be added to the timeline as shown in Attachment 1, if necessary.
- Once all of the work had been completed and pursuant to the timeline in Attachment 1, everything done by the Ad-Hoc Design Review Committee would come back to the full Planning Commission as a complete package prior to consideration by the City Council.
- Once the ODDS had been established, a consultant would likely be brought on board to prepare the entire package that would include diagrams including existing diagrams that could be in the documents.

Mr. Hanham requested a motion and second to direct the Ad-Hoc Design Review Committee to work with staff to prepare a set of recommended amendments to the Pinole Municipal Code (PMC), Three Corridor Specific Plan, and the Old Town Design Guidelines. He would schedule a date and time for the Ad-Hoc Design Review Committee to meet with the Committee, currently comprised of Commissioners Martinez and Bender, and Vice Chairperson Menis.

Vice Chairperson Menis reported on ex parte communications having sent out a notice of this meeting to his email list.

#### PUBLIC COMMENTS OPENED

There were no comments from the public.

#### PUBLIC COMMENTS CLOSED

**MOTION** to assign the Ad-Hoc Design Review Committee to work with staff to prepare a set of recommended amendments to the Pinole Municipal Code (PMC), Three Corridor Specific Plan, and the Old Town Design Guidelines.

**MOTION: Martinez**

**SECONDED: Menis**

**APPROVED: 6-0-1**

**ABSENT: Banuelos**

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

Mr. Hanham reported the City had submitted for reimbursement of funding pursuant to SB 2 and League of California Cities Grants for the Housing Element. The Housing Element had been resubmitted to the State and staff was hopeful for a quick review and approval of substantial conformance. Staff continued to work on the building permit process and conditions of approval for a number of projects including Pinole Vista, BCRE and Appian Village. Staff was also working on a timeline for the Parklet Regulations with a couple of Conditional Use Permits (CUPs) to be presented to the Planning Commission at a future meeting.

Mr. Hanham also reported the entitlements for the Safeway project at Tara Hills had expired on June 20, 2023. Any new work would require resubmittal to the City. The former Kmart property was in the process of a ministerial Lot Line Adjustment (LLA) with building plans anticipated to be presented to the City in late fall/early winter. A demolition permit for the property was expected to be issued in the next few months. Also, the lot across the street from Pinole Valley High School had an interested party but staff had yet to meet with that party. In addition, staff anticipated the developer for Pinole Shores II would submit the view point renderings to staff this week, to be reviewed by the Ad-Hoc Design Review Committee.

Commissioner Menis reported he had spoken with a representative from the County Transportation Department at the recent Pinole Car Show, who had expressed interest in reviewing the patches of sidewalk in need of repair along San Pablo Avenue (near the church with falling down scree) and the area west of the Appian Way and San Pablo Avenue intersection that had no sidewalk.

**I. COMMUNICATIONS: None**

**J. NEXT MEETING**

The next meeting of the Planning Commission to be a Regular Planning Commission Meeting scheduled for July 10, 2023 at 7:00 p.m.

**K. ADJOURNMENT: 8:13 p.m.**

Transcribed by:

Reviewed and edited by:

Sherri D. Lewis  
Transcriber

City Staff