

AGENDA FOR THE



CITY OF PINOLE PLANNING COMMISSION REGULAR MEETING

Monday, December 12, 2016

7:00 P.M.

City Council Chambers, 2131 Pear Street, Pinole, CA 94564

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 Development Services Department at (510) 724-9014. Notification of 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.

Assistant listening devices are available at this meeting. Ask staff if you desire to use this device.

CONSENT CALENDAR:

All matters listed under the Consent Calendar are considered to be routine and non-controversial. These items will be enacted by one motion and without discussion. If, however, any interested party or Commissioner(s) wishes to discuss a consent item, it will be removed from the Consent Calendar and taken up in order after the last item under New Business.

PROCEDURE FOR CONSIDERING AN AGENDA ITEM:

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.

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.

Prior to speaking on an item, you must fill out one of the speaker cards (available at the back of the Council Chambers) and hand it to the Secretary. If a number of persons wish to speak on an item, the Chair may limit each speaker to a set time period in which to address the Commission.

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 or Planning Manager. The cost to appeal a decision is \$803.

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.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE AND ROLL CALL

C. 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.

D. CONSENT CALENDAR:

1. Planning Commission Meeting Minutes from November 21, 2016
2. 2017 Planning Commission Regular Meeting Schedule

E. PUBLIC HEARINGS:

1. Conditional Use Permit 16-08: Maria's Daycare

This item has been continued to January 23, 2017.

Request: Consideration of a use permit request to expand the day care capacity of an existing small family day care home for up to 8 children to a large family daycare home for up to 14 children within an approximately 2,234 square foot single family residence.

Applicant: Maria Magana
1191 Marlesta Road
Pinole, CA 94564

Location: 1191 Marlesta Road APN: 402-133-009

Project Planner: Winston Rhodes

2. Design Review 16-23 and Conditional Use Permit 16-06: Happy Ramen Restaurant with Alcohol Sales

This item has been continued to January 23, 2017.

Request: Consideration of a design review request to modify an existing approximately 2,584 square foot commercial building for a restaurant including a use permit request to sell beer and wine within the restaurant for on-site consumption.

Applicant: Richard Brunelle
1552 167th Avenue
San Leandro, CA 94578

Location: 1907 San Pablo Avenue, APN: 401-112-029

Project Planner: Winston Rhodes

F. **OLD BUSINESS:** None

G. **NEW BUSINESS:** Planning Commission Sub-Committee Discussion

H. **CITY PLANNER'S/COMMISSIONER'S REPORT:**

I. **COMMUNICATIONS:**

J. **NEXT MEETING:**

Planning Commission Regular Meeting, January 23, 2017 at 7:00PM

K. **ADJOURNMENT**

POSTED: DECEMBER 8, 2016



Winston Rhodes, AICP
Planning Manager

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DRAFT

**MINUTES OF THE REGULAR
PINOLE PLANNING COMMISSION**

November 21, 2016

A. CALL TO ORDER: 7:02 P.M.

B. PLEDGE OF ALLEGIANCE AND ROLL CALL:

Commissioners Present: Brooks, Hartley, Martinez-Rubin, Thompson, Chair
Kurrent

Commissioners Absent: Tave, Wong

Staff Present: Winston Rhodes, Planning Manager
Eric Casher, City Attorney's Office

C. CITIZENS TO BE HEARD:

There were no citizens to be heard.

D. CONSENT CALENDAR:

1. Planning Commission Meeting Minutes from October 24, 2016

MOTION to approve the Planning Commission Meeting Minutes from October 24, 2016, as submitted.

MOTION: Brooks

SECONDED: Thompson

APPROVED: 4-0-1-2

ABSTAIN: Hartley

ABSENT: Tave, Wong

E. PUBLIC HEARINGS:

1. **ZCA 16-03: Zoning Code Amendments Concerning City Councilmember Appeals of Planning Commission Actions**

Request: Consideration of a Zoning Code Text Amendment to Chapter 17.10 of the Municipal Code modifying the Zoning Code appeal process for City Council members

Applicant: City of Pinole

1 **Location:** Citywide

2
3 **Project Staff:** Eric Casher and Winston Rhodes

4
5 Planning Manager Winston Rhodes presented the staff report dated November 21,
6 2016, and identified documents presented to the Planning Commission on the dais
7 including a sheet to identify slight modifications to Section 17.10.070(C) of Chapter
8 17.10 of the Pinole Municipal Code (PMC), which differed from information staff
9 had included in the staff report; hard copy of staff's PowerPoint presentation; an
10 excerpt from the October 4, 2016 City Council meeting minutes; and the October
11 24, 2016 staff report the City Council had received on that date.

12
13 Eric Casher, representing the City Attorney's Office, provided the PowerPoint
14 presentation on the proposed Zoning Text Amendment, detailed the background of
15 the City Council's direction, and presented the outcome of the City Council
16 Subcommittee's discussions and recommendation. The Subcommittee had
17 recommended that a member of the City Council may submit an appeal of any
18 action taken by the Planning Commission and that the appeal be consistent with,
19 and equivalent to, a citizen appeal, which was a change from the existing PMC
20 requirement for City Council appeals. The City Council considered the
21 recommendations and directed staff to prepare a text amendment to modify the
22 existing procedure to indicate that Councilmember appeals *shall be processed in*
23 *the same manner as an individual appeal from a member of the public.*

24
25 Mr. Casher recommended that the Planning Commission adopt Resolution 16-13,
26 recommending that the City Council amend Chapter 17.10 of the PMC to update
27 and revise the appeal process for Councilmembers in the City of Pinole.

28
29 Both Mr. Casher and Mr. Rhodes responded to questions from the Commission on
30 the proposed text amendment including the background and rationale for the City
31 Council's direction; knowledge of two prior appeals of Planning Commission
32 actions over the past several years; clarification of the legal basis for an appeal;
33 clarification of the provisions of the Brown Act related to City Council members
34 appeals of actions of the Planning Commission; and further details from the City
35 Council Subcommittee discussions.

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37 PUBLIC HEARING OPENED

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39 There were no comments from the public.

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41 PUBLIC HEARING CLOSED

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43 The Planning Commission discussed the item and offered the following feedback
44 and/or input to staff:

- 45
 - Discussed that the City Council consider some mechanism to address the

1 number of appeals by a Councilmember annually, and address the cost
2 issue as to whether it was an actual or perceived barrier to well-meaning
3 appeals. (Hartley, Thompson)
4

- 5 • Discussed language to address whether an appeal is based on significant
6 material effects on safety or significant quality of life issues within the City,
7 without fees or cost, but be required to make the findings for the appeal with
8 an objective, rather than a subjective, reason for an appeal. (Kurrent)
9
- 10 • Discussed that a City Council member be allowed to file an appeal absent
11 fees or cost for the first year (in recognition that the current system had not
12 been abused by the Council), but did not want the potential text amendment
13 to pose a conflict for a member of the City Council in the future if fees were
14 imposed. (Thompson)
15
- 16 • Recognized the adoption of the fee schedule was under the purview of the
17 City Council, and staff affirmed the City Council had discussed a fee high
18 enough to discourage frivolous challenges but potentially lower for
19 members of the Council. (Hartley)
20
- 21 • Stated a member of the City Council should not have to pay an appeal fee.
22 (Thompson)
23
- 24 • Stated that the City Council consider language whereby the remaining four
25 members of the City Council could consider a waiver of the appeal fee
26 based on the justification of the appeal. (Kurrent)
27
- 28 • Requested that staff research city council appeal policies in other cities;
29 suggested the PMC text amendment could cause more problems than it
30 would solve; there was a lack of clarity on the issue to make a decision at
31 this time not only on the appeal fees, but with the use of the term “legal” in
32 Exhibit A; understood the appeal fee could be refundable if the appeal was
33 successful, but suggested the term “successful” be better defined; and
34 disagreed a member of the City Council should be required to do more than
35 the general public. (Thompson)
36
- 37 • Suggested the proposed PMC text amendment language would provide
38 clarification to the current text. (Hartley)
39
- 40 • Verified the refundable fee clause was to protect against frivolous appeals
41 and ensure objective appeals. (Kurrent)
42
- 43 • Requested that the first sentence of Page 4, Filing an Appeal, Section
44 17.10.070(C), to be revised to remove the term “legal,” although staff noted
45

the term had been added at the direction of the City Council. (Thompson)

- Suggested that the first sentence of Page 4 be amended to read: *Filing an Appeal. All appeals shall be submitted in writing, identifying the determination or action being appealed and specifically stating the grounds or legal basis for the appeal.* (Kurrent)
- Suggested that the public-at-large section of the PMC related to appeals be revised with the same language. (Thompson)

MOTION to adopt Resolution 16-13, with Exhibit A, Zoning Code Amendments, A Resolution of the City of Pinole, Planning Commission Recommending that the City Council Approve A Zoning Code Amendment Modifying the Zoning Code Appeals Process (ZCA 16-03), subject to a revision to the first sentence of Page 4, Section C. Filing an Appeal to read:

C. *Filing an Appeal. All appeals shall be submitted in writing, identifying the determination or action being appealed and specifically stating the grounds or legal basis for the appeal.*

MOTION: Martinez-Rubin

SECONDED: Brooks

APPROVED: 4-1-2

NOES: Thompson

ABSENT: Tave, Wong

F. OLD BUSINESS: None

G. NEW BUSINESS: None

H. CITY PLANNER'S / COMMISSIONERS' REPORT:

Mr. Rhodes updated the Planning Commission on the registration for the Planning Commission training at Sonoma State University scheduled for December 3, 2016. The next meeting of the Planning Commission would include the calendar for Planning Commission meetings for 2017 and possibly two to three other agenda items.

Commissioner Thompson asked staff to inquire whether the City's Information Technology (IT) personnel could use a live link or a printed URL to allow easier access to Planning Commission information online.

Chair Kurrent wished everyone a Happy Thanksgiving.

I. COMMUNICATIONS: None

J. NEXT MEETING:

1
2 The next meeting of the Planning Commission will be a Regular Meeting to be
3 held on Monday, December 12, 2016 at 7:00 P.M.
4

5 **K. ADJOURNMENT: 8:30 P.M**

6
7 Transcribed by:

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10 Anita L. Tucci-Smith
11 Transcriber
12

DRAFT
2017 Planning Commission Regular Meeting Schedule*

MONTH	DATE	TIME
January	Monday, 1/23/17	7:00 PM
February	Monday, 2/27/17	7:00 PM
March	Monday, 3/27/17	7:00 PM
April	Monday, 4/24/17	7:00 PM
May	Monday, 5/22/17	7:00 PM
June	Monday, 6/26/17	7:00 PM
July	Monday, 7/24/17	7:00 PM
August	Monday, 8/28/17	7:00 PM
September	Monday 9/25/17	7:00 PM
October	Monday, 10/23/17	7:00 PM
November	Monday, 11/20/17	7:00 PM
December	Monday, 12/18/17	7:00 PM
	TOTAL MEETINGS: 12	

*Note: Regular Planning Commission meetings are normally held the fourth Monday of each month except for months where this day falls near a holiday. In November, and December the regular Planning Commission meetings will be held the third Monday of the month.