

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

**MINUTES OF THE REGULAR
PINOLE PLANNING COMMISSION**

May 22, 2017

A. CALL TO ORDER: 7:01 P.M.

B. PLEDGE OF ALLEGIANCE AND ROLL CALL:

Commissioners Present: Brooks, Kurrent, Martinez-Rubin, Tave, Wong, Chair
Thompson

Commissioners Excused: Hartley

Staff Present: Winston Rhodes, Planning Manager
Eric Casher, Legal Counsel

C. CITIZENS TO BE HEARD:

There were no citizens to be heard.

D. CONSENT CALENDAR:

1. Planning Commission Meeting Minutes from April 24, 2017

References to the new Vice Chair on Line 44 of Page 5 and Line 2 of Page 6 to be revised to reflect a time period of *2017-2018*; and the date shown for the Selection of Development Review Subcommittee Members for 2016-2017 as shown on Lines 7 and 11 of Page 6 revised to read *2017-2018*.

MOTION to approve the Planning Commission Meeting Minutes from April 24, 2017, as amended.

**MOTION: Kurrent SECONDED: Martinez-Rubin APPROVED: 6-0-1
ABSENT: Hartley**

E. PUBLIC HEARINGS:

1. **Zoning Code Amendment 17-01: Accessory Dwelling Units**

Request: Consideration of a Zoning Code Amendment modifying Chapters 17.20, 17.22, 17.70, and 17.98 modifying

1 procedures for review of the development of accessory
2 dwelling units within residential zoning districts
3 consistent with State law.
4

5 **Applicant:** City of Pinole
6 2131 Pear Street
7 Pinole, CA 94564
8

9 **Location:** Residential Zoning Districts Citywide
10

11 **Project Staff:** Winston Rhodes, Planning Manager
12 Eric Casher, Legal Counsel
13

14 Planning Manager Winston Rhodes presented the staff report dated May 22, 2017,
15 and identified a correction to the fifth bullet point shown on Page 7 of the staff report
16 to read: *Clarifies that maximum accessory dwelling unit square footage is*
17 *recommended to be 750 square feet whether attached to or detached from the*
18 *primary dwelling unit,* which had been correctly reflected in the proposed text
19 amendments. He recommended the Planning Commission adopt Resolution 17-06
20 recommending that the City Council amend Title 17 of the Municipal Code to allow
21 accessory dwelling units within the City consistent with State law.
22

23 Responding to the Commission, Mr. Rhodes clarified the development impact fees
24 for multiple family units were the same as those imposed in 2016, with accessory
25 dwelling units to be charged the same as multifamily units; the existing ordinance
26 had been modified based on the existing State legislation with the areas of
27 discretion retained, and areas of no discretion reflected in the proposed text
28 amendments; citywide there were 70 percent owner occupied residences and 30
29 percent non-owner occupied/leased residences, including apartments; staff
30 estimated the number of single-family residences that were rentals would likely not
31 exceed 30 percent.
32

33 Mr. Rhodes also clarified some of the language contained in the proposed
34 resolution related to parking had come straight from the State legislation and would
35 be part of updated local municipal codes for cities throughout the State, consistent
36 with State law, to prevent cities from denying accessory dwelling units on the basis
37 of lack of parking. The City requirement for one additional parking space for each
38 bedroom had not been a burden to those interested in adding parking given the
39 number of off-street parking in most residential areas.
40

41 Eric Casher, Legal Counsel, advised that failure to comply with the owner
42 occupancy requirements was considered a violation of the Zoning Code, whereby a
43 fine could be imposed and the City would have the option to conduct code
44 enforcement proceedings to ensure compliance with the requirement either through
45 a civil action or through civil conjunction.
46

1 PUBLIC HEARING OPENED

2
3 There were no comments from the public.

4
5 PUBLIC HEARING CLOSED

6
7 The Planning Commission members discussed the Zoning Code Amendment
8 and had the following comments:

- 9
10 • Expressed concern that the development impact fees were too high,
11 suggested the City Council reconsider the fees and consider the policy
12 used by the City of Albany to encourage the development of accessory
13 dwelling units; supported a one-year grace period for the owner
14 occupancy requirement; and recommended that vacation rental
15 requirements also be evaluated. (Wong)

16
17 Mr. Rhodes affirmed as part of its recommendation the Planning Commission
18 could recommend the City Council reconsider development impact fees,
19 reporting the City's impact fees would be studied this year, and as part of that
20 process the overall cost to accommodate growth and development to spread
21 those costs would be taken into consideration.

- 22
23 • Recommended a discussion of development impact fees be left to the City
24 Council; thanked staff for the comparison table of information from
25 neighboring cities; and appreciated the reduction in the proposed
26 maximum size of an accessory dwelling unit to 750 square feet.
27 (Martinez-Rubin)
- 28
29 • Thanked staff for the information requested from the April 24 Planning
30 Commission meeting; supported the reduction in the maximum size of the
31 accessory dwelling unit to 750 square feet; and supported the
32 amendments as proposed. (Tave)
- 33
34 • Suggested the owner occupancy compliance supported the intent of State
35 legislation; supported the reduction in size of the accessory dwelling unit
36 to 750 square feet; and while supporting a requirement for the accessory
37 dwelling unit to be owner occupied, suggested that could be burdensome
38 to future homeowners desirous to sell a property, and supported a grace
39 period similar to that used by the City of Berkeley; and supported City
40 Council review of the development impact fees for accessory dwelling
41 units. Stated that Airbnb was a wider issue than accessory dwelling units
42 and should be evaluated by the City Council; and supported more
43 enhanced inspection of accessory dwelling units. (Kurrent)

1 The Planning Commission discussed the owner occupancy requirement at
2 length, and recommended consideration of a grace period, such as the three-
3 year policy used by the City of Berkeley.

- 4
5 • Recommended the Planning Commission recommend City Council
6 consideration of an amnesty program for existing accessory dwelling units
7 whereby anyone with an illegal unit could bring it into compliance absent
8 substantial penalties or fees, allowing for those units to be counted as part
9 of the City's current housing stock. Found Airbnb was not an issue at this
10 time. (Brooks)
- 11
12 • Recommended a one- to two-year grace period for family heirs for the
13 owner occupancy requirement; liked the policy used by the City of San
14 Pablo for an annual Certificate of Compliance for accessory dwelling units;
15 and liked the policy used by the City of El Cerrito for Airbnb short-term
16 rentals. (Thompson)

17
18 Mr. Rhodes cautioned that accessory dwelling units are encouraged by State law
19 and were not to be treated any differently than other forms of rental housing, and
20 mentioned that the concern that if a dwelling on a property were rented and not
21 owner occupied it could create more crime or a criminal element has been
22 discouraged by State law.

23
24 Mr. Casher affirmed the State clearly had an interest in encouraging accessory
25 dwelling units. He understood the concern that such units be inspected to
26 ensure the conditions continued to exist as when first submitted, which would fall
27 under the formal rental inspection program to the extent they were formally
28 leased out, with a business license required to rent the units. Any violation of the
29 Pinole Municipal Code (PMC) would allow for code enforcement.

30
31 **MOTION** to adopt Planning Commission Resolution No. 17-06, with Exhibit A:
32 Zoning Code Amendments, A Resolution of the Planning Commission of the City
33 of Pinole, County of Contra Costa, State of California, Recommending that the
34 City Council Approve a Zoning Code Amendment Modifying Chapters 17.20,
35 17.22, 17.70, and 17.98, to Allow Accessory Dwelling Units in the City of Pinole
36 Consistent with State Law (ZCA 17-01), subject to:

- 37
38 • Add a sentence to the end of the paragraph under Section 17.70.050,
39 Owner Occupancy Compliance to read: Non-occupancy of an owner for a
40 period of up to two years is allowed before the property will be found to be
41 non-compliant with this requirement;
- 42
43 • Recommended the City Council review the City's Development Impact
44 Fees for accessory dwelling units to be consistent with State Legislature
45 intent and for the fees for accessory dwelling units to be significantly less

1 and should account for the lesser impact such as lower sewer or traffic
2 impacts; and
3

- 4 • Recommended the City Council consider offering an Amnesty Program for
5 existing illegal accessory dwelling units previously constructed.
6

7 **MOTION: Kurrent SECONDED: Martinez-Rubin APPROVED: 6-0-1**
8 **ABSENT: Hartley**
9

10 Commissioner Kurrent expressed the willingness to attend the June 20, 2017
11 City Council meeting on behalf of the Planning Commission when the item was to
12 be presented given the Chair would be unavailable to attend that meeting.
13

14 **F. OLD BUSINESS: None**

15 **G. NEW BUSINESS: None**

16 **H. CITY PLANNER'S / COMMISSIONERS' REPORT:**
17

18 Mr. Rhodes reported a Tree Removal Permit had been approved for property
19 located at 2672 Enlow Court.
20

21 Commissioner Martinez-Rubin provided an update on the annual Clean-Up Day.
22

23 Mr. Rhodes provided an update on the parking at Sprouts; staff was unaware of
24 any issues with customers' inability to park close to the store; issues with trucks
25 parking on Henry Avenue facing east adjacent to the westbound lane was a
26 vehicle code violation to be enforced by the Pinole Police Department. He also
27 provided an update on the reconstruction and replacement of the trail near the
28 creek in cooperation with the Contra Costa County Flood Control District.
29
30

31 **I. COMMUNICATIONS: None**
32

33 **J. NEXT MEETING:**
34

35 The next meeting of the Planning Commission will be a Regular Meeting to be
36 held on Monday, June 26, 2017 at 7:00 P.M.
37

38 **K. ADJOURNMENT: 8:44 P.M**
39

40 Transcribed by:
41

42 Anita L. Tucci-Smith
43 Transcriber
44
45