

## AGENDA FOR THE



### CITY OF PINOLE PLANNING COMMISSION REGULAR MEETING

**Monday, June 26, 2023**

**7:00 P.M.**

Via Zoom Videoconference and In Person

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#### **WAYS TO WATCH THE MEETING**

- IN PERSON. Attendance at the Pinole City Council Chambers (2131 Pear St).
- LIVE ON CHANNEL 26. The Community TV Channel 26 schedule is published on the City's website at [www.ci.pinole.ca.us](http://www.ci.pinole.ca.us). The meeting can be viewed again as a retelecast on Channel 26.
- VIDEO-STREAMED LIVE ON THE CITY'S WEBSITE, [www.ci.pinole.ca.us](http://www.ci.pinole.ca.us). and remain archived on the site for five (5) years.
- ZOOM VIDEOCONFERENCE. Zoom details are included below.
- 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](mailto:ghanham@ci.pinole.ca.us).

#### **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 Planning Manager.

##### **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>

**OR**

<https://zoom.us/join>

**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. Once you have been identified to speak, please check to make sure you have unmuted yourself in the videoconference application (or press \*6 if connecting via telephone).

### **WRITTEN COMMENTS**

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

### **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 Development Services Department at (510) 724-8912. 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.

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### **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.

#### **A. CALL TO ORDER**

#### **B1. PLEDGE OF ALLEGIANCE**

**B2. 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.

#### **B3. 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. MEETING MINUTES:**

**1. Planning Commission Meeting Minutes from May 22, 2023**

**E. 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.**

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.

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

**I.     COMMUNICATIONS:**

**J.     NEXT MEETING(S):**

Planning Commission Regular Meeting, July 10, 2023 at 7:00PM

**K.     ADJOURNMENT**

**POSTED: June 22, 2023**

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**David Hanham**  
**Planning Manager**

DRAFT

MINUTES OF THE REGULAR MEETING  
PINOLE PLANNING COMMISSION

May 22, 2023

THIS MEETING WAS HELD IN A HYBRID FORMAT  
BOTH IN-PERSON AND ZOOM TELECONFERENCE

A. CALL TO ORDER: 7:04 p.m.

B1. PLEDGE OF ALLEGIANCE

B2. 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.*

B3. ROLL CALL

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

Commissioners Excused: Martinez

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

C. CITIZENS TO BE HEARD

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

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 existing conditions on the freeway 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  
14 Transcriber

City Staff



# Memorandum

**TO:** PLANNING COMMISSION MEMBERS

**FROM:** David Hanham, Planning Manager

**SUBJECT:** Objective Development Design Standards (ODDS)

**DATE:** June 26, 2023

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**PURPOSE:**

Pursuant to Program 13 in the City's Adopted Housing Element, the City is developing objective development design standards (ODDS) for the review of multi-family housing and mixed-use development applications, in addition to SB 9 projects. Housing Element Program 13 was developed in response to state housing laws, including the Housing Accountability Act, SB 330, and SB 35. These laws significantly restrict 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 do not require interpretation are allowed to be used to deny eligible housing projects. Implementation of Program 13 will ensure that the City has a robust set of adopted objective development standards that will provide multifamily developers with more predictability and a clear and streamlined review and approval process. In turn, the City will set clear expectations for the design of multifamily developments in Pinole.

Staff will be requesting the Ad-Hoc Design Review Committee to assist in the development of these standards that will ultimately be reviewed by the full Planning Commission for a recommendation on adoption by the City Council. The ODDS work includes review and updates to following documents:

- The Three Corridor Specific Plan (last updated: 2020)
- The Zoning Code (last updated: 2020)
- The Old Town Design Guidelines (last updated: 1997)



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## **BACKGROUND**

In recent years, the State of California has enacted several new laws to increase housing supply and affordability and reduce obstacles to housing production. New State mandates present an opportunity for cities and counties to revisit existing design guidelines, convert any subjective guidelines to design standards, and create objective residential design and development standards that expedite the application and design review process. Program 13 in the City's adopted Housing Element involves adoption of Objective Development and Design Standards for all eligible housing projects.

As defined in State Law, objective standards are defined as:

*standards that involve no personal or subjective judgements by a public official and ...[are] verifiable by reference to an external and uniform benchmark ... knowable by both the development applicant ... and the public official.*

State Law prohibits local jurisdictions from denying or decreasing densities of affordable or market rate multi-family housing projects unless the projects fail to meet one or more adopted objective standards established in the General Plan, Zoning Code, Specific Plan, or design guidelines.

- Senate Bill 35 (Government Code Section 65913.4), which went into effect January 1, 2018, was part of comprehensive bill package aimed at addressing the State's housing shortage and high costs. SB 35 requires a streamlined ministerial approval process for multi-family residential developments in jurisdictions that have not yet made sufficient progress toward meeting their Regional Housing Need Allocation (RHNA). Included in the streamlining process, these cities and counties are required to establish objective design standards for multi-family developments. To qualify for SB 35 projects must meet affordability standards and satisfy certain other requirements.
- The Housing Accountability Act (HAA) (Government Code Section 65589.5), establishes the State's overarching policy that a local government may not deny, reduce the density of, or make infeasible affordable or market rate housing development projects, emergency shelters, or farm worker housing that are consistent with objective local development standards. This provides developers more certainty about the standards, conditions, and policies that apply to their projects. Local Governments that deny a project due to subjective standards (e.g., standards that are not objective) could be a violation of the HAA.

- Senate Bill 330 (“Housing Crisis Act of 2019) went into effect on Jan. 1, 2020. The bill establishes regulations that sunset on Jan. 1, 2025, as a means to address the housing crisis in the State. During this period, cities, and counties in urban areas, are prohibited from rezoning or imposing new development standards that would reduce capacity for housing or adopting new design standards that are not objective. The bill also defined previously undefined terms such as “objective standards” and “complete application” and set forth vesting rights for projects that use a new pre-application process.

**Table 1**, Subjective vs Objective Standards shows the differences between subjective and objective standards.

| <b><u>TABLE 1: SUBJECTIVE vs OBJECTIVE STANDARDS</u></b>  |  |
|---|--|
| <b>Subjective Standards</b>   | <b>Objective Standards</b>   |
| <b>Requirements that are subject to interpretation</b> (e.g.: “Height of the new building must be compatible with surrounding structures” or “ <b>The top building story must be articulated to reduce massing</b> ”) | Measurable, quantifiable, easily defined, and enforceable requirements (e.g.: “Height is limited to 35 feet” or “The top building story shall be set back at the rate of one foot for every five feet of the height of the floor below”) |

Additionally, recent changes in State law set short time limits on determinations on application completeness and whether the application complies with a jurisdiction’s adopted standards. If the jurisdiction fails to notify the applicant that the application is incomplete or that is inconsistent with an adopted standard within the required period of the application is deemed “complete” and “compliant”, and the jurisdiction may not thereafter identify new defects in the application. A jurisdiction must now note all inconsistencies during initial application review. If an application.

State law prescribes certain eligible projects that are only allowed to be reviewed under “ministerial review” as opposed to “discretionary review”. Ministerial review means a process for development approval involving no personal judgment by the public official as to the wisdom of carrying out the project. The public official merely ensures that the proposed development meets all the applicable objective standards for the proposed action but uses no special discretion or judgment in reaching a decision. A ministerial review most often a “staff-level review.” This means that a staff person at the local agency reviews the application, often using a checklist, and compares the application materials (e.g., site plan, project description,

etc.) with the objective development standards, objective subdivision standards, and objective design standards.

**Table 2**, Discretionary vs Ministerial Review, shows the differences in discretionary vs ministerial reviews.

| <b><u>TABLE 2: DISCRETIONARY v MINISTERIAL REVIEW</u></b>                                |   |
|--|---|
| <b>Discretionary Review</b>  | <b>Ministerial Review</b>   |
| <b>1. Project undergoes design review</b>  | 1. Streamlined review by City Staff   |
| <b>2. Qualitative judgement and review by City Staff and Planning Commission.</b>        | 2. Removes personal or subjective judgements.   |
| <b>3. Planning Commission determines the project's compliance with design guidelines</b> | 3. Consistency with objective design standards is the primary tool for project review |

## **ANALYSIS**

In 2022, the City contracted with professional planning consulting firms WRT and Sustainable Community Planning (SCP) to evaluate and make recommendations for the update of 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 catalogued all existing standards as being either objective or subjective. All existing subjective standards were evaluated in terms of ease of conversion to an objective standard. Finally, recommendations were produced regarding how to best how to refine, and in many cases, develop, objective development standards. **Table 3** provides an overview of regulations contained the PMC, Three Corridor Specific Plan and Old Town Design Guidelines.

| <b><u>TABLE 3: REGULATORY DOCUMENT CONTENTS</u></b> |  |
|---|--|
| <b><i>Pinole Municipal Code</i></b>                 | The Pinole Municipal Code (PMC) regulates development through its zoning regulations in Title 17. Districts which allow multi-unit residential development include the R-2 (Medium Density), R-3 (High Density), R-4 (Very High Density), R (Rural), RMU (Residential Mixed Use), CMU (Commercial Mixed Use), OPMU |

|  |  |
|--|--|
|  | <p>(Office Professional Mixed Use), and OIMU (Office Industrial Mixed Use) Districts.</p> <p>The PMC also contains overarching regulations that pertain to all districts, including administrative provisions in Article I, site planning standards in Article III, special use standards in Article IV and resource conservation standards in Article V. In addition, development standards are found in Titles 12 (Streets and Sidewalks), 15 (Grading) and 16 (Subdivisions).</p>   |
| <b><i>Three Corridor Specific Plan</i></b> | <p>The Three Corridor Specific Plan adds additional development and design criteria for properties along Pinole’s major corridors: San Pablo Avenue, Pinole Valley Road, and Appian Way. These corridors present major opportunities for mixed-use and multifamily development. Development regulations are mostly contained within Chapter 6 (Land Use Standards) and -- for building and site design -- Chapter 7 (Private Realm Standards and Guidelines). Developer expectations for street improvements are contained in Chapter 8 (Public Realm Guidelines).</p> |
| <b>Old Town Design Guidelines</b>          | <p>The Old Town Design Guidelines provides advisory guidelines for development that is within the historic Old Town district to retain its established historic character.</p>   |

All of these adopted codes and guidelines contain development regulations that are a mix of (1) objective standards that are independently verifiable, and (2) subjective provisions that are open to interpretation or within the purview of decision-makers. Additionally, the review noted some development entitlement regulations that contain procedures relying on discretionary (and therefore subjective) judgment by a public official or decision-making body which is not permissible for certain qualified residential projects.

The review of existing objective standards has provided the opportunity to evaluate whether the current standards are sufficient to accomplish the City’s design objectives. The review has revealed the following opportunities for adjustment, refinement, and clarity:

#### Pinole Municipal Code

*Design-Related Standards.* Basic development parameters (building setbacks, height restrictions, floor area limits) are present, but most design-related criteria are expressed as guidelines or are achieved through a discretionary entitlement process to achieve design compatibility. Standards are needed for design characteristics that are critical to modulate building mass and assure façade articulation, to support walkability by

achieving the desired streetscape/public realm, and to assure an appropriate building scale for neighborhood compatibility.

*Discretionary Entitlement Processes.* The codes provide detailed regulations for various entitlements (Plan Check, Administrative Use Permit, Administrative Design Review, Comprehensive Design Review, Sign Permit, Subdivision Development Plan, Grading and Encroachment) with thorough submittal requirements and procedural regulations but lack objective review criteria other than compliance with specific objective regulations (development regulations, use regulations, etc.). Creation of objective standards for building design, specific land uses, landscaping, parking lot design, grading and subdivision improvements will allow the City to achieve its desired standards in cases where discretionary permits are precluded.

*Verification of Adopted Public Works Standards.* The municipal code contains references to adopted public works standards for curbs and sidewalks, utility connections, a Streets Master Plan, right-of-way improvement standards, street and parking lot tree list, and truck loading space and maneuvering standards. It should be verified that these referenced standards exist since each section of the Grading, Subdivision and Streets and Sidewalks titles rely largely on undefined criteria for approvals by the City Engineer.

*Basic Development Parameters.* The Specific Plan refines the Zoning Code's typical development parameters including subarea densities, allowable land uses, setbacks including build-to lines and height allowances including a daylight plane limitation when adjacent to residential development.

*Building and Parking Types.* The Specific Plan defines allowable building types and allowable forms of parking. The various types are defined but there are no specific development regulations in terms of building dimensions, configuration, massing, or location that would assure the resulting buildings or parking configurations will achieve the desired outcomes.

### Three Corridors Specific Plan

*Conditional Residential Uses.* The San Pablo Avenue and Pinole Valley Road areas require a Use Permit for multifamily and emergency shelters in some districts. These should be made either permitted uses or not allowed so as not to require a discretionary review process. The use tables for all three areas do not include:

*Building Height Exceptions.* Define missing height exceptions, such as roof access stairwells.

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*Screening Rooftop Equipment.* Establish screening requirements for rooftop equipment.

*Trash Enclosures, Loading & Mechanical Equipment.* Regulate location of these features to be away from public sidewalks and adequately screened.

*On-Site Parking.* Limit extent of parking along streets. Establish standards for landscaping in surface parking lots, including along pedestrian paths and to screen view from streets and neighbors.

*Landscape, Hardscape & Fencing.* Establish site minimums and appropriate materials palettes.

*Open Space Requirements.* Consider establishing minimum open space requirements with flexibility that allows shared space to meet most or all of the requirement. Private open space requirements should be appropriate to the housing types anticipated.

*Provisions for supportive or transitional housing,* which must be permitted.

*Massing, Articulation and Façade Design Standards.* Standards are needed to reduce building scale/massing, require a minimally acceptable level of façade articulation, avoid blank walls, and define allowable building materials.

*Street Frontages.* The current subjective design guidelines reflect stated objectives to have pedestrian-oriented street frontages. Standards are needed to designate land uses appropriate for the ground floor, minimum proportions of building facades along the “build-to” setbacks, to highlight building entries, and to define minimum amounts of ground floor transparency (window area).

### Old Town Design Guidelines

*Historic Structures,* Address the protection of historic structures in consultation with qualified cultural resource consultants.

*Compatibility,* Define representative characteristics and require characteristics that maintain consistency and compatibility as new development occurs. Focus on methods of massing and façade design to maintain consistent scale, whole also regulating cornices, materials, colors, window proportions, and other key characteristics. If assessment of context determines there to be dominant styles, consider standards that maintain consistency with those styles.

*Building Form & Scale,* Establish standards to codify tripartite (base, middle, and top) building form.

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*Height and Massing*, Consider shallow step back requirements` to maintain appearance of compatible height.

*Materials & Colors*, Codify appropriate materials described.

### **TIMELINE**

The overall work program is estimated to be complete in May 2024, which is consistent with timeline outlined in Program 13 of the adopted 2023-2031 Housing Element Update. The ad-Hoc Committee is slated to meet approximately six times throughout the process with the Objective Development Design Standards going to the full Planning Commission in April of 2024 and the City Council in May of 2024. Attachment 1 of this reports outlines the schedule of the Objective Development Design Standards scope of work.

### **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission take the following actions for the purpose of creating objective standards for eligible multifamily projects and carry out the provisions of Housing Element Program 13:

- Provide feedback regarding the proposed timeline (Attachment 1); and
- Assign the Design Review ad-Hoc Committee to work with staff to prepare a set of recommended amendments to the PMC, Three Corridor Specific Plan, and the Old Town Design Guidelines.

### **ATTACHMENTS:**

1. Schedule of Activities.

## OBJECTIVE DEVELOPMENT DESIGN GUIDELINES Timeline for Completion

| <u>Week/Dates</u>      | <u>Actions</u>   |
|------------------------|--|
| 6/26/2023              | Planning Commission Meeting to introduce project and assign the PC AdHoc Design Review Team  |
| 7/3/2023               | Meeting for AdHoc Meeting and review work done by Consultant                                 |
| 7/10/2023-8/21/2023    | Staff is working on Specific Plan Items as defined in Consultant documents.                  |
| 8/28/2023              | AdHoc Meeting on Specific Plan items as defined in Consultant documents                      |
| 9/4/2023-9/08/2023     | Refine Comments from AdHoc meeting   |
| 9/11/2023-10/16/2023   | Staff is working on Zoning Code items as defined in Consultant documents                     |
| 10/23/2023             | AdHoc Meeting on Zoning Code items as defined in Consultant Documents                        |
| 10/30/2023-11/03/2023  | Refine Comments from AdHoc meeting   |
| 11/13/2023-12/11/2023  | Staff is working on Old Town Guidelines as defined in Consultant Documents                   |
| 12/18/2023             | AdHoc Meeting on Old Town Guidelines as defined in Consultants Document                      |
| 12/26/2023- 01/06/2024 | Refine Comments from AdHoc meeting   |
| 01/09/2024-02/06/2024  | Combine all of the changes in one document and bring to the AdHoc Committee for final review |
| 02/13/2024-03/27/2024  | Prepare ODDS documents for the Planning Commission Review, Prepare and ODDS Checklist        |
| 4/10/2024              | Planning Commission Meeting for recommendation to City Council                               |
| 5/16/2024              | City Council Approval of ODDS  |