

AGENDA FOR THE



CITY OF PINOLE PLANNING COMMISSION REGULAR MEETING

Monday, March 25, 2024

7:00 P.M.

Via Zoom Videoconference and In Person

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. 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. 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 dhanham@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. 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 Community Development 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.

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 January 8, 2024

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:

1. New Parklet/Outdoor Dining Regulation Framework

Updating Planning Commission on the progress of developing Parklet/Outdoor Dining Standards.

2. Update – Objective Development Design Standards (ODDS)

Updating Planning Commission on the progress of developing Objective Development Design Standards (ODDS).

G. NEW BUSINESS:

1. Zoning Code Amendment Target Timeframes

Informational item on target timeframes for Planning Commission review of anticipated zoning code amendments to implement Housing Element programs.

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

I. **COMMUNICATIONS:**

J. **NEXT MEETING(S):**

Planning Commission Regular Meeting, April 8, 2024, at 7:00PM

K. **ADJOURNMENT**

POSTED: March 22, 2024

David Hanham
Planning Manager

DRAFT

MINUTES OF THE REGULAR MEETING
PINOLE PLANNING COMMISSION

January 8, 2024

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

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A. **CALL TO ORDER:** 7:05 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, Martinez, Sandoval, Vice-Chairperson Menis, Chairperson Benzuly

Commissioners Absent: None

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

Vice-Chairperson Menis reported on ex parte communications and stated he had sent out email messages about the meeting to his email list.

C. **CITIZENS TO BE HEARD**

Raquel Contreras, Upton Yard, 2337 San Pablo Avenue, Pinole, stated to date she had received no update from City staff or communication from the Public Works Department to redraw an easement line. She asked the Planning Commission for assistance on the matter.

Planning Manager David Hanham reported the issue was being handled by the Public Works Department, although he expressed the willingness to schedule a meeting between the Public Works Director and Ms. Contreras.

1 Anthony Vossbrink, Pinole, expressed concern there had been no communication
2 between Ms. Contreras and Department Heads. He urged staff to be transparent,
3 particularly when he and others had raised concerns in the past, with no response from
4 staff. He also expressed concern with the out-of-sync stoplights on Pinole Valley Road;
5 excessive stoplights up and down Pinole Valley Road between Trader Joe’s Shopping
6 Center, Pinole Valley High School and Granada Court; vehicles emitting unnecessary
7 carbon emissions negatively impacting the environment; a double telephone pole
8 obstructing an Americans with Disabilities Act (ADA) crosswalk at Granada Court and
9 Shea Drive, which had yet to be repaired creating a public safety hazard; and trash cans
10 missing lids and not being emptied on a regular basis at the dog park and barbeque grove.
11

12 Mr. Hanham clarified that the Traffic and Pedestrian Safety Committee (TAPS) discussed
13 traffic safety items and he had reached out to the Public Works Director who was working
14 on the timing of the streetlights.
15

16 Vice-Chairperson Menis reported the TAPS Committee would meet on Wednesday,
17 January 10, 2024.
18

19 **D. MEETING MINUTES**

- 20
21 1. Planning Commission Meeting Minutes from December 11, 2023
22

23 Commissioner Bender requested a revision to Lines 28 through 30 on Page 6, as follows:
24

25 *Commissioner Bender asked under what conditions ABC would declare a*
26 *moratorium for Type 20 licenses since he understood the City of San Pablo was*
27 *currently under a moratorium.*
28

29 Vice-Chairperson Menis requested a revision to Lines 1 through 5 on Page 8, as follows:
30

31 *Vice-Chairperson Menis also suggested that A.3 was unclear by design, and did*
32 *not identify the details. He suggested a focus on the response to A.3 allowed for a*
33 *more focused response and details on exactly how many crimes were committed*
34 *in the district, with a comparison to allow a calculation of the average of the types*
35 *of crimes committed.*
36

37 Mr. Hanham advised that staff would review the video for the December 11, 2023 meeting to
38 verify the Vice-Chair’s comments.
39

40 **MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes from
41 December 11, 2023, as amended.
42

43 **MOTION: Menis**

SECONDED: Sandoval

APPROVED: 6-0-1

ABSTAIN: Martinez

44
45
46 **E. PUBLIC HEARINGS**

- 47
48 1. **Conditional Use Permit (CUP) 23-04 Anabi Shell Station Alcohol Sales**
49 **Use Permit Supplemental Information for CUP 23-04 (Continued from**
50 **December 11, 2023)**

- 1 • Vice-Chairperson Menis noted the Planning Commission had recommended a new
2 condition, Condition 29 be added to require the coolers to be locked between 2:00
3 and 6:00 a.m., which had been accepted by the applicant during the December 11,
4 2023 meeting.
5
- 6 • Vice-Chairperson Menis recommended a revision to Condition 22 to read: *Licensee*
7 *or its employees shall regularly police the area under the licensee's control to*
8 *prevent the loitering of persons about the premises.*
9
- 10 • If the applicant did not comply with the conditions of approval, as shown in Exhibit A:
11 Conditions of Approval, a revocation of the CUP could be considered by the Planning
12 Commission.
13
- 14 • Vice-Chairperson Menis recommended Condition 1 either be revised or be similar to
15 Condition 13. There were also questions whether Condition 23 should be stricken.
16 Legal counsel noted this was a CUP application for alcohol sales and a simple
17 condition could be considered to state that the violation of the Use Permit could result
18 in review by the Planning Commission subject to adjusted conditions of approval or
19 potential revocation. There was further discussion to modify Condition 1 and strike
20 Condition 13.
21
- 22 • A general conditional reading: *These conditions of approval may result in an*
23 *enforcement action by the City up to and including revocation of the use permit, was*
24 *proposed by legal counsel to replace Condition 1, with Conditions 13 and 23 to*
25 *remain, as shown.*
26
- 27 • Item E1, Table 1: Crime incidents from 10/07/2023 through 12/29/2023, (as shown
28 in the January 8, 2024 staff report and from the Police Blotter) were identified as crime
29 incidents that had occurred within the 1300, 1400 and 1500 block of the Fitzgerald
30 Drive Corridor. Staff had only shown the total number of incidents and had not
31 differentiated the specific blocks where the incidents had occurred as part of the data
32 provided.
33
- 34 • Commissioner Martinez recommended Condition 19 be revised to require the trash
35 receptacles be changed out on a more regular basis either twice or three times a day.
36
- 37 • The Planning Commission may impose a condition that would review the CUP after
38 one year for additional data for crime at the location to determine whether or not there
39 had been an increase in crime, although the ratio for revocation of the CUP would
40 have to be determined and criteria would have to be created with the applicant's
41 involvement.
42
- 43 • The time period for the data in Item E1 was again clarified, included the holidays that
44 were the most active time periods in the area.
45

46 PUBLIC HEARING OPENED

47
48 At this time, a brief video was presented that had been provided by the applicant and which
49 included an overview of the Rebel brand and its employees.

1 Bruce Evans, representing, Anabi Shell Station, 1401 Fitzgerald Drive, Pinole, introduced the
2 Project Team present in the audience and available to respond to questions. He hoped the
3 Planning Commission would see the sale of beer and wine as part of a larger goal to make
4 the property an inviting, beautiful, modern and state-of-the-art convenience store.
5

6 Mr. Evans responded to the questions from the Planning Commission related to over-
7 concentration and clarified the existing statute did not mean there were too many sales of
8 alcohol in a particular census tract. He stated the goal of the statute was if there were cities
9 unlike Pinole that had a CUP requirement for alcohol, there would not be an automatic
10 opportunity for the city to weigh-in to the state prior to the issuance of a license. He detailed
11 the criteria for a PCN and clarified the reason the application had to go before the Pinole City
12 Council, not because of high crime, but due to undue concentration which may occur
13 because of good zoning, not in spite of it.
14

15 Mr. Evans explained that the concentration numbers had been based on population and with
16 alcohol in the commercial zones, where this use was located, the population numbers would
17 be low. He reiterated the Pinole City Council had already made a PCN determination in this
18 case.
19

20 Mr. Evans also clarified that even if none of the conditions were part of the CUP, the City
21 would continue to have control since the Pinole Municipal Code (PMC) and case law allowed
22 the City to have police power to abate a nuisance. The City would have extra control with
23 the CUP since it may impose additional conditions of approval and the applicant would not
24 do anything to risk it given the investment in the convenience store. He found the proposed
25 conditions had set clear standards for the store and he detailed many of the conditions as
26 shown in Exhibit A, which were all agreeable to the applicant, including the additional
27 condition related to when the coolers would be locked.
28

29 Mr. Evans was also pleased with the comments from the Police Department which had made
30 it abundantly clear they had neither objected nor had expressed any concerns with the use.
31 He again spoke to the City Council's approval of the PCN and the findings the City Council
32 was required to make to approve the PCN, which he read into the record at this time.
33

34 Michael Wiggins, Director of Loss Prevention and Security, Anabi Oil, detailed his
35 background as a retired Police Captain and his work with the Anabi Family. He emphasized
36 that all cashiers would be provided training in the sales of alcohol, advanced security and
37 footage for all of their stores would be provided, they would have the use of cash registers
38 that turned off at 2:00 a.m., the cooler doors would have mag-locks once the convenience
39 store was remodeled and they would have a working relationship with the Police Department.
40

41 Mr. Wiggins added he had been in contact with command staff at the Police Department and
42 had received an email from Commander Matt Avery, which he read into the record and who
43 had stated that the Shell Gas Station had been a good partner in the past and the Police
44 Department looked forward to working with the business in the future.
45

46 Summer Anabi, representing the Anabi Family, explained that the video that had been
47 presented said it all. The business was a family-owned company, first generation husband
48 and wife team starting with one gas station, with the children now grown and coming back to
49 the business.
50

1 Ms. Anabi stated the business had investments from big oil and a reputation as good
2 operators and with the Rebel brand, which was a new brand acquired in 2015, the site would
3 be modernized. She emphasized the investment into the site with the sale of beer and wine
4 would enhance and complete the site like all of their other stores. She asked that the
5 Planning Commission approve the CUP and allow the applicant to modernize and rebrand
6 the site with the new Rebel name.
7

8 Anthony Vossbrink, Pinole, explained that he was speaking on behalf of other members of
9 the Pinole community who opposed the approval of the CUP for the Anabi Gas Station to sell
10 beer and wine. He found the number of liquor stores in and around Fitzgerald Drive to be
11 over-concentrated with the sale of alcohol allowed at all hours. He suggested there should
12 be an endgame and the City should look at the big picture. He asked the status of the
13 Valero/convenience store and gas station and whether it would be rubber-stamped. He also
14 noted the Police Blotter information provided in Item E1 lacked information from the 1200
15 block of Fitzgerald Drive with numerous retailers and restaurant operators who already had
16 beer and wine liquor licenses.
17

18 Mr. Vossbrink provided the details of a criminal incident at the Chevron Gas
19 Station/convenience store which had required mutual law enforcement assistance outside of
20 the City of Pinole. He added there had been other strong-arm robbery incidents that had
21 occurred in Pinole but had not been discussed, which he also detailed. He asked that the
22 Police Blotter information be evaluated closely and suggested the number of incidents had
23 not always been reported accurately.
24

25 PUBLIC HEARING CLOSED

26
27 Commissioner Banuelos understood that Target had a use permit which prohibited the sale
28 of alcohol after 10:00 p.m.
29

30 Mr. Hanham clarified he would have to review the use permit for Target. It was possible the
31 prohibition may be a corporate, not a city requirement.
32

33 Commissioner Banuelos commented that the hours for the sale of alcohol for many
34 businesses varied and he had not heard of a requirement requiring other businesses to lock
35 the coolers at certain times. As a former member of the City Council, he was familiar with a
36 past request for a beer and wine license having been denied in the community. He found
37 the presentation from the applicant had caught the spirit of what the company was trying to
38 do and he thanked the applicant for the information.
39

40 Vice-Chairperson Menis also thanked the applicants for the presentation. He appreciated
41 the background on the security to be provided at the site and the fact the Rebel brand would
42 be part of the Shell Station. He otherwise found that much of Mr. Vossbrink's comments
43 were outside of the purview of the Planning Commission, particularly as it related to the City
44 Council's approval of the PCN determination. As to the concerns with the development of
45 the Valero Gas Station and the potential request for the sale of beer and wine, he asked staff
46 whether the uses were linked or whether they were completely independent.
47

48 Mr. Hanham explained that in conversations with the Police Department, the initial review of
49 the project included a review of existing gas stations with permits for the sale of beer and
50 wine, with the determination that the application would not add significant crime to the City.

1 Mr. Hanham understood that none of the gas stations in Pinole sold distilled spirits.
2

3 Vice-Chairperson Menis also asked whether the Police Blotter crime data was accurate in
4 terms of the crime rates, to which Mr. Hanham understood the data was accurate for what
5 had occurred on the day in question. While some things may be unreported, he had no
6 specific knowledge and assumed the Police Blotter was accurate in terms of crime in the
7 City. He otherwise would have to defer to the Police Department on the specific information
8 provided.
9

10 Vice-Chairperson Menis also commented, as shown in the staff report, the Police
11 Department, *determined that the sale of beer and wine at this station would not significantly*
12 *contribute to crime statistics. Additionally, the Police Department has no reason to believe*
13 *that this station selling beer and wine would have a negative impact on the crime rate, and*
14 although a representative from the Police Department was not present at this time, the
15 Police Department had not reported any problems with the application.
16

17 Commissioner Bender thanked the applicant for the clarification of the Rebel brand. He had
18 reviewed the application, had gone above and beyond what he had seen in the staff report
19 but had seen nothing to deny the application or anything in the data to cause alarm other
20 than the fact the Police Blotter in Item E1 had shown that the larger percentage of crime in
21 Pinole had occurred in the Fitzgerald Drive Corridor, which was a significant concern. He
22 could not find a nexus between those statistics and the applicant's request for a Type 20
23 license. He asked that staff acknowledge in the near future that Pinole may reach a potential
24 moratorium on the request for Type 20 licenses and keep track of that for future applications.
25

26 Mr. Hanham expressed the willingness to contact ABC and email Commissioners separately
27 on what would happen if the City of Pinole were to reach a possible moratorium on Type 20
28 licenses.
29

30 Commissioner Martinez supported the application since he had reviewed the various retailers
31 around the subject site and found that most closed at 9:00 p.m. Target closed at 10:00 p.m.,
32 United Food Mart and Lucky closed at 11:00 p.m., and Food Maxx at 12:00 midnight. He
33 suggested having a provider provide a service for the community was a good thing and the
34 application would provide that window as compared to the hours of operation of the other
35 businesses.
36

37 Commissioner Lam-Julian advised that Commissioners Bender and Martinez provided the
38 comments she would have made.
39

40 Commissioner Banuelos added that over-concentration assumed that all of the businesses
41 were open at the same time, and with the staggered hours of operation he found there was
42 no over-concentration.
43

44 **MOTION** to approve Resolution 24-01 with Exhibit A: Conditions of Approval, Resolution of
45 the Planning Commission of the City of Pinole, County of Contra Costa, State of California,
46 Approving a Conditional Use Permit to Allow the Sale of Beer and Wine for Off-Site
47 Consumption at 1401 Fitzgerald Drive, Pinole, CA 94564, APN 426-080-036, subject to the
48 following:
49

1 PUBLIC COMMENTS CLOSED
2

3 **MOTION** to appoint Commissioners Lam-Julian and Sandoval to serve on the Planning
4 Commission Community Engagement Ad-Hoc Subcommittee.
5

6 **MOTION: Menis** **SECONDED: Banuelos** **APPROVED: 7-0**
7

8 **H. CITY PLANNER’S / COMMISSIONER’S REPORT**
9

10 Mr. Hanham reported that staff was moving forward with a task list related to the Housing
11 Element; Pinole Shores II was ongoing and would be presented to the Planning Commission
12 in the spring, and staff would coordinate the scheduling for Commissioners’ attendance for
13 the upcoming Planner’s Conference.
14

15 Mr. Mog clarified Brown Act requirements when attending the Planner’s Conference, and
16 stated Commissioners should not gather as a majority and discuss any current or future City
17 business during the conference but they would be able to participate in the larger sessions
18 during the conference.
19

20 Vice-Chairperson Menis asked the status of the Safety and Environmental Justice Elements
21 Update, and Mr. Hanham reported that staff was working on both documents. The Safety
22 Element would be presented to the Planning Commission in the April to June timeframe and
23 the Environmental Justice Element would be presented shortly thereafter.
24

25 **I. COMMUNICATIONS**
26

27 Vice-Chairperson Menis wished everyone a Happy New Year.
28

29 **J. NEXT MEETING**
30

31 The next meeting of the Planning Commission to be a Regular Planning Commission
32 Meeting scheduled for January 22, 2024 at 7:00 p.m.
33

34 **K. ADJOURNMENT: 8:50 p.m.**
35

36 Transcribed by:
37

38 Sherri D. Lewis
39

Transcriber



Memorandum

TO: PLANNING COMMISSION MEMBERS

FROM: David Hanham, Planning Manager

SUBJECT: New Parklet/Outdoor Dining Regulation Framework

DATE: March 25, 2024

PURPOSE:

Staff is updating the Planning Commission on the progress of developing Parklet/Outdoor Dining Standards.

BACKGROUND

The City of Pinole’s outdoor dining program was established in 2010 with a major Zoning Code Amendment. Pursuant to Chapter 17.68, outdoor dining is allowed in all zoning districts, with the exception of residential zoning districts. Outdoor dining is approved with an Administrative Use Permit, as well as an Encroachment Permit if it is located in the public right-of-way. An Administrative Design Review or Comprehensive Design Review may also be required depending on changes to the proposed structure. Section 17.68.030 (D) outlines the requirements for permanent outdoor seating and includes standards for maintenance, accessibility, and additional off-site parking. The City has issued five Administrative Use Permits for outdoor dining under Section 17.68.020 since 2010.

During the COVID-19 pandemic, several businesses requested the ability to accommodate outdoor seating. Similar to many other jurisdictions during the pandemic, the City Council adopted an urgency ordinance (Urgency Ordinance No. 2020-03) on June 2, 2020, for the purpose of streamlining and expediting temporary outdoor seating permits to support continued operation of businesses while also complying with health orders.

City Council was interested in examining more permanent standards for parklets/outdoor dining and provision for such spaces after the pandemic. Previously, Planning Commission provided feedback on parklets/outdoor dining to City Council. The City Council at its regular meeting of

April 4, 2023, reviewed the Planning Commission's recommendation, took comments, and provided the following direction:

1. Extended the active temporary outdoor seating permits through the end of the year (2023).
2. Directed Staff to review the Old Town Pinole Parking and Pedestrian Safety Study and return with suggestions regarding the report including parklets, bulb-outs, wayfinding, and other goals outlined in the study.
3. Directed Staff to conduct some outreach with the goal of finding out if there was interest in creating permanent parklets or outdoor dining eating facilities and identify the constraints to implementing outdoor dining among businesses having a component for food service and with storefronts or dining facilities.

The City Council at its regular meeting of December 5, 2023, reviewed the statuses of the above studies and allowed the current temporary outdoor dining establishments to extend outdoor dining to June 30, 2024.

Staff was directed to interview businesses that have a component of food service and storefronts/dining and organized businesses in the five categories:

- Downtown Corridor
- San Pablo Avenue
- Appian Way
- Fitzgerald Drive
- Pinole Valley Road

ANALYSIS

Since the December 5, 2024, City Council regular meeting, Staff identified 20 businesses that have a component of food service and storefronts/dining in the five categories listed above. Table 1 shows the businesses that were interviewed as part of this update. The City Council will be reviewing the summary of interviews and recommending direction at their regular meeting of April 2, 2024.that could include the development of parklet regulations.

Table 1 – Businesses Interview for Parklet/Outdoor Dining Policies.

Businesses Interviewed for Parklet/Outdoor Dining Policies					
San Pablo Corridor Business – Kimchi House, Tachikawa, Hunan Villa, La Famiglia					
Appian Way Corridor – Boba Birds, Ristorante Due Rose, Tandoor Restaurant, Taqueria Morena					
Fitzgerald Drive Corridor – Mel’s Diner, The Cheese Steak Shop, Mountain Mike’s, Pho Craze					
Pinole Valley Road -- Pho Hoa, Five Guys, Alamode Donuts, Red Onion					
Downtown Corridor Businesses –Antlers, Tina’s Place, East Bay Coffee Company, Bear Claw Bakery, Sabor Latino 17, Sue’s Place					

STAFF RECOMMENDATION

There is no recommendation at this stage of the project. This is an informational item only.



Memorandum

TO: PLANNING COMMISSION MEMBERS

FROM: David Hanham, Planning Manager

SUBJECT: Update - Objective Development Design Standards (ODDS)

DATE: March 25, 2024

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.

The Ad-Hoc Design Review Committee has been assisting in the development of the 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: 2018)
- The Zoning Code (last updated: 2020)
- The Old Town Design Guidelines (last updated: 1997)

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.

<i>TABLE 1: SUBJECTIVE vs OBJECTIVE STANDARDS</i>	
Subjective Standards	Objective Standards
Requirements that are subject to interpretation (e.g.: “Height of the new building must be compatible with surrounding structures” or “ The top building story must be articulated to reduce massing ”)	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.

<i>TABLE 2: DISCRETIONARY v MINISTERIAL REVIEW</i>	
Discretionary Review	Ministerial Review
1. Project undergoes design review	1. Streamlined review by City Staff
2. Qualitative judgement and review by City Staff and Planning Commission.	2. Removes personal or subjective judgements.
3. Planning Commission determines the project's compliance with design guidelines	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.

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) judgement 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 minimal 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.

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

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, while 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.

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

Materials & Colors. Codify appropriate materials described.

TIMELINE

Table 3 shows the work that has been completed to date. The overall work program is estimated to be complete in June 2024, which is consistent with the timeline outlined in Program 13 of the adopted 2023-2031 Housing Element Update. The ad-Hoc Committee is meeting throughout the process, with the Objective Development Design Standards anticipated to be brought to the full Planning Commission July to August 2024 and the City Council August to October 2024.

Table 3 – Timeline of Remaining Project

Document	Completed/Not Complete	Dates For Remaining Actions
Three Corridor Specific Plan	Ad-Hoc Committee has completed its review	
Old Town Design Guidelines	Ad-Hoc Committee has completed its review	
Zoning Code	Ad-Hoc Committed has completed its review	
Subdivision Code	Not Completed -Ad-Hoc Committee is currently review	Week of April 1, 2024, for completion of Ad-Hoc Committee work
Staff Refinement of Specific Plan and Design Guidelines	Not Completed	Week of June 10, 2024, for completion of the Staff’s work.

Document	Completed/Not Complete	Dates For Remaining Actions
Ad-Hoc Committee Final Review	Not Completed	Week of June 17, 2024, for final review of Ad-Hoc Committee
Planning Commission Meeting	Not Completed	July to August. Target Planning Commission meeting of July 22, 2024
City Council Meeting	Not Completed	August to October. Target City Council Meeting of August 20, 2024

STAFF RECOMMENDATION

There is no staff recommendation at this this stage of the project. Staff, in collaboration with the Ad-HOC committee, is completing the work and will bring it back to the Commission when complete.



Memorandum

TO: PLANNING COMMISSION MEMBERS

FROM: David Hanham, Planning Manager

SUBJECT: Zoning Code Amendment Target Timeframes

DATE: March 25, 2024

PURPOSE:

Staff is providing the Planning Commission with an update on anticipated upcoming zoning code amendments as part of Housing Element implementation tasks and target timeframes.

BACKGROUND

The City of Pinole 2023-2031 Housing Element sets forth the City's overall housing objectives in the form of goals, policies, and programs. Several programs in the Housing Element established tasks to update the zoning code (Title 17 of the Pinole Municipal Code) to further the goals of the Housing Element and align with text in State laws. Many zoning code amendment programs have target timeframes of adoption within two years of Housing Element adoption (April 4, 2023).

For proposed amendments to the zoning code, Planning Commission would review, comment, and provide a recommendation to the City Council. City Council approves amendments to the municipal code, including zoning code amendments. Staff has initiated work on zoning code amendments, as well as associated parts of the Three Corridors Specific Plan related to these amendments, and aims to bring the proposed amendments to Planning Commission throughout 2024.

ANALYSIS

A number of programs in the 2023-2031 Housing Element have tasks involving zoning code updates. Staff anticipates updates would be brought to Planning Commission at different points throughout the year. An initial target schedule for each of the tasks is provided in **Table 1:**

Table 1 – Target Zoning Code Amendments

Program	Summary of code amendment tasks	Anticipated PC Review
Program 4. Facilitate ADU Production	Update ADU Ordinance	May-June 2024
Program 5. SB 9 Technical Assistance and Facilitation	Update zoning code to remove constraints to SB 9 projects	May-June 2024
Program 13. SB 330 Objective Design Standards and SB 35 Streamlining Compliance	Update zoning code to comply with SB 9 standards (GC 65852.21)	May-June 2024
Program 12. Zoning Amendments	Updates for emergency shelters, large family daycares, low barrier navigation centers, manufactured homes, group homes, residential care facilities, family definition as it relates to lease/rental agreements, state density bonus law	May-June 2024
Program 15. Permit Streamlining	Updates to lower approval authority to PC for all density bonus projects	May-June 2024
Program 13. SB 330 Objective Design Standards and SB 35 Streamlining Compliance	Prepare objective design and development standards	July-August 2024
Program 13. SB 330 Objective Design Standards and SB 35 Streamlining Compliance	Clarifications to process lot consolidations ministerially	September-October 2024
Program 8. Affordable Housing Incentives	Prepared incentives for lot consolidation to facilitate low-income housing, which may include flexibility in developments standards and ministerial approval.	September-October 2024
Program 9. Housing for Ex. Low, V. Low, Low, and Moderate Income Households and Special Needs Households, Including Persons with Disabilities	Updates to reduce parking standards for lower income housing developments.	September-October 2024
Program 10. Senior Housing Incentives	Updates to reduce parking requirements for senior housing developments.	September-October 2024

Program	Summary of code amendment tasks	Anticipated PC Review
Program 12. Zoning Amendments	Update parking reduction and shared parking review and criteria.	September-October 2024
Program 12. Zoning Amendments	Review parking requirements and updates to reduce constraint on development.	September-October 2024
Program 8. Affordable Housing Incentives	Investigate additional incentives, which may include fee waivers based on affordability.	October-November 2024
Program 8. Affordable Housing Incentives	Updates for expedited review for affordable housing developments that include affordable housing beyond standard inclusionary requirements.	October-November 2024

Through the course of implementing the Housing Element, additional amendments to the zoning code may be needed as a means to implement a program, which may not necessarily be reflected in the table above. When zoning code amendments implementing Housing Element programs are brought to Planning Commission, more information will be provided in the associated Staff reports.

STAFF RECOMMENDATION

There is no recommendation at this stage of the project. This is an informational item only.