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2
3 **MINUTES OF THE REGULAR MEETING**
4 **PINOLE PLANNING COMMISSION**

5
6 **January 8, 2024**

7
8 **THIS MEETING WAS HELD IN A HYBRID FORMAT**
9 **BOTH IN-PERSON AND ZOOM TELECONFERENCE**

10
11
12 **A. CALL TO ORDER:** 7:05 p.m.

13
14 **B1. PLEDGE OF ALLEGIANCE**

15
16 **B2. LAND ACKNOWLEDGEMENT:** *Before we begin, we would like to acknowledge the*
17 *Ohlone people, who are the traditional custodians of this land. We pay our respects to*
18 *the Ohlone elders, past, present and future, who call this place, Ohlone Land, the land*
19 *that Pinole sits upon, their home. We are proud to continue their tradition of coming*
20 *together and growing as a community. We thank the Ohlone community for their*
21 *stewardship and support, and we look forward to strengthening our ties as we continue*
22 *our relationship of mutual respect and understanding.*

23
24 **B3. ROLL CALL**

25
26 Commissioners Present: Banuelos, Bender, Lam-Julian, Martinez, Sandoval, Vice-
27 Chairperson Menis, Chairperson Benzuly

28
29 Commissioners Absent: None

30
31 Staff Present: David Hanham, Planning Manager
32 Alex Mog, Assistant City Attorney
33 Justin Shiu, Contract Planner
34

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

37
38 **C. CITIZENS TO BE HEARD**

39
40 Raquel Contreras, Uptown Yard, 2337 San Pablo Avenue, Pinole, stated to date she had
41 received no update from City staff or communication from the Public Works Department
42 to redraw an easement line. She asked the Planning Commission for assistance on the
43 matter.

44
45 Planning Manager David Hanham reported the issue was being handled by the Public
46 Works Department, although he expressed the willingness to schedule a meeting between
47 the Public Works Director and Ms. Contreras.
48
49
50

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