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**MINUTES OF THE REGULAR
PINOLE PLANNING COMMISSION**

April 24, 2017

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

B. PLEDGE OF ALLEGIANCE AND ROLL CALL:

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

Commissioners Absent: Wong [Excused]

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

C. CITIZENS TO BE HEARD:

There were no citizens to be heard.

D. CONSENT CALENDAR:

1. Revised Planning Commission Meeting Minutes from January 23, 2017
2. Planning Commission Meeting Minutes from March 27, 2017

Mr. Rhodes clarified that the changes to the minutes of the January 23, 2017 meeting related only to the Pinole Vista Plaza project on Page 5 and the fact that there had been two separate resolutions at that time. Commissioner Hartley had made the motion to approve both resolutions although the minutes had reflected only one resolution, and there was a desire to make sure that both resolutions had been approved, as shown. He also corrected the date of staff's cover memo to April 24, 2017.

MOTION to approve the minutes from the Planning Commission meeting on January 23, 2017, as revised, and the minutes of the March 27, 2017, as submitted.

MOTION: Martinez-Rubin

SECONDED: Brooks

APPROVED: 6-0-1

ABSENT: Wong

E. PUBLIC HEARINGS:

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

2
3 **Request:** Consideration of a Zoning Code Text Amendment
4 modifying Chapters 17.20, 17.22, 17.70, and 17.98
5 modifying procedures for review of the development of
6 accessory dwelling units within residential zoning districts
7 consistent with State law.

8
9 **Applicant:** City of Pinole
10 2131 Pear Street
11 Pinole, CA 94564

12
13 **Location:** Residential Zoning Districts Citywide

14
15 **Project Staff:** Winston Rhodes, Planning Manager
16 Eric Casher, Legal Counsel

17
18 Planning Manager Winston Rhodes presented the staff report dated April 24,
19 2017, presented a modified Attachment A to the proposed resolution, and
20 explained that the item had been a result of recent legislation that recognized a
21 severe housing affordability shortage and adopted legislation to address that
22 shortage and required a ministerial process for the approval of such units. He
23 added that the State had adopted two laws that had made changes to address
24 barriers to the development of accessory dwelling units and he listed a number of
25 criterion involved. There was a need to make sure that the City's current Zoning
26 Code was consistent with the new legislation adopted by the State given that the
27 City's local zoning ordinance had been preempted by the legislation as of January
28 1, 2017. One of the changes would be to change the term "second dwelling unit"
29 to *accessory dwelling unit*, and to differentiate accessory dwelling units from
30 accessory structures.

31
32 Mr. Rhodes advised that a subcommittee comprised of Chair Kurrent and
33 Commissioner Martinez-Rubin had considered changes to Chapters 17.70 and
34 17.98 of the Zoning Code to ensure compliance with the State legislation and with
35 the Pinole General Plan; had met in February 2017; and it had been discovered
36 that changes would also have to be made to Chapters 17.20 and 17.22. He
37 identified the specific changes that would have to be made to the four chapters,
38 and clarified that the Zoning Text Amendments were not subject to the regulations
39 of the California Environmental Quality Act (CEQA).

40
41 Mr. Rhodes recommended that the Planning Commission approve Resolution
42 17-06, as updated, recommending that the City Council amend Title 17 of the
43 Pinole Municipal Code (PMC) to allow accessory dwelling units consistent with
44 State law.

1 Mr. Rhodes responded to questions from the Commission and explained that the
2 minimum 500 square feet area for an accessory dwelling unit had been replaced
3 given that State law had set a maximum but not a minimum; the concern was not
4 to have something over 1,200 square feet; and the Building Code would apply
5 with respect to habitable space.
6

7 Chair Kurrent described the subcommittee's recommendation to strike the
8 minimum given the requirement that the accessory dwelling unit could be no
9 more than 30 percent of the primary structure and with the small size of units in
10 the Old Town area the minimum requirement would not be possible. While the
11 minimum had been stricken, the subcommittee had recommended that the
12 accessory dwelling unit be no more than 50 percent of the primary structure.
13

14 On the discussion of ensuring that the owner of the property would have to live in
15 one of the two units, Mr. Rhodes stated it had been addressed more indirectly
16 than the City's previous code, and while it was preferred that the owner of the
17 property live on site the text had been modified to allow more flexibility and
18 address the potential transfer out of the area or the death of a property owner.
19

20 Mr. Rhodes also explained that references to "parcel" or "lot" had been used
21 interchangeably and did not make a difference in the context of the ordinance;
22 acknowledged the recommendation that references to accessory dwelling unit be
23 singular rather than plural to ensure that only one accessory dwelling unit was
24 allowed; explained what would occur if a tiny home was moved on a lot or if a
25 junior dwelling unit was involved; and explained what would have to be done to
26 essentially reverse an accessory dwelling unit.
27

28 As to the areas where the City might have some discretion in the State
29 legislation, Mr. Rhodes advised that the City had discretion as to the minimum lot
30 size, the square footage, the height limit, the distance from the primary dwelling
31 unit when detached, and independent heating and air conditioning controls.
32

33 Legal Counsel Eric Casher explained that the overarching State legislation was
34 to allow for more accessory dwelling units and more affordable housing, and the
35 State would allow the City to adopt less restrictive measures such as the primary
36 residence did not have to be owner occupied, which the City currently required
37 and continued to require in the proposed ordinance.
38

39 Mr. Rhodes also clarified the owner occupancy agreement requirement for
40 accessory dwelling units in Pinole and the flexibility that would be built into the
41 proposed ordinance related to that requirement; clarified what would occur with a
42 garage conversion used as an accessory dwelling unit; how the proposed
43 regulations would apply to multifamily residential zones, and whether the
44 multifamily residential zones should be included in the Text Amendments; and
45 the concerns related to Airbnb.

1 On an unrelated matter, Mr. Casher offered an update on a recent presentation
2 to the City Council related to an agreement with Airbnb in Pinole.

3
4 PUBLIC HEARING OPENED

5
6 There was no one to speak.

7
8 PUBLIC HEARING CLOSED

9
10 On the discussion, the Commission made the following comments and
11 recommendations:

- 12
13 • Eliminate the requirement in Section 17.70.050 that no more than one
14 dwelling unit in a residential property be rented at one time. (Hartley)
- 15
16 • If making the recommended change to Section 17.70.050, also eliminate
17 the requirement that the property owner record an owner-occupancy
18 agreement. (Brooks).
- 19
20 • Concerns were expressed that the death or transfer of the owner
21 occupant could jeopardize the tenancy of the occupant of the accessory
22 dwelling unit, and that the ability to rent both dwelling units could
23 jeopardize the character of the R-1 Zoning District.
- 24
25 • Suggested the maximum size could be 500 square feet or 30 percent of
26 the existing living space of the primary dwelling unit, and shall not exceed
27 1,200 square feet in accordance with State law. (Kurrent)

28
29 When asked, Mr. Casher explained that the State had indicated that an
30 accessory dwelling unit could not exceed 1,200 square feet and could not
31 exceed 50 percent of the size of the primary unit, although State law did not
32 prevent the local jurisdiction from reducing the square footage, so a 30 percent
33 threshold would be allowable.

34
35 Mr. Rhodes added that the regulation could be modified if found not to be
36 working. He also explained that the City had advised the State that it planned to
37 accommodate potentially 11 accessory dwelling units between now and 2023,
38 although the City's Regional Housing Needs Allocation (RHNA) had not been
39 predicated upon accessory dwelling units.

40
41 When the Commission could not reach a consensus, Mr. Rhodes reiterated that
42 the City's code on accessory dwelling units was null and void as a result of the
43 legislation. The current ordinance had been in effect since 2010 and there had
44 only been one or two accessory dwelling unit applications since then.

1 Mr. Rhodes emphasized that housing policies had been adopted by the City
2 Council last year to encourage a variety of housing and different affordability
3 levels.
4

5 The Commission discussed the possibilities, sought additional information to be
6 able to make an informed decision on the potential for accessory dwelling units
7 in the City. Additional information was requested including an inventory of the
8 approximate number of accessory dwelling units currently existing in the City, a
9 survey of what other comparably sized cities in the county in close proximity to
10 Pinole are doing with respect to accessory dwelling units; and an estimation of
11 the potential maximum number of accessory dwelling units that could be placed
12 in Pinole and what it might look like visually if built out, to be returned to the full
13 Planning Commission.
14

15 The item was continued to the next Planning Commission meeting on May 22,
16 2017.
17

18 **F. OLD BUSINESS:**

19
20 **1. Design Review (DR) 15-13 East Bluff Apartments Bicycle Parking**
21 **Follow-up**
22

23 Commissioner Martinez-Rubin recused herself from the item due to proximity, and
24 left the Council Chambers at this time.
25

26 Mr. Rhodes presented the staff report dated April 24, 2017.
27

28 JOANNA CARMAN, Eden Housing, the Project Manager for the rehabilitation of
29 the East Bluff Apartments, described the bike racks in six areas of the site that
30 could accommodate between 8 to 12 bikes and explained that the amount was
31 considered to be sufficient to the usage.
32

33 **MOTION** to approve the Revised Bike Parking as shown in Attachments A and B
34 of the staff report dated April 24, 2017.
35

36 **MOTION: Thompson**

SECONDED: Tave

APPROVED: 5-0-1-1

RECUSED: Martinez-Rubin

ABSENT: Wong

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38
39
40 **G. NEW BUSINESS:**

41
42 **1. Selection of Planning Commission Chairperson and Vice Chairperson**
43 **for 2017-2018**
44

45 Commissioner Thompson was selected to be the Chairperson, with Commissioner

1 Tave to be the Vice Chairperson of the Planning Commission for 2017- 2018.

2
3 **MOTION: Hartley SECONDED: Martinez-Rubin APPROVED: 6-0-1**
4 **ABSENT: Wong**

5
6 **2. Selection of Development Review Subcommittee Members for 2017-**
7 **2018**

8
9 Commissioners Brooks, Thompson, and Wong were selected as members of the
10 Development Review Subcommittee for 2017- 2018, with Commissioner Hartley to
11 serve as the alternate.

12
13 **MOTION: Kurrent SECONDED: Tave APPROVED: 6-0-1**
14 **ABSENT: Wong**

15
16 **H. CITY PLANNER'S / COMMISSIONERS' REPORT:**

17
18 Mr. Rhodes reported that the permits for the CVS Pharmacy project were
19 expected to be issued soon; construction plans had been received for Dr. Lee's
20 Eye Surgery Center; the Council Subcommittee was discussing a few issues for
21 the dialysis center before being returned to the full City Council; and the
22 Development Review Subcommittee had reviewed the two single-family two-
23 story homes on Nob Hill, and since those two homes had now been re-
24 submitted as one-story, they would be processed administratively by staff. There
25 had also been a proposal for tenant improvements at the Del Monte Center for
26 O'Reilly Auto Parts which had also been reviewed by the Development Review
27 Subcommittee with direction to process that item administratively.

28
29 Commissioner Thompson requested that staff include Planning Commission
30 votes in its submittals to the City Council. She also asked with respect to
31 Sprouts that employees be required to park in the back, and that staff address
32 the trucks and pallets on the backside of Henry Avenue, the garbage cans in the
33 parking lot, the creek improvements, and the truck traffic entering on Pinole
34 Valley Road.

35
36 Mr. Rhodes explained that there had been no complaints about the availability of
37 parking for Sprouts, and while the issue could be discussed with Sprouts
38 management employee parking was required only to be in the least convenient
39 spaces.

40
41 Commissioner Brooks expressed concern for non-functional lighting at the
42 Lucky's parking area. He announced that May 21 was community Services Day.

43
44 Commissioner Martinez-Rubin referred to the invitation for comments on Plan
45 Bay Area 2040 and clarified with staff that the City was following that process.

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I. COMMUNICATIONS: None

J. NEXT MEETING:

The next meeting of the Planning Commission will be a Regular Meeting to be held on Monday, May 22, 2017 at 7:00 P.M.

K. ADJOURNMENT: 10:10 P.M

Transcribed by:

Anita L. Tucci-Smith
Transcriber