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**MINUTES OF THE ALBANY CITY COUNCIL**  
**IN SPECIAL SESSION, 1000 SAN PABLO AVENUE**  
**MONDAY, OCTOBER 11, 2004**

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**8:00 p.m.**

Mayor Ely who led the Pledge of Allegiance to the Flag called the special meeting of the Albany City Council to order on the above date.

**ROLL CALL**

Present: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely  
Absent: None

**STAFF PRESENT**

Beth Pollard, City Administrator; Robert Zweben, City Attorney; Jacqueline Bucholz, City Clerk; Ann Chaney, Community Development Director; Ed Phillips, Zoning Consultant.

**3. PUBLIC HEARING**

**3-1.** Proposed Revisions to the Zoning Ordinance and proposed amendments to the Land Use Element of the General Plan. (Continued from 10/04/04).

The Community Development Director stated that before Council tonight is the last of the Kains-Adams-San Pablo Corridor. Council can either approve the entire section by one motion or take each item separately.

It was the consensus of the Council that each item would be discussed and acted on separately.

Height Limit: The questions are as follows: a) Add new concept of Daylight Planes.

Council Member Thomsen stated that she believes this is a good idea and makes a better neighborhood.

Council Member Good noted that there is no set back in the commercial area and would like to see the daylight plane at a specified height.

Council Member Maris stated that there is a 25' gap between San Pablo Avenue and Kains according to the diagram and is concerned that the gap be usable.

The following people spoke on the issue of Daylight Plane: Mr. Ed Fields, Kains Avenue; Ms. Joan Larson, Adams Street; Mr. Clay Larson, Adams Street; Ms. Maureen Crowley, Kains Avenue; Mr. Richard Cross, Kains Avenue; Ms. Kristina Osborne, Adams Street.

A summary of the comments are as follows: Approved of the daylight planes and noted there was compromise from both the Planning Commission and the neighborhood residents; noted that some businesses are using the gaps for parking; not enough protection for single family house; question if density bonuses forego setbacks and noted there is a connection between the daylight planes and the density bonuses; new state law may alter density bonuses; daylight planes make the neighborhoods more livable; believed that the daylight planes, as compromised are not sufficient.

**MOTION:**

Moved by Council Member Good, seconded by Council Member Thomsen to approve 12' at the property line, as shown in figure 1b on draft page 108.

**ON THE QUESTION:**

Council Member Maris stated that there would be no setback if the 12' is approved and the Zoning Consultant responded it would be the rear yard of commercial property and for residential it would be 15'.

Council Member Good stated that he did not mean to imply that a builder could build up to the property line. It is 12' at the ground of the property line and if they decide to build 10' away from the property line they can build up.

Council Member Maris noted that in the R-3 district they are not allowed to go to the property line at all and there would be a 15' set back. Council Member Good responded that this motion speaks only to the SPC zone.

**VOTE ON THE MOTION:**

AYES: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely.

NOES: None

ABSENT: None

Motion carried and so ordered.

Mayor Ely asked if the Council would like to have the Daylight Plane in any other zone?

**MOTION:**

Moved by Council Member Good, seconded by Council Member Maris that Daylight Planes in the R-3 zone would be 15' from the property line.

AYES: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely

NOES: None

ABSENT: None

Motion carried and so ordered.

**MOTION:**

Moved by Council Member Good, seconded by Council Member Thomsen to approve R-2 zone 15' from the property line.

AYES: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely

NOES: None

ABSENT: None

Motion carried and so ordered.

Reduce height in R-3 zone from 40' to 35'' (28' at front setback and daylight planes) and Reduce height in SPC zone from 45' to 38' (3 stories) plus rear property daylight planes.

The Community Development Director stated that both questions relate to reduction in height and would recommend they be discussed together.

The following people spoke on this issue: Ms. Maureen Crowley; Mr. Ed Fields; Mr. Doug Donaldson; Ms. Kristina Osborne; Ms. Joan Larson; Mr. Clay Larson.

A summary of the comments are as follows: What happens if a building that is higher than 45' is knocked down, can they rebuild at the same size? Favored the reduction in height; questioned the BAE report noting it was very biased. Suggested the reductions were not enough and should be smaller. Suggested that the height should stay at 45' to give flexibility in the Zoning Ordinance. The lower height limit could hamper redevelopment in the area. Look at the bigger picture for the City and explore options.

Staff responded to the question on rebuilding if a building of 45' is knocked down noting that State law allows residences to be rebuilt at the same standards, but that commercial must conform to the current law on the books.

Council Member Thomsen disagreed with the statement that the buildings should stay at 45' indicating that the ones that are at that height are massive and they do impact the City.

**MOTION:**

Moved by Council Member Thomsen, seconded by Council Member Good that the height in the R-3 zone be reduced to 35' and the height in the SPC zone be reduced to 38'.

**ON THE QUESTION:**

Council Member Good stated that all views be considered and agreed that the Albany Commons building is too big. Council Member Maris asked questions regarding the 38' height in the SPC zone.

**VOTE ON THE MOTION:**

AYES: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely

NOES: None

ABSENT: None

Motion carried and so ordered.

Height Exceptions for: 1) towers, structures, equipment 10' maximum and 10% of roof area.

Council Member Thomsen noted that she takes exception to the exceptions and believes that it is acceptable for architectural design but not mechanical things.

The following people spoke on this issue: Mr. Doug Donaldson; Ms. Kristina Osborne.

A summary of the comments is as follows: To approve the P&Z Commission recommendations and suggested that design review be required for approval of roofs above 35'. Concern about the height exceptions and noted that Albany Commons is an example that limits should be required and suggested the limit be smaller.

Council Member Thomsen expressed concern that 10% of a big building could be huge.

Council Member Maris stated that he would like to see some guidelines regarding to rooftops.

Council Member Good stated that he believes that design review is good enough.

**MOTION:**

Moved by Council Member Thomsen to make an exception for architectural factors that enhance the building.

**MOTION WITHDRAWN:**

Council Member Thomsen withdrew motion.

**MOTION:**

Moved by Council Member Good, seconded by Council Member Maris that an addition be subject to design review and that 10' maximum and 10% of area be approved.

**ON THE QUESTION:**

The Community Development Director asked if the motion includes design review for mechanical and the maker responded yes.

**VOTE ON THE MOTION:**

AYES: Council Members Good, Maris, Okawachi & Mayor Ely

NOES: Council Member Thomsen                      ABSENT: None

Motion carried and so ordered.

Density bonus per State law where affordable housing provided from 38' to 45' (4 stories) plus daylight planes plus 15' setback from San Pablo Avenue.

Council Member Good asked if there was some way of having no density bonus. Mayor Ely noted that State law overrides local and asked if there was anyway around this?

Council Member Thomsen suggested that the height not be included as an alternative.

The Community Development Director noted that the City does not have affordable housing units except for the Creekside Apartments, which were funded by the State. The Community Development Director stated that the City must provide moderate, low and very low and does not do well in the low and very low category and explained if the City does not meet the required number it will put itself up for legal challenges.

Council Member Okawachi noted that on page 141 of the draft there are 7 concessions/incentives listed and asked if any could be taken out. The Zoning Consultant responded that the Council could eliminate anything they want. The Zoning Consultant stated that if Council is not comfortable with this now it could be considered at a later date.

Council Member Maris stated that staff should look at reducing the FAR in mixed uses.

The following people spoke on this issue: Mr. Doug Donaldson; Mr. Ed Fields; A summary of the comments are as follows: Noted that the City gave up a site that could have been used for low income to have the Middle School built there. Spoke to AB1818 noting that the State is taking away a lot of the City's prerogatives regarding bonus point system for FAR. Urged the Council not to have a 4<sup>th</sup> story just so that it qualifies as affordable housing. The Zoning Consultant agreed and recommended that the 4<sup>th</sup> story be dropped.

**MOTION:**

Moved by Council Member Thomsen, seconded by Council Member Good to drop the 4<sup>th</sup> story.

AYES: Council Members Good, Okawachi, Thomsen & Mayor Ely

NOES: Council Member Maris                                      ABSENT: None

Motion carried and so ordered.

FAR for mixed uses SC (Solano) 1.25 with bonus via point system 2.0 and SPC (San Pablo) 2.25 with bonus via point system 3.0.

The Community Development Director stated that staff is trying to provide “carrots” to the developers.

Mayor Ely stated that this is above and beyond the limits the City has set and the Community Development Director replied that the Council has the option of establishing a maximum FAR and eliminating all bonuses.

The following people spoke to this issue: Mr. Doug Donaldson; Mr. Clay Larson; Mr. Ed Fields; a resident on Madison (did not get his name). A summary of the comments are as follows: Encourage better architect and variety and getting something back for the community; approve the P&Z Commission recommendations listed in their Resolution. Expressed concern about increasing the FAR and noted that very few make sense for the public interest. Noted that there are too many loopholes in the Zoning laws and urged the Council to make it more defined with clearer guidelines. Urged the Council to set limits that will keep within the goals of the community.

Mayor Ely noted that it is 11:00 p.m. and would recommend that the public hearing be continued to October 18<sup>th</sup> and noted that the wireless communication facilities will be the meeting of the 18<sup>th</sup>.

**4. ADJOURNMENT**

11:00 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.

Minutes submitted by Jacqueline L. Bucholz, CMC, City Clerk.

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JON ELY  
MAYOR

ATTEST:

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JACQUELINE L. BUCHOLZ, CMC  
CITY CLERK

