

City of Albany
Planning and Zoning Commission
Draft Minutes October 12, 2010, Meeting

Note: These minutes are subject to Planning and Zoning Commission approval. The minutes are not verbatim. An audiotape of the meeting is available for public review.

Regular Meeting

1. Call to order

The meeting of the Planning and Zoning Commission was called to order by Vice Chair Moss, in the City Council Chambers at 7:30 p.m. on Tuesday, October 12, 2010.

2. Pledge of Allegiance

3. Roll Call

Present: Arkin, Maass, Moss

Absent: Gardner, Panian

Staff present: Planning Manager Jeff Bond, Planning Clerk Amanda Bennett

4. Consent Calendar

a. Minutes from the September 14, 2010 Regular Commission Meeting.

Recommendation: Approve.

Commissioner Arkin had a correction to the minutes: on page two, second paragraph: add "changing the mix of uses to reduce the number of parking spaces." The minutes, as amended, were approved by unanimous consent.

5. Public Comment on Non-Agenda Items

Jeri Hollan, Albany Charter Committee, spoke in favor of Measure N that would be on the ballot. It would change the charter from an elected to an appointed City Attorney. Ed Fields, Albany resident, opposed Measure N.

6. Discussions and Possible Action on Matters Related to the Following Items

a. 1019 Solano Avenue. Planning Application 09-064. Conditional Use Permit.

The applicant is requesting a Conditional Use Permit to allow operation of a medical marijuana dispensary. The dispensary would be located on the ground floor. Second and third floor areas would be used as office space.

Recommendation: approval.

There was unanimous consent to move item **6b** ahead of **6a** because it was clear from the number in attendance for item **6a** that it would take a lot of time.

b. 722 Key Route. Planning Application 10-050. Design Review & Parking Exception.

The applicant is requesting Design Review approval to demolish the existing home and construct a new 1,834 square foot residence. One off-street parking space is proposed to be provided in a garage and a second off-street parking space is proposed to be provided in the front yard setback area.

Recommendation: for discussion only. No action to be taken at this time.

Planning Manager Bond delivered the staff report. Vice Chair Moss opened the public hearing

and invited the applicant to make a presentation. Dennis Fox, the project architect, spoke in favor of the application. No one else wished to speak. Vice Chair Moss closed the public hearing. Commissioner Arkin liked the design, would grow the front porch, would allow a parking exception because of the drain, but asked would a variance be more appropriate? He stated the stair landing switchback could be expressed as a bay for more flexibility with the parking. Commissioner Maass would have liked to see an effort made to provide conforming parking. Vice Chair Moss wanted to know why the parking requirements were not met when they could have been.

Item 6a:

Planning Manager Bond delivered the staff report. Commissioner Arkin asked if Proposition 19 passed, would marijuana be for sale at Beverages and More? And, was Albany Bowl youth-oriented in the same way as the Y? Vice Chair Moss opened the public hearing and invited the applicant to make a presentation. Brett Van Den Akker, project applicant, spoke in favor of the application. Erik Van Den Akker, project applicant, spoke in favor of the application.

The following people had concerns about the application:

- Joan Larson, Albany resident
- Ed Fields, Albany resident
- Alene Pearson, Albany resident
- Krista Chavez, Albany resident
- Brooks Weitzman, Albany resident
- Maureen Crowley, Albany resident
- John Slackus, Albany resident
- Chris Carter, Albany resident
- Angel Chen, Albany resident
- Francis Chapman, Albany resident
- Fong al Baguri, Albany resident
- Greg Gonzales, Albany resident
- George Sempkemper, Albany resident
- Andre Seighart, Albany resident
- Diane Delaney, Albany resident
- Candace Sahimi, Albany resident
- Amanda Mahan, Albany resident
- Marcie Ann Lauer, Albany resident
- Kristina Osborn, Albany resident
- Jay Michael Tucker, Albany resident, who read a letter from Francesco Papileo, Albany resident, opposing the location
- Mac McCurdy, Albany resident
- Fred Feng, Albany resident
- John Cortez, Albany resident
- Lerryn Little, Albany resident
- Abu Amaru, Albany resident
- Brian Eddy, Albany resident
- Chris Baynan, Albany resident

- Clay Larson, Albany resident
- Michael Cross, Albany resident
- Kirk Kida, Albany resident
- Albert Brockhart, Albany resident
- Dave Ritzman, Albany resident
- Robert Marshall, Albany resident
- Charlie Chowali, Albany resident
- Tracy Brown, Albany resident
- Unidentified woman, Albany resident

Concerns included: that in the commercial districts you could not get away from residential properties. Maybe this use should only be allowed in the CMX zone, and to operate only a few hours a week. The property owner said this site only had two parking spaces because of an easement. Non-upstanding persons who would be involved, or exposing children to substance use. The use, location, hours, and riff-raff attracted by the dispensary. If approved, conditions needed to be spelled out clearly so they would be enforceable. Use by patrons from other counties. Taxes not standardized with the rest of the county. Children being exposed (close to schools, parks, the Y, home child care, pedestrian routes), potential for crime, traffic, parking impacts, intoxicated drivers, deterioration of the quality of the neighborhood--loss of other local businesses, lack of demonstration of need when there were dispensaries in Berkeley and Richmond near Albany, questionable qualifications of applicants to run this kind of business, whether the use was neighborhood-serving retail, it was a pot club--a candy store, what bars on windows do to neighborhoods, lack of security, proximity to residences, pedestrian and bicycle traffic patterns, and the process feeling rushed

Emily Raguso, albanypatch.com, wanted the public to visit the [albanypatch](http://albanypatch.com) Website.

Erik Van Den Akker spoke in favor of the application. Vice Chair Moss asked about the notion of 250 clients when there had been approximately 20 cards issued to residents of Albany. He asked how they would stop loitering. What would the membership process entail? How could they limit purchases from other dispensaries (amassing multiples of prescription amount).

Commissioner Maass was concerned there was not enough notice to the neighbors. The 1,000 feet requirement was not met because of the YMCA. The ordinance might need to be re-reviewed by City Council--they might want to restrict to less residential locations; they might want to consider how to address vehicle traffic concerns. Commissioner Arkin agreed with the applicants that it was good it was close to the police department, transit, and bicycle routes. If it operated as defined, it might actually add to the street. What about Prop 19? Meanwhile, must follow ordinance. Too close to the YMCA. Ready to move to deny, but willing to recommend waiving appeal fee since the applicant spent money and time on this application based on a map provided by the city.

Vice Chair Moss could not support the application. Did the applicant want to continue or take denial tonight? Needed to confirm actual distances, counts of kids walking by, confirm actual available parking, uses of adjacent buildings, how security would affect neighbors, would like to hear from neighboring businesses, refinement of hours of operation, have meetings with

neighbors, address how they were going to handle the cash. The applicant preferred continuation.

Commissioner Arkin moved denial due to proximity to the Albany YMCA, which is a youth-oriented facility, and due to it being on the travel corridor for several youth-oriented facilities, and recommended waiving the appeal fee. Commissioner Maass seconded.

Vote to deny item 6a:

Ayes: Arkin, Maass, Moss

Nays: None

Motion passed, 3-0.

Special Findings for Medical Marijuana Dispensary approval (Per section 20.20.110.H of the AMC)

Required Finding	<i>Explanation for Denial</i>
<p>4. All standards for facility location, as stated in this subsection, are met.</p>	<p><i>Standards for facility location were not met because:</i></p> <ol style="list-style-type: none"> 1. <i>The Commission received information that the proposed dispensary is located less than 1,000 feet from the YMCA at 921 Kains Avenue, which is a youth-oriented facility; and</i> 2. <i>The Commission received information that more than 70 children pass by the proposed dispensary location on a daily basis to and from school.</i>

c. 701 Hillside. Planning Application 05-025.

Status report on implementation of the project.

Recommendation: for discussion only. No action to be taken at this time.

Thelma Rubin, Albany resident, asked when it would ever end. Planning Manager Bond stated Mr. Frederick reported the stucco work and utilities would be done in the next few weeks, then the interior would be done, then they would begin carpentry, etc.

d. 2010 Update to California Building Code.

Status report on new codes to become effective January 1011.

Recommendation: for discussion only. No action to be taken at this time.

No action taken

7. Announcements/Communications:

- a. Update on City Council agenda items related to Planning and Zoning activities.
- b. Review of status of major projects and scheduling of upcoming agenda items

8. Future Planning and Zoning Commission Meeting Agenda Items:

- a. Next Regular Planning and Zoning Commission hearing scheduled for October 26, 2010.

9. Adjournment

The meeting was adjourned at 10:50 p.m.

Next regular meeting: Tuesday, October 26, 2010, 7:30 p.m.

Submitted by:

Jeff Bond
Planning Manager