

City of Albany

Planning and Zoning Commission Draft Minutes September 13, 2011, 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 Chair Moss, in the City Council Chambers at 7:30 p.m. on Tuesday, September 13, 2011.

2. Pledge of Allegiance

3. Roll Call

Present: Arkin, Eisenmann, Maass, Moss, Panian

Absent:

Staff present: Community Development Director Jeff Bond, City Planner Anne Hersch

4. Consent Calendar

a. Minutes from the July 12, 2011 Planning Commission Meeting

Recommendation: Approve.

b. Minutes from the July 26, 2011 Planning Commission Meeting

Recommendation: Approve.

Commissioner Maass noted he would abstain from voting on the minutes because he was not at either meeting in July.

Commissioner Arkin moved approval of items **4a** and **4b**. Commissioner Panian seconded.

Ayes: Arkin, Eisenmann, Moss, Panian

Nays: None

Abstain: Maass

Motion passed, 4-0.

c. 948 Key Route. Planning Application #11-046 Design Review.

The subject property is a 3,575 square foot lot with an existing 1,041 square foot one-story single-family residence. The applicant is requesting design review approval for a first floor addition of 94 sq. ft., a second level 382 sq. ft. master bedroom suite with bathroom, and a detached 325 sq. ft. accessory structure with half bathroom.

Recommendation: Approve.

Commissioner Arkin noted that a project with a .5 FAR was worthy of Commission discussion. He also noted that citizen was present to address the Commission on the proposed project that the public hearing should be opened.

PUBLIC HEARING OPENED.

Brian King, resident of 952 Key Route, noted that he bought his home in Albany 1949. He objected to the project design and noted that it was much larger than most homes on the block as most homes have two bedrooms and one bathroom. He thought the design was incompatible with the neighborhood.

Donald Rolf, architect, friend of Brian King, asked if the application was for Design Review and when the zoning code was enacted. He wanted to know how the application request complied with the Zoning Code and thought that the square footage charts were inaccurate. The area of the home was increasing by 80% and didn't seem consistent with the Zoning Ordinance. There is only one other two-story home on the street. He questioned whether or not the accessory structure would be converted into a second unit. He suggested that the improved home would negatively impact property values of existing homes. He urged the Commission to deny the application.

James Gwise, James Gwise Architecture, responded to the concerns. He noted that he respected the Zoning & Building Codes through the preliminary design stage and had not heard otherwise from staff. He thought the biggest detractor on Key Route were the BART tracks which ran directly behind the homes on an elevated platform.

PUBLIC HEARING CLOSED

Commissioner Arkin-surprised that a .5 FAR home addition was on the consent calendar but recognized the agenda load was significant. He noted that the home complied with applicable Codes and design policy and recommended project support. He also noted that the design deals with the massing of the second story

Commissioner Panian-agreed with Commissioner Arkin's comments and recommended that a condition be included for a deed restriction to be recorded with the property to prevent the accessory structure from being converted to a second unit. He also suggested that the window face comply with the standard 2 inch recess.

Commissioner Eisenmann-noted that the design is balanced, linear, and complies with the Zoning regulations. She advised that the applicant should be cautionary about the home color as it could go wrong easily. She supported the project as it was proposed.

Commissioner Maass-the design is handsome and works well on a small lot. He empathized with Mr. King and noted that change can be unsettling. However, the Code does not speak to change but to design elements, square footage, and height. He thought that the project could ultimately increase property values. The project complies with applicable regulations.

Commissioner Moss-noted that at one point in time Key Route was being considered for historic status. However, it was never adopted. As such, the property owner has a right to

modify the home within the limits of the Code. He asked the applicant if the windows would be changed.

Mr. Gwise, the applicant noted that the windows will be replaced and comply with the 2 inch recess requirement. He noted that the box window proposed for the front was built to the same plane, and that he included trellis to read a as a unified element and to add depth and structure to the home.

Motion: **Commissioner Arkin** moved approval with a deed restriction to be included restricting the accessory structure from being converted to a secondary dwelling unit.

Seconded by Commissioner Panian with the additional condition that the windows have 2 inch recess.

Ayes: Arkin, Eisenmann, Moss, Maass, Panian

Nays: None

Motion passed, 5-0.

Findings for Design Review approval (Per section 20.100.050.E of the AMC)

Required Finding	<i>Explanation</i>
1. <i>The project conforms to the General Plan, any applicable specific plan, applicable design guidelines adopted by the City of Albany, and all applicable provisions of this Chapter.</i>	<i>The General Plan designates this area for residential development. Additionally, the project meets City zoning standards for location, intensity and type of development.</i>
2. <i>Approval of project design is consistent with the purpose and intent of this section, which states “designs of projects...will result in improvements that are visually and functionally appropriate to their site conditions and harmonious with their surroundings, including natural landforms and vegetation. Additional purposes of design review include (but are not limited to): that retention and maintenance of existing buildings and landscape features are considered; and that site access and vehicular parking are sufficient.”</i>	<i>The proposal is in scale and harmony with existing development in the vicinity of the site. The architectural style, design and building materials are consistent with the City’s Residential Design Guidelines. The project will not require significant grading or excavation. The project will not create a visual detriment at the site or the neighborhood.</i> <i>The proposed addition is attractive in appearance, and is in scale with the surrounding neighbors. The design is complementary with the existing home.</i>
3. <i>Approval of the project is in the interest of public health, safety and general welfare.</i>	<i>The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely</i>

	<i>impact property, improvements or potential future development in the area. The quality of design and materials are appropriate for a project with a FAR of 0.5.</i>
4. <i>The project is in substantial compliance with applicable general and specific Standards for Review stated in Subsection 20.100.050.D.</i>	<i>The project as designed is in substantial compliance with the standards as stated, including harmonious materials, and well proportioned massing.</i>

5. Public Comment on Non-Agenda Items

There was no public comment.

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

a. 514 Santa Fe. Planning Application #11-038 Design Review & Height Exception.

The applicant is requesting an exception of height requirements to a previously approved 240 square foot accessory building in the southwest rear corner of the property. The height exception would allow the gable roof to reach approximately 13 feet 6 inches in height where normally 12 feet is the maximum allowed height. The project is currently under construction.

Recommendation: Deny.

Community Development Director Jeff Bond, presented the staff report dated September 13, 2011. He noted that the variance is the only entitlement that can be used to allow the accessory structure to deviate from the height restrictions.

Greg Denny, property owner of 514 Santa Fe, acknowledges that he directed his contractor to replicate the roof pitch of the accessory structure to the main residence and did without consulting the Zoning Code. He expressed to the Commission that his request for the variance is based on the aesthetics of both the main residence and accessory structure being consistent and noted that he had neighborhood support. He distributed pictures of his home and the accessory structure for Commission consideration.

Chair Moss asked the applicant if the neighbor most impacted by the accessory structure signed the petition supporting the project request.

Mr. Denny acknowledged that neighbor did sign the petition. However, he said they expressed verbal support.

PUBLIC HEARING OPENED.

Ed Fields- noted that the project should comply with all regulations and that construction began prior to any design review approval or building permit issuance. He did not support the variance request.

Christina Bailey, neighbor on Santa Fe-acknowledged that she saw the structure under construction and thought the variance for the accessory structure should not be granted.

Neighbor on Santa Fe across the street from the home-supports the variance request.

PUBLIC HEARING CLOSED.

Commissioner Arkin- two mistakes made, the owner changed the roof pitch without checking with the City first and staff should have noted the gable roof on all sides of the accessory structure. A hipped roof should be considered to bring the height down to 8'6" and to comply with daylight plane regulations.

Commissioner Maass-supported the idea of a hipped roof on the rear of the accessory structure.

Commissioner Panian-a compromise must be made, the 14 ft. height should be rectified to prevent any legal concerns as well as authorizing non-compliance with the Zoning Code day plane requirements.

Commissioner Eisenmann-asked if a design compromise could be reached to resolve the situation.

Commissioner Moss-suggested that a flat roof be utilized on the structure with a decorative gable on the front. This allows daylight planes to be observed.

Motion: **Commissioner Arkin** moved continuance of the application request to the September 27, 2011 hearing and directed the applicant to provide a design modification consistent with the suggestions mentioned in the hearing.

Seconded by Commissioner Maass

Ayes: Arkin, Eisenmann, Moss, Maass, Panian

Nays: None

Motion passed, 5-0.

b. 601 San Pablo Ave. Planning Application #11-038 Conditional Use Permit.

The applicant is seeking use permit approval to have the El Autlense Mexican food truck at Hotsy Totsy Bar at 601 San Pablo Ave. The truck is proposed to be parked and will serve food at the property during the hours of 11:30am-12 midnight Wednesday-Monday.

Recommendation: Approve with conditions of approval.

City Planner, Anne Hersch, presented the staff report dated September 13, 2011. She recommended that the Commission approve the use permit with the special project conditions.

Michael Vallerdes, owner of the Hotsy Totsy, noted that the generator is battery operation and does not have an exhaust system. He disputed Condition 5 and noted that the storage is essential for the business operation. He requested that this Condition be omitted.

PUBLIC HEARING OPENED.

John Mickey, on the Traffic & Safety Committee- questioned the compliance of the truck with the oversize vehicle regulations. Beyond the vehicle regulations, he supported the idea of the taco truck.

Ms. Hersch explained that the applicant provided measurements indicating the truck is 72 inches in height and is exempt from the oversize vehicle ordinance.

Phil Werner, 1111 Garfield- noted that litter is in the area from Taco Bell and the taco truck. He was concerned about the proximity of food service so close to a residential neighborhood.

Todd Abbott, President of the Albany Chamber of Commerce-supported the taco truck use permit.

Ed Fields-two concerns identified, the proximity to the corner of Garfield and San Pablo Ave., and identified standard Condition # 2 as not being appropriate to the project.

PUBLIC HEARING CLOSED.

Commissioner Panian- supported the request with Conditions.

Commissioner Maass-supported the request with Conditions and appreciated the condition which reserves the right for the Commission to review the permit at any time.

Commissioner Eisenmann-asked where the trash goes once it is collected and is an advocate for a one year review to evaluate compliance with the use permit.

Mr. Vallerdes noted that the truck brings two trash bins and clears the trash away after a shift. Additionally, trash cans are provided inside the bar.

Commissioner Arkin- did not support the request due to site visibility issues at San Pablo Ave. and Garfield St. He suggested that the Traffic & Safety Committee review the application request.

PUBLIC HEARING REOPENED.

Lydia Chan, resident of Garfield St., noted that she had parking problems for construction loading and unloading, but would ask for a parking permit for her contractor.

PUBLIC HEARING CLOSED.

Commissioner Moss-supported the location and additional trash receptacles on-site. He supported the one year review condition of approval. The truck will generate revenue for the City and will bring more pedestrian activity to San Pablo Ave.

Motion: **Commissioner Maass** moved approval of the use permit with the Condition that the Planning Commission review the permit one year from the date of approval and eliminate Special Condition 5 and addition safety concerns to Condition 6.

Seconded by Commissioner Eisenmann

Ayes: Eisenmann, Moss, Maass, Panian

Nays: Arkin

Motion passed, 4-1.

Required Finding	<i>Explanation</i>
<p>5. Necessity, Desirability, Compatibility. <i>The project's size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.</i></p>	<p><i>The General Plan designates this area for General Commercial. The project meets City zoning standards for location, intensity and type of development. The site currently is operating as bar.</i></p>
<p>6. Adverse Impacts. <i>The project's use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:</i></p> <p>a. <i>The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;</i></p>	<p>a. <i>The proposal is in scale and harmony with existing development near the site. It is an already developed site.</i></p> <p>b. <i>There already exist 6 parking spaces on-site, and no changes will be made to the parking configurations. There is sufficient space for 6 ft. x 20 ft. truck which still allows adequate site circulation and no loss of parking.</i></p> <p>c. <i>The applicant has indicated that the truck will operate with the use of a</i></p>

<p>b. <i>The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;</i></p> <p>c. <i>The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;</i></p> <p>d. <i>Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;</i></p>	<p><i>generator and does not require the engine to operate.</i></p> <p>d. <i>There is existing fencing around the perimeter of the site as well as some tree coverage between the properties.</i></p>
<p>7. <i>Consistency with Zoning Ordinance, General Plan and Specific Plan.</i> <i>That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.</i></p>	<p><i>The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely impact property, improvements or potential future development in the area.</i></p>

c. 1030-1130 San Pablo Avenue (University Village). Planning Application #07-100 Zoning Amendments & Planned Unit Development

The applicant seeks approval to construct a new 55,000 sq ft grocery store at the north side of Monroe and a mixed-use retail space and senior living project on the south side of Monroe.

Recommendation: Recommend to the City Council certification of the Environmental Impact Report, and zoning map amendments, zoning text amendments, and planned unit development.

Commissioner Arkin recused himself due to the proximity of his residence and office to the subject site.

Mr. Bond presented the staff report dated September 13, 2011.

Kevin Hufferd, Project Manager for University of California Berkeley, presented a Power Point to the Planning Commission and noted that this project is part of the UC Master Plan for University Village. He also introduced Belmont Housing as the developer for the Senior Housing project.

Margaret Scott, Chief Investment Officer Belmont Housing, provided a narrative of the project and noted other housing projects completed by Belmont.

PUBLIC HEARING OPENED.

John Mickey- supports the project, presented a Power Point presentation to the Commission, expressed concern about the site connectivity and recommended that 10 St. be connected to the site at a later PUD to require street and driveway stubs. He asked that the Commission not approve a rezone but to specify the development standards within the PUD.

Jack Miller, President of Albany Little League- commended the University for working with Little League and supported the project.

Ed Fields, Albany resident- likes the Senior Housing project, suggested open space for the housing and a public garden. Why is a rezoning necessary for the project? He expressed concern about affordable housing compliance and making zoning changes. He did not see that all the project objectives were satisfied.

Winkie Campbell-Notar, Executive Director of the Albany Chamber of Commerce-the Chamber supports the proposed project and sees economic benefits to the City.

Clay Larson, Albany resident-cannot make required findings for PUD. "Exceptional level of benefits to the community" has not been satisfied. The nexus between amenities and exceptions has not been made. Senior housing is 10,000 sq. ft. short of satisfying requirements. He expressed additional concern about building heights.

Freida Delieu-will senior housing be restricted to residents of Albany? Will the housing be deed restricted?

Brian Mastey, representing local construction workers-expressed support for the project and the construction jobs it will bring to the City of Albany, as well as tax revenue.

Franceso Papalia, Albany resident- perfect example of a partnership between the public and the private sector. Both food and housing will be a boost to the City. The land currently does not derive any property tax revenue. This project will create additional property tax revenue for the City and boost existing property values.

Jewel Okawachi, former Councilmember- excited about the project, walks to Safeway, and values having a grocery store within walking distance of residential neighborhood. Senior housing is critical to the community as there is isn't existing senior housing.

Carol O'Keefe, Albany resident-overlay addresses land use concerns, supports the project. The City's Climate Action Plan encourage high density development.

Preston Jordan, Carbon Neutral Albany, Albany Strollers & Rollers, Traffic & Safety Advisory Committee- reform the parking Code, improve the crosswalks/connectivity at San Pablo Ave. and Monroe, consider a two-way cycle track along the San Pablo Ave. corridor. He asked that the reference to Guidelines be struck from Item 7-a.

Brian Parsey, Albany resident-supports the project fully, the density and height are appropriate. He noted that the City of Berkeley does not want 10th St. to be connected.

Peggy McQuade, Albany resident-move the project forward, it will bring temporary and permanent jobs to the City. The properties will add additional tax revenue to the City.

David Price, Albany Little League past president-annual Little League event is hosted at the site and there are two complaints, appearance of vacant parcels with weeds and debris, and the lack of eating establishments nearby. This project satisfies both concerns.

Jackie Fletcher, Albany resident-manages Oceanview Organic Community Garden, how can UC develop a project with vacancies in student housing. P&Z should not approve. The site should be used for urban farming and gardening. She made a movie about the opposition to Whole Foods. The City can recoup millions of dollars by the City selling food to local restaurants and feeding the poor.

**Commissioner Panian made a motion to extend the meeting until 11:30pm
Commissioner Moss seconded.**

Todd Abbott, vice-president of the Albany Chamber of Commerce-this project will attract the attention of people in the region and be a destination.

PUBLIC HEARING CLOSED.

Commissioner Panian-EIR has been thoroughly discussed, rezoning is necessary and has been vetted through the Commission, the overlay provides good development standards and control. The Commission should proceed with need and caution. He noted that there are articles of faith, and is concerned that there should be greater specificity and not good faith. Amenities should be directly related to the project. He referenced Items 1-6 in the PUD resolution and noted that the language should be revised for consideration at a later date. If the Commission is asked to grant a 62 ft. maximum height limit, then the applicant should satisfy the open space requirements. Include the proposed bicycle path as an amenity.

Commissioner Moss suggested that "Good Faith" language be struck from the resolution.

Commissioner Maass-support Commissioner Panian's comments and agrees that the PUD resolution language should be modified. He supports the project but would like the ultimate resolution language to be revised.

Commissioner Eisenmann- additional entitlements will need to reviewed at a later date. She noted that the project is consistent with the General Plan, and that a grocery store

and a senior housing project as both being public amenities.

Commissioner Moss-there is still work to be done but action should be taken this evening. The resolution is not perfect but the Commission should move the three resolutions (EIR, PUD, and Rezone request) forward for Council action.

Commissioner Panian expressed concern about future parking requirements and being consistent with Measure D.

Mr. Bond noted that parking would be evaluated as part of future entitlements for the project.

Commissioner Panian-suggested that two separate actions be made on the EIR and Rezone request and continue the PUD resolution to a later date.

**Commissioner Panian made a motion to extend the meeting until 12 midnight.
Commissioner Moss seconded.**

Mr. Bond suggested that the PUD language revisions be made by staff based on Commission concerns and review the language at a later date.

EIR Resolution

Commissioner Panian moved recommendation for the City Council to approve of the EIR Resolution with lines 21-23 p. 2 should to be striked or modified to reflect the context of the project.

Seconded by Commissioner Maass

Ayes: Eisenmann, Moss, Maass, Panian

Nays: None.

Motion passed, 4-0.

Overlay District

Mr. Bond noted that the Overlay District language on p.2 line 30, change from "encouraging" to "require" mixed-use development. He also noted that a reference can be made to State housing law requirements for senior housing.

Commissioner Panian moved recommendation for the City Council to approve of the Overlay District with the required housing needs to be defined and the language change on p. 2, Line 30.

Seconded by Commissioner Eisenmann

Ayes: Eisenmann, Moss, Maass, Panian

Nays: None.

Motion passed, 4-0.

Mr. Bond explained that the rezone change extend San Pablo Commercial to 10th between Cordinices Creek and Village Creek.

Commissioner Panian moved recommendation for the City Council to approve the rezone request.

Seconded by Commissioner Moss

Ayes: Eisenmann, Moss, Maass, Panian

Nays: None.

Motion passed, 4-0.

PUD Resolution

Commissioner Panian moved that the PUD resolution be continued to the regular Planning & Zoning Commission meeting scheduled for September 27, 2011 subject to language changes in the PUD resolution language, more specifically exchanging development standards for open space to address amenities, and eliminating “good faith effort” language.

Seconded by Commissioner Moss.

Ayes: Eisenmann, Moss, Maass, Panian

Nays: None.

Motion passed, 4-0.

Due to the late hour of the evening, the following items were continued to the regular Planning Commission meeting scheduled for September 27, 2011.

- d. Request from Ed Fields to Discuss Amendments to Planning and Zoning Code Section 20.24.070 (Setbacks with Daylight Planes).**

The suggested zoning text amendments would allow flexibility in setback and daylight plane development standards when a project on a single property extends over commercial and residential districts. Amendments would be applicable to the University Village project.

Recommendation: For discussion.

- e. Update from Staff on the Proposal from the Stronach Group for Development of a Second Campus of Lawrence Berkeley National Lab (LBNL) on the Golden Gate Fields property.**

The project at Golden Gate Fields consists of development of approximately 2 million square feet of office and laboratory facilities for LBNL and 2.5 million square feet of office and laboratory facilities for private development. The agenda item is intended to provide the Commission with a brief update on the recent public meetings and anticipated next steps associated with the proposed project.

Recommendation: For discussion and direction to staff.

f. Update from Staff on the Active Transportation Plan.

The Active Transportation Plan is an update to the City's pedestrian and bicycle master plans. The agenda item is intended to provide the Commission with a brief update on the recent public meetings and anticipated next steps associated with the proposed project.

Recommendation: For discussion and direction to staff.

7. Announcements/Communications:

- a. City of Albany Planning and Zoning Update "E-Notification"
- b. Update on City Council agenda items related to Planning and Zoning activities.
- c. 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 Tuesday, September 27, 2011.

9. Adjournment

The meeting was adjourned at 12:35 a.m.

Next regular meeting: Tuesday, September 27, 2011, 7:30 p.m.

Submitted by: Anne Hersch, City Planner

Jeff Bond
Community Development Director