

City of Albany

Planning and Zoning Commission Minutes November 8, 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, November 8, 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. Meeting Minutes from September 27, 2011 Planning & Zoning Commission meeting

Commissioner Arkin- noted the following changes to the September 27, 2011 meeting minutes, the date on p.1 should be changed to read "September 27, 2011," p.4 bottom "architectural compatibility within the Code," and p.5 Motion should be modified to read "either a 5:12 pitch roof at rear of garage or 1:12 for at least half of the length of the garage.

b. PA 11-049, 992 Peralta 2nd Story Addition- The subject property is a 5,200 square foot lot with an existing 1,880 square foot two-story single-family residence. Currently, the home has three bedrooms and one bathroom. The applicant is proposing to add a 280 sq. ft. second story addition at the rear of the home. The new addition will face west. The proposed addition includes a master bath suite and new study with a bay window.

Motion to approve items 4a & 4b on the Consent Calendar: Commissioner Arkin

Seconded by: Commissioner Maass

Ayes: Arkin, Eisenmann, Moss, Maass, Panian

Nays: None

Motion passed, 5-0.

5. Public Comment on Non-Agenda Items

There was no public comment.

6. PUBLIC HEARING ITEMS

- 1 **a. PA 11-048 New Single Family Construction at 810 Jackson St.** -The applicant is seeking
2 Design Review approval for a proposed tear down and rebuild of a new two-story 2,689
3 sq. ft., four (4) bedroom three (3) and a half bath home with a two car garage. The
4 existing lot is 5,000 sq. ft. with a single-story one bedroom, one bath home built in 1900.
5 This application was previously was reviewed by the Planning & Zoning Commission
6 on 9/27/11. At that time, the Commission provided preliminary design feedback for the
7 applicant and asked for modifications to the plans. The applicant has made revisions to
8 the plans based on the Commission feedback.

9 *Recommendation: Approve*

10
11 **City Planner Anne Hersch** presented the staff report dated November 8, 2011. She
12 recommended approval of the project.

13
14 **Bob Richerson, property owner**, addressed the Commission. He noted that a front porch
15 was not included in order to provide two off-street parking spaces.

16
17 **Tony Meo, project architect**, noted that he incorporated the changes suggested by the
18 Planning & Zoning Commission at the September 27, 2011 hearing, and modified the
19 project design accordingly. He noted that front patio has been included and rooflines have
20 been modified.

21
22 PUBLIC HEARING OPENED.

23
24 No speakers were present.

25
26 PUBLIC HEARING CLOSED.

27
28 **Commissioner Arkin**- likes the changes, patio is a viable substitution for front porch.

29
30 **Commissioner Maass**-an improvement from the previous design.

31
32 **Commissioner Panian**-design changes are an improvement, project is nice and a welcome
33 addition for the neighborhood. Appreciates the extension of the pedestrian entry.
34 Inclusion of vent details are a nice touch.

35
36 **Commissioner Eisenmann**-overall design is an improvement. Could consider full length
37 windows off of the den. Vent details are nice though might be more appropriate as a
38 triangle rather than a circle.

39
40 **Motion to approve: Commissioner Eisenmann**

41
42 **Seconded by: Commissioner Arkin**

43
44 Ayes: Arkin, Eisenmann, Moss, Maass, Panian

45 Nays: None

1 Motion passed, 5-0.

- 2
- 3 **b. PA11-013- 1 year Conditional Use Permit Review of the Farmers' Market at 1025-**
- 4 **1060 Solano Ave.** - Pursuant to Condition of Approval #3, prior to the initiation of the
- 5 second year of operation, the Planning and Zoning Commission shall have a public
- 6 hearing to provide an opportunity to review the operations of the market and make
- 7 modifications to conditions of approval if necessary to achieve the goals and
- 8 objectives of the City or to protect the health, safety and welfare of the public. The
- 9 Commission seeks feedback from nearby residents and business about the operation
- 10 from the past year. The market is proposed to operate the same day and time in 2012
- 11 and is considering expanding to year round operation.

12 *Recommendation: For discussion and feedback to staff*

13

14 Ms. Hersch presented the staff report dated November 8, 2011. She noted that the Ecology

15 Center would like to expand the market to be held year round at the Solano Ave. location.

16

17 **Commissioner Arkin**-would a year round market commence prior to the anticipated May

18 start date? Have other sites in the City been considered for the market?

19

20 Ms. Hersch stated that the market would commence at the beginning of May and then

21 carry forward for year round operation. She also indicated that the requisite for selecting a

22 location was that there could not be any driveway approaches. This stretch of Solano did

23 not have approaches and was selected as a result.

24

25 **Commissioner Eisemann**-was the traffic control plan for the market adequate? Also, how

26 does the Ecology Center anticipate the market without the help of Albany Public Works

27 staff? Will they be able to handle market staging utilizing their own staff and resources?

28

29 Ms. Hersch understood the plan to be adequate though if the market were to be year

30 round the Traffic & Safety Commission would have to review the plan again.

31

32 **Commissioner Maass**-will permanent signage identifying parking hours be installed on

33 Solano Ave?

34

35 Ms. Hersch indicated that staff and the applicant could craft an agreement addressing

36 parking signage and maintenance.

37

38 PUBLIC HEARING OPENED.

39

40 **Ben Feldman, applicant representing the Ecology Center**-the market has been a success,

41 participating farmers have enjoyed being in Albany. He received positive feedback from

42 market patrons and looks forward to continue having the market in Albany. He indicated

43 that an exhaustive analysis was conducted to determine the best location. The location

44 selected is centrally located, easily accessible by vehicle or bus, and highly visible.

45

1 He noted that farmer's pay \$36 for a 10 x 10 stall at the market and food vendors pay 6%
2 of their sales and an additional \$10. The fee structure will remain in place.

3
4 **Richard Liao, Acupuncturist 1033 Solano Ave.-** the market is disruptive to his business,
5 the noise interferes with appointments, handicap accessible parking spaces on Solano Ave.
6 are not accessible. The market has adversely impacted businesses on this stretch on Solano
7 Ave. He noted that his landlord did not support the use permit either.

8
9 **Patient of Richard Liao-**acupuncture treatments have been disrupted by the market and
10 related traffic & noise. Supports farmers' markets, but does not like the location.

11
12 **Terry Vallera, owner of Chroma Salon-** submitted a petition in opposition to the farmers'
13 market. She noted that her business had been adversely impacted by the market as well as
14 trucks being parked in front of her business. She read a letter into the public record in
15 opposition to the renewal of the use permit.

16
17 **Carol Resnik, Albany Resident-**noted that the Pleasanton Farmers' Market does not
18 impact small businesses. Dislikes the Solano Ave. location as well as the market
19 configuration.

20
21 **Ed Fields, Albany Resident-**speaking as a patron of the market. Enjoys the diversity of
22 offerings available at the market. The market is a social experience in addition to
23 providing food for sale, non-profit organizations have a great opportunity to advertise.

24
25 **Emilie Ragusso, Albany Patch-** enjoyed the market. The market builds community and
26 looks forward to seeing it continue with creative solutions.

27
28 **Ben Feldman-**attempted to resolved issues with Chroma salon and did not allow the box
29 truck to be parked after the initial week. Would be willing to entertain creative solutions
30 within reason.

31
32 **Commissioner Eisenmann-**Could the trucks be reconfigured to be in the middle of the
33 street with trucks parked elsewhere?

34
35 Mr. Feldman indicated that the suggested reconfiguration would not be compliant with
36 public safety/emergency safety requirements. Additionally, he noted that the when the
37 trucks are parked within the market, food off-loading is much easier for the farmers.

38
39 PUBLIC HEARING CLOSED.

40
41 **Commissioner Panian-**in order to consider year round operations, merchant concerns
42 must be addressed. Does not necessarily like the location and would like to consider sites
43 not in the public right of way. Traffic patterns were disrupted on Wednesday
44 afternoons/evenings and diverted on Adams St.

45

1 **Commissioner Maass**-noted that the Berkeley Farmers' Market is on right of way and has
2 been successful. He suggested that alternative locations be further researched, including
3 the pumpkin patch/Christmas tree lot on Solano Ave.
4

5 **Commissioner Eisenmann**-consider this initial 6 months as a test. A subcommittee
6 composed of staff, Commissioners and merchants should come together to resolve
7 concerns. The market is an asset to the community and alternatives could be looked at by
8 all affected parties to resolve identified issues.
9

10 **Commissioner Arkin**-noted that those with concerns also expressed that they liked the
11 concept of a farmers' market. In general, it seems that everyone is interested having a
12 market in Albany. He noted that there are other locations which should be considered and
13 would have as much visibility as the current location.
14

15 **Commissioner Moss**-solution should be created, if the market is at the same location, the
16 trucks should be parked off-site and the tables in the middle of the street. The market is an
17 asset to the community and it should continue.
18

19 **Motion to continue to a date uncertain, with the formation of a Subcommittee to**
20 **include staff, the applicant, Solano Ave. merchants from the affected block, and two**
21 **Commissioners (Eisenmann & Maass volunteered to participate):**
22

23 **Commissioner Panian**

24
25 **Seconded by: Commissioner Arkin**

26
27 Ayes: Arkin, Eisenmann, Moss, Maass, Panian

28 Nays: None

29 Motion passed, 5-0.
30

31 **7. NEW BUSINESS**
32

- 33 **a. PA11-055- Study Session for Conditional Use Permit, Design Review and Signage for**
34 **a new boutique auto salon at 1035 Eastshore Freeway** -The applicant is seeking
35 preliminary feedback for a proposed boutique auto salon at 1035 Eastshore Freeway
36 (next to Target). The applicant has filed for a Conditional Use Permit and Design
37 Review. Additionally, signage size and locations are included for preliminary review.
38 The operation is proposed to be a new 7,850 sq. ft. building which will house an auto
39 sales operation. The sales operator will be determined at a later date. This item is a study
40 session and no action will be taken. Preliminary feedback will be provided to the
41 applicant and the project will be re-noticed for formal action at a later date.

42 ***Recommendation: For discussion and direction to staff***
43

44 Ms. Hersch presented the staff report dated November 8, 2011.
45

1 **Commissioner Arkin**-asked about the City's sign ordinance and applicable Code
2 provisions and asked that those provisions be noted and included in the record.

3
4 Ms. Hersch referenced Section 20.32.070 "Application for Sign Permit."

5
6 PUBLIC HEARING OPENED.

7
8 **Tim Southwick, owner of Toyota of Berkeley**-noted that he previously came before the
9 Commission on his Toyota Service Center on East Shore Freeway. The site is called a
10 "boutique auto salon" as it is too small to accommodate a large dealership. He noted
11 that the building will be constructed on speculation as he does not yet have an operator.
12 The site is ideal for its visibility and freeway access. He noted that preliminary signage
13 locations were determined based on a pending agreement with Target who has
14 authorization to determine sign location, size, etc. to be compatible with their master
15 sign package.

16
17 **Commissioner Arkin**-Will Toyota of Berkeley occupy the site if an operator is not
18 selected?

19
20 Mr. Southwick noted that Toyota of Berkeley will occupy the space if an operator is not
21 selected.

22
23 **Commissioner Maass**-have electric cars or scooters been considered?

24
25 Mr. Southwick noted that he had been in contact with the small/electric car operators.
26 The property and construction costs will be too expensive to house an electric car retail
27 operation.

28
29 **Commissioner Eisenmann**-can you provide an example of a boutique auto salon in the
30 Bay Area region? Also, does the dashed line on the preliminary plans identify future
31 development?

32
33 Mr. Southwick identified the newly released Fiat line as being a boutique product due to
34 its limited distribution.

35
36 He noted that the building footprint shown is maximum build out for the property and
37 no future development beyond the proposal could be accommodated.

38
39 **Ed Fields, Albany resident**- will the facility be part of Toyota franchise or will it be
40 vacant while the owner searches for an operator? He also noted that the Design Review
41 box was not checked on the application.

42
43 Ms. Hersch explained that the applicant filed the application for a use permit. Upon
44 review for application completeness, staff determined that Design Review was also
45 necessary and required the applicant to pay the fees.

1
2 Mr. Southwick noted that he is investing in the site on speculation, and stated “if you
3 build it they will come” as to the mature of his project.
4

5 PUBLIC HEARING CLOSED.
6

7 **Commissioner Panian**-supports the application on a preliminary level and sees this as a
8 good use for the East Shore Freeway corridor. He asked that signage be provided shown
9 in the existing context.
10

11 **Commissioner Maass**-supports auto sales and service in this location as it is in an
12 adjoining location.
13

14 **Commissioner Eisenmann**- prefers the use to a big box restaurant. Sees this as the
15 “Auto Knuckle” of Albany since there are existing vehicle services in the neighborhood.
16

17 **Commissioner Arkin**- building is handsome. Preliminary submittal looks good and
18 hopes that the applicant is able to find an operator. 20 ft. is an acceptable height for the
19 sign.
20

21 **Commissioner Moss**-supports the preliminary application and building design as well
22 as the proposed uses.
23

- 24 **b. Update on City Council action on Urgency Ordinance 2011-08: Medical Marijuana**
25 **Dispensaries Ban:** On Monday, November 7, 2011, the City Council will consider an
26 Urgency Ordinance that would repeal the City’s existing Medical Marijuana Ordinance.
27 The ordinance prohibits medical marijuana dispensaries in the City of Albany. The
28 ordinance was prepared as a result of recent case law in California which restricts the
29 City’s ability to impose location and operational restrictions on medical marijuana
30 dispensaries. This agenda item is intended to staff an opportunity to update the
31 Commission on the Council’s action.

32 ***Recommendation: For information.***
33

34 Ms. Hersch informed the Planning & Zoning Commission that an urgency ordinance
35 banning dispensary uses in the City of Albany was approved by the City Council by a 4-
36 1 vote. The decision to take an urgency ordinance forward was the result of recent case
37 law in California, Packer vs. the City of Long Beach, which restricts a jurisdiction’s
38 ability to impose operating or use permit standards. Staff will continue to monitor the
39 issue should any further litigation or court decisions occur and provide a status update
40 to the City Council.
41

- 42 **c. Appeal: 423 San Pablo Ave. Verizon Wireless/Crown Castle Monopole.** On Monday,
43 November 7, 2011, the City Council will take action on an appeal of the Planning and
44 Zoning Commission’s decision to deny the application to allow the removal of the four
45 existing wireless communication antennas and replacement with four new antennas on
46 an existing 65-foot high monopole. The existing pole is located at the rear (east) side of

1 the property. The monopole is an existing legal non-conforming facility pursuant to the
2 Wireless Communication Facility provisions of the City's Planning and Zoning Code.
3 This agenda item is intended to staff an opportunity to update the Commission on the
4 Council's action.

5 ***Recommendation: For information.***

6
7 Ms. Hersch noted that the City Council upheld the denial action of the Planning &
8 Zoning Commission on the application for Verizon Wireless at 423 San Pablo Ave. by a
9 vote of 5-0.

- 10
11 **d. Discussion of Merits of Establishing a Priority Development Area within the City of**
12 **Albany.** The Association of Bay Area Governments and the Metropolitan Transportation
13 Commission has established the FOCUS program to guide development within the San
14 Francisco Bay Area. As part of the program, planning grants and funds for capital
15 improvements are available to areas that establish priority development areas (PDA).

16 ***Recommendation: Prepare recommendation to the City Council.***

17
18 **Community Development Director Jeff Bond** presented the report dated November 8,
19 2011. He noted that the City is dependent on grant funds for improvements in the City.
20 If the Commission makes a recommendation to the City Council designate a PDA, it
21 would make the City more competitive for grant funds for capital improvements and
22 project funding. The San Pablo Ave. & Solano Ave. commercial districts would be
23 designated as part of the PDA.

24
25 **Ed Fields, Albany Resident-** questioned the previous consideration of second floor
26 personal service and office uses as part of the permitted use tables discussion. As part of
27 this designation, the City must designate higher density residential development within
28 the corridors where the Commission has discussed designating other uses.

29
30 *The Planning & Zoning Commission forwarded a recommendation to the City Council to*
31 *establish a Priority Development Area within the City of Albany.*

32
33 **8. Announcements/Communications:**

- 34 **a. City of Albany Planning and Zoning Update "E-Notification"**
35 **b. Update on City Council agenda items related to Planning and Zoning activities.**
36 **c. Review of status of major projects and scheduling of upcoming agenda items**

37
38 Ms. Hersch and Mr. Bond presented a brief update of announcements to the
39 Commission including an update on the Green Building Ordinance discussion, the
40 Waterfront Task Committee, and the Lawrence Berkeley Lab site selection process.

41
42 **9. Future Planning and Zoning Commission Meeting Agenda Items:**

- 43 **a. Next Regular Planning and Zoning Commission hearing scheduled for Tuesday,**
44 **December 13, 2011.**

45
46 **10. Adjournment**

1 The meeting was adjourned at 10:30 p.m.

2

3 Next regular meeting: Tuesday, December 13, 2011, 7:30 p.m. at Albany City Hall

4

5

6 Submitted by: Anne Hersch, City Planner

7

8

9

10 **Jeff Bond**

11 **Community Development Director**