

City of Albany

Planning and Zoning Commission Minutes July 24, 2012 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 Eisenmann, in the City Council Chambers at 7:30 p.m. on Tuesday, July 24, 2012.

2. Pledge of Allegiance

3. Roll Call

Present: Eisenmann, Moss, Maass

Absent: Arkin, Panian

Staff present: City Planner Anne Hersch, Community Development Director Jeff Bond, City Legal Consult Greg Stepanicich

4. Consent Calendar

A. Meeting Minutes from April 24, 2012

Motion to approve item 4A: Commissioner Moss

Seconded by: Commissioner Maass

Ayes: Eisenmann, Moss, Maass

Nays: None

Motion passed, 3-0

5. Public Comment on Non-Agenda Items

None.

6. Public Hearing Item

A. **PA 12-023: 812 Ramona 1st & 2nd Story Addition Design Review-** The applicant is seeking design review approval for a new 1st and 2nd story addition to the home at 812 Ramona. The existing home has 2 bedrooms and 1 bath and is 1,129 sq. ft. on a 5,000 sq. ft. lot. The applicant would like to add 659 sq. ft. to the first floor creating an expanded living room, dining room, and a new second bath. The second floor is proposed to be 976 sq. ft. and will include two new bedrooms, two bathrooms, and a bonus room. This results in a four bedroom, four bath home. The building height is proposed to be 21'8". One parking space will be provided in the garage and an uncovered parking space is proposed adjacent to the garage. The current home is a single story Arts & Crafts appearance and the proposed design is Neo-Mediterranean.

1
2 ***Recommendation: provide feedback to the applicant and staff.***
3

4 Chair Eisenmann-recused herself from item 6A due to the proximity of her office.
5

6 Mr. Bond- clarified that no discussion or action taken on behalf of the Commission as there are
7 not enough Commissioners for a quorum.
8

9 **David Gundelman, property owner-** expressed frustration at the aspect of having to wait six
10 more weeks until the next meeting.
11

12 Mr. Bond- spoke on behalf of staff and said they would inform the applicant if this was possible
13 but realistically this application would likely have to wait until the September meeting after the
14 August recess.
15

16 Item 6A is carried over to a future meeting due to a lack of quorum.
17

18 **B. Wireless Antenna at 423 San Pablo Zoning Clearance-** The applicant has filed a
19 building permit application for the removal of four existing wireless communication antennas
20 and replacement with four new antennas on an existing 65-foot high monopole. The existing
21 pole is located at the rear (east) side of the property. The monopole is an existing legal non-
22 conforming facility pursuant to the Wireless Communication Facility provisions of the City's
23 Planning and Zoning Code. A previous application was denied by the City of Albany, but in
24 response to recent changes in Federal law, the applicant has submitted a new application.
25

26 ***Recommendation: Determine the following:***
27

- 28 • *If the application is consistent with new federal wireless regulations.*
- 29 • *If the application complies with the Zoning Clearance requirements contained in Section 20.100.020*
30 *which requires compliance with applicable regulations and standards of Chapter 20 "Land*
31 *Development."*
32

33 Ms. Hersch presented the staff report.
34

35 Commissioner Moss- asked if there was any law or decision by City Council that would
36 eliminate the clause in the code that says any modification to nonconforming use would
37 have to be brought up to conforming prior to the modification.
38

39 Greg Stepanicich- said yes, the law would override the code and said that the City would
40 have the power to deal with safety issue brought on by structural faults.
41

42 Commissioner Eisenmann- asked which body the Planning and Zoning Commission or City
43 Council has the right to determine if the application meets 6409.
44

45 Greg Stepanicich- clarified that the planning director had directed this power to the
46 Planning and Zoning Commission and their decision is final unless there is an appeal to
47 City Council.

1
2 PUBLIC HEARING OPENED.

3
4 **Jim Heard, legal counsel for Verizon Wireless and co-applicant-** stressed that the proposed
5 project involves minimal changes to the existing conditions. He said the federal law does
6 not apply because there is not a substantial change in the physical dimensions of the tower.
7 He made himself available for questions.

8
9 **Winkie Campbell-Notar, representative for Chamber of Commerce-** voiced support for
10 Verizon's application. She said the old cellular antennae needs to be updated.

11
12 **Sun Young Kim, owner of an apartment building on Kains Ave-** said the pole on 423 San
13 Pablo will be a direct risk to her tenants. She requested the pole's structural soundness be
14 tested out by an independent engineer hired by Verizon and if the pole proves unsound, the
15 pole be removed and not replaced. She concluded the tower is too close to the residential
16 building, does not follow City codes, and is unsafe.

17
18 **Ed Fields, Kains Ave. resident-** agreed with Ms. Kim with many points in opposition of the
19 application. He added in the state government code there can be a 10 year limit on permits
20 for cell towers and he would like this to be considered as a condition. He said more
21 antennas were in the proposed plan than what is there and this would use more energy.

22
23 **Jim Heard** - responded to public comment. He said that to an engineer the new antennas are
24 being replaced by the same number of antennas that happen to cover two band bands of
25 frequencies each. He said that the application must only meet the applicable standards of
26 the zoning code and the conditional use permit standards are not applicable. He said the 10
27 year or 3 year limitation is not valid as this is a non discretionary permit. He mentioned that
28 the Verizon does have a year to use to the permit or it is not longer valid. He pointed out
29 that the application does not violate code because the City recognizes it was built according
30 to previous standards. He said the warning signs are placed on the fence and does not
31 indicate where it is and is not safe to come near the pole or antennas.

32
33 Commissioner Moss-asked if the noise from the facility was within the allowed limit.

34
35 **Jim Heard-** replied that the equipment was inaudible outside of the facility.

36
37 **Mr. Bond-** added that staff could go by facility with a noise level meter and measure the
38 noise level, but he said he did not notice anything when he was on site.

39
40 PUBLIC HEARING CLOSED.

41 Commissioner Moss- said that as part of the conditions, the facility will be inspected by a
42 structural engineer and a report will be coming back through staff. He asked if the pole
43 needs modification would it be necessary to bring it to a conforming height.

44
45 Greg Stepanicich- said they should wait and see what the results from the structural
46 engineer are first before they consider modifications.

1
2 Commissioner Moss- was disappointed that this was regulated federally rather than locally.

3
4 Commissioner Maass- agreed that the City should look at how their cell tower provisions
5 work in light of federal provisions, technology, and the priorities of the community.

6
7 Chair Eisenmann- said that they must assume the tower is structurally safe until proven
8 otherwise by inspectors. She said with the AT&T application, AT&T had indicated their
9 antennas are replaced about every five years and she suspects the same will be true with
10 this application. She asked staff if the ten year limit that was mentioned was true for
11 Albany's code.

12
13 Mr. Bond- said there was a ten year limit in the State code.

14
15 Greg Stepanicich- added that the City likely does not have the power to set time limits on
16 this particular application and time limits of less than ten years are presumed to be
17 unreasonable.

18
19 Mr. Bond- indicated that there was a ten year limit that applied to applications with a
20 conditional use permit. They also said the zoning clearance is associated with the building
21 permit so if the cell company were to replace their antennas, they would require a new
22 permit and thus new clearance. The building inspector will inspect the electrical work that
23 he is qualified to inspect and the outside plan checker will inspect what he is qualified to
24 inspect, but an outside consultant that specializes in analyzing the results of the structural
25 tests would probably be required.

26
27 Commissioner Moss- mentioned a maintenance part of the code.

28
29 Chair Eisenmann- said she feels the application does fall under 6409 and is approvable.

30
31 **Motion to approval of the zoning clearance for item 6B with the findings and conditions**
32 **detailed in the staff report re-enforcing the idea that the site be checked out by a**
33 **structural engineer and certified safe:** Commissioner Moss

34
35 **Seconded by:** Commissioner Maass

36
37 Ayes: Moss, Maass, Eisenmann

38 Nays: None

39 Motion passed, 3-0

40 **C. Planning Application 12-033: 1133 Stannage Parking Exception-**The applicant is
41 seeking a parking exception for the home at 1133 Stannage Ave. The applicant would like to
42 demolish an existing single car garage, remove the concrete slab, install a new storage shed
43 approximately 112 sq. ft. in area, and create a new uncovered parking space. Due to the
44 presence of existing mature birch trees on site, the applicant is only able to provide one off-
45 street parking space which partially encroaches into the front yard setback.

46

1 **Recommendation: Approve.**

2

3 Ms. Hersch presented the staff report.

4

5 Commissioner Moss- asked why the new proposed building can't go behind the trees.

6

7 Ms. Hersch- she said the applicant was open to this idea but staff wanted to present the
8 commission with her preferred option and a second option.

9

10 Chair Eisenmann- noted the drawings were not to scale and made it difficult to gage accuracy.
11 She asked if there was room to move the proposed structure a parking space back.

12

13 Ms. Hersch- said this would still result in an encroachment in the front yard setback area. In
14 response to the idea of turning the building 90 degrees, staff replied then it would not have the
15 6 ft clearance from the main structure to the accessory structure.

16

17 The applicant was not present at this time and Chair Eisenmann proposed pushing the item for
18 later on in the meeting when the applicant arrives.

19

20

21 **7. New Business**

22

23 A. General Plan Update - Review of the tentative outline and strategy for the upcoming
24 General Plan update.

25

26 Ms. Hersch presented the staff report.

27

28 The Commissioners- clarified about the aspect of starting meetings an hour earlier to discuss the
29 general plan update and suggested ideas such as having an additional meeting a month to
30 discuss only this issue or devoting every fourth meeting to this issue.

31

32 Mr. Bond- indicated notices of these general plan update meetings were not required but it
33 would be ideal to give some notice to those interested by broadcasting the meeting. He also
34 mentioned Chair Eisenmann's idea of having a lighter meeting every fourth meeting for the
35 general plan update discussions and a heavier meeting for planning applications the other three
36 meetings. To improve this proposed schedule he also suggested the commission make more use
37 of the consent calendar and make more decisions on applications rather than holding them over
38 many meetings.

39

40 Staff indicated St. Mary's and Safeway are the two large upcoming projects but there are also
41 remodels and other planning applications on the horizon. Staff proposed experimenting with
42 the various scheduling ideas presented here. Mr. Bond mentioned the housing element had to
43 go to the state in 2014 and some items may need voting approval so some discussion prior to
44 2012 would be helpful. He also said help with shortening and summarizing the various plans
45 such as the active transportation plan or the waterfront plan would make it more easy to read
46 and more likely to be used.

1
2 **Carol O'Keefe-** requested that the existing general plan be made easily available for applicant.
3 She also suggested that the commission adopt an objective that the general plan be consistent
4 with the zoning codes. She agreed with Jeff Bond that the new plan should be less detailed and
5 offers a summarized version of the information. She recommended the other various
6 commissions do research for staff rather than have staff do it all themselves. She also mentioned
7 adopting a more regional climate action plan.

8
9 Chair Eisenmann concluded the discussion on item 7A to allow the applicant form item 6C to
10 speak.

11
12 **6C. Planning Application 12-033: 1133 Stannage Parking Exception**

13
14 **The applicant's nephew-** spoke on behalf of the applicant and indicated that staff would agree
15 the garage had to be demolished He says the new proposed structure will be farther back from
16 the street than the garage and will be more appealing from the street.

17
18 Ms. Hersch- indicated the overall lot coverage of the proposed accessory building will be less
19 than the existing garage.

20
21 Commissioner Maass- agreed that this would be an improvement to what's existing but was
22 uncomfortable with the idea of the parking exception.

23
24 Staff- clarified that there was no electricity work for the project and that the accessory building
25 was proposed to store teaching materials and to serve as a small study space. Ms. Hersch also
26 indicated that the accessory building itself was legal but it was not a dwelling unit

27
28 Commissioner Moss- stated that this application requires some refining. He also said the new
29 building should be 5ft off the side property line not 3 ft if the width of the property was 50 ft.

30
31 Ms. Hersch- indicated for an accessory structure, one can go within 6 inches of the property line
32 provided there are no window openings. She clarified with the applicant's nephew that the
33 secondary unit was in fact used as an office and not in fact a dwelling unit.

34
35 Commissioner Moss- stated he needed more information on the issue before he could make a
36 decision. He proposed switching the proposed accessory building with the bike shed and using
37 the space where the old garage was as parking rather than taking away legal conforming
38 parking. He also favored moving the building to the back.

39
40 **The applicant's nephew-** clarified that the existing garage is not currently used for parking for
41 a long time.

42
43 Commissioner Moss- said the code requires one off street parking per residence regardless if he
44 uses it or not.

45

1 **The applicant's nephew-** saw the proposal as an improvement to the project since the proposed
2 accessory building was much smaller than the existing garage and allowed for more square
3 footage for parking. He added the garage was never made to fit a car.
4

5 Commissioner Moss- said that they could not take away the legal parking spot and they are
6 trying to make the findings for an exception.
7

8 Chair Eisenmann- stressed that the commission is looking out for the interests of the property
9 and property-owners in the future. She said the commission seems to agree the option of
10 putting the accessory building in the back, moving the bike shed in front of the two trees, and
11 keeping a parking space would work.
12

13 Ms. Hersch- stated an exception would be required for both the commission's proposal and the
14 applicant's. She said if the commission were to wait for the applicant, they would have to move
15 the item to a date certain. She also clarified for Commissioner Moss that the excerpt of the code
16 that required one parking space did not apply to this application because it was not a secondary
17 unit.
18

19 Commissioner Moss- added that if the applicant tore down the garage, made it into a parking
20 pad, and moved the accessory building to the back, this matter could be handled by staff on the
21 consent calendar. He said this would expedite the process if the applicant found it agreeable.
22

23 Ms. Hersch- mentioned the next meeting date would be Wednesday, September 12, 2012 as
24 there is an August recess.
25

26 The Commissioners - mentioned that at some point parking laws could change and there was
27 work that would still be done such as demoing the existing the garage.
28

29 **Motion to continue item 6C to a date certain of September 14, 2012:** Commissioner Moss
30

31 **Seconded by:** Commissioner Maass
32

33 Ayes: Moss, Maass, Eisenmann

34 Nays: None

35 Motion passed, 3-0
36

37 **7. B. Housing Element Information for General Plan Update.**

38 Mr. Bond presented the staff report based on notes written by summer planning intern Sara
39 Muse. He proposed discussing areas in the neighborhood where they could accommodate 334
40 units of housing in a future meeting.
41

42 Commissioner Maass- asked if this would be a public process and how much of the Whole
43 Food/senior housing project once commenced could be applied to this.
44

45 Mr. Bond- said there was a lot of work done in the past with the public that worked really well
46 and they would likely do it again. He said the independent and assisted living units would

1 count. He said memory care will require further research. The bulk of the units will likely
2 qualify. He mentioned the unique characteristics of a city were not taken into account in the
3 determination of these units. He also clarified that while the old University units did not count,
4 the new ones would- provided that the building permit for it is not issued until 2014. He did not
5 know what would happen if the permit for the senior housing project was issued before 2014.

6
7 Commissioner Moss- said he would think it should not be about when the issue was permit but
8 rather when the occupants moved in.

9
10 Chair Eisenmann- suggested an exception.

11
12 Mr. Bond- pointed out that Albany was below average on providing affordable housing. He
13 said the University village project would count towards the 334 unit allocation but would not be
14 included as affordable housing. He also added there was not a good source of funds or a good
15 regulatory tool at the moment for Albany. He mentioned looking at other communities'
16 approach and said most of them were using thousands of dollars to subsidize housing, but this
17 would not be a possibility for Albany. Mr. Bond believed the housing element had good
18 intentions but was not effective largely because of the lack of resources. He said every region is
19 going through a similar allocation process. Mr. Bond talked briefly about suburban sprawl and
20 the particular struggle of communities like Albany to meet the allocation because areas in the
21 suburbs had more room for development. He did say new infill laws would encourage more
22 development in central areas such as Albany.

23
24 Commissioner Moss-asked if a property is identified in the general plan and someone comes in
25 and develops it, would it be except from CEQA?

26
27 Mr. Bond- said yes, but this makes the general plan update even more crucial.

28
29 **Paul O'Curry, speaking for himself**, expressed disappointment in Albany because of inability
30 to work around the space limitations. He said that here is no senior or low incoming housing
31 and felt the assisted living at University Village did not count as senior housing. Overall he felt
32 Albany should catch up and suggested the city try its best a few units at a time spread out
33 throughout the city rather than one large project.

34 Commissioner Moss- believed there were a number of utilized spaces but the problem as the
35 funding. He said the problem of addressing various units was that they had various owners so
36 a single complex would be easier.

37
38 Commissioner Maass- said if the state asks for more housing, they should look at tax laws.

39
40 **B. Submittal Requirements for Additions and New Construction**

41
42 Ms. Hersch noted that this was a discussion item Commissioner Panian was interested in but he
43 was absent for this meeting.

44
45 The commissioners agreed to continue item 7C to a later meeting.

46

1 Commissioner Moss- asked if second story office could be converted to residential units along
2 Solano. He suggested some incentive.

3
4 Mr. Bond- said changing the parking requirement to avoid the measure D issue would be an
5 incentive and secondary residential units would likely increase as well.

6
7 **8. Announcements/Communications/Discussions**

- 8
9 a. Update on City Council agenda items related to Planning and Zoning activities.
10 b. Review of status of major projects and scheduling of upcoming agenda items.

11
12 Ms. Hersch said the University village project went through the second and was approved. She
13 said a notice of determination was filed with the Alameda County. In regards to the AT&T use
14 application, the council upheld the Planning and Zoning commission's decision to deny the
15 application request.

16
17 The commissioners present agreed on 7 pm for the new meeting start time. Chair Eisenmann
18 suggested 6:30 pm for the general plan.

19
20 **9. Future Planning and Zoning Commission Agenda Items**

- 21
22 a. Next Planning and Zoning Commission hearing scheduled for Wednesday, September 12,
23 2012.

24
25 **10. Adjournment**

26 The meeting was adjourned at 9:41 p.m.

27
28 Next regular meeting: Wednesday, September 12, 2012, 7:30 p.m. at Albany City Hall

29
30
31 Submitted by: Anne Hersch, City Planner

32
33
34
35 **Jeff Bond**
36 **Community Development Director**