

City of Albany

Planning and Zoning Commission Minutes January 17, 2013 Special 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 Arkin in the City Council Chambers at 7:00 p.m. on Thursday, January 17, 2013.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Donaldson, Eisenmann, Moss, Pilch, Arkin

Absent:

Staff present: City Planner Anne Hersch
Community Development Director Jeff Bond
City Attorney Craig Labadie

4. CONSENT CALENDER

(Consent Calendar items are considered routine and will be enacted by one motion. By approval of the Consent Calendar, the staff recommendations will be adopted unless otherwise modified by the Commission. There will be no separate discussion on these items unless a Commission Member or a member of the audience requests removal of the items from the Consent Calendar.)

A. PA 12-045 Design Review & Parking Exception for 1117 Ordway- The applicant is seeking design review and parking exception approval for a 650 sq. ft. accessory structure in the rear yard at 1117 Ordway. The lot is 7,551 sq. ft. in area. The applicant received administrative design review approval for a 239 sq. ft. accessory structure in 2011. The original accessory structure was constructed and finalized in April 2012. Upon completion, an unpermitted expansion of the structure commenced and a stop work order was issued. The applicant was directed to file a new application to remedy the current situation. The applicant is proposing to use the structure as a multipurpose art studio. **Contd. from the 11/28/12 so that the applicant could prepare revised plans based on Commission feedback.**

Recommendation: The Planning & Zoning Commission continue the item to a date certain of February 13, 2013 to allow the applicant more time to prepare revised plans.

Commissioner Donaldson clarified that item 4A was just being continued and not approved. Staff indicated this was correct.

Motion to pass approve the Consent Calendar: Eisenmann
Seconded by: Pilch

1 Ayes: Donaldson, Eisenmann, Moss, Pilch, Arkin
2 Nays: None.
3 Motion Passed: 5-0
4

- 5 **B. PA 12-054 2nd Story Addition at 949 Ordway-** The applicant received Design Review
6 approval for second story addition at 949 Ordway on November 28, 2012. At that time,
7 the Commission approved a front gable roof for the first story. Due to engineering
8 considerations, the applicant is proposing to modified the first story roofline from a front
9 gable design to a shed roof design.

10 **Recommendation: Review and approve the proposed roof form change.**
11

12 **5. PUBLIC COMMENT**

13 For persons desiring to address the Commission on an item that is not on the agenda please
14 note that each speaker is limited to three (3) minutes. The Brown Act limits the Commission
15 ability to take and/or discuss items that are not on the agenda; therefore, such items are
16 normally referred to staff for comment or to a future agenda.
17

18 Commissioner Arkin welcomed new commissioners Nick Pilch and Doug Donaldson onto the
19 Commission. He noted that Donaldson had previously served on the Commission before for many
20 years. He acknowledge the years of service Commissioners Maass and Panian had contributed.
21

22 **6. DISCUSSIONS & POSSIBLE ACTION ON MATTERS RELATED TO THE FOLLOWING**
23 **ITEMS**
24

- 25 **A. General Plan Update Consultant Selection Recommendation-** Report from the
26 Subcommittee with a recommendation to the Albany City Council to enter into contract for
27 General Plan Update consulting services with Barry Miller.

28 **Recommendation: forward a recommendation to the Albany City Council.**
29

30 Ms. Hersch presented the staff report.
31

32 PUBLIC HEARING OPENED.
33

34 **Barry Miller, project planning consultant** - introduced himself and made himself
35 available for questions.
36

37 **David Sanger-** hoped the general plan addressed the issue of wireless communications in
38 Albany.
39

40 **Commissioner Donaldson-** requested that the city prioritized getting the current housing
41 element certified to avoid future penalty. He also suggested adding the San Pablo
42 Avenue Vision plan and discussing the effect of sea level rise in the scope. He commended
43 the plan's presentation and said he was looking forward to working with Miller
44

45 **Mr. Miller-** stated that the wireless communications issue will be covered in the updated
46 general plan, most likely under Land Use. He said that staff was looking to hire a CEQA
47 consultant to write parts of the EIR.
48

1 **Commissioner Pilch-** asked about penalties to not having a certified element.
2

3 **Mr. Miller-** explained grants could be taken away as well as lawsuits could ensue without
4 proper certification.
5

6 Commissioner Arkin noted that he and former commissioner Panian served on the interview
7 panel and helped in choosing Miller for the job.
8

9 **Motion to recommend to City Council to enter into a contract with Barry Miller for the**
10 **General Plan Update:** Commissioner Moss

11 **Seconded by:** Commissioner Pilch
12

13 Ayes: Moss, Pilch, Eisenmann, Donaldson, Arkin

14 Nays: None

15 Motion Passed: 5-0
16

- 17 **B. PA 12-023: 812 Ramona Ave First and Second Story Addition-**The applicant received
18 Design Review approval in September 2012 for a new 1st and 2nd story addition to the
19 home at 812 Ramona. Due to extenuating circumstances, the applicant can only proceed
20 with Phase 1 of construction, and not Phase 2. The applicant has re-submitted modified
21 Phase 1 plans to reflect the change.

22 ***Recommendation: Review the modified Phase 1 drawings and approve the change.***
23

24 Commissioner Eisenmann recused herself from this item due to the proximity of her home to
25 the project site.
26

27 Ms. Hersch presented the staff report.
28

29 Commissioner Arkin- clarified that if the project was completed per the original design in
30 one or two years then it would not have to come back to the Commission, however, if it
31 took longer, it would.
32

33 PUBLIC HEARING OPENED.
34

35 **Carolina Balzas, property owner and applicant-** stated she was still excited about her
36 project, but had to scale down the project due to cost considerations.
37

38 PUBLIC HEARING CLOSED.
39

40 Craig Labadie- suggested that new commissioners Pilch and Donaldson review the old
41 application for this project and make a decision on this item at a future meeting.
42

43 Commissioner Arkin- noted the full packet of materials regarding this project is available
44 on the website.
45

46 Ms. Hersch – noted that formal action is not necessary. This is informational for the
47 Commission and that the Commission is empowered to authorized the modified window

1 detail on the north elevation. Once this change is approved, the application can continue
2 to proceed in the building plan check phase.

3
4 The Commission agreed by consent to authorize the window modification.

- 5
6 **C. PA 12-046 Metro PCS Modification at 650 Cleveland Ave.-** The applicant has filed a
7 zoning clearance application for an existing Metro PCS facility at 650 Cleveland. The
8 scope of work includes installation of one 1 foot microwave dish which is proposed to be
9 located on an existing monopole in the parking lot at 650 Cleveland Ave. The existing
10 monopole is 65 ft. in height. The microwave dish is proposed to be located at a 54 ft.
11 elevation with existing Metro PCS equipment. Removal and replacement of a power
12 cabinet is also proposed. The dish is intended to improve landline telephone service and
13 will replace an existing copper telephone line. The dish does not impact wireless
14 coverage.

15 **Recommendation:** *Determine if the application complies with the Zoning Clearance*
16 *requirements contained in Section 20.100.020 which requires compliance with applicable*
17 *regulations and standards of Chapter 20 "Land Development" of the Albany Municipal Code.*

18
19 Commissioner Eisenmann rejoined the meeting.

20
21 Ms. Hersch presented the staff report.

22
23 PUBLIC HEARING OPENED.

24
25 **Talin Agahazarian, Metro PCS representative and applicant-** summarized the project
26 and made herself available for questions.

27
28 Commissioner Eisenmann- asked for a description of the dish.

29
30 **John Schwartz, project engineer-** showed an example of the microwave units that are in
31 use and explained how they worked.

32
33 Ms. Hersch- clarified that the top of the cell tower was approved in 1994 and the
34 unpermitted part of the issue was the mysterious increase in the tower's height.

35
36 Commissioner Eisenmann- stated that she was willing to pass this item as the tower is at a
37 desirable location for cell phone companies and the additional microwave dish would be
38 among the bottom ring of dishes on the tower make it below the 55 ft. limit. She asked
39 how close the antennas could be vertically to one another.

40
41 Commissioner Donaldson- agreed with Eisenmann's suggestion of approval.

42
43 **John Schwartz-** noted that different wireless companies use different bandwidths and
44 often collocate with just a few vertical feet between antennas. In response to Commissioner
45 Moss's inquiries he added that the other antennas did not all have to be turned off when
46 the new antenna is installed. The installation is done live and the antennas are turned off
47 one by one as the installer goes around the tower.
48

1 Commissioner Arkin- said that the information provided from Metro PCS was very helpful.

2
3 **Clay Larson, Albany resident-** asked about the height difference between the lower and
4 upper ring of antennas on the tower. Ms. Hersch noted that the tower was originally
5 approved at 58 ft and the lower ring was at a 49 ft elevation.

6
7 Commissioner Arkin- noted that there is roughly 15 ft between the top of one microwave
8 dish and another one vertically below it.

9
10 PUBLIC HEARING CLOSED.

11
12 **Motion to approve Item 6C:** Donaldson
13 **Seconded by:** Eisenmann

14
15 Ayes: Arkin, Donaldson, Eisenmann, Moss, Pilch
16 Nays: None
17 Motion Passed: 5-0

- 18
19
20 **D. PA 12-043 Metro PCS Modification 1600 Posen (St. Mary's)-** The applicant has filed a
21 zoning clearance application for an existing Metro PCS facility at St. Mary's College High
22 School. The scope of work includes installation of one 1 foot microwave dish which is
23 proposed to be located behind an existing screen wall. The dish is intended to improve
24 landline telephone service and will replace an existing copper telephone line. The dish
25 does not impact wireless coverage. Since the dish will be screened, visual impacts are not
26 expected.

27 **Recommendation:** *Determine if the application complies with the Zoning Clearance*
28 *requirements contained in Section 20.100.020 which requires compliance with applicable*
29 *regulations and standards of Chapter 20 "Land Development" of the Albany Municipal Code.*

30
31 Commissioner Eisenmann recused herself due to the proximity of her residence to the
32 project site.

33
34 Ms. Hersch presented the staff report.

35
36 PUBLIC HEARING OPENED.

37
38 **Talin Agahzarian, Metro PCS representative and applicant -** pointed out the similar
39 nature of this project and item 6C. She made herself available for questions. She
40 explained that the fiberglass screening allowed the antennas to see through.

41
42 **Clay Larson, Albany resident-** noted that the staff report did not discuss height.

43
44 Ms. Hersch- stated that as page A4 of the plans show, the top of the height from the
45 screen enclosure is 50 ft and Metro PCS antenna below is at 49 ft.

46
47 Ms. Hersch- noted the project went through the administrative review process 10 years
48 ago.

1
2 PUBLIC HEARING CLOSED.
3

4 Commissioner Arkin- mentioned that a neighbor was concerned about the visual impact of
5 the project but findings show that there is virtually no visual change with the project.
6

7 **Motion to approve Item 6D:** Donaldson

8 **Seconded by:** Pilch

9 Ayes: Arkin, Donaldson, Moss, Pilch

10 Nays: None

11 Motion Passed: 4-0
12

- 13 **E. PA 12-050 AT&T Wireless Use Permit & Design Review 1035 San Pablo Ave.-** The
14 applicant is seeking Design Review and Conditional Use Permit approval to allow nine (9)
15 new panel antennas on an existing office building at 1035 San Pablo Ave. The antennas
16 will be housed in new FRP (fiber reinforced plastic) on the roof. The south and west facing
17 enclosure is approximately 35.6 sq. ft. and will house six (6) antennas. The north facing
18 enclosure is 20 sq. ft. and will house three (3) antennas. Both enclosures are proposed to
19 shield the antennas from public view. Related equipment is proposed to be located in a
20 leased office suite in the building. The roof-top penthouse is proposed to be demolished to
21 eliminate roof-top coverage issues.

22 **Recommendation: Approve with project conditions.**
23

24 Commissioner Arkin recused himself due to the proximity of his residence to the project
25 location.
26

27 In the absence of a vice chair, the commissioners appointed Commissioner Eisenmann as the
28 substitute chair for this portion of the meeting.
29

30 Ms. Hersch presented the staff report. She added that there has been some additional
31 correspondence with AT&T and distributed these for the commission.
32

33 PUBLIC HEARING OPENED.
34

35 **Valerie Tallerico, Trillium Consulting/AT&T representative and applicant-** thanked Ms.
36 Hersch for her thorough staff report. She described the antennas in greater detail and
37 added the project was designed to meet code requirements. She noted AT&T did look into
38 other alternative sites and concluded that this site was the best fit for their needs. She
39 read off some edits AT&T made to item 9 that stated that AT&T would make any
40 necessary changes to conform to code. She asked that any questions regarding this last
41 statement be directed at AT&T's legal department.
42

43 Commissioner Eisenmann- asked why the antennas were so close to the ledge of the
44 building.
45

46 **Valerie Tallerico-** explained that the antenna have to be close to the ledge to have the
47 strongest signal. She said that centering the antenna would require the device to be
48 placed 15 ft above the roof to achieve the same strength.

1
2 Commissioner Donaldson- asked why the antennas on the East side did not have to be on
3 the ledge, but the ones on the Southside did.

4
5 Commissioner Moss- answered that the East facing antennas had other antennas in that
6 direction while the Southside ones did not.

7
8 Commissioner Eisenmann- suggested concealing all of the antennas.

9
10 Commissioner Pilch- asked if AT&T would drop their lawsuit against the City of Albany if
11 they approved this application.

12
13 **Valerie Tallerico**- said that the Commissioners should talk with AT&T's legal department
14 regarding litigation against the City of Albany. She added that AT&T could not modify
15 other companies' antennas.

16
17 Ms. Hersch- confirmed that the proposed uses for the penthouse were permitted by code.

18
19 **David Warwick, AT&T representative**- clarified that they would be eliminating the
20 penthouse entirely. He said the rear wall would not be changed.

21
22 **Heike Abeck, 1037 Kains Ave** - asked why she did not receive a notice about this
23 meeting. She expressed her overall displeasure with the application and urged the
24 Commission to enforce the ordinance. She mentioned that the antenna is being placed in a
25 least preferred area as it is bordering residential space.

26
27 **Clay Larson, Albany resident**- questioned AT&T's claim that the antenna would have to
28 be moved up 15 ft to achieve the same signal strength as it would have on the ledge. He
29 recommended moving the Sprint antennas closer to the center of the roof as they are
30 visually unappealing for neighboring residents.

31
32 **David Sanger, 920 Evelyn**- wanted clarifications on the shot-clock procedures. He was
33 concerned that 20-2200 EC3 which states the antenna should be far back from the ledge
34 of the building. He pointed out the 10% rooftop coverage issues brought up in 2008 and
35 said the commission does not need to come out with new reasons to deny approval to this
36 application.

37
38 **Caryl O'Keefe, 600 block of Jackson**- concurred with Sanger that the application has
39 been in front of the Commission many times. She mentioned that she was alright with
40 approving the application this evening but would like further discussion from Commission
41 about AT&T's letter if they had any other thoughts.

42
43 **Tod Abbot, Albany resident and Vice President of Chamber of Commerce**- supported
44 the application and expressed frustration at the process. He mentioned that many
45 customers and people want improved cell service and that those that oppose the
46 application are likely fearful of potential health risks to which he assert there are none.

47
48 **Peggy McQuaid**- encouraged the Commission to take action tonight and move forward.

1
2 **Alan Riffer-** agreed that it was time to take action.
3

4 **Barbara Leslie, AT&T representative-** mentioned the tremendous amount of support she
5 has received in regards to the application from Albany residents and her customers.
6

7 Ms. Hersch- said that the City did mail a public hearing notice about to 1037 Kains.
8

9 Commissioner Moss- said that he supports the application and asked that the wording of
10 AT&T's attorney be incorporated in the motion. He also noted that the previous application
11 was dragged out because the applicant was not ready and could not answer the
12 Commission's questions.
13

14 Commissioner Donaldson- said he had no trouble with the use permit but he was
15 uncomfortable with the strange tab structure. He preferred no concealment of the antenna.
16

17 Commissioner Pilch- agreed that removing the stealth structure would be favorable. He
18 said he could vote to move the application.
19

20 Commissioner Eisenmann- also suggested making the stealth coverings more three
21 dimensional looking to blend in better with the rest of the structure.
22

23 Ms. Hersch- asked that a reference to 20.20.100 D4 be included in the motion. This allows
24 for 50 ft setback.
25

26 Clay Larson- agreed that the antennas did not need to be moved.
27

28 **Motion to approve Item 6E with the findings and conditions detailed in the staff report**
29 **with the following additional modifications:**

- 30
 - **Condition 9 more closely reflect the wording of the AT&T attorneys**
 - **Reference to 20.20.100D4 that states the mechanical equipment on the first floor**
31 **is less than 50 ft from the property line and it is totally enclosed within a**
32 **building:**
33
34

35 **Motion to approve:** Moss

36 **Seconded by:** Donaldson

37 Ayes: Donaldson, Eisenmann, Moss, Pilch

38 Nays: None

39 Motion passed: 4-0
40

41 **Motion that the antennas are painted to match the exterior façade of the building and**
42 **the stealth screenings on the south side are not installed:** Moss

43 **Seconded by:** Donaldson

44 Ayes: Donaldson, Eisenmann, Moss, Pilch

45 Nays: None

46 Motion passed: 4-0
47

- 1 **F. Green Building Ordinance Update-** Review final draft of the Green Building Ordinance
2 changes and forward a recommendation to Albany City Council.
3 **Recommendation: Forward a recommendation to City Council to approve amendments to the**
4 **Green Building Ordinance.**
5

6 Commissioner Arkin rejoined the meeting.
7

8 Ms. Hersch presented the staff report. She noted that no action had to be taken tonight
9 but this meeting could be to get the new commissioners caught up with the updates.
10

11 Mr. Bond noted that the Commission has design review authority to decide if the project
12 has everything done that is maximum points practicable.
13

14 Commissioner Moss- noted ANSYS has new green standards for residential requirements.
15

16 Commissioner Arkin- explained that the code makes it less inclusive.
17

18 Mr. Bond- explained the temperate temperature of Albany makes it hard to achieve tier
19 2 energy certification. He noted that staff is not recommending that the green building
20 ordinance be amended contrary to information presented in the staff report.
21

22 PUBLIC HEARING OPENED.
23

24 Commissioner Arkin- discussed three big changes- 1) modifications to the green building
25 ordinance by City Council resolution, 2)increase in threshold from 5000 to 10000 sq. ft.
26 for commercial and city sponsored projects and 3) the requirement that residential
27 projects above 1500 sq. ft. for new construction and major remodel require full build it
28 green certification. He noted the option of equivalency has been eliminated for all
29 projects and pointed out an error that renovations above 10000 square feet still had this
30 option. He hoped small projects not subject to design review still fill out a checklist for most
31 points practicable. In regards to certification on projects with design review he suggested
32 a third party certifier. For new construction or renovation of 5 units or more, he proposed
33 these projects also be held to the new build it green certification.
34

35 Commissioner Moss- asked if multifamily green checklist 2005 can be struck out and
36 replaced with "latest". The Commission agreed. He suggested that 3 units be considered
37 multifamily as there have been many 3-4 unit projects that should trigger a checklist.
38

39 Commissioner Arkin- asked if new multifamily projects of 3 units or more would require a
40 checklist. The commission recommended third party review and verification.
41

42 Commissioner Donaldson- requested that staff bring in some copies of the checklists to
43 read through when this item is brought back to the Commission.
44

45 Mr. Bond- said that a package would be created for applicants.
46

47 PUBLIC HEARING CLOSED.
48

1 **7. NEW BUSINESS**

2
3 Commissioner Arkin- suggested that the election of a new Planning and Zoning Commission
4 chair and vice chair could be a possible New Business item for the next meeting in
5 February.

6
7 **8. ANNOUNCEMENTS/COMMUNICATIONS/DISCUSSIONS**

8 (Staff discussion and Commission member announcement of status of previous agenda items
9 and requests for future agenda items. No public comment will be taken on requests for future
10 agenda items).

11
12 **A. Update on St. Mary's mediation.**

13
14 Ms. Hersch presented the staff report. She noted that there has been three mediation sessions
15 and a fourth one was coming up.

16
17 Ms. Hersch reminded the Commission of the upcoming advisory body training. She reminded
18 the Commission to turn in their form 700 was due April 1st and to complete the online ethics
19 training.

20
21 Commissioner Pilch- announced that he would be attending a Planning Commissioner's
22 Academy in Pasadena.

23
24 **9. FUTURE PLANNING AND ZONING COMMISSION AGENDA ITEMS**

25
26 Next Planning and Zoning Commission hearing: **Wednesday, February 13, 2013 at 7 pm.**

27
28 **10. ADJOURNMENT**

29
30 The meeting was adjourned at 9:37 p.m.

31
32 Next regular meeting: Wednesday, February 13, 2013, 7:00 p.m. at Albany City Hall

33
34
35 _____
36 Submitted by: Anne Hersch, City Planner

37
38
39 _____
40 **Jeff Bond**
Community Development Director