

# City of Albany

## Planning and Zoning Commission Minutes May 14, 2014 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

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6  
7 1. **CALL TO ORDER-** The meeting of the Planning and Zoning Commission was called  
8 to order by Vice-Chair Pilch in the City Council Chambers at 7:00 p.m. on  
9 Wednesday, May 14, 2014.

10  
11 2. **PLEDGE OF ALLEGIANCE**

12  
13 3. **ROLL CALL**

14 Present: Arkin, Eisenmann, Moss, Pilch  
15 Absent: Donaldson  
16 Staff present: City Planner Anne Hersch  
17 Community Development Director Jeff Bond  
18

19 4. **CONSENT CALENDAR**

20 (Consent Calendar items are considered routine and will be enacted by one  
21 motion. By approval of the Consent Calendar, the staff recommendations will be  
22 adopted unless otherwise modified by the Commission. There will be no separate  
23 discussion on these items unless a Commission Member or a member of the  
24 audience requests removal of the items from the Consent Calendar.)  
25

26 None.  
27

28 5. **PUBLIC COMMENT**

29 For persons desiring to address the Commission on an item that is not on the agenda  
30 please note that each speaker is limited to three (3) minutes. The Brown Act limits  
31 the Commission ability to take and/or discuss items that are not on the agenda;  
32 therefore, such items are normally referred to staff for comment or to a future  
33 agenda.  
34

35 No one wished to speak.  
36

37 6. **DISCUSSIONS & POSSIBLE ACTION ON MATTERS RELATED TO THE FOLLOWING ITEMS**

38 **A. PA 14-014 Design Review, Conditional Use Permit, & Secondary Dwelling**  
39 **Unit at 957 Stannage-** The applicant is seeking Design Review, Conditional  
40 Use Permit and Secondary Dwelling Unit approval for an addition and  
41 secondary dwelling unit at 957 Stannage. The subject lot is 4,800 sq. ft.  
42 and contains a 1,561 sq. ft. home. The applicant is proposing to lift the  
43 home to create legal ceiling height in the lower level and construct a  
44 second unit and new living space for the main residence. The second unit

1 will be 406 sq. ft. in area. The lower level will also include a new kitchen,  
2 living/dining room. The upper level will include four bedrooms, two  
3 bathrooms, office, and family/living room. The overall building height will  
4 increase to 23ft. 7.75 in. The home is Craftsman in appearance and is  
5 proposed to remain. Three off-street parking spaces are provided in the  
6 garage and driveway.

7 *Continued from April 23, 2014 to a date certain of May 14, 2014.*

8  
9 *Recommendation: Approve subject to the attached findings and*  
10 *Conditions of Approval.*

11  
12 *CEQA: Categorically exempt pursuant to Section 15303, "New*  
13 *Construction or Conversion of Small Structures" of the CEQA Guidelines*

14  
15 Anne Hersch presented the staff report.

16  
17 PUBLIC HEARING OPENED. No one wished to speak. PUBLIC HEARING CLOSED.

18  
19 Commissioner Eisenmann- thanked the applicant for responding to the  
20 Commission's comments.

21  
22 Commissioner Arkin- echoed Commissioner Eisenmann's appreciation and noted  
23 the project is under the height limit, adds a second unit, and meets zoning codes.  
24 He mentioned that the north trellis seemed lower than the south and should be  
25 changed to match. He supported the application.

26  
27 Commissioner Moss- noted he would recuse himself from voting from this item as  
28 he was not familiar with the project.

29  
30 Commissioner Pilch- also supported the project.

31  
32 **Motion to Approve Item 6A:** Arkin

33 -noting the two trellises at the opening should match in detail

34 Seconded by: Eisenmann

35 AYES: Arkin, Eisenmann, Pilch

36 NAYES: None.

37 Abstain: Moss

38 **Motion Passes, 3-0.**

39  
40 **B. Proposed Amendments to the Planning & Zoning Code Applicable City-**  
41 **Wide Regarding Secondary Residential Units-** The Planning & Zoning  
42 Commission will review the proposed draft amendments to the Albany  
43 Municipal Code regarding Secondary Residential Units and adopt the  
44 Resolution of Intention to initiate amendments to Chapter 20 "Planning &  
45 Zoning" of the Albany Municipal Code. The proposed amendments are  
46 consistent with Program 4.B "Second Units" of the adopted Albany Housing

1 Element for the 2007-2014 planning period. A second meeting will be held  
2 at a later date to review the final changes and the Planning & Zoning  
3 Commission will make a formal recommendation to City Council.  
4

5 ***Recommendation: Adopt the Resolution of Intention for Code***  
6 ***amendments related to second units.***  
7

8 ***CEQA: Categorically exempt pursuant to Section 15303, "New***  
9 ***Construction or Conversion of Small Structures" of the CEQA Guidelines***  
10

11 Anne Hersch presented the staff report which outlined the proposed amendments.  
12 Hersch responded to questions from the Commissioner regarding the proposed 3 ft  
13 requirement and the allowance of second units in R-2 zones but not R-3.  
14

15 PUBLIC HEARING OPENED.  
16

17 **Alexa Hauser**, Taylor Street- was glad to see action being taken from this item. She  
18 thought the height and setback proposals made sense and asked for clarification  
19 on the parking requirements and CEQA exemption. She suggested a bonus or  
20 incentive be given to property owners who create affordable housing.  
21

22 **Peggy McQuaid**- thought housing diversity in Albany was a great idea. She  
23 encouraged the Commission to include an additional amendment that would  
24 allow a property owner to exceed or reduce certain requirements contingent upon  
25 renting out a unit at a price affordable to low or no income tenants for a specified  
26 length of time.  
27

28 **Catherine Sutton**- agreed with the comments made by the last two speakers.  
29

30 Commissioner Moss- noted the state law requires one space per unit or bedroom.  
31 Jeff Bond noted CEQA was categorically exempt in this case because a small  
32 home addition is assumed to not have a significant environmental impact. He  
33 noted the CEQA process typically takes several months to years and the exemption  
34 streamlined this process.  
35

36 Commissioner Arkin- supported allowing the R-3 zone as an area where this could  
37 be allowed. He proposed the secondary units follow the same regulations as  
38 accessory buildings regarding setbacks. Arkin agreed with the tandem parking and  
39 proposed that language that indicated the second unit should match the main  
40 unit should be simplified to "in sync with residential design guidelines".  
41

42 Commissioner Moss- agreed with many of Commissioner Arkin's comments. He  
43 noted in R-2 and R-3 zones, additional units were allowed provided they can  
44 provide parking. He suggested looking at the square footage more closely and  
45 taking appropriate action. Moss mentioned roof issues that may arise with the  
46 proposed setbacks. He suggested allowing for just flat or sloped roofs so avoid such

1 issues. He also spoke in favor of bonuses for property owners who added  
2 inclusionary housing to their houses on the record. Arkin noted lowering parking  
3 requirements as the City of Piedmont has done may be a good option, but noted  
4 this was tricky with Measure D.

5  
6 Commissioner Eisenmann- asked who establishes the rent and regulations for  
7 inclusionary housing. Jeff Bond indicated the City did. She agreed with the zero lot  
8 line. She suggested bumping up the 15 ft height requirement to 16 ft.

9  
10 Vice Chair Pilch- asked if the limitation of one bedroom required. He was flexible  
11 with height limits and liked Berkeley's requirement of allowing greater height with  
12 greater setbacks. Pilch also agreed with offering a bonus for inclusionary housing  
13 and allowing the 0-6" setback with no windows. He also agreed with Commissioner  
14 Arkin's recommendation to simplify the language to "in sync with residential design  
15 guidelines" and Commissioner Eisenmann's recommendation to raise the height o 9  
16 ft.

17  
18 Commissioner Moss- noted the one bedroom requirement was likely put in place to  
19 prevent an overflow of street traffic from renters.

20  
21 Anne Hersch reviewed the points and recommendations from the Commission's  
22 comments:

23 -Eliminating compatibility standards and referencing the design guidelines

24 - Increasing the height up to 16 ft.

25 - 9 ft maximum within 0-6" of lot-line for accessory buildings

26 -Language regarding program that offers incentives for owners who elect to  
27 income-restrict their units

28 -Allowing 2<sup>nd</sup> units in the R-3 zone

29 **Motion to Approve Item 6B:** Moss

30 Seconded by: Arkin

31 AYES: Arkin, Eisenmann, Moss, Pilch

32 NAYES: None.

33 **Motion Passes, 4-0.**

## 34 35 7. NEW BUSINESS

36 **A. Discussion of Secondary Residential Units Amnesty Programs Applicable City-**  
37 **Wide-** The Planning & Zoning Commission shall review the background  
38 information on Secondary Dwelling Unit Amnesty Programs and provide  
39 direction to staff on potential amnesty policies.

40  
41 *Recommendation: Receive the report and provide feedback and*  
42 *direction to staff. No formal action is required.*

43  
44 *CEQA: Categorically exempt pursuant to Section 15303, "New*  
45 *Construction or Conversion of Small Structures" of the CEQA Guidelines*  
46

1 Anne Hersch presented the staff report.

2  
3 **Catherine Sutton-** said that properties with an illegal second unit should not be  
4 punished if they were willing to make the unit a truly affordable housing unit.

5  
6 **Alexa Hauser-** was happy this was before the Commission and supported  
7 maximizing affordable housing. She said it made sense the people would be  
8 exempt from zoning regulations but not building codes for safety reasons.

9  
10 **Peggy McQuaid-** agreed with the other two speakers and stressed housing should  
11 be affordable not just in legal terms but truly affordable and also that safety should  
12 be at the forefront of the discussion.

13  
14 Commissioner Eisenmann- liked the idea and concept but had concerns about  
15 safety issues.

16  
17 Commissioner Arkin- asked if "amnesty" was the right term for this policy. Bond  
18 clarified property owners were not considered criminals, but it was just the term that  
19 was used to encourage people to register units.

20  
21 Commissioner Moss- agreed the term "amnesty" seemed too harsh. Moss  
22 suggested encouraging and giving bonuses for ADA compliant secondary units as  
23 well. Commissioner Arkin liked this idea.

24  
25 Vice Chair Pilch- noted if properties did not have legal secondary units their rentals  
26 could be shut down.

27  
28 Anne Hersch- proposed allowing this program on an ongoing basis. She indicated  
29 fee reductions could be an incentive to legalizing these units as was done with a  
30 previous application.

31  
32 **B. Preliminary Discussion of Potential Wireless Policy Amendments-** The  
33 Planning & Zoning Commission previously reviewed and identified  
34 potential changes to the City's Wireless Ordinance on May 22, 2013. A  
35 redline version of the ordinance has been prepared for Commission  
36 review. A formal Resolution of Intention will be scheduled for a future  
37 meeting.

38  
39 *Recommendation: Receive the report and provide feedback and*  
40 *direction to staff. No formal action is required.*

41  
42 *CEQA: Categorically exempt pursuant to Section 15303, "New*  
43 *Construction or Conversion of Small Structures" of the CEQA Guidelines*

44 Anne Hersch presented the staff report.

45  
46 Commissioner Arkin- noted the "application history" staff listed was just a partial list.

1  
2 PUBLIC COMMENT PERIOD OPENED.

3  
4 **Sara Sunstein**, Dartmouth Ave- said that there seems to be a lot of capitalist bullying  
5 going on in Albany. She pointed out cell antennas should not be going into  
6 residential districts, parks, and schools and suggested the existing antennas be  
7 periodically monitored and tested for radiation levels.

8  
9 **David Sanger**, Evelyn Ave- was glad to see the preferential zoning going and  
10 thought it was best to let carriers decide the best cell sites within the context of  
11 Albany's guidelines. He asked what the rationale was behind continuing residential  
12 restrictions. He brought up the City of Gilroy's approach to this topic. He wanted  
13 clarification with reference to nonconforming structures.

14  
15 **Carol O' Keefe**- agreed with Sanger's comments. She wanted to see the City  
16 establish requirements for the five year master plans and asked why the City  
17 requested that the applicant produce the least powerful output for the coverage  
18 they require.

19  
20 **Clay Larson**, Albany Resident- noted there were eleven large omitted sections and  
21 was bothered by a couple of them. He pointed out some vague sections.

22  
23 **Kim Kitano**- was worried about language pertaining to schools and residential  
24 districts and encouraged the Commission to look more closely at these items.

25  
26 **Catherine Sutton**- was concerned about the health effects of the radiation from  
27 these antennas.

28  
29 **Heike Abeck**- was concerned about changes in the ordinance and felt she was  
30 not being heard. She had concerns about health and was worried the City was  
31 allowing cell towers at schools and parks. Her other concerns included allowing cell  
32 towers in residential zones and eliminating the need for applicants to show the  
33 need for cell coverage in the area.

34  
35 **David Rowe**- said he was a Vietnam War veteran and has directly experienced  
36 health effects due to exposure to RF radiation. He stated he seriously objected  
37 these changes and said his main concern was the impact to school and residential  
38 areas.

39  
40 Commissioner Moss- said the applicants have never said they need to put a cell  
41 tower in a residential zone. He agreed with Larson that exact measurements were  
42 needed. He said a better design needs to be established if monopoles were going  
43 to be being put in. He did not think they were entitled to decide whether a cell  
44 antenna could be allowed in a school district location but encouraged the district  
45 not to allow them. He would like to keep the "needs" requirement, but was not sure  
46 about the five year program because of changing technology.

1  
2 Commissioner Eisenmann- noted the state review plans for public schools and said  
3 the Commission did not have the authority to allow one in those locations. In  
4 regards to St. Marys, she noted this was a private school and parents could vote to  
5 remove their children from the school or voice their opinions.

6  
7 Commissioner Arkin- agreed with the prohibition of cell towers in schools, parks  
8 adjacent to schools, and residential areas. He was fine with collocation but at a  
9 conforming location. He agreed with Larson and Moss that there should be a  
10 specific height limit and thought a summarization of where things are moving  
11 within the code would be helpful.

12  
13 Vice Chair Pilch- wanted to hear the school district's input on the language  
14 regarding schools. He liked the idea of sunsetting nonconforming existing facilities  
15 and agreed with a higher specified height limit. Pilch noted concerns about  
16 litigation and staff time.

17  
18 The Commission did not support cell antennas in the parks, schools, or residential  
19 area. They proposed to allow for the Commission to review applications in the  
20 future in light of new technology changes and for the Commission to look for  
21 exceptional design should the cell equipment exceed the 10 ft height limit.

22  
23 Jeff Bond noted they would need to double check with legal counsel about  
24 whether or not the City and Commission could regulate technology like that.

## 25 26 **8. ANNOUNCEMENTS/COMMUNICATIONS/DISCUSSION**

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

### 30 31 **A. Measure D Working Group Update**

32  
33 Jeff Bond presented the staff report.

## 34 35 **9. ADJOURNMENT**

36  
37 The meeting was adjourned at 10:15 p.m.

38  
39 Next regular meeting: Wednesday, May 28, 2014, 7:00 p.m. at Albany City Hall

40  
41  
42 \_\_\_\_\_  
43 Submitted by: Anne Hersch, City Planner

44  
45 \_\_\_\_\_  
46 **Jeff Bond, Community Development Director**