

City of Albany
Planning & Zoning Commission
Minutes October 28, 2015 Meeting

1 Note: These minutes are subject to Planning and Zoning Commission approval. The minutes
2 are not verbatim. An audiotape of the meeting is available for public review.

3
4 **Regular Meeting**

5
6 1. **CALL TO ORDER:** The meeting of the Planning & Zoning Commission was called to
7 order by Chair Donaldson in the City Council Chambers at 7:00 P.M. on
8 Wednesday, October 28, 2015.

9
10 2. **PLEDGE OF ALLEGIANCE**

11
12 3. **ROLL CALL**

13
14 Present: Giesen-Fields, Kent, Donaldson
15 Absent: Friedland, Menotti
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
22 be adopted unless otherwise modified by the Commission. There will be no
23 separate discussion on these items unless a Commission Member or a member of
24 the audience requests removal of the items from the Consent Calendar.)

25
26 City Planner Anne Hersch advised that she had speaker cards for Item 4B, 724 Spokane
27 Avenue and Item 4C, 1126 Masonic Avenue; and Commissioner Kent requested the
28 removal of Item 4D, 840 Madison Avenue. In addition, Item 4F, 939 Evelyn Avenue would
29 be continued to a date uncertain:

30
31 **A. PA 15-077 Design Review for Two Level Addition at 731 Ramona Avenue.**
32 The applicant is seeking Design Review approval for a two level addition
33 at 731 Ramona Avenue. The subject site is 2,500 square feet with an
34 existing 1,360 square foot two bedroom, one bathroom home built in 1930.
35 The applicant is proposing to demolish an unpermitted laundry room and
36 construct an 89 square foot single-story addition and an 80 square foot
37 second story addition.

1 This will create a first floor bathroom and a second story study. This will
2 result in a 1,467 square foot three bedroom, two bathroom home with a
3 maximum height of 24 feet. The home has a Tudor appearance which is
4 proposed to remain. Two off-street parking spaces are provided in the
5 adjacent driveway. **Recommendation: Review and approve subject to**
6 **the findings and Conditions of Approval attached to the staff report dated**
7 **October 28, 2015.**

8
9 **CEQA: The project is Categorically exempt pursuant to Section 15303**
10 **"New Construction or Conversion of Small Structures."**

11
12 **E. PA 15-076 Design Review and Parking Exception for a Single-Story**
13 **Addition at 1117 Kains Avenue.** The applicant is seeking Design Review
14 and a Parking Exception approval for a 765 square foot single-story
15 addition at 1117 Kains Avenue. The subject lot is 4,000 square feet with an
16 existing 1,060 square foot two bedroom, one bathroom home built in 1947.
17 The applicant is proposing to add two bedrooms, one bathroom, and an
18 expanded kitchen at the rear of the home. This will result in a 1,825 square
19 foot four bedroom, two bathroom home, with a maximum height of 17
20 feet. The home will maintain a Minimal Traditional appearance. The
21 applicant is requesting as a Parking Exception to allow the second off-
22 street parking space in the front yard (8 feet 6 inches by 16 feet) setback.
23 One parking space is provided in the attached garage.
24 **Recommendation: Review and approve subject to the findings and**
25 **Conditions of Approval attached to the staff report dated October 28,**
26 **2015.**

27
28 **CEQA: The project is Categorically exempt pursuant to Section 15303**
29 **"New Construction or Conversion of Small Structures."**

30
31 **F. PA 15-057 Design Review, Conditional Use Permit and Parking**
32 **Exception/Reduction for 939 Evelyn Avenue.** The applicant is seeking
33 Design Review, Conditional Use Permit and Parking Exception/Reduction
34 for first and second story additions at 939 Evelyn Avenue. The subject site
35 is 2,500 square feet with an existing 658 square foot one bedroom, one
36 bathroom home built in 1935. The applicant would like to add a 604
37 square foot second story addition that will include three bedrooms and
38 two bathrooms. The first floor addition includes 155 square feet at the rear
39 to provide an expanded kitchen space, dining room, and new deck. This
40 will result in a four bedroom, three bathroom house 1,435 square feet in
41 area, 26 feet 3 inches in height. A Parking Exception is required due to the
42 driveway and house configuration. One parking space 7 feet by 18 feet
43 in the front yard setback is proposed. The existing garage space is
44 proposed to be removed. A Conditional Use Permit is required to extend
45 the existing nonconforming north wall vertically.

1 The home is an original "MacGregor" and is proposed to maintain the
2 current appearance. (Continued to a date certain from October 14,
3 2015.) **Recommendation: Continue to a date uncertain. New public**
4 **hearing notices will be sent for a future Planning & Zoning Commission**
5 **date.**

6
7 **CEQA: The project is Categorically exempt pursuant to Section 15303**
8 **"New Construction or Conversion of Small Structures."**

9
10 **Motion to approve Consent Item A, PA 15-077 for 731 Ramona Avenue;**
11 **and Item E, PA 15-076 for 1117 Kains Avenue, pursuant to the staff report**
12 **dated October 28, 2015; and to CONTINUE Item F, PA 15-057 for 939 Evelyn**
13 **Avenue to a date uncertain: Giesen-Fields**

14 **Seconded by: Kent**

15 **AYES: Giesen-Fields, Kent, Donaldson**

16 **NAYES: None**

17 **ABSENT: Friedland, Menotti**

18 **Motion passed, 3-0**

19
20 Chair Donaldson identified the 14-day appeal period.

21
22 The following items were removed from Consent, and considered separately.

- 23
24 **D. PA 15-081 Design Review and Parking Exception for Lower Level**
25 **Conversion at 840 Madison Street.** The applicant is seeking Design Review
26 and Parking Exception approval for a lower level conversion to habitable
27 space at 840 Madison Street. The subject site is a 3,750 square foot lot
28 with an existing 1,205 square foot two bedroom, one bathroom home built
29 in 1940. The applicant is proposing to convert 887 square feet of lower
30 level space to include two bedrooms, one bathroom, and a new family
31 room. This will result in a four bedroom, two bathroom home 2,093 square
32 feet in area. The lower level area is partially below grade which is
33 exempted from the Floor Area Ratio calculations. A Parking Exception is
34 required to allow the second off-street parking space in the front yard
35 setback. One parking space is provided in the attached garage. The
36 building footprint and height will remain the same. **Recommendation:**
37 **Review and approve subject to the findings and Conditions of Approval**
38 **attached to the staff report dated October 28, 2015.**

39
40 **CEQA: The project is Categorically exempt pursuant to Section 15303**
41 **"New Construction or Conversion of Small Structures."**

42
43 Having removed Item D, PA 15-081 for 840 Madison Street, Commissioner Kent noted that
44 the driveway exception for the parking lot overlapped the property line by some
45 unknown feet and that public property had been included as part of a Parking
46 Exception.

1 **Alene Pearson**, 840 Madison Street, Albany, the applicant, pointed out on the plans
2 where the bay windows came out over the parking area. It was clarified that the
3 property line would come off the City property and the driveway would be on the
4 applicant's property.

5
6 With that clarification, Commissioner Kent had no problem with the proposal.

7
8 **Motion to approve PA 15-081 for 840 Madison Street, pursuant to the staff**
9 **report dated October 28, 2015:** Kent

10 Seconded by: Giesen-Fields

11 AYES: Giesen-Fields, Kent, Donaldson

12 NAYES: None

13 ABSENT: Friedland, Menotti

14 **Motion passed, 3-0**

15
16 Chair Donaldson identified the 14-day appeal period.

17
18 **B. PA 15-085 Design Review and Parking Exception for 724 Spokane Avenue.**

19 The applicant is seeking Design Review and Parking Exception approval
20 for a second story addition at 724 Spokane Avenue. The subject site is
21 3,310 square feet with an existing 1,102 square foot two bedroom, one
22 bathroom home built in 1932. The applicant is proposing to add 694
23 square feet of new living area. The second floor will include a new master
24 suite. The first floor with addition includes a stairwell, expanded kitchen,
25 and new bedroom. This will result in a four bedroom, three bathroom
26 home 1,736 square feet in area, with a maximum height of 21 feet 6
27 inches. A Parking Exception is required to allow one space in the front
28 yard setback. A second parking space is provided in the attached
29 garage. The home is an original "MacGregor" and is proposed to
30 maintain the current appearance. **Recommendation: Review and**
31 **approve subject to the findings and Conditions of Approval attached to**
32 **the staff report dated October 28, 2015.**

33
34 **CEQA: The project is Categorically exempt pursuant to Section 15303**
35 **"New Construction or Conversion of Small Structures."**

36
37 **John Ford**, a resident of Hillside Avenue, Albany, reported that he had submitted a letter
38 to the Commission. He expressed concern for water drainage and the fact that a four-
39 bedroom home would produce a number of cars that if parked in the driveway would
40 block the sidewalk forcing wheelchairs and bicycles into the street.

41
42 Commissioner Giesen-Fields supported the removal of the aluminum awning but
43 commented that there appeared to be something missing in the front elevation, partially
44 because of a quarter of an arc feature that dead-ended.

1 **Jerri Holan**, the Architect, explained that the quarter of an arc was an actual
2 architectural detail original to the house with a flair at the end of the gable, which
3 element had been included in a number of other homes on the street.

4
5 Commissioner Kent referred to the plan view and stated that the parking space
6 overlapped the public space.

7
8 Ms. Holan stated that if measuring from the wall of the garage door it was actually 15 feet
9 10 inches, although she had measured the worst condition which would be 14 feet 6
10 inches, to the back of the sidewalk.

11
12 Chair Donaldson advised in response to Mr. Ford that a number of conditions attached to
13 the project would deal with drainage, and a standard condition stipulated that water
14 could not go onto an adjoining property. He acknowledged the large projects from the
15 MacGregor Family Trust where the homes were being expanded to four bedrooms to
16 accommodate families, and reported that some had already been approved while
17 others would be considered in the future. He had no problem with the design.

18
19 **Motion to approve PA 15-085 for 724 Spokane Avenue, pursuant to the**
20 **staff report dated October 28, 2015:** Kent

21 Seconded by: Giesen-Fields

22 AYES: Giesen-Fields, Kent, Donaldson

23 NAYES: None

24 ABSENT: Friedland, Menotti

25 **Motion passed, 3-0**

26
27 Chair Donaldson identified the 14-day appeal period.

28
29 **C. PA 15-078 Design Review, Parking Exception and Secondary Residential**
30 **Unit for 1126 Masonic Avenue.** The applicant is seeking Design Review,
31 Parking Exception, and Secondary Residential Unit approval for 1126
32 Masonic Avenue. The subject site is 4,000 square feet with a 1,125 square
33 foot two bedroom, one bathroom home built in 1939. The applicant is
34 proposing to add a 437 square foot second story master suite. A 79
35 square foot lower level addition is proposed to accommodate an
36 expanded kitchen. This will result in a three bedroom, two bathroom
37 home 1,610 square feet in area with a maximum height of 23 feet 5
38 inches. The Minimal Traditional appearance of the home is proposed to
39 remain. A new 321 square foot detached secondary residential unit is
40 proposed for the backyard. Two off-street parking spaces are provided in
41 the attached two-car tandem garage. A Parking Exception is required to
42 allow the third off-street parking space to be located in the front yard
43 setback. **Recommendation: Review and approve subject to the findings**
44 **and Conditions of Approval attached to the staff report dated October 28,**
45 **2015.**

1 **CEQA: The project is Categorically exempt pursuant to Section 15303**
2 **“New Construction or Conversion of Small Structures.”**

3
4 A speaker representing **Jennifer Adler**, who lived next door, asked where the third parking
5 space that had been proposed in the front yard would be located.

6
7 Ms. Hersch reported that the property had a two-car tandem garage, 38 feet in length.
8 The third parking space would be located in the driveway.

9
10 **Andrew Layton**, who lived directly to the south, clarified the parking with two spaces in
11 the garage one behind the other, and with the third space in the driveway. He referred
12 to an existing six foot fence between the properties and requested that the height be
13 increased to eight feet to ensure privacy between the two residences and the new
14 second story looking down onto his property.

15
16 Ms. Hersch advised that fence height was limited to six feet.

17
18 Chair Donaldson suggested that window shades and landscaping with fast growing trees
19 or shrubs could help address privacy issues.

20
21 Commissioner Kent appreciated the way the parking had been laid out in the plan given
22 the dimensions from the building to the property line and the property line to the
23 sidewalk. He explained that the fence height at six feet was for uniformity and to avoid
24 higher and higher fences that ultimately isolated residents.

25
26 **The unidentified next door neighbor** referred to the illegal second unit in the back, to be
27 turned into a legal unit, which would mean that two families would be living on the
28 property intended as a single-residential lot.

29
30 Chair Donaldson advised that secondary units were encouraged by the City to address
31 the shortage of housing and the demand for housing, and the unit would become a
32 legal residential secondary unit consistent with the City’s zoning regulations. He
33 explained that secondary units were one way to provide housing that was generally
34 affordable.

35
36 Ms. Hersch added that the footprint of the secondary unit would actually be reduced in
37 size from 350 to 321 square feet and provide a studio unit.

38
39 **Motion to approve PA 15-078 for 1126 Masonic Avenue, pursuant to the**
40 **staff report dated October 28, 2015:** Giesen-Fields

41 Seconded by: Kent

42 AYES: Giesen-Fields, Kent, Donaldson

43 NAYES: None

44 ABSENT: Friedland, Menotti

45 **Motion passed, 3-0**

46

1 Chair Donaldson identified the 14-day appeal period.
2

3 **5. PUBLIC COMMENT**

4 For persons desiring to address the Commission on an item that is not on the
5 agenda please note that each speaker is limited to three (3) minutes. The Brown
6 Act limits the Commission's ability to take and/or discuss items that are not on the
7 agenda; therefore, such items are normally referred to staff for comment or to a
8 future agenda.
9

10 **Chuck Keene**, speaking on behalf of the residents of the 900 block of Evelyn Avenue,
11 reported that a parking plan was being considered and some of the ideas on how to
12 address the parking would be to allow permitted parking, which could be based on
13 bedroom count. He suggested that if the exemptions continued and the count was
14 based on bedrooms alone, a reduction of parking on a particular parcel would actually
15 be giving away City property with parking exemptions on future bedrooms, and he
16 suggested considering the exemptions based on just bedrooms. He urged the
17 Commission to view each project on its own merit with neighborhood consideration.
18

19 **6. DISCUSSIONS & POSSIBLE ACTION ON MATTERS RELATED TO THE FOLLOWING ITEMS:**
20

21 **A. PA 15-083 Variance and Design Review for a new single-family home at**
22 **1492 Posen Avenue.** The applicant is seeking Design Review and
23 Variance approval for a new Americans with Disabilities Act (ADA)
24 accessible single-family home at 1492 Posen Avenue. The subject lot is
25 5,196 square feet with an existing 894 square foot two bedroom, one
26 bathroom home built in 1926. The applicant would like to demolish the
27 existing home and create a four bedroom, two bathroom ADA accessible
28 home 2,626 square feet in area with a maximum height of 22 feet 3
29 inches. Due to the lot configuration and a sewer easement, a variance is
30 requested to allow adjusted front and rear yard setbacks. The home will
31 be modern in appearance with wood trim, stucco, and tall window
32 openings. One parking space will be provided in the detached garage
33 and one in the driveway. A study session was held on May 27, 2015.
34 **Recommendation: Review and approve subject to the findings and**
35 **Conditions of Approval attached to the staff report dated October 28,**
36 **2015.**
37

38 ***CEQA: The project is Categorically exempt pursuant to Section 15303***
39 ***"New Construction or Conversion of Small Structures."***
40

41 City Planner Hersch presented the staff report dated October 28, 2015. When asked, she
42 did not recall that a landscape plan had been submitted with the previous review, which
43 could be included as a Condition of Approval.
44

1 Commissioner Giesen-Fields verified with staff that only a front yard exception was being
2 requested in this case necessitated by the shape of the lot combined with the sewer
3 easement.

4
5 PUBLIC HEARING OPENED

6
7 **Erick Mikiten**, the Architect, distributed plan sheets to the Commission to identify minor
8 revisions since the original submittal of the plan. He referred to the previous presentation
9 on the variance and the tremendous constraints on the lot which had challenged the
10 needed room for accessibility purposes, the way to get from the parking on the sloping
11 lot that went eight feet from front to back, along with access from the parking space
12 through to the back door which would be the main family entrance. Since the home
13 was pushed against the front property line to the street there was no room for an
14 accessible entrance and there would be steps on the street side.

15
16 Mr. Mikiten proposed a low-slung, two-story home that would not be massive, inspired by
17 a Japanese aesthetic that had grown out of the atrium and courtyard in the back and a
18 connection with the landscape to the back, with tectonics of the corner windows and
19 clear attempts to use the materials in logical and clear ways to create a crisp overall
20 effect. The home would not exceed the height of the existing building, which would be
21 removed. He explained that the site was unique which allowed him to work with the
22 setback and create a home with an expression all its own.

23
24 Chair Donaldson referred to the large expanse of blank walls in the front; the vertical and
25 the horizontal. He liked the variation in colors, the contemporary design, and the window
26 layout in the front, although he had a concern with the two empty wall spaces. He
27 suggested the rear of the home was more interesting.

28
29 In response, Mr. Mikiten explained that the color board with color swatches was not exact
30 although the colors were more correct on the elevation drawings. He suggested the
31 rendering in the perspective made the blank portions of the walls stand out more. The
32 intention was for sophisticated colors, with the whole house to feel cultural, and in order
33 for the windows to work and create the cultural elemental feel there had to be the solid
34 and the void to play off each other. In addition, because the house was right at the
35 property line, he did not want a lot of windows in the front where people were walking
36 by.

37
38 Chair Donaldson questioned whether the applicant had considered any artistic features,
39 additions to the surface, hangings, or sculptural features in the vertical wall. He
40 referenced the overhangs and recognized they would create shadows that would
41 change during the day which should create a lot of interest.

42
43 Commissioner Giesen-Fields stated the City had a requirement for a two-inch return in the
44 windows of the rough opening. He referred to the clad wood detail and suggested the
45 sill did not appear to meet the City's two-inch requirement.

1 Mr. Mikiten referred to details 2 and 3 which showed the jamb extension and stated that
2 the deep recessed windows would meet the City's requirement and was one of the
3 sculptural elements of the home that had been requested by his client.
4

5 Commissioner Kent verified with the applicant the intent of the planting and the stucco
6 columns in the arbor, which would not be visible from the street.
7

8 **Ben Wallace**, 1083 Peralta Avenue, Albany, a neighbor to the subject home, spoke in
9 opposition to the variance and commented that a 900 square foot home would be
10 demolished and replaced with something three times that size. His concern was with the
11 variance and a zero setback which would have an adverse impact on the aesthetics of
12 the community. While he acknowledged the oddly shaped site, he suggested a zero
13 setback would create an unsightly wall, and asked the Commission not to approve the
14 variance. He expressed his hope that the home could be redesigned requiring a smaller
15 variance or some setback from the sidewalk.
16

17 PUBLIC HEARING CLOSED
18

19 Commissioner Kent verified that the current home was now 894 square feet and had
20 been proposed to be replaced with a 2,626 square foot home. He suggested the blank
21 walls, being so close to the street level, were more imposing than if they had been set
22 back a few feet. He also stated the steps led to a blank wall and there was some
23 confusion in the entry. He suggested the landscape plan should not only clarify the entry
24 but explain how the landscaping would soften the blank wall since the current plan
25 didn't show it. He did not see that the size of the structure was out of range of other
26 homes in the neighborhood. It was his recollection that the applicant had attempted to
27 renovate the existing house although that had not worked out and the home would be
28 removed and rebuilt.
29

30 Commissioner Giesen-Fields also had concerns with the entry and recommended that
31 the sill of the floor to ceiling window casement be raised to address that issue. He liked
32 the fact that the applicant had been responsive to the Commission's comments from the
33 study session, and had reoriented the front door as requested so that the front entrance
34 would be a welcoming sign to the neighborhood. He liked the modern aesthetic and
35 noted that it did not have the ornamentation and detail of other designs. With respect to
36 the big front wall, one of his pet peeves was big expansive living room windows that were
37 always blocked with the curtains closed; he appreciated the fact clerestory windows
38 had been included that had negotiated the public/private aspect. He liked the
39 aesthetics of the project and wanted the front window to be addressed so that it did not
40 read as a door.
41

42 Given the size and geometry of the unique site, Commissioner Giesen-Fields was pleased
43 to see that the applicant was meeting the side yard setbacks even though the front yard
44 setbacks were not being met. It was his understanding that there was a six-foot buffer
45 between the edge of the sidewalk and the wall of the building and he agreed that a
46 landscape plan could heighten that separation and distance.

1 Commissioner Giesen-Fields also applauded the applicant for providing all the required
2 parking on the site even given the constraints of size and geometry. He had no problem
3 approving the project.
4

5 Chair Donaldson suggested the sewer easement had created one of the biggest
6 constraints and the architect's approach of moving the house forward was the only real
7 choice to get a decent sized house. He supported the variance and suggested there
8 was a good chance the design would turn out to be a very handsome building. While he
9 understood the confusion with the entry, he liked having the floor to ceiling windows that
10 framed the blank grey space, which would be the main statement. He suggested it
11 would work okay and probably would not be right to decorate it in some way. He
12 recognized the simple Zen-like Japanese aesthetic, commented that the other window
13 placements were terrific, and he could support the application and had no problem
14 granting a variance for the site given the odd size of the lot and the sewer easement.
15

16 Commissioner Giesen-Fields recommended a vertical piece to break the wall into two
17 pieces by changing the material at the floor plate.
18

19 Chair Donaldson suggested a small dense green planting or hedge that could stick up
20 along the front would offer a change in color and add a frame around the gray wall to
21 frame the space. He suggested the home would be very visible and would stand out by
22 itself and be one of the most notable houses in Albany. He supported the design.
23

24 Commissioner Kent suggested that staff be allowed to review the landscape plan which
25 he suggested was an important element of the design that needed to be prepared
26 carefully.
27

28 **Motion to approve PA 15-083 for 1492 Posen Avenue, pursuant to the staff**
29 **report dated October 28, 2015, and subject to a landscape plan at the**
30 **time of building permit submittal for staff review:** Giesen-Fields

31 Seconded by: Kent

32 AYES: Giesen-Fields, Kent, Donaldson

33 NAYES: None

34 ABSENT: Friedland, Menotti

35 **Motion passed, 3-0**
36

37 Chair Donaldson identified the 14-day appeal period.
38

39 **B. Appeal of PA 15-080 Temporary Use Permit for a Haunted house Event at**
40 **1048 Peralta Avenue.** The applicant received Zoning Administrator
41 approval of a temporary use permit to hold a haunted house event in the
42 backyard of the residence at 1048 Peralta Avenue on Friday, October 30
43 from 7:00 to 9:30 P.M. and on Saturday, October 31 from 6:00 to 10:00 P.M.
44 The event is open to the general public. The event involves the
45 construction of a large temporary structure in the rear yard. An appeal

1 was filed and cites adverse impacts related to noise, construction, and
2 debris.

3 **Recommendation: The Planning & Zoning Commission uphold the**
4 **decision of the Zoning Administrator approving a Temporary Use Permit for**
5 **a Haunted house event.**

6
7 ***CEQA: The project is Categorically exempt pursuant to Section 15332 "In-***
8 ***Fill Development Projects."***

9
10 Community Development Director Jeff Bond presented the staff report dated October
11 28, 2015.

12
13 Chair Donaldson acknowledged the significant correspondence that had come in on
14 the appeal, and Ms. Hersch stated there were approximately 35 pages of emails
15 received as a result of the appeal which had been included in a binder available in the
16 Council Chambers.

17
18 APPELLANT:

19
20 **Gary Kratkin**, 1050 Peralta Avenue, Albany, commented that he was a supporter of
21 Albany Haunt although there were serious and significant outside impacts to his family.
22 He identified those impacts as the length of construction, which was ongoing from the
23 summer to Halloween and in various levels of post-event debris for weeks afterwards;
24 frightening props and graphic images that had been left outside or adjacent to his home
25 in full view of his children; and noise. After being exposed to all those conditions for over
26 a year, he had called the City to find out what could be done to address his concerns.
27 As a result of that call, his family had been pilloried and threatened. He emphasized that
28 none of the work that had been done was permitted, and structures had been
29 constructed in the subject backyard without a permit. He presented photographs to the
30 Commission to identify the structure, debris, and inappropriate images, and requested
31 that the event be moved to some public venue.

32
33 PROPONENTS:

34
35 **Holly DuBois**, 1048 Peralta Avenue, Albany, agreed that her neighbor had a fundamental
36 right to object and she had been disheartened that her neighbors had been threatened
37 because of their stance. She explained that the haunted house had been started by her
38 son Sam at age 13, and the majority of the work done on the project had been done by
39 Albany High School students. The neighborhood event, attended heavily by children of
40 all ages and their parents, was staffed by volunteers, neighbors, parents, and friends in
41 the community who worked to make sure the children had a safe and fun night. She
42 referred to what she called "fairy mode" where young children could go through the
43 structure shielded from the scariest aspects of the haunted house. She explained that
44 donations were collected for the Alameda County Community Food Bank and 2,500
45 meals for the food bank had been raised to date. There was no fee to attend the event,
46 everything was voluntary, although children were asked to bring a can of food.

1
2 Ms. DuBois explained that her son had approached the City to determine the permits
3 that might be required and had met with the Fire Marshal, who had personally inspected
4 the site. She described the changes that had occurred this year to address the
5 neighbors' concerns such as moving the event to the backyard, and removing from view
6 some of the gory Halloween images that were inappropriate to children, with clean up
7 within the 21-day time period allowed for clean up this year. The goal was to continue to
8 have a positive experience for those who enjoyed the house and not to annoy the
9 neighbors. She commented that construction had taken time in the early years although
10 the wall panels had now been constructed and did not need to be reconstructed.

11
12 **Sam DuBois**, 1048 Peralta Avenue, Albany, suggested that the complaints stemmed from
13 the scary subject matter and not from the sound and structure. He had tried to
14 accommodate the neighbors. This year he had gone through all the proper channels at
15 all levels and claimed that is efforts had been endorsed by the Recreation Department.

16
17 PUBLIC HEARING OPENED

18
19 **Aiesay James**, an Albany High School student who lived on Sonoma Avenue, stated he
20 had been volunteering at the haunted house for the past few years, and explained that
21 through the building process many volunteers had learned and gained valuable skills in
22 building and acting. He urged the approval of the haunted house so that he could
23 continue to work with his friends.

24
25 **Spencer Seidman**, applauded those who had worked on the project, which was a good
26 project although it had gotten too big. He suggested the City or the High School should
27 provide the venue where it would not be a hindrance to other people. He commented
28 that the structure was questionable and that no one had taken responsibility for what
29 needed to be done to make it a safe event. He emphasized the need to consider the
30 future of the community.

31
32 **Darcy Cone**, suggested the structure that had been built for the event could be 20 feet
33 high. As a San Francisco resident, she knew that no one in her city would be willing to
34 accept the situation where a structure that was being built for months by people who
35 were not licensed was in an inappropriate place impacting the neighbors. She and
36 others did not object to the idea of a haunted house, but suggested the situation was
37 over scale, an intensity of use not appropriate for a residential area.

38
39 **Barbara Cooper**, the next door neighbor on the other side of the applicant, supported
40 the Albany Haunt and liked it even better this year since it was in the backyard that was
41 not visible from the street. She commented that the noise she heard was on par with leaf
42 blowers, lawnmowers, and the never-ending construction projects in the community. She
43 added that the applicant was well aware of the noise restrictions. As far as the night of
44 the event, she stated Peralta Avenue had always been known for an active Halloween
45 with trick or treaters, suggested the haunted house was good for the community, and
46 expressed her hope it would be approved for the weekend.

1
2 **Daniel Presher** commented that Albany was a village in the raising of children in the
3 community. In this case, through a school project there was an addition to the village in
4 terms of a haunted house that had given the high school kids something to do. He
5 stated there was no construction problem, the structure had been built, and there was
6 no question of imagery unless someone voluntarily went into the haunted house. He
7 suggested that the best solution would be nothing more than allowing the event to go on
8 and collecting the statistics and the knowledge to make a rational decision going
9 forward. He knew that the applicant would like to move the haunted house, a situation
10 that should be explored next year. He urged the Commission to allow the haunted house
11 in the backyard to see what happened.

12
13 **Marilyn Fischer**, a neighbor who lived two houses down, supported the haunted house,
14 suggested the project was a great one, the kids had done a fine job, the neighbors and
15 the neighborhood were wonderful, and she applauded the fact that the kids were doing
16 something for charity in a safe situation.

17
18 **Ron Rosenbaum**, 1063 Peralta Avenue, Albany, who lived across the street from the
19 subject site, stated the haunted house was awesome and he had seen no disturbance in
20 the neighborhood. As a public educator and the current President of the Albany Unified
21 School District Board of Education, he stated the civic and educational value of what the
22 young people had done was amazing, giving back to the community and creating a
23 safe place. He was proud of the civic work that the students of Albany had done, urged
24 the Commission to find a way to make the project go forward, and suggested there
25 should be ways to study the event this year so that the problems could be addressed
26 going forward.

27
28 **Bill Cooper**, an adjacent neighbor, expressed concern that they were at this point on
29 October 28 for an event to start on October 30, especially since the City had been
30 approached well in advance. He was concerned with the threats and suggested it was
31 unfortunate for the entire neighborhood to be drawn into a dispute. He stated that the
32 applicant had addressed his concerns over the years and he was glad that the event
33 had been moved into the back yard this year.

34
35 **Bob Colah**, 962 Ordway, Albany, a construction engineer, stated that he had walked
36 through the structure and had offered suggestions for reinforcement. He commented
37 that the applicant was conscientious and thoughtful. He wished the issues could have
38 been worked out earlier to be able to come to an agreement to address all the issues.

39
40 **Sandra Kratkin**, the adjacent neighbor and a former teacher, did not oppose the
41 creativity of the project, although as the next door neighbor she stated the impacts to
42 her home and family were unacceptable. She explained that the images had been
43 frightening to her young son who had developed sleep problems. She also noted that
44 the neighbor's dog often barked late into the night. She added that the few rules that
45 were being respected had helped out a bit although she did not support the placement
46 of the haunted house at the subject property.

1
2 **Lee Shillman**, 1024 Peralta Avenue, Albany, suggested that the haunted house event was
3 a wonderful thing for kids. He expressed his support, and urged some possible resolution
4 with the neighbors. He applauded the creativity, initiative, and public spirit and stated
5 that the kids deserved support.

6
7 **Sam DuBois** clarified that the structure was not 20 feet tall; it was 12 feet tall. He assured
8 the Commission that it was a safe structure, and he had worked with the Fire Marshal, the
9 Community Development Director, and the City Planner. As to the scary items, he stated
10 that some of the pictures presented by the appellant had been pulled from the haunted
11 house Facebook page where people came to support the charity. This year, the permit
12 he applied for involved nothing gory or scary that was visible from the exterior. He stated
13 that he would address any concerns.

14
15 PUBLIC HEARING CLOSED

16
17 Commissioner Giesen-Fields disclosed his bias in that Halloween was one of his favorite
18 holidays, although as the father of a 3-year old son, he understood and sympathized with
19 the appellants and their concerns. He also sympathized with the appellants' concern
20 with the graphic images, and respected the fact that the applicant had moved the
21 structure to the back yard and had put up walls to enclose it so that views inside were not
22 readily accessible or visible from the neighbor's property. He appreciated the changes
23 that had been proposed this year to the project and its hopefully positive effects on the
24 neighbor to mitigate some of the issues.

25
26 Commissioner Kent commented that he also had a small child and some of those
27 graphic images were intense right on the street and those images had to be hidden.
28 With respect to the noise, he was sympathetic to the noise of power tools and suggested
29 there were ways to address that noise. Given that the event was getting larger and
30 larger, especially with the recent publicity, he recognized that the neighbor was taking
31 the brunt of the impacts. He suggested it was late in the game, the structure had already
32 been built, and he did not think that stopping the event now was an option, although the
33 issue of clean-up remained. This was the first year of the permit and he suggested it
34 would have been a good year to communicate when a more rigid framework with
35 respect to noise could have been worked out with the neighbor. He added it was
36 unfortunate that communication with the neighbor had stopped.

37
38 Commissioner Giesen-Fields suggested that because of the close proximity between the
39 applicant and the appellant, the DuBois' might need to put in some caution tape to
40 create a barrier to avoid impacting the neighbor's property, along with a sign asking for
41 the respect of the neighbors, or cones or saw horses to create a barrier. He also
42 supported a condition for an additional adult to act as a docent to monitor the crowds
43 waiting on the public sidewalk.

44
45 Commissioner Kent noted the comment that the noise was no more than leaf blowers or
46 lawnmowers and commented that those devices produced loud noises.

1
2 Chair Donaldson thanked everyone for their comments and for the orderly hearing. He
3 suggested the Temporary Use Permit was an appropriate way for the City to regulate the
4 event, the zoning code contemplated that kind of use, and he knew the zoning code
5 limited Temporary Use Permits to two days, which he stated was also appropriate. He
6 appreciated the Conditions of Approval that the Community Development Director had
7 placed on the project and stated the City would be watching it to make sure those
8 conditions had been met. He also appreciated the concerns related to the media
9 attention and the fact that the crowds might be much bigger this year than in the past,
10 and urged the Community Development Director and the Police Chief to be on top of
11 that. He cautioned the applicant that if the event got out of control it might have to be
12 shut down.

13
14 Chair Donaldson added that granting the appeal was also an issue to address,
15 particularly related to noise. He did not believe that the event would affect the
16 neighbor's property values, and with respect to the size of the event could support the
17 approval of the use if this was the last year of the event at that location.

18
19 Mr. Bond clarified that the application was just for this year and did not imply anything for
20 any future years. He added that the event would be documented thoroughly this year
21 and the issue would be returned to the Commission if there was a need to do so when
22 factual information of the impacts related to traffic, parking, blocked driveways, loitering,
23 and the like would be identified. He would also work closely with the police department
24 to ensure that the conditions of approval were being honored.

25
26 Commissioner Giesen-Fields asked what would occur with a lack of compliance with the
27 conditions of approval, and Mr. Bond commented that if there was a life safety issue he
28 would have no problem shutting down the event, or if it became a public nuisance with
29 complaints or incidents the City would act on that and essentially revoke the permit on
30 the spot.

31
32 Chair Donaldson summarized the options available to the Commission and suggested
33 that one condition could be that the event be allowed only on Halloween night, which
34 he suggested would send the message that the event had tipped the balance towards
35 being too much of a neighborhood disruption.

36
37 Commissioner Giesen-Fields supported the staff recommended condition to allow the
38 event for two days; Friday and Saturday. He suggested that nothing malicious had been
39 done and he would like to restrict the application to what the Temporary Use Permit
40 required, a two-day event, and suggested that the event should be allowed to proceed
41 this year to allow the opportunity to monitor it and collect data, which could be used as
42 a tool for potential future events at another venue. He asked if it would appease the
43 appellant if a condition requiring some kind of barrier would help to mitigate the
44 neighbor's concerns.

1 Mr. Kratken stated his greater concern was for next year. He understood the event
2 almost had to go on this year, sought a solution for next year, and wanted to avoid
3 further conflict.
4

5 **Motion to deny the appeal of PA 15-080 at 1048 Peralta Avenue, which**
6 **would allow the Albany Haunt to proceed pursuant to the Conditions of**
7 **Approval in the staff report dated October 28, 2015:** Kent

8 Seconded by: Giesen-Fields
9 AYES: Giesen-Fields, Kent, Donaldson
10 NAYES: None
11 ABSENT: Friedland, Menotti

12 **Motion passed, 3-0**
13

14 Chair Donaldson declared a three-minute recess at this time, after which the meeting
15 resumed with Commissioners Giesen-Fields and Kent, and Chair Donaldson present.
16

17 **C. PA 15-068 Design Review for a New Elevator at 745 Pierce Street.** The
18 applicant is seeking Design Review approval to install an elevator from
19 street level to the main floor of the home at 745 Pierce Street. The subject
20 lot is 4,640 square feet with an existing 2,259 square foot home built in 1939
21 and substantially added to and remodeled in 2005. The applicant is
22 proposing to extend the family room on the main floor over the garage,
23 increasing the living space from 1,457 square feet to 1,557 square feet.
24 The overall building height will remain 27 feet 16 inches. The applicant
25 was previously granted a parking exception to provide the second off-
26 street parking space in the front yard setback in 2004. One off-street
27 parking space is provided in the existing 481 square foot detached
28 garage structure. The applicant is proposing to reduce the garage area
29 by 180 square feet and will still provide one compliant off-street parking
30 space in the garage. **Recommendation: The Planning & Zoning**
31 **Commission review the proposed project and provide feedback to the**
32 **applicant and staff. Draft findings and Conditions of Approval are**
33 **included in the staff report dated October 28, 2015 should the Commission**
34 **decide to take action.**
35

36 **CEQA: The project is Categorically exempt pursuant to Section 15303**
37 **"New Construction or Conversion of Small Structures."**
38

39 City Planner Hersch presented the staff report dated October 28, 2015.
40

41 **Robert Wolf**, the Architect, described the intent to keep the proposal as simple as possible
42 working within the structure available on the site, and in such a way in the large garage
43 to avoid taking away a parking space. There would be no impact to the neighbors, and
44 the neighbor who shared the garage had no problem with the proposal.
45

1 Commissioner Giesen-Fields clarified with the architect that the stair was on the exterior
2 with a railing along the stair and a planter box wrapped the corner, which had been in
3 place prior to the project and which complied with the 36-inch height handrail
4 requirement.

5 Mr. Wolf explained that there was an access way between the two in order to connect
6 the garage and the other building and there were some seismic issues to connect the
7 building. He wanted to make the façade visually contiguous and look like it belonged to
8 the house. He added that the garage would be modified, installing an eight foot instead
9 of a 12-foot door and switching the man door to the other side and using that as an
10 entrance, while still maintaining the 11-foot wide parking space.

11
12 PUBLIC HEARING OPENED

13
14 **Bob Uhrhammer**, 745 Pierce Street, Albany, commented that there had been a major
15 remodel ten years ago. He explained that adding the elevator would allow accessibility
16 now and in the future. Since his wife had mobility issues it was difficult for her to walk up
17 the 25 stairs necessary to get up to the first floor platform. An elevator was determined to
18 be the best way to provide accessibility and maintain the visual appeal of the house.

19
20 PUBLIC HEARING CLOSED

21
22 Commissioner Kent agreed with the proposal which he suggested had been well done
23 and fit in well with the existing building.

24
25 Commissioner Giesen-Fields agreed.

26
27 Chair Donaldson suggested it was an elegant solution and a good addition to the home.

28
29 **Motion to approve PA 15-068 for 745 Pierce Street, pursuant to the staff**
30 **report dated October 28, 2015:** Giesen-Fields

31 Seconded by: Kent

32 AYES: Giesen-Fields, Kent, Donaldson

33 NAYES: None

34 ABSENT: Friedland, Menotti

35 **Motion passed, 3-0**

36
37 Chair Donaldson identified the 14-day appeal period.

- 38
39 **D. PA 15-073 Design Review for a Two Level Addition and Accessory Structure**
40 **at 904 Santa Fe Avenue.** The applicant is seeking Design Review approval
41 for a two level addition located at the rear of the home at 904 Santa Fe
42 Avenue. The subject site is 4,180 square feet with an existing 1,274 square
43 foot two bedroom, one bathroom home built in 1929. The applicant is
44 proposing to add 445 square feet at the lower level creating a new
45 bedroom and family room. A 250 square foot addition is proposed for the
46 upper level and includes a new master suite. A new 225 square foot

1 single-car detached garage is proposed in the rear yard. This will result in
2 a three bedroom, three bathroom house 1,909 square feet in area with a
3 maximum height of 20 feet 6 inches.

4 The existing home is Spanish Revival in appearance and is proposed to
5 remain. **Recommendation: Hold a Study Session and provide feedback**
6 **to the applicant and staff.**

7
8 **CEQA: The project is Categorically exempt pursuant to Section 15303**
9 **“New Construction or Conversion of Small Structures.”**

10
11 City Planner Hersch presented the staff report dated October 28, 2015, noted the history
12 of the project and entitlements that had been approved in 2008, but given the
13 economic conditions at the time the project had not been pursued and the entitlements
14 had expired. The property was zoned Solano Commercial with a General Plan land use
15 of Residential, was an inconsistency that had previously been researched with the City
16 Attorney; and it had been determined that the applicant could expand the home and
17 continue to use and maintain the home as a single-family residence.

18
19 **Mike Pourzand**, the applicant, referred to the window that had been questioned by the
20 Commission and expressed his understanding that the referenced window complied with
21 the code, although if it did not it could be removed.

22
23 Chair Donaldson verified with the applicant that the prior approval with residential above
24 and commercial below had not been pursued given the economy.

25
26 Mr. Pourzand clarified that the home was currently used as a residence and had never
27 been used as a commercial property, although the structure on the adjacent property
28 was a commercial use.

29
30 PUBLIC HEARING OPENED

31
32 **Christopher Brown**, an osteopathic physician practicing at 902 Santa Fe Avenue, the
33 adjacent commercial building which housed a number of healthcare practitioners,
34 stated that there were windows about a driveway’s distance from the subject property.
35 He expressed concern for his patients who came to him for manual medicine, treatments
36 to have their problems addressed in a quiet and peaceful manner. He expressed
37 concern that the noise of construction would negatively affect his patients and his
38 practice.

39
40 **Kathryn Henderson**, another healthcare practitioner in the building at 902 Santa Fe
41 Avenue, suggested one solution would be for the applicant to temporarily relocate the
42 healthcare businesses during the period of construction.

43
44 **Elena Oaks**, also a healthcare practitioner in the building, explained that she had chosen
45 her office because it was tranquil, quiet, and convenient, and the building had been
46 used for many years in that particular way. She also advertised a peaceful, tranquil

1 environment and explained that months of jarring and violent sounds greatly concerned
2 her and her patients.

3
4 PUBLIC HEARING CLOSED

5
6 Commissioner Giesen-Fields advised the applicant to work with staff to confirm whether
7 the window met code standards. In terms of the overall design, he suggested the
8 addition tried to blend in with the existing structure while also adding to the existing
9 structure. He liked that the addition had been pushed to the back of the building to
10 keep the street side elevation and perspective as is. He advised the speakers that the
11 study sessions were great things to give the public a chance to know what was going on
12 and to voice their thought. He recommended that both the public speakers and the
13 applicant open up a dialogue and work out some sort of compromise to avoid a divisive
14 situation. Beyond the codified noise limits, he explained there was not much that could
15 be done in terms of regulating construction noise.

16
17 Commissioner Kent had no issues architecturally but with respect to noise he agreed that
18 it would be difficult to impose a condition for relocation in that a property owner had a
19 right to upgrade a home. He clarified with the applicant that the construction period
20 would be four or five months in duration.

21
22 When asked, Ms. Hersch advised that a temporary noise barrier had been required of a
23 previous construction project.

24
25 Chair Donaldson commented that the contractor could be required to have shortened
26 work hours and an extension of construction time. He suggested the therapists in the
27 other building could also consider their work hours and make appointments when
28 construction was not occurring since there was no ability to require relocation. He
29 suggested that a noise barrier along the property line could be required. He also
30 commented that the noisiest part of construction was limited, more extensive at some
31 times than others, with much of the construction to occur indoors with no noise outside.

32
33 Commissioner Giesen-Fields suggested that requiring a noise barrier would set an
34 unwanted precedent and should only be considered in unique circumstances. He
35 explained that the comments were suggestions only for all parties involved.

36
37 Mr. Pourzand stated that he could advise the neighboring practitioners of the days when
38 heavy framing would occur, or he could work on Saturdays and Sundays. He expressed
39 a desire to work with his neighbors.

40
41 Commissioner Giesen-Fields emphasized that communication was the key.

42
43 **7. NEW BUSINESS**

44
45 There was no New Business.

46

1 **8. ANNOUNCEMENTS/COMMUNICATIONS/DISCUSSION**

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

5
6 **A. Regularly scheduled Planning & Zoning Commission for November 11,
7 2015 is cancelled due to the Veterans' Day holiday.**

8
9 Ms. Hersch reminded the Commission that the meeting scheduled for November 11 had
10 been cancelled and there would be a special meeting scheduled for Tuesday,
11 November 17, which would be the regular meeting for November. There would be only
12 one meeting in November and one in December due to the holidays.

13
14 Ms. Hersch advised that the UC Village appeal had been scheduled with the City
15 Council for Monday, November 2 at 7:30 P.M., and the appeals for 508 Talbot Avenue
16 and 510 Evelyn Avenue had been scheduled for Monday, November 16 at 7:30 P.M.

17
18 **9. NEXT MEETING:** November 17, 2015

19
20 **10. ADJOURNMENT**

21
22 The meeting was adjourned at 10:20 P.M.

23 Next regular meeting: Tuesday, November 17, 2015 7:00 P.M. at Albany City Hall.

24
25
26
27
28 _____
Submitted by: Anne Hersch, City Planner

29
30
31 _____
32 **Jeff Bond, Community Development Director**
33
34
35