



**MINUTES OF THE REGULAR MEETING  
WEDNESDAY, NOVEMBER 28, 2018, 7:00 P.M.**

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3  
4 **1. CALL TO ORDER/PLEDGE OF ALLEGIANCE**

5  
6 Chair Kent called the regular meeting of the Planning and Zoning Commission to order in the City  
7 Council Chambers at 7:00 P.M. on Wednesday, November 28, 2018.  
8

9 **2. ROLL CALL**

10  
11 Present: Donaldson, Giesen-Fields, Watty, Kent  
12 Absent: Jennings  
13 Staff Present: Planning Manager Anne Hersch  
14 Associate Planner Christopher Tan  
15

16 **3. EX PARTE COMMUNICATION DISCLOSURES**

17  
18 Commissioner Donaldson disclosed a telephone call with Tony Caine several months ago  
19 regarding 958 Neilson.  
20

21 **4. CONSENT CALENDAR**

22  
23 **4-1. PA 18-085 Design Review for a Second Story Balcony Enclosure at 761 Pierce Street**  
24 – The applicant is seeking Design Review approval for a second-story balcony enclosure  
25 at 761 Pierce Street. The subject site is 3,750-sq.-ft. lot with a 2-bedroom, 2-bathroom  
26 1802-sq.-ft. house built in 1926. The applicant is proposing to enclose the existing 85-sq.-  
27 ft. master suite balcony. The proposed enclosure will create a new 4:12 sloped gable roof  
28 to match the existing home. The exterior of the enclosure will be painted stucco with new  
29 windows and trim to match the existing home. This will result in a 2-bedroom, 2-bathroom  
30 1,887-sq.-ft. home with a maximum height of 20'-6". Parking is provided in the existing  
31 garage.  
32

33 **Recommendation:** Staff recommends that the Planning & Zoning Commission review  
34 and approve the proposed project subject to the findings and Conditions of Approval.  
35

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

39 Commissioner Giesen-Fields suggested a new condition of approval that the new windows must  
40 be wood or wood-clad or match the existing windows in terms of material.  
41

42 Chair Kent related the applicant's off-camera agreement to the condition of approval.  
43

44 In response to the applicant's additional comments, Commissioner Giesen-Fields explained that  
45 Commissioners did not receive page A.3.0. with the window details.  
46

47 **4-2. PA 18-086 Design Review for a Two-Level Rear Addition at 905 Peralta Avenue -** The  
48 applicant is seeking Design Review approval for a two-level addition at the rear of 905



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1 Peralta. The subject site is 4,600-sq.-ft. lot with a 3-bedroom, 1-bathroom 1,209-sq.-ft.  
2 house built in 1929. The applicant is proposing a 290-sq.-ft. addition first floor and 547-  
3 sq.-ft. second-story addition. The proposed expansion includes two new family rooms, an  
4 interior staircase, and master suite. The addition exterior is proposed to be stucco siding  
5 with a gable roof to match the existing home. The existing Craftsman style of the home is  
6 proposed to remain. This will result in a 3-bedroom, 2-bathroom 2,373-sq.-ft. home with  
7 a maximum height of 25'-10". Off-street parking is provided in the existing garage and  
8 driveway.

9  
10 **Recommendation:** Staff recommends that the Planning & Zoning Commission review  
11 and approve the proposed project subject to the findings and Conditions of Approval.

12  
13 **CEQA:** The project is Categorically exempt from CEQA pursuant to Section 15303 "New  
14 Construction or Conversion of Small Structures" of the CEQA Guidelines.

### 15 16 **4-3. Planning & Zoning Commission Meeting Minutes November 14, 2018**

17  
18 **Recommendation:** Staff recommends that the Planning & Zoning Commission review  
19 and approve the meeting minutes.

20  
21 Commissioner Donaldson believed page 5, line 6, should be "subparts a and b" rather than  
22 "subparts b and c." He requested Staff return proposed Zoning Code amendments to Section  
23 20.24.02 to the Commission for clarification of the language. In the future, City planners and  
24 Commissioners would have difficulty applying the proposed revisions as currently written.

25  
26 Planning Manager Anne Hersch advised that staff could return the item to the Commission in  
27 January. If the Commission wishes to make further changes, staff would need to re-notice it.

28  
29 Chair Kent concurred with the request to return the Zoning Code amendments to the Commission.  
30 He requested the paragraph beginning on page 5, line 15, reflect that he suggested subparts a,  
31 b, and c be combined into one statement so that every noncomplying extension, either horizontal  
32 or vertical, would be presented to the Commission.

33  
34 Commissioner Watty did not believe the discussion should be reopened if Commissioners were  
35 clear regarding the motion. However, she was agreeable to clarifying the language of the  
36 proposed amendments.

37  
38 Commissioner Giesen-Fields explained that three Commissioners supported staff bringing any  
39 vertical or horizontal extension before the Commission; however, the remaining two  
40 Commissioners disagreed. The Commission can clarify and simplify the language such that all  
41 nonconforming vertical and horizontal extensions must come before the Commission for review.

42  
43 **Motion to approve** the Consent Calendar with the revisions to the minutes. Donaldson  
44 Seconded by: Watty  
45 AYES: Donaldson, Giesen-Fields, Watty, Kent  
46 NAYES: None  
47 ABSTAINING: None  
48 ABSENT: Jennings



1                   **Motion passed, 4-0-0-1**

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3                   Chair Kent noted the 14-day appeal period.

4  
5                   **5. PUBLIC COMMENT**

6  
7                   **Jeremiah** appreciated the pedestrian crossing signs on San Pablo and inquired about  
8                   implementing school zones.

9  
10                  **6. DISCUSSION AND POSSIBLE ACTION ON MATTERS RELATED TO THE FOLLOWING**  
11                  **ITEMS:**

12  
13                  **6-1. \*\*Continued from November 14, 2018\*\***

14                   **“Economic Development Strategic Plan Implementation: Recommendation to the**  
15                   **City Council to Adopt Zoning Ordinance Revisions to Streamline Commercial**  
16                   **Development Review”** – Notice is hereby given that the City of Albany Planning & Zoning  
17                   Commission will hold a public hearing to consider a recommendation to the Albany City  
18                   Council for proposed Zoning Code Amendments to Sections 20.08 “Definitions,” 20.12  
19                   “Zoning Districts,” 20.20 “Regulation of Specific Land Uses,” and 20.28 “Parking” of the  
20                   Albany Municipal Code.

21  
22                   **Recommendation:** Staff recommends that the Planning & Zoning Commission review  
23                   the draft Ordinance and adopt Resolution 2018-06 forwarding a recommendation to City  
24                   Council to amend Sections 20.08 “Definitions,” 20.12 “Zoning Districts,” 20.20 “Regulation  
25                   of Specific Land Uses,” and 20.28 “Parking” of the Albany Municipal Code.

26  
27                   **CEQA:** The project is exempt pursuant to Section 15061(b)(3).

28  
29                   Planning Manager Hersch presented the staff report dated November 28, 2018. With respect to  
30                   parking waivers, staff has proposed a new review procedure whereby businesses locating in  
31                   existing buildings that are 2,000 square feet or less in area are subject to a minor use permit  
32                   through the Community Development Department. Businesses that locate in buildings that are  
33                   greater than 2,000 square feet in area need a major use permit.

34  
35                   Commissioner Watty advised that Table 1.A, Note 23 should not apply to the San Pablo Corridor.  
36                   In the Solano Corridor, major use permits should be required for ground-floor offices.

37  
38                   Commissioner Giesen-Fields wished to require a major use permit for professional office uses on  
39                   the ground floor and a minor use permit for general office uses on the ground floor.

40  
41                   Commissioner Donaldson could not support many of the changes made to parking requirements.  
42                   He preferred the existing Code language and expressed concern regarding the blending for  
43                   Solano and giving the Community Development Director the ability to waive some of the parking  
44                   requirements for new uses that might have a much higher parking demand than the former uses.  
45                   He worried about the parking impact to residential streets north and south of Solano. He  
46                   supported other amendments to the Zoning Code.



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1           **Motion to adopt** Resolution 2018-06 forwarding a recommendation to City Council to  
2 amend Sections 20.08 “Definitions,” 20.12 “Zoning Districts,” 20.20 “Regulation of Specific  
3 Land Uses,” and 20.28 “Parking” of the Albany Municipal Code. Watty  
4 Seconded by: Giesen-Fields  
5

6           **Amended motion to adopt** Resolution 2018-06 forwarding a recommendation to City  
7 Council to amend Sections 20.08 “Definitions,” 20.12 “Zoning Districts,” 20.20 “Regulation  
8 of Specific Land Uses,” and 20.28 “Parking” of the Albany Municipal Code with an  
9 amendment to require a major use permit for professional office uses on the ground floor  
10 and a minor use permit for general office uses on the ground floor. Watty

11 Seconded by: Giesen-Fields  
12 AYES: Giesen-Fields, Watty, Kent  
13 NAYES: Donaldson  
14 ABSTAINING: None  
15 ABSENT: Jennings

16 **Motion passed, 3-1-0-1**  
17

18       **6-2. 958 Neilson: Encroachment Permit Request for a Retaining Wall in the Public Right-**  
19 **of-Way** – The applicant has applied for an encroachment permit to legalize a retaining  
20 wall constructed in the public right-of-way portion of the front yard at 958 Neilson. The  
21 property at 958 Neilson Street has an unusual configuration, with a single-family residence  
22 located on a lot with 57-foot width in the front of the lot, and depth ranging from 47 feet to  
23 53 feet. The actual property line on Neilson Street is five feet into the front yard (from the  
24 outside edge of the sidewalk). The City Council reviewed the request at the November 5,  
25 2018 hearing and has remanded the matter to Planning & Zoning Commission for review  
26 and action.  
27

28           **Recommendation:** Staff recommends that the Planning & Zoning Commission review  
29 the project request and direct staff to issue the encroachment permit.  
30

31           **CEQA:** The project is Categorically exempt from CEQA pursuant to Section 15303 “New  
32 Construction or Conversion of Small Structures” of the CEQA Guidelines  
33

34 Planning Manager Hersch presented the staff report dated November 28, 2018.  
35

36 Commissioner Donaldson reported he attended the City Council hearing on this matter where  
37 Community Development Director Bond advised that the wall could require engineering and a  
38 building permit because it is slightly taller than 4 feet. Director Bond measured the height from  
39 the footing to the top of the wall at one corner.  
40

41 When asked, Planning Manager Hersch explained that the encroachment permit would note the  
42 City's ability to revoke the encroachment permit. The City owns the public property in front of  
43 residences. An encroachment permit would not be needed if the applicant had planted a hedge  
44 rather than building a wall.  
45

46           **Anton Bahamondes**, applicant, indicated he built the wall to create a private space for his family  
47 because he has no backyard. At the time he built the wall, he did not know a permit was required.  
48 The wall is 42 inches from the base to the top and holds back 26 inches of soil. When asked, he



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1 stated he plans to add a vine to the wooden portion at the top of the wall. The wall is made of  
2 cinder blocks and rebar. The height from the sidewalk to the top of the wooden portion is slightly  
3 less than 4 feet. The side yard ranges 6-8 feet in width, and the depth of the backyard ranges 4-  
4 5 feet between the house and the property line. The strip between the sidewalk and wall is  
5 currently soil, but he will plant a vine there.  
6

### 7 PUBLIC HEARING OPENED

8  
9 **Preston Jordan** encouraged the Commission not to approve an encroachment permit until the  
10 wall has been reviewed by a structural engineer. Should the wall fail, it could impact public  
11 infrastructure. He provided statistics regarding public property located in the front yards of Albany  
12 residences. This public property raises many policy questions for the City.  
13

### 14 PUBLIC HEARING CLOSED

15  
16 Commissioner Watty considered the issue as one of neighborhood character and preferred to  
17 review each encroachment permit application to determine whether the encroachment would be  
18 consistent with the character of the block. An encroachment should align laterally with other  
19 demarcations of front yards versus the public right-of-way; should be designed well and visually  
20 pleasing; and should maintain visual access to the front yard. The City may want to consider an  
21 annual renewal fee. She supported granting an encroachment permit for this property.  
22

23 Commissioner Giesen-Fields believed the City has an easement to the public right-of-way for  
24 access while the homeowner has fee title to the property. He supported granting an  
25 encroachment permit.  
26

27 Commissioner Donaldson opposed the idea of a property owner converting City right-of-way to  
28 private open space, but this property is an unusual lot. The structure is not out of character with  
29 others along the street. He was inclined to deny an encroachment permit, but that would leave  
30 the property with a not very usable front yard and no private open space.  
31

32 Chair Kent noted the property owner has some responsibility for the public right-of-way even  
33 though he does not own it. He preferred a little more screening for the wall and fence so that  
34 passersby do not feel obligated to interact with people in the yard.  
35

36 **Motion to approve** an encroachment permit for a retaining wall located in the public right-  
37 of-way at 958 Nielson with the conditions of approval presented by staff and a condition  
38 of approval that no additional opaque structural members be introduced to the fence.

39 Giesen-Fields

40 Seconded by: Watty

41 AYES: Donaldson, Giesen-Fields, Watty, Kent.

42 NAYES: None

43 ABSTAINING: None

44 ABSENT: Jennings

45 **Motion passed, 4-0-0-1**

46  
47 Chair Kent noted the 14-day appeal period.  
48



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1           **6-3. PA 18-063 Conditional Use Permit, Design Review & Signage for 578 Cleveland,**  
2           **Chef's Touch LLC** – The applicant is seeking Conditional Use Permit, Design Review &  
3           Signage approval for a commercial kitchen use at 578 Cleveland Ave. The subject site is  
4           62,400 sq. ft. with an existing 25,189-sq.-ft. building built in 1948 and substantially added  
5           to in 1973. Most recently the building was occupied by El Cerrito Tires. The applicant is  
6           proposing to convert the building to a commercial kitchen with a café, catering services,  
7           and food truck parking for approximately 60 food trucks. The applicant is proposing to  
8           install new siding and signage for the building as well as tenant improvements. The café  
9           will operate from 7 am-7 pm. A 2,687-sq.-ft. residence and 3,000-sq.- ft. mezzanine are  
10          proposed on the upper levels. A microbrewery is also proposed as a future use in the  
11          building.

12  
13           **Recommendation:** Staff recommends that the Planning & Zoning Commission review  
14          and approve the proposed project subject to the findings and Conditions of Approval.

15  
16           **CEQA:** The project is Categorically exempt from CEQA pursuant to Section 15332 “In-  
17          Fill Development Projects” of the CEQA Guidelines.

18  
19          Planning Manager Hersch presented the staff report dated November 28, 2018.

20  
21          When asked, **August Blass**, applicant, explained the plan for food trucks to exit the parking lot.  
22          He has a verbal agreement with Southern Pacific for him to maintain the landscape in exchange  
23          for his use of Southern Pacific property. He is planning to plant small decorative palm trees. The  
24          project architect will revise the landscape plan. With permission, he wants to construct a retaining  
25          wall around the cypress, which is approximately 2 feet below grade. The HVAC system will have  
26          charcoal filters to remove odors before they reach the exhaust fan. If the HVAC system keeps  
27          the air within the building, the air conditioning system will act as a secondary filter for odors. The  
28          kitchen for the food trucks will be used mostly to prepare food rather than cook it. The Air Quality  
29          Control Board does not require a permit for the operation. The mechanical equipment on the roof  
30          has been relocated contrary to the plans. A screen around the rooftop mechanical equipment will  
31          be more visually disruptive than the equipment. The parking schedule shows the hours of food  
32          truck vacancy and occupancy. The parking lot has layers of asphalt and dirt.

33  
34          Commissioner Giesen-Fields recommended the Commission continue the item to a date certain  
35          so that Commissioners could review the latest plans.

36  
37          Commissioner Watty was unsure how to calculate parking because of the unusual area and  
38          business. She suggested the Commission follow staff's recommendation and request an  
39          informational report six months after the business begins operations. At that time, the  
40          Commission can retain or revise parking requirements. Perhaps Commissioners could give  
41          direction to the applicant for plan revisions and continue the item for two weeks to the consent  
42          calendar. The applicant can choose not to pave the entire parking lot. If an accurate calculation  
43          of the paving square footage is over the threshold, the applicant has an obligation to work with  
44          the City Engineer.

45  
46          Commissioner Giesen-Fields was not comfortable with the item returning on the consent  
47          calendar.



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1 Commissioner Donaldson agreed with continuing the item but not to the consent calendar.  
2 Revisions to stormwater protections could alter the site plan. The Commission should have  
3 conditions of approval that ensure the applicant manages parking. The project should be  
4 reviewed after six months and perhaps a year.

5  
6 Chair Kent expressed concerns about conflicting information between the landscape plan and  
7 oral statements. C3 compliance is important because of the proximity to the Bay and the cleaning  
8 of the food trucks.

9  
10 **Motion to continue PA 18-063** for 578 Cleveland to a date uncertain. Watty  
11 Seconded by: Donaldson  
12 AYES: Donaldson, Giesen-Fields, Watty, Kent  
13 NAYES: None  
14 ABSTAINING: None  
15 ABSENT: Jennings  
16 **Motion passed, 4-0-0-1**

17  
18 PUBLIC HEARING OPENED

19  
20 **Jeremiah** remarked that the owner having a dog on the premises of a food establishment is not  
21 sanitary.

22  
23 **An unidentified male** advised that many palm trees are available for little or no cost.

24  
25 PUBLIC HEARING CLOSED

26  
27 **7. NEW BUSINESS**

28  
29 None

30  
31 **8. ANNOUNCEMENTS/COMMUNICATIONS/DISCUSSION**

32  
33 Planning Manager Hersch reported Commissioners may submit their applications for  
34 reappointment to the Planning & Zoning Commission. In January, the City Council will ratify  
35 appointments to the Commission for the next two-year cycle. The December Commission  
36 meetings will be canceled.

37  
38 **9. NEXT MEETING** – Wednesday, December 12, 2018, 7:00 p.m., City Hall Council Chambers,  
39 1000 San Pablo Avenue

40  
41 **10. ADJOURNMENT**

42  
43 The meeting was adjourned at 9:11 p.m.

44  
45  
46  
47 Submitted by: Anne Hersch, Planning Manager



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Jeff Bond, Community Development Director