



## PLANNING & ZONING COMMISSION

1000 San Pablo Avenue  
Albany, CA 94706

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### MINUTES OF THE REGULAR MEETING WEDNESDAY, DECEMBER 14, 2022

#### REGULAR MEETING: 7:00 PM

#### 1. CALL TO ORDER

Commissioner MacLeod called the regular meeting of the Planning & Zoning Commission to order at 7:00 p.m. on Wednesday, December 14, 2022.

#### 2. ROLL CALL

Present: MacLeod, Momin, Pilch (arrived at 7:02 p.m. and departed at 8:11 p.m.),  
Reek

Absent: Watty

Staff Present: Community Development Director Jeff Bond

The Albany Land Acknowledgement Statement was read as adopted by the City Council per City of Albany Minute Action, November 15, 2021.

#### 3. EX-PARTE COMMUNICATIONS

None.

#### 4. CONSENT CALENDAR

##### 4-1. Planning & Zoning Commission Meeting Minutes October 26, 2022

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

##### 4-2. Resolution of Appreciation for Christopher Tan

**Recommendation:** Staff recommends that the Planning & Zoning Commission review and approve the proposed resolution.

Commissioners appreciated Mr. Tan's service to the City of Albany and wished him well in his new position.

**Motion to approve** the consent calendar as proposed. Reek

Seconded by Momin

AYES: MacLeod, Momin, Reek

NOES: None

ABSTAIN: Pilch

ABSENT: Watty

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



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1  
2 **5. ANNOUNCEMENTS / COMMUNICATIONS**  
3

4 Community Development Director Bond noted the upcoming re-appointment process for  
5 Council Advisory Bodies and encouraged Commissioners to re-apply.  
6

7 **6. PUBLIC COMMENTS**  
8

9 **Clay Larson** believed the San Pablo Specific Plan increases base density and impacts  
10 inclusionary housing requirements.  
11

12 **Peggy McQuaid** thanked Commissioners for their service to the City and the community  
13 and noted their contributions.  
14

15 **Jeremiah Pinguelo** inquired regarding the maximum capacity of the Council Chambers  
16 that would allow adequate ventilation of carbon dioxide (CO<sub>2</sub>) and the presence of CO<sub>2</sub>  
17 monitors in public facilities. He requested the Planning & Zoning Commission  
18 (Commission) conduct a thorough review of the project for a parking structure.  
19

20 Community Development Director Bond explained that the capacity limitations of the  
21 Council Chambers pertained to fire safety rather than air quality. He was not aware of any  
22 public health issues for persons in the building.  
23

24 **7. DISCUSSION AND POSSIBLE ACTION ON MATTERS RELATED TO THE**  
25 **FOLLOWING ITEMS:**  
26

27 **7-1. PA22-059 Design Review and Parking Exception for a Second-Story Addition**  
28 **at 1019 Key Route Avenue** — The applicant is seeking Design Review and  
29 Parking Reduction approval for a second-story addition at 1019 Key Route  
30 Avenue. The subject property is a 3,743-sq.-ft. lot with a 2-bedroom, 1-bathroom,  
31 1,111-sq.-ft. house. The project scope includes raising the existing structure,  
32 moving the structure three feet to the east, and building a new lower level. This will  
33 result in a 3-bedroom, 3-1/2-bathroom, 2,032-sq.-ft. residence with a maximum  
34 height of 26 feet. The project also includes a “junior” accessory dwelling unit on  
35 the second level. The existing architectural style of the home is proposed to  
36 remain, clad in stucco with a low-slope front gable roof. A Parking Reduction is  
37 required to waive one off-street parking space triggered by the proposed project  
38 scope.  
39

40 **Recommendation:** Staff recommends that the Planning & Zoning Commission  
41 review and approve the proposed project subject to the attached findings and  
42 Conditions of Approval.  
43

44 **CEQA:** The project is Categoricaly exempt from CEQA pursuant to Section 15303  
45 “New Construction or Conversion of Small Structures” of the CEQA Guidelines.  
46



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1 Community Development Director Bond presented the staff report dated December 14,  
2 2022.

3  
4 **Todd Jersey**, project architect, reported the project includes lifting the existing home,  
5 moving it toward the rear of the property, and preserving architectural details on the front  
6 of the home. Moving the home provides a larger area for off-street parking. The  
7 landscaping will have native plants and site drainage. He appreciated staff's prompt  
8 response to inquiries and efforts to assist him. When asked, Mr. Jersey indicated that the  
9 landscape plan shows permeable pavers instead of concrete. Shrubs and perhaps a  
10 small native tree will be planted along the street. Two non-native trees in the rear yard  
11 will be removed because they are diseased. Native plants will be used in the rear yard,  
12 but the exact plants have not been determined.

### 13 PUBLIC HEARING OPENED

14  
15  
16 **Jeremiah Pinguelo** inquired regarding the lot width and dimensions of the proposed  
17 driveway. The planter box could be removed to provide off-street parking and to eliminate  
18 the request for a parking reduction.

19  
20 **Steven Chan** remarked that Assembly Bill (AB) 2097 will require off-street parking for  
21 single-family homes. The Commission may want to consider climate change objectives  
22 when discussing parking reductions.

### 23 PUBLIC HEARING CLOSED

24  
25  
26 Commissioner Momin liked the design and supported the project as submitted. The  
27 project proposes a modest addition that provides a substantial increase in usable area  
28 without negatively impacting neighboring structures. The landscape design has been  
29 developed handsomely with permeability and native plants in mind.

30  
31 Commissioner Reek appreciated the improvement to the front facade. The design is  
32 good.

33  
34 Chair Pilch related that exempting projects from parking requirements is intended to  
35 reduce greenhouse gas emissions and promote livability.

36  
37 Commissioner MacLeod remarked that the layout and interior plan are good and  
38 appreciated the inclusion of a junior accessory dwelling unit (ADU). Lifting the house is  
39 not a major change and looks nice. A tree or two in the rear yard would be good. Two  
40 parking spaces at the front of the property would require a wider curb cut, which would  
41 eliminate one on-street parking space. AB 2097 will effectively pre-empt local parking  
42 requirements and not allow the City to impose parking minimums. This project will likely  
43 be subject to the City's all-electric building ordinance for new construction.

44  
45 **Motion to approve PA 22-059** for 1019 Key Route Avenue. Pilch  
46 Seconded by Reek



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1 AYES: MacLeod, Momin, Pilch, Reek

2 NOES: None

3 ABSTAIN: None

4 ABSENT: Watty

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

6  
7 Commissioner MacLeod noted the appeal period.

8  
9 **7-2. PA22-057 Design Review, Conditional Use Permit, and Parking Exception for**  
10 **a Second-Story Addition at 825 San Carlos Avenue** — The applicant is seeking  
11 Design Review, Conditional Use Permit, and Parking Reduction approval for a  
12 second-story addition at 825 San Carlos Avenue. The subject property is a 3,751-  
13 sq.-ft. lot with a 2-bedroom, 1-bathroom, 807-sq.-ft. house. The project includes  
14 extending the ground floor into the rear yard and a second-story addition. This will  
15 result in a 4-bedroom, 3-bathroom, 2,062-sq.-ft. residence with a height of 26 feet.  
16 The architectural style of the home is proposed to be a contemporary-craftsman  
17 style with a front gable roof. A Parking Reduction is required to waive one off-street  
18 parking space. The conditional use permit is required for the extension of the  
19 existing non-conforming side yard setback on the north side of the property.

20  
21 **Recommendation:** Staff recommends that the Planning & Zoning Commission  
22 review and approve the proposed project subject to the attached findings and  
23 Conditions of Approval.

24  
25 **CEQA:** The project is Categoricaly exempt from CEQA pursuant to Section 15303  
26 "New Construction or Conversion of Small Structures" of the CEQA Guidelines.

27  
28 Community Development Director Bond presented the staff report dated December 14,  
29 2022.

30  
31 **Steven Chan**, applicant, appreciated staff's responsiveness to his emails. Of the five  
32 neighbors he spoke with about the project, two thanked him for proposing improvements  
33 to the property. The second story is stepped back from and smaller than the ground floor,  
34 similar to the second stories on the two adjacent houses. The front facade will have a  
35 contemporary-Craftsman design. The square footage of the finished project will be the  
36 same as the adjacent house. The intention is to have a great room at the rear of the house  
37 to promote indoor-outdoor living, and the landscape plan facilitates that. When asked, Mr.  
38 Chan explained that the driveway will act as a walkway to the front entry. He plans to  
39 prune the existing tree in the rear yard in an effort to reduce its width.

40  
41 PUBLIC HEARING OPENED

42  
43 **Jeremiah Pinguelo** reiterated concerns about the request for a parking reduction and  
44 the lack of an electric vehicle (EV) charging station.

45  
46 PUBLIC HEARING CLOSED



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1  
2 Commissioner Reek liked the layout, proposed materials, and design. The front entry is  
3 pushed back and hidden, but the reasons for that are understandable.  
4

5 Commissioner Momin concurred with Commissioner Reek's comments. The addition is  
6 large in terms of lot coverage, but the addition matches the adjacent properties in size  
7 and design. The style and roof structure also complement the adjacent houses. The  
8 window placement works with the roof lines. It is a good project.  
9

10 Commissioner MacLeod commented that the project has a nice balance of modern and  
11 traditional elements. The window placement is logical and has a nice look. If the existing  
12 tree in the rear cannot be preserved, perhaps the applicant can replace it with one or two  
13 trees. The location of the front entry is logical for interior circulation. Creating a pathway  
14 to the entry with a change in paving material would be good.  
15

16 **Motion to approve PA 22-061** 940 Adams Avenue. Momin

17 Seconded by Reek

18 AYES: MacLeod, Momin, Pilch, Reek

19 NOES: None

20 ABSTAIN: None

21 ABSENT: Watty

22 **Motion passed, 4-0-0-1**  
23

24 Commissioner MacLeod noted the appeal period.  
25

## 26 8. NEW BUSINESS

27  
28 **8-1. Review of Preliminary Applications for In-Street Outdoor Dining Parklets on**  
29 **Solano Avenue** — Restaurants along Solano Ave. that would like to continue  
30 utilizing in-street parklets for outdoor dining for an additional three years will be  
31 required to receive City approval to do so. The purpose of this meeting is to review  
32 the applications received for the continued use and upgrade of outdoor dining  
33 parklets and provide the Commission an opportunity to offer guidance to restaurant  
34 operators and City staff on the parklet design and application processing.  
35

36 **Recommendation:** Staff recommends that the Planning & Zoning Commission  
37 review the preliminary applications and provide guidance to restaurant operators  
38 and City staff on the parklets' size, preliminary design and materials, and  
39 application processing.  
40

41 Community Development Analyst Michelle Plouse presented the staff report dated  
42 December 14, 2022.  
43

44 In response to questions, Community Development Analyst Plouse clarified that staff  
45 would ensure minor improvements to parklets comply with regulations. Community



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1 Development Director Bond added that staff will develop an application that requires the  
2 applicant to submit a scale drawing of the proposed parklet and a list of materials.

### 3 4 PUBLIC HEARING OPENED

5  
6 **Gail Smith**, Toy Go Round, shared her efforts to get Chez Mansour's owner to reduce  
7 his parklet to the allowed two parking spaces. The parklet covers parking spaces located  
8 in front of her business and forces her customers to park three and four blocks from the  
9 store. The Commission should consider parking for businesses other than restaurants.

10  
11 **Jeremiah Pinguelo** expressed concern for the safety of patrons in parklets and  
12 suggested parklet walls should withstand 2000 pounds of force rather than 200 pounds.  
13 He opposed the use of plants because they are not properly maintained and block views  
14 for vehicles backing out of parking spaces. Parklets need to comply with Americans with  
15 Disabilities Act (ADA) requirements.

16  
17 **Birgitta Durell** supported allowing parklets because they enliven the street.

### 18 19 PUBLIC HEARING CLOSED

20  
21 Commissioner Momin suggested staff require parklets to be located so that a single  
22 parking space is not left open on either side of a parklet.

### 23 24 Barney's

25  
26 Commissioner MacLeod noted the wood enclosure and roof structure and did not object  
27 to the parklet. The structure appears solid.

28  
29 Commissioner Momin opposed the use of traffic cones to increase visibility because the  
30 program guidelines indicate the use of reflective striping. He appreciated the integration  
31 of the planter boxes with the barrier wall. Even with the roof structure, the parklet is quite  
32 open.

33  
34 The Commission reached consensus to approve preliminarily the application for Barney's.

### 35 36 Zaytoon

37  
38 Commissioner MacLeod noted the fence-like structure surrounding the parklet and the  
39 roof. The parklet would be cleaner and simpler without the barrels. The walls around a  
40 parklet are intended to prevent pedestrians from falling or stumbling into the street.  
41 Reflective tape or bright paint would be better than traffic cones. The barrels may be  
42 located in the required setback, and the railing appears to be shorter than the required  
43 height.

44





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1 Commissioner Reek concurred with removing the barrels and placing plants on the ledge  
2 or inside the parklet. She noted correspondence regarding the need for parking in this  
3 area for people visiting the YMCA. A couple of parklets are located in the area.  
4

5 Commissioner Momin recommended the guidelines state a strong preference for plants.  
6

7 The Commission reached consensus to approve preliminarily the application for Zaytoon.  
8

### 9 Everest Kitchen

10  
11 Commissioners supported the parklet utilizing three parking spaces but questioned the  
12 proposed use of concrete in light of underground utilities. A fence or wall made of natural  
13 materials is preferable.  
14

15 The Commission reached consensus for staff to bring the application to the Commission  
16 for review.  
17

### 18 Bua Luang

19  
20 Commissioner MacLeod commented that the parklet appeared to be a food stall. The  
21 design could be more uniform and simplified. A wall made of dry pavers or stone would  
22 be acceptable if done well.  
23

24 The Commission reached consensus for staff to bring the application to the Commission  
25 for review.  
26

### 27 5 Tacos and Beers

28  
29 Community Development Director Bond reported staff will work with the restaurant  
30 regarding removal of the sidewalk seating located between the two curb ramps on the  
31 corner and adjustment of the tree well, bike rack, and fire hydrant adjacent to the parklet.  
32

33 Commissioner MacLeod supported leaving the sidewalk seating as long as the proper  
34 clearances are maintained. A cleaner enclosure is needed. The umbrellas provide color.  
35 The heating towers are a concern because they burn fossil fuel and reduce the air quality  
36 in an enclosed parklet.  
37

38 Commissioner Momin appreciated the ambience provided by the plants and umbrellas.  
39 However, the wall looks unfinished. Removing the barrels and building a nice, seamless  
40 wall would be better.  
41

42 Commissioner Reek concurred with comments regarding the wine barrels as part of the  
43 wall.  
44

45 The Commission reached consensus for staff to bring the application to the Commission  
46 for review.



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### Boss Burgers

Commissioner MacLeod advised that the Commission previously expressed its opposition to K-rails. Sloping parking spaces will not comply with ADA requirements.

The Commission reached consensus to allow staff approval of an application for Boss Burgers.

Community Development Director Bond reported staff will seek the Commission's approval or the Chair's opinion if the proposed parklet does not comply with the issues raised by the Commission.

### Suzette Crepe Café/iSlice Pizza

Commissioner Momin remarked that the use of colors, signage, sculpture, or art would be an interesting feature if it was integrated with the structure.

Commissioner MacLeod acknowledged community members' efforts to help restaurants at the beginning of the pandemic by creating the barriers for parklets. Colors or art for the barriers would be great.

Commissioner Reek concurred.

### Kim's Café & Sandwiches

Commissioner MacLeod commented that the connections for the walls are important. Pressure-treated plywood is not an acceptable walking surface or the best environmental product. Perhaps the applicant could use a different material.

### Duo Grill House

Commissioner MacLeod noted the step at the sidewalk. Otherwise, the proposed parklet looks great.

Commissioner Reek liked the proposed design.

### Chez Mansour

Community Development Analyst Plouse recalled Commissioner Momin's comment regarding the single parking space between the bulb-out and the parklet.

Commissioner MacLeod did not oppose leaving the parking space between the parklet and bulb-out open as it is located in front of Toy Go Round. Maybe the applicant could provide specific drawings for the proposed parklet.





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1 Commissioner Momin suggested the applicant move the parklet so that two parking  
2 spaces are open between the parklet and the bulb-out.

3  
4 The Commission reached consensus for staff to bring the application to the Commission  
5 for review.

### 6 Rendez-Vous Café Bistro

7  
8  
9 Commissioner Momin related that the structure does not have any interesting features  
10 and preferred plain plexiglass to corrugated plexiglass. He strongly recommended the  
11 use of plants and removal of traffic cones.

12  
13 Commissioner Reek agreed with Commissioner Momin regarding the traffic cones,  
14 plexiglass, and plants.

15  
16 Commissioner MacLeod believed the wood could be brighter or more colorful. The parklet  
17 probably looks better at night when the lights are on.

### 18 Solano Junction

19  
20 Community Development Analyst Plouse reported the proposal is more sidewalk seating  
21 than parklet. Staff will ensure the parklet complies with safety and legal requirements  
22 rather than all parklet regulations.

23  
24  
25 Commissioner MacLeod indicated the parklet looks fine and integrates well with the  
26 streetscape.

27  
28 Commissioner Reek felt the parklet functions well and fits the traffic of the sidewalk.

29  
30 Commissioner Momin concurred.

31  
32 **Motion to direct** staff to implement the Planning & Zoning Commission's feedback  
33 regarding the applications for parklets. MacLeod

34 Secended by Reek

35 AYES: MacLeod, Momin, Reek

36 NOES: None

37 ABSTAIN: None

38 ABSENT: Pilch, Watty

39 **Motion passed, 3-0-0-2**

40  
41 **8-2. California Department of Housing & Community Development Review of the**  
42 **City of Albany's Draft Housing Element** — On Monday, December 12, 2022,  
43 the City expects to receive a letter from the California Department of Housing and  
44 Community Development describing revisions required to the City's draft Housing  
45 Element to ensure compliance with State law. The purpose of this agenda item is



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1 to provide an opportunity to share the letter with the Commission and members of  
2 the public.

3  
4 **Recommendation:** For information and discussion only.

5  
6 Community Development Director Bond presented the California Department of Housing  
7 and Community Development's (HCD) letter regarding its review of the City's Draft  
8 Housing Element. Staff plans to respond to HCD's letter in the areas of housing needs  
9 resources and constraints, housing programs, quantified objectives, and public  
10 participation.

11  
12 Barry Miller, consultant, reported Community Development Director Bond and he would  
13 meet with HCD to clarify HCD's comments. The two major areas for revision are the sites  
14 inventory and housing programs.

15  
16 In response to questions, Community Development Director Bond explained that the  
17 Commission would provide recommendations to the Council and provide an opportunity  
18 for public comment prior to a Council discussion and decision. Staff anticipates providing  
19 a draft response for the Commission's review and recommendation and public comment  
20 in late January or early February 2023. Ideally, the City will submit a Council-approved  
21 final Housing Element to HCD in late February 2023.

22  
23 PUBLIC HEARING OPENED

24  
25 **Jeremiah Pinguelo** suggested a community workshop with the Commission and the  
26 Social & Economic Justice Commission (SEJC) to review the City's response in depth  
27 and to obtain public comment. Housing and the Housing Element are a major concern for  
28 the community.

29  
30 PUBLIC HEARING CLOSED

31  
32 Commissioner MacLeod noted the Council's discussion regarding the SEJC and housing.  
33 Mr. Pinguelo's suggestion is a great idea.

34  
35 **8-3. Pre-Application Consultation Regarding Potential Condominium Conversion**  
36 **at 810-812 Masonic Avenue** — The City has received an inquiry regarding the  
37 feasibility of converting an existing duplex in a single-family residential district to a  
38 two-unit condominium. This is an unusual potential application, and as a courtesy  
39 to the potential applicant, staff is requesting the Commission provide preliminary  
40 feedback prior to the applicant preparing a detailed application.

41  
42 **Recommendation:** For information and discussion only.

43  
44 Community Development Director Bond presented the staff report dated December 14,  
45 2022.

46



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1 **Mitch Durell**, applicant, advised that he and his wife live in one of the units and his son's  
2 family lives in the second unit. Each unit has a garage with EV charger and driveway. The  
3 proposed condominiums could provide the required parking if the driveway is counted as  
4 a parking space. On-street parking in the area is available most days. Property owners at  
5 1250 Washington Avenue and 805 Evelyn Avenue are constructing ADUs, and 810  
6 Evelyn Avenue constructed an ADU about a year ago. The properties do not have  
7 driveways, and the project applicants were not required to provide additional parking for  
8 the ADUs. If the condominium driveways could not be counted as parking spaces, he  
9 would request a parking reduction.

10  
11 Community Development Director Bond indicated the property is located in an area in  
12 which the City could not impose parking requirements. However, he needed to review the  
13 new state law to confirm that it applies to a condominium conversion. If the state law does  
14 not apply, the Commission could approve a parking exception to allow vehicles to park in  
15 the front yard.

16  
17 PUBLIC HEARING OPENED

18  
19 None.

20  
21 PUBLIC HEARING CLOSED

22  
23 Commissioner Momin supported a conversion of the duplex to condominium units and  
24 granting a parking reduction if the applicant is able to comply with Code requirements.

25  
26 Commissioner Reek noted the Commission's granting of parking exceptions for similar  
27 projects. The new state law takes effect in January 2023 and does not allow the City to  
28 impose parking restrictions.

29  
30 Commissioner MacLeod understood that the new law applies to all buildings located  
31 within a half mile of a transit corridor. Approximately 90% of Albany is located within a  
32 half mile of a transit corridor; therefore, a request for a parking exception may be moot.  
33 He could support granting an exception if necessary. The driveway would have to comply  
34 with size requirements.

35  
36 Commissioners supported granting a parking waiver if the new state law does not apply  
37 to a condominium conversion or to the property in general.

38  
39 **8-4. Discussion of Implementation of Senate Bill 1214 Regarding Copyright**  
40 **Protection of Architectural Plans Submitted to the City** — In order to ensure  
41 compliance with Federal Copyright laws, new state law requires the City to  
42 significantly change the manner in which members of the public may access  
43 architectural plans prepared by licensed professionals.

44  
45 **Recommendation:** For information and discussion only.  
46



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1 Community Development Director Bond reported Senate Bill (SB) 1214 prohibits staff  
2 from releasing any architectural drawings marked as copyrighted material until the  
3 copyright owner grants permission. Members of the public may inspect and review  
4 drawings on the premises of the planning agency but may not copy them. Staff is not  
5 allowed to place the plans on the internet for public review. Staff may provide  
6 Commissioners with a copy and show the plans during a public hearing. Staff will continue  
7 to post plans from unlicensed persons. If the copyright owner does not grant permission  
8 for staff to post the drawings, staff will provide Commissioners with a review copy and  
9 state in the staff report or on the agenda that the plans are copyright restricted. SB 1214  
10 allows staff to require an applicant to prepare a massing diagram and site plan. The law  
11 refers to architecture specifically, but the same principles apply to engineering and  
12 landscape plans, essentially plans submitted by anyone with a professional license. Staff  
13 will consider a professional's stamp as a copyright. Staff will review past applications  
14 uploaded to the internet and remove any that contain copyrighted material.

15 PUBLIC HEARING OPENED

16 None.

17 PUBLIC HEARING CLOSED

18 Commissioner MacLeod proposed staff include a checkbox on the application that grants  
19 permission for the City to upload the plans to the internet and make copies. A massing  
20 plan is not particularly useful.

21 Community Development Director Bond hoped applicants would not object to staff making  
22 drawings available from the date of the public hearing notice until the date of the hearing.

23 Commissioners expressed concerns that the public would not review plans and provide  
24 comments and that in-person engagement with neighbors may be necessary, especially  
25 for large projects.

26 **9. NEXT MEETING: January 11, 2023**

27 **10. ADJOURNMENT**

28 The meeting was adjourned at 10:14 p.m.

29 Submitted by: \_\_\_\_\_  
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Jeff Bond, Community Development Director