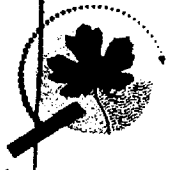




# City of Albany

## PLANNING & ZONING APPEAL

FILED  
OCT - 6 2008  
ALBANY CITY CLERK



### GENERAL INFORMATION

**Who:** Any Applicant or party with standing may appeal an administrative decision by Planning staff or a Planning & Zoning Commission action

**When:** A written appeal must be filed with 14 calendar days of the administrative or Commission action

**Where:** Appeals of administrative decisions are filed with the Community Development Department. Appeals of Planning & Zoning Commission actions are filed with the City Clerk

**Cost:** \$340.00 (non-refundable)

**Process:** Appeals of Planning Staff decisions will be considered by the Planning & Zoning Commission. Appeals of Planning & Zoning Commission decisions will be heard before the City Council. For appeals of Planning & Zoning Commission decisions on items not requiring a Public Hearing, the appeal will be set for formal City Council consideration within 30 days. For items which required a Public Hearing, the City Council will schedule a Public Hearing within 30 days to consider the appeal.

Date of decision being appealed:

9 / 23 / 08

Type of decision: **Please check one**

Administrative

Planning & Zoning Commission

Municipal Code or Zoning Ordinance Section

If you have any questions regarding this procedure, please call the City Clerk at (510) 528-5720 or Planning Division at (510) 528-5760.

**Description of Project:** 904 Santa Fe. Planning Application 07-087 A three story structure with 2 residential units, 1 store front business and a 4 car underground parking garage. 7800 total square footage.

**Applicant Name:** Mina Moubadi

**Address:** 904 Santa Fe Albany

**Phone Number:** 510 812-1039

**Appellant Name:** Keith Weinstein  
Shoshana Klein

**Address:** 907 Carmel Ave.  
Albany

**Phone Number:** 510 703 7997

Joseph Reggi  
Barbara Wezelman  
Janet and Guy Cavelli (see attached)

**Basis of Appeal:** (Please be precise) The proposed project is too massive and tall. It will be an invasion of our privacy and adversely impact the aesthetic enjoyment of our homes. The project does not follow the "harmonious transition" guidelines of the General Plan. Its scale and magnitude is not in keeping with neighboring businesses or homes. The project proposal is an assault on the small town feel of Albany! See attached letters.

**Signature:** Keith Weinstein

**Date:** 10/6/08

**Date Filed:**

**Received by:**

**Fee: \$**

**Receipt #:**

**Appeal Agenda Date:**

P & Z

City Council

Agenda Item # 7b

Keith Weinstein and Shoshana Klein  
907 Carmel Ave.  
Albany, CA 94706  
[agadadrash@earthlink.net](mailto:agadadrash@earthlink.net)  
510-526-1838

To: Albany City Council Members

Re: Planning Application 07-087: 904 Santa Fe Project Proposal

Dear Council Members,

My wife and I are writing to appeal the Planning and Zoning Commission's decision to approve the 904 Santa Fe Project. Our home which is zoned residential shares 5-7 feet of backyard with the 904 Santa Fe lot. We are located directly to the South and West of the proposed project.

We object strongly to the project because it is not in proportion to the surrounding homes or businesses of the neighborhood. As the third property in from Solano Avenue, it should follow the guideline of the General Plan which calls for "harmonious transition," to neighboring properties which are zoned residential. The proposed building makes maximum use of the allowable FAR, builds out to the full lot size and towers up to three stories only 11 feet back from the backyard lot line. It relies on a 4 car underground parking garage to stay within the allowable FAR, a project that may cause unforeseeable effects of erosion. As a transition property, the 904 Santa Fe project should be scaled back in order to fit in with the community.

Significantly, 904 Santa Fe is actually designated "low density residential" in the General Plan. I quote from Albany City staff report of 9/9/08:

This parcel is unique in that the General Plan Use designation is inconsistent with the Planning and Zoning Code. It is designated as "low density residential" in the General Plan and is zoned SC (Solano Commercial) (in the Planning and Zoning Code).

Additionally:

There is, however, a small portion of the lot at the rear southwest corner, 907 Carmel, that is zoned R-1 (Single Family Residential).

The impact upon the privacy and aesthetic enjoyment of our home would be devastating. We would have a large, rectangular building towering over our home and backyard only 11 feet back from our property line. We imagine that our concern would be echoed by the many homeowners up and down the side streets off of Solano Avenue that will be effected by similar project proposals in the coming years. This will be especially so if the current project is allowed to go forward in its current form setting a precedent for future development in transition zones.

Business people and developers have the right to propose projects that maximize their profit. But small towns and cities have the right to limit that development in keeping with the values and aesthetics of the neighborhood they represent. The two condominiums that the project is proposing will be approximately 2,000 square feet each. This is much larger than most homes in our city. We ask that the City Council members safeguard the low density, community oriented scale that make Solano Ave and Albany such a gem amongst cities and modify this project.

Thank you,

Keith Weinstein and Shoshana Klein

October 2, 2008

Dear Council Members:

I am writing to ask the City Council's support for the appeal of the Planning and Zoning Commission's (the Commission's) approval on September 23, 2008 of Agenda Item 6a: 904 Santa Fe Planning Application 07-087.

I own the property at 905 Carmel Ave which is adjacent to, and west of, 904 Santa Fe. While 905 Carmel is also zoned Solano Commercial, I presently live there in a single family home and plan to do so for the foreseeable future. The proposed 3 story, 7780 square foot development at 904 Santa Fe, which would replace an existing one-story home, would significantly impact my use and enjoyment of my property.

The proposed design is not a harmonious one that blends into the neighborhood – it is much too large and out of scale with its neighbors. It would be substantially taller than the homes that surround it on all sides, all but one of which are one-story, and would be built out to several of the lot lines. The balconies and windows would intrude upon the privacy of the neighbors. There would no longer be trees or significant vegetation in the north, west or south to provide greenery to soften the impact of such a massive structure.

Because of both its height (31'11' at its maximum) and proximity to the rear, west lot line (the first floor would be built to the west lot line; the third floor would begin only 11 feet away) the proposed structure would tower over my back yard, where I go to garden, relax and entertain. Due to the slope of both properties from east to west, it would loom even taller over my lot and other lots to its west – for example, at the west lot line the building would be effectively 5' higher due to the slope, and this differential increases as one goes further west. The proposed design would dominate the eastern sky from every point in my yard and from every east-facing window in my house – essentially blocking it out.

The design, which includes balconies facing west over my yard, would substantially reduce my privacy and my enjoyment of my property. The height and nearness to the property line would reduce the sunlight available to my yard in the morning during the summer, and require me to redesign my garden.

The proposed design would require the destruction of a mature tree on the north of the lot, and not provide a comparable replacement, which seems inconsistent with the landscaping condition that "All existing trees ... shall be preserved to the extent practicable."

I understand that this is the first project approved to date by the Commission for a mixed-use development in a Solano Commercial lot that transitions between Solano Avenue proper and the surrounding residential lots on the side streets. As such, it is extremely important for the City of Albany to ensure that the design decisions made here are ones

that could and should be replicated throughout the City. I believe that the 904 Santa Fe property design as currently approved is one that does not blend harmoniously with the neighboring properties, and would not serve the City well as a model. I ask that the City Council direct the project design to be appropriately modified to do so.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Wezelman".

Barbara Wezelman  
905 Carmel Ave  
Albany

Joseph Reggi  
906 Santa Fe  
Albany, CA 94706

October 4, 2008

Dear Council Members:

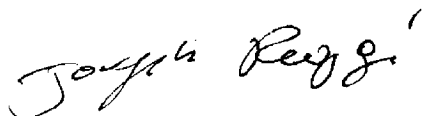
I am writing you regarding my neighbor's proposed project at 904 Santa Fe. My fellow neighbors and I went through an appeal already with the Albany Zoning Commission and were rejected. Even though they acknowledged it was too big for the surrounding homes, and other commercial buildings in the area, the Zoning commission approved it anyway. I am very disturbed about this as it will affect me the most. Even though I have been a good citizen in Albany for 28 years, I was disregarded and someone else will be allowed to come through and do whatever they wish. I do not mind if they come in and build something reasonable, knowing that this is a commercial place. But this proposal is too huge of a building for me to agree with.

The biggest reason it bothers me is that it invades my privacy. Putting up a balcony and windows on my side, an underground garage and a third floor is just too much. From the current small house of 1400 feet to a massive house of 7780 feet is too much. I would not object if they would do something reasonable around 4500 square feet. That would make 2 condominiums and a street front business all at 1500 square feet each.

I was told at the Albany Planning and Zoning Commission that I have to live with my neighbors and get along with them. But, a project as big as this would be impossible for me to accept. I cannot imagine ever being able to get along with my neighbor if he were allowed to build something as big as this. In addition to my privacy concern, there will be rumbling from the underground garage. And the effect of an extensive retaining wall, an underground garage, and a large removal of soil will cause erosion and possibly damage the foundation of my home that was built in 1909. After all, we are only talking about a ten foot distance and during the digging process it will come much closer.

For all these reasons, I totally disapprove. Please consider my appeal and modify the decision of the Zoning commission.

Joseph Reggi

A handwritten signature in cursive script that reads "Joseph Reggi". The signature is written in dark ink and is positioned below the typed name.

October 5, 2008

The City of Albany:

I can no longer find how to send an e-mail to you on the new website.

On September 9, 2008 my husband and I attended the Planning and Zoning Commission meeting in reference to Planning Application 07-087. I want to thank the commission for moving to have:

- the plans for this project reviewed at the next commission meeting in order to review the questions raised by the committee members, and
- the Planning and Zoning Commission review the construction plans when they are submitted for the building permit - to be sure that the plans are the same as the plans approved by the Planning and Zoning Commission.

My husband and I are not against new building in Albany. We just want to have our voice and the voice of the neighbors heard regarding the size of this construction project that is the transition structure between commercial zoning and residential zoning on Santa Fe Avenue. As of this date it seems that our voices and opinions have not been considered or even acknowledged. 904 Santa Fe is the second lot from the corner of Solano and Santa Fe Avenue on the west side of the street. We agree with the commission that this is one of the first of many new structures that will be updated in our wonderful community and that care must be taken regarding precedents for future buildings and how they fit into an existing neighborhood.

We request that the inspections during construction of this 7,800 sq. ft. building be comprehensive. One reason the neighbors are so against this project is the fact that the Moubedi family has been so unfriendly and disregarding of our neighborhood aesthetics since they moved into the property last year. We have observed the following actions:

1. When they first moved in last year we walked by said hello and waved. They turned their backs and did not speak to us.
2. Very soon after they moved in they started parking on what was once a beautiful lawn. It is now a bunch of weeds. This happened many months before we had a water shortage. The weeds were waist high when they moved out of the house earlier this year. My husband went up and pulled them because weed seeds were blowing all over the neighborhood.
3. In March of this year the dried out Christmas Tree was leaning against the house. We called the fire department to report this as a fire hazard.
4. They left the waste containers on the sidewalk 24/7. Many of the neighbors complained. The commercial unit next door at 902 Santa Fe, 2000 Style across the street and the house next to 2000 Style also started leaving their waste containers on the sidewalk 24/7. Complaints had to be made to the city to get them to stop this habit.
5. They let their small dog run without a leash on the street in the afternoon. This is dangerous not only for the dog but for people driving on Santa Fe. No one wants to kill a dog with their car.

We note that the Public Hearing Notice sent to us states that the 35' high building has two residential units that contain approximately 1,200 sq. ft each and a commercial retail space that is approximately 1,075 sq. ft. In the papers I saw last night the garage space was about 2,000 sq. ft. These numbers do not add up to the square footage discussed last night.

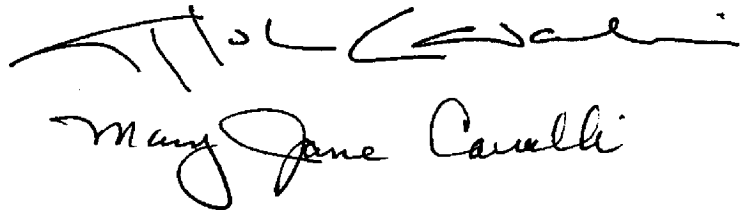
In conclusion we have the following questions:

1. Based on the Moubedi family's blatant disregard for their neighbors and the neighborhood, will the construction be completed in line with the plans as approved by the Planning and Zoning Commission or will this be another project where the consequence is "only" a fine and the building will be bigger than the gigantic structure the Planning and Zoning Commission is approving.
2. Because of the animosity the Moubedi family has fostered with their neighbors will they be able to complete construction and perform maintenance on this structure if they do not have permission to be on their neighbor's property?
3. Has the city attorney reviewed the ambiguous commercial zoning for this property and does Mr. Zweben agree with the hierarchy of the documents as they were described last night? Has the General Plan been reviewed and has this and/or any other discrepancies been resolved and documented?
4. Will the residential units in this multi-use building be in line with the cities focus on affordable housing?

Thank you for reading this letter.

Jane and Guy Cavalli

908 Santa Fe Avenue

A handwritten signature in black ink, appearing to read "Mary Jane Cavalli". The signature is written in a cursive style with a large, sweeping initial "M".