

**CITY OF ALBANY  
PLANNING AND ZONING AGENDA  
STAFF REPORT**

Agenda date: 10/13/09

Prepared by: AC

Reviewed by: JB

**ITEM/**            6a

**SUBJECT:**        Planning Application 09-047. Amendment to Design Review Conditions of Approval.

**SITE:**            727 San Pablo

**APPLICANT/  
OWNER:**

Craig Griffin

**ZONING:**        R-1 (Single-Family Residential)

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**STAFF RECOMMENDATION**

Staff recommends that the Planning and Zoning Commission approve the request for conditional use permit approval and parking exception approval.

**BACKGROUND/PROJECT DESCRIPTION**

The subject property has 25 condominium units that was approved in January 2005 constructed was completed in 2006. The original approval required that the parking area, accessed off of San Pablo Avenue, be available for both public and tenant parking (see attachment 1 for notice of action). There is a wrought iron gate on the rear (Kains Avenue) side of the building blocking off access from the public, and that can only be accessed by tenants.

The applicant is requesting an amendment to Design Review conditions of approval to allow a wrought iron gate to be located at the front entrance, which could be accessed only by tenants of the building. The applicant has stated the reason for requesting the gate is that there has been vandalism, homeless sleeping in the vacant parking areas, and that is a danger to the health and safety of tenants. Aesthetically it would echo the appearance of the gate on the east, Kains Avenue, side.

There was a request to allow a gate to be erected in 2008. The Planning and Zoning Commission informally reviewed the request and stated that the installation of a gate would not be supported because it was inconsistent with the original approval (see attachments 4 and 5).

## **ENVIRONMENTAL ANALYSIS**

Staff has determined that the proposed project is categorically exempt from the requirements of California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301, "Existing Facilities," which exempts single-family residences in a residential zone.

## **DISCUSSION OF KEY ISSUES**

Staff acknowledges that the request for a gate has been posed more than once for similar reasons. The applicant has provided full plans, unlike the during the 2008 request, which provides a more thorough depiction of what is requested. The gate, however, would make it increasingly difficult, if not impossible for patrons of the commercial businesses to access on-site parking. It would also be inconsistent with the original approval requiring that access remain open on the west, San Pablo Avenue, side.

Staff recommends that the Commission open the public hearing, take public testimony, and direct staff and the applicant to take appropriate action on the application.

### **Attachments:**

1. NOA date January 11, 2005
2. Planning and Zoning Commission Memo dated May 27, 2008
3. Minutes from May 27, 2008 P&Z hearing

*City of Albany*  
**Planning and Zoning Commission**  
**Notice of Action**

**Applicant:** Aaron Vitale, Vital Properties, LLC

**Owner:** T. Dosho Shiferaw

**Project Address:** 727 San Pablo Avenue

**Application:** **Planning Application 04-013. Conditional Use Permit, Design Review, and Tentative Parcel Map.** A request for:

- (1) Approval of a Negative Declaration; and
- (2) Conditional Use Permit to authorize mixed use in a SPC, San Pablo Commercial Zoning District and a R-3, Residential High Density Zoning District; and
- (3) Design Review approval of a mixed-use development consisting of 25 apartment units, 2,865 retail/restaurant and 2,778 square feet retail; and
- (4) Approval to merge 13 existing lots into one lot.

**Date of Action:** January 11, 2005

**Agency Action:** **The Planning and Zoning Commission voted 3-0 to approve the Conditional Use Permit and Design Review requests, including the draft findings and conditions of approval**

**PROJECT DESCRIPTION**

The project site is located on San Pablo Avenue, near Portland Avenue, and extends through to Kains Avenue. The project site is occupied by a mortuary, which has been closed for a number of years. In addition to the mortuary, there are two, four-car garages located on the site and a single-family home that fronts on Kains Avenue.

Since the October 26, meeting the applicant has revised the site plan. The most significant changes are as follows:

- Reduction in number of open parking spaces from 72 to 68. Reducing the number of parking spaces has allowed the applicant to create a small outdoor play area near the northeast corner of the site.
- Modifying the disabled parking, located off the San Pablo Avenue driveway, by eliminating one of the spaces, moving the other space further away from the street and adding a disabled persons accessible sidewalk and path from Kains Avenue to San Pablo Avenue.
- Submitting details of the proposed fencing that would abut the adjoining residential and the fencing/wall that parallels Kains Avenue.

- Submitting examples of the parking lot lighting and exterior sign lighting fixtures, a sketch of the how the exterior signs would look, and a shading analysis.

**FINDINGS:**

**Findings for Conditional Use approval**

1. *That the size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.* The proposed mixed-use residential and commercial project is consistent with City land-use objectives and the intensity of the proposal is consistent with City ordinance standards. The project reflects the goals of the Housing Element of the General Plan to encourage construction of new rental housing.
2. *That such use as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:*
  - a) *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures are consistent with City development standards for such uses. The project, as conditioned, provides adequate access, parking, open space area and related improvements consistent with City policy for such projects.*
  - b) *The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic and the adequacy of proposed off-street parking and loading.* The City Engineer has deemed vehicular and pedestrian circulation is adequate. The project will not significantly increase traffic demands and provides adequate parking per ordinance standards.
  - c) *The safeguards afforded to prevent noxious or offensive emissions, such as noise, glare, dust and odor.* With adherence to conditions of approval, no significant emission of noise, glare, dust or odor is anticipated. The project consists of typical residential uses and commercial space which is unlikely to house uses with adverse noise or other emissions. The conditions of approval require limitations on the hours of commercial operation to reduce impacts to the on-site residential uses.
  - d) *Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs are consistent with City development standards and design review objectives and guidelines for the proposed uses. The project, as conditioned, will provide appropriate landscape, screening, open yard areas and parking to meet the intended use.*

3. *That such use feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan.* The project is consistent with standards relating to height, size, location, bulk and design as provided in the zoning ordinance. The proposal will provide housing opportunities and expanded commercial space in the area while minimizing the impact on adjacent properties. As conditioned, the project is consistent with the zoning ordinance and policies of the General Plan.

## **Findings**

### **Findings for Design Review approval**

#### **a. Section 20-10.6.a, General Findings, applicable to all projects:**

1. *The structure, site plan, and landscaping are in scale with and harmonious with existing development which conforms to the current provisions of this Chapter, and future developments adjacent to the site, and with land forms and vegetation in the vicinity of the site. Features such as scale, massing, and consistency of architectural details and exterior colors and materials have been considered to ensure a high level of design quality.* The project, as conditioned is consistent with the requirements and standards of the zoning ordinance for development at this location. The site plan and architectural design elements are consistent with the development in the area. The scale and massing of the project have been addressed by stepping back the upper stories, articulating the roofline, and the using different colors and materials.
2. *The project provides safe and convenient access to the property for pedestrians and vehicles. Handicap access has been considered and Code requirements are reflected in project plans. For multi-family projects, bicycle access and storage have been considered.* The project design provides for adequate pedestrian and vehicle access via three drives, one off San Pablo Avenue and two off Kains Avenue. Bicycle access is also available through the side yards. Adequate storage area has been included on the ground floor.
3. *The project will not unnecessarily remove trees and natural vegetation, will preserve natural land forms and ridge lines, will not include excessive or unsightly grading of hillsides, and otherwise will not adversely affect the affect the visual character, quality or appearance of the neighborhood or City.* The applicant is proposing to remove all of the existing vegetation including the trees. The applicant has offered to give to residents in the neighborhood all of the rose bushes. Although all of the existing trees will be removed the applicant has designed the project so that the visual quality of the site will be enhanced by the removal of the existing dilapidated structures and the addition of the project components (landscaping, signage and building architecture). Due to the addition of the project components the proposal will not adversely affect the visual character of the area and the proposal is consistent with City design and development objectives for these residential properties.

4. The project will provide adequate buffering between the on-site residential development and adjacent uses which may have a potential to generate nuisances. The project provides landscaped rear and side yard areas between the parking lot and existing residential uses in the area. The design and location of the parking, screen wall and landscaping further provide for buffering and reduction of nuisances to existing residential uses in the area. The project will provide six foot high solid fences along the property line separating the parking lot from adjacent residential properties.
  
5. *The project conforms to the General Plan and to all other applicable provisions of Chapter 20 of the Albany Municipal Code.* Based on the analysis provided in the staff report and subject to recommended conditions of approval, the project complies with General Plan provisions and dimensional requirements of the C-2 and C-E zoning districts.

**Conditions of Approval**

**BP - Building Permit**

**COO- Certificate of Occupancy**

No.	Condition	Responsible Department	Permit Level	Verified
A. General				
A-1	This Design Review approval is for a mixed use residential/commercial project consisting of 25 multifamily dwellings and 5,643 square feet of retail/restaurant space at 727 San Pablo Avenue, as substantially shown and described on the project drawings dated received January 11, 2005, prepared by Ghoreishi Swallow and Associates, except as may be modified by conditions herein. For any condition herein that requires preparation of a Final Plan, the project developer shall submit a Final Plan that is in substantial conformance with the conceptual plan, but incorporating the modifications required by the conditions herein.	Planning	All project phases	
A-2	The applicant shall pay any and all City and other related fees applicable to the property. Fees shall be based on	Various Departments	BP	

No.	Condition	Responsible Department	Permit Level	Verified
	<p>the current fee structure in effect at the time the relevant permits are secured, and shall be paid prior to issuance of said permit or prior to any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering/Infrastructure, Fire and Inspection Fees. This shall include consultant costs for planning and building and engineering plan check and inspections.</p>			
A-3	<p>Prior to the issuance of a grading or building permit, the project developer shall:</p> <ul style="list-style-type: none"> <li>a) Provide an approved Fire Suppression System for the building.</li> <li>b) Provide an approved Local Protective Signaling System that will include hard-wired smoke detectors, strobes, horn/strobes and pull stations throughout the building.</li> <li>c) All Exit signs shall be illuminated with an electrical power source, battery-power back-up, red face and LED.</li> <li>d) Emergency illumination shall be provided by an electrical power source and have a battery power back-up.</li> <li>e) Exit ways shall remain unobstructed and exit corridors shall be a minimum of 44 inches wide.</li> <li>g) Fire extinguishers (2A:10BC) shall be provided in locations approved by the Fire Marshal.</li> <li>h) Water heaters shall be securely fastened with two approved straps per heating unit.</li> <li>i) A "key box" shall be installed at the location specified by the Fire Marshal.</li> <li>j) The structure shall conform to all</li> </ul>	Fire Department	BP	

No.	Condition	Responsible Department	Permit Level	Verified
	applicable NFPA regulations (See memo dated February 18, 2004, Attachment D).			
A-4	Construction activity shall be restricted to the hours as specified in Section 8-1.7 (g) (1) of the Albany Municipal Code. The General Contractor shall be responsible for adhering to the specified hours and will provide contact information that will be distributed to neighbors on both sides of that block of Kains Avenue and also posted on the site. During demolition/ grading/ construction <u>all</u> construction vehicles shall access the site from San Pablo Avenue.	Planning	BP	
A-5	In the event subsurface archeological remains are discovered during any construction or preconstruction activities on the site, all land alteration work within 100 feet of the find shall be halted, the Community Development Department notified, and a professional archeologist, certified by the Society of California Archeology and/or the Society of Professional Archeology, shall be notified. Site work in this area shall not occur until the archeologist has had an opportunity to evaluate the significance of the find and to outline appropriate mitigation measures, if deemed necessary. If prehistoric archeological deposits are discovered during development of the site, local Native American organizations shall be consulted and involved in making resource management decisions.	Planning	All phases of project construction	
A-6	A design level geotechnical investigation shall be completed to assess specific soils and geologic	Public Works	BP	

No.	Condition	Responsible Department	Permit Level	Verified
	conditions of each building site, as required by the Zoning Ordinance. Structural and foundation design recommendations made in such reports shall be incorporated into building plans. (See memo dated January 5, 2005, Attachment E).			
A-7	A Safety and Security Plan shall be prepared for the building and approved by the Albany Police Department. At minimum, the Plan shall address placement of exterior lighting, location and type of locks to be used, and security for the residential lobby.	Police	BP	
A-8	Public improvements shall be designed and constructed in accordance with the City's Standard Specifications and Standard Details.	Public Works	On-going	
A-9	All improvements shall be continuously maintained in good working order and appearance at all times, including but not limited to gates, landscaping, building exterior and signs.			
<b>B. Site Planning</b>				
B-1	All exterior lighting shall be installed in such a manner that glare is directed away from surrounding properties and rights-of-way. If required, exterior light fixtures shall be equipped with "cut off" lenses to minimize light and glare spill over.	Planning	BP	
B-2	The applicant shall submit a lighting and photometric analysis that depicts levels of lighting on the site. The final lighting plan and photometric analysis plan shall be approved by the Police and Community Development Departments to ensure that an adequate amount of lighting is provided on the site without spill-over	Planning Police	BP	

No.	Condition	Responsible Department	Permit Level	Verified
	of unwanted light on adjacent properties.			
<b>C. Landscaping and Fencing</b>				
C-1	A final landscape and irrigation plan, prepared by a California-registered landscape architect or landscape designer as approved by the Community Development Director, shall be submitted and approved by the City of Albany prior to issuance of a building permit. Plan shall include all of the suggested revisions as stated in the staff report dated January 11, 2005. Landscape and irrigation improvements shall be installed prior to the issuance of a Certificate of Occupancy by the City of Albany.	Planning	BP	
C-2	Landscape and irrigation plans shall comply with the State of California and East Bay Municipal Utility District water efficient landscape standards.	Planning	BP	
C-3	The applicant shall apply for street trees prior to the issuance of building permits. The Environmental Resource Associate shall determine the number and size of street trees. The applicant shall contact the City's Environmental Resource Associate to initiate this process.	Planning	BP	
C-4	The applicant shall notify the residents within 500 feet in writing that the roses are available to remove 30 days prior to commencing any demolition work.	Planning		
C-5	The landscaping in the rear setback shall be maintained to allow vehicles entering and exiting the site the required sight distance. Any ground cover vegetation shall be less than 3 feet in height, and all trees shall have a clearance between the ground and	Planning		

No.	Condition	Responsible Department	Permit Level	Verified
	lowest branches of at least 5 feet.			
C-6	Prior to the issuance of building permits, the applicant shall work with the abutting residents at (712, 712½, 720, 724 and 726 Kains Avenue) on the design of the common fencing. Final design shall be subject to review and approval by the Planning Division.	Planning	BP	
D. Architecture				
D-1	Samples of final exterior materials and the proposed color palette shall be submitted for review and approval by the Planning Division prior to issuance of building permits for the project.	Planning	BP	
D-2	The applicant shall submit final architectural elevations, details and revisions for the review and approval of the Planning Division prior to issuance of building permits.	Planning	BP	
D-3	All new window glazing shall be recessed a minimum of three (3) inches from face of building to provide adequate shade and shadow and to promote visual relief. Alternate architectural treatments may be acceptable in lieu of a window recesses. Such alternative treatments are subject to review by the Planning Division. Final window details shall be submitted for review and approval of the Planning Division prior to issuance of a building permit application.	Planning	BP	
D-4	Glazing material shall be non-reflective.	Planning	BP	
D-5	All roof mounted mechanical and other equipment shall be fully screened from adjacent public rights-of-way and properties and shall be painted to match the adjacent roof color.	Planning	BP	
D-6	Exterior signs shall be painted on wood or a wood-like material, with	Planning		

No.	Condition	Responsible Department	Permit Level	Verified
	either flat or routed out letters.			
<b>E. Parking</b>				
E-1	A minimum of 68 on-site parking spaces shall be provided, based on 25 dwelling units and 5,643 square feet or retail/restaurant to be constructed on the site. Four (4) of the residential parking spaces shall be shared use with the commercial	Planning	BP	
E-2	A minimum of one bicycle rack/storage space shall be provided within the garage area for each apartment unit and in front of the two commercial spaces.	Planning	BP	
E-3	Tandem parking shall be dedicated to the parking of residents' automobiles exclusively.	Planning	BP	
E-4	The applicant will need to revise the parking plan so that the second disabled parking space is Code compliant. A net loss of parking may affect the amount of commercial space (restaurant/retail).	Planning	BP	
E-5	The Planning Manager shall approve the design of the access gates located off Kains Avenue. Access gates shall be of a design that minimizes noise levels to the maximum extent practicable. Gates shall be maintained in good working order at all times.	Planning	BP	
<b>F. Grading</b>				
F-1	The site plan shall indicate that all stormwater from the project site will be collected and conveyed to a public facility of adequate capacity. A hydrology study shall be prepared, to include hydraulic calculations, to verify that increased rainfall and runoff caused by the project will not exceed the gutter capacity in Kains Avenue.	Public Works	BP	
F-2	A grading and drainage plan	Public Works	BP	

No.	Condition	Responsible Department	Permit Level	Verified
	conforming to Chapter XXI of the Albany Municipal Code is required. Drainage must not cross property lines or sidewalks. Submit plan prepared by a California registered professional engineer.			
F-3	A dust control program shall be prepared by the project developer and approved by the Community Development Department and City Engineer prior to issuance of a building permit. The dust control plan shall address such items as covering stockpiled material, frequent watering of graded areas, revegetating graded areas, speed limits for grading equipment and similar items.	Public Works	BP	
F-4	The project developer shall submit an erosion control plan to ensure that sediment and other construction debris does not run off of the site during the rain season. The erosion control plan shall be approved prior to issuance of a building permit.	Public Works	BP	
<b>G. Parcel Map</b>				
G-1	Submit evidence that the parcels have been merged or obtain a parcel map in accordance with the Albany Municipal Code and the State subdivision map act.	Public Works Planning	BP	
G-2	Survey - the City monuments are of record with the County Surveyor as miscellaneous Map T-4895. This reference should be included on any (parcel or tentative) map.	Public Works	COO	
<b>H. Streets</b>				
H-1	The existing curb, gutter and sidewalk on Kains Avenue and San Pablo Avenue must be removed and replaced and improvements as per Section 22-9 of the Albany Municipal Code. Slurry seal Kains Avenue street	Public Works	COO	

No.	Condition	Responsible Department	Permit Level	Verified
	for full frontage. Submit plans prepared by a California registered professional engineer.			
H-2	The applicant shall obtain an encroachment permit from Caltrans prior to commencing any construction within the San Pablo Avenue right-of-way and from the Engineering Division for any construction within any other public right-of-way or easement.	Public Works	Prior to commencement of construction in r.o.w.	
H-3	Install new standard curb inlets on San Pablo Avenue and Kains Avenue	Public Works	BP & COO	
H-4	The applicant shall submit a plan showing a new landscaped median on San Pablo Avenue for the property's entire frontage. Median shall be designed to prohibit left turns into the site from San Pablo Avenue.	Public Works	BP	
H-5	All mud, dirt or construction debris carried off the construction site onto adjacent streets shall be removed each day. No materials shall be discharged onto a sidewalk, street, gutter, storm drain or creek.	Public Works	During construction	
H-6	Any damage to street improvements directly attributable to the project during construction on or adjacent to the subject property shall be repaired to the satisfaction of the City Engineer at the full expense of the applicant. This shall include sidewalk repair, slurry seal, street reconstruction or others, as may be required by the City Engineer.	Public Works	During construction	
<b>I. Infrastructure</b>				
I-1	All existing utility services must be abandoned. The sanitary sewer lateral must be abandoned at the main.	Public Works	COO	
I-2	Upper and lower sewer lateral to be six (6) inches in diameter from the new building to main will be required.	Public Works	COO	

No.	Condition	Responsible Department	Permit Level	Verified
	Connection permit and fees will be required for net new residential units.			
I-3	The project developer shall provide the City Engineer with a letter from East Bay Municipal Utility District stating that the District has agreed to furnish water service to the project.	Public Works	BP	
I-4	East Bay Municipal Utility District shall review and approve the improvement plans as evidenced on their signature on the Title Sheet of the improvement plans. Applicant shall also obtain a Fat Oil and Grease (FOG) permit for the grease interceptor.	Public Works	Building Plans/Improvement drawings	
I-5	Existing unneeded poles on the project site or on immediately adjacent right-of-way shall be removed.	Project Developer	BP	
I-6	Any water well or exploratory boring must be properly abandoned, backfilled or maintained in accordance with applicable groundwater protection ordinances.	Public Works	BP	
I-7	The project developer shall enter into a deferred improvement agreement with the City of Albany for the future undergrounding of overhead utility lines along the project frontage. New underground electric and communication services shall be underground.	Public Works	BP	
I-8	Off-site improvements shall be completed prior to issuance of a Certificate of Occupancy unless the Albany City Engineer approves alternatives in writing.	Public Works	COO	
<b>J. Miscellaneous</b>				
J-1	The project shall be constructed as approved. Planning staff may approve minor modifications in the project design, but not the use. Any other change shall require further Planning and Zoning Commission approval	Planning	All project phases	

No.	Condition	Responsible Department	Permit Level	Verified
	through the Design Review process.			
J-2	Commercial trucks longer than 30 feet, except moving trucks, shall be prohibited from accessing the site from the Kains Avenue entrance.	Planning Police		
J-3	Pursuant to Government Code Section 66474.9, the applicant (including any agent thereof) shall defend, indemnify, and hold harmless, the City of Albany and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul the City's approval concerning this application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the applicant of any such claim action or proceeding and cooperate fully in the defense.	City Attorney	All project phases	
<b>K. Special Conditions.</b>				
K-1	The applicant has identified the four (two very low and two low) affordable housing units. Applicant shall enter in an affordable housing agreement with the City for the purpose of assuring the affordability of said units. Such agreement shall be reviewed by the City Attorney and shall be subject to the approval of the City Council. The agreement shall include those items discussed in Section 20.40.080 A of the proposed Zoning Ordinance.	Planning City Attorney City Council	BP, COO	
K-2	The Conditional Use Permit and Design Review approval shall lapse and become invalid at the close of business on January 25, 2006, (one year from the date on which this approval becomes effective) unless, before expiration of one year, a	Planning		

No.	Condition	Responsible Department	Permit Level	Verified
	Building Permit is issued and construction commenced or completed.			
K-3	<u>Security for Public Improvements:</u> Submit performance and payment bonds or other suitable security in conformance with the City code and State Subdivision Map Act supported by a cost estimate prepared by a registered civil engineer. (Code Sec. 22-9.8)	Planning Public Works	BP	
K-4	Any restaurant use is required to close no later than 10:00pm Sunday - Thursday and 11:00pm Friday and Saturday. An amendment to the Conditional Use Permit is required to alter these closing times.	Planning		

**Appeals:** The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council if such appeal is filed within 14 days of the date of action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee. The City Clerk will then schedule the matter for the next available City Council meeting.

*City of Albany*  
**Planning and Zoning Commission**  
**MEMORANDUM**

**Meeting Date:** May 27, 2008

**Agenda Item:** 4d

**Subject:** 727 San Pablo Avenue. Planning Application 08-036. Approval of Minor Exterior Alteration. A request for approval for installation of a gate into the parking lot at 727 San Pablo Avenue.

**Discussion:**

A twenty-five unit mixed-use development located at 727 San Pablo Avenue recently completed construction. In the last couple of months the property has experienced graffiti, vandalism, and trespassing. People have been accessing the site from San Pablo Avenue through an entry that continues through to the parking area at the rear of the property. An electric metal gate was approved at the rear of the lot. (see attachment 2). The applicant requested approval to allow a matching gate to be installed at the front of the property, along San Pablo Avenue, to prevent people from entering the site.

Typically staff would administratively approve such a request. The issue, however, was discussed during the entitlement hearings where there was a consensus that it was preferred not to have a gate run along San Pablo Avenue. Staff believes that due to the current incidents that have occurred at the site it is in the best interest of both the tenants and the public to have a gate installed. Staff intends on administratively approving the request but welcomes any input from the public or Commission on the matter.

**Attachments:**

1. Application
2. Photos

*Attachment #2*

*City of Albany*  
**Planning and Zoning Commission**  
**Minutes May 27, 2008, Meeting**

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

**Regular Meeting**

**1. Call to order**

The meeting of the Planning and Zoning Commission was called to order by Chair Panian, in the Albany Community Center at 7:30 p.m. on Tuesday, May 27, 2008.

**2. Pledge of Allegiance**

**3. Roll Call**

Present: Maass, Moss, Panian

Absent: Arkin, Gardner

Staff present: Planning & Building Manager Jeff Bond, Associate Planner Amber Curl,  
Planning Clerk Amanda Bennett

Chair Panian announced that due to a lack of a quorum, the following items would be rescheduled: items **4a**, **6a**, **6b**, and **6c** would be postponed until June 10, 2008 and **6d** would be postponed until June 24, 2008.

**4. Consent Calendar**

**a. Minutes from the April 8, 2008 meeting.**

*Staff recommendation: approve.*

**b. 1166-1170 Solano Ave. Planning Application 08-021. Parking Exception.** A request for a Parking Exception to allow the waiver of the two additional parking spaces that would be required due to the restaurant expansion.

*Staff recommendation: approve.*

**c. 1100 Portland Avenue and 701-705 San Pablo Avenue. Planning Application 07-083. Condominium Conversion.** A request for approval of a Condominium Conversion to allow 12 existing apartment units and two retail commercial spaces to be converted into condominiums.

*Staff recommendation: approve.*

**d. 727 San Pablo Avenue. Planning Application 08-036. Approval of Minor Exterior Alteration.** A request for approval for installation of a gate into the parking lot at 727 San Pablo Avenue.

*Staff recommendation: approve.*

Commissioner Moss pulled item **4d**. An unidentified person pulled item **4c**. Commissioner Moss moved approval of item **4b**. Commissioner Maass seconded.

Vote to approve item **4b**:

Ayes: Maass, Moss, Panian

*Attachment #3*

Nays: None  
 Motion passed, 3-0.

**FINDINGS. 1166-1170 Solano**

**Findings for a Parking Adjustment approval (Per section 20.028.040B5 of the AMC)**

<b>Required Finding</b>	<b>Explanation</b>
<p>1. <i>On the basis of a survey or comparable situations, parking demand for the proposed use or uses will be less than the required parking spaces.</i></p>	<p>Staff reviewed the July 2000 Solano Avenue Parking Study to analyze parking counts within a 500 foot radius of the subject property. Staff also completed new parking counts within the same radius, including side street spaces in front of commercial uses. Based on these two surveys, it was found that sufficient street parking was available to justify the approval of a 2 space parking exception. Many of the commercial and retail services along Solano Avenue do not provide off-street parking. The proposed expansion of the existing restaurant should not result in a parking demand greater than that available in the immediate vicinity.</p>
<p>2. <i>The probable long-term occupancy of the property or structure, based on the project design, will not generate substantial additional parking demand</i></p>	<p>The typical clients for the restaurant will be parking on Solano Ave for a time period within the allowable parking time limits and in keeping with other patrons of adjacent businesses along Solano Avenue. Therefore, the project will not generate substantial additional parking demand.</p>
<p>3. <i>Based on a current survey of parking space availability and usage within a five hundred (500)-foot walking distance of the boundary of the site of the subject building, a reduction of the parking requirement will not have a substantial effect on the parking available for neighborhood uses.</i></p>	<p>Staff reviewed the 2000 Solano Avenue Parking Study and also completed new parking counts within a 500-foot radius of the site. The parking counts from the two studies showed approximately the same occupancy ratios, with an overall occupancy rate from 11:00am - 8:00pm of between 81% and 84%. An average vacancy rate of 16-19% should be adequate to accommodate a two parking space parking exception.</p>

Item 4c Associate Planner Curl delivered the staff report. Chair Panian opened the public hearing. David Farello, tenant, stated the tenants were not noticed regarding this meeting. He was opposed to the application. Julie Graves, Albany resident, spoke in favor of rental units with sheltered parking and elevators. Ed Fields, Albany resident, asked whether the meeting had been properly noticed. Planning Manager Bond described the noticing procedure. Frank

Bergamaschi and Sarah Woodard, the property owners, spoke in favor of the application. Chair Panian closed the public hearing.

Commissioner Moss recommended that if any tenants were displaced from units for sale, they be given preference for rental of the other units. Chair Panian wanted the affordable units to remain rentals. Commissioner Maass noted that anything involving the inclusionary housing would come before the Commission again.

Commissioner Moss moved approval. Commissioner Maass seconded.

Vote to approve item 4c:

Ayes: Maass, Moss, Panian

Nays: None

Motion passed, 3-0.

#### **FINDINGS. 1100 Portland**

##### **For Condominium Approval, Physical: Section 20.60.060:**

###### A. Compliance with Applicable Codes and Additional Standards.

- 1) Utilities: The apartments already have shared meters utilities. The HOA shall be responsible for all utility allocation among the units as well as payment for utilities. A condition of approval has been added (condition 4) requiring that the project meet all requirements for utilities.
- 2) Fire Prevention: A condition of approval has been added (condition 5) requiring that the project meet all fire prevention requirements, which will include fire alarms be installed.
- 3) Exits: The structure's exits, exit ways and appurtenances shall conform to the standards set forth in Chapter 8 of the City Housing Code and Chapter 33 of the City Building Code (condition 6).
- 4) Sound Transmission.
  - a) Shock Mounting of Equipment: There are no permanent mechanical equipment, such as motors, compressors, pumps and compactors so shock mounting of equipment is not an issue of concern.
  - b) Noise Standards: The structure shall conform to all interior and exterior sound transmission standards of California Building Code.
- 5) Private Storage Space: 200 cubic feet of waterproof, lockable storage space has been provided for each unit on the first floor (diagram found in attachment 4, section 11), which complies with storage spaces requirements.

- 6) Landscape Maintenance: A condition of approval has been included (condition 9) requiring that all landscaping shall be restored as necessary and maintained to achieve a high degree of appearance and quality and that a landscape maintenance agreement among the owners shall be included in the CC&Rs for the development.
- 7) Useable Open Space: The Condominium Conversion ordinance states "a multifamily dwelling which does not provide reasonable private and common outdoor usable open space may be considered to be ineligible for conversion." The standard zoning ordinance requirement for a twelve-unit project would be 1,200 feet of shared usable open space (this requirement could be reduced with private open space, but this alternative is not applicable to this application). A 2,752sq.ft. courtyard has been provided for the tenant. Thus, the proposed conversion is conforming with respect to this requirement.

**For Condominium Approval, Non-Physical: Section 20.60.060:**

- A. General Plan Conformity: The General Plan designation for the subject property is Commercial. Policy LU 1.2: states that a goal is to "Establish Zoning standards for areas designated Planned Residential Commercial (PRC) to encourage, but not necessarily require, that redevelopment of underutilized commercial areas include a mix of residential and commercial uses.

GOAL LU 2: Encourage and upgrade commercial and mixed residential-commercial use development along San Pablo Avenue in order to expand the City's economic base, to increase housing opportunities, and to foster transit-oriented development along this major transit corridor.

The General Plan's Housing Element includes goals and programs that encourage preservation of rental housing. Housing Element Policy HE 1.2 states "Continue to limit conversion of existing multi-family residential units to condominiums. Limited equity cooperatives and other innovative housing proposals which are affordable to low and moderate income households are encouraged." This policy has been implemented in the zoning ordinance with an annual limitation on the conversion of rental units, and the proposed conversion complies with the annual limitation (see paragraph C. below).

The project proposed project complies with all three of these general plan policies. It provides a mixed-use development that is located along a street with transportation and retail options. Approval of the condominium conversion will not decrease the number of units in the city but will increase the number of owner-occupied units.

- B. Impact on Senior Citizen, Disabled and Low/Moderate Income Tenants: There are currently tenants on the site. The applicant intends to sell only four units in the near future. All tenants will be offered first rights to refusal. A condition of approval has been

added requiring that future tenant relocation plans shall be reviewed and approved by planning staff prior to implementation.

- C. Annual Limitation: The city has received one other condominium conversion application in the calendar year 2007 for 4 units; therefore, the number of condominium conversions exceeding the 3% of the City's total multi-family rental housing is not a concern.

Item 4d Planning Manager Bond delivered the staff report. Chair Panian opened the public hearing. Ed Fields stated a gate would make the parking inaccessible. He wondered how enforcement of gate open/gate closed hours would be managed. He asked that the owners be made to comply with affordable housing levels before giving them anything. No one else wished to speak. Chair Panian closed the public hearing.

Commissioner Moss stated that many details from the approved plans had been skipped and/or lost. He wanted the inclusionary housing filled instantly. Chair Panian wanted to hear from the applicants themselves.

Commissioner Moss moved denial of the application because the gate would not be consistent with the original approval. Commissioner Maass seconded.

Vote to deny item 5d:

Ayes: Maass, Moss, Panian

Nays: None

Motion passed, 3-0.

## 5. Public Comment on Non-Agenda Items

There was no public comment.

## 6. Discussions and Possible Action on Matters Related to the Following Items

- a. **1157 Brighton Avenue and 420 Cornell Avenue. Planning Application 07-079. Design Review.** Request for a Design Review approval on an application to construct a new two-story, multi-family building.

*Staff recommendation: approve.*

- b. **908 Ventura. Planning Application 07-081. Design Review. Conditional Use Permit.** A request for Design Review approval to allow a 923sq.ft. second-story addition to an existing single-family home. A Conditional Use Permit is also requested to allow the extension of a nonconforming (northern) wall.

*Staff recommendation: provide direction to the applicant on appropriate revisions to the project and approve it subject to staff review and approval.*

- c. **905 Carmel. Planning Application 08-019. Design Review.** Request for Design Review approval to allow a 609sq.ft. second-story addition to an existing single-family home.

*Staff recommendation: approve.*

**d. 1020 Curtis. Planning Application 07-042. Review for compliance with Conditions of Approval** (two-story addition to an existing single-family home).

*Staff recommendation: provide direction to applicant on appropriate revisions or approve as proposed.*

Items 6a, 6b, 6c, and 6d were all continued to the next meeting, as initiated by staff recommendation.

Vote to continue item **6a, 6b, 6c, and 6d**:

Ayes: Arkin, Gardner, Maass, Moss, Panian

Nays: None

Motion passed, 5-0.

**e. 701-705 Hillside. Status Report on Implementation of Planning Application 05-025.**

Discussion of implementation of project originally approved in 2004 to construct two single family homes.

*Staff recommendation: discuss and provide direction to staff and applicant on appropriate "next steps" if needed.*

Planning Manager Bond delivered the verbal staff report. Chair Panian opened the public hearing. Thelma Rubin, Albany resident, was concerned the FAR calculation was not sufficiently limiting the size of hillside projects. She recommended not allowing bathrooms in storage areas. Michael Wallace, Albany resident, was disappointed there was no written staff report. He asked whether the scenic easement had been recorded.

Ruth Ganong, Albany resident, asked whether the deed restriction stating that there was not a legal secondary residential unit had been filed. An unidentified person asked whether there was a limit on the amount of hardscaping allowed. Planning Manager Bond explained that there would be a drainage plan. No one else wished to speak. Chair Panian closed the public hearing.

**f. Study Ordinance regarding Tobacco-Related Retail Establishments**

*Staff recommendation: discuss and provide direction to staff and/or recommendation to City Council on study of the need for regulations regarding the sale of tobacco productions.*

Planning Manager Bond delivered the staff report. Commissioner Moss requested that the ordinance stay non-specific and be applicable city-wide. Commissioner Panain added that concurred and mentioned that a broad range of options for the ordinance was preferable.

**7. Announcements/Communications:**

**a. Update on Waterfront Planning**

**b. Update on City Council actions related to Planning and Zoning**

**c. Reminder of Design Review Guidelines work session on Tuesday, June 17, 2008, 7:00 at the Albany Community Center**