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RESOLUTION NO. 2013-6

**A RESOLUTION OF THE ALBANY CITY COUNCIL
ADOPTING FINDINGS FOR APPROVAL OF AT&T WIRELESS
APPLICATION # PA12-050 A NEW WIRELESS COMMUNICATION
FACILITY AT 1035 SAN PABLO AVENUE AND DENYING THE APPEAL
OF THE DECISION OF THE PLANNING AND ZONING COMMISSION**

WHEREAS, In 2005, the City Council of the City of Albany adopted Ordinance #05-02 approving Planning and Zoning Code Section 20.20.100 (Wireless Communications Facilities); and

WHEREAS, in summary, the purpose and intent of Planning and Zoning Code Section 20.20.100 is to establish standards to regulate the placement and design of wireless communications facilities in a manner consistent with Federal law; and

WHEREAS, Planning and Zoning Code Section 20.20.100 F. requires that wireless communications facilities are subject to the approval of a Conditional Use Permit and approval of Design Review pursuant to procedures and findings established in Section 20.20.100 and Section 20.100; and

WHEREAS, the property at 1035 San Pablo Avenue is located in the "SPC" (San Pablo Commercial) zoning district; and

WHEREAS, abutting properties to the east located on Kains Avenue are located in "R-3" (High Density Residential) zoning district; and

WHEREAS, the City Council upheld the denial of application PA 08-038 denying a new AT&T wireless facility at 1035 San Pablo Ave. on July 16, 2012; and

1 **WHEREAS**, AT&T filed a lawsuit against the City of Albany on August 15,
2 2012 in federal court on the previous application denial; and

3
4 **WHEREAS**, City staff and the City’s external legal counsel have prepared
5 the administrative record on the previous application and litigation is scheduled to
6 proceed; and

7
8 **WHEREAS**, AT&T Wireless (hereinafter referred to as Applicant) filed an
9 application on October 5, 2012 with the City of Albany (hereinafter referred to as
10 City) requesting a Conditional Use Permit and Design Review approval for the
11 construction, operation, and maintenance of new wireless equipment at 1035 San
12 Pablo Ave.; and

13
14 **WHEREAS**, staff deemed the application incomplete on October 31, 2012;
15 and

16
17 **WHEREAS**, AT&T resubmitted a revised alternatives analysis on November
18 16, 2012; and

19
20 **WHEREAS**, On November 30, 2012 City staff asked for additional
21 information to be provided in the alternatives analysis including

- 22 • Description of Tools Used to Calculate Propagation Predictions
- 23 • Radiofrequency Considerations description for each site considered
- 24 • Conclusion of the Analysis; and

25 **WHEREAS**, AT&T submitted a revised Alternatives Analysis on December
26 6, 2012; and

27
28 **WHEREAS**, City staff deemed the application complete on December 17,
29 2012; and

30

1 **WHEREAS**, the City retained the services of the consulting firm Kramer.
2 Firm Inc., who specializes in telecommunications review for municipalities, to
3 conduct a third-party review of the application;

4
5 **WHEREAS**, Kramer. Firm Inc. prepared a report on the application dated
6 January 14, 2013;

7
8 **WHEREAS**, AT&T is proposing to demolish the roof-top penthouse as part
9 their application request, eliminating existing legal non-conforming roof-top coverage
10 conditions at 1035 San Pablo Ave. which was the basis for the previous denial; and

11
12 **WHEREAS**, the roof top coverage at 1035 San Pablo Ave. is reduced to less
13 than the 10% threshold required in pursuant to Section 20.24.080 (B) with the
14 proposed demolition of the penthouse; and

15
16 **WHEREAS**, AT&T is proposing to lease an office suite for supporting
17 equipment and will be fully enclosed within the building; and

18
19 **WHEREAS**, a “Wireless Communication Facility” is defined in Section
20 20.08.020 as follows:

21
22 *Wireless Communications Facility means any device or system for the*
23 *transmitting and/or receiving of electromagnetic signals, including but not*
24 *limited to radio waves and microwaves, for cellular technology, personal*
25 *communications services, mobile services, paging systems and related*
26 *technologies. Facilities include antennas, microwave dishes, parabolic*
27 *antennas and all other types of equipment used in the transmission and*
28 *reception of such signals; structures for the support of such facilities,*
29 *associated buildings or cabinets to house support equipment, and other*
30 *accessory development; and*

1 **WHEREAS**, a public hearing notice mailed to property owners within 300 ft.
2 of the subject site and was posted in three public places on Monday January 7, 2013
3 pursuant to Government Code Section 65090 for the Planning & Zoning Commission
4 hearing; and

5
6 **WHEREAS**, on January 17, 2013 the Planning & Zoning Commission held a
7 public hearing, considered all public comments received, the presentation by City
8 staff, the staff report, and all other pertinent documents regarding the proposed
9 request; and

10
11 **WHEREAS**, the Planning and Zoning Commission reviewed and approved
12 the application request at its January 17, 2013 hearing;

13
14 **WHEREAS**, the Planning Commission included a special project condition as
15 part of their approval to eliminate the enclosure screen on the south facing elevation
16 and require that the antennas be painted to match the existing building; and

17
18 **WHEREAS**, an appeal of the Planning & Zoning Commission decision was
19 filed with the City on January 30, 2013 by Heike Abeck; and

20
21 **WHEREAS**, the appellant identified five issues as the basis for the appeal

- 22
- 23 • Existing building height is non-conforming
 - 24 • Lack of antenna screening
 - 25 • 50 ft. setback from residential property line has not been satisfied
 - 26 • Lack of due diligence on alternative sites analysis
 - 27 • Lack of radio frequency exposure testing by the City; and
- 28

29 **WHEREAS**, City staff scheduled the appeal hearing for City Council on February
30 19, 2013 pursuant to Section 20.100.080 (E) (1) which requires that the appeal be
31 scheduled within thirty (30) days of the initial filing; and

1
2 **WHEREAS**, a public hearing notice was mailed to property owners within
3 300 ft. of the subject site and was posted in three public places on Friday February 8,
4 2013 for the City Council appeal pursuant to Government Code Section 65090; and

5
6 **WHEREAS**, on February 19, 2013 the City Council held a public hearing,
7 considered all public comments received, the presentation by City staff, the staff
8 report, and all other pertinent documents regarding the proposed request;

9
10 **WHEREAS**, Planning and Zoning Code Section 20.100.080.F establishes the
11 following standards for review of appeals:

12
13 *When reviewing any decision of the Planning and Zoning Commission on*
14 *appeal, the City Council shall use the same standards for decision making and*
15 *is required to make findings in accordance with the Municipal Code. The*
16 *Council may adopt the Planning and Zoning Commission’s decision and*
17 *findings as its own. In either case, the City Council shall have the option to*
18 *prepare a resolution stating the council’s decision or shall render its decision*
19 *by minute action.*

20
21 **NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the
22 City of Albany approves application request PA 12-050 and denies the appeal based
23 on the following findings:

24
25 **1. FINDINGS FOR EXEMPTION FROM CEQA**

26
27 **Finding:** The project is Categorically Exempt from the California Environmental
28 Quality Act Guidelines pursuant to Section 15303 “New Construction or
29 Conversion of Small Structures”.

1
2 **Evidence:** The proposed application would result in minor changes to the exterior
3 of an existing three story structure.
4

5 **2. FINDINGS FOR APPROVAL OF DESIGN REVIEW**
6

7 **Findings for Design Review approval (Per section 20.100.050.E of the AMC)**
8

- 9 1. **Finding Required for Approval:** The project conforms to the General Plan,
10 any applicable specific plan, applicable design guidelines adopted by the City
11 of Albany, and all applicable provisions of this Chapter.
12

13 **Evidence:** The General Plan designates this area for commercial and
14 commercially related development. Additionally, the project meets
15 City zoning standards for location, intensity and type of development.
16

- 17 2. **Finding Required for Approval:** Approval of project design is consistent
18 with the purpose and intent of this section, which states “designs of
19 projects...will result in improvements that are visually and functionally
20 appropriate to their site conditions and harmonious with their surroundings,
21 including natural landforms and vegetation. Additional purposes of design
22 review include (but are not limited to): that retention and maintenance of
23 existing buildings and landscape features are considered; and that site access
24 and vehicular parking are sufficient.”
25

26 **Evidence:** The proposal is in scale and harmony with existing
27 development in the vicinity of the site. The antennas will be painted to
28 match the finish of the existing building. Supporting equipment will be
29 contained in a lease office suite fully enclosed within the building. The
30 building is also one of the tallest in the city, which will make the
31 antennas and equipment minimally visible from other structures or to

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passers-by. The facility is also co-locating with existing telecommunication carriers thus will not change the use or drastically change the aesthetics of the building.

- 3. **Finding Required for Approval:** Approval of the project is in the interest of public health, safety and general welfare.

Evidence: The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely impact property, improvements or potential future development in the area. A third party review has been conducted and a number of conditions of approval requiring signage about radio frequency levels, as well as relocation of the antennas if in future residential development in the controlled radio frequency level areas is constructed.

- 4. **Finding Required for Approval:** The project is in substantial compliance with applicable general and specific Standards for Review stated in Subsection 20.100.050.D.

Evidence: The project as designed is in substantial compliance with the standards as stated, including access, architecture, natural features, coordination of design details, and privacy. The proposed project will not affect the use, drastically affect the aesthetics, or at all the privacy at or around the site.

3. FINDINGS FOR APPROVAL OF CONDITIONAL USE PERMIT

- 1. **Finding Required for Approval:** The size, location and intensity of the project are desirable and compatible with the neighborhood and community.

1 **Evidence:** The proposed wireless communication facility is co-located
2 with existing facilities. It is located in one of three conditionally
3 permitted zones and will provide additional wireless communication
4 services to city residents and those travelling through the city.
5

6 2. **Finding Required for Approval:** The project will not be detrimental to the
7 health, safety, convenience or general welfare of people residing or working
8 in the vicinity, or injurious to property, improvements or potential
9 development in the vicinity, with respect to aspects including but not limited
10 to the following:

- 11 a. The nature of the proposed site, including its size and shape, and
12 the proposed size, shape and arrangement of structures
- 13
- 14 b. The accessibility and traffic patterns for persons and vehicles, the type
15 and volume of such traffic, and the adequacy of proposed off-street
16 parking and loading.
- 17
- 18 c. The safeguards afforded to prevent noxious or offensive emissions
19 such as noise, glare, dust and odor.
- 20
- 21 d. Treatment given, as appropriate, to such aspects as landscaping,
22 screening, open spaces, parking and loading areas, service areas,
23 lighting and signs.
- 24

25 **Evidence:**

- 26
- 27 a. The site is of sufficient size and shape to successfully install/construct
28 the wireless facilities. The antennas will be located on the rooftop of
29 an existing building and will not change the use or dramatically change
30 the aesthetics of the site.
- 31
- 32 b. The project will not have any increased traffic impacts beyond those
33 typical during the initial installation period. A technician will visit the
34 site once every few weeks, and aside from the visits will be self-
35 sufficient unless emergencies arise.

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c. The project will not develop significant new noxious noise, glare, dust or odor emissions beyond those associated with initial construction activities.

d. The antennas shall be painted to match the existing building.

3. **Finding Required for Approval:** That such use or 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.

Evidence: The proposed project is otherwise consistent with the City's General Plan zoning standards and requirements relating to wireless facilities.

4. FINDINGS FOR APPROVAL REQUIRED PER SECTION 20.20.100F.5 OF THE ALBANY MUNICIPAL CODE

1. **Finding Required for Approval:** The establishment or expansion of the facility demonstrates a reasonable attempt to minimize stand-alone facilities, is designed to protect the visual quality of the City, and will not have an undue adverse impact on historic resources, scenic views, or other natural or man-made resources.

Evidence: The proposal is in scale and harmony with existing development near the site. The antennas will be painted to match the finish of the existing building. The building is also one of the tallest in the city, which will make the antennas and equipment minimally visible. The facility is also co-locating with existing telecommunication carriers thus will not change the use or drastically change the aesthetics of the building.

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2. **Finding Required for Approval:** All applicable Development Standards in subsection 20.20.100.E. above have been met; or: Finding for an exception to the Development Standards: Strict compliance would not provide for adequate radio-frequency signal reception and that no other alternative solutions which would meet the Development Standards are feasible.

Evidence: The project is consistent with Section 20.20.100 (E) "Development Requirements and Standards" of the Albany Municipal Code.

3. **Finding Required for Approval:** The placement, construction, or modification of a wireless telecommunications facility in the proposed location is necessary for the provision of wireless communication services to Albany residents and businesses, or their owners, customers, guests, or invitees, or other persons traveling in or about the City.

Evidence: The City retained an independent third-party consultant specializing in telecommunications facilities. The consultant concluded that the project site is best suited location within the area for AT&T coverage and that the applicant's justification for the site is sound.

4. **Finding Required for Approval:** Finding for establishment of a satellite dish or parabolic antenna exceeding thirty-nine (39) inches in diameter: A smaller or different antenna cannot feasibly accomplish the provider's technical objectives and that the facility will not be readily visible.

Evidence: N/A

1 **5. Finding Required for Approval:** Findings for the establishment of a
2 wireless communications facility that is not co-located with other existing
3 or proposed facilities or a new freestanding pole or tower (at least one (1)
4 finding required):

- 5 a) Co-location is not feasible;
6
7 b) Co-location would have more significant adverse effects on
8 views or other environmental consideration;
9
10 c) Co-location is not permitted by the property owner;
11
12 d) Co-location would impair the quality of service to the existing
13 facility;
14
15 e) Co-location would require existing facilities at the same
16 location to go off-line for a significant period of time; or
17

18 **Evidence:** The project as proposed would be considered a co-location.
19 These provisions are not applicable to the application request.
20

21 **5. FINDINGS FOR APPROVAL AS REQUIRED BY SECTION 20.20.100(D)(4)**
22 **OF THE ALBANY MUNICIPAL CODE**
23

24 **Finding Required for Approval:** In the San Pablo Commercial District and
25 the Solano Commercial District any wireless communication facility that abuts a
26 residential district shall be set back from a property line that is contiguous to the
27 residential district a minimum distance of fifty (50) feet, provided that such
28 distance may be reduced by the Planning and Zoning Commission based on a
29 determination that the lesser distance will not have perceptibly greater noise
30 impact or greater visual impact with respect to properties in the abutting
31 residential district, and further provided that there be no less than ten (10) feet of
32 separation between a property line that is contiguous to the residential district and
33 the subject wireless communication facility (with the exception of such elements
34 as transmission cables and meter boxes).
35

1 **Evidence:** The Commission determined that the 50 ft. distance could be
2 reduced as the supporting equipment is fully enclosed within the building and
3 is completely screened from public view. It was noted that the equipment is
4 separated by the exterior building wall and an interior office wall from the
5 residential property line and is fully enclosed. The distance from the property
6 line to the interior wall of the AT&T suite is 11 ft.

7
8 **6. FINDINGS FOR APPROVAL AS REQUIRED BY SECTION 20.20.100 (E) (2)**
9 **(e) (1) OF THE ALBANY MUNICIPAL CODE**

10 **Finding Required for Approval:**

11
12 e. All wireless communication facilities shall be screened in one of the
13 following ways:

14
15 1) Substantially screened from the view of surrounding properties and the
16 public view or co-located with existing facilities or structures so as not to
17 create substantial visual, noise, or thermal impacts;

18
19 **Evidence:** The Commission determined that the proposed screen boxes
20 resulted in substantial visual impacts because their size and location is
21 incompatible with the building facade. The Commission conditioned the
22 project to eliminate the screen box on the south elevation and require that the
23 antennas be painted to match the existing building.

24
25 **NOW THEREFORE BE IT RESOLVED,** that the City Council of the City
26 of Albany denies the appeal and upholds the decision of the Planning & Zoning
27 Commission subject to the findings, Conditions of Approval (Exhibit A) and a special
28 condition that AT&T conduct RF testing consistent with the City's Wireless
29 Ordinance requirements every two years.

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PASSED AND ADOPTED by the City Council of the City of Albany on the 19th day of February 2013.

AYES: Council Members Barnes, Maass, Vice Mayor Wile, Mayor Thomsen.

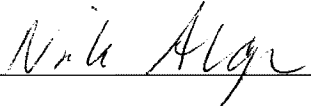
NOES: Council member Atkinson.

ABSENT: \emptyset

ABSTAIN: \emptyset



MAYOR THOMSEN

ATTEST: 

Nicole Almaguer
Albany City Clerk

EXHIBIT A
CITY COUNCIL RESOLUTION 2013-6
CONDITIONS OF APPROVAL
PLANNING APPLICATION 12-050
CONDITIONAL USE PERMIT & DESIGN REVIEW FOR AT&T WIRELESS
COMMUNITY DEVELOPMENT DEPARTMENT CONDITIONS OF APPROVAL

Special Conditions

1. The applicant shall eliminate the screen box on the south elevation and paint the antennas to match the existing building.
2. All roof access doors shall remain locked at all times except during active maintenance by AT&T or authorized building personnel; and
3. AT&T shall place and maintain permanent **RF Notice signs** in English and Spanish on the **roof access doors**. The signage must be a minimum of 8" wide by 12" high, compliant with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions. All such signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC. The location of the sign must be visible to persons immediately prior to entering the roof area; and
4. AT&T shall place and maintain a permanent **RF Notice sign** in English and Spanish on **the BTS platform**. The signage must be a minimum of 8" wide by 12" high, compliant with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions. All such signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC. The location of the sign must be visible to persons no less than 3 feet from the BTS platform; and
5. AT&T shall place and maintain a permanent **RF Caution sign** in English and Spanish at the **access point to the interior of each pop-up enclosure**. The signage must be a minimum of 8" wide by 12" high, compliant with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions. All such signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC. The location of the sign must be visible immediately prior to entering the pop-up; and
6. All access to the proposed pop-up and FRP screen walls shall be secured by AT&T at all times, except during active maintenance by AT&T; and

7. AT&T shall install and at all times maintain in good condition alternating bright color UV stabilized floor stripes in front of Sector A extending from the pop-up in front of Sector A to the end of the controlled zone, at least 42' towards the eastern wall of the building; and
8. Consistent with AT&T's proposed RF safety zone for Sector B, AT&T shall install and at all times maintain in good condition alternating bright color UV stabilized floor stripes in front of Sector B extending from the FRP screen walls to the parapet wall.
9. If members of the General Population are required to be in the controlled zone in front of Sectors A or B, denoted by the roof stripping other than to transit the controlled zone area (i.e., to perform maintenance or repairs on the air conditioning units or roof area, etc. within the controlled zone), AT&T shall coordinate signal transmissions from the that Sector during the entire work period to ensure compliance with the FCC rules.
10. If at any time in the future a mixed-use or residential building is constructed within the RF controlled area, in front of the panel antennas, AT&T will make an adjustments necessary to remain in compliance with applicable FCC rules, subject to any applicable Planning and Zoning Commission review and approval.
11. No portion of the project, including without limitation the equipment cabinets; the mounting platforms, rails and racks; the GPS antenna; cables; work lights; and all other elements of the project shall protrude above the height of the parapet wall.
12. Installation of an emergency generator will be subject to City of Albany review and permits, including if applicable, Planning and Zoning Code review and California, Building, Electrical, Mechanical and Fire Codes."
13. The applicant shall be required to conduct RF testing consistent with 20.20.100 (G) of the Albany Municipal Code. (Per City Council review 2/19/13)

GENERAL PROJECT CONDITIONS

- Gen-1 **Project Approval.** This Design Review and Conditional Use Permit approval is for AT&T Wireless, as substantially shown and described on the project plans, except as may be modified by conditions herein. Plans include plans prepared by AT&T, date received October 5, 2012 (project plans include site plan, elevations, RF report, alternatives analysis, details), all as presented to the Planning and Zoning Commission on January 17, 2013 and the City Council on February 19, 2013. For any condition herein that requires preparation of a Final Plan where the project developer has submitted a conceptual plan, the project developer shall submit final plan(s) in substantial conformance with the conceptual plan, but incorporate the modifications required by the conditions herein for approval by the City.
- GEN-2 **Project Approval Expiration.** This Design Review and Conditional Use Permit approval will expire on February 19, 2014 (one year from the date on which this approval becomes

effective), or at an alternate time specified as a condition of approval, unless a building permit has been issued and construction diligently pursued; a certificate of occupancy has been issued; the use is established; the use permit, variance or design review approval is renewed. The approval may be renewed by the Community Development Director for a period up to an additional two (2) years, provided that, at least ten (10) days before expiration of one (1) year from the date when the approval becomes effective, an application for renewal of the approval is filed with the Community Development Department. The Community Development Director may grant a renewal of an approval where there is no change in the original application, or there is no request to change any condition of approval.

Gen -2a The project is subject to a Standard Agreement pursuant to Section 20.20.100 (F) (6) of the Albany Municipal Code.

Standard Agreement.

b. No use permit shall become effective until such agreement has been executed. Said agreement shall bind the operator, the property owner, and all successor parties to the following:

- 1) Maintain the exterior appearance of the facility;*
- 2) Ultimately to remove the facility in compliance with this Chapter and any conditions of approval;*
- 3) Pay all costs for monitoring for compliance with this agreement and all conditions and environmental mitigation measures;*
- 4) Reimburse the City for all costs incurred for work the applicant had failed to perform;*
- 5) Where applicable in the case of a freestanding tower, the agreement shall stipulate that the permittee will rent or lease available space on the tower, under the terms of a fair-market lease, to other wireless service communication providers without discrimination.*

c. The Community Development Director shall develop a standard form for such agreement which shall include the provisions of this paragraph and other provisions which shall include, but not be limited to authorization for City agents to enter the property, and establishment of liability of the applicant for any pollution resulting from the facility.

Gen 2b- The project also is subject to “Duration, Revocation and Discontinuance” regulations contained in Planning and Zoning Code Section 20.20.100.I:

a. *An approved use permit for a wireless communication facility must be activated within one (1) year from the date of final approval. If not activated within one (1) year from the date of final approval, the permit shall be deemed expired, as provided in subsection 20.100.010.K.1.*

b. *Once activated, all permit approvals for wireless communication facilities shall be valid for an initial maximum period of up to ten (10) years, or as specified by the approving body.*

c. *Permit approvals may be administratively extended without a public hearing for subsequent five (5)-year terms(s) by the Community Development Director upon verification of continued compliance with the findings and conditions of approval under which the application was originally approved, as well as any other provisions provided for in the Municipal Code, and Federal and State regulations which are in effect at the time of permit renewal.*

d. *In the event that the Community Development Director finds that the applicant has not maintained the facility in compliance with all applicable code requirements, conditions of approval and provisions of the maintenance agreement, the Director may initiate a revocation procedure as provided by subsection 20.100.010.M.*

e. *Costs associated with the process of verification of compliance and extension or revocation of approval shall be borne by the permit holder.*

2. *Discontinuance of Use. All equipment and improvements associated with a wireless communication facility shall be removed within thirty (30) days of the discontinuation of the use and the site shall be restored to its original, pre-construction condition, or as approved by the Community Development Director. For facilities located on City property, this removal requirement shall be included within the terms of the lease. For facilities located on private sites, the terms of private leases shall also require equipment removal as a provision of the lease. Written verification of the removal of wireless communication facilities on private property shall be provided to the Community Development Director within thirty (30) days of the discontinuation of the use.*

a. *If the operator fails to remove the wireless communication facilities from the site, the property owner shall be responsible for removal, and may use any bond or other assurances provided by the operator pursuant to the requirements of this Chapter to do so. If such facilities are not removed, the site shall be deemed to be a nuisance and the City may call the bond for removal or take such other action as it deems appropriate.*

b. *Failure to inform the Community Development Director of cessation of operations of any existing facility shall constitute a violation of the Zoning Ordinance and be grounds for:*

1) *Prosecution;*

2) *Revocation or modification of the permit;*

3) *Calling of any bond or other assurance secured by the operator pursuant to the requirements of this Chapter; and/or*

4) *Removal of the facilities.*

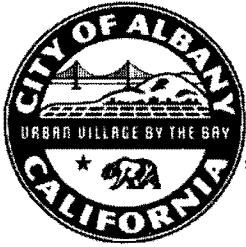
- Gen-3 **Fees.** The applicant shall pay all City and other related fees applicable to the property, as may be modified by conditions herein. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured, and shall be paid before issuance of said permit or before any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering, Fire and Inspection Fees. The project developer shall also reimburse the City for direct costs of planning; building and engineering plan check and inspection, as mutually agreed between the City and developer.
- GEN-4 **Appeals.** The Albany Municipal Code provides that any action of the Planning staff may be appealed to the Planning and Zoning Commission, and any action of the Planning and Zoning Commission may be appealed to the City Council as per the procedures described in Section 20.100.080. The City Clerk will then schedule the matter for the next available City Council meeting.
- GEN-5 **Requirement for Building Permit.** Approval granted by the Planning and Zoning Commission does not constitute a building permit or authorization to begin any construction or demolish an existing structure. An appropriate permit issued by the Community Development Department must be obtained before constructing, enlarging, moving, converting, or demolishing any building or structure within the City.
- GEN-6 **Fire Department Approval.** As part of a building permit application, the applicant shall submit written documentation that all requirements of the Albany Fire Department have, or will be, met to the satisfaction of the AFD.
- GEN-7 **Engineering Approval.** As part of a building permit application, the applicant shall submit written documentation that all requirements of the Public Works Department have, or will be, met to the satisfaction of the City Engineer.
- GEN-8 **Construction Hours.** Construction activity shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. Mondays through Saturdays, and 10:00 a.m. to 6:00 p.m., Sundays and legal holidays, unless otherwise approved in writing by the City Engineer for general construction activity. Failure to comply with construction hours may result in stop work orders or other administrative actions.
- GEN-9 **Modifications to Approved Plans.** The project shall be constructed as approved. Planning staff may approve minor modifications in the project design, but not the permitted land use (per MC 20.12). A change in an item requiring discretionary

approval and any other changes deemed appropriate by the Planning staff shall require further Planning and Zoning Commission approval through the Design Review process.

- GEN-10 **Hold Harmless Agreement.** 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 provide 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.
- GEN-11 **Public Improvements Standards.** Public improvements, as required by the City Engineer during building permit review, shall be designed and constructed in accordance with the City's Standard Specifications and Standard Details, unless specifically waived in writing by the City Engineer.
- GEN-12 **Title 24 Standards.** All construction shall be designed and built in accordance with California Title 24 handicap accessibility standards. Appropriate details and specifications shall be incorporated into the plans and submitted at time of building permit application.
- GEN-13 **Energy Conservation Standards.** All buildings shall be designed in accordance with the State of California energy conservation standards for non-residential buildings. The necessary plans and documentation shall be submitted at time of building permit application.

ARCHITECTURE CONDITION

- ARCH-1 **Material Samples.** Samples of final exterior materials and the proposed color palette shall be submitted for review and approval by the Community Development Department as part of building permit application.
- ARCH-2 **Final Architectural Drawings.** The applicant shall submit final architectural elevations, details and revisions for the review and approval of the Community Development Department as part of building permit application.



City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

RESOLUTION NO. 2013-6

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 19th day of February, 2013, by the following votes:

AYES: Council Members Barnes, Maass, Vice Mayor Wile & Mayor Thomsen

NOES: Council Member Atkinson

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this 20th
Day of February, 2013.

Eileen Harrington
DEPUTY CITY CLERK