

City of Albany
Planning and Zoning Commission
Staff Report

Meeting Date: April 24, 2007

Prepared by: _____

Agenda Item: 6c

Reviewed by: _____

Subject: Continuation of 845 Cleveland. Planning Application 06-078. Lot Line Adjustment. Planned Unit Development. Design Review. The applicant is preparing an application for the approvals necessary to develop four units. No action is being taken at this time.

**Applicant/
Owner:** Debo Sodipo with Carona Engineers, Inc.

Recommendation

Approve project subject to the attached findings and conditions of approval.

Previous Action

No major improvements have recently been made at the property.

Project Description

The applicant is requesting approvals (Lot Line Adjustment, Planned Unit Development, and Design Review for construction of four housing units. The site consists of four vacant lots located at the corner of Cleveland and Solano Avenue.

The lots slope from east to west and slightly from north to south. The combined site areas are 10,945sq.ft. There are multi-family units to both the north and east with the railroad running along the west side of Cleveland.

A minimum of 4,500sq.ft. is required for four units in the R-3, Multi-Family Residential district, which is what the property is zoned. All of the properties between Cleveland Avenue and Pierce street are zoned R-3. The proposed lot range in size between 2,484sq.ft. and 3,281.5sq.ft.

The proposed project would have four buildings, laid out in two pairs with a 4" separation between the pair of buildings. All buildings are proposed to have 3-stories plus a loft, with a maximum height of 36' from natural grade. Two-car tandem parking garages are proposed for each unit and would be accessed from Solano Avenue, which would result in four new curb cuts along Solano Avenue.

Background on Application

The application was first received on October 4, 2006. A letter, stating the items needed to complete the application, was sent on November 2, 2006. The Planning and Zoning Commission reviewed and provided direction to the applicant on appropriate revisions for the project at a study session December 5, 2006. Revised plans were submitted on February 5, 2007 and another incomplete letter, stating the items needing to complete the application was sent on February 16, 2007. The project was reviewed by the Commission on March 13, 2007 where a number of design and structural issues were raised which requires further review.

Environmental Analysis

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15332 of the CEQA Guidelines, which exempts Infill Development Projects.

Identification of Key Issues

Multi-Family Residential Classification.

Municipal Code Section 20.16.020 defines Multiple Family Dwelling - "A structure that contains two (2 or more dwelling units. Types of multifamily dwellings include duplexes, townhouses, and apartment buildings." The proposed project consists of duet-style town homes; therefore, are appropriately classified as a "multifamily dwelling."

Staff recommends that the Commission make the finding that, although the buildings in the project are separated by 4'; they appear and function as a multi-family unit, and should be considered as multi-family for the purpose of compliance with the zoning ordinance. The finding is necessary to support the proposed FAR.

Planned Unit Development (PUD)

The property is zoned R-3 Residential High Density. The neighborhood is not densely developed; however it is zoned and designated in the General Plan as a "high density" district. Key site regulations include: maximum height of 35 feet; front yard setback of 15 feet; and rear yard setback of 15 feet. The applicant is requesting exceptions, through a Planned Unit Development (PUD), to the lot width, front yard setback and height requirements. The purpose of a PUD is to promote flexibility of design and increase available useable open space in developments by allowing diversification in the relationships of various buildings structures and open spaces in building groups. A lot width of 30' is proposed where 50' is required. A 10' front yard setback is proposed where 15' is required. The applicant would like the additional 5' for the units to improve the internal layout of the units and to allow more generous side yards. The proposed height of the buildings is 36' where 35' are required.

Setbacks and height: Originally, as presented at the December 5, 2006 study session, the applicant was requesting a rear yard exception to allow a 10' rear yard setback where 15' is required. At the suggestion of the Commission, the applicant has now reversed the yards so the front yard setback

is 10' and the rear yard setback is 15'. This provides a larger "buffer" between the proposed buildings and the neighbors at the rear. The applicant has also stepped back the building so that the wall closest to the rear property line has a maximum height of 17'. The tallest portion of the building, 36' in height, is located towards the front of the lot. A daylight plane is not required at the rear of the building. The project, however, meets the 45-degree daylight plane requirement for commercial buildings that abut residential properties in the Solano Commercial and San Pablo Commercial districts. This a benefit to rear neighbors because it creates more space, increased privacy and visual relief for the neighbors at the rear.

Amenity/Benefit: The Planning and Zoning Code Section 20.100.060 (Planned Unit Development) requires a finding be made that the project incorporates an exceptional level of amenity or other benefits to the community that could not be achieved with the PUD. In this case, there is approximately 27' between the proposed buildings, which creates a large open space area for tenant use and which visually creates an open area so that the property does not appear as dense or bulky with maximum lot coverage. The design of the buildings is also unique, which will be discussed below in further detail.

Staff believes that the landscaping and fencing of the site are important elements in emphasizing the visual benefits of the open space. The proposed landscape plan includes Japanese maples and shrubs in the front yards. Staff recommends that larger, perhaps deciduous trees, be planted between the two buildings and on the outside of the buildings to enhance and draw the eye to the open spaces. It would also create a truer appearance to what is depicted on the elevations drawings. Staff also recommends that a condition of approval be added requiring that a decorative fence be utilized, with varying slat widths and shapes, as shown on the front elevation on the coversheet of the proposed plans.

CC&Rs: The project does not require CC&Rs since there is no common space and each parcel and building are individually owned.

Design Review

General Design

The proposed design is to be of a contemporary style with a mix of vertical corrugated metal and stucco finish with rectangular shaped windows on all elevations. Aesthetically the units will step down the hill from east to west, which will create some visual variation and interest.

Revisions to plans from March 13, 2007 hearing date:

Originally horizontal wood siding and stucco finish was proposed. At the March 13, 2007 Commission hearing there was concern expressed about the inconsistency of design between the front and side elevations. In response to the concern about consistency in design, the applicant has revised the plans to have the corrugated metal wrap around the top floor of the front elevation and accented the garage door with the metal as well. The bay windows on the side elevations have been lengthened and now span both the second and third floors and are finished in corrugated metal to create a consistency in appearance between the front and side elevations. A stucco roof cap and stucco bellybands have been added to all elevations of the buildings, which serve two

purposes. They break up the massing of the building and add function as a consistent architectural feature.

The front elevations are proposed to have large glass panel windows that span almost the entire width of the building. Most of the building mass is approximately 29' high. The glass panel windows on the front façade protrude out and are taller which creates depth and definition on the building facade. All of the windows are of a rectangular shape and vary in size. There are glass parapets proposed on the tops of the buildings, which are a design feature but also increase the height of the buildings.

The Fire Department has reviewed the revised plans and has stated that each unit has an exterior egress that can be used in case of a fire or life safety issue from the upper two levels (See attachment 4).

The rear elevation has been revised to have balconies on both the second and third floors where originally only a second-story partial balcony was proposed. The third-story balcony spans the entire width of the building and the second-story balcony has remained only a partial balcony but now has metal rod iron railing, which is also proposed for the third-story balcony. A metal spiral staircase is proposed from the ground to the third-story.

The applicant has provided a book of details and cut sheets, which are included in the Commissioner's packets and available for review in the file, showing details of windows, doors, light fixtures, etc.

Garage/Entries: The finished floor height of the garage is 2' above the level of the sidewalk; however, the 10' wide driveways slope down into the garage. The garage doors are inset 5' and have been reduced in width to 8' from 11'-6", which makes the garage less of a prominent feature, which was a concern expressed by the Commission at the March 13, 2007 hearing. The proposed door type is a plain metal door with clean lines. A corrugated metal accent has also been added around the perimeter of the garage door.

A stainless steel metal awning has been proposed above the front doors (See attachment 10). An elongated window has also been added above the doors, which draws the eye to them and accents the entries to make them more of a prominent feature. Both the garage and entry doors are consistent with the contemporary design of the building.

Windows: The windows are all rectangular shaped and vary in size. The applicant has proposed vinyl windows with wide head and base trim (See attachment 10). The placements of the windows are appropriate in that they are arranged in a balanced attractive pattern. The front wall with the large window is set forward from the rest of the wall plane which creates depth and shadowing from all sides.

Design Recommendation: There is an eclectic array of architectural styles in the neighborhood. Staff believes that the large glass panel windows and contemporary theme are architecturally interesting and attractive concepts. Staff also believes that the applicant has been thoughtful in revising the design of the building to be more consistent and attractive on all four elevations.

Staff recommends approval of the design of the project with any conditioned revisions that the Commissions deems appropriate. Staff recommends a condition of approval that the 4' gap between the buildings shall be filled with a one hour fire-rated material to create the appearance of a shared wall, duet-style building, subject to staff review and approval for design and material. The applicant shall also provide a shared wall maintenance agreement be recorded with the deed, prior to certificate of occupancy and subject to staff review and approval.

Grading

Currently the lot has been altered from its original state and topography, with is approximately 2' of soil fill and retaining walls along the west and south sides of the property. As a result, approximately 520 cubic yards of net soil shall be removed for the project. A condition of approval requiring a geotechnical report, subject to Engineering staff review and approval, will be required. Staff also recommends a condition of approval requiring that a structural engineer shall verify the existing retaining walls are structurally sound and appropriate for the proposed project. The applicant shall comply with any recommendations/requirements for improving the retaining wall, as determined by the structural engineer.

Noise

The General Plan states that a residential land uses should not have a exceed 65dB for exterior noise and should not exceed 45dB for interior noise. The railroad tracks run along the western side of the property with Cleveland Avenue running in between. The applicant has provided a noise study, which states that the railroad noise does not contribute significantly to overall average sound levels because the events are infrequent and of short duration. In contrast the highway noise is continuous so therefore is the primary purpose for mitigation measures. The noise study provides construction measures, window types, and building materials, which provide the required interior noise levels. The noise study also recommends that the fence along the westerly property line should have a surface weight density at a minimum of 2 lbs per square foot and without gaps or openings in order for it to act as a noise barrier. It also suggests that landscape design could also be a variable in creating a noise barrier.

Traffic and Circulation

Cleveland Avenue is busy with traffic from Interstate 80 and Solano Avenue is often used as a short cut into town. The proposed development would add four new driveways accessed from Solano Avenue and close to the intersection. Staff believes that the 4 units will not produce an increased level of traffic that warrants a traffic study. The City Engineering staff believes that the 10' width driveways are needed to allow cars to enter at a slightly higher speed since vehicles traveling west will be coming down the hill on Solano Avenue. The wider driveway will reduce create a larger area for the tenant to pull into and thus reduce the probability of a tenant quickly slowing to make a tighter turn and obstructing the flow of traffic. Cars travel quickly around the corner from Cleveland Avenue to Solano Avenue. The Commission may want to add a condition of approval requiring that the applicant stripe Cleveland from the north end of the parcels around the corner to the east end of the parcels on Solano. Striping will decrease the probability of

vehicles “cutting the corner” and provide a definitive area for cars to stay in and thus slow traffic coming around the corner from Cleveland to Solano.

Trees

There is a row of eight redwood trees along the western property line. They are a nice aesthetic element of the property and create a visual barrier from the railroad. The eight redwood trees along the western property lines are proposed to be preserved, which are an acoustical and aesthetic benefit to the site. The applicant has provided an arborist report, which recommends that “Tree 53,” a Monterey pine, as listed on the vegetation map be removed because of its poor health condition. Staff recommends the following tree protection measures as conditions of approval:

Tree Preservation

All existing trees within the project boundaries shall be preserved, except where specifically designated for removal. Any other tree removal shall be permitted only upon approval by the Planning Division. The following procedures shall be required:

1. All trees to be preserved shall be clearly indicated on the grading plan, site plan, composite plans and landscape plans.
2. All trees to be saved shall be fenced at the drip line with approved fencing prior to grading and construction activities. Prior to grading or construction, the developer's contractor shall request City inspection of fencing.
3. No grading, compaction, stockpiling, trenching, paving or change in ground elevation shall be permitted within the drip line of any tree to be saved, until a report prepared by a certified arborist has been submitted to and approved by the City, providing specific guidelines for each case.
4. The arborist report recommendations, as provided by Alexandros Joey Kalofonos, shall be implemented and complied with prior to, during and following construction.
5. The arborist shall be retained during grading and construction. The arborist shall have the authority to require measures to protect the roots and stop construction if necessary to protect the trees. Upon completion of construction, the arborist shall prepare a report outlining the further methods for tree protection if any are required.
6. Dead wood shall be pruned from existing trees.

Lot Line Adjustment

Minor lot line adjustments (4 or less parcels) are adjustments of lot lines where no additional parcels are created and access to all affected parcels is maintained or equivalent to its original configuration. Typically minor lot line adjustments require administrative discretionary review. If the Planning and Zoning Commission approves the Design Review and PUD, staff believes that a lot line adjustment is the appropriate process to create the lots necessary for the proposed project. Instead having an administrative approval staff believes it more efficient for the Planning and Zoning Commission to consider the lot line adjustment as part of a comprehensive approval of the project.

Conclusion

Staff believes that the proposed project is appropriate for both the site and surrounding neighborhood. It provides aesthetically pleasing buildings on a site that has challenging characteristics to work with (i.e. railroad, busy corner location, etc.) The applicant has been thoughtful in design, layout and improvements provided; therefore, staff recommends approval of the projects with any added or revised or added conditions that the Commission deems appropriate.

Attachments:

1. Analysis of Zoning Requirements
2. Findings
3. Conditions of Approval
4. Public Works and Fire Department Review
5. Noise Study
6. Arborists Report
7. Letter from EBMUD
8. Reduced plans dated March 5, 2007
9. Details Book
10. Application, Project Plans

ATTACHMENT 1 - ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS

20.12 Zoning Districts And Permitted Uses

General Plan: High Density (35-63, Av. 39du/acre)
 Zoning: R-3 Multi-family residential

20.16 Land Use Classifications

Single family residential

Surrounding North - MFR East - SFR
 Property Use South - SFR West - Railroad

20.20.080 Secondary Residential Units.

Not applicable.

20.24.020 Table Of Site Regulations By District.

	Proposed (approx.)	Requirement without PUD
Setbacks		
Front (south)	10'	15'
Side (east)	0'	5'
Side (west)	13'-15'	9.5'
Rear (north)	15'	15'
Area		
Density/ Acre	16 proposed	63 allowable
Lot Width	30'	50'
Lot Coverage	37%	50%
Maximum Height	36'	35'

20.24.030 Overlay District Regulations.

Not applicable.

20.24.040 Hillside Residential Regulations.

Not applicable.

20.24.050 Floor-Area-Ratio.

The following FAR calculations are conceptual, assuming the four parcels are of equal size.

	Proposed per Unit	Requirement without PUD
Lot Size	2,736	1,125
Lot Width		50'
Floor Area		
1 st Floor	1,000	--
2 nd Floor	1,000	--
3 rd Floor	775	--
Loft	307	--
Total Residence	3,082	--
Total Counted*	2,802	--
Floor Area Ratio	102.4%	55%/150%*

* The higher FAR is applicable if open space is provided at twice the minimum requirement, which can be achieved with the proposed project.

U20.24.060 Setback Areas, Encroachments.

Not applicable.

20.24.090 Open Space

All multifamily dwellings (three (3) or more units) shall provide at least two hundred (200) square feet of common useable open space per unit. Each square foot of private usable space, up to a maximum of one hundred (100) square feet for each individual unit, may be substituted for two (2) square feet of common useable open space requirement.

20.24.100 Distances Between Structures.

Not applicable.

20.24.110 Fences, Landscaping, Screening.

See discussion of key issues.

20.24.130 Accessory Buildings.

Not applicable.

20.28 Off-Street Parking Requirement.

A tandem garage 15' x 38' in size is proposed, which meets off-street parking requirements.

20.40 Housing Provisions

The affordable housing requirements of Section 20.40 are applicable to projects of 5 or more units. Thus, no affordable housing is included in the project.

20.44 Non-conforming Uses, Structures and Lot

Not applicable.

20.48 Removal of Trees

Section 20.49 applies only to project in Hillside Development (H-D) and Hillside combining (:H) districts.

20.52 Flood Damage Prevention Regulations

Not applicable.

20.100.030 Use Permits.

Not applicable.

20.100.040 Variances.

Not applicable.

20.100.010 Common Permit Procedures.

Public notice of this project was provided on March 30, 2007 in the form of mailed notice to property owners and occupants within a 300-foot radius, and posted in three locations.

20.100.050 Design Review.

See Summary of Key Issues

ATTACHMENT 2 - FINDINGS

Findings for Lot Line Adjustment approval (Per section 22-3 of the AMC)

<i>Required Finding</i>	<i>Explanation</i>
1. <i>No additional parcels are created.</i>	The proposed project maintains the four existing parcels with only alterations to lot sizes and lot line locations.
2. <i>The resulting change in area of the affected parcels is considered minor by the Planning Director.</i>	The combined area of the four lots is 10,945sq.ft., which is less than a quarter acre. It is considered an "infill" area and therefore the affected area is minor.
3. <i>The access to all affected parcels is maintained or equivalent access is provided.</i>	All four parcels will have independent access, which is equivalent to the access currently provided.
4. <i>The resulting parcels conform to the Zoning Ordinance.</i>	The project requires PUD approval, which is also requested. With the PUD approval all development and zoning requirements are met.

Findings for PUD approval (Per section 20.100.050.I of the AMC)

<i>Required Finding</i>	<i>Explanation</i>
1. <i>Necessity. The planned unit development demonstrates the advantages of modern, large-scale planning to an extent that could not be achieved with out the planned unit development procedure.</i>	<p>A 10' front yard setback is proposed where 15' is required. The applicant would like the additional 5' for the units to improve the internal layout of the units and to allow more generous side yards. It also creates a larger buffer for neighbors at the rear; therefore, the exceptions will create more space, increased privacy and visual relief for the neighbors at the rear.</p> <p>The increase in height by 1' allows for a more aesthetically appealing front façade with the large panel window with a geometrical parapet.</p> <p>The reduced lot width allows the four existing parcels to be maintained and allows for more single-family units; therefore, increasing the city's housing stock.</p>
2. <i>Exceptions warranted. Any exceptions to the requirements of the applicable zoning district are warranted by an exceptional level or amenity or to other benefits to the community, which could not be achieved without the exceptions.</i>	There is approximately 27' between the proposed buildings, which creates a large open space area for tenant use and which visually creates an open area so that the property does not appear as dense or bulky with maximum lot

	coverage. The project also provides multi-family housing on a parcel has a difficult characteristic of a busy corner location.
3. <i>Substantial Compliance. The degree and extent of any exceptions granted does not prevent the development from being in substantial compliance with the regulations of the applicable zoning district.</i>	The exceptions for an increase in height, front yard setback and lot width reductions relatively small and are not far from meeting standard development requirements.

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

<i>Required Finding</i>	<i>Explanation</i>
5. <i>The project conforms to the General Plan, any applicable specific plan, applicable design guidelines adopted by the City of Albany, and all applicable provisions of this Chapter.</i>	The General Plan designates this area for multi-family, residential development. Additionally, the project meets City zoning standards for location, intensity and type of development.
6. <i>Approval of project design is consistent with the purpose and intent of this section, which states "designs of projects...will result in improvements that are visually and functionally appropriate to their site conditions and harmonious with their surroundings, including natural landforms and vegetation. Additional purposes of design review include (but are not limited to): that retention and maintenance of existing buildings and landscape features are considered; and that site access and vehicular parking are sufficient."</i>	<p>The proposal is in scale and harmony with existing development in the vicinity of the site. The architectural style, design and building materials are consistent with the City's Residential Design Guidelines. The proposed project will provide safe and convenient access to the property for both vehicles and pedestrians. The project will not remove any significant vegetation and will not require significant grading. The project will not create a visual detriment at the site or the neighborhood.</p> <p>The applicant has made a strong effort in creating an aesthetically pleasing and interesting building that provides the homeowners a comfortable, desirable place to live but without negatively impacting existing, surrounding development.</p>
7. <i>Approval of the project is in the interest of public health, safety and general welfare.</i>	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.
8. <i>The project is in substantial compliance with applicable general and specific Standards for Review stated in Subsection 20.100.050.D.</i>	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 building has been stepped back at the rear to

	increase privacy for rear neighbors.
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Special Finding Regarding Multi-Family Residential Classification.

Although the buildings in the project are separated by 4"; they appear and function as a multi-family unit, and should be considered as multi-family for the purpose of compliance with the zoning ordinance.

ATTACHMENT 3 - CONDITIONS OF APPROVAL

A. GENERAL

- A-1. This Lot Line Adjustment, Planned Unit Development and Design Review approval is for approval of two , except as may be modified by conditions herein. Plans include a site plan/floor plans/elevations submitted by Corona Engineers for Mike McGhee, dated received by the Community Development Department on April 4, 2007, and presented to the Planning and Zoning Commission at its meeting of April 24, 2007.
- A-2. The applicants shall pay any and all City and other related fees applicable to the property. Fees shall be based on 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 and Inspection Fees
- A-3. Before the issuance of grading or building permits, the applicants shall submit written documentation that all requirements of the Albany Fire Department have or will be met to the satisfaction of the AFD. Requirements shall be determined during the building permit process and all measures must be shown on building permit plans.
- A-4. Before the issuance of grading or building permits, the applicants shall submit written documentation that all requirements of the Public Works Department have or will be met to the satisfaction of the City Engineer.
- A-5. 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.
- A-6. In the event subsurface archeological remains are discovered during any construction or pre-construction 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.

B. SITE PLANNING

- B-1. All exterior lighting shall be installed in such a manner that glare is directed away from surrounding properties and rights-of-way.

C. LANDSCAPING

- C-1. The applicant shall apply for one street tree prior to the issuance of the building permit. The City's Environmental Resource Associate will determine the type and location of the tree and may waive this requirement if site conditions will not reasonably support establishment of a new tree.
- C-2. All trees to be preserved shall be clearly indicated on the grading plan, site plan, composite plans and landscape plans. Removal of any other trees not marked for approval will be allowed only upon prior written approval from the Planning Division.
- C-3. All trees to be saved shall be fenced at the drip line with three-strand barbed wire or other approved fencing prior to grading and construction activities. Prior to grading or construction, the developer's contractor shall request City inspection of fencing.
- C-4. No grading, compaction, stockpiling, trenching, paving or change in ground elevation shall be permitted within the drip line of any tree to be saved, until a report prepared by a certified arborist has been submitted to and approved by the City, providing specific guidelines for each case.
- C-5. The arborist report recommendations, as written in the arborists report provided by Alexandros Joey Kalofonos, shall be implemented and complied with prior to, during and following construction.
- C-6. The arborist shall be retained during grading and construction. The arborist shall have the authority to require measures to protect the roots and stop construction if necessary to protect the trees. Upon completion of construction, the arborist shall prepare a report outlining the further methods for tree protection if any are required.
- C-7. Dead wood shall be pruned from existing trees.

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.
- D-2. The applicants shall submit final architectural elevations, details and revisions for the review and approval of the Planning Division before issuance of building permits.
- D-3. All new windows shall be recessed two 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 two-inch recess. Final window details shall be submitted for review and approval at the time of building permit application.

D-4. Any glazing material shall be non-reflective.

E. PARKING

No Conditions

F. GRADING

F-1. Any grading required in association with the project shall require a grading permit from the Community Development Department. To obtain this permit, the applicants shall submit a grading plan, indicating the extent and volumes of earth proposed to be moved.

F-2. The site shall be graded so as to prevent rainfall runoff originating from improved areas on the project site from crossing onto adjoining private property. Building floor elevations shall be above the FEMA-mapped 100-year flood plain as established by a licensed civil engineer. Provide the elevation and compaction certificates during and upon the completion of grading required by the Uniform Building Code and in conformance with the recommendations of the geotechnical engineer's report. Shore and dewater all excavations in accordance with the requirements of the geotechnical engineer's report.

F-3. Flooding Damages. The project developer shall execute an assumption of risk, indemnification and hold harmless agreement as required by the City. The agreement, in substance, shall state that the project developer, and any successor in interest, shall assume all risk for damages to the project and to project improvements, flooding caused by surface water intrusion, stormwater runoff, or water under the ground surface pressing on or flowing or seeping through foundations, walls, floors, or paved surfaces, basements, whether paved or not, or windows, doors or other openings, and shall indemnify and hold the City harmless from any claims of such damages, including third-party claims, of such damage or of such damages or of damages arising from rainfall runoff which is not prevented from leaving the project site in violation of Condition F-3.

F-4. 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 grading 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.

F-5. The project developer shall submit a Stormwater Pollution Prevention Plan (SWPPP) for review by the City prior to the issuance of a grading permit. The SWPPP shall be consistent with standards adopted by the Regional Water Quality Control Board and the City of Albany Clean Water Program and implemented by the project general contractor, all subcontractors and suppliers of material and equipment. Construction site cleanup and control of construction shall also be addressed in the SWPPP. The project developer shall be responsible for SWPPP compliance. A copy of the SWPPP shall be kept at the construction site at all times.

F-6. Prior to the commencement of site grading or excavation, the project developer shall submit a construction grading/erosion control plan which shall include detailed design, location and maintenance criteria of all erosion and sediment control measures. The plans shall provide, to the maximum extent practical, that no increase in sediment or pollution from the site will occur, including local creeks and bodies of water.

F-7. Retaining Wall Requirements. All site retaining and sound walls shall be designed by a licensed civil or structural engineer and shall conform to the requirements of Chapter 18 of the Uniform Building Code.

G. STREETS

G-1. The applicants shall obtain an encroachment permit from the Engineering Division prior to commencing any construction activities within any public right-of-way or easement.

G-2. 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.

G-3. Any damage to street improvements now existing or done 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 applicants. This shall include sidewalk repair, slurry seal, street reconstruction or others, as may be required by the City Engineer.

G-4. All improvements within the public right-of-way, including curb, gutter, sidewalks, driveways, paving and utilities, shall be reconstructed in accordance with approved standards and/or plans and shall comply with the standard plans and specification of the Community Development Department and Chapter 14 of the City Code.

H. INFRASTRUCTURE

H-1. The applicant shall verify that the existing sewer system for the subject building is in compliance with Chapter 15 of the Albany City Code to the satisfaction of the Maintenance and Engineering Division.

H-2. All runoff from impervious surfaces shall be intercepted at the project boundary and shall be collected and conducted via an approved drainage system through the project site to an approved storm drain facility, as determined by the City Engineer. Development that contributes additional water to the existing drainage system shall be required to complete a hydraulic study and make improvements to the system as required to accommodate the expected ultimate peak water flow and to stabilize erosive banks that could be impacted by additional storm water flow.

H-3. Prior to the issuance of any Building Permits, the applicants shall provide a drainage plan showing existing and proposed drainage for the project, including areas drained and the flow patterns (e.g., sheet flow off roof, downspouts). Show the area draining to each

downspout and details of both existing and proposed downspouts, including construction at and near grade (e.g., bends in downspouts, splash blocks). Demonstrate that drainage quantity, concentration, and direction will remain unchanged. If not unchanged, roof drainage from the structure shall be collected via a closed minimum 3 inch pipe and conveyed to an approved storm drain system off the street curb unless otherwise approved by the City Engineer. No concentrated drainage of surface flow across sidewalks shall be permitted.

- H-4. **Undergrounding of Utilities.** Electrical, gas, telephone and all other services and utilities shall be provided underground to each lot. All utilities shall be located and provided within public utility easements and sized to meet utility company standards.
- H-5. **EMBUD Water Service.** 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.
- H-6. **EBMUD Approval.** 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.
- H-7. **EBMUD Requirements.** The discharge of any chemicals into the sanitary sewer system is subject to the requirements and approval of the East Bay Municipal Utility District.
- H-8. **Completion of Off-Site Improvements.** Off-site improvements shall be complete prior to issuance of a Certificate of Occupancy unless alternatives are approved in writing by the Albany City Engineer.

I. OPERATIONAL BEST MANAGEMENT PRACTICES (BMPs)

- I-1. The project plans shall include stormwater pollution prevention and control measures for the operation and maintenance of the project during and after construction for the review and approval of the City or County Engineer. The project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit to the maximum extent practicable the entry of pollutants into stormwater runoff.
- I-2. The project plan shall also include erosion control measures to prevent soil, dirt and debris from entering the storm drain system, in accordance with the practices outlined in the ABAG *Erosion and Sediment Control Handbook*, California Storm Water Best Management Practice Handbooks, and Regional Water Quality Control Board's *Erosion and Sediment Control Field Manual*
- I-3. The applicant is responsible for ensuring that all contractors and subcontractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations and/or a project stop order.

- I-4. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. Debris resulting from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Washwater containing any soap, cleaning agent or degreaser shall be collected and discharged to the sanitary sewer and shall not be discharged to a storm drain. The applicant shall contact the City Engineer for specific connection and discharge requirements.

I. MISCELLANEOUS

- I-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 through the Design Review process.
- I-2. Pursuant to Government Code Section 66474.9, the applicants (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 applicants of any such claim action or proceeding and cooperate fully in the defense.

J. SPECIAL CONDITIONS

- J-1. This Design Review approval shall expire at the close of business on May 3, 2008, (one year from the date on which this approval becomes effective) unless, before expiration of one year, a Building Permit is issued and construction commenced or completed. The Community Development Director may renew the design review approval for a period up to an additional two (2) years, if, at least ten (10) days prior to May 3, 2008 an application for renewal of the approval is filed with the Community Development Department.
- J-2. A geotechnical report, subject to Engineering staff review and approval, will be required.
- J-3. A structural engineer shall verify the existing retaining walls are structurally sound and appropriate for the proposed project. The applicant shall comply with any recommendations/requirements for improving the retaining wall, as determined by the structural engineer.
- J-4. The concrete area at the northeast corner of the lots shall be removed and replaced with grass or appropriate landscaping, subject to staff review and approval.
- J-5. The 4' gap between the buildings shall be filled with a one hour fire-rated material to create the appearance of a shared wall, duet-style building, subject to staff review and approval for design and material. The applicant shall also provide a shared wall maintenance agreement be recorded with the deed, prior to certificate of occupancy and subject to staff review and approval.

- J-6. A decorative fence be utilized, with varying slat widths and shapes, as shown on the front elevation on the coversheet of the approved plans.
- J-7. A professional landscape plan, showing deciduous tree between the buildings and on the outside of the buildings and a fully landscaping front and Cleveland side yard shall be submitted, subject to staff review and approval.
- J-8. The applicant shall stripe Cleveland from the north end of the parcels around the corner to the east end of the parcels on Solano, subject to staff review of detailed improvement plans.

ATTACHMENT 4 - FIRE DEPARTMENT AND PUBLIC WORKS REVIEW

Fire Department

Before the issuance of grading or building permits, the applicants shall submit written documentation that all requirements of the Albany Fire Department have or will be met to the satisfaction of the AFD. Requirements shall be determined during the building permit process and all measures must be shown on building permit plans. In a letter dated April 3, 2007 the Fire Marshal determined that a local fire alarm system will be required to be installed.

Public Works Division

The Associate Engineer states that the applicant must demonstrate there will be no impact on adjacent neighbors from increased or concentrated rainfall runoff generated by the proposed project. The upper sewer lateral must be replaced if not in compliance, a survey and sidewalk replacement may be required. The applicant will be required to comply with any requirements set forth by the City Engineering staff during the building permit process. A letter dated March 30, 2007 provides preliminary comments.