

*City of Albany*  
**Planning and Zoning Commission**  
**Staff Report**

**Meeting Date:** July 22, 2008

**Prepared by:** \_\_\_\_\_

**Agenda Item:** 6a

**Reviewed by:** \_\_\_\_\_

**Subject:** **934 San Pablo. Continuation of Planning Application 06-074. Design Review. Density Bonus. Affordable Housing.** Request for approval of a new three-story mixed-use building with twelve residential units and two retail units. A density bonus & other concessions, as described below, are also requested as part of the approval.

**Applicant/  
Owner:** Hoss Azimi with Gansek, Inc.

**Recommendation**

Staff recommends that the Planning and Zoning Commission:

1. Recommend to the City Council approval of findings and agreements associated with density bonus allowing 12 units of housing and a concession of Floor Area Ratio requirements of the Planning and Zoning Code
2. Approve design review of the proposed project subject to conditions of approval, including a condition of approval that requires City Council approval of a Density Bonus for this project.

**Background**

The initial application was received on October 9, 2007. The Commission reviewed the project at a study session on October 23, 2007 where the applicant was provided preliminary feedback and direction on proposed changes to the project.

The applicant made minor revisions to the project and was heard at another study session on February 26, 2008. At the February 26, 2008 public hearing the Commission supported the increase in density, yet still had concerns about the architectural details of the building. The curved roofs and increased articulation on the front façade were two issues that were repeatedly discussed. The Commission also discussed that building to the maximum FAR and to minimum setbacks were not always desirable. Finally, detailed building materials and a model were requested to provide a clearer idea of how the development would fit into the surrounding neighborhood.

A public hearing on the proposed project was held on July 8, 2008. Public comment was received and the Commission gave direction to staff and the applicant. Specific public comments included concerns about the number of concessions, parking concerns, the density of the project and impact on Adams Street. Commission comments the scale of the project, the appropriate number of units to be used as the base

project, open space, awkward roof and window treatments, use of glass block, railings into the daylight plane. Ultimately, no action was taken, and the public hearing was continued to July 22, 2008.

**Revisions to Project Description**

The applicant has made several changes to the project since the July 8, 2008 meeting. First, the number of units has been reduced from 13 to 12. This in turn reduced the amount of required parking, bringing the project into compliance with City parking standards. The revised unit mix is as follows:

| Type of Unit  | Total Number of Units |
|---------------|-----------------------|
| Loft/Studio   | 2                     |
| One-Bedroom   | 2                     |
| Two-Bedroom   | 6                     |
| Three-Bedroom | 2                     |

Although the number of units has been reduced, the building massing and appearance remains essentially the same. The applicant has eliminated the support post on the entry of the east elevation. This change was made in response to a comment made at the previous public hearing. The Commission may want to discuss other previously stated design concerns, as well as building finishes in three areas in particular:

- 1) Determine if horizontal metal or horizontal wood siding is preferable on the front elevation. The Commission may want to consider providing direction to the applicant on the placement of windows on the front elevation to appear more symmetrical or rhythmic.
- 2) Determine if the horizontal metal siding on the side elevations should be continued further up the side elevations or laid out in a different pattern (the areas where the metal finish is currently proposed will be minimally visible thus will do little to help break up the façade);
- 3) The rear elevation may benefit from a mix in building finishes where there is currently only stucco finish proposed.

In addition, the private open space on the rear balconies has been modified by the addition of planter boxes, in response to Commission direction regarding railings crossing into the rear yard daylight plane. The revised open space calculations include 650sq.ft. of private open space and 1,700sq.ft., common open space roof deck.

**Update on Key Issues**

Density Bonus

As has been discussed at prior meetings, state law requires that the City grant an increase in housing density if an applicant agrees to construct a certain amount of affordable housing. The density bonus law is complex and approaches to implementing the law varies from one jurisdiction to another.

As the Planning and Zoning Code is written, the SPC zoning district allows up to 63 units per acre, which translates to 10.8 units on this site. Legal counsel has confirmed that fractional units cannot be rounded

up, and thus the maximum density allowed is 10 units. In addition, as has been discussed, minimum lot size requirements reduce the allowed number of units to eight on this particular site. Whether or not lot size limitations apply to density bonus calculations remains ambiguous, and our legal counsel's suggestion is that either approach can be used, as long as it is used in a consistent manner from one project to another.

The following table summarizes the alternative interpretations of density bonus calculations associated with the project as proposed by the applicant (the table has been revised from prior staff reports to reflect the changes in the project as well as the rounding down of maximum density calculations). If the Commission wishes to recommend approval of the density bonus, either interpretation could be used. In approving the project, the precedent would be set is either to (a) grant more than a 35% density bonus for a relatively small amount of additional affordable housing, or (b) not use minimum lot size in calculating the base project. On balance, staff believes that the "Use of Maximum Density" interpretation is a better precedent to set. In future projects, most likely on larger lots, the granting of a density bonus substantially greater than 35% might not be desirable. On the other hand, not using minimum lot size in determining the size of the base project would lead to an increase in no more than two units.

**Density Bonus Interpretations**

|   | "Use of Minimum Lot Size" Interpretation                     | "Use of Maximum Density" Interpretation                     |
|---|--|---|
| Baseline Project Density  | 8 units<br>(based on minimum lot size)                       | 10 units<br>(based on 63 units per acre, rounded down)      |
| Minimum additional affordable housing unit required by applicant to earn a density bonus: | 12.5%<br>(1 additional low income unit out of 8 total units) | 10%<br>(1 additional low income unit out of 10 total units) |
| Minimum "Density Bonus" earned by affordable housing                                      | 2 units<br>(23.75% of 8 units, rounded up):                  | 2 units<br>(20% of 10 units)                                |
| Minimum allowed number of units:  | 10 units   | 12 units  |
| Requested number of units:  | 12 units<br>(50% density bonus)                              | 12 units<br>(20% density bonus)                             |
| Minimum required concessions to applicant   | 1  | 1   |
| Requested number of concessions   | 1  | 1   |

A third approach is to use the "Minimum Lot Size" interpretation in conjunction with a determination that additional affordable housing should be provided in order to qualify for a 50% density bonus. Staff suggested at the recent Planning & Zoning Commission meeting, that in consideration for the addition of additional affordable housing, the City could explore the availability of redevelopment or other funding

sources to make the development of the affordable unit feasible for the applicant. The applicant has stated that additional affordable housing is not financially feasible for the developer, and thus the project would not proceed as proposed unless funding could be made available and an agreement reached between the City and the developer.

If the Commission does not wish to recommend approval of the density bonus, the "Minimum Lot Size" interpretation should be used, as well as a determination that the 12.5% additional affordable housing does not justify a 50% density bonus. At that point, the applicant could pursue a standard eight unit project as allowed by the Planning and Zoning Code.

As mentioned in the project description, the reduction of the number of units brings the project into compliance with parking requirements, and thus the only concession required is to allow a floor-area-ratio (FAR) of 2.62 where 2.25 is the maximum allowable FAR in the SPC district.

#### Financial Information

Although the number of units in the proposed project has changed, the square footage of the proposed project remains the same. Thus the project financial report remains the same as with the 13 unit project.

The applicant has presented a financial analysis that shows that by granting a density bonus, but not the additional incentives and concessions, results in a project that is marginally financial feasible. In particular, instead of 12 units, the project would be reduced in size to 10 units. The applicant's submittal is attached (Attachment 9). The applicant's submission indicates that in Scenario A, without concessions, the project is in deficit of approximately \$204,000.

City staff has evaluated the analysis and made adjustments in several areas to ensure consistency costs across the two scenarios. It should be noted that the "Density Bonus without Concessions" scenario has not been designed, and thus square footages cannot be verified. Staff's conclusion is that a project without concessions is only marginally feasible, with a relative difference of \$123,000 compared with the scenario with concessions. Thus, a finding could be made that the incentives and concessions are necessary.

**Summary of Project Financial Report**

|                               | Density Bonus without Concessions | Density Bonus + Concessions |
|-------------------------------|-----------------------------------|-----------------------------|
| Lot Area                      | 7,500                             | 7,500                       |
| Market Units                  | 8                                 | 10                          |
| Inclusionary Unit             | 1                                 | 1                           |
| Density Bonus Unit            | 1                                 | 1                           |
| Total Units                   | 10                                | 12                          |
| Floor Area                    | 16,875                            | 19,494                      |
| FAR                           | 2.25                              | 2.60                        |
| Total Market Value            | \$4,893,042                       | \$5,696,292                 |
| <b>Project Cost</b>           |                                   |                             |
| Residential                   | \$1,861,200                       | \$2,359,720                 |
| Commercial                    | \$211,500                         | \$211,500                   |
| Garage                        | \$561,600                         | \$638,640                   |
| Common Area                   | \$264,810                         | \$264,810                   |
| Total Hard Cost               | \$2,899,110                       | \$3,474,670                 |
| Land Acquisition              | \$850,000                         | \$850,000                   |
| Soft Costs                    | \$1,074,845                       | \$1,182,098                 |
| <b>Total Project Cost</b>     | <b>\$4,823,955</b>                | <b>\$5,506,768</b>          |
| <b>Net Project Return</b>     | <b>\$69,087</b>                   | <b>\$189,524</b>            |
| <b>% Return on Total Cost</b> | <b>1.4%</b>                       | <b>3.0%</b>                 |

Additional Affordable Housing:

Staff suggested at the recent Planning & Zoning Commission meeting, that in consideration for the addition of a third affordable unit which would be required for a 13 unit project, the City would explore the availability of redevelopment or other funding sources to make the development of the third affordable unit feasible for the applicant. Based on the revised project, the third unit is not required. Staff, however, will continue to explore the availability of funds and if the applicant is willing, discuss the potential for additional affordable units. The additional affordable housing, however, is not required by density bonus requirements, and thus is not a condition of approval.

Conclusion

This is the first time that density bonus and in-lieu fees have been formally requested under the new zoning code, thus will set a precedence for how the City will interpret the density bonus law.

Staff believes that conceptually the project is appropriate for the site. As previously stated, the Commission may want to consider the increased height for the stairwell as well as the architectural details and integrity of the building.

### **Future Actions**

In regards to parking, the commercial retail space is exempt from parking; however, if the applicant wants to utilize the space as a café, restaurant or a similar use the parking requirements will increase since the parking exception only applies to retail. The applicant may want to consider requesting a parking waiver to allow a café/restaurant use at this time since it may be a likely use at the site.

It should be noted that applicant would like to submit a tentative condominium subdivision map in the future to sell the individual units, pending approval of the project. Finally, it should be noted that since there is going to be an increase of impervious surface, over 5,000sq.ft. in area, the applicant will have to treat all of the water on site, in accordance to the Water Quality Control Board NPDES permit.

### **Green Building**

The project is subject to the city's residential green building checklist since the majority of the project is residential. The applicant has exceeded the requirements by providing 116 green points where 50 are required. In attaining the required green points the applicant has included a large solar panel system on the roof area, which are reflected in the plans.

### **Attachments:**

1. Analysis of Compliance with Zoning Requirements
2. Findings and Conditions of Approval
3. Staff Report and Attachments from July 8, 2008 Planning and Zoning Commission Meeting
4. Revised Plans Submitted July 17, 2008

**ATTACHMENT 1 - ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS**

20.24.050 Floor-Area-Ratio.

|                  | <b>Proposed</b> | <b>Requirement</b> |
|------------------|-----------------|--------------------|
| Lot Size         | 7500            | --                 |
| Floor Area       |                 |                    |
| Total            | 19,621*         | --                 |
| Floor Area Ratio | 2.62%           | 2.25               |

\*No exceptions or reductions in FAR calculations

20.100.010 Common Permit Procedures.

Public notice of this application was provided on June 27, 2008 in the form of mailed notice to property owners and occupants within a 100-foot radius, and posted in three locations. The public hearing was opened on July 8, 2008 and continued to July 22, 2008.

**ATTACHMENT 2 – FINDINGS AND CONDITIONS OF APPROVAL**

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

| <i>Required Finding</i>   | Explanation   |
|---|---|
| <p>1. <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></p>   | <p>The General Plan policies permit mixed-use development at this site. Additionally, the project meets City zoning standards for location, intensity and type of development with the approval of a Density Bonus.</p>   |
| <p>2. <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> | <p>The proposal is in scale and harmony with existing development on San Pablo Avenue. The architectural style, design and building materials are consistent with the City’s San Pablo Design Guidelines. The proposed project will provide safe and convenient access to the property for both vehicles and pedestrians in that there is only one driveway to access the garage for all of the units.</p> <p>The project will not remove any significant vegetation in that it is currently used as a parking lot. The project will require some but not a significant amount of grading nor will it greatly change the topography of the lot.</p> <p>The building has a mix of building materials and variation in wall depth to create shadowing and visual interest on the elevations. The applicant has added bay windows, glass block windows, metal awnings and other architectural details that create an aesthetically appealing building.</p> |
| <p>3. <i>Approval of the project is in the interest of public health, safety and general welfare.</i></p>   | <p>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. The new building meets all required setback and height requirements. It steps up away from the rear property line, meeting the required 45-degree day light plane and providing some visual relief for neighbors at the rear. The project will provide a total twelve new residential units and two affordable units, which the City has few opportunities to require with the city’s few available lots, most of which are smaller in size and do not allow for larger development.</p>   |
| <p>4. <i>The project is in substantial compliance with applicable general and specific Standards for</i></p>  | <p>The project as designed is in substantial compliance with the standards as stated, including access,</p>   |



|  |   |
|--|---|
| <i>Review stated in Subsection 20.100.050.D.</i> | architecture, natural features, coordination of design details, and privacy . |
|--|---|

**Findings for Density Bonus approval (Per section 20.40.040 of the Albany Municipal Code)**

| <i>Required Finding</i>  | Explanation  |
|--|--|
| 1. <i>Qualification for Density Bonus</i>  | The proposed project includes, in addition to the one low income affordable housing unit as required by City inclusionary housing requirement, one additional low income affordable unit (10% of base project based on allowed density of 63 units per acre), and thus qualifies for at least a 20% density bonus.   |
| 2. <i>Qualification for Incentive or Concession</i>  | The proposed project includes, in addition to the one low income affordable housing unit as required by City inclusionary housing requirement, one additional low income affordable unit (10% of base project based on allowed density of 63 units per acre), and thus qualifies for at least one incentive or concession.   |
| 3. <i>The requested concession would not have a specific adverse impact, as defined in Government Code Section 65589.5 (d)(2) upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources.</i> | The proposed project is on a vacant site, and 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. The new building meets all required setback and height requirements. It steps up away from the rear property line, meeting the required 45-degree day light plane and providing some visual relief for neighbors at the rear. |
| 4. <i>The project financial report demonstrates that the requested incentive/concession is necessary to make the development of affordable housing financially feasible.</i>   | The applicant has submitted information that indicates that the return on the project with proposed concession is 3.0%. The return without the concession is 1.4%  |

**COMMUNITY DEVELOPMENT DEPARTMENT "STANDARD" CONDITIONS OF APPROVAL**

All projects must comply with standard conditions of approval, except when specifically waived. Conditions of approval are imposed when projects receive planning approval or when a building permit is issued.

Compliance with conditions of approval is verified on the plans during plan check of building permit plans, field checked during construction, and receives final verification prior to the issuance of a certificate of occupancy.

**Issuance of a building permit or amendments to conditions of approval must be made in writing. In many cases, conditions of approval are based on state or federal law, in which the City has no discretion. Certificate of occupancy shall not be construed as an approval of an implicit amendment of a condition of approval.**

A master list of conditions of approval, providing full descriptions/explanations are available at [www.albanyca.org](http://www.albanyca.org) or can be faxed or emailed by calling (510)528-5760. Applicable conditions of approval will be identified with a text box, such as the following:

|        |                   |
|--------|-------------------|
| COND-1 | Project Condition |
|--------|-------------------|

**GENERAL PROJECT CONDITIONS**

|        |                                 |
|--------|---------------------------------|
| GEN-1  | Project Approval                |
| GEN-2  | Design Review Expiration        |
| GEN-3  | Fees                            |
| GEN-4  | Appeals                         |
| GEN-5  | Requirement for Building Permit |
| GEN-6  | Fire Department Approval        |
| GEN-7  | Engineering Approval            |
| GEN-8  | Construction Hours              |
| GEN-9  | Archeological Remains           |
| GEN-10 | Modifications to Approved Plans |

|        |                               |
|--------|-------------------------------|
| GEN-11 | Hold Harmless Agreement       |
| GEN-12 | Public Improvements Standards |
| GEN-13 | Title 24 Standards            |
| GEN-14 | Energy Conservation Standards |

**ARCHITECTURE CONDITIONS**

|        |                  |
|--------|------------------|
| ARCH-1 | Material Samples |
|--------|------------------|

|        |                              |
|--------|------------------------------|
| ARCH-2 | Final Architectural Drawings |
| ARCH-3 | Window Recess                |
| ARCH-4 | Non-Reflective Glazing       |

**LIGHTING CONDITIONS**

|        |                       |
|--------|-----------------------|
| LGHT-1 | Exterior Lighting     |
| LGHT-2 | Shielding of Lighting |

**LANDSCAPING CONDITIONS**

|         |                         |
|---------|-------------------------|
| LNDSC-1 | Tree Preservation       |
| LNDSC-2 | Street Tree Requirement |

**PARKING CONDITIONS**

|         |                             |
|---------|-----------------------------|
| PARK -1 | Approved Parking Plan, Date |
| PARK -2 | Bike Rack                   |

**SIGN CONDITIONS**

|        |                                |
|--------|--------------------------------|
| SIGN-1 | Signage Design Review Approval |
|--------|--------------------------------|

**FIRE DEPARTMENT CONDITION**

|        |  |
|--------|--|
| FIRE-1 | Construction Less than 400 Square Feet       |
| FIRE-2 | Construction Between 400 - 1,499 Square Feet |

|        |  |
|--------|--|
| FIRE-3 | Construction of 1,500 Square Feet or Greater |
| FIRE-4 | Fire Rated Construction                      |
| FIRE-5 | Gallons-per-Minute Requirement               |
| FIRE-6 | Fire Access Requirements                     |
| FIRE-7 | Distance From Fire Hydrant                   |

**PUBLIC WORKS DEPARTMENT CONDITIONS**

**GENERAL ENGINEERING CONDITIONS**

|        |                      |
|--------|----------------------|
| ENGR-1 | Title Report         |
| ENGR-2 | Geo-Technical Report |
| ENGR-3 | Backflow Device      |

**GRADING CONDITIONS**

|        |                   |
|--------|-------------------|
| GRAD-1 | Grading Permit    |
| GRAD-2 | Demolition Permit |

|         |                                      |
|---------|--------------------------------------|
| GRAD-3  | Water on Site                        |
| GRAD-4  | Flooding Damages                     |
| GRAD-5  | Dust Control Program                 |
| GRAD-6  | Stormwater Pollution Prevention Plan |
| GRAD-7  | Erosion Control Plan                 |
| GRAD-8  | Notice of Intent                     |
| GRAD-9  | Retaining Wall Requirements          |
| GRAD-10 | Discharge of Dewatering              |

**Structural Control Measures**

|         |   |
|---------|---|
| STRUC-1 | Illegal Dumping to Storm Drain Inlets and Waterways |
| STRUC-2 | Interior Floor Drains                               |
| STRUC-3 | Parking Lots  |
| STRUC-4 | Pesticide/Fertilizer Application                    |

*OPERATIONAL BEST MANAGEMENT PRACTICES*

INFRASTRUCTURE CONDITIONS

|         |                                     |
|---------|-------------------------------------|
| INFR-1  | Sewer System Requirements           |
| INFR-2  | Two-Way Sewer Cleanout              |
| INFR-3  | Property Run-off Requirements       |
| INFR-4  | Roof Drainage                       |
| INFR-5  | Hydraulic Calculations              |
| INFR-6  | Undergrounding of Utilities         |
| INFR-7  | EMBUD Water Service                 |
| INFR-8  | EBMUD Approval                      |
| INFR-9  | Recycled Water Requirement          |
| INFR-10 | Groundwater Protection              |
| INFR-11 | Completion of Off-Site Improvements |

|          |  |
|----------|--|
| BMP-GEN1 | Stormwater Pollution Prevention Control Measures             |
| BMP-GEN2 | Erosion Control Measures                                     |
| BMP-GEN3 | Responsibility of Contractors                                |
| BMP-1    | Paved Sidewalks and Parking Lots                             |
| BMP-2A   | Private Streets, Utilities and Common Areas                  |
| BMP-2B   | Property Owners Association Responsibilities for Maintenance |
| BMP-3A   | Vehicle/Equipment Repair and Maintenance                     |
| BMP-3B   | Prohibited Vehicle Fluid Removal Areas                       |
| BMP-3C   | Unattended Drip Parts  |
| BMP-4    | Fueling Areas  |
| BMP-5    | Loading Docks  |
| BMP-6    | On-Site Storm Drains   |

PARCEL MAP CONDITIONS

|         |                         |
|---------|-------------------------|
| PARCL-1 | Parcel Map Preparations |
| PARCL-2 | Parcel Map Dedications  |

PUBLIC IMPROVEMENT CONDITIONS

|         |                                     |
|---------|-------------------------------------|
| PUBIM-1 | Encroachment Permit                 |
| PUBIM-2 | Debris Removal                      |
| PUBIM-3 | Damage to Street Improvements       |
| PUBIM-4 | Right-Of-Way Construction Standards |
| PUBIM-5 | Public Street Improvements          |

GENERAL CONSTRUCTION BMPS

|           |  |
|-----------|--|
| BMP-CNST1 | Construction Access Routes             |
| BMP-CNST2 | Collection of Construction Debris      |
| BMP-CNST3 | Removal of Waste                       |
| BMP-CNST4 | Sweeping of Public Right-of-Way        |
| BMP-CNST5 | Filter Materials at Storm Drain Inlet  |
| BMP-CNST6 | Containment of Materials               |
| BMP-CNST7 | Cleaning of Equipment                  |
| BMP-CNST8 | Minimize Removal of Natural Vegetation |

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM CONDITIONS

PROJECT-SPECIFIC CONDITIONS

|       |                                     |
|-------|-------------------------------------|
| SPC-1 | Public Art                          |
| SPC-2 | Affordable Housing                  |
| SPC-3 | Deed Restriction                    |
| SPC-4 | Green Building                      |
| SPC-5 | NPDES Clean Water Compliance        |
| SPC-6 | Operation and Maintenance Agreement |

|        |   |
|--------|---|
| SPC-7  | <b>Streetscape Improvements</b>                                       |
| SPC-8  | <b>Landscaping and Open Space Amenities</b>                           |
| SPC-9  | <b>Planning and Zoning Commission review of Building Permit Plans</b> |
| SPC-10 | <b>Landscaping and Open Space Amenities</b>                           |
| SPC-11 | <b>Density Bonus Approval</b>   |

**COMMUNITY DEVELOPMENT DEPARTMENT CONDITIONS OF APPROVAL**

**GENERAL PROJECT CONDITIONS**

- Gen-1 Project Approval. This Design Review and Density Bonus approval is for Murthy Sama, as substantially shown and described on the project plans, except as may be modified by conditions herein. Plans include preliminary master site plan prepared by Hoss Azimi with Gansek, dated received July 17, 2008, architectural plans (project perspectives, building sections, and floor plans, all as presented to the Planning and Zoning Commission on July 22, 2008]. 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 Density approval expire one year from the date on the City Council approves the Density Bonus, 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 prior to 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-3 **FEES.** The applicant shall pay any and 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 prior to issuance of said permit or prior to 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 prior to 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      **Archeological Remains.** 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.
- GEN-10     **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-11     **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-12     **Public Improvements Standards.** Public improvements 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-13     **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-14     **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 CONDITIONS**

- 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.

ARCH-3 **Window Recess.** All new windows shall be recessed two inches from face of building to provide adequate shade and shadow and to promote visual relief. Final window details shall be submitted for review and approval at the time of building permit application.

ARCH-4 **Non-Reflective Glazing.** Any glazing material shall be non-reflective.

#### **LIGHTING CONDITIONS**

LGHT-1 **Exterior Lighting.** 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 onto adjacent properties.

LGHT-2 **Shielding of Lighting.** Prior to the certificate of occupancy all accent lighting shall be directed downward and, if necessary, fixed with cut-off lenses to ensure that no glare spills onto neighboring properties.

#### **LANDSCAPING CONDITIONS**

LNDS-1 **Tree Preservation.** All existing trees on the site shall be preserved to the fullest extent practicable. Removal will be allowed only upon prior written approval from the Community Development Department.

LNDS-2 **Street Tree Requirement.** The applicant shall apply for one street tree prior to the issuance of the building permit. The City's Environmental Resource Assistance 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.

#### **PARKING CONDITIONS**

Park-1 All parking solutions shall conform to the approved plans as shown in the plans, as described in condition GEN-1 and maintained available for parking as shown on approved plans.

#### **SIGN CONDITIONS**

SIGN -1 **Signage Design Review Approval.** All construction/installation of signage shall conform to the approved sign plan and color samples date-stamped \_\_\_\_\_, on file at the Community Development Department.

#### **PUBLIC WORKS DEPARTMENT CONDITIONS**

##### *GENERAL ENGINEERING CONDITIONS*

ENGR-1 **Title Report.** A recent preliminary title report for the property, prepared within six months of the date of application, shall be submitted to the City Engineer for review. If any interior lot line(s) exist, the applicant must obtain approval of a minor lot line adjustment from the City to remove the interior lot line(s), and cause that lot line adjustment to be recorded before any building permits will be issued.

- ENGR-2      **Geo-Technical Report.** The applicant shall submit, as part of a building permit application, a geotechnical investigation report prepared by a California certified engineering geologist and geotechnical engineer. The investigation shall specifically address any hazards of surface fault rupture in accordance with the Alquist-Priolo Special Study Zones Act. Any mitigation measures or conditions requiring further review noted during the Planning process shall be fully addressed prior to plan check.
- ENGR-3      **Backflow Device.** Any required water service for fire protection purposes shall be equipped with a City approved backflow device. Services for irrigation purposes also require a separate City approved backflow prevention device.

**GRADING CONDITIONS**

- GRAD-1      **Grading Permit.** Any grading required in association with the project shall require a grading permit from the Community Development Department. To obtain this permit, the applicant shall submit a grading plan, indicating the extent and volumes of earth proposed to be moved. A grading permit is subject to 2001 California Building, Appendix 33.
- GRAD-2      **Demolition Permit.** Site demolition shall not occur until construction permits are issued for the development project. All demolition shall be in accordance with permits issued by the City and Bay Area Air Quality Management District (BAAQMD).
- GRAD-3      **Water on Site.** 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.
- GRAD-4      **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 GRAD-3.
- GRAD-5      **Dust Control Program.** 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.
- GRAD-6      **Stormwater Pollution Prevention Plan.** The project developer shall submit a Stormwater Pollution Prevention Plan (SWPPP) for review by the City prior to the issuance of a building or grading and/or building 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.

- GRAD-7 **Erosion Control Plan.** As part of a building permit application, 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.
- GRAD-8 **Notice of Intent.** Prior to the commencement of site grading or excavation resulting in a land disturbance of five acres or greater, the project developer shall provide evidence that a Notice of Intent (NOI) has been sent to the California State Water Resources Control Board.
- GRAD-9 **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 the current UBC.
- GRAD-10 **Discharge of Dewatering.** The discharge from dewatering systems should be released in such a way that it does not harm existing structures or the environment, and that it does not, by reinfiltration, put an additional load on the dewatering system.

**INFRASTRUCTURE CONDITIONS**

- INFR-1 **Sewer System Requirements.** The sewer system for the subject building shall be in compliance with Chapter 15 of the Albany Municipal Code and to the satisfaction of the City Engineer prior to Final Inspection approval of the construction permit.
- INFR-2 **Two-Way Cleanout.** Installation of a two-way curbside cleanout shall be required per Chapter 15 of the Albany City Code. This applies to all properties, including properties with a valid upper sewer lateral certificate of compliance. All 2-way curbside clean outs shall be fitted with a loose cap in accordance with the City's standard detail SS6.
- INFR-3 **Property Run-off Requirements.** 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.
- INFR-4 **Roof Drainage.** Roof drainage from the structure shall be collected via a closed pipe and conveyed to an approved storm drain system off the street curb. No concentrated drainage of surface flow across sidewalks shall be permitted. Alternative natural treatment measures are subject review and approval by the City Engineer.
- INFR-5 **Hydraulic Calculations.** The applicant shall submit hydraulic calculations, prepared by a California licensed civil engineer, necessary to determine if the existing water and sewer mains that serve this lot have available capacity for the addition of the proposed development. If capacity is not available, sewer and water mains of adequate size shall be designed and secured prior to issuance of building permits and constructed in a manner acceptable to the City Engineer prior to occupancy release, unless determined otherwise by the City Engineer.



- INFR-6      **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.
- INFR-7      **EMBUD Water Service.** The applicant 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.
- INFR-8      **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.
- INFR-8      **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.
- INFR-10     **Recycled Water Requirement.** Prior to the issuance of building permits, the applicant shall submit a letter from EBMUD stating whether or not recycled water will be available for the project. If available, the developer shall provide a plumbing system to serve nonpotable uses, including but not limited to landscaped areas and medians.
- INFR-11     **Groundwater Protection.** Any water well or exploratory boring must be properly abandoned, backfilled or maintained in accordance with applicable groundwater protection ordinances.
- INFR-12     **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.

**PARCEL MAP CONDITIONS**

- PARCL-1     **Parcel Map Preparations.** The applicant shall submit for City approval and recording a parcel map for the proposed division of land. The Parcel Map shall be prepared by a licensed civil engineer authorized to practice land surveying, or a licensed land surveyor. The Parcel Map shall conform to the City requirements and State Subdivision Map Act requirements. Public right of way and easements for sanitary sewers, storm drains, water service and access shall be dedicated to the City on the Parcel Map as required by the City Engineer. Prior to recording the parcel map the applicant shall submit and have approved by the City Engineer:
- a) A grading and drainage plan prepared by a licensed civil engineer.
  - b) Hydrology and hydraulic calculations as required to design the storm drainage system for the development prepared by a licensed civil engineer.
  - c) A preliminary engineering soils report and engineering geology report prepared by a civil engineer or engineering geologist registered in the State.
  - d) Improvement plans conforming to City requirements prepared by a licensed civil engineer for all public improvements including curb, gutter, sidewalk, driveways, asphalt concrete and Portland cement concrete (PCC) pavement, street lights, sanitary sewers, storm drains, traffic medians, signs, striping and any improvements within the public right of way or within easements dedicated to the public.
  - e) Enter into the City's subdivision improvement agreement for the construction of public improvements associated with this project.
  - f) Submit performance and payment bonds or other suitable security in conformance with the City code and Subdivision Map Act supported by a cost estimate prepared by a Registered Civil Engineer.
  - g) Execute the City's standard Deferred Improvement Agreement for the under-grounding of utilities for the full frontage on Eastshore Highway.

PARCL-2 **Parcel Map Dedications.** Right-of-ways, easements, areas to be dedicated, vacated or reserved prior to the recording of the Parcel Map and as approved by the City Engineer.

**PUBLIC IMPROVEMENTS CONDITIONS**

PUBIM-1 **Encroachment Permit.** The applicant shall obtain an encroachment permit from the Engineering Division prior to commencing any construction activities within any public right-of-way or easement.

PUBIM-2 **Debris Removal.** 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.

PUBIM-3 **Damage to Street Improvements.** 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 applicant. This shall include sidewalk repair, slurry seal, street reconstruction or others, as may be required by the City Engineer.

PUBIM-4 **Right-of-Way Construction Standards.** 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.

PUBIM-5 **Public Street Improvements.** The following public street improvements shall be made:

**FIRE DEPARTMENT CONDITIONS**

FIRE-1 **Construction Less than 400 Square Feet.** For construction less than or equal to 400 square feet of habitable space:

- a) New construction as per as per currently adopted version of California Building Code (CBC) 310.9.1.2 et seq. 110-volt smoke detectors are required with a battery as back-up.
- b) Smoke detectors as per currently adopted version of California Fire Code (CFC), Section 1006.2.9.3 Upgrade and install new stand-alone smoke detectors with 10-year lithium battery and silence button in the existing dwelling.

FIRE-2 **Construction Between 400 - 1,499 Square Feet.** For new construction between 400 square feet to 1,499 square feet:

- a) This dwelling will be required to have an Approved Local Protective Signaling System/Local Fire Alarm System installed. This will include, but not be limited to, 12 or 24 volt hard wired or wireless automatic smoke or heat detectors throughout the dwelling, with a 24-hour battery back-up at panel. Albany Municipal Code, Chapter XI, Fire Prevention, Section 11-2.3f (1007.3.3.6.1.1) & NFPA 72, 2002 Edition.

FIRE-3 **Construction of 1,500 Square Feet or Greater.** 1500 sq. ft. or more or any addition, remodel, rehabilitation, etc. is 50% of the existing sq. ft.:

- a) This dwelling will be required install an Automatic Fire Extinguishing System throughout the entire dwelling. Ordinance No. 94-010, Albany Municipal Code, Chapter 11, Section 11-2.3a(3)(a).
- b) Plans, information sheets on all sprinkler components and hydraulic calculations are required.
- c) A 110-volt interconnected smoke alarm system with a 10-year lithium batter back-up is acceptable with a fire suppression system.

- FIRE-4 **Fire Rated Construction.** Any portion of a building five (5) feet or less from the property line shall comply with fire-rating requirements of the CBC.
- FIRE-5 **Gallons-per-Minute Requirement.** The water system for fire protection shall provide a minimum of (Fire Department shall determine during building permit process) gallons per minute with a minimum residual main pressure of 20 psi for a two-hour duration. Fire flow test data and water system plans must be provided at time of building plan check. The plans must include all equipment, components and layout of the system. Private fire protection water systems shall be supplied through an approved backflow device per City Engineering Division standards.
- FIRE-6 **Fire Access Requirements.** No portion of the structure(s) shall exceed 150 feet from an approved access roadway. Where a fire apparatus access roadway is required, a minimum of 13'-6" vertical clearance and minimum width, to be determined for the Fire Department, shall be provided. All private access roadways exceeding 150 feet in length shall be designed and constructed with an approved turnaround area per City Engineering standards, a maximum grade of 15% and a traffic index of 4.5, or as otherwise approved by the Fire Department.
- FIRE-7 **Distance From Fire Hydrant.** No portion of a structure(s) shall exceed (Fire Department shall determine during building permit process) ft. from a fire hydrant with a water pressure (gal/min), to be determined by the Fire Department. Prior to building permit issuance the distance from existing fire hydrants to the building shall be verified or a new hydrant shall be shown on the plans and installed prior to combustible construction.

*NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM CONDITIONS*

**STRUCTURAL CONTROL MEASURES**

- STRUC-1 **Illegal Dumping to Storm Drain Inlets and Waterways.** On-site storm drain inlets shall be clearly marked with the words "No Dumping! Flows to Bay," or equivalent, using methods approved by the City of Albany.
- STRUC-2 **Interior Floor Drains.** Interior floor drains shall be plumbed to the sanitary sewer system and shall not be connected to storm drains. The applicant shall contact the City Engineer for specific connection and discharge requirements.
- STRUC-3 **Parking Lots.** Interior level parking garage floor drains shall be connected to [a water treatment device approved by the City of Albany prior to discharging to] the sanitary sewer system. The applicant shall contact the City Engineer for specific connection and discharge requirements.
- STRUC-4 **Pesticide/Fertilizer Application** Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution. If a landscaping plan is required as part of a development project application, the plan shall meet the following conditions related to reduction of pesticide use on the project site:
- a) Where feasible, landscaping shall be designed and operated to treat stormwater runoff by incorporating elements that collect, detain, and infiltrate runoff. In areas that provide detention of water, plants that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified.

- b) Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.
- c) Existing native trees, shrubs, and ground cover shall be retained and incorporated into the landscape plan to the maximum extent practicable.
- d) Proper maintenance of landscaping, with minimal pesticide use, shall be the responsibility of the property owner.

OPERATIONAL BEST MANAGEMENT PRACTICES (BMPs)

- BMP-GEN1     **Stormwater Pollution Prevention Control Measures.** 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.
- BMP-GEN2     **Erosion Control Measures.** 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*
- BMP-GEN3     **Responsibility of Contractors.** 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.
- BMP-1         **Paved Sidewalks and Parking Lots.** 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.
- BMP-2A        **Private Streets, Utilities and Common Areas.** The owner of private streets and storm drains shall prepare and implement a plan for street sweeping of paved private roads and cleaning of all storm drain inlets.
- BMP-2B        **Property Owners Association Responsibilities for Maintenance.** For residential developments, a property owners association shall be created and shall be responsible for maintaining all private streets and private utilities and other privately owned common areas and facilities on the site including landscaping. These maintenance responsibilities shall include implementing and maintaining stormwater BMPs associated with improvements and landscaping. CC&R's creating the association shall be reviewed and approved by the City Attorney prior to the recordation of the Final Map and recorded prior to the sale of the first residential unit. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association.
- BMP-3A        **Vehicle/Equipment Repair and Maintenance.** No person shall dispose of, nor permit the disposal, directly or indirectly, of vehicle fluids, hazardous materials, or rinsewater from parts cleaning operations into storm drains.

- BMP-3B **Prohibited Vehicle Fluid Removal Areas.** No vehicle fluid removal shall be performed outside a building, nor on asphalt or ground surfaces, whether inside or outside a building, except in such a manner as to ensure that any spilled fluid will be in an area of secondary containment. Leaking vehicle fluids shall be contained or drained from the vehicle immediately.
- BMP-3C **Unattended Drip Parts.** No person shall leave unattended drip parts or other open containers containing vehicle fluid, unless such containers are in use or in an area of secondary containment
- BMP-4 **Fueling Areas Cleaning.** The property owner shall dry sweep the fueling area and spot clean leaks and drips routinely. Fueling areas shall not be washed down with water unless the wash water is collected and disposed of properly (i.e., not in the storm drain).
- BMP-5 **Loading Docks.** The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill clean-up.
- BMP-6 **On-Site Storm Drains.** All on-site storm drains must be cleaned at least once a year immediately prior to the rainy season. Additional cleaning may be required by the City of Albany.

**GENERAL CONSTRUCTION BEST MANAGEMENT PRACTICES**

- BMP-CNST1 **Construction Access Routes.** Construction access routes shall be limited to those approved by the City Engineer and shall be shown on the approval grading plan.
- BMP-CNST2 **Collection of Construction Debris.** Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
- BMP-CNST3 **Removal of Waste.** Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
- BMP-CNST4 **Sweeping of Public Right-of-Way.** Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping.
- BMP-CNST5 **Filter Materials at Storm Drain Inlet.** Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to:  
a) start of the rainy season (October 1);  
b) site dewatering activities;  
c) street washing activities;  
d) saw cutting asphalt or concrete; and  
e) order to retain any debris or dirt flowing into the City storm drain system.  
Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash.
- BMP-CNST6 **Containment of Materials.** Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides, or any other materials used on the project site that have the potential for being discharged to the storm drain system by wind or in the event of a material spill.

- BMP-CNST7 **Cleaning of Equipment.** Never clean machinery, tools, brushes, etc. or rinse containers into a street, gutter, storm drain or stream. See the *Building Maintenance/Remodeling* flyer for more information.
- BMP-CNST8 **Minimize Removal of Natural Vegetation.** Minimize removal of natural vegetation or ground cover from the site in order to minimize the potential for erosion and sedimentation problems. Replant the area as soon as possible. All cut and fill slopes shall be stabilized as soon as possible after grading is completed. No site grading shall occur between October 1 and April 15 unless approved erosion and sedimentation control measures are in place.

**SPECIAL, PROJECT-SPECIFIC CONDITIONS**

- SPC-1 **Public Art.** The applicant must comply with all provisions of the art in public places program, which includes selection and installation of a public art feature valued at 1.75% of construction.
- SPC-2 **Affordable Housing.** The applicant must comply with the inclusionary housing ordinance (MC 20.40), which includes one low-income unit to be dedicated to the City's inclusionary housing program and that two low-income units be dedicated to the City's density bonus housing program.
- SPC-3 **Deed Restriction .**
- SPC-4 **Green Building.**
- SPC-5 **NPDES Clean Water Compliance.** All stormwater shall be caught and treated with treatment control measures in accordance with the NPDES permit section C-3, subject to Engineering review and approval.
- SPC-6 **Operation and Maintenance Agreement.** The applicant shall complete an operation and maintenance agreement for the stormwater treatment control measure, subject to staff review and approval.
- SPC-7 **Streetscape Improvements.** The applicant shall comply with all streetscape improvements as determined by the City Engineer. This condition includes both the design and construction of required improvements.
- SPC-8 **Landscaping and Open Space Amenities.** The applicant shall submit a landscape plan for both private and common open space improvements, which include benches, bbqs, planters, plant types, flooring material, etc.
- SPC-9 **Planning and Zoning Commission review of Building Permit Plans.** The Planning and Zoning Commission shall review and make any relevant changes, to aesthetic details or project amenities that differ from those approved during Design Review.
- SPC-11 **Density Bonus Approval.** Design Review approval is contingent upon City Council approval of the Density Bonus. The City Council shall have discretion to modify design review approval, or refer design changes back to the Planning and Zoning Commission for additional action.
- SPC-12 **Project Name.** The marketing name of the project shall be subject to City staff review and approval.

**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 the 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.