

City of Albany
Planning and Zoning Commission
Staff Report

Meeting Date: September 9, 2008

Prepared by: _____

Agenda Item: 6c

Reviewed by: _____

Subject: 908 Ventura. Continuation of Planning Application 07-094. Design Review. Conditional Use Permit. A request for Design Review approval to allow a 923sq.ft., second-story addition to an existing single-family home. A Conditional Use Permit is also requested to allow the extension of the nonconforming (northern) wall.

**Applicant/
Owner:** Bill Bondy with Starkweather and Bondy Architecture for Nasif & Susan Izkaner

Recommendation

Staff recommends that the Planning and Zoning Commission approve Planning Application 07-094. Design Review and Conditional Use Permit, subject to attached findings and conditions of approval.

Previous Action

No recent major improvements have been made to the property.

Project Description

The subject property is a 4,312sq.ft., lot that has a slight down slope east to west and from north to south. There is a 1,411sq.ft., single-story, single-family home with a maximum height of 20'-5". The applicant would like to construct a 920sq.ft. second-story addition. The addition is located over the mid and rear sections of the home. The project includes a reduction of 212sq.ft. at the rear of the home. There is a nonconforming side yard (northern) setback of 3'-6" where 3'-9" is required. The applicant is requesting a conditional use permit to allow the extension of the nonconforming wall to create the second-story. There is an 8'-10" side yard setback on the southern side, a 19'-10" front yard setback and a rear yard setback of 36'-10", all of which are conforming.

The proposed addition varies in height because of the sloping topography and varying roof types, ranging from 24' -10" at the front and 27'-6" at the rear,. There is an 8'-10" long driveway that runs along the southern property line, which the applicant currently uses to access a two-car garage. The garage provides the two required off-street parking spaces. It should be noted that the garage is nonconforming in that it covers more than 30% of the required rear yard, which is allowed to remain "as is" by municipal code.

The home is located less than a block away from Solano Avenue. The home to the north is a two-story and the home to the south is a one-story. The architectural style of the neighborhood is varied with multiple architectural styles and designs.

Background on Application

The application was submitted on December 10, 2007. Staff had a number of conversations with the applicant who has submitted various revisions of the plans, all of which maintain the same project concept. The project was reviewed a public hearing of the Planning and Zoning Commission on both March 11, 2008 and June 10, 2008 where the project was continued to allow for possible redesign and change in architectural details, which are discussed in further detail below.

Environmental Analysis

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15303, "New Construction or Conversion of Small Structures" of the CEQA Guidelines, which exempts small additions.

Identification of Key Issues

Design Review Summary

The existing home has a classic Californian bungalow style. There is a covered front porch with accenting columns and decorative windows with mullions. The roof on the first floor is unique in that there are intersecting, opposite facing gables, which creates an interesting appearance. The home is finished in stucco with a composition shingle roof and has various types of rectangular shaped windows. The rear portion of the home is elevated on posts with the first-floor cantilevering over the crawl space. This area is proposed to be removed as part of the project.

The applicant has chosen a unique design concept, which includes maintaining the bungalow style on the front façade and a modern style design on the rear façade. The front and rear elevations are distinctly different. The different architectural styles are exemplified by the gable roofs matching those of the existing home at the front of the home, which transition into flat roofs towards the rear of the home, which are more consistent with a modern style design.

The second-story addition is setback approximately 12' from the front wall. There is a mix in the size of the rectangular sized windows on the front elevation, all of which have a matching divided light pattern at the top. Both side elevations have variation in wall depth, with portions of the wall that extend out further than others. The south elevation represents both architectural styles with a divided light windows and a gabled roof over the bay towards the southeast end of the home and a flat over the bay at the southwest end of the home, which also has a large, rectangular casement window.

Design Review Discussion

As previously stated, the project has been reviewed twice by the Planning and Zoning Commission on March 11, 2008 and June 10, 2008. The following summarize the overall recommendations and comments provided to the applicant, by the Commission, on the two public hearing dates:

March 11, 2008

- Applicant is to work with the neighboring property owner, at 905 Ventura, across the street to find a design solution that preserves a partial view of the bay where there is a currently a panoramic view for the easterly neighbor.
- Bay windows need more articulation and should be better integrated with the first-floor. A mix of building materials can help to break up the massing of the home.

June 10, 2008

- The plate heights could be adjusted to lower the maximum height of the home. All except for the northeast plate could maintain the architectural integrity of the design.
- Depiction of the height and window placement in relation to the neighboring structures.
- The southeast corner bay appears like a chimney and could be either revised in design or removed.
- Request for a three-dimensional model.

The plate heights have been lowered, which brings down the overall height of the home, most notably on the front elevation. The north side of the home is approximately 2' lower and has a better integration of rooflines. The southern second-story window on the front elevation has been changed from double-hung to casement, which creates a more cohesive appearance. A gabled roof has been added over the south elevation bay window, which has also be extended to the ground. The new gabled roof over the bay provides a better transition between the two varying architectural styles. Overall, the revised plans created a more balanced, attractive appearance. The applicant has provided a sketch up drawing providing a good, clear and accurate visual of the proposed project (see attachment 10).

Staff believes that the applicant's changes are generally responsive to previous architectural comments by the Commission, and based on previous Commission discussion, recommends approval, subject to the attached draft findings and conditions.

Discussion of View Preservation

It should be noted that the issue of view preservation is a significant consideration. The City does not have a specific policy or code requirement mandating view preservation. The Commission's authority to address view preservation is incorporated into the design review standards of review, and specifically whether an application is harmonious with its surroundings. In this case, the proposed project will completely block the neighbor's view of the bay from the first-floor of their home (see attachment ____), but will still allow a view from the second-story of the home. The applicant has met with their neighbors across the street and discussed alternatives and options for redesigning the project. The neighbor's preference is that the second-story be located on the north side of the home and perhaps excavation could create habitable space in the crawl space area if more space is needed. The applicants believe that this alternative does not meet their needs and prefers to keep the initial design concept, with the second-story spanning the entire width of the home.

Conditional Use Permit

The existing northern side yard setback is 3' 6", three inches short of conforming with the required 3'-9" setback. The home adjacent to the north has a driveway that runs between the two homes and appears to be "maxed out" in size, which means there is little possibility the home will extend out to the south, further to the subject property. Although staff typically staff recommends that applicants explore all options for avoiding the extension of a nonconforming wall, but in this case staff recommends approval of the request for a conditional use permit since requiring the home be brought in 3" would be increasingly difficult for such a small length.

Green Building Requirements

The applicant has provided the green points checklist and met a maximum of 71 points, which staff would like to point out as one of the highest scoring projects to date. Items such as recycled flyash, lighting controls FSC certified wood, etc. are just a few of the measures the applicant will implement to meet the City's green building requirements.

Appeals:

The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council if such appeal is filed within 14 days of the date of action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee.

Attachments:

1. Analysis of Zoning Requirements
2. Findings
3. Conditions of Approval
4. Application, Project Plans, Photos
5. Green Points Checklist
6. Staff report from March 11, 2008
7. Minutes from March 11, 2008 Public Hearing
8. Staff report from June 10, 2008
9. Reduced size plans from May 9, 2008, which were reviewed at the June 10, 2008 public hearing
10. Sketch up renderings provided by the applicant

ATTACHMENT 1 – ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS

20.12 Zoning Districts And Permitted Uses

General Plan: Low Density Residential
 Zoning: R-1 – Single-Family Residential

20.16 Land Use Classifications

Single family residential

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

20.20.080 Secondary Residential Units.

Not applicable.

20.24.020 Table Of Site Regulations By District.

	Existing (approx.)	Proposed (approx.)	Requirement
Setbacks			
Front (east)	19'-10"	No change	15'
Side (north)	3'-6'	No change	3'-9"
Side (south)	8'-10"	No change	3'-9"
Rear (west)	38'-4"	36'-10"	20'
Area			
Lot Size	4312	No change	--
Lot Coverage	42.8%	43.4%	50%
Maximum Height	20'-5"	28'	28' max.

20.24.030 Overlay District Regulations.

Not applicable.

20.24.040 Hillside Residential Regulations.

Not applicable.

20.24.050 Floor-Area-Ratio.

	Existing (approx.)	Proposed	Requirement
Lot Size	4312	No change	--
Floor Area			
First-floor	1411	1199	--
Second-floor	0	920	
Garage	460	No change	
Total	1871	2564	--
Total Counted	1651	2314*	--
Floor Area Ratio	38.2%	53.6%	55%

* 220sq.ft. has been subtracted for one enclosed, off-street parking space and 45sq.ft. for the internal stairway, as permitted by MC 20.24.050

20.24.060 Setback Areas, Encroachments.

See discussion of key issues.

20.24.100 Distances Between Structures.

See discussion of key issues.

20.24.110 Fences, Landscaping, Screening.

Not applicable.

20.24.130 Accessory Buildings.

See project description.

20.28 Off-Street Parking Requirement.

See project description.

20.40 Housing Provisions

Not applicable.

20.44 Non-conforming Uses, Structures and Lot

See project description.

20.48 Removal of Trees

Not applicable.

20.52 Flood Damage Prevention Regulations

Not applicable.

20.100.030 Use Permits.

See discussion of key issues.

20.100.040 Variances.

Not applicable.

20.100.010 Common Permit Procedures.

Public notice of this application was provided on August 29, 2008 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 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 designates this area for residential development. Additionally, the project meets City zoning standards for location, intensity and type of development.</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 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.</p> <p>The applicant has chosen a unique design concept, which includes maintaining the bungalow style on the front façade and a modern style design on the rear façade, which is interesting and unique. The two elevations are distinctly different. The second-story addition is setback from the front wall with the northern half of the addition being taller with a gabled roof. It sits further out than the southern half of the wall, which breaks up the front façade and creates architectural interest when viewed from the street.</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 home will not extend out further than the two adjacent homes, which means that all of the rear yards will remain open and free from shadowing by structures. It is similar in size and mass than neighboring homes and has designed to be aesthetically appealing and attractive.</p>
<p>4. <i>The project is in substantial compliance with applicable general and specific Standards for Review stated in Subsection 20.100.050.D.</i></p>	<p>The project as designed is in substantial compliance with the standards as stated, including access, architecture, natural features, coordination of design details, and privacy</p>

Findings for Conditional Use Permit approval (Per section 20.100.030.D of the AMC)

Required Finding	Explanation
<p>5. Necessity, Desirability, Compatibility. <i>The project's size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.</i></p>	<p>The General Plan designates this area for residential development. Additionally, the project meets City zoning standards for location, intensity and type of development.</p>
<p>6. Adverse Impacts. <i>The project's use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:</i></p> <p>a. <i>The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;</i></p> <p>b. <i>The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;</i></p> <p>c. <i>The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;</i></p> <p>d. <i>Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs.</i></p>	<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 existing dwelling and 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 existing northern side yard setback is 3'-6", three inches short of conforming with the required 3'-9" setback. The home adjacent to the north has a driveway that runs between the two homes and appears to be "maxed out" in size, which means there is little possibility the home will extend out to the south, further to the subject property.</p> <p>Requiring the wall to be brought in 3" would be increasingly difficult for such a small length and would make very little difference aesthetically or functionally.</p> <p>The traffic and circulation on the site will not change and no noxious or offensive noise, glare, dust or odor will result from approving a conditional use permit.</p>
<p>7. Consistency with Zoning Ordinance, General Plan and Specific Plan. <i>That such use or feature as proposed will comply with</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</p>

<i>the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.</i>	property, improvements or potential future development in the area.
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ATTACHMENT 3 - CONDITIONS OF APPROVAL

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.albanysca.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
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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
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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

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 |

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 |

PROJECT-SPECIFIC CONDITIONS

- SPC-1 Public Art
- SPC-2 Affordable Housing
- SPC-3 Deed Restriction
- SPC-4 Green Building

- PUBIM-5 Public Street Improvements

NATIONAL POLLUTANT DISCHARGE
 ELIMINATION SYSTEM CONDITIONS

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

- 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

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

SPC-5 **Windows.** All new windows must have trim and recess that match the existing windows

COMMUNITY DEVELOPMENT DEPARTMENT CONDITIONS OF APPROVAL

GENERAL PROJECT CONDITIONS

- GEN-1 **Project Approval.** This [Conditional Use Permit, Variance, Design Review, Parking Exception] approval is for Nasif & Susan Izkaner, 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 Bill Bondy with Starkweather and Bondy Architecture date received July 31, 2008, architectural plans (project perspectives, building sections, and floor plans, all as presented to the Planning and Zoning Commission on September 9, 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 [Conditional Use Permit, Variance, Design Review, Parking Exception] approval expire on September 23, 2009 (one year from the date on which this approval becomes effective) or at an alternate time specified as a condition of approval, unless [a building permit has been issued and construction diligently pursued; a certificate of occupancy has been issued; the use is established; the use permit, variance or design review approval is renewed]. The approval may be renewed by the Community Development Director for a period up to an additional two (2) years, provided that, at least ten (10) days 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.

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 undergrounding 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 _____ 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 _____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:
- start of the rainy season (October 1);
 - site dewatering activities;
 - street washing activities;
 - saw cutting asphalt or concrete; and
 - 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 _____% of very low or low-income units to be dedicated to the City's inclusionary housing program.

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.