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1       **WHEREAS**, the subject property does not have existing conforming off-  
2 street street parking; and

3  
4       **WHEREAS**, the Planning & Zoning Commission reviewed and approved  
5 Design Review and a Parking Reduction for 1111-1115 Neilson at its April 10, 2019  
6 hearing; and

7  
8       **WHEREAS**, Vincent Labiano Abella and Elisabeth Lhoest filed an appeal of  
9 the Planning and Zoning Commission decision on April 24, 2019; and

10  
11       **WHEREAS**, the appeal cites a misinterpretation of the Zoning Code  
12 regarding the property's existing nonconforming use, an error or abuse of discretion  
13 on the Parking Reduction and potential parking impacts, and an error on calculating  
14 floor-area-ratio per the Albany Municipal Code; and

15  
16       **WHEREAS**, the appeal hearing date was established pursuant to Section  
17 20.100.080 (E) (1) which requires that a hearing date be set within 30 days of the  
18 initial filing and that the hearing be held within 60 days of the original date of  
19 approval when feasible and was scheduled for review on July 1, 2019 with the  
20 applicant's consent; and

21  
22       **WHEREAS**, Planning and Zoning Code Section 20.100.080.F establishes the  
23 following standards for review of appeals:

24  
25       *When reviewing any decision of the Planning and Zoning Commission on*  
26 *appeal, the City Council shall use the same standards for decision making and*  
27 *is required to make findings in accordance with the Municipal Code. The*  
28 *Council may adopt the Planning and Zoning Commission's decision and*  
29 *findings as its own. In either case, the City Council shall have the option to*  
30 *prepare a resolution stating the council's decision or shall render its decision*  
31 *by minute action.*

1  
2       **WHEREAS**, on July 1, 2019 the City Council held a public hearing,  
3 considered all public comments received, the presentation by City staff, the staff  
4 report, and all other pertinent documents regarding the proposed request; and  
5

6       **WHEREAS**, a public hearing notice was mailed to property owners within  
7 300 ft. of the subject site and was posted in three public places on Friday, June 21,  
8 2019 for the City Council appeal pursuant to Government Code Section 65090.  
9

10       **NOW THEREFORE BE IT RESOLVED**, that the City Council of the City  
11 of Albany approves application request PA 19-022 and upholds the decision of the  
12 Planning & Zoning Commission:  
13

14       **1. FINDINGS FOR EXEMPTION FROM CEQA**  
15

16       **Finding:** The project is Categorically Exempt from the California Environmental  
17 Quality Act Guidelines pursuant to Section 15303 “New Construction or  
18 Conversion of Small Structures”.  
19

20       **Evidence:** The proposed application would result in construction of an addition to  
21 a legal-nonconforming triplex in an R-1 Zoning District.  
22

23       **2. FINDINGS FOR APPROVAL OF DESIGN REVIEW**  
24

25       **Findings for Design Review approval (Per section 20.100.050.E of the AMC)**  
26

- 27       1. **Finding Required for Approval:** The project conforms to the General Plan,  
28 any applicable specific plan, applicable design guidelines adopted by the City  
29 of Albany, and all applicable provisions of this Chapter.  
30

1                   **Evidence:** The General Plan designates this area for residential  
2                   development. Additionally, the project meets City zoning standards for  
3                   location, intensity, and type of development.  
4

- 5       2. **Finding Required for Approval:** Approval of project design is consistent  
6       with the purpose and intent of this section, which states “designs of  
7       projects...will result in improvements that are visually and functionally  
8       appropriate to their site conditions and harmonious with their surroundings,  
9       including natural landforms and vegetation. Additional purposes of design  
10      review include (but are not limited to): that retention and maintenance of  
11      existing buildings and landscape features are considered; and that site access  
12      and vehicular parking are sufficient.”  
13

14                   **Evidence:** The proposal is in scale and harmony with existing   development  
15                   in the vicinity of the site. The architectural style, design and building  
16                   materials are consistent with the City’s Residential Design Guidelines. The  
17                   project will not require significant grading or excavation. The project will not  
18                   create a visual detriment at the site or the neighborhood.  
19

20                   **Finding Required for Approval:** Approval of the project is in the interest of  
21                   public health, safety and general welfare.  
22

23                   **Evidence:** The proposed project will not be detrimental to the health,  
24                   safety, convenience, and welfare of those in the area and would not  
25                   adversely impact property, improvements, or potential future  
26                   development in the area.  
27

- 28       3. **Finding Required for Approval:** The project is in substantial compliance  
29       with applicable general and specific Standards for Review stated in  
30       Subsection 20.100.050.D.  
31

1                   **Evidence:** The project as designed is in substantial compliance with  
2                   the standards as stated, including harmonious materials, and well  
3                   proportioned massing.

4                   **3. FINDINGS OF APPROVAL FOR PARKING EXCEPTION**

5  
6                   **Findings for Exceptions to Parking Space Requirements (Per Section 20.28.040**

7                                   **(A) (2) of the AMC)**

8  
9  
10                   *A. Exceptions for Residential Uses.*

11  
12                                   2.                   *Additions Where No New Dwelling Units Are Created. Where a*  
13                                   *proposed addition to a dwelling unit increases the original floor space*  
14                                   *within all structures on a lot, as defined above in Paragraph A.1., by more*  
15                                   *than two hundred forty (240) square feet and does not create additional*  
16                                   *dwelling units, the Planning and Zoning Commission may reduce the*  
17                                   *parking requirements contained in subsection 20.28.030.A. upon*  
18                                   *consideration of the existence of such circumstances as listed in*  
19                                   *Paragraphs a. through e., below. In granting any such reduction, the*  
20                                   *Planning and Zoning Commission shall make specific findings consistent*  
21                                   *with its consideration of these and other circumstances relating to the*  
22                                   *application.*

23  
24                   **Findings:**

25  
26                                   a.                   *Required spaces cannot be located in front or side yard*  
27                                   *areas.*

28                                   **Finding:** The existing driveways cannot accommodate a  
29                                   legal-size parking space due to the placement of the garages  
30                                   which create a 12'1" long driveway pad from curb to  
31                                   garage face. Creating a third curb cut to accommodate a  
32                                   third off-street parking space in the side/rear yard would  
33                                   lead to a loss of on-street parking. It would also require the  
34                                   reconfiguration of access stairs to the front units and  
35                                   eliminate front yard landscaping.

1  
2           b.       *Space is not available to provide the required parking*  
3 *facilities without undue hardship.*

4           **Finding: Due to the sitting of the garages in front of the**  
5 **home, there is insufficient space to provide a legal-size parking**  
6 **space within the front yard setback. Significant earth movement**  
7 **would be necessary. Given the constraints, this would only yield a**  
8 **compact size parking space in the front yard setback which also**  
9 **requires Commission discretion for consideration and action.**

10  
11           c.       *Provision of required parking spaces would be*  
12 *disruptive to landmark trees or would severely restrict private outdoor*  
13 *living space on the site.*

14           **Finding: Establishing a third off-street parking space**  
15 **would require significant amounts of on-site grading and**  
16 **would eliminate a significant amount of outdoor living**  
17 **space on the site for Units 1111 & 1113 Neilson.**

18  
19           d.       *Creation of new off-street spaces would require the*  
20 *elimination of an equivalent or higher number of on-street parking*  
21 *spaces.*

22  
23           **Finding: Creating a third curb cut to allow for an**  
24 **additional off-street parking space would eliminate an on-**  
25 **street parking space.**

26  
27           e.       *The proposed reduction in parking requirements is*  
28 *appropriate to the total size of the dwelling unit upon completion of*  
29 *the proposed addition.*  
30

1                   **Finding: The overall density for the subject property is not**  
2                   **proposed to change with the project scope. The amount of**  
3                   **off-street parking would remain the same.**  
4

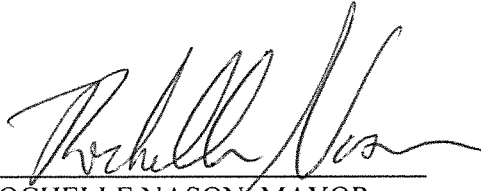
5   **PASSED AND ADOPTED** by the City Council of the City of Albany on the 1<sup>ST</sup> day  
6 of July, 2019.  
7

8 AYES: *Council Members: Barnes, Maass, McQuaid, Pilch & Mayor Nason*  
9

10 NOES: *none*  
11

12 ABSENT: *none*  
13

14 ABSTAIN: *none*  
15

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18 ROCHELLE NASON, MAYOR  
19

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**EXHIBIT A  
CONDITIONS OF APPROVAL  
PLANNING APPLICATION 19-022  
AS APPROVED BY THE PLANNING & ZONING COMMISSION  
(SEPARATE PAGE)**



**EXHIBIT A**  
**1115 NEILSON CONDITIONS OF APPROVAL**  
**PA 19-022**

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
	<b>Special Conditions</b>			
1.	<b>Garage Doors.</b> The applicant shall provide a minimum 8-foot-wide garage doors on both garages.			
2.	<b>Bicycle Parking.</b> The applicant shall provide secured, covered bicycle parking spaces for three (3) bicycles.			
3.	<b>Front Porch Modification.</b> The applicant shall work with staff to redesign the front two porches on top of the garages. The design shall be modified to provide a simpler guardrail design with awning.			
4.	<b>Window Modification.</b> The rear windows on the proposed second story shall be modified to include obscured glazing on the lower half of the windows.			
5.	<b>Building Permit Verification.</b> All special conditions of approval shall be verified by planning staff prior to building permit issuance.			
	<b>General Conditions</b>			

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
1.	<b>Project Approval.</b> This Design Review and Parking Reduction approval is for 1115 Neilson Street, as substantially shown and described on the project plans, except as required to be modified by conditions herein. Plans prepared by Kerstin Hellmann Architecture date received March 4, 2019, as presented to the Planning and Zoning Commission on April 10, 2019. For any condition herein that requires preparation of a Final Plan where the project applicant has submitted a conceptual plan, the project applicant 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.	On-Going	Planning	
2.	<b>Project Approval Expiration.</b> This Design Review approval expire on April 24, 2019 (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. The approval may be renewed by the Community Development Director for a period up to an additional two (2) years, provided that, at least ten (10) days before expiration of one (1) year from the date when the approval becomes effective, an application for renewal of the approval is filed with the Community Development Department. The Community Development Director may grant a renewal of an approval where there is no change in the original application, or there is no request to change any condition of approval for up to two additional years from the expiration date.	On-Going	Planning	

		Timing/ Implementation	Enforcement/ Monitoring	Verification (date and Signature)
3.	<b>Fees.</b> 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 before issuance of said permit or before any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering, Fire and Inspection Fees. The project applicant shall also reimburse the City for direct costs of planning; building and engineering plan check and inspection, as mutually agreed between the City and applicant.	On-Going	Community Development Department	
4.	<b>Appeals.</b> 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 pursuant to Section 20.100.080. The City Clerk will then schedule the matter for City Council review within thirty (30) days of the appeal filing and sixty (60) days from the original action date.	On-Going	Planning Department	
5.	<b>Requirement for Building Permit.</b> Approval granted by the Planning and Zoning Commission does not constitute a building permit or authorization to begin any construction or demolish an existing structure. An appropriate permit issued by the Community Development Department must be obtained before constructing, enlarging, moving, converting, or demolishing any building or structure within the City.	On-Going	Building Department	

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
6.	<b>Modifications to Approved Plans.</b> The project shall be constructed as approved and with any additional changes required pursuant to staff or Planning & Zoning Commission Conditions of Approval. Planning staff may approve minor modifications in the project design, but not the permitted land use (per AMC 20.12). A change 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.	On-Going	Planning Department	
7.	<b>Hold Harmless Agreement.</b> Pursuant to Albany Municipal Code Section 20.100.010 (N), 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. The City will promptly notify the applicant of any such claim action or proceeding and cooperate fully in the defense.	On-Going	Planning Department	
	<b>Building Permit Submittal</b>			
8.	<b>Project Conditions.</b> The project Conditions of Approval shall be included as a separate page in the building permit plan set and shall be signed by the applicant.	At the time of Building Permit Submittal	Planning Division	
9.	<b>Drainage.</b> 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	At the time of Building Permit Submittal	Building Department	

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
	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. A drainage plan shall be submitted at the time of building permit submittal.			
10.	<b>Roof Drainage.</b> 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.	At the time of Building Permit Submittal	Building Department	
11.	<b>Window Recess.</b> 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.	At the time of Building Permit Submittal	Community Development Department	
12.	<b>Driveway Materials.</b> The building permit plans shall indicate driveway material to be installed as part of the project construction. The materials shall be noted on the plans at the time of building permit submittal.	At the time of Building Permit Submittal	Community Development Department	
13.	<b>Landscaping.</b> Landscaping shall be designed for compliance with the Water Efficient Landscape Ordinance and to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution. Bay Friendly	At the time of Building Permit Submittal	Community Development Department	

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
	<p>Landscaping practices are strongly encouraged. If a landscaping plan is required as part of an application, the plan shall meet the following conditions related to reduction of pesticide use on the project site:</p> <p>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.</p> <p>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.</p> <p>c) Existing native trees, shrubs, and ground cover shall be retained and incorporated into the landscape plan to the maximum extent practicable.</p> <p>d) Proper maintenance of landscaping, with minimal pesticide use, shall be the responsibility of the property owner.</p>			
14.	<p><b>Street Tree Requirement.</b> The City Arborist will determine the type and location of a required street tree and may waive this requirement if site conditions will not reasonably support establishment of a new tree. If required by the City Arborist, the applicant shall apply for one street tree before the issuance of the building permit.</p>	At the time of Building Permit Submittal	City Arborist	

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
15.	<b>Two-Way Cleanout.</b> Installation of a two-way curbside cleanout shall be required per Chapter 15 of the Albany City Code and noted on the building permit plans. 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.	At the time of Building Permit Submittal	Building Department	
16.	<b>Distance From Fire Hydrant.</b> Before building permit issuance the distance from existing fire hydrants to the building shall be verified and included on the building permit plans. If necessary, a new hydrant shall be shown on the plans and installed prior to combustible construction.	At the time of Building Permit Submittal	Fire Department	
17.	<b>Stormwater Pollution Prevention Control Measures.</b> 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.	At the time of Building Permit Submittal	Community Development Department	
18.	<b>Gallons-per-Minute Requirement.</b> The water system for fire protection shall comply with City of Albany Fire Department standards. 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.	At the time of Building Permit Submittal	Fire Department	

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
19.	<p><b>Construction of 1,500 Square Feet or Greater.</b> 1500 sq. ft. or more or any addition, remodel, rehabilitation, etc. is 50% of the existing sq. ft.:</p> <p>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).</p> <p>b) Plans, information sheets on all sprinkler components and hydraulic calculations are required.</p> <p>c) A 110-volt interconnected smoke alarm system with a 10-year lithium battery back-up is acceptable with a fire suppression system.</p> <p><b>Staff will provide a determination letter at the time with the Notice of Action. Deferred submittals are acceptable for fire sprinkler systems.</b></p>	At the time of Building Permit Submittal	Fire Department	
	<b>At the Time of Building Permit Issuance</b>			
20.	<p><b>Sewer System Requirements.</b> The sewer system for the subject site shall comply with Chapter 15 of the Albany Municipal Code and to the satisfaction of the City Engineer prior to issuance of building permit.</p>	At the time of Building Permit Issuance	Building Department	



		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
21.	<b>Demolition Permit.</b> 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).	At the time of Building Permit Issuance	Community Development Department	
22.	<b>Encroachment Permit.</b> The applicant shall obtain an encroachment permit from the Engineering Division before commencing any construction activities within any public right-of-way or easement.	At the time of Building Permit Issuance	Community Development Department	
23.	<b>Grading Permit.</b> 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.	At the time of Building Permit Issuance	Community Development Department	
24.	<b>Electrical Service Upgrade.</b> The applicant shall indicate if the electrical service for the structure is required to be upgraded as part of the project scope. If an upgrade is required, it shall be noted on the plans and included in the scope of work at the time of building permit issuance.	At the time of Building Permit Issuance	Community Development Department	
	<b>On-Going During Construction</b>			
25.	<b>Collection of Construction Debris.</b> Gather all construction debris on a regular basis and place them in a Waste Management dumpster or other container that is emptied or removed on a	On-Going	Building Department	

		Timing/ Implementation	Enforcement/ Monitoring	Verification (date and Signature)
	weekly basis consistent with the Construction and Demolition Debris Ordinance. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.			
26.	<b>Construction Hours.</b> 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.	On-Going	Building Department	
27.	<b>Filter Materials at Storm Drain Inlet.</b> 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.	On-Going	Building Department	
28.	<b>Archeological Remains.</b> In the event subsurface archeological remains are discovered during any construction or preconstruction activities on the site, all land alteration work	On-Going	Community Development Department	

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
	within 100 feet of the find shall be halted, the Community Development Department notified, and a professional archeologist, certified by the Society of California Archeology and/or the Society of Professional Archeology, shall be notified. Site work in this area shall not occur until the archeologist has had an opportunity to evaluate the significance of the find and to outline appropriate mitigation measures, if deemed necessary. If prehistoric archeological deposits are discovered during development of the site, local Native American organizations shall be consulted and involved in making resource management decisions.			
	<b>Prior to Issuance of Occupancy Permit</b>			
29.	<b>Planning Inspection.</b> Planning staff shall conduct a site visit to review exterior building elevations for architectural consistency with the approved plans and landscape installation (if required). All exterior finishing details including window trim, paint, gutters, downspouts, decking, guardrails, and driveway installation shall be in place prior to scheduling the final inspection.	Prior to Occupancy Permit	Planning	
30.	<b>Shielding of Lighting.</b> 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.	Prior to Occupancy Permit	Planning	

		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification</u> (date and Signature)
31.	<b>Debris Removal.</b> All mud, dirt or construction debris carried off the construction site and shall be removed prior to scheduling the final Planning inspection. No materials shall be discharged onto a sidewalk, street, gutter, storm drain or creek.	Prior to Occupancy Permit	Building	
32.	<b>Fire Prevention.</b> A final Fire inspection shall occur to inspect all fire prevention systems constructed as part of the project. Inspections shall occur prior to final occupancy permit issuance.	Prior to Occupancy Permit	Fire Department	
33.	<b>Damage to Street Improvements.</b> 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.	Prior to Occupancy Permit	Building	
34.	<b>Right-of-Way Construction Standards.</b> 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.	Prior to Occupancy Permit	Public Works	

# *City of Albany*

## **ACCEPTANCE OF CONDITIONS**

I understand that Planning Application 19-022 for 1115 Neilson Street has been approved with findings and conditions set forth above. I have read the conditions of approval and understand them. Through signing this ACCEPTANCE OF CONDITIONS, I agree and commit to the City of Albany that I will implement and abide by the conditions of approval, including any indemnification requirements imposed by those conditions.

By accepting the permit or approval, applicant agrees to accept responsibility for defending against any third party challenge to the grant of this permit or approval. Except as provided by federal or state law, the applicant shall defend, indemnify and hold the City harmless from any costs, claims, penalties, fines, judgments or liabilities arising from the approval, including without limitation, any award or attorney's fees that might result from the third party challenge. Upon the occurrence of a challenge, or prior to a challenge, the City may require the applicant to execute an indemnity agreement and provide such security as the City may reasonably require.

For this purposes of this indemnity, the term "City" shall include the City of Albany, its officers, officials, employees, agents and representatives. For purposes of this indemnity, the term "challenge" means any legal or administrative action to dispute, contest, attack, set aside, limit, or modify the approval, project conditions, or any act upon which the approval is based, including any action alleging a failure to comply with the California Environmental Quality Act or other laws.

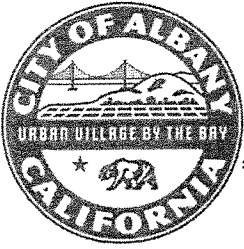
For this permit or approval to become effective, the applicant must, within thirty business days of the grant of the permit or approval, execute a form accepting the permit or approval with all conditions. Upon executing the form, the applicant may not challenge the imposition of any condition, except as otherwise provided by law.

Signature: \_\_\_\_\_  
Applicant

Date: \_\_\_\_\_

\_\_\_\_\_  
Co-Applicant, if any

Date: \_\_\_\_\_



# City of Albany

1000 San Pablo Avenue • Albany, California 94706  
(510) 528-5710 • [www.albanyca.org](http://www.albanyca.org)

## RESOLUTION NO. 2019-54

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

The 1st day of July, 2019, by the following votes:

AYES: Council Members Barnes, Maass, McQuaid, Pilch and Mayor Nason

NOES: None

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this

2nd day of July, 2019.

Eileen Harrington  
DEPUTY CITY CLERK