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CITY OF ALBANY, CALIFORNIA



**ALBANY CITY HALL
1000 SAN PABLO AVENUE
ALBANY, CALIFORNIA 94706**

***Item No. 10-1 Public Hearing:
Townhouse Project, 634 Kains Avenue***

**CITY COUNCIL MEETING
FEBRUARY 18, 2020**

From: [Edward FIELDS](#)
To: [citycouncil](#); [Jeff Bond](#); [Anne Hersch](#); [Anne Hsu](#)
Subject: Council Meeting 2-18-2020, Item 10-1, PA 18-037 Application for a New Townhouse Project
Date: Sunday, February 16, 2020 6:11:48 PM
Attachments: [2020-02-18 Council.pdf](#)

[EXTERNAL EMAIL.]

Dear Council Members,
Please see the attached pdf regarding this item,
Thank you,
Ed Fields

February 15, 2020

From Ed Fields

Re: PA 18-037 Townhouse Project

Members of the City Council,

I have been a resident of the 600 block of Kains Avenue for nearly 20 years.

To continue to provide parking for the existing restaurant, a parcel of non-standard depth, 67 feet, is proposed to be created to provide eight expensive 3-bedroom, 3-bath market-rate units and the minimum one low-income (household of four earning up to \$90,000) unit required by Albany's Inclusionary Housing Ordinance.

By building one low-income unit, the applicant qualifies for the benefits of the State Density Bonus Law. But you should also consider the existing neighbors when deciding on the Zoning Code waivers allowed by State Density Bonus Law.

The Albany 2035 General Plan makes clear the need to protect lower density development on Kains Avenue from the effects future higher density and taller development on San Pablo Avenue and higher density and taller residential development on the R3-zoned side of Kains Avenue will have on the existing neighborhood.

Albany 2035 General Plan, Chapter 3, Land Use Element

D. Focus Areas

San Pablo Avenue Corridor

Most of the City's future residential and mixed use development opportunities are located along San Pablo Avenue. The corridor is envisioned as a vibrant mixed use street, with architecture that reflects the high quality of the neighborhoods to the east and west. Sensitive transitions to lower density development east and west of the Avenue is critical. [My emphasis]

....New buildings should to be sited close to the front property line, and should step down in height toward the rear property lines to respect the scale of development along Kains Avenue and Adams Street. [My emphasis]

....The blocks between Solano Avenue and Clay Street / Brighton Avenue provide additional opportunities for new commercial, residential, and mixed use development. Several Housing Opportunity Sites have been identified along this section of the corridor, including the former Sizzler Restaurant and Mechanics Bank. Where feasible, new buildings should incorporate amenities such as small plazas, public art, and outdoor dining areas. Again, buildings should be designed to protect privacy and sunlight on adjacent lower-scale properties along Adams Street and Kains Avenue. [My emphasis]

GOAL LU-2: RESIDENTIAL NEIGHBORHOODS

Policy LU-2.1: Context-Sensitive Design

Ensure that infill development in residential areas is compatible in density, scale and character with the established neighborhood context. [My emphasis]

Policy LU-2.2: Mixed Density Areas

In areas designated for high and medium density residential uses, ensure that new development is designed to minimize sharp contrasts in height, consider the potential for loss of sunlight and privacy for adjacent homes, and provide buffering and screening from nearby lower density uses. [My emphasis]

The Zoning Code is clear about the need for a 15 foot setback and daylight plane when an R3 development has an exterior lot line on Kains Avenue as this project does, although it could be argued that the Code anticipated that this lot line would be considered the front lot line.

20.24.070 Setbacks With Daylight Planes.

B. Exterior Property Lines at Streets Abutting Residential Districts.

2. Where a property in a Residential Medium Density District (R-2) or a Residential High Density District (R-3) has an exterior lot line that abuts a residential district, the minimum setback from such lot line shall be fifteen (15) feet. An additional setback for any portion of any structure extending above twenty-eight (28) feet in height, up to the maximum height permitted, shall be defined by a daylight plane extending from a base point located twenty-eight (28) feet above the line of the minimum required setback, inclined away from the vertical at a forty-five (45) degree angle.

State Density Bonus Law allows for “waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section....”

By your approving a 67-foot deep lot, this will result in the developer having only a 9-foot setback on the Kains Avenue frontage, and no daylight plane. The building will go up to 35 feet at the 9-foot setback line. This is not the intention of the General Plan nor does it meet the requirements of the Zoning Code. There is no daylight plane on Kains Avenue shown on the plans, and the developer has not requested a waiver of that daylight plane.

You should require a daylight plane on Kains Avenue. This would not reduce the number of bedrooms in the units, and might reduce the floor plan by only a small amount. Even a hip roof instead of the peaked roofs on Kains Avenue could provide a daylight plane. A daylight plane will in no way go against the requirements of the Density Bonus Law. You would not be precluding the development at the density proposed by the applicant.

The Community Development Director has determined the front yard of this project is the short side on Portland Avenue, not the side on Kains Avenue with 8 entrances and 9 garages.

In 2009, when the Commission revised the language in the definition, the intent was that the Community Development Director would determine the front yard in all cases, not just in the case of a corner lot. The strike-out text and the discussion at the time the change was discussed make this clear.

The below text is from the proposed Resolution of Intention considered by the Commission on 04/14/09, which includes the strike-out text. This was incorporated into the changes to the Zoning Code made by the City Council in Ordinance 09-011.

1
2 a. **Yard, front** means a yard of uniform depth extending across the full
3 width of the lot inward from the front lot line. **The front yard of a corner lot is the**
4 **yard adjacent to the shorter street front shall be determined by the Community**
5 **Development Director.**
6

Another of the unfortunate side-effects of designating Kains Avenue as the side yard is the proposal to have the setback on Kains Avenue only 9 feet. The project provides the required one parking space per unit in a garage, which is alongside a bedroom and bathroom on the ground floor. A 15-foot setback in front of the garages would provide parking spaces that residents might actually use for a compact car, even though they aren't counted as the required spaces.