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**RESOLUTION NO. 2020-17**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALBANY TO APPROVE DESIGN REVIEW, DENSITY BONUS, AFFORDABLE HOUSING AGREEMENT, TENTATIVE MAP, TREE REMOVAL PERMIT, AND COMMERCIAL PARKING REDUCTION FOR THE NINE (9) UNIT TOWNHOUSE DEVELOPMENT AT THE NORTHWEST CORNER OF PORTLAND & KAINS AVENUE (634 KAINS AVENUE)**

**WHEREAS**, On December 6, 2004, the City Council of the City of Albany adopted Ordinance #04-09 establishing Chapter XX “Planning and Zoning” of the Albany Municipal Code; and

**WHEREAS**, Chapter XX established development standards and review procedures for new residential construction; and

**WHEREAS**, the Albany City Council approved Resolution No. 2016-24 adopting the Albany 2035 General Plan on April 18, 2016;

**WHEREAS**, the Albany 2035 General Plan identifies the project site as a housing opportunity site with a land use designation of High Density Residential; and

**WHEREAS**, on August 28, 2018, Trachtenberg Architects, serving as the architect for the site, submitted an application for a townhouse development at 634 Kains Avenue (the “project”); and

**WHEREAS**, the application is for a residential townhouse use in the Residential High Density (R-3) Zoning District; and

**WHEREAS**, Section 20.40.040 of the Albany Municipal Code identifies procedures for processing applications pursuant to Government Code Section 65915, State Density Bonus Law; and

1           **WHEREAS**, Section 20.40.030 of the Albany Municipal Code identifies  
2 procedures for Inclusionary Housing units, including an Affordable Housing Agreement;  
3 and

4  
5           **WHEREAS**, the applicant seeks modification to development standards pursuant  
6 to State Density Bonus Law in exchange for the provision of affordable units, including  
7 (1) Waivers to reduce the front setback from 15 feet to 10 feet and the rear setback from  
8 15 feet to 5 feet; (2) Waiver to reduce the daylight plane/height limit from a setback of 15  
9 feet to 10 feet at the front yard and from 15 feet to 0 feet at the exterior side yard; and (3)  
10 Concession to allow the front stoops to encroach into the street side setback: increasing the  
11 maximum projection into the required side setback from 2 feet to 9 feet and reducing the  
12 minimum distance from a property line for any projection up to the property line from 3  
13 feet to 0 feet; and

14           **WHEREAS**, on June 28, 2019, the Community Development Department deemed  
15 the project complete; and

16  
17           **WHEREAS**, on September 11, 2019, the Planning & Zoning Commission held a  
18 public hearing on the application, provided feedback to the applicant and staff, and adopted  
19 Resolution 2019-08 forwarding a recommendation to the City Council to approve Design  
20 Review and a Density Bonus request for the project; and

21           **WHEREAS**, the tentative map application for a townhouse condominium  
22 development at 634 Kains Avenue was filed by the applicant on November 21, 2019; and

23  
24  
25           **WHEREAS**, on December 11, 2019, the Planning & Zoning Commission held a  
26 public hearing on the application, provided feedback to the applicant and staff, and  
27 adopted Resolution 2019-13 forwarding a recommendation to the City Council to  
28 approve the Tentative Map and Parking Reduction request for the project; and

1           **WHEREAS**, the project is categorically exempt from the California Environmental  
2 Quality Act ("CEQA"), Public Resources Code section 21000 et seq. pursuant to Section  
3 15332, "In-Fill Development" of the CEQA Guidelines, which exempts in-fill  
4 development, and as determined in the CEQA exemption analysis: a) The project is  
5 consistent with the applicable general plan designation and all applicable general plan  
6 policies as well as with applicable zoning designation and regulations; b) The proposed  
7 development occurs within city limits on a project site of no more than five acres  
8 substantially surrounded by urban uses; c) The project site has no value, as habitat for  
9 endangered, rare or threatened species; d) Approval of the project would not result in any  
10 significant effects relating to traffic, noise, air quality, or water quality; e) The site can be  
11 adequately served by all required utilities and public services; and f) no unusual  
12 circumstances about the property are known that would have a significant effect on the  
13 environment; and

14           **WHEREAS**, a public hearing notice was mailed to property owners within 300 ft.  
15 of the subject site and was posted in three public places on February 7, 2020 for the City  
16 Council hearing pursuant to Government Code Section 65090; and

17  
18           **WHEREAS**, on February 18, 2020, the City Council held a public hearing,  
19 considered all public comments received, the presentation by City staff, the staff report,  
20 and all other pertinent documents regarding the proposed request;

21           **NOW, THEREFORE, THE CITY OF ALBANY CITY COUNCIL DOES**  
22 **HEREBY RESOLVE AS FOLLOWS:**  
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1 **Section 1**

2  
3 **The City Council finds and determines the foregoing recitals to be true and**  
4 **correct and hereby makes them a part of this Resolution.**

5  
6 **Section 2**

7 **A. FINDINGS FOR APPROVAL CONSISTENT WITH SECTION**  
8 **20.100.050 “DESIGN REVIEW” OF THE ALBANY MUNICIPAL**  
9 **CODE:**

- 10  
11 **1. Finding Required for Approval:** The project conforms to the General Plan, any  
12 applicable specific plan, applicable design guidelines adopted by the City of  
13 Albany, and all applicable provisions of this Chapter.

14 **Evidence:** The City's General Plan ("General Plan") designates the property as  
15 High Density Residential. The Property is currently zoned Residential High  
16 Density (R-3). The proposed residential project meets City zoning standards for  
17 location, intensity and type of development.

- 18  
19 **2. Finding Required for Approval:** Approval of the project design is consistent with  
20 the purpose and intent of this section, which states “designs of projects...will result  
21 in improvements that are visually and functionally appropriate to their site  
22 conditions and harmonious with their surroundings, including natural landforms  
23 and vegetation. Additional purposes of design review include (but are not limited  
24 to): that retention and maintenance of existing buildings and landscape features are  
25 considered; and that site access and vehicular parking are sufficient.”

26 **Evidence:** The three-story/approximately 35-foot high residential project with  
27 would be in scale and harmony with existing development immediately adjacent to  
28 the site, which is composed of a range of one-, two-, and three-story buildings. The  
29 attached townhome configuration contributes to the variety of residential building

1 types adjacent to the project site, which include a large apartment building built to  
2 the sidewalk, small apartments with limited front setbacks, and detached single-  
3 family homes with front stoops and garages fronting the public street. The  
4 architectural style, design and building materials are of high quality and appropriate  
5 for the setting: solid wood doors and ipe wood front stairs, aluminum windows,  
6 composite shingle roofing, along with integral stucco, as is found in much of the  
7 surrounding neighborhood. The projecting front stoops, open gable roofs,  
8 alternating deck locations, and alternating color patterns create opportunities for  
9 light and shadow, as well as visual interest from the street. The proposed project  
10 would be constructed on a relatively flat vacant lot and would not require  
11 substantial grading or disruption to natural landforms. The project would improve  
12 the visual appearance of the Kains and Portland Avenue intersection by removing  
13 the existing opaque wall, providing new street trees and landscaping, and additional  
14 population and “eyes on the street” that create activity in the greater San Pablo  
15 corridor and the neighborhood. The project would have site access via multiple  
16 modes of transportation: bus access on San Pablo Avenue, off-street parking  
17 supplied on Kains Avenue, and bicycle parking within each unit’s garage and in  
18 front of the retail tenant on San Pablo Avenue. The project would provide new  
19 sidewalks and landscape strips along Kains Avenue and within the setbacks.

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

22 **Evidence:** The proposed project will result in the development of vacant land on a  
23 Housing Element opportunity site envisioned for high density residential  
24 development. It is expected to enhance the economic vitality of the San Pablo  
25 Avenue commercial district by creating more retail residential population density  
26 activity at the subject site and in the corridor. The project represents an economic  
27 investment in the San Pablo Avenue corridor and includes uses that will take  
28 advantage of goods and services along both the San Pablo Avenue and Solano  
29 Avenue corridors. In addition, the new residents and “eyes on the street” will  
support the health, safety, convenience and welfare of those that reside in the area

1 and would help maintain property, improvements or potential future development  
2 in the area.

- 3  
4 **4. Finding Required for Approval:** The project is in substantial compliance with  
5 applicable general and specific Standards for Review stated in subsection  
6 20.100.050D.

7  
8 **Evidence:** As detailed in the accompanying staff report, the project is in substantial  
9 compliance with the standards as stated. It is consistent with applicable General  
10 Plan and Zoning Ordinance, and includes a functional site plan, frontage  
11 improvements, and sufficient vehicle and bicycle parking that allow for safe and  
12 convenient access to the site. The project includes high-quality architectural design  
13 that is harmonious with the surrounding neighborhood and internally consistent  
14 across each of the units. The proposal includes a complementary landscape design,  
15 adequate space for refuse, and adequate screening of utilities and other service  
16 systems. It does not propose substantial amounts of grading nor does the project  
17 substantially affect the privacy of nearby residents.

18 **B. FINDINGS OF APPROVAL CONSISTENT WITH SECTION 20.40.040**  
19 **PURSUANT TO GOVERNMENT CODE SECTION 65915, STATE**  
20 **DENSITY BONUS LAW**

- 21 **1. Findings Required for Approval:** The project is in substantial compliance with  
22 the requirements to allow waivers and concessions stated in subsection 20.40.040.D  
23 and E.

24  
25 **Evidence:** The waivers for front and rear setbacks, and for the daylight plane/height  
26 allow modifications from development standards that would have the effect of  
27 physically precluding the construction of a housing development project that  
28 qualifies for a density bonus at the permitted density. The concession allowing  
29 modification of zoning code requirements regarding encroachments in the side  
setback that would otherwise be required result in identifiable and actual cost

1 reductions to provide for affordable housing costs, as defined in Section 50052.5 of  
2 the Health and Safety Code, and for sale prices for the targeted unit to be set as  
3 specified in Government Code Section 65915(c). These modifications do not  
4 present a specific, adverse impact upon public health and safety or the physical  
5 environment or on any real property that is listed in the California Register of  
6 Historical Resources; nor do the modifications conflict with State or federal law.

7  
8 **C. FINDINGS OF APPROVAL CONSISTENT WITH SECTION 20.28.040**  
9 **“EXCEPTIONS TO PARKING SPACE REQUIREMENTS”**

10 **1. Parking Reduction Findings:** The Commission may, through a major use permit  
11 process, adjust the parking requirements contained in subsection 20.28.030.B. for  
12 any nonresidential use in an existing building over 2,000 square feet. In granting an  
13 adjustment the Commission shall make the following findings:

- 14 a. On the basis of a survey of comparable situations, parking demand for the  
15 proposed use or uses will be less than the required number of spaces.  
16 b. The probable long-term occupancy of the property or structure, based on  
17 the project design, will not generate substantial additional parking demand.  
18 c. Based on a current survey of parking space availability and usage within a  
19 five hundred (500) foot walking distance of the boundary of the site of the  
20 subject building, a reduction of the parking requirement will not have a  
21 substantial effect on the parking available for neighboring uses.

22 **Evidence:** With respect to finding (a), an off-street parking survey completed  
23 January 2020 demonstrated occupancy rates ranging from 42% in the late afternoon  
24 on a Friday to 78% at lunchtime on Friday on the subject site parking, with rates of  
25 71% during Friday evening and Monday lunchtime hours. These occupancy levels  
26 are below the 80% rule-of-thumb for adequate parking availability. With respect to  
27 finding (b), if the existing restaurant remains in the long-term it is not expected to  
28 generate substantial additional parking demand, especially given the City of  
29 Albany’s high levels of alternative transportation modes, the provision of four new  
bike racks, and macro-level changes in transportation that are shifting away from

1 single-occupancy personal vehicles. Should the restaurant propose to expand  
2 without proposing additional parking, any proposed reduction would require further  
3 study. With respect to finding (c), the on-street parking survey completed  
4 December 2019 demonstrated that 50% of on-street spaces were generally available  
5 within 500-feet of the project site on a Thursday at both lunchtime and dinnertime,  
6 and up to 77% on a Friday at lunchtime. Four additional on-street surveys  
7 conducted in January 2020 showed ranges of occupancy levels between 45% and  
8 70%. Since, as a general rule of thumb, 80% utilization of spaces represents an  
9 adequate amount of on- street parking availability, these findings suggest that there  
10 is adequate parking availability on the streets adjacent to the restaurant parking lot.  
11 With the availability of on-street parking and the 24 spaces off-street parking spaces  
12 dedicated to the restaurant, parking demand to serve the restaurant is expected to  
13 be less than the supply available. The reduction in required parking from 29 to 24  
14 spaces, a difference of 5 spaces, is not expected to substantially affect the  
15 availability of parking for the restaurant and its probable long-term occupancy, nor  
16 the parking availability for neighboring uses.

17 **D. FINDINGS FOR APPROVAL CONSISTENT WITH SECTION 22-4**  
18 **“TENTATIVE SUBDIVISION MAPS, FIVE (5) OR MORE PARCELS”**  
19 **OF THE ALBANY MUNICIPAL CODE:**

- 20 1. **Subdivision Findings:** The tentative map may be approved by the Planning and  
21 Zoning Commission if it finds that the proposed subdivision, together with the  
22 provisions, for its design and improvement, are consistent with the General Plan,  
23 any applicable specific plan, and all other local laws as set forth in the Code  
24 (Subsection 22-4.6.b).

25  
26 **Evidence:** The proposed tentative map, which creates nine condominium lots,  
27 meets the requirements of Subdivision Ordinance Section 22-4.2, as conditioned,  
28 in term of form, contents, and required information. The City's General Plan  
29 ("General Plan") designates the property as High Density Residential. The Property  
is currently zoned Residential High Density (R-3). The proposed residential project



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meets General Plan and Zoning standards for location, intensity and type of development.

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Albany hereby approves the application for a nine-unit townhouse development at 634 Kains Avenue subject to Exhibit A Conditions of Approval, Exhibit B Project Plans.

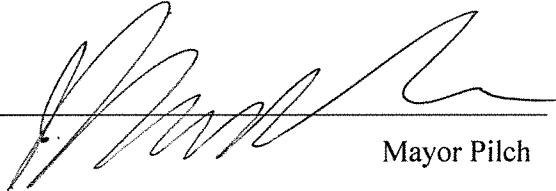
PASSED AND ADOPTED by the City Council of the City of Albany on the 18th day of February 2020.

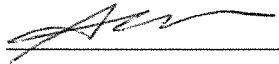
AYES: *Council members: Barnes, Maass, McQuaid, Mason + Mayor Pilch*

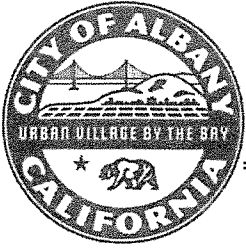
NOES: *none*

ABSENT: *none*

ABSTAIN: *none*

  
\_\_\_\_\_  
Mayor Pilch

ATTEST:   
\_\_\_\_\_



# City of Albany

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

## RESOLUTION NO. 2020-17

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

The 18th day of February, 2020 by the following votes:

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

NOES: None

ABSENT: none

ABSTAINED: none

RECUSED: none

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

19th day of February, 2020.

*Eileen Harrington*

Eileen Harrington  
DEPUTY CITY CLERK