

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

**Meeting Date:** October 14, 2008

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

**Agenda Item:** 6a

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

**Subject:** **423 and 427 Talbot Avenue. Continuation of Planning Application 08-037. Parking Exception. Design Review.** Request for Design Review approval on an application to construct a new twelve-unit, three-story, multi-family building. A parking exception is also requested to allow a reduced number of parking spaces.

**Applicant/  
Owner:** Erin Duncan with Charles Kahn for Rolf Bell

**Recommendation**

Staff recommends that the Planning and Zoning Commission approve the parking exception and design review elements of the application, subject to the attached draft findings and conditions of approval, including deferral of review of compliance with the Art in Public Places Requirements, Green Building Program, Inclusionary Housing Program, and Subdivision Map Act requirements.

**Project Description**

The subject property currently consists of two lots, each 5,000sq.ft. in size, each containing a single family home. The applicant is proposing to demolish the two homes and construct a new twelve-unit, three-story, multi-family building. If approved the two lots must be merged. The applicant also intends to sell the units individually thus future approval of a condominium subdivision map will be required.

The applicant is requesting approval for two discretionary items: 1) Parking Exception to allow 18 parking spaces where 24 are required; and 2) Design Review for the architectural style and integrity of the building. There is a garage, located on the first floor that provides 18 parking spaces that are a mix of parking lifts, and standard spaces. The maximum height of the building is 35', which is the maximum permitted in the R-3 district. The building is consistent with the Mediterranean Revival architectural style with stucco finish, arched windows, wood accented balconies and other architectural details. Instead of a traditional tile roof, a metal standing seam roof is proposed. The required open space is provided in a combined form of a roof top deck at the second-floor and private balconies for most of the units.

### **Background on Application**

The application was received on May 30, 2008. A study session was held on June 10, 2008 where preliminary comments were provided (see "Attachment 4" for the Staff Report and Minutes from the hearing). The project was revised to better meet City development requirements and was heard as a regularly scheduled item on September 9, 2008. A second public hearing was held on September 9, 2008 to review revised drawings (see "Attachment 5" for Staff Report and Minutes from the hearing).

### **Environmental Analysis**

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15332 of the CEQA Guidelines, which exempts infill development.

### **Addressing Issues from September 9, 2008 Public Hearing**

At the previous hearing, the Commission expressed support for the project's concept and believed the building's design to be attractive. See "Attachment 5" for discussion of Key Issues (i.e. Design Review, Open Space, Floor-Area-Ratio, etc.).

One Commissioner recommended that the plate heights be lowered to 8' to reduce the height of the building. Three of the Commissioners concurred that restricting the use of the parking lifts for storage could be incorporated into the CC&Rs; Chair Panian and Commissioner Maass concurred. All of the Commissioners were in support of additional parking counts being conducted on weekends and evening to provide a larger sampling in discussing the request for a parking exception. They also concurred that reviewing the building permit application would be an appropriate condition of approval. Finally, a Commissioner recommended that the project be reviewed in a comprehensive package, as opposed to piecemealing, which is not preferable.

The design of the project is unchanged from the previous public hearing; however, additional information has been provided and is discussed in further detail below.

### **Parking Exception**

Per the City's parking standards, each unit requires two parking spaces, thus the total project should have 24 off-street parking spaces. Planning and Zoning Code Section 20.28.040(A3) states that the Commission may reduce the number of required parking spaces for a residential development to 1-1/2 parking spaces per dwelling unit (18 spaces), upon making the finding that the existing on-street parking is sufficient to justify a reduction. To staff's knowledge, this is the first application to have requested this reduction.

In order to provide the Commission with information to potentially support the required finding, a parking survey was conducted within a 500-foot radius around the proposed project at 423/427 Talbot. Three different parking counts were taken, on different days and times. See "Attachment 5" for a more detailed discussion about parking counts conducted for the September 9, 2008 public hearing.

**Previous Parking Counts, conducted prior to the September 9, 2008 Public Hearing**

Thursday, July 10, 2008--12:30 pm % Occupied	Friday, July 11, 2008--9:30 am % Occupied	Tuesday, July 22, 2008--6:00 pm % Occupied
55%	56%	58%

**Additional Parking Counts, conducted after the September 9, 2008 Public Hearing**

Saturday, October 7, 2008 – 2:30pm % Occupied	Saturday, October 7, 2008 – 9:00pm % Occupied	Tuesday, October 11, 2008 – 9:00pm % Occupied
69%	75%	73%

The additional parking counts show that parking is less available on evenings and weekend hours, which is not surprising with the standard commute, work and recreational hours during the weekdays. In general, when a parking area is 85% occupied, it is considered to be at capacity. Staff found that areas that were most heavily occupied were those closest to El Cerrito Plaza at all times that parking counts were conducted. The corridor along Brighton Avenue appeared to have more vacancies as well than the side streets.

Staff would like to note that this is one of the largest requests for a reduction in residential parking requirements. With the increase in requests for multi-family developments in the R-3 corridor of Brighton Avenue and the increased development of El Cerrito Plaza the parking conditions may change in the future. Based on current conditions, observed through the parking counts, staff believes that the parking there is street parking available that is needed to support a parking exception.

Although not specifically relevant to the parking reduction process, it should be noted that one of the principles of sustainable development is to encourage the use of transit and car-pooling by limiting the availability of parking. This approach can be particularly effective in locations such as the subject property that are within walking distance of BART and the San Pablo Avenue transit corridor.

**Affordable Housing**

The City's Inclusionary Housing program (Planning and Zoning Code , Section 20.40.030) requires that at least one inclusionary housing unit be provided for developments with seven to thirteen units. The one unit would be priced to be affordable to a household whose gross income is no greater than 80% of County median income. The applicant has indicated an interest in exploring City financial assistance as part of an affordable housing agreement.

Ultimately the City Council takes action on the affordable housing aspects of the project, based on a recommendation from the Commission. Staff suggests that the Commission defer making a recommendation to the City Council on the affordable housing aspects of the project until the

terms of the affordable housing are agreed upon. A condition of approval has been added detailing the requirements of the City ordinance and requiring City Council approval and recordation of the affordable housing agreement before accepting an application for a building permit as complete.

### **Subdivision**

The applicant is ultimately seeking to develop the project as a condominium. Thus future Commission and City Council action will be required pursuant to the Municipal Code and the California Subdivision Map Act. Neither allows subdivision approval without submission of a tentative map and discretionary approval. Staff does not foresee any concerns or hindrance to supporting the future application for the subdivision of the proposed project. Required public improvements associated with the subdivision process will be identified at the time of submittal of the subdivision map application.

### **Public Art Requirement**

The proposed project is subject to the City's new Art in Public Places Program. Pursuant to the Ordinance, the project should either include public art, or pay an in-lieu fee to fulfill the requirement. On sites of 10,000 square feet or more, the City has discretion on whether to require the art be included in the project, or accept payment of the fee.

The Arts Committee is scheduled to discuss the project at its meeting on Monday, October 13, 2008. The staff report to the Arts Committee is attached and provides background and context for the public art elements of the project. The public art related findings and draft conditions of approval have been incorporated into the Commission's draft findings and conditions of approval.

### **Green Building Standards**

The City's Green Building Standards of Compliance requires the use of the Build it Green Multi-family Green Building Guidelines, with the project required to achieve the "minimum points standard." Staff is working on updating the City's standards of compliance, and suggests that proposes to use the recently released 2008 version of the Guidelines for evaluating this project.

### **Other Considerations**

A landscaping and lighting plan has not been provided. See "Attachment 5" for full discussion about relevancy of the landscape and lighting plan. Staff continues to recommend that a condition of approval be added requiring that the lighting and landscape plan be reviewed and approved by the Commission, prior to accepting an application for a building permit as complete.

### **Conclusion**

There are attractive features of the project and if approved would provide more housing in an area where there are few opportunities for such a development with the limited multi-family districts in the City. The location of the building is in a central location, close to schools, transit and services.

The applicant has also incorporated early planning efforts into the green building program, which is consistent with City policies. Staff, therefore, recommends approval of the project with an additional condition of approval requiring that the applicant consider providing a shared electric car for tenants of the project and that report showing the findings for such a program be reviewed by the Commission during review of the building permit plans. Finally, staff continues to believe that increased articulation on the side elevations are appropriate, regardless of the size and mass of adjacent buildings, they will be visible for both vehicles and pedestrians traveling on Talbot.

**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. The City Clerk will then schedule the matter for the next available City Council meeting.

**Attachments:**

1. Analysis of Zoning Requirements
2. Findings
3. Conditions of Approval
4. Project Application, Plans and Details
5. Green Building Checklist
6. Fire Department Requirements, dated August 21, 2008
7. Staff Report and Minutes from June 10, 2008
8. Staff Report and Minutes from September 9, 2008
9. Proposed Public Art and Staff Report to Arts Committee from October 13, 2008
10. Draft Affordable Housing Agreement



20.24.050 Floor-Area-Ratio.

	<b>Proposed</b>	<b>Requirement</b>
Lot Size	10,000 (combined)	9,585
Floor Area		
Garage	6,274	--
Second-Floor	5,145	
Third-Floor	4,908	
Total	16,327	--
Total Counted	16,327	--
Floor Area Ratio	1.63*	1.5/1.75

\* Municipal Code Section 20.14.020 that the FAR may increase from 1.5 to 1.75 when twice the amount of open space is provided.

20.24.060 Setback Areas, Encroachments.

Not applicable.

20.24.100 Distances Between Structures.

Not applicable.

20.24.110 Fences, Landscaping, Screening.

See discussion of key issues.

20.24.130 Accessory Buildings.

Not applicable.

20.28 Off-Street Parking Requirement.

See discussion of key issues.

20.40 Housing Provisions

Not applicable.

20.44 Non-conforming Uses, Structures and Lot

Not applicable.

20.48 Removal of Trees

Not applicable.

20.52 Flood Damage Prevention Regulations

Not applicable.

20.100.030 Use Permits.

Not applicable.

20.100.040 Variances.

Not applicable.

20.100.010 Common Permit Procedures.

Public notice of this application was provided on October 3, 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.

Green Building

See attachments.



**ATTACHMENT 2 - FINDINGS**

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

<b>Required Finding</b>	<b>Explanation</b>
<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 multi-family, 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. The project will not create a visual detriment at the site or the neighborhood.</p> <p>The subject properties are already developed with two-single family homes. The lots are flat and will require little grading or disruption of grounds. A few trees will be removed as a result of the project; however, none are protected and a landscape plan is required for future planting. There are eighteen parking spaces provided, which are accessed by one driveway, which is preferable in requiring only one additional curb cut.</p> <p>There are attractive architectural features of the project and provides additional housing in an area where there are few opportunities for such a development with the limited multi-family districts in the City. The location of the building is in a central location, close to schools, transit and services. A green building program has also been provided, which is consistent with City policies.</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</p>

	<p>development in the area.</p> <p>The project provides additional housing in an area where there are few opportunities for such a development with the limited multi-family districts in the City. The location of the building is in a central location, close to schools, transit and services. A green building program has also been provided, which is consistent with City policies.</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. A current parking count has shown that adequate street parking is available to support a parking exception .</p>

**Findings for Special Parking Reduction approval (Per section 20.28.040.A3 of the AMC)**

Parking surveys were conducted, within a 500-foot radius around the project area, at various times throughout the week, evenings and weekends. Approximately 46% of the parking spaces within the 500-foot radius were vacant during the weekdays and 27% were vacant during the weekends. Based on current conditions, observed through the parking counts, there appears to be adequate street parking available to allow the reduction of required parking spaces from 24 to 18.

**Draft Findings of Approval Related to the Art in Public Places Program**

Required Finding	<i>DRAFT</i> Explanation
<p>1. The proposed Public Art Feature is consistent with any applicable design review standards or guidelines adopted by the City;</p>	<p>The proposed mosaic tiles and metal sculpture materials and colors are visually harmonious with the architecture of the building and the surrounding environment pursuant to Planning and Zoning Code 20.100.050 D.1.e.</p>
<p>2. The Public Art Feature is an original work of high aesthetic quality;</p>	<p><i>Explanation to be provided by the Arts Committee</i></p>
<p>3. The Public Art Feature is designed and constructed, in a manner and with materials that are adequate for the long-term integrity of the art and that will require a low level</p>	<p>The proposed mosaic tiles and metal sculpture materials, if properly installed and maintained, are suitable for the proposed location. Normal changes over</p>

Required Finding	<i>DRAFT</i> Explanation
of maintenance to ensure that it remains in good condition for the intended life of the public art feature;	time in other physical elements of the project such as painting and landscaping should not change the appearance of the artwork.
4. The scale, material, form, color, and content of the proposed Public Art Feature is compatible and in harmony with the its location and its surroundings; and	The use of tree and vine concepts complements the architectural style of the proposed project. It does not create a visual or physical safety hazard.
5. There is reasonable public accessibility or visibility to the Public Art Feature.	The proposed public art features will be fully visible to pedestrians from the public right of way on Talbot Avenue.

### ATTACHMENT 3 - CONDITIONS OF APPROVAL

#### GENERAL PROJECT CONDITIONS

- Gen-1            Project Approval. This Design Review and Parking Exception approval is for property at 423-427 Talbot Avenue, as substantially shown and described on the project plans, except as may be modified by conditions herein. Future modifications include compliance with Art in Public Places program, Inclusionary Housing program, Green Building program, and State and City Subdivision requirements. Approved plans include preliminary master site plan prepared by Kahn Design Associates date received August 20, 2008, architectural plans (project perspectives, building sections, and floor plans, all as presented to the Planning and Zoning Commission on October 14, 2008]. For any condition herein that requires preparation of a Final Plan where the project developer has submitted a conceptual plan, the project developer shall submit final plan(s) in substantial conformance with the conceptual plan, but incorporate the modifications required by the conditions herein for approval by the City.
- GEN-2            Project Approval Expiration. This Design Review and Parking Exception approval expire on October 28, 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 Accessibility 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      **Title 24 Energy Conservation Standards.** All buildings shall be designed in accordance with the State of California Title 24 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

LNDSC-1            **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.

LNDSC-2            A lighting and landscape plan shall be reviewed and approved by the Commission, prior to processing a building permit application.

**PARKING CONDITIONS**

PARL-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.

PARK-2            The applicant consider providing a shared electric car for tenants of the project and that report showing the findings for such a program be reviewed by the Commission during review of the building permit plans.

**SIGN CONDITIONS**

SIGN -1            **Signage Design Review Approval.** All construction/installation of signage shall be subject to Planning Department review and approval.

**UPUBLIC 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.

**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-19           **Completion of Off-Site Improvements.** Off-site improvements shall be determined by the City Engineer and completed prior to issuance of a Certificate of Occupancy unless alternatives are approved in writing by the Albany 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.

**FIRE DEPARTMENT CONDITIONS**

FIRE-1            **Fire Safety Requirements.** The applicant shall comply with all requirements set forth by the Battalion Chief/Fire Marshall in a letter dated August 21, 2008.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM CONDITIONS**

**STRUCTURAL CONTROL CONDITIONS**

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 **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 CONDITIONS

- BMP-CNST1      **Construction Access Routes.** Construction access routes shall be limited to those approved by the City Engineer and shall be shown on the approval grading plan.
- BMP-CNST2      **Collection of Construction Debris.** Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
- BMP-CNST3      **Removal of Waste.** Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
- BMP-CNST4      **Sweeping of Public Right-of-Way.** Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping.

- BMP-CNST5 **Filter Materials at Storm Drain Inlet.** Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to:
- a) start of the rainy season (October 1);
  - b) site dewatering activities;
  - c) street washing activities;
  - d) saw cutting asphalt or concrete; and
  - e) order to retain any debris or dirt flowing into the City storm drain system.
- Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash.
- BMP-CNST6 **Containment of Materials.** Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides, or any other materials used on the project site that have the potential for being discharged to the storm drain system by wind or in the event of a material spill.
- BMP-CNST7 **Cleaning of Equipment.** Never clean machinery, tools, brushes, etc. or rinse containers into a street, gutter, storm drain or stream. See the *Building Maintenance/ Remodeling* flyer for more information.
- BMP-CNST8 **Minimize Removal of Natural Vegetation.** Minimize removal of natural vegetation or ground cover from the site in order to minimize the potential for erosion and sedimentation problems. Replant the area as soon as possible. All cut and fill slopes shall be stabilized as soon as possible after grading is completed. No site grading shall occur between October 1 and April 15 unless approved erosion and sedimentation control measures are in place.

**SPECIAL, PROJECT-SPECIFIC CONDITIONS**

- ART-1 The Arts Committee and Planning Zoning Commission review of the public art elements of the design review may be deferred to a future date. The applicant shall submit for Planning and Zoning Commission an amendment to their Design Review approval incorporating a public art elements of the project prior to processing as complete an application for a building permit.
- ART-2 Following future design review approval of the public art elements, the applicant shall prepare detailed plans and specifications related the public art components of the project (“Detailed Art Submittal”). The Detailed Art Submittal shall include:
- a. Detailed plans and specifications related to the public art elements of the project, including plan and elevation drawings at a scale sufficient for the City to evaluate the precise location and detailed elements of the art work, structural support, description of materials, plumbing plans, and electrical plans as applicable. Such plans shall be reviewed and stamped by the architect or engineer of record before submittal to the City.
  - b. Detailed instructions to the contractor for installation of the public art.

- c. Detailed instructions to the contractor for protection of the art installation while the project is under construction.
- d. Detailed instructions to the owner or home owners association for long term maintenance instructions.
- e. Written documentation of the value of the Public Art Features. Such documentation shall be provided by an independent third party with qualifications acceptable to the Community Development Director. The cost of services or utilities necessary to operate or maintain the artwork over time shall not be included in the valuation of the Public Art Feature.

ART-3 In the event the Detailed Art Submittal varies substantially from design review approval of the public art elements of the project, including if there is a change in the artists commissioned to prepare the art works, the Community Development Director shall determine if the revised plans constitute an amendment to Design Review approval, and shall determine if the proposed changes shall be referred to the Arts Committee and the Planning and Zoning Commission.

ART-4 The "Detailed Art Submittal" shall be prepared by the applicant and reviewed by the City for compliance with City standards and requirements, including the California Building Code. Any building permit application that does not include the Detailed Art Submittal shall be deemed incomplete and will not be processed through the plan check process.

ART-5 City processing of the Detailed Art Submittal may include scheduling public hearings before the Planning and Zoning Commission and/or the Arts Committee.

ART-6 In the event of delays beyond the reasonable control of the applicant, the Building Official may issue a certificate of occupancy if the applicant provides financial security in a form acceptable to the Community Development Director, which is equivalent to the valuation of the approved Public Art Feature.

HOUSING -1 The applicant shall comply with the requirements of the City's inclusionary housing ordinance (Planning and Zoning Code Section 20.40.030), which specifies that one unit of the project shall be made available in perpetuity to low income household.

HOUSING-2 The Planning Zoning Commission review and City Council action on an affordable housing agreement may be deferred to a future date. The applicant, however, shall enter into an affordable housing agreement with the city and the City shall record the agreement prior to processing as complete an application for a building permit.

GREEN-1 The applicant shall submit for Planning and Zoning Commission an amendment to their Design Review approval incorporating a Build-It-Green Multi-family Greenpoints Checklist agreement prior to processing as complete an application for a building permit.

**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.