



# Conditions of Approval

## Attachment 2

July 10, 2024

### PA24-024 – 1045 Kains Avenue

Use Permit and Design Review to lift the front portion of the existing split-level residence to convert the existing 863 sq. ft. crawl space into habitable area and to align the existing main (lower) level with the upper level. The project proposes to construct a 206 sq. ft., 2-story addition at the rear and right (southeast) side of the home, a new two-car garage attached to the south side of the house, and to demolish the existing 61 sq. ft. covered front stairs and porch and construct a new 37.5 sq. ft. covered porch at street level. The project requires a Use Permit to vertically extend the existing, non-conforming 6'-9" front yard setback and 3'-9" left (north) side yard setback, where 15' and 5' setbacks are required respectively. This will result in a two-story, 2,952 sq. ft., single-family dwelling with a maximum height of 23'-4".

### Standard Conditions of Approval

- 1. Project Approval.** This Design Review Approval for PA24-024 at 1045 Kains Avenue, as substantially shown and described on the project plans, except as required to be modified by conditions herein. Plans prepared by Hector Orozco dated June 22, 2024, as presented to the Albany Planning and Zoning Commission on July 10, 2024. 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.
- 2. Project Approval Expiration.** This Design Review approval expires on July 25, 2025 (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.
- 3. Fees.** The applicant shall pay all City and other related fees applicable to the property, as may be modified by the 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.

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 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.
5. **Requirement for Building Permit.** Approval granted by the Planning & 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.
6. **Modifications to Approved Plans.** The project shall be constructed as approved and with any additional changes required pursuant to staff or City Council 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.
7. **Hold Harmless Agreement.** 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.

## **Building Permit Submittal Requirements**

8. **Project Conditions.** The project Conditions of Approval with signed Acceptance of Conditions shall be included as a separate page in the building permit plan set and shall be signed by the applicant.
9. **Space for Building Permit Stamps.** Approximately 1/8 of the front page of the building permit plan set shall be left blank to allow for approval stamps, conditions, and signatures.
10. **Drainage Plan.** Construction plans shall indicate how the site grading or drainage system will manage all surface water flows to keep water from entering buildings on the subject site or on neighboring properties. Surface drainage shall be diverted to a storm drain or other approved point of collection that does not create a hazard. A

drainage plan must show the following information for both existing conditions and proposed conditions:

- a. Property lines;
- b. Site topography and direction of surface flow;
- c. Roof plan and location of rain leaders;
- d. Location of drainpipe including size, length, vertical height/slope, and location
- e. of cleanouts
- f. Show detail of discharge pipe under sidewalk in compliance with City standards
- g. Show areas of hardscape and soft scape;
- h. Calculation of pervious and impervious lot coverage.
- i. Submit a completed the NPDES compliant Stormwater Requirements Checklist form

**11. Soils Investigation.** - A soils investigation by a licensed professional is required for new construction.

**12. Landscaping.** The building permit plan set shall include a landscape plan, subject to review and approval of the Community Development Director or his/her designee. 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 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:

- 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.

**13. Mechanical Equipment.** No mechanical equipment may be located within five feet (5') of a side or rear property line. No mechanical equipment may be located in the front yard setback.

- 14. Street Tree Requirement.** The City Arborist will determine the type and location of any 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.
- 15. Construction Management Plan.** The applicant shall prepare a Construction Management Plan addressing, at a minimum:
- a. Proposed truck routes to be used by construction vehicles, consistent with the City's truck route map.
  - b. Contractor parking plan (number of spaces and planned locations) to be accommodated within the project site or other approved off-site location.  
Note: Encroachment permits are required to reserve any on-street parking for construction equipment.
  - c. Construction equipment and materials staging areas, to avoid conflicts with traffic, pedestrian, and bicycle circulation patterns.
  - d. Expected detours needed, planned duration, and traffic control plans, including potential sidewalk closures.
  - e. Fencing plans to separate construction area from public access and circulation for residents of the existing units to remain.
  - f. Traffic controls (e.g., flaggers) for big delivery or equipment events such as dirt off-haul.
- 16. 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 construction. 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.
- 17. Above Ground and Rooftop Utilities.** All above-ground utilities shall be shown on the building permit plans at the time of submittal. Rooftop mechanical systems shall be set back from the roof line and/or screened by parapet walls or similar means to avoid visibility from ground-level. At-grade utilities shall not be placed in required setback areas, and shall be screened with architectural features, landscaping, or similar means, to the satisfaction of the Community Development Director
- 18. Electrical Service Upgrade.** 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.
- 19. Sewer System Requirements.** The sewer system for the subject site shall comply with Chapter 15 of the Albany Municipal Code and the East Bay Municipal Utility District.

- 20. Window Recess.** Building permit plans are required to include a window detail that shows that windows shall be recessed approximately two inches from the face of the building, to the extent practicable, to provide adequate shade and shadow and to promote visual relief.
- 21. Color and Material Verification.** The building permit plan set shall include a sheet that includes images of all colors, materials, window and door specs for review and approval by the Community Development Director. A window and door schedule that includes make, model and material shall also be included. Vinyl roofing, vinyl siding, vinyl/vinyl clad windows and doors are prohibited.
- 22. Two-Way Sewer Lateral Cleanout.** Installation of a two-way curbside sewer 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.
- 23. Noise Management.** Applicant is required to submit documentation of the methods to be used to ensure that construction of the project will comply with City of Albany General Plan standards for noise generation, as well as California Building Code requirements for sound transmission.

## **Fire Department Requirements**

- 24. Gallons-per-Minute Requirement.** 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.
- 25. Distance From Fire Hydrant.** 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.
- 26. Building Code Compliance.** New construction shall comply with California and City Building and Fire Codes, as may be amended by the City Council, which specify requirements such as fire alarm systems, fire sprinkler systems, fire protection water supplies, apparatus access to buildings, firefighter roof access, emergency exit ways for occupants, and elevators sized to accommodate ambulance gurneys.
- 27. Fire Sprinkler Requirement.** An automatic sprinkler system installed in accordance with CFC Section 903.3 (Installation requirements) shall be provided as a requirement of a construction permit throughout all existing R-3 occupancy group classifications when either: (1) The cumulative aggregate of the area of new construction in the structure, plus the area of substantial remodel of the structure, since November 7, 1996, exceeds 50% of the floor area of the structure that was

existing on November 7, 1996 (attached garages are included as part of the existing floor area); or (2) The aggregate of the area of new construction in the structure, plus the area of substantial remodel of the structure, exceeds 1,500 square feet.

- 28. Development Impact Fee.** An update to the City's development impact fee program is underway, and if approved by the City Council, the project shall pay an appropriate fee that contributes to the cost public facilities necessary to accommodate new growth.

## **Construction Related Conditions of Approval**

- 29. 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.
- 30. Tree Protection Measures.** Prior to issuance of grading or building related permits, the applicant shall submit documentation of tree protection measures for all specimen trees that have a drip line within the area of construction.
- a. Required tree protection measures include: installation of "Tree Protection Area" signage; fencing to protect the tree; placement of mulch or geotextile fabric at the base of the tree; and pruning of branches that could be exposed to damage during construction
  - b. For trees located on a property line or on neighboring property that have roots or branches that cross property lines, the applicant has a responsibility for reasonable care of the tree and for providing the neighboring property owner adequate notice of the start of construction.
  - c. During construction, the applicant shall be responsible for management of drainage and irrigation systems, avoidance of vehicle movements near tree roots, and avoidance of stockpiling of materials near tree roots.
  - d. In the event of unexpected damage, the applicant shall retain a qualified professional to assess the condition of the tree and implement recommended mitigation measures.
- 31. Raptor and other Migratory Nesting Birds Survey.** Prior to removal of trees on site, pre-construction surveys shall be conducted by a qualified biologist during the months of March through August, no more than 30 thirty days prior to the start of grading or vegetation removal. If active nests are found on the project site, the applicant is required to follow the recommendation of a qualified biologist regarding creation of an adequate buffer zone around the nests.
- 32. 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).

**33. BAAQMD Control Measures.** To reduce diesel particulate matter and PM10 during construction and minimize short-term health impacts to nearby sensitive receptors are avoided.

Dust (PM10) Control Measures:

- a. Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.
- b. Cover all hauling trucks or maintain at least two feet of freeboard.
- c. Pave, apply water at least twice daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas.
- d. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.
- e. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (i.e., previously graded areas that are inactive for 10 days or more).
- f. Enclose, cover, water twice daily, or apply (non-toxic soil binders to exposed stockpiles.
- g. Limit traffic speeds on any unpaved roads to 15 mph.
- h. Replant vegetation in disturbed areas as quickly as possible.
- i. Suspend construction activities that cause visible dust plumes to extend beyond the construction site.

Measures to Reduce Diesel Particulate Matter and PM 2.5:

- a. Clear signage at all construction sites will be posted indicating that diesel equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were onsite or adjacent to the construction site.
- b. Opacity is an indicator of exhaust particulate emissions from off-road diesel-powered equipment. The project shall ensure that emissions from all construction diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately.
- c. The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g., compressors).
- d. Properly tune and maintain equipment for low emissions.

- 34. Construction Sign:** The applicant shall install a temporary sign, no more than 10 sq. ft., along the project frontage. The sign should be removed at project completion. Sign information shall include:
- a. Contact information (including name, e-mail, and phone number) for the contractor or other responsible party
  - b. Allowed days and hours for construction
  - c. Project elevation and primary project details (i.e., units and square footage)
- 35. Pre-Construction Meeting.** The applicant and the City shall hold a pre-construction meeting to review the conditions of approval, construction management plan, and other key project requirements.

### **Encroachment Permit Requirements**

- 36. Encroachment Permit.** The applicant shall obtain an encroachment permit from the Engineering Division before commencing any construction activities within any public right-of-way. 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.
- 37. Collection of Construction Debris.** 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 weekly basis consistent with the city requirements and State law.
- 38. 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 Public Works Department and Chapter 14 of the City Code.

### **Prior To Issuance of Occupancy Permit**

- 39. Planning Inspection.** 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.
- 40. Address Assignment.** The applicant shall request and garner approval of an address assignment for any change in the number of units/tenant spaces.
- 41. 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.



- 42. Debris Removal.** 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.
- 43. Fire Prevention.** 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.
- 44. 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.