



PLANNING & ZONING COMMISSION

PA22-057 DESIGN REVIEW CONDITIONAL USE PERMIT AND PARKING EXCEPTION FOR A SECOND-STORY REAR ADDITION AT 825 SAN CARLOS AVENUE

DEC. 14, 2022



QUICK FACTS	PROJECT DESCRIPTION:
APPLICANT: Steven Chan	<p>The applicant is seeking Design Review, Conditional Use Permit, and Parking Reduction approval for a second-story addition at 825 San Carlos Avenue. The subject property is a 3,751 sq. ft. lot with a 2-bedroom, 1 bathroom, 807 sq. ft. house. The project includes extending the ground floor into the rear yard and a second story addition. This will result in a 4-bedroom, 3-bathroom, 2,062 sq. ft. residence with a height of 26 feet. The architectural style of the home is proposed to be a contemporary-craftsman style with a front gable roof. A Parking Reduction is required to waive one off-street parking space. The conditional use permit is required for the extension of the existing non-conforming side yard setback on the north side of the property.</p>
PROJECT ADDRESS: 825 San Carlos Ave	
GP LAND USE: Low Density Residential	
ZONING: R-1 Residential Single Family	
LOT AREA: 3,751 sq. ft.	
PROPOSED BUILDING AREA: 2,062 sq. ft.	REQUESTED APPROVALS (ENTITLEMENTS):
PROJECT PLANNER: Jeff Bond	Design Review, Conditional Use Permit
	STAFF RECOMMENDATION:
	Staff recommends that the Planning & Zoning Commission review and approve the proposed project subject to the attached findings and Conditions of Approvals.



STREET ELEVATION



BACKGROUND

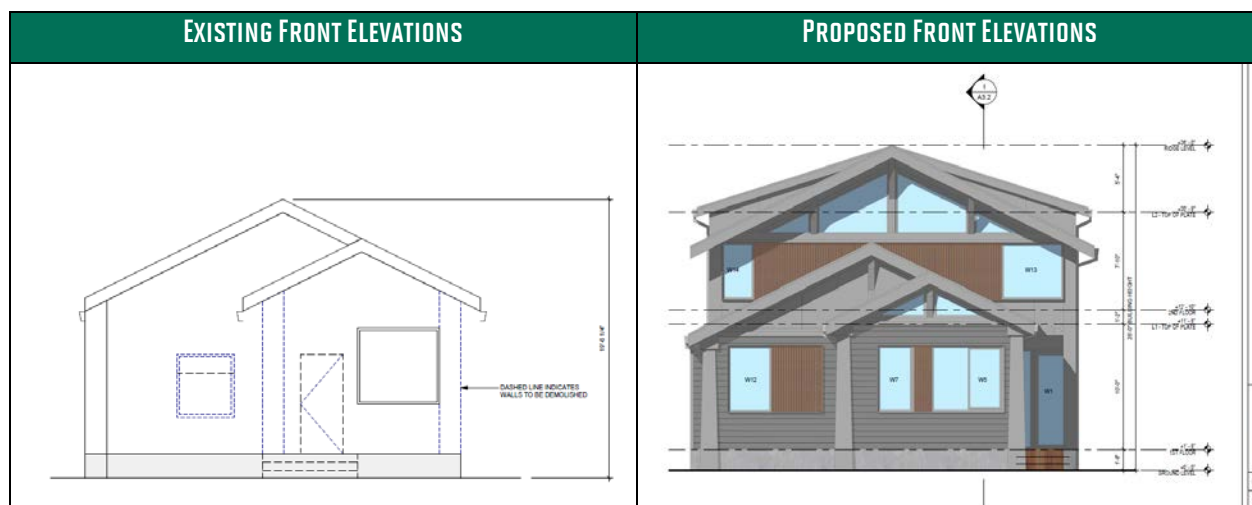
City records indicate the residence was built in 1917. No major improvements have been to the residence.

ANALYSIS

The proposed project expands the residence from two bedrooms to four bedrooms. In addition, the project modernizes living areas and adds two additional bathrooms.

The proposed architecture style is an attractive mix of traditional and contemporary elements. The south elevation includes the mix of horizontal siding and vertical redwood slats that break up the mass of the side elevation. The Commission may wish to consider where the north elevation would benefit from similar vertical redwood slat treatments in select locations

EXTERIOR ELEVATIONS



DESIGN REVIEW - 20.100.050

Projects subject to Design Review are required to implement the principles outlined in the City's Residential Design Guidelines. Projects may have varying degrees of the design principles implemented based on the discretion of the Planning & Zoning Commission. Projects that exceed a **45% floor area ratio** are subject to exceptional design and must incorporate a higher degree of the City's design principles. Exceptional design includes, but is not limited to, high quality exterior finishes, variation in exterior materials, variation in wall plane depths and projections, consistent window language, complimentary landscaping, and consideration to off-street parking. The proposed project incorporates the following design principles as indicated the in the table below:

RESIDENTIAL DESIGN GUIDELINES CRITERIA	ANALYSIS
1 LANDSCAPE DESIGN <ul style="list-style-type: none"> The front yard is the home's contribution to the community Pedestrian emphasis 	The project plans include a landscape plan that includes a variety of plantings in the front yard and a small open deck off of the bedroom facing the front yard.
2 OUTDOOR SPACE <ul style="list-style-type: none"> Rear Yard Decks Roof Decks Balconies Indoor/Outdoor Flow 	The proposed project includes a front yard uncovered deck off of the primary bedroom in the front of the home, and a rear yard deck several steps above grade.

3 ARCHITECTURAL DESIGN <ul style="list-style-type: none"> • Front porches and covered entries are strongly encouraged • Architectural relief is an important aesthetic element • Trim and details give a house warmth and character • Paint Color • Building materials • Window details 	The proposed project includes front gabled roof forms with exposed beams and window glazing. The exterior cladding includes horizontal hardboard siding and vertical redwood slats.
4 LIVABILITY <ul style="list-style-type: none"> • Modernizing interior space for better function and long-term occupancy • Interior Ceiling Heights • Universal Design • Expansion types 	The floorplan incorporates large open interior living/dining/kitchen in the rear of the ground floor and ground floor bedrooms suitable for long-term occupancy and universal design.
5 CONTEXT <ul style="list-style-type: none"> • Compatibility with adjacent homes • Privacy considerations 	The proposed project will be in scale with surrounding residences
6 ACCESSORY DWELLING UNIT <ul style="list-style-type: none"> • The City encourages the creation of Accessory Dwelling Units • Accessory Dwelling Units should have a defined entrance/entry separate from the main dwelling 	Not applicable
7 PARKING <ul style="list-style-type: none"> • Garages and parking are important considerations on Albany's Small lots • Electric Vehicle Charging Stations • Garage Doors • Driveway Materials 	The applicant is seeking an exception to parking requirements reduce the length of the driveway to accommodate one vehicle outside of the front yard setback. Space exists for a second vehicle to park in the driveway in the front yard setback area.

SITE REGULATIONS – 20.24.020

	EXISTING (APPROX.)	PROPOSED CONSTRUCTION (APPROX.)	REQUIREMENT
SETBACKS			
FRONT (DIRECTION)	14.1	14-2	15'
SIDE (DIRECTION)	11.2	6-2	3-9
SIDE (DIRECTION)	0.5	2-0	3-9
REAR (DIRECTION)	48	26-7	20'
AREA			
LOT SIZE	3751		
LOT COVERAGE	21.5%		50%
MAXIMUM HEIGHT	16-6	26-0	28' MAX.

FLOOR AREA RATIO - 20.24.050

	EXISTING	PROPOSED	REQUIREMENT
FLOOR AREA			
GARAGE ¹	0	0	
COVERED PORCH ²	0	51	
INTERIOR STAIRS ³	0	60	
LOWER LEVEL/BASEMENT	0	0	
MAIN LEVEL	807	1478	
SECOND-FLOOR ⁴	0	584	
ACCESSORY STRUCTURE ACCESSORY DWELLING UNIT	165	0	
TOTAL AREA (TOTAL OF ALL ABOVE LISTED MEASUREMENTS)	972	2113	
DEDUCTIONS (IF APPLICABLE)⁵		60	
TOTAL COUNTED (SUBTRACT DEDUCTIONS FROM TOTAL AREA)	972	2053	--
LOT SIZE	3751		
FLOOR AREA RATIO⁶	0.26	0.55	55% (2,063 MAX SQ. FT.)

1. Total floor area of attached or detached garage
2. Porch area containing two walls and a roof. Exterior uncovered porch and uncovered deck are excluded from FAR.
3. Total Staircase area for all interior stairways
4. Include stair area in floor area calculation
5. Deductions of up to 220 sq. ft. for covered parking and 60 sq. ft. for stairs can be taken as permitted by AMC 20.24.050
6. Total Counted/Lot Size

PARKING – 20.28

The proposed project would eliminate vehicle access to a side yard driveway that currently could accommodate two vehicles beyond the front yard setback. The applicant is seeking an exception to parking requirements reduce the length of the driveway to accommodate one vehicle outside of the front yard setback and a second vehicle to park in the driveway in the front yard setback area.

GENERAL PLAN & HOUSING ELEMENT CONSISTENCY

The following General Plan and Housing Element policies are relevant to the proposed project:

- **Policy LU-2.1: Context-Sensitive Design** - Ensure that infill development in residential areas is compatible in density, scale and character with the established neighborhood context.
- **Policy LU-2.3: Design Guidelines** - Maintain residential design guidelines and design review procedures that promote the compatibility of residential alterations and additions

with existing homes and that strive to reduce impacts on neighboring properties. The guidelines should be used to encourage high-quality, visually distinctive architecture, and the use of durable, attractive construction materials.

- **Policy LU-2.6: Second-Story Additions** - Ensure that second story additions to single story homes are designed to minimize increases in height and bulk, and to reduce their perceived mass from the street and surrounding yards.
- **Policy LU-2.11: Front Yards** - Encourage the management and design of front yard space, including landscaping and fences, to complement residential architecture and enhance neighborhood aesthetics.
- **Housing Element Policy Policy 1.1** - Housing Re-Investment. Support continued maintenance and improvement of Albany's existing housing stock. City zoning regulations, permitting practices, and code enforcement procedures shall support reinvestment in the housing stock.

ENVIRONMENTAL REVIEW

Staff recommends that the proposed project be considered categorically exempt from the requirements of CEQA per Section 15303, "New Construction or Conversion of Small Structures" of the CEQA Guidelines, which allows the construction small facilities or structures..

ATTACHMENTS

1. Draft Findings for Approval
2. Draft Conditions of Approval
3. Project Application & Plans

ATTACHMENT 1

FINDINGS FOR DESIGN REVIEW APPROVAL (PER SECTION 20.100.050.E OF THE AMC)

Required Finding	Explanation
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>	The General Plan designates this area for residential development. Additionally, the project meets City zoning standards for location, intensity and type of development.
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>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 project will not require significant grading or excavation. The project will not create a visual detriment at the site or the neighborhood.</p> <p>The proposed addition is attractive in appearance, and is in scale with the surrounding neighbors. The design is complementary with the existing home.</p>
3. <i>Approval of the project is in the interest of public health, safety and general welfare.</i>	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 development in the area.
4. <i>The project is in substantial compliance with applicable general and specific Standards for Review stated in Subsection 20.100.050.D.</i>	The project as designed is in substantial compliance with the standards as stated, including harmonious materials, and well-proportioned massing.

Findings for Conditional Use Permit Approval (Per Section 20.100.030.D of the AMC)

Required Finding	Explanation
1. Necessity, Desirability, Compatibility. <i>The project's size, intensity and location of the proposed use will provide a</i>	The General Plan designates this area for residential development. Additionally, the

development that is necessary or desirable for, and compatible with, the neighborhood or the community.	project meets City zoning standards for location, intensity and type of development.
<p>2. Adverse Impacts. The project's use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:</p> <ul style="list-style-type: none"> a. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures; b. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading; c. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor; d. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; 	<p>The architectural style, design and building materials are complementary to the existing house on site. The proposed project will provide safe and convenient access to the property for both vehicles and pedestrians. The project will not create a visual detriment at the site or the neighborhood. The use of the site remains the same and will not produce any noxious or offensive emissions, noise, glare, dust or odor.</p>
<p>3. Consistency with Zoning Ordinance, General Plan and Specific Plan. That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.</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 affect property, improvements or potential future development in the area.</p>

FINDINGS FOR PARKING EXCEPTION (PER SECTION 20.28.040(A) (8) OF THE AMC)

REQUIRED FINDING	EXPLANATION
1. Parking within a dwelling, a garage, carport or other structure or in the rear or side yard is not feasible or will be disruptive to landmark trees or will severely restrict private outdoor living space on the site.	Providing the required parking facilities would require significant redesign of the residence, impacting ground floor livability and universal design features of the home and reducing rear yard open space.
2. the area proposed for parking in the front yard will meet the minimum standard of seven (7) feet six (6) inches in width by 16 ft. in length.	Proposed driveway is approximately 36 feet in length.
3. The parking space is designed so that no part of any vehicle will extend beyond the property line into the public right-of-way or will come within one (1) foot of the back of the sidewalk, nor permit a parked vehicle to constitute a visual obstruction exceeding three (3) feet in height within twenty-five (25) feet of the intersection of any two (2) street lines. The Planning and Zoning Commission shall not approve a front yard parking space unless a finding is made that visual obstructions are not a significant safety hazard.	The 36 foot driveway length provides adequate space for parking a vehicle without obstructing the public right-of-way. The subject property is an interior lot that is not in immediate proximity to an intersection; therefore, there should not be any visual obstructions or safety hazards as a result of granting the exception.
4. Any required off-street parking spaces which are permitted in front yard areas are designed to minimize aesthetic and noise intrusion upon any adjacent property.	The proposed parking arrangement is not a significant difference from existing arrangement.

ATTACHMENT 3**CONDITIONS OF APPROVAL****SPECIAL CONDITIONS OF APPROVAL**

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|---|
| <ol style="list-style-type: none">1. SPECIAL CONDITIONS APPROVED/RECOMMENDED BY THE PLANNING AND ZONING COMMISSION.<ol style="list-style-type: none">a. None proposed. |
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GENERAL CONDITIONS OF APPROVAL

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| <ol style="list-style-type: none">2. Project Approval. This Design Review, Conditional Use Permit, and Parking Reduction Approval, for 825 San Carlos Avenue, as substantially shown and described on the project plans, except as required to be modified by conditions herein. Plans prepared by Sandy Chan Architect date received May 27, 2022, as presented to the Planning and Zoning Commission on December 14, 2022. 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. |
| <ol style="list-style-type: none">3. Project Approval Expiration. This Design Review and Conditional Use Permit approval expires on December 28, 2023 (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. |

<p>4. Fees. The applicant shall pay all City and other related fees applicable to the property, as may be modified by conditions herein. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured and shall be paid before issuance of said permit or before any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering, Fire and Inspection Fees. The project applicant shall also reimburse the City for direct costs of planning; building and engineering plan check and inspection, as mutually agreed between the City and applicant.</p>
<p>5. 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.</p>
<p>6. 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.</p>
<p>7. 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.</p>
<p>8. 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.</p>

- 9. Address Assignment.** The applicant shall request and garner approval of an address assignment for the new building.

BUILDING PERMIT SUBMITTAL REQUIREMENTS

- 10. Project Conditions.** The project Conditions of Approval shall be included as a separate page in the building permit plan set and shall be signed by the applicant.

- 11. 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:
- Property lines;
 - Site topography and direction of surface flow;
 - Roof plan and location of rain leaders;
 - Location of drainpipe including size, length, vertical height/slope, and location
 - of cleanouts
 - Show detail of discharge pipe under sidewalk in compliance with City standards
 - Show areas of hardscape and soft scape;
 - Calculation of pervious and impervious lot coverage.
 - Submit a completed the NPDES compliant Stormwater Requirements Checklist form

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

- 13. Landscaping.** 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:
- 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

<p>tolerant of saturated soil conditions and prolonged exposure to water shall be specified.</p> <ul style="list-style-type: none">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.
<p>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.</p>
<p>15. Construction Management Plan. The applicant shall prepare a Construction Management Plan addressing, at a minimum:</p> <ul style="list-style-type: none">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.
<p>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.</p>

<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>20. Driveway Materials. The building permit plans shall indicate driveway material to be installed as part of the project construction. The materials shall be noted on the plans at the time of building permit submittal.</p>
<p>21. Window Recess. Building permit plans are required to include a window detail that shows that windows shall be recessed approximately two inches from face of building to provide adequate shade and shadow and to promote visual relief.</p>
<p>22. Color and Material Verification. The applicant shall provide the City with brush-outs of paint colors and material samples for review and approval by the Community Development Director.</p>
<p>23. 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.</p>
<p>24. 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.</p>

FIRE DEPARTMENT REQUIREMENTS

<p>25. 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.</p>
<p>26. 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.</p>
<p>27. 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.</p>
<p>28. 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.</p>
<p>29. 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.</p>

CONSTRUCTION RELATED CONDITIONS OF APPROVAL

30. 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.

31. 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 recommend mitigation measures.

32. 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.

33. Creek Protection Measures. Implementation of the following creek protection measures will be monitored regularly:

- a. No new construction or grading will take place within 20 feet of top of bank;
- b. No construction materials, litter or loose debris will be stored within the 20-foot creek top buffer;
- c. No native riparian trees will be removed from the riparian corridor;
- d. Construction fencing between the construction area and the creek will be maintained to prevent litter from blowing into the creek, and to prevent workers from entering the creek channel;
- e. All construction debris will be gathered daily and placed in a container that is emptied or removed on a periodic basis before exceeding storage capacity;
- f. When appropriate, tarps will be used to collect fallen debris or splatters that could contribute to stormwater pollution;
- g. Concrete and gravel supply trucks or plaster finishing operations will be monitored to ensure no discharge of wash water into the creek, street gutters or storm drains;
- h. All dirt, gravel, refuse and green waste will be removed and broom swept daily from the sidewalk, street pavement and storm drain adjoining the project site;
- i. All vehicles will be parked on paved areas; and
- j. Bags of cement, paints, flammables, oils, or any other materials used by the project site that have the potential for being discharged to the creek or storm drain system by the wind or in the event of a material spill will be stored in an enclosed container or location consistent with manufacturer instructions.

34. 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).

35. 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

	<p>water sweepers) if visible soil material is deposited onto the adjacent roads.</p> <ul style="list-style-type: none"> 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. <p>Measures to Reduce Diesel Particulate Matter and PM 2.5:</p> <ul style="list-style-type: none"> j. 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. k. 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. l. The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g., compressors). m. Properly tune and maintain equipment for low emissions.
	<p>36. 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:</p> <ul style="list-style-type: none"> 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)
	<p>37. 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.</p>

ENCROACHMENT PERMIT REQUIREMENTS

<p>38. 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.</p>
<p>39. 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.</p>
<p>40. 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.</p>

PRIOR TO ISSUANCE OF OCCUPANCY PERMIT

<p>41. 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.</p>
<p>42. 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.</p>
<p>43. Debris Removal. All mud, dirt or construction debris carried off the construction site and shall be removed prior to scheduling the final</p>

Planning inspection. No materials shall be discharged onto a sidewalk, street, gutter, storm drain or creek.
44. 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.
45. 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.

ACCEPTANCE OF CONDITIONS

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

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

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

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

Signature: _____

Date: _____

Applicant

Date: _____

Co-Applicant, if any