RESOLUTION NO. 2020-17

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

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

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

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

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

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

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

WHEREAS, Section 20.40.040 of the Albany Municipal Code identifies procedures for processing applications pursuant to Government Code Section 65915, State Density Bonus Law; and
WHEREAS, Section 20.40.030 of the Albany Municipal Code identifies procedures for Inclusionary Housing units, including an Affordable Housing Agreement; and

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

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

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

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

WHEREAS, on December 11, 2019, the Planning & Zoning Commission held a public hearing on the application, provided feedback to the applicant and staff, and adopted Resolution 2019-13 forwarding a recommendation to the City Council to approve the Tentative Map and Parking Reduction request for the project; and
WHEREAS, the project is categorically exempt from the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq. pursuant to Section 15332, “In-Fill Development” of the CEQA Guidelines, which exempts in-fill development, and as determined in the CEQA exemption analysis: a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; c) The project site has no value, as habitat for endangered, rare or threatened species; d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; e) The site can be adequately served by all required utilities and public services; and f) no unusual circumstances about the property are known that would have a significant effect on the environment; and

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

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

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

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

Section 2

A. FINDINGS FOR APPROVAL CONSISTENT WITH SECTION 20.100.050 "DESIGN REVIEW" OF THE ALBANY MUNICIPAL CODE:

1. **Finding Required for Approval:** 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.

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

2. **Finding Required for Approval:** Approval of the 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."

   **Evidence:** The three-story/approximately 35-foot high residential project would be in scale and harmony with existing development immediately adjacent to the site, which is composed of a range of one-, two-, and three-story buildings. The attached townhome configuration contributes to the variety of residential building
types adjacent to the project site, which include a large apartment building built to
the sidewalk, small apartments with limited front setbacks, and detached single-
family homes with front stoops and garages fronting the public street. The
architectural style, design and building materials are of high quality and appropriate
for the setting: solid wood doors and ipe wood front stairs, aluminum windows,
composite shingle roofing, along with integral stucco, as is found in much of the
surrounding neighborhood. The projecting front stoops, open gable roofs,
alternating deck locations, and alternating color patterns create opportunities for
light and shadow, as well as visual interest from the street. The proposed project
would be constructed on a relatively flat vacant lot and would not require
substantial grading or disruption to natural landforms. The project would improve
the visual appearance of the Kains and Portland Avenue intersection by removing
the existing opaque wall, providing new street trees and landscaping, and additional
population and “eyes on the street” that create activity in the greater San Pablo
corridor and the neighborhood. The project would have site access via multiple
modes of transportation: bus access on San Pablo Avenue, off-street parking
supplied on Kains Avenue, and bicycle parking within each unit’s garage and in
front of the retail tenant on San Pablo Avenue. The project would provide new
sidewalks and landscape strips along Kains Avenue and within the setbacks.

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

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

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

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

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

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

**Evidence:** The waivers for front and rear setbacks, and for the daylight plane/height allow modifications from development standards that would have the effect of physically precluding the construction of a housing development project that qualifies for a density bonus at the permitted density. The concession allowing modification of zoning code requirements regarding encroachments in the side setback that would otherwise be required result in identifiable and actual cost
reductions to provide for affordable housing costs, as defined in Section 50052.5 of
the Health and Safety Code, and for sale prices for the targeted unit to be set as
specified in Government Code Section 65915(c). These modifications do not
present a specific, adverse impact upon public health and safety or the physical
environment or on any real property that is listed in the California Register of
Historical Resources; nor do the modifications conflict with State or federal law.

C. FINDINGS OF APPROVAL CONSISTENT WITH SECTION 20.28.040
"EXCEPTIONS TO PARKING SPACE REQUIREMENTS"

1. Parking Reduction Findings: The Commission may, through a major use permit
process, adjust the parking requirements contained in subsection 20.28.030.B. for
any nonresidential use in an existing building over 2,000 square feet. In granting an
adjustment the Commission shall make the following findings:
   a. On the basis of a survey of comparable situations, parking demand for the
      proposed use or uses will be less than the required number of spaces.
   b. The probable long-term occupancy of the property or structure, based on
      the project design, will not generate substantial additional parking demand.
   c. Based on a current survey of parking space availability and usage within a
      five hundred (500) foot walking distance of the boundary of the site of the
      subject building, a reduction of the parking requirement will not have a
      substantial effect on the parking available for neighboring uses.

Evidence: With respect to finding (a), an off-street parking survey completed
January 2020 demonstrated occupancy rates ranging from 42% in the late afternoon
on a Friday to 78% at lunchtime on Friday on the subject site parking, with rates of
71% during Friday evening and Monday lunchtime hours. These occupancy levels
are below the 80% rule-of-thumb for adequate parking availability. With respect to
finding (b), if the existing restaurant remains in the long-term it is not expected to
generate substantial additional parking demand, especially given the City of
Albany’s high levels of alternative transportation modes, the provision of four new
bike racks, and macro-level changes in transportation that are shifting away from
single-occupancy personal vehicles. Should the restaurant propose to expand without proposing additional parking, any proposed reduction would require further study. With respect to finding (c), the on-street parking survey completed December 2019 demonstrated that 50% of on-street spaces were generally available within 500-feet of the project site on a Thursday at both lunchtime and dinnertime, and up to 77% on a Friday at lunchtime. Four additional on-street surveys conducted in January 2020 showed ranges of occupancy levels between 45% and 70%. Since, as a general rule of thumb, 80% utilization of spaces represents an adequate amount of on-street parking availability, these findings suggest that there is adequate parking availability on the streets adjacent to the restaurant parking lot. With the availability of on-street parking and the 24 spaces off-street parking spaces dedicated to the restaurant, parking demand to serve the restaurant is expected to be less than the supply available. The reduction in required parking from 29 to 24 spaces, a difference of 5 spaces, is not expected to substantially affect the availability of parking for the restaurant and its probable long-term occupancy, nor the parking availability for neighboring uses.

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

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

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

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

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

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

NOES: None

ABSENT: None

ABSTAIN: None

[Signature]
Mayor Pilch

[Signature]
ATTEST:
RESOLUTION NO. 2020-17

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,
The 18th day of February, 2020 by the following votes:

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

NOES:  None

ABSENT:  none

ABSTAINED:  none

RECUSED:  none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this
19th day of February, 2020.

Eileen Harrington
DEPUTY CITY CLERK

The City of Albany is dedicated to maintaining its small town ambiance, responding to the needs of a diverse community, and providing a safe, healthy and sustainable community.