RESOLUTION NO. 2026-81

A RESOLUTION OF THE ALBANY CITY COUNCIL ADOPTING FINDINGS FOR APPROVAL OF A PROJECT TO LIFT THE EXISTING HOUSE BY 7'-5" TO CREATE A TWO-STORY HOME WITH A MAXIMUM HEIGHT OF 23'-3", A NEW 27 SQ. FT. ENTRY AREA AND EXPAND THE LOWER-STORY REAR DECK AT 1120 CURTIS STREET AND UPHOLDING THE DECISION OF THE PLANNING AND ZONING COMMISSION APPROVING DESIGN REVIEW (PA 26-016)

WHEREAS, On December 6, 2004, the City Council of the City of Albany adopted Ordinance No. 04-09 establishing Chapter 20 "Planning and Zoning" of the Albany Municipal Code; and

WHEREAS, Chapter 20 established development standards and review procedures for new single family home construction; and

WHEREAS, the City Council adopted Residential Design Guidelines for residential additions and new homes in the City of Albany on February 20, 2019 which provide specific design elements that encourage thoughtful development, interaction between neighbors and a sense of community in an urban environment; and

WHEREAS, the applicant filed an initial Planning Application for Design Review on May 5, 2026; and

WHEREAS, the property at 1120 Curtis Street contains an existing single-family residential home "R-1" (Residential Single Family) zoning district; and

WHEREAS, the Planning & Zoning Commission reviewed and approved the Design Review project for 1120 Curtis Street at duly noticed meeting held on July 8, 2026; and

WHEREAS, the Planning & Zoning Commission considered all public comments received, presentation by City staff, staff report, and all pertinent documents to review and make the findings to approve the project within the authority and discretion conferred by the City's General Plan and Planning and Zoning Ordinance of the Municipal Code; and

WHEREAS, Gerhard, Margaret and Ingrid Brostrom filed an appeal of the Planning & Zoning Commission decision on July 22, 2026; and

WHEREAS, the appeal cites, an error or abuse of discretion by the Planning and Zoning Commission did not make full use of its discretion in reviewing the project, that the Commission's review failed to include public comment and did not provide opportunity for public rebuttal of applicant's presentation, and that the decision was not supported by the application of standards or review criteria such as compatibility, massing, or impact on feasibility to install solar panels on appellants' property; and

WHEREAS, the appeal hearing date was established pursuant to Section 20.100.080 (E) (1) which requires that a hearing date be set within 30 days of the initial filing and that the hearing be held within 60 days of the original date of approval when feasible and was scheduled for review on November 2, 2026 with the applicant's consent; and

WHEREAS, Planning and Zoning Code Section 20.100.080.F establishes the following standards for review of appeals:

> *When reviewing any decision of the Planning and Zoning Commission on appeal, the City Council shall use the same standards for decision making and is required to make findings in accordance with the Municipal Code. The Council may adopt the Planning and Zoning Commission's decision and findings as its own. In either case, the City Council shall have the option to prepare a resolution stating the council's decision or shall render its decision by minute action.*

WHEREAS, on November 2, 2026 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; 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 Friday October 23,2026 for the City Council appeal pursuant to Government Code Section 65090.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Albany approves application request PA 26-016, upholds the decision of the Planning & Zoning Commission, adopts the findings below, and adopts the conditions of approval as approved by the Planning & Zoning Commission attached hereto and incorporated herein as "Exhibit A".

1. FINDINGS FOR EXEMPTION FROM CEQA

Finding: The project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15303 "New Construction or Conversion of Small Structures".

Evidence: The proposed application would result in construction of a new a 2,122 sq. ft., two-story single-family residence with a maximum height of 23'-3" in an R-1 Zoning District.

2. FINDINGS FOR APPROVAL OF DESIGN REVIEW

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

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 General Plan designates this area for residential development. Additionally, the project meets City zoning standards for location, intensity, and type of development.

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

Evidence: 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 create a visual detriment at the site or the neighborhood. The proposed project is attractive in appearance and complementary with the existing home.

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

Evidence: The proposed project is subject to conditions of approval and requires building permit issuance, inspections and final. The project will, therefore, be constructed in a manner as to not be detrimental to the health,

EXHIBIT A
CONDITIONS OF APPROVAL
PLANNING APPLICATION PA 26-016
AS APPROVED BY THE PLANNING & ZONING COMMISSION

GENERAL PROJECT CONDITIONS

Gen-1 **Project Approval**. Except as required to be modified by conditions herein, this approval for PA26-016 at 1120 Curtis Street, is for the project as substantially shown and described in the application materials, including the project plans prepared by Scott R. Galka dated received June 1, 2026, as presented to the Planning and Zoning Commission on July 8, 2026.

GEN-2 **Project Approval Expiration**. This approval expires on July 23, 2027 (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.

Gen-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.

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 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.

BUILDING PERMIT SUBMITTAL CONDITIONS

BP-1 **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 before constructing, enlarging, moving, converting, or demolishing any building or structure within the City.

BP-2 **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..

BP-3 **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.

BP-4 **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.

BP-5 **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 of cleanouts
e. Show detail of discharge pipe under sidewalk in compliance with City standards
f. Show areas of hardscape and soft scape;
g. Calculation of pervious and impervious lot coverage.
h. Submit a completed the NPDES compliant Stormwater Requirements Checklist form

BP-6 **Sewer Line Easement.** Building Permit drawings shall include actual sewer alignment & elevation/depths based on pothole performed by applicant/applicant's contractor that positively locates sewer for Public Works' staff review to demonstrate compliance with conditions below.

a. If retaining walls along the property lines are proposed to be rebuilt, designs for review including protection of existing City main shall be provided and subject to review.
b. Provide pipe protection detail for City review if any structural work is within five horizontal feet of sewer pipe or if the zone of influence from structures extends into pipe zone.

c. Provide 1-foot vertical separation between sewer and other on-site utilities.

BP-7 **Soils Investigation.** A soils investigation by a licensed professional is required for new construction .

BP-8 **Landscaping.** The building permit plan set shall include a landscape plan with a complete list of plant species, 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.

BP-9 **Mechanical Equipment.** Mechanical equipment must comply with all regulations pursuant to Municipal Code §20.24.180, §20.24.110, and §20.36.020, as applicable. No exhaust may be blown on neighboring properties.

Building permit plans shall show the location of all mechanical equipment as well as details of existing or proposed screening and means to prevent exhaust from blowing over the property line.

BP-10 **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

BP-11 **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.

BP-12 **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.

BP-13 **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

BP-14 **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.

BP-15 **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.

BP-16 **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. Flush fin windows are prohibited. Windows with divided lights are only permitted if they include grilles on the outside of the glass panes and spacer-bars between the windowpanes. In addition, vinyl roofing, vinyl siding, vinyl/vinyl clad windows and doors are prohibited.

BP-17 **Window Detail Drawings.** 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. If the proposed windows include divided lights, detail drawings and manufacturer cut sheets

specific to the type of divided lights must also be to verify compliance with condition 19 above.

BP-18 **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.

BP-19 **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 CONDITIONS

FIRE-1 **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.

FIRE-2 **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.

FIRE-3 **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.

FIRE-5 **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.

FIRE-6 **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

CNST-1 **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.

CNST-2 **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.

CNST-3 **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.

CNST-4 **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).

CNST-5 **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.

CNST-6 **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)

CNST-7 **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.

PUBLIC IMPROVEMENTS CONDITIONS

PUBIM-1 **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.

PUBIM-2 **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.

PUBIM-3 **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.

CONDITIONS PRIOR TO ISSUANCE OF OCCUPANCY PERMIT

OCCUPR -1 **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.

OCCUPR -2 **Address Assignment.** The applicant shall request and garner approval of an address assignment for any change in the number of units/tenant spaces.

OCCUPR -3 **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.

OCCUPR -4 **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.

OCCUPR -5 **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.

CONDITIONS – AT ALL TIMES

ALLTMS -1 **Exterior Lighting.** All exterior lighting shall be directed downward and, if necessary, fixed with cut-off lenses to ensure that no glare spills onto adjacent properties or the public right-of-way.

ALLTMS -2 **Restrictions on Driveway Parking.** Vehicle parking on a driveway shall only be permitted if no part of the vehicle 1) extends beyond the property line into the public right-of-way; or 2) comes within one foot of the back of sidewalk; or 3) constitutes a visual obstruction exceeding three feet in height within twenty-five feet of the intersection of any two street lines.

ALLTMS -3 **Vision Triangle Retained.** At no point may any fencing or any other visual obstruction (e.g. hedge), exceed three feet (3) in height within ten (10) feet of the intersection of a street line with the outside line of any driveway or within twenty-five (25) feet of the intersection of any two (2) street lines.

safety, convenience' and welfare of those in the area and would not adversely impact property, improvements, or potential future development in the area.

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

Evidence: The project as designed is in substantial compliance with the standards as stated, including harmonious materials, and well-proportioned massing.

PEGGY McQUAID, MAYOR

ATTACHMENT:

Exhibit A – Conditions of Approval

City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

RESOLUTION NO. 2026-81

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY, the 2nd day of November, 2026, by the following votes:

AYES:	Council Members Hansen-Romero, Jordan, López, Miki, and Mayor McQuaid
NOES:	None
ABSENT:	None
ABSTAINED:	None
RECUSED:	None

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this 3rd day of November, 2026.

Anne Hsu
CITY CLERK