CITY OF ALBANY
PLANNING AND ZONING AGENDA
STAFF REPORT

Agenda date: June 28, 2011
Prepared by: JB

ITEM/ 6c

SUBJECT: **1030-1130 San Pablo Avenue (University Village). Planning Application #07-100. Rezoning and Planned Unit Development.** The applicant seeks approval to construct a new 55,000 sq ft grocery store at the north side of Monroe and a mixed-use retail space and senior living project on the south side of Monroe. This study session is a review of the project with an emphasis on the Environmental Impact Report. Final action on the Environmental Impact Report will be taken by the City Council at a public hearing, future date to be determined.

APPLICANT/
OWNER: University of California

ZONING: SPC (San Pablo Commercial) & R-2 (Residential)

STAFF RECOMMENDATION

Provide feedback and direction to staff, consultants, and the applicant.

BACKGROUND/PROJECT DESCRIPTION

The approximately 6.3-acre project site consists of two lots located to the northwest and southwest of the Monroe Street/San Pablo Avenue intersection. The applicant would like to construct grocery store of a size up to 55,000 square feet on the north side of Monroe and a mixed-use development at the south end of the lot, which includes approximately 30,000 square foot of retail space and approximately 175 independent/assisted living senior housing units (see Attachment 1 CEQA project description).

Because the uses are not related to the educational function of the University, city land use policies apply to the proposed project. The properties currently have two zonings, San Pablo Commercial for the first 100' along the eastern side of San Pablo Avenue and Medium Density Residential for the rest of the property. A rezone to San Pablo Commercial for the entire area would be required to consider a project with commercial uses. A planned unit development (PUD) is requested to allow an increase in height and allow exceptions to zoning district open space, parking, and loading standards.

PROJECT REVIEW PROCESS

The Planning and Zoning Commission has had numerous discussions on the project over the past several years. The most recent discussions were at a regular meeting of May 24, 2011 and a special meeting on June 22, 201. At the meetings, the Commissioners and members of the public provided a number of comments regarding public amenities and conditions of approval for the PUD. Staff is working with the applicant to address as many of those comments as possible and revisions are being made to the findings and conditions of approval for the PUD. In addition, issues have been raised regarding the Little League fields and the Codornices Creek restoration project. Staff is working with interested parties to develop a design that best serves the various community objectives.

Ultimately, consideration of the proposed project will involve a series of Commission and City Council actions, including, in anticipated sequence:

1. Certification of CEQA Final Environmental Impact Report (EIR) (by City Council)
2. Rezoning (by City Council ordinance)
3. Planned Unit Development (by Planning and Zoning Commission)
4. Subdivision (by City Council)
5. Design Review (by Planning and Zoning Commission)
6. Parking Exceptions (by Planning and Zoning Commission)
7. Conditional Use Permits (by Planning and Zoning Commission)
8. Affordable Housing Agreement (by City Council)

As soon as possible, the applicant is requesting action on the first three items; CEQA EIR certification, rezoning, and PUD. Once these policy level decisions are made, the applicant could then enter into agreements with developers, who would presumably apply for the remaining approvals.

For the June 28 meeting, staff recommends the Commission open the public hearing and invite public testimony on the project. Prior to making a recommendation to the City Council, the Commission should review revised findings and conditions of approval. These documents are currently being prepared by staff.

REZONING

The decision on rezoning is a legislative policy action, as opposed to a more common "quasi-judicial" decision such as design review or conditional use permit. In a legislative decision, the City has broad latitude to make a decision, as long as proper procedures are followed and findings are made to support the decision. Keeping the existing zoning is a legally viable alternative.

While the City has latitude in making its decision, there are, for several reasons, limits to the conditions of approval that can be placed on a rezoning. First, the rezoning becomes effective 30 days after the second reading of the ordinance. Thus, failure of the applicant to comply with a condition of approval would require a new rezoning process in order to reverse the original approval. Secondly, a series of Supreme Court rulings over the years require that conditions of

approval be derived from the City's regulatory authority, and be reasonably related and proportional to the impacts of the project.

Findings of Consistency with General Plan

Planning and Zoning Code Section 20.100.070 (Amendments) describes how amendments can be made to the Planning and Zoning Code, including changes to the zoning map. One of the key considerations in a rezoning is that the new zoning designation must be consistent with the General Plan.

The city's current General Plan was adopted in 1992. The Land Use Element of the General Plan contains the following policies related to this project:

- The land use designation is "Residential Commercial" (RC), which is described as "Medium residential densities at a maximum of 34 units per acres is allowed. Retail and office commercial development at a maximum FAR of 0.95 is allowed." (pg. 31)

The proposed project, as described in the CEQA EIR project description, is consistent with General Plan, based on the following analysis:

- The residential density of the proposed project is 27.8 units per acre, which is based on 175 residential units proposed by the project, divided by gross project area of 6.3 acres.
- The commercial density of the proposed project is 0.31 FAR, which is based on 85,000 square feet of commercial area, divided by 274,300 gross square feet.
- The proposed rezoning from R-2 to SPC will allow commercial uses to a maximum FAR of 0.95, which are not presently allowed in an area with the R-2 zoning designation.

In addition, the current approved Housing Element of the General Plan states:

- "Although redevelopment of the San Pablo frontage could be exclusively for residential uses, the City would favor commercial/residential mixed use . . ." (pg. 65)
- "Encourage higher density residential development of under-utilized University of California property away from the San Pablo Buchanan frontage." (pg. 70)

In addition to the existing approved Housing Element, a new draft Housing Element has been prepared. The draft Housing Element designates the site for minimum of 138 units of housing. If the project were not to include at least 138 units of housing, then the draft Housing Element would have to be modified to identify another site for housing.

The main consequences of the proposed rezoning from R-2 to SPC are:

- Allows a range of residential and commercial uses as described by the RC land use designation.
- Allows residential uses at a maximum density of 63 units per acre compared to the density of 35 units per acre allowed in the R-2 zoning district.
- Eliminates setback standards and daylight plane requirements that otherwise would apply between SPC and residential districts.

- Allow a maximum building height of 38 feet compared to a maximum building height of 35 feet allowed in the R-2 zoning district.

Project Phasing

The applicant is requesting a phased approval for the project, with the legislative action on the rezoning to occur first. Due to phased approvals, a number of key issues will be addressed in later City approvals. Examples of issues that have not been addressed include the civil engineering design of the project, including final details on the location of property lines and the design of bikeways and pedestrian paths, roadways, and storm water drainage. Other matters that will be addressed in later approvals include compliance with the City's Parkland Dedication Ordinance art in public places requirements, the City's inclusionary housing ordinance, etc. Finally, property tax revenues to the City depend on the entity that will own and operate the facility. For example, certain types of non-profit senior housing operators may not be required to pay property taxes.

PLANNED UNIT DEVELOPMENT

Planned Unit Development (PUD) is intended to promote flexibility of design and increase available usable open space in developments by allowing flexibility to the usable open space, lot area, lot width, lot coverage, yards, height, parking, loading, sign, screening and landscaping requirements. For this project, the following modifications to City standards have been requested:

- On the parcel south of Monroe, beginning from a setback line 55 feet from San Pablo Avenue westerly to the boundary of the San Pablo Commercial Zoning District, building height would be allowed to increase to 62 feet above grade. The standard requirement is a building height of 38 feet.

- Reduction in minimum common useable open space to 140 square feet per unit. The standard is 200 square feet per unit.

- A series of modifications to reduce the amount of landscaping in surface parking lots, reduce parking required for the non-grocery retail portion of the project, provide flexibility in meeting loading area requirements, and reduce the dimensions of the parking stalls.

The Planning and Zoning Code requires that in approving a PUD, the Commission make a finding that the project incorporates an exceptional level of amenity or other benefits to the community that could not be achieved without the PUD. Staff has researched PUD practices in other communities, and has found that there are no generally accepted planning standards that a particular dollar amount or design feature constitutes an "exceptional amenity." Thus, ultimately the Commission will need to make a qualitative judgment about whether the scope of public amenity rises to the appropriate level. To date, the amenities discussed by the applicant in potential support for the PUD include:

- Reduction in maximum building height along San Pablo Avenue from 38 feet to 24 feet;

- Incorporation of "complete streets" and "green streets" design principles for development of Parcel A and Parcel B;

- Implementation of a stream management plan for the portion of Village Creek abutting the proposed project.

- Implementation of the agreement for Codornicies Creek Restoration project abutting the proposed project;

- Implementation of improvements at the Buchanan/Marin/San Pablo intersection and Buchanan/Jackson intersection improvement projects.

The Commission discussed the PUD at its May 24, 2011 meeting. Several Commissioners commented that the PUD conditions of approval need more detail and need to be strengthened to ensure successful implementation of the amenities. Staff is currently working on the changes to the PUD conditions of approval.

- Require the design of all of the public amenities to be completed with the design of the first phase of the project.

- Require the completion of all of the public amenities to be completed prior to the occupancy of the first phase of the project.

- Provide greater specificity on "complete streets" standards to be applied to this project.

- Incorporate a cross-reference to existing policies, plans, and agreements related to University Village, including Little League fields, Codornices Creek, etc.

FURTHER ANALYSIS AND SCHEDULE

Staff does not expect to have completed the preparation of draft findings and conditions of approval for the EIR, rezoning and PUD in time for a July 7 Commission meeting. Thus, it is recommended that the next Commission meeting for this project be scheduled once all of the documents are drafted and reviewed by legal counsel. In the meantime, a study session with the City Council is tentatively scheduled for July 18, 2011.