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**DRAFT FOR PLANNING AND ZONING COMMISSION REVIEW**

**RESOLUTION # \_\_\_\_\_**

**RESOLUTION OF THE CITY OF ALBANY CITY COUNCIL  
APPROVING**

**PLANNED UNIT DEVELOPMENT FOR PARCEL A AND PARCEL B  
OF THE UNIVERSITY VILLAGE MIXED USE DEVELOPMENT**

**WHEREAS**, Planning and Zoning Code Section 20.100.060 allows Planned Unit Development within the City of Albany.

**WHEREAS**, Planned Unit Development is defined as a development adhering to a comprehensive plan and located on a single tract of land, or on two (2) or more contiguous tracts of land which may be separated only by a street or other public right-of-way.

**WHEREAS**, the purpose of the planned unit development regulations is to promote flexibility of design and increase available usable open space in developments by allowing diversification in the relationships of various buildings, structures and open spaces in building groups and the allowable heights of the buildings and structures, while insuring substantial compliance with the district regulations and other provisions of Planning and Zoning Chapter of the City of Albany Municipal Code.

**WHEREAS**, Planned Unit Development process allows exceptions to the usable open space, lot area, lot width, lot coverage, yards, height, parking, loading, sign, screening and landscaping requirements of the applicable zoning district may be allowed when it can be demonstrated that such exceptions would result in a more desirable development.

1           **WHEREAS**, an application for a planned unit development permit was made  
2 on October 31, 2007.

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4           **WHEREAS**, plans illustrating the planned unit development requirements  
5 were submitted on April 4, 2011.

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7           **WHEREAS**, on\_\_\_\_\_, the City Council approved a resolution certifying the  
8 Final Environmental Impact Report pursuant to the requirements of the California  
9 Environmental Quality Act.

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11           **WHEREAS**, the Planned Unit Development has been presented to the  
12 Planning and Zoning Commission pursuant to the use permit procedures in subsection  
13 20.100.030, including:

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15                   The Planning and Zoning Commission held a public hearing on  
16                   September 13, 2011

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18                   Notice of the public hearing was provided on September 2, 2011  
19                   according to subsection 20.100.010.E.

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21           **WHEREAS**, the Planning and Zoning Commission considered all written  
22 testimony and public comments;

23  
24           **WHEREAS**, the proposed residential and retail uses are permitted by the  
25 Albany General Plan as it applies to the proposed planned unit development site.

26  
27           **WHEREAS**, the residential density is 1,389 square feet of net area of the  
28 planned unit development, which exceeds the minimum requirement of 690 square  
29 feet minimum lot area per dwelling unit required in the district. The calculation is  
30 based on 274,300 gross area of the planned unit development, subtracting the 31,300

1 square feet of area for public street rights-of-way and private streets, and dividing the  
2 resulting 243,000 net area by the 175 residential units proposed by the project.

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4 **WHEREAS**, in granting the Planned Unit Development, the Planning and  
5 Zoning Commission has determined that the following exceptional amenities, which  
6 could not be achieved without the exceptions to the PUD, are provided by the  
7 development:

- 8
- 9 1. Reduction in maximum building height along San Pablo Avenue from
- 10 38 feet to 28 feet;
- 11
- 12 2. Incorporation of “complete streets” and “green streets” design
- 13 principles for development of Parcel A and Parcel B, including direct
- 14 two-way bicycle access from the intersection of Dartmouth and San
- 15 Pablo to the intersection of Monroe and San Pablo;
- 16
- 17 3. Substantial compliance with AC Transit design guidelines for location
- 18 of Monroe Avenue bus stops in a location that do not displace
- 19 proposed on-street parking;
- 20
- 21 4. Property owner and/or leasee of Parcel A will be responsible for
- 22 preparation and implementation of a stream management plan for the
- 23 portion of Village Creek abutting the proposed project.
- 24
- 25 5. Good faith participation of the property owner and/or leasee of Parcel
- 26 B in the implementation of the approved Codornicies Creek
- 27 Restoration project abutting the proposed project;
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- 29 6. Good faith participation of the property owner and/or leasee in the
- 30 timely delivery of all required deeds, dedications, and other documents

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associated with improvements at the Buchanan/Marin/San Pablo and Buchanan/Jackson improvement projects.

**NOW THEREFORE, BE IT RESOLVED**, that the Planning and Zoning Commission makes all of the following FINDINGS REQUIRED FOR CONDITIONAL USE PERMIT:

1. Necessity, Desirability, Compatibility. That the size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community because it is located on a major arterial street at the southern gateway into the City;

2. Adverse Impacts. That such 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:

a. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures because the project is designed to complement existing creeks and improves the streetscape appearance of San Pablo Avenue;

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 because the project is organized around existing roadways;

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c. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor because the project will be required to be constructed consistent with modern building codes;

d. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs because the project proposes to use below grade parking where possible and complete street and green street desing principles at grade circulation areas; and

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 as detailed in the City Council Ordinance No. \_\_\_ approving the required rezoning.

**NOW THEREFORE, BE IT FURTHER RESOLVED**, that the Planning and Zoning Commission makes all of the following FINDINGS FOR APPROVAL OF THE PLANNED UNIT DEVELOPMENT:

1. Necessity. The planned unit development demonstrates the advantages of modern, large-scale site planning to an extent that could not be achieved without the planned unit development procedure because the City can require as a condition of approval public amenities that otherwise would not be provided;

2. Exceptions Warranted. Any exceptions to the requirements of the applicable zoning district are warranted by an exceptional level or amenity or other benefits to the community, which could not be achieved without the exceptions because the City can require as a condition of approval public amenities that otherwise would not be provided;

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3. Substantial Compliance. The degree and extent of any exceptions granted does not prevent the development from being in substantial compliance with the regulations of the applicable zoning district because the types of uses and overall scale of the project comply with the requirements of the General Plan;

**NOW THEREFORE, BE IT FURTHER RESOLVED**, that the Planning and Zoning Commission approves the following PLANNED UNIT DEVELOPMENT STANDARDS:

Modification #1: The requirements of Table 2.B. – Site Regulations by District: Nonresidential) are modified for Parcel B as follows:

- Maximum Building Height: the maximum building height on Parcel B, within 55 feet of San Pablo Avenue, shall be 24 feet above grade to the highest point of the structure, subject to general exceptions and mechanical appurtenances described in Section 20.24.080.
- Maximum Building Height: the maximum building height on Parcel B, beginning from a setback line 55 feet from San Pablo Avenue westerly to the boundary of the San Pablo Commercial Zoning District, shall be 62 feet above grade to the highest point of the structure, subject to general exceptions and mechanical appurtenances described in Section 20.24.080.

Modification #2: The requirements of Section 20.24.090 (Usable open Space) are modified for Parcel B as follows:

- Minimum Useable Open Space: minimum of at least 140 square feet of common usable open space per unit.

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Modification #3: The requirements of Planning and Zoning Code Section 20.24.110.F.2 and F.3 (Landscaping of Parking Facilities) are modified for Parcel A as follows:

- No interior planting areas within the parking lot.

Modification #4: The requirements of Planning and Zoning Code Section 20.24.110.F.2 and F.3 (Landscaping of Parking Facilities) are modified for Parcel A as follows:

- Minimum one tree for eight parking spaces.

Modification #5: The requirements of Planning and Zoning Code Section 20.28.030 (Parking Space Requirements) are modified for Parcel B as follows:

- Allow one parking space per five hundred gross square feet of floor area for all types of restaurant, retail, professional office, and services.

Modification #6: The requirements of Planning and Zoning Code Section 20.28.030 (Parking Space Requirements) are modified for Parcel B as follows:

- Allow off-street non-residential parking for Parcel B to be met with parking spaces located on abutting Monroe Street.

Modification #7: The requirements of Planning and Zoning Code Section 20.28.060 (Off-Street Loading) are modified for Parcel A as follows:

- Allow 16 parking spaces to be utilized both as required parking spaces and as access to required loading berth (e.g., no parking during loading hours).

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Modification #8: The requirements of Planning and Zoning Code Section 20.28.070 (Loading Space Requirements) are modified for Parcel B as follows:

- No off-street loading required for multi-tenant shopping center.

Modification #9: The requirements of Planning and Zoning Code Section 20.28.020.E. (Off-Street Parking: General Regulations) are modified for Parcel A as follows:

- Allow 16 required parking spaces to be inaccessible during specified business hours in order to allow truck access to required loading berth (e.g., no parking during loading hours).

Modification #10: The requirements of Planning and Zoning Code Section 20.28.080.B.4 (Loading Area Standards) are modified for Parcel A as follows:

- Allow turning and maneuvering of vehicles to infringe on off-street parking spaces during specified hours of operation (e.g., no parking during loading hours).

Modification #11: The requirements of Planning and Zoning Code Section 20.28.050.A.2 (Table 7) (Dimensions of Standard Parking Spaces) are modified for Parcel A as follows:

- Allow stall length of 18 feet for 90 degree angle parking
- Allow stall length of 18 feet for 60 degree angle parking
- Allow aisle width of 14 feet for 60 degree angle parking



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Modification #12: The requirements of Planning and Zoning Code Section 20.28.050.A.2 (Table 7) (Dimensions of Standard Parking Spaces) are modified for Parcel A as follows:

- Allow stall length of 18 feet for perpendicular angle parking

Modification #13: The requirements of Planning and Zoning Code Section 20.12.040.A.2 Table 1 (Note 4) (Ground Floor Uses in SPC District) are modified for Parcel A as follows:

- Allow residential or residential care facility uses on the ground floor.

**NOW THEREFORE, BE IT FURTHER RESOLVED**, that the Planning and Zoning Commission approves the following **CONDITIONS OF APPROVAL** associated with the Planned Unit Development approval:

1. Project Approval: except as may be modified by conditions herein, this PUD approval is for the Parcels shown and described on sheet A0.4 of plans prepared by Peter Waller (Pyatok Architects), date received April 4, 2011, as presented to the Planning and Zoning Commission on May 24, 2011.
2. This PUD is granted for the project described in the Environmental Impact Report certified by the City Council on \_\_(tbd)\_\_. Subsequent approvals relying on this PUD shall be in substantial compliance with the project described in this Environmental Impact Report.
3. This PUD is granted for the exceptions to standards of development specifically described in these findings and conditions of approval. Approval of the PUD does not constitute an express or implied approval of other required actions, including but not limited to design review, conditional use permit, variances, subdivision, encroachment permits, stormwater

1 management permits, grading permits, or building permits. The size and  
2 location of buildings and other on-site and off-site improvements may be  
3 required to be modified to comply with regulatory requirements that are part  
4 of subsequent applications.

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6 4. The approval of this PUD does not constitute a development agreement as  
7 authorized by Government Code 65864 and does not represent a grant of a  
8 vested right to develop the proposed project. The City retains its authority to  
9 adopt policies rules, regulations, standards, and conditions of approval that  
10 may affect the proposed project until such time that the project approvals are  
11 vested by issuance and substantial reliance on a building permit.

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13 5. Project Approval Expiration: This PUD approval shall expire one year from  
14 the date on which this approval becomes effective unless a building permit  
15 application has been submitted and diligently pursued. The approval may be  
16 extended by the Community Development Director for a period up to an  
17 additional two (2) years, provided that, at least ten (10) days before expiration  
18 of one (1) year from the date when the approval becomes effective, an  
19 application for renewal of the approval is filed with the Community  
20 Development Department. The Community Development Director may grant  
21 a renewal of an approval where there is no change in the original application,  
22 or there is no request to change any condition of approval.

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24 6. Hold Harmless Agreement. Pursuant to Government Code Section 66474.9,  
25 the applicant (including any agent thereof) shall defend, indemnify, and hold  
26 harmless, the City of Albany and its agents, officers and employees, from any  
27 claim, action, or proceeding against the City or its agents, officers or  
28 employees to attack, set aside, void, or annul the City's approval concerning  
29 this application, which action is brought within the time period provide for in  
30 Section 66499.37. The City will promptly notify the applicant of any such  
31 claim action or proceeding and cooperate fully in the defense.

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- 7. Exceptional Public Amenities: the owner and/or leasee shall submitted to the City all required plans and documentation required for implementation of the public amenities associated with the granting of this PUD. Required plans and documentation shall be reviewed and approved by the Planning and Zoning Commission and other relevant regulatory authorities prior to the issuance of any building permit or grading permit. Commission action on the required plans and documentation shall be subject to the Commission’s public hearing procedures established in Section 20.100 of the Planning and Zoning Code. . Required plans and documentation include:
  - a. “Complete Streets” and Green Streets design guidelines for development of Parcel A and Parcel B;
  - b. location and design of relocated bus stops,;
  - c. A stream management plan for Village Creek;
  - d. Determination that the property owner and/or leasee of Parcel B is participating in good faith participation in the implementation of the approved Codornicies Creek Restoration project abutting the proposed project;
  - e. Determination that the property owner and/or leasee has delivered all required deeds, dedications, and other documents associated with improvements at the Buchanan/Marin/San Pablo and Buchanan/Jackson improvement projects.
  
- 8. Public Improvements Standards. Public improvements shall be designed and constructed in accordance with the City's Standard Specifications and Standard Details, unless specifically waived in writing by the City Engineer.