

**CITY OF ALBANY
PLANNING AND ZONING AGENDA
STAFF REPORT**

Agenda date: September 13, 2011
Prepared by: JB

ITEM/ 6c

SUBJECT: 1030-1130 San Pablo Avenue (University Village). Planning Application #07-100. Zoning Amendments & 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. Final action on the Environmental Impact Report (EIR) will be taken by the City Council at a public hearing, to be scheduled for a future date.

APPLICANT/

OWNER: University of California

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

STAFF RECOMMENDATION

Recommend to the City Council certification of the Environmental Impact Report, and zoning map amendments, zoning text amendments, and planned unit development.

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.

The proposed project represents a significant transformation for this portion of the City. When reviewing the project scope, it is important to consider the location and surrounding context as well as the long-term project implications. The site is located at the southern gateway to the City on San Pablo Avenue, making it is one of the few sites in Albany that is suitable for larger scale future mixed-use development. An attractive project can serve as a landmark for the community. This project in particular could serve as a catalyst for long-term upgrades and improvements in other nearby portions of San Pablo Avenue. With careful planning, the project could help to connect University Village into the fabric of the City, both in terms of urban design and as well as pedestrian, auto and bike access. Additionally, significant fiscal benefits to the City from the project that will help to sustain services throughout the City are expected.

City land use policies apply to the proposed project as it is not related to the educational function of the University. 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.

SUMMARY OF COMMISSION AND COUNCIL DISCUSSIONS

The Planning and Zoning Commission has had numerous discussions on the project over the past four years. At these meetings, Commissioners and members of the public provided a number of comments regarding public amenities and conditions of approval for the PUD. Excerpts from the Minutes of the most recent Commission discussions are attached (Attachment 6). In summary, the Commission has expressed the following comments:

- Overall support for the project as a catalyst for long-term upgrades and improvements to the area
- Need more details and assurances about the PUD amenities in writing
- Concerns about height of the senior housing
- Proposed amenities not impressive
- Should use PUD process to create better open space
- Consider re-orienting senior housing courtyard to the creek
- EIR addresses CEQA requirements and areas of concern

In addition, the City Council discussed the project at their July 18, 2011 meeting. An excerpt from the minutes of the City Council meeting is attached (Attachment 5). In summary, the Council expressed support for the project, stressing the importance of addressing traffic congestion and working with AC Transit. The Council also sought assurances that proposed amenities will be constructed at a future date.

In addition to Council and Commission comments, numerous public comments have been received and are summarized as follows:

- Support for the mix of uses and for the integration with University Village
- Appreciation for fiscal benefits of the project to the city
- Desire to complete the planning process
- Preference to reduce the size of the grocery store to be more sustainable and move towards CAP goals
- No need to re-zone to accommodate senior housing
- Need commitment from Caltrans, UC and the City to implement an effective San Pablo Avenue crossing
- Impacts on traffic and quality of life for Dartmouth Street neighborhood need to be evaluated
- Concerns about height of senior housing
- Concerns about piecemealing of the project

- Concern about maintaining existing access to sports facilities for youth
- Risk that entire site could be used for commercial land use
- Need commitments from the University that project will be completed as proposed
- Loss of the Gill Tract agricultural area is unsustainable
- Need for a “cycle-track” bike land connection along San Pablo directly to grocery store entry
- Reduction of height along San Pablo Avenue is not an amenity

PROJECT REVIEW PROCESS AND REQUESTED ACTION

The applicant is requesting the Commission make a recommendation to the City Council on the attached draft resolutions related to certification of the Environmental Impact Report (EIR), rezoning, and PUD. Following Commission action on the recommendations, the City Council could take action on the policy-level components of the project. Once these policy level decisions are made, the applicant could then enter into agreements with developers, who will apply for the remaining approvals, including subdivision, design review, parking exceptions, use permits, etc.

Due to phased approvals, many key issues will be evaluated through future City review and possible public hearings. Future site-specific issues requiring review include a parcel map identifying the location of property lines, the design of bikeways and pedestrian paths, roadway design, and storm water drainage. Future policy-level discussions related to the project include compliance with the City’s Parkland Dedication Ordinance, art in public places requirements, and affordable housing.

Policy-level review and action will occur in advance of more detailed site plan work. All subsequent project specific requests and policy review will be reviewed in compliance with the certified FEIR. It is possible that future implementation could change significantly yet remain in compliance with the requested expansion of the San Pablo Commercial zoning district regulations. It is also important to understand that if the property is sold or leased, the applicant involved with future approvals could be a separate entity with no commitment to the policy discussions with the City.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The project is required to be reviewed for environmental effects under the California Environmental Quality Act (CEQA). The basic purpose of CEQA is to inform decision makers and the public about the potential environmental effects of proposed projects. The CEQA analysis alone is not intended to reach conclusions about whether or not a project should be approved. In addition, the CEQA analysis is not intended to be inclusive of all land use planning and policy issues that might be associated with a project. For issues that are beyond the scope of a CEQA review, conditions of approval on projects approvals such as design review, subdivision approval, etc. are more appropriate and effective mechanisms.

Due to the complexity of CEQA Guidelines and the need for various technical studies, the City relies on outside consultants to prepare the CEQA analysis. For this project, the consulting firm of LSA Associates was retained to prepare the analysis.

An environmental impact report is prepared and published in two steps. The first step is preparation of the Draft EIR, which was made available on July 2, 2009 and the Commission held a public hearing on July 27, 2009 to receive comments on the draft EIR.

After receiving comments on the draft EIR, the consultant prepared responses to the comments. These responses are bound in a separate document, and together with the Draft EIR, the set of two documents (plus appendices) constitute the Final EIR. The Final EIR was posted on the City web page on May 19, 2011. Both the draft and final EIR are available on-line at <http://www.albanyca.org/index.aspx?page=521>. A principal with LSA attended the Commission's June 22, 2011 meeting.

Attached is a draft resolution, which if approved by the City Council, would certify the FEIR. The form of the resolution reflects standard CEQA practice and the findings in the resolution are based on the content of the FEIR. If the Commission wishes to edit the draft resolution, for the final document to be legally defensible, the resolution must refer to information that is contained in the EIR. (See Attachment 1)

II. REZONING

The site currently has two zonings, San Pablo Commercial (SPC) for the first 100' along the eastern side of San Pablo Avenue and Medium Density Residential (R-2) for the rest of the property west towards University Village. To construct the project as proposed, a rezoning to SPC for the entire area would be required. 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.

The decision to rezone is a legislative policy action, requiring City Council approval of an ordinance. In a legislative decision, the City has broad discretion to make a decision as long as proper procedures are followed and supportive findings are made. While the City has latitude in making its decision, there are limits to the conditions of approval that can be included on a rezone request. 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 not invalidate the rezoning. Instead, a new rezoning process would be required to reverse the original approval. Additionally, a series of Supreme Court rulings in recent 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. (See Attachment 3)

Proposed Overlay District

Staff acknowledges that there are risks associated with rezoning the property to SPC. If the project is not developed for any reason, a future 100% commercial project could be developed. This outcome could raise significant policy issues, particularly with regard to satisfying the City's housing production mandates. To ensure that this concern is addressed, staff suggests that a new overlay district be established and incorporated into the rezoning. This overlay district ensures that future development on this site complies with the requirements of the City's Housing Element. (See Attachment 2)

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 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.

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.

III. 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 senior housing 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. 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;
- Maintain AC Transit bus stops;
- Preparation and implementation of a stream management plan for the portion of Village Creek abutting the proposed project.
- Continued participation in the implementation of the agreement for Codornices Creek Restoration project abutting the proposed project;
- Implementation of improvements at the Buchanan/Marin/San Pablo intersection improvement project.
- Design and implementation of bicycle and pedestrian crossing of San Pablo intersection improvement project with bike and pedestrian access to retail stores

Members of Commissions and the public have commented that the proposed amenities need more detail and need to be strengthened to make sure the amenities are meaningful and are delivered in concert with the construction of the project. Recent modifications to the PUD (See Attachment 4) include:

- Require the design of all of the public amenities to be completed prior to the issuance of the first building permit.
- 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.
- Ensure that while the project is under development, the University meets its commitments to existing policies, plans, and agreements related to University Village, including Little League fields, Codornices Creek, bicycle access, CEQA mitigations, etc.

In addition, the applicant has indicated a willingness to expand the public open space area adjacent to Codornices Creek by approximately 40% to create an improved public amenity. One of the key policy issues for Commission consideration is the adequacy of the amenities offered for the PUD.

AMENDMENTS TO PARKING

The applicant has requested that the City consider amendments to the city’s residential parking standards in order to reduce the parking requirements. The applicant’s request is reasonable, and based on staff research, a parking standard of 0.4 spaces per assisted living unit would be reasonable (with Commission authority to adjust the standards subject to parking analysis).

A complicating factor is Measure D. As part of the November 7, 1998 General Election, Albany voters approved Measure D which requires two parking spaces per dwelling unit, for all residential uses, in all zoning districts. Measure D allows the Planning and Zoning Commission to reduce parking requirements to no fewer than one and one-half space per unit upon making the finding that existing on-street parking is sufficient to justify a reduction. Pursuant to the Planning and Zoning Code, one of the 1.5 spaces must be dedicated to the residential unit on a 24/7 basis. The only exception to this standard, which is the result of a state law that pre-empts local standards, is for secondary units.

FINANCIAL IMPACT

The consulting firm Economic Planning Systems (EPS) was retained to prepare an analysis of the fiscal impacts of both the University Village project and the Safeway project. For the University Village project, the following is a summary of the estimated fiscal benefits.

General Fund Revenues – Annual Estimate

Property Tax	\$148,337
Property Tax In Lieu of VLF	\$59,353
Sales and Use Tax	\$175,294
Franchise Fees	\$9,239
Licenses and Permits	\$3,150
Fines and Forfeitures	\$5,095
Utility User Fees	\$30,214
Business Licenses	\$35,474
Total Revenues	\$466,156

Source: Economic Planning Systems

General Fund Expenditures – Annual Estimate

General Government	\$3,526
Police	\$127,487
Fire and EMS (1)	\$72,099
Community Development and Env. Services	\$24,754
Recreation and Community Services	\$32,073
Information Technology	\$1,776
Total Expenditures	\$261,714
NET ANNUAL FISCAL SURPLUS	\$204,442

Source: Economic Planning Systems

If the housing is operated by a nonprofit entity, this level of property taxes would not accrue to the City. Under these circumstances, to maintain the same level of fiscal surplus, the City would need the development to pay ongoing assessments/ special taxes.

ATTACHMENTS

1. EIR Resolution
2. Overlay Resolution
3. Rezoning Resolution
4. PUD Resolution
5. City Council Meeting Minutes of July 18, 2011
6. Planning Commission Meeting Minutes