

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: January 17, 2012  
Reviewed by: BP

**SUBJECT:** 1030-1130 San Pablo Avenue (University Village Mixed Use Project). Planning Application #07-100. Environmental Impact Report (EIR), 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.

**REPORT BY:** Jeff Bond, Community Development Director

---

**STAFF RECOMMENDATION**

Provide direction to staff to prepare documents needed for formal action on University proposal.

**BACKGROUND**

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 is seeking approvals that would allow construction of a 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 30,000 square foot of retail space, and 175 independent/assisted living senior housing units. Because the uses are not related to the educational function of the University, city land use policies apply to the proposed project.

The staff report for the October 17, 2011 Council meeting is attached (Attachment 1). Contained in the staff report is the chronology of the project and a summary the public and Commission comments received leading up to the October 17, 2011 City Council Meeting. At the October 17, 2011 meeting, the Council discussed the range of the issues raised and directed staff to meet with UC representatives to see if a long-term agreement can be worked regarding the ball fields.

**DISCUSSION**

In response to the discussion at the October 17, 2011 City Council meeting, UC Berkeley staff has re-evaluated the viability of the project and presented to the City the following refinements to the project, operational commitments, and modifications to City standards:

- The height of the project will be reduced from five to no more than four stories.

- If the University causes the existing little fields at the Village to be displaced, it will commit to paying for the relocation of the fields. The University's commitment will be conveyed to the Albany Little League via a letter.
- Albany residents will be given a priority for 10 percent of the units in the senior assisted living project.
- The senior assisted living project will not be required to provide more parking than it needs, and specifically no more 108 spaces.
- As a residential care facility for the elderly, the senior assisted living project will not be required to provide inclusionary housing, or pay in lieu fees.
- The project will meet its parkland dedication requirement through the provision of open space and trails on or near the site. The planned open spaces and trails associated with Village and Codornices Creeks adjacent to the project and the right of way for the Buchanan bike path will be counted toward the project's parkland dedication requirement.
- The project will meet its requirement for public art through on-site art elements.

### **Analysis of Requested Changes**

The purpose of this study session is to present the University proposal, provide an opportunity for public comment, and provide an opportunity for the City Council to provide direction for preparation of final documents. The following is an analysis of the University's proposal:

- Height Reduction – The development team's request would have the effect of modifying their application for a PUD to reduce the maximum height of the senior assisted living project from 62 feet above grade to 52 feet above grade. The City has the authority to make this change in the PUD approval process.
- Parking - The development team's request would have the effect of reducing minimum parking standards for the senior assisted living project from 1.5 spaces per unit, (0.5 spaces of which would have been shared parking with the Whole Foods grocery), to no more than 0.6 spaces per unit. Staff has evaluated the industry standards and requirements of other cities and believes that this is a reasonable parking standard for the assisted living portion of the project.
- Affordable Housing - Inclusionary housing ordinances on rental housing have been invalidated by recent court rulings. Thus, under current development standards, the project is not required to provide affordable housing. The City could adopt an in-lieu fee program that could be set up to apply to this project. Alternatively, the City could seek grant funds to cover the cost to the development team of creation of affordable units within the project. Either way, the development team is seeking an assurance that under no circumstances would there be an affordable housing component required for the

project. This could be accomplished by written agreement between the City and the development team.

- Open Space - The development team has asked that commitments made to open space and trails along Village Creek, Codornices Creek, and the Buchanan bike path be determined sufficient to comply with the requirements of the Subdivision Chapter of the Municipal Code. The Municipal Code allows this approach, although technical amendments to the Subdivision chapter of the Municipal Code may be required to more accurately reflect impacts of seniors on City park and recreation facilities and to accommodate the administrative policies of the University of California.
- Public Art – The development team’s request is consistent with the requirements of the City’s Art in Public Places program, and no City action is required. The development team would like assurances that no future changes to the programmatic requirements will be imposed on the project.
- Preference for Albany residents – City staff will work with the operator of the senior assisted living project on developing a marketing and outreach program that complies with Federal Fair Housing requirements.
- Albany Little League - The University will make a written commitment directly to the Albany Little League to use proceeds from the project to pay for relocation of the fields if relocation is triggered by a future UC Berkeley project. The Albany Little League will need to determine if the terms of the written commitment are sufficient to assure the continuity of their programs.

### **Additional Considerations and Potential Modifications to Proposed Changes**

In staff’s judgment, there is no interest by the University in substantive modification to this proposal. If the City were not to move forward with the proposal as substantially proposed, it is likely that either the University would suspend the application, or the City would be obligated to take action to deny the project. Either way, the processing of the application and the potential development of the project would effectively end.

As a result, after four years of analysis and discussion, the project is at a critical juncture. Staff would encourage the Council to take a broad long-term perspective as this proposal is considered. The following observations may be helpful:

- It appears that the location of the project and mix of uses proposed will be economically successful, serve the needs of residents, including senior housing, and serve as an economic development catalyst for San Pablo Avenue.
- The project will be a significant stimulus to the general fund of the City. Economic conditions in California continue to be challenging and there are no other anticipated projects in the City that will have the same net benefits. Furthermore, nothing in the University proposal affects the net gain to the general fund revenues to the City.

- Technically, the actions before the City Council, certifying the FEIR, rezoning the property, and approving a PUD do not lock in the specific design characteristics of the project. There are many details to be worked out, and opportunities exist to work with the development team to improve the design of the project, particularly in the bike and pedestrian realm.
- In general, the City's requirements on new development projects, such as payment of fees and construction of improvements, are relatively modest compared to other communities where the University and its development partners have completed projects. No documentation has been provided to the City that the City's requirements are economically infeasible. Regardless, the ultimate financial beneficiary of the city's accommodations will be the higher education mission of UC Berkeley. In many respects, the campus is the economic development backbone of Albany, Berkeley and surrounding communities.
- The development of the project is consistent with many sustainable development principals that underlie the City's climate action plan, active transportation plan, and other policies and objectives. Leaving the site vacant, or leading the University to pursue an alternative development of the site with uses that do not serve the community, could be counterproductive to these important policy objectives.
- If the project is implemented as proposed, the City's ability to use this particular development to meet its Housing Element requirements is uncertain. In the draft Housing Element, 138 of the City's allocation of 276 additional housing units were to be developed on this site. Without affordable housing in the project, it is possible that the City will receive no credit for the project, and thus additional housing development sites will have to be identified in order for the City to become compliant with State law. The implementation of AB32/SB 375 in conjunction with state budget cuts and the termination of redevelopment in California, however, have put the development of affordable housing in California into a state of significant uncertainty.

## **Next Steps**

The proposal from the University is that the commitments by the campus and the City be memorialized by the City Council as conditions of approval on the PUD. Irrespective of the policy merits of the deal points contained in the proposal, staff has concerns about this approach. The authority for the City Council to impose conditions of approval is based on Federal/state requirements, the City's municipal code, or properly adopted policies and standards. (In some cases, such as affordable housing, court rulings dictate a change in City practices irrespective of local requirements.) Furthermore, conditions of approval should be applied in a consistent manner for all similar projects. Unless the Code allows the City Council to modify requirements, the City Council must follow the requirements of the Municipal Code in a manner similar to any citizen or outside organization. In this situation, there is no explicit authority for the City Council to unilaterally waive parking standards, or parkland dedication requirements for residential uses. Furthermore, with regard to parking requirements, the City's residential parking standards were

established by voter initiative in 1978. Thus, the City Council has less flexibility than it would with conventional City Council adopted policies, which can be modified by ordinance. As a result, unless further refined by the development team, adopting the proposal as a condition of approval approach cannot be recommended by staff.

Alternative approaches include:

- Utilize State “Density Bonus” Regulations – Pursuant to State Law, the City has adopted “Density Bonus” regulations, which gives the City flexibility to modify land use requirements as an incentive for development of senior housing, including residential parking standards. Amend the Municipal Code to reduce parkland dedication standards for senior housing as requested by the University – this approach is transparent, relatively expedient (60-90 days), and leaves the decision making process in the hands of the Council, but allows future projects to use the same exceptions. The amendment to the parkland dedication requirements to reflect the lower number of anticipated residents per unit compared to a standard multi-family residential project and credit for University’s open space commitments.
- Prepare a Development Agreement – In order to provide the development team the assurances they seek that the City will not change development requirements, the City and the property owner would need to enter into a development agreement as authorized by the California Government Code. State law and City policies have established a process for the preparation of detailed agreement and review by the Planning and Zoning Commission.

Other approaches available to the Council include taking action on project approvals, irrespective of the Development Team position. This approach would leave the decision on implementation of the project in the hands of the University and its development partners. Similarly, the City Council could approve a portion of the project in the near future, such as the grocery store, which has most of the fiscal benefits and fewer of the issues with development standards. This would provide time to work out the details of the senior housing portion of the project. Presumably this will be unacceptable to the University, and as a general approach, staff does not recommend modifying a project application to the degree that it becomes unacceptable to the applicant.

In addition to the approaches outlined above, staff evaluated whether the senior housing component of the project could be re-characterized as a commercial function such as “hospital/clinic,” which would allow more flexibility on some of the parking and open space issues raised by the University. Staff believes that on balance, the re-classification would raise new issues and it would be best if possible to address the key policy issues on a case-by-case basis.

With City Council direction, staff will work with the University to craft the processes and documents needed for formal action.

## **SUSTAINABILITY IMPACT**

The October 17, 2011 staff report summarizes the overall sustainable policy issues with this project. The University's request to reduce parking requirements is consistent with the policies on the climate action plan.

## **FINANCIAL IMPACT**

The October 17, 2011 staff report summarizes the anticipated fiscal impact from the proposed project. In summary, the project is expected to generate \$466,000 a year in revenues and estimated service cost of \$262,000 resulting in a net increase to the General Fund of \$204,000 a year.

The standard parkland dedication requirements for a 175 unit residential project would be a fee of approximately \$ 1.4 million or land dedication of an equivalent value. The development team is requesting a reduction an amendment to the parkland dedication requirements to reflect the lower number of anticipated residents per unit compared to a standard multi-family residential project and credit for University's open space commitments.