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RESOLUTION #2011-52
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.

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

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WHEREAS, plans illustrating the planned unit development requirements were submitted on April 4, 2011, and supplemented by the applicant in presentations made at the September 27, 2011 Planning and Zoning Commission public hearing and the October 17, 2011, January 17, 2012, and July 9, 2012 City Council public hearings.

WHEREAS, on _____, the City Council approved a resolution certifying the Final Environmental Impact Report pursuant to the requirements of the California Environmental Quality Act.

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

The Planning and Zoning Commission held a public hearing on September 13, 2011 and September 27, 2011

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

WHEREAS, the Planning and Zoning Commission and City Council considered all written testimony and public comments;

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

WHEREAS, the residential density is 1,389 square feet of net area of the planned unit development, which exceeds the minimum requirement of 690 square feet minimum lot area per dwelling unit required in the district. The calculation is 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 175 residential units.

3
4 **WHEREAS**, the Senior Living Facility will consist of a minimum of 140
5 independent and assisted living residential units and include a separate and secured
6 Alzheimer’s Care area with up to 35 rooms (non-residential units) resulting in a
7 residential density even further below the maximum allowed in the district.

8
9 WHEREAS, in granting the Planned Unit Development, the Planning
10 and Zoning Commission has determined that the following amenities and community
11 benefits are provided by the project:

- 12
13 1. Provision of a high quality Senior Living Facility that addresses a clear
14 need for senior housing and care options in the City of Albany, which
15 currently has no senior assisted living facilities, and offers residents a full
16 range of living accommodations, on-site services and recreational facilities
17 so residents can remain in the community as they age.
- 18 2. Provision of a full service grocery store and smaller retail shops in a
19 location well served by public transit and convenient to a large number of
20 Albany residents, by foot, bicycle, and public transit, as well as by car.
21 This new commercial development will result in more retail spending in
22 Albany and a corresponding increase in sales tax revenue to the City and
23 will revitalize San Pablo Avenue and provide new jobs and other
24 significant economic benefits to the city.
- 25 3. A network of enhanced shared bicycle and pedestrian pathways that link
26 the project to the surrounding community, including the following specific
27 elements:
 - 28 • Dedicated Bicycle and Pedestrian Crossing at the intersection of
29 Dartmouth Avenue and San Pablo Avenue;

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- Approximately 1000 SF of shared bicycle and pedestrian pathways on site including paths bordering Codornices and Village Creeks, with potential for linkage to future off-site paths; and
 - Extensive on-site bicycle parking including covered parking adjacent to the grocery store and the community serving retail.
4. A Complete Streets approach that compliments the dedicated bike and pedestrian pathways, including traffic calming measures, back in angled parking at Monroe Avenue, enhanced sidewalks, opportunities for outdoor sidewalk seating, extensive landscaping and storm water management measures, and planting of mature trees at key locations.
 5. Participation of the Property Owner, and/or lessee of Parcel B in the implementation of the approved Codornices Creek Restoration project abutting the proposed project including the construction and/or funding of bikeways, plazas and other open spaces and the delivery of the necessary public right of way which in combination with grants obtained by the City will result in an open space area exceeding 30,000 square feet.
 6. Creation of a publically accessible creek-side linear open space along Village Creek, through the provision of public path ways, benches and the on-going management of Village Creek enabling public enjoyment of approximately this 360 foot long riparian open space.
 7. Enabling the creation of approximately 900 linear feet of Class I bike path along Buchanan and Marin Streets through the delivery of necessary public ROW to the City at no cost.

NOW THEREFORE, BE IT RESOLVED, that the City Council makes all of the following FINDINGS REQUIRED FOR CONDITIONAL USE PERMIT pursuant to Section 20.100.030 based on substantial evidence contained in the administrative record:

1. Necessity, Desirability, Compatibility. That the size, intensity and location of the proposed use will provide a development that is necessary

1 or desirable for, and compatible with, the neighborhood or the community
2 because it is located on a major arterial street at the southern gateway into the
3 City;

4
5 2. Adverse Impacts. That such use as proposed will not be
6 detrimental to the health, safety, convenience, or general welfare of persons
7 residing or working in the vicinity, or physically injurious to property,
8 improvements or potential development in the vicinity, with respect to aspects
9 including but not limited to the following:

10
11 a. The nature of the proposed site, including its size and
12 shape, and the proposed size, shape and arrangement of structures
13 because the project is designed to complement existing creeks and
14 improve the streetscape appearance of San Pablo Avenue;

15
16 b. The accessibility and traffic patterns for persons and
17 vehicles, the type and volume of such traffic, and the adequacy of
18 proposed off-street parking and loading because the project is
19 organized around existing roadways;

20
21 c. The safeguards afforded to prevent noxious or offensive
22 emissions such as noise, glare, dust and odor because the project will
23 be required to be constructed consistent with modern building codes;

24
25 d. Treatment given, as appropriate, to such aspects as
26 landscaping, screening, open spaces, parking and loading areas,
27 service areas, lighting and signs because the project proposes to use
28 below grade parking where possible and complete street and green
29 street design principles at grade circulation areas; and
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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, in addition to the use permit findings above, the City Council makes all of the following FINDINGS FOR APPROVAL OF THE PLANNED UNIT DEVELOPMENT pursuant to Section 20.100.060:

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, as set forth herein, 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;

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;

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

4
5 Modification #1: The requirements of Table 2.B. – Site Regulations by
6 District: Nonresidential are modified for Parcel B as follows:

- 7
- 8 • Maximum Building Height: the maximum building height on Parcel B,
- 9 beginning from a setback line 55 feet from San Pablo Avenue westerly
- 10 to the boundary of the San Pablo Commercial Zoning District, shall be
- 11 52 feet from finished floor of the main level to the highest point of the
- 12 structure, subject to general exceptions and mechanical appurtenances
- 13 described in Section 20.24.080.

14
15 Modification #2: The requirements of Planning and Zoning Code Section
16 20.24.110.F.2 and F.3 (Landscaping of Parking Facilities) are modified for
17 Parcel A as follows:

- 18
- 19 • No interior planting areas within the parking lot.
- 20

21 Modification #3: The requirements of Planning and Zoning Code Section
22 20.24.110.F.2 and F.3 (Landscaping of Parking Facilities) are modified for
23 Parcel A as follows:

- 24
- 25 • Minimum one tree for eight parking spaces.
- 26

27 Modification #4: The requirements of Planning and Zoning Code Section
28 20.28.030 (Parking Space Requirements) are modified for Parcel B as follows:

- 29
- 30 • Allow one parking space per five hundred gross square feet of floor
- 31 area for all types of restaurant, retail, professional office, and services.

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Modification #5: 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 #6: 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).

Modification #7: 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 #8: 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 #9: The requirements of Planning and Zoning Code Section 20.28.080.B.4 (Loading Area Standards) are modified for Parcel A as follows:

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

4

5 Modification #10: The requirements of Planning and Zoning Code Section

6 20.28.050.A.2 (Table 7) (Dimensions of Standard Parking Spaces) are

7 modified for Parcel A as follows:

- 8
- 9 • Allow stall length of 18 feet for 90 degree angle parking
- 10 • Allow stall length of 18 feet for 60 degree angle parking
- 11 • Allow aisle width of 14 feet for 60 degree angle parking

12

13 Modification #11: The requirements of Planning and Zoning Code Section

14 20.28.050.A.2 (Table 7) (Dimensions of Standard Parking Spaces) are

15 modified for Parcel A as follows:

- 16
- 17 • Allow stall length of 18 feet for perpendicular angle parking

18

19 Modification #12: The requirements of Planning and Zoning Code Section

20 20.12.040.A.2 Table 1 (Note 4) (Ground Floor Uses in SPC District) are

21 modified for Parcel B as follows:

- 22
- 23 • Allow residential or residential care facility uses on the ground floor.

24

25 **NOW THEREFORE, BE IT FURTHER RESOLVED**, that the Planning and

26 Zoning Commission approves the following **CONDITIONS OF APPROVAL**

27 associated with the Planned Unit Development approval:

- 28
- 29 1. Project Approval: except as may be modified by conditions herein, this PUD
- 30 approval is for the Parcels shown and described on sheet A0.4 of plans
- 31 prepared by Peter Waller (Pyatok Architects), date received April 4, 2011, as

1 presented to the Planning and Zoning Commission on May 24, 2011, as may
2 be modified or supplemented by presentations to the Planning and Zoning
3 Commission on September 14, 2011, September 27, 2011, and to the City
4 Council on October 17, 2011, January 17, 2012, and July 9, 2012.

5
6 2. This PUD is granted for the project described in the Environmental Impact
7 Report certified by the City Council on _____. Subsequent approvals relying
8 on this PUD shall be in substantial compliance with the project described in
9 this Environmental Impact Report.

10
11 3. This PUD is granted for the exceptions to standards of development
12 specifically described in these findings and conditions of approval. Approval
13 of the PUD does not constitute an express or implied approval of other
14 required actions, including but not limited to design review, conditional use
15 permit, variances, subdivision, encroachment permits, stormwater
16 management permits, grading permits, or building permits. The size and
17 location of buildings and other on-site and off-site improvements may be
18 required to be modified to comply with regulatory requirements that are part
19 of subsequent applications.

20
21 4. The approval of this PUD does not constitute a development agreement as
22 authorized by Government Code 65864 and does not represent a grant of a
23 vested right to develop the proposed project. The City retains its authority to
24 adopt policies rules, regulations, standards, and conditions of approval that
25 may affect the proposed project until such time that the project approvals are
26 vested by issuance and substantial reliance on a building permit.

27
28 5. Project Approval Expiration: This PUD approval shall expire two years from
29 the date on which this approval becomes effective unless a design review
30 application has been submitted and diligently pursued. The approval may be
31 extended by the Community Development Director for a period up to an

1 additional one (1) year, provided that, at least ten (10) days before expiration
2 of one (1) year from the date when the approval becomes effective, an
3 application for renewal of the approval is filed with the Community
4 Development Department. The Community Development Director may grant
5 a renewal of an approval where there is no change in the original application,
6 or there is no request to change any condition of approval.
7

- 8 6. Hold Harmless Agreement. Pursuant to Government Code Section
9 66474.9(b) and Albany Municipal Code section 20.100.010(e), but subject to
10 the terms of this Section 6, the applicant (including any agent thereof) shall
11 defend, indemnify, and hold harmless, the City of Albany and its agents,
12 officers and employees, from any claim, action or proceeding against the City
13 or its agents, officers or employees to attack, set aside, void or annul the
14 City's approval concerning this application, which action is brought within the
15 time period provided for in Section 66499.37. The City will obtain the
16 applicant's approval before filing the CEQA notice of determination. The
17 City will promptly notify the applicant of any such claim, action or
18 proceeding and cooperate fully in the defense in good faith consultation with
19 the applicant. This indemnification shall include, but not be limited to,
20 damages, fees and/or costs awarded against the City, if any, and cost of suit,
21 attorneys' fees, and other costs liabilities and expenses incurred in connection
22 with such proceeding whether incurred by the applicant, the City and/or the
23 parties initiating or bringing such proceeding. The applicant shall also defend,
24 indemnify and hold harmless the City, its agents, officers, employees and
25 attorneys for all costs incurred in additional investigation and/or study of, or
26 for supplementing, preparing, redrafting, revising, or amending any document
27 (such as an EIR), if made necessary by said proceeding and if the applicant
28 desires to pursue securing such approvals, after initiation of such proceeding,
29 which are conditioned on the approval of such documents. The applicant shall
30 also indemnify the City for all the City's costs, fees, and damages which the
31 City incurs in enforcing the indemnification. The applicant may propose

1 counsel of its choice to represent jointly the applicant and the City; provided,
2 however, the City shall have right to retain separate counsel if the City
3 reasonably determines, after consultation with the applicant, that such separate
4 counsel is necessary in order effectively represent the interests of the City.

5 The City shall retain the right to approve all significant decisions concerning
6 the City's defense of the matter and any and all settlements, which approval
7 shall not be unreasonably withheld. In addition, the applicant shall have the
8 right to withdraw the project application in order to remove the cause for any
9 claim, action or proceeding in accordance with the provisions of this Section
10 6, in which case the City may elect to render rescind any approvals granted
11 pursuant to this Resolution, as well as any approvals related to the project
12 associated with this Resolution, making such approvals null and void.

- 13
- 14 7. Exceptional Public Amenities: the owner and/or leasee shall submit to the
15 City all required plans and documentation required for implementation of the
16 public amenities associated with the granting of this PUD. Required plans and
17 documentation shall be reviewed and approved by the Planning and Zoning
18 Commission and other relevant regulatory authorities prior to the issuance of
19 any building permit or grading permit. Commission action on the required
20 plans and documentation shall be subject to the Commission's public hearing
21 procedures established in Section 20.100 of the Planning and Zoning Code.
22 Required plans and documentation include:

- 23
- 24 A. As a requirement for a complete application for subdivision of the
25 property, the applicant shall prepare "complete streets" and "green streets"
26 design guidelines for development of Parcel A and Parcel B, including:
- 27 a. Direct two-way bicycle access from the intersection of Dartmouth
28 and San Pablo south directly to the Codornices Creek Type I bike
29 path; and
- 30 b. Funding for an independent technical analysis, prepared by a
31 qualified professional, on the feasibility of a motorist-separated

1 bicycle access on San Pablo Avenue. The selection of the
2 professional and the scope of work for the analysis shall be
3 prepared in a collaborative manner with the property owner, lessee,
4 Albany Strollers & Rollers, AC Transit, and other stakeholders.
5 The conclusions of the analysis will be provided to the City
6 commissions as part of the City's evaluation of an application for a
7 subdivision of the property.

- 8 c. property owners and/or lessees shall fund the cost of independent
9 post-construction traffic monitoring, which shall be initiated 6 to
10 10 months after completion of each phase of the project, conducted
11 while schools are in session, and continued periodically if the
12 Traffic and Safety Commission makes a determination that the
13 project is creating traffic capacity or safety issues;
14 d. lockers and showers shall be made available to employees of the
15 senior housing;

16 B. City approval of location and design of AC Transit bus stops;

17 C. City approval of astream management plan for the portion of Village
18 Creek abutting the proposed project, including a monthly inspection and
19 repair program including trash removal and erosion control, monitoring of
20 plantings including seasonal trimming/clearing, and installation and
21 maintenance of informational signage and public benches.

22 D. City determination that the property owners and/or leasees have fulfilled
23 obligations and cooperated fully with the implementation of the approved
24 Codornices Creek Restoration project abutting the proposed project;

25 E. City determination that the property owners and/or lessees have fulfilled
26 obligations and cooperated fully in the timely delivery of all required
27 deeds, dedications, and other documents associated with improvements at
28 the Buchanan/Marin/San Pablo improvement projects.
29

1 8. Public Improvements Standards. Public improvements shall be designed and
2 constructed in accordance with the City's Standard Specifications and
3 Standard Details, unless specifically waived in writing by the City Engineer.
4

5 PASSED, APPROVED and ADOPTED this ____ day of ____, 2011.
6

7 AYES:

8 NOES:

9 ABSENT:

10 ABSTAIN:

11

Mayor

12

13

14 ATTEST:

15

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