

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

Agenda Date: July 9, 2012  
Reviewed by: BP

**SUBJECT:** 1030-1130 San Pablo Avenue (University Village Mixed Use Project). Planning Application #07-100. 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. Application includes approval of an Environmental Impact Report, Zoning Map Amendments, Planned Unit Development, Development Agreement, and Density Bonus.

**APPLICANT:** University of California, Berkeley

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

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**PLANNING AND ZONING COMMISSION RECOMMENDATION**

Based on actions taken on September 27, 2011 and June 27, 2012, the Planning and Zoning Commission recommends that the City Council:

- Approve Resolution # 2011-51 Certifying the Environmental Impact Report;
- Approve on First Reading Ordinance #2011-07 Rezoning the Property to San Pablo Commercial;
- Approve on First Reading Ordinance #2011-06 adopting Overlay District;
- Approve on First Reading Ordinance #2012-04 adopting a Development Agreement between the City of Albany and the University of California;
- Approve Resolution # 2011-52 adopting Planned Unit Development Standards and Conditions of Approval for the Proposed Project; and
- Approve Resolution # 2012-45 approving Density Bonus Findings and Conditions of Approval.

**STAFF RECOMMENDATION**

Staff recommends that Council discuss all actions associated with the application before beginning the process of formally voting on the individual components of the package before the Council. If the Council determines that one or more elements of the package need additional work, staff would recommend that the entire package be continued to a future meeting.

For approval of the project, pursuant to CEQA requirements, the initial motion should be to certify the environmental impact report. If approved, the second motion should be the legislative policy decision to approve the ordinance rezoning the property. The next actions would be to consider approval of the ordinance to approve the Development Agreement. The remaining resolutions can be considered as a group if the draft forms of the resolutions are acceptable. If amendments to resolutions are desired, the record of action will be clearer if the actions can be taken individually.

## **PROJECT SUMMARY**

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 proposed project represents a gateway to the City and a catalyst for transformation of San Pablo Avenue. In addition, the project can be expected to help connect University Village into the fabric of the City, both in terms of urban design and in terms of pedestrian, auto and bike access. Finally, there are expected to be significant fiscal benefits to the City from the project that can help support the provision of services throughout the City. It is important to acknowledge, however, that this project represents a partial implementation of the University's master plan for University Village. Future University projects potentially affecting the Gill Tract and University Village community and recreation facilities, will be of critical importance to the community.

The City Council and various City Commissions and Committees have had numerous discussions on the project over the past five years. The following is a brief summary of the public and Commission comments received:

- Overall support for the project as a catalyst for long-term upgrades and improvements to the area
- Proposed amenities not impressive and need for more details and assurances about the Planned Unit Development (PUD) amenities
- Concerns about height of the senior housing
- Consider keeping a corridor open for 10<sup>th</sup> street to extend to the north
- Incorporate recommendations of the Active Transportation Plan
- Make sure all traffic monitoring is conducted while schools are in session
- Incorporate showers and lockers for staff in the grocery store and senior housing.
- Make sure that phasing of transportation improvements are linked to the grocery store.
- Increased height could be a positive for the project, encouraging increased density as identified as a Climate Action Plan (CAP) goal

- Specific interest in improving access coming from the East (Dartmouth) to facilitate safe biking/pedestrian crossing
- Concern about the amount of surface parking
- 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
- Impacts on traffic and quality of life for Dartmouth Street neighborhood need to be evaluated
- Risk that entire site could be used for commercial land use
- Need commitments from the University that project will be completed as proposed
- Need for a “cycle-track” bike land connection along San Pablo directly to grocery store entry

### **CITY REVIEW**

The application for this project was submitted in 2007, and the Planning and Zoning Commission has had numerous discussions on the project over the past five years. The final steps in the review process began in summer 2011. The City Council discussed the project in a study session on July 18, 2011. At that meeting, 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.

At the September 27, 2011 Planning and Zoning Commission meeting, the Commission recommended certifying the environmental impact report, rezoning the property, and approval of a planned unit development.

Subsequently, the City Council held public hearings on the project on October 17, 2011 and January 17, 2012. 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. Following the October 17, 2011 City Council meeting, UC Berkeley staff re-evaluated the viability of the project and presented to the City a package of refinements to the project, operational commitments, and modifications to City standards. On January 17, 2012, the City Council directed staff to prepare additional approval documents that address 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.

Based on City Council direction, a draft Development Agreement and a draft resolution of approval for a Density Bonus has been prepared to reflect direction from the City Council. On June 27, 2012, the Planning and Zoning Commission held a public hearing on the additional actions. The Commission concluded by approving a recommendation that the City Council approve the proposed density bonus and development agreement.

## **PROJECT REVIEW PROCESS AND REQUESTED ACTION**

Approval of the project in its entirety will occur over time in a series of phases. The action before the City Council at this time are policy-level in nature. If approved, the applicant could then enter into agreements with developers, who will apply for the remaining approvals. Additional public hearings will be held on the proposed subdivision of the property, design review for new construction, use permits, etc. Examples of issues that have not been addressed in current actions, and will require further design, include the final details on the size and location of buildings, location of property lines, and engineering issues associated with bikeways and pedestrian paths, roadways, and storm water drainage.

### ***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 PUD, or future approvals such as design review, subdivision, 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 has been prepared and published in two steps. The first step was 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>.

Attached is a draft resolution #2011-51 (Attachment 1), which if approved, 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. Representative of Albany Strollers & Rollers have asked that refinements to mitigation measure GCC-1 (Global Climate Change) to eliminate “to the extent feasible and to the satisfaction of the City” language. Staff is reviewing the requested change.

## ***II. REZONING***

The site currently has two zonings, San Pablo Commercial (SPC) for the first 100’ of depth 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 shown on the plans, 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.
- Allow a maximum floor area ratio of 2.25 compared to 0.55 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. Ordinance #2011-07 required for rezoning is attached (Attachment 2).

### ***Proposed Overlay District***

At this time, there is every indication that the project will be implemented as generally described. Staff acknowledges, however, 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. Resolution #2011-06 establishes the overlay district to ensure that future development on this site complies with the requirements of the City's Housing Element. (See Attachment 3)

### ***Alternatives to Rezoning the Senior Housing Area***

It has been suggested that the City Council not rezone the portion of the property at the location of the senior housing. If kept at an R-2 (Medium Density Residential) zoning, the number of senior housing units and the maximum allowed size of the building would be substantially reduced. If rezoned to R-3 (High Density Residential), the allowed density would remain the same, but the maximum allowed square footage of the senior housing structure would be roughly 30% smaller.

### ***III. DEVELOPMENT AGREEMENT***

A Development Agreement is a detailed contract between a property owner and the City that spells out the rules of development for a particular project in specific terms. The California Government Code authorizes municipalities to enter into development agreements in order to provide a property owner substantial assurance that a project can be completed in accordance with existing policies, rules, regulations, and conditions of approval. The key elements of the draft development agreement and associated adopting Ordinance # 2012-04 (Attachment 4) are:

- Recital I – Refers to a commitment from the University to 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.
- Recital J – Refers to a commitment from the University to require project developers to comply with the University's general conditions pertaining to prevailing wages, payroll records and apprentices, as well as certain prequalification and binding arbitration requirements.
- Section 1.2 (Term) – The agreement would be in place for five years.
- Section 2.4 – The agreement locks in City fees at level in place when the agreement becomes effective.

- Section 4.3 (Parking) – The agreement references the density bonus application to reduce senior parking to 0.6 spaces per unit.
- Section 4.4 (Parkland Dedication) - The agreement references the proposed Municipal Code amendments to reduce parkland dedication requirements for senior housing.
- Section 5.3 (Public Art) – Allow the project to meet public art requirements on-site.
- Section 5.4 (Albany Preference) – Provides that the operator of the senior housing will provide priority for Albany residents on at least 10% of the housing units.
- Section 11 (Project Definition) – References a height limit of four stories, measured 52 feet from ground level finished floor to top of structure.

#### ***IV. 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 52 feet from finished floor to top of structure. (The standard requirement is a building height of 38 feet from grade to top of structure. Thus the corresponding height exception allows a structure of 58 feet as conventionally measured.)
- 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, a finding be made that the project incorporates an exceptional level of amenity or other benefits to the community that could not be achieved without the PUD. Members of Commissions and the public have commented on the adequacy of the proposed benefits/amenities. Subsequent modifications to the PUD 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.

### ***Cycle-Track Access to the Grocery Store***

The preliminary site plan incorporates direct bike access from Dartmouth south to Codornices Creek, but does not address motorist-separated bike access along San Pablo from Dartmouth north to the grocery store and beyond to Marin. Albany Strollers and Rollers believe that a motorist-separated bike path to the grocery store will remove a critical barrier to the use of bikes, and have recommended that the PUD mandate that a cycle-track be provided.

The primary reasons the applicant has not included direct bike access to the grocery store are the conflicts with pedestrians, the safety of people embarking or disembarking from AC Transit buses, customer access to retail shops, and safety of driveways and intersections. Both Traffic and Safety and the Planning and Zoning Commission have discussed the issue. The discussions included both safety concerns with the cycle-track concept as well as a desire to improve transportation access. Staff believes that there are solutions to these issues that are workable, but detailed site planning and technical analysis is required. Conditions of approval have been incorporated into the PUD to require an independent technical analysis, prepared by a qualified professional, to study improving bicycle connections. The selection of the professional and the scope of analysis shall be determined in the consultation with the property owner, lessee, Albany Strollers and Rollers, AC Transit, and other interested parties.

## **V. DENSITY BONUS**

Pursuant to State Law, the City has adopted “Density Bonus” regulations in Planning and Zoning Code Section 20.40.040. Under state law, eligible projects are allowed to submit to the City a proposal for waiver or reduction of any development standard. The state law also states that a city cannot impose a development standard that will have the effect of physically precluding the construction of qualifying housing development project. State law does not explicitly require that a senior housing project include affordable housing in order for a density bonus be granted

In the context of this project, state law gives the City flexibility to modify City land use requirements, including residential parking standards. The resolution incorporates parking standards have been adjusted to reflect senior housing industry standards, which are consistent with the developer’s request. Without an adjustment to parking standards, full



compliance with City parking regulations would be required, which with the current site plan could only be met with expensive underground parking.

Correspondence has been received from Clay Larsen expressing concern regarding the proposed Density Bonus (Attachment 7). Modifications to the Density Bonus resolution have been made to clarify the City's legal authority and obligations under state law.

## ***VI. PARKLAND DEDICATION***

As a separate action, it is proposed that amendments be made to the Municipal Code to reduce parkland dedication standards for senior housing. The amendment to the parkland dedication requirements to reflect an anticipated 1.05 residents per unit compared to the City's existing standard of 2.1 occupants per multi-family residential project. The ordinance also amends the implementation language to provide more flexibility in the form of agreement between the City and other public agencies and non-profits as it related to open space commitments

## **SUSTAINABILITY IMPACT**

Section IV.C. of the environmental impact report provides a green house gas analysis, and estimates that the proposed project will generate 8,500 metric tons (MT) CO<sub>2</sub>-equivalent greenhouse gas emissions. By comparison, the City's Climate Action Plan has a goal of reducing GHG, by year 2020, from 72,000 MT to 52,400 MT.

Evaluated on a stand-alone basis, every development application increases green-house gas (GHG) emissions. Much of the projected GHG emissions for this project is generated by vehicles trips, and is based on current emissions standards. Over time, with new fuel and vehicle technologies, the GHG emissions of vehicles will decline. In addition, the projection assumes that all of the trips are new, when in reality a significant amount of shoppers are residents that are already making trips to nearby grocery stores.

The CAP does not provide a methodology to calculate whether a particular land use project will help achieve the City's numerical CAP target. It also should be noted that the CAP does not require the denial of any project that on an individual basis increases GHG emission. The CAP does, however, call for promotion of high-quality, mixed-use, pedestrian- and transit-oriented development in the San Pablo/Solano Commercial districts.

The Sustainability Committee has discussed the proposed project at several meetings, and have approved the attached resolution (Attachment 8).

## **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
<b>Total Revenues</b>	<b>\$466,156</b>

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
<b>NET ANNUAL FISCAL SURPLUS</b>	<b>\$204,442</b>

Source: Economic Planning Systems

## **Attachments**

1. Resolution # 2011-51 Certifying the Environmental Impact Report
2. Ordinance #2011-07 Rezoning the Property to San Pablo Commercial
3. Ordinance #2011-06 adopting Overlay District
4. Ordinance #2012-04 adopting a Development Agreement between the City of Albany and the University of California
5. Resolution # 2011-52 adopting Planned Unit Development Standards and Conditions of Approval for the Proposed Project
6. Resolution # 2012-45 approving Density Bonus Findings and Conditions of Approval
7. Correspondence from Clay Larsen regarding Density Bonus
8. Correspondence from the Sustainability Committee

## **Reference Documents**

(Incorporated by reference and available at the Community Development Department and on line at [www.albanyca.org/index.aspx?page=521](http://www.albanyca.org/index.aspx?page=521))

- A. Project Plans May 2011
- B. Draft Environmental Impact Report
- C. Final Environmental Impact Report