

City of Albany
Planning and Zoning Commission
Study Session/Staff Report

Meeting Date: October 23, 2007

Prepared by: _____

Agenda Item: 6d

Reviewed by: _____

Subject: **934 San Pablo. Planning Application 06-074. Design Review. Density Bonus. Affordable Housing.** Study session to discuss construction of a new three-story mixed-use building with thirteen residential units and two retail units. A density bonus & other concessions, as described below, are also requested as part of the approval.

**Applicant/
Owner:** **Hoss Azimi with Gansek, Inc. for Murthy Sam**

Recommendation

Discuss the proposed project. Receive testimony from the applicant and members of the public. Provide direction to staff on issues of interest during the review process. *No action is to be taken at this time.*

Previous Action

No major improvements have recently been made at the property.

Project Description

The subject property is a 7,500 sq.ft. interior lot that is currently vacant and used as a parking area for local businesses. The applicant would like to construct a 19,983sq.ft., three-story, mixed-use building with thirteen residential units and two retail units.

The proposed project includes a parking garage located at the rear of the ground floor with the entrance accessing the garage located on the north side of the lot. The parking spaces are provided in the form of lifts that provide 24 parking spaces for the residential portion of the project.

There are two retail spaces that total 1,410 sq.ft., which front onto San Pablo Avenue. There are a number of different floor plans for the residential units, which include both one and two-bedroom units. Each unit has a small balcony area facing west. There is also useable open space provided for tenants on the roof. The building is built out to all the property lines, as permitted, incorporating a 45-degree daylight plane at the rear, which is described in further detail below.

The applicant will require design review approval for the project. The applicant also has requested a density bonus to allow a reduction in the number of parking spaces and increase in the allowable floor-area-ratio if additional affordable housing is incorporated in the project. The applicant would also like to discuss the payment of in-lieu fees for the required affordable units. Typically,

only eight residential units would be permitted on a 7,500 sq.ft. lot in the San Pablo Commercial District (which uses R-3 development requirements for residential development); however, the density bonus requested would allow an increase in the number of allowable units, which is also discussed in further detail below.

Background on Application

The applicant has met with staff for a number of months discussing project concept and the development standard issues. The formal application was received on October 9, 2006 and deemed complete, for a study session, on October 19, 2007.

Environmental Analysis

Staff's preliminary analysis is that the proposed project is categorically exempt from the requirements of California Environmental Quality Act (CEQA) per Section 15332 of the CEQA Guidelines, which exempts Infill Development Projects if the following conditions are met:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare, or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

Identification of Key Issues

Design Review

There are single-story commercial uses located on either side of the building and residential uses located at the rear of the lot. A 45-degree day light plane has been provided at the rear, as required by Municipal Code 20.24.070. The rear wall of the garage abuts the rear property line and has a maximum height of 13'. The building steps up and away from the rear property line. The height of the building, for example, is 30' tall, 10' in from the rear property line. The front (eastern) half of the lot sits at a slightly higher elevation than the rear (western) half of the lot, which makes front portion of the building appear larger.

The proposed design of the building is of a contemporary style. It has repetitive rectangular and square shapes, which includes a pop out on the front façade that breaks up the visual mass of the building and provides some articulation to the facade. There are floor-to-ceiling rectangular shaped windows on the south end of the front elevation, which provide an open and airy feel to the front facade. The retail spaces also provide large, rectangular storefront windows that span a majority of the width of the building. A mix of materials are proposed, which include cement board siding, wood slats and stucco, all of which are consistent with the contemporary architecture

of the building. Side elevations have been provided, however, show no windows or articulation on the side elevations. Staff recommends that the Commission provide direction to the applicant on appropriate ways to articulate the side elevations. This is especially important with existing conditions considering large portions of the side elevations will be visible since there are only single-story commercial buildings adjacent to the site.

As far as the use of interior space goes, the applicant has provided atrium and common space that would allow sunlight and create open, comfortable spaces for tenants. This area, however, contributes to the increase in FAR, which is discussed in further detail below.

Affordable Housing

Density Bonus

State law requires the City to adopt an ordinance that grants a density bonus and provide “concessions” on projects if housing affordability standards are met. In particular, Municipal Code Section 20.40.040 requires a density bonus to be granted if:

“the applicant agrees to construct a housing development that includes a proportion of dwelling units be designated for very low-income households, low-income households, or persons and families of moderate-income, or a senior citizen housing development or mobile home park” and

“Any housing development for which a density bonus and related incentives or concessions is proposed shall be planned to achieve the maximum density permitted for the zoning district in which the project would be located.”

The specific affordability standards and associated bonuses allowed are as follows (Note: a recent Court of Appeals ruling concluded that the density bonus required by state law is a minimum, and that nothing should prohibit the City from considering a density bonus greater than the minimum requirements (see attachment 4):

| Number of Affordable Units | Density Bonus |
|---|---|
| 1. 10% of the units affordable to low income households; or | Minimum of 20% increase in density plus a minimum of 1.5% increase in density for every 1% of additional affordable housing |
| 2. 5% of the units affordable to very low income households; or | Minimum of 20% increase in density plus a minimum of 2.5% increase in density for every 1% of additional affordable housing |
| 3. 10% of units affordable to moderate income households (if a condo project) | Minimum of 5% increase in density plus a minimum of 1% increase in density for every 1% of additional affordable housing |

For this project, using the maximum density per acre standard of 63 units/acre as the baseline, the ten units would be allowed (assuming other development standards are met). The applicant seeks

approval to building thirteen units. With the provision of one additional low-income housing unit, the minimum required additional density bonus would be 12.6 units per acre, which increases maximum density to 75 units per acre, which is sufficient for the requested project.

| | Baseline Project at (63 units/acre) | Proposed Density Bonus Project (75 units/acre) | % Bonus Above Baseline Units | Max. Additional Allowed Density |
|--|--|--|---------------------------------|--|
| Total Units | 10 | 13 | | |
| Units affordable to low income households | | 1 unit (10% of baseline project) | 20% | 12.6 units/acre |
| Units affordable to very low income households | | 0 | 0% | |
| Units affordable to moderate income households (if a condo project) | | 0 | 0% | |
| Units Required by Inclusionary Housing Ord. | 1 | 1 | n/a | |
| Market Rate Units | 9 | 11 | | |

Incentives and Concessions

As part of the Density Bonus process, the applicant may also request up to three incentive or concessions, which are exceptions to the development standards (in addition to the Density Bonus itself). The three incentives/concessions requested are:

1. The applicant is requesting a concession to allow an increased floor-area-ratio (FAR) of 2.68 where 2.25 is the maximum allowable FAR in the SPC district.
2. The applicant would also like to utilize Municipal Code Section 20.40.040(F), which allows one parking space for zero to one-bedroom units. Standard development requirements require two off-street parking spaces for each residential unit, regardless of size or number of bedrooms. Municipal Code Section 20.28.030 allows the first 1,500sq.ft. of retail commercial area be exempt from parking in the SPC district. The retail spaces total 1,410sq.ft., which requires no additional parking spaces.
3. The maximum allowable units per acre in the district is 63, which would allow ten units on the 7,500 square foot lot. Footnote #9 of Table 2A, however, requires a minimum lot size that would result in allowing eight units are allowed on the 7,500sq.ft. lot. Thus, a concession would be to waive the minimum lot size requirement.

4. As proposed the building has a maximum height of 39' where 38' is the maximum height allowed. Options to reduce the height of the building by 1' should be explored to avoid an additional request for a concession.

Municipal Code Section 20.40.040 (D) states that unlike most exceptions to development requirements, incentives and concessions are granted by the City Council. The Community Development Director, however, may determine that a publicly noticed meeting with the Planning and Zoning Commission may be conducted as a pre-application review.

Financial Information

The underlying concept of the Density Bonus law is that it is a tool intended to increase the availability of affordable housing. In several places within the Density Bonus ordinance, there is a requirement that the applicant provide financial justification for the project:

- According to Municipal Code Section 20.40.040(D.b.) to grant approval of a concession “the applicant shall be responsible for presenting detailed financial information to demonstrate that such concession would result in necessary, identifiable, financially sufficient, and actual cost reductions that could not be achieved without the concession.
- Municipal Code Section 20.40.040(H.3.e.) requires “A project financial report to allow the City to evaluate the financial need for the specific incentives(s) or concession(s) required, and to demonstrate that any requested waiver or reduction of zoning, development or building standards is necessary to make the development of affordable housing units economically feasible.”
- According to Municipal Code Section 20.40.040 (H5) the applicant must “demonstrate, based on verifiable financial information, that any development standard that is applied as a condition of a City action on a housing development project that qualifies for a density bonus would preclude construction of the development project by making the housing units economically infeasible, the applicant may request that the City Council waive or reduce such a condition.”

At this time, the applicant has provided a project budget, but has not yet provided sufficient information to evaluate whether or not the density bonus is required or whether the maximum feasible amount of affordable housing is being provided as part of the project. Staff intends to work with the applicant to further develop this information before any formal action on the project.

Inclusionary Housing

Municipal Code Section 20.40.030, Inclusionary Housing, requires that at least one inclusionary housing unit be provided for developments with seven to thirteen units. Thus, one unit would be required to fulfill the inclusionary housing requirement and additional housing unit would be required to fulfill the density-bonus requirement. This requirement is independent of the Density Bonus requirement.

In-Lieu Fee

The applicant would also like to propose paying an in-lieu fee for both of the required affordable units. Staff's interpretation of the Density Bonus Section of the Planning and Zoning Code is that affordable housing shall be included in the project (see Section 20.40.040 A.1). In addition, currently the city does not have an affordable housing program to facilitate land acquisition and construction of affordable units. Thus, the City does not otherwise have a project to spend the money on that would help meet our housing element requirements. In fact, if a fee were to be received, the most practical way to use the revenue would be to purchase units from the proposed project.

Green Building

The project is subject to the city's residential green building checklist since the majority of the project is residential. The applicant has exceeded the requirements by providing 116 green points where 50 are required. In attaining the required green points the applicant has included a large solar panel system on the roof area, which are reflected in the plans.

Conclusion

At this time, staff has not developed a recommendation on the proposed project. It appears that a relatively modest increase of one additional affordable, low-income unit triggers a significant increase in density of the project, including granting of a 16% increase in FAR requirements and a reduction of two parking spaces, providing twenty-four parking spaces where twenty-six spaces are typically required. This is the first time that density bonus and in-lieu fees have been formally requested under the new zoning code, thus staff will continue to evaluate the project and research how other communities are implementing state regulations.

In regards to design, the massing of the building is heavily dependent on the affordable housing issues, as previously discussed. Staff recommends that the Commission provide the applicant direction on appropriate design based on the plans submitted but also with consideration that the size, mass, number of residential units, etc, may change as a result of the affordable housing discussion.

Finally, it should be noted that a tentative condominium subdivision map should be submitted concurrently with the project application if the applicant wishes to individually sell and not rent out the units.

Attachments:

1. Analysis of Zoning Requirements
2. Application, Project Plans
3. Green Points Checklist
4. Density Bonus Law Update

ATTACHMENT 1 - ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS

20.12 Zoning Districts And Permitted Uses

General Plan: Commercial
 Zoning: SPC (San Pablo Commercial)

20.16 Land Use Classifications

Single family residential

Surrounding Property Use North - Commercial East - Commercial
 South - Commercial West - Residential

20.20.080 Secondary Residential Units.

Not applicable.

20.24.020 Table Of Site Regulations By District.

| | Proposed |
|----------------|-----------------|
| Setbacks | |
| Front (east) | 0' |
| Side (north) | 0' |
| Side (south) | 0' |
| Rear (west) | 0' |
| Area | |
| Lot Size | 7,500 |
| Lot Coverage | 100% |
| Maximum Height | 39' |

20.24.030 Overlay District Regulations.

Not applicable.

20.24.040 Hillside Residential Regulations.

Not applicable.

20.24.050 Floor-Area-Ratio.

See page A0.0, floor area calculations, of plans.

20.24.060 Setback Areas, Encroachments.

Not applicable.

20.24.100 Distances Between Structures.

Not applicable.

20.24.110 Fences, Landscaping, Screening.
Not applicable.

20.24.130 Accessory Buildings.
Not applicable.

20.28 Off-Street Parking Requirement.
Not applicable.

20.40 Housing Provisions
Not applicable.

20.44 Non-conforming Uses, Structures and Lot
Not applicable.

20.48 Removal of Trees
Not applicable.

20.52 Flood Damage Prevention Regulations
Not applicable.

20.100.030 Use Permits.
Not applicable.

20.100.040 Variances.
Not applicable.

20.100.010 Common Permit Procedures.
Public notice of this study session was provided on October 13, 2007 in the form of mailed notice to property owners and occupants within a 300-foot radius, and posted in three locations.

20.100.050 Design Review.
See Summary of Key Issues