

City of Albany
Planning and Zoning Commission
Staff Report

Meeting Date: July 8, 2008 **Prepared by:** _____

Agenda Item: 6a **Reviewed by:** _____

Subject: **934 San Pablo. Continuation of Planning Application 06-074. Design Review. Density Bonus. Affordable Housing.** Request for approval 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.

Recommendation

Open public hearing, review project financial analysis and submitted design, and continue final action on project to date certain of July 22, 2008

Previous Action

No recent major improvements have been made to the property.

Project Description

The subject property is a 7,500sq.ft. interior lot that is currently vacant and used as a parking area for local businesses. The applicant would like to construct a 19,494sq.ft., three-story, mixed-use building with thirteen residential units and two retail units. There are two retail spaces that total 1,410sq.ft., which front onto San Pablo Avenue. Each residential unit has a different floor plan and are a variety of sizes, which range between 600sq.ft. and 1,200sq.ft. and include studios, one, two, and three-bedroom units. The building is built out to all the property lines, as permitted by the zoning code.

Type of Unit	Total Number of Units
Studio	2
One-Bedroom	4
Two-Bedroom	6
Three-Bedroom	1

Seven of the thirteen units have private, balconies and there is approximately 1,300sq.ft. of useable open space provided for tenants on the roof. The Municipal Code requires either 200sq.ft. of common open space per unit or 100sq.ft. of private open space; therefore, the project is in compliance with required open space.

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. The commercial units do not require additional parking. The Municipal Code exempts parking requirements for commercial spaces under 1,500sq.ft. in the San Pablo Commercial district; therefore, all 24 spaces would be used for the residential units. The applicant would like to use a concession, one that is determined by state law, to allow reduced parking based on the number of bedrooms per unit, which are as follows:

Type of Unit	Parking Required	Spaces
Studio	1	
One-Bedroom	1	
Two-Bedroom	2	
Three-Bedroom	2	

The proposed design of the building is of a contemporary style with a cement board finish, flat roof, repeated rectangular shapes and large windows. Further discussion of design is continued below.

The applicant is requesting design review approval for the project. The applicant has also requested a Density Bonus to allow an increase in the number of units from 11 to 13 and two concessions. One concession is to allow an increase in the allowable floor-area-ratio from 2.25 to 2.6. Under state law, certain density bonuses and concessions to standard requirements can be allowed if additional affordable housing is incorporated in the project.

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. The Commission reviewed the project at a study session on October 23, 2007 where the applicant was provided preliminary feedback and direction on proposed changes to the project. The applicant made minor revisions to the project and was heard at another study session on February 26, 2008. The applicant has revised the project and is requesting Commission approval of the design and a recommendation to the City Council for approval of the density bonus.

At the February 23, 2008 public hearing the Commission supported the increase in density, yet still had concerns about the architectural details of the building. The curved roofs and increased articulation on the front façade were two issues that were repeatedly discussed. The Commission also discussed that building to the maximum FAR and to minimum setbacks were not always desirable. Finally, detailed building materials and a model were requested to provide a clearer idea of how the development would fit into the surrounding neighborhood.

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

Application Process

Municipal Code Section 20.40.040(H4) states that the Planning and Zoning Commission shall act on all requested approvals for a development project. The City Council, however, shall be the decision making body on all applications involving a density bonus. The Planning and Zoning Commission shall make a recommendation supporting approval or denial of the density bonus but does not formally act on the request.

Staff recommends that the Commission take final action on the application, contingent on approval of the Density Bonus portion of the application by the City Council. Thus, once action is taken by the Commission, it would not return unless the Density Bonus is denied by the Council.

Affordable Housing

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. This unit must be priced to be affordable to a low-income household.

A condition of approval will be included that requires the applicant to enter into an affordable housing agreement with the City. This agreement will be subject to review by the Planning and Zoning Commission and approval by the City Council.

Density Bonus

State law requires that the City grant an increase in housing density if an applicant agrees to construct a certain amount of affordable housing. Details of the state requirements and associated policy issues were discussed by the Commission at the June 10, 2008 meeting (staff report attached).

One of the key issues with implementing the density bonus regulations in the San Pablo Commercial (SPC) District is whether or not minimum lot size requirements are applied to the calculations. As the Planning and Zoning Code is written, SPC allows 63 units per acre, which translates to 11 units on this site. A footnote in Table 2B of the Planning and Zoning Code, however, refers to R-3 District minimum lot sizes (which is located in footnote 9 of Table 2A). In order to comply with minimum lot size

requirements, a maximum of eight units would be allowed. The density bonus section of the ordinance refers only to “maximum density” and not “minimum lot size.” Thus, it is open to interpretation as to whether 8 units or 11 units are used as the baseline for calculating the number of density bonus units. The specific affordability standards and associated bonuses associated with this application are evaluated below in both ways.

	“Minimum Lot Size” Interpretation	“Maximum Lot Size” Interpretation
Baseline Project Density	8 units (based on minimum lot size)	11 units (based on 63 units per acre)
Minimum additional affordable housing unit required by applicant to earn a density bonus:	12.5% (1 additional low income unit out of 8 total units)	18.2% (2 additional low income units out of 11 total units)
Minimum “Density Bonus” earned by affordable housing	1.9 units (23.75% of 8 units):	3.6 units (32.3% of 11 units)
Minimum allowed number of units:	10 units	15 units
Requested number of units:	13 units (62.5% density bonus)	13 units (18% density bonus)
Minimum required concessions to applicant	1	1

In addition to inclusionary housing requirements, State law requires the City to grant a density bonus and provide “concessions” on projects if housing affordability standards are met. One concession is allowed for 10%-19% affordable units, 2 concessions for 20%, and 3 concessions for 30%. Based on the calculations above the applicant would be providing either 12.5% or 18.2% affordable housing; therefore, only one concession is mandated by the density bonus regulations. The Commission could provide additional concessions if it determines that they are financially necessary.

In this application, the applicant is requesting two concessions:

1. 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. A concession to allow use of a state statute, allowing 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.

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. In particular, the Commission will need to

make a recommendation to the City Council that a finding can be made that the concessions are necessary to make the development of affordable housing units economically feasible.

The applicant has presented a financial analysis that shows that by granting a density bonus, but not the additional incentives and concessions, results in a project that is marginally financial feasible. In particular, instead of 13 units, the project would be reduced in size to 11 units. The applicants submittal is attached (Attachment 9). The applicants submission indicates that in Scenario A, without concessions, the project is in deficit of approximately \$204,000.

City staff has evaluated the analysis and made adjustments in several areas to ensure consistency costs across the two scenarios. It should be noted that the “Density Bonus without Concessions” scenario has not been designed, and thus square footages cannot be verified. and is summarized , incorporating adjustments by staff, below. Staff’s conclusion is that a project without concessions is only marginally feasible, with a relative difference of \$123,000 compared with the scenario with concessions. Thus, a finding could be made that the incentives and concessions are necessary.

	Density Bonus without Concessions	Density Bonus + Concessions
Lot Area	7,500	7,500
Market Units	9	11
Inclusionary Unit	1	1
Density Bonus Unit	1	1
Total Units	11	13
Floor Area	16,875	19,494
FAR	2.25	2.60
Total Market Value	\$4,893,042	\$5,696,292
Project Cost		
Residential	\$1,861,200	\$2,359,720
Commercial	\$211,500	\$211,500
Garage	\$561,600	\$638,640
Common Area	\$264,810	\$264,810
Total Hard Cost	\$2,899,110	\$3,474,670
Land Acquisition	\$850,000	\$850,000
Soft Costs	\$1,074,845	\$1,182,098
Total Project Cost	\$4,823,955	\$5,506,768
Net Project Return	\$69,087	\$189,524
% Return on Total Cost	1.4%	3.0%

Staff Recommendation on Affordable Housing:

Staff recommends that the Commission recommend to the City Council support for a Density Bonus for the project, including concessions for parking and FAR. Staff recommends, however, that maximum

additional affordable housing should be incorporated into the project. As part of this recommendation, staff would welcome direction from the Commission and Council to explore outside funding to make the development of affordable housing in the project more feasible for the applicant.

Design Review

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.

The south elevation has small balconies on two floors with metal raining and accenting metal awnings throughout the façade. The north elevation has some variation in the faced with a mix use of material and large glass block windows.

Staff believes that the attractiveness of the building is heavily dependent upon the type, quality and color of the materials used for finishes. The proposed building materials are standard, and the building is boxy in shape with subtle articulation; therefore, how the materials are used will determine the aesthetic integrity of the building. The applicant will be providing renderings and digital 3-d models at the hearing. The Commission, however, may want to discuss and require specific building materials and determine the color scheme prior to approval of the project (see attachment 8).

Building Height

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 12' and the building steps up and away from the rear property line.

According to the code, building height is measured from natural grade. The project, however, requires grading at the rear of the building, which would expose another 4' of wall at the rear property line, therefore, making the rear wall appear 16' in height. The height of the building varies throughout the building. The top floor has a butterfly roof with a maximum height of 38'. The front elevation is also 38' with a partition wall that is used to enclose the common open space on the roof. The maximum height of the building is at 41'-6", at the center of the building. The area contains a stairwell that provides access to the rooftop deck. Municipal Code Section 20.24.080(B) allows a conditional use permit to allow an increase in height for elevator penthouses, water tanks, flag poles, storage structure, fire towers and other similar structures. The Commission may want to consider whether a conditional use permit to allow the increase in building height is appropriate.

There is a 45-degree day light plan required at the rear of the building because it abuts a residential district. Approximately 2' of the balcony railings on the second and third floors are encroaching into the 45-degree daylight. The applicant would like to use wire railing, which they believe will not impact the shadowing on adjacent neighbors. That railing, however, is part of the structure and will not prohibit

tenants/owners from placing items on the balcony that may cast a shadow in the daylight plane area. The Commission may want to consider a deed restriction addressing encroachment into the daylight plane (i.e. structures, umbrellas, plants, etc.) Also, although the building meets building height requirements; aesthetically the building will appear taller because of the required grading at the rear of the building. It is at the Commission's discretion to allow the balcony railings into the required 45-degree daylight plane. If the Commission deems it appropriate staff recommends that a special finding be made. It should also be noted that the design is relatively unchanged since it was last reviewed in February.

Conclusion

This is the first time that density bonus and in-lieu fees have been formally requested under the new zoning code, thus will set a precedence for how the City will interpret the density bonus law.

Staff believes that conceptually the project is appropriate for the site. As previously stated, the Commission may want to consider the increased height for the stairwell as well as the architectural details and integrity of the building. In regards to parking, the commercial retail space is exempt from parking; however, if the applicant wants to utilize the space as a café, restaurant or a similar use the parking requirements will increase since the parking exception only applies to retail. The applicant may want to consider requesting a parking waiver to allow a café/restaurant use at this time since it may be a likely use at the site.

Finally, it should be noted that applicant would like to submit a tentative condominium subdivision map in the future to sell the individual units, pending approval of the 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.

Attachments:

1. Analysis of Zoning Requirements
2. Application, Project Plans
3. Green Points Checklist
4. Staff Report from 10/23/07
5. Minutes from 10/23/07 study session
6. Staff Report from 2/26/08
7. Minutes from 2/26/08 study session
8. Example Photos
9. Financial Information from Applicant

20.24.050 Floor-Area-Ratio.

	Proposed	Requirement
Lot Size	7500	--
Floor Area		
Total	19,494*	--
Floor Area Ratio	2.6%	2.25

*No exceptions or reductions in FAR calculations

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.

See project description.

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 application was provided on February 15, 2008 in the form of mailed notice to property owners and occupants within a 100-foot radius, and posted in three locations.

20.100.050 Design Review.

See Summary of Key Issues