

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

Agenda Date: July 18, 2011  
Reviewed by: BP

**SUBJECT:** Study Session on Application for Rezoning & Planned Unit  
Development at 1030-1130 San Pablo Avenue (University Village  
Mixed Use Project)

**REPORT BY:** Jeff Bond, Planning & Building Manager

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**STAFF RECOMMENDATION**

Conduct a study session on the application, and provide feedback and direction to staff, the City commissions, and the applicant.

**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 would like to construct 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 approximately 30,000 square foot of retail space and approximately 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.

**DISCUSSION**

The proposed project represents a significant transformation for this portion of the City and should be considered in the context of its location and the long-term implications for the community. For example, this site is located at the southern gateway to the City on San Pablo Avenue. Thus, it is one of the few sites in Albany that might be suitable for larger scale mixed-use development. An attractive project can serve as a landmark for the community. In addition, the project could serve as a catalyst for long-term upgrades and improvements in other nearby portions of San Pablo Avenue. With careful planning, 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 only a portion of the implementation of the University's master plan for University Village. Future University projects potentially affecting the Gill Tract and University Village recreation facilities will

be of critical importance to the community. The City's legal authority to lock in the University to future actions that are otherwise outside the scope of this particular application is limited.

Ultimately, consideration of the proposed project will involve a series of Commission and City Council actions, including, in anticipated sequence:

1. Certification of CEQA Final Environmental Impact Report (EIR) (by City Council)
2. Rezoning (by City Council ordinance)
3. Planned Unit Development (by Planning and Zoning Commission)
4. Subdivision (by City Council)
5. Design Review (by Planning and Zoning Commission)
6. Parking Exceptions (by Planning and Zoning Commission)
7. Conditional Use Permits (by Planning and Zoning Commission)
8. Affordable Housing Agreement (by City Council)

The applicant is requesting action as soon as possible on the first three items; CEQA EIR certification, rezoning, and PUD. Once these policy level decisions are made, the applicant could then enter into agreements with developers, who would presumably apply for the remaining approvals.

The purpose of this study session is to provide the Council an opportunity to review the the project and provide direction to City Commissions, the applicant, and staff on areas of concern and interest. In the near future, final documents will be prepared for consideration by the City Council.

### ***Feedback from Public Meetings***

The Planning and Zoning Commission, Traffic and Safety Commission, and Sustainability Committee have held discussions on the project. Comments by Commissioners are summarized below:

#### Planning and Zoning Commission

- Need more details and assurances about the PUD amenities in writing
- Concerns about height of the senior housing
- Proposed amenities not impressive
- Should use PUD process to create better open space
- Consider re-orienting senior housing courtyard to the creek
- EIR addresses CEQA requirements and areas of concern

#### Traffic & Safety

- Consider keeping a corridor open for 10<sup>th</sup> street to extend to the north
- Incorporate Active Transportation Plan

- Expand bus service to Target
- Make sure all monitoring is conducted while schools are in session and costs are covered
- Incorporate showers and lockers for staff in the grocery store and senior housing.
- Set back retail buildings to make room for bicycle access
- Make sure that phasing of transportation improvements are linked to the grocery store.

#### Sustainability Committee

- Need assurances that housing will be constructed
- Need to see more details on how the project implements CAP policies
- Increased height could be a positive for the project, encouraging increased density as identified as a CAP goal
- Information on green house gas calculations in EIR is not adequate for policy decision
- Need to have feedback from City Council on overall project and circulation patterns that encourage people to get out of their cars
- Specific interest in improving access coming from the East (Dartmouth) to facilitate safe biking/pedestrian crossing
- Concern about the amount of surface parking

Numerous public comments have been received and are summarized as follows:

- 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
- Need commitment from Caltrans, UC and the City to implement an effective San Pablo Avenue crossing
- Impacts on traffic and quality of life for Dartmouth Street neighborhood need to be evaluated
- Concerns about height of senior housing
- Concerns about piecemealing of the project
- Concern about not losing access to sports facilities for youth
- Risk that entire site could be used for commercial land use
- Need commitments from the University that project will be completed as proposed
- Loss of the Gill Tract agricultural area is unsustainable
- Need for a “cycle-track” bike land connection along San Pablo directly to grocery store entry
- Reduction of height along San Pablo Avenue is not an amenity

Staff is working with the applicant to address as many of those comments as possible and revisions are being made to the findings and conditions of approval for the PUD. In addition, issues have been raised regarding the Little League fields and the Codornices

Creek restoration project. Staff is working with interested parties to develop a design that best serves the various community objectives.

## **ANALYSIS**

The following is an analysis of the first three actions requested:

### **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 design review, subdivision approval, etc. are more appropriate and effective mechanisms.

Because of the complexity of CEQA Guidelines and the need for various technical studies, the City relies on outside consultants to prepare the CEQA analysis. In this case, the consulting firm of LSA Associates prepared the analysis.

An environmental impact report is prepared and published in two steps. The first step is 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 receipt of the 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>.

### **II. REZONING**

The site currently has two zonings, San Pablo Commercial (SPC) for the first 100' 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 proposed, 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.

The decision on rezoning is a legislative policy action, requiring City Council approval of an ordinance. In a legislative decision, the City has broad latitude to make a decision, as long as proper procedures are followed and findings are made to support the decision. One of the key considerations in a rezoning is that the new zoning designation must be consistent with the General Plan. The Land Use Element of the General Plan contains the following policies related to this site:

- The land use designation is “Residential Commercial” (RC), which is described as “Medium residential densities at a maximum of 34 units per acres is allowed. Retail and office commercial development at a maximum FAR of 0.95 is allowed.” (pg. 31)

In addition, the current approved Housing Element of the General Plan states:

- “Although redevelopment of the San Pablo frontage could be exclusively for residential uses, the City would favor commercial/residential mixed use . . .” (pg. 65)
- “Encourage higher density residential development of under-utilized University of California property away from the San Pablo Buchanan frontage.” (pg. 70)
- In addition to the existing approved Housing Element, a new draft Housing Element has been prepared. The draft Housing Element designates the site for minimum of 138 units of housing. If the project were not to include at least 138 units of housing, then the draft Housing Element would have to be modified to identify another site for housing.

The proposed project, as described in the CEQA EIR project description, appears to be consistent with General Plan.

While the City has latitude in making its decision, there are, for several reasons, limits to the conditions of approval that can be placed on a rezoning. First, the rezoning becomes effective 30 days after the second reading of the ordinance. In the future, if the project changes substantially, a new rezoning process will be required in order to reverse the original approval. Secondly, a series of Supreme Court rulings over the years require that conditions of approval be derived from the City’s regulatory authority, and be reasonably related and proportional to the impacts of the project.

Several members of the public have commented that the senior housing portion of the project should not be rezoned. With the existing R-2 zoning, senior housing would still be allowed and the applicant can still seek a PUD for adjustments to height, open space, and parking. By keeping the property R-2, the city can be assured that the use of the property will not evolve into a 100% commercial use. The main difference to the physical form of the project would be that buildings in the R-2 district would be separate from the buildings in the SPC district.

### III. 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 62 feet above grade. The standard requirement is a building height of 38 feet.
- Reduction in minimum common useable open space to 140 square feet per unit. The standard is 200 square feet per unit.
- 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, the Commission make a finding that the project incorporates an exceptional level of amenity or other benefits to the community that could not be achieved without the PUD. To date, the amenities discussed by the applicant in potential support for the PUD include:

- Reduction in maximum building height along San Pablo Avenue from 38 feet to 24 feet;
- Incorporation of “complete streets” and “green streets” design principles for development of Parcel A and Parcel B;
- Maintain AC Transit bus stops;
- Preparation and implementation of a stream management plan for the portion of Village Creek abutting the proposed project.
- Continued participation in the implementation of the agreement for Codornices Creek Restoration project abutting the proposed project;
- Implementation of improvements at the Buchanan/Marin/San Pablo intersection improvement project.
- Design and implementation of bicycle and pedestrian crossing of San Pablo intersection improvement project.

Members of Commissions and the public have commented that the proposed amenities need more detail and need to be strengthened to make sure the amenities are meaningful and are delivered in concert with the construction of the project.

- 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.

#### **IV. FUTURE ACTIONS**

The applicant is requesting a phased approval for the project, with Council action on the rezoning to occur first. Due to phased approvals, a number of key issues will be addressed in later City approvals. Examples of issues that have not been addressed include the final details on the location of property lines and the design of bikeways and pedestrian paths, roadways, and storm water drainage. Other matters that will be addressed in later approvals include compliance with the City’s Parkland Dedication Ordinance, art in public places requirements, affordable housing, etc. Finally, property tax revenues to the City depend on the entity that will own and operate the facility. For example, certain types of non-profit senior housing operators may not be required to pay property taxes.

It is understandable that action on policy-level issues should be taken in advance of more detailed work that in many respects is an implementation of the policy decision. It is conceivable, however, that the future implementation could change significantly yet remain in compliance with the requested expansion of the San Pablo Commercial zoning district regulations. It is also important to understand that if the property is sold or leased, the applicant for the other approvals could be a separate entity with no commitment to the policy discussions with the City.

#### **SUSTAINABILITY IMPACT**

Section IV.C. of the environmental impact report provides a green house gas analysis.

#### **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

If the housing is operated by a nonprofit entity, this level of property taxes would not accrue to the City. Under these circumstances, to maintain the same level of fiscal surplus, the City would need the development to pay ongoing assessments/ special taxes.

**Attachments**

1. Project Plans May 2011