

Anne Hsu

From: [REDACTED]
Sent: Monday, October 18, 2021 12:15 AM
To: citycouncil
Subject: Public comment on item 9-1 Design Review, Density Bonus & Street Tree Removal for a New Mixed-Use Development at 540 San Pablo Avenue

Warning: This email originated from outside the City of Albany. Think before you click!

Dense developments near transit have many benefits - to housing availability and affordability, economic stimulus to local businesses, to the environment, etc. Dense under-parked developments also have negative impacts on a community, impacts which should be planned for by a city.

I understand that significant parts of what happens at the bowling alley are dictated by state housing law.

A few years ago my own SoCal parents briefly considered retiring in Albany near us/their only grandchildren but chose to live 1 hour NE of Albany and even farther from my brother in San Jose in part because they could get 2x the house for 1/2 the price. For my own children in college and high school I have no idea how they would purchase a home near us in Albany if they wanted to given that the average selling price has recently been around \$1.3 million which at 20% down would require more than a quarter million dollars (\$260,000 plus closing costs) in cash and over \$50,000/yr in mortgage payments alone plus tens of thousands of dollars per year in property taxes and insurance. For these personal reasons and for people in similar situations and people we know who had to pull their kids out of the schools because they couldn't afford to live here and for all the benefits of dense housing I listed above I am in favor of more dense, affordable housing coming to Albany.

For this particular project at the bowling alley, I have been pleased to see the changes the designers have made after receiving public and commissioner feedback - increasing the number of larger units in the mix to better accommodate families, improving alternative transportation in the form of better bike storage, better attention to the experience on Adams St with a publicly-accessible play space and townhomes both of which help to connect the otherwise cloistered residents to the surrounding community and deciding to incorporate existing unique bowling alley elements into the design. I like the fact that there are no driveways onto the side streets, Clay and Adams. I like the significantly wider sidewalk & landscaping at Clay which will be a huge improvement. I like that the highest parts of the buildings are on the east side of the property at San Pablo Ave where they will cast minimal shadows on the only nearby homes which are to the west on Adams St. I like that the project goes through the block so that it is not right up against homes and so that it is buffered by 3 streets east south & west and businesses to the north. I like that the property has retail at the ground level and sets aside outdoor spaces for some of them.

However, there are negative impacts of dense under-parked developments for which the city should plan. And there are serious concerns about what appears to be the city's plan to only zone one street in town for these developments, along what 2020 census data* shows is the most racially diverse part of town, to meet what in principle should be a city-wide housing target of over 1000 homes.

I'm a commissioner on the Albany Parks Recreation & Open Space Commission writing here in my personal capacity as a 17-year resident of Albany who lives on the 600 block of Adams St just south of the bowling alley. When I was recently informed of a Sept joint P&Z and PROS commission meeting planned for this bowling alley site I asked the city attorney to clarify the terms of a recusal for me as a PROS commissioner who lives near that site. I want to share this part of what she wrote to me regarding why a recusal was necessary: "With regard to the proposed project, it is reasonably foreseeable that the development of new high-density housing would impact the character of your property by altering traffic levels and parking availability in the area, as well as potentially affecting the market value of your residence. ... Given the

potential traffic, parking, and market value impacts to your property, it is unlikely that the FPPC would find clear and convincing evidence of no measurable impact to your property.” I share this portion of the city attorney’s statement so it is clear to all, if it wasn’t before, that even though there are many benefits to society, the environment, the economy, etc. with high density housing, everyone can see there are clear, real anticipated negative impacts of these under-parked high density developments wherever the city decides to permit them, negative impacts for which the city should plan.

The blocks near the bowling alley are already full of parked cars in evening hours. My long block on Adams St is already one of the densest in Albany, zoned R-2 and R-3, and in addition to single family homes has a number of duplexes, triplexes and apartment buildings - the total is something like 60 housing units. The Adams St block north of me across the street from the bowling alley probably has around 20-30 housing units on that one side of the street. Add in a few homes on 2 short blocks of Clay St and there’s maybe 100 existing housing units total in this neighborhood. The bowling alley development adds 207 homes to this neighborhood. It will likely have 350+ licensed car drivers living there. It will provide much-needed housing but likely will provide 100-200 fewer parking spaces than licensed drivers. The developer is planning to unbundle the parking, likely charging \$1000+ per vehicle per year while street parking is currently free. Even though it is near transit (ECP BART and 72/M/R AC Transit Bus) and has a significant amount of bike parking, it is likely the surrounding neighborhood will see 100-200 additional cars trying to park on the side streets from this one development alone.

I am concerned that there is a process a few years from now to convert “unneeded” parking to something else. I get the reasoning but it seems very flawed given that unbundled parking will be for residents a separate payment of thousands of dollars per year per vehicle while on-street parking in the neighborhood is currently free. The proposed policy produces huge incentives for the residents to park off site in the surrounding neighborhood and for the owner to see vacant on-site parking spaces as an opportunity for more development rather than an indication that they have priced their on-site parking too high and that the city has not done what it can to prevent spill-over parking.

Some P&Z commissioners have expressed the desire to do nothing with regards to spill-over parking and let market forces decide what happens to existing residents. I agree as some commissioners said that market forces can lead to changes in parking and transportation behavior. The development at Albany Bowl and others like it will each likely produce hundreds of cars looking for a place to park in my neighborhood and other neighborhoods up and down SPA. I’ve lived in SF and NYC and in those cities that’s just expected. In many neighborhoods there you really don’t want to own a car. The norm in many neighborhoods there is a lot of tickets from street sweeping, driving around for 30 mins looking for a parking space, expensive parking lots, parking meters, tickets due to numerous parking restrictions, break-ins, etc. In those places people either flee to suburbs or adapt, supported by good walkability to nearby shops and robust alternative transportation infrastructure. In Albany, it would be a transition. For some in my neighborhood they will decide parking on the street is now more painful so they will sell off an “extra” car or park 2 cars end-to-end on a long driveway where they used to park only 1 or none or they will empty out their garage, in some cases thereby removing a bedroom or other living space, and use it to park a car for the first time ever or they will rip out their landscaping and pave their front yard and park there as some in my area already do now. Is this change you would seek out and embrace for your neighborhood and home? Some may decide to go with fewer cars than drivers or no cars but that only works with good local and regional planning and services. The impacts will be wherever the city decides high-density under-parked housing will go and right now the plan seems to be to focus those impacts onto people who live next to one street in town.

Equity concerns

My concerns expressed below of inequitable treatment of residential neighborhoods in Albany raise serious concerns about violations of California’s AB 686 regarding affirmatively furthering fair housing if the city intends to get the vast majority of its housing quota along this one street in town without at the same time enabling other options through vigorous re-zoning and addressing limits from Measures D &

K. <https://www.nhlp.org/wp-content/uploads/AB-686-Fact-Sheet-Feb.-2019.pdf>

What the public has seen at P&Z meetings is eye-opening with regards to how neighborhoods near San Pablo Ave are treated vs. other neighborhoods. In 2021 there have been several meetings where the bowling alley development or the San Pablo Ave Specific Plan have been on an agenda along with items from homeowners seeking an exception from adding on-site parking when adding on to their home. In those meetings we have seen staff explaining that state law can allow developers of the densest San Pablo Ave developments to provide only 1 parking space per every 2 units (which in many cases would be 1 car for 4 licensed drivers) and we have seen commissioners advocating for even fewer parking spaces in dense developments even 0 parking spaces for 100s of new units while in the same meeting discussing amongst themselves and the public for 30 minutes the fate of +/- 1 parking space due to sensitivity for neighbors who might be impacted in a neighborhood zoned R-1 for single family housing even though it's also near shops and transit. Similarly, commissioners have discussed allowing 8 story buildings directly behind existing homes on Adams & Kains, buildings that if they were behind my home would completely blacken out the sun and replace my views of the East Bay Hills with views into 100s of bedroom windows while at one P&Z meeting this year we saw a 30 minute discussion between commissioners and the public about a single family home's remodel raising one part of its roof line half a story blocking the tiniest patch of sky imaginable and at another P&Z meeting discussing for 30 minutes moving a window a few feet on a single family home's remodel so a neighbor could avoid looking into it or be looked upon from it. Though it's possible what I describe here indicates personal bias on the part of some commissioners against people who live in my neighborhood and in favor of people who live in single family zoned homes in other neighborhoods, I think instead it's quite likely the problems are systemic - problems with the system - that lie in city zoning and regulations that require or enable time-consuming debates about minor changes to one single family home but allow by right, without debate, impacts from dense developments built along San Pablo Ave that by some measures are 100x worse (100 times the number of exempt parking spaces, 100 times the number of bedroom windows facing a neighbor, etc.) for the surrounding community.

This recent SF Chronicle article

<https://www.sfchronicle.com/projects/2021/census-bayarea-tracts/>

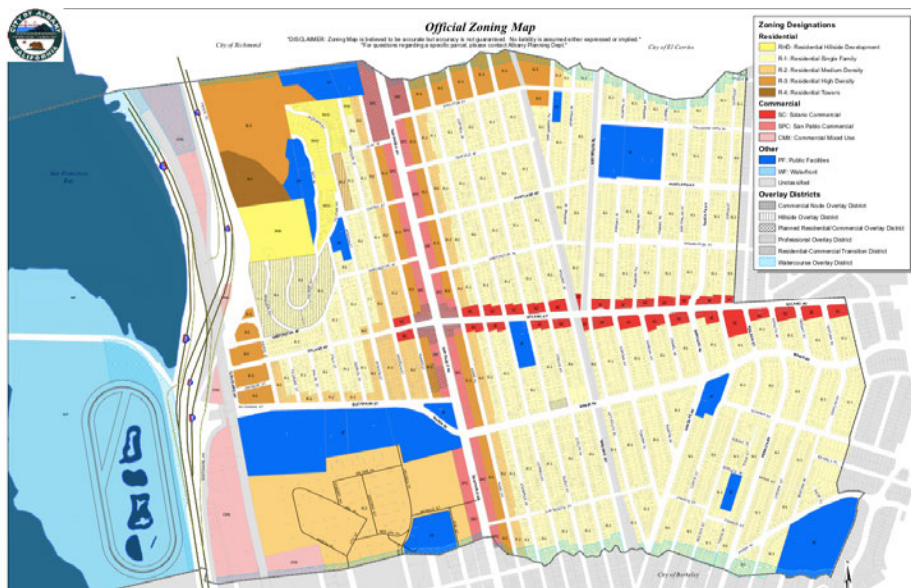
has an interactive map that has 2020 Census data for each Census tract. I posted that link to a public FaceBook group and an Albany City council member nicely typed up the data into a table and posted it as a public comment. I provide here a labeled Census tract map to show where each neighborhood is and the table where I've redacted some historical data that was not directly from the 2020 Census data. As you can see, the following Census Tract neighborhoods border San Pablo Ave: Albany Hill (32% White), Albany Hill South & East (42% White), University Village East (40% White), North (37% White), and South (45 % White). And these 2 Census tracts do not border San Pablo Ave: Northeast (55% White) and Southeast (63% White).

	Total		Asian	Black	Hispanic	Some other	Two or more	White
University Village E	1,597	8%	22%	5%	24%	1%	7%	40%
University Village W	2,155	11%	26%	8%	26%	1%	7%	33%
Albany Hill S and E	2,426	12%	31%	3%	14%	1%	8%	42%
Albany Hill	2,593	13%	50%	4%	7%	0%	6%	32%
North	3,234	16%	39%	3%	12%	0%	9%	37%
Northeast	2,436	12%	24%	2%	10%	1%	8%	55%
Southeast	3,399	17%	18%	2%	8%	1%	9%	63%
South	2,431	12%	29%	3%	12%	1%	10%	45%

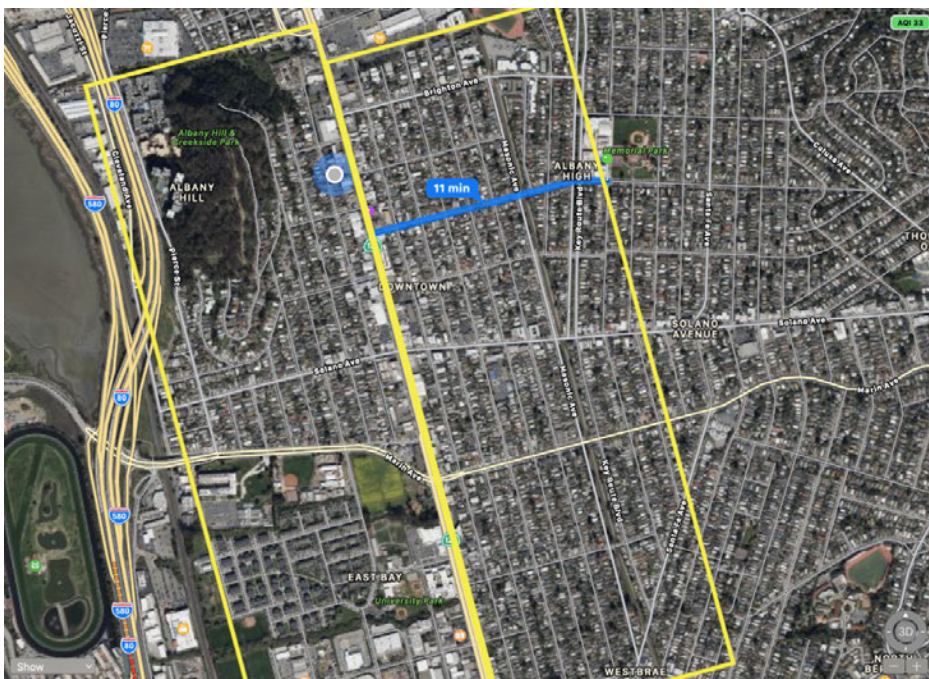


Here is the current city zoning map showing the vast majority of Albany is zoned R-1 (light cream color) even though pretty much every home is within a half mile, a 10-15 minute walk, of shops and transit on Solano Ave or San Pablo Ave or BART (ECP or North Berkeley):

<https://www.albanyca.org/home/showpublisheddocument/2889/636301026146770000>



This map shows yellow rectangles I drew, centered N/S on San Pablo Ave which are roughly 0.5 miles wide, a benchmark in state density bonus law. The blue line shows that it takes about 11 minutes to walk from Albany Pool the 0.5 miles to shops and transit on San Pablo Ave.



The area represented by the 2 rectangles is greater than 1 square mile. As you can see, much of Albany is within that region relative to San Pablo Ave and the rest of Albany would be within similarly-sized rectangles centered east-west on Solano Ave where there are also shops and regular bus service and BART (ECP and North Berkeley) is always an option. And yet the city seems to be focusing all of its energy to satisfy its regional housing goals on 1 street through the most racially diverse neighborhoods in town debating whether new developments should be capped at 6 or 8 stories or more irregardless of whether or not they back up to existing homes on Adams and Kains or pass through the block. Taken together, I think the concerns and data I've presented above raise serious equity issues and may be found to violate AB 686, California's affirmatively furthering fair housing law.

I'm not against all development on San Pablo Ave - in fact I think the city should investigate developing sites that are well-buffered from existing homes including sites that pass through the block as the bowling alley site does. Albany doesn't have as many of those kinds of sites as El Cerrito does but it has a few. I think the city should seriously look into how city hall triangle could be turned into many floors of affordable housing with city hall, police, fire, etc. below. I think the bowling alley site is about as good as it gets and should set the bar for size when a property is as well buffered from homes as this one is. What the city does at the bowling alley site, the first development of its size in over 50 years according to the staff report, sets the bar for other developments to come. And how the city plans to address the negative impacts of a development like this will be very important to existing and new residents going forward.

What can the city do to help reduce the impact of dense under-parked developments like this one and to help residents in and near these get by with fewer or even no cars includes but is not limited to the following: allow dense developments throughout town so they are not only concentrated along 1 street, get the bike/ped bridge done over Cerrito Creek at the north end of Adams St (the city is building one across the same creek to the west connecting parks in 2 counties) and work on establishing bike boulevards (the city did just that for Adams and Kains a few years ago but has not followed through), ensure new dense under-parked developments have lots of bike parking even for cargo and electric bikes, work to establish policies for electric scooter and bike shares as Berkeley just did (<https://www.berkeleyside.org/2021/09/30/electric-scooters-e-bike-rentals-finally-get-green-light-in-berkeley>), re-visit parking permits in light of new dense developments like this one, consider establishing locations for car shares like ZipCar, require pre-paid transit cards at dense under-parked developments, etc. I don't have all the answers by any stretch but I hope a vigorous public process will help the city arrive at policies and programs that will not only help residents in and around these dense under-parked developments live with fewer or no cars but will also help the city reach its climate and other goals.

Bryan Marten

Resident 600 block of Adams St

P.S. Please ignore the previous version of this message. I think the images in it did not get sent properly.

From: [REDACTED]
Sent: Monday, October 18, 2021 10:08 AM
To: citycouncil
Subject: Comments on Item 9.1 Design Review, Density Bonus, and Street Tree Removal for a New Mixed Use Development at 540 San Pablo

Warning: This email originated from outside the City of Albany. Think before you click!

Mayor Gary and fellow Council Members

I have commented on this project in the past. I will summarize my old comments here:

Compliance with the General Plan

Staff reports claim that the project complies with Albany's General Plan. In its analysis, the city cites a few, cherry picked, so-called "applicable" General Plan policies and even then staff's analysis was often incomplete. The project is certainly not consistent with the General Plan. The project exceeds all of the specific metrics (FAR, height, housing density) that are spelled out in the General Plan. It is not consistent with several policies designed to protect the adjacent residential neighborhoods (See LU 2.1, T-5.2). The project runs roughshod over open space policies and actions (PROS-1.4 and PROS-1.D). My list here is certainly not exhaustive.

Parking

The project is seriously under parked and this has gotten worse. The original project included [197 off street](#) parking spaces, however, in response to recommendations from the Planning and Zoning Commission, the applicant has reduced parking twice and now provides only 172 spaces. The Commission made its recommendations based on aspirational goals, without having any data regarding the real parking impact of the project. The Commission ignored the specific General Plan policy requiring it to ensure that development along the San Pablo Avenue is designed to minimize adverse parking impacts on Kains Avenue and Adams Street (see Policy T-5.2).

Consistency with the City's General Plan and Zoning Ordinance

Obviously, this is related to the first item. However, at the last P&Z Commission meeting, Commissioner Donaldson specifically called this issue out. He noted that in staff reports and in the resolutions, staff claim that the project complies with or is consistent with the city's General Plan and zoning ordinance. Clearly, the project does not comply with many of the City's objective standards for which the applicant has obtained concessions and waivers available under State law. Commissioner Donaldson asked staff to provide a more complete statement of the project's consistency with Albany's standards. Several commissioners supported Donaldson's proposal.

Surprisingly, staff has not changed the claims of consistency in the resolutions. The current staff report offers an apparently slightly more nuanced analysis, claiming that the project meets the City's objective standards, as modified through waivers and concessions allowed by State Density Bonus Law. This statement is legal nonsense. The statutes do not authorize laws such as the HCA to modify a city's objective standards. The applicable law here is Government Code, § 65589.5, subdivision (j)(3), which states in principle part, "The receipt of a density bonus pursuant to Density Bonus Law...does not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, ..., ordinance..." Based on this, the City's analysis of the maximum FAR, density, setback and daylight plane, usable open space, and maximum height standards, should note

that the project does not satisfy the city's objective standards, but State Density Bonus Law does not permit the City to make a finding of inconsistency with any objective standards that have been waived under State Density Bonus Law.

Overall, this project is much too large for Albany. It is out of scale with its neighbors and will overwhelm the abutting residential neighborhood. It will create huge parking problems for area and traffic problems for Northern Albany.

Clay Larson

Sent from my iPhone

From: [REDACTED]
Sent: Monday, October 18, 2021 12:54 PM
To: citycouncil
Subject: Additional Comments regarding Item 9.1 Design Review, Density Bonus & Street Tree Removal for a New Mixed-Use Development at 540 San Pablo Avenue on Tonight's Meeting Agenda

Warning: This email originated from outside the City of Albany. Think before you click!

Mayor Gary and fellow Council Members,

I sent an earlier email summarizing issues with the project that I have raised in the past. I believe there are two newer issues that need to be addressed. In both cases, I think these issues should delay approval of the project.

Ground Floor Commercial

The staff report notes that “during the Planning & Zoning Commission review on September 29, 2021, concern was expressed about compliance with Section 20.12.080 (B) (3) which requires ground floor frontage on San Pablo Avenue to be commercial.” Surprisingly, this noncompliance was not otherwise identified in staff’s analysis of the project. The staff report next notes that, “After consultation with the City Attorney, it was determined that a concession could be used to grant relief from the requirements.” However, nothing in the record shows that the applicant has requested or that the City has granted a concession or waiver of this requirement. The staff report continues by noting that the project plans have been modified based on the Commission comments. Later these “modifications” are described as follows: “The revised project design provides bicycle rooms, a pet washing station, and a smaller utility room on the San Pablo Avenue frontage.” None of these modifications would satisfy the current requirements for ground floor commercial. It is not clear why this was included in the staff report.

The clear and perhaps only solution here is for the applicant to request a waiver of the requirements of Municipal Code Section 20.12.080 (B) (3). Here, of course, the applicant would have to show how the requirement would physically preclude the construction of the project. This justification would need to be reviewed and approved by the Planning and Zoning Commission and only then could the project be returned to the Council for final approval.

Project’s Exemption from CEQA Review

Staff recommends that the proposed project should be considered categorically exempt from the requirements of CEQA per Section 15332, “In-Fill Development” of the CEQA Guidelines. This section exempts in-fill development projects provided that they meet several specified conditions. The first condition requires that “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.” It is clear that the project is not consistent with Albany’s General Plan and zoning regulations. The project has been granted waivers and concessions exempting it from Albany’s requirements. Staff has indicated that the city is relying here on case law (*Wollmer v. City of Berkeley*), which found that word “applicable” in “applicable general plan policies” was dispositive and concluded that requirements waived under SDBL were not “applicable” in this case.

I think that the City should proceed cautiously. The referenced case law may not apply here. The project parameters are significantly different than that which is described in Albany 2035 General Plan. Density is 50% greater, FAR is increased by 30%, maximum height is nearly 90% greater than allowed in the General plan. Parking has been reduced. The provisions for buffering the impacts on adjacent residential described in the General Plan have been scrapped. The many changes here should clearly bring the project out of the coverage of the current CEQA approval of the 2035 General Plan. The changes brought about with this project require additional CEQA analysis in order for the Council to have information it needs to approve the project.

Clay Larson

Sent from [Mail](#) for Windows