

**CITY OF ALBANY
PLANNING AND ZONING AGENDA
STAFF REPORT**

Agenda date: June 14, 2011
Prepared by: JB

ITEM/ **6a**

SUBJECT: **Planning Application 10-028. Design Review, Conditional Use Permit and Front Yard Parking Exception.**

The subject property is a 4,000 square foot two-story building with existing ground floor retail and vacant second story most recently used as office space. The applicant is requesting a conditional use permit to allow a Turkish educational and cultural center.

SITE: **979 San Pablo, Second Floor**

APPLICANT/

OWNER: **Oytun Eskiyeenturk for Hashem Tabatabaee**

ZONING: **SPC (San Pablo Commercial)**

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission approve the request for conditional use permit, subject to the attached findings and conditions of approval.

BACKGROUND/PROJECT DESCRIPTION

The subject property is a 4,000 square foot two-story building with existing ground floor retail and vacant second story most recently used as city of Albany Community Development Department office space. The applicant is requesting a conditional use permit to allow a Turkish educational and cultural center. During the day, the facility would be used as the business office for the organization. Events for members would be held on evenings and weekends. The activities at the center would not include loud music or alcohol service. No exterior changes to the building are proposed.

ENVIRONMENTAL ANALYSIS

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15303, "New Construction or Conversion of Small Structures" of the CEQA Guidelines, which exempts small additions.

DISCUSSION OF KEY ISSUES

The second story office space has been vacant since early 2010. The applicant is an existing Turkish cultural/educational organization with offices in the South Bay. Staff recently approved a business license to allow the organization to occupy the space as an office use, which is a permitted use and does not require Commission review. The applicant requests a conditional use permit to allow Turkish cultural/educational center events to be held within the central open area of the office space. Under the Planning and Zoning Code, the proposed use would be classified as a cultural activity/institution. In addition to the material in the application, information on the organization is available on their web page at www.baycc.org.

The applicant has agreed to restrictions on load/live music, alcohol service, or the renting out of the facility for unrelated special events. It also should be noted that the layout of the space includes offices and rest rooms on the east side of the building, which will mitigate sound transmission from to nearby residences. The combination of these factors should significantly reduce the potential for noise or other public nuisance impacts on nearby residents and businesses.

Parking

The property currently has nine off-street parking spaces, with four being made available to the applicant. As either an office or cultural use, five parking spaces would normally be required. The Planning and Zoning code (Section 20.28.040 B.) has an exception for existing buildings when a land use change does not change to a category with a greater parking space requirement. Therefore, the application does not include a request for a parking exception. As practical matter, there are limited opportunities to expand off-street parking. Historically, the owner of the adjacent vacant property has been reluctant to make the adjacent property available for parking. Street parking on San Pablo Avenue, however, is generally available during evening events.

Attachments:

1. Analysis of Zoning Requirements
2. Project Application & Plans

ATTACHMENT 1 - ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS

20.12 Zoning Districts and Permitted Uses

General Plan: General Commercial
Zoning: SPC - San Pablo Commercial

20.16 Land Use Classifications

Cultural Activity/Institution

Surrounding	North - Commercial	East - R-3 Residential
Property Use	South - Vacant Lot	West - City Hall

20.20.080 Secondary Residential Units.

Not applicable.

20.24.020 Table of Site Regulations by District.

Not applicable.

20.24.030 Overlay District Regulations.

Not applicable.

20.24.040 Hillside Residential Regulations.

Not applicable.

20.24.050 Floor-Area-Ratio.

Not applicable.

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 Discussion.

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 mailed on June 3, 2011, 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.

Not applicable.

ATTACHMENT 2 - FINDINGS

Findings for Conditional Use Permit approval (Per section 20.100.030.D of the AMC)

Required Finding	Explanation
<p>1. <i>Necessity, Desirability, Compatibility.</i> <i>The project's size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.</i></p>	<p>The General Plan designates this area for commercial uses. Additionally, the existing building meets City zoning standards for location, intensity and type of development.</p>
<p>2. <i>Adverse Impacts.</i> <i>The project's use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:</i></p> <ul style="list-style-type: none"> a. <i>The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;</i> b. <i>The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;</i> c. <i>The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;</i> d. <i>Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;</i> 	<p>The applicant has agreed to conditions of approval that are expected significantly reduce the potential for noise or other public nuisance impacts on nearby residents and businesses.</p>
<p>3. <i>Consistency with Zoning Ordinance, General Plan and Specific Plan.</i> <i>That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.</i></p>	<p>The proposed project compliment existing businesses in the area and bring vitality to this portion of San Pablo Avenue commercial district.</p>

ATTACHMENT 3
COMMUNITY DEVELOPMENT DEPARTMENT CONDITIONS OF APPROVAL

GENERAL PROJECT CONDITIONS

- Gen-1 **Project Approval.** This Design Review approval is for the Second Floor of 979 San Pablo Avenue, as substantially shown and described in the application, except as may be modified by conditions herein, as presented to the Planning and Zoning Commission on June 14, 2011. For any condition herein that requires preparation of a Final Plan where the project applicant has submitted a conceptual plan, the project applicant shall submit final plan(s) in substantial conformance with the conceptual plan, but incorporate the modifications required by the conditions herein for approval by the City.
- GEN-2 **Project Approval Expiration.** This Design Review approval expire on June 28, 2012 (one year from the date on which this approval becomes effective) or at an alternate time specified as a condition of approval, unless [a building permit has been issued and construction diligently pursued; a certificate of occupancy has been issued; the use is established; the use permit, variance or design review approval is renewed]. The approval may be renewed by the Community Development Director for a period up to an additional two (2) years, provided that, at least ten (10) days before expiration of one (1) year from the date when the approval becomes effective, an application for renewal of the approval is filed with the Community Development Department. The Community Development Director may grant a renewal of an approval where there is no change in the original application, or there is no request to change any condition of approval.
- Gen-3 **FEES.** The applicant shall pay any and all City and other related fees applicable to the property, as may be modified by conditions herein. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured, and shall be paid before issuance of said permit or before any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering, Fire and Inspection Fees. The project developer shall also reimburse the City for direct costs of planning; building and engineering plan check and inspection, as mutually agreed between the City and developer.
- GEN-4 **Appeals.** The Albany Municipal Code provides that any action of the Planning staff may be appealed to the Planning and Zoning Commission, and any action of the Planning and Zoning Commission may be appealed to the City Council as per the procedures described in Section 20.100.080. The City Clerk will then schedule the matter for the next available City Council meeting.
- GEN-5 **Requirement for Building Permit.** Approval granted by the Planning and Zoning Commission does not constitute a building permit or authorization to begin any construction or demolish an existing structure. An appropriate permit issued by the Community Development Department must be obtained before constructing, enlarging, moving, converting, or demolishing any building or structure within the City.

GEN-6 **Fire Department Approval.** As part of a building permit application, the applicant shall submit written documentation that all requirements of the Albany Fire Department have, or will be, met to the satisfaction of the AFD.

GEN-11 **Hold Harmless Agreement.** Pursuant to Government Code Section 66474.9, the applicant (including any agent thereof) shall defend, indemnify, and hold harmless, the City of Albany and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul the City's approval concerning this application, which action is brought within the time period provide for in Section 66499.37. The City will promptly notify the applicant of any such claim action or proceeding and cooperate fully in the defense.

SPECIAL CONDITIONS

SPECIAL 1 All functions in the space must comply with City noise standards.

SPECIAL 2 No alcohol service allowed without review and approval of the Community Development Department. The Community Development Department shall refer any such application to the Planning and Zoning Commission and/or the Chief of Police if the proposed function may generate significant noise, parking, or other neighborhood impacts.

SPECIAL 3 Renting the facility for unrelated special events is not allowed without review and approval of the Community Development Department. The Community Development Department shall refer any such application to the Planning and Zoning Commission and/or the Chief of Police if the proposed function may generate significant noise, parking, or other neighborhood impacts.

Appeals: The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council, if such appeal is filed within 14 days of the date of the action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee. The City Clerk will then schedule the matter for the next available City Council meeting.