

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

Agenda date: 11/11/08

Prepared by: AC

Reviewed by: JB

ITEM/ 4d

SUBJECT: **Application 08-063. Design Review.** Request for Design Review approval to allow a 33sq.ft., two-story addition, which will provide an ADA accessible lift for patrons.

SITE: **405 Kains**

APPLICANT/

OWNER: **Morimoto Matamo Kang Architects, Doris Kang, Jim Argenta for Gary Tang**

ZONING: **R-3 (Multi-Family Residential) and WC (Watercourse Overlay)**

STAFF RECOMMENDATION

Approve the request for Design Review, subject to the draft findings and conditions.

BACKGROUND/PROJECT DESCRIPTION

The subject property is a two-story commercial building located adjacent to the El Cerrito Plaza; Cerrito Creek borders the north side. The building currently houses medical and administrative offices on the second-story and the temporary administrative and finance offices for the City of Albany on the first-floor.

The applicant is proposing to complete a number of building improvements including major interior renovations. The two improvements that will alter the aesthetics of the building include construction of a new 33 square foot, two-story addition on the west (front) elevation and the expansion of an existing balcony on the west elevation. There is currently a deck that will be “squared off” and replaced. All development requirements are met and only Design Review approval is requested.

ENVIRONMENTAL ANALYSIS

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15301, “Existing Facilities” of the CEQA Guidelines, which exempts improvements to existing buildings/facilities.

DISCUSSION OF KEY ISSUES

Design Review

The applicant has made a self-initiated decision to provide ADA access for a building that currently does not have any handicap access to the second floor. The proposed lift would be located on the front elevation, in a space that is currently an open platform to the entrance of the building. The lift will create a total of 33sq.ft. of additional area. The lift will be finished in stucco and painted to match the existing finish on the building and add two new doors, at the first and second levels, of the building.

The proposed balcony extension is proposed on the second-story of the west elevation. It will extend out passed the wall and will appear as a cantilevered balcony from the south elevation. The railing is proposed to be aluminum to match other elements on the building and will span the entire width of the open area on the second-story. Staff believes that the new balcony is attractive and will provide more open space for the upstairs tenants.

Staff believes that providing universal access is a priority for all buildings and appreciates the applicant's decision to do so in an attractive, low-impact manner. The lift area will be finished to match the building and is located in an existing area thus not increasing the amount of impervious surface. Staff therefore recommends approval of the proposed project the following project-specific conditions of approval: 1) A cut sheet of the new lift doors shall be provided as part of the building permit application, subject to staff review and approval; 2) The applicant shall receive all applicable approvals, including an approval from the State Department of Industrial Relations, Division of Occupation Safety and Health.

Green Building Requirements

The applicant has provided the green points checklist, the Commercial Improvements from LEED. A total of 57 points has been provided where "the maximum points practicable" are required. Staff believes that applicant has been thoughtful in considering "green improvements" to not only the proposed project areas but also the whole building.

Attachments:

1. Analysis of Zoning Requirements
2. Draft Findings for Approval
3. Draft Conditions of Approval
4. Application, Project Plans
5. Green Points Checklist

ATTACHMENT 1 – ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS

20.12 Zoning Districts And Permitted Uses

General Plan: High Density Residential
Zoning: R-3 (High Density Residential) and WC (Watercourse Overlay)

20.16 Land Use Classifications

Current Use: Office

Surrounding	North - Commercial (City of El Cerrito)	East – Residential
Property Use	South - Residential	West – Commercial

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.

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 application was provided on October 31, 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

Green Building Requirements

See Summary of Key Issues

ATTACHMENT 2 – FINDINGS

Findings for Design Review approval (Per section 20.100.050.E of the AMC)

<i>Required Finding</i>	Explanation
<p>1. <i>The project conforms to the General Plan, any applicable specific plan, applicable design guidelines adopted by the City of Albany, and all applicable provisions of this Chapter.</i></p>	<p>The General Plan designates this area for high density residential development. The existing use is legal non-conforming, and the proposed improvements would not intensify this use.</p>
<p>2. <i>Approval of project design is consistent with the purpose and intent of this section, which states “designs of projects...will result in improvements that are visually and functionally appropriate to their site conditions and harmonious with their surroundings, including natural landforms and vegetation. Additional purposes of design review include (but are not limited to): that retention and maintenance of existing buildings and landscape features are considered; and that site access and vehicular parking are sufficient.”</i></p>	<p>The proposal is in scale and harmony with existing development near the site and will not create a visual detriment at the site or the neighborhood.</p> <p>The property is already developed and the project will only slightly change the aesthetic appearance of the building. The new balcony is attractive, compliments the building well, and will provide more open space for the upstairs tenants. In addition, providing universal access is a priority under Federal law. The lift area will be finished to match the building and is located in an existing area thus not increasing the amount of impervious surface.</p>
<p>3. <i>Approval of the project is in the interest of public health, safety and general welfare.</i></p>	<p>The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely impact property, improvements or potential future development in the area. The project will provide an ADA access lift, which is in the interest of public health, safety and general welfare.</p>
<p>4. <i>The project is in substantial compliance with applicable general and specific Standards for Review stated in Subsection 20.100.050.D.</i></p>	<p>The project as designed is in substantial compliance with the standards as stated, including access, architecture, natural features, coordination of design details, and privacy</p>

ATTACHMENT 3 - CONDITIONS OF APPROVAL

COMMUNITY DEVELOPMENT DEPARTMENT CONDITIONS OF APPROVAL

GENERAL PROJECT CONDITIONS

- Gen-1 **Project Approval.** This Design Review approval is for Doris Kang and Jim Argenta for Gary Tang, as substantially shown and described on the project plans, except as may be modified by conditions herein. Plans include preliminary master site plan prepared by Morimoto Matamo Kang Architects, date received October 6, 2008, architectural plans (project perspectives, building sections, and floor plans, all as presented to the Planning and Zoning Commission on November 11, 2008). For any condition herein that requires preparation of a Final Plan where the project developer has submitted a conceptual plan, the project developer 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 Conditional Use Permit, Design Review, and Parking Exception approval will expire on November 25, 2009 (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 prior to 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 prior to issuance of said permit or prior to 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 prior to 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-7 **Engineering Approval.** As part of a building permit application, the applicant shall submit written documentation that all requirements of the Public Works Department have, or will be, met to the satisfaction of the City Engineer.
- Gen-8 **Construction Hours.** Construction activity shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. Mondays through Saturdays, and 10:00 a.m. to 6:00 p.m., Sundays and legal holidays, unless otherwise approved in writing by the City Engineer for general construction activity. Failure to comply with construction hours may result in stop work orders or other administrative actions.
- Gen-9 **Archeological Remains.** In the event subsurface archeological remains are discovered during any construction or preconstruction activities on the site, all land alteration work within 100 feet of the find shall be halted, the Community Development Department notified, and a professional archeologist, certified by the Society of California Archeology and/or the Society of Professional Archeology, shall be notified. Site work in this area shall not occur until the archeologist has had an opportunity to evaluate the significance of the find and to outline appropriate mitigation measures, if deemed necessary. If prehistoric archeological deposits are discovered during development of the site, local Native American organizations shall be consulted and involved in making resource management decisions.
- Gen-10 **Modifications to Approved Plans.** The project shall be constructed as approved. Planning staff may approve minor modifications in the project design, but not the permitted land use (per MC 20.12). A change in an item requiring discretionary approval and any other changes deemed appropriate by the Planning staff shall require further Planning and Zoning Commission approval through the Design Review process.
- 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.

- Gen-12 **Public Improvements Standards.** Public improvements shall be designed and constructed in accordance with the City's Standard Specifications and Standard Details, unless specifically waived in writing by the City Engineer.
- Gen-13 **Title 24 Accessibility Standards.** All construction shall be designed and built in accordance with California Title 24 handicap accessibility standards. Appropriate details and specifications shall be incorporated into the plans and submitted at time of building permit application.
- Gen-14 **California Title 24 Energy Conservation Standards.** All buildings shall be designed in accordance with the State of California Title 24 energy conservation standards for non-residential buildings. The necessary plans and documentation shall be submitted at time of building permit application.

Architecture Conditions

- Arch-1 **Material Samples.** Samples of final exterior materials and the proposed color palette shall be submitted for review and approval by the Community Development Department as part of building permit application.
- Arch-2 **Final Architectural Drawings.** The applicant shall submit final architectural elevations, details and revisions for the review and approval of the Community Development Department as part of building permit application.

Lighting Conditions

- Lght-1 **Exterior Lighting.** All exterior lighting shall be installed in such a manner that glare is directed away from surrounding properties and rights-of-way. If required, exterior light fixtures shall be equipped with "cut off" lenses to minimize light and glare spill over onto adjacent properties.
- Lght-2 **Shielding of Lighting.** Prior to the certificate of occupancy all accent lighting shall be directed downward and, if necessary, fixed with cut-off lenses to ensure that no glare spills onto neighboring properties.

PUBLIC WORKS DEPARTMENT CONDITIONS

Grading Conditions

- Grad – 1 **Dust Control Program.** A dust control program shall be prepared by the project developer and approved by the Community Development Department and City Engineer prior to issuance of a grading permit. The dust control plan shall address such items as covering stockpiled material, frequent watering of graded areas, revegetating graded areas, speed limits for grading equipment and similar items.

PUBLIC IMPROVEMENTS CONDITIONS

- PUBIM-1 **Encroachment Permit.** The applicant shall obtain an encroachment permit from the Engineering Division prior to commencing any construction activities within any public right-of-way or easement.
- PUBIM-2 **Debris Removal.** All mud, dirt or construction debris carried off the construction site onto adjacent streets shall be removed each day. No materials shall be discharged onto a sidewalk, street, gutter, storm drain or creek.
- PUBIM-3 **Damage to Street Improvements.** Any damage to street improvements now existing or done during construction on or adjacent to the subject property shall be repaired to the satisfaction of the City Engineer at the full expense of the applicant. This shall include sidewalk repair, slurry seal, street reconstruction or others, as may be required by the City Engineer.
- PUBIM-4 **Right-of-Way Construction Standards.** All improvements within the public right-of-way, including curb, gutter, sidewalks, driveways, paving and utilities, shall be reconstructed in accordance with approved standards and/or plans and shall comply with the standard plans and specification of the Community Development Department and Chapter 14 of the City Code.

FIRE DEPARTMENT CONDITIONS

- FIRE-1 The applicant must comply with all requirements and conditions set forth by the Fire Department.

STRUCTURAL CONTROL MEASURES

- STRUC-1 **Illegal Dumping to Storm Drain Inlets and Waterways.** On-site storm drain inlets shall be clearly marked with the words “No Dumping! Flows to Bay,” or equivalent, using methods approved by the City of Albany.
- STRUC-2 **Pesticide/Fertilizer Application Landscaping** shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution. If a landscaping plan is required as part of a development project application, the plan shall meet the following conditions related to reduction of pesticide use on the project site:
- a) Where feasible, landscaping shall be designed and operated to treat stormwater runoff by incorporating elements that collect, detain, and infiltrate runoff. In areas that provide detention of water, plants that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified.

- b) Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.
- c) Existing native trees, shrubs, and ground cover shall be retained and incorporated into the landscape plan to the maximum extent practicable.
- d) Proper maintenance of landscaping, with minimal pesticide use, shall be the responsibility of the property owner.

OPERATIONAL BEST MANAGEMENT PRACTICES (BMPs)

BMP-GEN1 Stormwater Pollution Prevention Control Measures. The project plans shall include stormwater pollution prevention and control measures for the operation and maintenance of the project during and after construction for the review and approval of the City or County Engineer. The project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit to the maximum extent practicable the entry of pollutants into stormwater runoff.

BMP-GEN2 Erosion Control Measures. The project plan shall also include erosion control measures to prevent soil, dirt and debris from entering the storm drain system, in accordance with the practices outlined in the *ABAG Erosion and Sediment Control Handbook*, California Storm Water Best Management Practice Handbooks, and Regional Water Quality Control Board’s *Erosion and Sediment Control Field Manual*

BMP-GEN3 Responsibility of Contractors. The applicant is responsible for ensuring that all contractors and subcontractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations and/or a project stop order.

BMP-1 Paved Sidewalks and Parking Lots. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. Debris resulting from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Washwater containing any soap, cleaning agent or degreaser shall be collected and discharged to the sanitary sewer and shall not be discharged to a storm drain. The applicant shall contact the City Engineer for specific connection and discharge requirements.

GENERAL MANAGEMENT BEST MANAGEMENT PRACTICES (BMPs)

BMP-CNST1 Construction Access Routes. Construction access routes shall be limited to those approved by the City Engineer and shall be shown on the approved grading plan.

- BMP-CNST2 **Collection of Construction Debris.** Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
- BMP-CNST3 **Removal of Waste.** Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
- BMP-CNST4 **Sweeping of Public Right-of-Way.** Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping.
- BMP-CNST5 **Filter Materials at Storm Drain Inlet.** Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to:
- a) Start of the rainy season (October 1);
 - b) Site dewatering activities;
 - c) Street washing activities;
 - d) Saw cutting asphalt or concrete; and
 - e) Order to retain any debris or dirt flowing into the City storm drain system.
- Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash.
- BMP-CNST6 **Containment of Materials.** Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides, or any other materials used on the project site that have the potential for being discharged to the storm drain system by wind or in the event of a material spill.
- BMP-CNST7 **Cleaning of Equipment.** Never clean machinery, tools, brushes, etc. or rinse containers into a street, gutter, storm drain or stream. See the *Building Maintenance/ Remodeling* flyer for more information.
- BMP-CNST8 **Minimize Removal of Natural Vegetation.** Minimize removal of natural vegetation or ground cover from the site in order to minimize the potential for erosion and sedimentation problems. Replant the area as soon as possible. All cut and fill slopes shall be stabilized as soon as possible after grading is completed. No site grading shall occur between October 1 and April 15 unless approved erosion and sedimentation control measures are in place.

PROJECT-SPECIFIC CONDITIONS

- Special-1 A cut sheet of the new lift doors shall be provided as part of the building permit application, subject to staff review and approval.

Special-2 The applicant shall receive all applicable approvals, including an approval from the State Department of Industrial Relations, Division of Occupation Safety and Health.

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.