

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

Agenda date: 1/13/09

Prepared by: AC

Reviewed by: JB

ITEM/ 4d
SUBJECT: Planning Application 08-072. Request for a approval to allow two wall signs on an existing commercial building.

SITE: 1061 Eastshore

**APPLICANT/
OWNER:** Peter Shekeloff

ZONING: CMX (Commercial Mixed-Use)

STAFF RECOMMENDATION

Approve the request to allow two wall signs on an existing commercial building.

BACKGROUND/PROJECT DESCRIPTION

The subject property is a two-story commercial/ office building located in the CMX (Commercial Mixed-Use) zoning district, east of Highway 80. The Myer Crest building received approval of a master conditional use permit on December 11, 2007 for the building, which allows the 20 tenant spaces to be leased for certain uses (see attachment 5). During that review process, a master sign plan was not discussed. Nor does there appear to be record of a master sign plan during its original approval.

The Municipal Code Section states that approval by the Planning and Zoning Commission is required for all signage in the CMX zoning district. There are no prescribed size limitations in the CMX district, and thus an applicant can propose any sized signage.

The applicant is proposing to reface two existing 8'-8" x 10', non illuminated, vinyl wall signs on the south and west elevations to read "dirtcheapmattresses.com." The signs are slightly raised from the face of the building. In addition, the building is called the "Myer Crest," which is labeled in individual, non-illuminated letter signs on the west elevation. The proposed signage is the only signage proposed for an individual tenant.

ENVIRONMENTAL ANALYSIS

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15301 of the CEQA Guidelines, which exempts existing facilities.

ARCHITECTURAL REVIEW

The applicant is asking for approval reface two existing wall signs (the reface has actually already been completed). The previous signs were yellow and black in color, which were louder and more visually intrusive than the new signage. The original signs were never approved by staff thus are non-conforming.

Staff recommends that the Planning and Zoning Commission approve the request with a condition of approval requiring that the signage be removed in the future if the tenant vacates the building, and that a master signage program be established as part of a subsequent sign application. The property owner was agreeable to the signage being removed if/when the tenant vacates. The new signage is more attractive and aesthetically appropriate than the previous signage. The proposed signage is not a visual detriment from I-80. If all tenants applied for similar signage, however, it could become a visual detriment.

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 action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee.

Attachments:

1. Analysis of Zoning Requirements
2. Findings
3. Conditions of Approval
4. Application, Plans, Photos
5. Staff Report from December 11, 2007

ATTACHMENT 1 - ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS

20.12 Zoning Districts And Permitted Uses

General Plan: Commercial/Service/Light Industrial
Zoning: CMX (Commercial Mixed Use)

20.16 Land Use Classifications

Commercial mixed-use

Surrounding	North - CMX	East - Highway 80
Property Use	South - CMX	West - Railroad

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.

See discussion of key issues.

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

Approval of proposed signage discussion would bring non-conforming signage into compliance.

20.48 Removal of Trees

Not applicable.

20.52 Flood Damage Prevention Regulations

Not applicable.

20.100.030 Use Permits.

See discussion of background.

20.100.040 Variances.

Not applicable.

20.100.010 Common Permit Procedures.

Public notice of this application was provided on December 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.

Not applicable.

Green Building

Not applicable.

ATTACHMENT 2 - FINDINGS

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

Required Finding	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 commercial development. Additionally, the project meets City zoning standards for location, intensity and type of development.</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 in the vicinity of the site. The proposed project will not alter the size, shape or footprint of the building thus safe and convenient access to the property for both vehicles and pedestrians will not change. The project will not remove any significant vegetation and will not require significant grading. The project will not create a visual detriment at the site or the neighborhood.</p> <p>The previous signs were yellow and black in color, which were louder and more visually intrusive than the new signage. The proposed signage is appropriate in size and color. In addition, as a condition of approval the signage must be removed in-lieu of a master sign plan when the current tenant vacates.</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 meets all development requirements and is completely within the existing building envelope.</p> <p>The wall signs already exist and require re-facing; therefore, will not increase in size or area thus not affect public health, safety or 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

COMMUNITY DEVELOPMENT DEPARTMENT CONDITIONS OF APPROVAL

1. This approval allows the reface of two existing wall signs, except as may be modified by conditions herein. Application, plans and photos submitted by Peter Shekeloff date received by the Community Development Department on November 18, 2008, and presented to the Planning and Zoning Commission at its meeting of January 13, 2009.
2. The applicants shall pay all City and other related fees applicable to the property. 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 and Inspection Fees.
3. Pursuant to Government Code Section 66474.9, the applicants (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 applicants of any such claim action or proceeding and cooperate fully in the defense.
4. The approved signage shall be removed in the future when the tenant vacates the building.
5. A master signage program must be established before future signage can be erected.

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.

Date Received: 11/18/08
 Planning Application No.: 08-072
 Fee Paid: \$183
 # 54080



City of Albany



PLANNING APPLICATION FORM (GENERAL PROJECTS)

<p>For PLANNING & ZONING COMMISSION action:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Conditional Use Permit* <input type="checkbox"/> Design Review (residential, residential additions, commercial, office and multi-family*,) <input type="checkbox"/> General Plan Amendment from _____ to _____ <input type="checkbox"/> Parcel Map/ Tentative Map/ Vesting Tentative Map, Lot Line Relocation <input type="checkbox"/> Parking Exceptions/Reductions <input type="checkbox"/> Precise Development Plan <input type="checkbox"/> Second Unit Use Permit** <input type="checkbox"/> Variance* <input type="checkbox"/> Zone Change from _____ to _____ <input type="checkbox"/> Other: 	<p>For ADMINISTRATIVE action:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Admin. Lot Line Relocation <input type="checkbox"/> Home Occupations <input checked="" type="checkbox"/> Sign Review <input type="checkbox"/> Other:
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* Please complete the appropriate Supplemental Questionnaire.

The City of Albany Municipal Code has certain requirements for Planning Applications. Your answering the following questions will help staff assess how to process your application. Thus, we may have additional questions based on your responses below. Additionally, after your application is accepted for processing, staff and Planning and Zoning Commissioners will likely make at least one field visit to your house and neighborhood.

Job Site Address: <u>1061 Eastshore Blvd</u>	Zone: _____
Property Owner(s) Name: <u>MURRAY BRUCE</u> <u>Murray Bruce</u>	Phone: <u>510 804 1044</u> Fax: <u>510 845 1544</u> Email: <u>murray@meyercrest.com</u>
Mailing Address: <u>125 FOLGER AVE.</u>	City: <u>BERKELEY</u> State/Zip: <u>CA. 94710</u>
Applicant(s) Name (contact person): <u>Peter Shekeloff</u>	Phone: <u>510-432-0500</u> Fax: _____ Email: _____
Mailing Address: <u>1068 Hillgirt Ln</u>	City: <u>Oakland</u> State/Zip: <u>94610</u>

PROJECT DESCRIPTION (Please use back of sheet or attach extra sheets, if necessary): Replace face in 8x8 box existing

GENERAL INFORMATION (Please fill out this section if you are asking for approval of a project that will require construction):

Item	Existing	Proposed						
Lot size (square feet)								
Size of structure(s) or commercial space (square feet)								
Height and No. of stories								
Lot coverage ¹								
Floor Area Ratio (FAR) ²	X							
Impervious Area ³								
Slope Density ⁴								
No. of dwelling units								
Parking ⁵ <table border="1" style="display: inline-table; vertical-align: middle;"> <tr> <td>Number of off-street spaces</td> <td></td> </tr> <tr> <td>Number of spaces in garage</td> <td></td> </tr> <tr> <td>Size of spaces</td> <td></td> </tr> </table>	Number of off-street spaces		Number of spaces in garage		Size of spaces			
Number of off-street spaces								
Number of spaces in garage								
Size of spaces								

¹ Lot Coverage applies to all zoning districts. It is defined as the land area covered by all the structures on a site, including all projections, except portions of uncovered decks, porches or landings, balconies, or stairways that are less than six feet above grade and are not enclosed by walls on more than two sides; eaves, trellises and similar structures that do not have solid roofs.

² Floor Area Ratio (FAR) is defined as the proportion of building floor area per area of the parcel of land upon which the building rests. See the informational handout "How to Calculate Floor Area Ratio" for details on what is included and excluded.

³ Impervious Area includes the total square footage of building footprint(s), driveway(s), patio(s), parking lots, walkway(s), and any other impervious surfaces.

⁴ Slope Density requirements apply in the HD Zoning District pursuant to Measure K. See handout on how to measure slope density in this area.

⁵ Minimum parking requirements were enacted under Measure D. This Measure requires that all residential development must have a minimum of two off-street parking spaces. Some exceptions may apply to your project, see residential development handout.

Restrictions: Are there any deed restrictions, easements, etc. that affect the property, and, if so, what are they? In some instances, you may be required to provide a title report.

← Signature of Property Owner

Signature of Applicant

Date

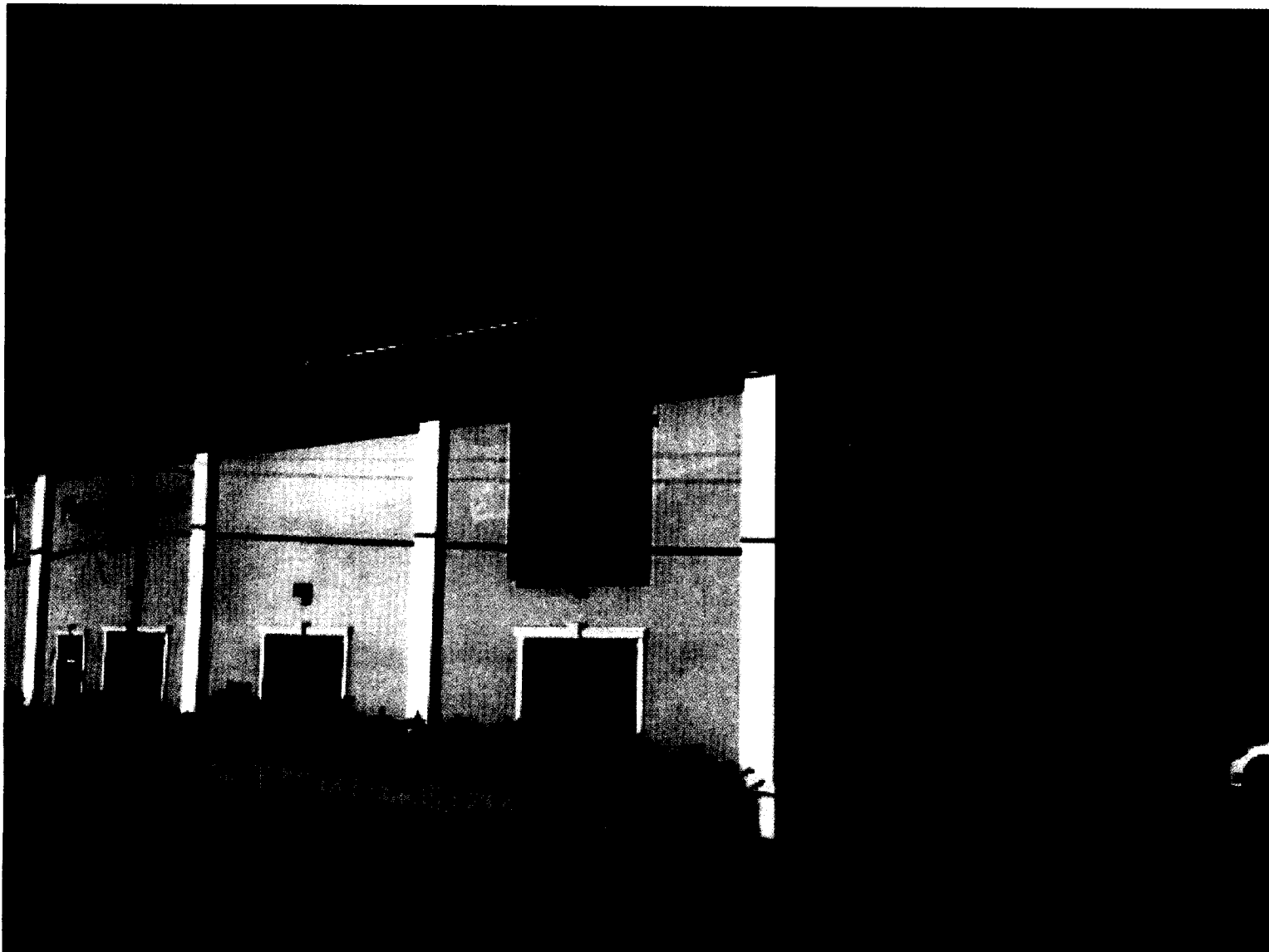
11/18/08
Date

Community Development Department staff is available between 8:30 a.m. and 7:00 p.m. on Mondays, 8:30 a.m. through 5:00 p.m. on Tuesdays through Thursdays, and 8:30 a.m. to 12:30 p.m. on Fridays at 1000 San Pablo Avenue, Albany, CA 94706; TEL: (510) 528-5760.

CITY OF ALBANY

NOV 18 2008

COMMUNITY DEVELOPMENT
DEPARTMENT

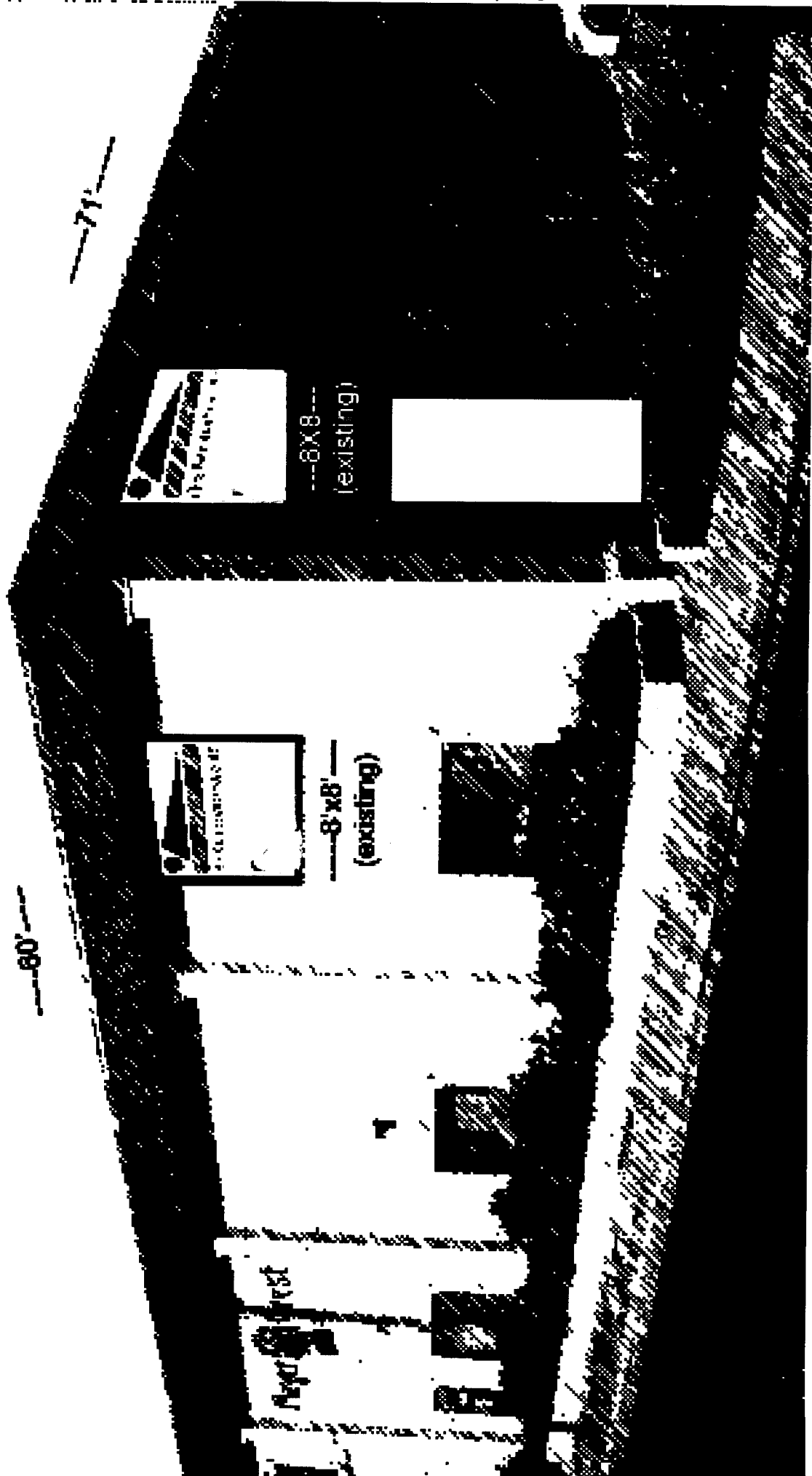


CITY OF ALBANY

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COMMUNITY DEVELOPMENT
DEPARTMENT

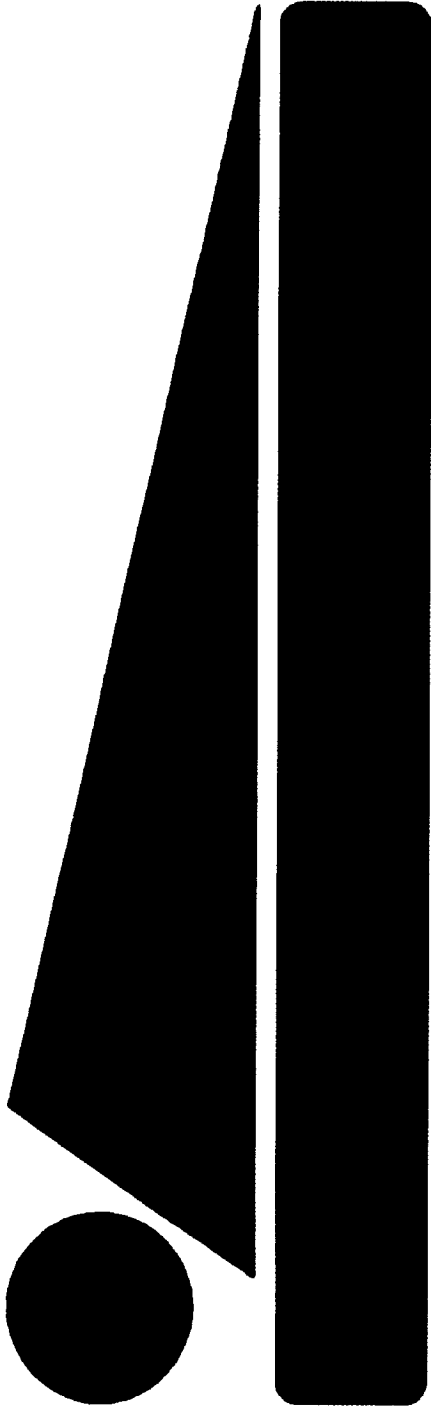
dirtcheapmattress.com
1061 Eastshore Highway, ste #120
Albany, CA



NOV 18 2008

COMMUNITY DEVELOPMENT
DEPARTMENT

18



dirtcheapmattress.com

MATTRESS OUTLET

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City of Albany
Planning and Zoning Commission
Study Session/Staff Report

Meeting Date: December 11, 2007 Prepared by: _____

Agenda Item: 4b Reviewed by: _____

Subject: 1061 Eastshore. Planning Application 07-089. Conditional Use Permit.
Request for approval of a Master Conditional Use Permit for all an existing commercial building with twenty units.

Applicant/
Owner: Murray Bruce for Bethana, LLC

Recommendation

Staff recommends that the Planning and Zoning Commission discuss the proposed project and provide direction to the applicant on appropriate revisions.

Project Description

The subject property has an existing two-story, twenty unit commercial building. The property is in the CMX (Commercial Mixed Use) zoning district. In the CMX district all uses require a conditional use permit. The applicant is requesting a master use permit, which would allow certain pre-determined uses without subsequent discretionary review.

Building permits for the property were issued in 1997 which allowed improvements to the building and which created the current floor plan. (See attachment 7)

Background on Application

The application was received on November 8, 2007 and deemed complete for Commission review on November 30, 2007.

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 projects for operation, repair, maintenance, permitting, leasing, licensing or minor alteration to existing structures.

ATTACHMENT #5

Summary of Key Issues

Land Uses

The CMX commercial zoning districts are the only areas where a conditional use permit is required for all uses. It is also the only area where industrial uses are allowed for consideration. Industrial uses are often characterized by impacts that need mitigation to assure there are no adverse impacts on neighboring properties or the environment, i.e. noise, fumes, hazardous materials, etc.

Many of the uses currently occupying and proposed to occupy the subject building have low to no impact but are still required to receive a conditional use permit. Staff believes there are many uses that are appropriate as permitted uses at the site and should not require discretionary review. Staff recommends that the Commission approve a master conditional use permit at the site, which permit all uses without discretionary review, except for the following:

- Adult entertainment establishment
- Automobile vehicle equipment sales and/or rental
- Automobile service station (including fueling station)
- Automobile repair
- Automobile washing
- Bars
- Building materials sales and service with open storage area
- Commercial recreation/Entertainment
- Communication Facilities
- Dry Cleaner
- Funeral and internment services
- Gym and health clubs
- Hotels and motels
- Laundry (large scale and self-service)
- Liquor store
- Parking facility (nonresidential)
- Printing (industrial)
- Research and development (commercial)
- Restaurant (all types)
- Services, massage
- All "Industrial" uses
- And any other uses determined by staff as needing discretionary review

Parking

There are thirty-nine parking spaces on the site, nine of which are designated for handicap. The building tenants and customers all utilize the shared parking. The building is located on the west side of Highway 80, which receives little traffic. Staff recommends that the Commission allow staff to determine parking need on a case-by-case basis as the tenant uses change.

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 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.

Attachments:

1. Analysis of Zoning Requirements
2. Draft Findings
3. Draft Conditions of Approval
4. Application
5. Municipal Code Section 20.12.040
"Permitted Land Uses by District"
6. List of Current Uses at the Site
7. Site and Floor Plans

ATTACHMENT 1 - ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS

20.12 Zoning Districts And Permitted Uses

General Plan: Commercial/Service/Light Industrial
Zoning: CMX (Commercial Mixed Use)

20.16 Land Use Classifications

Restaurant with drive-through

Surrounding	North - CMX	East - Highway 80
Property Use	South - CMX	West - Railroad

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.

See discussion of key issues.

20.24.130 Accessory Buildings.

Not applicable.

20.28 Off-Street Parking Requirement.

See discussion of key issues.

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.

See discussion of key issues.

20.100.040 Variances.

Not applicable.

20.100.010 Common Permit Procedures.

Public notice of this application was provided on November 30, 2007 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.

Green Building

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/retail/industrial development. Additionally, the project meets City zoning standards for location, intensity and type of development. There are existing uses at the site that have no impact on the surrounding areas as will all the permitted uses granted in the master conditional use permit.</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 proposal is in scale and harmony with existing development in the vicinity of the site. The architectural style, design and building materials are consistent with the existing dwelling and with the City's Design Guidelines. The property is an already developed site that will not physically be affected by the proposed project. The project will not remove any significant vegetation and will not require significant grading. The project will not have an effect on aesthetics of the site, therefore, will not create a visual detriment at the site or the neighborhood.</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</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</p>

<i>Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.</i>	future development in the area. All of the permitted uses have little to no impact on other tenants in the building or surrounding areas.
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ATTACHMENT 3 - CONDITIONS OF APPROVAL

1. This Conditional Use Permit approval grants approval of a Master Conditional Use Permit for an existing building, except as may be modified by conditions herein. Application, CUP and questionnaire submitted by Murray Bruce for Bethana, LLC, dated received by the Community Development Department on November 8, 2007, and presented to the Planning and Zoning Commission at its meeting of December 11, 2007.
2. The applicants shall pay any and all City and other related fees applicable to the property. 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 and Inspection Fees
3. Pursuant to Government Code Section 66474.9, the applicants (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 applicants of any such claim action or proceeding and cooperate fully in the defense.
4. The following uses are required to be obtain a conditional use permit:
 - Adult entertainment establishment
 - Automobile vehicle equipment sales and/or rental
 - Automobile service station (including fueling station)
 - Automobile repair
 - Automobile washing
 - Bars
 - Building materials sales and service with open storage area
 - Commercial recreation/Entertainment
 - Communication Facilities
 - Dry Cleaner
 - Funeral and internment services
 - Gym and health clubs
 - Hotels and motels
 - Laundry (large scale and self-service)
 - Liquor store
 - Parking facility (nonresidential)
 - Printing (industrial)
 - Research and development (commercial)

Restaurant (all types)

Services, massage

All "Industrial" uses

And any other uses determined by staff as needing discretionary review

5. All other Planning and Zoning Code requirements, including Design Review, are applicable to the site.
6. Staff shall determine parking need on a case-by-case basis as the tenant uses change.

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.