

Location:	311 2nd Street – 2nd and Harrison (APN 001-0149-007-00) (see map on the reverse)
Proposal:	Demolition of the existing Meyers Plumbing Supply Warehouse and construction of 111 condominium residential dwellings above a parking podium with 1,033 sq. ft. of retail space on the ground level.
Applicant:	Phil Kerr and Molly Maybrun
Owner:	The Olson Company
Case File Number:	CDV05-522; TPM 8865
Planning Permits Required:	Major Design Review for a project involving 25,000 square feet of floor area. Tentative Parcel Map approval is also requested.
	<i>The Planning Commission approved a Minor Conditional Use Permit for parking and loading within 75' of the front lot line; Minor Variances for the rear yard setback, residential loading, and for parking dimensions where adjacent to a column or other obstruction on January 4, 2006. At that meeting, the Planning Commission requested that the exterior façade design of the project be returned to the full Commission for a final decision.</i>
General Plan:	Mixed Use District – Estuary Policy Plan
Zoning:	C-45 Community Shopping Commercial / S-4 Design Review Combining Zone
Environmental Determination:	On January 4, 2006, the Planning Commission also affirmed staff's environmental determination for a CEQA Infill Exemption.
Historic Status:	The existing building is not a Potentially Designated Historic Property; Survey rating F3. The project is directly adjacent to the Southern Pacific RR Lineman's Bunkhouse. This building is a PDHP with a survey rating of Cb+3.
Service Delivery District:	Downtown Metro
City Council District:	3
Date Filed	October 12, 2005
Staff Recommendation:	Decision based on staff report
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Heather Klein at 510 238-3659 or by e-mail at hklein@oaklandnet.com .

SUMMARY

The Olson Company has submitted a request to demolish the existing Meyer's Plumbing Supply Warehouse and construct a residential mid-rise at this same location. The .87 acre project site is located at the corner of 2nd and Harrison Street in the Jack London neighborhood.

The purpose of this report is to approve the final design and tentative parcel map for a project proposing the demolition of the Meyer's Plumbing Supply Warehouse and construction of an 8-story building consisting of 111 residential condominium units above a parking podium. The project site is located at 311 2nd Street, at the corner of 2nd and Harrison Streets in the Jack London District.

On January 4, 2006, the Planning Commission approved the Minor Conditional Use Permit for parking and loading within 75' of the front lot line and Minor Variances for the rear yard setback, residential loading, and for parking dimensions where adjacent to a column or other obstruction for this project. In addition, the

(Contains map showing the project site and general vicinity)

Commission also affirmed staff's environmental determination for a CEQA Infill Exemption. At that meeting there was an extensive discussion regarding the design of the exterior facades. The Planning Commission

requested that the project's exterior façade design be re-reviewed by the Design Review Committee and then brought back before the full Commission for a final decision.

PROJECT SITE AND SURROUNDING AREA

Existing Conditions

The project site is located on a corner lot bounded by 2nd and Harrison Streets. The .87 acre site is located within the Jack London District and is currently occupied by the Meyer's Plumbing Supply Warehouse. The project site extends to the centerline of what was Harrison Street. This portion of the street was vacated by Ordinance in 1993. The Posey Tube lies underneath this portion of the site (what was formerly Harrison Street) and is not buildable.

Surrounding Area

The site is located within the Jack London District of Oakland. The project site abuts the Southern Pacific RR Lineman's Bunkhouse to the west. This building is a PDHP with a survey rating of Cb+3. To the north are a parking lot and a warehouse known as the "Egghouse". Further to the west are the Amtrack Train Station and parking lot, and the site of the recently approved Jack London parking garage and pedestrian bridge. The train tracks and platform directly abut the site to the south.

PROJECT DESCRIPTION

The proposed project is an 8-story, 84' tall mid-rise building at the corner of 2nd and Harrison Streets. The plans show 135 structured spaces on a 2 level parking podium, with the residential lobby at the corner of Second and Harrison.

GENERAL PLAN and ZONING COMPLIANCE

The General Plan designation of the project site is Mixed Use District (MUD), pursuant to the Estuary Policy Plan (EPP). The zoning of the site is C-45 or Community Shopping Commercial with an overlay S-4 Design Review Combining Zone. As stated above in the *Summary*, the project applicant requested a Minor Conditional Use Permit (CUP) for parking and loading within 75' of the front lot line and Minor Variances for the rear yard setback, residential loading, and for parking dimensions where adjacent to a column or other obstruction for this project. On January 4, 2006, the Planning Commission approved the Minor CUP and the Variances for the project, including the project's consistency with the General Plan designation per the appropriate findings and conditions.

The S-4 Design Review Combining Zone is an additional zoning designation overlaid on the site. The S-4 is intended to create, preserve, and enhance the visual harmony and attractiveness of areas which require special treatment and the consideration of relationships between facilities. In the S-4 zone no building, other than a new Secondary Unit shall be constructed unless plans for such proposal have been approved pursuant to the design review procedure. At the meeting on January 4, 2006, the Planning Commission agreed that the Design Review findings per Sections 17.80.030 and 17.136.060 could not be met. The Planning Commission requested that the project be re-reviewed by the Design Review Committee and brought back before the full Commission for final design review approval.

DESIGN ISSUES

Original Design Concept and Comments

The original design concept was to address the two distinct architectural styles located in the Jack London District. The architect believed that this approach was appropriate, given the project site's unique location between a historic brick warehouse to the left and the more modern loft style buildings further east. This concept was reflected in the vertical treatment of the building facades. At the corner of 2nd and Harrison plans showed a modern entrance and corner element with floor to ceiling windows, aluminum louvers, metal panels, a metal mast, and art glass. The elevator shaft in the middle of the building was composed of cast-in-place concrete with a stucco finish that provided a pause between design styles. The building then continued in a simple plane punctuated by windows with a modern mullion pattern. Balconies were attached to this plane in columns.

Staff identified a number of design issues both in the October 26, 2005 Design Review Committee staff report and the January 4, 2006 Planning Commission staff report. These issues included: the overall building massing and the balconies.

Revised Design and Comments

After the Planning Commission meeting, staff met with the architect to discuss the comments and provide more design direction. The result is a building with inherently the same bulk, massing, scale, and features of the original design. However, the architect made several key changes which include the addition of several large projecting bays and of smaller balconies in a random pattern.

Also, the colored concrete shown on the 2nd Street elevation now turns the corner onto the courtyard elevation. The color then breaks up in a random pattern outlined by the concrete control joints before reconstituting and turning into the courtyard itself. Below are staff's comments **in bold** on the new proposal pursuant to the balcony design and the overall building massing issues.

- *Building Massing:* Staff stated that the previous building design was divided vertically through the entrance tower, the elevator shaft, and the rest of the building. Therefore, the project didn't present a clear base, middle, and top. These clear and defined proportions would help to reduce the mass and bulk of the building.

The introduction of large bays and smaller balconies projecting from the façade addresses several design issues. First, these elements provide articulation and interest on the facades that was only achieved by projecting columns of balconies. Secondly, these elements break up the repetitive balcony and window pattern. Thirdly, these elements link the more modern corner to the rest of the façade. The result is large elements of interest on a simple plane, which is indicative of a modern design aesthetic. Previously, the building felt disjointed due to the two distinct design styles. Fourthly, the use of color on the courtyard elevation provides interest on that façade.

- *Balconies:* Staff stated that balconies were not appropriate on a typical warehouse-style building. Staff suggested that the balcony design and this façade be revisited so that the balconies appeared less "tacked on".

The introduction of the projecting bays along with the new window style and color give the building a distinctly modern aesthetic. Thereby, balconies would be an appropriate addition to the facades that wouldn't be typical on a warehouse building.

The projecting bays are well-integrated into the facades and the random balconies complement these larger elements.

The removal of most of the balconies and inclusion of the large projecting bays resulted in a loss of private open space. The prior design had shown 3,809 sq. ft. of group open space at the podium courtyard and 6,631 sq. ft. of private open space which counted double per Zoning Ordinance Section 17.126.020. This open space totaled 17,114 sq. ft. and met the open space requirement of 150 sq. ft. per unit. This figure did not include the paseo or pedestrian streetscape along Harrison Street. With the new design, staff has calculated private open space totaling 9,772 sq. ft and group open space totaling 11,409 sq. ft. which now includes the paseo. This amount would meet the requirement of 150 sq. ft. of open space per unit. However, many of these balconies extend over the public right-of way and would require approval of a Major Encroachment Permit from City Council. Without City Council approval, the private open space square footage would total 4,504 and the project would not meet the open space requirement.

The applicant is anticipating approval of the encroachment permit by the City Council. Planning staff supports this encroachment permit based on façade articulation and overall building interest. However, if this permit is denied, staff has included a condition of approval that the project must apply for a revision to the exterior design. Furthermore, the applicant will provide additional open space if applicable to be consistent with the Zoning Ordinance or request an open space variance. This revision will be processed at a staff level.

February 22, 2006 Design Review Committee Comments

Staff presented the new design to the Design Review Committee on February 22, 2006. Commissioner Lee was absent from the meeting. However, staff received positive feedback on the revised design of the project from the other two commissioners. It was recommended that the project be forwarded for final design approval to the Planning Commission.

RECOMMENDATIONS:

1. Approve the Major Design Review request and Tentative Parcel Map, subject to the Conditions of Approval and based on the attached findings.

Approved for forwarding to the
City Planning Commission:

Claudia Cappio
Development Director

Gary Patton
Major Projects Manager
Deputy Planning Director

Prepared by:

Heather Klein
Planner III, Major Projects

ATTACHMENTS:

- A. Plans and Elevations
- B. Memos from the Fire Prevention Bureau and Building Services

FINDINGS FOR APPROVAL

This proposal meets the required findings under Section 17.136.070.A (Residential Design Review findings), Tentative Map Findings (Section 16.08-030), and Lot Design Standards (Section 16.24.040) of the Oakland Subdivision Regulations; as set forth below. Required findings are shown in bold type; explanations as to why these findings can be made are in normal type.

Section 17.136.070A (Residential Facilities Design Review Findings)

- 1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures;**

The proposed scale, bulk, height, materials, and textures of the building are well related to the surrounding area. Buildings in the area are of a variety of heights and predominantly have simple massing with minimal setbacks. The building's simple planes, projecting bays, random balconies, and signature corner element successfully references the primary architectural elements, materials, and textures found in the area. Additionally, the building includes the use of larger proportioned windows with thick frames and use of concrete, metal, and glass consistent with or compatible to the industrial appearance of nearby buildings.

- 2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics;**

The proposed project will preserve and enhance the industrial and mixed-use character of the area and will add residential units to provide a significant 24-hour presence to the area. The residential density of the project will help sustain commercial and light industrial activities in the area. Furthermore, the addition of the pedestrian promenade will link the existing neighborhood to the approved Jack London development and Harvest Hall via the pedestrian bridge. This will be an amenity to the neighborhood and the extensive streetscape improvements will be an asset to the area.

- 3. That the proposed design will be sensitive to the topography and landscape;**

The proposed project site is flat, is occupied by an existing structure, and contains no notable landscaping. Therefore, the project will have no affect on the existing topography or landscape.

- 4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill;**

See response #3

- 5. That the proposed design conforms in all significant respects with the Oakland Comprehensive Plan and with any applicable district plan or development control map which has been adopted by City Council.**

The proposed project conforms in all significant respects with the "Mixed Use District" Estuary Policy Plan (EPP) land use designation. The project will support the objectives and policies of the Land Use and Transportation Element and EPP for this area including encouraging the construction of housing units to provide a 24-hour community presence (Policy D10.1); construction with high quality design and materials (Policy D10.5); Providing for a broad mixture of activities within the Estuary area. (Objective LU-1); Expand opportunities and enhance the attractiveness of the Estuary as

Findings

a place to live (Objective LU-3); and Providing for the orderly transformation of land uses while acknowledging and respecting cultural and historical resources (Objective LU-5).

In addition, the project is consistent with the Zoning Ordinance with the January 4, 2006 approval of the Conditional Use Permit and Variances findings as discussed in more detail throughout the previous Planning Commission staff report.

16.24.040 LOT DESIGN STANDARDS

Lot design shall be consistent with the provisions of Section 16.04.010, Purpose, and the following provisions:

- A. No lot shall be created without frontage on a public street, as defined by Section 16.04.030, except:
 - 1. Lots created in conjunction with approved private access easements;
 - 2. A single lot with frontage on a public street by means of a vehicular access corridor provided that in all cases the corridor shall have a minimum width of twenty (20) feet and shall not exceed three hundred (300) feet in length. Provided further, the corridor shall be a portion of the lot it serves, except that its area (square footage) shall not be included in computing the minimum lot area requirements of the zoning district.

The parcel has street frontages along 2nd Street and the vacated portion of Harrison Street.

- B. The side lines of lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.

The side lot lines of the existing parcel run at right angles to the street on which they front. The proposed Tentative Parcel Map will not modify the current lot lines configuration.

- C. All applicable requirements of the zoning regulations shall be met.

The proposed parcel conforms to the zoning regulations of the C-45 Community Shopping Commercial Zone subject to the Conditional Use Permit, Variances, and Design Review permits that were granted as part of the overall project approval (Case File Number CMDV05-522) on January 4, 2006.

- D. Lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding area except:
 - 1. Where the area is still considered acreage;
 - 2. Where a deliberate change in the character of the area has been initiated by the adoption of a specific plan, a change in zone, a development control map, or a planned unit development.

The proposed parcel will be a 1 lot subdivision for condominium purposes.

- E. Lots shall be designed in a manner to preserve and enhance natural out-croppings of rock, specimen trees or group of trees, creeks or other amenities.

The site is currently occupied by an existing structure. There are no natural amenities on the site.

16.08.030 - TENTATIVE MAP FINDINGS (Pursuant also to California Government Code §66474 (Chapter 4, Subdivision Map Act))

Findings

The Advisory Agency shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

- A. That the proposed map is not consistent with applicable general and specific plans as specified in the State Government Code Section 65451.

As demonstrated in the overall project approval (CMDV05-522), the proposed project conforms in all significant respects with the "Mixed Use District" Estuary Policy Plan (EPP) land use designation. The project will support the objectives and policies of the Land Use and Transportation Element and EPP for this area including encouraging the construction of housing units to provide a 24-hour community presence (Policy D10.1); construction with high quality design and materials (Policy D10.5); Providing for a broad mixture of activities within the Estuary area. (Objective LU-1); Expand opportunities and enhance the attractiveness of the Estuary as a place to live (Objective LU-3); and Providing for the orderly transformation of land uses while acknowledging and respecting cultural and historical resources (Objective LU-5).

- B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

As stated above, the proposed condominium subdivision is consistent with the Mixed Use District General Plan Land Use Designation and the January 4, 2006 Planning Commission approval.

- C. That the site is not physically suitable for the type of development.

The site is flat, in an urban area, and future development can be easily accommodated.

- D. That the site is not physically suitable for the proposed density of development.

The location and orientation of the parcel is physically suitable for the proposed development considering that the site is flat and devoid of natural features. The proposed parcel creates an adequate and appropriate density of development. The Planning Commission approved the density on January 4, 2006.

- E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The subject property is located in an urban area and is surrounded by developed commercial and mixed use properties. Currently, the site is occupied by an existing structure. The site has no value as habitat for known endangered, rare or threatened species.

- F. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

The condominium subdivision is not expected to cause serious public health problems. The Conditions of Approval for the project (CMDV05-522) require that the applicant shall demonstrate, through written verification that required clearances have been granted and any applicable conditions have been met for previous contamination at the site from the appropriate State, Federal or County authorities if applicable. In addition, the proposed development would be served by public water and sewer service, and would therefore not require the use of on-site sewage disposal or domestic water well.

- G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this

connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. (This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.)

No such easements exist on the subject property. However one is proposed as part of the January 4, 2006 Conditions of Approval #28.

- H. That the design of the subdivision does not provide to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

The subdivision of the lot for condominium purposes does not exclude the possibility of future passive or natural heating or cooling opportunities on the lot.

CONDITIONS OF APPROVAL

STANDARD CONDITIONS

Findings

1. Approved Use.

a. Ongoing.

The project shall be constructed and operated in accordance with the authorized use as described in this staff report, the floor plans dated **December 16, 2005**, the exterior elevations dated **March 21, 2006**, and as amended by the following conditions. Any additional uses other than those approved with this permit, as described in the project description, will require a separate application and approval.

2. Scope of This Approval

a. Ongoing.

The project is approved pursuant to the Subdivision Regulations of the Municipal Code only and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Building Services Division and the City's Fire Marshal. The proposal shall specifically comply with the conditions required by Philip Basada of the Fire Prevention Bureau per the attached memorandum, dated March 24, 2006 and with the items outlined in the attached letter from Jon Ewigleben of Engineering Services on December 29, 2005.

3. Project Approval

a. Ongoing

Development of the project is subject to approval pursuant to Case File CMDV05-522 and the conditions made part of that approval.

4. Recordation of the Final Map for Approved Project

a. For condominium purposes the final map shall be recorded prior to the certificate of occupancy for the 111 units pursuant to Case File CDV05-522. The applicant shall discuss the recordation with Building Services, as this department may have a different timeframe for final map submittal.

5. Defense, Indemnification & Holdharmless

a. Within ten (10) business days of the filing of a claim, action or proceeding that is subject to this provision, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes this condition of approval.

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

6. Encroachment Permit

a. Ongoing

The applicant shall submit a revised exterior design to the Planning and Zoning staff for design review approval if the encroachment permit is denied. The revision design will also include additional open space if applicable or the request for an open space variance.

APPROVED BY: City Planning Commission: _____ (date) _____ (vote)
City Council: _____ (date) _____ (vote)