

CITY OF UNION CITY

**MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF MAY 15, 2003, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

I. ROLL CALL: Commissioners Anderson, Kelley, Lew, Savage and Sweeney

STAFF PRESENT: Mark Leonard (Economic and Community Development Director); Marilou Ayupan (Principal Civil Engineer); John Bakker (Assistant City Attorney); Joan Malloy (Planning Manager); Aki Honda (Planning Associate); and Kris Fitzgerald (Administrative Assistant)

II. APPROVAL OF MINUTES:

The minutes for the regular Planning Commission meeting of May 1, 2003 were approved with corrections.

III. ORAL COMMUNICATIONS: None.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS:

- 1. SITE DEVELOPMENT REVIEW SD-02-03; USE PERMIT UP-01-03 ZONING TEXT AMENDMENT AT-01-03; VARIANCE V-01-03:** Initiated by Ahmad Mohazab, of Tecta Associates, on behalf of the property owner, Lolita Pineda, the applicant is requesting approval to construct a 6,069 square foot, two-story office and commercial building on an approximately 7,200 square foot property on the northwest corner of Union Landing and Alvarado Niles Road located on vacant property identified as 31210 Alvarado Niles Road (APN 463-60-29) in the City of Union City. The project entails a request for a Zoning Text Amendment, AT-01-03, to modify the Union Landing Commercial zoning district to allow dental offices within this zoning district. The applicant is requesting approval to allow a dental office use to occupy the second floor of the proposed building. The project also entails a Use Permit application, UP-01-03, requesting approval to allow the establishment of a restaurant use in this building in the Union Landing Commercial zoning district. Further, the applicant is requesting approval of Site Development Review and Variance applications to allow the construction of the two-story building with reduced front and rear yard setbacks. The current General Plan designation for the project site is CR (Retail Commercial) and the current Zoning designation is CUL (Union Landing Commercial). A Negative Declaration has been prepared.

Aki Honda, Planning Associate, presented the staff report.

Commissioner Anderson asked if staff feels that the changes proposed to the Zoning Ordinance meet the spirit of the Zoning Title.

Mark Leonard, Director of Economic and Community Development, stated that the standards that are proposed tonight to amend the Zoning Ordinance are philosophically aligned with the General Plan. The applicant brought this project forward and staff is recommending approval of the Zoning Text Amendment; however, the Planning Commission might want to wait before implementing the Zoning Text Amendment until either the City Council directs it or another project comes forward which could use those standards.

Commissioner Anderson asked how changing the Zoning Text in this case would improve Union Landing.

Mr. Leonard replied that staff tries to encourage more intensive use of land whenever possible, so this allows the opportunity to create multi-story buildings with other uses for the floors above ground level.

Commissioner Anderson asked about the condition of approval pertaining to the trash enclosure when there is no plan for how trash removal will be handled on site.

Ms. Honda replied that the applicant has not provided a plan for the handling of trash at the site.

Commissioner Anderson asked if there have been any similar variances requested at Union Landing.

Mr. Leonard replied that none have been requested.

Commissioner Anderson asked how the landscaping has been updated since the last plan.

Ms. Honda replied that the applicant has added significant new landscaping in the latest plan.

Commissioner Anderson asked if Holiday Inn Express has withdrawn their objections.

Ms. Honda stated that there is a desk item from Holiday Inn Express regarding their continued objections.

Commissioner Anderson asked what kind of retaining wall would be necessary on the Alvarado-Niles Road side.

Chairperson Sweeney clarified that this is in regard to the road widening.

Marilou Ayupan, Principal Civil Engineer, replied that it would be up to the applicant to provide drawings that would accommodate the future widening of the road.

Commissioner Anderson clarified that he is asking about the section in the Negative Declaration that analyzes the grading difference.

Mr. Leonard said that was considered on page 14 of the Negative Declaration in the 4th paragraph. It was noted that the grade difference could have drainage and grading impacts on the engineering of the future road project. This would not be an issue if the building met the setback requirement.

Ms. Malloy stated that in terms of the CEQA review the site is considered essentially flat which means there would be no landslides or ruptures or other failures that might be associated with geophysical conditions. The site would require soil engineering for the pad and that is a standard condition of approval.

Commissioner Kelley asked what the reason is for the realignment of the driveways into the hotel and when will it happen.

Ms. Ayupan replied that it is being done as part of the widening of Alvarado-Niles Road.

Commissioner Kelley asked when will the median be closed.

Ms. Ayupan replied that construction will start in a couple of months and should be completed by early next year.

Commissioner Kelley asked if the template for setbacks for openings in a building is part of the building code or zoning code.

Ms. Honda replied that it is part of the building code.

Commissioner Kelley asked if the applicant was proposing to have no openings or windows on the back of the project.

Mr. Leonard replied that it will have windows.

Commissioner Savage asked about the desk item referring to the hotel easement and wanted to know if it is still binding.

John Bakker, City Attorney, stated that at this time it appears to still be binding.

Commissioner Savage asked if the bus stop will be moved or removed in lieu of the transit center.

Ms. Ayupan replied that at this time the bus stop will remain.

Commissioner Lew asked about condition #61 and wanted to clarify what is considered adjacent property.

Ms. Malloy replied that this condition is to minimize dust generated from the project and its impact on the hotel, and other residential property nearby.

Mr. Leonard stated that if we control dust on adjacent properties there should be no further impact.

Commissioner Lew asked to define adjacent.

Mr. Bakker replied that adjacent means the immediately abutting properties.

Commissioner Lew noted that condition #66 contains the words "If required" and condition #68, which also references the same plan, should also say, "If required".

Mr. Leonard replied that it should be changed.

Commissioner Lew wanted to know what staff would need to make this project acceptable.

Mr. Leonard replied that the applicant must meet the setback requirement, which means twenty-five feet in front. Staff likes the building design but the applicant must work with hotel to get an agreement that the front of hotel won't be expanded to impact on the fire lane as required by the building code. Staff does not recommend restaurant uses at this corner because there are already many restaurants in Union Landing and that this area is very heavily traveled.

Commissioner Lew clarified that staff did not ask the applicant to reduce size of building.

Mr. Leonard replied that the building was pushed back in front and was reduced in size of footprint and staff has no objection to a two-story building as long as it meets the setback requirements.

Commissioner Lew asked if a sidewalk from Union Landing Boulevard to Alvarado-Niles Road will be included in the road widening.

Mr. Leonard replied that there will be a sidewalk.

Commissioner Lew clarified that the purpose of the setback was to provide area for the sidewalk.

Mr. Leonard replied that is correct.

Chairperson Sweeney stated that if a retaining wall is needed as part of the road widening then the project should include a design for that retaining wall.

Commissioner Sweeney asked if the City has a standard for that type of retaining wall when it is part of road widening project.

Ms. Ayupan stated that it would have to be a standard concrete wall similar to one across the street by the Old Alameda creek.

Chairperson Sweeney asked if the Planning Commission requires construction of a retaining wall now in anticipation of the future road widening would the City be able to provide guidance to the applicant on the construction of that wall.

Ms. Ayupan replied yes but the plans would have to be reviewed to insure that they will meet the future widening of the road.

Chairperson Sweeney asked if the new driveway into Holiday Inn Express would take into account the future road widening of Alvarado-Niles Road.

Ms. Ayupan stated that the driveway would have to be readjusted to accommodate the future road widening.

Chairperson Sweeney asked how trucks access the Holiday Inn Express.

Ms. Ayupan replied that truck access is currently on Union Landing Boulevard.

Chairperson Sweeney asked if the trucks would be able to use the new driveway after the road widening.

Ms. Ayupan replied that in the future trucks will be using a driveway on the westernmost point of the hotel property.

Ms. Malloy replied that there is a driveway behind the hotel by the Albertson's store. She also stated that there is one existing curb cut on Alvarado-Niles Road that will be closed and two new curb cuts will be constructed and the more westerly curb cut will be for truck access to the hotel.

Chairperson Sweeney asked about the parking easement and whether the two new maps submitted with the desk item identify where the parking stalls are per the easement.

Ms. Honda said that it is just the shaded area as shown and the applicant has not submitted any new plans.

Commissioner Kelley referred to the letter from the Holiday Inn Express, which states there is a concern for safety with the bus stop in front of the hotel.

Mr. Leonard said that it will probably still be a concern.

Ms. Ayupan said that Holiday Inn Express has complained about that bus stop. However, there are UC Transit buses that have a route along Alvarado-Niles Road and may not go into the transit center so there is still a need to have a bus stop there.

Mr. Leonard stated that at the last meeting Carlos Jocson, City Engineer, indicated that the bus stop may be relocated after the road widening.

Chairperson Sweeney opened the public hearing.

Ahmad Mohazab, Project Architect, Tecta Associates, 55 Grant Avenue, Suite 600, San Francisco, CA 94108, stated that in regards to a restaurant use they would be willing to not have one. He would withdraw the request for a use permit for a restaurant. This lot really needs a Variance, especially because there are no other lots like this one in the area. He should have designed a retaining wall for this project. He still wanted to know if a one story twenty foot tall building would eliminate the setback problems the why does a two-story building make such a difference. He drew in on the landscape plan a handicap ramp. Mr. Mohazab questioned why a twenty foot no build zone has been included. Mr. Mohazab asked about the driveways and the closing of the left turns on Union Landing Boulevard. Mr. Mohazab asked how his clients are supposed to access the property when they are not supposed to use the hotel's front entrance. They are supposed to be using the entrance on Union Landing Boulevard.

Commissioner Anderson asked about a condition from the 1993 staff report and why now did they need to have the easement.

Mr. Mohazab replied that at that time they had a good relation with the hotel owners and didn't need an agreement but the City made it a condition of approval.

Commissioner Anderson asked why can't the building be smaller.

Mr. Mohazab replied that he has two choices, a one-story building, of about 2300 square feet, which would be too small. Or his second choice, a two-story building that would be five feet narrower and he doesn't feel that anyone would rent space that was only fifty feet wide.

Commissioner Anderson clarified that a building that is fifty-five feet wide would be more marketable than a building that is fifty feet wide.

Commissioner Anderson asked if an engineer had looked at the grade differential and retaining wall issues.

Mr. Mohazab stated that they have not looked at it yet, but it should be a fairly simple solution.

Commissioner Anderson asked what the thickness of the retaining wall would be.

Mr. Mohazab stated that it should not be a massively thick wall.

Chairperson Sweeney asked if you were to put a retaining wall at the back of the Public Utility Easement could you create a new design configuration.

Mr. Mohazab said that he would be willing be to come back with a new design.

Chairperson Sweeney stated that she understood that the engineering for the road widening has not been completed and it is very difficult to work with that. She is suggesting that the retaining wall idea be extended beyond the six-foot Public Utility Easement not at the edge of the roadway. That gives some additional play in the event that the lines are not drawn exactly where they are now and still allows for a sidewalk along the street frontage. Also the relocation of the handicap ramp would have to go hand in hand with that kind of a redesign. If you are going to raise that entire street frontage to the existing grade of Alvarado-Niles Road, then the ramp as proposed will not fit. It may be able to be relocated.

Chairperson Sweeney stated her absolute minimum for approving the project:

1. The applicant shall dedicate fourteen feet of land for the future widening of Alvarado-Niles Road.
2. The applicant shall grant an additional six-foot Public Utility Easement along Alvarado-Niles Road.
3. The applicant shall retain an emergency vehicle access easement and a "no build".
4. No permanent portion of the building shall project into the public right-of-way.
5. A retaining wall meeting City standards for street construction shall be built along the back of the Public Utility Easement.
6. The existing slope area between Alvarado-Niles Road and the retaining wall shall be filled to the existing grade of Alvarado-Niles Road.
7. The building shall be redesigned to address the new retaining wall and to offer an attractive frontage at the existing grade of Alvarado-Niles Road.
8. The handicap ramp shall be relocated or redesigned to be out of the public right-of-way.

Mr. Mohazab stated that he could agree with all of those conditions except number 3. He feels that the easement is punitive and designed to not allow them to build the project.

Commissioner Anderson asked if there is plan for making deliveries and trash pickup.

Mr. Mohazab said that he would work with the hotel to jointly use the trash enclosure.

Barry Ferrier, 32212 Allison Way, Union City stated that he is concerned with the changes at the intersection and future street widening. He feels there is a safety issue when driving in and out of the hotel and there are additional problems with the bus stop.

Bhupin Amin, Holiday Inn Express, 31140 Alvarado-Niles Road, Union City expressed the hotel's concerns and comments with this project. He supports the staff recommendation regarding the setbacks. He thinks the site can be developed but may not be economically feasible to the owner. The hotel would like the bus stop issue to be studied and evaluated further. Mr. Amin is still concerned about the project height blocking the signage of his hotel. Further development of Union Landing prevents the site from being visible from Interstate 880. Mr. Amin stated that in regards to the dental office use, Union Landing is supposed to be a destination for retail and restaurants, not for dental offices. Other tenants had to follow the rules and so should this applicant. Mr. Amin remarked that Union Landing has beautiful landscaping and the applicant does not meet the fifteen percent requirement for landscaping. Mr. Amin stated that access is a very complicated issue and they have not gone to an attorney to review easement. Mr. Amin has concerns about the safety of trucks making deliveries to the property. The trucks will have to travel on Union Landing Boulevard and make a u-turn to get to the applicant's project.

Chairperson Sweeney clarified that emergency vehicle access, with the future closing of the median on Union Landing, will have to be off of Alvarado-Niles Road to serve both buildings.

Mr. Amin replied that yes he understands that.

Commissioner Anderson asked if they have plans to expand the hotel.

Mr. Amin replied not at this time.

Commissioner Anderson remarked about the change in the Zoning Text Amendment being unfair to the current tenants and that those tenants would have an opportunity to expand if this Zoning Text Amendment is changed.

Mr. Amin replied that most buildings are designed with the possibility of expansion.

Chairperson Sweeney closed the public hearing.

Chairperson Sweeney proposed that the Planning Commission approve the Zoning Text Amendment to make it conditionally permitted for medical and dental uses above the first floor. She also recommends approving the Variance for this particular parcel because of its uniqueness. She also recommended continuing the Site Development Review and the Use Permit to a future meeting.

Mr. Leonard stated that the Variance is integral to the Site Development Review and recommends that both items should be kept together and the Zoning Text Amendment is an issue that can stand on its own.

Commissioner Anderson feels the same as Chairperson Sweeney.

Commissioner Lew can't see approving Zoning Text Amendment without a project associated with it.

Commissioner Lew asked if the applicant can come back with a new design.

Mr. Leonard stated that staff needs to have this go before the Development Review Committee before bringing it to the Planning Commission.

Mr. Mohazab would like to come back.

Commissioner Anderson asked if would it be possible to continue the Site Development Review and Variance with very specific conditions.

Mr. Leonard stated that the Planning Commission can approve a project with very specific conditions but if you are not going to see the design then you have removed yourself from the review process.

Mr. Leonard stated that for a continuance the Planning Commission can give the applicant direction on what they want to see in the refined plans.

Commissioner Lew asked if this project would have to be approved by the City Council.

Mr. Leonard replied that Site Development Reviews are normally reported to the City Council on the consent calendar and the City Council has the option of calling it up to a hearing. Mr. Leonard said that Site Development Reviews technically don't have to be noticed as public hearings and could be moved off the consent calendar and heard that same night, however, when there is a Variance associated with a Site Development Review then it has to be noticed. The Variance normally would not go to City Council as they are final with the Planning Commission unless appealed. The applicant would have to appeal the Variance in order to have the Variance placed on the City Council agenda.

Chairperson Sweeney asked if they included conditions that were not acceptable to the applicant, then the applicant could appeal the Variance to the City Council.

Chairperson Sweeney stated that she cannot approve of the Site Development Review, however she has no problem with the Zoning Text Amendment and possibly the Variance.

Mr. Mohazab stated he was prepared to come back with a new design but he would like the Planning Commission to approve the Variance in concept still conditioning the project. He would like to also have the Zoning Text Amendment approved now. Mr. Mohazab would ask to have Public Works work with the City Attorney to determine the legality of the driveway alterations, in view of the fact that they are creating a hazard for the applicant's property.

Chairperson Sweeney said that in light of time constraints she would prefer to deny the project so that it could go to the City Council. Then the applicant could make his case with the City Council.

Chairperson Sweeney made a motion to continue Site Development Review SD-02-03; Use Permit UP-01-03; Zoning Text Amendment AT-01-03; Variance V-01-03 to June 19th 2003 meeting. Chairperson Sweeney would ask Public Works and the City Attorney take a look at the issue regarding the closing of the median strip and access and the safety aspects involved. She would also provide the applicant with the following direction:

Variance:

1. The applicant shall dedicate fourteen feet of land for the future widening of Alvarado-Niles Road.
2. The applicant shall grant an additional six-foot Public Utility Easement along Alvarado-Niles Road.
3. The applicant shall retain a twenty-foot wide emergency vehicle access easement and a "no build".
4. No permanent portion of the building shall project into the public right-of-way.
5. A retaining wall meeting City standards for street construction shall be built along the back of the Public Utility Easement.

6. The existing slope area between Alvarado-Niles Road and the retaining wall shall be filled to the existing grade of Alvarado-Niles Road.
7. The building shall be redesigned to address the new retaining wall and to offer an attractive frontage at the existing grade of Alvarado-Niles Road.
8. The handicap ramp shall be relocated or redesigned to be out of the public right-of-way.

Site Development Review:

1. Must provide building redesign per the Variance requirement including relocation of the handicap ramp, and inclusion of the retaining wall in the outdoor seating plan.
2. Must provide the map of parking spaces including any revision to the handicap ramp that affects the designated parking stalls.
3. Must provide the site plan including the trash enclosure. If a combined trash enclosure with the hotel is proposed, a written agreement with the hotel must be provided along with the site plan showing the location and size of the combined enclosure.
4. Must provide deliver detail showing how impacts on the hotel will be minimized and how deliveries will be made without blocking the emergence vehicle access land between this property and the hotel.
5. Must provide a landscape plan for the area at grade with Alvarado-Niles Road.

Commissioner Lew would like to see that the building height not be raised.

Commissioner Kelley does not agree that the applicant needs to get an easement as per condition #25 for the emergency vehicle access and does not need to see a map of where the parking spaces are.

Commissioner Anderson seconded the motion.

AYES: 5 (Anderson, Kelley, Lew, Savage, Sweeney)

NOES: 0

ABSENT: 0

ABSTAINED: 0

Mr. Leonard specified that these were directions provided to the applicant and not conditions of approval.

B. NEW HEARINGS:

1. **ADMINISTRATIVE SITE DEVELOPMENT REVIEW ASD-06-03 AND USE PERMIT UP-03-03:** Initiated by Epicurean International (also known as Thai Kitchen), has submitted an application for Administrative Site Development Review and Use Permit approval to occupy an existing vacant warehouse and office building located at 30315 Union City Boulevard. The proposed project includes minor site improvements (parking lot expansion and landscaping) and upgrading the existing building to be used as a corporate headquarters that would include administrative offices and a food distribution warehouse. The project site is approximately 11.74 acres and is occupied by an existing building approximately 149,000 square feet. The General Plan designation is MS, Special Industrial and the Zoning District classification is ML, Light Industrial. Based upon the General Plan designation, warehouse uses are conditionally permitted. This project is

categorically exempt under Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).

Joan Malloy, Planning Manager, presented the staff report.

Mr. Leonard stated that this project is a very good one for Union City and is in concert with our economic development goals.

Commissioner Anderson asked what year was the building built.

Ms. Malloy believes that it was built in 1963.

Commissioner Anderson is concerned about Building Code violations in the building.

Ms. Malloy stated that a site walk through was done with the Fire Department and the Hazardous Materials Division to look at the safety issues of the building. The building has had many upgrades and improvements done over the last several years.

Commissioner Anderson stated his concerns with the electrical and plumbing systems.

Ms. Malloy replied that the building is subject to the Building Code.

Commissioner Anderson ask if it would be appropriate to have a condition to make sure that the building is inspected for safety.

Mr. Leonard stated that it would be possible.

Commissioner Anderson recommends that a condition be added that inspection should be done and any problems found should be fixed as part of this approval.

Commissioner Anderson asked what is meant by “proceed” in condition #4.

Ms. Malloy stated if the applicant does not proceed with acquiring the property and moving into the facility then the Use Permit would be null and void.

Commissioner Anderson feels that it needs to be tied to time or performance

Ms. Malloy stated that they have one year from the time of approval of the application.

Commissioner Anderson said that according to the Zoning Code the applicant is not allowed to do retail sales unless what they are selling is goods processed on the site. He wanted a condition to make sure that no retail sales occur on the site.

Mr. Leonard replied that the MS district encourages retail sales with a Use Permit; and the City likes to encourage business to create retail sales outlets.

Commissioner Lew asked about page 5, 1st paragraph, 5th line of the staff report, there doesn't appear to be a condition associated with the parking lot.

Mr. Leonard clarified the standard that with nine-foot wide stalls, cars need twenty-six feet of back up space, for nine and one half feet wide parking spaces, cars only need twenty-five feet of backup space.

Ms. Malloy referred to condition #15 and stated that would be associated with the parking issue.

Commissioner Lew asked about exhibit A, and wanted to know where the boundary lines are for property and do they extend all the way to the "SP" border.

Ms. Malloy pointed out on exhibit A that the property line is the long dashed line that is on the outermost perimeter of the property.

Commissioner Lew asked if that includes the inundated area.

Ms. Malloy stated that it does.

Commissioner Lew asked if the applicant wanted to expand the building, could they expand into the inundated areas.

Ms. Malloy replied that if they meet all other City standards they could.

Commissioner Lew asked if that area had ever been developed.

Ms. Malloy stated that there are areas that appear to have been graded in the past but there are is no evidence of concrete or asphalt pads.

Commissioner Kelley asked why are there no specific architectural enhancements for the outside of the building beyond painting or installation of glass blocks.

Ms. Malloy stated that only painting and glass blocks are proposed at this time.

Chairperson Sweeney opened the public hearing.

Thomas Dolan, Architect, Thomas Dolan Architecture, 173 Filbert Street, Oakland, CA 94607 stated that they would bring the building up to the Building Code. US Foods, the previous owner of the building, made very significant upgrades to the building. The building is proposed for the same use as before which is not a change of occupancy and therefore does not trigger any upgrades.

Commissioner Anderson asked if there would be any zoning changes.

Mr. Dolan stated that there was a hiatus in use but that does not affect the zoning or the building.

Commission Anderson asked if they would object to have an inspection done of the building.

Mr. Dolan stated that they would not. Mr. Dolan would object to having to bring the building up to today's codes because the code does not require it. Mr. Dolan stated that as long as the building's occupancy remains the same, only a change of occupancy would trigger an upgrade of the building to today's Building Codes.

Commissioner Anderson asked the City Attorney for his viewpoint.

Mr. Bakker stated the Mr. Dolan is correct and it is spelled out in the Building Code, and this project would not trigger upgrades, and it would not be appropriate to make a condition specifying that.

Commissioner Lew asked if there would be overnight parking of trucks on the property.

Seth Jamison, representing the applicant, stated that except for overseas containers, there would be no overnight parking of trucks on the property.

Commissioner Lew asked if there will there be a sales office.

Mr. Jamison replied that there will be sales people on the site but that most of the sales calls take place off-site.

Bill Wasko, attorney for Epicurean International, One Kaiser Plaza, Suite 1585, Oakland, CA 94611, stated he has a concern about condition #5. The applicant will make the improvements but is not sure that a bond would be appropriate in this situation.

Mr. Leonard asked the applicant to suggest another form of security, perhaps a letter of credit.

Mr. Wasko wanted to know how the City would use that to make sure the work was completed.

Commissioner Anderson asked if he could recommend language to be used.

Mr. Wasko replied we could add at the end of the condition that if the bond mechanism is not feasible then there would be an agreement between the applicant and city attorney of a mechanism that would work to guarantee completion of the project.

Mr. Wasko stated that they are not objecting to the improvements or timeline, they are objecting to the cost of posting the completion bond.

Chairperson Sweeney asked him to suggest an alternative.

Mr. Wasko stated he is not sure how a completion bond would work and who would complete the work if necessary.

Chairperson Sweeney asked about a fine arrangement.

Mr. Bakker stated that remedies include revoking the permit, or charge them with misdemeanor which is minimal.

Commissioner Kelley asked how frequently Union City has used completion bonds.

Mr. Leonard stated that we get cash bonds on landscaping to guarantee that the work gets done. If the work is done, then the money including interest is returned to the applicant. If it is not done then the money is used to complete the project.

Commissioner Anderson asked if staff can remove “and the construction bond” from condition #5 and change “The bond” to “The agreement”.

Mr. Bakker stated he was not sure an agreement would be effective and the bond provides better security. Maybe staff meant a cash bond, so that if the work isn't done, staff calls on the bond and holds the money until work is done, still in a way punitive, but the applicant does the work.

Mr. Wasko is unsure about where the cash would come from to be to put up.

Chairperson Sweeney stated that the city just wants to make sure that the exterior improvement is done promptly and up front.

Mr. Bakker asked if we could take out "construction" and add "or other security acceptable to the City Attorney"

Mr. Leonard asked the applicant about the timeline for improvements.

Mr. Jamison stated that we have to assess how long it would take to put in the improvements. He thinks it will take closer to 12 months.

Mr. Leonard asked if six months after occupancy would be enough.

Mr. Jamison asked for more time.

Mr. Leonard asked if they were to begin within six months of occupancy and completed in twelve months, would that be enough time.

Mr. Jamison stated that would be acceptable.

Barry Ferrier 32212 Allison Way, Union City, wanted to know if cars are to be parked on the pad on the north side could they be screened. He also asked about painting more stripes on the building instead of keeping the building plain.

Chairperson Sweeney closed the public hearing.

Mr. Leonard stated that staff would modify condition #4 to add "within one year". Condition #5 will be amended to read "and a cash bond or other security acceptable to the City Attorney", and add at the end that "Improvements shall begin within 6 months of occupancy and be complete within 12 months of occupancy". Mr. Leonard stated that it is possible to add a condition that the applicant shall comply with all required building codes prior to occupancy.

Commissioner Anderson asked if retail sales were still going to be restricted to products made on site.

Mr. Leonard replied that the City encourages retail sales whenever possible and if the applicant wishes to do that there are allowances in the ML Zoning Code.

Commissioner Kelley asked about condition #7 and whether it could be modified to a two or three-color scheme to look like other warehouses in the area.

Mr. Leonard replied that was an excellent suggestion.

Mr. Jamison stated that they would be looking for a color scheme consistent with corporate image

Chairperson Sweeney asked if they could have more than one color on the building.

Mr. Jamison agreed that it was possible.

Mr. Leonard stated that they would add to that condition #7, that “repainting of building would include a minimum three-color palette”.

Commissioner Lew made a motion to approve Administrative Site Development Review ASD-06-03 and Use Permit UP-03-03 subject to the stated findings one through eight and with the modifications as stated by Mr. Leonard.

Commissioner Savage seconded the motion.

AYES:	5 (Anderson, Kelley, Lew, Savage, Sweeney)
NOES:	0
ABSENT:	0
ABSTAINED:	0

The meeting was adjourned for a short break at 10:05 p.m.

The meeting was reconvened at 10:15 p.m.

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS:

- 1. SITE DEVELOPMENT REVIEW SD-01-03:** Joe Sordi, on behalf of KB Home South Bay, Inc., has submitted an application for Site Development Review for the design and layout of 52 one- and two-story, single-family residences on an approximately 8.1 acre site located at 33155 Railroad Avenue (APN 486-0036-039-02 and 486-0036-040). The project site is located on Railroad Avenue between D Street and the Dry Creek Channel and is commonly referred to as the Johnson Industrial Park. A Negative Declaration was prepared for the Tract Map.

Joan Malloy, Planning Manager, presented the staff report.

Ms. Malloy states that staff would recommend striking the last sentence in condition #86. Because the property will be remediated to residential standards so there is no need for deed restrictions.

Chairperson Sweeney asked about condition #88 and whether there will be a possibility of ground water monitoring wells in the park.

Lorenzo Perez, Hazardous Materials Inspector, stated that there is a possibility but they would try to have them located such that they don't interfere with park activities.

Chairperson Sweeney asked to amend condition #88 to read that “wells may be on public property but not on private residential property”.

Commissioner Anderson stated that conditions #20 and #31 are duplicates.

Commissioner Anderson asked about the condition #11 where chimneys will be provided on residences that have a fireplace option.

Mr. Leonard replied that staff will change the condition to read “where fireplaces are optioned by the buyer, chimneys shall be provided.

Commissioner Anderson asked about #111 and feels that it is incomplete.

Mr. Leonard stated that it should say “The applicant shall incorporate”.

Commissioner Anderson asked about condition #74 and wanted to know how the applicant is going to satisfy that requirement.

Ms. Malloy replied that it is a standard part of the development. Each lot is required to provide a street tree and on corner lots provide two trees on the side of the lot.

Commissioner Anderson asked what “winterizing” the park means.

Ms. Malloy referred the question to the applicant.

Commissioner Kelley asked about condition #23, the first two sentences should be removed. He stated that we should discourage the widening of driveways but does not believe that we should we record this restriction on the deed of each property.

Chairperson Sweeney stated that this has been a long-standing practice to provide enforcement, and make sure that subsequent purchasers are also bound by the restriction.

Commissioner Kelley stated his concerns with the concrete wall that faces the park and the potential for graffiti. Commissioner Kelley would like a different type of wall to discourage graffiti.

Commissioner Lew asked if per condition #29 should the site survey be presented to the city before the grading permit is issued.

Ms. Malloy stated that the survey would be required prior to issuance of the grading permit.

Chairperson Sweeney stated that they cannot get a grading permit without it.

Mr. Leonard stated we could include few words at end of the first sentence “and submit it to the City”.

Chairperson Sweeney stated that there are two condition #29’s and two conditions #77’s.

Commissioner Lew asked about condition #36 whether this applies to the homes before they are sold or does it apply to all future property owners.

Ms. Malloy stated that it would apply now and in the future.

Commissioner Lew asked about condition #61 to clarify there will be no construction until the entire property has been remediated.

Mr. Perez stated that is correct. Once the City issues a "No Further Action" letter then construction can begin.

Commissioner Lew asked why there is a reference to a phase one and phase two.

Mr. Perez stated that typically when there is a new property being developed the bank requires a phase one site assessment that is basically a paper review of files on that property and if necessary there could be a phase two required and a clean-up plan.

Commissioner Lew asked if phase one and two have been completed in regards to conditions #81 and #86.

Mr. Perez stated that they were not going to require any more phase two work but there is more clean up work required, then they will be able to grade for construction. Maybe in the next 2 - 3 weeks

Chairperson Sweeney opened the public hearing.

Joe Sordi, KB Home, 6700 Koll Center Pkwy, Pleasanton, CA stated regarding winterizing is implementation of storm water and erosion plan, using straw or other methods. They have already done burrowing owl survey and submitted it to the City. This was the wall type preferred by city staff but they are open to change.

Chairperson Sweeney stated since the park may not have full landscaping immediately they need a way to discourage graffiti.

Chairperson Sweeney closed the public hearing.

Commissioner Kelley asked about condition #36, who is responsible for wall side on the park.

Mr. Leonard replied that the City will be responsible for that side of the wall.

Commissioner Kelley stated that there are two condition #92's.

Commissioner Anderson moved to approve Site Development Review SD-01-03 subject to the modified conditions of approval and the findings one through six and adopt a resolution approving.

Commissioner Lew seconded motion

Chairperson Sweeney asked about the security doors on plan 4's

Mr. Sordi stated that plan 4 has an enhanced elevation, which includes a six-panel door similar to a front door.

Commissioner Kelley is still concerned about the wall facing the park and the possibility of graffiti.

Mr. Leonard replied that this is consistent with the style of wall on the east side of town and suggested heavy landscaping or vines to prevent graffiti.

Chairperson Sweeney asked who would install the landscaping and watering system that would support it.

Mr. Leonard suggested asking the applicant if they are willing to put some landscaping in front of the wall that would include trees, shrubs, climbing vines.

Mr. Sordi replied that there might be a timing problem, in regards to grading and winterizing the park.

Mr. Leonard suggesting giving the applicant an elevation and they would install the landscaping.

Chairperson Sweeney asked the applicant if the elevation were provided would that be a problem.

Ray Panek, KB Home, 6700 Koll Center Parkway, Pleasanton, CA 94566, stated that part of the problem is the irrigation system has not been designed, and would have to come off the city system at some point.

Mr. Leonard suggested tying in to the irrigation at the landscaping along the railroad tracks. There should be a meter there that they can tie into. If the City breaks the irrigation then they will have to repair it at their cost.

Chairperson Sweeney will vote against this project because of size of houses on the small lots.

AYES:	4 (Anderson, Kelley, Lew, Savage)
NOES:	1 (Sweeney)
ABSENT:	0
ABSTAINED:	0

B. NEW REPORTS: None.

VII. COMMISSION MATTERS:

A. Follow-up on Planning Commission Referrals to the City Council.

The City Council amended the Zoning Text Amendment to include secondary units above detached garages, allow slightly large secondary units of 800 square feet on 8500 square foot lots.

The Building Department made a presentation on the abatement of the old Bowling alley.

The City Council approved the Solid Rock Church.

The City Council approved the Williams Plaza project.

B. Upcoming applications for the Adjourned Planning Commission meeting for May 29, 2003.

1. Sportmart, next to Babies R Us.
2. Pappas Union City, L. P. for the vacant lot at Courthouse Drive and Dyer Street.

X. GOOD OF THE ORDER:

Commissioner Anderson is having a problem with keeping accurate records of changes to the zoning ordinances and would like either a hardcopy or one by email. He would also like a soft copy of the general plan and zoning ordinance.

Ms. Malloy stated that she could provide an electronic version.

Chairperson Sweeney stated that along Union Landing and near In and Out restaurant, there is a median with a lot of weeds.

Ms. Malloy stated that it is part of the widening of Union Landing Boulevard.

Chairperson Sweeney stated that the Burger King restaurant produces plumes of smoke.

Mr. Leonard stated that they should call code enforcement when they see it, but we will log it in now.

Commissioner Lew asked if an economic impact analysis was done on Thai Kitchen.

Mr. Leonard stated that the City does not expect any direct sales taxes, instead employees will be patronizing businesses in the area. Corporate headquarters like to support community groups and improvements to the building will trigger reassessment on the building.

Commissioner Kelley stated there is still no sidewalk along Mission Boulevard near the Dog Park.

XI. ADJOURNMENT:

The meeting adjourned at 11:08 p.m.

APPROVED:

CATHI SWEENEY, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY