

**CITY OF UNION CITY**

**MINUTES FOR THE ADJOURNED REGULAR PLANNING COMMISSION MEETING  
OF JUNE 19, 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, and Sweeney  
Commissioner Savage - Absent**

**STAFF PRESENT:** Mark Leonard (Economic and Community Development Director); Carlos Jocson (Interim Director of Public Works); John Bakker (Assistant City Attorney); Aki Honda (Planning Associate); Lori Taylor (Economic Development Coordinator); and Kris Fitzgerald (Administrative Assistant)

**II. APPROVAL OF MINUTES:**

The minutes for the Adjourned Regular Planning Commission meeting of May 29, 2003 were approved as submitted.

**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.**

There applicant hired a new architect and submitted a request to continue this item to the July 17<sup>th</sup>, 2003 meeting of the Planning Commission.

Chairperson Sweeney moved to continue Site Development Review SD-02-03, Use Permit UP-01-03, Zoning Text Amendment AT-01-03 and Variance V-01-03.

Commissioner Lew seconded motion.

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

**B. NEW HEARINGS:**

1. **SITE DEVELOPMENT REVIEW SD-06-03 AND TENTATIVE PARCEL MAP TPM 8183:** Initiated by Harvest Properties, the applicant is requesting Site Development Review approval to develop a new light industrial/office/research and development business park, consisting of eight (8) buildings totaling approximately 229,00 square feet of development. A Tentative Parcel Map is also being proposed for this project which will allow each building to occupy its own parcel. The project will require the demolition of the existing, vacant Crown Cork and Seal building. The project site is located at 33280 Central Avenue, Union City and is identified as APN 475-90-09. The property is zoned ML, Light Industrial. A Negative Declaration has been prepared.

Mark Leonard, Director of Economic and Community Development, presented the staff report.

Commissioner Lew asked if the ground water monitoring mentioned on page 3 of the staff report would continue during and after the project is built.

Mr. Leonard stated that it will be an ongoing process and will continue after completion of the buildings.

Commissioner Lew asked if there would be access problems.

Mr. Leonard said that Alameda County Water District will have access and the applicant will work out the details with them.

Commissioner Kelley asked what the Axygen building will look like from street and what distance it will be from street.

Mr. Leonard stated that the setback is approximately 85 feet from property line.

Commissioner Kelley asked if that was the same distance for buildings A and G.

Mr. Leonard stated that buildings A and G will be a little closer to the front line because there is no parking on the side closest to Central Avenue.

Commissioner Kelley asked if there would be landscaping on the side between buildings A and G and Central Avenue.

Mr. Leonard stated that the area requires three tiers of landscaping; ground cover, shrubs and trees.

Commissioner Kelley asked about the small plant palette.

Mr. Leonard stated that the applicant is willing work with staff to provide a more varied plant palette.

Commissioner Kelley asked where the trash areas would be located.

Mr. Leonard showed on the map where they will be located.

Commissioner Kelley asked if the current trees would have to be removed.

Mr. Leonard stated that they would be removed and replaced with more decorative plantings.

Commissioner Kelley asked if there would be bicycle racks for the employees.

Mr. Leonard stated that if the commissioners wanted bicycle racks they should add a new condition to require them.

Chairperson Sweeney agreed that there should be bicycle racks for each building located either outside or inside for safety reasons.

Commissioner Kelley asked if there would be any outdoor break areas for the employees.

Mr. Leonard stated that the areas provided are more public areas with amenities for customers and for the viewing public as they drive past the site.

Commissioner Anderson asked what would prevent the applicant from bringing in tenants that don't meet the criteria for this zoning district.

Mr. Leonard stated that in the ML zoning district there are very specific regulations for the types of uses that can be located. New businesses will have to get a business license and will be screened by staff to make sure they meet the zoning criteria.

Commissioner Anderson asked why condition #4 for the application expires in one year and condition #58 for the map expires in 2 years.

Mr. Leonard stated that this is normal occurrence; Site Development Reviews expire in one year if construction has not started and that gives the City the opportunity to review the project again if necessary.

Mr. Leonard stated that there should be two resolutions, one for the Site Development Review and one for the Tentative Map.

Commissioner Anderson asked if condition #4 could be clarified.

Mr. Leonard stated that it should say that “the Site Development Review expires in one year”.

Chairperson Sweeney asked about condition #2 and the additional findings from the staff report which have to do with the requirement that no additional Use Permits will be required and how that will work with the fact that eventually each building will be under individual ownership.

Mr. Leonard stated that given the design of the project and the fact that three of the buildings are not designed for warehouse use, a large portion of the project will be for office use.

Chairperson Sweeney stated her concerns about control over future warehouse uses by not requiring new tenants to get a use permit.

Mr. Leonard stated that the commission might consider that upon initial tenanting make a finding that it is consistent with the zoning and not a warehouse project but upon re-leasing that if it is then subdivided and is under a separate ownership that the buildings will have to be individually looked at.

Lori Taylor, Economic Development Coordinator, stated that having a Conditional Use Permit requirement puts the city at a competitive disadvantage in the market.

Chairperson Sweeney opened the public hearing.

Tom Wagner, Harvest Properties, 2200 Powell Street, Suite 210, Emeryville, CA 94608, stated that they are the development partners with AMB, who is purchasing property from Crown Cork and Seal.

Mr. Wagner stated that the project has been designed to not accommodate warehouse uses. There are no exterior storage areas and no extensive dock areas. Mr. Wagner stated that flexibility is important to work with tenants.

Mr. Wagner stated that the buildings are intended for individual owners and there will be conditions, covenants and restrictions (CCR's) for the project.

Chairperson Sweeney asked why there is an easement between parcel #1 and #5 which includes a joint use parking easement.

Mr. Wagner stated that Axygen required its parcel to be completely separate from the other parcels. Buildings A, B, C and D will not be able to park in the Axygen parking lot.

Chairperson Sweeney asked if there would be emergency vehicle access between the Axygen property and parcel #5.

Mr. Wagner stated that it is not shown on plan but there should be a breakaway feature so that emergency vehicles can get through between Axygen and parcel #5.

Chairperson Sweeney stated that there is a joint access easement shown in the legend on the Tentative Parcel Map but she cannot find where it is shown on the map.

Mr. Wagner stated that within the CCR's there would be provisions for vehicle access.

Commissioner Kelley asked about parking for the buildings.

Mr. Wagner stated that all buildings are self-parked.

Commissioner Lew asked about the traffic patterns for both parcels.

Mr. Wagner stated that trucks would come in at the bottom entry behind building G or at the top entry behind building A, and then circulate through the project.

Commissioner Lew asked if there would be parking spaces along the north edge of the Axygen parcel.

Mr. Wagner stated that there are potential parking areas along the north side of the Axygen parcel if they lease out a portion of the building.

Commissioner Lew asked if there is two-way traffic around the second parcel.

Mr. Wagner stated that the drive aisles are adequate to accommodate two-way traffic.

Commissioner Lew asked where the emergency access between the Axygen parcel and the second parcel would be.

Mr. Wagner stated that it would probably be near the back of the parcels.

Mr. Leonard stated that a condition should be added to create an area for emergency access between parcel #4 or #5 and the Axygen parcel.

Commissioner Lew asked if areas could be added for employee break areas.

Mr. Wagner referred the question to the architect.

Commissioner Kelley asked if the construction would be in one phase or several stages.

Mr. Wagner stated that they plan to build the project all in one phase.

Jay Todisco, Ware Malcomb Architects, 5000 Executive Parkway, Suite 298, San Ramon, CA 94583, stated that each building would have a ten-foot wide paved area in front of each building, if additional lounge areas are added then they would have to eliminate parking stalls and that might affect the marketability.

Mr. Leonard stated that at this point there is slightly more parking than the Zoning Code requires.

Commissioner Kelley asked about walkway in the central spine and how will it connect to the buildings.

Mr. Todisco stated that the walkway itself will be concrete and there will be a berm on both sides of the sidewalk with painted striping to create the lateral circulation pattern from the central spine.

Chairperson Sweeney asked if the bio-swale would be along the back of the planters.

Mr. Todisco stated that on both sides of berms there would be a bio-swale.

Chairperson Sweeney where else there will be bio-swales.

Mr. Todisco stated that there will be one on the south side of the Axygen parcel and will run the entire length of the property.

Chairperson Sweeney asked if the applicant has a problem with putting the cornice treatments around all the buildings.

Mr. Todisco stated that is not a problem.

Chairperson Sweeney asked to extend the pattern of reveals and additional colors to break up the monotony of the other buildings.

Mr. Todisco stated that they are willing to enhance buildings A, B and C on the north side.

Chairperson Sweeney asked about the rest of the building.

Mr. Todisco stated that the Axygen building is already enhanced on the north side; they didn't feel it was necessary to enhance the east side.

Chairperson Sweeney asked about the south sides of buildings E, F, and G.

Mr. Todisco stated that they would go along with staff recommendations for the south side of those buildings.

Mr. Wagner stated that they concentrated money along the fronts of buildings rather than the backsides of those buildings.

Chairperson Sweeney noted that there is a railroad spur that runs along the back of the property.

Mr. Wagner stated that there is a railroad spur but none of these buildings will have railroad access. The tenants they are anticipating would not be typical rail users.

Commissioner Kelley asked why they are using a smooth concrete finish on the buildings.

Mr. Todisco stated that the buildings looks better.

Commissioner Lew asked about installing bicycle racks.

Mr. Wagner stated that is not a problem.

David Wilbur, AMB Property Corporation, Pier 1, Bay 1, San Francisco, CA 94111, stated that warehouse uses are usually much larger than the ones that have been designed for this project. Mr. Wilbur would rather not see Conditional Use Permit's for this project.

Commissioner Kelley asked about adding outside areas for employees.

Mr. Wilbur showed on the slide how they will try to accommodate some areas for employees

Hemant Gupta, Axygen, 33170 Central Avenue, Union City, CA 94587, spoke of the problem of security for the property. Mr. Gupta wants to install an electronic gate for the lots that would close after 7:00 or 8 pm at night. Mr. Gupta would also like to install a fence separating Axygen from the other parcel.

Chairperson Sweeney stated that would be a problem with the emergency vehicle access.

Mr. Gupta stated the fence could have breakaway section that emergency vehicles could get through.

Mr. Leonard asked if the access gates could be set back away from Central Avenue.

Chairperson Sweeney asked if they could put landscaping to disguise the fence.

Mr. Gupta stated that they would be willing to do that and he would also be willing to limit the height of fence to 4 or 5 feet.

Commissioner Lew asked what type of fence they want to install.

Mr. Gupta referred the question to the architect.

Mr. Leonard suggested decorative wrought iron with sharp points on the top for the fence.

Jim Morrison, 1999 Harrison Street, Oakland, CA, stated that this project should be a huge enhancement to Union City. This type of project is in demand but if the property were over designed it could make it difficult to market.

Chairperson Sweeney asked Mr. Wagner to clarify that two of the parcels are parked only to city standards and the conflict with the map that shows some joint parking areas.

Mr. Wagner stated there is adequate parking on every parcel to accommodate twenty-five percent office space build out.

Chairperson Sweeney asked why there isn't any joint parking for all the buildings.

Mr. Wagner stated that generally with multi tenants they prefer to control their own parking.

Mr. Leonard stated that the Planning Commission might want to add a condition to the CCR's about joint access easements.

Commissioner Lew asked if condition #2 could be resolved through the CCR's.

John Bakker, City Attorney, stated that if the Planning Commission wants to keep its powers don't adopt the finding. Mr. Bakker stated that it should not be put in the CCR's as those are private agreements between property owners and do not give the city any power.

Mr. Leonard stated that per condition #2 a Use Permit would not be required unless warehouse and distribution spaces exceed seventy-five percent of the project.

Chairperson Sweeney agreed but wanted to know how the city would know when that limit was reached.

Mr. Leonard suggested instead of using “floor area project wide” would be to go on a parcel-by-parcel basis.

Commissioner Anderson agreed with that change.

Mr. Leonard stated that Ms. Taylor suggested that when a business license is requested staff would be able to do the calculations based on what has already been requested.

Chairperson Sweeney closed the public hearing.

Chairperson Sweeney made a recommendation to approve the Site Development Review with the change to condition #2 by deleting the last sentence and not take the recommendation to make the additional finding having to do with the Conditional Use Permit.

Chairperson Sweeney clarified the following changes to the conditions of approval:

Change condition #2 removing the last sentence;

Clarify condition #4 to read “Site Development Review application shall expire. . . “;

Delete condition #9;

Change condition #11 to eliminate walls or landscaping around the transformers;

Add a condition to eliminate the sidewalks in front of buildings A - G and put landscaping in those areas instead moving the sidewalk to a central spine through the project;

Add additional condition for something for additional outdoor seating areas for employees;

Change condition #23 to be complimentary to Axygen’s style instead of matching.;

Add a condition for installing bicycle racks outside or inside if feasible;

Add a condition for emergency vehicle access between parcel 1 and either parcel 4 or 5, whichever is designated by the Fire Department;

Add a condition for security gates for Axygen on the north and south sides of the building set back from Central Avenue with the approval of Economic and Community Development Department as to the location;

Add a condition for a decorative wrought iron fence with landscaping along the south side of the Axygen parcel;

Make corrections to Tentative Parcel Map to remove references to joint use parking easement from the map;

Add a condition to provide joint easement access through the CCR’s for each parcel.

Chairperson Sweeney moved to approve Site Development Review SD-06-03, Tentative Parcel Map 8183 subject to the stated conditions including the additions and corrections discussed and making the following specific findings 1 – 5 and move to adopt resolutions confirming this action.

Commissioner Anderson seconded the motion.

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

Mr. Leonard stated that this project would go to the City Council on July 8, 2003 on the consent calendar.

**VI. SUPPLEMENTAL STAFF REPORTS:**

**A. CONTINUED REPORTS:** None.

**B. NEW REPORTS:**

1. **Administrative Site Development Review ASD-13-03:** Initiated by Sergio Gutierrez, on behalf of Carlos Gutierrez, the applicant is requesting Administrative Site Development Review approval to allow the construction of a new two-story, 2,981 square foot single-family residence with an attached 424 square foot, two-car garage on a vacant lot located on the north side of 9<sup>th</sup> Street, west of Decoto Road. The subject property will have a property address of 33878 9<sup>th</sup> Street (APN 486-27-61). The property is zoned R5000. This project is Exempt per Section 15303, Class 3a of the California Environmental Quality Act (CEQA) Guidelines.

Aki Honda, Planning Associate, presented the staff report.

Commissioner Lew asked why staff did not require the utilities to be put underground.

Ms. Honda stated that the City Engineer has determined that it was not necessary as no other homes on the street have underground utilities.

Chairperson Sweeney stated that the house is very large compared to its neighbors and very much out of character with the neighborhood. She wanted to know if there was any possibility of stepping back the second floor to reduce the bulk or the overall size of the house.

Alfonso Gutierrez, 33851 9<sup>th</sup> Street, Union City, CA, stated that he will be living next door to this new home and they have been planning this house for two years and the staff has approved this design.

Victor Benavidez, Architect, 33136 9<sup>th</sup> Street, Union City, CA 94587, stated that this is a narrow lot and it they have designed the house to meet the setbacks while providing the maximum amount of space for the family.

Commissioner Lew moved to approve Administrative Site Development Review ASD-13-03 with the conditions as stated and making the specific findings 1 – 5.

Commissioner Anderson seconded the motion.

AYES: 3 (Anderson, Kelley, Lew)  
NOES: 1 (Sweeney)  
ABSENT: 1 (Savage)

ABSTAINED: 0

**VII. COMMISSION MATTERS:**

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

B. Cancellation of Planning Commission meeting of July 3, 2003 – The Commission cancelled the July 3, 2003 meeting due to the holiday.

C. Upcoming applications for the Regular Planning Commission meeting for July 17, 2003.  
Pineda property at 31210 Alvarado-Niles Road  
Susan Hoffman property will go to the August 7, 2003 meeting.

**X. GOOD OF THE ORDER:**

Commissioner Lew thanked staff for their good work on reports and requested staff put references in the narrative that go to the specific conditions.

Commissioner Kelley asked about the “Union City” sign on the wall off of Whipple Road at Interstate 880, which is being covered up by weeds.

Mr. Leonard stated that the Meridien Court Homeowners Association controls that area. They will be notified that they need to take care of weeds in that area.

Chairperson Sweeney stated that there are two dead palm trees in front of Best Buy that need to be removed.

Chairperson Sweeney asked about street trees at Mission Boulevard and 7th Street by the Park Ridge development, have blown over and need to be taken care of.

Carlos Jocson, City Engineer, will have to consult with Phil Sachs about those trees.

Hugh McNamara 32238 Mercury Way, Union City, CA, stated that the bricks in the driveway off of Courthouse Drive into the Union Landing Shopping Center need to be repaired.

**XI. ADJOURNMENT:**

The meeting adjourned at 9: 18 p.m.

**APPROVED:**

CATHI SWEENEY, CHAIRPERSON

**ATTEST:**

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MARK LEONARD, SECRETARY