

CITY OF UNION CITY

**MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF AUGUST 7, 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: Joan Malloy (Planning Manager); Carlos Jocson (Interim Director of Public Works); John Bakker (Assistant City Attorney); Aki Honda (Associate Planner); Kevin Reese (Chief Building Official); and Kris Fitzgerald (Administrative Assistant)

II. APPROVAL OF MINUTES:

The minutes for the Adjourned Regular Planning Commission meeting of June 19, 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:** Proposed by Vincent Wong, of V. C. Wong and Associates, on behalf of the new property owner, Dr. Christopher Viray, the applicant is requesting approval to construct a 4,770 square foot, two-story office and commercial building with a third floor penthouse office 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, Associate Planner, presented the staff report.

Commissioner Anderson asked if the City is requiring the easement as stated in condition #51.

Carlos Jocson, Interim Director of Public Works, replied that the City would require the easement prior to issuance of building permits.

Commissioner Anderson asked why condition #80 was included in the staff report.

Ms. Honda replied that condition #80 is included in the event that the Planning Commission approves a restaurant use.

Commissioner Kelley asked why staff recommends restaurant use to retail use at this location.

Ms. Honda replied that there would be less traffic impacts from a retail use than a restaurant use.

Chairperson Sweeney asked if a restaurant use would overlap the theater use.

Joan Malloy, Planning Manager, stated that vehicle use would overlap at peak hours.

Commissioner Kelley asked if the colors the applicant has submitted were the preferred colors as referred to in condition #12.

Ms. Honda stated that the applicant chose those colors so the building would stand out as a landmark building on the corner.

Commissioner Kelley asked if condition #23 stated that if the applicant provides fire safety protection at the level stated that then they would not need to obtain easements from the hotel.

Ms. Honda replied that in lieu of an easement they must meet the fire protection requirements on the windows and doors.

Commissioner Lew asked if the new design of the building would meet the setback requirements.

Ms. Honda stated that it would meet the intent of the setback requirements.

Commissioner Lew asked if the new right lane would be dedicated to right turns only.

Mr. Jocson stated that it will not be a dedicated right turn lane; it will run through to Dyer Street.

Commissioner Lew what type of retail is staff recommending.

Ms. Malloy stated any type of retail that would fit the Sub Regional specialty commercial zoning.

Chairperson Sweeney asked about the setback based on the penthouse office and why it is based on the functional height of office, which is thirty-seven feet when the building is forty-five feet in height.

Ms. Honda stated that only a small portion of the building would be forty-five feet tall so staff used the functional office height to calculate the setbacks.

Chairperson Sweeney stated her concerns about the impact on the Holiday Inn Express hotel with the project having a 3rd floor penthouse.

Chairperson Sweeney asked why is the city proposing to move the new driveway so close to Union Landing Boulevard.

Mr. Jocson stated that when Union Landing Boulevard is widened, the median on Union Landing Boulevard will be closed to left turns and there will be no left turn access to the property.

Chairperson Sweeney stated her concerns about the location of the bus stop and interference by cars and buses.

Mr. Jocson stated that he has spoken with the transit agency and the bus stop may be moved.

Chairperson Sweeney asked why the commission did not receive elevations of all sides of the building.

Ms. Malloy stated that typically staff requests to receive elevations of all sides of a project but do not always receive them.

Chairperson Sweeney opened the public hearing.

Vincent Wong, V. C. Wong and Associates, 10050 Imperial Avenue, Cupertino, CA, 95014, thanked the city for the extra time. Mr. Wong tried to design a building that would be unique at that location.

Commissioner Lew asked what is the intended use for the penthouse.

Mr. Wong stated that it would be an office for the owner of the dental clinic.

Commissioner Lew asked what would be used to lift the building to match the sidewalk.

Mr. Wong stated that they are going to match the parking lot grade and will use about a three-foot high retaining wall, thus the 1st floor will appear to be sunken.

Commissioner Lew asked if the applicant was aware of the complaint by Holiday Inn Express in regards to the new building.

Mr. Wong stated that he was not aware of the complaint but there does not appear to be any other options.

Commissioner Savage stated that the building should blend in more with the overall Union Landing architectural scheme.

Mr. Wong stated that the shape of the building is dictated by the shape of the lot. Mr. Wong stated he was trying to design something more fun and modern.

Commissioner Savage asked if the applicant would be willing to change the accent colors to colors that are more similar to what is already being used at Union Landing.

Chairperson Sweeney stated that the colors selected are in the approved palette for Union Landing.

Ms. Malloy stated that there are quite a variety of colors available in the Union Landing palette.

Commissioner Kelley stated that he liked the building.

Chairperson Sweeney asked the applicant about the plaza area that looks like it is bisected by the fourteen-foot right of way.

Mr. Wong stated that he wants to work with staff to get the plaza in the right place so that it doesn't have to be torn down.

Chairperson Sweeney asked due to the slope of the area how the handicap are going to access the building.

Mr. Wong stated that it would gradually slope on the side to and from the plaza area. Mr. Wong believes that the retaining wall will be built by the City.

Chairperson Sweeney asked about the height of walls around the trash enclosure and how will they be affected when the road is widened.

Mr. Wong stated that they could provide landscaping and screening so that pedestrians cannot look down into the trash enclosure.

Chairperson Sweeney asked if there is any intention to sell space on the mast rising up from the center of the building.

Mr. Wong stated that the mast is more for perspective,

Chairperson Sweeney stated her concerns that a cell company may come in asking to put up cell antennas on the mast.

Commissioner Kelley asked if condition #14 could be broadly interpreted as covering wireless antennas.

Ms. Malloy stated that it is difficult to regulate telecommunications equipment and perhaps the condition could be modified to say no changes allowed on the mast, or do away with the mast.

Mr. Wong stated that he would take that into consideration.

Chairperson Sweeney liked overall design of building but is concerned about the monolithic design of the penthouse.

Mr. Wong stated that the reason that the penthouse doesn't have a lot of glass is that it only has a view of walls and the elevator.

Chairperson Sweeney asked if there could be more detail, like scoring, on the penthouse.

Mr. Wong stated that he would look into it.

Chairperson Sweeney asked if the applicant would be willing to use colors from Union Landing palette for the building.

Mr. Wong stated he would be willing to work with staff for approval of colors.

Ms. Malloy asked for specific direction from the commission as to what they want to see in the color selection.

Chairperson Sweeney stated that she wants to see them use colors that match what is already in use at Union Landing.

Commissioner Kelley asked the city engineer when Union Landing Boulevard will be widened.

Mr. Jocson stated that the study says it will occur in 2015, but could occur earlier if traffic usage dictates.

Commissioner Kelley stated his concerns about landscaping in the fourteen-foot right of way.

Chairperson Sweeney asked if the glass panels start at street level.

Mr. Wong stated that they start about six inches above street level.

Hugh McNamara, 32238 Mercury Way, spoke about difficulties of traffic at the Union Landing and feels that this building is not a good use for this location.

Barry Ferrier, 32232 Allison Way, asked what happened to the trees and the sign that points out to where some of the stores are. He stated that maybe the applicant could add a clock to the column on the building.

Chairperson Sweeney asked if he was proposing a clock as the public art.

Barry Ferrier stated yes.

Joyce Cortez, 33134 Quail Drive, Union City, stated that she does not think that a modern building such as this belongs in Union City. Ms. Cortez also stated her concerns for safety because of the fact that there is so much glass on the ground floor near the street.

Chairperson Sweeney stated that the City does have a building code that addresses window safety standards.

Bhupin Amin, Holiday Inn Express, 31140 Alvarado-Niles Rd., Union City, spoke of his concerns about visibility of his business and is very disappointed that staff is recommending approval of a three story building. Mr. Amin wants to know how the applicant will handle vehicle circulation through the project.

Mr. Wong stated that he does not plan to change any of the current vehicle circulation.

Mr. Amin stated that he does not believe that an easement is valid for the new building the applicant has shown.

Barry Ferrier stated his concerns about the backside of the building looking like just a plain wall. Mr. Ferrier asked if there was still an option to build a restaurant on the first floor.

Chairperson Sweeney closed the public hearing.

Commissioner Anderson asked what Use Permit UP-01-03 would cover.

Ms. Malloy stated that Use Permit UP-01-03 would cover either a restaurant or a dental office.

Commissioner Anderson asked what the easement document specifies

Ms. Honda stated that the agreement is between the hotel and this property

John Bakker, City Attorney, stated there is an existing easement for parking and driveway but he is not sure if it would cover the new curb cuts.

Commissioner Kelley asked if staff has any way to compensate for the loss of walk up business for the hotel.

Ms. Malloy stated that the hotel has rights to signs on certain street frontages.

Mr. Bakker stated that he did not think that the city could compensate the hotel for loss of business.

Commissioner Kelley asked the owners if there is any alternative to compensate the hotel.

Mr. Amin asked for elimination of the third floor of the new building. Mr. Amin stated that the hotel has all the signage that the city will allow.

Chairperson Sweeney would like to ask for continuance so that the applicant can resolve questions of easements, redesign the back side of the building, have the right of way clearly marked, redesign the plaza to accommodate the driveway at street grade, redesign the landscaping plan with trees, etc. She also asked the applicant to take a good look at reducing the penthouse and third floor of building to accommodate the Holiday Inn Express.

Commissioner Kelley wants actual color submissions of landscape plan, and asked if staff could recommend some additional signage for the hotel.

Ms. Malloy stated that the hotel has the ability to put freestanding signs on the frontages of Union Landing and Alvarado-Niles Road.

Commissioner Anderson asked if the hotel could put a sign on the new building.

Mr. Bakker stated he was not sure.

Ms. Malloy stated that not very many off-site signs are approved in Union City.

Commissioner Lew agrees with Chairperson Sweeney to continue project. She would vote no tonight because of the size of the three-story building, and has objections to the applicants disregard for the

Zoning Ordinance. She feels that the glass is a problem as it might overheat the building. She doesn't like the modern style of building.

Commissioner Savage agreed to continue project and would like to see more elevations and landscaping plans.

Commissioner Kelley asked the applicant to work with the hotel to compensate for loss of business and likes the design of the building as it is.

Mr. Wong asked for clarification as to whether to design the handicap ramp for today or in future.

Chairperson Sweeney replied that he should make the design work with the future right of way.

Chairperson Sweeney suggested that the applicant meet with hotel people to iron out agreements.

Chairperson Sweeney moved to continue Site Development Review SD-02-03; Use Permit UP-01-03; Zoning Text Amendment AT-01-03; Variance V-01-03 to the September 4, 2003 Planning Commission meeting.

Commissioner Anderson seconded.

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

Chairperson Sweeney called for a break at 2100

Meeting was called back to order at 2110

B. NEW HEARINGS:

- 1. TENTATIVE PARCEL MAP TPM 7427:** U. S. Pipe and Foundry, the applicant and owner is proposing a parcel map to create a new 10.08-acre parcel from the existing 70.4-acre U. S. Pipe and Foundry site. The project site is located at 1295 Whipple Road, Union City, and is identified as APN: 475-050-6252. The area of the parcel to be subdivided is vacant and has historically been used for agricultural (floriculture) purposes. The property is surrounded by other industrial uses and is located in an urbanized area. The property is currently designated MG, Heavy Industrial and zoned MG, Heavy Industrial. **CONTINUED TO A DATE TO BE DETERMINED.**

Ms. Malloy stated that this item was continued due to procedural issues and a date will be set in the future.

2. TENTATIVE PARCEL MAP 7468 AND SITE DEVELOPMENT REVIEW

SD-07-03: Initiated by Susan Hoffman, property owner, the applicant is requesting approval of a Tentative Parcel Map to subdivide property located at 33121 Alvarado-Niles Road in the City of Union City into two (2) parcels. Additionally, the applicant is requesting approval of a Site Development Review Permit (SD-07-03) to convert an existing historical structure located on the subject property from a residential structure to a professional commercial office, and to improve the subject property with parking and landscaping around the historic structure. The existing structure is designated as a local historic landmark and is located within the Landmark and Historic Preservation (LHP) Overlay Zone. The applications will allow the applicant to subdivide the property into two (2) separate parcels consisting of Parcel A, a 17,701 square foot lot on which the existing historical structure and appurtenant historical water tower are located, and Parcel B, a 19,075 square foot lot which is currently vacant. A Negative Declaration has been prepared.

Aki Honda, Associate Planner, presented the staff report.

Chairperson Sweeney asked if the single bathroom would be enough to serve the amount of office space proposed.

Ms. Malloy stated that so far staff has not received any negative comments.

Commissioner Lew asked about tree replacement on page 6 and condition #66. She does not feel that the language in the condition is as strong as the language on page 6.

Ms. Honda replied that the language could be changed.

Commissioner Lew would like it to say “and replacement”

Ms. Honda stated that the tree replacement ratio requirement may have to be adjusted considering the size of the lot. The City’s Arborist may require larger size trees for a reduction in required number of trees.

Chairperson Sweeney stated that it is not strictly a numerical replacement of trees.

Commissioner Lew stated that in regards to the Zoning Ordinance Chapter 18.106.250, which addresses conformity, this project is inconsistent with paragraph subsection C #1,2,3,6,7,9,10. Commissioner Lew pointed out that the historical use was residential and now the applicant is asking to develop it into a real estate office.

Ms. Malloy addressed the points as follows: staff believes that the change to office use is not incompatible with the historic use; staff worked to condition the project to retain the historic nature of the house and worked with historic museum society; required the applicant to work with a historic architect to retain the look of the house.

Commissioner Lew asked if there were better drawings available.

Ms. Malloy stated that the applicant is not here this evening.

Commissioner Savage stated that when this project first came to the Planning Commission there was a problem with a sump pond on the property.

Chairperson Sweeney stated that she remembered there was a below grade drainage problem.

Ms. Honda replied that when the site is developed the land will be regraded to drain towards Alvarado-Niles Road.

Mr. Jocson stated that the volume of runoff generated is minimal.

Mr. Jocson stated that before the applicant can receive a building permit they will have to go to Union Sanitary District for sewer services and Union Sanitary District will be able to determine if further work is needed.

Chairperson Sweeney asked staff to check to see if the septic tank is still in place.

Mr. Jocson replied that can be referred to Environmental Programs and then the applicant will be required to abate the cesspool.

Commissioner Anderson wants a condition of approval to make sure that landscaping is done on the west side of the historic house.

Ms. Honda stated although it is not specifically listed, the landscaping is covered by condition #1. The applicant has submitted a landscape plan as Exhibit A.

Commissioner Kelley asked about condition #80 by Environmental Programs for the prohibition of washing cars onsite.

Ms. Malloy replied that this is a standard condition of approval to keep dirt, oil etc. out of the storm drains.

Commissioner Kelley asked if requiring special finishes for outside metal from condition #14 conflicts with the character of the historic house

Ms. Malloy stated that this condition could apply to rain gutters, bike racks, any metals to be pre treated to prevent chipping and rusting.

Ms. Malloy stated that staff could add at the end of the sentence “unless the material is required to meet the historical integrity of the house as required by the Building Official”.

Chairperson Sweeney opened the public hearing

Joyce Cortez, 33134 Quail Drive, Union City, asked what is going to go on Parcel B.

Chairperson Sweeney stated that there is not a proposal for that parcel at this time.

Ms. Cortez asked if there is a way to make sure that parcel B cannot ever put a driveway opening onto Quail Drive.

Mr. Jocson stated that a condition of approval could be added to prevent that from happening.

Mr. Bakker stated that it looks like they could access Quail Drive from parcel B over the public right away.

Chairperson Sweeney stated that she has no problem with adding that as a condition of approval.

Ms. Cortez asked who is responsible for cutting down the weeds on the property. She has been working with fire department.

Ms. Honda stated that the fire department is now in the process of contacting the owner.

Hugh McNamara, 32238 Mercury Way, Union City, stated that there was a meeting of the Historical Society on Monday night and it was agreed that if the exterior of the house remains the same they would not be concerned with changes to the interior.

Chairperson Sweeney asked about the landscape plan as proposed. The applicant is proposing to add 43 cypress trees along the new property line. She wants to eliminate the parking space at the end of that line, expand the planter and replace some of the Italian cypress trees with a spreading shade tree to give it a more residential look.

Chairperson Sweeney wants to keep the hedge if possible and not put fence in.

Chairperson Sweeney asked about access to the office on the new ground floor. The large office doesn't appear to have an interior access door from the corridor.

Chairperson Sweeney asked to modify condition #15 to include the ground floor entrances so that all doors will have decorative doors.

Chairperson Sweeney asked about condition #21 regarding trash enclosure areas and whether the applicant is going to be required to build a large trash enclosure.

Ms. Malloy stated that they don't need a dumpster size trash enclosure, however, there would be a problem putting it under the stairs from the Fire Department.

Chairperson Sweeney asked to change condition #3 to 16 parking spaces.

Chairperson Sweeney stated that condition #48 doesn't apply to this project.

Ms. Honda stated that condition is a Police Department requirement.

Chairperson Sweeney stated that conditions #72 and #84 are duplicates, can we eliminate condition #84?

Chairperson Sweeney stated that conditions #79 #85 and #88 are all the same, can we eliminate #85 and #88.

Chairperson Sweeney would like to add a condition to investigate the septic field issue.

Chairperson Sweeney would like to add a condition that Parcel B waives access to Quail Drive.

Commissioner Kelley asked about condition #46 regarding the lighting in the parking lot areas and if the lighting is going to be required to look historical.

Ms. Honda replied that staff can add that as a condition.

Ms. Malloy clarified the Planning Commission changes to the conditions of approval.

Change condition #3 to 16 spaces.

Change condition #14 to “unless the material is required to meet the historical integrity of the house as required by the Economic and Community Development Department”.

Change condition #15 to add “including any new doors and doorways on the main ground entrances”.

Change condition #21 for the trash enclosure to match the existing historical structure in materials and colors.

Change condition #29 to remove the word “Final” from “Final Parcel Map”.

Eliminate conditions #84, 85 and 88 as duplicates.

Add a condition to investigate and remediate possible septic field on the property.

Add a condition to waive access to Quail Drive.

Add a condition for outside lighting to be historical in architecture.

Change condition #65 and add “and replacement” after removal.

Chairperson Sweeney made a motion to approve Tentative Parcel Map TPM 7648 and Site Development Review SD-07-03 making the required findings with the modified conditions of approval and approving resolutions confirming this action.

Commissioner Savage seconded the motion.

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

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS: None.

VII. COMMISSION MATTERS:

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

B. Upcoming applications for the Regular Planning Commission meeting for August 21, 2003.

X. GOOD OF THE ORDER:

Commissioner Savage asked about the mobile homes on Mission and Decoto and whether they going to be permanent.

Mr. Jocson stated that they are temporary until Mission Gateway is built.

Commissioner Kelley asked if there is a way to identify which conditions of approval are state mandated and which are city mandated.

Ms. Malloy replied that perhaps staff came come up with a better way.

Chairperson Sweeney thanked Public Works for the overlay on 7th street.

Chairperson Sweeney would like the City to come up with requirements when accepting applications so that the commission will be able to see everything that is being proposed.

XI. ADJOURNMENT:

The meeting adjourned at 10:45 p.m.

APPROVED:

CATHI SWEENEY, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY