

**CITY OF UNION CITY  
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING  
OF NOVEMBER 6, 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, (Director, Economic and Community Development); Joan Malloy (Planning Manager); Aki Honda (Associate Planner); Tina Gallegos (Assistant Planner); Farooq Azim (Public Works); John Bakker (City Attorney); York Gorzolla (Environmental Programs); and Kris Fitzgerald (Administrative Assistant)

**II. APPROVAL OF MINUTES:**

The minutes for the Regular Planning Commission meeting of October 16, 2003 were approved as submitted.

**III. ELECTION OF OFFICERS:**

Commissioner Lew nominated Rosemary Savage for chairperson of the Planning Commission.

Chairperson Sweeney seconded the nomination.

The motion passed by the following vote:

AYES: 5  
NOES: 0  
ABSENT: 0  
ABSTAINED: 0

Commissioner Sweeney nominated Tikisa Anderson for vice-chairperson of the Planning Commission.

Commissioner Lew seconded the nomination.

The motion passed by the following vote:

AYES: 5  
NOES: 0  
ABSENT: 0  
ABSTAINED: 0

**IV. ORAL COMMUNICATIONS: None.**

**V. WRITTEN COMMUNICATIONS: None.**

**VI. PUBLIC HEARINGS:**

**A. CONTINUED 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 9.77-acre parcel from the existing 69.14-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 property is surrounded by industrial uses and is located in an urbanized area. The property is currently designated MG, Heavy Industrial and zoned MG, Heavy Industrial. A Mitigated Negative Declaration has been prepared because the property is known to be a Hazardous Waste Site.

Joan Malloy, Planning Manager, presented the staff report.

Commissioner Anderson asked staff to clarify the size of the parcels as the sizes are different in the staff report and the negative declaration.

Ms. Malloy stated that Lot 1 would be 69.14 acres and Lot 2 would be 9.77 acres.

John Bakker, City Attorney, stated that the lot sizes do not have to be exact in the negative declaration.

Commissioner Anderson asked if there is a condition to file a Notice Of Intent with Alameda County Public Works Department prior to any development.

Ms. Malloy stated it could be added as a condition.

Ms. Malloy was apprised by the City Attorney that a Notice Of Intent is usually filed at time of development and not at subdivision, however, the condition could still be added.

Commissioner Anderson asked about a similar issue with Union Sanitary District for the sewer line.

Ms. Malloy stated that it is already part of the map.

Commissioner Sweeney asked what is City of Hayward zoning around the project area.

Ms. Malloy stated that she did not know.

Commissioner Sweeney stated that staff should work with Hayward for future development of this project.

Commissioner Sweeney asked if the existing row of eucalyptus trees is in the proposed right-of-way and if they would have to be removed when Whipple Road is widened in the future.

Ms. Malloy stated that they are not in the right-of-way and it is not anticipated that they would have to be removed.

Commissioner Sweeney asked to add to condition #3 “mitigation be required to prevent loss of habitat” (from the comments).

Commissioner Sweeney asked to spell out that this is the “California Department of Fish and Game”.

Commissioner Sweeney stated that conditions #6, #7, #8 are not similar for both lots.

Ms. Malloy stated that is because Lot 2 is going to be developed first.

Commissioner Sweeney asked then does that defer the improvements to Lot 1.

Ms. Malloy stated that it would.

Mark Leonard, Director, Economic and Community Development, stated that condition #7 could be made more specific for making those improvements.

Commissioner Sweeney suggested adding a condition to specify that Lot 2 would be redesignated Light Industrial, ML either prior to or as part of a development application.

Commissioner Lew asked about Lot 2 and which owner will be responsible for the clean up and Phase II environmental.

Ms. Malloy stated that U. S. Pipe has indicated that it will sell Lot 2 to a developer who will be responsible.

Commissioner Lew asked if the agreements referred to on page 5 between U. S. Pipe and the City of Union City would continue after the sale of Lot 2.

Ms. Malloy stated that the agreements would run with the land.

Commissioner Lew asked if the requirement that the land be cleaned includes removal of contaminated soil.

Ms. Malloy stated that the Phase II prepared by Lowney Associates indicated that there was one area of elevated lead that should be removed and there would be some limited cleanup.

Commissioner Lew asked if condition #3(E)(7) could be amended to include removal of contaminated soil.

Ms. Malloy stated that first mitigation under Hazards specifies that the soil should be removed.

Commissioner Lew asked if there is a time limit for the sign maintenance agreement in condition #4 and if the City would be able to terminate the agreement at will.

Mr. Bakker stated that the agreement stays in effect until the City decides to build the road.

Commissioner Lew asked when will Whipple Road be widened.

Mr. Leonard stated that it has not been programmed at this time.

Commissioner Anderson asked if the current sign is in violation of the sign ordinance.

Mr. Leonard stated that a permit was issued for that sign fourteen years ago and although the ordinance has changed since then the sign is still legal.

Mr. Bakker stated that the sign is a legal non-conforming use and can continue indefinitely.

Chairperson Savage opened the public hearing.

David Hiestand, U. S. Pipe, 1295 Whipple Road, Union City, CA, stated he has worked at plant for 14 years. Mr. Hiestand stated that U.S. Pipe is in negotiation with Legacy Partners to develop Lot 2 as Light Industrial. Mr. Hiestand stated that the city will benefit by the dedication of land with value of \$500,000 to the city, by adding jobs, more use of local retail.

Commissioner Lew asked what Legacy Partners is.

Steven M. Dunn, Legacy Partners, 4000 E. Third Ave., Foster City, CA 94404, stated that they are commercial developers and they intend to build light industrial buildings for sale to other businesses. Mr. Dunn stated they have been in business for over 30 years and have built other buildings on the west side of Union City.

Commissioner Lew asked if lot 2 has been appraised.

Mr. Hiestand stated that the property has not been appraised.

Mr. Hiestand stated that they have had the burrowing owl study done and there are no owls on the property.

Chairperson Savage closed the public hearing.

Commissioner Lew asked to add to condition #4 “for the applicant will continue doing the maintenance”.

Commissioner Sweeney asked to clarify the amended conditions.

Ms. Malloy stated that the following are amended:

- Change condition #3(B)(1) to add the word “California” before “Department of Fish and Game.
- Change condition #4 to clarify that applicant shall continue maintenance of the land and sign.
- Change condition #7 to specify that the deferred public improvements will include curb, gutters, sidewalk, median, wheelchair ramps, and paving as stated above in condition #6;
- Add a new condition that prior to or concurrent with a development application for Lot 2, the applicant shall apply to redesignate and rezone the parcel to ML, Light Industrial.

Ms. Malloy asked that the Planning Commission make a finding that the revised and new conditions are equivalent in mitigating or avoiding potentially significant effects for the purpose of fulfilling CEQA requirements.

Commissioner Anderson asked if the condition for the NOI was included.

Ms. Malloy stated that a new condition would require a NOI to be filed with the State prior to development of the property.

Commissioner Anderson asked if the Planning Commission should also certify the Negative Declaration.

Ms. Malloy stated that the Planning Commission recommends to the City Council to certify the Negative Declaration as part of their actions.

Commissioner Sweeney moved to approve Parcel Map TPM 7427 with the amended conditions of approval and making findings 1 – 4 and the additional CEQA finding and move that the Planning Commission adopt a resolution confirming this action and recommend to the City Council to certify the Negative Declaration.

Commissioner Lew seconded the motion.

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

**B. NEW HEARINGS:**

1. **ADMINISTRATIVE SITE DEVELOPMENT REVIEW ASD-27-03; VARIANCE V-07-03:** Initiated by John Savant, the applicant is requesting Administrative Site Development Review and Variance approval to construct a new 2,222 square foot, one-story single-family home with an attached two-car garage on an existing vacant parcel located on Depot Road identified as Assessor's Parcel Number APN 486-0027-0125. The applicant is also requesting a Variance to allow a reduction from the required rear yard setback standard. The property is located in the Decoto District. The property is zoned R 5000, Single-Family Residential. The project is considered Categorically Exempt per Sections 15303, Class 3(a) and 15305, Class 5(a) of the California Environmental Quality Act (CEQA) Guidelines.

Tina Gallegos, Assistant Planner, presented the staff report.

Chairperson Savage opened the public hearing.

Commissioner Lew asked what is going to happen to the tree on the side lot.

Rudy Parra, Parra Building, 2230 Sol Street, San Leandro, CA 94578, stated that the tree is located within the neighboring vacant lot.

Commissioner Lew asked if the utilities will be placed underground.

Mr. Parra stated that they probably will be placed underground.

Commissioner Lew asked what the fencing will be.

Mr. Parra stated there will be a six-foot high fence on the side that will be the rear yard of the property.

Commissioner Sweeney stated that she thinks the home fits in nicely in the neighborhood.

Chairperson Savage asked about noise reduction measures for the home since it is located so near the railroad tracks.

Mr. Parra stated that the home is pretty much blocked by the homes located across the street.

Commissioner Lew moved to approve Administrative Site Development Review ASD-27-03 and Variance V-07-03 as conditioned and making the findings 1 – 9 and adopt a resolution confirming this action.

Commissioner Savage seconded the motion.

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

## VII. SUPPLEMENTAL STAFF REPORTS:

A. **CONTINUED REPORTS:** None.

B. **NEW REPORTS:** None.

1. **SITE DEVELOPMENT REVIEW SD-08-03**, Initiated by Armando Benozza, on behalf of the property owners, Pedro and Lourdes Mejia, the applicant is requesting Site Development Review approval to construct a 1,144 square foot addition to an existing office building and convert a 1,017 square foot enclosed patio area into office area that would bring the total office building square footage to 4,795 square feet. The proposed addition is a one-story addition. The project site is located at 30545 Union City Boulevard on the southwest corner of Union City Boulevard and Tara Court and is identified as Assessor's Parcel Number APN 482-006-07. The property has a General Plan designation of MS, Special Industrial. This project is considered Categorical Exempt per the California Environmental Quality Act (CEQA) per Section 15301, Class 1(e) (Existing Facilities).

Aki Honda, Associate Planner, presented the staff report.

Commissioner Lew asked why condition #7 does not require three colors for the exterior paint.

Ms. Honda stated that the color elevations of the building show a tan color and a brownish color for the trim and referred the question to the applicant.

Commissioner Lew asked if there would be any banding on the building.

Ms. Honda stated that there is some banding around the top of the building.

Commissioner Lew asked to clarify condition #28 to read “a minimum of 16 parking spaces including 2 handicap parking spaces shall be marked on site”.

Commissioner Lew asked if condition #29 applies to the driveways on Tara Court and Union City Boulevard.

Ms. Honda stated that it would.

Commissioner Lew asked to clarify that the applicant will paint red curbs.

Ms. Honda stated that was correct.

Commissioner Kelley stated that he doesn't think that would apply to the Tara Court driveway because it is only twenty feet.

Mr. Leonard stated that he believes that condition #29 applies only to Union City Boulevard and that is so traffic can steer into the site off of Union City Boulevard in lieu of a deceleration lane.

Commissioner Sweeney asked why it is thirty feet in both directions.

Mr. Leonard stated that it is the same concept for leaving, allowing room for acceleration into traffic.

Commissioner Lew asked why condition #5 is included.

Ms. Honda stated that it is a standard condition of approval.

Commissioner Anderson asked that since this does not apply to the applicant why is it included.

Mr. Leonard stated that this is more of a procedural item and can be stricken.

Commissioner Lew asked if the building currently has a fire sprinkler system.

Ms. Honda referred the question to the applicant.

Commissioner Sweeney asked why are there no conditions of approval from the Police Department.

Ms. Honda stated that she did not receive any conditions of approval from the Police Department.

Mr. Leonard stated that there is a Design Review Committee process and all departments have a set time to get their requirements in and if they don't then the report is issued with or without them.

Mr. Leonard stated that if the Planning Commission wants to add conditions they may do so.

Commissioner Sweeney suggested that staff send a copy of the staff report with a memo that points out that none of the conditions that they normally would ask for have been included and therefore may not be part of the application.

Commissioner Sweeney asked to add condition for solid man doors for exterior doors, 180-degree door viewers on all exterior doors, illuminated address signs, and standard parking lot illumination.

Commissioner Sweeney asked if Animal Control can be sent out to site to check on the condition of 5 – 6 dogs being kenneled at the site. She stated that two dogs are on chains with no visible shelter. She also witnessed a man feeding the animals by throwing feed on the ground into the kennel enclosures and near the dogs on chains.

Commissioner Sweeney asked about if the shed is going to be removed.

Commissioner Sweeney asked about the quality of exterior lighting.

Commissioner Sweeney asked what would happen to the existing concrete pad and if the Building Department would be able to inspect that it was properly constructed.

Ms. Honda replied that the Building Department has inspected the concrete pad and has determined that it will have to be rebuilt.

Commissioner Sweeney spoke of her concern that the landscape plans are not correctly drawn.

Commissioner Sweeney spoke of her concern that the existing canopy is going to stay in place but that there is no cornice treatment or banding that would blend it into the rest of the building.

Chairperson Savage opened the public hearing.

Barry Ferrier, 32212 Allison Way, Union City, CA, spoke of his concerns that this building is located on a major entryway to the city and that it does not fit very well into the surrounding area.

Armando Benozza, Architect, 32638 Noah Dr., Union City, CA 94587, stated that he is adding 3 or 4 trees to the site.

Commissioner Lew asked why he has proposed only two colors for the building.

Mr. Benozza stated that he would work with city for additional color.

Commissioner Lew asked if there is a fire sprinkler system in the building.

Mr. Benozza stated that he does not know.

Commissioner Sweeney suggested that a cornice element be added to the top edge of the building to make it more appealing.

Mr. Benozza stated he is willing to do that.

Commissioner Sweeney asked about landscape plan.

Mr. Benozza stated that the plan is not final.

Commissioner Sweeney stated that there are some trees that have not been maintained and there is a need to add new trees.

Mr. Benozza stated that he understands and he will get a permit from the City before making any changes.

Commissioner Sweeney stated her concerns about the amount of asphalt planned and suggested that some of the parking spaces be removed and more landscaping be put in instead.

Mr. Benoza stated he was willing to do that.

Chairperson Savage closed public hearing

Commissioner Lew asked if it would be possible to make the entrance/exit on Union City Boulevard an exit only from the property.

Mr. Leonard stated that he would have to ask the applicant if he is willing to have only one entrance to the property. Mr. Leonard stated that the driveway on Union City Boulevard would have to be narrowed and signed appropriately.

Commissioner Sweeney asked to eliminate parking spaces #20 and #21 and reduce the size of the back up space and adding additional landscaping.

Commissioner Sweeney asked to eliminate parking spaces #31 and #32 and add a planter of the same length on each side the Tara Court driveway.

Commissioner Sweeney asked to have healthy trees put in on either side of Union City Boulevard driveway and have the dying Monterey pine tree and the Magnolia tree removed.

Commissioner Kelley suggested removing parking space #19 instead of #21 to make a large landscape area.

Commission Sweeney suggested that behind the southern addition there is a large concrete pad that should be removed and replaced with landscaping.

Commissioner Sweeney asked if it was possible to have the curb painted red at the direction of the City.

Commissioner Lew asked to have a requirement added that a fire sprinkler system be added to the new portion of the building.

Mr. Bakker stated that it is part of the Fire Code and that we cannot mandate beyond what the Fire Code requires.

Mr. Leonard stated that condition #3 supports the City Attorney.

Mr. Leonard suggested that since the Planning Commission is requesting some major changes to this project that they continue the project to the December 4, 2003 Planning Commission meeting.

Mr. Leonard summarized the request to the applicant:

Upgrade the plan to show a paint plan with three colors;

Upgrade the exterior building lighting;

Provide an accurate landscape plan showing the removal of parking spaces #20, #21, and back up area, #31 and #32 in favor of additional landscaping;

Add healthy trees on each side of the Union City Boulevard driveway;

Add additional landscaping in the ten foot by forty four-foot area on the west side of the building;

Provide revised elevations showing a cornice element added to the building;

Mr. Leonard stated that staff would contact the Police Department to get their conditions of approval.

Mr. Leonard stated that conditions would be added as follow:

Add a condition to remove the shed prior to issuance of building permits and rebuild the existing illegal concrete pad.

Delete condition #5

Commissioner Sweeney stated that a condition should be added requiring the owner to obtain building permits to remove existing trees.

Commissioner Sweeney clarified to the applicant that the Planning Commission is continuing the project so that he can resubmit the plans.

Commissioner Kelley asked if on condition #14 that we use the wording that was used from the first application this evening.

Commissioner Sweeney wants to use the new burrowing owl condition for future projects but on this parcel it is probably a waste of time due to the number of people and animals already on the property.

Mr. Leonard stated that then we can delete condition #14 in this situation.

Commissioner Sweeney moved to continue Site Development Review SD-08-03 to the December 4, 2003 Planning Commission meeting.

Chairperson Savage seconded the motion.

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

NOES: 0

ABSENT: 0

ABSTAINED: 0

## **VIII. COMMISSION MATTERS:**

**A.** The staff reviewed the Planning items from the September 23, 2003 City Council meeting. The City Council did approve the Accinelli zoning map amendment; they upheld the denial of the Cingular Wireless application and approved the Chevron min-mart. The City Council gave Mr. Montanelli 18 months to have his sign in the approved location.

**B.** The staff listed the upcoming applications for the Regular Planning Commission meeting for November 20, 2003.

## **X. GOOD OF THE ORDER:**

Commissioner Lew will not be able to attend the November 20, 2003 meeting.

Commissioner Sweeney asked for a presentation on the Intermodal Station Rail Study project at a future meeting.

Commissioner Anderson asked for regular updating on the project until it comes to the commission.

Commissioner Anderson asked if there is a way to work with the problem with the odd lot sizes in the Decoto area and the where front lawns are located and perhaps to change the definition of a front lawn.

Mr. Leonard stated that there are very few lots left in the Decoto area that can be built on.

Chairperson Savage asked how to get graffiti removed from the stucco fence of someone's home at 33512 9<sup>th</sup> street.

Mr. Leonard stated he would report it to Neighborhood Preservation.

**XI. ADJOURNMENT:**

The meeting adjourned at 9:05 p.m.

**APPROVED:**

\_\_\_\_\_  
ROSEMARY SAVAGE, CHAIRPERSON

**ATTEST:**

\_\_\_\_\_  
MARK LEONARD, SECRETARY