

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF JANUARY 15, 2004, 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
Absent: Commissioner Savage**

STAFF PRESENT: Mark Leonard (Director, Economic and Community Development); Joan Malloy (Planning Manager); Tina Gallegos (Assistant Planner); Carlos Jocson (Interim Director of Public Works); Lori Taylor (Economic Development Coordinator); John Bakker (City Attorney); and Kris Fitzgerald (Administrative Assistant)

II. APPROVAL OF MINUTES:

The minutes for the Regular Planning Commission meeting of December 11, 2003 were approved as submitted.

III. ORAL COMMUNICATIONS: None.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS: None

B. NEW HEARINGS:

- 1. SITE DEVELOPMENT REVIEW SD-09-03, USE PERMIT UP-06-03,**
Initiated by Chapel of the Chimes, the applicant is requesting Use Permit approval for a Long Range Master Plan (UP-06-03) to guide the development of the Chapel of the Chimes property; and specific Site Development Review approval is requested for Phase 2, which includes expansion into the Hillside Terrace (SD-09-03). The subject site is currently zoned and has a General Plan designation of PI, Private Institutional. The site is located at 32992 Mission Boulevard, Hayward, CA and is identified as Assessor's Parcel Numbers 87-40-6-10 and a portion of 87-40-7-4. A Mitigated Negative Declaration has been prepared.

Tina Gallegos, Assistant Planner, presented the staff report.

Commissioner Kelley asked whether there has been any mitigation for the area above the cemetery site being that the City of Fremont had experienced some landslides in the portion of the Hillside within their city limits.

Mark Leonard, Director, Economic and Community Development, stated that the area is owned by East Bay Regional Park District and there are no signs of sloughing. He stated that there were not going to be any big heavy structures constructed in that area.

Commissioner Kelley asked if there would be mitigation for creep due to the Hayward fault running through this area. Commissioner Kelley was concerned that citizens could sue the City for allowing new construction there.

John Bakker, City Attorney, does not believe that the City would be liable in this case. There are immunities in the government code.

Commissioner Sweeney asked how tall the new structures would be against the hillside.

Ms. Gallegos stated that there would be three levels of crypts, which would be nine feet tall.

Commissioner Sweeney asked how tall the proposed structure on the top of the hill would be.

Joan Malloy, Planning Manager, stated that this is a wall and was indicated to staff to be an overlook and not part of the crypt structure.

Commissioner Sweeney asked that since there will be an emergency vehicle access road from the property to Tamarack Drive would people be able to see the new work from that roadway?

Ms. Malloy stated that the emergency vehicle access road would sweep around the mound at the end of the street and there will not be a direct view.

Commissioner Sweeney asked if the emergency vehicle access road was recessed into the slope.

Ms. Malloy stated that it was not specifically required to be.

Commissioner Lew asked if the property owner planned to allow access to the park through the cemetery.

Ms. Gallegos stated that a condition of approval stated the applicant will work with East Bay Regional Park District on this issue.

Commissioner Lew asked if the applicant will be allowed to put fencing in that area to restrict access.

Ms. Gallegos stated that access will be provided from Mission Boulevard and off of Palmetto Drive.

Commissioner Lew stated that she is not comfortable with the public having access to the cemetery like it was a public park.

Commissioner Lew asked what the weight of crypts going into the hillside would be.

Ms. Malloy stated that any structure over eight feet would be reviewed by structural and soils engineers.

Commissioner Lew stated that a reference to condition #8 on page 8 in the second paragraph actually refers to condition #6.

Commissioner Anderson noted that Golden Eagles were mentioned in the Mitigated Negative Declaration and wanted to know why there were not included in condition #10.

Ms. Gallegos stated that the condition could be changed to add Golden Eagles.

Commissioner Anderson opened the public hearing.

Commissioner Lew asked if the cemetery was going to allow park visitors to use the cemetery parking area.

Scott Pennington, Chapel of the Chimes, 32992 Mission Blvd., Hayward, CA, stated that the portion of the park above this area is not greatly used. Mr. Pennington stated that the cemetery hours are 8:00 am to dusk.

Commissioner Lew asked if they intend to put fencing around the new site area.

Mr. Pennington stated that they have not discussed the fencing for this area and since most of the rest of the property does have fencing they would probably request it.

Commissioner Sweeney asked how visible the 9-foot crypt wall would be.

Jack Goodnoe, 202 E. Washington #612, Ann Arbor, MI, 38104, stated that the intent is to place the garden crypts so that they will be sheltered on 3 sides and barely visible from the road.

Commissioner Sweeney asked what type of materials will be used on the crypts.

Mr. Goodnoe stated that it would be granite in either browns or yellows to blend in with the slope.

Commissioner Sweeney asked if the face of the wall would be polished or brushed.

Mr. Goodnoe stated that they have not considered the finishes.

Commissioner Sweeney suggested a polish finish would be very apparent especially with the setting sun and the applicant should consider this.

Commissioner Sweeney asked if there is a plan to put fencing on the property line between the cemetery and East Bay Regional Park land.

Mr. Goodnoe stated that there are no proposed plans for new fencing.

Ms. Malloy stated that there is currently a cattle fence at the back of the property.

Commissioner Sweeney stated that she is not convinced that a replacement fence is needed.

Mr. Goodnoe stated that it is not the intention of the cemetery to put up a fence especially not a chain link fence.

Commissioner Sweeney asked if there is a plan to recess and/or screen the access road from development.

Mr. Goodnoe stated that existing trees and vegetation do screen the road and the temporary screen of non-native materials could be replaced with native vegetation. He stated that they could add trees going up the road.

Commissioner Sweeney asked if the applicant had any objections to the ongoing site survey to identify special status plant species being added as a condition of approval.

Mr. Goodnoe stated that he did not.

Laura Moran, Impact Sciences, Inc., 1 Kaiser Plaza, Suite 1520, Oakland, CA 94612, biologist stated that the intent is to go out prior to construction and resurvey.

Commissioner Sweeney asked about adding a condition to coordinating construction activities to avoid the bird nesting season, etc.

Ms. Moran stated that she has already done a burrowing owl survey with negative results.

Hugh McNamara, 32232 Mercury Way, spoke of his concerns about the slope slippage along the area for development.

William Marsh, Landscape Architecture Program, University of British Columbia, Vancouver, B. C., stated that they found no signs of slope instability although there was some surface instability on the lower slope. He stated that it was determined after examining the site for a year that it only occurs in El Nino years when the ground is very wet. Mr. Marsh recommended an interceptor drain system using the road as a line of defense. The water would then be recharged into the ground water.

Commissioner Sweeney asked to change condition #6 to add at the end of the next to last sentence, "materials, colors and finishes".

Commissioner Sweeney asked to add a condition for a site survey for special status plant species.

Commissioner Sweeney stated that she thought that this was a very thorough and well thought out site development.

Commissioner Anderson closed the public hearing.

Ms. Gallegos confirmed the changes to the conditions of approval as follows:

- Change condition #10 to add Golden Eagles and be consistent with the mitigation measure included in the Negative Declaration.
- Add a condition for a site survey of special status plant species
- Add to condition #6 “materials, colors and finishes”.

Commissioner Lew made a motion to approve Site Development Review SD-09-03 and Use Permit UP-06-03 making the findings 1-10, with the amended conditions of approval and making resolutions confirming these actions.

Commissioner Sweeney seconded the motion.

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

Mr. Leonard stated that this item will be reported to the City Council at their next meeting which will be held on January 27, 2004.

2. **ZONING TEXT AMENDMENT AT-01-04**, Initiated by the City of Union City, a request to modify the Chapter 18.40, Industrial Districts. The Zoning Text Amendment proposes comprehensive changes to update the permitted and conditionally permitted uses in the Industrial Districts. Changes to the permitted and conditionally permitted uses focus on removing antiquated or undesirable uses and more clearly defining appropriate warehouse and distribution uses. Modifications to the Section 18.40.150, Performance Standards are also proposed. Notice is also given that the above project is considered Categorical Exempt per Section 15601(b3) of the California Environmental Quality Act (CEQA) Guidelines.

Lori Taylor, Economic Development Coordinator, presented the staff report.

Commissioner Kelley asked why health clubs are a permitted use in the MS district but not under the ML district.

Ms. Taylor stated that the MS district is for lighter uses and tends to be a buffer between industrial and residential areas. Ms. Taylor stated that there could be problems with health clubs being located in an industrial area and having users who don't have knowledge of what to do in case of emergencies. Ms. Taylor stated that by making them a conditional use it gives staff a chance to determine what impacts they could have on businesses in the area.

Commissioner Kelley asked what percentage of the City is zoned MS and ML.

Ms. Malloy stated that approximately 20 percent is of the City is zoned MS.

Commissioner Kelley asked if we are scaring off potential health club business with this type of zoning.

Ms. Taylor stated that having to do both a Conditional Use Permit and a Zoning Text Amendment would scare them off. By adopting this usage as conditionally permitted she stated that businesses would feel more confident location here.

Mr. Leonard stated that MS zones are along thoroughfares which make it easier for traffic to enter and leave the properties more frequently.

Commissioner Lew asked where the guideline of one job for every 1,500 square feet was obtained.

Ms. Taylor stated that it was based on guidelines from the General Plan.

Commissioner Lew asked how that would be enforced.

Ms. Taylor stated that most of the data would come from the business license application. Ms. Taylor stated that when a large company comes to the city staff does a lot of background research.

Commissioner Kelley asked why in the ML District were communication towers and satellite dishes added.

Ms. Taylor stated that this was an update of the language from the old text "Radio and Television towers."

Ms. Malloy stated that this was intended to be more encompassing and more modern.

Commissioner Anderson opened the public hearing.

Jack Balch, 30960 Huntwood Ave., Hayward, stated that he appreciates the change of restrictions to build buildings. Mr. Balch has four acres on Central Avenue with a machine shop on one side, railroad tracks on another and the loading dock of another company on the third side. Mr. Balch offered the property to another company but they didn't want it because it has a narrow frontage. Mr. Balch wants to make sure that there is enough flexibility so that they are not at a disadvantage to older buildings. Mr. Balch feels that current zoning constraints give existing buildings (pre 1996) an unfair advantage.

Commissioner Anderson closed the public hearing.

Commissioner Sweeney made a motion to approve Zoning Text Amendment AT-01-04, making the specific findings 1 – 6 and making a resolution confirming this action.

Commissioner Lew seconded the motion.

AYES 4 (Anderson, Kelley, Lew, Sweeney)
NOES 0

ABSTAIN 0
ABSENT 1 (Savage)

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS:

1. **SITE DEVELOPMENT REVIEW SD-08-03**, Initiated by Armando Benoza, 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 Categorically Exempt per the California Environmental Quality Act (CEQA) per Section 15301, Class 1(e) (Existing Facilities).

Joan Malloy, Planning Manager, presented the staff report.

Commissioner Lew asked how the proposed color scheme will match with the existing building.

Ms. Malloy stated that the entire building will be repainted.

Commissioner Lew asked to make it clear in condition #8 that the applicant will repaint the entire building.

Mr. Leonard stated that it will be added as the last sentence.

Commissioner Lew asked to clarify condition #14 that the applicant will be adding evergreens.

Ms. Malloy stated that the applicant proposes to remove the pine tree.

Commissioner Lew stated that the landscape plan shows two pine trees and asked if the applicant is proposing to remove one of them.

Commissioner Sweeney stated that there is a small dead pine tree in the far corner.

Commissioner Lew asked to clarify that the green area around the parking is lawn.

Ms. Malloy stated that it is not clearly indicated in the plans. One part is lawn and the project can be conditioned to continue the lawn area.

Mr. Leonard stated that the square area adjacent to Union City Boulevard is lawn and that the south area planting strip should ground cover.

Commissioner Lew asked to clarify if condition #36 would apply to both driveways.

Carlos Jocson, Interim Director Public Works, stated that it should be both driveways.

Mr. Leonard stated that the condition will add "s" to end of driveway.

Commissioner Sweeney asked about the extent of the landscaping around the trash enclosure

Ms. Malloy stated that the area to the east is all lawn and to the west is a concrete path.

Commissioner Sweeney asked to have some type of vines planted adjacent to the trash enclosure.

Commissioner Sweeney asked whether the existing, unpermitted concrete pad will have to be removed.

Ms. Malloy stated that it would have to be removed unless it can be proved to be structurally sound.

Commissioner Sweeney asked to have that added to condition #23.

Commissioner Sweeney suggested that the new planter on the south side of the building be planted with shrubs and ground cover, instead of lawn.

Mr. Leonard asked the Commission if this was direction to staff to take out the lawn and add shrubs and ground cover across from parking spaces 22 and 23.

Ms. Malloy stated the shrubs could be relocated along the parking lot so the lawn faced the building to be more useable by the tenants.

Commissioner Kelley felt that the Commission is intruding to far into this issue

Commissioner Sweeney stated that she did not like the brick veneer, as it looks outdated.

Commissioner Lew asked if the Old Alvarado design standards apply to this project.

Mr. Leonard stated that this is industrial project and Old Alvarado did not encompass the area.

Commissioner Kelley asked why the dogs were included in the conditions of approval.

Ms. Malloy stated that it was included because of concerns expressed by the Planning Commission at the November 6, 2003 meeting.

Commissioner Lew stated that she prefers a tan color for the veneer.

Mr. Leonard stated that the Commission could require the red brick to be a lighter color.

Commissioner Sweeney suggested using stone tile with a rough finish and not to use brick at all.

Mr. Leonard suggested a new condition to address the Commission's concern regarding the brick. The new condition states that the applicant shall substitute red brick with stone, tile or other tan color material and may go half way up the building with this material.

Commissioner Lew stated that there should still be contrasting colors.

Commissioner Lew asked about the fencing that is currently in poor shape, and does the applicant plan to replace it.

Mr. Leonard stated that a condition could be added to require the applicant to replace the fence where it is deteriorating.

Barry Ferrier, 32212 Allison Way, asked to have some sort of berming or shrubs at the entrance to the parking lot to keep the cars from being seen from Union City Boulevard.

Commissioner Sweeney stated that there are existing trees on either side of the driveway.

Mr. Ferrier agreed but stated that parked cars can still be seen from the street.

Commissioner Sweeney asked if he wanted something to wrap all the way around the building.

Mr. Ferrier stated that he just wanted to put something in to screen the parked cars from Union City Boulevard up to a height of 30 inches.

Commissioner Sweeney asked if putting medium size shrubs across the front of the parking area by the sidewalk would be satisfactory.

Commissioner Lew agreed with Commissioner Sweeney that there is too much lawn area and lawn takes too much water and there is an opportunity to do something different with this area.

Ms. Malloy asked to clarify where the area is located.

Mr. Leonard asked if the consensus of the Planning Commission is to take out the lawn area at the rear of the building.

Commissioner Kelley stated that he doesn't agree with that change. He stated that the area doesn't affect the neighbors and is not visible from the street.

Commissioner Lew asked for a new landscape plan with drought tolerant plants and lots of mulch.

Commissioner Anderson stated that he is neutral on this issue.

Mr. Leonard recapped the following changes to the conditions of approval:

1. That elevations be modified by substituting the proposed red brick veneer with stone, tile or other material of a tan color to more appropriately match the building, and that such substitute veneer material may be provided along the bottom half of the building, rather than along the entire height of the building. The Commission also recommended that the entire building be repainted and that a three color palette be provided on the building.
2. That a condition of approval be added that will require the applicant to replace the fencing where it is deteriorated.
3. That the illegally constructed concrete pad be removed, unless it can be certified as structurally sound by an engineer.
4. That Condition #37 be revised to require red curb painting along both driveways.
5. That the landscape plans be modified to require the following changes:
 - A. Medium height shrubs shall be added along the sidewalk from the driveway along Union City Boulevard, northerly to the edge of the building to provide screening of the parking lot.
 - B. Lawn shall be added within the landscaping planter on the southeast corner of the property along Union City Boulevard, and groundcover shall be added within the planter area along the southern property line.
 - C. Clinging vines shall be planted along the north side of the trash enclosure to provide screening of the trash enclosure from Tara Court.
 - D. The planter area adjacent to the rear of the building shall be modified by replacing proposed lawn area with dense shrubs and groundcover.

Commissioner Kelley asked how the City would enforce the landscape plan if the applicant changes it from the approved plan.

Mr. Leonard stated that only if it were brought to the City's attention would anything be done. He also stated that periodic refreshing of landscape areas is good to keep the property attractive.

Commissioner Lew made a motion to approve to approve Site Development Review SD-08-03, making the findings 1 -5 and a resolution confirming this action.

Commissioner Sweeney seconded the motion.

AYES	4 (Anderson, Kelley, Lew, Sweeney)
NOES	0
ABSTAIN	0
ABSENT	0 (Savage)

B. NEW REPORTS: None.

VII. COMMISSION MATTERS:

- A.** The staff reviewed the Planning items from the January 13, 2004 City Council meeting.
Kerry Ingredients
Kohoutek Project
- B.** The staff listed the upcoming applications for the Regular Planning Commission meeting for February 5, 2004.

X. GOOD OF THE ORDER:

Commissioner Lew thanked staff for providing the 2003 Community Development memorandum. She felt that it was very comprehensive.

Commissioner Lew congratulated staff for getting 3 A's on housing from the Bay Area Council.

XI. ADJOURNMENT:

The meeting adjourned at 9:10 p.m.

APPROVED:

ROSEMARY SAVAGE, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY