

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF JUNE 17, 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: Chairperson Savage**

STAFF PRESENT: Lori Taylor (Economic and Community Development); Aki Honda, AICP (Associate Planner); Tina Gallegos, (Assistant Planner); Carlos Jocson (City Engineer); John Bakker (Assistant City Attorney); and Kris Fitzgerald (Administrative Assistant).

II. APPROVAL OF MINUTES:

The minutes for the Regular Planning Commission meeting of June 3, 2004 were approved as submitted.

III. ORAL COMMUNICATIONS:

IV. WRITTEN COMMUNICATIONS:

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS: None.

B. NEW HEARINGS:

- 1. DRY CREEK COTTAGE AND GARDENS, MAY ROAD, General Plan Amendment AG-02-04 (a), Zoning Map Amendment, A-04-04, and Site Development Review SD-07-04;** The East Bay Regional Park District is requesting approval to change the General Plan and Zoning Map designation for the property that includes the Meyer's cottage and gardens (APN 087-0040-015-01) from an Agricultural (A) zoning designation to an Open Space (OS) designation. The applicant is also requesting Site Development review approval to construct a 50 car parking area and to allow limited public access to the property gardens through May Road. The East Bay Regional Park District, as lead agency has prepared a Mitigated Negative Declaration on the project and has determined there will be no significant effect on the environment with the incorporation of mitigation measures.

Tina Gallegos, Assistant Planner, presented the staff report.

Commissioner Kelley asked if the parking lot will be visible from Mission Boulevard.

Ms. Gallegos stated that probably the tops of the cars would be visible.

Commissioner Kelley asked if the parking lot would significantly alter the appearance of the hillside.

Ms. Gallegos stated that she does not believe that it would but the applicant could be required to provide landscaping to shield the parking lot from Mission Boulevard.

Commissioner Kelley stated that he wants the parking lot well screened from Mission Boulevard.

Commissioner Sweeney asked if in the future when the applicant wants to build new structures on the property will that trigger the need for a Specific Area Plan.

Ms. Gallegos stated that any new buildings will require a Site Development Review application and any other pertinent requirements.

John Bakker, City Attorney, stated that he is not sure if it would require a Specific Plan. Mr. Bakker stated that in the hillside area specific types of developments in certain areas require Specific Area Plan and this area has not been evaluated.

Commissioner Sweeney stated that she just wanted to raise the flag.

Commissioner Anderson opened the public hearing.

Diane Althoff, East Bay Regional Park District, 2950 Peralta Oaks Ct., Oakland, CA 94605, thanked staff for their help in preparing this project for the commission. Ms. Althoff stated her concerns about condition of approval #20. Ms. Althoff stated that May Road is a private road. Ms. Althoff is in complete agreement that there needs to be a 20-foot fire access lane and towards that end the Park District has posted the south side of the road as no parking, however, there is still parking on the north side of the road. Ms. Althoff stated that according to the staff report the property owner, Mr. Marcotte, was required to keep the north side of the road clear. Ms. Althoff stated that if that was enforced then the 20-foot fire access lane would be clear without any further improvements. Ms. Althoff stated her concerns with condition of approval #7 to provide additional landscaping. Ms. Althoff stated that at this time they are not bringing water down to the parking lot area and therefore would be unable to irrigate the new landscaping. Ms. Althoff stated that they are developing water from Tamarack Road for fire fighting and for the gardens only.

Commissioner Sweeney asked why they are developing water from the Tamarack Drive side rather than from Mission Boulevard.

Ms. Althoff stated that there is an existing fire road there and it is just packed dirt, so it would be less costly to tie in there.

Commissioner Sweeney asked if they could run a pipe up the shoulder so that they wouldn't have to cut into the asphalt.

Commissioner Sweeney stated her concerns for the visibility of the parking area from Mission Boulevard and wants to have at a minimum some type of drought tolerant shrubs, grasses that would block the visibility.

Ms. Althoff stated that it is not a capacity problem, but that they have a very small budget for this project.

Commissioner Sweeney asked why traffic impacts on Whipple Road were not considered in the Mitigated Negative Declaration.

Ms. Althoff stated that she is unable to answer the question, as she was not a part of that process.

Commissioner Kelley asked why the emergency access road has become a requirement now when it has not been enforced by the City for many years.

Ms. Gallegos stated that May Road has been designated as an emergency vehicle access road due to the new development at Dry Creek apartments.

Mr. Bakker stated that it may have been that when the original project was approved the fire code requirements were different and therefore the requirement would not have been imposed at that time.

Ms. Gallegos stated that records from 1972 do not show that the area was designated as a parking area.

Commissioner Kelley asked if the City has attempted enforcement on May Road.

Mr. Bakker stated that they haven't because it wasn't designated as a fire lane before. Mr. Bakker stated that so far they have not found any documents that would support enforcement action on people parking there. Mr. Bakker stated that East Bay Regional Park District would ultimately have to provide a 20-foot wide fire access lane in order to develop their property.

Commissioner Kelley stated his concerns that this would create a burden on the Marcotte brothers by eliminating parking areas.

Commissioner Sweeney asked why the Fire Department is requiring a 20-foot wide lane.

Karl Schneider, Union City Fire Department, stated that a fire engine is approximately 10 feet wide and the trucks need to be able to pass each other.

Commissioner Sweeney asked why the fire trucks need to pass each other.

Mr. Schneider stated that sometimes there is a need to deploy additional engines past the area where the first engine stops and therefore they need the 20-feet for additional engines to pass the parked engines. Mr. Schneider stated that fire engines also need to be able to pass cars that have pulled over in response to the sirens and lights of a fire engine. Mr. Schneider stated that the current standard for fire lanes is 26-feet wide but the Fire Department is willing to accept 20-feet at this particular location.

Commissioner Lew asked if there were any terms or conditions when the land was donated to the East Bay Regional Park District.

Ms. Althoff stated that the only restrictions that she is aware of is that the land be maintained as a public area with public access.

Commissioner Lew asked if the property is open now.

Ms. Althoff stated that there may have been some private tours for board members, etc.

Commissioner Lew asked if the Meyers sisters directed to have the property open to the public or if this is a park district decision.

Ms. Althoff stated that she does not know the full history of the project.

Commissioner Sweeney asked what safety hazard they are going to eliminate by installing bollards at the west end of May Road at the intersection of Whipple Road.

Ms. Althoff stated that when the Whipple Road extension was built it left a little dog leg end of May Road. The bollards are to keep people from turning in onto the wrong road.

Ms. Althoff asked why the condition of approval for the fire access road is being imposed on the applicant and not also Mr. Marcotte.

Ms. Gallegos stated that they are willing to work with the park district and the fire department to determine the best way to apply this condition.

Ms. Althoff stated that she would like the condition to be modified so that the applicant is not solely responsible for providing the fire access road.

Commissioner Anderson asked if it was possible to modify the condition to achieve this result.

Mr. Bakker stated that typically this type of situation arises when a new development is proposed and the condition is imposed at that time. Mr. Bakker stated that in 1972 they believe that a fire access lane was required for the apartment complex development, however, staff is still checking old files. Mr. Bakker stated that he is not sure that the City has the authority to impose a restriction after the fact. Mr. Bakker stated that this does not mean that East Bay Regional Park District does not have to meet the requirement as they are the ones now proposing development. Mr. Bakker stated that he believes the condition should stay as is.

Commissioner Kelley asked where the boundary is for the East Bay Regional Park District property.

Ms. Althoff stated that it is 15 feet to the south of the road.

Commissioner Kelley stated that there are utility poles along the south side of the road. Commissioner Kelley suggested undergrounding the utilities and expanding the roadway to meet the fire lane requirement.

Carlos Jocson, City Engineer, stated that it can be conditioned but the applicant can plead a hardship due to the cost. Mr. Jocson stated that the cost for undergrounding is about \$250 per linear foot.

Commissioner Kelley stated that he thinks the poles are about six feet away from the road and staff is asking for an additional six feet to make the 20-foot fire lane access road.

Ms. Gallegos stated that one option in the staff report was to keep the poles where they are and make it a landscaped median and add a second lane.

Ms. Althoff stated that having the power poles down the middle of a two-lane road is not very safe.

Commissioner Sweeney asked if May Road is a public road or a private road.

Mr. Jocson stated that May Road is strictly private.

Commissioner Sweeney asked who enforces parking on private property.

Mr. Bakker stated that the City does not enforce parking on private roads in general but will enforce fire lanes.

Ms. Althoff suggested a continuance until East Bay Regional Park District has had an opportunity to work with Mr. Marcotte and the City.

Mr. Bakker stated that this is a requirement of the fire code so they are going to have to work it out eventually.

Ms. Althoff stated that they are not prepared to go forward with the condition as stated.

Commissioner Anderson asked if they would like a continuance for this item.

Ms. Althoff stated yes.

Commissioner Lew asked if they would be charging admission to the gardens and property.

Ms. Althoff stated not to the gardens but there may be a parking fee. There may be a 2.00 dollar fee.

Commissioner Lew suggested having a shuttle to take patrons to the gardens instead of having the parking area.

Ms. Althoff stated that it is a good suggestion but the staging area also serves as a major trailhead that goes through Garin and Dry Creek Parks.

Mr. Schneider stated that the Fire Department will commit to work with all parties to get a reasonable solution to the problem.

Commissioner Kelley suggested allowing the residents at Dry Creek Apartments to park in the new parking area.

Ms. Althoff stated that they did discuss it but because their facilities are only open for limited hours and then the staging area would be secured for the evening. The apartment people would not be able to get their vehicles during closed hours.

Commissioner Sweeney asked about two chemical toilets proposed at the far end of the gardens and are there restroom facilities being proposed in the garden area or staging area.

Ms. Althoff stated not at this time.

Commissioner Anderson closed the public hearing.

Commissioner Kelley thinks that the project should be approved as is.

Commissioner Sweeney stated that she would prefer a continuance so that the park district has an opportunity to work with the City and the neighboring property owner to resolve the fire lane issue.

Commissioner Lew agrees with Commissioner Sweeney for continuance.

Commissioner Sweeney asked what period of time do they need for the continuance.

Ms. Althoff stated that at minimum they would need two weeks and would prefer four weeks if possible.

Commissioner Sweeney made a motion to approve General Plan Amendment AG-02-04 (a), Zoning Map Amendment A-04-04 as proposed making findings 1 – 3 and moved to continue the Site Development Review SD-07-04 to the July 15th meeting of the Planning Commission, and recommending the City Council adopt resolutions confirming these actions.

Commissioner Sweeney asked the applicant to take a look at the traffic impacts on Whipple Road and Mission Boulevard. Commissioner Sweeney does not believe that the CEQA document can stand without looking at that intersection.

Commissioner Lew seconded the motion.

Commissioner Anderson suggested requiring an encroachment permit for signage on the public right of way.

Mr. Bakker stated that you cannot condition General Plan Amendments or Zoning Map Amendments.

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

Ms. Taylor stated that the General Plan Amendment AG-02-04 (a) and Zoning Map Amendment A-04-04 will go to the City Council on July 13, 2004 and the Site Development Review will be continued to July 15, 2004.

- 2. GENERAL PLAN MAP AMENDMENT AG-02-04 (b), ZONING MAP AMENDMENT A-05-04;** Initiated by the City of Union City, the City is proposing an amendment to the Land Use Diagram of the 2002 General Plan to reflect current policies and address minor inconsistencies and a Zoning Map Amendment to bring the Zoning Map into compliance with the Land Use Diagram of the 2002 General Plan. The City has determined that the above amendments are exempt from further environmental review, based upon the certified EIR for the 2002 General Plan.

Aki Honda, Associate Planner, presented the staff report.

Commissioner Lew asked how Fire Station 4 and the Union Landing Transit Center were approved when the land use contradicted the Zoning Map and General Plan.

Ms. Honda stated she did not know why they were not updated prior to their development.

Mr. Bakker stated that technically the City doesn't have to comply with it's own zoning or general plans and that such public facility uses are generally allowed in such districts.

Commissioner Sweeney stated that the City is limited in the number of General Plan Amendments that can be made in a year and perhaps that is the reason why changes were not made at that time.

Commissioner Lew asked if the zoning isn't changed to Retail Commercial on properties surrounding the City Gymnasium site, what would be the effect on the surrounding properties.

Ms. Honda stated that the zoning would no longer be consistent with the General Plan designation and by State Law the zoning must be made consistent with the General Plan.

Commissioner Lew asked rather than change the general plan can we change the zoning instead.

Ms. Honda replied that the properties that are referred to on Horner Street currently have a Specialty Commercial zoning designation and changing them to Retail Commercial will bring them into compliance.

Commissioner Lew asked if all the property owners were notified.

Ms. Honda stated that they were notified by mail.

Commissioner Lew asked if staff received any calls about the changes.

Ms. Honda replied that she received a few calls from the property owners who wanted to know what affect the changes would have on their property.

Commissioner Kelley asked about page 5, #10 that talks about changing the DIPSA area over to RDC. Commissioner Kelley thought that had already been changed.

Ms. Honda asked if Commissioner Kelley was referring to the PSSC site, in which case that area had already been changed.

Commissioner Sweeney stated that they changed the General Plan designation but not the zoning designation.

Commissioner Kelley asked why #6 is being changed from CPA to A.

Ms. Honda stated that the 2002 General Plan Land Use Diagram shows it as Agriculture.

Commissioner Sweeney explained that the site was associated with land adjacent to it that was going to be some sort of office. Commissioner Sweeney believes that there are some small homes on the site and she is not sure that Agriculture is the correct designation.

Commissioner Anderson opened the public hearing.

Commissioner Anderson closed the public hearing.

Commissioner Lew made a motion to approve General Plan Amendment AG-02-04 (b) and Zoning Map Amendment A-05-04 making findings 1 – 5 and recommending the City Council adopt resolutions confirming this action.

Commissioner Sweeney seconded the motion.

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

Ms. Taylor stated that the General Plan Amendment AG-02-04 (b) and Zoning Map Amendment A-05-04 will go to the City Council on July 13, 2004 and the Site Development Review will be continued to July 15, 2004.

VII. SUPPLEMENTAL STAFF REPORTS:

- A. CONTINUED REPORTS: None.**
- B. NEW REPORTS: None**

VIII. COMMISSION MATTERS:

- A.** Follow-up on Planning Commission referrals to the City Council.
- B.** Upcoming applications for the Regular Planning Commission meeting of July 1, 2004.

IX. GOOD OF THE ORDER:

Commissioner Sweeney received a newsletter that stated that the Tiburcio Vasquez Clinic was relocating in Hayward and was the City aware that the clinic was moving.

Ms. Taylor stated that she was aware that they had received significant capital funding to build on Mission Boulevard.

Commissioner Sweeney stated that she will not be able to attend the July 15, 2004 Planning Commission Meeting.

- X. ADJOURNMENT: 8:20 p.m.**

APPROVED:

ROSEMARY SAVAGE, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY