

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF MAY 19, 2005, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

- I. ROLL CALL: Commissioners Lew, Savage, Sison, Sweeney and Chairperson Anderson
ABSENT: Commissioner Savage and Commissioner Sison**

STAFF PRESENT: Mark Leonard (Director, Economic and Community Development); Joan Malloy (Planning Manager); Aki Honda (Associate Planner); Carlos Jocson (City Engineer); Kit Faubion (City Attorney); Kris Fitzgerald (Administrative Assistant).

- II. APPROVAL OF MINUTES:** The minutes of the Regular Planning Commission Meeting of May 5, 2005 were approved as submitted.

- III. ORAL COMMUNICATIONS:** None.

- IV. WRITTEN COMMUNICATIONS:** None.

- V. PUBLIC HEARINGS:**

A. CONTINUED HEARINGS: None.

B. NEW HEARINGS: None.

- VI. SUPPLEMENTAL STAFF REPORTS:**

A. CONTINUED REPORTS: None.

B. NEW REPORTS:

- 1. UNION CITY INTERMODAL STATION PASSENGER RAIL PROJECT PUBLIC MEETING;** the City of Union City has prepared a Draft Environmental Impact Report (DEIR) in accordance with the California Environmental Quality Act (CEQA) for the proposed Union City Intermodal Station Passenger Rail Project. The purpose of this meeting is to present and review findings from the DEIR and give the opportunity for comment.

Joan Malloy, Planning Manager, presented the staff report.

Karl Schaarschmidt, Earth Tech, gave an overview of what the regional rail services are and where they are located and how they will interact with Union City. Mr. Schaarschmidt spoke about the project goals.

Bill Kasson, Jones and Stokes, stated that they are making this presentation this evening because the Draft EIR has been released and this is the public comment period. He said that all written comments should be received by June 9, 2005. Mr. Kasson spoke about the different mitigation measures that were being proposed in response to the environmental impacts of this project.

Chairperson Anderson asked him to define sensitive receptor for the audience.

Mr. Kasson stated that the significant sensitive receptor was the residents. He said that they looked for the resident that was closest to the track. Mr. Kasson stated that there was one that was 50 feet from the track. He stated that was used as the most sensitive case to determine if there would be an impact.

Commissioner Sweeney asked what type of material is used in the friction modifiers that are listed under the noise mitigation and how do they work.

Mr. Kasson stated that it is a water-based lubricant. He said that it reduces the friction to reduce the noise but not so much that it impacts breaking.

Commissioner Sweeney asked what is ballast.

Mr. Kasson stated that ballast is what tracks are built on top of.

Chairperson Anderson asked how the different decibel levels compare to each other.

Mr. Kasson stated that it is difficult to explain because decibels are on a logarithmic scale.

Chairperson Anderson asked if the 90 million dollars funding is for all the phases.

Karl stated that it is the total cost to construct the line.

Chairperson Anderson opened up the public meeting.

John Haley, Union City, stated that he feels that this is a huge increase in train traffic and that there are a lot of gated crossings involved. Mr. Haley asked how all this new traffic will be managed. Mr. Haley stated that there are already problems with lengthy waits at gated crossings.

Bret Chamberlin, Fremont stated that when he bought his home in Riverwalk in 2001 he was aware that there was existing train traffic and that there was the possibility of there being more trains in the future. Mr. Chamberlin stated that he was not informed that a connection would someday be built through the Riverwalk neighborhood. Mr. Chamberlin does not want a diesel railyard within several hundred yards of the neighborhood. He does not want years of noise and blinding lights from nighttime construction. Mr. Chamberlin spoke against the wheel squeal from dozens of trains careening around the corner of his neighborhood everyday. He feels that this project is being unfairly forced onto his neighborhood. Mr. Chamberlin stated that if the purpose of this project is to provide a direct connection between Capital Corridor, Amtrak and BART, then all the riders need to do is take an Alameda County Transit bus from Fremont Centerville station to the Fremont Bart station. Mr. Chamberlin stated that Amtrak riders can depart in Hayward and take an Alameda County transit bus straight to the Hayward BART station. Mr. Chamberlin asked why we are spending 100 million dollars of taxpayer money so that a few Amtrak riders who need to connect to BART don't have to spend a couple of minutes on a bus that already exist. Mr. Chamberlin asked how many Amtrak riders need to connect to BART. Mr. Chamberlin stated that according to a 2002 study by Capital Corridor the number would be 896 per day in the year 2025. Mr. Chamberlin asked how the cities of Fremont and Union City can go forward in good faith on a project that is specifically for Amtrak trains when the Federal government has put Amtrak on the fast track to bankruptcy by eliminating most of its budget. Mr. Chamberlin stated that he does not believe that most of the vibration in his neighborhood comes from the BART trains. Mr. Chamberlin stated that he does not notice any significant vibrations from passing BART trains at his home, but he feels significant vibrations from passing Amtrak, ACE and freight. Mr. Chamberlin does not want the new rail line constructed so close to his home as he feels that this will increase the vibration impact in his home severely. He stated

that his home was engineered to withstand the vibrations from the existing train traffic. Mr. Chamberlin asked the cities of Fremont and Union City to stop this project. Mr. Chamberlin stated that this project will devalue the homes more than the 90 million dollars the project will cost. He asked if the cost of the project included defending the project from lawsuits arising from the related economic, environmental and health related harm that will be inflicted on thousands of residents of Fremont and Union City. Mr. Chamberlin stated that the potential benefits to the community versus the potential harm to the environment, safety, quality of life, cost of construction, loss of real estate value, and emissions make this project unnecessary and potentially irresponsible.

Hugh McNamara, Union City, spoke of his concerns that the railroads maintain their signalarms so they do not malfunction and cause associated traffic problems. He stated that the arms sometimes go down for no reason.

Kenneth Ryan, Union City, stated that he is representing the Southern Alameda County group of the Sierra Club. He said that they have been working on this project for over three years and he is glad that the EIR has been released. Mr. Ryan does not think that the City should be responsible for mitigating things that occur outside of the City. He said that the agencies that are operating the lines should be responsible for taking care of the mitigations. Mr. Ryan asked that the consultants give some more information about the relationship of BART noise. Mr. Ryan asked that the consultants discuss the speed of the trains.

Christina Govea, Fremont stated that the new line will be about 20 feet away from her house. She offered her home last year for the sound study. She is upset that they are going to be moving the fence closer to her house and the amount of noise that is going to be generated by the trains. She asked who decides that the cancer level is acceptable.

Bill Kasson, stated that with regards to the air quality modeling there are standards that are established by a number of different agencies and that results in a cancer risk assessment. Mr. Kasson stated that Bay Area Air Quality Management District established the threshold of 10 in one million. Mr. Kasson stated that their analysis showed a possible cancer risk of 9 in one million and that is below the threshold. Mr. Kasson stated that risks to children and the elderly are taken into account.

Christina, asked if the city of Fremont has had any input into the project.

Ms. Malloy replied that all of the surrounding communities have been invited to participate in the planning process that began in 2002 and presentations have been made in the city of Fremont.

Mark Leonard, Director, Economic and Community Development, stated that the certification of the EIR will be done by the Union City City Council. Mr. Leonard stated the decision of the layover yards will be made by the city of Fremont in conjunction with the rail operators and Union City and Hayward. Mr. Leonard stated that it has only been identified that a layover yard is needed but it is not a part of this project.

Ms. Malloy stated that the Fremont City Council will be holding a study session on June 2nd from 5:00 p.m. to 7:00 p.m.

Katherine Livermore, Planner, City of Fremont, stated that this is only a comment period that ends on June 9th. She said that the city of Fremont staff will be evaluating the EIR and will be providing comments and reports to the City Council.

Christina asked who has final approval on the project.

Mr. Leonard stated that the Union City City Council will make the approval for the project as it is described in the EIR document. Mr. Leonard emphasized that the layover yard will be determined later.

John Daskaloff, Fremont, stated that he was never informed of this project when he moved into the neighborhood. He stated that his whole family is asthmatic and he feels that the new rail line will increase his families health problems.

Larry Horn, Fremont, stated that he disagrees that Union City plays a part in the decision on the layover yard. He believes that the reason that the EIR looks at this is because it is one of the larger areas where one could be built. Mr. Horn stated that he works for the San Francisco Airport Commission and one of the things that the commission has to do is go out to the neighborhood area and refurbish the house because aircraft noise affects houses. Mr. Horn stated that in the long run he believes that the noise from the trains will affect the homes unless significant improvements are made to the homes. Mr. Horn pointed out the trains make a squealing noise even when the track is straight. Mr. Horn feels that the noise impact will be greater than what is being predicted.

Bal, Fremont, spoke against the project. He is worried about the noise impact and the vibrations.

Rajeed Prasad, Fremont, asked if the city ever notified the builder of the new homes that there was going to be a third rail line.

Ms. Malloy stated that it would have been up to the city of Fremont.

Mr. Prasad wanted to know who was going to be responsible for all of the noise issues.

Chairperson Anderson suggested that he write his questions down for inclusion in the comments.

Renard Smith, Union City, stated his concerns of the impact of this project on the Decoto neighborhood. He spoke of noise impacts and safety concerns. Mr. Smith asked what is going to be built next to the station.

Ms. Malloy stated that there is a station district identified in the General Plan and it will include high density housing as well as office and retail.

Bret Chamberlin, Fremont gave some quotes from the environmental report. "Wheel squeal from future Capital Corridor trains on the Shinn connection will generate noise levels in excess of the FTA severe impact threshold in the Riverwalk neighborhood." "Typical train noise from wheel squeal through the tight curve along the Shinn connection would result in severe noise impacts in the Riverwalk neighborhood." "Turnouts located near the Riverwalk and Brookstone neighborhoods could generate vibration impacts exceeding impact thresholds." "Project workers and nearby residents could be exposed to airborne lead dust, asbestos or PCB's during the proposed program related alteration, renovation or demolition of existing structures. This exposure could be significant." "Mortality of northwest pond turtles in Alameda creek." "Disturbing nesting of migratory birds or raptors." "Direct mortality or disturbance of California red legged frogs." Loss or disturbance of protected trees, which could conflict with ordinances of Fremont and Union City protecting native trees. Specifically with respect to the sound level in the Riverwalk neighborhood, "The expected decibel range currently at 60, is expected to go to 74 and would be a severe impact. Mr. Chamberlin stated that he is in favor of the Dumbarton rail connection but he is not in favor of the industrial connection and this new track and rail system. Mr. Chamberlin stated that he has no problem with the Union City Intermodal project. Mr. Chamberlin stated that as he understands it there is money available now to build the Intermodal station but there is not any money to

build the rail line to and from the station. Mr. Chamberlain said that he believes that to build the rail project would take away money needed to build the Dumbarton rail project.

Commissioner Sweeney asked whether there will be a traffic management plan to handle the increased train traffic.

Jim Allison, Capital Corridor Joint Powers Authority, stated that they run their trains on the Union Pacific right of way. Mr. Allison stated that Union Pacific does their dispatching and is responsible for maintaining the signal arms at grade crossings. He stated that Union Pacific has not in the past developed a traffic management plan for a city but they may work with cities to address issues such as grade separations.

Commissioner Sweeney asked if this project will increase the number of trains that would be anticipated.

Mr. Allison stated that this project only affects the routing of the number of Capital Corridor trains that would be on either route. He said that it is difficult to address the future number of freight trains because that is controlled by Union Pacific.

Commissioner Sweeney asked about the wheel squeal on the existing track and how the additional track will add to that noise level.

Mr. Kasson stated that the existing noise was measured at several locations to determine the background noise levels. He said that part of that measurement was the trains passing by. Mr. Kasson stated that the additional noise from the new trains was not found to create an impact. Mr. Kasson stated that the BART noise was greater because of the greater frequency of BART trains. Mr. Kasson stated that part of the noise reduction will be the replacement of the old rails with new high speed rails.

Chairperson Anderson asked if the speed of the train could be considered a mitigation measure.

Mr. Kasson stated that it could be.

Chairperson Anderson asked if operational considerations could be added to the mitigation measures.

Mr. Kasson stated that he was not sure how that could be added.

Mr. Allison stated that trains are designed to be operated at a particular speed and it is the responsibility of the train engineer to abide by those rules. Mr. Allison stated that a slower speed could be designated for an area that was designed for higher speeds.

Commissioner Sweeney asked if building this project would take money away from the Dumbarton rail project.

Mr. Schaarschmidt stated that the funding for this project is part of the Dumbarton rail project. He said that the Dumbarton rail project is currently funded at 300 million dollars.

Commissioner Lew asked if the City would still go forward with the Intermodal station if this new rail project is not approved.

Ms. Malloy stated that Union City would go forward with the Intermodal station project.

Commissioner Lew asked if Union City would still build the passenger rail station.

Ms. Malloy replied that the passenger rail station is a component of this entire corridor, so without the Shinn connection and the industrial connection there would most likely not be a passenger rail station in Union City at that BART station on that alignment.

Chairperson Anderson closed the public comment period.

Chairperson recessed the meeting at 8:55 p.m.

Chairperson Anderson called the meeting to order at 9:00 p.m.

VII. COMMISSION MATTERS:

- A. WORKSESSION: Update to Title 18 Zoning;** Review of proposed modifications to Title 18.

Aki Honda, Associate Planner, presented the staff report.

Commissioner Lew stated that she likes the changes that are being made to the zoning ordinance.

Commissioner Sweeney asked what is the difference between and adult hotel/motel and a regular hotel/motel

Ms. Honda stated that it is meant to capture any business that is oriented towards adults.

Ms. Malloy stated that there are hotels/motels that cater to adult clientele.

Commissioner Sweeney suggested changing the wording to “adult oriented hotel/motel”.

Mr. Leonard replied that they would look for a different wording.

Kit Faubion, City Attorney, said that she would look into this

Chairperson Anderson stated that he did not find “sexually oriented” defined in the code.

Ms. Honda stated that a definition would be added.

Commissioner Sweeney pointed out a typo on page 7 at the end of the fourth line.

Commissioner Sweeney asked for better definition of “key lots” and “reverse corner lots” and perhaps a diagram could be added.

Mr. Leonard stated that there are diagrams for them.

Commissioner Sweeney stated that most people no longer refer to nursery schools instead they call them pre-schools and perhaps the code could be changed to reflect this.

Commissioner Sweeney noted that the section about satellite dishes was taken out of the residential district section. Commissioner Sweeney suggested that something should be added to cover larger dishes rather than the smaller television dishes.

Commissioner Sweeney asked if the in-lieu housing fee has an inflation adjustment.

Mr. Leonard stated that it does not but one could be built in or it could be periodically amended.

Ms. Malloy suggested adding to the fee schedule that is approved by the City Council and has inflation adjustment made to it periodically.

Mr. Leonard stated that it could read “the fee of \$120,000 or as the fee may be periodically adjusted by the City Council.”

Commissioner Sweeney stated that it would be better if the same language is used in section 18.210 and 18.32.150 that refers to off-street loading facilities.

Commissioner Sweeney stated that on page 87 number 3 c. is duplicated.

Commissioner Sweeney asked why the section referring to not having more than fifty per cent of the front of the building may not be used as dock space was removed.

Mr. Leonard agreed that there should be side and rear loading docks and not front-loading docks.

B. AMENDMENT OF PLANNING COMMISSION BYLAWS:

Amendment to the Planning Commission By-Laws to incorporate an agenda item for Redevelopment/Economic Development matters. Required action: Motion.

Commissioner Sweeney made a motion to adopt the amendment the changes to the By-laws.

Commissioner Lew seconded the motion.

AYES	3 (Anderson, Lew, Sweeney)
NOES	0
ABSENT	2 (Savage, Sison)
ABSTAIN	0

C. Follow-up on Planning Commission referrals to the City Council.

D. Upcoming applications for the Regular Planning Commission meeting of June 2, 2005.

VIII. GOOD OF THE ORDER:

Commissioner Lew attended the Tree and Landscape Board meeting on May 9th, 2005.

IX. ADJOURNMENT: 9:40 p.m.

APPROVED:

TIKISA ANDERSON, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY