

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF OCTOBER 20, 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

STAFF PRESENT: Mark Leonard (Director, Economic and Community Development); Jene Jernigan (Senior Interim Planner); Mark Evanoff (Redevelopment Agency Manager); John Bakker (City Attorney); Carlos Jocson (City Engineer); Kris Fitzgerald (Administrative Assistant).

II. APPROVAL OF MINUTES: The minutes of the Regular Planning Commission Meeting of October 6, 2005 were approved with corrections.

III. ORAL COMMUNICATIONS: Mark Leonard introduced the two new planners.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS:

- 1. PAUL C. BUNTON, 4312 DYER ST., Site Development Review SD-04-05, Tentative Tract Map TTM 7668;** the applicant is requesting approval of a Site Development Review Permit (SD-04-05) for the architectural design and site layout of 15 new town homes on a 39,000 square foot lot located on the corner of Dyer Street and Meteor Drive also identified as APN: 483-007-300-002. The property is zoned RM 2500, Multi-Family Residential. This project is considered categorically exempt under Section 15332 of the California Environmental Quality Act (CEQA) Guidelines.

Jene Jernigan, Interim Senior Planner, presented the staff report.

Commissioner Sweeney asked if the two existing redwood trees could be saved by using the tree ordinance.

Mr. Jernigan replied that when they apply for the grading permit, the tree plan will be reviewed by Rick Sealana, City Arborist.

Commissioner Sweeney stated that there is a third redwood tree and she wants to retain it if it is viable.

Mr. Jernigan replied that the reason that they did not propose keeping that tree is that there is a planter that is supposed to go through there but perhaps that could be changed.

Commissioner Sweeney asked if this property is located in the redevelopment agency area.

Mr. Jernigan replied that it is.

Commissioner Sweeney asked if \$150,000 will permit the agency to create another similar unit.

Mark Leonard, Director, Economic and Community Development, replied that it will contribute towards another unit.

Commissioner Sweeney asked if the redevelopment agency is under a state mandate to provide 15% affordable housing within the redevelopment agency area.

Mr. Leonard stated that it is on a citywide basis.

Commissioner Sweeney asked if Union City is ahead of the requirement.

Mr. Leonard stated that the City is about even.

Commissioner Sweeney stated that this is good location for this type of unit.

Commissioner Sweeney asked to change condition #7 from “Alvarado-Niles Road” to “Dyer Street”.

Commissioner Sweeney asked to change condition #24 to add that they are also responsible for graffiti removal.

Commissioner Sweeney asked to delete condition #25 as the parking spaces are already on the map.

Commissioner Sweeney asked to change condition #32 to take out “additionally”.

Commissioner Sweeney asked to change condition #34 to add “property owner/homeowners association”.

Commissioner Sweeney asked to change condition #45 to add “meets the existing Security Ordinance”.

Commissioner Sweeney stated that condition #59 asks the applicant to make improvements in accordance with the Americans with Disabilities Act and wants to know what improvements are being asked for.

Carlos Jocson, City Engineer, replied that it would be the public improvements.

Commissioner Sweeney asked if that would include the walkways to the units.

Mr. Jocson stated that it would include that.

Commissioner Sweeney suggested changing condition #59 to add “exterior and public”.

Commissioner Sweeney asked to change condition #75 to “site owner/homeowner association shall be responsible. . .”.

Commissioner Lew asked if every garage door will be identical.

Mr. Leonard stated that the policy is to vary the design usually by window design or trim.

Commissioner Lew stated that she would like each group of homes to have the same garage door but a different design for each building.

Commissioner Lew asked if the enhanced driveways were all going to be of the same design.

Mr. Jernigan replied that two of driveways were designed the same and the third is of a different design but they are not proposing any other treatments at this time.

Mr. Leonard suggested requiring texturing or stamping of the concrete since that is not big cost.

Commissioner Lew asked to add that to the condition “to see variation in the driveway treatments”.

Commissioner Lew asked where the equipment for condition #18 will be located on the plan.

Mr. Leonard replied that although the transformers are not shown on these drawings they will be shown on the building permit drawings and will be approved by the Economic and Community Development Staff.

Commissioner Lew asked that the transformers not be located in or near the play area and suggested placing them in the back along the fence near Dyer Street by the two parking places.

Commissioner Lew asked if there will be a time limit on condition #21.

Mr. Leonard stated that it should be two years.

Commissioner Lew asked to correct the punctuation in condition #24 on line 6 and add “and maintain all walls”.

Commissioner Lew asked if each unit will have its own monitoring system for the fire sprinklers.

Mr. Leonard replied that it is usually the case for individually owned units but will need to check with the Fire Department.

Commissioner Sweeney suggested changing it to read “If required by the Fire Department, individual units will have individual monitoring systems.”

Commissioner Lew stated her concerns that if there is a central monitoring system then the homeowners association will be responsible for maintaining it.

Commissioner Lew asked if there will need to be a key box as required in condition #42.

Mr. Leonard stated that condition #42 can be removed.

Commissioner Lew asked if condition #43 is similar to condition #36.

Mr. Leonard replied that conditions #36 and #43 could be combined and add “If required by the Fire Department, individual units will have individual monitoring systems”.

Commissioner Lew asked if condition #44 includes streetlights, landscaped lights and lighting in the development.

Mr. Jernigan stated that it would include all exterior lighting.

Commissioner Lew asked if a lighting plan is required before the building permits are issued.

Mr. Leonard replied that is correct.

Mr. Leonard suggested changing condition #20 to add “site landscaping shall be lighted and a plan shall be submitted with the construction plans.”

Commissioner Sweeney asked to place emphasis on units #13 and #14 because of their location.

Commissioner Lew asked for clarification of condition #47.

Mr. Leonard suggested changing “address” to “implement”.

Commissioner Lew asked if the play yard would satisfy condition #51.

Mr. Jocson replied that the play yard doesn’t count because in this case they are not able to dedicate land.

Commissioner Lew suggested adding the fee to the condition.

Mr. Leonard suggested adding “as required by the municipal code” and adding “or”.

Commissioner Lew asked if condition #52 covers damage to city maintained areas adjacent to the project area.

Mr. Jocson stated that the condition applies to the sidewalk along the frontage and side of the project area.

Commissioner Lew stated her concerns that the condition limits the applicant to the area within the development.

Mr. Leonard stated that the statement “within the limits of the development” could be removed from the condition.

John Bakker, City Attorney, stated that an encroachment permit is permission for someone to work in the public right away and Public Works can add any requirements that are needed.

Chairperson Anderson asked if that would cover work done in development.

Mr. Bakker stated that it would not as that work is covered by the building permits that are issued.

Commissioner Lew asked if condition #55 is only applicable to plan Option #1.

Mr. Jernigan stated that is correct.

Commissioner Lew asked if the lines in condition #56 will be the ones that will be used by the development.

Mr. Jocson stated that the applicant will only have to underground the utility lines for the development.

Commissioner Lew asked to clarify condition #63.

Mr. Jocson stated that it is only to make sure that the applicant knows where to go to get that service.

Commissioner Lew noted that conditions #75 and #87 are very similar with condition #87 having an extra requirement to quiet equipment.

Mr. Leonard recommended deleting condition #75 and retaining condition #87.

Chairperson Anderson asked what kind of equipment is being used to clean the basins.

Mr. Jocson replied that it could be many different types of equipment from a shovel to a special kind of vacuum truck. Mr. Jocson stated that the goal is to remove the debris from the basin prior to the rainy season so that the water has someplace to go.

Chairperson Anderson asked which condition would be more applicable to this project.

Mr. Jocson stated that condition #87 would be the best choice.

Commissioner Sweeney suggested changing “operator” to “homeowner’s association shall be. . .”.

Commissioner Sison asked to make this change to the standard conditions of approval.

Commissioner Sweeney stated that this condition only applies to this project.

Commissioner Lew asked to change the wording in condition #79 from “should” to “shall”.

Commissioner Lew asked if power washing should be included in condition #80.

Mr. Leonard stated that pressure washing includes power washing.

Commissioner Sison asked what will happen to the tree where the play yard will be located.

Mr. Jernigan stated that the trees will be removed and replaced because according to Rick Sealana, City Arborist, the trees are too old and at the end of their life cycle.

Sandrine Hitchcock, Architect, thanked the commission for the opportunity to rework the site plan, which they feel is much better than the first plan. Ms. Hitchcock stated that for every two trees that they are removing they will be replanting five new trees. Ms. Hitchcock stated that typically outdoor lighting is shown on the electrical plans rather than the landscape plan and that is what they have done. Ms. Hitchcock stated that as part of the plan they will be improving the sidewalk area and that is why they will have an encroachment permit and they will repair anything that they damage.

Commissioner Sweeney asked what the 18 inch high letters on the stucco wall are for.

Ms. Hitchcock stated that it would spell the name of the community.

Commissioner Sweeney asked what the name will be.

Ms. Hitchcock replied that they haven’t decided.

Commissioner Sweeney stated that this wall will be a graffiti magnet and there is hardly any landscaping in front of it.

Commissioner Sweeney suggested planting vines to deter the graffiti and maybe adding some shrubbery to make the corner look better.

Ms. Hitchcock stated that the stucco wall was proposed to protect the play yard visually. Ms. Hitchcock agreed that additional planting would good.

Commissioner Sweeney stated that she likes the front elevations and the architecture of the buildings but is disturbed by the side elevations on the units on the ends and is concerned that it is a very bland presentation

towards the street. Commissioner Sweeney asked if there is anything besides the few trees that are proposed to relieve the harsh look on the ends of these buildings.

Ms. Hitchcock stated that there are four trees are proposed against the side of building one in the berm area and trees are proposed along the property line. Ms. Hitchcock stated that eventually the trees will grow to cover the sides.

Hugh McNamara, Union City, stated that Contempo has 682 units, 371 outside guest spaces and that is 735 possible parking spots. Mr. McNamara figures that the new development will have 36 parking spots and that is 2 %. Mr. McNamara saw similar units in Washington and those had elevators and maybe one or two of the units should be fitted with an elevator to meet the ADA requirements. Mr. McNamara stated that at the Contempo meeting on the 13th they proposed a 50-50 split on the fence issue and they were turned down by Contempo. Mr. McNamara still thinks there is going to be a problem with parking.

Chairperson Anderson closed the public hearing.

Mark Leonard read back the changes to the conditions of approval:

- Condition 7 correct street name to “Dyer Street” from “Alvarado-Niles Road”.
- Condition 15 add requirement that each building will have a separate garage door theme.
- New condition applicant shall provide variation in driveway treatments using stamped concrete or other methods approved by ECD staff.
- Condition 18 add requirement that the locations for the transformers shall be approved by the ECD staff and no transformers will be allowed in the play area and the applicant is encouraged to place the transformers against the fence and in the two parking areas.
- Condition 20 will be amended to say that the landscaping shall be lighted and a plan submitted and shown in the construction drawings with special emphasis given to units #13 and #14.
- Condition 21 at the end of 2nd on the third line “for a minimum of two years from occupancy” and add a sentence to grow vines on the stucco wall.
- Condition 24 shall be corrected with semi colons in the appropriate places and on the 2nd line add the words “and maintain” after internal street system. Require graffiti removal in the CCR’s.
- Condition 25 will be eliminated.
- Condition 32 shall start with the word “at”.
- Condition 34 “property owner shall remove any graffiti during construction” and at other times appearing on the site within 48 hours of discovery.
- Conditions 36 and 43 will be combined and add the sentence “If required by the fire department each unit shall have an individual monitoring system”.
- Condition 42 will be eliminated.
- Condition 45 add at the end of first line “per existing Security Ordinance”.
- Condition 47 change “address” to “implement”.
- Condition 51 eliminate the words “either dedicate parkland or”
- Condition 59 add “the applicant shall design all public and exterior private improvements . . .”.
- Condition 75 will be eliminated.
- Condition 79 change “should” to “shall”.
- Condition 87 start as follows “Homeowners Association shall be responsible. . . “.
- Condition 55 will be eliminated.

Commissioner Sweeney asked to add a condition that name of the project will be approved by the ECD staff.

Mr. Leonard asked for direction for the in-lieu fee.

Commissioner Sweeney stated her preference that the applicant meet the requirement rather than paying the in-lieu fee.

Commissioner Lew prefers to require them to meet the redevelopment requirements to have three units required.

Commissioner Lew stated that she doesn't like the location of the play yard and doesn't like the loss of street parking. Commissioner Lew stated that when there is an event at St. Anne's parking becomes an issue in the area.

Commissioner Sison would be willing to accept the in lieu fee.

Commissioner Savage stated her preference to not accept the in-lieu fee.

Chairperson Anderson stated that three commissioners are for it so it stands as is.

Commissioner Sweeney stated that she wants a change to condition #3 so that the 3 units are provided and make one unit at 90% and the other 2 units at 110% to remove some of the burden to the applicant and remove the option to pay the 150,000 in-lieu fee.

Mr. Leonard asked if it would be one unit at 90% and two at 110% and not accept the fee.

Commissioner Sweeney made a motion to approve Site Development Review SD-04-05 and Tentative Tract Map TTM 7668, making findings 1 – 6, with the amended conditions of approval and adopting resolutions confirming this action.

Commissioner Sison seconded the motion.

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

B. NEW HEARINGS: None.

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS:

- 1. HIMAT DAWGLI, 33357 5TH STREET, Administrative Site Development Review ASD-24-05; the applicant is requesting approval of an Administrative Site Development Review (ASD-24-05) for the architectural design of a new two-story, 3490 square foot single family residence (including garage and secondary unit). The subject property is located at 33357 5th Street (APN: 486-0015-088-00). This project is considered exempt per Section 15332 of the California Environmental Quality Act (CEQA) Guidelines.**

Jene Jernigan, Interim Senior Planner, presented the staff report.

Commissioner Lew asked if the City is requiring the applicant to replace the fencing.

Mr. Jernigan replied that we will add a condition to replace the fencing.

Commissioner Lew asked if the City will require a street tree in front of the house.

Mr. Jernigan stated that Rick Sealana, City Arborist will require new trees on the site.

Commissioner Lew asked to add a condition to require it.

Commissioner Sweeney stated that condition #23 covers the tree.

Commissioner Sweeney asked to change condition #17 to add at the end of sentence “comply with City Security Ordinance”.

Chairperson Anderson asked if the existing house will be demolished.

Mr. Jernigan replied that it would be demolished.

Chairperson Anderson asked if the code requires a second unit to have a separate kitchen.

Mr. Jernigan replied that two things make is a second unit, having a separate kitchen and not having an internal connection to the main house.

Chairperson Anderson asked if the second unit has a separate entrance.

Mr. Jernigan replied that it does.

Chairperson Anderson asked if there are windows on the side that looks into the neighbors’ yard.

Mr. Jernigan stated that any windows on the side would be glazed or obscured glass or non-operable.

Chairperson Anderson asked if there is a condition to cover that.

Mr. Jernigan replied that it would only apply if it would be a problem.

Himat Dagli, Fremont, CA stated that he will accept the conditions of the staff report. Mr. Dagli stated that the second unit will have its own entrance. Mr. Dagli stated that they did not put any windows on the sides where it would be a problem. Mr. Dagli stated that they would try to save as many trees as they can but they are willing to replace any trees necessary.

Commissioner Sweeney stated that the side elevations on upper story are very plain and she would like to see something breaking up the big wall. Commissioner Sweeney would like to see a hipped roof.

Mr. Dagli would be willing to work with the Building Department.

Commissioner Sweeney complimented his design for the second unit.

Mr. Leonard restated the changes to the conditions of approval:

- New condition the applicant shall replace the fencing.

- New condition the applicant will add a new street tree.
- Condition #17 to fix the wording “in compliance with the Security ordinance”.
- Add a new condition “if possible the roof plan shall be modified to provide a lower roof on the side elevations on the out most gables.

Commissioner Lew asked if condition #40 covers lead paint.

Mr. Leonard yes it would.

Commissioner Lew made a motion to approve Administrative Site Development Review ASD-24-05, making findings 1 – 5, with the modified conditions of approval and adopting a resolution confirming this action.

Commissioner Sweeney seconded the motion.

AYES	5 (Anderson, Lew, Savage, Sison, Sweeney)
NOES	0
ABSENT	0
ABSTAIN	0

VII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS:

A. TMG, FORMER P G & E SITE LAND USE PLAN UPDATE:

Mark Evanoff, Redevelopment Agency Manger, presented the report.

Commissioner Lew stated that she approves the latest plan.

Commissioner Lew asked about the green area and asked what the specific community use would be.

Mr. Evanoff replied that it could be a community center, a performing arts center but it will be a public process to get feedback to see what the community would like to see built there.

Commissioner Lew asked for clarification about the land price.

Mr. Evanoff stated that they will get a land value from TMG Partners and that the sale price from the residential portion should be enough to cover the community center.

Commissioner Lew asked if it could be built concurrently.

Mr. Evanoff stated that it is possible.

Commissioner Lew asked why the blocks were drawn the way they were.

Mr. Evanoff stated that they represent individual lots and there will be a different take down period for each of those lots. Mr. Evanoff said that it may not be one massive building as they have yet to be designed but that is the particular use for that lot. Mr. Evanoff stated that it was designed for circulation and pedestrian access.

Commissioner Lew asked if between building 1 and 2 there is a pedestrian walkway or vehicle traffic.

Mr. Evanoff replied that there would be a street between blocks 1 and 2 and blocks 2 and 3. Mr. Evanoff stated that between blocks 3 and 4 there would be a pedestrian walkway and there would be a street to the south of block

4 and Railroad Avenue would be to the east of the PG & E property. Mr. Evanoff stated that there would be a one-way loop road that would go from the community center to block 6.

Mr. Evanoff stated that they are looking at two options for access to the Shelton property.

Commissioner Sweeney asked what happened to the open plaza with retail that she thought was going to be moved to where the community use is located.

Mr. Leonard stated that there has been much discussion about this and the thinking was the red area would be good for a restaurant. Mr. Leonard stated that it has not really been determined the size of the community center and that this is only a temporary location.

Commissioner Sweeney asked who would own it.

Mr. Evanoff stated that it would probably be city ownership.

Commissioner Sweeney stated her concerns that there would be a vacant space that would separate the community center from the other areas.

Mr. Leonard stated that the size has not been determined.

Commissioner Sweeney asked if this would be a separate building or could it be integrated into another building.

Mr. Leonard stated that it was one of the options but there is not enough information to make a decision at this point.

Commissioner Sweeney stated her concerns about where the restaurant would receive deliveries.

Commissioner Sweeney asked who owns block 5.

Mr. Evanoff replied that the City would own the parking structure and TMG would sell the residential and retail units.

Commissioner Sweeney asked if the parking structure on block 5 would provide tax increment to the City.

Mr. Evanoff replied that it would not.

Commissioner Sweeney asked if the parking were undergrounded on lots 5 and 6 who would own the lots.

Mr. Leonard stated that it could be like a condominium where there would be some private ownership and some public ownership.

Mr. Leonard commented that Commissioner Sweeney picked up on the fact that he feels that the City is being set up for failure. Mr. Leonard stated that the developer has no intention of undergrounding the parking for a very lucrative residential use because it is too expensive. Mr. Leonard stated that if residential cannot carry it, then how is something like office space, which is much harder to develop, going to carry it.

Commissioner Sweeney suggested moving block 1 to block 6 and/or block 5, to be closer to the Intermodal Station and where the shared parking might be more applicable.

Commissioner Sweeney asked if there is hard data that the City has looked at what the cost is versus what the Redevelopment Agency will get back.

Mr. Evanoff stated that a detailed study has not been done.

Mr. Evanoff spoke with a developer about a creative way to fund parking structures by pre-leasing the parking spaces and using the leverage to fund the parking structure.

Commissioner Sweeney stated that she wants to maximize the land value in the area.

Commissioner Sweeney asked what happened to the retail that was supposed to be located on 11th street. Is it just going to be homes now.

Mr. Leonard stated that the developers believe there is not enough demand to support both areas with retail.

Chairperson Anderson asked if the parking structures are really going to be built or are they there in case something else doesn't come about. Chairperson Anderson asked if anything is guaranteed to be built.

Mr. Leonard replied that he believes that the plan is much more reflective of the marketplace right now. Mr. Leonard stated that the retail slated for block 1 is not transit oriented but rather it will be downtown oriented.

Mr. Leonard stated that he is much more comfortable with this plan at this point.

Chairperson Anderson stated that he believes that it is a bad idea that we are meeting current goals. He stated that the City will be around a lot longer than a year or two and the needs or uses that we expect it to have will last a lot longer than that. He believes that building this project for the current market is a bad idea. Chairperson Anderson stated that his biggest fear is that we are creating another bad deal by bending to the will of the developer. Chairperson Anderson stated that he does not like the plan.

Commissioner Sweeney asked what would be the type of retail that would be located in block 1. She feels that it would be too isolated on block 1 and wondered why it was not being placed on block 6 across from other retail to make more of a downtown feel to the area. Commissioner Sweeney wondered about the difference between transit oriented retail and downtown retail as the site will be surrounded by residential units. Commissioner Sweeney stated that originally 11th Street was to be an active spot and the activity has been pulled away entirely by moving it to little nodes of retail and to the edge of the site. Commissioner Sweeney asked why block 6 with all of its positives was not being used. Commissioner Sweeney asked what kind of uses are being talked about for block 1.

Mr. Leonard suggested something like a Trader Joe's which would spin off other types of specialty uses.

Commissioner Sweeney stated that there is not much tax increment from a Trader Joe's.

Commissioner Lew stated that she would like to see something on block 1 to pull the residents out of their homes. Commissioner Lew stated that we need to get the citizens of Union City out walking and biking in Union City.

VIII. COMMISSION MATTERS:

- A.** Follow-up on Planning Commission referrals to the City Council.
- B.** Upcoming applications for the Regular Planning Commission meeting of November 3, 2005.

IX. GOOD OF THE ORDER:

Commissioner Lew stated that she feels that the parking spots that were lost on the approval of the Dyer Street/Meteor Drive project were a valuable commodity and that the loss to the city should be recompensed somehow.

Mr. Bakker stated that it is not a legal issue. Mr. Bakker stated that he understands that there is a benefit to the developer but it is a City policy.

Commissioner Sweeney asked to have the unneeded red curbs on 7th Street adjacent to Shorty Garcia Park painted out.

Commissioner Sweeney asked what is going to happen to the businesses located in the Union Square area.

Mr. Leonard replied that there has been a community meeting where every one of the businesses was invited. Mr. Leonard stated that only 7 businesses showed up. Mr. Leonard stated that one of the business owners, Mr. Singh is taking the lead to develop an automotive area in the Central Bay Business park on Atlantic Street. He will have room for 5 other businesses besides his own. Mr. Leonard stated that he has told the developer that he will have to provide financial assistance for the relocation of the businesses. Mr. Leonard stated that there is not a lot of other land available at this time.

Commissioner Sweeney asked to make it clearer in the future what has been changed from an original staff report to the continued staff report.

X. ADJOURNMENT:

APPROVED:

TIKISA ANDERSON, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY