

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF JANUARY 19, 2006, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

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

STAFF: Mark Leonard (Director, Economic and Community Development); Joan Malloy (Planning Manager); Janice Lum (Assistant Planner); Avalon Evans (Assistant Planner); Glenn Kirby (Neighborhood Preservation Officer); Carlos Jocson (City Engineer); Kit Faubion (City Attorney); Kris Fitzgerald (Administrative Assistant).

- II. APPROVAL OF MINUTES:** The regular Planning Commission Minutes of January 5, 2006 were approved as submitted.

III. ORAL COMMUNICATIONS:

Hugh McNamara, Union City, stated that the Union City Historical Museum will be hosting their annual fundraising Sweetheart Dance on February 11th at the Ruggieri Senior Center.

- IV. WRITTEN COMMUNICATIONS:** None.

V. PUBLIC HEARINGS:

- A. CONTINUED HEARINGS:** None.

B. NEW HEARINGS:

- 1. ALVARADO PLACE, 32100 ALVARADO BLVD., General Plan Amendment AG-02-05, Zoning Map Amendment A-02-05;** The applicant, Patrick Conway, representing Duckett-Wilson Development, Inc., is requesting a General Plan Amendment (AG-02-05) to change the land use designation of a one acre portion of a 3.8 acre property located at 32100 Alvarado Blvd. (APN: 483-0040-50) from Private Institutional (PI) to Retail Commercial (CR) and a Zoning Map Amendment (A-02-05) to change the zoning designation from Private Institutional (PI) to Community Commercial (CC). A Mitigated Negative Declaration has been prepared for this project.

Janice Lum, Assistant Planner, presented the staff report.

Chairperson Lew opened the public hearing.

Patrick Conway, Duckett-Wilson Development Co. stated that they were unaware that the parcel had been rezoned to Private Institutional and they were pleased to be restoring the original zoning. Mr. Conway stated that there are provisions in the tenant lease prohibiting leasing to churches because of parking issues.

Hugh McNamara, Union City, stated that he was surprised that some of that land was zoned Private Institutional. Mr. McNamara stated that he is for the change back to Commercial zoning.

Chairperson Lew closed the public hearing.

Commissioner Sweeney made a motion to recommend to the City Council approval of General Plan Amendment AG-02-05 and Zoning Map Amendment A-02-05, making findings 1 – 4, with the amended conditions of approval and adopt resolutions confirming this action.

Commissioner Anderson seconded the motion.

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

- ALVARADO PLACE, 32100 ALVARADO BLVD., Site Development Review (SD-09-05), Use Permit UP-09-05 and Variance V-04-05**; The applicant, Patrick Conway, representing Duckett-Wilson Development, Inc., is requesting Site Development Review approval to construct two one-story buildings that will add 9,010 square feet of retail commercial space to the Alvarado Place Shopping Center. The project will require a Use Permit to allow a 1,848 square foot drive-through Starbucks Coffee shop and a Variance permit to allow no rear yard setback behind the proposed buildings. The project proposal includes parking, landscaping, and site improvements. A Mitigated Negative Declaration has been prepared for this project.

Janice Lum, Assistant Planner, presented the staff report.

Officer Czar Valdehueza, Union City Police Department, spoke about the concerns that the Police Department has with the location of the Starbucks drive through aisle. He said that if the window is behind the building then it might increase the probability of armed robberies or carjackings of the patrons. Officer Valdehueza stated that the Police Department would prefer to be proactive in this situation.

Commissioner Anderson asked if more lighting of the area would help.

Officer Valdehueza replied that they don't want to see another area where people could hide. Officer Valdehueza stated that persons who commit crimes in the area run over the railroad tracks and jump the fences into the residential area. Officer Valdehueza stated that he does not believe that increased lighting will help the issue because the area will still not be immediately visible to the public or the Police.

Commissioner Anderson asked if it would help if the applicant provided their own security and built an eight foot wall across the back of the property.

Officer Valdehueza asked if he meant to increase the security patrols that are there now.

Commissioner Anderson asked if more security on site would mitigate the problem with the drive through.

Officer Valdehueza stated that there are security guards in the center now but he does not feel that they will be enough of a deterrent.

Commissioner Sweeney asked if relocating the building closer to the street would address the Police Department concerns.

Officer Valdehueva stated that it is not so much the location of the building as the location of the drive through window.

Commissioner Sweeney stated that because of the way that a drive through must be oriented it limits the location of the building. Commissioner Sweeney asked if it is the fact of the drive through window or the location of the building with a drive through window which is causing a concern.

Officer Valdehueva stated that the drive through window is a great idea it is just the location of the window that is a concern.

Commissioner Sweeney stated that she had a concern for the people queued up in their cars and basically stuck in the line.

Commissioner Savage asked if there is a particular time of day when crime occurrences are more frequent.

Officer Valdehueva replied that current statistics show crimes occurring at all times of the day.

Commissioner Savage stated that there are quite a few places to hide in that shopping center.

Officer Valdehueva stated that there seem to be a lot of juveniles hanging out at the center who are committing armed robberies and other crimes in the middle of the day.

Commissioner Savage asked if there is a lot of gang related calls for service at the shopping center.

Officer Valdehueva replied that they do every once in a while.

Commissioner Anderson asked what could be done to make the drive through aisle more acceptable.

Ms. Lum replied that the project has been conditioned to add more lighting and security cameras along the drive through aisle and add the eight foot wall.

Commissioner Anderson asked if it would be overkill to ask to include private security for the store.

Mark Leonard, Director, Economic and Community Development, replied that you can ask the Police Department whether private security would be effective. Mr. Leonard stated that in our experience, private security tends not to be in the right place at the right time. Mr. Leonard stated that private security tends to work best in places like Union Landing where the problems are more apparent when there are more people there. Mr. Leonard stated that it would not be out of the scope of the project to ask for it.

Commissioner Sweeney referred to condition #8 and asked why there is a difference between what is shown on the plans for the trash enclosure and what is specified in the condition and which will prevail.

Joan Malloy, Planning Manager, replied that the condition of approval for the heavy gauge material will cover that.

Commissioner Sweeney referred to condition #14 item F and asked how will the City enforce the maintenance of the monument sign. Commissioner Sweeney stated that for a long time the condition of the shopping center has been deplorable and even the landscaping has not been maintained.

Ms. Lum replied that Phil Sachs, Union City Public Works department has stated that if the area is not maintained then Public Works would provide additional maintenance.

Commissioner Sweeney asked why condition the applicant to maintain it all. Commissioner Sweeney asked if there is any place in Union City where the entry sign is being successfully maintained privately.

Mr. Leonard replied that the sign at Meridian Court is maintained by the homeowners association and it is in reasonably good shape.

Commissioner Sweeney stated that if the back up plan is to have the City maintain it then the City should just maintain it. Commissioner Sweeney stated that if this was in a different location where the property owner showed concern for the community and the appearance of the property she would feel differently about this.

Commissioner Sweeney referred to condition #25 the second sentence and asked to change the word "order" to "orderly".

Commissioner Sweeney stated that in the plans it shows a blank wall being built behind shops "A" and has the City Council not stated that they do not want to see blank walls built even on the rears of buildings.

Mr. Leonard stated that the City Council has stated that there is no back of a building and they have reconditioned projects to have some enhancement to the back of the building.

Commissioner Sweeney suggested adding a condition to address the blank wall at the back of Building A.

Ms. Lum asked if a treatment similar to the one on the back of Building B would be acceptable.

Commissioner Sweeney stated that would be acceptable.

Commissioner Sweeney stated her concern with the entry and visibility. Commissioner Sweeney noted that three traffic lanes are in the drive aisle where it meets the street but then when you go further into the parking lot there is a planter strip that lines up with the right turn only exit lane and proposed to eliminate the two parking spaces and move planter back so that we have a broader entry into this shops area. Commissioner Sweeney stated that if the Starbucks drive through stays as it is then a significant number of cars will be traveling into this little area.

Commissioner Sweeney asked if people who are looking to the left when they exit onto Alvarado Boulevard will have their view blocked by the location of the monument sign.

Commissioner Sweeney asked if perhaps changing locations with the public art might improve the visibility.

Commissioner Savage suggested adding windows to the back wall along where the cars will be lined up to wait for the drive through.

Chairperson Lew referred to condition #13 asked why the vines and painting are not being required on the backs of the buildings as well.

Ms. Malloy asked if she wanted to see vines on the railroad side of the wall or on the backside of buildings.

Chairperson Lew stated that she would like them anywhere there would be a blank wall.

Chairperson Lew asked who is responsible for maintenance of the wall.

Ms. Malloy stated that vines need some element of irrigation and vines on buildings tend to be a long term maintenance problem. Ms. Malloy stated that vines on the wall may be a problem and there is also the issue of access to the railroad's side of the wall.

Chairperson Lew asked who is responsible for the side of the wall that faces the tracks.

Ms. Malloy replied that the property owner would be responsible.

Chairperson Lew asked if there is anything that can be done to discourage graffiti there.

Ms. Malloy stated that vines may be an alternative for the wall portion.

Mr. Leonard stated that the anti graffiti paint coat may also help by making it easier to remove graffiti.

Chairperson Lew asked for an explanation for the traffic circulation pattern for shops B on the alternative plan.

Ms. Malloy explained how it would work.

Commissioner Sweeney asked if the first turn was actually possible.

Mr. Leonard replied that it was possible but that was another downside to this layout. Mr. Leonard stated that although the drive through window is now visible to the public as the Police Department would like to see, the fronts of the shops are facing away from the street and have much lower visibility.

Chairperson Lew stated her concerns about having the building being located against the back wall.

Commissioner Anderson asked if there was a possibility to put windows in the back wall of the building to increase visibility.

Commissioner Sweeney asked if the windows would be required in all the shops or just in the Starbucks.

Commissioner Anderson replied that it would have to be all the shops.

Commissioner Sweeney stated that it could be a problem for the other tenant because there would be no good storage space.

Chairperson Lew opened the public hearing.

Patrick Conway, Duckett-Wilson Development Co., stated that they generally discourage vines on walls because of moisture, maintenance and mold issues. Mr. Conway stated that he would be willing to put

vines on the wall at the back of the property. Mr. Conway stated that he was not sure if putting windows in the back of the shops building would be possible due to structural and engineering constraints. Mr. Conway stated that the pop out on the drive through window was so the person in that area could look at all the cars in the queue.

Commissioner Savage suggested that it be solid wall about half way up and then window and then wall again.

Mr. Conway replied that he doesn't think it can't be done but he hasn't seen it done at any other of their buildings. Mr. Conway stated that they are open to the location of the building. Mr. Conway stated that their first submittal had the building at the front of the property and they were told that no one liked having the drive through out by the street. Mr. Conway stated that he has not talked to Starbucks about putting just the window on the west end of the building.

Mr. Conway referred to condition #8 and asked if that referred to tying in all the trash enclosures to the sanitary sewer system.

Mr. Leonard replied that in terms of existing trash enclosures that are off this parcel are not being asked to tie into the sanitary sewer system, however, he would like them brought up to date with newer gates and/or adding covers to the enclosures.

Mr. Conway referred to condition #10 and asked staff to consider allowing raceways.

Mr. Conway referred to condition #13 asked if would be possible to do the wall with block instead of pre-cast concrete for the eight foot wall.

Ms. Malloy replied that for these types of wall pre-cast is required because it provides a better finish and higher quality and much nicer appearance.

Mr. Conway stated that then they will be growing vines over the wall.

Mr. Conway referred to conditions #23 – #28 and stated that there are multiple ownerships within the Alvarado Place shopping center. Mr. Conway stated his concerns that these conditions are requiring the applicant to perform work on other owners' parcels. Mr. Conway stated that even though Duckett-Wilson manages all of these properties, the owners may not be agreeable to the scope of work requested and Duckett-Wilson would not be able to meet all the conditions of approval. Mr. Conway wants the conditions of approval limited to the portion of the center that is on this application.

Mr. Leonard stated that even though there are two legal owners they are for the most part the same people. Mr. Leonard stated that it sounds like the applicant is willing to perform some of the conditions of approval and does not want to do the others because they are too onerous. Mr. Leonard suggested to the commission to continue this application and have the applicant meet with staff to resolve these issues.

Chairperson Lew asked from a legal standpoint can the commission require the applicant to perform even if they don't own the property.

Kit Faubion, City Attorney, replied that the basic requirement for conditioning a project is that there be some nexus to what the project is doing. Ms. Faubion stated that in a case like this you can see the interconnection where ownership isn't always determinative of the issue. Ms. Faubion gave an example of one property using another property for additional parking spaces so that would be clearly owned by someone else but there would be an easement or reciprocal agreement to allow it.

Commissioner Anderson asked if the Use Permit can be amended to reflect a change of ownership.

Mr. Leonard stated that a Use Permit can be called up for review and amendment. Mr. Leonard asked if he is referring to a prior approval or this application.

Commissioner Anderson replied that he is referring to this application.

Mr. Leonard replied that the best way to approach this issue is to work out with the applicant what he is willing to do and not do.

Mr. Conway stated that they are willing to fix the main trash enclosure and do other items that are not big ticket items.

Commissioner Anderson asked if Mr. Conway would be adverse to a continuance.

Mr. Conway stated he would be willing to accept a continuance.

Commissioner Sweeney asked if his main issue with these conditions is the on-going nature of the commitment; for example, cleaning the sidewalk is not a problem but cleaning the sidewalk every month in perpetuity is a problem.

Mr. Conway replied primarily yes. Mr. Conway stated that some of these conditions were discussed prior to the commission meeting but others were not and may be a problem.

Commissioner Anderson asked to go through each of the conditions that the applicant has a problem with so that the commission knows what the problem is.

Mr. Conway stated that the general theme is that the applicant doesn't own it, we don't have a right necessarily.

Commissioner Anderson asked if there are two issues, the ownership issue and the continuation forever and ever issue.

Mr. Conway replied that those are the two issues.

Mr. Conway referred to condition #8 for example they will bring all the trash enclosures on the site up to code and also mentions the AutoZone site. Mr. Conway stated they can look at the balance of the center.

Commissioner Anderson asked to clarify what the problem is with condition #8.

Mr. Conway asked to have it restricted to the applicant's parcel only.

Mr. Leonard suggested that the concern boils down to a wordsmithing issue.

Mr. Leonard stated that they do not want to hold up this application as both centers upgrades will have a huge positive impact on the area.

Mr. Conway stated that there are probably conditions from the original approval that they are not in compliance with and that would put the burden on the ownership to comply.

Chairperson Lew asked if Duckett-Wilson manages the Kentucky Fried Chicken parcel and the Fremont Bank parcel.

Mr. Conway replied that they don't do any on-site management for those parcels.

Chairperson Lew asked if they had considered having a merchant's association.

Mr. Conway stated that at every center that they manage they have suggested forming one and both of these centers have chosen not too.

Chairperson Lew asked what is the scope of their influence of the areas that they manage.

Mr. Conway replied that they are the property manager and responsible for the day to day work.

Mr. Conway stated that they have some flexibility to the location of the new building but would like to know what the commission would like to see.

Mr. Conway referred to condition #17 and was concerned about the conditions for the revocation of the Use Permit. Mr. Conway asked for a notice and/or a cure period before the Use Permit is revoked.

Commissioner Sweeney stated that this is a standard condition of approval on all Use Permits.

Ms. Faubion stated that revocation does include elements of due process so there would be notice before hand.

Mr. Leonard stated that our goals are the same and it is a matter of working out the conditions. Mr. Leonard stated that he wants to get to consensus as much as possible.

Chairperson Lew closed the public hearing.

Commissioner Anderson stated that he agrees with staff with the continuance. Commissioner Anderson stated that he prefers the building located near the fence and the window on the west side and windows on the back side where it will give visibility to the queue line.

Commissioner Sweeney stated that she does not like the long queue along the wall. Commissioner Sweeney gave the example of the line behind the Burger King and Shell Station and the fact that trash and debris get blown back there and are slow to be removed. Commissioner Sweeney stated that even if trees are planted it is still very sterile and not particularly safe. Commissioner Sweeney stated that she prefers the location near the street and provides the opportunity for additional landscaping. Commissioner Sweeney stated that if that option is chosen, the two parking stalls and the planting strip might still need to be removed or relocated. Commissioner Sweeney stated that the only way she could support having the drive through by the wall would be to take the Police Departments recommendations on the reorientation of the cashier's window and by changing the type of construction in order to provide for windows along the back wall of the shops to provide that additional security.

Commissioner Savage stated that she would support the drive aisle in the back if there are windows in the back of the building and if the cashier's box is moved and better lit. Commissioner Savage stated that she does not care for the layout with the drive aisle next to the street.

Chairperson Lew stated that she supports Commissioner Sweeney's suggestion and she would prefer to see the shops be oriented towards Alvarado Boulevard. Chairperson Lew does have a concern for the

drive through because it looks like a very tight turn and the drive aisles should be marked with arrows to indicate they are one way. Chairperson Lew would like to see additional landscaping against the wall at the back of the property. Chairperson Lew would like to see the trash enclosure layout looked at.

Commissioner Anderson stated that just because he doesn't support a certain design doesn't mean he would vote against a design as long as it is appropriate.

Mr. Leonard stated that we could ask Mr. Conway which site plan he prefers and then it can be fine tuned.

Commissioner Sweeney made a motion to continue Site Development Review SD-09-05, Use Permit UP-09-05 and Variance V-04-05 to February 16, 2006.

Commissioner Anderson seconded the motion.

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

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

Chairperson Lew recessed the meeting.

Chairperson Lew called the meeting to order.

B. NEW REPORTS:

1. **WILLIAM HSIEN, ALPHA INVESTMENTS AND PROPERTY MANAGEMENT, 34396 ALVARADO-NILES ROAD, Site Development Review SD-11-05;** The applicant is requesting Site Development Review approval to remodel the exterior of an existing restaurant located at the intersection of Decoto Road and Alvarado-Niles Road. The project includes relocating the main entry and constructing a new trash enclosure. The project site is located at 34396 Alvarado-Niles Road (APN: 486-0005-101-100). This project is categorically exempt under Section 15301, Class 1(e)(Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines.

Avalon Evans, Assistant Planner, presented the staff report.

Commissioner Sweeney referred to condition #5 and suggested adding "3 color palette" to the condition.

Commissioner Sweeney referred to condition #7 and asked why we are not requiring a sanitary sewer connection for the trash enclosure.

Ms. Evans replied that it is identified on the plans and is also called out in the clean water conditions of approval.

Commissioner Sweeney asked if the trash enclosure will be connected to the sanitary sewer why are we not requiring it to have fire sprinklers.

Ms. Evans stated that the trash enclosure is six feet away from the building and therefore does not require fire sprinklers.

Commissioner Sweeney referred to condition #8 and asked how just the letters and graphics on the logo will be illuminated on the sign and not the entire sign.

Ms. Malloy replied that it is a fairly common type of sign where the face is darker and only the letters and graphics are illuminated.

Commissioner Sweeney asked to correct “buildings” to “building” in condition 8.

Commissioner Sweeney asked to have condition #8 reorganized to make it clearer.

Commissioner Sweeney asked to add “that all banners and other temporary signs will meet the requirements of the sign ordinance”.

Commissioner Sweeney referred to condition #17 and asked if any part of this site includes the parking spaces next to the building.

Ms. Evans replied that they are part of this site.

Commissioner Anderson stated that in the staff report there is mention of adding a new bench in front of the new entrance but there is no corresponding condition of approval. Commissioner Anderson would like that added to the conditions of approval.

Ms. Evans stated that she will add a new condition of approval.

Chairperson Lew asked why condition #9 is necessary for this project.

Ms. Evans stated that it was added because it is a standard condition of approval but it can be removed as it does not apply to this project.

Chairperson Lew referred to condition #11 and asked where exactly is the sidewalk it is referring to.

Ms. Evans replied that they are proposing to fill an area with concrete that is currently filled with gravel near the new entrance area.

Chairperson Lew referred to condition #6 and asked if they are planning to install new exterior metal surfaces.

Ms. Evans stated that most likely the roof of the new trash enclosure will be made of metal.

Chairperson Lew opened the public hearing.

Commissioner Sweeney asked if they have a problem with highlighting the vertical elements on the stucco wall with a different color paint.

William Hsien, Architect, replied that he would have to check with the owner of the property, El Mercado. Mr. Hsien stated that the applicant is only applying to do interior work and anything done to

the exterior is the responsibility of the property owner. Mr. Hsien stated that the applicant believes that this is outside his scope of work.

Commissioner Sweeney stated that she believes it will improve the appearance of the building and make the business more successful.

Chairperson Lew closed the public hearing.

Mr. Leonard restated the amended conditions of approval:

- Change condition #8 to make it clear what signs are being referred to and add “banners and all other temporary signs shall meet City requirements”.
- Delete condition #9
- Change condition #11 add at the end of the sentence “near the new entrance”
- Change condition #5 to add “3 color palette”.
- Add a condition for the bench in front of new entrance.

Commissioner Anderson made a motion to approve Site Development Review SD-11-05, making findings 1 – 4, with the amended conditions of approval and adopt a resolution confirming this action.

Commissioner Savage seconded the motion.

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

2. **GREEN BUILDING AND LANDSCAPING STUDY SESSION, CITY OF UNION CITY;** This is a study session to provide an overview of green building and landscaping programs in preparation of a proposed Green Building and Landscaping Ordinance.

Janice Lum, Assistant Planner, presented the staff report.

Karen Kho, Project Manager, StopWaste.org, gave a presentation on the general approach to integrated design, construction, maintenance and the Green Building program.

Teresa Eade, Senior Program Manager, StopWaste.org, gave a presentation on green landscaping.

VII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS:

- A. **CODE ENFORCEMENT REPORT** – End of year report for 2005.

Glenn Kirby, Neighborhood Preservation Officer, presented the staff report.

VIII. COMMISSION MATTERS:

- A. Follow-up on Planning Commission referrals to the City Council.
- B. Upcoming applications for the Regular Planning Commission meeting of February 2, 2006.

IX. GOOD OF THE ORDER: None.

X. ADJOURNMENT: 11:10 p.m.

APPROVED:

JO ANN LEW, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY