

**CITY OF UNION CITY  
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING  
OF MAY 4, 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, Sweeney and Chairperson Lew  
ABSENT: Commissioner Sison**

**STAFF:** Joan Malloy (Planning Manager); Carmela Campbell (Senior Planner); Janice Lum (Assistant Planner); Avalon Evans (Assistant Planner); Kit Faubion (City Attorney); Carlos Jocson (City Engineer); Kris Fitzgerald (Administrative Assistant).

**II. APPROVAL OF MINUTES: The regular Planning Commission Minutes of April 20, 2006 were approved as submitted.**

**III. ORAL COMMUNICATIONS:**

Barry Ferrier, Union City, asked about the status of the remodeling project for what was the Chevron and is now a Valero gas station. Mr. Ferrier stated that they have done remodeling at the pump area but they tore the roof off and nothing has been done since.

**IV. WRITTEN COMMUNICATIONS: None.**

**V. PUBLIC HEARINGS:**

**A. CONTINUED HEARINGS: None.**

**B. NEW HEARINGS:**

- 1. CITY OF UNION CITY, CITYWIDE, Zoning Text Amendment AT-02-06; the City is proposing to update Title 18, Zoning and Title 17, Subdivisions, of the Union City Municipal Code to clarify the text and bring it into compliance with the City's 2002 General Plan. This project is exempt under Section 15061 (b3) of the California Environmental Quality Act (CEQA) Guidelines.**

Avalon Evans, Assistant Planner, presented the staff report.

Commissioner Sweeney thanked the staff for all of the work that they have done on this project.

Commissioner Sweeney thinks this revision is a huge improvement.

Commissioner Sweeney referred to Section 18.32.020, M, (h), secondary units, which is taking out the requirement for separate utilities and in the staff report talks about the difficulty of monitoring this and the difficulty of restricting separate addresses which would interfere with mail delivery. Commissioner Sweeney feels that not having a separate mail address is a security issue for the people in the secondary unit.

Ms. Evans replied that the current practice is to provide second units with their own address. Ms. Evans stated that once the address is provided there is very little that staff can do to prohibit the secondary unit from getting separate utilities because they now have a legal address.

Commissioner Sweeney clarified that we are now removing the requirement for separate utilities.

Ms. Evans stated that is correct.

Ms. Evans stated that the current code prohibits secondary units from having separate utilities and now we are removing that prohibition.

Commissioner Sweeney referred to Section 18.72 and she feels that removal of 50% of the exterior walls of a house is a huge amount.

Ms. Evans stated that anything that is first story only does not require any amount of review except for setback checks and lot coverage checks over the counter. Ms. Evans stated that some applicants have come in for what seems like a small project and when the inspectors go out they find that the applicants are almost building a new house instead of just the addition originally approved.

Commissioner Sweeney suggested limiting the requirement to one third or more of the house instead of 50%.

Commissioner Anderson asked what will be the definition of one third.

Commissioner Sweeney stated that it will 33 1/3% of the perimeter of the house because one half would be two full sides of the house.

Carmela Campbell, Senior Planner, stated that staff reviewed ordinances from several local cities and 50% of the exterior walls seemed to be a good compromise number.

Commissioner Sweeney stated that she is willing to go along with the 50%.

Chairperson Lew referred to Section 18.08.250 and asked why the definition includes “non-profit” before housekeeping unit.

Joan Malloy, Planning Manager, stated that it is to differentiate between adults coming together to share a household that is not in the business of a boarding or rooming house.

Chairperson Lew asked if that referred to a 501(c) 3 non-profit.

Commissioner Sweeney suggested the wording “not for profit”.

Chairperson Lew agreed that would be clearer.

Chairperson Lew referred to definition #264 and asked if staff means non-edible containers instead of edible containers.

Ms. Malloy replied that it refers to things like ice cream cones, tacos etc.

Chairperson Lew referred to definition #266 and stated that there are too many sixes in the definition.

Chairperson Lew referred to definition #571 and there appears to be a conflict between being a secondary unit but not to be used as a living space.

Ms. Evans stated that there is an exception in Section 18.32.020 (l).

Chairperson Lew stated that reference is incorrect and should be now be “m”

Chairperson Lew stated that everywhere there is a reference to “18.32.020 (l)” it should be changed to “18.32.020 (m)”.

Chairperson Lew referred to definition #582 and asked if that includes group housing and housing for parolees.

Ms. Evans stated that a group home is licensed by Community Care licensing and are listed under Community Care facilities.

Ms. Campbell replied that the intent was that Community Care facilities are defined by the State and any thing that does not fit in that category would go under transitional housing.

Commissioner Sweeney suggested specifying in this definition that it is “housing which would not fall under the Community Care definition”.

Ms. Campbell agreed with that change.

Chairperson Lew referred to Section 18.28.050 and noted that there are extra spaces in between the paragraphs.

Commissioner Sweeney suggested that it would be fixed in the final formatting.

Chairperson Lew referred to Section 18.32.020(g) (2) and stated that this would preclude a person living in a secondary unit from pursuing a home occupation.

Ms. Campbell stated that was not the intent and that one home occupation would be allowed per residence.

Chairperson Lew asked to have that statement in the section.

Chairperson Lew referred to Section 18.32.020(g) (8) and asked why it would allow employees working offsite.

Ms. Evans replied that a general contractor that uses his home as an office could have employees that meet him at the job site.

Ms. Malloy stated that this is a clarifying point for home occupations where most of the occupation is conducted off-site.

Chairperson Lew stated that it should be stated directly that employees are prohibited from working at the home.

Commissioner Sweeney stated that she had experience with living next to a general contractor whose employees would show up at the house on Friday to pick up their paychecks. Commissioner Sweeney

stated that to say that their employees cannot be onsite would not be very practical. Commissioner Sweeney stated that saying that they cannot work onsite is more practical.

Chairperson Lew stated that she wants to prohibit them from working onsite.

Ms. Evans stated that the current wording may be redundant but it clarifies the intent for all home occupation applicants.

Chairperson Lew recommended moving dancing and self-defense to (g) #16.

Chairperson Lew asked why repair of photographs was included in (g) #14.

Ms. Evans suggested that it should have said "phonographs".

Commissioner Sweeney suggested just deleting the word "phonograph".

Ms. Campbell suggested "electronic equipment" as a substitute.

Chairperson Lew agreed with that.

Chairperson Lew referred to Section 18.32.020 (i) (2) (a) as it refers to Section 18.72 which appears to have been deleted.

Ms. Evans stated that the reference will be put back in.

Chairperson Lew stated that all references to 18.32.020 (l) should be 18.32.020. (m).

Chairperson Lew referred to Section 18.32.020 (m) (1) (a) as it references (h) (5) and she thinks it should be (i) (5).

Commissioner Sweeney stated that it is another renumbering issue.

Chairperson Lew referred to (m) (1) (f) and she would like to see if rewritten because all secondary units are subject to Administrative Site Development Review.

Ms. Evans replied that they do not require Administrative Site Development review if it is a single story addition to an existing structure.

Chairperson Lew referred to Section 18.32.040 (a) (1) she noted that "site development" is written twice and may be a typo.

Chairperson Lew referred to Section 18.32.125 (h) and suggested the reference to (g) (2) should be (h) (2).

Chairperson Lew referred to Section 18.36.050 (o) and said the reference should be updated from (p) (2) to (o) (2).

Chairperson Lew referred to Section 18.50.040 and stated there is a reference to 18.20 which has been deleted.

Chairperson Lew referred to Section 18.52.030 (i) which has extra line spacing.

Chairperson Lew referred to Section 18.54.080 (a) (3) and requested adding an “and” before applicable specific plans.

Ms. Campbell read back “the proposed conditional use is consistent with the General Plan and any applicable specific plan and will comply with each of the applicable provisions.

Commissioner Sweeney recommended removing all the extra commas.

Chairperson Lew referred to Section 18.76.040 and stated that it is out of sequence because the previous one is 18.76.050.

Commissioner Sweeney suggested doing a search to make sure if it has been referenced anywhere to change it.

Chairperson Lew referred to Section 18.84. and stated that the entire chapter was deleted and it should be deleted on the Title page.

Commissioner Anderson referred to 18.08.25 and stated that he does not think it is correct that a secondary unit is included in the definition for an accessory structure.

Ms. Evans replied that it is included in the definition for accessory structures but it isn’t defined by being an accessory structure.

Commissioner Anderson asked to clarify that if a secondary dwelling is an accessory structure can you have a home occupation in it.

Ms. Evans stated that it is an accessory structure and staff is going to change the wording to allow for home occupations in second units but not other accessory structures.

Commissioner Anderson stated that the definition does not mention accessory structure.

Ms. Malloy stated that you could have a secondary dwelling unit that is in an accessory structure such as above a detached garage, or you could have a secondary dwelling unit attached to the primary home, such as the second story of a single-family home where it would not be an accessory structure.

Ms. Campbell stated that if you built a garage and then wanted to live in it, you would have to do improvements to bring it up to habitable space. Ms. Campbell stated that sometimes accessory structures are meant to imply non-habitable space.

Chairperson Lew opened the public hearing.

Hugh McNamara, Union City, stated that he agrees with the part of the zoning that requires a review if more than 50% is being changed.

Chairperson Lew closed the public hearing.

Commissioner Sweeney made a motion to recommend approval of Zoning Text Amendment AT-02-06 to the City Council, making findings 1 - 4, with the amendments as stated and adopting a resolution confirming this action.

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:**

1. **RHL DESIGN GROUP, 31901 ALVARADO BOULEVARD, Site Development Review SD-05-06**; the applicant, RHL Design Group, on behalf of Conoco Phillips, is requesting Site Development Review approval to install new fascia on the existing canopy and new signage at the 76 Station located at the corner of Alvarado Boulevard and Dyer Street (APN:483-0073-012-08). This project is categorically exempt under Section 15301, Existing Facilities of the California Environmental Quality Act (CEQA) guidelines

Avalon Evans, Assistant Planner, presented the staff report.

Chairperson Lew asked if there are any plans for remodeling around the service station.

Ms. Malloy replied that this shopping center was recently remodeled and there are no additional improvements known to staff at this time.

Chairperson Lew opened the public hearing.

Mark Graff, RHL Design Group, asked what the problem is with the 36 inch fascia. Mr. Graff stated that they could put a new roof and then have the gabled end covered as well. Mr. Graff stated that they are OK with all the other conditions.

Ms. Malloy stated that staff is concerned that the fascia would not be consistent with the existing architecture of the station overall.

Chairperson Lew asked if a new roof over the pumps would help.

Ms. Malloy replied that then you would have two distinctly different styles of architecture on the site.

Jerry Rokes, Station Manager, stated that they use the hoist mainly for non-invasive repairs, inspections, brake jobs, etc. Mr. Rokes stated that they keep the area very clean and do not allow fluids to go on the ground. Mr. Rokes stated that any work that involves fluids is done inside the garage bay. Mr. Rokes stated that the lift is very common in the industry.

Chairperson Lew asked if he understood that it is not acceptable to the City code.

Mr. Rokes stated that he is not familiar with the City Code. Mr. Rokes stated that his boss spoke to someone five years ago before they purchased the lift and no one had any objections at that time.

Commissioner Sweeney asked if he got a City permit for it.

Mr. Rokes replied that it is a portable lift, more like a floor jack and they use it for small vehicles.

Commissioner Sweeney stated that they are repairing vehicles outside of the building using the lift.

Mr. Rokes stated that it is primarily belts and maintenance and inspections.

Ms. Evans stated that in the code it states that auto repair can be permitted but it must take place in a three sided enclosed structure with a roll up door. Ms. Evans suggested working with staff to expand the building to accommodate the lift.

Chairperson Lew closed the public hearing.

Commissioner Anderson asked if there were any changes to the conditions of approval since the original staff report.

Ms. Evans stated that a condition had been added to remove the lift.

Commissioner Anderson made a motion to recommend approval of Site Development Review SD-05-06, making findings 1 - 4, and with stated conditions of approval.

Commissioner Sweeney seconded the motion and asked the station manager to look into expanding the building to accommodate the lift.

Mr. Rokes stated that he doesn't think that it is possible to do all the repair inside the walls of the station to handle all the automobiles that they get in.

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

**B. NEW REPORTS:**

1. **Affordable Housing Ordinance;** At a Joint Workshop with the City Council and Planning Commission, held on January 31, 2006, the City Council directed staff to work with the Planning Commission to discuss possible modifications to the Affordable Housing Chapter of the City of Union City's Zoning Ordinance (Chapter 18.33). This is a workshop to conceptually consider changes to the Affordable Housing Ordinance. No action will be taken at this meeting.

Vern Smith, Housing Coordinator, presented the staff report.

2. **AVALON AT UNION STATION, Union Square;** This is a workshop for the purpose of introducing the following project to the Commission and community. No action will be taken at this meeting. The applicant, Avalon Bay Communities, Inc., is requesting Site Development Review (SD-06-05) to construct a 438-unit apartment community, consisting of

two five-story buildings, on approximately six acres located adjacent to and southeasterly of the BART parking lot in Union City. The project location is 14 – 44 Union Square (APN: 087-0019-001-25 and 087-0019-001-26). The northerly building would consist of 272 apartment units with parking primarily located in a six-level, on-grade parking structure adjacent to BART. The southerly building would consist of 166 apartment units with parking primarily located in a two-story concrete garage located directly below the building footprint. Access to the site will be provided off Union Square. A new multi-use trail and pedestrian/bicycle bridge crossing would be developed over the flood control channel adjacent to the project site to connect the Brookstone neighborhood to BART. The project will require a Use Permit (UP-06-05) to allow a high-density residential development in the Station-Mixed Use Commercial (CSMU) zoning district. The City has prepared a Draft Environmental Impact Report for this project and has determined that although the project may have significant effects on the environment, mitigation measures have been incorporated into the project which will avoid or mitigate the impacts. Two project-related impacts have been identified as significant and unavoidable: cumulative air quality impacts associated with the development of the Station District and construction noise.

Janice Lum, Assistant Planner, presented the staff report.

**VII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT 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 May 18, 2006.

**IX. GOOD OF THE ORDER:**

Commissioner Sweeney asked about the status of the Valero station.

Commissioner Sweeney thanked whoever thought of putting the illegal sign bins in the front of the Corp yard and her only suggestion is that the signs should be put in right side up so that everyone can see who the violators are.

**X. ADJOURNMENT: 11:05**

**APPROVED:**

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**JO ANN LEW, CHAIRPERSON**

**ATTEST:**

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**MARK LEONARD, SECRETARY**