

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF JULY 20, 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, and Chairperson Lew
ABSENT: Commissioner Sweeney**

STAFF: Mark Leonard (Director, Economic and Community Development); Carmela Campbell (Senior Planner); Janice Lum (Assistant Planner); Avalon Evans (Assistant Planner); Farooq Azim (Principal Civil Engineer); Kit Faubion (City Attorney); Kris Fitzgerald (Administrative Assistant).

II. APPROVAL OF MINUTES: The regular Planning Commission Minutes of July 6, 2006 were approved with corrections.

III. ORAL COMMUNICATIONS: None.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS: None.

B. NEW HEARINGS:

- 1. DUCKETT-WILSON DEVELOPMENT, INC., 31772 and 31848 ALVARADO BLVD., Variance V-04-06; the applicant, Patrick Conway, on behalf of Duckett-Wilson Development Inc., is requesting a Variance Permit to allow columns to encroach into the required front yard setback for two existing freestanding buildings along Alvarado Boulevard as part of the Alvarado Plaza Shopping Center (Seafood City) renovation. The first building is located at 31772 Alvarado Boulevard (APN: 483-0040-001-6) west of Fair Ranch Road and the second building is located at 31848 Alvarado Boulevard (APN: 483-0040-034) west of Dyer Street (adjacent to the Valero gas station). These buildings will be refaced with a facade design that includes a column arcade consistent with the facade improvements of the main retail building as approved by the City Council on December 13, 2005. This project has been determined to be categorically exempt per Section 15301, Class 1(e) – Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.**

Janice Lum, Assistant Planner, presented the staff report.

Commissioner Sison asked if this was something that was missed in the original application.

Ms. Lum replied that in the original conceptual plans there were no actual measurements as the plans did not show exactly where the columns would be.

Commissioner Sison asked if there were any changes in the design.

Ms. Lum replied that there were not.

Chairperson Lew asked when it was discovered that there was a problem.

Ms. Lum replied that it was discovered when the applicant submitted the plans for plan check. Ms. Lum stated that at the conceptual level they had applied this new treatment without considering the relationship to the ground plane and existing building envelope.

Chairperson Lew asked if the Variance is not approved what design changes would be made by the developer.

Ms. Lum replied that if the Variance is not approved the applicant would not be able to build the new proposed design. Ms. Lum stated that even if they did not build the columns there would still be encroachment by the proposed facade. Ms. Lum stated that the two buildings are built right up to the setback so they would not be able to be designed in a consistent way with the rest of the center.

Chairperson Lew asked if the column is needed to support the facade.

Ms. Lum replied that it is not needed to support the facade but in terms of being consistent with the rest of the center design the columns are necessary.

Chairperson Lew asked if the columns are purely decorative.

Ms. Lum replied that they may be needed to support a canopy element.

Chairperson Lew stated that she agrees with the need for the Variance but she has a problem with Building B where the columns don't meet the landscaping. Chairperson Lew stated that she would prefer the columns to meet the landscaping and provide a nice transition from the walkway to the landscaping and the columns will not interfere with pedestrian traffic.

Ms. Lum stated that she is not sure if the distances match the proposed canopy span.

Chairperson Lew stated that she would like to see the columns and the landscaping meet so that there isn't a concrete gap between them.

Chairperson Lew asked if a condition could be added to have the columns and the landscaping meet.

Commissioner Savage stated that trash sometimes gathers in the gap.

Commissioner Sison stated that in the drawing Building B encroaches almost nine feet into the setback and he thinks it will meet the landscaping.

Chairperson Lew asked if it will take up the width of the sidewalk.

Commissioner Sison stated that he thought it would.

Chairperson Lew stated that she thought it would be nice if it took the width of the paved part of the sidewalk and have the columns actually stop in the landscaping.

Commissioner Sison stated that if it is going to encroach nine feet into the twenty foot setback then it should meet the landscaping.

Chairperson Lew asked how wide the paved area is for the sidewalk.

Commissioner Sison stated that he thought it was about nine feet.

Ms. Lum stated that in the original City Council resolution conditions of approval there is a condition for preparing a final landscape and irrigation plan subject to review and approval of the Economic and Community Development Department and the City Arborist. Ms. Lum suggested that rather than bringing the columns out towards the landscaping, if in fact they don't meet, we could have them bring the landscaping towards the columns.

Chairperson Lew asked if it should be added as a condition.

Ms. Lum replied that it is part of the attachment.

Chairperson Lew stated that there is nothing in there to condition it to have the columns meet the landscaping.

Ms. Lum stated that she is involved in the plan check review process and the landscape plan has not been approved yet. Ms. Lum stated that she can make a comment for the condition to be met.

Chairperson Lew stated that that would be an acceptable alternative.

Commissioner Sison stated that if they can't move the building then they will have to increase the landscaping.

Chairperson Lew referred to the findings on page 5 and stated that the reference to a Site Development Review should be changed to a Variance permit.

Chairperson Lew opened the public hearing.

Chairperson Lew closed the public hearing.

Commissioner Anderson made a motion to approve Variance Permit V-04-06, making findings 1 – 9, with amended conditions of approval and adopting a resolution confirming this action.

Commissioner Savage seconded

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

2. **STERN AND COMPANY, 34100 Seventh STREET, Site Development Review, SD-07-05, Tentative Tract Map 7733;** the applicant, Stephen Stern, is requesting approval of a Tentative Tract Map, TTM 7733, to subdivide a total of 57,430 square feet located at 34100 Seventh Street into eight (8) single-family residential lots with a minimum size of 4,058 square feet and a 7,120 square foot lot to accommodate a park area. The site area consists of four (4) parcels (APN's: 087-0099-146, 087-0099-148, 087-0099-152, and 087-0099-162) owned by the Redevelopment Agency. The applicant is also requesting approval of Site Development Review (SD-07-06) to construct eight (8) 1,856 square foot single-

family residences on the proposed lots. The environmental impacts of this project were previously evaluated within the 1994 DIPSA EIR. No further environment review is proposed.

Janice Lum, Assistant Planner, presented the staff report.

Commissioner Anderson asked if there are sidewalks on the Seventh Street side on either side of the project site.

Ms. Lum stated that there are no sidewalks on the residential side of Seventh Street but there are sidewalks on the industrial side.

Commissioner Anderson asked what sidewalks are being removed.

Ms. Lum replied that it will be the span that originally served the business that was located there. Ms. Lum stated that as part of the master plan, a twenty foot landscape buffer was planned to line the entire residential side of Seventh Street along with a Marina wall.

Commissioner Anderson asked how pedestrians will be directed toward the paseo park entrance.

Ms. Lum replied that as part of the master plan there are pedestrian access points. There is an EVA with bollards that can be used by pedestrians. Ms. Lum stated that the residents already know where the two main pedestrian access points are. Ms. Lum stated that there was no pedestrian connection point identified in the master plan for this area. Ms. Lum stated that the sound wall will be continuous along the back of this project.

Commissioner Anderson asked if there will be a problem with parking on the cul-de-sac because of the location of the park. Commissioner Anderson asked about the security for the two homes that are across the street from the park area.

Ms. Lum stated that there is an existing park there and it will connect with the new area being set aside.

Commissioner Anderson asked if there is any plan to control the parking in the cul-de-sac.

Ms. Lum replied there is not.

Commissioner Anderson stated that he thinks there will be a conflict with parking for the residents of the cul-de-sac and the park users.

Ms. Lum stated that this is a neighborhood park and would most likely be used by the residents in the area who would walk to the park.

Commissioner Anderson asked why there is no condition for green building for this project.

Ms. Lum replied that this is one of our first private-public projects to come through. Ms. Lum stated that this project estimated construction cost is under three million dollars and therefore the ordinance does not apply to this project.

Commissioner Anderson asked how did the developer document the costs for this project.

Ms. Lum replied that she asked the developer and he provided her the figure.

Commissioner Anderson asked what happens if the cost of the project goes over the limit. Commissioner Anderson asked if there is a way to retroactively apply the green building condition in that case.

Ms. Lum stated that we can add to the condition “If prior to issuance of building permits, the estimated cost of construction exceeds three million dollars that the green building guidelines will apply”.

Commissioner Anderson asked what documentation will be required to determine the estimated cost.

Ms. Lum stated that building permits are issued based on the valuation of the project.

Commissioner Anderson stated that he would like that added to condition #20.

Ms. Lum stated that the ordinance requires if a project is considered covered the applicant is required to incorporate the measures to the maximum extent feasible.

Commissioner Savage stated that she thinks the homes look too similar.

Ms. Lum stated that there will never be more than three houses adjacent to each other of these designs and there is a condition to add stone or brick to the wainscot to help differentiate the designs.

Commissioner Savage asked if they will have fenced yards.

Ms. Lum replied that there will be fenced rear yards.

Commissioner Savage asked if that wouldn't help with the security of the homes by the park or if the park is not lit. Commissioner Savage stated that most neighborhood parks are not used at night.

Chairperson Lew asked if the City is subsidizing the construction of these homes.

Mark Leonard, Director, Economic and Community Development, replied that the City is not. Mr. Leonard stated that they are doing a land write down, in other words not charging anything for the land itself. Mr. Leonard stated that he would have to check to see if there were any other subsidies beyond that because it is 100% affordable.

Chairperson Lew asked if these homes will be sold or rented.

Mr. Leonard replied that they will be for sale.

Chairperson Lew asked if these will count towards the City's goals for affordable housing.

Mr. Leonard stated that they will.

Chairperson Lew referred to page 9 and asked how the community facilities fee is added to the property taxes.

Mr. Leonard replied that once the district is formed the County is noticed before a given lien date and then the County will add it to the property tax bill.

Chairperson Lew asked how adding this fee to the property tax makes the home more or less affordable when you get a home you can afford and then the property taxes go up.

Mr. Leonard stated that the CFD fee is about \$370.00 per year that is added to the property taxes. Mr. Leonard stated that when we calculated affordability we took into account not only the property taxes but what the payments would be and the units will be sold to moderate income families who can make the payments based on a given down payment. Mr. Leonard stated that the maximum costs of the units are set ahead of time.

Chairperson Lew asked what the price will be for these homes.

Mr. Leonard replied that we know what a moderate income family can afford to pay under the HUD guidelines and the price is set and he thinks it is the mid \$300,000 range.

Chairperson Lew stated that the other homes in the area originally sold for around \$800,000 to \$900,000.

Mr. Leonard stated that when they were originally built they sold for around \$500,000. Mr. Leonard stated that these homes are designed to be comparable to the surrounding homes. Mr. Leonard stated that one of the selection criteria for the developers was to design homes to blend in to the existing neighborhood.

Chairperson Lew asked how long will the homes be affordable.

Mr. Leonard replied that they will have deed restrictions to keep them affordable and when the owner sells he can only capture a percentage of the appreciation according to the HUD tables. Mr. Leonard stated that they must be resold to another moderate income buyer.

Chairperson Lew asked if they would ever convert to market rate.

Mr. Leonard stated that they are permanent affordable homes.

Chairperson Lew referred to condition #3 and stated that the first sentence appears to be incomplete.

Mr. Leonard stated that the word "prior" should be deleted.

Chairperson Lew referred to condition #5 and asked to add the word "design" after "roll-up" and add the word "installed" before "with".

Chairperson Lew referred to condition #8 and stated that the last sentence is incomplete.

Ms. Lum stated that the entire phrase should be deleted.

Commissioner Anderson asked how the three paint color schemes will be applied.

Ms. Lum replied that there will be eight three-color paint schemes.

Mr. Leonard suggested "Each house within the development shall be painted with a different three color scheme".

Chairperson Lew referred to condition #12 and stated that there is an extra "T" in "AT&T".

Chairperson Lew referred to condition #28 and asked to add "or used to park vehicles".

Chairperson Lew referred to condition #33 and asked what a post-tension slab is.

Mr. Leonard replied that is the utilization of rebar in the concrete that is stretched and has tension on it to create a more rigid base for the house.

Chairperson Lew asked if that has to do with earthquake retrofitting.

Mr. Leonard replied that it does.

Chairperson Lew referred to condition #38 and asked to delete the parentheses.

Mr. Leonard stated that they will use the clarified language developed at the last meeting.

Chairperson Lew referred to condition #41 and asked if each unit will have a monitoring system.

Ms. Lum replied that it should read “each building”.

Chairperson Lew referred to condition #42 and change “system” to “systems”

Chairperson Lew referred to condition #46 and asked if it included side doors.

Ms. Lum stated that we could delete “and exterior doors”.

Chairperson Lew referred to condition #45 and asked if the City allows out swinging doors on residences.

Mr. Leonard stated that she is correct that all doors swing in and therefore the last sentence should be removed.

Chairperson Lew referred to condition #66 and asked why it is requiring a homeowner’s association when there are only eight homes.

Ms. Lum stated that we can delete the reference to the “homeowner’s association” or change it to “property owners”.

Chairperson Lew asked if condition #66 could be deleted.

Mr. Leonard replied that it should read “property owners” so that anything that is within their lot they must maintain.

Commissioner Anderson asked if that would include the buffer zone on Seventh Street.

Mr. Leonard replied that it would not as the landscaping along Seventh Street will be maintained by the City.

Chairperson Lew stated her concern that the homeowners should only be responsible for what is within their property lines rather than being responsible for the entire development.

Mr. Leonard replied we will strike the words “of the development” and replace it with “within their lot”.

Chairperson Lew referred to condition #71 and asked if this is a standard condition.

Ms. Lum stated that it would be addressed through the permit process.

Chairperson Lew asked if there is another condition that requires them to obtain a permit and to replace trees.

Ms. Lum stated that as part of obtaining the permit they would be required to replace trees.

Chairperson Lew referred to condition #72 and asked to add "District" after "Water" and add a comma after "District".

Chairperson Lew referred to condition #80 and asked to put parentheses around "driving vehicles on unpaved areas, etc." because it is an example.

Chairperson Lew asked if the Marina wall north of the new project will remain where it is.

Ms. Lum replied that it will be the wall for three of the lots.

Chairperson Lew opened the public hearing.

Steve Stern, Stern and Company, Portola Valley, stated that he is glad to be back for a third development project with the City. Mr. Stern thanked staff for all of their assistance. Mr. Stern explained a post-tension slab is a slab that is pulled together under tension. Mr. Stern is concerned about condition #7 and having to add stone or brick wainscoting to the homes. Mr. Stern thought that the DRC had a concern that there was not enough variety. Mr. Stern does not think the homes need to be dressed up completely. Mr. Stern thought that one or two homes that are near each other or where there are five together have something to set them apart. Mr. Stern did not think that all the homes should be treated that way. Mr. Stern stated that controlling costs is the major design criteria and they are trying to have these homes fit into a neighborhood that sell for five hundred thousand more. Mr. Stern stated that they were trying to make these homes fit into the area. Mr. Stern feels that adding stone or brick is adding cost without really adding any design features that are part of the design. Mr. Stern stated that because it is one floor plan there will be a lot of similarity in the front designs. Mr. Stern stated that from a practical point of view that it won't be noticeable if you are driving down the street. Mr. Stern stated that there will be different color, different porch treatments, different window treatments and they will blend in so they don't stand out. Mr. Stern stated that the sales price will be about \$375,000 and the City is putting in \$350,000. Mr. Stern stated that the per unit cost to the City is less than the apartment project on Mission Boulevard. Mr. Stern stated that controlling cost is our major concern.

Chairperson Lew stated her concerns that the left and right elevations are very plain and the adjacent homes can see those sides. Chairperson Lew asked if a band or stucco cut could be added to give it definition and break up the size of the wall.

Mr. Stern stated that they could run a band around. Mr. Stern stated that the biggest expanse is the garage and they could put a band along that wall. Mr. Stern stated that to control cost they started with square footage and went from there. Mr. Stern stated that most builders see how far they can push the house to the setbacks. Mr. Stern stated that in this case they are very far back from the setbacks especially in the rear. Mr. Stern stated that the rear has a lot of articulation.

Chairperson Lew feels that at least some of the homes should have stone or brick because it will enhance the appearance.

Mr. Stern stated that the buyers are not a problem. Mr. Stern feels that putting stone or brick on all the houses will make them all look the same.

Mr. Leonard suggested that condition #7 could be changed to add brick or stone to some of the homes and that would provide the differentiation that the commission is looking for.

Commissioner Sison asked if any of the other homes in the neighborhood have brick or stone.

Mr. Leonard stated that some do and some are only stucco.

Commissioner Sison is willing to agree that only some of the homes need to be done.

Chairperson Lew stated that she is glad to see that some of the floor plans are flipped and that another way to add variety is in the landscape.

Mr. Stern stated that also the color will vary. Mr. Stern stated that because Torrey Pine runs at an angle they were able to vary the apparent setback from the street.

Chairperson Lew closed the public hearing.

Mr. Leonard went over the changes to the conditions

- Change condition #3 and remove the word “prior”.
- Change condition #5 to add the word “and” after “window bands”.
- Change condition #7 to read “treatments along the front of some of the homes to enhance the front elevations...”
- Change condition #8 to read “Each house in the development shall be painted with a different three color scheme.” Eliminate the last line “consistent roof color on Seventh Street”.
- Change condition #12 to read “AT &T” and eliminate the parenthetical phrase at the end.
- Change condition #20 to read “the applicant shall remove the existing sidewalk and provide a fully planted twenty foot wide landscape buffer. . .”
- Change condition #28 to add “paved or used for parking” at the end.
- Change condition #38 to read “The proposed building foundation design shall be reviewed by a Geotechnical Engineer or Civil Engineer.”
- Change condition #41 to replace the word “the” with “each” and add at the end “in each building”.
- Change condition #42 to pluralize the word “system”.
- Change condition #45 and eliminate the last sentence.
- Change condition #46 to eliminate two words “and exterior”.
- Change condition #66 to read “property owners”.
- Change condition #72 to add the word “district,” after “Water”.
- Change condition #80 to read “such as... without the parentheses.
- Add a new condition to add a band or indentation or delineation along right and left side elevations.
- Add a new condition “If prior to the issuance of building permits the estimated cost of construction exceeds three million dollars the Green Building Guidelines shall apply.”

Commissioner Anderson made a motion to recommend to the City Council approval of Tentative Tract Map 7733, and approve Site Development Review SD-07-06, making findings 1 – 5, with amended conditions of approval and adopting resolutions confirming this action.

Commissioner Savage seconded

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

3. **TOM MEDEROS, 33900 MISSION BLVD, Administrative Use Permit AUP-06-06;** the applicant, Tom Mederos, is requesting approval of an Administrative Use Permit to temporarily locate a 432 square foot modular office behind an existing flower stand located at 33090 Mission Boulevard. This project has been determined to be categorically exempt per Section 15303, Class 3 – New Construction, of the California Environmental Quality Act (CEQA) Guidelines.

Carmela Campbell, Senior Planner, presented the staff report.

Chairperson Lew referred to condition #5 and asked if this condition is necessary.

Ms. Campbell replied that it should read “Planning Commission” instead of “City Council”. Ms. Campbell stated that this condition provides a response to each of the requirements for ease of review by the planner.

Chairperson Lew asked if you still want to see plans even though this is not really construction.

Ms. Campbell replied that a building permit will be required because the modular office has to be placed on some type of seismic support.

Chairperson Lew referred to condition #9 and asked to correct “Waiving” and asked why would the owner be waiving further claims to relocation benefits on the expiration of the permit.

Ms. Campbell replied that the intent is that Mr. Mederos is only reimbursed once for relocation costs.

Chairperson Lew asked if it is the expiration of this Use Permit.

Ms. Campbell replied that this Use Permit expires in five years. Ms. Campbell stated that if after five years Mr. Mederos wants to move into a permanent commercial facility, he will not be provided any relocation funds.

Chairperson Lew stated her concern that if he doesn’t take advantage of this permit within the one year period that he could still go back and ask for relocation benefits because he didn’t take advantage of it in the first year.

Mr. Leonard replied that the relocation benefits are not related to this project. Mr. Leonard stated that he is entitled to them whether or not this project moves forward.

Chairperson Lew suggested changing the condition so that he is only paid once.

Mr. Leonard suggested “the owner shall sign a statement waiving all further claims to relocation benefits once they are provided.”

Chairperson Lew agreed with the change.

Chairperson Lew noted that in Section V of the staff report that the finding that the permit is in conformance with the General Plan is missing.

Ms. Campbell replied that at a previous hearing the commission expressed a concern over the differentiation between what is actually in the ordinance concerning findings and what is provided in the recommendation. Ms. Campbell stated that she did not include the General Plan finding because it is not a Use Permit finding.

Chairperson Lew opened the public hearing.

Tom Mederos, Tom's Flowers, Union City, asked for approval for his new modular trailer to be put on the site. Mr. Mederos doesn't want to remove the canopy or the A-frame sign. Mr. Mederos stated that the canopy provides protection for the workers. Mr. Mederos stated that the A-frame sign was grandfathered in back in the late 70's.

Chairperson Lew stated that she likes his homemade signs and she hopes that he will donate them to the Union City Historical museum.

Mr. Mederos stated that he has a set from the shop that was demolished and maybe he could send one of those over.

Chairperson Lew noted that he has a very large lot and asked if that is where he puts the Christmas trees.

Mr. Mederos stated that is where he has been selling Christmas trees for 13 seasons.

Chairperson Lew closed the public hearing.

Chairperson Lew asked about the canopy.

Ms. Campbell stated that the Zoning Ordinance does require that commercial structures be fully enclosed. Ms. Campbell stated that the intent was to improve the aesthetics of the site. Ms. Campbell stated that it was suggested to Mr. Mederos that if he wanted additional shade he should consider expanding the existing flower stand building.

Mr. Leonard stated that several years ago a provision was added to the residential section of the Zoning Code regarding these canopies to not allow these canopies in front yards where they can be seen. Mr. Leonard stated they try to encourage more permanent structures in commercial areas.

Chairperson Lew asked if staff would be willing to work with the applicant with regard to the canopy.

Mr. Leonard replied that they would.

Chairperson Lew asked if Wal-Mart still has there canopy outside the oil change area.

Mr. Leonard stated that he would have to check to see if it has been removed.

Chairperson Lew stated that if Wal-Mart can have one then it would be inconsistent to not allow Mr. Mederos to have one.

Mr. Leonard agreed.

Commissioner Anderson made a motion to approve Administrative Use Permit AUP-06-06, making findings 1 – 4, with amended conditions of approval and adopting a resolution confirming this action.

Commissioner Sison seconded

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

- TWELVE STAR BUILDERS, DYER STREET/ALVARADO BLVD., Site Development Review SD-08-06, Variance V-05-06;** the applicant is requesting approval to construct a new 7,300 square foot building that will house a bakery and two additional retail spaces at the ground level with office space above. The applicant has also requested a Variance permit to reduce the required front yard setback and required parking demand. The project site is a vacant parcel located at 4123 Dyer Street close to Alvarado Boulevard intersection (APN: 483-0076-009-01). This project has been determined to be categorically exempt per Section 15303 (c), New Construction or conversion of small structures, of the California Environmental Quality Act (CEQA) Guidelines.

Avalon Evans, Assistant Planner, presented the staff report.

Commissioner Anderson asked if the other two buildings in the area with site depths of less than 100 feet were two stories.

Ms. Evans answered that the recently approved karate studio building would be two stories and that the Thai restaurant building was only a single story.

Commissioner Anderson asked what the square footage of the two other buildings is in relation to their site area.

Ms. Evans replied that the karate studio building is smaller than the building proposed by the applicant, but that the site is also smaller than the subject site.

Commissioner Anderson asked what the square footage of the Thai restaurant is in relation to its site.

Ms. Evans pointed out that the Thai restaurant is part of a large shopping center and covers a large portion of its site.

Commissioner Anderson asked how much parking would be required if a one story building were to be constructed on the subject property rather than the proposed two story structure.

Ms. Evans replied that ten spaces would be required for the first story alone.

Commissioner Anderson stated that a parking variance would not be required if a one-story structure were constructed and that the requirement for a variance is partly based on the applicant's actions.

Commissioner Anderson asked for clarification on the required parking spaces for the proposed building.

Ms. Evans explained how staff calculated the required parking spaces for the proposed building by separating the building into production space, sales space, office space and tenant retail space and applying the appropriate parking standards for each use.

Commissioner Anderson stated his concern that the need for a variance for this project is due to the applicant designing a two-story commercial building and not due to the nature of the parcel alone.

Ms. Evans replied that it is staff's belief that a two-story commercial building on this site is consistent with what is allowed to be constructed on other commercial properties in the City and that the applicant is not attempting to build more than is appropriate for such a constrained site with such limited placement for parking spaces and drive aisles.

Commissioner Anderson stated that condition #54 says "the developer shall provide street trees..." and mentioned that it should say "the applicant..." for consistency with the other conditions.

Chairperson Lew asked if the City Council would be hearing this item.

Ms. Evans replied that the item would be going to the City Council on the consent calendar, but that the Planning Commission would approve the item rather than recommending approval to the City Council.

Chairperson Lew referenced condition #14 and proposed revising the wording of the condition to "Prior to issuance of building permits, the applicant shall submit designs to the Leisure Services Director, for installation of public art. The proposed public art shall be non-electrified. The design and placement shall be reviewed and approved by the Public Art review board. The applicant shall obtain a building permit for any public art to be installed on the site as required by the Building Division".

Chairperson Lew recommended removing condition #61 because it is identical to condition #19. Both required the applicant to install bicycle racks.

Chairperson Lew recommended deleting condition #66, which addressed outdoor storage and clean water standards. Chairperson Lew stated that outdoor storage would not be appropriate on the site.

Ms. Evans replied that the condition was not applicable to the site and could be deleted.

Chairperson Lew asked if there would be loading docks on site and asked if condition #71 could be deleted, as it refers to loading docks.

Ms. Evans replied that there would not be any loading docks on site and agreed to the condition being removed.

Chairperson Lew asked for clarification on condition #73, which referenced a certain "division."

Ms. Evans responded that the word "division" should be replaced with "the Public Works Department."

Chairperson Lew explained that the finding that says granting of the variance will not constitute a special privilege was absent from Section V, the specific findings section and that the customary language regarding staff's recommendation was not included in the staff report.

Mr. Leonard stated that it was an oversight and that staff should have included the standard language.

Chairperson Lew opened the public hearing.

Grace Villo-Robbins, Milpitas, CA, thanked staff for their help. She clarified the normal hours for the bakery in Milpitas. She said that customers normally come in between 6am and 7am and only park for about five minutes. She mentioned that the store closes at 7:00pm and that they have a lot of customers from 6pm to 7pm. She explained that she feels the proposed parking would be sufficient for the site, because the times at which the bakery is busiest are when the neighboring uses will most likely be closed. Ms. Villo-Robbins told the Commission that when the City Council originally approved the project in 2004, they had approved the green tile roofs, which are currently on order. She said that the distinctive roof tiles are consistent with the aqua color tiles on their other bakery location.

Commissioner Anderson stated that she had 7,000 square feet of commercial space and with only 20 spaces that there would be parking issues.

Ms. Villo-Robbins stated that there would be 2,300 square feet of commercial space upstairs and 700 square feet of commercial space downstairs. She stated that this is equivalent to the amount of tenant spaces in their building in Milpitas and those tenants do not use all the parking spaces assigned to them. Ms. Villo-Robbins stated that the bakery customers do not overlap with the tenant uses very much so there is usually more than enough parking. Ms. Villo-Robbins indicated that their preferred tenants would be using it for office space rather than a use that would generate a lot of customers in and out.

Commissioner Anderson asked how many employees they will have.

Ms. Villo-Robbins stated that at the other bakery they have six employees but some of them are part-time.

Commissioner Anderson asked how many employees will the tenant spaces have.

Ms. Villo-Robbins stated that she was not sure. Ms. Villo-Robbins stated that the insurance office located next to their bakery in Milpitas has expressed interest in opening another office in their new building in Union City.

Commissioner Sison stated that he has noticed the adjacent shopping center is frequently vacant and asked if Ms. Villo-Robbins would be reluctant to ask her employees to park in the lot.

Ms. Villo-Robbins mentioned that she had asked if the center would rent her parking spaces and that they had declined because they already rent spaces to one of her competitors. She also stated that her employees would not be comfortable parking farther away because they wouldn't want their cars to be towed.

Chairperson Lew noted that on drawing AS-1 there is a note that they will be renting out seven parking spaces which would leave them with only 18 parking spaces on site.

Ms. Evans suggested looking at drawing L-1 as that has the most recent parking configuration showing 17 standard size parking spaces.

Chairperson Lew stated that both drawings are part of the package and she is trying to reconcile the differences.

Ms. Evans stated that there are 17 parking spaces on the parcel and there are parking spaces on different parcels.

Chairperson Lew asked how the number went from 25 to 17 parking spaces.

Ms. Evans stated that they did not use the correct size for parking spaces in the drawing, so drawing AS-1 shows the correct size parking space and that there are 17 spaces.

Ms. Evans stated that the applicant based their parking calculations on the total square footage of the project but staff makes their calculations based on usable space which is less.

Chairperson Lew stated that she does not have a problem with the parking for this site.

Hugh McNamara, Union City, stated that he is glad that they are finally going to build. Mr. McNamara stated that last time there was a condition against left turns into their parking area from Dyer St. and asked if that would still be the case. Mr. McNamara stated that this is a busy street and it is difficult to make left turns into the Island Pacific shop.

Barry Ferrier, Union City, stated that he is glad to see them back. Mr. Ferrier stated that this lot has been empty too long. Mr. Ferrier stated that the building looks very attractive and hopes that it will convince the other shops owner to clean up their stores. Mr. Ferrier thinks it will be an asset to the area. Mr. Ferrier stated his concern that the back wall of the store will be visible to the shopping center. Mr. Ferrier stated that Commissioner Sweeney also asked for enhancements to the back wall the last time the project was before the commission.

Chairperson Lew asked if the conditions are the same as the ones that went to council last time.

Ms. Evans stated that they are and she did not see anything about a vertical enhancement to the wall but if the commission wished to add a condition they could. Ms. Evans noted that there could be no openings in the back wall per the Building Code.

Chairperson Lew asked if there is any landscaping along the back wall.

Ms. Evans stated that the wall is built on the property line and there is no landscaping proposed there.

Ms. Evans stated that there is a condition of approval requiring the applicant to pay for any road improvements that the City Engineer would require. Ms. Evans stated that the City Engineer has asked to have the median extended so that no left turn can be made from Dyer Street into their property.

Chairperson Lew closed the public hearing.

Chairperson Lew asked how the commission feels about the green roof.

Commissioner Sison suggested asking how staff feels about the green roof.

Mr. Leonard stated that since the City Council approved the green roof on the last go round it will probably be approved again. Mr. Leonard stated that staff is trying to create a harmonious color scheme for the area. Mr. Leonard stated that he did not realize that the green or aqua roof is apparently a trademark color for the store. Mr. Leonard stated that he would go with direction from the commission.

Commissioner Sison stated that he has no preference regarding the roof color.

Commissioner Anderson stated that he understands staff position but sometimes doing something different can be good as well. Commissioner Anderson stated that he thinks that this will be a good business and be run well but he will vote against it because he thinks that they will be granting them a

special privilege and that the need for the Variance is caused by the applicant wanting to put such a large building on a small lot.

Commissioner Savage stated that she likes the green roof and will add a punch of color to the area.

Chairperson Lew agreed with Commissioner Savage that the building will draw interest for the area. Chairperson Lew asked to delete the requirement for the red/brown tiles.

Commissioner Sison made a motion to approve Site Development Review SD-08-06, Variance Permit V-05-06, making findings 1 – 14, with modified conditions of approval and adopting resolutions confirming these actions.

Commissioner Savage seconded

AYES	3 (Lew, Savage, Sison)
NOES	1 (Anderson)
ABSTAIN	0
ABSENT	1 (Sweeney)

5. **SPRINGFIELD HOLDINGS, LLC., 33377 CROATIAN WAY, Tentative Tract Map 7800;** the applicant is requesting approval of a Tentative Tract Map TTM 7800 to subdivide a 20,054 square foot parcel into five (5) parcels. The proposal includes creating one 9,758 square foot commonly owned parcel where the parking lot is located and subdividing the existing 10,297 square foot building into four (4) tenant spaces. The property is located at 33377 Croatian Way (APN: 475-0111-054-00). This project has been determined to be categorically exempt per Section 15301, Class 1(e) – Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.
(CONTINUE TO AUGUST 17, 2006)

Chairperson Lew made a motion to continue Tentative Tract Map 7800 to August 17, 2006.

Commissioner Anderson seconded

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

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS:

1. **MAXIMILIANO CERDA, 909 E STREET, Administrative Site Development Review ASD-22-06;** the applicant, Maximiliano Cerda, is requesting Administrative Site Development Review approval (ASD-22-06) to demolish the existing home and construct a new two-story, 3,511 square foot single-family dwelling at 909 E Street (APN: 486-0024-009-01). This project has been determined to be categorically exempt per Section 15303 – New

Construction or Conversion of Small Structures, of the California
Environmental Quality Act (CEQA) Guidelines.

Avalon Evans, Assistant Planner, presented the staff report.

Chairperson Lew asked if there is a condition to replace the fencing as it is asked for in the staff report.

Ms. Evans stated that it was an oversight and a new condition will be added.

Chairperson Lew asked if the Building Code requires all residential bathrooms to have at least one window.

Mr. Leonard replied that the code only requires the bathroom to have some sort of ventilation, which could be a vent or a window.

Chairperson Lew noted that on the plans one bathroom has two windows and the other bathroom has no windows.

Ms. Evans stated that staff has no problems with the design.

Chairperson Lew asked if this house is on the historical homes list.

Mr. Leonard stated that this home has not been designated as a landmark home but does not know if it is listed in the historical survey book.

Chairperson Lew called for a recess.

Chairperson Lew reconvened the meeting.

Mr. Leonard stated that the home is not listed in the historical inventory.

Maximiliano Cerda, Union City, stated the existing home is very old and rundown and they are looking forward to building a new home. Mr. Cerda stated that they have no problem with tearing down the existing home and building a new home. Mr. Cerda stated that they do have a problem with condition #32 to underground the utilities. Mr. Cerda stated that they drove around the area and most of the utilities are overhead. Mr. Cerda asked to have condition #32 deleted. Mr. Cerda stated that undergrounding the utilities would be a major blow to their budget.

Chairperson Lew stated that she thinks that the condition refers to new service lines and not to existing service lines.

Mr. Cerda would be fine with that.

Ms. Evans stated that by determination of the City Engineer, once you sever service to a house when you demolish it, then it is new service to bring new lines in. Ms. Evans stated that the way condition #32 is worded, the applicant would have to bring the electric line down the pole, under the sidewalk and then to the new home.

Chairperson Lew asked if PG& E removes the cable that runs from the pole to the house.

Ms. Evans stated that is her understanding.

Mr. Cerda stated that the demolition will take place on August 1st and the electrical will be removed from the property prior to that. Mr. Cerda stated that during construction they will have power from temporary power pole. Mr. Cerda stated that once construction is finished they will move the line from the temporary power pole to connect to the house. Mr. Cerda stated that to underground it will cost about \$18,000 dollars.

Commissioner Anderson asked if he would get a new account number from PG&E for the new house.

Mr. Cerda stated that he has not checked on that.

Commissioner Anderson questioned why this house had to have underground service.

Farooq Azim, Principal Civil Engineer, stated that there is a requirement that any new house will have underground service. Mr. Azim stated that the surrounding homes are older and have always had overhead service.

Commissioner Anderson asked if the applicant had submitted an application for renovation would underground service be required.

Mr. Azim stated that it would not be required.

Commissioner Anderson stated that then it is a technicality and does not benefit the City.

Mr. Cerda stated that if the other houses around his had underground service then he would not mind also undergrounding his service but since the surrounding houses don't he doesn't want to either.

Chairperson Lew is worried that they are deleting three conditions because the new house is replacing an existing one and they are not being consistent if they don't delete the undergrounding condition as well.

Commissioner Savage stated that she agrees with Chairperson Lew.

Commissioner Sison stated that they have to start somewhere but not at such a prohibitive cost to the applicant. Commissioner Sison stated that this may be an unreasonable burden to the applicant.

Chairperson Lew asked to have condition #32 deleted.

Mr. Leonard stated that conditions #9, 10, 12 and #32 will be deleted.

Ms. Evans stated that a condition would be added regarding the new fencing and also fix the grammar errors in the other conditions.

Commissioner Anderson made a motion to approve Administrative Site Development Review ASD-22-06, making findings 1 – 5, with modified conditions of approval and adopting a resolution confirming this action.

Commissioner Savage seconded

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

VII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS: None.

VIII. COMMISSION MATTERS:

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

Commissioner Anderson made a motion to cancel the Regular Planning Commission meeting of August 3, 2006.

Commissioner Savage seconded the motion.

AYES 4 (Anderson, Lew, Savage, Sison)

NOES 0

ABSTAIN 0

ABSENT 1 (Sweeney)

B. Upcoming applications for the Regular Planning Commission meeting of August 17, 2006.

IX. GOOD OF THE ORDER:

Commissioner Savage stated that Sport Authority had a lot of merchandise for sale out on the sidewalk and it was difficult to get into the store.

Chairperson Lew stated that she went by Tom's Flowers and she noticed that there is a big hole in the driveway of the gas station and she would like someone to contact the station owner to fix it.

X. ADJOURNMENT: 11:05 p.m.

APPROVED:

JO ANN LEW, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY