

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF JANUARY 18, 2007, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

**I. ROLL CALL: Commissioners Anderson, Lew, Singh, Sweeney and Chairperson Sison
Alternate Commissioner: Saini**

STAFF: Mark Leonard (Director, Economic and Community Development); Janice Lum (Assistant 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 December 21, 2006 were approved with corrections.

III. ORAL COMMUNICATIONS: None.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS:

1. **EMERALD PACKAGING, 33050 WESTERN AVE., Use Permit UP-12-06 and Administrative Site Development Review ASD-46-06;** the applicant is requesting approval of a Use Permit to expand operations of a plastic packaging facility in an existing 77,384 square foot warehouse located at 33050 Western Avenue in Union City (APN: 475-0080-007-00). The applicant is also requesting approval of Administrative Site Development Review ASD-46-06 to construct a 110 square foot storage enclosure to store ink drums adjacent to the warehouse building. Pursuant to the California Environmental Quality Act (CEQA), the City has prepared a Negative Declaration for this project and has determined that the project will not have a significant effect on the environment.

Janice Lum, Assistant Planner, presented the staff report.

Commissioner Singh left the meeting due to a conflict of interest. Alternate Commissioner Saini took his place.

Commissioner Sweeney stated that although she was not present at the last meeting where this was first heard, she has studied the testimony, the minutes, and all of the previous documentation and she is prepared to discuss it this evening.

Commissioner Sweeney asked why there is no condition to place an upper limit on the volume of the materials to be stored.

Ms. Lum replied that that the zoning ordinance calls out specific ranges of storage for different volumes of flammable liquids and it is based on the fire code. Ms. Lum stated that the upper range is 5500 gallons and above and the applicant would be above the upper limit.

Commissioner Sweeney asked if the engineering controls put in place are sized by capacity would it be prudent to tie those requirements to a particular storage capacity.

Ms. Lum stated that the controls that are being proposed are to accommodate an incremental increase that is associated with those control areas because those particular presses require a set volume of liquids to function.

Commissioner Sweeney asked about a storage basis.

Lorenzo Perez, Union City Fire Department, stated that the fire code specifies the ventilation requirements so when they install the additional ventilation they will meet the fire code requirements. Mr. Perez stated that the volume is already set and is based on the occupancy of the building.

Commissioner Sweeney clarified that it is a condition from the perspective of the Use Permit but it is a condition that comes from the fire code.

Mr. Perez replied that it comes from the life safety codes, building codes, etc.

Commissioner Sweeney referred to condition #11 and suggested that the last sentence referring to mezzanine storage appears to be unrelated and should be called out as a separate condition.

Ms. Lum replied that it would be changed.

Commissioner Sweeney referred to condition #18 and asked if there are any local ordinances that are more recent than 2001.

Mr. Perez replied that the fire code adopted by Union City is based on the 2001 Fire Code and there have been no changes since then.

Commissioner Sweeney suggested adding the word “current” to add clarity to that condition.

Commissioner Anderson referred to condition #10 and stated that it is not clear which agency or department will validate the compliance and when compliance will be reached and asked for clarification.

Mark Leonard, Director, Economic and Community Development, stated that the condition refers to the building code and suggested adding the word “Building” in between “Uniform” and “Codes” and “in effect at the time of building” at the end of the sentence.

Commissioner Saini asked what is the reason for the outside storage building.

Mr. Perez replied that it is to provide a contained safer area to store excess drums.

Commissioner Lew referred to page #8 number 5 adding the word “of” before “Chapter” and again on page 13 number 6.

Chairperson Sison opened the public hearing.

Preston Neetzel, Emerald Packaging, stated that the outdoor building is for storage only and there will be no pumping the inks out of the building. Mr. Neetzel stated that operations will only take place during the day and not on second or third shift. Mr. Neetzel stated that primarily ink and solvent deliveries are delivered between 8:00 a.m. and noon. Mr. Neetzel stated that as part of the employee training, the employees are trained for containment and procedures for spills, transport of the drums, etc.

Chairperson Sison closed the public hearing.

Commissioner Lew made a motion to adopt the Negative Declaration and approve Use Permit UP-12-06 and Administrative Site Development Review ASD-46-06, making findings 1 - 7, and modified conditions of approval and adopt a resolution confirming this action.

Commissioner Sweeney seconded.

AYES	5 (Anderson, Lew, Saini, Sison, Sweeney)
NOES	0
ABSTAIN	1 (Singh)
ABSENT	0

Commissioner Saini left the meeting and Commissioner Singh returned to the meeting.

B. NEW HEARINGS:

- HANS FREERICKS CHIROPRACTIC CORPORATION, 2815 WHIPPLE RD., Use Permit UP-13-06;** the applicant is requesting approval of a Use Permit to operate a chiropractic clinic in an MS (Special Industrial) zoning district located at 2815 Whipple Road (APN: 463-0045-026-00). The project site is a 1,728 square foot tenant space in the Whipple Business Park. This project is considered categorically exempt under Section 15301, Class 1(a), Existing Facilities, of the California Environmental Quality Act (CEQA) guidelines.

Janice Lum, Assistant Planner, presented the staff report.

Commissioner Sweeney referred to condition #13 and asked to have “current” added in front of “local”.

Commissioner Sweeney referred to condition #5 and asked if the building valuation is based on the building permit if one is issued.

Mr. Leonard replied that it is.

Commissioner Sweeney referred to condition #17 and asked if the applicant’s hazardous waste is subject to review by the Fire Prevention Bureau would they also be subject to any requirements that may come from that review.

Ms. Lum replied that they would.

Commissioner Anderson referred to condition #11 and suggested that it is duplicative of condition #2.

Mr. Leonard replied that it is redundant and could be stricken.

Commissioner Singh stated that he visited the site around noontime and the parking lot was full. Commissioner Singh asked if it would be possible to post a sign or paint arrows that show that the traffic flows both directions.

Mr. Leonard asked if he wanted the sign for the purpose of avoiding traffic conflicts or to direct traffic to additional parking on the other side.

Commissioner Singh stated that it would serve both purposes.

Mr. Leonard asked if painted arrows would be sufficient.

Commissioner Singh stated that a sign showing that traffic is flowing both ways.

Mr. Leonard stated that it could be added as a condition.

Chairperson Sison stated that he is concerned that requiring a sign in one location might trigger a requirement for additional signage in other locations on the property.

Commissioner Singh stated that it is not clear for first time visitors that traffic flows both ways.

Chairperson Sison stated that if it needs to be done in one alley of the complex then perhaps it needs to be done in all of them.

Chairperson Sison opened the public hearing.

Commissioner Sweeney asked if they are going to move any walls.

Hans Freericks, Discover Chiropractic, replied that the graphic in the report already shows how they plan to adjust the walls. Mr. Freericks stated that they will be removing one wall in the front and adding two additional walls.

Commissioner Sweeney asked if he understood that that might require a reconfiguration of the fire sprinkler system.

Mr. Freericks replied that he did and they will also have to reconfigure some lighting and ventilation as well.

Chairperson Sison asked for his comments on the possibility of putting up a traffic sign as proposed by Commissioner Singh.

Mr. Freericks replied that he has been in and out of the complex many times and agrees that the driveways are narrow, however, if one is required for him then they should be necessary everywhere.

Chairperson Sison closed the public hearing.

Commissioner Lew asked to hear how the condition that adds the arrows will be worded.

Mr. Leonard replied "Caution – Two Way Traffic", however, if there is a more standard vehicle code sign, that would be used. Mr. Leonard asked for clarification as to the location of the sign.

Commissioner Singh replied that it should be where they enter from Whipple Road.

Commissioner Anderson asked if painted arrows on the ground right as you enter would be sufficient.

Farooq Azim, Principal Civil Engineer, Public Works, asked if a pavement sign would be adequate.

Commissioner Singh stated that would be fine.

Mr. Azim stated that at the entrance to the alley they would paint the arrows and perhaps at the other end.

Commissioner Lew asked if that was the responsibility of the property owner or the applicant.

Mr. Leonard replied that the applicant would have to work with the property owner.

Commissioner Lew asked how the condition would be stated.

Mr. Leonard replied “The applicant shall work with the property owner to obtain permission if possible to paint directional arrows on the pavement per the suggestion of the City Engineer.”

Commissioner Sweeney suggested wording it more strongly “On the advice of the City Engineer, directional arrows on the pavement would improve safety on the site and the applicant shall work with the owner towards that end.”

Commissioner Lew asked if they are going beyond the scope of the project by requiring work in the parking lot.

Mr. Leonard stated that this is not a Site Development Review for the complex but we are looking at the use of a space inside, and on-site circulation relates directly to the use of the building.

Kit Faubion, City Attorney, stated that the Use Permit relates to the use of the building but also relates to the people coming in and out and there is some authority to the extent of people using the chiropractic facility and making it safe to do so. Ms. Faubion stated that if you want to put arrows all over the complex that might be out of the scope of this application.

Commissioner Lew stated that the applicant hasn't even moved in yet and this is already a problem so shouldn't this be referred to the owner of the property. Commissioner Lew feels that it is going beyond the scope of this project and might set a precedent for other projects.

Ms. Faubion pointed out that this is a matter of discretion for the planning commission.

Chairperson Sison stated that he agrees with Commissioner Lew that this is not appropriate for this project.

Commissioner Anderson stated that he also agrees with Commissioner Lew but feels that the way the condition is worded if it is not possible to meet it, the project will still be able to go forward.

Commissioner Sweeney agrees but still wants it worded as strongly as possible.

Chairperson Sison noted that the last sentence should be stricken from condition #11.

Commissioner Sweeney noted that “current” should be added before “local” in condition #13.

Commissioner Sweeney made a motion to Use Permit UP-13-06, making findings 1 - 4, and modified conditions of approval and adopt a resolution confirming this action.

Commissioner Lew seconded.

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

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS:

- 1. JOSE JIMENEZ, 33843 9TH STREET, Administrative Site Development Review ASD-49-06;** the applicant is requesting approval to construct a new two-story, 4,212 square foot single-family residence on the Depot Road frontage of an 8,500 square foot lot located at 33843 9th Street (APN: 486-0027-075-00). The existing 731 square foot residence with attached 220 square foot garage located on the 9th Street frontage of the same parcel will be retained as a secondary dwelling unit. This project is considered categorically exempt under Section 15303, Class 3(a), New Construction or Conversion of Small Structures, of the California Environmental Quality Act (CEQA) guidelines.

Avalon Evans, Assistant Planner, presented the staff report.

Commissioner Singh asked about the trees on the property.

Ms. Evans stated that any trees that they want to remove would have to go through the permit process.

Commissioner Singh asked if the fence on the left hand side as viewed from Depot Road is going to be removed.

Ms. Evans replied that all of the chain link fencing lining the property is going to be removed. Ms. Evans stated that the City does not require permits for new fencing if it is not over six feet in height but the condition reads that they must comply with the ordinance requirements.

Commissioner Anderson referred to condition #43 and asked if that fee is required for this project.

Mr. Azim replied that the fee is required on new homes.

Commissioner Sweeney asked how staff calculated the setback requirements in regards to the front yard setbacks.

Ms. Evans stated that the second unit is not part of the administrative site development review and it meets the current requirements.

Commissioner Sweeney asked what is the rear yard setback requirement for a secondary unit.

Ms. Evans stated that the code specifies that between a detached secondary accessory structure and a main residence, ten feet separation is required.

Commissioner Sweeney referred to conditions #17 and #19 and asked if the fees in these conditions only apply to the new home.

Ms. Evans replied that is correct.

Commissioner Sweeney asked to clarify that owner occupation only applies to the new construction and not to the secondary unit.

Ms. Evans agreed to make that change.

Commissioner Sweeney asked why there is no requirement for obscure glass on the second floor windows.

Ms. Evans replied that unless there is a clear privacy impact staff has not required obscure glazing.

Commissioner Anderson stated that the glazing is only applicable where the second story looks down into a neighbors' property.

Ms. Evans noted on the aerial photograph that it does not appear that any of the second story windows will be impacting any of the neighbors.

Commissioner Sweeney stated that because the new home fronts on Depot Road, the rear second story windows will be able to see into the neighbor's properties on either side.

Commissioner Sweeney suggested that staff look closely at the possible impacts from these second story windows.

Commissioner Sweeney stated her concerns that most homes have the bedrooms in the rear and that in other places we have required the obscure glazing in order to protect that privacy.

Commissioner Anderson referred to 18.32.125 (c) (7) of the Zoning Code and noted that the obscure glazing is required on second story windows that overlook the adjoining yard.

Ms. Evans stated that the living room at the rear of the house is double height and there is no upstairs view from most of the back of the new house and there is one window in the master bedroom that would look onto that yard.

Commissioner Sweeney stated that she is willing to accept that it is not required for this structure but is very confused about how this has been applied in the past and she doesn't think that it has been applied in a uniform manner.

Commissioner Sweeney referred to condition #5 and asked why we are requiring this on a residential project.

Ms. Evans stated that it has been on several new residential homes and could be omitted but staff does review the three color scheme very carefully.

Mr. Leonard recommended that the condition be left in to make sure that the homeowners do not paint the home any wild or offensive colors.

Commissioner Sweeney referred to condition #18 and asked to fix it so that it makes sense.
Ms. Evans stated that she would correct it.

Commissioner Sweeney referred to condition #21 and asked if the fee is only for the new dwelling unit.

Ms. Evans stated that she would clarify the condition.

Commissioner Sweeney referred to condition #42 and asked if that applies to the new construction only.

Ms. Evans replied that it does.

Chairperson Sison invited the applicant to speak.

Jose Jimenez, project designer, asked if the owner could add a foam treatment to some of the upper windows. Mr. Jimenez stated that they would rather not do the obscure windows unless there is a direct impact to a neighbor's privacy. Mr. Jimenez stated his concerns about undergrounding utilities to the new unit because the current unit has an above ground connection and PG&E may not be willing to put in another connection underground.

Chairperson Sison stated that if there is a problem with PG&E you will need to contact staff to get a Variance or exemption.

Commissioner Sweeney stated that foam trim is not going to provide an opportunity to get the variation in colors needed for a three color palate.

Mr. Jimenez stated that they should be able to paint the trim

Commissioner Sweeney asked if the foam trim would be covered with stucco.

Mr. Jimenez replied that it would be painted a separate color.

Commissioner Sweeney stated that she would prefer the wood trim over the foam trim.

Ms. Evans replied that most of the new homes are using the foam trim. Ms. Evans stated that minor changes can be dealt with at the time of building permit issuance.

Commissioner Lew asked what is the economic impact of foam trim versus wood trim.

Mr. Jimenez stated that he does not think there is a big difference.

Chairperson Sison stated that he would prefer the wood trim.

Commissioner Sweeney stated that level of detail rather than a specific building material is a good point.

Commissioner Sweeney suggested that the landscape plan be required for the new construction only.

Commissioner Lew stated that she is opposed to obscure glass on the second floor windows for safety issues.

Ms. Evans read back the modified conditions of approval:

- Change conditions #16 and #17 to clarify that it applies to the main residence only.
- Change condition #18 to clarify that it applies to the main residence only and change window bands and door openers to singular.
- Change condition #19 to reflect that the fees apply to the main residence only.
- Change condition #21 to reflect that the fees apply to the main residence only.
- Add the desk items to the conditions of approval.
- Change condition #30 to apply only to the main residence.
- Change condition #31 to apply only to the main residence.

Commissioner Anderson made a motion to approve Administrative Site Development Review ASD-49-06, making findings 1 - 4, and with modified conditions of approval and adopt a resolution confirming this action.

Commissioner Lew seconded.

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

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 February 1, 2007.

IX. GOOD OF THE ORDER:

2007 Planners Institute – Commissioners Singh and Saini will attend.

Commissioner Sweeney noted that the middle of the parking lot at Home Depot is very trashy.

Commissioner Sweeney noted that trees in areas between sidewalk and sound walls of developments need help as they are being strangled by ivy. Commissioner Sweeney gave an example of a tree located across from the Post Office parking lot across Alvarado-Niles Road.

Commissioner Sweeney noted that the redwood tree located by the Mongolian Hot Pot restaurant is also covered with ivy.

Commissioner Sweeney asked about the status of the new fire station.

Mr. Leonard replied that the Commission will be able to comment on the plans at an upcoming meeting.

Commissioner Singh stated that the Park and Ride lot on Union City Boulevard and Horner Street has been hit by thieves stealing catalytic converters off of cars during the day and asked for increased patrols in the area.

X. ADJOURNMENT: 8:30

APPROVED:

REY SISON, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY