

**CITY OF UNION CITY  
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING  
OF MAY 17, 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, Saini, Singh, Sweeney and Chairperson Sison**

**STAFF:** Mark Leonard (Director, Economic and Community Development); Joan Malloy (Planning Manager); Carmela Campbell (Senior Planner); Janice Lum (Assistant Planner); Avalon Evans (Assistant Planner); Farooq Azim (Principal Civil Engineer); John Bakker (City Attorney); Kris Fitzgerald (Administrative Assistant).

**II. APPROVAL OF MINUTES: The regular Planning Commission Minutes of May 3, 2007 were approved as submitted.**

**III. ORAL COMMUNICATIONS: None.**

**IV. WRITTEN COMMUNICATIONS: None.**

**V. PUBLIC HEARINGS:**

**A. CONTINUED HEARINGS: None.**

**B. NEW HEARINGS:**

- 1. MARIA TERESITA GARCIA, 34236 PERRY ROAD, Administrative Use Permit AUP-04-07; the applicant is requesting approval of an Administrative Use Permit to operate a large family daycare home for up to 14 children in a single-family residence located at 34236 Perry Road (APN: 486-0097-020-00). The day care will provide care for infants and toddlers on the premises Monday through Friday from 6:30 a.m. to 6:00 p.m. This project is 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 Lew referred to condition #1 and noted that it states that the application will expire in one year unless the use is active and asked if that means the applicant has to have 14 children in day care by then.

Ms. Lum replied that they would just need over eight children by then.

Commissioner Lew asked if having just one more child would satisfy the condition.

Ms. Lum replied that is correct and they would also need to obtain their new license from Community Care Licensing for the State of California.

Commissioner Lew asked how the condition would be enforced; would there be an inspection.

John Bakker, City Attorney, stated that the use would have to be established. Mr. Bakker stated that the difference between a small family day care and a large family day care is the number of children served. Mr. Bakker stated that he is not sure how staff would confirm whether or not the use has been established, but we would have to look at the facts to make the determination.

Commissioner Lew asked if having the license would meet the criteria.

Mr. Bakker replied that it would not. Mr. Bakker stated that the use is not established until such time as the number of children has exceeded eight.

Commissioner Lew asked why there is a reference to a non-residential business when this is in a residential area.

Mark Leonard, Director, Economic and Community Development, replied that it is more of a general term than a technical term. Mr. Leonard stated that any non-traditional, single-family use in a single-family neighborhood is considered a business when it is operated for compensation.

Chairperson Sison stated that except for rental property, it would be a non-residential business.

Mr. Leonard stated that it would not be that factor alone.

Chairperson Sison stated that it appears that the area to be used is 10' x 13' and asked if there is a regulation for a certain amount of square footage per child.

Ms. Lum stated that when the State looks at the licensee, they will determine if there is an adequate amount of space per child. Ms. Lum stated that the applicant did state that she would be using the entire first floor of the residence for the day care facility.

Chairperson Sison opened the public hearing.

Maria Teresita Garcia, 34236 Perry Road, stated that right now she is licensed for eight children and she would like to increase that to fourteen children.

Commissioner Singh asked is she is going to manage the parking with fourteen children being brought in.

Mrs. Garcia replied that generally the children do not all arrive and leave at the same time, so it should not be too crowded.

Commissioner Lew commented that she has maintained her property very well.

Commissioner Sweeney asked if the applicant was going to use the entire first floor for day care.

Mrs. Garcia replied that is correct.

Commissioner Sweeney asked what will the age range be for the new children.

Mrs. Garcia replied that not all the children will be infants and toddlers. Mrs. Garcia stated that she would have a couple of after school students and even with the new license, she is only allowed to have three infants.

Commissioner Sweeney noted that if they were all infants and toddlers, then she would need more help than she currently has.

Commissioner Sweeney asked where the children are going to take naps.

Mrs. Garcia stated that she will be using the area between the kitchen and family room for the children.

Chairperson Sison asked if she had a plan for hiring additional help as the number of children increases.

Mrs. Garcia replied that as a small family day care she is not required by the State to have an assistant but once she reaches fourteen children she would be required to have an assistant.

Chairperson Sison closed the public hearing.

Commissioner Anderson made a motion to approve Administrative Use Permit AUP-04-07, with conditions of approval, making findings 1 – 4, 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:**

- STUDY SESSION TO DISCUSS MASONIC HOMES PROPOSED EXPANSION PROJECT AND ASSOCIATED MITIGATED NEGATIVE DECLARATION;** This study session will provide the Planning Commission with an overview of the proposed Masonic Homes expansion project and associated Mitigated Negative Declaration. Masonic Homes is requesting Site Development approval (SD-09-06) to redevelop 11.5 acres of their campus located at 34400 Mission Boulevard (APN: 087-0031-003-03). The proposal includes the construction of six new buildings, which would include 192 independent living apartments, 30 memory care units, and associated facilities. A Variance (V-06-06) is requested to exceed the allowable height limit in the Private Institutional (PI) zoning district. A Use Permit (UP-08-06) is required for all proposed development within the Hillside Combining District. The public review period for the Mitigated Negative Declaration begins on May 11, 2007 and ends on June 11, 2007.

Commissioner Sweeney recused herself and left the chambers.

Commissioner Saini took her place at the dais.

Avalon Evans, Assistant Planner, presented the staff report.

Debi Stebbins, Executive Vice President of Masonic Homes, made a presentation.

Commissioner Saini thanked them for maintaining a beautiful campus and for lighting the Christmas tree every year.

Commissioner Saini asked how vehicles leaving the campus will be able to go south bound on Mission Boulevard if a left-hand turn will not be allowed.

Ms. Evans replied that they would have to go north on Mission Boulevard to the signal light at Dagget Avenue where they can then make a U-turn to go south on Mission Boulevard.

Commissioner Saini asked where the additional new staff will park their vehicles.

Ms. Evans replied that some will be able to park in current staff parking and the applicant is going to improve a parking area just off the main driveway to accommodate additional staff parking.

Commissioner Saini asked if it will be gravel or paved.

Ms. Evans replied that it will be graveled in a manner consistent with Clean Water requirements.

Commissioner Saini asked what will be done with the unfinished basement in Building C.

Ms. Evans replied that it will not be occupied or used for anything, but will be constructed to avoid additional grading.

Commissioner Lew asked if the unfinished basement is going to be on a slab or dirt.

Ms. Evans referred the question to the applicant.

Tom Cestarte, Architect, WWCOT, Santa Monica, stated that it will be a rough mud slab. Mr. Cestarte stated that this was a way to not impact the riparian area next to the building by filling it with dirt.

Commissioner Lew asked what kind of foundation the building will have.

Mr. Cestarte replied that it is a wood framed structure with piers and joists with sheer wall reinforcement.

Commissioner Lew asked about the tunnel from the pool building to Building A.

Mr. Cestarte stated that it is just a method to get people from Building B through the pool area to an elevator that will take them to the common area in Building A.

Commissioner Lew asked if this is an existing tunnel.

Mr. Cestarte replied that it is not. Mr. Cestarte stated that this was a solution to get people up the hill with the least amount of effort.

Commissioner Lew asked if it would be possible to daylight the creek adjacent to the site.

David Gates, Landscape architect, stated that it was not something that they explored. Mr. Gates stated that they do have a biologist and they have taken out non-native vegetation and replaced it with native vegetation.

Commissioner Lew asked if the creek was next to the riparian area.

Mr. Gates replied that the creek is the riparian area.

Commissioner Lew asked if they could look at using the creek as a feature of the development.

Mr. Gates stated that all the units look out onto the creek area with all the habitat right there.

Commissioner Lew asked if they are planning to name the circulation roadway that is going to be added to the site.

Ms. Stebbins replied that it was not planned at this time.

Commissioner Lew stated that it might be a good idea with the number of new buildings proposed and asked if the Post Office would require separate addresses for the buildings.

Ms. Stebbins replied that all of the facility's mail is delivered to a central address and then distributed internally by volunteers. She stated that each of the buildings has a name and that is what the residents use to find their way around.

Commissioner Lew asked if they are going to use reclaimed water to water the landscaping.

Mr. Gates replied that it was not in the plans. Mr. Gates stated that using reclaimed water is more efficient in a larger community and not for a smaller site like this.

Commissioner Lew asked how the 400,000 gallon water tanks will be filled.

Ms. Evans replied that they will be filled with water from the water district. Ms. Evans replied that they are complying with the Bay Friendly landscaping requirements by using drought tolerant plants and drip irrigation with minimal lawn area. Ms. Evans stated that the creek is daylighted until the south end of the site where it goes underground near Mission Boulevard.

Commissioner Lew asked if any of the residents have asked for a golf course on the site.

Mr. Gates stated not to his knowledge and it would be difficult to do on the site.

Ms. Stebbins stated that they did consider a golf course many years ago but decided not to go through with that idea.

Commissioner Anderson asked if any of the 147 trees being removed are greater than 12 inches in diameter.

Ms. Evans replied that there are 80 trees over that size and that the applicant will be required to obtain tree removal permits and to identify replacement trees.

Commissioner Anderson stated that the trees were not a part of the Mitigated Negative Declaration and that maybe the trees should be included in the conditions of approval.

Commissioner Anderson asked how staff can recommend approval of the Variance for an 80 foot building.

Ms. Evans stated that this site is unique in topography and that the new buildings will not be visible from Mission Boulevard.

Commissioner Singh asked how the emergency vehicles will access the secondary road since the gate is usually locked and the road unlit.

Ms. Evans stated that generally the Fire Department has keys in a Knox box for those types of situations and staff will consult with them about the lighting of the area.

Commissioner Singh noted that the main driveway is also not lit very well at night. Commissioner Singh thinks that there should be a traffic signal at that driveway.

Ms. Evans stated that the traffic study noted that a signal would not be needed. Ms. Evans stated that most of the new residents will be relying on the campus shuttle rather than personal vehicles.

Commissioner Singh asked how many new vehicles will be added to the campus.

Ms. Evans replied that one new vehicle per unit is anticipated but there will be a parking analysis done for the public hearing.

Commissioner Singh asked if there will be more public transit provided to the campus.

Ms. Evans stated that there may be but mostly the campus has its own transportation.

Ms. Stebbins stated they have three buses and will probably add one more. She stated that they can call for public transportation as needed. Ms. Stebbins stated that in regard to the nighttime lighting, it would be very unusual for the residents to drive themselves at night.

Commissioner Singh asked what is being done about the wildlife.

Ms. Stebbins stated that the topic is covered in the Negative Declaration.

Chairperson Sison asked how long the project construction would last and how close the nearest home in the Seven Hills development is to the project site.

Ms. Evans replied that they anticipate rough grading to begin this summer and she will find out what the closest residence prior to the public hearing.

Joel Roos, Project manager, stated that grading will take about 3 months and they expect it to take about 21 months to finish the development.

Chairperson Sison asked how the construction will be staged.

Mr. Roos replied that buildings A and B will be started at the same time and the wood frame buildings would be started later.

Commissioner Lew asked if some of the trees being removed are the ones on Mission Boulevard that screen the Administration building.

Mr. Roos stated that none of the trees screening the Administration building from Mission Boulevard are being removed.

Commissioner Lew noted that the residents on Appian Way would be able to see the construction area before the new landscaping goes in.

Mr. Roos replied that is correct.

Commissioner Lew asked if the new trees would screen Buildings A and B from the residents on Appian Way once they mature.

Mr. Roos stated that looking through the riparian canopy the residents may be able to see the top two floors of building B and building B foreshadows building A.

Commissioner Saini asked if the new development will cause Union City to need more police, fire and other emergency services.

Ms. Evans replied that while the City will not hire new personnel specifically for this project, but that new development causes increase in service in the future and that is why development impact fees are collected.

Commissioner Saini stated his concerns that the new development will have impacts on emergency services provided to existing city residents.

Carmela Campbell, Senior Planner, noted that there is a new fire station being planned nearby.

Commissioner Saini suggested that Masonic Homes talk to the adjoining neighbors about the new development.

Chairperson Sison noted that public notification is part of the process.

Ms. Evans stated that for this application, the Seven Hills neighborhood was sent a public notice. Ms. Evans stated that Masonic Homes has also had several meetings with the neighbors to show them the plans.

Commissioner Saini stated that he thinks this project would be a good one for using Green Building practices and reducing greenhouse gases.

Ms. Evans replied the applicant is proposing the following measures: proposing high density housing instead of single-family housing; redeveloping already in use land rather than new land; using alternative transportation versus single car use; using solar panels where possible; and using green building practices where possible.

Commissioner Anderson asked to have a finding added that says if you add over 35 feet in height you wont be impacting the light, air or privacy of surrounding neighbors.

Ms. Evans stated that she does not know if that finding could be legally added but it can be put in the analysis of the report.

Chairperson Sison called for a recess.

Commissioner Saini left the meeting.

Commissioner Sweeney rejoined the meeting.

Chairperson Sison called the meeting to order.

2. **BALCH ENTERPRISES, 1300 ATLANTIC ST., Administrative Site Development Review ASD-06-07;** The applicant is requesting approval for an addition of a mechanical room and exterior stairs at the rear of the new food manufacturing facility, realignment of a on-site access drive to accommodate new mechanical room and installation of roof-mounted equipment measuring up to 12 feet tall. The project site is located at 1300 Atlantic Street (APN 475-009-025). This project is categorically exempt under Section 15332, Class 32 – Infill Development Projects of the California Environmental Quality Act (CEQA).

Carmela Campbell, Senior Planner, presented the staff report.

Commissioner Anderson asked what qualifies this application for Section 15332 of CEQA.

Ms. Campbell replied that this is infill development.

Commissioner Anderson asked if there are any hazardous materials used in this building.

Ms. Campbell replied that there are some hazardous materials in the building relating to refrigeration, however, the applicant has to go through the permitting process with the City's Hazardous Materials department.

Commissioner Anderson asked what amount would trigger the process.

Ms. Campbell replied that when determining significant impacts relating to a project's amount of hazardous materials, the Initial Study checklist does not look at the amount of materials but is more concerned with the effects on the surrounding area associated with transport, handling and disposal.

Commissioner Anderson stated his concern that there is a significant amount of hazardous materials in the building and that they should not have an environmental exemption.

Mr. Bakker replied that the exemptions apply to the extent that there are not some other operations associated with the site that would create a significant environmental impact. Mr. Bakker stated that the known hazardous materials would not meet the significance criteria.

Commissioner Anderson stated that it is hard to know that without an Initial Study to back it up.

Ms. Campbell stated that this application is limited to the current scope rather than the project as a whole, which was addressed in the previous application.

Commissioner Anderson stated that there cannot be an environmental exemption if there is something that needs to be addressed.

Mr. Leonard stated that this application tonight is focused on the rooftop equipment. Mr. Leonard stated the Zoning Code places limitations on the amount of hazardous materials that can occur on site. Mr. Leonard stated that once certain thresholds are reached a Use Permit is required and then an

environmental analysis would be done. Mr. Leonard stated that the structure of the Zoning Code protects us against quantities of hazardous materials that could occur on the property that would create an environmental impact.

Chairperson Sison asked if this is new equipment being put in or is it equipment that was approved in the original plan.

Mr. Leonard stated that question is not germane to the application tonight. Mr. Leonard stated we are looking at a design feature of the building. Mr. Leonard stated that if the equipment that is put in will result in the use of hazardous materials in a quantity above that which is allowed by right in the Zoning Code then there would have to be a follow up application.

Ms. Campbell stated that a member of the Hazardous Materials group had seen the application and had no conditions.

Commissioner Anderson asked why a finding relating to the application not being detrimental to the City was not in the report.

Ms. Campbell stated that the findings in the report are consistent with the Zoning Ordinance.

Commissioner Singh asked if this is a relocation of equipment or it is new equipment.

Ms. Campbell stated that it is a new enclosure for new equipment.

Commissioner Sweeney referred to condition #5 and asked for a more specific color of background.

Ms. Campbell stated that it would be either sky blue or light gray. Ms. Campbell stated that because the new building will be painted burgundy, staff thought that continuing that color up would be obtrusive, so the background color was suggested.

Commissioner Sweeney thinks that a color should be specified in condition #5.

Chairperson Sison opened the public hearing.

Jack Balch, Balch Enterprises, 30600 Huntwood, Hayward, Ca, stated that they are doing the design and construction for Plats du Chef from Canada. Mr. Balch states that they make frozen foods for businesses such as Costco. Mr. Balch stated that when he filled out the hazardous materials forms, he does not remember any which came even close to the lower amount limits. Mr. Balch stated that the new equipment is a cyclone freezer cooling tower. Mr. Balch stated that they did not anticipate this type of equipment. Mr. Balch stated that they moved the equipment room outside in order to accommodate current and future expansion. Mr. Balch stated that they would be happy to work with staff to pick a color for the roof screens. Mr. Balch explained that with the size of the unit versus the size of the roof screen, they believe that it would be less obtrusive to paint the equipment instead of putting up larger roof screens.

Commissioner Singh asked what kind of food are they going to process.

Mr. Balch replied that he knows there will be a quiche and a soup but not what else.

Commissioner Singh asked how many freezers are in the building.

Mr. Balch replied that the main freezer is about 2000 square feet.

Commissioner Singh commented that the color of the building looks great.

Commissioner Anderson asked if the equipment on the roof would look like a box.

Mr. Balch replied that it is enclosed and does look just like a box. Mr. Balch stated that the two new pieces of equipment are about 8 feet square and would not be very obtrusive, whereas the roof screens would be about 12 feet high and at least 20 feet square to give repair people room inside to work on the equipment and that would be very obtrusive.

Commissioner Anderson stated that he would be fine with the applicant working with staff on condition #5.

Commissioner Sweeney asked if the equipment comes in any other colors.

Mr. Balch stated that they would paint over the factory finish.

Mr. Leonard stated that generally we require a baked on enamel finish for metal products but it does not look like it would be available in this instance.

Commissioner Sweeney stated that there may be other conditions that need to be modified as well.

Ms. Campbell stated that condition #4 was meant to apply to the equipment room and it should be clarified.

Commissioner Sweeney stated that condition #4 should apply to the equipment room and condition #5 should state to work with staff.

Commissioner Lew made a motion to approve Administrative Site Development Review ASD-06-07, with the modified conditions of approval, making findings 1 – 4, and adopt a resolution confirming this action.

Commissioner Sweeney seconded.

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

**3. STUDY SESSION REGARDING THE REGULATION OF SUPERSTORES IN UNION CITY – This study session will focus on impacts of superstores on the community and determine if regulation is warranted.**

Carmela Campbell, Senior Planner, presented the staff report.

Commissioner Lew favors regulating superstores through Use Permit process and would like to see some way for the stores to give back to the community.

Commissioner Sweeney stated either that superstores be prohibited or if they are regulated to also include discount clubs.

Commissioner Lew agreed with Commissioner Sweeney.

Commissioner Anderson feels that the definition of superstores should be revised to somehow address negative impacts and that the size of the store should not be the only factor and would prefer to see them regulated by Use Permit.

Commissioner Singh would prefer to see them regulated by Use Permit.

Chairperson Sison would prefer to see them regulated by Use Permit.

4. **STUDY SESSION TO DISCUSS PARKING IN THE STATION DISTRICT AND AN OVERVIEW OF THE METROPOLITAN TRANSPORTATION COMMISSION'S (MTC) PARKING STUDY** – This study session will provide a briefing on parking issues in the Station District where high-density, mixed use development is planned around the BART Station. Conclusions and recommendations for Union City that resulted from MTC's Parking Policy for Smart Growth Study will also be presented for discussion.

Joan Malloy, Planning Manager, presented the staff report.

Commissioner Lew agreed with building parking as needed and charging the market rate for parking. Commissioner Lew wants to make it easy for people to pay for parking with a system like Fastrak. Commissioner Lew likes centralized parking. Commissioner Lew suggested having a private company build and operate the parking structure. Commissioner Lew suggested that UC Transit could have a free zone to encourage ridership. Commissioner Lew feels that on-street parking should be either paid for or done away with and changed to a bicycle lane. Commissioner Lew agrees with the findings in Exhibit A-3. Commissioner Lew recommended that the solutions that are evaluated be done so holistically.

Commissioner Sweeney stated her concerns about spillover into neighborhoods. Commissioner Sweeney is very interested in the unbundling concept where residents purchase parking independent of their unit.

Commissioner Anderson suggested combining the need for parking with transit service.

Commissioner Singh believes that structured parking is the way to go now. Commissioner Singh stated his concerns about the effect on retail stores if there is not adequate parking.

Chairperson Sison believes that structured parking is a good solution.

Commissioner Sweeney asked if anyone has looked at how large an area of paid on-street parking is needed to pay for enforcement personnel.

**VII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS:** None.

**VIII. COMMISSION MATTERS:**

- A. Motion to reschedule the June 7, 2007 Planning Commission meeting to May 31, 2007.

Commissioner Anderson moved to move the Planning Commission meeting to May 31, 2007.

Commissioner Lew seconded.

AYES	5
NOES	0
ABSENT	0
ABSTAIN	0

Commissioner Sweeney stated that she would be on vacation that week.

- B. Follow-up on Planning Commission referrals to the City Council.
- C. Upcoming applications for the next Regular Planning Commission meeting.

**IX. GOOD OF THE ORDER:**

Commissioner Lew announced that on May 24<sup>th</sup> there would be a dinner held by the Bay Area chapter of the Association of Environmental Professionals in San Francisco and she will be attending.

Commissioner Lew announced that on May 25<sup>th</sup> there will be a seminar on “Designing with an focus on environmental sustainability and human scale” at the College of Marin at 7:00 p.m.

- X. **ADJOURNMENT:** 10:55 p. m.

**APPROVED:**

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**REY SISON, CHAIRPERSON**

**ATTEST:**

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**MARK LEONARD, SECRETARY**