

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF DECEMBER 6, 2007, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

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

STAFF: Mark Leonard (Director, Economic and Community Development); Avalon Schultz (Assistant Planner); Janice Lum (Assistant Planner); Mike Rodriquez (City Attorney); Kris Fitzgerald (Administrative Assistant).

II. APPROVAL OF MINUTES: The regular Planning Commission Minutes of November 15, 2007 were approved as submitted.

III. ORAL COMMUNICATIONS: None.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS:

- 1. GENERAL PLAN AMENDMENT, AG-01-07, Environmental Sustainability; the City is proposing to add a new element on Environmental Sustainability to the General Plan. The Element will focus on how the City can act as a leader, facilitator and educator in promoting environmental sustainability. The proposed Environmental Sustainability Element includes the following sections: General, Green Government, Green Business, Green Design and Green Transportation. This project is considered categorically exempt under Section 15061(b) (3) of the California Environmental Quality Act (CEQA) Guidelines.**

Avalon Schultz and Janice Lum, Assistant Planners, presented the staff report.

Commissioner Sweeney stated that this is the tone that she is looking for and staff has done a wonderful job of incorporating the suggestions from the last meeting.

Commissioner Sweeney referred to ES-C.2 and suggested adding “hosting recognition ceremonies for businesses that achieve certified green business status”.

Commissioner Lew stated that she is very pleased with the changes. Commissioner Lew asked if in the future staff reports can address these green issues.

Chairperson Anderson referred to ES-A.7 and asked if all the “shoulds” in that paragraph should be “shalls”.

Ms. Schultz replied that this was moved from the Community Design section.

Commissioner Sweeney suggested changing the first “should” to “shall” because we obviously need the standards and then the rest of the standards are advisory and would be better as “should”.

Chairperson Anderson referred to the first paragraph in the section on Green Transportation and asked what is meant by “the City can promote the use of public transportation, walking and bicycling”. Chairperson Anderson asked if this means that the City will do this or is this more of an advisory point.

Ms. Schultz replied that they meant that the City has the ability to do this action.

Chairperson Anderson stated that he is not sure what is meant by that sentence.

Ms. Schultz replied that it is intended to introduce the idea that green transportation can be affected by development projects not just infrastructure improvements. Ms. Schultz suggested that it could be changed to read “has the ability” to help clarify it.

Chairperson Anderson stated that the report was very well done.

Chairperson Anderson opened the public hearing,

Chairperson Anderson closed the public hearing.

Commissioner Lew made a motion to recommend approval to the City Council of General Plan Amendment AG-01-07 with the stated changes, making findings 1 - 4, and adopting a resolution confirming this action.

Commissioner Sweeney seconded.

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

B. NEW HEARINGS:

1. **GENESIS DEVELOPMENTAL SERVICES, 33456 ALVARADO-NILES RD.; Use Permit UP-04-07;** the applicant is requesting approval of a Use Permit to operate a day program for up to 30 adults with developmental disabilities in a tenant space located at 33456 Alvarado-Niles Road in Union City (APN: 475-0100-036-00). The project site is approximately 4,320 square foot tenant space in the Central Plaza Center. This project is considered categorically exempt under Section 15301, Class 1(a), Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.

Avalon Schultz, Assistant Planner, presented the staff report.

Commissioner Lew stated that she has not made up her mind about this matter but wants to ask “If not here, then where?” Commissioner Lew asked where should the use go.

Ms. Schultz replied that the Private Institutional zone is more appropriate for this type of use and some commercial and residential areas may work. Ms. Schultz stated that industrial areas should be on the bottom of the list based on the types of uses and traffic patterns associated with industrial uses.

Commissioner Lew asked if staff offered alternate sites to the applicant.

Ms. Schultz stated that they are not aware of any alternate locations available at this time. Ms. Schultz suggested there might be space at the Nakamura clinic, which is in a commercial zone. Ms. Schultz stated that the applicant indicated that industrial zones are generally cheaper to rent.

Commissioner Lew stated that the building from the application looks more commercial than industrial.

Mark Leonard, Director, Economic and Community Development, stated that this use is similar to a church. Mr. Leonard stated there are two vacant PI sites which could accommodate a building but the applicant may not want to build from scratch.

Commissioner Lew asked if there were any other properties to offer to the applicant.

Mr. Leonard replied that he is not aware of any sites. Mr. Leonard stated that there may be other industrial sites that would be better. Mr. Leonard noted that this site was developed as a planned industrial development, a combination of three buildings. Mr. Leonard stated that the circulation for this particular parcel mixes commercial traffic with industrial traffic and that is how the driveways were designed. Mr. Leonard stated that staff doesn't think that this particular industrial location is as good as some other industrial locations. Mr. Leonard stated that this site is not appropriate for this particular use.

Commissioner Singh stated that he thinks the site is very congested already. Commissioner Singh noted that larger vehicles will have a difficult time negotiating the parking and driving areas. Commissioner Singh noted that there could be problems with having the buses in the back where there is a fire lane and parking for 16 more cars. Commissioner Singh does not think it is a good idea to have the business here during the hours of 9:00 a.m. and 6:00 p.m. because there are too many cars.

Commissioner Crosby asked how many vans will be used and the timing of the vans' arrival on site.

Ms. Schultz replied that she is not sure how many vans will be used but because many of the clients are disabled and in wheelchairs, the vans will be the smaller paratransit type vans. Ms. Schultz stated that it is not clear how many vans the applicant will keep on site during the day for client use. Ms. Schultz stated that the timing would depend on where the client is coming from and that they would not all be arriving at the same time.

Commissioner Crosby referred to the Green Oaks development and noted that they were going to use three buses with more people arriving in big groups. Commissioner Crosby said that this project appears to need 15-20 vans coming and going regularly.

Ms. Lum replied that Green Oaks was going to use three buses and she was not sure that the ratio of non-ambulatory patients was but it may be lower and that could be why there were potentially larger groups arriving at one time.

Commissioner Crosby stated that this would make a significant difference in the amount of traffic generated by this project.

Chairperson Anderson referred to the City's Economic Development Policy and noted that he interpreted the policy as saying that the City should encourage additional business support uses. Chairperson Anderson stated that he thinks the objection is not to the way the business operates or what the business is but where it will be located. Chairperson Anderson referred to the required findings and stated that he believes the use is in accordance with Title 18 because it is zoned for this activity.

Ms. Schultz stated that this use is a conditionally permitted use in this particular zone, which means it has to be reviewed on a case by case basis to see if it is appropriate.

Chairperson Anderson asked what about this use is not in accord with Title 18.

Mr. Leonard stated that certain uses are allowed as of right in every zoning district. Mr. Leonard stated that in every zoning district there are certain listed uses that may or may not be appropriate. Mr. Leonard stated that this particular use is listed as conditionally permitted, which means it may or may not be appropriate depending upon the location that is chosen to place this use. Mr. Leonard stated that we are looking at the conditions of the site as to whether or not this use is appropriate at this site.

Chairperson Anderson asked what about this site makes this use inappropriate. Chairperson Anderson stated that he thinks the Economic Development Policy reads to encourage additional businesses.

Ms. Schultz stated the Economic Development Policy is meant to apply to non-industrial businesses and therefore it should be interpreted as non-industrial businesses that are business supporting should be encouraged. Ms. Schultz stated that they could not find any General Plan policies that said that we should include non-industrial serving, non-business serving uses in the technology parks. Ms. Schultz stated that the use goes under day care and day care can be defined in many different ways. Ms. Schultz stated that this is consistent with other applications. Ms. Schultz stated that the General Plan states that we want to encourage business serving non-industrial uses.

Chairperson Anderson stated that he did not see the inconsistency with the business being detrimental to the public health safety and welfare.

Ms. Schultz stated that this might not be the safest location for the population that is there based on emergency evacuation procedures and based on the fact that there is heavy truck traffic. Ms. Schultz stated that they are concerned with the mix of industrial uses with this population.

Chairperson Anderson asked how does that change with the approvals that we already have in the industrial centers.

Ms. Schultz stated that the Green Oaks center was located at the back portion of the site and that site is all special industrial so there is no heavy industrial any where near that tenant space.

Chairperson Anderson stated that he didn't see the inconsistency with the General Plan and any specific plans.

Ms. Schultz replied that one of the problems is that the General Plan has conflicting sections and that is why there is an item later on the agenda to address this question.

Chairperson Anderson stated that if the application is approved he would prefer to see the two conditions recommended in the staff report relating to van accessible parking and staffing ratios added to the conditions of approval.

Chairperson Anderson opened the public hearing.

Ron Dodgen, President, Genesis Developmental Services, P. O. Box 626, Pismo Beach, CA 93448, stated that it is difficult to find a location for this type of use. Mr. Dodgen stated that they have looked at several locations in Union City. Mr. Dodge stated that originally when they brought this application in staff indicated that they would take a neutral position and that changed to opposition on Thursday when new information was received. Mr. Dodgen stated that although there are other day care services in Union City they are not all alike in the types of services offered. Mr. Dodgen stated that their service will offer more services than the others. Mr. Dodgen stated that the facility will be licensed by the State and that there are currently 476 individuals living in Union City that are clients of Regional Center of the East Bay. Mr. Dodgen stated that they would have 30 clients to begin with. Mr. Dodgen stated that there are currently only 399 day service spots, so there is a gap between the population and the day service program spots available. Mr. Dodgen showed several slides from other day services that they currently run. Mr. Dodgen showed some pictures of the proposed site at various times to show the number of empty parking spots. Mr. Dodgen stated that most of the staff typically uses public transportation to come to work. Mr. Dodgen showed a picture of the type of van that is proposed to be used to bring the clients to the facility. Mr. Dodgen stated that there might be only around six vans coming to the facility. Mr. Dodgen stated that they had proposed to unload and load the vans at the rear of the building because it might be safer. Mr. Dodgen showed a slide that showed larger trucks parked in the back for a longer period of time and that they would cause more of a restriction to emergency vehicle response than the short period of time that it takes to load or unload their vans. Mr. Dodgen stated that he did not think that the individuals that they are going to serve would cause the kind of problems similar to the ones in the letters of complaint received by staff. Mr. Dodgen stated that most of their clients will be non-ambulatory and most of the neighboring businesses do not have a problem with them. Mr. Dodgen stated that the building space is not large enough to grow beyond 30 clients and also the funding agency will not fund them for more than 30 individuals. Mr. Dodgen stated that their clients don't want to be set aside from the community; they want to be a part of it.

Commissioner Lew asked how the clients get to the shops.

Mr. Dodgen replied that when a client wants to go out they will have a staff member with them. Mr. Dodgen stated that they will either go in a push wheelchair or a motorized wheelchair. Mr. Dodgen stated that a few will be ambulatory.

Commissioner Lew asked if they will go shopping, eating at restaurants, etc.

Mr. Dodgen replied yes.

Commissioner Lew asked why they picked Union City.

Mr. Dodgen stated that they came to Union City after they were unsuccessful in finding space in Fremont, Hayward and Newark.

Judith Monte, Director, Project Development, P. O. Box 626, Pismo Beach, CA, stated that have spent the last 18 months looking at sites from Highway 92 to the north to Automall Parkway while trying to stay within two miles of Interstate 880. Ms. Monte stated that she has looked at over 75 sites. Ms. Monte stated they were looking for 3,000 to 5,000 square feet that had handicap bathrooms with wheelchair access. Ms. Monte stated that this particular site was the best fit.

Commissioner Lew asked if they had submitted applications to any other cities that were subsequently rejected.

Ms. Monte replied that they had one application rejected in Fremont.

Commissioner Lew asked if they serve veterans.

Mr. Dodgen replied that they only serve persons who are either mentally retarded, have cerebral palsy, or have a spinal cord injury prior to the age of 18; therefore, that would make it unlikely for them to be veterans.

Commissioner Sweeney asked if the site in San Lorenzo is on a major thoroughfare.

Mr. Dodgen replied that it is on a busy street and is adjacent to a railroad track.

Commissioner Sweeney asked what the setting for the Burlingame site is.

Mr. Dodgen replied that it is in an industrial type area.

Commissioner Sweeney asked what services they are offering that are not already available in the area.

Mr. Dodgen replied that they are only available for those programs that are being developed as a result of the unified plan and the Agnews closure. Mr. Dodgen stated that they will have a full time nurse on staff; they will have consultations with PT's, OT's, speech, recreational therapist. Mr. Dodgen stated the staffing will be a two to one ratio. Mr. Dodgen stated that they have been given \$180,000 to purchase all manner of supplies and equipment for the individuals using this program.

Commissioner Sweeney asked where else is that service available in the Bay Area.

Mr. Dodgen deferred the question to Mr. Sugars.

Commissioner Crosby asked if the vans will be picking up multiple persons at one time or will they be making a circuit with one or two people.

Mr. Dodgen stated that the vans will typically be full.

Commissioner Crosby asked if the patients would stay all day.

Mr. Dodgen replied that they are only there about 6 hours a day, but the operation will be open from 8:30 a.m. to 5:00 p.m. to accommodate different schedules of arrival.

Commissioner Crosby asked if there is a typical window for arrival.

Mr. Dodgen replied that some of the clients are transported by their home provider others are transported by a transportation provider. Mr. Dodgen stated that in his experience, there is usually about an hour and a half window for arrivals.

Mr. Dodgen stated that they would probably maintain one van at the site for outings for the clients.

Commissioner Crosby asked if the clients would also use the local parks.

Mr. Dodgen stated that they would go by van.

Mark Sugars, Resource Developer, Regional Center of the East Bay, 2332 18th Avenue, San Francisco, CA 94116, stated that this service will be unique to the Bay Area and it is being developed in response to the closure of Agnew State Hospital. Mr. Sugars stated that there will not be an influx of day care programs because they have already picked all the providers that they will be working with and Genesis would be the only one with a potential site in Union City. Mr. Sugars stated that the Regional Center will only pay for 60 spots at each site for Green Oaks. Mr. Sugars stated that there will only be 299 day care slots.

Commissioner Lew asked how this applicant (Genesis) is ranked for the area.

Mr. Sugars replied that as a case manager who had a client at one of their programs, he thought that they did a great job. Mr. Sugars stated that there will be extra staff and support to provide for the extra needs of the clients.

Commissioner Lew asked if they meet their goals.

Mr. Sugars replied yes.

Commissioner Lew asked if the clients are out in the community.

Mr. Sugars replied yes.

Commissioner Lew asked if they go to restaurants.

Mr. Sugars replied yes, to restaurants, stores, parks, etc.

Commissioner Lew asked if there have been any reports of disruptive behavior out in public.

Mr. Sugars replied not to my knowledge.

Commissioner Sweeney asked if Regional Center caps funding for 60 clients at all sites or just this one.

Mr. Sugars stated that is specifically for Green Oaks.

Mr. Sugars stated that the total of day programs in each city are different because they don't include independent living and supported living services and they were not included in the City's chart.

Commissioner Singh noted that when his business was located next to Green Oaks their vehicles were generally there all at the time and there was a lot of traffic.

Mr. Sugars stated that Genesis will be different because they will have a graduated beginning and ending time so the vans won't all be there at once.

Commissioner Crosby asked if most of the clients will be from Union City area.

Mr. Sugars replied that there are 8 to 9 Agnews people and the rest will be from the general community area.

Commissioner Crosby asked if there will be a priority for Union City residents.

Mr. Sugars replied that it would be open to everyone.

Jay Gallard, 4801 Grass Valley, Oakland, CA, stated that he is working with the Regional Centers to develop these programs. Mr. Gallard stated that he never received a complaint from any businesses about the clients from the day programs.

Mr. Dodgen stated that he doesn't have an issue with giving individuals from Union City priority with this program.

Commissioner Crosby asked if that could legally be done.

Mr. Dodgen stated that it might be possible.

Mr. Sugars stated they do consider the travel time for clients and they would choose someone who lives closer to the facility over someone who lives farther away.

David Dodds, 1600 9th Street, Sacramento, CA, stated that this is a very difficult issue. Mr. Dodds stated that with the closure of Agnews they are attempting to place the clients in areas that are close to their relatives. Mr. Dodds stated that they are also purchasing and rehabilitating single family homes for these people to live in.

Commissioner Lew asked how these people support themselves.

Mr. Dodds replied that money comes from several sources, such as the Department of Developmental Services and federal money, which is for personal and incidental needs. Mr. Dodds stated that the service provider is paid through federal and state money.

Ms. Monte stated that she looked at the safety of the site in terms of the clients and staff. Ms. Monte stated that she feels that the site will be very safe and feels that this site is the best to provide for all their needs.

Chairperson Anderson closed the public hearing.

Commissioner Crosby stated that he would vote to deny this application because he does not feel that the location is appropriate. Commissioner Crosby stated that he is not against the use only in this location. Commissioner Crosby stated that they are not trying to decide whether or not the Tri-City area is stepping up and doing what it needs to do; we are deciding whether this suite in this building is an appropriate location and in that context he does not think it is. Commissioner Crosby stated that it is not going to encourage new business or provide auxiliary uses to help the industrial area, nor encourage the growth of current businesses. Commissioner Crosby stated that while the program would help 30 people get the activities they need we are not measuring the merits of the program, we are measuring the merits of the use in this location.

Commissioner Singh stated that he would vote no because he does not feel that the location is not safe in terms of traffic and bringing in more vans that will clutter the area. Commissioner Singh stated that parking on the backside of the building would not be allowed because it is a fire lane.

Commissioner Sweeney stated that she would vote to deny. Commissioner Sweeney stated that we desperately need these services, but this is not a good location. Commissioner Sweeney stated that the decision is based not on the use but on the location. Commissioner Sweeney stated that this is a prime spot for business supporting and business related uses. Commissioner Sweeney stated that although there

are a lot of businesses in the building right now that would not be thought of as business supporting or related, they do support the workers in the area. Commissioner Sweeney stated that this business is not one that relates to a working population, it relates to population that is very vulnerable and needs services readily available in the general area. Commissioner Sweeney stated that she does not think this is the appropriate site.

Commissioner Lew stated that she would vote to approve the application.

Chairperson Anderson stated he would also vote to approve the application.

Commissioner Crosby made a motion to deny Use Permit UP-04-07, making findings 1 – 4, and adopting a resolution confirming this action.

Commissioner Sweeney seconded.

AYES	3 (Crosby, Singh, Sweeney)
NOES	2 (Anderson, Lew)
ABSTAIN	0
ABSENT	1 (Saini)

- MICHAEL HUANG, 1220 PACIFIC STREET, Use Permit UP-05-07**; the applicant is requesting approval of a Use Permit to operate a fitness center in an approximately 5,200 square foot tenant space located at 1220 Pacific Street in Union City (APN: 475-0100-033-00). This project is considered categorically exempt under Section 15301, Class 1(a), Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.

Avalon Schultz, Assistant Planner, presented the staff report.

Commissioner Crosby asked if they are relocating from Fremont to this location.

Ms. Schultz replied yes.

Commissioner Singh asked if staff is recommending more lighting because it is very dark there in the evening.

Ms. Schultz replied that there is a condition relating to outdoor lighting.

Commissioner Lew stated that it is covered in condition #9.

Ms. Schultz stated that the condition was added to be consistent with other applications.

Commissioner Singh asked how many lights and what wattage will be added.

Ms. Schultz stated that the plan will be reviewed by staff.

Commissioner Lew asked if staff had observed the action at the Union City Auto Body shop.
Commissioner Lew asked if staff had observed them working on cars outside of their shop area.

Ms. Schultz replied that she had not observed that, but had been told by another tenant that it did sometimes occur and City Code Enforcement went out to talk to the shop owner about those potential violations.

Commissioner Lew asked is staff went into the auto body shop.

Ms. Schultz stated that she just went into the lobby.

Commissioner Lew asked if staff noticed the air quality in that shop.

Commissioner Singh noted that they have two shops in two buildings.

Ms. Schultz stated that she did not notice anything about the air quality. Ms. Schultz stated that these businesses usually get regular inspections by the Hazardous Materials division of the Fire Department.

Chairperson Anderson opened the public hearing.

Michael Huang, 1220 Pacific Street, Union City, CA, stated he has been a personal trainer for six years. Mr. Huang stated that he opened his own business in Fremont last year and now he needs a larger space.

Commissioner Lew asked if he will have exercise machines.

Mr. Huang replied that he will not.

Commissioner Lew asked what kind of exercises he uses.

Mr. Huang stated that they will have some free weights but most of the exercises use the person's bodyweight.

Commissioner Lew asked if he knows where the bicycle racks at the building are located. Commissioner Lew asked that because there is no public transportation, and wanted to know how will the high school students get to the building.

Mr. Huang stated that the students would normally be dropped of by their parents and the rest would drive cars.

Commissioner Lew noted that there are no plans for locker rooms or showers.

Mr. Huang replied they will not have them.

Commissioner Lew asked where the clients will put their stuff.

Mr. Huang stated at the current studio clients put their things in the office area where staff can keep an eye on it. Mr. Huang noted that they do not allow visitors to stay and watch.

Commissioner Sweeney noted that he opened his facility in Fremont in April and asked if he had now outgrown it in six months.

Mr. Huang replied that is correct.

Commissioner Crosby asked what is the demographic of his clients.

Mr. Huang stated that he focuses on the age group of 15 – 55 years of age but in the new facility he would like to add special classes for under 15 and over 55.

Commissioner Crosby asked what the class size is.

Mr. Huang replied that the maximum size is 12 people.

Commissioner Crosby asked what the length of the class is.

Mr. Huang replied that it is one hour.

Sandi Holder, 33361 Croatian Way, Union City, CA, stated that she is a client of the business and she thinks that it will be a great fit for Union City. Ms. Holder noted that clients come from as far away as Palo Alto. Ms. Holder noted that her business is about ½ mile away and she plans to run to class.

Sosan Akbar, 4832 Creekwood Drive, Fremont, CA stated that she is a client and his attorney. Ms. Akbar stated that they chose this site because of the space available. Ms. Akbar is very supportive of the business.

Mr. Abbas, 33403 Western Avenue, Union City, CA stated that he is worried that if there is music that it might affect his business. Mr. Abbas noted that his office shares a wall with the new business and he would like to make sure that the music will not affect his business.

Commissioner Singh asked what kind of business he has.

Mr. Abbas stated that they package fragrances and mail them to customers.

Commissioner Singh asked how staff will handle it.

Mark Leonard, Director, Economic and Community Development, suggested asking the applicant.

Mr. Huang replied that there will be music, but it cannot be too loud because then they could not hear the instructors. Mr. Huang stated that a lot of the classes will take place after most businesses have closed for the day.

Commissioner Sweeney asked if he uses a microphone.

Mr. Huang replied that he does not.

Chairperson Anderson asked if he thought he would disturb the neighboring businesses.

Mr. Huang replied he did not think so.

David Bhatia, 4569 Darcelle Dr, Union City, stated that there is a concrete wall between the two businesses and if the music is over 90 – 100 decibels it will affect their business.

Ms. Akbar stated that the music is never louder than the instructor's voice so the music is only in the background.

Mr. Leonard suggested adding a condition to require a sound test or for the business to install a sound barrier along that wall as a mitigation measure.

Chairperson Anderson agreed with that suggestion and added what would the City do if there was a complaint.

Mr. Leonard replied that there is a noise ordinance but that is mostly for off-site receptors.

Cary Grayson, 2491 Regal Street, stated that voice transmission through a cement wall would be very low.

Commissioner Sweeney stated that the issue is whether there is complaint then measures would have to be installed not whether there is the presumption of noise.

Mr. Bhatia stated that they are worried because it is an adjoining wall they are worried about the noise.

Ms. Holder stated the focus is on the trainer and not the music.

Chairperson Anderson closed the public hearing.

Commissioner Lew stated normally internal noise in a structure is handled under the lease and it should not be a City problem. Commissioner Lew stated that the Use Permit is usually for outside noise.

Commissioner Sweeney stated that she disagrees with that because she thinks that with the Use Permit they are looking at this use in this particular location. Commissioner Sweeney stated that since the issue has been raised that would make the use inappropriate for that location then it is something that needs to be considered and if there is a mitigation that needs to be considered also.

Commissioner Lew stated that it is a potential problem to the neighbors but they don't know yet. Commissioner Lew thinks it is not proper to police a facility if the owners and clients say that it is not a noise problem.

Chairperson Anderson stated that we can add a condition that says if there is a complaint then here is the mitigation.

Commissioner Lew asked that the condition include specific decibels and that it must be a valid complaint.

Ms. Schultz suggested the following condition "If complaints are received from neighboring businesses regarding the level of noise generated by the use, the applicant shall take measures to remedy the situation to the satisfaction of the Economic and Community Development department".

Commissioner Lew asked what if it isn't a valid complaint.

Ms. Schultz replied that by making it to the satisfaction of the Economic and Community Development department would allow staff to determine if the complaint is valid or not.

Commissioner Singh approved of the proposed condition.

Commissioner Crosby approved of the proposed condition.

Commissioner Sweeney asked if there is a conditional use permit on the space and the space is sublet would the permit apply to that that new sublease.

Mr. Leonard replied that it would apply only if the use was similar.

Ms. Holder noted that the noise level at the martial arts studio was louder.

Commissioner Sweeney made a motion to approve Use Permit UP-05-07, making findings 1 – 4, with modified conditions of approval and adopt a resolution confirming this action.

Commissioner Lew seconded.

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

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS: None.

VII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS: None.

VIII. COMMISSION MATTERS:

A. Policy Direction on Community Care and Recreational Uses in Industrial Areas

Janice Lum, Assistant Planner, presented the staff report.

The Planning Commission asked for a full study session on this matter.

Mr. Leonard stated that staff would schedule the study session for the 2nd meeting in January.

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

C. Upcoming applications for the next Regular Planning Commission meeting for December 20, 2007.

IX. GOOD OF THE ORDER:

Commissioner Sweeney asked that in the future desk items be transmitted to the Commission as soon as they are available either by email or having the Commission arrive earlier to review it.

Commissioner Crosby agreed with that request.

Commissioner Sweeney stated that she will not be here for the January 3rd meeting.

X. ADJOURNMENT: 10:25 p.m.

APPROVED:

TIKISA ANDERSON, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY