

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF JANUARY 3, 2008, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

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

STAFF: Joan Malloy (Planning Manager); Carmela Campbell (Senior Planner); Avalon Schultz (Assistant Planner); Janice Lum (Assistant Planner); Mark Evanoff (Redevelopment Agency Manager); Mike Rodriquez (City Attorney); Kris Fitzgerald (Administrative Assistant).

II. ORAL COMMUNICATIONS: None.

III. WRITTEN COMMUNICATIONS: None.

IV. PUBLIC HEARINGS:

A. CONTINUED HEARINGS: None.

B. NEW HEARINGS:

- 1. RAUSCHENBACH, MARVELLI, BECKER ARCHITECTS FOR PAPPAS INVESTMENTS, 31300 Courthouse Drive, Site Development Review SD-04-07; the applicant is requesting Site Development Review approval to construct a 17,045 square foot building on a vacant pad located at 31300 Courthouse Drive (APN: 463-0060-048) between Best Buy and Babies R Us in the Union Landing Shopping Center. Pursuant to Section 15162 and 15168 of the California Environmental Quality Act (CEQA) Guidelines the project's environmental impacts were previously evaluated in the certified EIR prepared for the Union Landing Development (City Council Resolution 8536-95 and a Negative Declaration was adopted for the development of the Subregional Commercial zone (City Council Resolution #2437-03).**

Avalon Schultz, Assistant Planner, presented the staff report.

Commissioner Lew referred to condition 30 and asked why a condition for Lowe's is being included in this application.

Ms. Schultz replied that it is the same property owner and the issue addressed in the condition has been ongoing and the City Attorney has looked at the issue and feels that it is appropriate to include the condition in this application.

Commissioner Lew asked if there has been any success in getting the applicant to resolve the issue.

Joan Malloy, Planning Manager, stated that it a property maintenance issue that comes up from time to time and we are seeking the property owner's support in enforcing the requirement to keep the high pile stock below the fence line.

Commissioner Lew stated that she doesn't know if that will be successful or not and what is the impact on this application if it is not successful.

Mike Rodriguez, City Attorney, replied that it could be denied.

Commissioner Lew stated that doesn't seem right.

Ms. Malloy stated that approximately two years ago staff worked very closely with Lowe's in cleaning up some other minor property maintenance issues and reducing the high pile stock. Ms. Malloy stated that it is an ongoing maintenance issue and staff is bringing it again to the property owners' attention to seek support and compliance from Lowe's to bring the high pile stock down.

Commissioner Lew referred to condition 10 and asked why it matters if the grease trap is removed.

Ms. Schultz replied that the only reason to put a grease trap interceptor in is for restaurants, so as a gesture of good faith, staff is asking the applicant to remove the proposed grease trap interceptor. Ms. Schultz stated that the site is not a good location for a restaurant and when the applicant was asked he said that it was there in case they wanted to put in a restaurant in the future. Ms. Schultz stated that staff wants to clarify that this space is not suitable for a restaurant use.

Commissioner Lew stated that in her opinion if the applicant wants to spend the money to install the grease trap interceptor and also agrees to the condition that no restaurant will be put in then it doesn't make any sense to have them remove it now. Commissioner Lew recommended that condition 10 be deleted.

Commissioner Lew referred to condition 6 and asked for clarification of what is meant by consistent for the stone veneer.

Ms. Schultz replied that it should match the color and finish of the other projects even if it is from another manufacturer.

Commissioner Lew asked if it has to be exactly the same color or will something similar be acceptable.

Ms. Schultz stated that it should match.

Commissioner Lew stated that she does not understand what is meant by that.

Ms. Schultz replied that it should be identical to the existing stonework and staff would look at samples before installation.

Commissioner Lew stated that it can be really monotonous if you don't have something that is contrasting.

Ms. Schultz stated that because the buildings are butted up against one another it needs to look consistent.

Commissioner Lew suggested running trim. Commissioner Lew stated that there are a lot of different ways to do tile and stone and the word consistent seems vague.

Ms. Schultz stated that staff would take direction from the commission if they prefer a different wainscot or an alternate material. Ms. Schultz stated that if it is a stone veneer it might look odd if it is close to but not identical to the adjacent finishes.

Ms. Malloy stated that on past projects the City has sought to provide continuity between and among the buildings. Ms. Malloy stated that there is an approved general palate of colors and materials that were originally approved for Union Landing and staff has sought to have consistent stone material at the base of the buildings so that there is continuity among the development.

Commissioner Lew stated that the condition should read “match” rather than “consistent”.

Ms. Schultz stated that the current color elevations show that it will match.

Commissioner Lew referred to condition 8 and noted that the sidewalk width is going to be a little different in front of the new store and it might be difficult to match the existing sidewalk.

Ms. Schultz replied that the condition refers to the color and the finish of the sidewalk.

Ms. Malloy stated that it could read “shall match the color and finish of the existing sidewalk”.

Commissioner Lew referred to condition 13 and noted that there is an extra word “section”.

Ms. Schultz stated that would be corrected.

Commissioner Lew referred to condition 14 and recommended to reword the condition because it reads awkwardly.

Commissioner Lew referred to condition 15 and asked if a location has been identified for the public art.

Ms. Schultz stated a location has not yet been identified.

Commissioner Lew asked if there is space for public art.

Ms. Schultz replied that staff would encourage the applicant to put art on the front elevation as there is a large frontage; however, the applicant will work with the Art Review Board. Ms. Schultz stated that originally there was going to be something at the front of the store but the sidewalk is only 13 feet wide at its' maximum so there might be some room at ground level.

Commissioner Lew asked if that would be in the sidewalk area.

Ms. Schultz replied that they will make sure that access is maintained.

Commissioner Lew referred to condition 24 and asked to clarify “as needed”.

Ms. Malloy replied that it would be when plants are dead or in poor condition that they would need to be replaced.

Commissioner Lew stated that doesn't always happen and she would like a specific time frame such as monthly or at the end of the season.

Commissioner Lew asked if plant maintenance for two years is being required at this location.

Ms. Schultz stated that there are no proposed plants beyond the existing trees at the front.

Ms. Malloy stated that the parking lot is currently landscaped and it would be a good idea at this time to ask the applicant to update the parking lot landscaping.

Commissioner Lew proposed to change the condition to add “seasonally or more often as required”. Commissioner Lew asked if there is someone from the City who talks to the property owners in the shopping center about the landscaping. Commissioner Lew stated that the landscaping is very sparse.

Ms. Malloy replied that when projects like this arise it is a good time to infill landscaping on this parcel and to bring the parking lot up to standard. Ms. Malloy stated that the City does contact the property owner’s when dead and dying landscaping is noticed.

Commissioner Lew asked if the City takes any responsibility for the parking lot.

Ms. Malloy replied that it is the responsibility of the property owner.

Commissioner Lew asked if there are any areas that the City has responsibility for landscaping such as along Alvarado-Niles Road.

Ms. Malloy stated that the City maintains landscaping within the public right-of-way.

Commissioner Lew asked about the area around the monument signs at Union Landing.

Ms. Malloy replied that is City property.

Commissioner Lew referred to condition 25 and should add an “a” before “unified”.

Commissioner Lew referred to condition 33 and noted that there is a reference to “residential care” and is that applicable.

Ms. Schultz replied that it can be deleted.

Commissioner Lew referred to condition 36 and asked what is “attached”.

Ms. Schultz stated that was left in inadvertently.

Commissioner Lew referred to condition 38 and noted that there should be a space after “civil engineer”.

Commissioner Lew referred to conditions 39 and 40 and asked if these two conditions apply to the existing pad.

Ms. Schultz replied that there is no existing pad.

Commissioner Lew referred to condition 64 and asked if there are “reciprocal access easements”.

Ms. Schultz replied that if the reciprocal access easements have already been recorded, the property owner just needs to provide that information to the City.

Commissioner Lew referred to condition 67 and asked how it applies to this application.

Ms. Schultz stated that these are standard clean water conditions. Ms. Schultz stated that it refers to site design and could be removed if necessary.

Ms. Malloy stated that it could be removed.

Commissioner Lew referred to condition 71 and stated that it seems to contradict condition 22 regarding outdoor storage.

Ms. Malloy stated that condition 71 is strictly for the construction period.

Ms. Schultz recommended moving the condition to under the heading “During construction – Best Management Practices”.

Commissioner Panlilio stated that condition 67 should also be moved.

Commissioner Lew stated that condition 67 would be deleted.

Commissioner Lew referred to condition 73 and the last sentence should read “shall be approved by the Union Sanitary District”.

Chairperson Anderson asked if there should be a condition in the application that applies to the Union Sanitary District.

Ms. Schultz replied that it is an advisory condition.

Commissioner Lew withdrew her proposed change to condition 73.

Commissioner Lew referred to condition 90.c and the “I” should be a “1”.

Commissioner Lew referred to condition 90.e and the words “shall be covered” could be deleted.

Commissioner Lew referred to fourth finding and asked if there is more than one resolution that needs to be adopted.

Ms. Schultz stated that is a typo.

Commissioner Singh referred to condition 10 and stated that he thinks there should be a grease trap and asked if the trash enclosure would be locked.

Ms. Schultz stated that she is not sure if the trash enclosure would be locked.

Commissioner Singh stated that he thinks the grease trap should be installed against future needs. Commissioner Singh stated that it would also be good in case someone dumps stuff back there.

Chairperson Anderson asked if there were conditions in the original Lowe’s approval or Use Permit to regulate the high pile storage.

Ms. Schultz replied that Lowe’s did not require a Use Permit.

Chairperson Anderson stated that he did not think there were any conditions on the original approvals to control the high pile storage.

Ms. Malloy stated that she believes there was something in the original Lowe's approval and this condition was also included in the Petsmart approval.

Commissioner Panlilio suggested moving condition 67 to the Stormwater section of the conditions instead of deleting it.

Chairperson Anderson opened the public hearing.

John Pappas, Pappas Investments, 2020 L Street, Sacramento, Ca, thanked staff for putting together a very thorough staff report. Mr. Pappas referred to the desk item condition that refers to dividing up the floor area of the space into multiple tenant spaces and asked to have some flexibility. Mr. Pappas stated that it is not their intention to divide the space but some tenants don't require that much space. Mr. Pappas referred to condition 30 and stated that he cannot speak to that because of pending litigation with Petsmart. Mr. Pappas referred to the grease interceptor and stated that it was just their policy to put them in at the beginning because it is more expensive and difficult to install them at a later time. Mr. Pappas stated that it is not their intention to put a restaurant in this site and they don't have a problem with removing the grease trap. Mr. Pappas referred to condition 64 and stated that there are CC & R's on the property that grant reciprocal access and they will provide copies of the agreements to staff. Mr. Pappas referred to condition 20 and the modification proposed by the desk item and asked to keep the language as it has previously been drafted. Mr. Pappas stated they will agree to the PBID for this site. Mr. Pappas stated that there were a couple of other properties that did not have this condition placed upon them and therefore the tenants decided they did not want to have the PBID. Mr. Pappas stated that the way that the original condition was drafted it is very clear that the property owner has to agree to it and they want to agree to it. Mr. Pappas stated that he is concerned about having to agree to enter into an agreement that they have not seen. Mr. Pappas stated that it is going to involve getting their attorneys and the City Attorney to look at it and determine if there are any issues. Mr. Pappas would like the condition language to be the same as the original condition.

Commissioner Lew asked what happened to the Petsmart application.

Mr. Pappas stated that he could not speak about it due to pending litigation.

Chairperson Anderson closed the public hearing.

Chairperson Anderson asked if any commissioners have a problem with removing the words "prior to issuance of building permits" on the PBID condition as proposed by the applicant.

Commissioner Crosby stated that he prefers staffs' recommendation.

Commissioner Lew asked why it was changed to stronger language. Commissioner Lew stated that she understands the applicant's reluctance to enter into an agreement that they have not seen.

Chairperson Anderson stated that it is just that the applicant will enter into an agreement to join the PBID. Chairperson Anderson stated that he does not think that this language will produce a hardship for the applicant.

Commissioner Crosby stated that he supports the new language because it gives the City some sort of reasonable, tangible remedy for the situation.

Commissioner Panlilio stated that he agrees with Commissioner Crosby.

Ms. Schultz read back the changes to the conditions:

- Condition 6 change the wording to read “match” instead of “consistent”
- Condition 8 add wording to read “color and finish the existing sidewalks”
- Condition 10 removes the words “shall remove the grease interceptor and grease trap shown on the civil drawings”
- Condition 13 remove the typo “section”
- Condition 14 modify the order of the words for clarity
- Condition 25 add an “a” before “unified”
- Condition 33 change the third line to read “The plans shall include a detailed operations statement for the building”
- Condition 36 remove the word “attached”
- Condition 67 move to the heading “during construction”
- Condition 71 move to the heading “during construction”
- Condition 90.c change “15” to “15”
- Condition 90.e remove the last three words “should be covered” and make “Covering” lowercase

Commissioner Lew made a motion to approve Site Development Review SD-04-07 with the amended conditions of approval, making findings 1 – 4, and adopting a resolution confirming this action.

Commissioner Crosby seconded.

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

2. **CITYWIDE, Zoning Text Amendment AT-04-07;** the City is proposing to amend Chapter 18.39 of the Union City Municipal Code to remove full service, in-line and stand alone restaurants from the list of conditionally permitted uses in the Subregional Commercial, SRC, sub area of the Union Landing Commercial, CUL, zoning district. This project is considered categorically exempt per Section 15061(b) (3) of the California Environmental Quality Act (CEQA) Guidelines.

Avalon Schultz, Assistant Planner, presented the staff report.

Commissioner Crosby clarified that this is being continued to the next meeting.

Commissioner Singh stated that there are enough restaurants in Union Landing.

Commissioner Lew asked why were restaurants a permitted use originally.

Ms. Schultz replied that it was conditionally permitted because a large restaurant user with a regional draw might have been appropriate if the building had been built and parked to restaurant standards but now it no longer appears appropriate as the SRC area has been built out.

Chairperson Anderson asked for clarification of where the SRC sub area is located.

Joan Malloy, Planning Manager, provided clarification.

Chairperson Anderson opened the public hearing.

Chairperson Anderson closed the public hearing.

Commissioner Panlilio made a motion to continue Zoning Text Amendment AT-04-07 to January 17, 2008.

Commissioner Lew seconded.

AYES	5 (Anderson, Crosby, Lew, Panlilio, Singh)
NOES	0
ABSTAIN	0
ABSENT	2 (Saini, Sweeney)

V. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS:

- 1. Study Session For Proposed Station District Mixed-Use Project;** Barry Swenson Builder is proposing a mixed-use development that includes approximately 1200 residential multi-family units and 65,000 square feet of retail/commercial uses on nine (9) acres located along 11th Street within the Station District. The project will be built out in three phases over the next 10 – 15 years. This is the first briefing on the preliminary application for Barry Swenson Builder to comment on how the project meets the approved design guidelines for blocks 2, 3, and 4 of the Station District.

Carmela Campbell, Senior Planner, presented the staff report.

VI. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS: None.

VII. COMMISSION MATTERS:

- A.** Follow-up on Planning Commission referrals to the City Council.
- B.** Upcoming applications for the next Regular Planning Commission meeting for January 17, 2008.

VIII. GOOD OF THE ORDER:

Commissioner Singh stated that the building at the corner of Smith and Union City Boulevard has been repainted and it does not look very good.

Ms. Malloy stated that this has been brought to the attention to staff and they are looking at how to handle it.

IX. ADJOURNMENT: 10.15 pm

APPROVED:

TIKISA ANDERSON, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY