

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF FEBRUARY 21, 2008, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

I. ROLL CALL: Commissioners Lew, Panlilio, Singh, Sweeney and Chairperson Anderson

STAFF: Joan Malloy (Planning Manager); Janice Lum (Assistant Planner); Avalon Schultz (Assistant Planner); Mike Rodriquez (City Attorney); Kris Fitzgerald (Administrative Assistant).

II. APPROVAL OF MINUTES: The regular Planning Commission Minutes of January 17, 2008 were approved as submitted.

III. ORAL COMMUNICATIONS: None.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS: None.

B. NEW HEARINGS:

1. **CITYWIDE, Zoning Text Amendment AT-01-08;** the City is proposing to amend Chapter 18.40, Industrial Districts, of the Union City Municipal Code to remove recreational, entertainment, and health uses as conditionally permitted uses within the ML (Light Industrial) and RDC (Research and Development Campus) zoning districts. The City is also proposing to amend Chapter 18.36, Commercial Districts, to remove day care uses, which currently include facilities for both adults and children, as conditionally permitted within the MS (Special Industrial), CN (Neighborhood Commercial), CC (Community Commercial), and CS (Specialty Commercial) zoning districts. The amendment would allow day care facilities for children upon the issuance of a Use Permit. This project is considered categorically exempt under Section 15601(b)(3) of the California Environmental Quality Act (CEQA) Guidelines.

Janice Lum, Assistant Planner, presented the staff report.

Commissioner Lew asked if the property owners in these districts were notified of these changes.

Ms. Lum stated that a legal display ad was published in the Argus newspaper because there were more than 1,000 property owners affected.

Commissioner Lew asked if there was any feedback to the City.

Ms. Lum replied no.

Commissioner Lew asked if there are existing recreational or health club uses in the districts that will be affected by this change.

Ms. Lum stated that there a handful and they may be listed in the previous staff report.

Commissioner Lew asked what will happen to those uses if this change is made.

Joan Malloy, Planning Manager, stated that they would continue to operate under the use permits that they have and if those facilities are vacated for more than six months then that use would no longer be allowed.

Commissioner Lew asked if the Use Permit would stay with the business and not with the property.

Ms. Malloy stated that is correct.

Commissioner Lew asked why staff feels that adult day care uses are not appropriate for the Neighborhood Commercial (CN) zoning.

Ms. Lum replied that because that zoning tends to be in areas with high traffic congestion and high parking demand and that those busy areas would not be appropriate for adult day care facilities. Ms. Lum pointed out that issues have been raised by the Fire Department in regards to evacuations and multiple pick and drops offs at these types of facilities and for those reasons staff recommends that adult day care facilities be located in CPA and the Station District. Ms. Lum stated that land use compatibility issues, availability of space and wanting to preserve retail-oriented centers for retail types of uses were also considered.

Commissioner Lew noted that in some of the shopping centers there are vacancies that have been there for awhile. Commissioner Lew asked if it was better to have a vacant storefront rather than a day care use.

Ms. Malloy stated that perhaps these types of uses are not compatible with the intensive use of retail centers. Ms. Malloy stated that day care uses would be better suited in residential districts and other limited commercial districts.

Commissioner Sweeney noted that changing from day care to child day care in the commercial zones was a way of protecting this space for commercial use but that is not really true because child care is still being permitted. Commissioner Sweeney stated that she does not have a problem with this because she believes that child care and adult day care are two very different uses. Commissioner Sweeney pointed out that staff's argument is not very compelling nor is it true. Commissioner Sweeney stated that she supports the changes and it is a well thought out change and that we would not have been aware of if there hadn't been such interest in Union City as compared to the neighboring cities.

Commissioner Singh noted that there is an adult day care facility on Whipple Road and asked if they lose their lease would another adult day care center be allowed.

Ms. Malloy stated that it is possible but Green Oaks cannot expand and if they closed another day care center could move in unless it was vacant for six months and then the Use Permit would become void.

Commissioner Singh stated that he supports these amendments because they protect economic growth.

Commissioner Panlilio stated that he supports these amendments. Commissioner Panlilio stated that it is good to keep the child care available to support parents working close by.

Chairperson Anderson asked if there are any current vacancies in the CPA or Station districts for adult day care facility to locate in.

Ms. Lum replied that there is a vacancy at the Nakamura clinic.

Chairperson Anderson asked if the space is large enough to house an adult day care center.

Ms. Lum replied that she does not have the space figure available.

Chairperson Anderson asked about the Station District.

Ms. Malloy replied that there will be approximately 65,000 square feet of retail space at build out and about 15,000 square feet of office/business/commercial space. Ms. Malloy stated that there will be a variety of opportunities available in the Station District.

Chairperson Anderson asked if Green Oaks wanted to expand into the CPA district would they be able to do that.

Ms. Lum replied that it would be possible.

Chairperson Anderson stated that he sees these changes as an elimination of this use in the City and he does not support this change. Chairperson Anderson stated that there are families in Union City that have developmentally disabled children who will likely need these types of facilities in the future.

Commissioner Panlilio asked if adult day care facilities allowed in residential areas.

Chairperson Anderson stated that they are allowed in residential areas.

Ms. Malloy stated that community care facilities, which include adult day care facilities, are required to be licensed and are permitted in residential areas and private institutional zones in the City.

Chairperson Anderson stated that in reality they are not practical in residential areas due to the building requirements. Chairperson Anderson stated that he believes that this amendment removes this use from the City.

Chairperson Anderson opened the public hearing.

Barry Ferrier, 32212 Allison Way, Union City, agreed with the changes to the municipal code. Mr. Ferrier asked if office buildings of at least 100 feet in height would be allowed in Central Bay Business Park.

Ms. Malloy replied that the Industrial zones do not allow buildings of 100 feet in height. Ms. Malloy stated that the limit is about 50 feet. Ms. Malloy stated that the RDC zone has slightly different standards and with a Use Permit it will allow taller buildings.

Mr. Ferrier noted that there are large warehouses in the Central Bay Business Park and it might be worthwhile to convert them to office buildings that could sustain a lot of different types of businesses that are already allowed in the area.

Hugh McNamara, 32238 Mercury Way, Union City, stated that he would like to see those facilities in the new apartments by the BART station.

Chairperson Anderson closed the public hearing.

Commissioner Sweeney made a motion to recommend approval to the City Council of Zoning Text Amendment AT-01-08, making findings 1 - 3, and adopt a resolution confirming this action.

Commissioner Panlilio seconded.

AYES	4 (Lew, Panlilio, Sweeney, Singh)
NOES	1 (Anderson)
ABSTAIN	0
ABSENT	0

2. **JEFF WANG, "MATHNASIUM", 33412 ALVARADO-NILES RD., Use Permit UP-01-08;** the applicant is requesting Use Permit approval to establish a "Mathnasium" tutoring center. The project site is located in a Special Industrial, MS, Zoning district at 33412 Alvarado-Niles Road (APN: 475-0100-036-00). This project is considered Categorical Exempt under Section 15301, Class 1, Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.

Avalon Schultz, Assistant Planner, presented the staff report.

Commissioner Panlilio asked if this is just for elementary school students or will high school students be included.

Ms. Schultz replied that it covers all grade levels.

Commissioner Panlilio noted that if they do have high school students it might increase the number of parking spaces required.

Ms. Schultz stated that the parking on site meets the Zoning Ordinance requirement for this site.

Joan Malloy, Planning Manager, suggested asking for more details from the applicant with regards to the business operation.

Commissioner Panlilio stated that he agrees with staffs' recommendation.

Commissioner Singh asked how much parking is at the rear of the building.

Ms. Schultz replied that there are roughly five to eight spaces per tenant at the rear of the building.

Commissioner Singh asked if there is a fire lane along the back of the building.

Ms. Schultz replied that there is a fire lane in addition to the parking spaces.

Commissioner Singh noted that there are some parking spaces painted green in front of the dry cleaners shop that say "15 minutes parking only" and asked if they are just for the dry cleaners or can anyone use them.

Ms. Schultz replied that all of the parking in the center is shared.

Commissioner Singh asked why those spaces have the green paint and limitation.

Ms. Malloy replied that most likely the landlord instituted the restricted parking on site and it was not done at the City's request.

Commissioner Singh asked who controls that.

Ms. Schultz replied that it is private property.

Ms. Schultz noted that the center is most congested around lunch time and most of the congestion is towards the restaurant side of the building and staff does not see a parking conflict with this use going in.

Commissioner Singh noted that this is similar to a previous Use Permit application at Union Landing and asked how will the employee's parking in the back be enforced.

Ms. Schultz stated that per the Zoning Ordinance only eight spaces are required and even if the employees do not park in the rear it should not cause a parking issue. Ms. Schultz noted that the requirement for the employees to park in the rear was a part of the Statement of Use submitted by the applicant, and therefore, was part of the Use Permit project description.

Commissioner Sweeney referred to condition #10 and asked if vehicles used in the business would be picking up and delivering children.

Ms. Schultz replied that this condition was in response to a previous code enforcement issue with the current tenant who would park his van out on the street with a large sign advertising his business. Ms. Schultz stated this condition is to prevent this situation.

Commissioner Sweeney asked if the center has bicycle parking.

Ms. Malloy stated that she does not believe there are any bicycle racks.

Commissioner Sweeney stated that this is an opportunity to upgrade because this use might encourage bicycle use.

Ms. Schultz noted that there is a corridor between buildings A and B and if there isn't room in front of the tenant space to place a bicycle rack then perhaps it could be located in the corridor area.

Commissioner Sweeney stated that it should be in an area that is visible to prevent theft.

Commissioner Lew asked why there are no conditions from the Police Department.

Ms. Schultz replied that the Police Department is in support of the use and did not have any conflicts or recommendations.

Commissioner Lew stated that she went out to the site in the evening and noticed that the lighting is not very good and in particular there is a light out that is over the parking area. Commissioner Lew suggested that the lighting be improved for the safety of the children coming to the center.

Ms. Schultz stated that we can include the standard condition that has been included on other Use Permits that requires them to provide exterior lighting in front of the tenant space to the satisfaction of the Police Department.

Ms. Malloy asked if she is requesting that the entrance be better lit.

Commissioner Lew replied yes.

Ms. Malloy stated then it should be architecturally compatible and consistent with the design of the center.

Commissioner Lew stated that the light bulb needs to be replaced in the light fixture that is in the landscaping area. Commissioner Lew stated that the center needs to be better lighted. Commissioner Lew stated that the walkway area could be better lit with landscape lighting.

Commissioner Panlilio asked if that would be the responsibility of the property owner or the tenant.

Ms. Schultz replied that if the improvements are on the tenant space, then we can ask the applicant to make those changes. Ms. Schultz stated that for the light that is out, staff can contact the owner and ask him to repair it.

Commissioner Lew concurred with that.

Commissioner Lew stated that the report was very good about the parking issue but did not cover the circulation issue as much. Commissioner Lew stated that in her experience parents dropping off children tend to double park rather than use a parking space. Commissioner Lew asked to add a condition that would require the clients to pull into a parking space when picking up and dropping off their children.

Ms. Malloy replied that this issue has come up before in other shopping centers and staff has required the applicant to inform the clients in writing that double parking is not permitted.

Commissioner Lew asked if the applicant will be allowed to use the rear entrance for clients.

Ms. Schultz stated that staff would not recommend that because the Police and Fire Departments were not comfortable with using the rear entrance for clients. Ms. Schultz stated that the applicant is planning to use it for employees only and as a fire exit.

Commissioner Lew asked to have a condition added that would prohibit the clients from entering/exiting the building through the rear entrance except in an emergency.

Chairperson Anderson opened the public hearing.

Jeff Wang, 1742 White Oak Lane, Union City, CA stated that he agrees with Commissioner Lew on the child safety issues. Mr. Wang stated that he would work with the property owner to designate two spaces for a loading zone for his business. Mr. Wang stated that he understands there is a sign program for the buildings but the franchiser wants to keep the logo in his colors of black and red.

Chairperson Anderson stated that he believes that staff doesn't think that his proposed sign is a logo and asked did he show staff that it is a logo.

Mr. Wang stated that he told staff that the "A+" is the logo and the lettering is not a part of the logo but when he spoke with the franchiser he was told that the whole thing is a logo for the company.

Chairperson Anderson asked if this information was provided to staff.

Mr. Wang stated that he did.

Chairperson Anderson asked if staff researched whether the color and configuration are a logo or not.

Ms. Schultz showed pictures of several signs that had different colors from what the applicant is asking for and staff feels that they are all recognizable because of the large red "A+" and that the color of the lettering varies. Ms. Schultz stated that staff does not feel that there would be a significant impact to the branding of the business if the letters were in darker blue instead of black. Ms. Schultz recommended a compromise on the issue by allowing the "A+" and word "Math" to be in red instead of blue.

Chairperson Anderson asked if the applicant could get something from the franchiser that would show that the particular colors and letters are a logo.

Mr. Wang stated that he would get that information. Mr. Wang stated that they have changed the logo several times before settling on this particular combination. Mr. Wang stated that they primarily use the black letters but have white for dark buildings.

Chairperson Anderson asked staff if the franchise owner was able to document that this is a logo the way it is configured would that change the recommendation.

Ms. Schultz stated that the main issue is that this building has an approved sign program and the sign program indicates that the color needs to be blue to be consistent with the other signs.

Chairperson Anderson stated that the ordinance does allow for a logo if the applicant can document that it truly is a logo. Chairperson Anderson referred to the Sign Ordinance.

Michael Rodriquez, Assistant City Attorney, stated that if there is a sign program for this building it would supersede the ordinance provision which is a general provision. Mr. Rodriquez stated that the compromise here is to allow the red "A+".

Chairperson Anderson stated that the ordinance states that a logo will not be prohibited because of color.

Mr. Rodriquez stated that is the general law and the sign program is the specific law for this building.

Mr. Wang stated that he would work with staff and the franchiser to resolve this.

Commissioner Panlilio asked what grade levels will they be serving.

Mr. Wang replied that the major target is 2nd grade to 12th grade, with some earlier grades. Mr. Wang stated that the largest group is the 6th to 10th grade group. Mr. Wang stated that most of the high school students will come later so there shouldn't be any parking issues. Mr. Wang stated that the SAT prep classes will take place on the weekend.

Commissioner Sweeney asked questions regarding the layout of the space and asked how will the children be evacuated from classroom 2 which does not have a direct exit to the outside.

Mr. Wang stated they will exit either through classroom 3 or exit through the front door.

Commissioner Sweeney asked how the furniture in classroom 3 is going to be arranged.

Mr. Wang stated that there will be a table against the wall and there will be room to get through there.

Commissioner Lew asked if the teachers will be required to have background checks.

Mr. Wang replied that they will do a reference and credit check on the applicants. Mr. Wang stated that if the City requires more then they will do it but for a tutoring center a background check is not required. Mr. Wang stated that they are very aware of sexual harassment problems and that is why the rooms have windows and the doors will be left open all the time.

Commissioner Lew asked where he hires the tutors from.

Mr. Wang replied some are retired teachers, or substitute teachers.

Commissioner Singh noted that there is a blue and white sign on building B and asked why.

Ms. Schultz replied that over time a few signs have been approved that were not consistent with the sign program or the tenant did not obtain a building permit.

Chairperson Anderson closed the public hearing.

Ms. Schultz read back the changes to the conditions of approval:

- Add a condition to inform the clients that double parking is not allowed.
- Add a condition that the clients will not use the rear door for entrance/exit.
- Add a condition to add lighting at the front of the tenant space subject to the review and approval of the Economic and Community Development department and the Police department.
- Add a condition to add a bicycle parking rack wherever appropriate.

Commissioner Lew made a motion approve Use Permit UP-01-08, making findings 1 - 4, with the amended conditions of approval and adopt a resolution confirming this action.

Commissioner Sweeney seconded.

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

3. **GENERAL ASSEMBLY OF ALAMEDA COUNTY, 33115 CENTRAL AVENUE, Variance V-01-08;** the applicant is requesting Variance approval to reduce the front and street side setbacks for a six (6) foot high fence to 15 feet and four (4) feet where 20 feet and ten (10) feet are required respectively. The project site is located in a Private Institutional, PI, Zoning district at 33115 Central Avenue (APN: 475-0090-005-00). This project is considered Categorically Exempt under Section 15301, Class 1, Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.

Commissioner Sweeney made a motion continue Variance V-01-08 to the meeting of March 6, 2008.

Commissioner Lew seconded.

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

VI. SUPPLEMENTAL STAFF REPORTS:

A. **CONTINUED REPORTS:** None.

B. **NEW REPORTS:** None.

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 next Regular Planning Commission meeting for March 6, 2008.

IX. GOOD OF THE ORDER:

Commissioner Sweeney noted that the commission received an informational item on industrial lands and senior housing and would like to see the Planning Commission study the issue of future redevelopment or conversion in the industrial areas. Commissioner Sweeney stated that she believes that it is to the City's benefit to increase the density of use by increasing the FAR (floor area ratio) in the industrial districts, but not change the uses radically. Commissioner Sweeney stated that the 50 foot height limit might be limiting opportunities.

Commissioner Sweeney gave out flyers on Earthquake preparedness classes give by the Fire Department and urged everyone to get prepared.

Commissioner Singh noted that the Chronicle newspaper plant on Central Avenue has trailers parked on the dirt and when they pull out they put a lot of mud on the street.

X. ADJOURNMENT: 8:15 p.m.

APPROVED:

TIKISA ANDERSON, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY