

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF MARCH 6, 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); Farooq Azim (Principle Civil Engineer); Mike Rodriquez (City Attorney); Kris Fitzgerald (Administrative Assistant).

II. APPROVAL OF MINUTES: The regular Planning Commission Minutes of February 21, 2008 were approved as submitted.

III. ORAL COMMUNICATIONS:

Miriam Keller, League of Women Voters, Fremont, CA spoke about an upcoming seminar for persons who are interested in running for public office. Ms. Keller stated that it would be on Saturday, March 29, 2008 from 9:30 a.m. to 12:30 p.m. in the Fremont City Council Chambers. Ms. Keller stated that more information can be obtained from <http://www.lwvfnuc.org>

Barry Ferrier, 32212 Allison Way, Union City, CA, referred to land use element of the General Plan LU-K.3 and stated that he doesn't believe that these annual reviews have been done.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS:

- 1. 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 20, 2008.

Commissioner Lew seconded.

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

C. **NEW HEARINGS:**

1. **DIAMOND MINE STORAGE, UNION CITY BOULEVARD/MAIDEN LANE, Variance V-02-08;** the applicant is requesting approval to continue the use of an existing off-site sign located on a vacant lot at the corner of Union City Boulevard and Maiden Lane. The project site is located in a CS, Specialty Commercial, zoning district and is identified as Assessor's Parcel Number 482-0011-005-02. This project is considered Categorical Exempt under Section 15301, Class 1, Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.

Janice Lum, Assistant Planner, presented the staff report.

Commissioner Panlilio asked if there have been any other applicants for off-site signage.

Joan Malloy, Planning Manager, replied that, to her knowledge, this is the only business in the community that has off-site signage.

Commissioner Sweeney stated that she has driven out to the site and she found it difficult to locate partially because it is at the end of a residential street and does not appear to be connected with any other industrial or light industrial use.

Commissioner Sweeney stated that the staff report suggests that a monument sign could be constructed and asked where the sign would be placed that would be acceptable to the neighbors across the street.

Ms. Malloy replied that the storage facility is located in the ML zone so the sign would be located along the frontage of the property and it would need to be on private property.

Commissioner Sweeney asked if it would be a low monument sign and if a car were parked in front of it would it be visible from down the street.

Ms. Malloy stated that the sign would be limited to six feet in height.

Commissioner Sweeney stated that she believes that the visibility issue is a problem for them. Commissioner Sweeney noted that they have a sign mounted on the fence with an arrow and asked if that sign is within the sign ordinance.

Ms. Malloy replied that if the sign is on the fence, it is probably a directional sign.

Commissioner Lew asked what was the applicant supposed to do at the end of the 18 month current Variance permit.

Ms. Lum stated that the applicant would need to reapply for a Variance to extend the time frame.

Commissioner Lew asked if the fact that the applicant did not do that and is just now coming in for a new Variance is a problem.

Ms. Malloy replied that the sign has been out of compliance.

Commissioner Lew asked if the City has taken any action.

Ms. Lum stated that most likely staff lost track of the fact that the approval had expired and did not follow up with the applicant.

Commissioner Lew asked if any harm was done.

Ms. Lum replied no.

Commissioner Lew asked when the City found out that the sign is on City property.

Ms. Lum stated that with this application it was determined that the sign was on City property.

Commissioner Lew asked if at the time that the sign was installed were any questions asked of the applicant in regards to the location.

Ms. Malloy stated that the original approval was to place it on private property. Ms. Malloy stated it was installed in error on public property and at this time staff is asking that the sign be moved to the proper location if the commission approves the Variance.

Commissioner Lew noted that there has been no harm to the City where the sign is currently located.

Commissioner Lew asked who has been maintaining the area around the sign.

Ms. Malloy replied that the City would be responsible for maintenance within the public right-of-way.

Commissioner Lew referred to condition #3 and asked why is the City asking for a copy of the month-to-month lease.

Ms. Lum replied that this was required with the original approval and it was added to be consistent.

Commissioner Lew stated that a month-to-month lease would apply if there was a restriction such as the 18 months on the approval.

Mike Rodriguez, Assistant City Attorney, stated that since the second part of the condition says that if the property is sold or developed the sign would be removed it would be easier to terminate a month-to-month lease versus a long term lease.

Commissioner Lew asked if there have been any applications for the parcel to be developed.

Ms. Lum replied that none that she is aware of.

Commissioner Lew asked if the parcel is privately owned.

Ms. Lum replied that it is.

Commissioner Lew asked if the parcel is large enough to be developed.

Ms. Malloy replied that it is.

Chairperson Anderson stated that aside from the fact that the findings that staff has been consistently finding are completely opposite what the City Council approved. Chairperson Anderson stated that the

conclusion that other businesses with low visibility would not be afforded this privilege and asked if this is a good comparison. Chairperson Anderson asked if other businesses have ever been permitted to have an off-site sign.

Ms. Lum replied that this business would be granted an advantage that other businesses would not be allowed.

Chairperson Anderson stated that he believes that disadvantage would be the fact that they have already been granted this privilege and have had this privilege for several years and to have that privilege suddenly taken away would be punitive.

Ms. Malloy stated that the sign was originally located on a parcel that was purchased by the City for a park and ride lot. Ms. Malloy stated that the applicant was required to take their sign down and their sign privilege ended at that point. Ms. Malloy stated that as a result of that the applicant came to the commission and asked for an opportunity to erect the sign somewhere else.

Ms. Lum stated that staff is being consistent with their original recommendation that we don't believe that the findings can be made.

Commissioner Singh stated that when he built his new building last year he asked to have an off-site sign and he was told no because it was against the City ordinance to have an off-site sign. Commissioner Singh believes that this is the same situation. Commissioner Singh stated that the sign should be relocated onto private property.

Commissioner Panlilio asked if the sign is being leased by the applicant.

Ms. Malloy referred the question to the applicant.

Chairperson Anderson opened the public hearing.

Teresa Montanelli, 11 Castlebar Place, Alameda, CA, stated that she did not know that the sign was on public property rather than on the private property where it was supposed to be located. Ms. Montanelli stated that they appreciate having the sign there as it has helped their business tremendously mainly for the walk in business. Ms. Montanelli stated that she has some figures that show how much business is brought in by that sign.

Commissioner Lew stated that she is glad to hear that the sign has helped her business. Commissioner Lew asked where will the sign be moved to if the application is approved.

Ms. Montanelli replied that they will move the sign to the private property where it was supposed to have been located originally.

Commissioner Lew asked if it will still be as visible in the new location as it is now.

Ms. Montanelli replied that she is not sure but she hopes so.

Joe Medina, Manager, Diamond Mine Storage, 4400 Horner St, stated that he thinks moving it north four or five feet would improve the visibility. Mr. Medina stated that when they put the sign in originally they wanted it closer to Horner Street because that is where the turn would be.

Commissioner Sweeney noted that the original sign had a hanging panel for U-Haul and that the background was to be in a coordinating color with the main sign. Commissioner Sweeney stated that at this time the hanging panels are bright yellow and asked if they can be changed to match the main sign.

Mr. Medina stated that it would be possible to color it beige with black lettering.

Commissioner Panlilio asked if the sign were taken down how would it be a disadvantage to the business.

Mr. Medina stated that based on the feedback from the renters in 2007 10.6 percent of the new renters stated that they came in because of the sign. Mr. Medina stated that 21 percent of their new business comes from the Yellow Pages.

Commissioner Singh asked who owns the property where the sign is located now.

Ms. Montanelli stated that where the sign is now is on City property.

Mr. Medina stated that they will move it to private property where it was supposed to be located originally.

Commissioner Singh stated that it would be better to have additional parking there instead of the sign.

Mr. Medina stated that the park and ride was completed before they put the sign up.

Commissioner Panlilio stated that he knows where Diamond Mine is located as he was a former client and it is very difficult to know where it is without the sign. Commissioner Panlilio stated that he agrees the sign should be moved off of City property. Commissioner Panlilio asked why the City recommends disapproval.

Ms. Lum stated that it should be disapproved because the legal findings cannot be made in support of a Variance approval. Ms. Lum stated that there are no extraordinary circumstances that affect this business owner as compared to other businesses in the community. Ms. Lum stated that approval of the Variance would give them a privilege that other business owners don't have.

Commissioner Panlilio stated that the Planning Commission previously approved the Variance and this is just a renewal.

Ms. Malloy stated that is correct and it would need to be moved off of City property. Ms. Malloy stated that they had approval and then the property was purchased by the City and so the applicant lost that site. Ms. Malloy stated that in 2005 the applicant applied for a new sign and that was given 18 months under that approval.

Commissioner Panlilio pointed out that they have been paying the property owner when they should have been paying the city.

Ms. Lum stated that the reason there was an 18 month limit on the sign was because there was not full support on the City Council for the sign.

Chairperson Anderson asked if they would be able to relocate the sign in 30 days as required by the condition of approval.

Mr. Medina stated that they would be able to move it within the 30 days.

Chairperson Anderson closed the public hearing.

Commissioner Sweeney asked to add a condition to make the hanging panel color coordinate with the main panel.

Ms. Malloy clarified that it would also include the condition to move the sign within 30 days.

Commissioner Panlilio made a motion approve Variance V-02-08, making findings 1 - 6, with the amended conditions of approval and adopt a resolution confirming this action.

Commissioner Lew seconded.

AYES	4 (Anderson, Lew, Panlilio, Sweeney)
NOES	1 (Singh)
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. Consideration of a study regarding Industrial Lands development standards.

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

C. Upcoming applications for the next Regular Planning Commission meeting for March 20, 2008.

IX. GOOD OF THE ORDER:

Commissioner Panlilio asked what is being done about the colors of the building on the corner of Smith and Union City Boulevard.

Ms. Lum stated that code enforcement is working with the restaurant owner to repaint the building in City approved colors.

Commissioner Sweeney stated that she is glad that this is moving forward.

X. ADJOURNMENT: 7:55 p. m.

APPROVED:

TIKISA ANDERSON, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY