

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF SEPTEMBER 4, 2008, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

I. ROLL CALL: Commissioners Raymond Gonzales Jr., Jo Ann Lew, Froilan (Roy) Panlilio, Gurnam (Gary) Singh and Chairperson Tikisa Anderson

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

II. APPROVAL OF MINUTES: The regular Planning Commission minutes of August 7, 2008 were approved as submitted.

III. ORAL COMMUNICATIONS:

Carol Dutra-Vernaci, Union City Council Member, spoke in support of Measure UU, the public safety measure, on the November 2, 2008 ballot of the General Election.

Barry Ferrier, 32212 Allison, Union City, spoke in support of Measure UU and stated that they have a website <http://www.Putsafetyfirst.net>

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS:

B. NEW HEARINGS:

- 1. DRAGON'S DEN, 2843 WHIPPLE RD., Use Permit UP-09-08 – the applicant is requesting Use Permit approval to allow establishment of a martial arts school at 2843 Whipple Road (APN: 463-0045-026-00). This project is considered categorically exempt per Section 15301, Existing Facilities, of the California Environmental Quality Act.**

Avalon Schultz, Associate Planner, presented the staff report.

Commissioner Panlilio asked if the facility will only be open 5 hours a day.

Ms. Schultz replied that was what was provided by the applicant, who is present, and could provide clarification.

Commissioner Singh asked if there is enough parking for the use.

Ms. Schultz replied that seven spaces are required by the Zoning Ordinance. Ms. Schultz stated that it is likely that most of the adults will drive themselves to class so there could be up to 20 parking spaces used. Ms. Schultz stated that staff feels there will be adequate parking because the other businesses will be closed when this facility is open.

Commissioner Singh asked how many handicap spaces are required.

Ms. Schultz replied that she is not sure of the actual requirement but that is something that is checked during the building permit review process.

Commissioner Singh stated that there should be at least one handicap space.

Commissioner Gonzales asked if there is an area for drop off for the children.

Ms. Schultz replied that they expect the parents to park in a space rather than double parking to drop off children. Ms. Schultz stated that a condition could be added to prohibit this practice.

Chairperson Anderson opened the public hearing.

Jeff Macalooly, 30518 Mallorca Way, Union City, stated that he is a teacher at Cesar Chavez Middle school and that is why the business will not be open during the day. Mr. Macalooly stated that the new site will have room for a boxing ring which is something they have wanted to do. Mr. Macalooly stated that the kids' classes run from 4:00 p.m. to 6:00 p.m. The adult classes start around 7:00 p.m. Mr. Macalooly stated that there is a parking lot light right in front of the space and there is a handicap space also.

Commissioner Gonzales stated that he likes the fact that this business is staying in Union City and promotes youth activities as well as fitness activities. Commissioner Gonzales stated that he is supportive of this application.

Commissioner Lew asked how old the youngest student is.

Mr. Macalooly replied that they have to be six years old and completed kindergarten.

Commissioner Lew asked if there is a place for the children to wait for their parents to pick them up.

Mr. Macalooly replied that the children wait inside the facility until the parent comes inside to get them.

Commissioner Lew asked where they wait.

Mr. Macalooly replied that they wait in the area for visitors. Mr. Macalooly stated that for the peewee classes the parents usually stay and watch the class, the older children are usually dropped off and picked up.

Commissioner Lew asked if there is someone who watches over the waiting children.

Mr. Macalooly replied that they stay with him.

Commissioner Lew asked where the new bathroom will be located.

Mr. Macalooly replied that there is a room next to the existing bathroom.

Commissioner Singh asked if he feels there is enough lighting.

Mr. Macalooly replied that he lives across the street from the site and he can see the lights from his home.

Commissioner Panlilio asked why the hours are so short.

Mr. Macalooly replied that the hours in the use statement are based on his current use and that he would like the option to add hours if he has students that are interested.

Commissioner Panlilio asked if the hours could be changed.

Ms. Schultz replied that they will take direction from the commission if they want to expand the hours in condition #4 to encompass the whole day. Ms. Schultz stated that in terms of parking demand, classes during the day may not have as much of a parking demand as classes in the evening. Ms. Schultz stated that early morning classes before the other businesses opened would not have much of a parking impact.

Commissioner Panlilio stated that it would be a good option for the business.

Chairperson Anderson closed the public the hearing.

Commissioner Singh stated that he doesn't think expanding the hours would be a good idea because it will cause parking problems.

Commissioner Gonzales stated that the students may want more hours down the road plus he might need to generate more revenue to pay overhead to stay in business and additional hours may be a consideration.

Commissioner Lew stated that she doesn't think any restriction on hours is appropriate because it is a business environment. Commissioner Lew stated that the only reason the hours are established in condition #4 is based on the applicants request and if the applicant is requesting longer hours the commission should take that into consideration now. Commissioner Lew stated that it has to be an official request since the condition is based on what he requested initially. Commissioner Lew stated that if the applicant wants to request it now she would certainly consider it because there are no restrictions for that building and that site.

Chairperson Anderson feels that condition #4 should be removed from the conditions of approval because he sees no reason why to restrict this business this way.

Ms. Schultz stated that on other Use Permits the hours have been limited based on the statement of use, as pointed out by Commissioner Lew, our intent is not to necessarily restrict them but to insure consistency with what is being evaluated under the Use Permit. Ms. Schultz stated that if the applicant would like to see those hours expanded and the commission thinks that is appropriate, then we could expand the hours in this condition to be consistent with other Use Permits or you could take the hours restriction out altogether. Ms. Schultz pointed out that staff would want to keep the other two sentences in the condition regarding the frequency of weekend events, which is an important part of the Use Permit.

Chairperson Anderson asked how the condition could be altered to change the hours.

Ms. Schultz replied it could read "The hours of operation shall be limited to 5:00 or 6:00 a.m. to 9:00 p.m. Monday through Friday" or you could take out the restriction altogether.

Mr. Macalooly stated that he would prefer to have the possibility to have morning or midday classes.

Chairperson Anderson asked if the applicant had requested the hour's limitation.

Mr. Macalooly replied that he did not.

Commissioner Panlilio asked if 7:00 a.m. was early enough.

Mr. Macalooly stated that he preferred not to have any limitation.

Commissioner Panlilio stated that he was concerned about the safety.

Mr. Macalooly stated that if he offered morning classes they would be for adults because the children would be in school.

Commissioner Gonzales stated that the market would dictate the hours overall.

Mark Leonard, Director, Economic and Community Development Department, stated that staff would be comfortable removing the first sentence from condition #4. Mr. Leonard explained that because Use Permits are callable, which means that if a problem develops, the Use Permit can be called up for review at the Planning Commission level. Mr. Leonard stated that he did not anticipate this particular use to be an issue and would be comfortable striking the first sentence.

Chairperson Anderson stated that the commission would like the first sentence stricken from condition #4.

Chairperson Anderson asked if the commission still had a concern with the lighting.

Commissioner Singh stated that the applicant felt there was enough lighting so he was fine with that.

Commissioner Lew stated that there should be a condition that the parents shall not double park when dropping off children for classes.

Ms. Schultz suggested a condition to read “The applicant shall notify the clients that they shall park in legal parking spaces when picking up or dropping off children and shall not double park.

Commissioner Lew would like the condition to include everyone not to double park.

Ms. Schultz read back the changes to the conditions:

- Add a new condition “The applicant shall notify clients that they shall park in legal parking spaces when picking up or dropping off students.”
- Change condition #4 by removing the first sentence.

Commissioner Lew made a motion to approve Use Permit UP-09-08, making findings 1 - 4, with the modified conditions of approval included and adopt a resolution confirming this action.

Commissioner Panlilio seconded.

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

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS:

VII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS:

1. ECONOMIC DEVELOPMENT UPDATE

Christine Friday, Economic Development Coordinator, presented the staff report.

VIII. COMMISSION MATTERS:

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

B. Upcoming applications for the Regular Planning Commission meeting for September 18, 2008.

The Planning Commission meeting of September 18, 2008 was canceled due to lack of items.

IX. GOOD OF THE ORDER:

Commissioner Lew will be attending the Eden Housing 40th Anniversary celebration being held at the Hayward City Hall on September 18, 2008.

Commissioner Lew stated that she is very disturbed and very disappointed with what is transpiring with the Avalon development and the neighborhood. Commissioner Lew stated that there must be something that Avalon can do because to say that they are in compliance with the building code and the dust and all that it is just not good enough. Commissioner Lew noted that this is a community where we are putting up high density housing adjacent to established single-family homes and some are fairly large and costly homes. Commissioner Lew stated that she is very disappointed that Avalon isn't doing more to protect the properties of these residents. Commissioner Lew stated that she wouldn't mind sending Avalon development a letter letting them know that she is disappointed.

Mr. Leonard stated that you must speak for yourself and not the commission.

Commissioner Singh stated that he has customers that live next to the new development and they have been calling and emailing him with complaints about the project. Commissioner Singh stated that he thinks that what the residents are asking for from Avalon is very reasonable and he would like to see the City Council and City Attorney negotiate with the neighbors to resolve this problem. Commissioner Singh stated that there is a lot of dirt blowing that way because the wind blows to the northwest.

Commissioner Panlilio stated that he is concerned about the health hazard aspects of the blowing dirt to people with asthma or other health issues. Commissioner Panlilio asked if they could water down the dirt so that it won't be as dusty.

Mr. Leonard replied that we are working with Avalon and the Public Works department has put some very strict guidelines on the creation of dust. Mr. Leonard stated that AvalonBay has offered to power wash homes and that is mentioned in the letter. Mr. Leonard stated that the City held 4 public hearings

and there were four chances for the residents to state their views on the development and in fact, some of the residents did attend and expressed concern over the connection across the creek with the pedestrian bridge. Mr. Leonard stated that due to their concerns the bridge was taken out of the project. Mr. Leonard stated that some of the residents are asking for mitigation for lost view shed, which is not possible to do at this time. Mr. Leonard stated that the project went through the public hearing process, it was properly noticed and the City Council put conditions on the development which are being enforced and adhered to. Mr. Leonard stated regarding the issues of dust and noise, we have taken complaints and are out there enforcing the work hours as well as the dust problem.

Commissioner Gonzales stated that he read some articles about some high technology firms on the peninsula that are eyeing the East Bay for potential sites to grow. Commissioner Gonzales stated that we need to step up our efforts to attract these firms to Union City.

Ms. Friday replied that Economic Development has been very active in trying to get these firms to locate here.

X. **ADJOURNMENT:** 7:57 p.m.

TIKISA ANDERSON, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY