

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF JUNE 18, 2009, 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
Alternate: Phillip Crosby**

STAFF: Carmela Campbell (Planning Manager); Avalon Schultz (Associate Planner); Kevin Reese (Chief Building Official); Kevin Reese (Chief Building Official); Farooq Azim (Principle Civil Engineer); Kit Faubion (Assistant City Attorney); Kris Fitzgerald (Administrative Assistant).

- II. APPROVAL OF MINUTES: The regular Planning Commission minutes of June 4, 2009 were approved as submitted.**

III. ORAL COMMUNICATIONS:

Barry Ferrier, 32212 Allison Way, Union City, CA, stated that the South County Transportation Forum will be held at the Rugierri Senior Center Thursday, July 23, 2009 and starts at 5:30 p.m. Mr. Ferrier stated that more information can be found at <http://www.acta2002.com> Mr. Ferrier stated that BART is looking at new cars and samples can be found on their website and they want feedback from the public. Mr. Ferrier stated that there was no public input solicited for the changes to the Veteran's Park and he thinks that is very wrong. Mr. Ferrier stated that even though it is privately funded it is being done on public land and it should have come through one of the commissions or at least the City Council.

- IV. WRITTEN COMMUNICATIONS: None.**

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS: None.

B. NEW HEARINGS: None.

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS:

- 1. Study session on proposed modifications to Chapter 15.76 *Green Building and Landscaping*.** The proposed modifications to Municipal Code Chapter 15.76 *Green Building and Landscaping* would establish green building and landscaping requirements for private development projects as well as modify the existing green building and landscaping requirements for publicly funded and public partnership projects.

Avalon Schultz, Associate Planner, presented the staff report.

Wes Sullens, StopWaste.Org, 1537 Webster, Oakland, CA, presented a slide presentation about the StopWaste programs.

Commissioner Singh asked if there are guidelines for demolition and construction debris.

Ms. Schultz replied that there is an ordinance for demolition and construction debris in the current Municipal Code but staff is working on updating it and making it easier to follow.

Commissioner Singh stated that he feels that it is very important to get that information to the contractors.

Commissioner Singh asked about the status of the Green Business committee.

Ms. Schultz replied that staff is working with the Union City Chamber of Commerce to increase green businesses in Union City. Ms. Schultz noted that staff is now adding a condition of approval to projects encouraging them to contact Green Building for their projects.

Carmela Campbell, Planning Manager, stated that the condition of approval requires applicants constructing new buildings to meet with staff to discuss green building requirements.

Commissioner Singh expressed his concerns that there should be a shuttle from BART to the industrial areas.

Ms. Campbell replied that it will be something that the businesses in those areas would have to spearhead and the City would support it.

Commissioner Singh asked if indoor air quality is going to be measured and by what standard.

Ms. Schultz replied that rather than measure the air quality they are going to recommend products that don't give off volatile organic compounds.

Ms. Campbell stated that the recommended products are based on existing analysis of indoor environments and what are the largest contributors to poor indoor air quality.

Commissioner Singh asked how the three million dollar threshold for new projects was chosen.

Ms. Schultz replied that it was a recommendation from StopWaste.

Mr. Sullens stated that it was determined by cost and feasibility studies of past projects.

Commissioner Singh asked if the City is going to be replacing the grass in public rights of way with drought tolerant plants.

Ms. Campbell stated that it is a goal to replace the grass with Bay-Friendly landscaping as it is financially feasible for the City.

Commissioner Lew referred to a sentence on page 5 of the staff report and asked if the City is willing to pay the extra amount to have a LEED certified building.

Ms. Schultz replied that the City Council will be responsible for making the decision on what standard they wish to build to. Ms. Schultz stated that for the new fire station the City Council set the standard at Gold.

Commissioner Lew asked if there is money in the budget to pay for the upgrade in certification.

Ms. Campbell replied that each project would have to be looked at individually.

Ms. Schultz pointed out that there is an exemption in the ordinance for City or Public/Private partnerships that provides the City Council with the authority to partially or fully exempt a project for economic feasibility issues based on overriding benefit to the community.

Commissioner Lew asked if the City is going to be charging for providing the GreenPoint Rater service for single-family residences.

Ms. Schultz replied that it has not been determined at this time.

Commissioner Lew stated that she thinks it is an excellent idea to not charge at this time in order to get people interested in this. Commissioner Lew stated that the economics of green building, sustainable development, etc is a deterrent to people wanting to do the right thing and whatever can be done to lower the cost will help.

Commissioner Lew asked to have definitions added back to the proposed ordinance including; covered projects, non-covered projects, Board of Appeals, Building Official, Alternate to the Building Official, and move Public Works project to the proper place alphabetically.

Commissioner Lew referred to 15.76.040 (3) and asked why are all Public Works projects exempt.

Ms. Schultz replied that it meant to refer the traditional Public Works projects that are exempt, such as pump stations, flood control facilities, roads, bridges and traffic lights.

Commissioner Lew asked about Public Works landscaping projects.

Ms. Schultz replied that City landscaping projects over 5,000 square feet would trigger Bay-Friendly requirements. Ms. Schultz stated that the public works projects that are exempted are specifically called out in definition "w".

Commissioner Lew suggested that it should be made more specific.

Commissioner Lew noted that there is nothing on the checklist about "buy American" or "buy locally made" and she thinks that American made green products are the best in the world and why should we import anything. Commissioner Lew suggested that this should be added to our ordinance if it is not already on another checklist.

Ms. Campbell asked if she would prefer it to be "encouraging" or to "buy local where feasible".

Commissioner Lew stated that she thinks they should get points if the green product is manufactured locally or within the state and the closer to the project site the more points awarded. Commissioner Lew thinks that they should be rewarded for this.

Mr. Sullens stated that there is something like this on the Bay-Friendly checklist but when they looked into doing a regional credit they found that the material cycles were so complicated that it was very difficult to process.

Commissioner Lew stated that there needs to be trade-offs between design criteria, that the City requires, being green, and compliance with Title 18. Commissioner Lew asked if staff will be more flexible with design criteria in order to accommodate green requirements.

Ms. Schultz stated that she doesn't think that the articulation that has been required on new buildings will be incompatible with the checklist but staff will be flexible with the applicants. Commissioner Lew stated that she would like to see it written into Chapter 15.76.

Commissioner Gonzales asked if a GreenPoint Rater is licensed or how does one become a GreenPoint Rater.

Ms. Schultz stated that Build-it Green has a training program and test for people to become GreenPoint Raters.

Kevin Reese, Chief Building Official, explained the program.

Commissioner Gonzales asked what would trigger the requirement for Bay-Friendly landscaping in a residential project.

Ms. Schultz replied that if the applicant is going to redo their landscaping then staff gives the applicant a Bay-Friendly checklist to use. Ms. Schultz stated that also the City Arborist also reviews plans for new landscaping.

Commissioner Gonzales stated his concerns about dictating the kinds of plants that homeowners can plant.

Commissioner Crosby asked if there was a sunset provision or expiration date for StopWaste.org

Mr. Sullens stated that there is not a sunset provision or expiration date for his organization. Mr. Sullens stated that their goal is 75% waste diversion and they have a ways to go.

Commissioner Crosby asked what is the definition of "heavy construction."

Ms. Schultz replied that they were not sure how to define the term, mostly staff was attempting to weed out projects that cost over three million dollars but were not building or landscape projects that could be constructed to a green standard.

Commissioner Crosby asked if the Building Official had any suggestions.

Mr. Reese replied that he is not aware of any other definitions that would capture the right projects.

Commissioner Crosby asked if "Building Official" is defined.

Ms. Campbell stated that she was not sure if it is defined elsewhere in the Municipal Code.

Commissioner Crosby referred to 15.76.040, Applicability, and stated that it appears to have some inconsistencies and asked that it be rewritten.

Commissioner Crosby referred to 15.76.050 and asked if “all covered projects” is referring to City sponsored covered projects and it should be clarified.

Commissioner Crosby stated that the term “LEED accredited professional” should be defined.

Ms. Schultz stated that there was previously a definition but it was removed because there is a change being made in the accreditation process and they did not want to have to continuously change the definition.

Commissioner Crosby asked if there will still be “accredited” professionals.

Ms. Schultz replied there would be and that it can be clarified.

Commissioner Crosby noted that the term “certified as GreenPoint rated” was used several times and asked what it means.

Ms. Schultz replied that it means that you have received enough points to be “certified as GreenPoint Rated” and you received a certificate. Ms. Schultz stated that the rating system is managed by Build It Green and they don’t want to have to change the zoning code every time the program is modified.

Commissioner Crosby stated his concerns about the term “certified as GreenPoint Rated” and asked if the minimum standard would be changing as well.

Ms. Campbell replied that you have to obtain a certain amount of points to become certified. Ms. Campbell stated if the system does change the proposed wording in the ordinance is flexible enough to accommodate that.

Ms. Schultz stated that it would be possible to clarify the language.

Commissioner Crosby asked who the “Board of Appeals” refers to.

Mr. Reese replied that the wording comes from the building codes and the Board would consist of professionals in the area being appealed. Mr. Reese stated that these professionals would be appointed by the City Council to become the “Board of Appeal” for that particular matter.

Chairperson Anderson asked if a definition in one chapter of the Municipal Code is applicable to all other chapters of the Municipal Code.

Ms. Campbell stated that the goal is so that all definitions are consistent throughout the code.

Chairperson Anderson noted that there are several definitions of “dwelling” and now two more have been added.

Kit Faubion, City Attorney, stated that it is possible to create a common definition and refer back to that common definition in other chapters.

Chairperson Anderson asked who will maintain the statistics for buildings that have been GreenPoint rated.

Mr. Sullens replied that every project that gets certified, starting August 1st with the new code change, will get a climate change score, estimated gallons of water saved, estimates of materials saved and it will be reported on the Build It Green website in an on-line database so that users, including City staff, have access to pull reports.

Chairperson Anderson stated that he wants homeowners that are not required to use the checklist to still use the checklist for whatever they do and turn it in to the City so that the City can keep track.

Chairperson Anderson stated that he does not want to see the section on waivers added back.

Commissioner Crosby noted that the numbering is off in Section 15.76.050

Commissioner Lew stated that the word “all” should be dropped from several sections.

Commissioner Lew noted several other sections that need to be corrected.

Bob Glover, Executive Director, Home Builders Association, 200 Porter Dr., San Ramon, CA, thanked the commission for the opportunity to speak this evening. Mr. Glover stated that the Home Builders Association has endorsed the GreenPoint Rating system. Mr. Glover stated that today’s homes are more energy efficient than ever before. Mr. Glover pointed out that when the new system goes into effect it will cost approximately \$12,000.00 more per unit to meet the rating system. Mr. Glover asked if staff has conferred with builders about these changes. Mr. Glover suggested grandfathering projects for the first year to give builders time to incorporate these changes. Mr. Glover suggested providing incentives to builders for meeting the green building requirement.

Chairperson Anderson noted that the new ordinance is aimed at new construction but the majority of the housing is already built and suggested that the new ordinance should include a way to bring existing housing into the process either by incentives or something else.

Ms. Schultz replied that staff has been looking into several different programs that might work in Union City.

Dan Boatwright, Castle Company, 12885 Alcosta Blvd., San Ramon, CA, stated that they are one of the builders in the pipeline. Mr. Boatwright stated that they are not thrilled with the new regulations but are pleased that the commission recognizes the issues.

Barry Ferrier, 32212 Allison Way, Union City, CA, stated the table on page 5-7 is a terrific table and should be included in the ordinance. Mr. Ferrier noted that there is a definition for mixed-use and asked how will it be handled if the one person owns both a residential and commercial space. Mr. Ferrier stated that it is not covered in the table either. Mr. Ferrier stated that it looks like the City Council has deferred responsibility to the Board of Appeals and it should be the City Council with the final responsibility.

Ms. Schultz suggested that an exemption could be made for projects that have received planning approval prior to the new regulations going into effect.

Commissioner Lew asked what would happen if a project that had an exemption came back to either the Planning Commission and/or the City Council for modification or if the project had an expired approval.

Ms. Schultz replied that it would be treated like a new project if the approval is expired.

Commissioner Singh asked what about a project that is underway.

Ms. Schultz stated that it would not apply to permits that are already issued.

VII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS:

VIII. COMMISSION MATTERS:

- A. Follow-up on Planning Commission referrals to the City Council.
- B. Upcoming applications for the Planning Commission meeting for July 16, 2009.

IX. GOOD OF THE ORDER:

Commissioner Lew stated that she is glad to see the townhouses going up at Dyer Street and Meteor Drive but she is not sure that the white paint is a good color and asked if staff could look at it.

Ms. Schultz replied that she is doing a site visit tomorrow and will check the paint colors.

X. ADJOURNMENT: 9:15 p.m.

APPROVED:



TIKISA ANDERSON, CHAIRPERSON

ATTEST:



JOAN MALLOY, SECRETARY