

**CITY OF UNION CITY  
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING  
OF JULY 16, 2009, 7:00 P.M.  
IN THE COUNCIL CHAMBERS OF CITY HALL  
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

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

**STAFF:** Joan Malloy, (Economic and Community Development Director); Avalon Schultz (Associate Planner); 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 18, 2009 were approved as submitted.**

**III. ORAL COMMUNICATIONS:**

Barry Ferrier, 32212 Allison, Union City, stated that there will be a meeting on Thursday, July 23, 2009 for the South County Forum of the ACTIA and will be held at the Ruggieri Senior Center in Union City. The meeting will start at 6:30 p.m.

- IV. WRITTEN COMMUNICATIONS: None.**

**V. PUBLIC HEARINGS:**

- A. CONTINUED HEARINGS: None.**

**B. NEW HEARINGS:**

- 1. CITYWIDE, Zoning Text Amendment AT-03-09 – the City is proposing to amend the ML (Light Industrial) Zoning District regulations, Chapter 18.40 Article II of the Municipal Code, generally as follows:**
- To modify the permitted uses and performance standards to restrict outdoor storage under specified circumstances;
  - To require that specified uses provide office and employee facilities in a completely enclosed building; and
  - To provide for amortization of non-conforming uses in the Redevelopment Project Area.
- This project is within the scope of the Program analyzed in the 2002 General Plan Update EIR. The EIR adequately describes the activities involved in the project.

Avalon Schultz, Associate Planner, presented the staff report.

Commissioner Panlilio asked if there are private residences in the affected area.

Ms. Schultz replied that there are residences located in the Horner/Veasy area and they are explicitly excluded from the amortization process, so they would not be affected by any of the proposed

amendments. Ms. Schultz stated that they are however subject to the non-conforming use chapter of the zoning code.

Commissioner Panlilio asked what possible changes could happen with the residences in the future.

Ms. Schultz replied that in general the goal for non-conforming uses is that as the buildings age over time they will be converted to conforming uses in the district they are located in.

Commissioner Singh asked what kind of materials would be allowed to be stored outside.

Ms. Schultz replied that instead of providing an approval process for general storage, this ordinance would provide only for outdoor storage associated with specific uses. For example, a contractor's business could include a wide variety of contractor uses that would be allowed to have outdoor storage subject to Use Permit approval, but a warehouse use would not be allowed to have outdoor storage.

Commissioner Singh asked if pallets would be allowed to be stored outside.

Ms. Schultz replied that pallet storage is not a use that is currently allowed in the light industrial district, however, staff is proposing to move pallet assembly from a permitted use to a conditionally permitted use. Minimal temporary pallet storage would not be affected by this ordinance.

Commissioner Singh asked if there are any pallets out there now.

Ms. Schultz replied that currently there are no pallet storage uses in the Horner/Veazy area and that pallet storage is not a permitted use.

Commissioner Singh noted that there are still some big rigs parked in the Horner/Veazy area and asked what the next step for the truck storage uses is.

Ms. Schultz replied the storage of trucks that was done with permits would be made legal non-conforming under the ordinance. Ms. Schultz stated that with the proposed amortization process, the Economic and Community Development Director could initiate an amortization of that use. Ms. Schultz stated that for the non-permitted uses, where they have no approvals, options would include either Code Enforcement or the amortization process to provide time to recover investment.

Commissioner Singh asked if the Fire Department has any codes for the vehicle storage in the area.

Ms. Schultz replied that the Fire Department is mainly concerned when vehicles are stored inside a building and is unlikely to have a code related to this. The restrictions would primarily be driven by the Planning Division.

Commissioner Singh asked what kind of conditional permits the businesses could get to stay where they are.

Ms. Schultz replied that there is no process to approve truck storage under the proposed amendment.

Commissioner Singh asked if staff knows what the owners have planned for the future.

Ms. Schultz replied that staff does not know.

Commissioner Lew stated that she was unaware that there were other locations besides Horner/Veasby that are both in the ML District and Redevelopment project area and asked for a clarification on where the other areas are located.

Ms. Schultz replied that one area is at Bettencourt Street between Union City Boulevard and Whipple Road and the other is along Western Avenue north of Pacific Street up to where it becomes Atlantic Street.

Commissioner Lew asked if any of those properties are developed or have businesses on them.

Ms. Schultz pointed out the areas that are developed.

Commissioner Lew stated that this information should have been included in the staff report so that she could have driven by the areas to see them. Commissioner Lew stated that it will be very difficult for her to vote on this because she was not aware of the other areas that are in the redevelopment area and will be impacted by this change.

Ms. Schultz noted that the proposed amortization process would not be done automatically and that it is at the discretion of the Director of Economic and Community Development and the City. Ms. Schultz stated that if there is a non-conforming use in one of the other areas the City would have the option to use the amortization process.

Commissioner Lew asked if there are any other businesses in the other two locations that have been grandfathered in when the areas were designated ML, Light Industrial.

Ms. Schultz replied not to her knowledge.

Commissioner Lew asked what happens at the end of the amortization process.

Ms. Schultz replied that they would be required to cease operations and/or remove the building that has been amortized. Ms. Schultz stated that if they do not then they would fall under the Code Enforcement process for violating the Municipal Code.

Commissioner Lew asked if they do cease operations and/or remove the building do they retain ownership of the land.

Ms. Schultz replied that they do and that the amortization process can be applied only to the businesses or structures and not the property in general.

Commissioner Lew asked who does the choosing.

Ms. Schultz replied that it is at the City's discretion and the City also decides the length of the amortization period based on the factors in the ordinance.

Joan Malloy, Economic and Community Director, stated that the process would begin with the City having an economic analysis done by a third party to evaluate the property's condition based upon the amortization factors that are listed in the code. Ms. Malloy stated that the analysis would identify the value and how long it would take the property owner to recoup that value and at the end of that time the property owner would be required to cease those activities. Ms. Malloy stated that this process is appealable to the City Council. Ms. Malloy stated that the property owner has thirty days to review the report, review the determination and then appeal if they choose to.

Commissioner Lew asked what happens if they don't agree with the City Council decision.

Kit Faubion, City Attorney, replied that the City Council would be the final decision maker.

Commissioner Lew referred to attachment 5, condition #2 and asked if a modular or temporary building would meet the requirement to have the accessory office employee facilities be in an enclosed building.

Ms. Schultz stated that it would have to be a building conforming to the zoning code and modular buildings have not been typically approved as primary buildings in the ML District.

Ms. Malloy stated that the buildings would need to be hooked up to all the proper utilities and meet site development review standards.

Commissioner Lew asked if there were a non-conforming use on a property would staff allow the construction of a building for the continuation of that non-conforming use.

Ms. Malloy replied that if there were an open contractor yard that included the storage of vehicles and miscellaneous supplies, the City would not allow just the use of an outdoor yard. Ms. Malloy stated that through the amortization process at the end of that period they would need to either build a permanent building and go through the Use Permit process to provide and allow for a contractor's yard or stop the use.

Commissioner Lew asked what is meant by "permitted by right".

Ms. Schultz replied that it is a permitted use in that zoning district.

Commissioner Lew asked why residences are excluded from the amortization process.

Ms. Schultz replied that the policy direction received from City Council was directed towards the businesses and that residences typically have different rights and circumstances than businesses.

Commissioner Lew asked if staff was aware that this amortization process has been used on residential properties in other areas.

Ms. Schultz replied that staff is aware of that and we were not legally precluded from including residential property and just chose not to.

Commissioner Lew asked how that can be reconciled with the General Plan goals if the residential is excluded.

Ms. Schultz replied that the City's wish would be that over time those parcels would come into compliance. Ms. Schultz stated that there is a different level of investment in residential property than storage yard uses. Ms. Schultz stated that through their research staff found that the process works best for properties that have lower material investment.

Commissioner Lew asked if this reasoning ought to apply to the businesses that are leasing the commercial properties.

Ms. Schultz replied that it could but the feedback that was received from the owners of those commercial properties was that they were leasing their land to sub-tenants for different storage and yard uses and

there are very little structures or buildings to support those uses. Ms. Schultz stated that the feedback from the owners was that they would need time to be able to come into compliance or find another location for the uses. Ms. Schultz stated that the City Council directed staff to explore the amortization process to potentially provide time to property owners with nonconforming uses on site.

Commissioner Lew stated that it sounds like somebody believes that the amortization process is going to be a quicker solution than waiting for the businesses to choose whether or not to leave Union City.

Ms. Schultz stated that it ensures that there will be an end to a non-conforming use over a period of time while giving the owner/business operator time to recoup their investment.

Chairperson Anderson referred to the proposed ordinance and noted that even though the appellant can go to the City Council for a hearing it appears that the City Council has no obligation to use any additional information that the appellant gives them.

Ms. Faubion replied that reading paragraphs 4 and 5 together, the intent is to allow the matter to be reopened in its entirety before the City Council when it goes on appeal. Ms. Faubion stated that in paragraph 4 it says that the Council will review the same factors as the Director but they can come to different conclusions. Ms. Faubion stated that the appellant can present additional information at the appeal hearing, whereas, in other situations they might be limited to the record that was prepared at the Director level. Ms. Faubion stated that the intent is to give the City Council flexibility and to give the property owner the opportunity to provide information that they feel is appropriate. Ms. Faubion stated that it is the burden of the property owner to provide the information.

Chairperson Anderson asked if that means that the City Council is not limited in what they may consider.

Ms. Faubion replied that the factors are listed in the ordinance and it is a long and comprehensive list so that all the information can be brought in.

Chairperson Anderson asked if the appellant is told how the factors were applied by the Director and does he have an opportunity to correct errors if needed.

Ms. Faubion replied that the appellant would have copies of the report and would be able to comment on it.

Ms. Malloy stated that the factors are quite comprehensive and in some cases, the data would need to be provided by the property owner. Ms. Malloy replied that the analysis would not be done without the property owner's input and it would benefit him to provide as much information as he could.

Chairperson Anderson asked if there is anything in the ordinance that guarantees that the City Council is required to consider any other information besides the conclusions reached by the Director.

Ms. Schultz replied that in paragraph 4 it states "At that hearing the City Council shall hear a report and evidence presented by the Director and evidence presented by the appellant". Ms. Schultz stated that the City Council is required to hear all the evidence but is also required to make their decision based on the factors that are in the code.

Chairperson Anderson asked how some of the factors would be quantified for example factor VI.

Ms. Schultz replied that an independent consultant who has done these types of reports would be hired to create a report similar to a property appraisal but based on these factors.

Chairperson Anderson asked if the independent consultant's report could be challenged.

Ms. Schultz replied that the decision would be made on the report, which could then be appealed to the City Council. Ms. Schultz stated that the appellant has the ability to challenge the report at that level and then it would be the City Council's decision.

Ms. Faubion stated that the information presented will not just be a number but will include discussions of each factor and a conclusion as to how the data was quantified for that factor. Ms. Faubion stated that in his example factor VI, perhaps there is a situation where there is an existing building that is very specialized and it might be possible to quantify the ability to change that building to something more generalized. Ms. Faubion stated that if it is a very general building then that factor would count less in the overall conclusion.

Chairperson Anderson stated that he is not comfortable with the amortization process because he feels that it is weighted towards the City and against the property owners.

Ms. Faubion stated that this is like any permitting and regulatory process and the elements that you see in this ordinance are designed to provide due process. Ms. Faubion stated that due process means the opportunity to be heard. Ms. Faubion stated that the factors that you see – including a notice, the opportunity to appeal the Director's decision, the ability to submit information, and a lengthy list of factors – all of that is intended to provide the information that is used as a basis for the decision and to make it available and accessible to everybody involved in the decision and allow anybody to provide input into that process.

Chairperson Anderson asked that as long as the City provides due process is it on solid legal ground.

Ms. Faubion stated that you have to tell people what the decision is and in this case you have a 30-day appeal period instead of the usual 10-day appeal period to the City Council.

Chairperson Anderson asked what the burden of proof is in this case.

Ms. Faubion stated that one thing to keep in mind is the context, which in this case is a non-conforming use building or structure. Ms. Faubion stated that in this case the burden is on the property owner to present the information.

Chairperson Anderson stated that it is not meant to be anything but what it is. Chairperson Anderson stated that the City needs to reuse that land for other purposes and the only way it can do that is to get rid of what is there. Chairperson Anderson stated that the City has to have a method to do that and this is it.

Commissioner Lew referred to building a building to bring a use into conformance with the zoning code and stated that this area has a problem with liquefaction so how economical would it be to build a building to bring it into conformance.

Ms. Schultz stated that the conditions in the area vary from parcel to parcel. Ms. Schultz stated that the area of liquefaction does not cover the entire Horner/Veasy area. Ms. Schultz stated that there are numerous infrastructure constraints and one of the things the infrastructure study commissioned by the City Council found is that if property owners work together and/or have a consolidated plan for development, then it will be cheaper to overcome the infrastructure constraints than if each property owner does it individually.

Commissioner Lew stated that would be fine if the City went to all the property owners and residents and told them that they will all be under this amortization process and they would need to work together.

Ms. Malloy stated that it's a condition of many parcels in the City. If you were located near Mission Boulevard, you would have different infrastructure issues you would have to deal with. PSSC had issues of contamination. Every parcel has its constraints.

Commissioner Lew replied that this is the only area that the amortization would be applied to.

Ms. Malloy replied that is correct but it also provides more flexibility to many of these non-conforming uses that have never quite legalized themselves.

Commissioner Lew asked how the property owners would benefit from the amortization process.

Ms. Malloy stated that it allows them time to make appropriate plans and allows them to recoup their investment in the property.

Commissioner Lew stated that she is confused as to whether the amortization process applies only to the non-conforming business or the non-conforming land.

Ms. Schultz replied the property owners obtain leases from the businesses and whatever investment the property owner has made to accommodate those non-conforming businesses would be evaluated per the amortization factors and they would continue to receive the leases until they recoup their investments. So the property owner benefits by continuing to receive the leases rather than having their land vacated immediately. Many of the businesses in Horner/Veasy are not legally established uses with clear records of obtaining permits. In most cases, there is actually a clear record of violation of the City's zoning ordinance. The amortization process could provide some additional time for both business owners and property owners to recoup the investments that have been made.

Commissioner Lew stated that she thought all these businesses were grandfathered in.

Ms. Schultz replied that businesses that are grandfathered are the ones that went through the approval process that was in place at the time and when the code changed they became legal non-conforming uses. For example, the residences in the Horner/Veasy Area were legally constructed, so they are legal non-conforming uses that are allowed to continue. With the industrial uses, there are only a few uses that clearly obtained proper approvals, and several that did not obtain proper approvals. There is also gray area, which is a unique situation.

Commissioner Lew clarified that the focus is on businesses that are not just non-conforming, they are illegal uses.

Ms. Schultz replied that is correct and that in the public participation for the General Plan amendment several comments were received regarding property owners feeling "squeezed out" and needing additional time to make arrangements because many of those uses, while not legal, have been there for a long time. Staff is responding to the Council's direction with a process that would provide additional time.

Commissioner Lew asked what the other option is to deal with the non-conforming uses and illegal uses.

Ms. Schultz replied that Code Enforcement is another option.

Commissioner Lew asked if the City has tried that.

Ms. Malloy stated that Code Enforcement has focused on significant safety issues or clearly blatant violations, such as the establishment of new residential uses. Ms. Malloy stated that there are several properties that have clear records of violation and there are others where it is less clear. There is a lot of history and the amortization process provides a manner in which to bring these non-conforming uses to an end over time and for the redevelopment of the area.

Commissioner Lew stated that finds it confusing that staff is talking about illegal uses in addition to non-conforming uses, which was not mentioned in the staff report.

Commissioner Lew asked if the City is getting any revenue from the businesses in the area.

Ms. Malloy replied there is some nominal property tax revenue.

Commissioner Lew asked if there are any business licenses or sales tax revenue.

Ms. Schultz replied that there are very few business licenses in that area.

Commissioner Lew asked if that is dealt with by Code Enforcement.

Ms. Malloy replied that is correct.

Commissioner Lew asked if they have business licenses.

Ms. Malloy replied there are very few business licenses in the Horner/Veasy Area.

Commissioner Lew replied so you are not even getting that.

Commissioner Singh stated that it is impossible for one owner to construct a building there because there are a lot of issues, such as storm drains, roads, and earthquakes. Commissioner Singh thinks the owners should have a plan to develop the area.

Chairperson Anderson opened the public hearing.

Ken Bertelson, 4735 Loretta Way, Union City, stated that he owns property on Veasy Street and has truck parking, a landscape yard, and outdoor storage. Mr. Bertelson stated that he is opposed to the proposed amendment to outlaw truck parking and outdoor storage because it will adversely affect him and his tenants. Mr. Bertelson stated that it is a real good spot for these particular businesses. Mr. Bertelson stated that his lot is right along the channel and would probably be affected by liquefaction. Mr. Bertelson stated that the landscape business doesn't need a building because all their stuff is on their trucks and they don't need a building. Mr. Bertelson stated that the truck parking could go park on the street and then he would have a nice clean yard with nothing on it but he doesn't feel that would be right. Mr. Bertelson stated that he doesn't see the need for this amendment and doesn't want to be kicked out.

Chairperson Anderson closed the public hearing.

Commissioner Lew stated that there is case law on this and it has been successful in other situations, and she is opposed to the amendment because while the amortization process is legal it is not ethical.

Chairperson Anderson stated that originally he was opposed to the amendment because he didn't understand what the City's goal was. Chairperson Anderson stated that the City wants to reuse the property and there is really no other solution. Chairperson Anderson stated that he is not voting for it because it is happy, good times but it is something that the City has to have. Chairperson Anderson stated that after listening and asking staff questions he is willing to vote for approval.

Commissioner Singh made a motion to recommend to the City Council approval of Zoning Text Amendment AT-03-09, making findings 1 – 3, and adopt a resolution confirming this action.

Commissioner Panlilio seconded.

AYES	3 (Anderson, Panlilio, Singh)
NOES	1 (Lew)
ABSTAIN	0
ABSENT	1 (Gonzales)

**VI. SUPPLEMENTAL STAFF REPORTS:**

**A. CONTINUED REPORTS:** None.

**B. NEW REPORTS:**

- MISSION SIERRA APARTMENTS, 34864 MISSION BOULEVARD, Administrative Site Development Review ASD-06-09** – the applicant, Mission Sierra Apartments, is requesting Administrative Site Development Review (ASD-06-09) approval to expand an existing leasing building and lower a section of the perimeter wall of the Mission Sierra Apartment complex. The project site is located at 34864 Mission Boulevard in the RM2500 Zoning District and is identified as APN: 507-124-025-00. This project is categorically exempt under Section 15301, Class 1, Existing Facilities, of the California Environmental Quality (CEQA) Guidelines.

Avalon Schultz, Associate Planner, presented the staff report.

Commissioner Lew referred to condition #14 and stated that the third sentence is confusing and seems to contradict the rest of the condition.

Ms. Schultz replied that the intent of the sentence is that when the applicant removes a portion of the wall and rebuilds it that it will match the existing adjacent wall but that doesn't include the tubular steel portion.

Commissioner Lew stated that replacing two feet of the wall with tubular steel is not really matching the existing wall.

Ms. Schultz stated that it could be cleaned up to say "solid portions of the wall".

Commissioner Lew asked if the Police Department have any figures on the crime rate in that area.

Ms. Schultz replied that none were provided but staff was told verbally that there is not an excessive amount of crime in the area.

Commissioner Lew stated that because it is primarily residential and along Mission Boulevard she thought it was a very quiet area. Commissioner Lew stated that she thought the apartment complex was well maintained. Commissioner Lew asked if they have security guards.

Ms. Schultz referred the question to the applicant.

Commissioner Lew referred to condition #21 and asked what is meant by foundation work.

Ms. Schultz stated that it is work that will be done to support the new addition. Ms. Schultz stated that the foundation would have to be extended to support the addition and that would have to be designed by an engineer.

Commissioner Lew asked wouldn't you need a structural engineer instead of a licensed engineer.

Ms. Schultz replied that the Chief Building Official provided this condition of approval and staff would need to consult with him before making any changes.

Commissioner Singh asked if the plan was to have two feet of tubular steel on top of a four-foot wall.

Ms. Schultz replied that would be an acceptable way to increase their visibility.

Commissioner Singh asked if the trees in that area belong to the City or the applicant.

Ms. Schultz replied that the trees appear to be in the public right-of-way but since Mission Boulevard is a state highway, it is possible that the trees are in the CalTrans right-of-way or just on the edge of it.

Farooq Azim, Principle Engineer, stated that it appears that the trees were planted as part of the development and looks as if they are in the state right-of-way.

Commissioner Singh stated that in his opinion it wouldn't make much difference taking down two feet of wall in that location because of the trees and the house blocking the area especially with traffic going 50 mph.

Ms. Schultz replied that the concern of lowering the wall wasn't a planning concern or a visual concern. Ms. Schultz stated that the Police Department had concerns that if they were chasing a suspect in the complex the lower wall height would allow an easier escape.

Commissioner Singh referred to the houses on the south side of Mission Blvd that have eight feet high walls and thinks that bringing the applicant's wall down will not look good. Commissioner Singh stated that he thinks the wall should be left the way it is.

Commissioner Panlilio asked how long is the section that they are planning to lower.

Ms. Schultz replied that the landscape plan shows that a 70 foot section of the wall would be lowered to four feet. Ms. Schultz stated that then on either side of that would be about a 40 to 50 foot long section that would be five feet in height.

Commissioner Panlilio asked if there will be a one foot high tubular steel fence above the five foot section high part of the wall.

Ms. Schultz replied that that would look even odder and perhaps the wall would transition from four feet to six feet.

Commissioner Panlilio stated that he thinks the whole thing would look odd as proposed and agreed with Commissioner Singh that the wall should not be removed. Commissioner Panlilio stated that since the new structure will be twenty feet tall that it will be visible over the current wall. Commissioner Panlilio agrees with the police argument for keeping the wall as it is.

Ms. Schultz stated that feedback could result in a modification of condition #14 whereby only the first sentence would remain and the other sentences would be deleted.

Joan Malloy, Economic and Community Director, suggested discussing this with the property owner.

Chairperson Anderson noted that this development was approved in 1985 by the City Council and asked if the resolution specified a fence height in the conditions of approval.

Ms. Schultz replied that there was no minimum height and it wasn't added as a sound wall but more as an aesthetic wall.

Chairperson Anderson asked if there was a six foot requirement.

Ms. Schultz replied there was not.

Chairperson Anderson stated that since there is nothing in the ordinance requiring six feet and how could it be required to maintain a six feet wall.

Ms. Schultz replied that it is a discretionary application.

Chairperson Anderson asked if it is staff's requirement to maintain the height.

Ms. Schultz replied that the Police Department wanted to maintain the height.

Chairperson Anderson stated that he finds it difficult to justify the Police Departments statement that lowering the fence height will bring crime to an area where it didn't exist before.

Chairperson Anderson stated that he doesn't see where staff can limit the applicant from lowering the height of the fence.

Ms. Malloy replied that there is nothing in the zoning ordinance. Ms. Malloy stated that the Police Department as a member of the Development Review Committee felt that lowering the wall may encourage criminal activity where there was none previously. Ms. Malloy stated that is why they asked to have a condition included maintaining the six foot wall height.

Chairperson Anderson stated that he doesn't agree with that rational.

Chairperson Anderson opened the public hearing.

Jess Couch, Legacy Partners, 4000 E. Third Ave., #600, Foster City, CA, stated that they have managed the property since 1985. Mr. Couch stated that this property has always had trouble with getting people to come into the property to rent apartments. Mr. Couch stated that the purpose of lowering the wall is to increase visibility to the passing traffic. Mr. Couch stated that they also find that the leasing and exercise

facility is too small and inadequate for the property. Mr. Couch stated that they want to increase the size of the facility to meet the needs of the tenants. Mr. Couch stated that they want to create a memorable entry to the property and they will do that with the tower element and remodeling the building. Mr. Couch stated that then they wanted to be seen from Mission Boulevard hence lowering the wall. Mr. Couch stated that the current wall is not uniformly six feet in height. Mr. Couch stated they felt that stepping the wall would be more pleasing. Mr. Couch stated that they have no problem with the existing trees and would be willing to plant more if needed. Mr. Couch stated that they are just trying to increase traffic into the complex to rent apartments. Mr. Couch stated that they would really like to lower the fence to increase visibility of the property. Mr. Couch stated that they do not agree with putting the tubular steel along the top of the lowered fence. Mr. Couch stated that he does not agree with the Police Department assessment that lowering the wall will increase crime.

Commissioner Lew asked if there is a security guard on the premise.

Mr. Couch replied that there is not full-time security on premise, but they have drive by security companies that also walk through the complex. Mr. Couch stated that there is on-site staff that lives on the property full-time.

Commissioner Lew asked if they keep crime reports either from the tenants or the Police Department.

Mr. Couch replied that he does not have that information.

Commissioner Lew asked if he asked the on-site staff if there had been any problems.

Mr. Couch replied that he does know that the mailboxes have been broken into.

Commissioner Lew asked if the mailboxes are in a central location.

Mr. Couch replied they are.

Commissioner Lew asked if he knew of any car thefts.

Mr. Couch replied that he was not aware of any.

Commissioner Lew stated her concerns about the wall and the fact that there are cars parked in that area and that lowering the fence might encourage criminal activity.

Mr. Couch replied that the parking directly in front of the wall is for the leasing office and is not assigned to the tenants and is temporary parking only.

Chairperson Anderson stated that he is neutral on lowering the fence.

Chairperson Anderson closed the public hearing.

Commissioner Panlilio suggested adding a security camera facing the area of the lowered wall instead of adding the tubular steel.

Mr. Couch replied that when they redo the clubhouse they will be installing a security system and they would be willing to add a security camera outside.

Commissioner Panlilio suggested adding signs that “the area is monitored by security cameras.”

Commissioner Lew stated that she doesn't see why the applicant has to repaint the entire fence when they are only changing one section of the fence.

Chairperson Anderson stated that it should just match the rest of the existing fence.

Ms. Schultz suggested changing condition #14 by removing the first two sentences and modifying the last sentence to read "any modified portion of the wall shall match the existing wall with respect to design, material, texture and color subject to review and approval by the Economic and Community Development Department."

Ms. Schultz asked if there was any consensus on adding the security camera.

Chairperson Anderson stated that they would add a new condition for the security camera.

Ms. Schultz suggested the new condition read "the applicant shall install a surveillance camera to monitor the area of the four foot wall."

Commissioner Lew made a motion to approve Administrative Site Development Review (ASD-06-09), making findings 1 – 4, with the modified conditions of approval and adopt a resolution confirming this action.

Commissioner Singh seconded.

AYES	3 (Anderson, Lew, Panlilio)
NOES	1 (Singh)
ABSTAIN	0
ABSENT	1 (Gonzales)

- ALIX BERRIOS, 32240 VALIANT WAY, Administrative Use Permit (AUP-02-09)** – the applicant, Alix Berrios, is requesting Administrative Use Permit (AUP-02-09) approval to establish a Large Family Daycare Home for up to 14 children. The project site is a single-family residence located at 32240 Valiant Way in the RS 6000 Zoning District and is identified as APN: 475-0167-002-00. This project is categorically exempt under Section 15301, Class 1, Existing Facilities, of the California Environmental Quality (CEQA) Guidelines.

Avalon Schultz, Associate Planner, presented the staff report.

Commissioner Singh asked how many employees there will be.

Ms. Schultz replied that one additional employee is anticipated. Ms. Schultz stated that the applicant has one family member helping her now and it may go up to two for a total of three.

Commissioner Singh asked if the garage is vacant.

Ms. Schultz replied that the applicant would be parking their family vehicles in the garage and leaving the driveway open for the clients.

Chairperson Anderson referred to condition #4 and asked if staff does not anticipate significant traffic problems why is this condition needed.

Ms. Schultz replied that the intent of leaving the driveway space open is so that clients will not impact street parking so if we permit the owners to park on the street then that negates the purpose of condition #4. Ms. Schultz stated that this condition was created in response to neighborhood concerns around other large family day care operations.

Commissioner Singh stated that he feels the driveway should be left clear for the pick ups and drop offs but is not sure about restricting where the applicant's park.

Commissioner Panlilio stated if they add another employee then that employee will be parking on the street and that will increase the demand on street parking and feels that the condition should be kept.

Joan Malloy, Economic and Community Development Director, stated that as part of the criteria for large family day care policy there will be two enclosed off-street parking spaces. Ms. Malloy stated that the purpose of the condition is to ensure that the driveways remain clear.

Chairperson Anderson opened the public hearing.

Commissioner Panlilio asked the ages of the children in the applicant's care.

Alix Berrios, 32240 Valiant Way, Union City, CA, replied that the age range is five months to seven years.

Commissioner Panlilio asked how many bathrooms are available for the children.

Mrs. Berrios replied that there are two bathrooms and one is for the children.

Commissioner Panlilio asked where the children will take naps.

Mrs. Berrios replied that there is a bedroom set aside for naps.

Commissioner Lew thanked the applicant for watching the children.

Chairperson Anderson closed the public hearing.

Commissioner Lew made a motion to approval of Administrative Use Permit (AUP-02-09), making findings 1 – 7, with the conditions of approval and adopt a resolution confirming this action.

Commissioner Panlilio seconded.

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

**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 Planning Commission meeting for August 6, 2009.

**IX. GOOD OF THE ORDER:**

Commissioner Panlilio stated that he wants everyone to attend the Diversity program at Kennedy Park on Saturday, July 18, which starts at 10:00 a.m. until 6:00 p.m. and there will be vendors and music.

Commissioner Panlilio stated that there will be a festival at St. Anne's church next week.

- X. ADJOURNMENT: 9:15 p.m.**

**APPROVED:**

  
\_\_\_\_\_  
TIKISA ANDERSON, CHAIRPERSON

**ATTEST:**

  
\_\_\_\_\_  
JOAN MALLOY, SECRETARY