

**CITY OF UNION CITY  
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING  
OF AUGUST 6, 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**

**STAFF:** Joan Malloy, (Economic and Community Development Director); Carmela Campbell (Planning Manager); 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 July 16, 2009 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-04-09 – the City is proposing to amend Chapter 15.76, Green Building and Landscaping Practices, of the Union City Municipal Code to establish mandatory green building requirements for private development projects and to modify the current green building and landscaping requirements for publicly funded project and to repeal the Voluntary Green Building and Landscaping Practices in Private Development Projects Standards Policy Statement. This project is considered categorically exempt under Section 15308, Class 8, Actions by Regulatory Agencies for Protection of the Environment.**

Avalon Schultz, Associate Planner, presented the staff report.

Commissioner Gonzales asked if the California Energy Commission has a website available to the public which shows the calculated cost savings.

Ms. Schultz replied that the City can post the cost effectiveness study, prepared by StopWaste, on the City's Green webpage.

Commissioner Gonzales asked how new construction will be defined.

Carmela Campbell, Planning Manager, replied that staff is working with the City Building Official to come up with a definition of what constitutes new construction. Ms. Campbell stated that it would be done before the new ordinance goes into effect. Ms. Campbell stated that it not only applies to Green Building requirements but there are other requirements that could come into play. Ms. Campbell stated

that it would include when the majority of the walls are removed, the roof removed and possibly the studs.

Commissioner Gonzales stated that he liked the small commercial list because it is more business friendly and does not discourage businesses in Union City.

Commissioner Gonzales asked what the new fire station was rated.

Ms. Schultz replied that the new fire station is anticipated to earn LEED Gold.

Commissioner Gonzales asked who the board members of StopWaste.Org are since they are putting out a lot of information.

Joan Malloy, Economic and Community Director, replied that StopWaste is made up of several appointed members of several jurisdictions, including the Mayor of Union City.

Commissioner Gonzales asked which organization has the better cost-effectiveness, LEED or GreenPoint.

Ms. Schultz replied that GreenPoint is more cost effective. Ms. Schultz stated that it is more expensive to reach the LEED certified level.

Commissioner Gonzales asked who will do the GreenPoint ratings.

Ms. Schultz replied that for single-family residences the GreenPoint rating program would apply and city staff would be the raters. Ms. Schultz stated that the applicant would have to hire a contractor who is familiar with the GreenPoint rating program. Ms. Schultz stated that one of the reasons staff chose the GreenPoint rating program is because it is being used by many jurisdictions in the Bay Area.

Commissioner Gonzales asked if the contractors would have to be certified as raters.

Ms. Schultz replied that they do not need to be raters. Ms. Schultz stated that there will be workshops, in partnership with other southern Alameda County cities, to educate building professionals on how to do the checklist.

Commissioner Lew stated that she is very pleased with the package and the revisions. Commissioner Lew thanked staff for their hard work. Commissioner Lew also recognized StopWaste.org's contribution to this application.

Commissioner Lew asked if this is a Zoning Text Amendment or is it a Municipal Code amendment.

Ms. Schultz replied that it is a Municipal Code amendment.

Commissioner Lew referred to 15.76.i and stated that she would like to see maintenance added to the list of approaches and that way once a building is certified as a green building we can ensure that it is maintained as a green building.

Commissioner Lew referred to 15.76 and noted that there were two letter "p"s for the definitions and they should be relettered appropriately.

Commissioner Lew referred to page 8 of the staff report and noted that Union City zoning allows for fireplaces and the checklist from GreenPoint states "Don't install a fireplace or install a sealed gas

fireplace with an efficiency rating of not less than 60%” and asked what staff would tell an applicant that wants to install a wood burning fire place.

Ms. Schultz replied that currently wood burning fireplaces are not permitted to be installed and any time there is a modification to a home that affects a wood burning fireplace they are required to replace it with a gas burning fireplace.

Commissioner Lew asked if Title 18.32.125.h will be modified to remove wood burning fireplaces. Commissioner Lew stated that either the zoning code should be made consistent with the checklist or the checklist should have priority over the zoning code and it is not clear.

Commissioner Lew noted that the checklist allows for green roofs and there is nothing in the design standards that allows for green roofs and asked if that would also be included in Title 18.

Ms. Campbell replied that staff has been looking into the possibility of green roofs in the Intermodal Station District and did not see anything in the ordinance that would preclude a green roof.

Commissioner Lew stated that she felt that a green roof would have different standards, a different design, different materials, and a different appearance and recommended that when the Green Building ordinance passes the zoning code should be made consistent with it.

Commissioner Lew referred to attachment 4 and noted that it recommends a performance based approach and she recommends that the zoning code should have performance approaches added.

Ms. Schultz replied that the design standards in the zoning code are not generally specific about materials but usually look at compatibility. Ms. Schultz stated that staff will review the zoning code for inconsistencies that would disincentive green building.

Commissioner Lew stated that in the code it states that a building being modified should look compatible with the surrounding neighborhood and sometimes the neighborhood is not so great and perhaps the City should be more flexible in the design standards. Commissioner Lew stated that performance guidelines provide for better projects than minimum guidelines.

Commissioner Singh thanked staff for a great job of putting together this information.

Commissioner Singh asked if there will be an additional charge for the applicant for doing the GreenPoint rating checklist.

Ms. Schultz replied that the applicant will have to hire a GreenPoint rater and that will be an additional charge but staff is going to attempt to do the GreenPoint rating service for free for as many single-family residential projects as feasible.

Commissioner Singh asked if there is any guideline on how much will be charged.

Ms. Schultz replied that it will be based on what the private market charges.

Ms. Campbell stated that when she went through the training, people were not comfortable discussing fees, but from what she gathered is that the cost would be from \$1,000.00 to \$1,500.00 per residence.

Commissioner Singh asked if the applicants would be notified ahead of time about the fee.

Ms. Campbell replied that when the application comes in, staff can determine whether it will be done in house or if a rater will need to be hired. Ms. Campbell stated that there are three raters on staff now and the goal is to do as many of the small single-family residences as possible. Ms. Campbell stated that developers of larger projects can better absorb the cost of a rater.

Commissioner Singh asked what happens if the residence doesn't meet the GreenPoint rating standard.

Ms. Schultz replied that they would have to modify it to make it GreenPoint rated or they could appeal to the Board of Appeals. Ms. Schultz stated that staff will not be waiting until the project is done before evaluating it. Ms. Schultz stated that the Building Official is a GreenPoint rater and so projects will start to be evaluated as soon as the applicant submits plans and the project will be evaluated as it is being built.

Commissioner Panlilio asked based on the different ratings is there a percentage of cost savings per rating.

Ms. Schultz replied that the cost effectiveness study just looks at energy efficiency and it is different for every type of project. Ms. Schultz stated that they would go over the information with the applicants.

Commissioner Panlilio asked if the guidelines are available on-line or just as handouts. Commissioner Panlilio asked if there are going to be recommended builders or construction companies.

Ms. Schultz replied that it is all available on Build it Green's website. Ms. Schultz stated that they also have a list of GreenPoint raters and construction companies that are familiar with green building.

Ms. Campbell stated that a lot of the improvements recommended for green building do not have to be installed by green specialists.

Commissioner Panlilio asked if safety was considered in the green building program.

Ms. Campbell replied that they will always be required to comply with the Building Code, which addresses safety, and Build it Green tried not to conflict with respect to that issue.

Chairperson Anderson referred to staffs change to the CEQA finding in the staff report and asked if the resolution would also be updated to reflect the correct CEQA finding.

Ms. Schultz replied that it would be done.

Chairperson Anderson referred to the definition section and asked if the definition of Bay Friendly Landscaping needs to be in the new ordinance.

Ms. Schultz stated that it is a separate definition and should be kept in the new ordinance.

Ms. Campbell stated that the most relevant part is "means the most recent version" so that the Ordinance doesn't have to be updated every time the rating systems are updated.

Chairperson Anderson referred to definitions (i) and (j) and asked if they are duplicates.

Ms. Schultz replied that it is intended to separate the concept of green building from the Green Building Program in Alameda County, which is a specific agency program that created this checklist. Ms. Schultz stated that staff felt that it was useful to have definitions of Bay Friendly Landscaping and Green Building as concepts to familiarize the public with the terms.

Chairperson Anderson opened the public hearing.

Barry Ferrier, 32212 Allison Way, Union City, CA, stated that he is glad that the table will be a handout and on the City website. Mr. Ferrier asked if all the green building handouts will be on the website.

Ms. Campbell replied that the webmaster is creating a Green section on the website that will include pages dedicated to green building.

Mr. Ferrier referred to mixed-use buildings with residential over commercial and asked which set of rules would apply to that building.

Chairperson Anderson asked does the table distinguish between commercial and non-commercial uses or just between privately funded or City sponsored projects.

Ms. Schultz replied that it only distinguishes between privately funded and City sponsored projects. Ms. Schultz stated a mixed-use building would have a residential and a non-residential component and new construction would be subject to green point rated. Ms. Schultz stated that if there is a non-residential project over 1,000 square feet in that one building it would be subject to the small commercial checklist.

Chairperson Anderson asked how the regulations are affected if one person owns both the residential and commercial parts of a mixed-use building.

Ms. Schultz replied that ownership does not affect the regulations.

Chairperson Anderson closed the public hearing.

Commissioner Lew made a motion to recommend to the City Council approval of Zoning Text Amendment AT-04-09, making findings 1 – 7, including the modification to the CEQA finding and repeal the current voluntary Green Building policy statement, and adopt a resolution confirming this action.

Commissioner Panlilio seconded.

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

- 2. SYWEST DEVELOPMENT, 32160 DYER STREET, Use Permit UP-06-09 and Administrative Site Development Review ASD-08-09;** the applicant, SyWest Development, is seeking Use Permit approval (UP-06-09) to allow a Mountain Mike's Pizza to locate at 32160 Dyer Street in a portion of the former Hollywood Video building in Union Landing (APN: 463-0060-015-11). The subject site is located in the Community Commercial (CC) subarea of the Union Landing Commercial (CUL) Zoning District. Fast-food/quick service restaurants are conditionally permitted in the CC subarea of the CUL District. The applicant is also requesting to modify the approved sign program for the Union Landing Shopping Center to address the division of the Hollywood Video building into two separate tenant spaces. The applicant is also seeking Administrative Site

Development Review (ASD-08-09) approval for exterior enhancements to the façade of the subject building. This project is considered categorically exempt under Section 15301, Class 1, Existing Facilities, of the California Environmental Quality Act (CEQA).

Avalon Schultz, Associate Planner, presented the staff report.

Commissioner Panlilio asked for clarification of the hours of operation.

Ms. Schultz stated that they would open at 10:00 a.m. everyday and close at 11:00 p.m. on Sunday through Thursday and at 12:00 a.m. on Friday and Saturday.

Ms. Schultz stated that a condition should be added since we are requiring the applicant to be consistent with Exhibit A and that includes their statement of use.

Commissioner Panlilio asked where the signs will be located and how many are they allowed.

Ms. Schultz replied that they will be allowed two signs and pointed out the locations on the building.

Commissioner Singh noted that they plan to serve beer and wine and asked if the Police Department had any issues with that.

Ms. Schultz replied that a representative from the Police Department attends the Development Review Committee meeting and did not have any comments on this application.

Commissioner Singh noted that the parking is very limited in this area and stated his concerns that the type of business that moves into the vacant space will not require more parking spaces.

Joan Malloy, Economic and Community Development Director, stated that staff is going to encourage retail as opposed to an additional fast food restaurant.

Commissioner Lew noted that neither the Fire Department nor the Police Department submitted any conditions. Commissioner Lew asked if they attended the meeting.

Ms. Schultz replied that representatives were there. Ms. Schultz stated that there is also a formal transmittal that goes to all departments requesting conditions for a project for inclusion in the staff report.

Commissioner Lew stated that usually the Police Department comments on the lighting and asked if the lighting is sufficient.

Ms. Schultz replied that the current lighting is sufficient.

Ms. Malloy noted that these centers are generally lit very well and this center is recently built and the lighting is very good.

Commissioner Lew agreed that there should be a condition of approval for the hours of operation.

Commissioner Lew stated that she thinks there is a lot of parking out there.

Ms. Malloy noted that the parking in front of Lucky's tends to be underutilized more than the parking by the theater or even around the restaurant strip.

Commissioner Gonzales stated that when he went to the Lucky's on a Friday or a Saturday there would be hardly any parking because of the theater overflow. Commissioner Gonzales stated that on Friday and Saturday nights this area is also a hangout for the kids with their cars, usually by Krispy Kreme and Jollibees.

Ms. Schultz stated that the parking study was done in the summer months and it gave a better picture of parking at Union Landing. Ms. Schultz stated that the issue of the kids hanging out could be referred to the Police Department for enforcement.

Commissioner Gonzales asked if there will be a red no-parking zone in front of the pizza shop so delivery vehicles aren't double parked.

Ms. Schultz stated that is why staff is recommending the condition of approval for designated parking spaces for delivery drivers.

Commissioner Gonzales asked how many restaurants in Union Landing are open until midnight.

Ms. Malloy replied that there are quite a few restaurants that are open late, e.g. Krispy Kreme, Jollibees, T.G.I. Fridays, Fuddruckers, and In and Out. Ms. Malloy noted that several restaurants have a full bar and this applicant will only be serving beer and wine.

Chairperson Anderson asked what the overall hours of the Union Landing shopping center are.

Ms. Malloy replied that most of the retail stores open around 10:00 a.m., Lucky's opens at 6:00 a.m. and most of the restaurants open around 10:30 or 11:00 a.m. and Texas Roadhouse is only open for dinner.

Chairperson Anderson asked when they close.

Ms. Malloy replied that most of the retail closes by 8:00 p.m.

Chairperson Anderson asked if the parking study relied on hours of operation to reach its conclusion.

Ms. Schultz replied that they took real life counts at a variety of hours.

Chairperson Anderson stated that you would only add restrictions to the hours if there was a conflict with other uses.

Ms. Schultz replied that the reason to add the condition is so that they have the ability to extend the hours beyond what is listed in the Statement of Use in Exhibit A.

Commissioner Lew stated that she is going to miss the "Hollywood Video" sign.

Commissioner Lew stated that she doesn't think that the applicant has done enough to improve the exterior elevation. Commissioner Lew stated that the area in the middle of the building between the two tenant spaces should have something else there. Commissioner Lew stated that once the scoring is painted it won't stand out as much. Commissioner Lew stated that this building can be seen on all four sides and she would like the medallions added to the sides so that there is a uniform appearance to the building.

Ms. Schultz stated that it is foam that is applied and then painted so it has relief. Ms. Schultz replied that it was difficult to enhance the building.

Commissioner Lew asked if all the old signage is being removed.

Ms. Schultz replied that all the old signage will be removed. Ms. Schultz stated that new landscaping will be added to enhance the exterior.

Chairperson Anderson opened the public hearing.

Robert Atkinson, Sywest Development, 150 Pelican Way, San Rafael, CA, stated that he is the owner of the property. Mr. Atkinson stated that they are aware of the car club and they are very well behaved and their security has had no problems with them. Mr. Atkinson stated that some of them are members of the community. Mr. Atkinson stated that they are willing to work with staff to enhance the exterior of the building.

John Samples, 32160 Dyer Street, Union City, CA, stated that he currently owns a Mountain Mike's franchise in Dublin and is looking forward to opening a family oriented pizza restaurant in Union Landing.

Commissioner Panlilio asked what the hours of operation will be.

Mr. Samples replied they would like to open at 10:00 a.m. and close at 11:00 p.m. except for Friday and Saturday to close at 12:00 a.m.

Barry Ferrier, 32212 Allison Way, Union City, CA, stated that the bare wall in the back did not look very good. Mr. Ferrier stated that the scoring is not very noticeable in the pictures. Mr. Ferrier suggested putting a trellis in the middle similar to the one between Best Buy and Borders. Mr. Ferrier stated that it is the movie theater that impacts the parking and that is only when they have a blockbuster movie. Mr. Ferrier stated that the problem with the car club is that some people feel they are threatening because they are in such a large group and people don't want to walk by them.

Chairperson Anderson closed the public hearing.

Commissioner Gonzales commented on an incident that happened to him in the shopping center. Commissioner Gonzales stated that there was a security guard in a golf cart but Commissioner Gonzales didn't feel that he was doing his job and should be driving up and down the aisles.

Ms. Malloy suggested adding a condition that reads "The applicant shall work with staff to add additional medallions on the front side and rear elevations to the satisfaction of the Director of Economic and Community Development".

Chairperson Anderson stated that it shouldn't be limited to medallions.

Ms. Malloy replied that is good.

Ms. Schultz suggested a condition that reads "The hours of operation shall be Sunday through Thursday 10:00 a.m. to 11:00 p.m. and Friday and Saturday 10:00 a.m. to 12:00 a.m."

Commissioner Lew stated that it should be "shall" and they should be restricted.

Commissioner Panlilio suggested letting them stay open until 12:00 a.m. every night.

Chairperson Anderson agreed with that and stated that the reason to restrict hours of operation is if there is an impact on something.

Commissioner Lew noted that they are right across the street from a residential community and there were complaints about the bright lights from the Hollywood Video signs. Commissioner Lew stated that the Police Department would not likely be there after 12:00 a.m. because of budget cuts.

Chairperson Anderson stated that the condition of approval for the hours will stay as Ms. Schultz stated.

Commissioner Panlilio made a motion to approve Use Permit UP-06-09 and Administrative Site Development Review ASD-08-09, making findings 1 – 3, with the modified conditions of approval and adopt a resolution confirming this action.

Commissioner Singh seconded.

AYES	5 (Anderson, Gonzales, Lew, Panlilio and 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 Planning Commission meeting for August 20, 2009.

**IX. GOOD OF THE ORDER:**

Commissioner Gonzales stated that the house at 5<sup>th</sup> Street/Decoto Road has a for-sale sign out front and he believes that it is in the affordable housing program and would like staff to check on it.

Commissioner Singh stated that there are shopping carts Western Avenue, Lewis Street and Atlantic Street.

X. ADJOURNMENT: 8:50p.m.

APPROVED:

  
TIKISA ANDERSON, CHAIRPERSON

ATTEST:

  
JOAN MALLOY, SECRETARY