

Attachment 6

CITY OF UNION CITY

DRAFT

**MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
ON THURSDAY, AUGUST 18, 2022, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD
UNION CITY, CA 94587
AND VIA TELECONFERENCE**

1. **ROLL CALL:** Vice Chairperson Lee Guio; Commissioner JoAnn Lew; Commissioner Seyi Mclelland; Commissioner Scott Sakakihara; Alternate Commissioner Ed Mack Agbuya

STAFF: Carmela Campbell (Economic & Community Development Director); Derek Farmer (Planning Manager); Alex Mog (Deputy City Attorney); Coleman Frick (Senior Planner); Brandon H DeLucas (Associate Planner) Denisse Anzoategui (Administrative Assistant)

2. **APPROVAL OF MINUTES:**

The regular Planning Commission minutes of July 7, 2022, and July 21, 2022, were approved with corrections.

3. **ORAL COMMUNICATIONS:** None.

4. **WRITTEN COMMUNICATIONS:** None.

5. **PUBLIC HEARINGS:**

A. CONTINUED HEARINGS: None.

B. NEW HEARINGS:

1. **CITY OF UNION CITY, TEXT AMENDMENTS TO TITLE 18, ZONING, OF THE UNION CITY MUNICIPAL CODE TO UPDATE CHAPTERS 18.24, 18.31, 18.32, 18.34, AND 18.72 (AT-22-01):** The City of Union City is proposing to amend Chapter 18.24 Bulk Regulations, Chapter 18.31 SB 9 Housing Developments, Chapter 18.32 Residential Zoning Districts, 18.34 Accessory Dwelling Units, and 18.72 Administrative Site Development Review of Title 18, Zoning, of the Union City Municipal Code. The project is categorically exempt per Section 15061(b)(3), the general exemption for projects with no potential for significant effect on the environment, of the California Environmental Quality Act (CEQA) Guidelines.

Brandon H DeLucas, Associate Planner presented the staff report.

Commissioner Agbuya noted that the City would be allowing manufactured homes as long as they were consistent with the guidelines. Commissioner Agbuya asked why the City was allowing manufactured homes.

Mr. DeLucas replied that there are certain requirements from the State where the City must allow manufactured homes. Mr. DeLucas noted that the design requirements were already there, staff was simply relocating them within the code from the permitted uses section to the design standards for clarity. Mr. DeLucas confirmed with Mr. Mog that they must allow manufactured homes somewhere.

Commissioner Lew noted that the last page of the staff report referred to an attached resolution and noted that it was not received. Commissioner Lew asked if it was available for the Commission to review.

Mr. DeLucas replied that it was a typo and the resolution was not provided as part of the packet.

Commissioner Lew referred to number two of the Desk Item where it refers to Exhibit B on page two, which has a list of definitions. Commissioner Lew stated that the first definition of an SB9 unit is not really a definition and just points to one or two Government Codes.

Alex Mog, Deputy City Attorney replied that a SB 9 unit is a type of unit that is built pursuant to State laws through this special process. Mr. Mog explained that it is different than someone just deciding to build a single-family home on their property. Mr. Mog added that it is just differentiating from someone building two units and would be subject to different requirements rather than just going through the SB 9 process.

Commissioner Lew asked why not include that in the definition rather than directing the reader to the Government Code. Commissioner Lew asked what the Government Code on the two sections actually says.

Mr. Mog replied that SB 9 adopted those two sections, and if you go into those two sections one of them deals with all the requirements for the urban lot split and the other one deals with all the requirements for building two units on one lot.

Commissioner Lew replied that she thought that the definition section is just to give a description of the items that are here. Commissioner Lew noted that the definitions are compact and easy to understand. Commissioner Lew suggested that it should describe an SB 9 project as either a primary dwelling unit, an accessory dwelling unit or junior accessory dwelling units and that would be a nice definition.

Mr. Mog replied that an SB 9 units cannot be an accessory dwelling unit nor a junior accessory dwelling unit and that is a special thing that is created through State Law through these two sections of the Government Code.

Commissioner Lew replied ok and added then why not use that as the definition of SB 9 units to make it easier and then you don't have to send people to the internet typing in the Government Code section and hoping that they're going to find it. Commissioner Lew added that there isn't even a website to make it easier for the person to look it up. Commissioner Lew stated that what she was asking for is to make it user friendly and concise. Commissioner Lew added that it is not a definition when you point somebody to the Government Code, and that it is not really a definition and is not really user friendly. Commissioner Lew added that it is hiding behind the

regulations. Commissioner Lew also added that it is better to tell them that these are units that are built under or pursuant to Senate Bill 9.

Mr. Mog clarified that they could reference Senate Bill 9 but not the Government Code section. Mr. Mog asked Commissioner Lew if she thought that would be user-friendly.

Commissioner Lew replied that it's because that's what SB 9 is and that SB 9 here means Senate Bill 9.

Mr. DeLucas noted that there is an SB 9 every year.

Commissioner Lew replied that they are not talking about all the other SB 9s and only talking about the one that is applicable to the definition there.

Mr. DeLucas replied that it is why they reference the Government Code section for SB 9, as the bill created these Government Code sections.

Commissioner Lew asked why staff did not provide the website. Commissioner Lew added that she cites regulations when she is writing something, and she at least provides the website.

Derek Farmer, Planning Manager stated that one of the things that staff is trying to do is make sure that they have the legal reference in the code. Mr. Farmer added that staff will in the future be creating and providing customer service-related handouts at the counter, and when the public inquires to staff about the SB 9 process and how they apply then they will have those kinds of materials available to the public. Mr. Farmer added that they don't intend for the public at large to be talking about government codes. Mr. Farmer added that the intention would be to communicate with the public to get through the ordinance and be very user friendly.

Commissioner Lew asked if it was the intention to provide a definition for SB 9 under the definition section. Commissioner Lew asked who the regulations are written for.

Mr. Farmer replied that they are written to be consistent with what the State has created, and that staff wants to make sure that they are quoting State Law and government civil code as the Zoning ordinance is part of the Municipal Code. Mr. Farmer added that again, staff is just trying to make sure that they are providing the basis for what the code update is in the law.

Mr. DeLucas added that it is the standard process in the Municipal Code that all the Government Code sections that are referenced are hyperlinked. Mr. DeLucas added that he is looking through the current definition sections, and there is one that references the Penal Code.

Commissioner Lew replied that they're lost someplace between the purpose of the regulations and who they're written for. Commissioner Lew added that staff are public servants and it is their job to serve the public. Commissioner Lew added that she was a public servant too, and that her job was to serve the public, and the whole purpose of writing these regulations in plain English is to serve the public. Commissioner Lew asked if staff was saying that if someone goes to Title 18 on the City's website, then they're going to have the Government Code sections hyperlinked.

Mr. DeLucas replied yes that is correct. Mr. DeLucas noted an example in the Municipal Code for hospitals and there was a reference to the California Administrative Code.

Commissioner Lew replied that they were not talking about hospitals.

Mr. DeLucas replied that it was provided as an example.

Commissioner Lew stated that she would like to stick to what's here and stated that it is fine if they will be hyperlinked. Commissioner Lew stated that she just wants it to be user friendly and for staff to remember that they are here to serve the public and not us, and not to wrap everything up and hide behind bureaucratic language. Commissioner Lew stated that when she worked for the federal government, they had to write things in English that was understandable to the public. Commissioner Lew stated that staff was always quoting the Government Code without really helping the reader to find the Government Code and that was not serving the public, but if it will be hyperlinked, she will look for it when it comes out. Commissioner Lew stated that she found another error but that she wouldn't go spend her time looking for it.

Commissioner Mclelland noted that it was mentioned in the report that for the urban split, the property owner must be on site for a minimum of three years and asked how that will be enforced. Commissioner Mclelland asked how they would know if that person is there for that period.

Mr. Mog replied that it is quite frankly completely unenforceable, and that the requirement under State law stated that all the City can require is an affidavit that it is their intent to live there for three years, and it says that they can't require anything else. Mr. Mog added that it's impossible for the City to demonstrate or prove that someone falsely signed the affidavit even if someone moves after a year, that doesn't mean that at the time they signed the affidavit, it wasn't their intent to live there for three years.

Commissioner Mclelland replied that she couldn't even see how that could be enforced and that she could see that being abused somewhat.

Mr. Mog replied that all the City could do is require that they sign the affidavit and hopefully abide by the spirit of it.

Commissioner Mclelland asked if there is a process if it's proven that the person doesn't live there.

Mr. Mog replied no. Mr. Mog added that because the requirement isn't that they live there, it's that they sign the affidavit that they intend to live there for three years and you would have to prove that when they signed that they had no intent to live there and that would be difficult to prove. Mr. Mog added that that requirement is taken straight out of the law that says you cannot require anything except this.

Commissioner Sakakihara thanked staff as he read the staff report from the study session and the minutes and noted that in the second staff report he could see how much work has gone into this, especially the moving around for minor changes. Commissioner Sakakihara stated that if they're making those changes, that means that they have gone through with a fine-tooth comb to find them, and he really appreciated that the intention is to be both compliant with State Law but also go above and beyond in a way that makes things uniform. Commissioner Sakakihara noted that he only had two questions, one of which was regarding flag lots that Mr. DeLucas answered during the presentation and mostly answered regarding urban lot splits. Commissioner Sakakihara noted that his only other question was when he was reading the staff report, he didn't understand the sentence "for projects that don't include an urban lot split, the

owner must live in one of the two units.” Commissioner Sakakihara noted that he does understand that but then he thought in the presentation that they are not saying that anymore. Commissioner Sakakihara questioned in a situation where there is not a lot split and they’re trying to put two SB 9 units on one parcel, whether there is an owner occupancy requirement.

Mr. DeLucas replied that it is correct and that was a clarification from the City Attorney’s Office that the State does not allow the City to do that. Mr. DeLucas added that the only occupancy requirement that can be done is for the lot split situation that was discussed and that is why it was removed to ensure compliance with State law.

Vice Chairperson Guio noted that he had minor changes to the staff report but that were not significant.

Mr. DeLucas replied that he would be happy to hear them so that he could make sure to fix them.

Vice Chairperson Guio noted two minor errors in the staff report. Vice Chairperson Guio asked if there were any more questions.

Commissioner Agbuya clarified there would not be an owner occupancy requirement when there is not an urban lot split.

Mr. DeLucas replied no and asked if he could have the page.

Commissioner Agbuya replied that it was page seven of the staff report under Occupancy Requirements.

Mr. DeLucas stated that was correct and noted that it would be corrected and would be reflected in the proposed language.

Commissioner Lew moved that the Planning Commission recommend approval of Zoning Text Amendment (AT-22-001), as modified by the Desk Item to the City Council, and making the specific findings as listed in the staff report, in support of the recommendation of approval, and adopt a resolution confirming this action.

Commissioner Sakakihara seconded.

The motion was carried by the following roll call vote:

AYES: (GUIO, LEW, MCLELLAND, SAKAKIHARA, AGBUYA)

NOES: NONE

ABSTAIN: NONE

ABSENT: MANN

The motion passes 5-0.

Staff indicated that the public comment was not opened for the public hearing.

Vice Chairperson Guio opened the item for public comment.

Sean Reese, field representative from the NorCal Carpenters Union, Local 713, began speaking and staff indicated that his comments were regarding the following item. Mr. Reese was asked to hold his comments until the public comment for the following staff report.

No further details were discussed, and no additional vote was needed. Vice Chairperson Guio closed the item for public comment.

6. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED HEARINGS: None.

B. NEW REPORTS:

1. Introduction to the Multi-family Objective Development Standards Project.

Martha Miller, Miller Planning Associates, presented the staff report.

Commissioner Sakakihara noted that at the bottom of Attachment 1, it says that the densities are too low to support podium construction with the mixed-use wrap, and if the City is saying that although the zoning allows for two to three story apartments over ground floor commercial, that the densities won't allow that to be economically feasible. Commissioner Sakakihara asked if they would need to change the zoning ordinance in order to get the development to happen.

Ms. Miller replied that it wasn't intended to say it's impossible but that it is a challenge looking at construction costs and characteristics and makes that kind of product work.

Commissioner Sakakihara asked if that type of discrepancy is uncovered in the process anywhere along that timeline is that something they would be able to go back and say that they need to relook at the zoning and modify the General Plan, so that the parcel is zoned in a way that it could be developed.

Coleman Frick, Senior Planner, replied that one of the things that the City is evaluating as part of the Housing Element process that was presented recently to the Planning Commission is housing constraints, and if there is something that seems like it is a feasibility barrier, then they will take that into consideration but it could require amending the General Plan to change the density. Mr. Frick added that per the Housing Accountability Act, the City wouldn't be able to do anything that would change the zoning intensity to have less density than what is permitted currently. Mr. Frick also added that it was a great question and as noted by Ms. Miller, the objective standards project is in the early stages and staff is still in the information gathering phase of the project.

Commissioner Sakakihara stated that his only comment since it is pretty early in the process is that he knows of the motivation because he sees the State Law moving in a direction of more objective standards but if staff was looking for input, then his bias would be toward trying to fulfill those requirements as expansively as he can as opposed to as minimally as possible, meaning that there could be a way of designing these standards where the intent is to make it easier to get built to address the housing issues.

Commissioner Mclelland stated that she didn't have a question but a comment, and that she was glad to see the formalization of standards. Commissioner Mclelland added that it is

important that everyone understands what they need to do. Commissioner Mclelland added that while the build-out is needed, projects need to build-out right rather than putting buildings all over the place. Commissioner Mclelland added that one of the things she's glad to see was in regard to the Historic Alvarado District and Mission Blvd. and that the feel of the area is maintained. Commissioner Mclelland added that there is something charming about it, and she is glad to see acknowledgement that it needs to be maintained and built within the look and feel, and that the buildings shouldn't be a blight on the landscape and should add to the environment and enhance the area.

Commissioner Lew stated that she did not have any questions and it is early in the process. Commissioner Lew complimented staff on Attachment 1 and stated that the graphics are excellent. Commissioner Lew stated that she loves the colors and that she could read the streets and see where she is. Commissioner Lew added that when she looks at the graphics and has arrows pointing in the right direction as to where the areas are, it almost reminds her of a child picking up color crayons and drawing. Commissioner Lew added that she would look forward to the next presentation especially because of Attachment 1.

Commissioner Agbuya stated that he did not have any questions but echoed Commissioner Lew that the presentation is wonderful and has him excited for what is to come. Commissioner Agbuya also noted the fact that the identity of the Alvarado Historic District would be maintained even with the modernization and addition of new buildings.

Vice Chairperson Guio noted that the funding was about two years ago, and the project was just getting going now. Vice Chairperson Guio asked if it was normal that there was such a delay or if there is something that happened in the meantime.

Mr. Farmer replied that the City did receive the funding under the SB 2 grant program. Mr. Farmer added that it was a LEAP grant and that the City received the funding through Council resolution and through the State allocation. Mr. Farmer noted that it takes a while to get the contracts ready in addition to getting staff and the consultant up to date. Mr. Farmer added that the City is well within the grant milestones, and performance measures in the grant. Mr. Farmer assured the Commission that the City is in good shape for that.

Vice Chairperson Guio noted that the handout draft states Winter 2023 when it should be 2022 in the circles on page five.

Commissioner Lew noted that January 2023 is winter.

Mr. Farmer replied that it was intentionally written that way and staff stands by that because winter starts in 2022 and continues in 2023, coming into January, February, and March, and followed by spring. Mr. Farmer noted that they could have put 2022 and 2023.

Vice Chairperson Guio asked if other cities were doing the same process.

Mr. Farmer replied that every city in California must abide by the recent changes in State law, that they are going toward objective standards for single family, multi family housing, and mixed use, and this is a common effort across the state. Mr. Farmer added that it is a reason the State had the SB2 program, to basically provide funding for local municipalities to enact standards, objectives, and guidelines to meet all the new housing mandates. Mr. Farmer added that it is a very common effort.

Vice Chairperson Guio stated that it looks very good and thanked staff and the consultant.

Vice Chairperson Guio opened the Public Comment.

Sean Reese, field representative from the NorCal Carpenters Union, local 713 spoke to the Commission about providing labor standards for the project in the beautiful City of Union City. Mr. Reese noted that the area's standard labor language needs to be the template that developers use in Union City, and on this project, he expressed that without these standards, the construction force is systematically abused through wage theft, where workers have no workers compensation when injured on the job and a litany of safety violations. Healthcare and a livable wage are a vital necessity to the workers building these projects. Mr. Reese added that building these projects through apprenticeship programs ensures that the projects are built to the highest degree and local hire ensures not only tax revenue from money spent by the workers but ensures those workers can enjoy the basic things in life like spending evenings with their families, maybe attending their children's little league games, or going to a dance recital instead of sitting in traffic for two hours. The language that should become the policy here in Union City, specifically on the multi-family Objective Development Standards Project, would support responsible contractors that are already doing the right thing by their clients, employees, and the City itself. Mr. Reese added that responsible contractors have proven time after time that they can perform to the highest standards and this policy would bolster Union City's working class and cultivate a responsible market for good contractors. Mr. Reese further added that this would create a minimum standard for developers that are coming here. Mr. Reese stated that adding labor standards to the City's prequalification language to the multi-family Objective Development Standards Project would show constituents that you value, not just the City, but also the men and women building the City itself. Mr. Reese added that he would like to have a real and valuable conversation with the City as well as the developers on how it can cultivate a prosperous construction industry.

Vice Chairperson Guio closed the Public Comment.

7. ECONOMIC DEVELOPMENT REPORTS: None.

8. COMMISSION MATTERS:

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

Mr. Farmer reported that the Planning Commission did not have any items at the most recent City Council meeting.

B. Upcoming applications for the Regular Planning Commission meeting for September 1, 2022.

Mr. Farmer informed the Planning Commission that they will be seeing several items in the future including a new single-family residence on the upper part of Appian Way within the Hillside District requiring a Use Permit. Mr. Farmer noted that there is also an update to Title 18, to allow for seasonal sales in the Civic Facilities District that will be brought before the Commission. Mr. Farmer also noted that staff is working on the General Plan implementation report, that is an annual requirement by the State,

and it is a large-scale effort.

9. GOOD OF THE ORDER:

Vice Chairperson Guio announced that the Sister Cities Festival was a success. Vice Chairperson Guio also noted that in September, the CERT Building would be hosting a Stop the Bleed training.

10. ADJOURNMENT: 8:17 PM