

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
ON THURSDAY FEBRUARY 16, 2023, 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 Ed Mack Agbuya, Commissioner JoAnn Lew; Commissioner Kevin Finnerty

Commissioner Amandeep Sandhu arrived at 7:13 PM

2. **STAFF:** Carmela Campbell (Economic & Community Development Director); Alex Mog (Deputy City Attorney); Derek Farmer (Planning Manager); Tommy Cho (Principal Civil Engineer); Brandon DeLucas (Associate Planner); Denisse Anzoátegui (Administrative Assistant III)
3. **APPROVAL OF MINUTES:** None.
4. **ORAL COMMUNICATIONS:** None.
5. **WRITTEN COMMUNICATIONS:** None.
6. **PUBLIC HEARINGS:**

A. CONTINUED HEARINGS: None.

B. NEW HEARINGS:

1. CITY OF UNION CITY, ZONING TEXT AMENDMENT (AT23-001): The City of Union City is proposing to amend Chapters 18.08, Definitions, 18.36, Commercial Districts, and 18.39, Union Landing Commercial (CUL) District, of Title 18, Zoning, of the Union City Municipal Code, to add definitions, update and add regulations, and add / streamline review processes for outdoor dining areas. The zoning text amendment is exempt from environmental review in accordance with the California Environmental Quality Act Guidelines Section 15061(b)(3), the general exemption for projects with no potential for significant effect on the environment.

Brandon H DeLucas, Associate Planner presented the staff report. Mr. DeLucas also reviewed the Desk Item that was prepared.

Vice Chairperson Agbuya thanked Mr. DeLucas for the presentation and stated that he would invite the Commission to ask questions.

Commissioner Lew thanked staff for the Desk Item and noted that it was very well done. Commissioner Lew stated that she wanted to go back to the findings by the Zoning

Administrator. Commissioner Lew asked if staff would request public input from neighboring restaurants regarding the loss of parking.

Mr. DeLucas replied that as part of the Use Permit application, it is customary to notice neighboring businesses and that the restaurant needs the property owner's signature. Mr. DeLucas added that when the property owner signs off, they take responsibility. Mr. DeLucas also added that they do not have any other process beyond the 300-foot notice.

Commissioner Lew confirmed that surrounding businesses are notified especially when it involves loss of parking. Commissioner Lew noted that even losing three spaces could cause certain areas to be very tight. Commissioner Lew referred to the area of Union Landing which she calls restaurant row, and noted how that area is always parked up. Commissioner Lew added that if anyone wants to add additional outdoor dining there, it would be a loss of parking. Commissioner Lew stated that she wanted to know if the other restaurants are going to get a notice and can weigh in on the loss of parking.

Mr. DeLucas replied that as part of the 300-foot notice, businesses, and property owners within 300 feet of the business property will be noticed. Mr. DeLucas added that the notice informs them that they can direct any comments to staff. Mr. DeLucas compared the process similar to notices that are sent out for Planning Commission hearings, but this will give the date from when the Zoning Administrator will make the decision.

Commissioner Lew replied that she was glad to hear that they're included and will have an opportunity to respond.

Commissioner Finnerty stated that his first question was likely directed to Mr. Mog but requested clarification for the word "adjacent." Commissioner Finnerty asked if adjacent meant there would be a common wall, or if it was in terms of distance. Commissioner Finnerty asked if there was any interest in defining what adjacent looks like for this purpose.

Alex Mog, Deputy City Attorney replied that adjacent is not defined in the code, but the common definition of that would mean directly next to, and so it would have to be directly next to the food service. Mr. Mog added that there couldn't be another business in between or in a separate building, only directly next to that business.

Commissioner Finnerty replied that the reason he asked is that he sees a discussion regarding removing of parking spots. Commissioner Finnerty added that Union Landing comes to mind with specifically the restaurants surrounding Starbucks with limited seating and if they choose to remove three parking stalls there would be a driveway they would have to cross. Commissioner Finnerty asked if restaurants, including those between Starbucks and Backyard Bayou, would be able to add a dining area in the parking lot.

Mr. DeLucas replied no and that it would not be the intent of these regulations. Mr. DeLucas added that it would be more appropriate to do the private sidewalk. Mr. DeLucas added that that sidewalk is a little bigger and some of the restaurants further down Starbucks towards the movie theater already have little fenced areas. Mr. DeLucas added that because the drive aisle would be there, they would not be able to have outdoor dining because the space would not be directly adjacent.

Commissioner Finnerty referred to Exhibit B and noted he asked about the use of asterisks throughout the document. Commissioner Finnerty noted that the first asterisk refers to a key to

development type abbreviations, the second talks about supermarkets and food stores, and then a third asterisk talks about cannabis.

Mr. DeLucas asked Commissioner Finnerty to repeat the section he was referring to.

Commissioner Finnerty referred to Exhibit B, under the area just above the section titled Conditionally Permitted Uses, 18.39.050.

Mr. DeLucas replied that they are existing notes in the code and asked if Commissioner Finnerty had a concern.

Commissioner Finnerty replied that he couldn't find the corresponding asterisks with the information that is being referred to. Commissioner Finnerty added that he may have missed it in the document.

Mr. Mog replied that the first asterisk is in the Development Type table. Mr. Mog noted that they could see that the initials are listed there. The first asterisk is just providing what those initials stand for. Mr. Mog explained that SRC stands for Sub-Regional Commercial Development.

Mr. DeLucas added that he was trying to find the Supermarkets section. Mr. DeLucas added that he did not make any changes to those, so they may have fallen off in an earlier amendment. Mr. DeLucas assured the Commission that he would try to adjust it since they were already amending the section of the code.

Commissioner Finnerty suggested that they could put an asterisk over the information that they are providing further information on and may clear it up for the reader, especially if someone were to pull it out and delve into it.

Mr. DeLucas identified the location of where the double asterisk should go.

Commissioner Finnerty replied that he wanted to make sure that he hadn't missed anything in the review of the document.

Mr. DeLucas replied that staff will review and make sure that they can make those edits, when it moves to the City Council.

Commissioner Finnerty asked staff to confirm that the walkway would be a five-foot wide minimum.

Mr. DeLucas replied that staff feels that it is a sufficient wide clear path under circulation.

Commissioner Finnerty asked how staff came up with five feet.

Mr. DeLucas replied that five feet was the existing standard for sidewalk cafes, and it was also the standard that the City applied through the temporary outdoor dining program during the COVID-19 pandemic. Mr. DeLucas added that the Americans with Disabilities Act minimum is three feet and the City is exceeding that. Mr. DeLucas added that five feet felt that it would be appropriate and reasonable to allow people to pass.

Commissioner Sandhu stated she had concerns over the access at the Starbucks at Union Landing for someone in a wheelchair as it seemed very narrow.

Mr. DeLucas replied that the circulation requirement ensures that there is enough access. Mr. DeLucas repeated that the Americans with Disabilities Act has a minimum standard of three feet

and the City has chosen to require five feet. Mr. DeLucas added that in some cases, Starbucks may have their chairs out and blocked, and they would not comply. Mr. DeLucas added that under the standard requirements, businesses must ensure that their outdoor dining areas shall ensure accessibility by complying with the California Building Code and/or the Americans with Disability Act, ADA, whichever provides greater accessibility. Mr. DeLucas added that when they submit for that site plan review, staff is ensuring that they are showing that they are going to maintain that access for somebody in a wheelchair. Mr. DeLucas also added that there is also a requirement for ADA accessible tables like for wheelchairs and it depends on the number of chairs or tables they have.

Commissioner Sandhu asked if they could serve alcohol outside.

Mr. DeLucas replied that they can serve alcohol within the areas subject to getting approval through ABC, California's Alcohol and Beverage Control. Mr. DeLucas added that if ABC signs off and allows them that expansion, it would be permitted.

Vice Chairperson Agbuya noted that with outdoor dining, most likely people would like to bring their pets. Vice Chairperson Agbuya asked if there would be a special permit to allow pets while they are dining outside.

Mr. DeLucas replied that the City will not require anything, and that depending on the service type they may get an additional approval from the Health Department. Mr. DeLucas added that it is more of their criteria or requirement that determines whether somebody wants to sit outside with their pet.

Vice Chairperson Agbuya opened and closed the public comment.

Commissioner Lew moved that the Planning Commission recommend approval of Zoning Text Amendment AT-23-001, as modified by the Desk Item to the City Council, making the specific findings as listed in the staff report in support of a recommendation of approval and adopt a resolution confirming this action.

Commissioner Finnerty seconded.

The motion was carried by the following roll call vote:

AYES: (AGBUYA, FINNERTY, LEW, SANDHU)

NOES: NONE

ABSTAIN: NONE

ABSENT: (GUIO, MCLELLAND)

The motion passes 4-0.

7. SUPPLEMENTAL STAFF REPORTS:

a. CONTINUED HEARINGS: None.

b. NEW REPORTS: None.

8. ECONOMIC DEVELOPMENT REPORTS: None.

9. COMMISSION MATTERS:

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

Carmela Campbell, Economic & Community Development Director stated that there are none.

2. Upcoming applications for the Regular Planning Commission meeting for March 2, 2023.

Ms. Campbell informed the Commission that there will be two items on the next agenda. Ms. Campbell stated that the first item will include a General Plan and Housing Element Annual Report. Ms. Campbell added that the report is required by the State of California and is being brought to the Commission and Council for review. Ms. Campbell added that there will also be an acupuncture clinic that is coming up for a Use Permit at Central Plaza.

10. GOOD OF THE ORDER:

Commissioner Finnerty reminded the Commission and members of the public that there will be a celebration of life for Supervisor Richard Valle on Saturday, February 25 that will begin at 10 o'clock at Veterans Memorial Park.

Ms. Campbell informed the Commission of a flyer provided to the Commission regarding the event. Ms. Campbell noted that Supervisor Valle was also a City Councilmember for many years and that everyone was very sad to hear of his passing.

Ms. Campbell reminded the Commission of the Planning Commissioner's Academy that will take place March 29-31st and asked the Commission to reach out staff if there was interest in attending as the event fills up.

11. ADJOURNMENT: 7:40 PM