

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
ON THURSDAY MARCH 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 Seyi Mclelland; Commissioner Amandeep Sandhu*

*Arrived at 7:14 pm

- **STAFF:** Carmela Campbell (Economic & Community Development Director); Alex Mog (Deputy City Attorney); Derek Farmer (Planning Manager), Brandon DeLucas (Associate Planner); Denisse Anzoategui (Administrative Assistant III)

- **ORAL COMMUNICATIONS:** None.

- **WRITTEN COMMUNICATIONS:** None.

- **PUBLIC HEARINGS:**

a. **CONTINUED HEARINGS:** None.

b. **NEW HEARINGS:** None.

- **SUPPLEMENTAL STAFF REPORTS:**

A. **CONTINUED HEARINGS:** None.

B. **NEW REPORTS:**

1. **Study Session for Draft Zoning Text Amendments to Title 18, Zoning, of the Union City Municipal Code to update Chapter 18.40, Industrial Districts and add Chapter 18.43, Use of Hazardous Materials (AT-23-003).**

Brandon DeLucas, Associate Planner presented the staff report and the Desk Item that was prepared in response to questions submitted by Commissioner Lew.

Commissioner Lew thanked Mr. DeLucas for the Desk Item. Commissioner Lew provided feedback for page breaks, setting up commands for tables, and editing.

Mr. DeLucas noted the comments and replied that they would be fixed.

Commissioner Lew referred to Exhibit A and read out the landscaping minimum requirements and asked if they were correct.

Mr. DeLucas replied yes.

Commissioner Lew then read off the lot coverage maximum and asked what the difference is used for. Commissioner Lew asked if it was parking.

Mr. DeLucas replied that it would be predominantly parking or other outdoor storage areas, including sidewalks and things of that nature.

Commissioner Lew asked what the lot coverage is for the building itself.

Mr. DeLucas replied that generally any building or structure with a roof would fall under the lot coverage.

Commissioner Lew noted that when you add together parking and landscaping you should get about a hundred percent.

Carmela Campbell, Economic & Community Development Director, added that it also included circulation, for example, a roadway around the building for fire access would also play into the percentages.

Commissioner Lew referred to language on page 13 referring to projects that cannot provide the minimum amount of required landscaping. Commissioner Lew stated that the use of “may”, when you really mean “shall” is an art. Commissioner Lew noting the differences between may and shall and should and would. Commissioner Lew added that her understanding of the landscape in-lieu fee is that if an applicant cannot or does not want to meet that minimum required landscape area, they are required to pay that in-lieu fee.

Mr. DeLucas replied that if they cannot meet the standard, then they would be required to pay a landscape in-lieu fee.

Commissioner Lew replied that if they could meet the minimum requirements, but they don’t want to because they would rather use the spaces for something else, would they be required to pay that landscape fee.

Ms. Campbell replied that it is the case and added that there is a little bit of discretion as the situation is all about trade-offs. Ms. Campbell added that it is still subject to the Site Development Review process, and when it comes to the decision makers, they may say that they need to identify onsite where to provide that landscaping. Ms. Campbell explained that is why the language in the code is there, and it is intentional and was just carried over. Ms. Campbell noted that it is certainly up for debate with the Planning Commission, but ultimately it was not her recommendation to say shall because that is why it is subject to the discretionary process.

Commissioner Lew replied that if the City has a landscape in-lieu fee for any developer who cannot or will not provide the minimum required landscaping they should be required to pay the in-lieu fee. Commissioner Lew noted that 10% is not a lot, and that there is no trade off so why negotiate it.

Alex Mog, Deputy City Attorney clarified that they must pay the fee if they are not providing the 10%. Mr. Mog added that they may not be allowed to develop with less than 10%, and if an applicant comes with 9% then the Planning Commission or the City Council, as the decision maker, can disapprove the project. Mr. Mog added that they may approve the project at 9% in which case they would have to pay the in-lieu fee. Mr. Mog added the deciding body could also decide that the site isn’t appropriate to have less than 10% landscape.

Commissioner Lew stated that she read it as paying it. Commissioner Lew suggested that staff wordsmith it properly so that anyone that reads it understands that if they don't meet that minimum that they are going to be required to pay that fee. Commissioner Lew asked why leave it so loosey-goosey and added that she did not understand.

Mr. Mog suggested the language to be modified to say, that projects that cannot meet the minimum amount of the required landscape, may still be approved through Site Development Review. Any project approved through the Site Development Review process with less than the minimum landscaping requirement shall pay the in-lieu fee.

Ms. Campbell stated that staff could work on some wording as she understood what the comment is.

Commissioner Lew replied that she is just focused on the in-lieu fee, and not the rest of whatever staff is saying about whether the project gets approved. Commissioner Lew stated that will be taken care of during the hearing before the Planning Commission or the City Council should they make a case for providing less than what is required. Commissioner Lew stated that what she cares is that everyone knows when they read this that if they come in with less than the minimum that they are required to pay that fee. Commissioner Lew added that she liked Mr. Mog's wordsmithing, and happy with whatever satisfies the City's requirement.

Commissioner Lew referred to Mr. DeLucas' introduction of the wording about commercial and office development by right and something that can be converted to housing and asked why that wasn't in the Director's memo.

Mr. DeLucas replied that staff was just providing a memo discussing the changes at a high-level, which are aligning the uses. Mr. DeLucas added that is why staff reserved it for the PowerPoint to be able to go into more detail.

Commissioner Lew questioned that if it a strategy that you are using, shouldn't that be disclosed to the public.

Mr. DeLucas replied that the presentation is disclosed to the public and is public record. Mr. DeLucas also added that the recording and minutes are public record and disclosed to the public.

Commissioner Lew replied that she did not understand the reasoning given for designating something as permitted or not permitted or conditionally permitted in terms of something that's an office or commercial use. Commissioner Lew added that she didn't get it is because it wasn't in the memo. Commissioner Lew stated that she would like to know why it was not just put in the memo so she is not confused at the meetings.

Ms. Campbell replied that the comments were noted.

Commissioner Lew asked if it would go in the memo when it comes back to the Planning Commission.

Ms. Campbell replied yes.

Commissioner Mclelland thanked staff for the report and referred to the industrial areas identified in the chart and asked what the occupancy rate of each of those areas was.

Ms. Campbell replied that the City has been experiencing historic lows in vacancy rates over the last several years. Ms. Campbell added that there is a large demand for locating businesses in

Union City based on the location between the two bridges and near the port. Ms. Campbell also noted that it is a desirable place to be for a variety of uses. Ms. Campbell added that they are seeing a lot of businesses coming from the peninsula who are getting pushed out there by other companies causing low vacancy rate across all the industrial areas.

Commissioner Mclelland asked if there was a desired split between the MG, ML, and MS areas.

Ms. Campbell replied what the City has now, which is what they have had for a while and added that ML is the lion's share of the industrial areas. Ms. Campbell added that this designation is a little bit heavier than the Special Industrial and that staff is not proposing any changes to the designations. Ms. Campbell also added that only one site is zoned MG and that is US Pipe which historically has been MG since the City was incorporated. Ms. Campbell added that it is for heavier industrial uses, and staff does not see it appropriate to expand that zone. Ms. Campbell added that they will keep it MG because they make pipe and that is the appropriate zoning district for that heavy type of industrial use.

Commissioner Mclelland asked if the proposed amendments will apply to new developments or existing.

Ms. Campbell replied that the new chapter will apply to all uses within the districts and new uses at startup. Ms. Campbell added that the performance standards are really geared toward new development or substantial redevelopment of existing sites.

Commissioner Mclelland asked if the occupants would have to make these modifications.

Ms. Campbell replied no and added only upon redevelopment of the site.

Commissioner Sandhu asked if there was a plan for a sidewalk as she didn't see any.

Mr. DeLucas replied that it goes back to the standard for pedestrian and bike facilities that encourages clear walking from the public right of way to the building frontages and where pedestrians and bikes will be accessing. Mr. DeLucas added that there is an additional standard, since many areas of the industrial districts, particularly the ML, do not have sidewalks. Mr. DeLucas further added that as part of the redevelopment or major modifications they will be encouraged to install those improvements for sidewalks to make it easier for people to walk.

Vice Chairperson Agbuya asked if there would be any safety concerns if they would be cutting back the setback from 65 to 25 feet.

Mr. DeLucas replied no and added as the designation for the requirement of 65 ft. along major arterials was what you see along Alvarado-Niles. Mr. DeLucas referred to the shopping center with the Mr. Pickles and the Dowe Business Park that have big, front landscaped setbacks. Mr. DeLucas found that those larger setbacks often cause some issue as making the area less able to redevelop, so they get more intensive uses, and 25 feet still gives the feeling of landscaping in the front and the boulevard feel that they have on Alvarado-Niles. Mr. DeLucas added that this was to encourage redevelopment, but also keeping that feeling that we have.

Ms. Campbell added that there are properties such as Crossroads technology and Graybar on Whipple Road near Union City Boulevard that were developed with 25-foot setbacks, which gives you an idea of what the reduced setback looks like.

Commissioner Mclelland asked about the recycling business and what would that be.

Ms. Campbell responded that Tri-Ced received approvals in the 1970s for an indoor recycling facility, which would require a Use Permit.

Mr. DeLucas added that such a facility would still be permitted with a Use Permit in the ML district, but they would be excluding uses with more hazardous materials that are a lot more sensitive.

2. Study Session for Draft Zoning Text Amendments to Title 18, Zoning, of the Union City Municipal Code to add a new Mixed-Use Employment (EMU) District (AT-23-002) and a Zoning Map Amendment to Rezone properties Identified in the General Plan as Mixed-Use Employment from MS (Special Industrial) to EMU (A-23-001).

Mr. DeLucas presented the staff report.

Commissioner Lew referred to the slides and the sample development that was being worked on and asked what the front yard setbacks are there.

Mr. DeLucas replied that they have proposed a slightly larger one than the minimum, and it is currently at 20 to 30 feet to the parking lot.

Commissioner Lew asked why not make a larger building.

Mr. DeLucas replied that they have chosen to have more of that parking use in the front. Mr. DeLucas added that they're using this area for not only the landscaping, but this is the bio retention that they need that doesn't really work anywhere else on the lot. Mr. DeLucas further added that is sloped towards Union City Boulevard and that is why it is there.

Commissioner Lew asked if it would be satisfying the landscaping requirement.

Mr. DeLucas replied yes.

Commissioner Lew asked if there would be potential for any residential or live-work units in the district.

Mr. DeLucas replied that there would not.

Commissioner Lew noted that that the district appears to be a mix of industrial and commercial uses.

Mr. DeLucas replied she was correct.

Commissioner Lew noted that in the study session that they would be changing the name of commercial cannabis business to commercial cannabis uses.

Mr. DeLucas replied that she was correct. Mr. DeLucas noted that it would be how it is currently worded as it was a mistake when staff was preparing the amendments, and the wording would now be used across the appropriate districts.

Commissioner Lew asked if it would be changed in the report.

Mr. DeLucas replied yes.

Commissioner Lew noted that the parcels on both sides of Union City Boulevard were parcels within this district. Commissioner Lew asked how many buildings would be a good fit for this district.

Mr. DeLucas replied that it varies. Mr. DeLucas added that the General Plan envisioned having it be more of a grid block system and they were not seeing that as much. Mr. DeLucas added that for this project, it is a five building development, within 12 acres. Mr. DeLucas added that the total square footage of the buildings is almost 300,000 feet. Mr. DeLucas also noted that they are also proposing buildings with two stories including mezzanine areas. Mr. DeLucas replied that it was difficult to say the right number. Mr. DeLucas added that staff are encouraging this kind of intensification and they may see parking garages proposed there as well.

Commissioner Lew asked how many total acres there were in the EMU District.

Mr. DeLucas and Ms. Campbell replied that they would provide Commissioner Lew with that answer shortly.

Commissioner Mclelland announced that she had no questions but wanted to state that she loved mixed-use spaces as she thought of them as a modern and progressive way of the kind of environment people want to work in.

Commissioner Sandhu noted that the changes with the EMU and potentially bringing a hotel and asked if the roads would be improved.

Mr. DeLucas replied that there are a couple of different long-range projects that are occurring. Mr. DeLucas detailed the following items the City is doing to alleviate traffic and congestion in the areas including:

- The City is evaluating and working on a underpass of the railroad, which is a cause of a lot of the backup and that would facilitate moving traffic a little quicker.
- Each project goes through CEQA review which analyzes traffic.
- The City is conducting a vehicle miles traveled study now and is encouraging people to get out of their cars and take public transit and walk.
- The City is continuing to install bike facilities.
- A Transportation Demand Management (TDM) plan to help businesses provide a shuttle service to their employees to get them from BART to their location or possibly provide transit cards to encourage their employees to take AC or UC transit.

Commissioner Sandhu asked if there was a way to view the map again to see the EMU district.

Ms. Campbell noted that while Brandon was pulling up the information, she confirmed that the EMU is a little less than 65 acres.

Mr. DeLucas noted that there are three properties in the General Plan that were originally designated as part of the district, but as part of the House Element the General Plan was amended to remove those from the district and included them in the Village Mixed Use district.

Ms. Campbell added that staff would have that information in the next staff report.

Mr. DeLucas referred to Commissioner Sandhu's request to view the EMU district on a map in the presentation.

Commissioner Sandhu asked if the main street shown on the map was Union City Boulevard.

Mr. DeLucas replied yes and identified the location of Whipple Road, the Kaiser campus, the railroad crossing, the Sugar mill Mixed-Use development and other surrounding boundaries. Mr. DeLucas also identified 12.63 acres of an area that is being redeveloped as part of the project and mentioned it will come before the Commission closer to the end of the year.

Ms. Campbell referred to the mention of the railroad and stated that the at-grade separation of the railroad is in response to traffic. Ms. Campbell stated that it is a long-term project which is very costly, and that the City has not identified the funding, and the City is always looking for funding for these types of crossings. Ms. Campbell also added that it is a priority and that there are policies in the Special Areas Element for the area to encourage the city to move forward with that projects and keep it at the forefront. Ms. Campbell also noted that they do not have a current CIP but are aware of the backup that occurs on Union City Boulevard in the morning and evenings.

Commissioner Sandhu noted that BART was very far away and asked if there was transit available nearby.

Mr. DeLucas replied that AC transit does run a line from BART along Union City Boulevard and stops at the Sugar Mill. Mr. DeLucas added that he believed it ran at 30-minute intervals.

Ms. Campbell added that they are also lines that run through Union City and others that go to Hayward, Newark, and Fremont.

Commissioner Mclelland asked if the proposed bike lanes go that far.

Mr. DeLucas replied that there are currently bikes lanes now but are a little faded. Mr. DeLucas noted that the Class 4 will go all the way up and then will extend across Whipple. Mr. DeLucas also noted that they will also have some type of vertical element like those on Mission Boulevard that has the landscaping landing strips between the bike lane and road.

Ms. Campbell added that there is also work being done on Smith Street and would look to Commissioner Lew who serves on the Bike and Pedestrian Advisory Committee for feedback. Ms. Campbell added that those bike lanes will be installed and the vision for the area will be a bit longer term when the Class Two or the road bike lanes turn into Class Four, and they will be protected or have buffered bike lanes.

Mr. Farmer noted the previous question from Commissioner Mclelland earlier and stated that the EMU District will be 58 acres.

Commissioner Sandhu asked how long the proposed project would take.

Mr. DeLucas replied that they submitted their formal application in January and that staff is currently doing the CEQA process. Mr. DeLucas added that they are working with the Army Corps and the Regional Water Board. Mr. DeLucas noted that staff envisions bringing the project up to the Commission in the early winter, and then City Council shortly after that. Mr. DeLucas also added that while they want to speed up the process, the CEQA documents take time and there is a lot of research to do and then there is also a comment period.

Vice Chairperson Agbuya thanked the Commissioners for their questions and noted that his questions regarding traffic had been answered. Vice Chairperson Agbuya asked if in the case that a microbrewery or winery went in, would they be allowed to have live bands.

Mr. DeLucas replied that there are current standards for live music, and they would still apply.

Vice Chairperson Agbuya opened and closed the public comment.

Mr. DeLucas presented on information submitted in the Desk Item, Exhibit A. Mr. DeLucas explained that the Site Development review chapter lists each of the individual districts that Site Development Review applies to. Mr. DeLucas added that because they are adding a new district, they must reflect it there. Mr. DeLucas explained that staff made a modification clarifying that Site Development Review applies to all Zoning Districts that are established by Title 18, the City's zoning ordinance. Mr. DeLucas also noted that they added a caveat because CF districts, which are Civic Facilities, city property, was not included in that list, and they have added an exemption for City projects on City property.

Mr. DeLucas also noted that they have also received direction on evaluating and making the Planning Commission be the decision maker for Site Development Review. Mr. DeLucas explained that currently the Planning Commission makes a recommendation, and the City Council is the decision marker. Mr. DeLucas listed the benefits for changing the process:

- Reduce overall timelines (generally 4-6 weeks at a minimum);
- Provide more certainty for applicants;
- Align process with neighboring jurisdictions;
- Bringing the process back the way it used to be;
- Encourage further development and redevelopment; and
- City Council would have the ability to call a project up on appeal.

Commissioner Lew asked if it would save money.

Mr. DeLucas replied yes, and that it would vary. Mr. DeLucas explained that for Site Development Review, for these larger projects, the City takes in a time and materials deposit, and calculating staff time to prepare the report and materials, it could mean a couple thousand dollars. Mr. DeLucas added that his project, for example, considers his time to review materials, prepare the staff report, and the presentation. Mr. DeLucas added that time is also added for Ms. Campbell and Mr. Farmer's time to review his work. Mr. DeLucas added that it could ultimately be a large savings.

Commissioner Lew replied that she was speaking in terms of fees.

Mr. DeLucas replied that the fee for larger projects is a time and materials deposit that staff just bills to. Mr. DeLucas explained that the total end cost would most likely be reduced.

Commissioner Lew replied that the fee is open-ended and noted that if staff estimates 120 hours but then don't use the 120 hours then it would mean savings to the applicant.

Mr. DeLucas replied that she was correct.

Commissioner Lew asked if they go beyond the 120 hours, staff lets the applicant know they need to provide more money.

Mr. DeLucas replied that when a deposit begins to get low, they will contact the applicant and say there are additional funds needed. Mr. DeLucas added that up to now, he has not had to request additional funds from an applicant. Mr. DeLucas added that staff really evaluated as part of the Master Fee Schedule the kind of time they were spending on that to ensure that the deposit captured almost all of that time, but again is project dependent.

Commissioner Lew replied that she would be all for saving the applicant's money.

Vice Chairperson Agbuya opened and closed the public comment.

- **ECONOMIC DEVELOPMENT REPORTS:** None.

- **COMMISSION MATTERS:**

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

Ms. Campbell announced that the Council approved Zoning Amendments for outdoor dining at the last City Council meeting.

2. **Upcoming applications for the Regular Planning Commission meeting for April 6, 2023:**

Ms. Campbell explained that in July 2021, the City Council approved the Station East Residential Mixed-Use Project, that is in the vicinity of Decoto Road, Seventh Street and Zwissig. Ms. Campbell added that the project consisted of approximately a thousand units, and some ground floor commercial along Decoto Road. Ms. Campbell further explained that back in July during the master plan approval the project was conditioned to come back for the individual planning areas. Ms. Campbell noted that some of the Commissioners may recall that approximately a year before they brought up the affordable housing piece. Ms. Campbell added that the developer will now be coming in with two additional planning areas, that will be developed with some townhomes. Ms. Campbell also added that there has been some site adjustments in the planning areas, so they will also bring back the Tentative Map as well as the Development Agreement for modification on April 6, 2023.

- **GOOD OF THE ORDER:**

Commissioner Sadhu asked if there was a developer for the Decoto Project.

Ms. Campbell replied that the developer was Integral Communities, LLC.

- **ADJOURNMENT: 8:31 PM**