

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF FEBRUARY 19, 2004, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

I. ROLL CALL: Commissioners Anderson, Kelley, Lew and Sweeney

Absent: Commissioner Savage

STAFF PRESENT: Mark Leonard (Director, Economic and Community Development); Joan Malloy (Planning Manager); Aki Honda (Associate Planner); Tina Gallegos (Assistant Planner); John Bakker (City Attorney); Carlos Jocson (City Engineer) and Kris Fitzgerald (Administrative Assistant).

II. APPROVAL OF MINUTES:

The minutes for the Regular Planning Commission meeting of February 5, 2004 were approved as submitted.

III. ORAL COMMUNICATIONS: None.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS: None

B. NEW HEARINGS:

1. **TENTATIVE PARCEL MAP TPM 8306**, Initiated by Nelida Campos, property owner, is requesting approval of a Tentative Parcel Map to subdivide a vacant property located at the corner of Depot Road and Decoto Road (APN: 486-0027-123) into two parcels. Parcel 1 will be 5,005 square feet and Parcel 2 will be 6,823 square feet. No structures are being proposed at this time. The project is categorically exempt under Section 15315, Class 15 of the California Environmental Quality Act (CEQA).

Tina Gallegos, Assistant Planner, presented the staff report.

Commissioner Lew asked why the lots were divided unevenly.

Ms. Gallegos stated that they were trying to be consistent with the previous lot splits in the area.

Commissioner Lew stated that there appears to be a large size difference in the square footage of the two lots.

Ms. Gallegos stated that both parcels meet the minimum lot dimensions and square footage requirements.

Joan Malloy, Planning Manager, stated that it is necessary to meet the lot standards in terms of depth of the parcel.

Commissioner Sweeney asked if the driveway access off of 9th Street has sufficient setback from the stop sign to put the driveway in.

Carlos Jocson, City Engineer, replied that he spoke with the engineer of record and was assured that based upon our criteria that the driveway would be located 10 feet away from the corner. Mr. Jocson stated that there is a condition of approval for that parcel to provide access from 9th Street only.

Commissioner Kelley asked why the City is asking for removal of the existing real estate signs.

Ms. Gallegos stated that the City is requesting a general cleanup of site and the applicant has indicated that they have a contract to keep the signs until building permits are issued.

Commissioner Kelley asked if condition #6 should be modified.

Ms. Gallegos stated that the condition could be changed so that the signs would be have to be removed once building permits are issued.

Commissioner Kelley asked if there was a zoning requirement to remove the signs from the site.

Ms. Malloy stated that the goal is to clean up the site.

Ms. Malloy stated that the condition should say prior to final map.

Commissioner Kelley asked if the utility lines are above ground on Depot Road.

Mr. Jocson stated that this is a standard condition for Public Works, however, the City recognizes that it is not possible in all cases. This condition is a Union City ordinance.

Commissioner Anderson asked if, per the CEQA Guidelines, there is documentation that the parcel average slope is not greater than 20 per cent.

Ms. Malloy stated that there is not but this parcel clearly does not exceed that standard.

Mr. Jocson stated that by visual inspection it can be determined that this parcel does not exceed this requirement.

Mr. Jocson stated that the Tentative Parcel Map shows the elevations of the property.

Commissioner Anderson asked why access is not being allowed from Decoto Road on this property even though other properties have been allowed in the past to have access from Decoto Road.

Mr. Jocson stated that other properties were completed before the traffic became an issue. Mr. Jocson stated that now it is a safety issue and the City does not want vehicles backing onto Decoto Road.

Commissioner Anderson opened the public hearing.

Commissioner Anderson closed the public hearing.

Commissioner Kelley noted that the elevations on the Tentative Parcel Map are 66 feet at one corner and 65 feet at the other.

Commissioner Sweeney made a motion to recommend approval of Tentative Parcel Map 8306 and make findings 1 through 4 and subject to the modified conditions of approval and adopt a resolution confirming this action.

Commissioner Lew seconded the motion.

AYES	4 (Anderson, Kelley, Lew and Sweeney)
NOES	0
ABSTAIN	0
ABSENT	1 (Savage)

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS:

- 1. SITE DEVELOPMENT REVIEW SD-04-04,** Initiated by Wal-Mart Stores, Inc., the applicant is requesting approval to construct an 11,121 square foot garden center at 30600 Dyer Street (APN: 463-60-031). The project is consistent with the Negative Declaration concerning environmental impacts that was adopted on October 5, 1992.

Aki Honda, Associate Planner, presented the staff report.

Commissioner Kelley asked about the Pappas property and why the plans presented tonight look different from what was approved a few months ago.

Ms. Malloy stated that Pappas Investments is going to be seeking modifications to their original site plan and this is the new site plan that they have proposed.

Commissioner Kelley asked if Pappas Investments does not change their site plan would the sidewalk need to be extended past the third building. Commissioner Kelley asked if it would be possible to condition this project to meet that need.

Mark Leonard, Director of Economic and Community Development, stated that the improvements that are being asked for this evening are only for the improvement of the Wal-Mart property. Mr. Leonard stated that if the Pappas development reverts to a monolithic building then the crosswalks might have to be shifted slightly depending on the final design.

Commissioner Sweeney asked why there is not a sidewalk along this southern edge of the property.

Mr. Leonard stated that there are a couple of reasons. One is that Wal-Mart may have some long-term plans for that area which may include re-orientation of some of the

parking. The other reason is that there is a lack of green space between the Pappas property and the Wal-Mart property.

Commissioner Sweeney stated that this is supposed to be a pedestrian oriented development and the commission has struggled to find ways to accommodate that vision. Commissioner Sweeney stated that this parking area is the antithesis of that vision.

Commissioner Lew asked about impact of traffic from the Wal-Mart expansion. Commissioner Lew asked if Wal-Mart offered any other designs that would put the garden center on the other side of the store.

Ms. Honda stated that no other alternative plans were received from Wal-Mart.

Commissioner Lew asked if the area around the store would allow for through traffic.

Ms. Honda stated that it does.

Commissioner Lew asked if the area in front of the store has to remain clear for emergency vehicles.

Ms. Honda stated that it does.

Commissioner Lew asked how the City will enforce condition #6.

Mr. Leonard stated that the City will notify the store manager to clean up the area and if it is not cleaned then Wal-Mart could receive a citation.

Commissioner Lew asked who will be responsible for the maintenance of the walkways in the future.

Ms. Honda stated that the walkways will be on the Wal-Mart property and will be maintained by Wal-Mart.

Commissioner Lew asked who is responsible for the walkways by Linen's N Things and Petco.

Mr. Leonard stated that those are on private property.

Commissioner Lew stated that the walkways have failed and not been repaired for over two years.

Mr. Leonard stated that the main drive was reconstructed about a year ago and is starting to show signs of failing again. Mr. Leonard stated that the City has been in talks with the owners about repairing the areas.

Commissioner Lew asked if condition #9 could be changed to read that repairs are made in a timely manner.

Commissioner Lew asked why the City wanted to add a condition to remove the canopy.

Ms. Honda stated that the canopy that is there is not approved.

Commissioner Anderson noted that conditions #6 and #60 appear to be the same.

Ms. Honda stated that condition #60 is an Environmental Programs Division requirement and is not the same as condition #6.

Commissioner Sweeney stated that condition #6 is for the property lines and condition #60 is for the paved areas.

John Bakker, City Attorney, stated that condition #60 is designed to deal with entry of debris in the storm drains and condition #6 is for aesthetic issues.

Commissioner Anderson asked if conditions #22 and #53 are the same.

Ms. Honda stated that they are duplicates.

Commissioner Anderson stated that conditions #62 and #68 are duplicates.

Mr. Leonard stated that they are duplicates.

Commissioner Anderson opened the public hearing.

Commissioner Kelley asked what Wal-Mart plans for the southern strip of property.

Mr. Henry Shields, 1800 Avenue of the Stars, Los Angeles, CA, 90067, stated that Wal-Mart planned to put in pavers that would provide access between the Pappas property and the Wal-Mart property. Wal-Mart plans to put in a pedestrian signal so that people can cross the area safely. Mr. Shields stated that Wal-Mart has concerns about pedestrian safety in this area.

Commissioner Sweeney asked where the Wal-Mart patrons that park in that southern area walk to get to the store.

Mr. Shields stated that they may walk through the parking lot or take the pedestrian walkway.

Commissioner Sweeney asked if reciprocal access for shoppers will be provided from the Pappas property to Wal-Mart.

Mr. Shields stated that he does not know what will go on the Pappas property, Wal-Mart shoppers generally find what they need at Wal-Mart and if they go to the Pappas property they will drive there.

Mr. Shields stated that Wal-Mart does not want to see a lot of improvements done in the southern strip because they have future plans for the area.

Commissioner Sweeney asked how wide that strip of land is.

Mr. Shields stated that it is about 23 feet wide.

Commissioner Sweeney asked if Wal-Mart has plans for that area.

Mr. Shields stated that Wal-Mart does have plans.

Commissioner Sweeney stated that at that size it is not developable.

Mr. Shields stated that Wal-Mart can use it for other site related uses.

Commissioner Kelley asked about the waiting lane outside the oil change site and wanted to know what will happen if there is overflow of cars. Commissioner Kelley stated his concerns that the overflow of cars will block emergency vehicle access.

Mr. Shields believed that this plan would alleviate the problem. Mr. Shields stated that the queuing line was moved to alleviate that problem and widened to two lanes. Mr. Shields stated that there should be no more than a two hour wait. Mr. Shields stated that the lanes were designed to accommodate more than the maximum number of cars that they expect at any one time.

Commissioner Kelley asked what the contingency plan would be if more than 30 cars arrive to get an oil change.

Mr. Shields stated that the store sends out an attendant to sign people in and then the attendant will move the car to a safe location to wait its turn in the oil change shop.

Jody Stowers, Co-manager, Wal-Mart, 30600 Dyer St., stated that Wal-Mart rarely gets customers who are willing to wait over two hours for an oil change. Mr. Stowers stated that the line will accommodate 30 cars, which is more than needed. Mr. Stowers stated that a People Greeter comes out and signs people up and takes their keys and moves the cars until it is their turn in the bay.

Commissioner Sweeney asked how do the cars queued over on the left access lanes D & E.

Scott Davis, Home Office Design Team 2604 Trails End Dr., Bentonville, AR, stated that the engineers drew this and this was drawn to accommodate the queue, turn radius and car sizes.

Commissioner Sweeney asked if they are comfortable that they can take an extra long vehicle and make the U-turn to get into the Tire Lube Express.

Mr. Davis stated that there is enough room for that kind of turn. Mr. Davis stated that Wal-Mart's concern is getting cars in and out as fast as possible and no one's car gets damaged.

Mr. Shields stated that there is a very large area that is open so that there is plenty of room for cars to maneuver.

Commissioner Sweeney stated her concerns for where the cars enter next to the garden shop.

Mr. Davis stated that there are three types of businesses in this location and the cars queued here to get oil changes are going to reverse the traffic flow to the oil bays and the tire bays.

Commissioner Sweeney stated that the plans didn't show that traffic flow.

Commissioner Kelley asked about the garden center concrete ramp and will that be an exit point for customers to load vehicles.

Mr. Davis stated that when customers buy in bulk they can pull around to the side to load from the garden center ramp. Mr. Davis stated that when the garden center is expanded they will expand staff to provide better service in that area.

Commissioner Kelley asked if the seasonal check stand is being eliminated.

Mr. Davis stated that it will be eliminated, however, another check stand could be added if sales show it is needed.

Commissioner Sweeney asked about the bollards around the garden center.

Mr. Davis stated that the store has two main entrances and they have raised the asphalt to the level of the sidewalk to make access easier for the customer. Mr. Davis stated that they want to do the same thing for the garden center, however the bollards they use are not usually decorative. Mr. Davis would prefer to do red or yellow bollards similar to what is already in place around the front of the store.

Commissioner Sweeney asked staff what types of decorative bollards are being proposed.

Ms. Malloy suggested using bollards similar to Baby's R Us and Lowes which have lights.

Commissioner Sweeney asked why they suggested a pedestrian traffic signal at the southern edge, why not a traffic calming device to reduce the speed of the traffic.

Mr. Davis stated that they would normally want to add a traffic signal but because of the location felt it was necessary to provide a safe pedestrian access into the Wal-Mart property.

Commissioner Sweeney asked what would be the proposed landscaping of the area.

Mr. Davis replied that they proposed seeding the area with grass, adding clumping shrubs, but no trees. They would be willing to add trees if the Commission desires.

Commissioner Sweeney stated she would like a denser landscaping strip to help them merge with the rest of the properties.

Mr. Davis stated that they would not be opposed to adding a few more trees and shrubs, however, they don't want to lose the 23 foot space for future use.

Mr. Davis stated that the landscaping plan will bring the irrigation system up to par.

Commissioner Lew asked if the expanded garden area will be fully covered.

Mr. Davis stated that there are aluminum trusses above the area covered with shade cloth, and all of the new area will have the aluminum trusses with shade cloth.

Commissioner Lew clarified that there are no plans to extend the roofing shown in the rear elevation.

Mr. Davis stated that there is no plan to extend the roof.

Commissioner Lew asked if it would be possible to move the garden center to the east end of the building where parking is underutilized.

Mr. Davis stated that it would force them to split the garden center in an unnecessary fashion.

Commissioner Kelley asked about whether there are parking spots across from the loading area.

Mr. Davis stated that there will be parking spots.

Commissioner Lew asked what the impact would be to emergency vehicles if the road is marked one-way traffic.

Ms. Malloy stated that it was not discussed with the Fire Department. The area was always understood to be two-way access.

Ms. Honda stated that is why it has to be minimum 26 feet in width to allow for the two-way traffic.

Commissioner Sweeney thinks the demand to use the pick up area will be light.

Commissioner Lew thinks it will be a problem.

Mr. Davis stated that Wal-Mart does have plans to use the area on the right of the store in the future and they do not want to use it for competing purposes now.

Mr. Shields stated that he feels that condition #6 to keep the trash picked up and steam clean the parking lots and walks is an operational issue and does not want it included as part of the Site Development Review. Mr. Shields feels that it creates inflexibility; as they don't currently steam clean the parking lot at this time.

Mr. Stowers explained how they make site presentable to the public. Mr. Stowers stated that every Tuesday night there is a company that steam cleans the front of building and sidewalks and a sweeping service comes around 7 days a week. Every morning and afternoon staff has a meeting at the back of the building and checks on the condition of the pallets and litter.

Commissioner Sweeney asked about the fence line along the Interstate 880 property line and what Wal-Mart is planning to do to clean up that area.

Mr. Stowers acknowledged that it is a problem area and Wal-Mart is planning to address the problems.

Commissioner Lew asked if Wal-Mart keeps records of the cleaning days and the contractors cleaning work.

Mr. Stowers stated that they keep payment records.

Commissioner Lew asked if those records would be available to city staff.

Mr. Stowers has no objection.

Commissioner Anderson asked the applicant what wording would like to see in condition #6.

Mr. Leonard replied that perhaps the applicant can propose a methodology. Mr. Leonard suggested issuing a side contract with a general condition that says the city and the applicant shall sign a contract prior to the issuance of building permits outlining the terms of the increased maintenance for the store.

Mr. Shields suggested making the condition more generic by leaving out the second sentence of condition #6.

Mr. Shields asked to retain the proposed walkway width rather than push the sidewalk out from the garden center an additional 2 feet. Mr. Shields believes that the proposed walk at the front of the garden center will provide a better turning radius and still leave plenty of room for the emergency vehicle access.

Mr. Davis stated that they are trying to maintain the same drive space through the area.

Commissioner Anderson clarified that the applicant wants to alter condition #7 to say 8 feet rather than 10 feet.

Mr. Leonard stated that this particular issue has been discussed for over a year. Mr. Leonard stated that it is important to maintain the width of the sidewalk.

Commissioner Lew asked if this is a sidewalk without a curb and will have the bollards.

Mr. Leonard stated that is correct.

Mr. Shields stated that they thought that everyone had agreed on 8 feet and was surprised to see 10 feet.

Commissioner Lew feels that 10 feet is better.

Commissioner Sweeney asked how wide the sidewalk at front of store.

Mr. Davis stated that the front sidewalk is 10 feet.

Mr. Davis stated the only way to make it a 10-foot sidewalk is to give up 220 square feet of selling space.

Mr. Leonard pointed out that there are some doors here that swing out onto that sidewalk.

Mr. Davis stated that some of those gates could be changed to sliders.

Mr. Leonard stated that we would have to check with the Building Department to see whether the sliders are approvable by the Building Code. Mr. Leonard stated that staff still wants to have 10-foot sidewalks.

Mr. Davis had not seen the decorative bollards and would prefer to do standard red concrete bollards rather than lighted bollards.

Mr. Shields asked in regards to condition #10 if the following could be added requiring only a paved pedestrian connection and add some type of barrier to stop cars and shopping carts from going through there.

Mr. Shields asked in condition #13 what is considered a metal surface.

Ms. Honda stated that an example would be the picket fencing between pilasters.

Mr. Shields asked if a pre-coated metal fencing would that be acceptable.

Mr. Davis stated that his concern was with pre-manufactured flashing.

Mr. Leonard stated that we could exclude flashings.

Mr. Shields asked if the condition could be changed to read "all exterior metal surfaces except flashings".

Mr. Shields asked to clarify condition #18 and how many trees and sizes that will be required.

Ms. Malloy stated that staff did not have any specific requirements for trees. Ms. Malloy suggested using trees that have already been used in other areas of Union Landing.

Commissioner Sweeney suggested modifying condition #18 so that the applicant will coordinate with the Pappas and Lazy Boy plant palettes.

Mr. Davis stated that they just want a specific count of how many trees should be planted.

Mr. Shields would like condition #19 eliminated because it does not appear to benefit the Wal-Mart project.

Mr. Leonard stated that staff would agree to that change.

Commissioner Sweeney suggested changing it from the property line to the southern roadway edge.

Mr. Davis stated that there is already an asphalt curb at that location but they would be willing to upgrade to concrete.

Mr. Leonard asked that the curb would be concrete instead of asphalt.

Mr. Davis agreed that they can do that as long as it is around the roadway side.

Mr. Shields asked if condition #21 was applicable to this application.

Commissioner Anderson asked if this condition is necessary for this project.

Mr. Jocson replied that Alameda County Water District as a policy requires this condition and that it might apply when you upgrade the landscaping.

Mr. Davis wanted to clarify if it would apply to the new irrigation system in the south area. Mr. Davis believes that the rest of the building has enough backflow prevention devices installed.

Mr. Shields feels that the last sentence should be removed from condition #26.

Mr. Leonard stated that this condition was placed under building and is meant to apply to the building construction litter.

Mr. Davis clarified that it would apply only when construction is occurring.

Mr. Shields asked to remove the requirement in condition #30 to have the original Geotechnical Engineer or Civil Engineer review the building foundation design.

Mr. Bakker clarified that this condition requires the applicant to use the original soils engineer for the project.

Mr. Davis stated that the company no longer uses the original engineers services. Mr. Davis stated that they would have a new engineer review the original report and write a letter based on the original report the applicants design meets all the structure requirements.

John Bakker suggested changing the third line of condition #30 to read "by a soils engineer".

Mr. Shields suggested striking out the information in the parentheses.

John Bakker agreed with that.

Mr. Shields asked for clarification of condition #37.

Commissioner Kelley stated that this refers to his earlier question about what happens if you have more than 35 cars waiting for the Tire, Lube Express.

Mr. Shields stated that there will be an attendant out there that will move the vehicles out of the way and won't let anyone stand in the driveway.

Mr. Davis stated that there is a parking lot security guard that keeps cars moving.

Mr. Leonard suggested changing condition #37 to remove the word "ensure".

Mr. Davis stated that they can do that.

Mr. Shields asked what a 180 degree door viewer is.

Ms. Honda replied that it is a peephole.

Ms. Malloy stated any solid doorways are required to have a viewer to see through the door.

Mr. Davis asked if that includes fire egress doors.

Mr. Leonard stated that it includes any man doors, as this is a safety issue.

Mr. Shields asked if the construction hours in condition #51 could be expanded since the project is not located in a residential zone.

Mr. Jocson asked what the applicant is proposing.

Mr. Davis stated that they would like to start at sun up.

Mr. Jocson stated that there are residential homes located to the west of the site. Mr. Jocson stated that construction hours are set as part of a Union City ordinance and that adjustments can't be made to the hours, but staff could work with the applicant in other ways.

Commissioner Lew stated that there are residential properties across Dyer Street.

Commissioner Sweeney stated that the residents don't want to hear the generators and jackhammers at 6:30 am.

Commissioner Anderson closed the public hearing.

Commissioner Anderson polled the other commissioners on their thoughts on condition #6.

Commissioner Kelley stated that he wants to give the applicant as much flexibility as possible, but this Wal-Mart property is not up to the standards of other Wal-Mart properties and would prefer to leave condition #6 as is and leave threat of citation process.

Commissioner Lew stated that she prefers having a side contract.

Mr. Leonard suggested "Wal-Mart shall sign a contract with the City prior to issue of building permits which will set a standard for maintenance of the site that shall provide cleaning of the parking lot and sidewalks on a more frequent basis".

Commissioner Anderson asked if that would allow the citation process to be used.

Mr. Leonard stated that the citations would be written based on what is in the contract.

Commissioner Sweeney stated she would like a contract if it includes picking up the litter and debris along the perimeter fences and the property line.

Commissioner Anderson asked the commissions preference on condition #7.

Commissioner Lew stated she prefers condition #7 as written.

Commissioner Kelley stated that he would prefer to remove condition #7.

Commissioner Anderson polled the commission and it was 3 – 1 to keep condition #7 as is.

Commissioner Sweeney stated that condition #34 should also be changed to make it a compatible with condition #7 in regards to installing the 10-foot sidewalk.

Commissioner Anderson polled the commissioners on condition #8. All the commissioners were in favor of leaving condition #8 as is.

Commissioner Anderson asked the commissioners whether they prefer alternative "A" or alternative "B" for condition #9.

Commissioner Kelley prefers alternative "A".

Commissioner Lew prefers alternative "B".

Commissioner Sweeney prefers alternative "B".

Mr. Leonard suggested instead of having the second cut would they be willing to put in a sidewalk parallel to the curb.

Commissioner Anderson asked the applicant if he would be opposed to putting in a sidewalk the length of that area without the second cut.

Mr. Davis stated that the second cut puts us in a position of being liable for people attempting to cross the street there. Mr. Davis stated that they might be willing to put in the sidewalk but they also want the owners of the Pappas property to shoulder some of the load. Mr. Davis suggested putting it on the back edge of the property line.

Mr. Leonard stated that he had no objection to the applicant's suggestion to putting the sidewalk along the property line outside the landscape area but would still need a curb to contain the area and one crossing.

Commissioner Anderson asked how wide the sidewalk would be.

Mr. Leonard stated that it would be about 5 feet wide.

Commissioner Anderson asked if it would be safe for pedestrians.

Mr. Leonard stated that it would.

Mr. Shields stated that were proposing that the sidewalk be on the back end of the Wal-Mart property and that half of the sidewalk would be on the Wal-Mart property and the other half would be on the Pappas property and that it would not be an off-site improvement.

Mr. Leonard stated that normally that would work, however, there is a significant grade separation of the two properties and there will be about a 2-foot difference.

Mr. Leonard suggested putting a sidewalk right along the Wal-Mart property line just to the north of the Pappas property line, build the curb along the outside edge of the driveway, and then landscape in between the two areas.

Commissioner Anderson asked how many cuts this would include.

Mr. Leonard stated just one cut.

Mr. Leonard suggested the following for condition #9, "The applicant shall provide a solid concrete curb along the edge of the drive aisle and a 5 foot wide sidewalk along the Pappas property line and landscaping shall be providing between the sidewalk and the curb".

Mr. Davis asked how they will design a sidewalk that will be two feet above the Pappas property line.

Ms. Malloy stated that Pappas is proposing a ramp system on their revised site plan. Ms. Malloy stated that they are not aware of the work that Wal-Mart is planning. Ms. Malloy stated that staff will have to coordinate with Pappas to change the location of the cut through.

Mr. Davis is still concerned that Wal-Mart is losing 5 feet of space that they have future plans for.

Commissioner Anderson asked if the condition can be modified so that in the future if they have new plans it can be changed.

Mr. Leonard stated that it possible.

Mr. Shields asked to put it in the condition so that there could be future changes.

Mr. Leonard stated that a sentence can be added to the end of condition #9 that reads "In the future Wal-Mart may propose a change to the sidewalk, circulation and parking system".

Commissioner Sweeney asked if condition #19 should be deleted.

Ms. Malloy agreed.

Mr. Leonard suggested combining condition #9 and condition #19.

Commissioner Sweeney asked if condition #22 should be a deleted as a duplicate of condition #53.

Commissioner Kelley asked about the change to condition #21.

Mr. Leonard replied that a sentence would be added at the end that reads, "This condition shall apply only to the 23 foot landscaping and sidewalk strip on the southern property line".

Mr. Davis asked for clarification of the combination of conditions #9 and #19.

Commissioner Sweeney stated "The applicant shall provide a solid concrete curb along the drive aisle, a 5 foot sidewalk along the southern property line, and landscaping in between".

Commissioner Kelley stated that condition #26 should be modified.

Mr. Leonard stated that "during construction" would be added at the front end of that condition.

Commissioner Sweeney stated that condition #30 should be changed to delete the phrase in parentheses and to change in the third line the word “the” to “a”.

Mr. Leonard agreed and added that the end of the first line to also change “the” to “a”.

Commissioner Sweeney pointed out a typo in condition #33 typo there is an extra space in the first line.

Commissioner Anderson stated that condition #37 will be changed by removing the word “ensure”.

Commissioner Lew suggested that the condition include a statement that the area behind the Wal-Mart will be kept free and clear at all times.

Mr. Leonard stated that we will take out “is kept” from condition #37.

Commissioner Anderson said that condition #62 is a duplicate and should be removed.

Commissioner Kelley asked if the word “peephole” should be added to condition #47.

Commissioner Anderson stated that it is understood.

Commissioner Sweeney stated that condition #84 should be moved to the Hazardous Materials section.

Commissioner Sweeney stated that conditions #86 and #87 should be moved to Environmental Programs.

Commissioner Sweeney asked if condition #85 is applicable to this site.

Mr. Leonard stated that it could be removed.

Commissioner Sweeney stated that there was a condition added to remove the canopy.

Commissioner Kelley asked why removing the canopy so important.

Mr. Davis stated that the canopy is for the associate who is out there as the attendant.

Mr. Leonard stated that the applicant can work over the counter for a permanent shelter. The City Council feels that these tents are beginning to proliferate in the community and has asked to have them removed before they get out of control.

Mr. Davis stated that he is willing to work with staff to provide a permanent, safe structure for the associates and the customers.

Mr. Leonard stated that could be added as part of a condition of approval.

Commissioner Sweeney made a motion to approve Site Development Review SD-04-04, making the findings 1 - 5, subject to the modified conditions of approval and adopting a resolution confirming this action.

Commissioner Kelley seconded the motion.

AYES	3 (Anderson, Kelley, Sweeney)
NOES	1 (Lew)
ABSTAIN	0
ABSENT	1 (Savage)

The Planning Commission adjourned at 10:05 pm.

The Planning Commission reconvened at 10:11 pm

- SITE DEVELOPMENT REVIEW, SD-01-04**, Initiated by Cedric Young on behalf of Dyer Triangle, LLC, the applicant is requesting approval to construct a 7,580 square foot bank and retail building on the remaining undeveloped pad (47,598 square feet) in the Century Theater Center, located at 32101 Union Landing Boulevard (APN: 463-60-42). The project would be implemented in conjunction with a reconfiguration of the theater parking lot. The development of this pad was addressed in project application SD-12-97 and environmentally cleared in the Dyer Street Triangle EIR. No further environmental review is required.

Joan Malloy, Planning Manager, presented the staff report.

Commissioner Lew asked if the city has determined a dollar value for the right of way that they plan to abandon.

Ms. Malloy stated that a monetary value has not been set, the land is part of the contribution to the project.

John Bakker, City Attorney, stated that the underlying ownership of the street goes back to the property owner when the City no longer needs the property for public use.

Commissioner Lew asked if the City is negotiating the sharing of cost for the right of way improvement, the roadway improvement and would that right of way be part of that contribution.

Mr. Bakker stated that it is part of the whole transaction.

Commissioner Lew asked if there would be further modifications of conditions #24 and #26 made this evening.

Ms. Malloy replied that she is requesting Planning Commission direction to clearly identify obligations, responsibilities, timing and phasing of the project.

Commissioner Lew asked if the dollar amount from page 4 in the second paragraph of will be included in condition #24.

Ms. Malloy stated that there is an existing agreement that was approved in November 2003 that stipulated the amount of funds that would be put into the project by each party. Ms. Malloy stated that this was \$500,000 per party up to \$1,000,000 total. The purpose of the agreement in condition #24 is that prior to release of building permits that there will be a clear understanding of the obligations and the responsibilities of each party.

Commissioner Lew asked if condition #24 will be appended to the existing agreement.

Ms. Malloy stated that it will be in addition to the existing agreement. Ms. Malloy stated it will cover such things as how the project is paid for, setting up an escrow account, what exactly is Phase I, II, etc. Ms. Malloy stated that this is to ensure there are adequate funds to complete the project.

Commissioner Lew asked why there is sharing of costs for the public art.

Ms. Malloy stated that this would be part of the overall project development.

Mr. Leonard stated that the most logical or effective spot for the proposed public art is off-site to this parcel. Mr. Leonard stated that since this applicant has already done public art for a previous project and is contributing to the circulation improvements the City is proposing to share the costs of the public art.

Commissioner Lew asked if condition #30 could be modified to require the repair of the sidewalks in a timely manner.

Mr. Leonard stated that a condition could be added that any physical deterioration of the site shall be repaired in a timely manner.

Commissioner Lew stated her concerns that some materials don't seem to work at Union Landing and could a request be made for better materials.

Mr. Leonard stated that what has deteriorated are the entryways, such as in front of Petco, because the pavers were not set properly in concrete. Mr. Leonard stated that in 1989 the City built decorative crosswalks at Alvarado-Niles Road and Decoto Road and they have never needed repair because they were properly constructed.

Commissioner Lew asked if that would be in the review process in Planning.

Mr. Leonard stated that it is done in Public Works by their inspectors. The City Engineer would review the proposed plans and Public Works inspectors will inspect the work.

Commissioner Sweeney asked if where the new sidewalks cross the roadway will there be enhanced paving or special markings.

Mr. Leonard pointed out two areas where the crosswalks will need to be enhanced. The extent of improvement will depend on the budget available. It would be more cost effective to have scored and/or tinted concrete.

Commissioner Sweeney stated that she wants to particularly highlight crosswalks near Borders Books and where the existing pedestrian spine will be broken by new roadway.

Commissioner Sweeney asked if there will be additional signage to indicate what will happen to vehicle traffic if you turn left onto access road "D" or if they go straight.

Mr. Leonard stated that it could be done.

Commissioner Sweeney asked to modify condition #32 to add that there will be no loss of existing parking due to construction materials.

Ms. Malloy stated that in the first phase of project there will be some loss of parking when they put in the new roadway. Ms. Malloy asked if she meant that when they begin construction of the new building that they not use the parking lot for staging, that all the staging takes place on the parcel.

Commissioner Sweeney stated that site plan doesn't seem to include the sidewalk adjacent to this parcel.

Ms. Malloy stated that condition #24 is to address these issues and clarify whose responsibility the sidewalks will be.

Mr. Leonard asked if there is a specific area that you believe should be the responsibility of the pad owner.

Commissioner Sweeney stated that the sidewalks surrounding the pad should be the responsibility of the pad owner.

Mr. Leonard referred the question to the applicant.

Commissioner Kelley asked in regards to the driveway that is being closed, what will happen to that land and who pays for the modifications that occur on that land.

Ms. Malloy stated that the driveway that is being closed belongs to the property owner and the owner will retain ownership.

Commissioner Kelley asked if there could be more separation between the two businesses with some stonework or something so they don't look so plain.

Commissioner Anderson asked why condition #12 extends this condition for only two years.

Ms. Malloy stated that it takes two years to ensure that the landscape materials become well established.

Commissioner Anderson asked what happens after the 2 years is up.

Commissioner Sweeney stated that condition #16 covers the landscaping after the two years is up.

Commissioner Anderson opened the public hearing.

Cedric Young, Dyer Triangle LLC, 150 Pelican Way, San Rafael, CA, 94901, stated that they thought it would be best to build out the sidewalks first in order to provide edges for the street alignment.

Commissioner Sweeney asked if this project is going to pay for the sidewalks.

Mr. Young stated that it has not been determined at this time.

Mr. Young stated that they tried to match the rhythm of the adjacent buildings in the elevations. There is a color variation from the existing buildings.

Commissioner Kelley asked where they would put in the additional stonework called for in condition #6.

Mr. Young stated that it would probably be put in the entry portals.

Ms. Malloy stated that there is some stone on the rear of the building where the architecture pops out towards Union Landing Boulevard.

Mr. Young asked if condition #11 could include alternative ways to screen the cars at the drive thru instead of the wall. Mr. Young stated that the Police Department would like to have more visibility in that area. Mr. Young stated that he would like to try a mound.

Commissioner Sweeney stated that there is a narrow strip that will be hard to mound and she would prefer would something tall enough that would look better.

Mr. Young asked if condition #14 could be modified by taking out the names of the business as there are no signed contracts yet.

Commissioner Sweeney stated that she is not happy with having a drive through bank at this location.

Mr. Young stated that this was a specific request of the tenant.

Commissioner Sweeney clarified that in condition #14 you want to remove the business names.

Ms. Malloy stated that it would be changed to a "bank" and a "retail tenant".

Commissioner Sweeney asked if the bank logo could be a cabinet but the retail logo could not.

Ms. Malloy stated that our sign ordinance does allow logos.

Mr. Leonard suggested no cabinet signs are permitted with the exception of minor logos.

Commissioner Sweeney asked to clarify the two signs and the one sign. She thinks that one tenant needs to be referred to as the east or west tenant for clarity.

Ms. Malloy stated that the building signs for the bank tenant could be identified as the easterly tenant and the retail tenant as the westerly tenant.

Commissioner Lew asked why put this condition in if we are not committed to the tenant.

Mr. Leonard stated that we are trying to address what is happening in negotiations between the property owner and the prospective tenant.

Barry Ferrier, 32212 Allison Way, Union City, asked if this project will this address the parking lot realignment issues.

Commissioner Anderson stated that the parking lot redesign is not part of this report.

Mr. Ferrier stated that there is a speed bump between Texas Roadhouse and Borders and it is not well maintained or well marked and is dangerous to the cars.

Mr. Ferrier stated that in the current configuration there is cut through to the Petco center and the walkway is designed for the guests at Extended Stay. Mr. Ferrier asked why you have to walk through the bushes to get to the sidewalk. Mr. Ferrier would like a cut through from Extended Stay and Tony Roma's.

Mr. Ferrier stated his concerns about people jaywalking across Union Landing Boulevard from the theater to the transit center or to In N Out Burger.

Mr. Leonard stated that there will be a fence in the median similar to what is on Dyer Street by Fremont Bank just before you get to Alvarado Boulevard to deter unsafe pedestrian crossings.

Mr. Ferrier feels that there should be a stop sign at Access road "D" for traffic entering the project. Mr. Ferrier wants a three way stop sign at that location. Mr. Ferrier feels that the sidewalk is too narrow along the new project and it will be hazardous for the pedestrians.

Commissioner Sweeney stated she will not vote for this project because she won't support a drive through bank in this location.

The Planning Commission made the following amendments to the conditions:

- Change condition #14 to remove the business names and change the tenant references to "east" and "west".
- Change condition #11 from 30 inches to 24 inches.
- Change condition #24 to add that the applicant shall enter into an agreement with the City to clearly identify obligations, responsibilities, timing and phasing prior to issuance of building permits.
- Add a new condition to require the timely repair of any physical deterioration of the site.
- Change condition #32 to include no loss of existing parking due to construction of the buildings.

Commissioner Kelley made a motion to approve Site Development Review SD-01-04, making the findings 1 through 5 with the modified conditions of approval, and adopting a resolution confirming this action.

Commissioner Lew seconded the motion.

AYES	3 (Anderson, Kelley, Lew)
NOES	1 (Sweeney)
ABSTAIN	0
ABSENT	1 (Savage)

VII. COMMISSION MATTERS:

- A.** The staff reviewed the Planning items from the February 10, 2004 City Council meeting.

B. The staff listed the upcoming applications for the Regular Planning Commission meeting for March 4, 2004.

X. GOOD OF THE ORDER:

Commissioner Kelley stated that he sees many people jumping the divider in the median on Dyer Street in front of the Fremont Bank.

XI. ADJOURNMENT:

The meeting adjourned at 11:15 p.m.

APPROVED:

ROSEMARY SAVAGE, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY