

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF MARCH 2, 2006, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

I. ROLL CALL: Commissioners Anderson, Savage, Sison, Sweeney and Chairperson Lew

STAFF: Mark Leonard (Director, Economic and Community Development); Janice Lum (Assistant Planner); Avalon Evans (Assistant Planner); Carlos Jocson (City Engineer); John Bakker (City Attorney); Kris Fitzgerald (Administrative Assistant).

II. APPROVAL OF MINUTES: The regular Planning Commission Minutes of February 16, 2006 were approved as submitted.

III. ORAL COMMUNICATIONS: None.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS:

- 1. ALVARADO PLACE, 32100 ALVARADO BLVD., Site Development Review (SD-09-05), Use Permit UP-09-05 and Variance V-04-05; The applicant, Patrick Conway, representing Duckett-Wilson Development, Inc., is requesting Site Development Review approval to construct two one-story buildings that will add 9,010 square feet of retail commercial space to the Alvarado Place Shopping Center. The project will require a Use Permit to allow a 1,848 square foot drive-through Starbucks Coffee shop and a Variance permit to allow no rear yard setback behind the proposed buildings. The project proposal includes parking, landscaping, and site improvements. The applicant has provided a revised site plan and architectural elevations. A Mitigated Negative Declaration has been prepared for this project.**

Janice Lum, Assistant Planner, presented the staff report.

Commissioner Sweeney asked how the new berm will affect the existing trees.

Mark Leonard, Director, Economic and Community Development, replied that grates can be put in along the base of the tree and also contouring done to make sure that the trees are safe.

Commissioner Sweeney asked if there would be some way to retain that dirt away from the trunk.

Mr. Leonard stated that there would be.

Commissioner Sweeney asked if there will be a requirement for drainage from that basin that is created, stating that otherwise it will create an unhealthy environment when it fills up with water.

Carlos Jocson, City Engineer, replied that they will work with the applicant to adequately drain the location of the trees, maybe with pipes to drain to the curb.

Commissioner Sweeney stated that she thinks the berm is a great idea for shielding but doesn't want to see the trees killed by the berm.

Commissioner Sweeney referred to condition #14 and asked if the sound wall between AutoZone and A1 Liquors will be required to have non-ivy vines.

Ms. Lum stated that it will.

Commissioner Sweeney stated that staff should make sure that the area has irrigation for the new vines.

Commissioner Sweeney referred to condition #16(I) and would like to see other styles of trellis used as there are already many of the Union Landing style.

Commissioner Sweeney stated that it should read "trellises of the same or better quality as those used behind Babies R Us".

Commissioner Sweeney asked what happened to the trash enclosure that was located up against the east elevation of Building A.

Commissioner Sweeney suggested adding a trellis on the east elevation of Building A in addition to the tree already specified.

Commissioner Sweeney referred to condition #31 and asked what is meant by substantially the same as the Starbucks use.

Mr. Leonard replied that it would need to be a beverage type service.

Commissioner Sweeney asked if that would include carry out food.

Mr. Leonard stated that it would not.

Commissioner Sweeney asked even if the food was prepared on-site.

Commissioner Sweeney clarified that this will eliminate a fast food restaurant.

Ms. Lum suggested that we could change the condition to eliminate retail and carry out food stores but in this case Starbucks does fall into the category of a retail and carry out food store. Ms. Lum stated that we are trying to eliminate uses that don't have a clean process associated with the food and beverage preparation.

Commissioner Sweeney stated her concern that if Starbucks decides to relocate and this space is taken up by food service of some kind, that it has not been designed to accommodate the equipment that would be necessary to handle the odors that are produced.

Mr. Leonard suggested that if a conversion as described by Commissioner Sweeney was proposed that maybe this condition would require a Use Permit, if we can legally do it.

John Bakker, City Attorney, clarified that the Use Permit is required because of the drive-through only otherwise restaurant uses would be permitted.

Commissioner Sweeney asked if we could specify that a substantially similar business would be a beverages only business or one that produces beverages only.

Commissioner Sweeney stated that there have been complaints about food odors from other businesses.

Mr. Bakker stated that the primary business of the operation is the sale of beverages.

Mr. Leonard suggested adding a phrase in condition #31 at the end "i.e., hot and cold beverages use".

Commissioner Sweeney suggested adding "preparation."

Commissioner Sweeney asked if there is going to be a raised sidewalk or striping between the sidewalk and Shops B.

Ms. Lum stated that the Chief Building Official stated that striping is not recommended anymore because it gives a false sense of security to pedestrians. Ms. Lum stated that it will just have curb cuts and no striping.

Commissioner Sweeney asked if there would be a cross walk.

Ms. Lum stated that there would not be one.

Commissioner Sweeney stated her concerns about that issue.

Commissioner Anderson stated that conditions #9 and #16 are very similar and wondered if they should be combined.

Ms. Lum stated that it would be better to keep them the way they are.

Ms. Lum recommended deleting the last sentence of condition #9 because the locations are already called out on the site plan.

Commissioner Anderson asked if conditions #59 and #60 refer to the entire Alvarado Place shopping center.

Ms. Lum replied that in this case it does refer to the entire site.

Commissioner Anderson asked if having the condition refer to the entire site is correct.

Ms. Lum replied that safety for the center is a very big issue and the lighting should be consistent throughout the entire center.

Commissioner Anderson asked if that would also be the case for condition #60.

Ms. Lum stated that if the commission wants to they can limit it to the new development.

Commissioner Anderson asked for clarification of condition #69.

Ms. Lum stated that the entry sign planter area can be excluded from condition #69.

Commissioner Sison asked for clarification of how many parking spaces are required and how many are shown as provided on the plan.

Mr. Leonard clarified the parking requirements.

Chairperson Lew asked if the Variance permit is still needed for Building A.

Ms. Lum stated that the Variance is still needed for the rear yard setback requirements for Building A.

Chairperson Lew asked where the trash locations were moved to.

Ms. Lum pointed out the new locations.

Chairperson Lew referred to conditions #25 and #40 and asked if building tenants are responsible for removing graffiti.

Mr. Leonard replied that the property owner would be responsible for removing graffiti.

Chairperson Lew suggested revising condition #25 and removing "graffiti" because it is already covered in condition #40.

Mr. Leonard suggested changing it to "the applicant and/or property owner shall ensure that the site is kept free trash debris, etc."

Chairperson Lew stated that conditions #45, #46, #47, and #50 only refer to one building when there are two buildings being proposed.

Ms. Lum replied that she has modified those conditions to refer to both buildings.

Chairperson Lew referred to condition #16 and asked if they are going to require mulching.

Mr. Leonard replied that it could be added to the condition.

Chairperson Lew referred to condition #38 and #67 and stated that they appear to be very similar.

Ms. Lum recommended deleting condition #67 because it is redundant.

Commissioner Sweeney referred to condition #60 asked if the new development would include the AutoZone property.

Mr. Leonard replied that it could be included by using this parcel.

Chairperson Lew opened the public hearing.

Patrick Conway, Duckett-Wilson Development Company, thanked staff for their help in preparing this application. Mr. Conway would like to change condition #9 to exclude the bank, Taco Bell and Kentucky Fried Chicken parcels from the Alvarado place shops as his company does not manage those parcels. Mr. Conway would still like to have the raceway signs. Mr. Conway referred to condition #14 and noted that the fire exit along the back will need to be accommodated. Mr. Conway referred to condition #16(C) and stated that they don't own that property and don't maintain it and would like it removed from the condition.

Mr. Leonard stated that the reason they left it in there is because when the shopping center was built it was installed by Duckett-Wilson and felt that it was fair to include it. Mr. Leonard stated that on the drawing there is a property line inside of that landscape area and the landscape area is in the City right-of-way. Mr. Leonard asked for direction from the commission on how to proceed.

Mr. Bakker stated that the City could grant them an encroachment permit to work in that area or that there are other ways to handle this.

Mr. Conway stated his concern because they have not been responsible to maintain this for a long time and it might be very costly to clean it up.

Mr. Conway stated that although they have a letter of intent from Starbuck's, they could pull out and he wanted to be able to bring in a comparable use. Mr. Conway stated that they will have a professional landscape architect designing the berm area. Mr. Conway will work with the City Arborist to make sure that whatever they do is done properly. Mr. Conway stated that they will verify the parking count.

Commissioner Sweeney stated that she likes the new site plan. Commissioner Sweeney referred to the small outdoor area across from the drive aisle and stated that there is no landscaping proposed for that area and she would like to see some green there.

Mr. Conway stated that the wall on the north side of that patio doesn't have anything proposed but if the drive aisle width is sufficient he can put in an 18" or 24" landscape strip.

Commissioner Sweeney stated that if he can get irrigation in to support the vines that are supposed to cover the walls it will make the area much more pleasant.

Mr. Conway stated that they will get something in there.

Commissioner Sweeney asked if there will be any pedestrian access from Alvarado Boulevard directly to Starbucks across the berm.

Mr. Conway replied only at that entrance.

Commissioner Sweeney suggested that there will be pedestrian access across the berm whether you put it in there or not. Commissioner Sweeney suggested that it might make sense to put in a less heavily landscaped area that people walking across will not damage so much.

Mr. Conway stated that they looked at that issue but if they provide a path of travel then it must meet more requirements and they did not want to do that.

Commissioner Sweeney asked if the light colored archways are recessed or are they scored.

Mr. Conway replied that he thinks it is scoring and it is due to the tile wainscoting below.

Commissioner Sweeney asked if that was true for the entire elevation.

Mr. Conway stated that it is just the four arches and the drive through window is popped out.

Mr. Leonard stated that staff understood that it was recessed and he doesn't think that the scoring will create enough detail.

Mr. Conway asked if it would be okay for the recess to go all the way down and break the tile.

Commissioner Sweeney asked for staff to look at it further.

Commissioner Sweeney stated that she wants to make sure that the public art does not pose a visibility issue for drivers.

Mr. Conway stated that they will work with staff to make sure that visibility is not compromised.

Chairperson Lew asked what he wanted changed in condition #9.

Mr. Conway replied that he wants to exclude the three parcels that they don't own and/or manage.

Barry Ferrier, Union City, stated his concerns about the amount of wall that people driving from Fremont into Union City will see. Mr. Ferrier wants to see the roof lines extended to break up the walls. Mr. Ferrier spoke about the ugliness of the backs of the buildings. Mr. Ferrier stated his concerns that the berm is going to be smaller than it is now and that it may not blend in with the rest of the berm. Mr. Ferrier suggested using half berm and half decorative stone wall like the McDonalds.

Hugh McNamara, Union City, stated his concerns about the changing of the business signs. Mr. McNamara stated that the patched holes look bad.

Mr. Conway stated that Commissioner Sweeney's idea for the wall is a good one and will mitigate some of Mr. Ferrier's concerns. Mr. Conway reiterated his preference for the raceway signs. Mr. Conway stated that they will work with a landscape architect to make sure that the berm is functional and attractive.

Commissioner Sweeney asked if there will be a fire exit on that side.

Mr. Conway stated that he doesn't think that additional exits will be required because of the size of the shops.

Chairperson Lew asked if they would be willing to move the public art closer to the planter area and make it a focal point.

Mr. Conway stated that they have no objection to locating the public art wherever staff and the commission would like it located.

Mr. Leonard stated that the location of the public art should be left to the Arts Committee.

Chairperson Lew closed public hearing.

Mr. Leonard reviewed changes to conditions of approval:

- Change condition #9 to exclude Fremont Bank, KFC, Taco Bell and delete the last sentence.
- Change condition #11 add at the end of first sentence "as amended by the City Council on March 14, 2006" and change "reduced" to "limited" and insert "and shall incorporate sufficient area for leasing information which may include contact name, number and/or square footage."
- Change condition #14 to add irrigation along the back side.
- Change condition #16 to add "which shall include mulch to prevent the soil from drying."
- Delete condition #16 and replace with a new condition recognizes the drive through visibility issue.
- Change condition #16(B) to add a sentence at the end "to minimize headlight glare."
- Add a condition that the south elevation arches shall be recessed.
- Add a new condition the public art shall be placed so as not to block traffic visibility.
- Change condition #16(H) and move it to Condition #9.
- Change condition #16(I) add "or better" in the first line after "same quality or better."
- Change condition #16(I) add a sentence to require the addition of trellises on building A's south side.
- Change condition #25 shall be amended to exclude the words "and graffiti" on the second to the last line.

- Change condition #31 to add a phrase at the end of the first sentence “same, i.e., preparation of hot and cold beverages.”
- Change condition #45 to make building plural.
- Change condition #46 to add “in each building.”
- Change condition #47 make sprinkler system plural and add “for each building” at the end.
- Change condition #50 to add at the end of the first line “located outside of each building and provide keys.”
- Add a new sentence to condition #59 “the applicant/property owner shall install a new light pole fixture adjacent to the north entry driveway along Dyer Street.”
- Change condition #60 so that it reflects this property ownership parcel only.
- Delete condition #67
- Change condition #69 to add at the end of the sentence “excluding the existing sign planter area.”

Chairperson Lew what the applicant will need to replace the trees in the City right-of-way.

Mr. Bakker replied that the City would have to authorize the work and that could be done by encroachment.

Commissioner Sison suggested changing condition #16(C) to add the encroachment permit.

Mr. Leonard read back “the applicant and/or property owner shall obtain an encroachment permit and remove. . .”

Commissioner Anderson asked if condition #16(C) was one that the applicant did not want.

Commissioner Sison stated that he did.

Chairperson Lew stated that he did but it was because he had no control over this area.

Commissioner Sison stated that getting the encroachment permit will allow them to work in the City owned area.

Commissioner Sison stated his concern that there is not enough parking for the new shops. Commissioner Sison asked what should be the correct amount of spaces required.

Mr. Leonard stated that the new calculation shows that they need 60 parking spaces.

Commissioner Sison asked to add that as a condition of approval.

Mr. Leonard stated “the applicant shall provide a minimum of 60 parking spaces.”

Ms. Lum stated that because of the update to the zoning code the calculation of how many spaces needed was changed.

Commissioner Sweeney asked to change findings #6 and #7 to read “drive through Starbucks or a similar use.”

Commissioner Sweeney made a motion to approve Site Development Review SD-09-05, Use Permit UP-09-05 and Variance V-04-05, making findings 1 - 13, and with amended conditions of approval and certify the Mitigated Negative Declaration as adequate and adopting resolutions confirming this action.

Commissioner Anderson seconded the motion.

AYES 5 (Anderson, Lew, Savage, Sison, Sweeney)
NOES 0
ABSENT 0
ABSTAIN 0

B. NEW HEARINGS:

1. GREEN BULDINGS PROGRAM

This project is categorically exempt under Section 15061(b3) of the California Environmental Quality Act (CEQA).

A. General Plan Amendment AG-01-06,

The City is proposing to amend the Community Design Element of the General Plan to create a new section on Environmental Sustainability. The new section will establish goals and policies for creating a more environmentally and economically sustainable community by encouraging “green” building, landscaping, and purchasing practices in Union City.

B. Municipal Code Amendment AT-01-06; The City is also proposing to amend Title 15 Building and Construction of the Municipal Code to create a new section called Chapter 15.76 Green Building and Landscaping Practices. The new chapter will outline requirement for a mandatory green building and landscaping program for civic and public-private partnership developmental projects

C. Policy Statement For Green Private Development

The City is proposing to adopt a policy statement encouraging private development to use green building and landscaping methods.

Janice Lum, Assistant Planner, presented the staff report.

Commissioner Sweeney stated that there is a definition for “initiated” for projects in the City budget and asked how “initiated” is defined for public/private projects.

Mr. Leonard stated that he is not sure how it will be defined.

Commissioner Sweeney stated that it is a good definition but only if we treat as covered projects items that show up in the City budget.

Mr. Leonard stated that many of the things in the budget are sometimes only general allocations not to a specific project.

Commissioner Sweeney stated that using that as the standard by which we determine if it meets the criteria for being \$3 million dollars or over is even more tenuous.

Mr. Leonard agreed.

Commissioner Sweeney stated that she has a problem with that and if we are going to use the term “initiated” it needs to cover all of our potential areas of concern but she doesn’t know enough about the process to suggest a change.

Mr. Bakker stated that City/Public Agency partnership project will probably end up in the City budget in some way. Mr. Bakker stated that the more complicated projects are the Redevelopment projects, where we either sell land to a developer or we are giving the project money. Mr. Bakker suggested that we could refer to the official approval of that project. Mr. Bakker stated that it would be reviewed by the Planning Commission and the DDA has to be approved. Mr. Bakker stated that the language could be revised to reference the official approval whether it is through the DDA or whatever land use approval is necessary for the project.

Commissioner Sweeney just wanted to make sure that the term covers all aspects.

Commissioner Sweeney referred to definition V and asked if both a development agreement and a DDA are required.

Mr. Leonard replied that it should read “and/or”.

Commissioner Sweeney referred to section 15.76.030 and asked when is the determination made that the project will be more or less than three million dollars.

Mr. Leonard stated that most projects will either be very large or very small.

Glenn Kirby, Neighborhood Preservation Coordinator, clarified that she is looking for the point at which a determination made that a project is viable.

Commissioner Sweeney asked if we are looking at the estimated cost at the point that the project is initiated.

Mr. Kirby stated that it is.

Commissioner Sweeney asked if that should be added to the code.

Ms. Lum stated that it should be added.

Mr. Bakker suggested placing it in item 15.76.030(E).

Commissioner Sweeney stated it should say at the earliest feasible time.

Ms. Lum stated that the intent is to capture projects of significant scope and budget so that we can capture them as early as possible.

Commissioner Sweeney stated that she doesn't want to see projects estimated low so that they don't have to meet these requirements and then have them turn out to be over the required level.

Mr. Kirby stated that he hopes that we won't have many of those projects on the cusp.

Mr. Bakker stated that it could be included in the developer agreement or DDA.

Commissioner Sweeney referred to subsection C and asked what regular review means.

Carlos Jocson, City Engineer, replied stated that Public Works looks at their specifications regularly to make sure that they are up to date.

Mr. Kirby stated that it will be more focused on the environmental purchasing policy.

Commissioner Sweeney referred to section 15.76.040(A) and suggested that the requirements be listed instead of in paragraph form as it would be a lot easier to read.

Commissioner Sweeney noted the same problem with section B.

Commissioner Sweeney feels that we should not automatically exempt categories of projects because we are inexperienced with dealing with this. Commissioner Sweeney stated that we as a City don't have experience and we worry about cost, an unwieldy process, and a burden that may or may not be a reality for those projects. Commissioner Sweeney stated that instead of exempting all of those public agency/private partnerships we should have a waiver system. Commissioner Sweeney stated that if any of those projects have problems with the requirements that there will be a way out.

Commissioner Sweeney stated that those items shown under F should be incorporated in the waiver section to talk about what we hope they could achieve instead.

Mr. Kirby stated that we will have a strong General Plan that reinforces the policies and the concepts and so when we begin discussions with other agencies we will have that to lead us and we will try to attain the highest standard we can.

Mr. Kirby stated that it is complicated by the fact that other public agencies may have a governing board, elected board, may have another primary mission, i.e. BART, so they may make choices more related to transportation than green.

Commissioner Sweeney asked why we would exclude public/private partnerships automatically.

Mr. Kirby stated that part of the problem with private developers is that there are problems imposing some of these certifications on private development because it exceeds substantially what is their obligation under the Building Code and Title 24. Mr. Kirby stated that some of these issues will have to be worked out in the courts.

Ms. Lum stated that in public/private partnerships the City does not have the same level of control and oversight of the design from the initial stages.

Mr. Leonard stated that the other point is that the reason a project is a public/private project is because the project is not feasible for the private sector alone to build and it requires the participation of a public agency. Mr. Leonard stated that participation falls under the Redevelopment Agency to fill a gap. Mr. Leonard stated many public projects have other sources of money into them and then they are not totally a local burden.

Mr. Kirby stated that we can make sure that we have qualified architects and qualified designers so that they will attain the level of compliance we would like. Mr. Kirby stated if we require certification then we will need a third party to shepherd that project all the way through. Mr. Kirby asked if it adds that much value to a project to have the certificate at the end.

Commissioner Sweeney is not sure she agrees with that but sees the point.

Commissioner Sweeney asked when and what documentation should be submitted for non-covered projects or waived projects and when it should be reviewed.

Ms. Lum stated that a new section will be added to cover those cases.

Chairperson Lew asked what upcoming projects might be covered by this new ordinance.

Mr. Kirby stated that projects within the station district and there may be more down the line.

Chairperson Lew asked about the new fire station.

Mr. Kirby stated that it may be far enough along to not be captured by the new ordinance.

Mr. Kirby stated that they did try to include as many green elements as possible.

Chairperson Lew opened the public hearing.

Chairperson Lew closed the public hearing.

Chairperson Lew asked what changes were made for covered projects.

Ms. Lum stated that it is in section 15.76.040 and the first part of the text reflected the suggestions by the Planning Commission.

Commissioner Savage stated that she would agree to the wording that differentiates the certifications.

Commissioner Anderson stated his concerns about the language.

Commissioner Sison stated he agreed with Commissioner Anderson.

Commissioner Sweeney suggested deleting A – D and replacing it with E – I.

Ms. Lum stated that the lettering is off and she will correct it.

Commissioner Sweeney clarified that projects that come forward as part of the DDA with TMG would not be covered projects.

Mr. Leonard stated that they would not have to go through the certification process but they could achieve as much green building as possible.

Mr. Leonard stated that the City of Pleasanton went all out with this and then had to back up when it proved to be onerous.

Mr. Leonard reiterated the changes to the General Plan Amendment.

Ms. Lum stated that staff recommended deleting two policies and two implementation programs relating to energy efficiency and conservation but it was suggested that they be moved to the new section as well as the policy of the siting conditions.

Mr. Leonard stated the changes to the Municipal Ordinance:

- Change page 2 definition “P” will be amended to reference approval of the project by either the Planning Commission or a DDA.
- Change definition “V” to read “development agreement and/or DDA”.
- Change 15.76.040 to bullet the items.
- Staff recommends you adopt the text in italicized type.
- Change 15.76.050 adding section C for non-covered or wavered projects.

Commissioner Anderson made a motion to recommend approval to the City Council the Policy Statement for Green Private Development and adopt a resolution confirming this action.

Commissioner Sweeney seconded the motion.

AYES	5 (Anderson, Lew, Savage, Sison, Sweeney)
NOES	0
ABSENT	0

ABSTAIN 0

Commissioner Anderson made a motion to recommend approval to the City Council of General Plan Amendment AG-01-06 with amendments suggested by staff and the mayor and adopt a resolution confirming this action.

Commissioner Sweeney seconded the motion.

AYES 5 (Anderson, Lew, Savage, Sison, Sweeney)
NOES 0
ABSENT 0
ABSTAIN 0

Commissioner Anderson made a motion to recommend approval to the City Council Municipal Code Amendment AT-01-06, and with amendments suggested by staff and adopting resolutions confirming this action.

Commissioner Savage seconded the motion.

AYES 5 (Anderson, Lew, Savage, Sison, Sweeney)
NOES 0
ABSENT 0
ABSTAIN 0

Commissioner Sison left the meeting.

2. **GARY SINGH, 1275 ATLANTIC STREET, Site Development Review SD-02-06, Use Permit UP-02-06;** the applicant, Gary Singh, is requesting Site Development Review approval and Use Permit approval to construct a new 14,150 square foot automotive repair center in a ML (Light Industrial) zoning district located at 1275 Atlantic Street (APN: 475-0070-023). This project is categorically exempt under Section 15332, In-fill development projects, of the California Environmental Quality Act (CEQA) guidelines.

Avalon Evans, Assistant Planner, presented the staff report.

Commissioner Anderson referred to condition #18 and asked if there is any reason to allow parking lot storage at any time.

Ms. Evans replied this condition is just to ensure that the vehicles in for repair will not be outside overnight.

Mr. Leonard stated that during the day cars waiting for repair will be parked outside and because this is located in an industrial district that it would be reasonable to allow parking outside during the day as long as no repairs occur outside.

Commissioner Anderson wants to eliminate “overnight” from the condition.

Mr. Leonard stated that clarifies it.

Commissioner Sweeney asked if there would be any cars parked there overnight.

Mr. Leonard stated that cars can be dropped off before the shop opens in the morning.

Chairperson Lew asked for more clarification on this condition.
Ms. Evans asked for suggestions on the wording.

Chairperson Lew replied "automobiles in unsafe condition should not be parked outside".

Ms. Evans stated that the condition was designed so that the shop would not use the outside parking as a vehicle storage area.

Commissioner Anderson pointed out that conditions #32, #33 and #34 should have the word "shall".

Commissioner Anderson referred to condition #45 and he does not think that there is 30 feet between the driveways.

Ms. Evans stated then they will paint the entire curb between the driveways.

Mr. Leonard stated that there is plenty of room.

Commissioner Sweeney referred to condition #26 and change "each" to "the".

Commissioner Sweeney referred to condition #31 and asked why it is not the standard trash enclosure.

Ms. Evans stated that because of where the trash enclosure is located this condition has been changed to ensure that it meets building and fire safety requirements.

Commissioner Sweeney asked to change "SBC" to "AT&T" in condition #8.

Chairperson Lew asked if a different use wanted to be located in this new building would it require a Use Permit.

Ms. Evans stated that if it is a permitted use then it would only need a business license, any other use would require a new separate Use Permit.

Chairperson Lew asked if the drive aisle will be a shared or public easement for access to the rear parcel.

Ms. Evans replied that the drive aisle is not part of this property.

Chairperson Lew asked if there would be a fence along the back property line.

Mr. Leonard stated that it will remain open.

Chairperson Lew opened the public hearing.

Chairperson Lew asked if he would be able to move all the automobiles inside at night.

Gary Singh, Fremont, CA, replied that it is the ir standard operating procedure to move all the vehicles inside the shop at night.

Chairperson Lew asked how will he get clients to the BART station.

Mr. Singh stated that he has hired two people to drive a shuttle service to take customers to local areas.

Chairperson Lew closed the public hearing.

Chairperson Lew suggested making the public art optional or have an in-lieu fee because the site is located in a not very heavily traveled industrial area.

Ms. Evans suggested that the condition could be changed to require the design and placement shall be reviewed and approved by the Arts Committee.

Chairperson Lew wants to make the art optional.

Mr. Leonard suggested that they follow City Council policy and not make any changes to the public art requirement.

Mr. Leonard reviewed the changes to the conditions of approval:

- Change condition #18 to delete the word “overnight”.
- Condition #26 change “each” to “the”.
- Change conditions #32, 33, 34 to use the word “shall”.
- Change condition #8 to read “AT&T”.
- Change condition #14 to read “design and placement shall be reviewed and approved by the Arts Committee”.
- Add a new condition for a tree survey and tree permits.

Commissioner Anderson made a motion to approve Site Development Review SD-02-06, and Use Permit UP-02-06, making findings 1 - 7, and with amended conditions of approval and adopting resolutions confirming this action.

Commissioner Sweeney seconded the motion.

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

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS: None.

VII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS: None

VIII. COMMISSION MATTERS:

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

B. Upcoming applications for the Regular Planning Commission meeting of March 16, 2006.

IX. GOOD OF THE ORDER:

Commissioner Sweeney asked for the status of the two-story building across from Barnard White School.

Mr. Jocson stated that the sewer line as designed cannot be constructed

X. ADJOURNMENT:

APPROVED:

JO ANN LEW, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY