

**CITY OF UNION CITY  
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING  
OF DECEMBER 21, 2006, 7:00 P.M.  
IN THE COUNCIL CHAMBERS OF CITY HALL  
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

**I. SWEARING IN OF NEW (ALTERNATE) PLANNING COMMISSIONER:**

Mark Leonard, Economic and Community Development Director, swore in the new alternate Planning Commissioner, Rahul Saini.

**II. ROLL CALL: Commissioners Anderson, Lew, Saini, Singh, and Chairperson Sison  
ABSENT: Commissioner Sweeney**

**STAFF:** Mark Leonard (Director, Economic and Community Development); Janice Lum (Assistant Planner); Farooq Azim (Principal Civil Engineer); John Bakker (City Attorney); Kris Fitzgerald (Administrative Assistant).

**III. APPROVAL OF MINUTES:** The regular Planning Commission minutes of November 16, 2006 were approved with corrections.

**IV. ORAL COMMUNICATIONS:** None.

**V. WRITTEN COMMUNICATIONS:** None.

**VI. PUBLIC HEARINGS:**

**A. CONTINUED HEARINGS:** None.

**B. NEW HEARINGS:**

- 1. EMERALD PACKAGING, 33050 WESTERN AVE., Use Permit UP-12-06 and Administrative Site Development Review ASD-46-06;** the applicant is requesting approval of a Use Permit to expand operations of a plastic packaging facility in an existing 77,384 square foot warehouse located at 33050 Western Avenue in Union City (APN: 475-0080-007-00). The applicant is also requesting approval of Administrative Site Development Review ASD-46-06 to construct a 110 square foot storage enclosure to store ink drums adjacent to the warehouse building. This project is considered categorically exempt under Section 15301, Class 1(a), Existing Facilities and Section 15303, Class 3(e), New Construction or Conversion of Small Structures, of the California Environmental Quality Act (CEQA) guidelines.

Janice Lum, Assistant Planner, presented the staff report.

Commissioner Singh left the meeting due to conflict of interest.

Commissioner Anderson asked if Emerald Packaging is expanding their operation or do they just want a Use Permit to continue operations.

Ms. Lum replied that it is a continuation of current operations with a possibility of future expansion. Ms. Lum stated that they are over the 5,500 gallon threshold for flammable ink storage, which requires a Use Permit.

Commissioner Anderson asked what would the expansion consist of.

Ms. Lum replied that it would be an intensification of their current use.

Commissioner Anderson asked if that would mean more ink.

Ms. Lum replied that it would.

Commissioner Anderson asked how close are the surrounding uses.

Ms. Lum stated that they are about 60 – 70 feet from the other uses.

Commissioner Anderson asked if they have management controls in place.

Ms. Lum stated that they currently have a number of controls in place but there will be additional controls that will be required for specific areas.

Commissioner Anderson asked if, when the company changed to flammable inks in 2000, was an Environmental review done.

Mark Leonard, Director, Economic and Community Development, replied that when the facility started in business there was no CEQA compliance required because it was a permitted use. Mr. Leonard stated that when the company expanded that triggered CEQA and we prepared a Negative Declaration based upon the facility and operations at the time.

Commissioner Anderson asked why the Negative Declaration was not part of the report.

Mr. Leonard stated that the expansion of the building in the 90's was part of the staff report.

Commissioner Anderson asked if the Negative Declaration would be part of this report.

Ms. Lum stated that they were granted an exemption as an existing facility.

Commissioner Anderson stated that categorical exemptions can't be used when there is a possibility of risk. Commissioner Anderson read "categorical exemption shall not be used when activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." Commissioner Anderson stated that because this is a hazardous materials site a categorical exemption cannot be used.

Lorenzo Perez, Union City Fire Department, stated that in 2000, Emerald Packaging came to Union City and submitted plans to expand operations and since then they have slowly increased the volume of hazardous materials. Mr. Perez stated that the Fire Department determined that because of the amount of hazardous materials it would be prudent for them to obtain a Use Permit, which would require additional controls.

Commissioner Anderson stated that this application does not fit the definition for a categorical exemption.

Mr. Leonard stated that it is correct that if there is an environmental impact that it could not be exempt. Mr. Leonard suggested that staff should prepare the environmental checklist and prepare the proper CEQA document.

Commissioner Anderson stated that he cannot vote on this application until that has been corrected.

Mr. Leonard suggested that the commission continue the public hearing and hear all the comments and then continue the hearing to the next meeting to give staff time to prepare the environmental documents.

Commissioner Lew referred to condition #19 and asked what was the significance of the September '07 date.

Mr. Perez replied that the City departments determined that would be an adequate date for completion of the project.

Commissioner Lew asked if that was discussed with the applicant.

Mr. Perez replied that there was an informal meeting with the applicant.

Commissioner Lew referred to page 7 and asked what year the anticipated growth refers to.

Ms. Lum replied that they are anticipated growth figures for 2007.

Commissioner Lew asked to correct on page 8, #5 should read "intent of chapter".

Commissioner Lew referred to condition #7 and asked why it states "building valuation".

Mr. Leonard stated that it is boiler plate text and directly from the fee schedule and it means the value of construction.

Commissioner Lew asked to change "building" to "construction" in condition #7.

Commissioner Lew asked if there is an existing Use Permit for this company.

Mr. Leonard replied that there is not because it is a permitted use.

Commissioner Lew asked what guidelines are being followed for this site, EPA or state or what guidelines.

Mr. Perez replied that they use Bay Area Air Quality for emissions, Uniform Fire Code, State EPA, Hazardous Materials business plan, and a whole host of environmental controls from the state and from the Federal government.

Commissioner Lew asked how they determine which guidelines they use.

Mr. Perez replied that they are minimum standards and all the others are law and regulations that must be followed. Mr. Perez stated that they generally use State laws and regulations.

Commissioner Saini asked if the containers will be loaded from inside the building or outside the building.

Mr. Perez stated that the new containers will be loaded outside the building and when drums are being received or shipped off they will be stored temporarily outside.

Commissioner Saini asked if more parking spaces will be taken for use as a loading/unloading area for the containers.

Mr. Perez stated that they will probably park the truck by the dock area and roll the drums into the storage area.

Commissioner Saini asked if the containers are hit by a car would there be any spillage or explosions.

Mr. Perez stated that it is possible but the building has a spill control system underneath.

Chairperson Sison asked what type of sprinkler system is being used in the building.

Karl Schneider, Union City Fire Department, replied that it is water based because water is a more economical means to put out a fire. Mr. Schneider stated that when you do have solvent base liquids there is a possibility the water will spread the fire but one of the benefits of water is that it will cool the surrounding areas to help contain the heat produced.

Chairperson Sison questioned the wisdom of having a water based sprinkler system in the storage area.

Mr. Schneider replied that for the outside storage container there are additional controls to prevent the spread of fire. Mr. Schneider stated that if a drum ignites the sprinklers will cool the other drums to prevent them from igniting also.

Commissioner Anderson asked for clarification of whether the facility is a “large” site.

Mr. Schneider stated that it is based on different standards. Mr. Schneider stated that the land use codes designate this as a “large” site but the fire code does not.

Chairperson Sison opened the public hearing.

Harish Goyal, 43626 Skye Rd., Fremont, CA, consultant to the Emerald Packaging, stated that they are following all the city, state, and federal codes for this project.

Commissioner Anderson asked the applicant to describe future expansion of operations.

Mr. Goyal replied that if there is an expansion, an application will be submitted to upgrade the building or another site will have to be located. Mr. Goyal stated that there are no concrete plans at this time.

Commissioner Anderson asked if they will be able to meet the deadline to install the additional controls.

Mr. Goyal replied that they will be able to.

Commissioner Anderson asked if there are sprinklers in the control area.

Mr. Goyal replied that there are sprinklers in the entire building.

Commissioner Anderson asked about the ventilation.

Mr. Goyal replied that they will be installing additional air exchanges to the additional ventilation system.

Commissioner Anderson stated that the only thing they don't have is the sprinkler density the Fire Department wants.

Mr. Goyal stated that is not correct, the Fire Department is recommending the outside storage area for loading/unloading of the ink drums.

Commissioner Anderson referred to page 5 and asked if those controls are currently in place.

Mr. Perez stated that they are and that for the extra 10 gallons they want to bring in they will need to improve the controls.

Mr. Goyal stated that for control area #3 and #4 there will need to be a reassessment of the ventilation system and see if anything else can be done.

John Bakker, City Attorney, stated that these are Fire code standards and they have their own authority and jurisdiction and they implement these standards and requirements on their own. Mr. Bakker stated that they have provided this information to show that the risk of a hazard is minimal. Mr. Bakker stated that they may not have a final set of standards to apply before this comes back before the commission.

Commissioner Anderson stated that before this application comes back before us, those standards that they are voting on will be described, indicated and codified in the staff report.

Mr. Bakker stated that it is his understanding that they are not voting on the standards.

Chairperson Sison stated that the commission has provided their comments on the fire safety standards and that this will be addressed in the staff report.

Mr. Leonard stated that when we come back for the continued hearing in January, we won't know from a Fire Chief standpoint exactly what control the chief will require in order to issue the fire permit but we will be able to continue to give you a range of options to look at. Mr. Leonard stated that under California law only the Fire Chief has the authority to make the decision on the controls that will be required.

Commissioner Anderson stated that he wants to see in the staff report conditions of approval that say to the requirements of the Fire Code or Fire Chief and that they will meet conditions by a certain time.

Mr. Leonard stated that conditions can be added that say "the fire controls will have to be approved by the Fire Department prior to the issuance of building or fire permits."

Commissioner Lew asked Mr. Goyal is he was an officer for Emerald Packaging.

Mr. Goyal stated that he is a consultant to the company.

Commissioner Lew asked if Emerald Packaging is in agreement with the conditions of approval in this staff report.

Mr. Goyal stated that they are in agreement.

Commissioner Lew asked what is the life cycle of the plastic bags.

Mr. Goyal stated that they usually get thrown out after use.

Commissioner Lew asked if he knew that the bags are recyclable.

Mr. Goyal stated that if the City has recycling they can be recycled.

Commissioner Lew stated that she wanted to make sure that they are practicing some green practices.

Commissioner Lew asked if the barrels are recycled.

Mr. Goyal replied that the drums are used many times over.

Commissioner Lew noted that the company had one OSHA complaint in 2004 and no complaints since then.

Chairperson Sison closed the public hearing.

Commissioner Anderson stated that he wants this application continued.

Commissioner Anderson made a motion to continue Use Permit UP-12-06 and Administrative Site Development Review ASD-46-06, subject to an environmental review that determines whether an EIR or Negative Declaration shall be issued, to January 18, 2007 Planning Commission meeting.

Commissioner Lew seconded.

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

**VII. SUPPLEMENTAL STAFF REPORTS:**

**A. CONTINUED REPORTS:** None.

**B. NEW REPORTS:** None.

**VIII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS:** None.

**IX. COMMISSION MATTERS:**

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

**B.** Upcoming applications for the Regular Planning Commission meeting of January 4, 2007.

**X. GOOD OF THE ORDER:**

Commissioner Lew asked what the status is of the space between Best Buy and Babies R Us.

Mr. Leonard replied that there is a problem between the owner of the property and Petsmart, which is being litigated.

Commissioner Lew noted that the area is very trashy.

Mr. Leonard stated that he will notify the owner.

Commissioner Lew noted that Emerald Packaging had purchased the Beamis Bag site and asked if they were going to expand to that area.

Mr. Leonard stated that they had been considering expanding but not at this time.

Commissioner Lew asked that in the future for applications that include hazardous materials she would like to see an OSHA report included.

**XI. ADJOURNMENT: 8:30 p.m.**

**APPROVED:**

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**REY SISON, CHAIRPERSON**

**ATTEST:**

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**MARK LEONARD, SECRETARY**