

**CITY OF UNION CITY
AGENDA FOR THE REGULAR PLANNING COMMISSION MEETING
OF OCTOBER 4, 2007, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

**I. ROLL CALL: Commissioners Anderson, Lew, Singh, and Chairperson Sweeney
Absent: Commissioner Saini**

STAFF: Mark Leonard (Director, Economic and Community Development); Janice Lum (Assistant Planner); Mike Rodriquez (City Attorney); Kris Fitzgerald (Administrative Assistant).

II. APPROVAL OF MINUTES: The regular Planning Commission Minutes of September 6, 2007 were approved as submitted.

III. ORAL COMMUNICATIONS: None.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS:

- 1. JOLLIBEE, 32460 DYER ST., Modification Use Permit UP-06-99 and Administrative Site Development Review ASD-13-07; the applicant is requesting approval of a modification to their Use Permit (MOD UP-06-99) to extend drive-thru operations to 24 hours for the Jollibee restaurant located at 32460 Dyer Street (APN: 463-0060-015-11). The applicant is also requesting approval of an Administrative Site Development Review permit (ASD-13-07) to install additional lighting on the building exterior. This project is considered categorically exempt per Section 15303, Class 3(a), New Construction, of the California Environmental Quality Act (CEQA) Guidelines.**

Janice Lum, Assistant Planner, presented the staff report.

Commissioner Anderson referred to conditions #8 and #9 and asked if it was no longer necessary for the applicant to submit a design as required in those conditions.

Ms. Lum replied that is correct but if the commission wishes to change the plan then staff would require an additional photometric plan to reflect the changes.

Commissioner Anderson asked if these particular activities trigger a building permit.

Ms. Lum replied that the installation of the lights would require a building permit.

Commissioner Anderson asked if there is a condition that requires the applicant to get a building permit and what happens if they do not get a permit.

Mark Leonard, Director, Economic and Community Development, stated that it is a requirement of the Municipal Code.

Chairperson Sweeney noted that condition #3 requires the applicant to get a building permit.

Commissioner Singh asked what the height of the outdoor light fixtures is at the Krispy Kreme store.

Ms. Lum replied that it is about the same height as the lower tier lighting on Jollibee's.

Commissioner Singh stated that if the applicant places the fixtures at 16 feet high then the wattage should be reduced to cut the glare.

Ms. Lum replied that is what has been recommended.

Chairperson Sweeney opened the public hearing.

Bon Liu Pua Ng, 32460 Dyer Street, Union City, Ca, stated he is the restaurant operations manager. Mr. Ng stated that they want to open the drive-through 24 hours because sales are not very good. Mr. Ng stated that they have been in Union City for almost eight years and they want to stay in Union City. Mr. Ng stated that the proposed lighting is like lighting at a car dealership lot. Mr. Ng stated that their traffic generator survey showed that there are a lot of people going to work between 1:00 a.m. and 6:00 a.m. and they are trying to capture those customers. Mr. Ng stated that they really would like the Use Permit to be approved. Mr. Ng stated that they asked Union Landing management to put in lamp posts similar to Krispy Kreme but they said it was too costly. Mr. Ng stated that they cannot afford to install the lamp posts themselves because they are about \$12,000.00 dollars a piece. Mr. Ng stated that they would be willing to address the height and wattage of the new lighting. Mr. Ng stated that they have not had many security issues and they wanted to have the lighting to keep everything visible. Mr. Ng stated the building had already been painted before he became manager. Mr. Ng stated that they would submit a swatch plan for the building paint.

Chairperson Sweeney asked if they are planning to repaint the building.

Mr. Ng replied that they are not planning on repainting. Mr. Ng stated he thought that he was just needed to show samples of the current paint colors.

Chairperson Sweeney asked if he meant the colors currently on the building.

Mr. Ng replied that is correct.

Chairperson Sweeney asked if he is aware that those colors were not approved.

Mr. Ng replied that he is not sure.

Chairperson Sweeney noted that when this building was originally approved those colors were proposed for the building. Chairperson Sweeney stated the City did not approve of those colors because they were not in the Union Landing color palette.

Chairperson Sweeney stated that one of the conditions of the Use Permit was that it not be repainted without having the colors approved.

Mr. Ng asked if it needs to be repainted again. Mr. Ng stated that he would talk with his engineer.

Commissioner Singh asked how many colors are they going to use.

Ms. Lum replied that there is a Union Landing approved color palette book for the entire center. Ms. Lum stated that Joan Malloy, Planning Manager, remembers the approved colors and the deep eggplant color was lost in the repainting. Ms. Lum stated that she wanted to receive the colors so she could compare them with the paint samples that we have on file. Ms. Lum stated that if they are in the same range then it might be that they would only have to repaint selected portions of the building in order to tie in with the center.

Chairperson Sweeney stated that she would agree with that. Chairperson Sweeney stated that the yellow color is on a couple of other stores and that the red color is similar to the Radio Shack store. Chairperson Sweeney stated that she thinks the issue is the blue color which really stands out. Chairperson Sweeney stated that it might be the most difficult to fix because the tower was painted blue.

Ms. Lum suggested repainting the blue areas with the approved eggplant color.

Chairperson Sweeney suggested something toned down a little bit. Chairperson Sweeney stated that we don't want to force you to spend a lot of money but the rules exist not just for your business but for all the businesses and so we cannot just let this issue pass. Chairperson Sweeney stated that they may have to do some repainting in order to get back in line with the original Use Permit for this business.

Commissioner Singh stated that he thinks the yellow color is too heavy or too bright. Commissioner Singh thinks it should be lighter.

Mr. Ng asked if the blue was off color.

Chairperson Sweeney stated that the blue is definitely off and the yellow is much brighter than any of the other buildings out there. Chairperson Sweeney stated that the only things it ties in with are small pieces of tile and the bollards in front of Hollywood Video.

Mr. Ng stated that he will look at the swatches that Union Landing has.

Chairperson Sweeney suggested that he look at the color swatches that the City has because he has to have the permission of the City to paint a particular color.

Commissioner Lew asked what is the correlation between the 24 hour drive-through and improving the business and the lighting. Commissioner Lew asked why would the lighting make a difference.

Mr. Ng stated that the existing lighting has very dark areas around the drive-through and they want the customer to feel safe driving around the drive-through. Mr. Ng stated that when they were operating 24 hours without an approved Use Permit, sales rose about 16 percent above average daily sales which helped the business.

Commissioner Lew asked if they had already been operating 24 hours with out a valid permit.

Mr. Ng replied that they did a short time last May and June and then they were asked to stop until they had a valid permit.

Commissioner Lew asked why they would need additional lighting when the cars have headlights and there are two menu signs that are well lit.

Mr. Ng replied that there are dark areas around the drive-through even with the current lighting.

Commissioner Lew asked if they would consider landscape lighting.

Mr. Ng stated that it could be an option and asked if there is an issue with the brightness.

Commissioner Lew replied that there are residential areas on Alvarado-Niles Road and Dyer Street. Commissioner Lew noted that when Hollywood Video first opened their lights were very bright and they were asked to tone the lights down as they were shining into the homes across Dyer Street. Commissioner Lew stated that she does not see a need for additional lighting as she visited the property between 9 and 10 p.m. and the majority of the business was inside the business and not very many cars in the drive-through lane. Commissioner Lew thinks that a drive-through option is not necessarily the best option for buying food. Commissioner Lew doesn't see the correlation between adding lights and increasing the volume of business. Commissioner Lew thinks they will get business if the food is good. Commissioner Lew stated that their lighting is the same as the doughnut shop.

Mr. Ng stated that the doughnut shop has the two lamp posts.

Commissioner Lew stated that is correct but she does not know how to fit it into this application. Commissioner Lew stated that she would prefer landscape lighting or the lamp posts. Commissioner Lew stated that she hopes that their business improves because they are a valuable asset to the community.

Mr. Ng stated that based on their study, the Daly City store, which has gone to 24 hour service has increased their business by almost 16 percent.

Commissioner Lew stated that she has no problem with the Use Permit but she does have a problem with the additional lighting. Commissioner Lew stated that she does not think that they need additional lighting and if they want to put more in it should be low and unobtrusive.

Chairperson Sweeney does not like the idea of adding the lights at 16 feet. Chairperson Sweeney stated that if they really feel they need more lighting, she would agree to extra lights that match the existing lighting but not to adding a second level of very bright lights or even lights at the 100 watt level. Chairperson Sweeney stated that they want to attract customers but you don't want to make your neighbors angry.

Barry Ferrier, 32212 Allison Way, Union City, CA, stated that his concern is that the intersection is very dangerous. Mr. Ferrier stated that if the lighting is at 16 feet it needs to be shielded to prevent it from distracting drivers at the intersection. Mr. Ferrier thought that using landscape lighting was a good idea.

Hugh McNamara, 32238 Mercury Way, Union City, CA, stated that he agreed with the landscape lighting around the drive-through.

Chairperson Sweeney closed the public hearing.

Chairperson Sweeney stated that she does not have an objection to the Use Permit for the 24 hour drive-through. Chairperson Sweeney asked if there is a way to limit this to just Jollibee's so that if they leave a new business cannot just start using the drive-through 24 hours a day.

Mike Rodriguez, Assistant City Attorney, replied that perhaps the condition could be worded so that it would be exclusive to Jollibee's.

Chairperson Sweeney suggested to the commission that this might not be a bad idea because this has not historically been a 24 hour operation. Chairperson Sweeney stated that Jollibee's is doing this so they can stay in business in Union City and if it does not work out that way, we may not want a 24 hour operation at this location with a different business.

Commissioner Anderson stated that the Use Permit goes with the property, so how would you word the condition so it would only apply to Jollibee's.

Mr. Rodriguez replied that it could be a condition that would require evaluation on a six month or annual basis by the Planning Commission to determine whether or not there had been any problems with the 24 hour operation or whether or not the applicant wanted to be relieved.

Commissioner Singh stated that he thinks there should be a light along the driveway and he thinks they should get some estimates because it might be cheaper than mounting the wall lights. Commissioner Singh stated that they are all concerned about the glare of the lights and cited the Nakamura clinic as an example of lights facing towards the building so that it does not cause any problems. Commissioner Singh does not like the 16 foot high lighting.

Chairperson Sweeney stated she is opposed to putting any lights at 16 feet and suggested going with option #1 to install lights that match the existing lights or going to landscape lighting and let staff look at the options.

Commissioner Lew stated that she does not want any additional wall lighting.

Chairperson Sweeney stated that then there would be four options; the three options that were in the staff report and an option for ground level landscape lighting pointing towards the building.

Commissioner Lew noted that the Use Permit follows the land regardless of what business is on it. Commissioner Lew asked if we decide to make an exception for this applicant what does that say to other businesses.

Commissioner Anderson stated that if we approve 24 hour operation it is because we think the business or the location supports it. Commissioner Anderson stated that he does not see why we would reject 24 hours for anyone else because it would depend on what kind of business it is. Commissioner Anderson stated that if it is a business that we don't think should be open 24 hours then we can reject it otherwise it would be approved.

Commissioner Lew stated that is based on an application if a new business takes over this establishment they would have to come in and ask for a Use Permit because this is Union Landing and if the Use Permit for the 24 hour operation goes with the land they would still have to demonstrate that it is viable for them to have a 24 hour operation. Commissioner Lew stated that it is not automatic.

Chairperson Sweeney stated if they are a permitted use they would not have to apply for a Use Permit.

Commissioner Lew noted that the building is designed to be a drive-through, whether for 8 hours or 24 hours, and is consistent with the doughnut shop next door. Commissioner Lew stated that she does not want to set a precedent by limiting the Use Permit.

Chairperson Sweeney stated that she hopes this is the last 24 hours use that is seen in Union Landing. Chairperson Sweeney stated that she does not want to see Union Landing as a 24 hour location.

Chairperson Sweeney stated that it is down to two issues; the repainting and the lighting.

Commissioner Anderson stated that he agrees with Commissioner Lew about the low lighting. Commissioner Anderson stated that he doesn't want to specify where the lights would be but would have the condition specify that there be no additional wall lighting.

Chairperson Sweeney stated that if we specify no wall lighting then we need to leave open the option of having landscape lighting because that is our preference.

Commissioner Anderson stated that he wants to see the painting made compatible with Union Landing color palate but it does not have to be the whole building, just enough to bring it into compliance.

Commissioner Lew asked who installed the lamp post outside the doughnut shop.

Mr. Leonard stated that was installed by Krispy Kreme.

Mr. Leonard restated the amended conditions:

- Add a condition to read "The applicant shall work with staff to repaint portions of the building to be compatible with the Union Landing color palette prior to the effectiveness of the Use Permit to allow a 24 hour drive-through service".

Commissioner Lew stated that though the yellow is very bright because the building is not close to other buildings in the shopping center she does not feel that that particular color is an issue.

Mr. Leonard restated the amended condition:

- Add a condition to read "The applicant shall work with staff to repaint portions of the building to be consistent with the original approved colors of Union Landing prior to the effectiveness of the Use Permit to allow a 24 hour drive-through service".

Ms. Lum referred to the desk item from the last meeting and there are two conditions and the second condition concerning the Use Permit is now moot.

Chairperson Sweeney agreed that it has been replaced.

Mr. Leonard read the last amended condition:

- Add a condition to read "The applicant may install ground level landscape lighting, directed toward the building along the driveway and shall not install additional wall lighting subject to review and approval by the Economic and Community Development staff.

Commissioner Lew made a motion to approve Modification Use Permit UP-06-99 and Administrative Site Development Review ASD-13-07 making findings 1 - 7, with amended conditions of approval and adopting a resolution confirming this action.

Commissioner Anderson seconded.

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

B. **NEW HEARINGS:** None.

VI. **SUPPLEMENTAL STAFF REPORTS:**

A. **CONTINUED REPORTS:** None.

B. **NEW REPORTS:** None.

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

VIII. **COMMISSION MATTERS:**

A. Alvarado Plaza monument sign location.

Janice Lum, Assistant Planner, presented the staff report.

Commissioner Singh stated that he does not feel that the sign is a safety issue in its current location.

Commissioner Lew asked if there could also be discussion about the sign location on Dyer Street.

Ms. Lum stated that the sign on Dyer Street was relocated and should no longer be an issue.

Chairperson Sweeney stated that the sign may not be an issue but the oleander bush is still a problem.

Ms. Lum stated that Public Works was asked to trim the oleander bush.

Commissioner Lew stated that because the road curves there is really no good solution and people should be careful when exiting that driveway.

Chairperson Sweeney suggested removing the oleander and putting in low plants instead.

Mark Leonard, Director, Economic and Community Development, agreed with that.

Barry Ferrier, 32212 Allison Way, strongly disagreed with the staff assessment of the sign location and the safety of the location.

Hugh McNamara, 32228 Mercury Way, stated his concerns for the safety of the streets.

Chairperson Sweeney stated that she thought they should move the sign because it is not in the place that it was approved but that might be a little harsh.

Ms. Lum stated that the applicant stated that he would be willing to move the sign but he does not think it is necessary.

Mr. Leonard stated that when the Police resource center is built there may be a need for monument sign to direct people to the substation and this would be the logical place for it.

Chairperson Sweeney asked if the new sign would be as large as the existing sign.

Mr. Leonard replied probably not.

Chairperson Sweeney stated that in that case maybe it makes sense to move the sign to where it belongs and then put a smaller sign set at the back end of this sign is for the police substation.

Commissioner Anderson stated that based on what he has heard it is a bad intersection. Commissioner Anderson stated that he has not heard anything that definitely says the sign is the reason. Commissioner Anderson stated that he thinks the intersection would be just as bad whether the sign is there or not.

Commissioner Singh asked if the anything is going to be added to the sign.

Ms. Lum stated that the sign is finished.

Commissioner Lew stated that she agrees with Commissioner Anderson that the sign is not the cause of the traffic problems at that intersection. Commissioner Lew pointed out that with all the improvements and development in the area there will be more pedestrians and the City needs to take a look at the area in regards to allowing left turns on some of those streets.

Chairperson Sweeney stated that it appears to be the sense of the commission to leave the sign where it is and to try and avoid putting signs in that location in the future.

- B. Follow-up on Planning Commission referrals to the City Council.
- C. Upcoming applications for the next Regular Planning Commission meeting for October 18, 2007.

IX. GOOD OF THE ORDER:

Mr. Leonard stated that there will be a community meeting on October 17, 2007 from 7:00 p.m. to 9:00 p.m. at the Ruggieri Senior Center regarding a new General Plan Element on Environmental Sustainability.

Mr. Leonard passed out the pins for the City's 50th Anniversary to the commissioners. Mr. Leonard mentioned that they are also available for sale at various locations in the City for \$8.00.

Commissioner Lew stated that a citizen was pleased with the completion of Eleventh Street.

Commissioner Lew stated that the Shurgard facility new landscaping looks very good.

Chairperson Sweeney referred to the newsletter from ABAG and stated that there are grants available for trails and she hopes that the City is going to be applying for some.

Chairperson Sweeney referred to the Tri-City Ecology newsletter and there was information about recycling Styrofoam blocks and they can be taken to GB Industrial Materials, 1528 Atlantic by appointment.

X. ADJOURNMENT: 8:45 p.m.

APPROVED:

CATHI SWEENEY, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY