

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
JANUARY 9, 2006
(APPROVED MARCH 6, 2006)

FIELD TRIP: CANCELLED.

REGULAR MEETING: 6:00 p.m.

MEMBERS PRESENT: Commissioners Ken Carbone; Richard Hancocks; Frank Imhof, Chair; Glenn Kirby, Vice Chair; Alane Loisel and Edith Looney.

MEMBERS EXCUSED: Commissioner Mike Jacob

OTHERS PRESENT: Steven Buckley, Assistant Planning Director; Brian Washington, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately eighteen people in the audience.

CALL TO ORDER: The Chair called the meeting to order at 6:35 p.m.

ANNOUNCEMENTS BY THE CHAIR: None.

OPEN FORUM: Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes. No one requested to be heard under open forum.

CONSENT CALENDAR:

1. **APPROVAL OF PLANNING COMMISSION MINUTES** - December 5 and 19, 2005.
2. **ZONING UNIT, ZU-2207 and TENTATIVE TRACT MAP, TR-7614, UTAL** – Petition to reclassify three parcels containing approximately 1.17 acres from the P-D (Planned Development, 1779th Zoning Unit) to a P-D (Planned Development) District, allowing subdivision into 10 parcels intended for single-family dwellings, located at 18911 and 18919 Lake Chabot Road, approximately 234 feet northeast of Keith Avenue, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 084B-0502-045, 084B-0502-055 and 084B-0502-046. (Continued from June 20, July 18, September 6 and 19, October 17, November 21, December 19, 2005, and January 9, 2006; to be continued to February 6, 2006).

Commissioner Hancocks made the motion to approve both December 5th and 19th Minutes as submitted. Commissioner Carbone seconded. For December 5th Minutes, motion carried 4/3

with Commissioners Jacob and Loisel excused and Commissioner Kirby abstaining. For December 16th Minutes, motion carried 5/2 with Commissioners Jacob and Loisel excused.

Regarding 2207th Zoning Unit, Commissioner Carbone said that he was concerned with the continuance and requested clarification on the reasons. Mr. Buckley explained that the continuance was needed to allow time for the economic study peer review to be completed. As such, staff has recommended a month's continuance, to the next evening meeting, when the matter will be re-noticed and re-posted. Commissioner Carbone made the motion to continue the matter for two months, to March 6th to allow additional time for all matters to be concluded hence eliminating the need for another continuance. Commissioner Kirby seconded. Motion carried 5/2 with Commissioners Jacob and Loisel excused.

Commissioner Loisel arrived a few minutes late.

REGULAR CALENDAR:

1. **'SUPERSTORE' CONDITIONAL USE PERMIT and ECONOMIC IMPACT ANALYSIS** – To consider an ordinance amending Title 17 of the General Ordinance Code to establish a definition of 'superstore', 'sales floor area', and 'non-taxable merchandize'; to establish superstores as a conditional use in the H-1, C-1, C-2, M-1 and M-2 zoning districts; require additional procedures relating to preparation and consideration of an economic impact analysis; and require additional findings relating to the economic impact of the superstore.

Mr. Buckley presented the staff report. Commissioner Kirby's concern was that the Specific Plans could still be read to include what it otherwise would include and, as such, applications could still be submitted for a superstore. Commissioner Hancock pointed out that under the freeway access zoning, there was insufficient contiguous land to accommodate such a use. Mr. Buckley pointed out that specific plans were usually oriented towards smaller scale and infill developments but thought that it would be wise to include a clarification on the prohibition. Commissioner Carbone concurred with Commissioner Kirby.

Public testimony was called for. Kevin Loscotoff, Public Relations Officer for Walmart Stores, Inc., provided background information and statistics. There are six stores in Alameda County and two superstores in California, with a positive relationship with the community and quality job opportunities. Two new stores have opened in Oakland and Fremont. Mr. Loscotoff felt that an approval of the ordinance amendment would worsen the unemployment problem in the County. He further invited the Commission to visit one of the stores to hear the employees and customers view on this ordinance before a decision is made. Commissioner Kirby clarified that the aim of this ordinance was not to prohibit a Walmart store but to regulate the development of any super-store over 100,000 square feet with non-taxable merchandise. In response to Commissioner Hancock, Mr. Loscotoff said a superstore would require approximately 10-18 acres and there is no immediate plan for one in the unincorporated areas; and in response to Commissioner Looney, he indicated that employment opportunities in a superstore would

increase by 30% creating approximately 150-300 new jobs.

Mariam Montesinos, Steefel, Levitt & Weiss, attorney, discussed some of their legal concerns. Superstore projects require an EIR under which an economic impact analysis is required. As such, the requirement of an economic impact analysis as part of a conditional use permit is unnecessary or redundant. Monitoring competition is not a type of regulation that is handled at the County level. An economic consultant is not qualified to address traffic, land use and water resource issues in an economic impact analysis but are addressed in the EIR. Another concern is the limitation of the market areas. The ordinance proposes to limit the market area not less than 10 miles and not more than 25 miles from the location when, in fact, it is dependent on its location and an assessment is made under the economic impact analysis. Ms. Montesinos pointed out that there are other types of superstores and felt that it appears to be selective targeting, especially since there are only Walmart superstores in California. Another concern is the time frame for an economic impact analysis if required separately.

Commissioner Kirby, in response to Ms. Montesinos, questioned whether there really was overlap between an economic analysis and the CEQA requirement. Mr. Washington replied that CEQA has its requirement and this ordinance, if approved, will not modify any of the requirements.

Brooke Anderson, EBASE, spoke in support of the ordinance. Regarding commercial development, while providing a positive force with employment and generating revenue, superstores can have a negative economic impact with low wages and limited benefits which often leads to reliance on government subsidized programs. An approval would allow the County to formally evaluate potential impacts before a permit is issued.

Rev. Steven Churchill from Epiphany Lutheran Church, San Leandro and representing EBASE, also spoke in support.

Howard Beckman, a San Lorenzo resident, disagreed that an economic analysis requirement is redundant with CEQA. He also agreed with County Counsel that the failure to mention a superstore in any land use classification does not mean an allowance of a superstore. Per the Eden Draft Plan, there is only one area within the M-1 and M-2 Districts: the large area west of San Lorenzo Village surrounding the lower Grant Avenue. The placement of a superstore in both the M-1 and M-2 Districts would be considered 'bad planning'. He felt that any application for a superstore in this area should be initially presented to San Lorenzo.

Mark Wolfe, representing both United Food & Commercial Workers Union (UFCWU), Local 870 and EBASE, in support of the ordinance, also agreed that an economic analysis as part of the permit would not be redundant since the only economic impacts required by CEQA is potential physical blight from store closures. The ordinance does include an exemption to membership-based warehouse stores. They have no objection to the deletion of the statements that superstores are conditionally permitted in H-1, M-1 and M-2 and to exclude them from the specific plan areas.

John Nunes representing UFCWU, read his letter of support. He concurred with Mr. Wolfe on the requirement of an economic analysis. Mr. Nunes urged an approval and added that he has copies of the Inglewood Ordinance if the Commission requested.

Public testimony was closed. Commissioner Hancocks asked why this Commission would be the hearing body for Conditional Use Permits and not the West County Board of Zoning Adjustments (BZA) and if the neighboring jurisdictions also require a CUP and an economic analysis. His concern was that the unincorporated areas suffer significantly from lack of economic development and the message this ordinance will send to other companies. Staff replied that the Planning Commission can sit as the BZA and information from the neighboring jurisdictions was not available. Commissioner Hancocks recommended that the BZA be the hearing body for any future applications.

Commissioner Kirby said his two main points were the percentage of non-taxable good and the square footage. He made the motion that the ordinance limit development of superstores to the C-1 and C-2 Districts with an exclusion from other comparable districts in the specific plan areas, to concentrate the economic analysis for those areas not otherwise covered by CEQA, further recommending that the zoning maps be looked at to make an assessment for vulnerable properties that could be assembled for a superstore. Commissioner Looney seconded. Commissioner Loisel felt that it would be advisable to look at other jurisdictions that have a successful ordinance. At the request of the Commission, Commissioner Kirby amended his motion to include that all applications under this Ordinance be heard by the West County Board of Zoning Adjustments. Motion carried 6/1/1 with Commissioner Hancocks dissenting and Commissioner Jacob excused.

STAFF COMMENTS & CORRESPONDENCE: None.

CHAIR'S REPORT: None.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS: Commissioner Looney announced that she would be unavailable at the next meeting.

ADJOURNMENT: There being no further business, Commissioner Kirby moved to adjourn the meeting at 7:10 p.m. Commissioner Loisel seconded the motion. The motion was carried 6/1.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY