

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
FEBRUARY 21, 2006
(APPROVED MARCH 20, 2006)

REGULAR MEETING: 1:30 p.m. – cancelled.

CALL TO ORDER:

ANNOUNCEMENTS BY THE CHAIR:

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. **Motion to Reconsider Action Taken at 7/18/05 - AMENDMENT TO CONDITIONAL USE PERMIT, C-4158, REPUBLIC SERVICES – VASCO ROAD LANDFILL** - Application to extend the term of the Conditional Use Permit for this facility (“Permit”) from 2008 to December 31, 2022; and to formalize permission to continue to conduct waste diversion and materials recycling operations that have been ongoing for a number of years on the site. The Vasco Road Landfill (VRL) (formerly Vasco Road Sanitary Landfill) is an existing permitted landfill in an A (Agriculture) District, located at 4001 North Vasco Road, east side, approximately 1 mile north of Dalton Road, Unincorporated Livermore area, designated as Assessor's Parcel Numbers 99B-4901-2-3; 99B-4926-1-1, 1-2, 2- 4, and 2-5; and 902-6-2-2. (Continued from August 1, September 6 and 19, October 17, November 21, December 5, 2005, February 6, 2006; to be continued to March 6, 2006).
2. **2230th ZONING UNIT and PARCEL MAP, PM-8910 – LAMB SURVEYING INC./CAMPBELL** ~ Petition to reclassify one parcel from R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acre Minimum Building Site Area) District to a P-D (Planned Development, allowing one acre parcels) District, and to allow subdivision of one lot into four parcels, located at 1365 Hilliker Place, east side, corner south of Las Positas Road, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 099-0015-026-06. (Continued from January 23, 2006; to be continued to March 6, 2006).
3. **2231st ZONING UNIT and PARCEL MAP, PM-8909 – LAMB SURVEYING, INC./WATERMAN** ~ Petition to reclassify one parcel from R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acre Minimum Building Site Area) District to P-D (Planned Development) District, and to allow subdivision of one lot into four parcels, located at 1339 Hilliker Place, east side, approximately 320 feet south of Las Positas

Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099-0015-025-04. (Continued from January 23, 2006; to be continued to March 6, 2006).

REGULAR CALENDAR: There were no items on the Regular Calendar.

Set Matter (this item will not be heard prior to this time)

Time: 6:00 p.m.
Place: Public Hearing Room
224 W. Winton Avenue
Hayward, California

A. Call to Order/Roll Call

B. Announcements by the Chair - None.

C. Open Forum – Howard Beckman pointed out that at the last meeting the agenda had been re-arranged and the Olson Company application had been moved up the agenda as the first item. As a result, some neighbors were not available to provide their testimonies. He hoped that this would not occur today. He felt that there was confusion about economic land use studies which was connected to rezoning. Such a study should look at the economic potential of a parcel and/or area, a goal-based analysis and physical impacts of different uses but not a feasibility analysis by commercial real estate brokers.

D. Consent Calendar

1. **APPROVAL OF PLANNING COMMISSION MINUTES** - January 9 and February 6, 2006 – Approval of Minutes was continued to the next meeting.

E. Regular Calendar

1. **VESTING TENTATIVE TRACT MAP, TR-7270, PARAMOUNT HOMES / VAN EEGHAN** – Application to subdivide two parcels comprising approximately 7 acres to develop 10 new single-family houses and retain one existing house on approximately 3 acres, and one common lot with conservation easements over undeveloped portions of the site, in an R-1-B-E (Single Family Residence, 6,000 square feet minimum building site area, 60 foot median lot width, 20 foot front yard and 7 foot side yard setbacks) District, located at 25329 and 25415 Second Street, in Hayward, California; Assessor's Parcel Numbers: 425-0160-006, 425-0160-007. (Continued from October 3, 2005 and February 6, 2006).

Mr. Buckley presented the staff report. Two issues have come up since the last meeting. The Regional Water Quality Control Board (RWQCB) submitted comments/concerns on permits and storm water runoff mitigations. Staff feels that the EIR is accurate in describing the potential impacts and mitigation strategies, especially regarding the stormceptor for storm water collection and pollutant separation, the maintenance of which will be the responsibility of the home owners' association. The EIR identified a potential impact if not sized accurately, and mitigation to address that issue. The issue of an alternative site plan layout was also identified at the last hearing. The EIR did consider the 8-lot option with the road in the middle but did not find it was necessary to mitigate any impacts. As such, staff is still recommending the ten-lot alternative with the U-shaped access road as the preferred alternative and project proposal.

Public testimony was called for. Mathias Van Thiel, a resident of Oakes Drive, read and submitted a letter on behalf of Sheila Selover, President, Woodland Estates Community Association. The City of Hayward, in response to their concerns, had previously recommended a cooperative creek study to investigate effects of this project prior to an approval; that study has not been completed. At least nine of the other studies submitted by qualified experts on significant impacts on the community have not been addressed. The developer is also not in compliance with the settlement agreement from the previous litigation. The Association's primary concern is drainage and landslides along the Ward Creek area. Development of the area cannot be at the expense of the quality of the environment. The EIR is inconsistent with the findings of other studies and will extremely affect the environment and community on both sides of the creek. The letter urged the Commission to not adopt the EIR.

Howard Beckman, representing Friends of San Lorenzo Creek, pointed out that the state of the project illustrates two flaws regarding processing and reviewing creek projects. The issue of the conservation easement/right of entry should be resolved before the project is approved. Another issue is storm water treatment which also needs to be resolved conclusively and in detail before an approval. Both County Clean Water and RWQCB prefer a land infiltration process of storm water treatment. Mr. Beckman further quoted a memo from RWQCB. Mr. Beckman urged that the storm water issue be resolved before any action is taken by the Commission.

William Wong, one of the five adjacent northern property owners, at 25373 Second Street, read and submitted his written testimony. He concurred with the comments in the letter from the Association. The neighbors now favor a backyard to backyard plan which would result in reduced traffic noise and lighting impacts, easier waste collection and emergency vehicle access, traffic safety, and security. This area has an existing drainage problem which has increased with development, along with erosion and flooding requiring the use of pumps. Although some improvements have been installed, problems continue. At the suggestion of Supervisor Steele, residents have submitted letters and petitions to the Public Works Director but no response has been received to date. This development will also contribute towards future drainage problems which could result in dispute and/or funding issues requiring legal action. The creek is also a wildlife habitat, an area of high fire and landslide risk. The county is required to conduct an unbiased, thorough review of the impacts on the creek area and he further urged the Commission to not approve the Final EIR.

Don Van Eeghen, property owner, said he purchased the property twenty years ago with the plan

to subdivide and sell but keep one lot for his daughter. He further provided a detailed family history.

Dennis Pappalardo, property owner at 25245 Second Street, read and submitted the written testimony on behalf of Sharon Duggan and discussed the following concerns: FEIR fails to address substantial evidence of significant environmental impacts; conclusions regarding insignificance of impacts not based on all evidence in the record; other evidence in the record not addressed; policy of selective consideration of evidence of impacts inconsistent with CEQA; inadequate review of cumulative impacts; inconsistency of terms of the stipulated settlement agreement; failure to address expert opinion regarding the open space impact of the project within the urban growth boundary; the Commission's concern regarding project design; new firebreak requirements impact for lots 9 and 10; and the need for review of other issues. In conclusion, Mr. Pappalardo stated that the CEQA review was inadequate and inconsistent. He also submitted a copy of the letter dated February 21st from Sally Philbin, East Hills Rural Neighborhood Association and Mark Detterman, Ward Creek Project, with comments on the FEIR.

Lynn Condit said her property was immediately adjacent to the easement at 25317 Second Street and she has lived here for 30 years. Her main concern was flooding. There is much inter-play between the City, County, HARD and EBRPD. This was not an appropriate site and she also felt that the reports were biased towards the developer. Sierra Club was against this project. She urged the Commission to re-consider any projects near the creeks, especially in the Fairview area.

Peter Hellman, Principal, Paramount Homes, using the overhead, showed and discussed the proposed site plans, grading plans and photographs of a similar project in San Ramon. The proposed plan would allow approximately 44.5 feet setback from the adjacent fence line but under the alternative plan, the houses would be only 20 feet away from the fence lines creating visual impacts and infringing on privacy, light and air. The rear retaining wall will increase from 3 feet to 4-6 feet with six foot high fence under the alternative plan due to the slope and the location of the road. As such, the alternative plan is not in the best interest of the neighbors, introduces serious engineering issues and displaces Mrs. Eeghan's prized-garden. Initially, in 2001, the neighbors had signed an acknowledgment that they would prefer the proposed plan and not the alternative. Per the Specific Plan, 17 homes would be allowed but the proposal is only for ten. Fairview Community Club is in support and Mr. Hellman submitted a letter of support from Mr. Sherman Lewis. He urged an approval. In response to Commissioner Looney as to why Lots 9 and 10 were needed, he noted that per Fairview Specific Plan, 17 homes could be built but the proposal is only for ten homes. Lot 10 is in the location of an existing house that will be replaced and Lot 9 will be a custom home for the Applicant's daughter. Mr. Van Eeghan added he has agreed to give up four acres of land as a conservation easement. The Chair requested clarification on the location of the catch basin for lots 1-5, the width of the road and driveway entrance.

Commissioner Jacob requested clarification on the settlement terms and asked if an approval would be in violation of any of the terms. County Counsel replied no. Commissioner Jacob

further discussed the removal of non-native trees adding that Mitigation Measure 8.6 did not include this. He was concerned with mitigation measure 8.5b and further discussed the following: defensible space, removal of non-native trees, conservation easement maintenance and liability, modification plan, necessity of having on-site colonies (Page P-16, impact 8-4), location of property lines for lots 9 and 10. Mr. Hellman clarified that the home owners' association will be responsible for easement maintenance (weed abatement) and liability and HARD will have only the development rights. A fence will be located five feet south of lot 9 to mitigate any impact on the riparian area and perhaps corral fencing would be used to delineate the area. Commissioner Jacob suggested a contractual easement for grazing purposes, if appropriate. There should not be split ownership of the conservation easement area between the owner of lot 9 and the home owners' association for Parcel A.

Commissioner Jacob made the motion to certify the EIR with modification to mitigation measures in Chapter 8 and Commissioner Looney seconded. Motion carried 6/1/1 with Commissioner Kirby dissenting and Commissioner Loisel excused.

Commissioner Jacob made the motion to approve the tract map with modification to Condition 26, pages 8-9, to reflect requiring installation of a fence on property lines for lots 9 and 10, with the fence line as the property line for lot 9 excluding the conservation easement area.. Commissioner Looney seconded. Motion carried unanimously.

2. **ZONING UNIT ZU-2209, TENTATIVE TRACT MAP TR-7623, AND GENERAL PLAN AMENDMENT GPA-135 – THE OLSON COMPANY** ~ Petition to allow demolition of the existing commercial structures on approximately 6.4 acre site, and the construction of approximately 99 townhome units and 4,500 square feet of commercial space, located at 1210 to 1415 Bockman Road, San Lorenzo area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 411-063-017-00, 411-069-001-01 and 411-069-001-02. (Continued from November 7, December 5, 2005, and February 6, 2006).

Mr. Buckley presented the staff report. A copy of the EPS (Economic and Planning Systems) report is available and the consultant is available to answer questions. Staff is continuing to work with the Public Works Agency and the school district on fund allocation to project areas to mitigate traffic problems.

Public testimony was called for. Kathie Ready, President, San Lorenzo Village Home Association, read her written testimony in support and appreciated the lowering of the height and the density, and the large setbacks for the current property owners. Some residents recommend 70-75 units which would increase green space and parking. The Association feels that the school concern/issue can be resolved between the County, school district, developer and the parents. The traffic mitigation fees will be used to lessen the impact of the development. This project, although not perfect, is the only current solution for this severely blighted area and is not funded by the Redevelopment Agency.

MaryAnn McMillan, a Via Melina resident, pointed out that the developer, the home association,

the County and the current property owners will benefit. Although the 82 units will decrease the Housing Element numbers, it will only address the west side and while increasing the property tax, it will not increase the sales tax for the County. The area will experience increased traffic, air pollution and over-crowded schools but the neighbors will no longer look at the blighted area and have the view of a wall from Bockman Road. She urged further reduction in the number of units and a design change including a children's center.

Tom Silva, 1374 Via San Juan, urged approval adding that it will remove the blight and appreciated the home association for its compromise.

Mel Medeiros, 17099 Via Del Rey, thought that under the General Plan, 7-9 houses were allowed per acre. His neighbors along with property owners on Via Chiquita and Via Madera continue to have mixed feelings about the project with complaints of high density and having two-story units or a new street adjacent to their backyards. His concerns included the number of units and that the EIR did not include an analysis of all of the streets off Bockman Road. He also felt that the home association did not represent the homeowners.

Wayne Criger, 17351 Via Susana, said he supported the project. Although the only impact is traffic, he did not feel that an additional 200 cars will increase the pollution and thought the schools would know how to absorb the new students.

Howard Beckman pointed out that these parcels are zoned commercial and the new General Plan confirms that they should remain such. Olson Company has not demonstrated that these houses are necessary. He disagreed with the Planning Department that an economic land use study was not appropriate for this site. This proposal will reward the property owners of these parcels and other property owners who own similar deteriorated parcels with hopes of rezoning. Such commercial parcels will be lost forever which will erode the economic potential.

Tony Gonzales, 17120 Via Cielo, although in support, had concerns about school crowding and an increase in traffic problems.

Son Nguyen, owner of C&D Auto Repair, said this family-operated business has been operating in this area for 13 years and he did not wish to re-locate. His concern was that the business will be weakened and this project was not appropriate for this area and/or San Lorenzo.

Lita and Jeanne Clapper, representing BRAC, submitted their comments in writing. Ms. Jeanne Clapper was against the project and Ms. Lita, though agreeing that something needed to be done to improve the property, disagreed that more homes was the answer and thought 82 homes on the site were too many.

Kelly Pinea, a Via Dolorosa resident and representing BRAC, said she had submitted a petition in opposition. Her concerns were high density and loss of commercial space. She felt that the community was not represented properly by the home association and that this area is great for small businesses, as it was in the past. She urged a denial.

Donald Clowser, a forty year San Lorenzo resident and a BRAC member, with a powerpoint

presentation, showed photographs of the area, a few days old, noting that businesses will close and will have re-located out of the area and felt that the existing businesses should be saved. The northwest of the center does not appear to be a blight. Mr. Clowser felt that the proposal as advertised on the Olson flier was not realistic but misinterpretations. His concerns included privacy, parking, safety, retail space, school and traffic impacts and decreased property values. There has been no input from the home association to the community.

Nancy Van Huffel, San Lorenzo Village Home Association, stated that the school issue had been discussed at the board meeting last week and since there had been no solution, she had requested that a representative attend today's meeting. Due to conflicting meetings, the school district has submitted a letter instead and Ms. Van Huffel read and distributed copies of the letter. She expressed concern with some of the testimonies submitted adding that the Board did listen to the community. She urged an approval.

Patrick Ledesma, San Lorenzo Village Home Association Boardmember, said he lives close to the site, is very familiar with the area and was in support of the project. The area is a blight. He appreciated the community input pointing out that not all petition signers live in San Lorenzo. He also thought that the assessment fee was inadequate.

Phil Kerr, project developer, said that he would like the project to be a success and a benefit to the community. Commissioner Looney requested clarification on the north side access to Del Rey Park. Mr. Buckley explained that under Medium Density of the General Plan, 12 units per acre would be allowed, 78 units under the net acreage and the school fees is \$2.00 per square foot, mandated by State. Kerr explained that the Olson Group will, upon completion, secure tenants on lease in the commercial space and then sell the commercial property.

Julio Blea, 17114 Margarita, said he was new to the community. Many tenants have re-located and an approval will lose the remaining businesses at the site. He felt that this project will take away the 'American dream' of small business owners.

Public testimony was closed. Commissioner Looney asked for the number of units allowed under the medium density designation. Commissioner Jacob asked for the school and traffic impact fees which was not included either in the draft resolution or in the mitigation measures. Mr. Buckley explained that under Medium Density of the General Plan, 12 units per acre would be allowed, 78 units under the net acreage and the school fees are about \$2.00 per square foot, mandated by the State. Bazar added that discussions have been on-going with the Traffic Division and the School District. Commissioner Jacob suggested feasibility on language that would require consultation with the Home Association and the School District.

Commissioner Carbone said he opposed the conversion to residential suggesting at least 7,500 square foot of commercial space but agreed that the unique location of the site may not support commercial uses. He was concerned with precedent setting. Commissioner Looney agreed. Though she supported the project which would make a vast difference in the area, she had concerns regarding the insufficient open space for kids and the lack of a crosswalk to the park. Commissioner Jacob said he appreciated Appendix A of the FEIR. Viable commercial will result in increased capital and traffic, a trade-off. Emphasis is needed on commercial on Hesperian

Boulevard. Commissioner Kirby appreciated the work of the Olson Group. Though not in favor of a conversion from commercial to residential, he was not concerned with precedent setting. This project has focused the question of a mixed use. Commissioner Hancocks agreed with Commissioner Carbone that additional commercial space is needed although density has been reduced to the lowest for this project.

Commissioner Carbone discussed the possibility of increasing the commercial space to 7,500 square foot and Mr. Kerr indicated that the possibility would depend on the economic viability. Commissioner Jacob asked if an approval could be granted for a vertical subdivision through the tentative vesting map within the existing footprint per Planning Director approval and without affecting parking. Mr. Buckley pointed out Parcel A. Commissioner Kirby agreed and further discussed the height requirement. He made the motion to approve staff recommendations in making the findings for CEQA, feasibility of mitigation measures and alternatives, recommending the PD zone change and approving the tentative map providing an additional 2,500 square foot of commercial space within the footprint of Parcel A vertically and with a height exception. Commissioner Carbone seconded. Commissioner Jacob requested an amendment to the motion to include certification of the FEIR and an additional 5,000 square foot on the second story, though not required to build out; and inclusion in the conditions of approval for the tentative map, the Planning Director to coordinate the disbursement of traffic mitigation fees with input from the School District and the Home Association. In reference to the additional commercial space, Mr. Bazar questioned the 'required' and/or the 'rights'. Commissioner Kirby modified his motion to include the word 'require an additional 2,500 square feet and allow up to 5,000 square feet additional commercial space' (for a total of between 7,500 and 10,000 square feet). Mr. Buckley added that the height would typically be 30 feet, consistent with the C-N District and Mr. Bazar added that consultation could be made with the Home Association regarding the design of the second story. Commissioner Carbone seconded the amended motion. Motion carried 6/0/1 with Commissioner Loisel excused.

3. **PEDESTRIAN MASTER PLAN** – Presentation by Public Works Agency regarding the Draft Pedestrian Master Plan for the unincorporated area.

Paul Keener, Public Works Agency, with a powerpoint presentation explained the Pedestrian Master Plan and distributed related paperwork. The outline of the Plan is as follows: the Purpose of the Plan; Walking in the County; Policies for Pedestrian Travel;; Pedestrian Facilities; and Implementation Plan. He also discussed the Plan highlights, goals, the relationship with the General Plan, project categories, pedestrian activity corridors, projects and programs, coordinating agencies and the time frame. In response to Commissioner Looney, Mr. Keener confirmed that there was a separate Bicycle Master Plan. Commissioner Kirby indicated that he was involved with the Bicycle Plan. He was disappointed that the San Lorenzo creek project was dropped due to opposition and asked if this Plan would be beneficial in implementing the development agreements. Although there is funding available through Measure B, by referencing this to the General Plan, there could be a possibility to use private funding for these projects. Mr. Bazar explained that there is linkage with General Plan, especially the Eden Area General Plan. Mr. Keener added that there is a regional goal to make links between the Bay Trail and Ridge Trail, and funding for those projects.

Howard Beckman agreed that there is a link between both the Plans. Regarding the creek trails, there are four regional plans that look at creek corridors for bridging the ridge trails and the Bay trails.

Public testimony was closed. Commissioner Jacob said that although he was not opposed to the Plan, there has been a lack of funds for circulation element planning when there is a standing sub-committee, which would allow a reference in the General Plan and include sidewalk and bike trails, including work on Stanley Boulevard. Commissioner Looney made the motion to recommend the Plan to the Board of Supervisors. Commissioner Kirby seconded adding that the San Lorenzo Creek be allowed for future inclusion, perhaps through policy language. Commissioner Jacob made a substitute motion that the commission recommend an approval based on the quality of the projects with the understanding that without a County-wide circulation element, there is nothing to properly reference the General Plan up-date too. Commissioner Looney seconded. Motion carried 6/0/1 with Commissioner Loisel excused.

STAFF COMMENTS & CORRESPONDENCE: Mr. Bazar, in response to Commissioner Carbone's request for an up-date on the Commission's desire to further discuss an approach to Mixed Use development, explained that due to a shortage of staff and funding, he would request Mr. Wallace to work on this as a research project. Commissioner Kirby requested a mixed use definition for projects and Commissioner Carbone requested clarification on what formulates a viable mixed use.

CHAIR'S REPORT: The Chair thanked for the coffee and Commissioner Looney for the cookies. Request was made that parking permits be updated for the Commissioners.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS: None.

ADJOURNMENT: There being no further business, Commissioner Jacob moved to adjourn the meeting at 9:20 p.m. and Commissioner Kirby seconded the motion. The motion was carried 6/0.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY