

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
MARCH 7, 2005
(APPROVED MARCH 21, 2005)

FIELD TRIP:

The Commission convened at 224 W. Winton Avenue, Room 111, Hayward, California, at the hour of 1:30 p.m., and adjourned to the field to visit the following property:

1. **2170TH ZONING UNIT, STEPHEN/KRAUSE** – Petition to reclassify a site containing approximately 27.09 acres from the R-1-B-E (Single Family Residence, 20 acre Minimum Building Site Area) District to a PD (Planned Development) District, to allow a secondary unit, located at 109 Castlewood Drive, west side, approximately 0.7 miles northwest of Fairway Lane, Pleasanton area of unincorporated Alameda County, bearing County Assessor's designation: 0946-4391-028.

MEMBERS PRESENT: Commissioners Compton Gault; Frank Imhof, Vice Chair; Mike Jacob, Chair; and Edith Looney.

MEMBERS EXCUSED: Commissioners Michael Badner, Richard Hancocks and Glenn Kirby.

OTHERS PRESENT: Bruce Jensen, Senior Planner.

REGULAR MEETING: 6:00 p.m.

MEMBERS PRESENT: Commissioners Michael Badner; Compton Gault; Frank Imhof, Vice Chair; Glenn Kirby; Mike Jacob, Chair; Richard Hancocks and Edith Looney.

OTHERS PRESENT: Chris Bazar, Planning Director, Steven Buckley, Assistant Planning Director; Sandra Rivera, Assistant Planning Director; Rodrigo Orduna, Planner; Eric Chambliss, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately 18 people in the audience.

CALL TO ORDER: The Chair called the meeting to order at 6:00 p.m.

ANNOUNCEMENTS BY THE CHAIR: The Condominium Conversion Guideline Committee's next meeting will either be at the next Planning Commission meeting (March 21st) or at the first meeting in April. The Chair also acknowledged receipt of a letter from County Counsel announcing the retirement of Eric Chambliss. On behalf of the Commission, he thanked Mr. Chambliss for his service.

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** – February 22, 2005.

Commissioner Gault made the motion to approve the Minutes as submitted and Commissioner Imhof seconded. Motion carried 7/0

2. **GENERAL PLAN CONFORMANCE REPORT – VINSON PROPERTY ACQUISITION BY EAST BAY REGIONAL PARK DISTRICT:** Request by the Real Estate Section of the East Bay Regional Park District (EBRPD) for a General Plan Conformance Report under Government Code Section 65402 for the acquisition of 108 acres of property located to the north west of Pleasanton Ridge Regional Park, south of Interstate 580, Pleasanton area of unincorporated Alameda County, bearing County Assessor's designations: 085A-3275-001-01, 085A-3275-001-02 and 085A-3250-002-00.
3. **TENTATIVE TRACT MAP, TR-6864, ONE STOP DESIGN, INC., -** Petition to divide one 1.87 acre parcel into five lots, in a R-1-B-E (Single Family Residence, 6,000 square feet Minimum Building Site Area) District, located between 25129 and 25165 Second Street, south side, approximately 903 feet west of Winfeldt Road, Hayward area of unincorporated Alameda County, bearing Assessor's Parcel designation: 0425-0150-006-29. (Continued from January 18, 2005; to be continued without discussion to May 2, 2005).
4. **CONDITIONAL USE PERMIT (CUP) C-4158, REPUBLIC SERVICES – VASCO ROAD LANDFILL - AMENDMENT –** 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 without discussion to March 21, 2005.
5. **LA VISTA QUARRY PERMIT EXTENSION PROJECT - SURFACE MINING PERMIT SMP-41, DUMBARTON QUARRY ASSOCIATES, INC. -** Petition to extend the period of operation at the La Vista Quarry by twenty (20) years beyond the termination date of the existing permit, to the year 2028, and modify the mining and reclamation

plan to include further excavation below and into the base of the floor of the existing quarry site, including continued mining, production and sale of aggregate, recycling of construction materials, and production and sale of asphaltic concrete. The existing asphalt concrete plant would also be modernized and upgraded, and operations could be conducted up to 24 hours per day. The project site is located on the western slope of the hills east of the City of Hayward, approximately 700 feet east of the intersection of Mission Boulevard and Tennyson Road, in the unincorporated area of Alameda County. (Continued from October 4 and December 6 and 20, 2004; to be continued without discussion to April 4, 2005).

6. **TENTATIVE PARCEL MAP, PM-8381 – CORBETT / LAMB SURVEYING, INC.**, - Petition to subdivide one parcel into two lots containing approximately 235.50 acres, in an “A” (Agricultural) District, located at 10366 South Flynn Road, north side, approximately 0.51 miles northeast of Patterson Pass Road, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 099A-1760-001-00. (Continued from February 22, 2005; to be continued without discussion to March 21, 2005).

Commissioner Looney made the motion to approve the remainder of the Consent Calendar as recommended by staff. Commissioner Kirby seconded the motion, which carried 7/0.

REGULAR CALENDAR:

1. **MODIFIED ZONING UNIT, ZU-2180; and CONDITIONAL USE PERMIT, C8361; and MODIFIED TENTATIVE TRACT MAP, TR-7214 – HAYWARD EAST AVENUE, LLC** – Petition to find modification to a Planned Unit Development to be minor; to allow the requested modification by granting of a Conditional Use Permit, and modification of a Tentative Tract Map (TR-7187) for 12 lots containing 1.32 acres, in a PD (Planned Development, 2108th Zoning Unit) District, located at 1672-1696 East Avenue, north side, approximately 0.272 miles east of E Street, Hayward area of unincorporated Alameda County, bearing Assessor’s designation: 0426-0100-015-00. (Continued from February 22, 2005).

Mr. Buckley presented the staff report. In response to the Commission, he further clarified that the duplex would be considered a single lot with single ownership; the removal of parking spaces would still allow two spaces for each unit and guest and the HOA will maintain the common street area. Commissioner Hancocks asked for the reasons why the project was rejected initially by the Commission. Commissioner Kirby indicated that the Commission had been supportive of keeping common areas under one ownership and had recommended that the

application be brought back as a condo conversion project.

Public testimony was called for. Conor Meyers, Applicant, confirmed that the tenants have been offered ownership opportunities. He thought that the reasons for the initial denial was the maintenance of the common areas (road) and the retaining wall. Commissioner Gault stated that another concern had been the trash on the adjacent hillside/water way and garbage pickup by the refuse collection company. Mr. Meyers pointed out that the waterway was not part of the project parcel but the adjoining property. Easement discussions were in progress with the neighbors for a drainage outfall. The Chair asked how much the current HOA dues were. Mr. Meyers said it was being worked out, perhaps \$30 monthly. Existing units are rental units.

Public testimony was closed. Commissioner Hancocks said that the increased density by unit and changing from large common areas to private lots made this a similar proposal to the 2000 project that had been denied and he did not consider this a minor modification. Commissioner Kirby agreed adding that the property should not be parcelized to ensure proper maintenance, as it was a unique project site from an older development pattern and did not properly fit with current subdivision practices, although a condominium project could be feasible. He made the motion that this was not a minor modification and Commissioner Hancocks seconded. Motion failed 3/4 with Commissioners Badner, Imhof, Jacob and Looney voting no. A second motion carried 4/3 in favor of staff recommendation that the proposal was a minor modification.

Regarding the Conditional Use Permit to implement the modification, Commissioner Looney made the motion to approve staff recommendation and Commissioner Badner seconded. Motion failed 3/4 with Commissioners Gault, Hancocks, Jacob and Kirby voting no. Commissioner Hancocks added that this property would function better as one parcel and the Chair added that this proposal did not support the Housing Element. A second motion carried 4/3 to deny the Conditional Use Permit and thereby deny the proposed modification to the Zoning Unit, with Commissioners Badner, Imhof, and Looney voting no.

2. **INFORMATIONAL ITEM**

Staff up-date on tentative schedule for proposed **amendments to the County Zoning Ordinance and Specific Plans** necessary to comply with provisions of the Alameda County Housing Element, adopted by the County Board of Supervisors in October of 2003 and conditionally certified by the State Department of Housing and Community Development in January of 2004. Proposed modifications are as follows:

1. Reclassify sites in the *Ashland-Cherryland Business District Specific Plan, Castro Valley Central Business District Specific Plan, Fairview Area Specific Plan*, and in areas currently designated for urban infill development in the Ashland, Cherryland, Hayward Acres, San Lorenzo, and Castro Valley communities to provide opportunity sites for higher density development.

2. Add a definition to the Zoning Ordinance for the term “emergency homeless shelter.”
3. Modify provisions of the R-3 and R-4 zoning districts to allow emergency homeless shelters, as defined, as a permitted use in these districts (and discuss possible alternative approaches towards addressing this issue).

Ms. Rivera presented the staff report. Mr. Bazar discussed one of the main concerns raised thus far during public comments on the proposal, the emergency shelters as a permitted use in R-3 and R-4 Districts. Although the County originally understood that State mandates shelters to be allowed uses, other jurisdictions process the shelters through Conditional Use Permits. This is an alternative approach that the County is now considering as well. Another concern has been the focused rezonings and the Negative Declaration that was circulated for public review. Public input has indicated that significant impacts could occur, and these impacts should be addressed and mitigated. The County was now considering recirculating a Mitigated Negative Declaration that would further explain the programmatic approach to the analysis and the mitigation strategies that were included in the assumptions to the original document. He also pointed out that the County was faced with scrutiny from the State and had committed to a timeline, but that we probably have time to complete the project revisions and Mitigated Negative Declaration within a timeframe acceptable to the State.

Commissioner Kirby felt that the CUP process could be read to be consistent with the State requirements, and will allow better intergration of shelters and group homes into the community once the sites have been identified. Commissioner Hancocks said that his concern was the homeless shelter allowed as a permitted use at scattered sites, and not within a central core area. With a CUP process, a site and project could be evaluated on its merits, including access to transportation and other public services.

Public testimony was called for. James Lotz, apartment owner at 15215 Via Arriba, said he opposes any permitted emergency shelter, especially around his property which will affect his business. A CUP process could be a better alterative. He submitted his written testimony.

Kathy Ready, President of San Lorenzo Homeowners Association, said she opposed the seven page list of R-3 and R-4 properties and felt that much more thought was needed as it would affect their communities. She supported the CUP process and requested a copy of the State law which allows shelters as a permitted use. She stated that the community is not concerned about the certification of the Housing Element, but about changes to the community, and requested that the Planning Commission act to protect the existing community. In response to Commissioner Looney, Ms. Ready agreed that a Mitigated Negative Declaration would help as it will identify and address the potential problems. In response to Commissioner Hancocks, she replied that cumulative impacts were a concern.

Bill Souneuf, property owner at 1927 Bandoni Avenue, San Lorenzo, pointed out that a similar plan in the City of Alameda had failed, in that homeless shelters resulted in community

problems. He requested information on the State law as to the mandate to provide these shelters as permitted uses.

Public testimony was closed. Mr. Bazar stated that the Board of Supervisors had approved the Housing Element in November of 2003 after numerous community meetings, and that the current process is one of implementation. He further outlined the formation and work of the Ordinance Review Committee and the present public participation process. The two main concerns for the emergency shelter have been the CUP and Negative Declaration, and that the County was actively responding to those requests. He also pointed out that the current process is still programmatic, and that projects would be subject to subsequent review.

Commissioner Hancocks asked when the Housing Element will be revisited. Mr. Bazar said 2008. Commissioner Hancocks noted that the related State law on permitted uses is Section 65583. Mr. Bazar responded that the County has been working with a housing consultant who is well versed in the various requirements. Ms. Rivera pointed out that currently there is no definition for emergency shelters and the current code could allow them widely in many districts, which would be reduced by restricting them to R-3 and R-4 zoning districts. Commissioner Kirby suggested minimum parcel size or perhaps another way to limit the entire zoning district. Ms. Rivera noted that the County was working on locational and development standards. In response to Commissioner Looney for specific implementation dates, Mr. Bazar said the Housing Element committed the County to implement 21 steps in the 2005 – 2006 timeframe, and that the County had only received conditional certification from the State, so it was important to continue working through these steps. Commissioner Hancocks asked if sufficient consideration has been given to the cumulative impacts of these implementation actions. Mr. Bazar explained that it was difficult to be precise considering the wide spread and long time frame for actual projects to come forth, but that cumulative fees and other programs would apply to address those impacts.

3. **ORDINANCE UPDATES** – Review of potential updates to the Zoning Ordinance regarding: 1) fence regulations; 2) inclusion of a definition of “Restaurant”; and 3) location of freestanding canopy structures within residential districts.

ORDINANCE UPDATE FOR REASONABLE ACCOMMODATION FOR DISABLED AND SENIOR PERSONS – Consideration of a “Reasonable Accommodation” provision to the Zoning Ordinance to allow disabled and senior persons the use of residential structures to meet their individual needs (reasonable accommodation provisions for disabled persons are already required by the 2003 *Housing Element* as mandated by the State; reasonable accommodation for senior persons would be a County-initiated provision).

Mr. Orduna presented the staff report and in response to Commissioner Hancocks, further clarified limitation #7 for Shade Canopies. Commissioner Looney concurred with San Lorenzo Village Home Association’s recommendation on fence heights. She also requested photographs

of temporary structures. A discussion followed regarding consideration of a pizza restaurant as a fast food restaurant; definition of catering, catering vehicles and services; rear yard items seen from public right-of-ways; and fence heights. Commissioner Kirby said his concern was the canopy setback and material. Commissioner Badner felt that 6 feet was a good fence height and agreed with Commissioner Kirby on defining the canopy material and setback.

Public testimony was called for. Cheryl Miraglia, Five Canyons resident and member of the Ordinance Committee, said she was dismayed with CVMAC's recommendation. She urged the Commission to see photographs and to drive by properties with canopies. Tarp specificity was needed and she urged the Commission to spend more time and restrict these canopies.

Kathy Ready, San Lorenzo Village Home Association, stated that the Committee had discussed rear fencing in detail, did not support cyclone fencing in urban areas, agreed to 6 foot high fence with one foot lattice and supported further discussion on fence material. She felt that tent canopies were a blight. In response to Commissioner Gault, Ms. Ready agreed that there could be a distinction between the urban and rural areas.

Another San Lorenzo property owner pointed out that he has received no complaints on the six foot fencing with two feet fiber glass around his swimming pool.

Public testimony was closed. Commissioner Hancock agreed that there is a need to define canopy material and Commissioner Gault concurred adding that canopy location and safety are also important. In addition, the Chair pointed out that shade canopies were a major source of blight and felt that this was a sensitive issue as there were both appropriate/inappropriate and temporary uses, such as temporary storage of vehicles, and outdoor play areas, versus more permanent installations and uses. Clarification was needed on the Commission's action on catering and #6 under Fast Food Restaurant, Page 3.

A discussion followed regarding the definition of a bar/tavern and a restaurant, percentage of sales from alcohol, if seating capacity can be a differentiating factor and comparable ABC definition. Commissioner Badner suggested perhaps calling a few restaurants for their percentage, but acknowledged that it would be difficult to determine after the fact due to privacy concerns about business records, so an estimate might be required up front. The Chair recommended contacting other jurisdictions.

Mr. Orduna summarized the section on reasonable accommodation. Mr. Bazar added that this issue has been derived from two discussions, housing element and garage conversion. Commissioner Kirby discussed the difference between reasonable access and reasonable accommodation, individual and group accommodation. The Chair asked for the existing policy. Mr. Orduna said that currently there is none other than going through the variance process. The Chair felt that City of San Jose's policy seems adequate and Commissioner Looney agreed.

Public testimony was called for. Kathy Ready felt that a true definition is needed from the State, hardship should not be considered a reason and there should be a regulation for facilities with less than six residents.

A resident of San Lorenzo explained that he has a temporary ramp installed for his disabled mother.

Public testimony was closed. The Commission voted unanimously for adoption of staff recommendation and a continuance to April 4, 2005.

4. **2193rd ZONING UNIT AND TENTATIVE TRACT MAP, TR-7530, ROBERTS/UTAL** –Petition to reclassify a site comprising approximately 8.25 acres from the R-1-SU-RV and R-1-B-E-SU-RV District to the PD (Planned Development) District, to allow subdivision of three parcels into 38 lots for development of single-family homes, located at 4524 Crow Canyon Place, approximately 500 feet south of Crow Canyon Road, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 084C-1068-001, 084C-1068-007, and 084C-1068-008. (Continued from September 7, October 18, November 1 and 15, and December 20, 2004; February 7 and 22, 2005).

The Chair noted staff recommendation for a continuance to March 21, 2005.

Public testimony was called for. Paul Kempel, adjacent property owner at 4560 Crow Canyon Place, said he bought his property in May, 2004, and submitted his written testimony. His concerns included lack of notification; traffic concerns and the granting of an easement be part of the Conditions of Approval. Mr. Bazar explained that although he was a new owner within the 300 feet radius, perhaps the County records have not been up-dated.

Public testimony was closed. Mr. Bazar further explained the notification process and assured Mr. Kempel that he will now be added to the mailing list. The Chair announced that this matter will be heard on March 21, 2005, as a set matter at 6:00 p.m., with a letter of notification to Public Works Agency. The Commission voted unanimously for a continuance.

STAFF COMMENTS & CORRESPONDENCE: Mr. Bazar thanked staff and Ordinance Review Committee for their work and congratulated Mr. Chambliss on his retirement.

CHAIR'S REPORT: The Chair announced the appointment of Commissioner Imhof to the Niles Canyon Scenic Corridor Protection Plan Subcommittee with Commissioner Kirby as an Alternative Representative.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS: Commissioner Gault noted the California County Planning Commission Association's Spring Conference at Konocti Harbor on April 30th and accommodations for Friday night is provided.

Although he has received only two responses, the Santa Rita site visit is tentatively scheduled for March 21, 9-11 a.m. with lunch. The Commission agreed with the March 21st date and

Commissioner Gault added that he would contact the interested Commissioners for additional specific information.

ADJOURNMENT: There being no further business, Commissioner Kirby moved to adjourn the meeting at 8:30 p.m. Commissioner Badner seconded the motion. The motion was carried 7/0.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY