

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
JUNE 5, 2006
(APPROVED AUGUST 7, 2006)

FIELD TRIP:

MEMBERS PRESENT: Commissioners Mike Jacob and Edith Looney.

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

OTHERS PRESENT: Steve Buckley, Assistant Planning Director.

The Commission convened at 224 W. Winton Avenue, Room 111, Hayward, California, at the hour of 1:00 p.m., and adjourned to the field to visit the following properties:

1. **MODIFICATION TO ZONING UNIT, MZU-2186 and CONDITIONAL USE PERMIT, C-8502 – CRAWFORD** ~ Petition for modification of the 2185th Zoning Unit and Conditional Use Permit, C-8502, by allowing the front unit to be oriented toward Grove Way, realigning three buildings, changing the exterior finish of all the units, and changing Condition of Approval #3, on a site containing 1.4 acres, in a PD-ZU-2186 (Planned Development, 2186th Zoning Unit) District, located at 2854 Gove Way, north side, approximately 250 feet east of Betlan Way, Castro Valley area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 416-0060-030-02.
2. **TENTATIVE TRACT MAP, TR-7747 and SITE DEVELOPMENT REVIEW, S-2048 – K & Z HOMES** ~ Application to construct eight condominium units on one parcel containing approximately 0.46 acres, in a R-S-D-15 (Suburban Residence, 1,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at 20378 Stanton Avenue, east side, approximately 187 feet south of Denning Court, Castro Valley area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 084A-0181-014-00. (Continued from May 1, 2006).
3. **ZONING UNIT, ZU-2234 and TENTATIVE PARCEL MAP, PM-8853 - NAZARETH** ~ Petition to reclassify from the R-S-D-35 (Suburban Residence, 3,500 square feet building site area per dwelling unit) District to a P-D (Planned Development) District, to allow subdivision of one site containing approximately 0.96 acres into three parcels, respectively containing two existing detached single family residences and one existing nine-unit apartment building, and allowing site-specific development standards, on one site containing approximately 0.96 acres, located at 22565, 22567 and 22569 Center Street, west side, approximately 400 feet north of B Street/Kelly Street, Castro Valley area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 416-0110-005-03.



4. **ZONING UNIT, ZU-2235 and TENTATIVE TRACT MAP, TR-7756 - LANGON** ~ Petition to reclassify one parcel comprising 15,120 square feet from the R-S-D-25 (Suburban Residence, 2,500 square feet Minimum Building Site Area per Dwelling Unit) District to a P-D (Planned Development) District, so as to allow demolition of one existing dwelling and construction of six town-homes, each on its own parcel, located at 20026 San Miguel Avenue, east side, approximately 680 feet north of Jeanine Way, unincorporated Castro Valley, bearing County Assessor's Parcel Number: 084A-0109-009-02.

5. **ZONING UNIT, ZU-2226 and VESTING TENTATIVE TRACT MAP, TR-7703 – HAMPTON ROAD DEVELOPMENT COMPANY / ANDRADE TRUST / SOARES TRUST** ~ Petition to reclassify five parcels from the R-S-SU (Suburban Residence, Secondary Unit) Zoning District to a PD (Planned Development) Zoning District so as to subdivide the properties into eight single-family lots and develop one detached single-family dwelling on each lot, located at 876 through 924 Hampton Road, north side 300 feet west of Mission Blvd., unincorporated Cherryland area, of Alameda County, bearing County Assessor's Parcel Numbers: 414-0021-064-01, 414-0021-064-02, 414-0021-083-01, 414-0021-083-02, and 414-0021-084-00.

6. **CONDITIONAL USE PERMIT, C-8205, CEDAR GROVE COMMUNITY CHURCH** ~ Petition to construct a new church campus totaling approximately 82,000 square feet of floor area with 508 parking spaces, on a 14-acre site, in the "A-CA" (Agricultural-Combining) District, located at 2060 South Livermore Avenue, northeast side, approximately 0.25 miles southeast of Tesla Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099-0900-004-04.

Committee of the Whole

Time: 4:00 p.m.
Place: 224 W. Winton Avenue, Room 111
Hayward, California

1. **MIXED USE DEVELOPMENT** ~ Planning Commission-initiated discussion of "mixed use" development within the context of the Alameda County General Plan, the County Zoning Ordinance, other pertinent County documents and input from the Ordinance Review Committee.

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Closed Session

Time: 5:45 p.m.

Place: 224 W. Winton Avenue, Room 111
Hayward, California

• CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: Redwood Christian Schools v. County of Alameda et al,
United States District Court, Northern District of California,
No. C-01-4282 SC.

REGULAR MEETING: 6:00 p.m.

MEMBERS PRESENT: Commissioners Ken Carbone; Richard Hancocks; Frank Imhof, Chair;
Mike Jacob; Alane Loisel and Edith Looney.

MEMBERS EXCUSED: Commissioner Glenn Kirby, Vice Chair.

OTHERS PRESENT: Chris Bazar, Planning Director, Steven Buckley, Assistant Planning
Director, Gerry Wallace, Alex Amoroso, Assistant Planning Director; Louis Andrade, Planner;
Karen Borrmann, Public Works Agency Liaison; Brian Washington, County Counsel’s Office;
Nilma Singh, Recording Secretary.

There were approximately eighty-seven people in the audience.

CALL TO ORDER: The Chair called the meeting to order at 6:08 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** - May 1 and
15, 2006.
2. **ZONING UNIT, ZU-2199 and TENTATIVE TRACT MAP, TR-7584
–NEWPORT AVALON INVESTORS, LLC** ~ Petition to reclassify
from a PD (Planned Development) District to another PD (Planned



Development) District, to allow the subdivision of one site into 10 parcels, located at 255 Happy Valley road, south side, approximately 125 feet east of Pleasanton-Sunol Road, Pleasanton area of unincorporated Alameda County, bearing County Assessor's designation: 0949-0010-001-07. (Continued from December 20, 2004, February 7, May 2, July 18, October 3, December 19, 2005, February 6 and April 3, 2006; to be continued to November 20, 2006).

3. **ZONING UNIT, ZU-2204 and AGRICULTURAL SITE DEVELOPMENT REVIEW, S-1978 – BRAUN/THOMPSON** ~ Petition to reclassify from the 'A' (Agricultural) District to a P-D (Planned Development) District with an Agricultural District base-zone, and allowing one secondary dwelling unit, on one site approximately 3.21 acres, located at 8855 Pleasanton-Sunol Road, west side, approximately 1.8 miles north of the intersection with Highway 84, Sunol area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 0096-0320-003-00. (Continued from July 18, August 1, September 19, October 17, November 21, December 19, 2005 and January 23, March 6 and April 3, 2006; to be continued to July 17, 2006).

4. **TENTATIVE TRACT MAP, TR-7747 and SITE DEVELOPMENT REVIEW, S-2048 – K & Z HOMES** ~ Application to construct eight condominium units on one parcel containing approximately 0.46 acres, in a R-S-D-15 (Suburban Residence, 1,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at 20378 Stanton Avenue, east side, approximately 187 feet south of Denning Court, Castro Valley area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 084A-0181-014-00. (Continued from May 1, 2006; to be continued to June 19, 2006).

5. **ZONING UNIT, ZU-2202 and TENTATIVE PARCEL MAP, PM-8560 - HOPSON** ~ Petition to reclassify two parcels totaling 1.96 acres from the R-1 (Single Family Residence) and R-1-B-E (Single Family Residence, one acre per 1976th Zoning Unit) Districts to the R-1-B-E District (allowing for a 30,000 square foot Minimum Building Site Area for parcels 2 & 3), and to allow subdivision of one site into three lots with the existing dwelling to remain, located at 22750 Valley View Drive, east side, approximately 850 feet north of Kelly Street, Hayward area of unincorporated Alameda County, bearing County Assessor's Parcel Numbers: 417-0140-028-00 and 417-0151-001-00. (Continued from April 18, 2005, February 6, April 3 and May 1, 2006; to be continued to June 19, 2006).

Commissioner Loisel made the motion to approve the Consent Calendar with Item #2 modified to include the continuance date of November 19, 2006. Commissioner Looney seconded and the motion carried unanimously.

REGULAR CALENDAR:

1. **MODIFICATION TO ZONING UNIT, MZU-2186 and CONDITIONAL USE PERMIT, C-8502 – CRAWFORD** ~ Petition for modification of the 2185th Zoning Unit and Conditional Use Permit, C-8502, by allowing the front unit to be oriented toward Grove Way, realigning three buildings, changing the exterior finish of all the units, and changing Condition of Approval #3, on a site containing 1.4 acres, in a PD-ZU-2186 (Planned Development, 2186th Zoning Unit) District, located at 2854 Gove Way, north side, approximately 250 feet east of Betlan Way, Castro Valley area of unincorporated Alameda County, bearing County Assessor’s Parcel Number: 416-0060-030-02.

Mr. Buckley presented the staff report.

Public testimony was called for. Marc Crawford stated that this request is to provide a better streetscape as there is an ability to rotate the building. He agreed to all conditions and in response to Commissioner Jacob, further explained that the easement holder feels that the easement transfer is a private matter and not dictated as a condition of approval.

Public testimony was closed. Commissioner Carbone made the motion to approve the application as recommended by staff and Commissioner Loisel seconded. Motion carried 6/0/1 with Commissioner Kirby excused.

2. **ZONING UNIT, ZU-2230th 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, February 21, April 3 and 17, and May 1 2006).
3. **ZONING UNIT, ZU-2231st 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

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Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099-0015-025-04. (Continued from January 23, February 21, April 3 and 17, and May 1, 2006).

Mr. Buckley requested that items 2 and 3 be heard simultaneously and the Commission agreed with no objections from the public. Mr. Buckley presented the staff report with the aid of the Land Use Diagram from the East County Area Plan.

Public testimony was called for. Mr. MacDonald read and submitted his written testimony relating to Measure D and Scenic Corridor issues.

Dave Watterman, co-applicant, discussed and introduced a photograph of the Scenic Corridor. In response to Commissioner Looney, he confirmed that no other structures will be located on the ridge and the roofs of the additional homes will not break the ridgeline.

Terry Campbell, co-applicant, stated that the neighboring property owners have signed a petition in support as this proposal will improve the surrounding community eliminating the unsightly fire hazard situation. He further discussed utilities noting the 'will serve' letter from CalWater.

Mick Lamb discussed the engineering and grading issues, and the proposed landscape in detail.

Bob Baltzer spoke against the proposal. The slope exceeds 50% in some portions and, as a result, some grading will be required. His concern was that septic tanks on such slopes will drain down towards Los Positas and contaminate the drinking wells. This process would be in conflict with City of Livermore's plan and, as a result, will not get annexed to the City. He was disappointed.

Frank Guido, City of Livermore, submitted his written testimony. He noted with an explanation that this proposal was against the City of Livermore General Plan and Scenic Corridor; and County's East County Area Plan and I-580 Scenic Corridor; and CEQA requirements.

Public testimony was closed. Commissioner Loisel noted that since the density has not changed since 1994, it is still rural density with 0-1 unit per acre as shown on the 2002 Map. Commissioner Jacob thought that it was not inconsistent with Measure D. Commissioner Carbone agreed. A discussion followed regarding the density, various slopes and the Urban Growth Boundary. Commissioner Carbone made the motion for a continuance and the Chair seconded. Motion carried 4/2 with Commissioners Loisel and Looney dissenting.

- 4. **ZONG UNIT, ZU-2234 and TENTATIVE PARCEL MAP, PM-8853 - NAZARETH** ~ Petition to reclassify from the R-S-D-35 (Suburban Residence, 3,500 square feet building site area per dwelling unit) District to a P-D (Planned Development) District, to allow subdivision of one site containing approximately 0.96 acres into three parcels, respectively containing two existing detached single family residences and one existing nine-unit apartment building, and allowing site-specific development standards, on one site containing approximately 0.96 acres,

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located at 22565, 22567 and 22569 Center Street, west side, approximately 400 feet north of B Street/Kelly Street, Castro Valley area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 416-0110-005-03.

Mr. Buckley presented the staff report. Commissioner Looney said she had fire access concerns.

Public testimony was called for. Teresa Nazareth, applicant, explained that the buildings will remain as they are but the project will provide separate parcels with individual ownerships. The proposal is to improve the lot, remodel the insides, re-roof the units and improve the landscape which should encourage ownership. She agreed to all the recommended conditions.

Cheryl Miraglia, a Castro Valley resident and CV Municipal Advisory Councilmember, stated that there are several issues related to this project. The homes are very small and unkept with various setback issues. The County Fire Department has serious access concerns. CVMAC had recommended only a two-lot subdivision instead of three. An approval of this PD will require approval of over ten variances. If approved, Ms. Miraglia recommended that a comprehensive landscape plan be required as the property is currently very unattractive with weeds.

Public testimony was closed. Commissioner Carbone requested clarification on the variance issue. Mr. Buckley noted Table 1 on pages 5-6 adding that there are 15 variables for three parcels. Landscaping and sprinkler requirements could be added. Commissioner Carbone said he agreed with CVMAC's recommendation and Commissioner Hancocks thought that the subdivision request was 'stretched'. Commissioner Loisel pointed out that some of the issues could not be mitigated. Commissioner Hancocks made the motion to deny and the Chair seconded. Commissioner Jacob felt that perhaps this project could provide the first step to affordability. Motion was tied with 3/3/1 with Commissioners Jacob, Looney and Loisel dissenting. Commissioner Kirby was excused.

Commissioner Loisel made the motion for a continuance until such time when the full Commission is available. Commissioner Hancocks seconded. Motion carried 6/0.

- 5 **ZONING UNIT, ZU-2207 and TENTATIVE TRACT MAP, TR-7614**
– **UTAL/PRINGLE** ~ Petition to reclassify three parcels comprising approximately 1.17 acres from a PD (Planned Development, 1779th Zoning Unit) District, allowing commercial uses to a PD (Planned Developments) District, and a Tract Map allowing subdivision into 11 parcels intended for single-family dwellings, located at 18911 and 18919 Lake Chabot Road, approximately 250 feet northeast of Keith Avenue, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 084B-002-045, 084B-002-046 and 084B-0502-055.

Mr. Buckley presented the staff report. Commissioner Carbone requested procedural clarification on why the application was being heard by this Commission and if the matter had been re-heard by CVMAC. In response, Mr. Bazar explained that the BOS had continued the matter to June

15th but did not formerly remand this to either Planning Commission or to CVMAC. The BOS's direction had been to redesign the site plan limiting access to Lake Chabot Road. The primary reason for today's hearing is to discuss the site plan. A representative from Keyser Marston Associates is available to answer any questions. Commissioner Carbone said he strongly supports retaining this parcel as commercial.

John Thorpe further requested clarification on the hearing process. Mr. Washington, County Counsel, explained that the matter is formerly before the BOS on an appeal and is seeking the Commission's advice and input on project design and access.

Public testimony was called for. Arlene Utal, with a powerpoint presentation, discussed the new site plan pointing out that this was the original plan. The entire parcel will now be enclosed with a rear gate for service-type exit only but with no access from Huber Drive, and one way exit from Lake Chabot Road. This will have less impact on residents on Huber Drive. Although two economic studies were completed, Ms. Utal urged that the two consultants' reports be disregarded and 'common-sense' be used. This property has been in existence for 40 years during which time it has had 3-4 grocery stores with 6-8 tenants. History shows that it has not been a successful commercial site. This parcel has had dual designation, both commercial and residential, since 1984.

Cheryl Miraglia said she strongly believes that this site should be commercial, the matter should have been re-referred to CVMAC and there are issues with the site plan. She pointed out that the previous grocery owner would not have attempted to purchase the property and commercial developers would not be interested if a commercial use was not viable at this site. There is a need for the County to undergo a comprehensive land use study.

Cliff Sherwood, a Castro Valley resident, thought that the reports are narrow as data for the local neighborhood shopping center was utilized. Al's Food Store, a similar successful store on Somerset Avenue, proves that a commercial use is feasible at this site. Since he has lived in this area for 35 years, he remembers two successful commercial uses which he used and would continue to use. Mr. Sherwood also discussed the cap rate.

Howard Beckman, a San Lorenzo resident, felt that the sustainability of communities was very important, and the preservation and expansion of the economic activities was a challenge in the unincorporated areas. It was wrong to look at the history of the parcel with a narrow focus on existing conditions. The physical impacts and the viability of commercial use presently and future land use plans have not been considered.

Marc Crawford, 3832 Somerset Avenue, stated that Castro Valley has to retain its commercial sites. All options are not being considered. Rehabilitation of the existing building and replacement of the dilapidated building would be a viable project. He felt that the burden has been placed on the community to prove that the property is viable as commercial.

Melba Akehurst, 18915 Huber Drive, stated that she wanted the site to remain as commercial. She has lived in this area for 56 years and remembers the prior successful commercial uses. The

||||| residents of Huber Drive do not support an access onto Huber Drive. She asked why the project could not be reduced by one unit to provide on-site turnaround with access only from Lake Chabot Road.

Willie Hughes, 4683 Ewing Road, said she has lived in this area for 65 years. The prior commercial uses were successful and there are many more residents now in the area to support such a use. She also preferred no access from Huber Drive.

John Thorpe stated that he still did not fully understand the reasons why the project was being heard tonight. He thought Supervisor Miley had requested cost work to be completed and a copy made available to Mr. Sherwood and him. He had moved in this area in 1961 and knew all the prior store owners. The area has always and will in future support a good store as a community asset. He acknowledged that store renovation would be costly.

Jeff Howard, 3269 Keith Avenue, felt that some commercial use should be retained at the site although a residential project will increase the value of his property. He did not feel that the site plan had been revised significantly. Traffic was still being ‘dumped’ on Huber Drive which is already a sub-standard street. If approved, Mr. Howard also recommended replacing one unit with a turnaround.

Stephen Dearborn said he was confused since he was unaware of the modifications. The matter should have been re-referred to CVMAC. Castro Valley would like to retain this site as commercial. He urged that the decision not be rushed but be based on either what is best for the applicant or the community, whichever is important.

Michael Vaz, 3254 Keith Avenue, stated that his property was located at the narrowest portion of the street. He noted that no one had mentioned the swim club which will be just outside the gate and that large vehicles cannot exit onto Huber Drive.

Public testimony was closed. Commissioner Loisel requested clarification on the incomplete sentence on page 4, item 2. Mr. Buckley explained that only project residents and large vehicles will exit onto Huber Drive. Commissioner Hancock pointed out that the Finding on whether public interest is served has not been made.

Commissioner Jacob asked why this alternative was not presented originally to the Planning Commission. Initially, Public Works was not supportive of an access from Lake Chabot Road. Ms. Borrman replied that the Traffic Division had concerns regarding access from Lake Chabot Road to Huber Drive. Recommendations were then made to the applicant. Mr. Bazar noted the inclusion of Ms. Borrman’s memo in the Commission package.

Commissioner Ken said he supported the community and the commercial use of the property. The new proposed project is equally bad for Huber Drive; it is too dense. Huber Drive will suffer from over-flow parking. This should be a self-contained development with no access to Huber Drive. Commissioner Looney also agreed that this property should remain commercial and that the proposed plan is too dense. The Chair noted the staff-prepared optional site plan.

Commissioner Hancocks made the motion (advisory) to deny the rezoning and Commissioner Carbone seconded. Motion tied 3/3 with Commissioners Imhof, Jacob and Loisel dissenting. The Chair made a substitute motion that the staff-prepared optional site plan be submitted to the BOS with no thru-access to Huber Drive and with an on-site turnaround. Commissioner Loisel seconded. Commissioner Hancocks requested clarification as to why Public Works was now in support of access from Lake Chabot. Ms. Borrmann said since she was not originally involved with the project, she could not comment. Motion carried 4/2/1 with Commissioners Hancocks and Carbone dissenting and Commissioner Kirby excused.

The Chair announced a recess.

6 **AMENDMENTS TO THE SPECIFIC PLAN FOR UPPER MADISON AVENUE/COMMON ROAD**, which establishes zoning regulations for all those parcels accessed from Madison Avenue and Common Road north of Seaview Avenue in Castro Valley. Proposed Plan amendments include requiring Site Development Review for significant construction, allowing flexible side yard setbacks, refining maps of the Plan area and reinforcing slope controls. (Continued from May 1, 2006).

Mr. Andrade presented the staff report. The Commission discussed the storm water system, joint agreement and its language, flood water problems and the responsible parties, and assessment districts.

Public testimony was called for. Connie Deets, 18413 Madison Avenue, said she supports the amendments. Any new development up-stream will cause further flooding downstream. There is a storm drainage system down the stream. The language for additional drainage for new development needs to be tightened and importance should be placed on the drain water. Flooding has been a constant problem this area.

Gerry Thompson, property owner at 17764 Madison Avenue, using the overhead, discussed slope calculation which he thought needed the addition to determine the appropriate distance of the run; the differences between the prior calculation, 2 and 5 feet contour lines; and calculations from Napa County which uses 2-5 feet contour lines, and Thornberry Township, Pennsylvania which uses 3 consecutive 5-foot contours. The current language is vague. He requested clarification on the language for required creek improvements on Page 17.

John Aufdermauer, 17580 Madison Avenue, said that he also supports all the proposed changes. He owns the three undeveloped lots and would support a homeowner's agreement for creek maintenance. If a property is a buildable lot as defined by the County and in the 30% slope, Mr. Aufdermauer thought that the variance process should be available to the property owners.

Roxann Lewis said she has lived for 20 years at 17750 Madison Avenue. She stated the following: each lot should be looked at individually; agreed that the language regarding storm water mitigation is still vague and suggested replacing the word 'should' with 'shall'; swimming pools should not be built on 30% grades; and agreed with a maintenance agreement.



Chris Sarentakas, 17627 Madison Avenue, stated that she also supports all the changes and the need to tighten the language regarding storm water on page 16 and the addition of swimming pool language.

Lyle Bogue, 17800 Madison Avenue, said he lives in the triangular portion and his property has flooded twice this year. Kelly Canyon Creek floods and has maintenance problems. He also supports the revisions. The 30% slope discussion was initiated to deter building on the canyon wall.

Howard Beckman pointed out that the San Lorenzo Creek runs in a high urbanized area with varied ownership. In view of the maintenance obstacles/problems stated earlier by property owners, San Lorenzo Creek had suggested a Public Task Force last year. He did not think that a Specific Plan was the correct venue to deal with policies and plans except storm water management. He also did not support the requirement of an approved Storm Water Management as a Condition of Approval which, he thought, should be required at the beginning of the process. Mr. Beckman said he would like this Plan to reflect specific language based on the comments of the property owners.

Public testimony was closed. Mr. Andrade noted the requirement of a Site Development Review. Commissioner Carbone asked if there was a solution for the problems associated with increased impervious surface, to increase creek capacity and how to allow further development which will not result in increased flooding downstream. Mr. Amoroso pointed out that it is a difficult canyon to access with very few undeveloped remaining lots and the County did not have the authority to increase the capacity. He agreed that all creek problems could not be resolved through the Specific Plan. Commissioner Jacob asked if it would be appropriate to include a Preliminary Storm Water Management Plan under Provision 1 for Site Development Review; to include swimming pool under Slope Controls on page 15, and recommended replacing the word 'shall' to 'should' on page 16. Mr. Amoroso replied no. Commissioner Jacob felt that the first paragraph on page 17 places a liability on the developer, especially if there is a Joint Agreement. He further suggested the following language: "All creek problems anticipated to be cause by the development should be mitigated by the developer". A discussion followed on maintenance agreements. The Chair suggested rewording the second paragraph on page 17 to include maintenance. Ms. Borrmann recommended adding the words "to the extent required by the various regulatory agencies" as most agreements have emergency maintenance provisions. Commissioner Jacob suggested deleting the entire second paragraph.

Public testimony was re-opened to obtain the neighbors' opinion on deletion suggestion. Connie Deets did not support the deletion as without this condition, the creek and the riparian vegetation could not survive. Commissioner Jacob suggested rewording the condition to reflect that Public Works is required to inform property owners which permits are required. Ms. Deets agreed.

Lyle Bogue suggested replacing the word 'which' with 'if'. Prior to 1979, the County had maintained the creek beds. Although he pays two flood control taxes, his property floods



yearly.

Gerry Thompson stated that the motivation is to have one lead agency.

Lawana DeYoung, 4594 Paradise Knoll, felt that the paragraph should not be deleted but modified. This paragraph was originally included to protect the creek and the riparian area.

Karen Sweet, Alameda County Resource Conservation District, explained that the District has been working over three years with the related agencies to develop the Alameda County Permit Coordination Program and, as such, Public Works Agency should not be the lead agency.

Public testimony was closed. Commissioner Jacob made the motion to adopt the Plan with the following amendments: page 15, paragraph 6, inclusion of the term building with construction of swimming pool; on page 16 last paragraph under Implementation, the word 'shall' be replaced by 'should'; page 17, modifying the second sentence of first paragraph to read: "In addition, all creek problems anticipated to be caused by development shall be mitigated at the expense of the developers" and rephrasing the second sentence to reflect: "Affected homeowners contact Alameda County Public Works who will be advised which agencies require which permits before proceeding with any such work prior to removal of any riparian vegetation, or modification of stream beds or bridge construction or repair; and inclusion of a new paragraph under #1 to reflect storm water plans required under site dev review. Commissioner Loisel seconded and the motion carried 6/0/1. Commissioner Kirby was excused.

7 **MORATORIUM CREEKSIDE DEVELOPMENT** ~ Referral from Board of Supervisors regarding potential adoption of an interim ordinance restricting creekside development in the unincorporated area of the County. (Continued from May 15, 2006).

Mr. Bazar presented the staff report. Based on the comments received at the last meeting on property rights, Commissioner Jacob said he had requested and received a memo from County Counsel. At his request, Mr. Washington summarized his memo.

Public testimony was called for. Mohammad Yunus, 30156 Palomares Road, said that he did not support the moratorium.

Bob Feinbaum, 32474 Palomares Road, stated the following: a moratorium is a very "blunt and poor" instrument to deal with creek preservation; it should not be applied to the rural areas; a reasonable watercourse definition needs to be adopted which would include anything that flows for more than a month; there should not be an arbitrary number for the required setback but a flexible performance criteria; and rebuilding be allowed on the same footprint.

David Houts, Zone 7 Water Agency, said that a County-wide moratorium would be very broad. It needs to be focused on the urban creeks in the west county. Zone 7 concurs with Public Works Agency with the definition of a watercourse and its setback. Mr. Houts requested that Zone 7 be fully involved in the process, be invited to meetings and receive notices, preview staff reports earlier in process, and receive drafts of any potential ordinances.



Matt Mitchell, 26929 Palomares Road, stated that an emergency moratorium is to be used to alleviate an immediate public threat. Mr. Mitchell pointed out that the watercourses in Castro Valley are not an immediate threat and a moratorium is not a planning tool.

Luwana DeYoung, a Castro Valley resident, stated that there has to be some kind of plan ahead of time to deal with water sheds and riparian habitat. She was in favor of the moratorium with perhaps a task force to develop a criteria to resolve the issue before and not after. Richard DeYoung added that the community cannot enjoy the wildlife and creeks because they are private properties.

Bruce Thompson said he was opposed to a moratorium. Originally, the creek was unlined. Fifteen years ago, a concrete lining was added. As a result, development could occur up to 20 feet from the creek bank. If this moratorium is approved with a 50 feet setback, he will not have any buildable lots remaining to sell and/or to develop, depriving him half of his assets. An approval will not change the environmental considerations, building close to the creek will help stop weed growth and fire hazard and the County will receive increased tax revenues.

Dick Schneider, representing Sierra Club, urged a geographically broad and comprehensive moratorium. This moratorium is a result of 30 year failure to implement the Specific Plan for Areas of Environmental Significance in respect to riparian corridors. The East County and Castro Valley and Palomares Canyon lands should be included as there is little protection under ECAP and none under Measure D, exempting those projects that are necessary to public health and safety.

Marc Crawford, 3832 Somerset Avenue, said that many property owners will be affected by the moratorium and he was not sure if a moratorium was the solution or the effect on the Housing Element and the Specific Plan. He supported the alternatives which included an overlay of zoning for properties within the creek areas and Site Development Reviews rather than a moratorium. Natural creeks and channels as well as East County and urbanized West County should be treated differently. The moratorium process is being rushed, is not fair, the findings for multi-family homes are weak and there is no emergency to dictate a moratorium.

Darrel Sweet, 12222 North Flynn Road, in opposition, stated that the moratorium was broad and should not include the East County. There are about 6-7 Federal, State and local jurisdictions that oversee the creeks.

John Aufdermauer, 17580 Madison Avenue, said he was against a moratorium and agreed that there are many agencies involved including the Watercourse Protection Act with 20 feet setback from creek; Madison Area Specific Plan with 25 feet setback, Clean Water Act, Site Development Review and others. If extended to two years, the moratorium will cost him and perhaps other property owners additional expenses. Reasonable development should be allowed. If approved, he urged the Commission to take into consideration all exemptions as outlined in the staff report.

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Keith Simas said he lives on Cull Canyon Road and thought that clarity was needed on rural East County, urban and agricultural margins.

Connie Deets, 18413 Madison Avenue, stated that she was neither in support nor in opposition but appreciated that some progress is being made regarding the creeks.

Diana Hanna, representing Bay Creeks Coalition, pointed out that the moratorium is not to place hardship on property owners but to stop projects/developments that destroy creeks and habitats which will affect quality of lives. This moratorium would not have been necessary if the Specific Plan for Areas of Environmental Significance had been enforced. It should include all projects in the pipeline to protect the riparian corridors. She was in support of some sort of a moratorium.

Karen Sweet, Resource Conservation District, pointed out that the San Lorenzo Watershed has an existing watershed plan prepared by Public Works Agency; the existence of the Clean Water program and through the Resource and Agricultural Plan. The District's business is resource enhancement and restoration with public and private funds mostly to restore creeks on private lands using permit coordination programs in both East and West Counties. Her concern is the continuance of their work on creek enhancement as a result of this moratorium. She recommended exempting all creek enhancement-type projects and Public Works projects that involves public funds.

Tim Fiebig said he lives on Willow Creek which backs his property. He would like to build his pool but not to affect the creek. He supported the flexibility of the required setback from the bank of the creek.

Terry Preston, representing Sierra Club, San Francisco Bay Chapter, expressed her concern regarding the lack of awareness of the Specific Plan for Areas of Environmental Significance which was approved to protect the community and the sensitive habitats. Most of the issues stated today would not have existed if this Plan had been implemented in 1977. The County has been in violation of this Plan and the Zoning Ordinance and she further read the paragraph on Page 3 of the Plan. She urged all to read the Plan.

Bob Glover, Home Builders Association, reiterated the need for a thorough review of whether the moratorium will be a constraint on the County to meet its Housing Element requirements. He pointed out that although City of Berkeley spent 18 months in the process, they did not adopt a moratorium. His concern was that a moratorium is not the process to establish creek policies. This is a rushed process without a thorough assessment of the issue.

Cody Walton, 34548 Palomars Road, said he opposed the moratorium. Most of the wells are located near the creeks and, as such, there is concern if development is restricted near the creeks.

Jim Martin, 34484 Palomares Road, urged that the moratorium be limited to the urban West County and the rural areas, covered by Measure D, be exempt. If approved, the moratorium will limit the ability to farm the canyon lands and be open to interpretation.



Keith Simas read a letter from Joe McGrath, property owner at 31089 Palomares Road, in opposition. He was unclear of the objective of the moratorium as it is ambiguous. It also does not present any scientific evidence of public threat or safety. The property owners take care of the creeks and an increased setback will decrease property values and hinder rightful and legal uses of land. He further urged the Commission to limit the scope of the moratorium. Mr. Simas, speaking for himself, noted City of Berkeley's action.

Bruce King, 3127 Terry Court, said that although he did not live near a creek, he was concerned with the riparian habitats. He felt that a moratorium was a good short term solution to the creek problem but a Public Task Force was needed to work on the long term issue. There is a need for watershed and run-off policies.

Laura Baker representing East Bay Chapter of the California Native Plant Society read her letter. There has been a lack of compliance to the Specific Plan for Areas of Environmental Significance. The Society supports the extension of the moratorium to 12 months or two years. The goal is not to stop all developments but only those that are not currently legal. It is important to include the rural areas of the County and Zone 7.

Barbara Fields, 24066 Madeiros Avenue in the Fairview area, pointed out that the Specific Plans for specific areas supercede the General Plan and needs to be followed. She further expressed her concerns on an approved project in her neighborhood.

Peter McDonald, on behalf of Mike and Gloria Corniola, stated that with an increased setback to 30 feet, their entire lot will be unbuildable. He suggested that there should be exemptions for those property owners who have finished pads identified and have obtained grading plans and Fish and Game approvals.

Howard Beckman, Friends of San Lorenzo Creek, said he was against the moratorium noting that last year they had proposed a Public Task Force to deal with creek related issues based on the city of Berkeley's model. He was willing to discuss the political dynamics that has brought upon a moratorium. He disagreed with Ms. Preston that compliance to the Specific Plan for Areas of Environmental Significance would have resolved all creek issues/concerns. He urged that the Commission recommend the emergency moratorium to lapse and consider deliberations of a Public Task Force once the problem has been defined. In response to Commissioner Jacob on the specific language of channelized creeks, culverts and watercourse, Mr. Beckman explained that City of Berkeley had an urgent need to deal with the issue of liability.

William Spicer, 38080 Edward Avenue, Fremont, said he fully supports the moratorium.

Roxann Lewis, a Castro Valey resident, urged approval of the moratorium.

Bob McCartney said he was against a moratorium as he would lose a good percentage of flat buildable land. He has lived on Palomares Road for eight years with no flooding or erosion.

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Doug Johnstone, 19551 Mel Lane, said he supports the Sierra Club. There is a need for a moratorium to study the issues.

Public testimony was closed. Commissioner Carbone read Commissioner Kirby's memo. Commissioner Jacob recommended adding "selection of a possible date for conclusion of the moratorium" to the list of actions on the last page of the staff report. Mr. Bazar indicated that it could be extended to 2 years minus 45 days. The following actions were taken on the list:

Commissioner Jacob made a motion to recommend a moratorium. Motion died due to a lack of second.

Commissioner Looney recommended including the entire County.

Commissioner Jacob re-stated his motion to recommend a moratorium and Commissioner Looney seconded. Motion carried 3/3 with Commissioners Hancocks, Imhof and Loisel dissenting.

Commissioner Hancocks made the motion that the moratorium be limited to the urbanized portion of the West County with the exemptions of the rural areas of the County. The Chair seconded and the motion carried 6/0.

Commissioner Hancocks made the motion that the setback be no more than 20 feet minimum from the bank; the Chair seconded. Motion carried 6/0.

Commissioner Hancocks made the motion that the definition would be of a natural water flow and not concrete. Commissioner Jacob seconded which carried 6/0.

Commissioner Hancocks made the motion to extend the exemptions in the 45-day moratorium to the life of the moratorium. The Chair seconded. After further discussion, Commissioner Hancocks amended his motion to include the exemptions recommended by Public Works Agency.

Commissioner Jacob made the motion to extend the moratorium to 18 months minus one day. Commissioner Hancocks seconded and the motion carried 6/0.

Commissioner Loisel made the motion for a recommendation to form a Task Force and Commissioner Hancocks seconded. Motion carried 6/0. Commissioner Jacob recommended that the motion include that the Task Force look alternatives suggested by staff including Site Development Reviews and consideration of creek development area over-lay zone. Commissioner Loisel seconded, which carried 6/0.

- 8. **PROPOSED AMENDMENTS TO ZONING REGULATIONS** ~ Consider amendments to Title 17 of the County General Ordinance Code (Zoning Ordinance) relating to the permitted uses and conditional uses in the C-O (Administrative Office), C-1 (Retail Business), C-2 (General Commercial) and R-4 (Multiple Residence) Districts.

Mr. Bazar presented the staff report.

Public testimony was called for. Howard Beckman requested an explanation on the reasons for these proposed amendments. Mr. Washington explained that since the County is in litigation in Redwood Christian Schools, this is to clarify that the County ordinance did not discriminate

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against any religious institutions.

Public testimony was closed. Commissioner Loisel made the motion to move staff recommendation. The Chair seconded and motion carried 6/0.

STAFF COMMENTS & CORRESPONDENCE: None.

CHAIR'S REPORT: None.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS: None.

ADJOURNMENT: There being no further business, the meeting adjourned at 11:53.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY