

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
JULY 19, 2004
(APPROVED AUGUST 16, 2004)

The meeting was held at the hour of 3:00 p.m. at the Public Works Building Auditorium, 399 Elmhurst Street, Hayward, California.

FIELD TRIP: 1:30 p.m.

MEMBERS PRESENT: Commissioners Ario Ysit, Chair; Compton Gault; Frank Imhof; Mike Jacob, Vice Chair; Glenn Kirby; Lena Tam

MEMBERS EXCUSED: Commissioner Hancocks.

OTHERS PRESENT: Steve Buckley, Assistant Planning Director

FIELD TRIP: The meeting adjourned to the field and the following property was visited:

1. **TENTATIVE TRACT MAP, TR-7545 – NIELSEN** – Application to subdivide one property into five parcels, in a R-1-B-E-SU-RV (Single Family Residence, 10,000 square foot Minimum Building Site Area, 80 feet Median Lot Width, Secondary Unit, Recreational Vehicle) District, located at 17456 Almond Road, northeast side 415 feet south east of Vineyard Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 0084D-1250-007-00.
2. **TENTATIVE TRACT MAP, TR-7543 – BALTIC PROPERTY VENTURES IV** - Application to convert a 33-unit apartment building to condominiums, in a R-1-RV (Single Family Residence, Recreational Vehicle Storage) District and a R-S-D-20 (Suburban Residence, 2,000 square feet Minimum Building Site Area/Dwelling Unit) District, located at 2503 Miramar Avenue, south side, at the corner of the intersection with Page Street, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Numbers: 080A-0197-001-05, 080A-0198-028-00, 084B-0321-001-06, and 084B-0321-002-04.
3. **MODIFICATION TO THE 1557th ZONING UNIT – ADAMS** – Application (C-N uses and auto repair business subject to Type A service station requirements), to include additional buildings and services according to a 5 year phasing plan, and **CONDITIONAL USE PERMIT, C-8275**, an application to implement the minor modification to the zoning unit, on one site containing approximately 0.30 acres, in a P-D (Planned Development, 1557th Zoning Unit) District, located at 18811 Lake Chabot Road, south side, corner east of Huber Drive, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084B-0502-044-00.

REGULAR MEETING: 3:00 p.m.



MEMBERS PRESENT: Commissioners Ario Ysyt, Chair; Compton Gault; Richard Hancocks; Frank Imhof; Mike Jacob, Vice Chair; Glenn Kirby; Lena Tam

OTHERS PRESENT: Chris Bazar, Planning Director; Steven Buckley, Assistant Planning Director; Sandra Rivera, Assistant Planning Director; Bruce Jensen, Senior Planner; Phil Sawrey-Kubicek, Senior Planner; Louis Andrade, Planner III; Andrew Young, Planner II; Eric Chambliss, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately twenty-seven people in the audience.

CALL TO ORDER:

The Chair called the meeting to order at 3:05 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:

Consent Calendar

1. **APPROVAL OF PLANNING COMMISSION MINUTES** – Approval of the minutes is being continued to August 2, 2004.
2. **2190th ZONING UNIT - MOHLER** - Application to rezone the subject property to a PD (Planned Development with an Agriculture-Cultivated Agriculture base zone) Zoning District, so as to maintain all the development rights and restrictions in the A-CA district, except that operation of a heliport (personal helicopter landing and take-off from a helipad) only as described herein, is Permitted, on a 122 acre property within an "A-CA" (Agricultural, Cultivated Agriculture) District, located at 7490 Mines Road, east side, 2.2 miles south of Tesla Road, unincorporated south Livermore area of Alameda County, bearing Assessor's Parcel Number: 099A-2420-004-24. (Continued from June 6, 2004; to be continued without discussion to August 16, 2004)
3. **MODIFICATION TO THE 2058TH ZONING UNIT, AND CONDITIONAL USE PERMIT, C-8267 – FAIRVIEW FIRE PROTECTION DISTRICT** – Modification to the 2058th Zoning Unit to allow transfer of Title to the Fire Station from Alameda County to the Fairview Fire Protection District, which would be implemented by Conditional Use Permit C-8267 if determined to be a minor modification, on one site containing approximately 1.15 acres, in a PD (Planned Development) District, located at 25862 Five Canyons Parkway, unincorporated Castro Valley area of Alameda

that there was a need to environmentally protect the water supply pipeline, there was no evidence to support that finding. If there was a genuine need to protect the reservoir, it needs to be demonstrated, how it affects the habitats and other residents' water supply and a policy making decision. Perhaps it was too late to discuss keeping in its current location and too early to consider the Highway 84 alternative. Mr. Foley further discussed the HW-84 possibility. In reference to the new alignment, the pipelines could be located along the frontage road with a bicycle lane.

David Houts, Zone 7 Water Agency, read and submitted his letter requesting a delay for any recommendation for the EIR to allow specific recommendations as mitigation measures to be included. Commissioner Hancocks asked why he was presenting information today. Although a response had been submitted which was reflected in the EIR regarding easement and encroachment rights, Mr. Houts said it was not detailed.

Mike Chrzanowski, Project Manager, introduced himself. Commissioner Imhof, in reference to the canal on the east, asked for the location and distance of the pipeline. Mr. Chrzanowski replied that the pipeline crosses the canal about one third of a mile from the source of the canal. He pointed out that the issue of protection was different between the canal and the reservoir. Commissioner Ysit asked for the expected life of the existing pipeline. Although it was indefinite, Mr. Chrzanowski indicated that it would depend on the maintenance. The existing one has been in place since mid 1960s, in good shape with regular inspection. In response to Commissioner Kirby, he explained that San Francisco has reconfirmed that the pipeline needs to be relocated due to the risk to San Antonio Reservoir although significant mitigation measures have been installed for protection. Commissioner Kirby also asked if an estimate in the difference of costs was available for moving to the Highway 84 corridor and Commissioner Tam asked if they have had discussions with Zone 7 and DWR. Mr. Chrzanowski replied that he did not have an estimate available today and yes, discussions were on-going on general topics. In response to the Chair, he described that the northern route crosses both the Zone 7 lateral and the SBA but was not sure of the southern, and he had not seen the Zone 7 letter submitted today.

Public testimony was closed. Commissioner Kirby recommended a continuance as the Commission has not had an opportunity to read Zone 7's comments. Mr. Jensen noted that the comments were identical to their response to the DEIR.

John Courtney, Senior Planner, Lamphier - Gregory, compared and discussed comments on Zone 7's April 7th and July 19th letters.

Commissioner Ysit made a motion for a continuance. He had received his package on Saturday and, as such, did not have sufficient time to look at all the materials. He did not have any concerns with the relocation but felt that any possible leaks into San Antonio Reservoir should be addressed. Commissioner Imhof seconded the motion. Commissioner Tam said she was not opposing a continuance but was not sure if any new information would be forthcoming, all comments in the EIR have been responded to, and in reference to an alternative, she agreed with staff findings. General Plan conformance and ECAP guidelines have to be followed. Commissioner Hancocks agreed. Commissioner Kirby asked if there was a representative from San Francisco Water present. He stated that perhaps it might be cost effective to replace the pipeline at its current location and renewing the lease awaiting the results of studies of possible Highway-84 alignment. Staff confirmed that San Francisco had been included in all correspondence but no one was present. Commissioner Gault stated that this was a very important project mainly because of all the properties that will be affected and, as such, supported a continuance. He also agreed with Commissioner Tam's statement that perhaps no new information would be forthcoming. Commissioner Ysit re-made his motion for a continuance to August 2, 2004 and Commissioner Gault seconded and suggested that a letter be sent to San Francisco Water indicating the Commission's interest

in hearing their comments. Motion carried 7/0.

6. **TRACT MAP, TR-7545 – NIELSEN** – Application to subdivide one property into five parcels, in a R-1-B-E-SU-RV (Single Family Residence, 10,000 square foot Minimum Building Site Area, 80 feet Median Lot Width, Secondary Unit, Recreational Vehicle) District, located at 17456 Almond Road, northeast side 415 feet south east of Vineyard Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 0084D-1250-007-00.

Mr. Buckley presented the staff report adding that Exhibit B be amended to include planter strips as recommended by Castro Valley MAC on June 28th. Another issue was the future easement as a way to reach the rear of the properties and possibly leading to future subdivision. Staff has prepared a set of conditions that excludes this from an approval and any future subdivision will require additional consideration as a separate tract map. The Chair asked for the related condition numbers. Mr. Buckley pointed out that Condition 7 reflects the future easement which could be amended to include the 18 foot driveway and the two foot planter.

Public testimony was called for. Cindie Camozzi, 17464 Almond Road, said her main concern was the planter which she supported. Her property was between the driveway and the street off Almond Road. She will be able to hear the cars traveling on the driveway. It would be too small of an area for fire prevention. She did not support an easement.

John Rosenbrock, adjacent property owner at 17446 Almond Road, said he opposed the alignment of the turnaround which ends directly ten feet short of his bedroom window and, as such, he would now be sandwiched between two parking lots and would have the problem of flashing lights at night and noise. He did not see any reason for the two parking spaces at the end of the turnaround area and for the turnaround area to extend to the property line. The parking areas could be off the main street. There was no planting area on the side and no indication on the location of street lights. Mr. Rosenbrock felt that the project could be re-designed but maintaining the 10,000 square foot lot sizes. He also opposed any concept of the driveways for parcels 3 and 4 off the turnaround. The original plan indicated only parking spaces. The conditions of approval do not include CVMAC’s recommendations. In response to Commissioner Tam, he indicated that a six foot fence was proposed, which would be lower than his second-story bedroom window. Mr. Rosenbrock suggested relocating parking space for parcel 3 next to the space for parcel 2 and re-locate the space for parcel 4 next to the space for parcel 5, to allow space for landscaping as a buffer zone.

Rick Jones, property owner on the southern corner at 17462 Almond Road, submitted two letters from two other neighbors. He also supported the recommendation for a planter strip and reducing the driveway between parcel 3 and 4 to provide a larger buffer zone with landscape. In support of this recommendation, he has submitted photographs of the driveway with and without landscaping. Most of the neighbors were concerned about the 500 foot driveway extending to the top of Almond Road, to the loop. Residents use this loop for walks. CVMAC had also recommended no driveway easement further than five lots which has not been included in the conditions of approval. He urged that the Commission limit any possibility of future easement access to any other lots. Mr. Jones suggested that in order to re-design for the the Fire Department, the easement from lot 5 could be eliminated. Neighbors were not in support of a private driveway coming off Almond Road to support any subdivision on top of the hill as the land here was becoming landlocked. Mr. Jones also suggested a Master Plan for this area.

Jeff Moore, Project Civil Engineer, concurred with the staff report and provided the following clarifications: the turnaround was arranged with the Fire Department; the lighting issue had not been



No public testimony was submitted. Commissioner Gault made the motion to approve the matter with assurance that the comments from Traffic and Fire Departments be complied with, parking spaces for the units be designated; and each unit to have two designated spaces. Mr. Buckley suggested modifying Condition 10 (D) and Commissioner Kirby suggested deleting the word ‘garage’ and adding ‘resident designated parking spaces’ after the word ‘for’. Commissioner Tam seconded. The Commission voted unanimously in favor of the motion.

8. **MODIFICATION TO THE 1557th ZONING UNIT – ADAMS** – Application (C-N uses and auto repair business subject to Type A service station requirements), to include additional buildings and services according to a 5 year phasing plan, and **CONDITIONAL USE PERMIT, C-8275**, an application to implement the minor modification to the zoning unit, on one site containing approximately 0.30 acres, in a P-D (Planned Development, 1557th Zoning Unit) District, located at 18811 Lake Chabot Road, south side, corner east of Huber Drive, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 084B-0502-044-00.

The Chair announced that this item will be continued to the August 2nd meeting as recommended by staff.

6:00 P.M. SET MATTERS
(The following items will not be heard before 6:00 p.m.)

9. **SAN LORENZO VILLAGE CENTER SPECIFIC PLAN AND FINAL ENVIRONMENTAL IMPACT REPORT** - Consideration of the Final Environmental Impact Report (EIR) and Final Specific Plan for the San Lorenzo Village Center, and possible recommendation to the Board of Supervisors regarding adoption of the EIR and Specific Plan. The Plan area is approximately 29.5 acres in size, encompassing 36 parcels of land that are currently vacant or developed with a mix of non-residential uses including general retail, restaurant, banking, public services, community facilities, etc., generally located along Hesperian Blvd. from the I-880 overcrossing on the north to Via Mercado on the south.

Mr. Bazar, Planning Director, thanked all for their support and involvement in this lengthy process. He presented the staff report and introduced Scott Gregory, EIR Consultant, Lamphier-Gregory.

Mr. Gregory explained that the Plan has been significantly reduced to 580 units. The comparative analysis identified whether the previous EIR still pertains to the current proposal. At the conclusion of the analysis, there was only one significant unavoidable environmental impact, although partially mitigated, which was construction noise because of the infill location. Both the original EIR and the analysis was based on the Specific Plan and Towncenter Project, both were now consistent. Hence, a further analysis was not necessary. Mr. Gregory requested a recommendation on the certification of the EIR. Commissioner Tam asked if future specific projects would require another environmental report. Mr. Gregory replied that it would not be required if the project was consistent with the plan.

Public testimony was called for. Kathie Ready, a San Lorenzo resident, also thanked all involved. She pointed out that there was no Appendix A as mentioned on Page 91. Mr. Gregory explained that the information to be contained in Appendix A instead had been included in the document text, as a table in

lane from Hesperian onto Lewelling at the Kragen Auto corner and felt that City of San Leandro should pay their share.

Scott Bohannon read and submitted a copy of his letter for the record relating to the deletion of service stations as a permitted CUP. Commissioner Tam requested clarification. While stating that the new concept of service stations included grocery stores, Mr. Bohannon indicated that some of the stores have requested inclusion of service stations on their sites. Making service stations a non-permitted use would eliminate good retail providers in an area and, as such, service stations should be added as a permitted use.

Nancy Van Huffel thanked staff for their work and the Commission for attending the meetings. In response to Mr. Beckman's comments, she was pleased that the Plan also proposes, as currently, 140-180 thousand square feet of commercial area which will be developed before the housing project. Ms. Van Huffel also disagreed that there would not be a big difference between 200-400 units. Regarding the library, many residents feel that it should remain in San Lorenzo, especially considering the financial aspect. She also felt that it was critical to encourage a first-time home buyers program to give priority to local residents and those who work in San Lorenzo.

Public testimony was closed. Commissioner Gault made a motion to approve staff recommendation. Commissioner Tam seconded the motion agreeing that a traffic problem existed on Hesperian and Lewelling Boulevards but felt that adding more retail space would make the traffic situation worse. The Chair commented on the Design Guidelines of the Specific Plan and expressed his belief that they were exceptional and would maintain the character of the project that had been developed. Commissioner Kirby noted that no one was available from Civic Partners to comment on the project.

Mr. Bazar introduced Marita Hawryluk of the Redevelopment Agency, who presented a timeline. Civic Partners had a six month timeline, resulting in a document in October which would identify the components of the project and the financial assistance from the agency. And from this time, a year for construction to start. Commissioner Kirby stated that there should be a first-time home buyers' program. Ms. Hawryluk replied that this was part of their negotiations.

The Chair requested a roll call on Commissioner Gault's motion. The Commission voted unanimously in favor of the motion.

10. **DETERMINATION, D-156 - VARIANCE, V-11637 - SANTE FE** – Planning Director-initiated Determination by the Planning Commission as to whether the catering business located at 18310 Ricardo Avenue, southeast corner of the intersection at Hacienda Avenue, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 412-0065-001-00, is authorized under various provisions of the Alameda County Zoning Ordinance.

Chris Bazar, Planning Director, presented the staff report. Commissioner Hancocks asked if the Commission would be defining the word 'catering' for future use by the Planning Department, adding that he thought it would be a legislative action.

Eric Chambliss, County Counsel, replied that the Commission has to determine what the use is, whether catering included on-site and off-site. The catering use could be one of the provisions of the Ordinance. A non-conforming use cannot be expanded without a variance. Under the Ordinance, a change in the use requires a physical change on-site and Mr. Chambliss further read the related section of the Ordinance. This use has always been described as a catering business. It has not been necessary for the off-site

catering portion to come before any Board because it has never been an issue or a necessity. He also noted that the off-site catering has not had an impact on the on-site catering.

Commissioner Kirby felt that an expansion of the physical property had not been necessary to the off-site activity but just an increase of volume/activity, which was not an expansion of the use.

Commissioner Hancocks asked if staff had a description of the nature of the use at the time it became a non-conforming use. Mr. Chambliss pointed out that all was related to the definition of the word 'catering'. In response to the Chair's request for clarification, Mr. Buckley explained that the variance was approved by the Zoning Administrator in 1971 and the project description was "...to continue the use of a previously authorized open patio roof extension of the non-conforming use (catering business/meeting hall for private groups)". Mr. Bazar added that there was a similar resolution in 1968. Commissioner Imhof asked if the property was located in the middle of a housing development. Mr. Bazar replied that it was primarily a residential area, a R-1 District. Commissioner Gault said that in 1963 when he had been living in this area, it had been a party room with a catering service but no off-site service. Later, a patio was built and the side gate was opened up; parking had been a problem and there had been no hearing on the expansion. Commissioner Tam said she agreed with Commissioner Kirby. She thought that catering was consistent with what the American Planning Association defines and was unsure why a distinction was necessary whether it was on-site or off-site since there was no expansion on site.

Mr. Bazar explained that the matter has been brought before this Commission because the legality of the off-site catering has become open to questions and whether Code Enforcement should proceed or not, a determination was needed. Mr. Chambliss added that if a determination was made that off-site catering was a new expansion of the non-conforming use, the Commission should then also address the question of whether it was expanding a greater area of land use or the building.

Public testimony was called for. Liz Morales, CommPre, said she was speaking on behalf of the neighborhood. Santa Fe has been problematic because of its location. Some of the problems have been alcohol related, public urination, parking and noise. It has been a consistent nuisance and the use belongs in a commercially zoned area. She hoped that the Commission will consider the community's concerns as Sante Fe has showed no consideration for the community.

Ron Palmeri said he was speaking as an individual. He read the first paragraph on Page 2 of the staff report and noted the second and third paragraphs. There had been more than discussions about the off-site and on-site catering in front of the West County Board of Zoning Adjustments. In November, 2003, the Applicant submitted a change for Condition #1 to specifically increase by adding an expansion of the non-conforming use to include an off-site catering business which had not been approved by the West BZA. At the public hearing, testimony was provided on the history of the use for the last 35 years. Based on V-4596 approved in 1968, the BZA denied the application to include off-site catering in November, 2003. Now staff was 'forum shopping' and this Commission has been asked to make the same determination.

Mr. Chambliss noted what the Zoning Ordinance defines and Commissioner Tam pointed out that the Commission only needs to make a determination and not grant the variance or consider the non-conforming use. Mr. Bazar agreed with portions of Mr. Palmeri's testimony. He explained that the Applicant had later withdrawn her application which raised other questions/issues which needed addressing. Commissioner Tam felt that the issues appear to relate more to zoning enforcement but in terms of land use issue, she asked how a definition would help or hinder. Mr. Chambliss replied that the Commissioner has to determine the concept of the non-conforming use and if off-site occurs, is it a

physical expansion on site. Commissioner Hancock pointed out that since the variance application, including the off-site catering, was denied by the BZA, the matter should be resolved. Mr. Buckley replied that application had been for an expansion of a non-conforming use by addition of a patio cover and interior remodeling and not off-site catering. Commissioner Ysitt asked if Environmental Health has approved the kitchen and outside catering. He felt that a determination was needed from County Counsel rather than this Commission.

Robert Stranahan, adjacent property owner at 18322 Ricardo Avenue, said per the prior owners from 1960s, there was never any off-site catering but strictly owner-occupied with an open patio which has now been enclosed. The business has expanded illegally and he felt that 'catering' was a very open word. The house has been changed inside and was no longer lived in, the business has caused a lot of nuisances in the area, and, as such, many families have moved out of the neighborhood. Some of the other problems have been garbage, parking of delivery trucks, public urination, fights, vandalism and noise. There have been fewer parties now. Commissioner Ysitt asked where the patrons parked. Mr. Stranahan replied that although parking was available in the church lot, patrons continue to park on the street, in front of their driveways. Parking was still a big problem.

Patrick Ledesma, 632 Via Alamo, stated that the problem was a nonconforming use in a residential area. The complaints were valid, and loading and unloading was a major problem. The Commission has to consider what catering was considered as at the time of the original approval.

Vickie Carminati said she was the owner of the adjacent property, provided the chronological history. When she had bought the property, the realtor had informed her that Santa Fe would be closing. To-date, none of the recommendations from the different agencies have been complied with. At the November 5th meeting, alterations were noted in the resolution which has compounded the problem. On April 8th, 2004, she talked with Mr and Mrs Chapman, who had lived on site from 1967 to 1973 and had submitted a copy of their letter. They provided for wedding receptions in their house. There was no outside catering. The Associate Superintendent of San Lorenzo Unified School District and ABC do not support an expansion because of the problem with delivery trucks and alcohol-related problems. She listed the same problems as Mr. Stranahan. If Santa Fe was allowed to continue business, Ms. Carminati suggested that it be converted to its original status, a small gathering site for parties, occupant number be set, non-alcoholic beverages and the noise be turned off at 10 p.m. Commissioner Tam asked what efforts were made to talk directly to the business owners and the response. Ms. Carminati replied that the owners had said that they would work on the problems and had asked for some time. Although there have been some improvements, the same problems exist.

Kathie Ready, San Lorenzo Homeowner's Association, stated that the community had presented their problems at a meeting a few months ago, as a result of which she had driven by and confirmed that trucks had been parked on the street. She was concerned with all the time extensions and pointed out that catering today was different from the 1960s. Another concern was its location which was not good for the community.

Dennis Botelho submitted a package to the Commission and read the section on the Physical Features from the October 1968 staff report. The use today was a business and the dwelling was no longer a residence and, as such, the business has expanded. The use as noted in 1968 was a "party room operation with food served on the property". This became a non-conforming use after the initial hearing in 1968. Included in his package was letters from the original owners, James Chapman and Mary Russell. Both the letters and the staff report clearly indicate that this was an expansion which violates Section 17.52.640. Commissioner Tam asked if he was representing anyone. Mr. Botelho replied that he was helping the community and had been a BZA member when this application was heard. In November,

2003, item #1 of the staff report was changed requesting the BZA to grant the off-site catering. In response to Commissioner Hancocks, Mr. Botelho confirmed that originally it had been occupied as a home but currently it was strictly a catering business.

Mr. Hancocks asked for the current nature of the home. Ms. Henninger confirmed that it was not used as a residential dwelling. Commissioner Kirby thought that a single family residence describes the structure and not the use and asked if the County makes a distinction between a home occupation business license compared to a regular business license adding that perhaps it was open to interpretations.

Michelle Garceau said she was the new owner since August, 2003. In response to Commissioner Tam regarding communication between the neighbors and the owner, she said that they had met during the first three months to resolve some issues pending from the previous ownership. She thought a resolution had been reached: a contract had been presented to customers. Many of the issues were not valid to her but to the previous owners. The only problem since her purchase has been urinating on the fence. The unloading and loading occurs only during specific hours during school hours, not on week-ends. She did not understand the issue/concern of the off-site catering when the neighbors' concerns were related to the on-site catering. Regarding the letters from the previous owners, according to another neighbor, the previous owner had passed away. In response to Mr. Botelho's testimony that the variance application was denied, Ms. Garceau pointed out that this application had not been filed by her. She, as a new owner, has only applied to withdraw the old variance filed by the previous owner. In response to Ms. Carminati's statement that none of the recommendations have been complied with, she pointed out that they were all related to the previous owner. She had bought a catering company with 99% off-site business. In response to Commissioner Ysit, Ms. Garceau said she offers the community an affordable hall but if required to choose, she would only keep the off-site portion of the business, which was her livelihood. Commissioner Hancocks asked if the dwelling was currently occupied as a single family residence and what, if any, changes have been made. Ms. Garceau replied that no internal structural changes have been made and no one resides on site but could.

Public testimony was closed. Commissioner Kirby pointed out that many issues/concerns have been noted but all were enforcement issues and not related to the definition. He felt that it was clear that the definition included off-site.

Commissioner Hancocks indicated that in respect to the testimonies submitted, the nonconforming use was not an issue. Instead, it was the legal use. The use has expanded over the years but has not been sanctioned by the County. The letters written by the original owners and the testimonies submitted confirm that the original use was a single family residence with a home occupation. County Counsel responded that a nonconforming use could be expanded if the findings can be made. Commissioner Tam agreed with Commissioner Kirby adding that she was extremely sympathetic to the concerns. From a land use perspective, the use was still a catering business that provides off-site services. This was a 35-year old business with an Environmental Health approved kitchen that was serving food off-site which is what constitutes catering.

Commissioner Gault asked if the definition would be for County-wide usage or was only related to Santa Fe. County Counsel replied that it would only be for Santa Fe and Mr. Bazar added that the definition could be used as an example for County-wide usage. He further outlined the processes/actions that had occurred. Commissioner Ysit felt that although off-site catering was acceptable, what was happening in the community was not acceptable. Commissioner Imhof felt that catering was a business.

Commissioner Kirby made a recommendation to include on-site and off-site catering. Commissioner Tam felt that if the Commission was trying to address a problem by definition, it was not a good tool and

suggested other recourse. Commissioner Hancocks voted against a definition reiterating that all definitions were made legislatively and further quoted Section 17.064. Commissioner Gault asked if a determination was being sought for the Board of Supervisors to consider an approval. County Counsel said one reason was for Code Enforcement. Mr. Bazar further explained that Code Enforcement was asked to shut down the business and Planning Department felt that this Commission had the ability to address this issue. If the Commission felt that this was a legislative action, the matter would then be referred to the BOS.

Commissioner Kirby made a motion defining to state that by taking this case it was an opportunity to address the neighbors' concerns by defining the term 'catering'. The Commission was only affirming the definition to include both on-site and off-site in respect to Santa Fe. Mr. Bazar then re-stated the motion which read: The Commission determined that both on-site and off-site portions of the Santa Fe non-conforming catering uses may continue operation without requiring a use permit or a variance.

Commissioner Imhof seconded the motion and asked if all other matters, such as hours of operation and deliveries, were set aside. Mr. Bazar explained that a set of conditions were adopted on May 14, 2003, on the application filed by the prior owner. Since then, the application has been withdrawn. There was no immediate way of imposing those conditions although the applicant has expressed, in writing, a willingness to adhere to them. Issues/complaints would be addressed by Code Enforcement.

The Chair made a substitute motion to continue the matter for two months, to the first meeting in September, to allow time for the Commission to have a discussion with staff as to what was required, for the Commissioners to feel comfortable regarding the requirement and for staff to put the requirement in writing. And it would also allow time for the business owner and the neighbors to meet to resolve some of the issues. Commissioner Tam seconded the motion adding that she was not clear on Code Enforcement's role. Commissioner Kirby said that if the Commission could define the word catering, then Code Enforcement would be able to proceed, if needed. Commissioner Tam requested a concurrence from Code Enforcement. Ms. Henninger concurred adding that no action would be taken until a decision is made by a body and all issues will be addressed separately.

In response to the substitute motion, Mr. Bazar asked the Chair what staff would bring to the Commission to provide further clarity. The Chair replied that a draft of the Commission's action.

The Chair requested a roll call on the substitute motion for a continuance. Motion failed by a vote of 6/1 with Commissioner Hancocks voting yes.

The Chair requested a roll call on Commissioner Kirby's original motion. Mr. Buckley read the following as the motion: "That the Planning Commission determines that the off-site catering portion of the non-conforming business, Santa Fe, is not a change in the non-conforming use based on the definition provided in the APA Dictionary and common usage. Commissioners Gault, Imhof, Jacob, Kirby voted yes and Commissioners Hancocks, Tam and Ysit voted no. Motion carried 4/3.

STAFF COMMENTS & CORRESPONDENCE:

Mr. Buckley provided an update on comments made at the last meeting regarding RV parking, storage and enforcement. RV was on the Ordinance Review Committee's agenda.

In response to Commissioner Jacob regarding staff report formats, he indicated that an up-date will be provided at a later date on the changes in the staff report. The first page will have a project background, recommendations, zoning consideration in a summary form with a draft resolution.



In reference to Commissioner Imhof's request for information on setbacks, Mr. Buckley distributed a copy of a memo relating to yard regulations, and additional information on creek and pipeline setbacks will be forthcoming.

On Commissioner Jacob's question on regional transportation ordinance, Mr. Buckley indicated that the Policy Planning Division was working on a summary of the existing programs. A report will be provided on the current status.

CHAIR'S REPORT: None.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS: Commissioner Kirby noted that at the workshop, a suggestion was made that a summary report would be provided to the Commission on the results of the BOS actions. Mr. Bazar replied that a verbal report would be provided at the next meeting and a copy of the minute order could be included. Board letters were provided to the BZA before they were forwarded to the Board and the same process could be adopted if the Commission agreed. The Chair agreed to a similar process.

Commissioner Ysit discussed RV storage in the East County and the denial action by the BOS on the RV storage facility in Livermore. Mr. Bazar added that the community had spoken against the application and the use was not consistent with Measure D. Commissioner Gault said he had noted illegal dumping during a site visit and Commissioner Ysit added that dumping into the creek continues without a permit. Commissioner Imhof suggested that perhaps there should be a list of fees and fines. Ms. Henninger outlined the process of Code Enforcement. Commissioner Tam suggested getting an up-date from Code Enforcement. Mr. Bazar agreed on a monthly progress report. Commissioner Gault commended Ms. Henninger on a tremendous job of clean-up but indicated that there was a need for stricter fines.

Commissioner Gault announced that Alameda County was hosting a Planning Commission Seminar in November and urged all to attend. He would like to close the meeting in the honor of the outgoing Chair, Commissioner Ysit.

ADJOURNMENT: There being no further business Commissioner Gault moved to adjourn the meeting at 9:50 p.m. Commissioner Tam seconded the motion. The motion was carried 7/0.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY