

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
AUGUST 21, 2006
(APPROVED SEPTEMBER 18, 2006)

CLOSED SESSION: 1:00 p.m.

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

- CONFERENCE WITH LEGAL COUNSEL – POSSIBLE LITIGATION
Significant exposure to litigation pursuant to Subdivision (b) of
Government Code § 54956.9: One Case

REGULAR MEETING: 1:30 p.m.

Location: 224 W. Winton Avenue, Public Hearing Room, Hayward, California

MEMBERS PRESENT: Commissioners Richard Hancocks; Mike Jacob; Glenn Kirby, Chair; Alane Loisel; and Kathie Ready.

MEMBERS EXCUSED: Commissioners Ken Carbone, Vice-Chair; and Frank Imhof.

OTHERS PRESENT: Chris Bazar, Planning Director, Steven Buckley, Assistant Planning Director; Sandi Rivera, Assistant Planning Director; Arthur Valderrama, Public Works Agency Liaison; Ray McKay, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately seventy-two people in the audience.

CALL TO ORDER: The Chair called the meeting to order at 1:40 p.m.

ANNOUNCEMENTS BY THE CHAIR: The Chair apologized for the delay in starting the meeting. He announced that the Commission had held a Closed Session with County Counsel and there was nothing to report. No action will be taken on Regular Calendar item #2 (Cedar Grove Church) as the matter is recommended for a continuance to September 18th but public testimony will be taken.

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. A resident of Forest Avenue in Castro Valley complained of speeding problems. Last winter her fence was broken down twice by speeding vehicles. She was advised by the County that there has to be a 2/3 signatures of all residents on Forest Avenue before any action is taken for a speed bump. A petition is available for signatures by interested Forest Avenue residents.

CONSENT CALENDAR:

1. **APPROVAL OF PLANNING COMMISSION MINUTES - August 7, 2006.**
2. **ZONING UNIT, ZU-2237 and TENTATIVE PARCEL MAP, PM- 9182 – BHUKHAN** ~ Petition to reclassify one parcel approximately 0.50 acres from the R-1 (Single Family Residence) District to a P-D (Planned Development) District, to allow four single family dwellings on parcels with a minimum net parcel size of 3,775 square feet, located at 910 Delano Street, south side, approximately 800 feet west of Kent Avenue, Ashland area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 080C-0484-029-00. (Continued from August 7, 2006; to be continued to September 18, 2006).
3. **TENTATIVE TRACT MAP, TR-6864, ONE STOP DESIGN, INC.** ~ Petition to subdivide one parcel into five lots, located between 25129 and 25165 Second Street, south side, approximately 903 feet west of Winfeldt Road, Fairview area of unincorporated Alameda County, bearing County Assessor's designation: 0425-0150-006-00. (Continued from January 18, March 7, May 2, June 20, July 18, August 15, September 19, October 17, November 21, December 19, 2005 February 6, April 3, May 1 and June 19, 2006; to be continued to September 18, 2006).
4. **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, April 3, June 5 and July 17, 2006). **WITHDRAWN.**
5. **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 County Assessor's Parcel Number: 099-0015-026-06. (Continued from January 23, February 21, April 3, 17, May 1, June 5 and July 17, 2006; to be continued to October 16, 2006).
6. **ZONING UNIT, ZU-2231 and PARCEL MAP, PM-8909 – LAMB SURVEYING, INC./WATERMAN** ~ Petition to reclassify one parcel from R-1-

L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acre Minimum Building Site Area) District to P-D (Planned Development) District, and to allow subdivision of one lot into four parcels, located at 1339 Hilliker Place, east side, approximately 320 feet south of Las Positas Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099-0015-025-04. (Continued from January 23, February 21, April 3 and 17, May 1 and June 5, 2006; to be continued to October 16, 2006).

7. **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, May 1, June 19 and July 17, 2006; to be continued to October 16, 2006).

Commissioner Jacob made the motion to continue approval of the August 7th Minutes to the next meeting and the remainder of the Consent Calendar per staff recommendations. Commissioner Hancocks seconded and the motion carried 5/0/2. Commissioners Carbone and Imhof were excused.

REGULAR CALENDAR:

1. **CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE RELATED TO RESTAURANTS THAT SERVE ALCOHOL.**

Ms. Rivera presented the staff report.

Commissioner Hancocks asked how the adjacent jurisdictions were handling the issue. He was concerned with the possibility of losing tax revenues and businesses. Commissioner Ready said she had similar concerns adding that she did not want to discourage big-chain restaurants. Ms. Rivera said one alternative would be to have a distinction and she would check the adjacent jurisdictions. The Chair felt that there is a need for a definition of an event center and asked the following: how restrictive is this; an estimate of cost and time for restaurants to acquire a conditional use permit; and discretion within the CUP process, adding that he would like a process to encourage the existing businesses.

David Cota representing CommPre, summarized his letter of support for the ordinance. Requiring a CUP for all restaurants serving alcohol would be consistent with the definition in the Alcoholic Beverage Sale Regulations and will be treating restaurants equally with any other alcohol establishment. In response to questions from the Commission, he indicated that there

were two problematic restaurants/bars in the Ashland/Cherryland areas; the big-chain restaurants are already required to apply for a CUP; clarified the work of CommPre; and explained that the amendment of the Alcoholic Beverages Sale Regulations now includes a fee for all alcohol establishments which includes mandatory training for all bar and restaurant owners/employees.

Scott Miner stated that he owns the Lime Leaf Thai restaurant in Castro Valley and has an ABC License, Type 41 for beer and wine. Small businesses like his will be affected and he did not support the proposed amendments. He complained that the \$1,200 Sheriff Department fee for training was approved without any input from the public and he felt that there were alternative solutions to the problem.

Stanley Chan said he also owns a small business in Castro Valley and agreed that they were already paying many fees, including a permit, ABC License, Sheriff Department training and now a Conditional Use Permit. Mr. Chan thought that the entire County should be required to pay the fees and not just the unincorporated areas.

Public testimony was closed.

The Chair requested clarification on the Sheriff Department's fee requirement. In response, Mr. Bazar suggested that Code Enforcement and/or Sheriff Department staff could be invited for the next meeting. Commissioner Jacob made the motion for a continuance and requested a side-by-side comparison of different language options, including the definition of a restaurant and a bar; and tightening the language. Commissioner Hancocks seconded the motion and reiterated his earlier request for information from the neighboring jurisdictions, and the possibility of having a detailed definition of a restaurant that would not require a CUP process but would be open for enforcement issues instead of permitting. Commissioner Loisel asked why the focus was on the entire County instead of only the problem areas. Ms. Rivera explained that a CUP process would include conditions of approval, the separation that applies to the east county is for event centers and wineries, and pointed out the distinction between bars/taverns. The Chair thought that this could be particularly disadvantageous to smaller businesses. Motion for a continuance to September 18th carried 5/0/2 with Commissioners Carbone and Imhof excused.

2. **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. (Continued from August 7, 2006).

Mr. Buckley presented the staff report.

Public testimony was called for.

David Kent, Chief Executive Officer, The Wine Group, LLC, owner of Concannon Vineyards, urged a denial because the CUP would be detrimental to the public welfare. This community has always voted for the preservation of open space which adds to the quality of life; the enormous project size would be injurious to the neighboring vineyard properties and the winery improvements as there is little mitigation proposed for the loss of 1000 feet of view shed and the significant traffic, water and sewage problems, which are being dumped outside the Urban Growth Boundary. Almost all of the 14 acres are being planned for development compared to Concannon's 20-acre building envelope on a 240 acre estate with a long-term plan to develop only an additional 10 acres in the rear. This high density project is contrary to this area's specific intent which is viticulture and the South Livermore Valley Area Plan (SLVAP). If approved, Mr. Kent felt that the County will be unable to stop further uncontrolled urban development. According to their Counsel's interpretation, there would be no discrimination under RLUIPA and urged a denial.

Gail Shearer, adjacent property owner at 1572 S. Livermore Avenue, read and submitted her written testimony, a copy of an email from Adolph Martinelli to the Planning Department dated June 17th, 2005 with a list of suggested EIR changes. She complained that representatives of the developer are treated differently than the public regarding comments on the environmental documents. A new one page review was substituted based on revisions suggested by Mr. Martinelli and whole paragraphs re-written in the DEIR. She urged the Commission to read the SLVAP and South Livermore Urban Growth Boundary Initiative (Measure K).

Gloria R. Taylor, 1356 S. Livermore Avenue, stated that her property is a 14 acre parcel and her vineyard is the first organic farm in Alameda County. The subject property has the same potential with the same soil, water source and environment. Ms. Taylor urged preservation of the Plan.

Joanne Bezis, 1969 S. Livermore Avenue, read and submitted her written testimony. She noted the inadequacy of the discussion of fire protection in the DEIR and FEIR. Fire protection is provided by City of Livermore and not the County. The nearest fire hydrant is almost 2000 feet from the development and most of the proposed new buildings would be over 10,000 square feet thus requiring fire sprinklers. The response (14-6) in the FEIR does not adequately address this concern. Input from both the City and County fire and law enforcement agencies is missing in the EIR. Another concern is the proposal for road widening and drainage swales. She asked why these improvements will be located on the west when the proposed project is on the east. Although the consultant, during the field trip, explained that the drainage swale would connect further north to the existing city's drainage system on the west, this is not reflected in the FEIR. The proposed swales will not be used for drainage but to provide a "balanced look" which would require removal of trees, and relocation of water meters, utility pole and mailboxes. If approved, the project will have an adverse effect on viticulture, make drastic changes in front of her property, and disregard the limitations placed on development by 'A' and 'AC' zoning Districts. She felt that this development belongs within the urban city boundary.

John Fletcher, 1972 S. Livermore Avenue, read and submitted his written testimony. He felt that until all corrections have been made in the FEIR, it should not be certified. The proposed site is

not within any Transitional Area recognized by the General Plan or the SLVAP as noted in the response for Comment 8-3 in the FEIR. An approval would set a precedent and over time the area could gradually transition into a haven for large urban churches seeking to benefit from the lower price of agricultural land.

Chuck Ott, 10011 Tesla Road, pointed out that this request is for a use that is not allowed under any policy. He urged a denial.

Brian Vos, representing The Wine Group, thanked the Commission for their site visit. He has submitted letters and notes previously. This use is incompatible to vineyard management and this development has the potential to curb vineyard investments in the Livermore area. Mr. Vos urged that the SLVAP be upheld.

Danny and Kendra Williams, 1877 Altamar Way, said he grew up in the Valley with the views, values and in a vineyard setting. He was in support of the proposal as it would provide a place for gathering and for worship in a rural, vineyard setting. Ms. Williams said that an approval will provide a church in a safe location for the neighborhood children. A church will be compatible with the neighborhood with its architecture and landscaping. People who are associated with the church support and work for the wineries, and she will not support the wineries that oppose this project.

Keith Cromie, on behalf of the congregation, stated that their relocation will help the church and the community. He urged for an approval.

Valerie Raymond, 2368 Buena Vista, said that she had worked on the SLAVP and, as such, clarified that a church is allowed under the Plan as a permitted use. There is confusion regarding the process of Conditional Use Permits and urban uses. She supported an approval.

Bruce Jett, Landscape Architect, agreed that a church is not excluded under the SLAVP and their intent is to comply with the Plan. The project is set well back into the property and will not have a negative effect.

Herbert Pedigo, Pastor, said he has been a church member for 32 years. The church has contributed to the quality of life in Livermore. The proposal includes a park-like setting. The church feels that they belong in this community as they have held gatherings at the local wineries.

Cheryl Perry, 10017 Tesla Road, thought that the EIR is prejudiced. She disagreed with the 'less than significant impacts' on the following as stated in the EIR: lighting, as motion detector lights would be on all night because of the animals; dust and air-quality; hydrology and water quality; the significant use of the septic system; paving 580 parking spaces and building 82,000 square feet of space; additional run-off on the east; traffic and road concerns; no additional revenue from the church as they do not pay taxes similar to the vineyards; and inappropriate land use and planning relating to preserving prime viticulture land and not religion.

Lynn Naylor, Executive Director of the Wine Growers Association, pointed out that the only issue is whether this project is appropriate for this site as it will be on viticulture land of which there are only 3,200 acres. They have met with the developers to identify alternative sites and create solutions but have not had much response to any of the viable options. She urged the Commission to help in finding a better alternative site.

Matthew McReynolds, attorney, Pacific Justice Institute, Sacramento, said he had submitted a letter to the Commission last Friday. He read his written testimony regarding RLUIPA and discussed related cases noting that City of Tracy and Antioch have had similar issues.

Michael Wood, Treasurer, Livermore Valley Wine Growers Association and also the owner of Wood Family Vineyards at 7702 Cedar Mountain Drive, stated that neither the Association nor he was opposed to the church. He felt that the zoning of the area is important and viticulture land has to be preserved. An approval will set a precedent and urged for the preservation and maintaining the spirit of the SLVAP.

Sharon Burnham, Executive Director, Tri-Valley Conservancy, using the overhead, pointed out the areas under SLVAP and conservation easements. The Conservancy would like to uphold the Plan which prohibits further development of the land unless it further enhances cultivated agriculture which this project does not. An approval will set a precedent and she urged a denial based on the Plan.

Barbara Stear, 1224 Wetmore Road, said she had helped with the launching of the vineyard preservation movement to create awareness of these lands. She was also a member of the Citizens Advisory Council who had worked on the Plan and further outlined the process of the Plan. Once this unique soil is paved over, it will be lost forever. This is not discrimination against churches but protecting the Plan. Ms. Stear urged the church to consider one of the alternative sites.

Jean King, property owner at 4205 Colgate Way, said she opposed the proposal for the following reasons: this is an urban use that belongs within the urban growth boundary; it is a very big facility for an agricultural area; and the need to preserve the integrity of the SLVAP.

Archer Futch, 1252 West Brook Place, stated that although he sympathizes with the church, he urged the Commission to weigh the private benefits versus the harm in precedent setting urban land use in the middle of the vineyards. Much time and money has been spent on the Plan and on the purchase of the conservation easements. The soil on the property is considered prime grape growing soil. The proposed project is contrary to the specific requirements of the Plan as it does not contribute to viticulture and does not mitigate the loss of land suitable for vineyards. Mr. Futch urged for the protection of the Plan by denying the application.

Bob Baltzer, 944 El Camino, felt that this is not an appropriate location and read Policy 340 of the East County Area Plan. This is not about religion but about appropriate land use.

Dane Stark, 1960 S. Livermore Avenue, submitted his written comments.

Chris Tarantino, 5351 Flagg Lane, stated that he, as well as other neighbors, were not against the church but were protecting the Plan which has been a success. The project is not for a church but a 'compound' with five structures. He urged for the protection of the Plan and to prevent precedent setting.

Mark Triska, 7878 Cedar Mountain Drive, said that he is a member of the Livermore Chamber of Commerce, Livermore Winegrowers Association Board, a Christian and a broker. There are three reasons for his opposition: 1) an approval will set a precedent since agricultural land is the cheapest and there is land available for purchase. He further submitted a flyer on a current listing for a 46,800 square foot industrial building for sale or lease on Pullman Street as a possible alternative site; 2) much of the businesses in Livermore are tied to the wine industry; and 3) he felt that the church would detract from the wine country.

Roger Gaither, Attorney, Law Offices of Roger Gaither, stated that he has filed a lawsuit against Alameda County on similar issues of religious land use and further discussed RLUIPA and prior similar cases. A land use decision that substantially burdens religious exercises cannot be made unless there is a compelling government interest and with least restrictive means. He stated that RLUIPA over-rides the General Plan or Specific Plans.

Brian Pendley, Project Architect, pointed out the following: the proposed style will be complimentary to the winery area with a 'California Mission' look; the buildings will be in the middle of the parcel providing buffer zones and preserving views; they will be preserving the water tower due to, perhaps, some historical significance; and although the project provides twice the number of parking spaces than required to avoid overflow, the Church is willing to reduce the number of spaces in response to run-off issues.

Henry Mutz, 2021 College Avenue, submitted a copy of a support letter from 15th District Assemblyman Guy Houston and also a petition signed by some churches from Pleasanton and Livermore areas.

Public testimony was closed.

Commissioner Loisel recommended continuing the matter to the next evening meeting, October 2, 2006.

Commissioner Jacob asked how and who acquired the conservation easements. Ms. Burnham, Tri-Valley Conservancy, explained that most the easements were acquired from mitigation programs. The Conservancy currently has 3,200 total acres; 400 acres were purchased and the remaining acquired mostly through the Ruby Hill Project and currently through developments in the vineyard corridor.

The Chair recommended future discussions on the scale of the project in reference to the size of the property; if development should be related to agriculture; if the building envelope should be

directly in support of agriculture; how another use would be accommodated; types of mitigation measures and the scope of another use.

Commissioner Hancocks suggested continuing the matter to next Tuesday, September 5th or October 2nd as the only item. Upon discussion, Commissioner Jacob made the motion to continue the matter to October 2nd and Commissioner Loisel seconded. Commissioner Hancocks reiterated that this be the only item on that agenda. Motion carried unanimously.

The Chair announced a break.

The Commission reconvened.

3. **ZONING UNIT, ZU-2200 and TRACT MAP, TR-7709 – FOREST CIRCLE LLC** ~ Petition to reclassify three parcels (and portions of two adjacent parcels) from the R-S-D-20 (Suburban Residence, 2,000 square foot Minimum Building Site Area/Dwelling Unit) District to a P-D (Planned Development) District, so as to construct 35 townhouse units, located at 20560 Forest Avenue, east side, approximately 550 feet north of Castro Valley Boulevard, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 084C-0713-013-00, 084C-0716-001-05 and 084C-0716-001-06 (and associated Assessor's Parcel Numbers: 084C-0723-007-03 and 084C-0713-012-01).

Mr. Buckley presented the staff report.

Public testimony was called for.

Scott Andrews, representing Forest Circle, LLC, showed an aerial photograph of the property adding that he has been able to buy additional land from the adjacent property owners. He further described the project in detail. In response to questions from the Commission, Mr. Andrews indicated that the project was about a ten minutes walk from the BART station; the unit size varies from 1,250 to 1,610 square feet; originally the proposal included 24 homes but at the request of Supervisor Miley's staff and after acquiring additional property, the project is now for 35 homes; and the orientation is of a fairly typical medium density project which is also based on storm water run-off. Commissioner Ready expressed her concerns regarding the eleven guest parking spaces. Mr. Andrews noted that there is a pre-existing parking problem in this area and he did not think this project would add to the problem. Mr. Bazar added that extensive discussion had occurred with CVMAC regarding parking.

Dean Nielson, CVMAC, confirmed that the matter had been approved by the Council on a 2/3 vote pointing out that no opposing public testimony was submitted at the hearing. The applicant had met with the neighbors regarding his project. Due to his parking concerns, he had visited the area daily in the mornings and evenings and noted that parking is a major problem about 100 yards up the street from the subject site. He thought that such projects should be encouraged around the BART station area and although design guidelines are not available, he would have

preferred to see design criteria. Commissioner Kirby announced that he had attended a workshop and much discussion had occurred on the development of the design guidelines.

Cheryl Miraglia, CVMAC, spoke against the project. There is currently a parking problem on Forest Avenue. She had also made site visits and photographed the area, and disagreed that the problem exists 100 feet up the street. The problem is caused by the apartments and poorly planned projects. She felt that an approval for a 35-unit project with no driveway aprons, no separate storage, limited open space, and only 11 guest parking spaces would be irresponsible and a disservice to this neighborhood. Unit orientation was also a concern. Ms. Miraglia felt that the reason for the low public input/turnout was due to the large number of rentals in the area. Applicants are encouraged towards the Housing Element and while there are no design guidelines, there is the Subdivision Act that requires one guest parking space per unit. She urged a project re-design.

Public testimony was closed.

Commissioner Jacob made the motion to approve the application and Commissioner Loisel seconded. Commissioner Hancocks concurred with Ms. Miraglia and suggested that the number of guest parking spaces should be at least half the number of units. Perhaps the units could be three-stories to allow for additional guest parking spaces. He was not in support of the proposed project but would support a lower density project. Commissioner Loisel felt that this is a good in-fill project providing affordable housing and suggested eliminating unit 8 or 15 to allow for a total of 20 parking spaces. Commissioner Jacob indicated his non-support for elimination of houses in favor of parking but agreed with the suggestion to move the project forward. Mr. Andrews agreed. Commissioner Jacob amended his motion to include 17 guest parking spaces and for staff to work with the applicant to determine which unit could to be eliminated. Motion carried 5/0/2. Commissioners Imhof and Carbone were excused.

4. **MODIFIED ZONING UNIT, MZU-2214, TENTATIVE PARCEL MAP, PM-9122, and CONDITIONAL USE PERMIT C-8516 – CAHILL** ~ Petition to allow minor modification of the 2214th Zoning Unit (to be implemented by Conditional Use Permit, C-8516) and allow subdivision of one site containing approximately 0.63 acres into two parcels, in the PD-ZU-2214 (Planned Development, 2214th Zoning Unit) District, located at 3623 and 3629 Lorena Avenue, south side, approximately 180 feet east of Santa Maria Avenue, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 084A-0075-004-00.

Mr. Buckley presented the staff report.

Public testimony was called for. Graig Cahill explained that the existing house would remain as a single family home. Commissioner Jacob asked if his intention is to subdivide the other properties, similarly as the existing house. Mr. Cahill replied yes, his original intention had been to build condos followed by a subdivision. Commissioner Jacob indicated that he would like, in the future, to see the conversion/subdivision request together with the project. The Chair agreed adding that unless there is a market-driven reason, it would be more efficient to see the full scope of the project.

Dean Nielsen added that the expense of splitting condos is tremendous and further outlined the finance aspect of the project and the process of the conversion.

Public testimony was closed. Commissioner Hancocks made the motion to find that the modification of the PD is minor and Commissioner Ready seconded. Commissioner Ready made the motion to approve the Conditional Use Permit, C-8516, and Commissioner Loisel seconded. Both motions carried 5/0/2 with Commissioners Carbone and Imhof excused.

5. **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. (Continued from June 5 and August 7, 2006).

Mr. Buckley presented the staff report noting that the matter was heard by CVMAC who did not favor any of the alternatives and had recommended a denial.

Public testimony was called for. Ms. Nazareth clarified that the density calculation was in error for the apartments, which should be 2,983 instead of 2,305 square feet per unit.

Dean Nielsen, CVMAC, pointed out that originally there were 15 variances which have now been reduced to nine and, as such, he did not think it was a good project. The Council had been concerned with precedent setting. The Applicant was asked to consider alternatives which she denied. Although he realizes that economic gain will be achieved, he felt that it would be poor planning to approve the project with so many variances.

Ms. Nazareth's representative explained that these houses are existing and that the remaining variances cannot be eliminated other than by relocating the units. These lots are above the minimum 5,000 square feet and home ownership should always be encouraged. He pointed out that the Commission, at their last meeting, had a tie vote and urged an approval today. Ms. Nazareth pointed out the following: the variances are very minor and inconsequential, and some of which could be eliminated by attaching the garages and providing a screened area for the dumpster; this is a good project which encourages first-time home buyers; meets the County goal for home ownership; generates revenue for the County; converting the homes into duplexes would raise affordability issues for single families; homeowners take better care of their properties compared to renters; costly on-site clean-up has occurred noting that the vegetation has been trimmed to widen the driveway to 16 feet. In response to Commissioner Jacob regarding alternatives 3A and 3B, they confirmed that they had no intention of re-developing their property with a new duplex which would mean demolition of perfectly good houses worth over \$500,000 each. It would not make sense financially. And in response to Commissioner Ready, Ms. Nazareth confirmed that the 80 feet for future width line has been dedicated adding that once the project is approved, all outstanding issues will be mitigated.

Public testimony was closed. Mr. Buckley further explained that alternatives had been explored to address the variances but were found not to be 'deal breakers'. Staff is recommending an

approval while acknowledging the short-comings in the existing conditions. Commissioner Jacob requested clarification on the Site Development Review application, S-507, approved in 1975. Staff explained adding that the zoning has not changed since 1974, that the project would not change that prior approval, but that subdividing the two homes would increase the calculated density on the lots after the subdivision and therefore a rezoning was required prior to approving the Parcel Map.

The Chair said he did not find any public benefit, as an approval would add only two additional private ownerships with nine rentals. Instead, he felt that this parcel should remain under single ownership and be allowed to continue as consistent with its original approval. Commissioner Hancock concurred and made the motion for a denial and Commissioner Ready seconded. Commissioner Jacob said he would stay consistent with his prior vote. Contrary to the Applicant's testimony, these homes have been over-appraised. The owners have the opportunity to redevelop their property which would add a lot more value, regardless of the value of the two homes. The Chair said he was willing to consider alternative plans without the same constraints. Commissioner Hancock added that a rezoning should improve existing situations and not pass on the problems to new owners. Motion carried 3/2 with Commissioners Jacob and Loisel dissenting.

The Chair announced that a vote of 4 (majority of the Commission) is required for a motion to carry and asked if the matter could be forwarded to the Board without a recommendation. Staff replied that the matter could be brought back to a full Commission. Mr. Bazar added that staff will double-check the By-laws but per County Counsel, it could be forwarded to the Board without a recommendation.

Commissioner Loisel made the motion to forward the matter to the Board without a recommendation but with a copy of the Minutes. Commissioner Ready seconded and the motion carried unanimously.

STAFF COMMENTS & CORRESPONDENCE: Mr. Bazar announced the upcoming CCPCA conference to be held in October in Sonoma County and he could provide information/material to interested Commissioners.

CHAIR'S REPORT: None.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS: Commissioner Ready stated that she did not want to receive the Commission package on a Saturday and recommended that if a report is not ready by Wednesday, the matter should be continued. Commissioner Hancocks agreed adding that if he has questions/clarifications, there is no time available for discussions with staff before the hearings. The Chair indicated that he has been having on-going discussions with staff on this matter and suggested that perhaps it could be reflected on the agenda that letters/responses received after Wednesday will not be included in the Commission package. He also suggested that perhaps staff can mail a partial package by Wednesday and he would have a discussion with staff on Thursday on the status of the remaining items. Mr. Bazar apologized and explained that staff shortage is the main reason. Also, in some cases, staff continues to receive letters and responses late on Fridays with new issues and insisting for inclusion in the package. He suggested a formal policy, as there is nothing in writing, which would be agendized and approved by the Commission. Commissioner Loisel added that if the package is to be mailed on Wednesday, then the deadline for public comment would be Monday. The Chair suggested a procedural note in a box on the agenda similar to other jurisdictions. Commissioner Ready recommended that copies of letters received after Wednesday be made available to the Commission before the hearings. Mr. Bazar agreed with the Chair's suggestion that perhaps the agenda could reflect a deadline for public comment. Commissioner Jacob noted that the By-laws would have to be up-dated to include the policy. The Chair agreed that this has been an on-going concern and he would like, during his term as the Chair, to work out a policy and procedure, and to up-date the By-laws.

ADJOURNMENT: There being no further business, Commissioner Jacob moved to adjourn the meeting at 5:50 p.m. Commissioner Loisel seconded the motion. The motion was carried 5/0.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY