

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
SEPTEMBER 18, 2006
(APPROVED OCTOBER 2, 2006)

FIELD TRIP:

MEMBERS PRESENT: Glenn Kirby, Chair; and Kathie Ready.

MEMBERS EXCUSED: Commissioners Ken Carbone, Vice Chair; Richard Hancocks; Frank Imhof; Mike Jacob; 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 1:30 p.m., and adjourned to the field to visit the following properties:

1. **MODIFIED ZONING UNIT, MZU-1763 and CONDITIONAL USE PERMIT, C-8523, BAYWOOD COURT RETIREMENT COMMUNITY/LANE** ~ Petition to allow minor modification of the 1763rd Zoning Unit (to be implemented by Conditional Use Permit, C-8523) and allow construction of a three story addition, in a PD-ZU-1763 (Planned Development, 1763rd Zoning Unit) District, located at 21966 Dolores Street, east side, approximately 100 feet north of Grove Way, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 415-0110-062-00.
2. **ZONING UNIT, ZU-2239 and 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. (Joined in the field by Beth Greene, Contract Planner, and the applicant)
3. **ZONING UNIT, ZU-2237 and TENTATIVE PARCEL MAP, PM-9182 – BHUKHAN - Preliminary Plan Review** ~ 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 Assessor's Parcel Number: 080C-0484-029-00.

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Commissioners Ken Carbone, Vice Chair; Richard Hancocks; Frank Imhof; Mike Jacob; Glenn Kirby, Chair; and Kathie Ready.

MEMBERS EXCUSED: Commissioner Alane Loisel.

OTHERS PRESENT: Chris Bazar, Planning Director; Steven Buckley, Assistant Planning Director; Sandra Rivera, Assistant Planning Director; Tona Henninger, Assistant Planning Director; Karen Borrmann, Public Works Agency Liaison; Brian Washington, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately twenty-eight people in the audience.

CALL TO ORDER: The Chair called the meeting to order at 1:35 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** - August 7 and 21, 2006
2. **CONDITIONAL USE PERMIT, C-8465, SMITH / VINEYARD MEMORIAL CEMETERY** ~ Application to allow a cemetery and related uses and structures to be developed on a portion of a 110-acre site, in an A (Agricultural) District, located on North Livermore Avenue, west side, approximately ½ mile north of U.S. Highway 50, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 903-0008-004-01. (Continued from July 17, 2006; to be continued to November 6, 2006).
3. **ZONING UNIT, ZU-2226 and 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) to a P-D (Planned Development) District, so as to subdivide the properties into seven single-family lots and develop one detached single family dwelling on lots 1-5 and one single family dwelling with a secondary unit on lots 6 and 7, located at 876 through 924 Hampton Road, north side, approximately 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. (Continued from June 19, 2006; to be continued to October 16, 2006).

Commissioner Ready made the motion to approve the August 7th and 21st Minutes as submitted. Commissioner Hancock seconded. Motion did not carry due to a 3/4 vote with Commissioners Carbon and Imhof abstaining from August 21st Minutes and Commissioners Loisel and Jacob excused. The Chair continued the approval of Minutes to the end of the agenda.

Commissioner Hancocks made the motion to approve the remainder of the Consent Calendar and Commissioner Imhof seconded. Motion carried 5/0.

At the conclusion of the agenda, the Chair requested for a motion on the approval of the Minutes. In reference to the August 21st Minutes, Commissioner Jacob recommended that the motions do not include the excused Commissioners. Motion for approval with the above amendment carried 6/0.

REGULAR CALENDAR:

1. **CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE RELATED TO RESTAURANTS THAT SERVE ALCOHOL.** (Continued from August 21, 2006).

Ms. Rivera presented the staff report. Commissioner Carbone asked the following: the types of incidents that have initiated this amendment; if alternatives are available; and how this amendment would prevent these types of incidents, adding that he did not think it would be fair to impose on all operators/owners. Staff replied that there have been two specific incidents. Code Enforcement and Sheriff's Department are also involved. Tona Henninger, Code Enforcement Manager, further explained that the Sheriff Department's \$1,200 annual fee is a flat fee required by every alcohol outlet which covers education, training and inspection. The Health Department is also involved. Although the training is for the entire County, this fee is only for the unincorporated areas. Ms. Rivera added that this proposed ordinance, independent of the Sheriff's fee program, will only be applicable to new restaurants. Event centers and wineries are excluded. In response to Commissioner Hancocks, she confirmed that any expansion to existing nonconforming restaurants serving alcohol would require a CUP.

Public testimony was called for. Howard Beckman stated that the most important issue facing the unincorporated areas is the ability to survive economically in the future. The most significant objection he has to the draft ordinance is that it militates against the development of restaurants. He noted that no significant evidence has been presented which warrants a new ordinance and he urged the Commission to weigh whether or not there is a significant problem, and the affect on economic development.

Linda Pratt, CommPre, noted the following staff report corrections: Page 1, last sentence of the second paragraph under Background, is not true. The cost recovery fee for enforcement and education goes directly to the County, who provides the training, not CommPre. On Page 2 following the definition of taverns, the sentence reading "...as few restaurants have off-sale licenses." is also not true. A license Type 41 has on-sale beer and wine and Type 47 allows beer, wine and distilled spirit for off-sale consumption. There is also inconsistency in Attachment A, page 2F. CommPre is in support of this ordinance amendment for new establishments because it would allow a public hearing CUP process. Ms. Pratt noted that according to the 1995 study done by Santa Clara County, restaurants with bars are a much more significant source of DUI arrests along with bars and private residences. Type 47 licensed outlets are most likely to have

related police events, similar to what was found in the City of Walnut Creek. There is no evidence that a CUP process has had an impact on the opening of new restaurants. Walnut Creek is one of the most desirable areas because of mixed retail establishments. A CUP would be a preventive tool and should not be blamed for lack of restaurants in the unincorporated areas. The City of Hayward by contrast has weakened the CUP process to allow restaurants with bars. If this ordinance amendment is approved, CommPre does not intend to oppose every restaurant but will continue to review each application and does not expect the decision to be based on same criteria as a convenience store or bar. There has been a need for consistent enforcement and, in response to Commissioner Hancocks, she stated that most restaurants in the unincorporated areas are not problematic as they have a CUP with Conditions of Approval.

Public testimony was closed. Commissioner Carbone asked staff why only some restaurants are required to apply for a CUP. Ms. Rivera replied that a Site Development Review is required if the facility is over 1,000 square feet but based on the district. The Chair noted that a SDR is a one-time process whereas a CUP allows a re-hearing if problems are identified. Mr. Buckley clarified that SDRs are for new buildings, but do not specifically regulate the use. Commissioner Hancocks pointed out that the unincorporated area is an economically struggling area. Successful restaurants are part of the economic renewal, source of sales tax revenue and entry-level jobs and a source of pride. The unincorporated areas are constantly in competition with neighboring jurisdictions and new businesses will look for a location that is least resistant. He did not support this amendment. Commissioner Ready concurred. The Chair felt that this proposal coincides with the Sheriff Department's recently adopted proposal which also imposes a substantial fee. He would be supportive of the CUP process included conditions for training and additional enforcement, but he would like to wait perhaps a year to look at the Sheriff Department's statistics for the effectiveness of the existing program. Commissioner Hancocks made the motion for a denial and Commissioner Carbone seconded. Motion carried 6/0. Commissioner Loisel was excused.

2. **MODIFIED ZONING UNIT, MZU-1763 and CONDITIONAL USE PERMIT, C-8523, BAYWOOD COURT RETIREMENT COMMUNITY/LANE** ~ Petition to allow minor modification of the 1763rd Zoning Unit (to be implemented by Conditional Use Permit, C-8523) and allow construction of a three story addition, in a PD-ZU-1763 (Planned Development, 1763rd Zoning Unit) District, located at 21966 Dolores Street, east side, approximately 100 feet north of Grove Way, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 415-0110-062-00.

Mr. Buckley presented the staff report. Commissioner Carbone asked if there will be a staff increase. Mr. Buckley replied no. The Chair announced that they had visited the site during the Field Trip. This proposal is to correct a prior poor design as part of the original project, which resulted in somewhat problematic common room layouts.

Public testimony was called for. Kelly Wiest, Executive Director, described the proposal in detail adding that this was a quality of life issue for the existing residents of the facility. Bill Lane, Project architect, is also available to answer any questions. He confirmed that there will

not be a staff increase. Commissioner Carbon acknowledged that it was a nice facility but pointed out the parking concerns voiced by the neighbors. Although there is adequate parking space on the other side of Grove Way, staff/visitors continue to park in the neighborhood. Mr. Wiest replied that the situation has improved as they had sent out a community letter informing of the CVMAC meeting but no opposing testimony was submitted. Five additional guest parking spaces have been created and they have moved the buses off-site and their parking policy is enforced.

Public testimony was closed. Commissioner Jacob made the motion to find the modification as minor and Commissioner Imhof seconded. Motion carried unanimously.

Commissioner Jacob made the motion to approve the Conditional Use Permit as recommended by staff and Commissioner Imhof seconded. Motion carried unanimously.

3. **ZONING UNIT, ZU-2239 and TENTATIVE TRACT MAP, TR-6864, ONE STOP DESIGN, INC. - Preliminary Plan Review** ~ 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, June 19 and August 21, 2006).

Mr. Buckley presented the staff report. Commissioner Hancocks noted that the proposal is fairly inconsistent with the Fairview Specific Plan. Staff agreed. The PD zoning is being applied for as an amendment to the Plan. County Counsel explained that the Commission has discretion as to what applies to the Plan and Mr. Bazar added that there is a need for adherence to the Plan. The Chair noted that the Applicant is proposing to provide four affordable units and asked if a density bonus for affordable units have been applied for in the past on parcels that have not been identified in the Housing Element or would this set a precedent. Mr. Bazar said these issues would be looked at in future hearings as this is a preliminary review of the plans as received from the Applicant.

Public testimony was called for. Greg Ward, applicant, further described the project in detail and site history. Precedent for low cost housing has been set in the area. Discussions with HARD is on-going. Reducing the number of units will result in the reduction of the number of affordable units. He expected to design the project as a gated community.

Connie Sutcliffe, property owner at 25455 Second Street, said she has lived in this area since the 1950's. It is a rural community and she would like to keep it such. Although development is expected, the project needs to be appropriate for the community. A high density housing development is inappropriate as the infrastructure and the roads cannot handle such density. A few houses would be a better project for the community and environment, subject to the Fairview Plan.

Karen Carey, 25227 Windfeldt Road, said she has also lived in this area since 1959. The condos which the applicant is referring to next door in the City of Hayward have been there for about 25-30 years and constructed prior to many of the houses in this area. This area is zoned for single family homes and she would like to keep it such. An increase in the number of cars will be hazardous to the animals and the streets will not be able to take the increase either. The applicant has not discussed his proposal with the community. She was representing many other neighbors who were unable to attend this meeting. They do not want a precedent set and oppose a high density bonus project which is also inconsistent with the Plan and the community.

Charles Snipes, Fairview Community Club, said that although he received the referral late and has not had prepared a detailed response, he has submitted a letter in opposition. The Fairview Plan was put together in response to development occurring without cumulative impact concerns. This Plan is a zoning document which should be enforced. The 30% slope is very prevalent at this site, the required setback should be required and the riparian areas preserved which does not leave adequate space for even a 14-unit project. Instead, he suggested 8-10 units and urged a denial for the proposed 17-unit project.

Dennis Pappalardo, on behalf of East Hills Neighborhood Association, said the project raises the following significant land use issues: if approved, this would be the first PD for this area and a precedent will be set; this is a very large project; the homes would be built adjacent to the watershed; there are five horse ranch properties located across the street; it is inconsistent to the Fairview Specific Plan and Specific Plan For Areas of Environmental Significance; there is a need to preserve open space area and topographical landscape features, and private open space for residences; three-story townhomes would not be compatible with the surrounding ranches and single family 1950's homes; an increase of approximately 150 car trips daily; and this site has been through extensive landfill. The Vista Greens project should not be considered as precedent setting because it is located within the City limits; it is not subject to the Fairview Plan, it is not situated adjacent to the creek watershed and 50% of land is open space parkland. This project is adjacent to and greatly impacts the greenbelt which includes drainage, loss of habitat for wildlife, and landslide hazards. Mr. Pappalardo submitted his written testimony.

Jerry Feiger, 2738 Lancaster Road, read a letter from Sheila Selover, President, Woodland Estates Community Association in opposition to the project. The Association's concerns included: inconsistent with code requirements for PD rezoning, General Plan, Fairview Specific Plan and Specific Plan for Areas of Environmental Significance, precedent setting, threat of additional deterioration of the Ward Creek area and impact on watershed and wildlife. A denial will contribute towards preservation and protection of significant natural resources, enforce the Ordinance/Plans and protect the community from impacts of a high density development. Mr. Feiger invited the Commission, developer and the public to review the project from the creek areas adjacent to the site instead of from the top of the subject site.

Mathias Van Thiel, 2519 Oakes Drive, said he has lived in this area since 1964 and agreed with the previous speakers. He emphasized the importance of setbacks and urged a development within the requirements of the existing Specific Plan.

Elane Pino said her property, 25227 Second Street, is on the east side of the project site. The subject site was a slope similar to her property but has now been filled in. She did not want to see 17 condos from her backyard instead of the canyon. The wildlife will be affected. Traffic including speeding on Second Street is already a problem. She would support a few houses.

Public testimony was closed. The Commission discussed the layout of the neighborhood. Commissioner Hancocks said he will support a project which is consistent with the Fairview Specific Plan. Commissioner Carbone concurred. Commissioner Ready also agreed adding that she would like to see an EIR and a geotechnical report. She had concerns regarding the dirt/grading, drainage into the creek, size of retaining walls and abandoned cars on site with possible leakage into the ground. Specific Plans are there to protect the environment and communities. Commissioner Jacob asked Public Works Agency staff for clarification on the study completed on the Seismic Hazard Mapping Act and the boring results. Ms. Borrmann replied that there is a significant amount of fill which could move during an earthquake but the study is not complete; and confirmed that SP117 needs to be addressed before approval of the Tentative Map. An extensive geological study is required under the State Seismic Hazard Mapping Act. Commissioner Jacob said his main concerns are the site topography and fill stability; he would like to see active participation by Public Works, and the velocity mapped indicating safe building areas. If a density bonus is to be considered, he requested that it be set within the confines of the Ordinance and suggested perhaps a discussion with staff, some time in the future, on projects at density as allowed by Specific Plans and which qualifies for density bonus. The Chair agreed adding that he would support PD applications to implement Specific Plans requirements but not for spot zoning. He further recommended that the number of units be calculated per the Specific Plan and a project that complies with creekside and riparian setbacks.

Mr. Ward added that an additional soils report and a hazards map have been completed as required by Public Works. The play area is not located near the creek. He appreciated all community comments and noted that the project plans are not for low-income housing but affordable housing.

4. **ZONING UNIT, ZU-2237 and TENTATIVE PARCEL MAP, PM-9182 – BHUKHAN - Preliminary Plan Review** ~ 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 Assessor’s Parcel Number: 080C-0484-029-00. (Continued from August 21, 2006).

Mr. Buckley presented the staff report.

Public testimony was called for. David Kesla, project architect, described the proposal in detail. Commissioner Ready noted the lack of windows and the Chair requested clarification on the first and second floor layouts. Mr. Kesla explained that the entries are located on the side with bay

windows facing the driveway and smaller ones in the front, as also shown on the floor layouts.

Judy Curry, 909 Delano Street, stated that her property is located across the street. She expressed her concerns regarding increased traffic and limited guest parking spaces will worsen the street parking situations. She has had to red curb the front of her property to deter parking in front of her driveway.

The adjacent property owner said he did not see fencing being proposed around the project site. Another resident of Delano Street (no name) pointed out that this is a very busy street and she also had increased traffic concerns. She made the following staff report corrections: it is not a common driveway but hers which she shares and the garages are not attached.

Public testimony was closed. Commissioner Imhof recommended that the architect/applicant present the proposal to the neighbors. Commissioner Carbone suggested adding architectural character to the buildings, especially facing Delano Street. Commissioner Ready agreed. She is a resident of this area also and has noted that the street is improving. The project design is not the best, is plain and low-cost housing appearance which does not improve the neighborhood. She further suggested porches and landscaping improvements. Commissioner Jacob asked if future subdivision is being proposed and if yes, he would like to see the entire proposal. Staff noted that there is a concurrent Parcel Map application which requires a Planning Director approval. The Chair summarized that at least the units facing Delano Street include additional architectural enhancements and a turn around for the rear units.

Commissioner Hancocks made the motion for a continuance to October 16th and Commissioner Jacob seconded. Motion carried unanimously.

STAFF COMMENTS & CORRESPONDENCE: Mr. Bazar reminded the Commission of the upcoming CCPCA conference in October. Commissioner Ready requested materials from the conference for those Commissioners who were unavailable to attend.

CHAIR'S REPORT: None.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS: Commissioner Imhof reported an 'illegal dumping' situation in the East County area. County Counsel said that he was looking into the matter and could report back to the Commission as a staff-update agenda item. Mr. Bazar added that there is a State-wide Caltrans permit, and Clean Water and Environmental Health is also involved in looking at the situation. It is not limited to the Collier Canyon area. The Chair indicated that the Commission could submit letters to the related regional agencies requesting modifications to their policies to include notification to the local land use agencies. Commissioner Jacob suggested that a sub-committee be established. County Counsel re-stated that the matter be brought up as an agenda item for further detailed discussion.

ADJOURNMENT: There being no further business, Commissioner Jacob moved to adjourn the meeting at 4:15 p.m. Commissioner Carbone seconded the motion. The motion was carried 6/0.

**CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY**