

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

MINUTES FOR MAY 24, 2004

(Approved as submitted June 28, 2004)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:30 p.m. **Council members present:** Andy Frank, Chair, Dean Nielsen, Vice Chair; Council members Ineda Adesanya, Ken Carbone, Karla Goodbody, and Carol Sugimura. **Council members excused:** Jeff Moore. **Staff present:** Tona Henninger, Ron Gee, Steve Buckley, Andy Young, Bob Swanson and Maria Elena Marquez. There were approximately 60 people in the audience.
- B. APPROVAL OF MINUTES OF May 10, 2004–** The Chair continued approval of the minutes until the next hearing.
- C. PUBLIC ANNOUNCEMENTS:** Mr. Bob Swanson, Supervisor Miley’s staff person, announced that arrangements have been finalized between BART and the County for the Farmers Market to be located at the BART parking lot. Pete Snyder, the County’s representative, is working to have the market up and running within the next two months.

D. REGULAR CALENDAR

- 1. CONDITIONAL USE PERMIT C-7753 & VARIANCE V-11436 TRINITY CHURCH –** Application for a Conditional Use Permit and a Variance to allow the operation of a church facility (Anglican Church), on a 21 acre parcel where 100 acres is the minimum, on one site containing approximately 20.74 acres, in an “A” (Agricultural) District, located on Sunnyslope Avenue, west side, approximately 600 feet north of I-580, Castro Valley area of unincorporated Alameda County, bearing County Assessor’s Designations: 085A-1400-003-02, 085A-1500-001-03, 085A-1400-001-09.

Mr. Young presented the staff report. The applicant is presently requesting approval of one 3,435 square-foot building to be built in two phases, located approximately 120 feet east of Sunnyslope Avenue. The first building would be a 1,560 square-foot combined sanctuary and parish hall, with offices and other minor facilities, to be followed in a later phase with a 1,870 square-foot permanent sanctuary. The first building would have capacity for 88 persons, while the sanctuary would have an estimated maximum capacity of 99 persons. A parking lot for 34 cars would serve the entire complex. A recent change in the project is that an overflow parking area for 10 parking spaces would be provided.

The Chair Mr. Frank asked for clarification of when the Draft Mitigated Negative Declaration was completed, and staff reported that it was completed on May 17, 2004, and that the comment period will extend through June 18 so people can make written comments through that 30-day period before it goes to the Board of Zoning Adjustments for their consideration. Mr. Frank noted that staff had approximately a week for the Mitigated Negative Declaration to be reviewed, and asked Mr. Young if he had the opportunity to receive input from the Applicant as well as the community. Mr. Young said that the Applicant has had that opportunity, but as yet staff has not received any comments. Mr. Frank stated that the Council has a couple of choices before it, and the Council has this happen before, where the Mitigated Negative Declaration Draft has come out in a very short time interval before the Council could review and make a decision on it. And in the past, the Council has decided to wait until the Council could get a response from the community and to provide sufficient time for input from the applicant as well as the community. Mr. Frank stated that the question before the Council now was, since it had only been a week and there were other responses yet to be obtained – and [to staff] – these are usually written comments as well as telephone calls?

Mr. Young said he does not usually receive too many phone calls, usually comments on written letters, and testimony provided at hearings such as this. Mr. Frank said the choice for the Council is whether to take this as a public forum for information and have a decision made on June 21st following the end of the comment period on June 18, or at the election of the Council you can proceed if you wish to give a recommendation based on information received tonight.

Mr. Frank allowed the Applicant to make a statement, which was that the Applicant wished to assure the Council that the Applicant has reviewed the document in its entirety, particularly the identified potential adverse impacts and the recommended mitigation measures, and we have signed off on those, and have made them a part of our application.

Mr. Frank yielded to Mr. Carbone to ask a question, which was that basically before he gives any direction, he is really concerned about is the recommendation made by County Counsel regarding Measure D, so he wished to know if staff or the County Counsel will give us direction whether we are to make a decision [on the conformity of the project with Measure D]. Mr. Young said that County Counsel has reviewed this matter, and has determined that it appears to be consistent with Measure D. But Mr. Young did not believe County Counsel had made a determination that the Council should, or should not make any other recommendation.

Mr. Frank said back to the previous question, whether we can make a decision tonight. We've heard this before, and there is additional information, but we are likely to obtain additional information tonight and asked the council members if they wanted to make a decision tonight or if they wanted to take it as public information.

Mr. Nielsen stated that he didn't think the interest groups have had an opportunity to respond to the report. Ms. Sugimura said that it seems they (the Applicants) already signed off on it. Asked if he wished to make a decision on it tonight, Mr. Carbone stated that he wanted to wait and let it fall upon on the following meeting after the [comment] term is up. Ms. Goodbody said that she agreed with Mr. Nielsen that although the Applicant has signed off on the document, she would like the public to have a chance to read and understand the document thoroughly before making comments. Mr. Moore stated that it seems that it is the general public are the ones having concerns with this development, and I think they should have the opportunity to read the document.

Mr. Nielsen said he would feel lot better if County Counsel would give us a written response to the implications of Measure D, so we could really see what we're dealing with – because it's one thing to say yes or no, without the background as what the decision is based on. In all fairness, he thinks we need to know what the basis of the decision was.

Mr. Young said the text of the staff report drew almost directly and in fact somewhat verbatim from County Counsel correspondence. Mr. Nielsen said yes, but we'd like to see it from him to see what we're dealing with.

Mr. Frank said that by consensus this is for public information only tonight. It will be re-scheduled for June 21st, which is the next meeting after the completion of the response to the Draft Mitigated Negative Declaration. And in the meantime, staff is directed to have County Counsel

issue a written finding regard the Measure D arrangement, so we conclusively we know exactly what County Counsel has written in advice.

Ms. Henninger stated that all public comment will be on record tonight – its not “public information” – so it will be continued to the next meeting for action.

Representative for the Applicant, R.P. Flynn, resident at 467 California, Escalon, said that as you stated, we heard the only addition to the record is the concluded environmental study that has concluded that there is *no* substantial impact that cannot be effectively addressed by appropriate mitigation measures that have now been made part of the application. It’s our continued belief that presented in this matter it will be an asset to the neighborhood and will continue to serve the congregation that has been serving the people of this area for about 100 years. He stated that he commends the staff for the objective and comprehensively complete review of this matter, and we urge the Council’s affirmative action. He stated that the Reverend Pomroy is also present to take questions.

Mr. Frank asked if anyone had questions for the Applicant before going to public comment.

Sandra P. Murphy, resident at 6312 Palo Verde Road for 26 years, stated that she and her family have suffered a lot from previous construction that has been allowed – the Palomares Hills development, the Five Canyons development, the moving of the entire 580 freeway and the relocation of Sunnyslope, which is directly across from her property. Just the relocation of that road alone has devalued their property. They have a triangular parcel of land. As a result of the relocation of East Castro Valley Boulevard alone and her property’s frontage on Palo Verde Road. her property is surrounded by roadways. All this has occurred on so-called Measure-D protected agricultural and residential space. Her daughter has developed asthma, and she uses air cleaners, and has collected air samples of black soot that accumulates in her house. Cranes brought in by BART shook her house. She has a donkey that she is very concerned about. The construction of this project could potentially make her health much worse. She opposes the construction of the church.

Brent Hull, resident at 7008 Crow Canyon Rd. said he is in support of the church project, and the reason why is that it meets some of the criteria. One, the church owns the property, which means it may become a religious freedom issue. And two, the infrastructure is close by, where they have water – if they did not have water it would be an issue. Church is also near housing development such as Five Canyons and Palomares, also close to the freeway. He is in support of this project.

Bence Gerber, resident at 6700 Sunnyslope, stated that he went to the Planning office last Tuesday to pick up the report and got 3 or 4 additional copies for other members of the community. He has gone through it – and it is quite extensive relative to the amount of time we’ve had to review it, and the amount of time hasn’t been sufficient since getting it last Tuesday to get to all the issues. He would appreciate any discussion of allowing for more opportunity to comment before the Council makes a decision. He appreciated all the staff time given to him. In reading through the report the community had collectively tried to review it. He personally had spoken to two hydrologists, and had also spoken with James Yoo from the Public Works Agency, several times with Ron Torres, Environmental Health Department regarding the septic system – all in order to

understand if he and his neighbors are looking at a potential problem of water contamination. And based on what he's heard so far and what he understands, he said it appears to be a potential problem. He said he had been told by a geologist that as long as the septic system is above the water line, that represents a problem. But not having all the information on where the water line is, he said he could only look at his own house – where he believed the water level is at 525 feet. The septic system that is proposed, he said he believed is between 530 and 550 feet. (Staff indicated it would be about 530 feet). He said he would skip the water problem, but there were other problems, such as that in case of a fire, there is not sufficient egress. There hasn't been a traffic study – his own traffic study indicates that it would take 20 seconds to get out of [Sunnyslope]. Therefore, with all the cars it would be 30 minutes. 30 minutes is a long time.

Mr. Nielsen asked Mr. Gerber if the hydrologist will issue a report on the project. Mr. Gerber said study hydrologist would be very, very costly, at this point we don't have sufficient funds. His feeling is that this should be the responsibility of the Applicant. Mr. Nielsen asked Mr. Gerber if he had any idea about how much it would cost, to which Mr. Gerber replied he had no idea on cost, but that the first thing to do was determine what the water level is on each well. Mr. Nielsen then asked Mr. Gerber if it was correct that the opinion of the hydrologist is that when the well level is below the septic system there's a possibility of contamination. Mr. Gerber said that was correct.

John Maciel, resident at 6481 Sunnyslope Avenue for 25 years, and his parents for 42 years, said he wished to comment on the Mitigated Negative Declaration in two areas. On aesthetics, in terms of its "less-than-significant" findings, said that the impacts on page 24 it's hard for me to believe that he is looking at the Negative Declaration, which is supposed to be in concurrence with the surrounding area, in terms of housing and construction – it's supposed to be similar to it. He stated that the Sunnyslope area is outside of the Castro Valley urban area, but if you look at page 17, Figure 10, and look on top and see the house – that is his, he said, so that would be his view shed – rather than looking at the hills or whatever, would be looking at parking lot and this 40-foot building. He said it was hard for him to believe that is not going to have a significant impact. He said his house has been for sale for the last 3 months, several persons came to see it and some of them have been serious, until he gets to where he has to disclose that that are looking at a possibility of a church being built there, and then he gets a cold look, and none of the individuals have returned. So, he said, the question is if the project fits in the area.

Mr. Maciel continued, saying his second concern is the section on transportation, page 76, when one looks at the check marks, it says there will be no impacts on increase of traffic. He continued, saying it is hard to believe that if you increase 100 percent the daily traffic on that site it is not going to have an impact of some sort. He stated when you talk about the risk factor, there's got to be some traffic congestion. He asked if any of those listening have tried to turn off of Sunnyslope Avenue on a Friday afternoon, especially when 580 backs up. He stated when you try to get across the road, and the document here is saying there's not going to be any congestion. The mitigation for this is to increase the length of the turning lane – which is not correct - 150 feet is not correct – it would put one in the middle of Palomares Road. There are some issues with the Negative Declaration – of not being accurate – factual.

Sue Jones, resident at 6429 Sunnyslope Ave., distributed copies of letter signed by residents along Sunnyslope Avenue – 65 people that drive that live on Sunnyslope that are upset about the traffic

effects. She said there were many residents couldn't come tonight. She said she could speak for some of them. She said that she hoped that those listening who weren't familiar with the site or the development have had the chance to go by and see it, because one really has to see the intersection of East Castro Valley Boulevard and Sunnyslope Avenue to fully understand the danger of it. It was stated at the last meeting that the church traffic would not impact the residents that live up past the church site – but how can that be if the residents are trying to leave the area, and are stuck behind a line of cars leaving the church, trying to get onto the Boulevard. She said there is also a big problem of cars trying to turn left onto Sunnyslope Avenue, and it does not appear that the left turn lane can handle church-related vehicles – it will hold only 3 vehicles safely, and it is not 150 feet. She also said that the report says when a car is turning left from Sunnyslope Avenue onto East Castro Valley Boulevard that most cars coming down [Sunnyslope Avenue] can make a right turn – this is not true – a driver has to wait for the car turning left before you can see that it is safe to make a right-hand turn. She referred to page 77, and stated that traffic information is based on a traffic report from the Draft EIR (Environmental Impact Report) for RCS (Redwood Christian Schools) – that traffic report was done in 1997. She stated that the area residents know there has been a tremendous increase in traffic there in the last seven years. In addition, she said, referring to page 77, besides the ten trips generated by the East Bay Municipal Utility District, there are two EBMUD supervisors who drive up to the water tanks each month. Also, she indicated she was concerned with fire hazards due to the dry grass in the area.

Francois Koutchouk, resident at 6161 E. Castro Valley Blvd., mentioned to the Committee to look around and see how many people oppose this project and are wearing badges (“Save Open Space”). He said many people felt quite shy about talking at public meetings, but are willing to take time, and the Council should take that into consideration. He stated that in the document traffic study as requested at the last MAC hearing uses data from the Draft EIR traffic study dates from 1997 that is 7 years old. He said if you drive around the area you realize how bad traffic is, this traffic study is inappropriate and should be updated. As the previous speaker said, the traffic speed is quite rapid and the intersection is very dangerous. Finally, there is frustration among these people coming here to talk to you. It is not by accident, he said, that it's a serious problem going on here and now is the time to stop it. This is an area that only can be used for residential use, he said. If you have to buy land elsewhere, you buy land cheap, get an exception. Time has come to stop this.

Gary McLaughlin, resident at 6457 Sunnyslope Ave., stated that he bought a property which he thought was agricultural, 6 years ago, and he wants to keep it agricultural. He said he has horses up there, and has to bring them down on weekends. He said he would be [facetiously] “really excited to get behind 45 cars trying to get out of Sunnyslope.” He said that a lot of other residents that use horses for recreational purposes do it on weekends, and thinks they would also have problems. He said it is a tricky place to get up, and asked how many people have been on Sunnyslope up to the very end. He stated that a big vehicle has difficulty turning around.

Bunny Ginn, resident at 6390 Palo Verde Road, stated that she and her husband oppose to this project for number of reasons. Number one, she said, is aesthetics. She cited Figures 9 and 10 in the Draft Mitigated Negative Declaration that showed that the project would sit on top of the ridge adjacent to I-580. This area is designated as a scenic corridor, and as such requires that – quoting from the Draft – “controls should be applied to preserve and enhance scenic qualities”. The Draft identifies this item as a less than significant impact. She said that she would argue that the impact

is significant and irreversible if the project is allowed.

Ms. Ginn continued on the subject of traffic, she said the Sunnyslope intersection with Castro Valley Boulevard is blind in both directions, and should require stoplights to address the traffic issue. It is a safety issue, she said, and the traffic mitigation is not sufficient. She stated that this is a dangerous intersection, and this project would be adding to it. The traffic cannot be mitigated, she said, by cutting the landscaping down on the project property, because it's not at the traffic intersection. Her third issue, she said, was that the Draft Mitigated Negative Declaration states there will be 34 parking spaces for a building that holds 187 people. She asked where the rest of the people would park. It is especially a concern if you use the road on a regular basis. The wedding attendance is estimated between 75 and 150 people, and she asked where they would park. She noted that the overflow area for 10 cars will be insufficient for 150 guests. This is a potentially significant impact. The mitigation for that is completely wrong, she said, and was a terrible, terrible way to mitigate the parking issue – it puts all the responsibility on the neighbors. She said that the Council, if it was realistic would agree that it is very unlikely for a project of this size that its use permit would be revoked over parking. Her fourth issue was that the site would be used only for the congregation themselves – there was no promise, or guarantee of that, and if you ever try to find a reception site in this area, [you would know] it is likely it would be used more than two to four times per year. And grading is a huge issue, she said briefly. The bottom line, she said, was that an EIR is necessary to reduce some of the potentially significant impacts that we feel were downplayed in this report by staff.

Athena Perlmutter, resident at 6161 E. Castro Valley Blvd., stated that she was against the project. She said the neighborhood has been fighting many developments over the years, most recently against Redwood Christian, which started out as a small school, and ended up as a large school with a large soccer field. People move out to our area because of the open space, she said because the horses, and she said it was time for Castro Valley to do things right and not spread strip mall development all along 580. She also said she was not just being a “NIMBY” but wanted to make development better, where people want to live, where there is open space and there is a community. In closing, she said she was against this project.

Eileen Patch, resident at 2487 Vegas Avenue, stated that she has been a resident of Castro Valley for about 46 years and she is definitely against the project despite the fact she doesn't live in the area. She said she remembers Castro Valley being a cow-town, with two lane streets and the rodeos. But she said she is against this because if you allow it, something else will follow it, and she was against the sprawl of our city into our beautiful countryside.

Mr. Frank asked if there was anyone else here who would like to speak on the issue before the Council. Being none, he invited the applicant to come to the podium.

Mr. Flynn spoke about the history of the concurrent use of these lands for well water and septic service systems and stated that they have been more than adequately monitored by professionals such as the Health Care Services people. He said the record shows that there has been no history of such contamination in this area.

Due to people in the audience murmuring, Mr. Frank interrupted the applicant and addressed the

audience and told them he wanted to see that everyone speaks before the council tonight, and as a courtesy, about any further comments that disrupts anyone before the Council, he will ask the officer to escort them outside or leave voluntarily, or be escorted.

Mr. Flynn continued, stating that the [accusation of using] “bargain” tactics of seeking a cheap property and seeking a variance, he wished to remind people that churches are a conditional use in any zoning district and the variance is only because the date of the creation of the property as a result of acquisition by the State Department of Transportation is less than 100 acres and requires a “technical” variance that has been recommended for approval by the Planning staff. He said the worries that one speaker had that this facility will expand beyond the [permit limits] – Here we have a church that has been in existence for more than 100 years and the church has essentially remained the same.

Mr. Frank said this matter is closed before the council and in the next meeting a decision will be made on the matter – it will be the June the 21st, and information has been requested to the County to be provided to the Council members. An unidentified speaker asked if that meant that public testimony was closed. Mr. Frank replied that no, public testimony could be submitted to the County through the 18th of June. So public testimony will be closed on the 18th. A decision will be made by the Council – an advisement – pertaining to this matter.

2. **MODIFICATION OF PLANNED DEVELOPMENT (1557TH ZONING UNIT) AND CONDITIONAL USE PERMIT, C-8275 – ADAMS** – Application to modify PD (Planned Development, 1557th Zoning Unit, allowing C-N (Neighborhood Business) District uses and auto repair business subject to type A service station requirements) District, to include additional buildings and services according to a five-year phasing plan, on one site containing approximately 0.30 acre, in the PD (Planned Development, 1557th Zoning Unit) District, located at 18811 Lake Chabot Road, southeast corner of the intersection at Huber Drive, unincorporated Castro Valley area of Alameda County, bearing County Assessor’s designation: 085B-0502-044-00.

Mr. Ron Gee presented the staff report. The applicant wants to continue the operation of and expand an existing auto repair business on 18811 Lake Chabot Road. The project site is zoned P-D (Planned Development) District, per the 1557th Zoning Unit. The 1557th Zoning Unit, as approved under Ordinance No. 0-83-052 on September 3, 1988 by the Alameda County Board of Supervisors, allows for the following: C-N uses subject to the regulations of that District as well as an auto repair service limited to repairs allowed at a Type A service station as defined by the Alameda County Zoning Ordinance, all uses to be subject to a Site Development Review. The applicant is adding additional uses to the operation which are not included in the Type A service station description as well as constructing a brand new building, thereby requiring the modification to the Zoning Unit. The applicant intends to implement a five year phased remodeling plan. This matter came to the attention of the Planning Department as a Building Department violation. These issues will be addressed. The body work for additional uses will include air condition and other uses. At this point, we only have some change on parking, the landscape will be changed . The Castro Valley Chamber of Commerce recommends for change in zoning.

Ms. Henninger said there are some building code issues inconsistencies with zoning code enforcement. The applicant needs to bring it up to code. Mr. Carbone asked what's going to be the procedure if the applicant does not meet the requirements. The Chair asked if there has been an attempt to actually improve the situation and what improvements they have made. Mr. Gee said that some of the construction has been concluded, the storage area has improved. Mr. Carbone asked if permits have been acquired and how the development occurred without actually recommended permits. Mr. Nielsen asked if the illegal office on the side was still there. Mr. Gee said that there is a separate portable and that no permits for any of these additions and that the applicant's only option was to go through the process.

Mr. Adams stated that he does not understand if this is still a zoning or a CUP issue. He can understand the planning commission no vote and said that this has been a two year process so far. He had a meeting to try to resolve this with members of the County, members of Nate Miley's office and members of this council. There is a 5 year program to add on to this building to keep us there. Mr. Adams said that the County told him needed to rezone the property. Paragraph on page 1 of the staff report says they this is a body shop. He wanted to clarify that this is not a body shop or a repair facility. He was under the impression after the initial meeting that phase one could be finished. We have been working with Planning and Building Departments. The staff report describes on page 5 the conditional use permit for this property. We do not store cars, we try to fix cars. The business was just painted over to make it look better. Mr. Adams said they have 4,000 customers and the property looks clean.

Mr. Carbone expressed his concern with Mr. Adams when he clearly knows what needs to be done to bring the property into compliance and he just goes forward and does whatever he wants to do. The Chair stated that there is not question of the quality of work being done at this shop, the real issue is how to bring this property into compliance. Ultimately, the applicant has to subscribe to certain rules and regulations and acquire the necessary permits. Tonight the council will focus on the issues at hand and direct the County to work with the applicant and to bring this project into compliance.

Mr. Nielsen asked how long code enforcement allows cars to sit on a property without moving. Some cars have not moved a wheel for 3 months. The other concern expressed by Mr. Nielsen was the phasing out so that the applicant comes into compliance. How long is the phasing going to be? Five years?

Mr. Adams said that initially the phasing was supposed to be for 5 years. Mr. Adams stated that he just purchased the business from his father. Discussion ensued amongst Mr. Nielsen and Mr. Adams on feasibility of purchasing another business when this one does not seem to be in compliance and Mr. Adams is not able to financially bring it up to code.

Mr. Armstrong, resident at 3442 Middleton Avenue, stated that he never had a problem with Mr. Adams. He stated that he is a contractor and noticed that everything in this property looks temporary and that the applicant has painted most of it to make it look like it is permanent. He does not think permits were taken out for all of the additions to the business.

Discussion ensued amongst councilmembers and the applicant on how this process should be

phased out. Councilmembers expressed their frustration at the violations still unresolved at this location. They recommend that this item not be agendized for the Planning Commission until all of the violations have been corrected. Councilmembers directed county staff to provide a comprehensive list of what is supposed to be accomplished by the applicant in regards to the phasing of the project. The outline should show what needs to be completed on the first, second, and following years. Mr. Carbone stated that the applicant is still in violation and that he is in total disagreement with the property is and that it needs to be in compliance before he can consider any type of recommendation. The Chair agreed and said that the applicant needs to be in compliance with all zoning requirements. The Chair suggested that the applicant hire someone to help him with the compliance issues. Ms. Henninger noted that he also has building code violations on the property.

The Chair stated that as long as the council has some measurable intent that can be possibly evaluated by the County then the council will take that as a good faith effort by the applicant. The council will be able to move forward with a positive recommendation instead of a denial. Ms. Adesanya asked the applicant to work on his zoning and building violations and get them corrected. She asked county staff if the item will also be continued on the Planning Commission's agenda. Mr. Gee said yes. All councilmembers were in agreement that this item needs to be continued until the applicant shows good faith effort in resolving the violations existent in his property and also provide a phased out plan to complete his project.

3. **CONDITIONAL USE PERMIT, C-8296 – GERI LEON/VICTOR HAUSER** – Application to allow continued operation of a massage therapy business in an “PD” (Planned Development, 1408th Zoning Unit) District, located at 3045 Grove Way, south side, 250 feet southwest of the intersection with Center Street, Unincorporated Castro Valley Area of Alameda County, designated Assessor's Parcel Number: 417-0010-020-02.

Mr. Gee presented the staff report. The applicant is requesting that the conditional use permit be approved for five years. The applicant is the prime employee. There have been no complaints from Code Enforcement or the Sheriff's office. The hours of operation will be from 7 a.m. to 10 p.m., Monday through Friday, Saturday and Sunday, 7 a.m. to 7 p.m. by appointment only. The hours of operation may not be changed during the term of this period without first obtaining approval from the Planning Department.

Geri Leon, the applicant, said that she loves what she does and that she is current with all county requirements.

There were no public comments.

Mr. Nielsen moved, seconded by Ms. Goodbody to approve the conditional use permit subject to the conditions and considerations outlined in the staff report.

Motion passed 6/0.

4. **ZONING UNIT ZU-2193, ROBERTS/UTAL** – Scoping Meeting pursuant to the California

Environmental Quality Act regarding preparation of an Environmental Impact Report, petition to reclassify a site comprising approximately 8.25 acres from the R-1-SU-RV and R-1-B-E-SU-RV District to the PD (Planned Development) District, to allow subdivision of three parcels into 38 lots for development of single-family homes, located at 4524 Crow Canyon Place, approximately 500 feet south of Crow Canyon Road, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 084C-1068-001, 084C-1068-007, and 084C-1068-008.

Mr. Buckley presented the report. The Planning Department is still in the very early stages in the process for scoping for the EIR. The proposal is for the subdivision at 4524 Crow Canyon Place, intersection of Crow Canyon Road, located on approximately 8.25 acres that has two homes in the eastern portion of Castro Valley. Site proposal is to reconstruct the bridge across the creek from Crow Canyon Place and to close the access off Veronica Avenue to provide emergency vehicle access route. The County has determined, based on preliminary studies, that the other issues the EIR should address are the potential impacts and mitigation measures as well as alternatives for this project. The EIR will focus on Biological Resources, Geology, Hydrology and Water Quality, Land Use, Traffic and Transportation, and Cumulative Effects. The Draft EIR will incorporate information submitted during the scoping period, and will itself be circulated for a 45-day public comment period, most likely in July of 2004. A Final EIR will then be prepared to respond to public comments on the Draft EIR. Following completion and circulation of the final EIR, recommendations may be made for action on the project.

Mr. Carbone asked in regards to Crow Canyon Place, how county staff determines the traffic impact on such a narrow street. Will there be any improvements to the street? Mr. Buckley said Crow Canyon Place currently has parking allowed on both sides of the street. There is fewer than a dozen homes on that street now, so if we add 38 homes it will be about 50 total. We will be looking at access point at Crow Canyon Road, whether left or right turns are safe, what type of improvements are needed, and the roadway capacity is not really an issue. There may be an issue with restricting parking on one side of the street. Mr. Carbone asked about the impacts to the surrounding neighbors. Mr. Buckley said consideration has been given in the general sense, Veronica Avenue is a narrow street although more improved. All streets are private streets, there is emergency access, for vehicles only.

Mr. Nielsen asked if on the average the lots are on 5,000 square foot parcels. Mr. Buckley replied that's something the Planning Department actually needs to study further in terms of the planning issues and the alternatives. One of the alternatives being considered and provided in the EIR are strict conformance to zoning in terms of lot area, lot size consistency and existing zoning for the area. This is a plan development project so some lots are smaller and some lots are bigger. The Chair expressed his concern with ingress and egress when the street is so narrow and cars are parked on both sides of the street.

Ms. Arlene Utal, the applicant, briefly described history of the property. She said it has been in the Roberts family for 70 years. The property used to be bigger but some of it has been taken away by the state to expand highways. The remainder of the property is heavily wooded. The original entrance to the property is on Crow Canyon Place. Right now there is an old bridge across Cull Creek which will be replaced by a new bridge for access to the proposed project. There will also be an emergency access route at Veronica Avenue. The project proposal would subdivide the project site into 37 residential

lots. There will be three models. Ms. Utal shared with councilmembers a site plan of the configuration of the proposed homes of the project. We are strongly recommending the use of Veronica Avenue for access to the project as the street is wider. The homes will be on the average 3000 square feet, they will have 4 bedrooms and 2 bathrooms. The average lot will be 9,000 square feet.

The Chair asked Ms. Utal if she is including the private roadway as part of the roads. She answered yes. Mr. Carbone expressed his concern with the impact on the surrounding neighborhood. The private roadways will be overflowed with parking and traffic. The roads are narrow.

The Chair expressed his concern with the impact to the neighborhood. The conceptual plan is nice, conducive to security and better quality control. The lot size conformity has been a major issue for the council. Council members discussed standard size yards, lot size consistency and density. Ms. Sugimura is concerned with density.

Mr. Steve Hanson, resident on Crow Canyon Place, said neighbors that live on Crow Canyon Place will be impacted by the number of homes for this project. The benefits are obvious to developers, the more homes they make the more money they make. He doesn't think it will benefit the neighborhood. The Planned Development allows them to have much smaller lots than the surrounding area. Lots off of Veronica over on Crow Canyon Place are about 10,000 square foot. Mr. Hanson asked that if the council approves the project it should hold to the 5,000 square foot lot size. The creek is the other issue with this project. Currently there is a 20' setback from the creek itself which you cannot develop. There are discrepancies regarding set backs. He is asking that council hold this development to 20 feet setback and limit the amount of homes. Most important of development is the intersection, currently there is no traffic light. Crow Canyon Road has lot of traffic coming from the San Ramon area. Making a left turn from Crow Canyon Road is impossible. He strongly recommends developer or County install traffic signal.

Ms. Lisa Trevizo, resident at 4351 Veronica Avenue, stated that she is mainly here to make sure that this avenue stays as it is. They have lots of children, every home has 3 or 4 children. Children go outside and play. We want to keep it safe for the neighborhood.

Mr. Steve Hansen said that the parking lot is right at the very beginning of Crow Canyon Place. There will be lots of traffic in the area, especially on weekends lot of use of the parking lot which is right at the front of Crow Canyon Place.

Ms. Utal stated that the 20' creek set back issue and a traffic study will be done. She said she has 20 years experience as real estate developer. She is sure they will investigate all of the issues mentioned here tonight.

Discussion ensued amongst councilmembers in regards to lot size consistency, traffic concern, density of the project and subdivisions. Mr. Frank said 30 homes is not a subdivision. Ms. Adesanya asked what the benefits are for the applicant on a Planned Development. Mr. Buckley said that it offers benefits on setbacks and parking. Ms. Adesanya asked if there are any exceptions to the R zoning and if they have been discussed under the Planned Development? Mr. Buckley said there maybe be some exceptions. Ms. Utal dicussed the benefit to the developer of using Planned Development. She also discussed the setback for the backyards as it relates to the creek.

- 6. CONDITIONAL USE PERMIT, C-8143, HOSANNA HOMES** – Application to allow continued operation of a foster home licensing agency and requesting a ten-year renewal period on an A (Agricultural) District, located at 9998 Crow Canyon road, west side, 1 mile north of Norris Canyon Road, Castro Valley area of unincorporated Alameda County, designated Assessor's Parcel Number: 0085-1902-001-00.

Mr. Gee presented the staff report. The applicant seeks to renew the expired conditional use permit to cover a total of four modular trailers, including two currently on-site but not covered by the use permit. The trailers make the Hosanna Homes operation. The applicant had previously obtained a conditional use permit for two mobile trailers. The 90-acre site contains a variety of uses. The "Hosanna Boys Ranch" located in the main house, a two-bedroom farm labor house rented to a family with two foster children, and the administrative offices for "Hosanna Homes". The applicant states that "Building A" is used as a classroom and as administrative facilities; "Building B" is used for adoption services and immigration processing; "Building C" is used for indoor recreation and classroom purposes, and a fourth trailer, "Building D" is used for clothing, supply and record storage. Mr. Gee briefly described referrals from the different departments. After careful consideration, planning staff determined that based on the conditional use permit should be considered based solely on the activity surrounding Hosanna Homes, the foster home licensing agency. The Williamson Act contract creates an arrangement where by private landowners contract with counties and cities to voluntarily restrict their land to agricultural and compatible open space uses. According to the Alameda County records the subject parcel is covered by the Williamson Act. Under the terms of the contract, the property is to be devoted to agricultural and compatible uses in order to preserve a maximum amount of agricultural land. Notwithstanding the restriction of the Williamson Act, the foster care agency is probably not a proper conditional use in an Agricultural District. As such, it raises issues that must be resolved before approving the application for a conditional use permit. In the alternative, if the activity is found to be a business, although non-profit, then the use is not proper and therefore the petition should be denied.

Mr. Nielsen expressed his concern with adequate water supply for all of the activities staff described in regards to the project. He stated that increasing the activities would put a tremendous impact on the neighborhood. Mr. Nielsen expressed his desire to continue the application until the water issue is resolved. All councilmembers agreed.

Mr. Teyler, the applicant, stated that he received the staff report on Friday. He said that Hosanna Homes received its first variance in 1985 and has had four renewals. The Williamson Act issue was never in question. The Hosanna Homes has had only one complaint during its existence. We have had water from EBMUD since 1985. The third well was tested about a month ago and is going to provide adequate water. We are currently working with EBMUD. He said purchasing water is costly but they are committed to doing whatever is needed. Every improvement on that facility has been approved by the County and deficiency has been corrected. Now they say we are out of compliance and now the issue of Williamson Act surfaces. Nothing has changed since we started the process in 1985, so why all of these issues? The County granted a variance for the home, it is a separate building, now it does not fit? Mr. Teyler said that he has to be careful when working with the County. Hosanna Homes

serves a valuable need for the community, the Alameda County children and the foster care population. Mr. Teyler said that he does not understand the rationale of the County.

The Chair asked county staff in regards to the progression of the facility and how this has happened through the years. Mr. Gee explained how the facility has steadily grown since 1985 and that currently there are a lot of different issues related to this parcel as explained in the staff report. Discussion ensued amongst councilmembers and county staff on the uses on the property, education facility, and modular trailers.

The Chair stated that there is not such a thing as a tacit approval. The applicant needs to work on proper guidelines and course of action through the proper channels. Mr. Carbone said he wants to make sure nothing is to be done without pre-authorization, and he wants this to be on the record. Mr. Teyler said he doesn't expect any special consideration.

Mr. Calvin Ward, resident at 9580 Crow Canyon Rd., stated that the issue here is whether Hosanna Homes is a business properly located. Originally this property had three trailers and foster children. Hosanna Homes made in 2002 one million dollars in business by collecting rental fees for the property, this is a business. Mr. Teyler has 11 full time employees. He is putting into a septic system designed for single family dwelling during the summer. Mr. Teyler reports that he uses 2,000 gallons of water a week. Mr. Teyler is endangering everybody and this facility is putting a burden on the rest of the neighborhood. Two of the wells on his property have contamination. Mr. Ward stated that he has no problems with this type of facility but it needs to be relocated. Mr. Ward also referred to the Williamson Act. This organization places kids in homes. This business in essence is against license and regulations. To license the director as a foster parent must be accredited by an appropriate agency. Mr. Ward said that this particular property is on a blind road and there is a lot of traffic issues. Cars often travels at speeds in excess of 60 miles per hour in this section of Crow Canyon Rd. in spite of attempts by the CHP to reduce the speeds by writing tickets. Anybody making a left turn is a rear end catastrophe. People love to race. We call it the Crow Canyon Grand Prix. The County writes tickets and still doesn't make any difference. This foster care facility does not belong at this location, it does not belong on an agricultural piece of land.

Terry Thomson, an Alamo resident, said he has been a long time supporter of Hosanna Homes and he loves this foster care facility. Crow Canyon Road is a beautiful Road and he can see something compatible with agricultural use, the children get a taste for farming life. They come from overseas to this open space. This is exactly the type of place for these kids. They receive English as a second language education. This is a perfect use for this property and it is compatible with Williamson Act. It provides agricultural uses, there is housing for farm labors, ranch buildings, children take care of animals. You can find within this Exhibit "B", these are people inside these buildings. Accessory structures are acceptable under the Williamson Act.

Mr. Brent Hull, resident at 7008 Crow Canyon Road, said he opposes the renewal and he has a number of reasons. First, he was getting water three to four times a day from a fire hydrant at Bollinger Canyon Road. Neighbors thought he was getting a lot of water and called San Ramon Police. The police pulled him over and asked him if he had a permit to get the water. He did not have a permit and he also has a business to sell water tanks. Second, Mr. Hull stated that he opposes the renewal until the EIR is done because of the many issues still unresolved. Third, security is an issue. It serves a

population of illegal immigrant children. Some of them have serious psychological issues. One time one of them, a 21 years old, being deported to India, has mental problems and a serious threat to the community. There is a lack of security at this facility. Because these children come from other countries, they could also be exposing the community to serious contagious diseases. They are not quarantined. The traffic situation is also an issue, water trucks drive by many times a day, it is hard to get in and out of the driveway. There are a lot of other issues with this facility, staff that the County does not know about, Williamson Act is not the only thing the County should be concerned with this property.

Mr. Rick Plumer, resident at 9600 Crow Canyon Road, said he bought his property 2 years ago. He has a lot to lose with the contamination of the septic tank. He has 3 wells, they depend on them to get their water source. Mr. Tyler's property has animals, cows, sheep, and it seems that some of them have been butchered and carcasses thrown on the creek. Mr. Plummer main concern is the well and its contamination. The property value will decrease if water gets contaminated. Mr. Teyler has also dirt fill, 20 feet high at least and hundred of yards. The septic tank is contaminating the water. The septic tank is not suitable. There are issues with the children from the INS. Mr. Plumer also said that the wells in Mr. Teyler's property are contaminated and have not been tested.

Mr. Teyler said that to hear these comments really hurts, he and his family were foster parents.

Mr. Frank asked Mr. Teyler to respond to water issues. Mr. Teyler said they have two wells that they are trying to correct the problems with the water. The second is being re-tested by EBMUD as soon as they fix the pump. They have taken precautions with the water issues. It looks like there are some springs up in the hills. Mr. Teyler said they are trying to find ways to get water from the hills. He doesn't see an issue with hauling water, he would hope the community will understand. They take very close care of their children and they are not a threat to the community. They just need a chance.

Mr. Carbone wanted to know exactly how many people live in the property. Mr. Teyler stated that there are six permanent children but the ranch specializes in emergency situation. Ms. Goodbody asked Mr. Teyler how long the kids stay in the ranch. Mr. Teyler responded they stay an average 3 months. He said at the smaller house probably 6 full time employees and 6 part-time. There are three other places that bring children to the school, 12 to 15, 9:00 a.m. to 2:30 p.m. There are 2 classrooms, each one has a teacher's assistant because of language issues.

Mr. Nielsen stated that it looks like there are 35 people living in the facility. Ms. Adesanya asked Mr. Teyler where was the water coming from for this facility? Mr. Teyler responded that they are hauling 2500 gallons from other families in the canyon, one family in Crow Canyon giving them water. Ms. Sugimura asked Mr. Teyler if he could address the following issues from the neighbors: dirt stacked 20-30 feet high, contamination of water and the septic sewer system..

Mr. Teyler said they have 4 dams on that property, the dirt has been taken from the dams. It is clean dirt.

The Chair stated that this item needs to be continued. Ms. Adesanya agreed and said the site should be in compliance with Williamson Act. Ms. Henninger stated that a lot of the issues have already been addressed.

The Chair stated that the council has a good summary on this property but there are still issues in

regards to the fill, septic tank, water, requirements with health agencies, issues as far as locations of the well, basic issues to the use of the property. He asked that the item be continued to June 28, 2004.

7. CONDITIONAL USE PERMIT, C-8280, NEW LIFE PRESBYTERIAN CHURCH – Application to allow construction of a church in an existing facility in an A (Agricultural) District, located at 9998 Crow Canyon Road, west side, 1 mile north of Norris Canyon Road, Castro Valley area of unincorporated Alameda County, designated County Assessor’s Parcel Number: 0085-1902-001-00.

Mr. Gee presented the staff report. Mr. Terry Thompson submitted an application to operate the New Life Presbyterian Church in the triple-wide modular identified as “Building C”. The church facility is currently operating without benefit of a conditional use permit. According to the applicant church service takes place on Sunday mornings from 10:30 a.m. to 12:30 p.m. Occupancy of the building usually begins at 9:30 for set-up and ends at 1:30 to 3:00 p.m. depending on whether there is a time of fellowship after the service. There are no mid-week services at the facility. Mr. Thompson also stated that usual attendance ranges from 12 to 20 people although seating is arranged to accommodate up to 36 people. Finally, he stated that parking is available for more than 20 vehicles, which he claims is more than adequate for the congregation and guests.

Ms. Adesanya asked how long they have been operating. Mr. Gee answered at least 6 months.

Terry Thompson, resident of Alamo, said he is one of the deacons at the church. He requested an application for use of an existing building on this site since it was not being used on Sunday mornings and they needed a place. There are about 12 to 20 people that attend the services. They do not use much water during the services maybe one gallon per person. There are usually about ten cars during services. It is not a big church so it does not have a major impact on the neighborhood. Church is not listed as an illegal use under the Williamson Act.

Ms. Goodbody asked Mr. Thompson where did they hold their services prior to the Teyler’s property? Mr. Thompson replied that they used school facilities.

Mr. David Brown, a parishioner, stated that they moved to this location once their place of worship was converted to a different use. Some of the parishioners come from San Ramon and Newark-Fremont area. Churches are usually located in agricultural areas. It would be a real problem to find another location.

Mr. Calvin Ward, resident at 9580 Crow Canyon Road, said he is confused about some of the facts in regards to this property. Some of the uses have been going on for years. It seems that Mr. Teyler is does not comply with the zoning ordinance. Mr. Ward expressed his concern with the sewer and the water problems in the area. Most wells in the canyon become very hard to get water from in April and May. EBMUD has forbidden people from getting water from fire hydrants. EBMUD may not export water and the canyon is not part of their district. Actually, the church is not a big deal, compared to the rest of the issues around this property.

Mr. Richard Plumer, resident at 9600 Crow Canyon Road, said that he bought the property 2 years ago and at that time they got two homes, with a septic tank for each home. With a family of six that is all the septic tanks can handle.

Mr. Brent Hull, resident at 7008 Crow Canyon Road, said the issue is all about water. He spoke about size of wells and how there is a need to protect them from contamination.

Ms. Adesanya asked how is the violation of the church being handled? Ms. Henninger said it's not being handled at the moment.

The Chair continued the item for thirty days.

7. SITE DEVELOPMENT REVIEW, S-1916, FU – Application to allow construction of 18 townhouse/apartment units with 36 tuck-under parking for residents plus 5 parking spaces for guests, located at 21091 Wilbeam Avenue, west side 217 feet north of Norbridge Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 84A-0046-005-04.

Ron Gee presented the staff report. The applicant proposes to construct 18, two-story townhouse style apartments over a garage that contains 38 parking spaces flanking one central enclosed access driveway. The units would be accessible from a street-facing lobby area, and from the garage itself. The total height of the project would be 34 feet 6 inches. The individual unit floor areas range from 580 sq. ft. There are two 1 bedroom units, one 3 bedroom unit, and fifteen 2 bedroom units proposed. Included in the proposal are spaces for storage of 18 bicycles, and 18 individual 4'-0" by 4'-6" storage areas. Every unit will have at least one private deck at least 7 ft. deep. Two story units include two decks, one off the living room, and one off a bedroom. Due to concerns from the Alameda County Fire Department regarding emergency egress accommodation and adherence to the Building Code regarding secondary means of egress from third floors and higher, staff suggests the following design improvements: the third story (upper-most units story) floor plans and building elevation drawings should be modified to reflect the addition of a secondary egress corridor; the landscape and site plans should be modified to show emergency access and egress routes for the full length of the property along the sides of the building; the landscape plans should still show landscaping along the side property lines, combined with wide-enough walkways to meet the emergency access requirements of the Alameda County Fire Department. Redevelopment has recommended approval.

The Chair inquired about the notices sent out to residents on Ashfield Avenue. The Chair expressed his concern with proximity to backyard of existent residences and privacy issues. He asked the applicant if he had met with the adjacent neighbors. Mr. Fu answered yes and that he discussed planting trees in back of the proposed units for privacy of adjacent neighbors. Mr. Fu also said that there will be very few windows in rear. There will be a series of small square windows. Mr. Frank asked Mr. Fu if he is maintaining same element as plans and if he meets the height requirement. Mr. Fu answered yes.

Mr. Fu stated that basically he will follow the county staff's recommendation to modify the landscape plans, fire access to side yard, modify 3rd floor to reduce the size of 3rd floor to 500 sq. ft. so each townhouse unit will have their own system to go down to other floors.

Mr. Carbone asked about the front yard setback. Mr. Fu said that pedestrian access is more than 20 ft. Discussion ensued amongst councilmembers in providing a wider backyard setback by moving the structure forward.

Ms. Goodbody moved, seconded by Mr. Nielsen to approve the site development review subject to the conditions and considerations outlined in the staff report.

The motion passed 6/0.

C. OPEN FORUM – None

F. CHAIR’S REPORT – None.

G. COMMITTEE REPORTS – Mr. Gee and Ms. Henninger announced the Ordinance Committee meeting tomorrow night, at 6:30 p.m. Castro Valley MAC members unable to attend. Another meeting on unincorporated services on Wednesday at 6:30 p.m. Castro Valley MAC members cannot attend.

H. STAFF ANNOUNCEMENTS, COMMENTS AND REPORTS – None.

I. COUNCIL ANNOUNCEMENTS, COMMENTS AND REPORTS – None.

J. ADJOURN – The meeting was adjourned at 10:05 p.m.

NEXT HEARING DATE: MONDAY, JUNE 14 , 2004