

**MINUTES OF MEETING**  
**ALAMEDA COUNTY PLANNING COMMISSION**  
**MAY 5, 2008**  
**(Approved June 2, 2008)**

**FIELD TRIP:**

**MEMBERS PRESENT:** Commissioners Glen Kirby, Chair; Kathie Ready and Richard Rhodes.

**MEMBERS EXCUSED:** Commissioners Ken Carbone, Vice Chair; Frank Imhof; Mike Jacob and Alane Loisel.

**OTHERS PRESENT:** Jana Beatty, Senior Planner

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. **TENTATIVE TRACT MAP, TR-7925 – HIGHLANDER GROUP, LLC** ~ Petition to allow 14-unit residential condominiums in a R-S-D-3 (Suburban Residence, 5,000 square feet Minimum Building Site Area, 3,000 square feet site area per Dwelling Unit) District, located at 19745 and 19755 Meekland Avenue, southwest side, approximately 350 feet south of Cherry Way, Cherryland area of unincorporated Alameda County, bearing Assessor's Parcel Number: 429-0005-022-00. **Staff Planner: Howard Lee**
  
2. **ZONING UNIT, ZU-2183<sup>rd</sup> and TENTATIVE PARCEL MAP, PM-7475 - THOMPSON** ~ Appeal of Ron Thompson from the condition being imposed by the Planning Department requiring installation of obscure/fogged glass on the windows facing the west side of the house on lot #6 (4101 Toddika Lane, 084-0726-097-00), part of a project approved by the Board of Supervisors on February 5, 2004 and final subdivision approval by the Planning Director on February 25, 2004, located at 4101 through 4131 Toddika Lane, west of Forest Avenue, approximately 70 feet west of Omega Avenue, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 084-0726-092-00 through 084-0726-097-00. **Staff Planner: Phil Sawrey-Kubicek**
  
3. **CONDITIONAL USE PERMIT, C-8639 – SERVING COMMUNITY CHURCH** ~ Petition to allow operation of a church in a P-D –ZU-1779 (Planned Development, 1779<sup>th</sup> Zoning Unit) District, located at 18911 and 18919 Lake Chabot Road, west side, approximately 150 feet south of Sydney Way, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 084B-0502-045-00. **Staff Planner: Jana Beatty**

**REGULAR MEETING: 1:30 p.m.**

**MEMBERS PRESENT:** Commissioners Ken Carbone, Vice-Chair; Mike Jacob; Glenn Kirby, Chair; Kathie Ready and Richard Rhodes.

**MEMBERS EXCUSED:** Commissioners Frank Imhof and Alane Loisel.

**OTHERS PRESENT:** Sandra Rivera, Assistant Planning Director; Phil Sawrey-Kubicek, Senior Planner; Rodrigo Orduña, Senior Planner; Brian Washington, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately fifteen people in the audience.

**CALL TO ORDER:** The Chair called the meeting to order at 6:00 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 Commission Minutes – April 21, 2008 – *continued.*

**REGULAR CALENDAR:**

1. **TENTATIVE TRACT MAP, TR-7925 – HIGHLANDER GROUP, LLC** ~ Petition to allow 14-unit residential condominiums in a R-S-D-3 (Suburban Residence, 5,000 square feet Minimum Building Site Area, 3,000 square feet site area per Dwelling Unit) District, located at 19745 and 19755 Meekland Avenue, southwest side, approximately 350 feet south of Cherry Way, Cherryland area of unincorporated Alameda County, bearing Assessor's Parcel Number: 429-0005-022-00.  
**Staff Planner: Howard Lee**

Mr. Orduña presented the staff report. In response to Commissioner Jacob, he explained that a SDR application (a Planning Director decision) was submitted concurrently, awaiting the decision on this Tract Map. This application, originally submitted as a rezoning, has now been modified to be consistent with the Zoning District and Cherryland Home Association is also in support of the proposal. Commissioner Ready noted that the Commission had discussed the option of looking at SDR applications last year since some SDR approvals have been questionable. Staff pointed out that there is a SDR public hearing process in place. Ms. Rivera added that SDR applications for the Castro Valley area are initially heard by CVMAC before the Planning Director's decision, and that the County is currently beginning the process of drafting the Design

Guidelines. The Chair expressed concern that at the preliminary hearing, the Commission had comments relating to the SDR application, which are not part of this process. Mr. Orduña explained that the comments were taken into consideration and, as a result, the proposal has been modified to a tract map and the project is now within the zoning regulations. Staff will continue to work with the applicants to further refine the proposed design.

Public testimony was called for. Scott Sutherland, project representative, stated that colored copies of the project and/or revisions were submitted to staff and using the overhead, pointed out the following project modifications: contemporary Spanish design with red tile roof; a reduction to 14 units with family-oriented floor plans; guest parking increased to fourteen spaces: 10 on-site and 4 street parking; play area has been doubled with improved pedestrian circulation and 10-foot driveways in front of the units; and the front doors have been relocated to face Meekland Avenue for the front units. Commissioner Carbone felt that the walls are too boxy and massive and needed additional architectural design modifications. The street view needs to appear as though the units are facing the street. Mr. Sutherland was urged to continue working with staff.

Public testimony was closed. Commissioner Jacob thanked staff for the DRE. *He made the motion for the approval of the environmental exemption and the project and Commissioner Carbone seconded. Motion carried 5/0 with Commissioners Imhof and Loisel excused.*

2. **VARIANCE, V-12083 – MAURO ESCOBAR** ~ Petition to allow an attached addition with an eleven-foot (11') front yard setback with the partial demolition of the existing addition and a three-foot, seven-inch (3'7") rear yard setback where 20 feet is the minimum required in the front and rear yards, in the R-1 (Single Family Residence) District, located at 14747 Midland Road, west side, approximately 200 feet north of Placer Drive, San Leandro area of unincorporated Alameda County, bearing Assessor's Parcel Number: 080-0002-001-04. **Staff Planner: Andrew Young**

Mr. Orduña presented the staff report and noted receipt of an email from Dawn Clark-Montenegro, Hillcrest Knowles Association.

Public testimony was called for. Mr. Orduña, translating for Maria Villanueva, the property owner, stated the following on her behalf: that the Commission allow retention of part of the room and kitchen because they do not have the money to continue removing this part of the structure to build elsewhere on the site. They are willing to do whatever the Commission decides. The Chair asked if the original kitchen is still in existence or removed. Ms. Villanueva replied that it is still there but made it larger by 10 feet.

Public testimony was closed. The Chair pointed out that the Findings have to be made in the affirmative and further agreed with the denial recommendation for the rear fence and shed. Commissioner Ready expressed concerns that an approval will set a precedent.

Commissioner Carbone agreed and noted the opposing contents of the email. Commissioner Jacob asked for remedies against unlicensed contractors, to provide some assistance to homeowners. Staff replied that this is a civil matter. County Counsel added that unlicensed contractors cannot force a claim for payment. With a complaint filed with the State Contractors License Board, there are severe fines and penalties and some assistance to homeowners. Commissioner Jacob requested that perhaps staff could make a complaint and/or check for any mechanism available to the County or the homeowner.

*Commissioner Ready made the motion to deny all three variances and the Chair seconded. Motion carried unanimously, 5/0, with Commissioners Imhof and Loisel excused.*

3. **ZONING UNIT, ZU-2183<sup>rd</sup> and TENTATIVE PARCEL MAP, PM-7475 - THOMPSON** ~ Appeal of Ron Thompson from the condition being imposed by the Planning Department requiring installation of obscure/fogged glass on the windows facing the west side of the house on lot #6 (4101 Toddika Lane, 084-0726-097-00), part of a project approved by the Board of Supervisors on February 5, 2004 and final subdivision approval by the Planning Director on February 25, 2004, located at 4101 through 4131 Toddika Lane, west of Forest Avenue, approximately 70 feet west of Omega Avenue, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 084-0726-092-00 through 084-0726-097-00. **Staff Planner: Phil Sawrey-Kubicek**

Mr. Sawrey-Kubicek presented the staff report. The Chair announced that the Commission had visited the property and had been able to view the rear yard from the window of the rear unit.

Public testimony was called for. Andrew Duncan, property owner at 20050 Meadowlark Drive, pointed out that other affected property owners were also in attendance. Although obscure glass issue was discussed at the CVMAC meeting, included as a Condition of Approval in February 2004, and included in the drawings of September, 2004, plain glass has been installed. He further quoted the related section of the Castro Valley General Plan. This development is not consistent with the surrounding and should not have been built at this location; it is three stories high with a flat roof and about 30% taller than other buildings, creating invasive sidelines. Privacy is their main concern. Landscaping, contrary to the developer, will not provide adequate screening as it can be altered. Many variances were sought for this six-unit project in a relatively small space. He felt that this Commission has the duty to protect the existing property owners' investments and preserve the quality of life.

Gerry Livermore, 4033 Levitt Court, west of Mr. Duncan's property, said that the view from the project site is over his roof. He is replacing the original 30-foot dead trees and, as such, asked if, in order to retain the view, he would be required to remove the trees. The Chair replied no.

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Ron Thompson, applicant, pointed out that this project had been unanimously approved by CVMAC, this Commission and then the Board of Supervisors. Mr. Duncan had attended all these meetings and the words 'obscure glass' was not mentioned at either the CVMAC nor at the BOS meeting but added after by the Planning Director at the beginning of last year. Regarding landscaping, they had agreed to the recommendation of Italian Cyprus by Brett Lucas, project planner. Later, Mr. Buckley had required landscaping around the side which was also agreed upon. Mr. Duncan was also advised that trees could be supplied to him or planted at his recommendation. Mr. Duncan's property does not directly face the rear of his building but to the driveway. Most properties in these neighborhoods either looks into another's yard or block a view. He is willing to provide complete screening with landscaping. In respect to the height concerns, the building height is within the required limit. Supervisor Miley's office has also been involved.

The Chair noted that the set of the drawings issued with the permit did include the requirement. Mr. Thompson re-stated that the words were added after the approval and he had not been notified. He felt that it was unreasonable. Commissioner Carbone stated that although he was involved as part of CVMAC, he felt that it was a huge mistake, a disappointment. He asked for the status for the street repair (holes) where utilities have been installed. Mr. Thompson said that he has repaired the street three times, the Water Department is supposed to be finishing off the street after completion of their projects. Nevertheless, he will do the repairs next week. At a large expense and delay, the project was moved an additional ten feet with modified orientation.

Mr. Duncan, in rebuttal, pointed out that the third story was added after the public process--a two-story project was approved. Italian Cyprus had not been discussed before either. Staff agreed regarding the landscaping.

The Chair noted the initial extensive public process/comments. Commissioner Jacob requested clarification on appeals and if the words "minimal number of windows" (Condition #12) can be interpreted as zero. County Counsel replied yes. He also explained that the appeal letter indicated that Public Works approved something different, a Joint Maintenance Agreement versus a Homeowners Association, whereas Public Works does not have the authority to change a condition of approval. There is no appealable issue and further noted Section 17.54.070.

Commissioner Ready said she was disappointed with the project and supported the 'obscured glass' adding that perhaps the kitchen window also needs such as it looks into the neighbor's backyard. The Chair felt that the scale of the project, the discretionary action of adding obscured glass was a reasonable interpretation. Commissioner Rhodes asked if there is a record, a date, as to when the interpretation was made and the condition added. Staff explained the process noting that the Building Department stamp reads May 25, 2005.

*Commissioner Jacob made the motion to deny the appeal and Commissioner Rhodes seconded. Motion carried unanimously, 5/0 with Commissioners Imhof and Loisel excused.*

**STAFF COMMENTS & CORRESPONDENCE:** *None*

**CHAIRS REPORT:** The Chair reminded and encouraged all to attend and pass the information on the upcoming Green Building forum on May 28<sup>th</sup> at Ohlone College.

**COMMISSION ANNOUNCEMENT, COMMENTS AND REPORTS:** *None.*

**ADJOURNMENT:** *There being no further business, Commissioner Ready moved to adjourn the meeting at 7:20 p.m. Commissioner Rhodes seconded the motion. The motion was carried 5/0.*

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