

**MINUTES OF MEETING**  
**ALAMEDA COUNTY PLANNING COMMISSION**  
**SEPTEMBER 8, 2009**  
(Approved October 19, 2009)

**FIELD TRIP:** *Cancelled*

**REGULAR MEETING:** 6:00 p.m.

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

**MEMBERS EXCUSED:** Commissioner Frank Imhof

**OTHERS PRESENT:** Albert Lopez, Planning Director; Rodrigo Orduña, Senior Planner; William Fleishhacker, County Counsel's Office; Nilma Singh, Recording Secretary.

There were six people in the audience.

**CALL TO ORDER:** *The Chair called the meeting to order at 6:00 p.m.*

**ANNOUNCEMENTS BY THE CHAIR:** The Chair announced that Consent Calendar item #2 will be moved to the end of the Regular Calendar and Commissioner Imhof has requested to be excused.

**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.

Steve Powell, 5143 Tesla Road, read and submitted a copy of his statement together with a copy of a letter from the Planning Director, Mr. Lopez, dated August 6<sup>th</sup>, 2009. The Planning Department has determined that his operation is a public nuisance and the matter will heard at the next East County Board of Zoning Adjustments meeting. He will provide the Commission with an up-date.

**CONSENT CALENDAR:**

1. **APPROVAL OF COMMISSION MINUTES ~ August 17, 2009.** The Chair made the following corrections: The arrival of Commissioner Imhof at the conclusion of staff presentation of Item #1 on the Regular Calendar; he had voted against a continuance and, as such, the vote for Item #1 should reflect 5/1 with Commissioner Jacob dissenting; and to reflect that there was consensus on the Commission for Commissioner's Loisel's suggestion under Item #3. *Commissioner Kirby clarified his statement on Page 3, last paragraph; and made a motion to approve the August 17<sup>th</sup> Minutes with these corrections and Commissioner Ready seconded. Motion carried unanimously.*

2. **JAMES SILVA, VARIANCE, PLN-2009-00010** ~ Petition to allow a non-permitted garage located in the front half of the property where otherwise not allowed, and within six feet of the side property line of the front half of an abutting lot, in an R-1-B-E-CSU-RV (Single Family Residence, Minimum lot size 10,000 square feet, Median lot width 70 feet, Conditional Secondary Unit, Recreational Vehicle Parking Regulations) District, located at 4235 Krolop Road, south side, approximately 96 feet west of Vineyard Road, Castro Valley area of unincorporated Alameda County, designated County Assessor's Parcel Number: 084D-1140-009-20. (Continued from August 17, 2009) **Staff Planner: Carole Kajita.**  
**This item was moved to the Regular Calendar.**

**REGULAR CALENDAR:**

1. **CONDITIONAL USE PERMIT and MINOR MODIFICATION TO ZONING UNIT, ZU-1816, PLN2009-00041 - WRI GOLDEN STATE LLC/HART** ~ Petition to modify the approved Planned Development (1816<sup>th</sup> Zoning Unit ) that allowed development of 10.21 acres into a neighborhood commercial development, to include financial and personal service uses as permitted uses. These services would include bank, credit unions, title companies, nail salons, beauty shops, karate classes, indoor recreation uses and tutoring centers, located at 3891 East Castro Valley Blvd, south side, approximately 90 feet west of the intersection with Chaparral Lane, Castro Valley area of unincorporated Alameda County, Assessor's Parcel Numbers 085-6300-013-05 and 085-6301-008-06. (Continued from July 20, August 3 and 17, 2009)  
**Staff Planner: Christine Greene**

Mr. Lopez announced that the applicants have requested a continuance since they are unable to attend today's meeting. No public testimony was submitted. *Commissioner Loisel made the motion to continue the matter to October 5<sup>th</sup> and Commissioner Kirby seconded. Motion carried unanimously, 6/0 with Commissioner Imhof excused.*

2. **PROPOSED ZONING ORDINANCE AMENDMENTS RELATING TO TENTS AND CANOPIES IN UNINCORPORATED EAST COUNTY AND RURAL AREAS. Staff Planner: Rodrigo Orduña**  
(Continued from June 15 and August 17, 2009)

Mr. Lopez noted that there has not been a consensus either way from the Winegrowers Association although most of their concerns have been addressed. He further read a portion of an email from the Association. Mr. Orduña presented the staff report.

Public testimony was called for. Steve Powell, 5143 Tesla Road, pointed out that this Ordinance has been in the works for two years and will only impact his business.

Public testimony was closed. At the request of the Chair, staff provided an explanation on 'required yard' (Page 3, Section 17.52.1120 Restrictions). Commission Kirby thought a 400 square-foot canopy in the required front yard setback would be excessive for residential uses. A discussion followed regarding required setbacks, accessory structures in the required front yard setback or the front half of a parcel or in a building envelope and #4 under Restrictions on page 3. Commissioner Kirby recommended rewording #4 to prohibit tents/canopies in front portion of a building envelope. The Chair also requested clarification regarding the Winegrowers Association's response to the use of tents and canopies for RV storage. Mr. Lopez indicated that the Association supports this use as an improvement to uncovered RV storage. The existing Planned Development zoning allows either covered and uncovered storage, and a change from uncovered to covered storage can take place through the SDR process. *Commissioner Kirby made the motion to approve the Ordinance with the above minor modifications; the word 'lot' to be replaced by 'building envelope for residential uses in Agricultural zoning Districts' in #4 (Page 3, Restrictions). Commissioner Carbone seconded. Commissioner Loisel said that she was unsure of the effect and intent of the Ordinance as indicated by the Winegrowers Association and, as such, would not support the motion. The Chair pointed out that this issue had originated from discussions regarding related problems in the West County. Motion carried 5/1/1 with Commissioner Loisel dissenting and Commissioner Imhof excused.*

3. **JAMES SILVA, VARIANCE, PLN-2009-00010** ~ Petition to allow a non-permitted garage located in the front half of the property where otherwise not allowed, and within six feet of the side property line of the front half of an abutting lot, in an R-1-B-E-CSU-RV (Single Family Residence, Minimum lot size 10,000 square feet, Median lot width 70 feet, Conditional Secondary Unit, Recreational Vehicle Parking Regulations) District, located at 4235 Krolop Road, south side, approximately 96 feet west of Vineyard Road, Castro Valley area of unincorporated Alameda County, designated County Assessor's Parcel Number: 084D-1140-009-20. (Continued from August 17, 2009) **Staff Planner: Carole Kajita.**  
**This item was moved from the Consent Calendar.**

Mr. Orduña presented the staff report.

Public testimony was called for. James Silva, applicant, stated that he would gladly comply with all the nine recommended Conditions of Approval.

William Burton, 4182 Krolop Road, submitted photographs of the view of the street and neighboring properties driving from his property; and further read his written testimony. Mr. Silva's reason for an exception does not have merit as he, a licensed building contractor, was aware of the requirements. The existing two-car garage is deeper than the new garage. Mr. Silva should operate his business at another location with appropriate parking facilities instead of encroaching upon his neighbors. The subject property is already built-out. Mr. Burton said his main concern is the 7.5 feet setback from the street. Parking in the driveway will result in the vehicle rear protruding out on the street.

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Although cosmetically attractive, the garage is in a wrong place. Mr. Burton urged a denial.

Public testimony was closed. Commissioner Kirby thought that the variance procedure was not appropriate and he could not make the Findings in the affirmative. If covered parking in hilly areas with narrow streets is to be considered an important issue in the Castro Valley area, he suggested a study with perhaps a recommendation for an exception, similar for development on a slope. Although Commissioner Rhodes concurred that the variance procedure was not appropriate, he noted the following: the de-facto setback is approximately 20 feet, parking in the driveway will not interfere with any foot traffic which is limited due to the location of the adjacent retaining wall; the facts on the ground are different than those on the map; the neighborhood in general supports the project; and the parking availability is not affected. He could not make the second Finding in the affirmative. Commissioner Ready said she had supported a continuance so she could make a site visit and could not make any Findings in the affirmative. Commissioner Carbone said that although he agreed with the Commission and he could also not make the Findings in the affirmative, he felt that there is a need for some flexibility for certain neighborhoods and perhaps some directive to CVMAC. He noted that there are numerous properties with similar situations in Castro Valley. Commissioner Loisel stated that she could not make the Findings in the affirmative either and noted that there were other properties with violations in the area. She also agreed that there should be another means to address such situations. *Commissioner Kirby made the motion to deny the application with a separate recommendation that staff work with CVMAC on this general issue for a possible area-wide solution; and the enforcement of the denial be held in abeyance until such time as an area-wide solution is found, if the CVMAC recommends one. Commissioner Loisel seconded. Motion carried unanimously, 6/0 with Commissioner Imhof excused.*

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

**CHAIRS REPORT:** *The Chair noted the change in time and location for the next CCPCA in October.*

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

**ADJOURNMENT:** *There being no further business, Commissioner Carbone moved to adjourn the meeting at 7:30 p.m. Commissioner Kirby seconded the motion. The motion was carried 6/0.*

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**ALBERT LOPEZ, SECRETARY**  
**COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY**