

**CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL  
MINUTES FOR SEPTEMBER 13, 2004**

(Draft to be approved)

- 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, Jeff Moore, and Carol Sugimura.  
**Council members excused:** None.  
**Staff present:** Steven Buckley, Bob Swanson and Maria Elena Marquez. There were approximately 20 people in the audience.
- B. APPROVAL OF MINUTES – Ms. Sugimura said she will submit her corrections to the secretary. Mr. Frank moved and Ms. Goodbody seconded that the Council approve the minutes of August 23, 2004, with modifications provided by Ms. Sugimura. The motion passed 5/0.**
- C. PUBLIC ANNOUNCEMENTS:** None.
- D. REGULAR CALENDAR**

**1. ZONING UNIT, ZU-2193, AND TENTATIVE TRACT MAP, TR-7530 – ROBERTS/UTAL** - Petition to reclassify a site comprising approximately 8.25 acres from the R-1-SU-RV and R-1-B-E-SU-RV Districts to the PD (Planned Development) District and Tract Map 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 stated that tonight County staff is soliciting any comments or concerns about the content within and the issues raised by the Draft Environmental Impact Report (DEIR). The project is not yet ready for recommendation or action. The project proposal would subdivide the site into 37 residential lots that would contain single-family homes, and one custom home lot. The subdivision would be served with necessary infrastructure including water, sewer and storm drainage, and would contain an internal loop road. Access to the site would be provided via construction of a new bridge connecting Crow Canyon Place to the project site across Crow Creek. Secondary access would be provided via an emergency vehicle access route at Veronica Avenue. The DEIR did not identify any environmental impacts that were unmitigable. The DEIR analyzes three alternatives: No Project / Likely Circumstances; Creek Setback with a Planned Development Layout; and Creek Setback with Townhomes Alternative. The environmental consultant is here to provide additional information. The Applicant is also here to do a presentation about their development proposal.

Mr. Nielsen referred to the gross square footage of the lots and said they went through this with the Alcorn property, and whether larger lots were included in the calculation, since previous considerations by the MAC excluded certain areas from square footage consideration. Mr. Buckley said that the report discusses gross and net footage. Mr. Nielsen said he is surprised to see these parcels still included in the scenario. Mr. Buckley pointed out pages 4-19 and 4-20 of the DEIR and the conclusion is that these lots are generally smaller than the lots in the surrounding areas but not substantially. Mr. Buckley said he will make sure it will be clear in next staff report.

Public testimony was called for. Arlene Utal, Applicant, gave a brief history of the property and using graphics, explained the site plan. The property is surrounded by a creek on two sides, and existing development on the other sides. The owner of the property has been at the site for about 80 years and has two homes on the site. Veronica Street is a small cul de sac that provides access to a private driveway onto the site, and would remain as an Emergency Vehicle Access. They are planning to build a new bridge as a new entrance from Crow Canyon Place, similar to the original access to the site before the old bridge was removed by the owner several years ago. The project consists of 37 homes, the average house is about 2,500 square feet and the average lot runs about 5,000 net feet and the gross is about 9,000 feet. The homes include three different models with a total of 9 different elevations, a sidewalk which loops the entire community along a private road, to be maintained by the homeowners association.

Mr. Frank asked about the roadway and the parking arrangements. Ms. Utal said that all the houses have two car garages with a minimum of two car driveways. The road width is 12 feet for travel lanes, 35 feet wide in some areas and an additional 6 feet has been added to accommodate the fire truck turning, and parking bays along the sides of the road to provide ample guest parking. There is a 5 foot sidewalk, and driveways would be measured from the back of the sidewalk to provide ample parking.

The Council discussed issues regarding fire truck turn around, street parking, sidewalks, street width and pedestrian walkways.

Mr. Carbone asked if widening Crow Canyon Place has been considered due to the tremendous amount of traffic that is going to be generated. Ms. Utal said that the road itself is wide enough, but that "no parking" could be imposed on one side of the street where an existing office building is developed, and that the office owner has also requested this. A walkway runs along that side of the road that connects to a small park, and the intersections are no problem based on traffic reports as there is a turn lane in the center of Crow Canyon Road. She said she has been on the site many times and she has never seen anyone on that cul de sac, so there is very low traffic.

Mr. Frank requested clarification about the lot sizes, and asked if the County has worked on compensating open space. He asked Ms. Utal if there is a net average lot size. Ms. Utal said they looked at the overall area and it is a very mixed neighborhood.

Mr. Frank pointed out the Ravenswood Condominiums which does not have yards. Mr. Buckley said that Ravenswood has been a point of comparison and this project will be substantially less dense than that project.

Mr. Frank said that since the square footage of the single family homes varies, he would like to see additional lot size consistency analyzed. He asked how the larger homes would fit in the area.

Ms. Utal said that the project is similar to the overall community. Lots on Veronica are from 4,600 to 6,000 square feet.

Mr. Frank asked whether we could get a more general comparison that is going to make sense to the developer and for the general neighborhood so we do not get into an argument over semantics. He told Ms. Utal that it is important that she finds out what makes sense for the public interest. That is why Ravenswood was mentioned, because Ravenswood is a high density area.

Ms. Adesanya said that the PD District alleviates some of the concerns related to the other single family homes in the area, but that certain public benefits are needed to justify the PD zoning. Mr. Buckley said that the applicant has certain objectives that the County is evaluating. For one thing, these houses will have more open space by having the creek as their backyard.

Mr. Frank said if the project is approved as proposed, the association will need to maintain the open space area as part of the association dues.

Ms. Utal stated that the project provides a scenic easement behind all the properties in the creek area, and the homeowners association will be responsible for it. At the Planning Commission meeting last week, testimony was submitted from neighbors and Friends of the Creek. She assured that they were very much sensitive to the creek issue and are putting a lot of consideration and mitigation toward protecting the creek.

Mr. Moore said he agrees with Ms. Utal. He is concerned about the net and gross lot areas but that a large part of the area is reserved for the creek. On the other hand, the setback requirements are a two to one slope, so the project needs to respect that.

Ms. Adesanya said average net lot is not much smaller than 5,000, which she thinks is a little bit too tight. Ms. Utal said that the houses will each be 35 feet wide maximum, and the lots that are small are also along this creek; the pads for the lots are small, but the adjusted lot size is 9,000 square feet.

Ms. Adesanya asked for the front yard setback. Ms. Utal said that they considered various designs, including the townhouses that are one of the options in the EIR. But after numerous neighborhood meetings, the neighbors opted for single family detached

homes and opposed a higher density cluster type of project. Ms. Adesanya asked for similar developments, and whether they were successful and why.

Ms. Utal mentioned Shadow Creek and Crow Creek where density is comparable. Mr. Buckley said that he can provide the comparison.

Mr. Nielsen said that the general concern is that we are comparing the lot sizes to everything else to the west and to the north, but there are 8,000 square foot lots close to this project and he is concerned about the value of a 8,000 square foot lot in comparison to this and the sizes of the lots to the north. Mr. Buckley said that those facts are in the EIR. The comparison is part of the calculation and there is a substantial difference between one side and the other. Mr. Nielsen agreed with Mr. Buckley in regards to the difference between the lot size and the home sizes to the north and to this development.

Ms. Utal said that a new project was just approved for 16 single family homes on lots of 3,500 square feet along East Castro Valley Blvd.. Mr. Frank said this was a PD District where there had previously been a proposal for a public storage facility. In fairness to the Applicant, he requested figures on the lot size. Ms. Utal said that they did a very extensive analysis a mile around the entire property.

Mr. Carbone said the biggest problem is traffic impacts on the residents of Crow Canyon Place, and Crow Canyon Road, as well as the impact to the neighborhood. There are larger homes on larger lots, which was consistent with the neighborhood.

Mr. Frank agreed, but said you also have to look at what you are proposing in terms of the PD being proposed in the immediate area, in terms of public input and what is the impact in the general neighborhood, how many homes were in that development in the PUD.

Mr. Moore asked if the applicant, as part of the EIR, has to provide an analysis of the lot size consistency.

Ms. Utal felt that the proposed bridge and the other elements similar to other projects in the area will provide a great comparison which needs to be included in the EIR.

Ms. Adesanya said that parking is often horrendous on private streets such as at Crow Creek; since street parking does not work there, it provides a comparison of something that has been there for a long time, at least 10 years. Ms. Utal said that a lot of people do not have their own parking in front of their garages, which was a big concern and as such the Boundary Creek project proposes at least two car minimum driveways. Ms. Adesanya said there is not enough guest parking over there, people park on the bridge and areas not allowed, which provides a comparison for the actual parking per unit and guest parking for this development. Ms. Utal said they could include that in their presentation. Ms. Adesanya also noted the buffer created between that PD and the single family homes that were impacted by noise. Ms. Utal noted that residents are comfortable

around this area as their homes sit back off Crow Canyon Place. They are about 100 to 200 feet down and probably 20 feet below the street, so the homes on Crow Canyon Place would not be affected by cars driving by because they can not really see them. In reading the County's Housing Element, it was very clear that they wanted to see a minimum of this density and one of the alternatives in the EIR even considers 70 units on site to be a very high density project, so they went to the fair comparison, 5,000 square foot lots except for one which is an acre and a half. The zoning on the Crow Canyon Place side is 10,000 foot minimum, so we exceed the zoning on this side of the creek to build one single family house.

Mr. Frank asked Ms. Utal how much of that area is actually usable. Ms. Utal said that there are flat areas.

Jason Chafin, EIR consultant, briefly described the purpose of the EIR and the project. He also identified alternatives, environmental impacts and their recommendations. He stated that the applicant has requested an exception from the set-back requirements of the Alameda County Watercourse Protection Ordinance. The EIR is in the required public review and comment period, beginning August 23 and closing October 8. The DEIR was presented to the Planning Commission in a previous meeting. Written and oral comments will be addressed in a Final EIR. There will be a hearing on the final EIR in October or November. They did a tree survey and are recommending a tree protection zone and replacement program. He described the hydrological impacts and said that the land use is generally consistent with the Castro Valley Plan and the average density is compatible with the adjacent neighborhood. Using any of the methods for calculating the Project's proposed density as presented, the project would result in an average density that would be substantially less than the adjoining Ravenswood town home development. It would have an average density substantially higher and lot sizes substantially smaller than the adjoining Crow Canyon Place neighborhood. On a net acre-to-net-acre basis, the project would have an average density comparable to the adjoining neighborhoods on Veronica, Gem, and David, and an average lot size generally the same as the predominant 6,000 square foot lots in these neighborhoods. Given the variety of residential densities and housing types in the immediately surrounding area, the proposed project would be compatible with the adjacent and surrounding land uses. Even though 273 trees will be removed, it is largely invisible from Castro Valley Blvd. and Crow Canyon Road where trees will be preserved on the outside of the creek. The exception to the Watercourse Protection Ordinance is what the Applicant is requesting. The ordinance is designed to address flooding, erosion and riparian protection. Detailed mitigation measures are included in the EIR. The Draft EIR identifies, evaluates and compares a range of alternatives. These include the following range of alternative development plans for the project site that would be consistent with the creek setback standards of the County Watercourse Protection ordinance. Alternative 1 "No Project" alternative, likely circumstances; Alternative 2 - Creek Setback with a Planned Development (PD) Layout; Alternative 3 - Creek Setback with a Townhome Alternative. There were no archeological resources in the area.

Mr. Frank asked if there is a play area, which is a main concern. There should be a soccer area and basketball courts. Danville, Alamo, San Ramon, Pleasanton, they all have a place for kids, open space and park areas. Mr. Frank said that perhaps the Applicant should consider some mitigating circumstances that would minimize the impact of a higher density on families. Mr. Chafin said he will take this into consideration during the review period.

Council members continued discussing issues regarding removal of trees, alternatives, project density, and other related issues and commented on the EIR. Mr. Chafin said they analyzed the project as it was proposed, and recommended mitigation measures that would address the impacts of that proposal.

Ms. Adesanya said that alternative #2 meets all the project objectives as well as the density reduction and reducing to 33 homes was a good viable alternative.

Public testimony was called for.

Howard Beckman, a San Lorenzo resident, said he works in the public interest and one of his specialties is CEQA. He is a member of Friends of San Lorenzo Creek, a non-profit organization. This is their first opportunity to work on a creek related project in Castro Valley. He has read the EIR to some extent, and added that if the Board of Supervisors were to approve the project as proposed, it will be an unparalleled environmental issue in his memory. The builder wants to rezone in order to create narrow streets and to get the higher density, he wants to get a variation from the creek set-back in order to get the maximum number of homes. In order to do this, he wants to create level building pads, none of which is illustrated in the EIR. Finally, in the interest of Friends of the Creek, this project cannot be mitigated. Mitigation is in the eye of the beholder. In response to many statements in the EIR, he will comment in writing. This project is absolutely inconsistent with County policies. The mitigation measures do not mitigate any of the disturbance of the habitat with wildlife and vegetation concerns. He thought that the ultimate question for the Castro Valley MAC and the Castro Valley community is what value it will place on the Creek. These creeks are part of the San Leandro Creek system. The San Lorenzo Creek is the largest, most vigorous creek in the East Bay. Finally, he said that he noticed in the analysis of the alternative, that the property owner and the builder can build a lot of homes under existing regulations without affecting the creek. Alternative 1 and Alternative 2 in the EIR are environmentally superior. The Alternative 1 has its misleading name "No project", which is actually a housing project that would allow 29 houses but it also respects the existing policies and regulations, and that is what should be required in the mitigation. In addition to Alternative 1, one consideration that is lacking in the alternatives is the question of the grading; it is unacceptable as it is.

Janice Delfino, resident at 18673 Reamer Road, stated that she has lived in Castro Valley for 49 years with her husband. She does not think she would allow small children to venture over from this project into Laurel Park alone, as there are strange people there at times. The document states that there are parks nearby. She also pointed out that in the

documents where it says Cull Creek it should be Crow Creek, which has steelhead trout, a special kind of fish and therefore, the creek set-back should be 100 feet. Although the County has a 20 foot set-back, endangered species should be a minimum of 100 feet. The removal of the trees which would be replaced by Valley Oaks, her other concern, was they do not belong in this particular area. No mention was made of the Indian grinding stones since this project takes place on both sides of the creek. These are artifacts of archeological finds. She asked if anyone took into consideration the bridge over the creek for the grinding stones, as Indians were here, they used the grinding stones, and there are acorns this time of the year. The analysis should be revised. Since there will be substantial storm water runoff, Ms. Delfino suggested a storm water retention mitigation. Mr. Nielsen asked for the location of the Indian grinding stones. Ms. Delfino said that they are below the bridge.

Jim Trevizo, resident at 4351 Veronica Avenue, stated that he has also seen the grinding stones in this location. He is concerned about all the trees that will be cut down. The applicant has not discussed this issue with the neighbors. The project will have an environmental impact on the creek due to the retaining walls.

Frank Delfino, resident at 18673 Reamer Road, stated that this is a request for a PD and variance and should be denied. He asked which part of Public Works is spending money to try to restore habitat for fish and the creeks in Alameda County. All of a sudden here is a little project that is just the opposite. He has talked with people who are involved with water quality. He told council members to be careful of what they approve, that has to be maintained by the home owners association, because you can be sure that within two years all those houses on the creek are going to be using it as a private area, including landscaping, pets, etc.

Diana Hanna, resident on Cull Canyon Road for 49 years. She stated that she has several comments on the Draft EIR. She agreed with the previous speakers. However, she disagreed with the 100 feet creek set-back. Under Federal law for threatened species, a 300 feet set-back is required. She also agrees with Mr. Nielsen that there is no consistency with the trees being removed. The water quality is a potential impact for fish habitat and there will be a potential significant impact where the bridge will be constructed. The project should be redesigned to avoid the riparian corridor. She also referred to special studies. There is a need to include some sort of open space park area for children.

Kim Dunn, resident at 4336 Veronica Avenue, stated that they are being affected by traffic and a lot of noise. She agrees with what previous speakers said about the creek; just too many homes for the area, and homes are too large for the lots. Comparison of square footage cannot be made to Veronica because Veronica does not include the street. There will be no privacy between the neighbors. Everyone is worried about large homes on Crow Canyon and nothing has been offered to the community.

Vadim Pokotylo felt that 300 feet radius notification process is not adequate considering the scope of the EIR. First, he has not seen what is going to happen to Crow Canyon. Secondly, he disagrees with the creek ordinance to justify significant impact to the creek. The removal of 370 trees will affect air quality and noise, and the mitigation proposed will not reduce it to less than significant impact no matter what ratio you use. He hopes that there are more sensible and reasonable alternatives.

Kevin Davis, stated that he lives around the corner from this project on Sapphire Street, and that he has never been notified. We are here tonight to find out exactly what is going on. It seems like another one of those projects to “build as many houses as you can”. His concerns include removal of trees that have been there for a long time and lot size issue. He asked how many of these lots are under 4,000 square feet and with two car driveways in the front. The project on Veronica has smaller houses on 5,000 or 7,000 square feet, with huge yards. This does not comfort the community.

Ellen Hines stated that she lives on Gem Court and that the project will have a huge impact. This is a beautiful area with trees, wild habitat and large yard borders. She is really concerned about the environmental and personal impact and the noise is going to be horrendous. She is also concerned about her husband’s health problems and the air quality. This will really have a huge environmental impact and will be detrimental.

Public testimony was closed. Ms. Adesanya stated that more consideration could be given to the trees and asked if there are any good trees that could be preserved.

Ms. Utal said that the property owner is an older woman who is not going to be able to maintain the trees. Probably about 200 out of 300 trees are in poor or fair health, and a lot of them are falling down. Hundred of trees are not in this report because they are on the other side of the creek, and will not be removed. We are looking at the mitigation measure that was recommended. We will save a great deal of trees by not putting in the retaining wall and we are also looking at some of those mitigations recommended in the EIR.

Ms. Adesanya said that she was more concerned with the effort to save some of the trees and keep some of the natural characteristics of the property within the development.

Ms. Utal said they will make an effort not to remove any healthy trees. About 150 trees are in fair/good health. We will provide an update.

Mr. Frank requested that the process should be outlined to provide better understanding, provide responses and information on public comments including the creek set-back. Visually, we need to have a better understanding.

Mr. Moore asked Ms. Utal how many meetings she had with the neighbors.



Ms. Utal said they sent a package about six months ago before sending a formal application. Her company talked to 50 of the homeowners directly around the project, although they did not use the 300 foot notification process. They sent a small packet to the neighbors and also sent small cards asking if anyone was interested. She had also made 12-15 phone calls and met with people. Dee Roberts, the owner of the property, has been there for 80 years and knows all of the neighbors. In defense of the project itself, once upon a time no one lived on Gem Court or on Veronica. Now those people are asking why she is selling. Ms. Roberts is ready to retire and move on, and has the right to develop her property. Perhaps this plan is right or there are better plans, but we will do everything to save every tree we can, develop and protect the creek as best as possible. We just want to build homes as an infill project which is encouraged in all housing elements within the State of California.

Mr. Frank noted that many developers do not contact the neighborhood. Since the project will impact over 50 homes on Gem Court, Veronica and Sapphire Streets, Mr. Frank suggested making contact with all neighbors to obtain feedback. Ms. Utal replied that although no concerns had been raised, packages had been sent to the neighbors who would be most impacted and others had been contacted by phone.

Mr. Buckley said we are taking comments on the EIR, it is also in the spirit of the Zoning Ordinance to provide consultation during the PD process so you may comment on the project itself and that will be informative as staff brings the project back in October.

Ms. Adesanya asked Mr. Buckley, since it is a PD, to include the project benefits to the county on planned developments.

Mr. Buckley said that it is part of the findings we have to make, and he wanted to clarify that the EIR consultants work for the county and that the developer pays for that. We are directing their work, the applicant designed the project, and they are addressing to the environmental considerations of that proposal.

Mr. Carbone said that he feels this project is not a benefit to the community. He hopes that the benefits that the county sees will be something more tangible. If a benefit to the community is lower density, and he personally feels that the first alternative, and maybe the second is more applicable for this project than the one that they are proposing. Mr. Moore agreed with Mr. Carbone. If you do this, there will be less environmental issues and inconsistencies.

Mr. Nielsen said when you meet with the neighbors they tend to really care what is on their mind, but they cannot help us as far as the hearing process is concerned. It really can have a positive benefit for the community and make a development more acceptable.

Public testimony was closed. Mr. Buckley announced that written comments on the Draft EIR will be accepted through the first week in October. The Council agreed to continue this item to October 11, 2004.

**E. OPEN FORUM**

Howard Beckman said that the issue of Planned Development districts has become an issue for many people. He has talked to the Planning Director, Chris Bazar and has had a couple of meetings with county staff. Several people in the unincorporated area that are active in land use issues feel that the Planned Development district is abused by the County. He was unsure of the Council's views, but felt that they are part of that debate. Friends of San Lorenzo Creek has taken the initiative to draft a comprehensive creek protection policy for the county. The ROSA element of the General Plan is being revised at the present time and the creeks were completely ignored. He requested to have the creek issue addressed. Today we received a draft of the ROSA revision. Later, we will also draft the comprehensive watershed ordinance, including runoff issues, creek vitality, creek ecology, flood control, grading.

Mr. Moore commended Mr. Beckman for his work. On the PD issue, there has to be a benefit to justify the relaxation of the ordinance; it came up very strongly that we want to see the benefits so it does not become a vehicle to subvert the zoning ordinances. Mr. Beckman said that he is happy to hear that because it is not mentioned in the Planning Commission discussion. Mr. Frank told Mr. Beckman we can include something on the general meeting agenda and perhaps he can talk further about that.

Mr. Beckman said that he really wanted to come here to talk about creeks. Mr. Frank told him that for creeks in general, they could have a generic discussion for beautification as part of the Eden Area Livability Plan; that might be something that can be discussed further. Mr. Beckman said they have spoken to the Hayward City Council and their Planning Commission and they plan to have some meetings on creeks with various creek groups, government employees, planners, public works people as well as elected officials to raise consciousness about the creeks.

**F. CHAIR'S REPORT** – Mr. Frank informed about the general purpose meeting next Monday.

**G. COMMITTEE REPORTS** – None.

**H. STAFF ANNOUNCEMENTS, COMMENTS AND REPORTS** – None.

**I. COUNCIL ANNOUNCEMENTS, COMMENTS AND REPORTS** – None.

**J. ADJOURN** – The meeting was adjourned at 8:50 p.m.

**NEXT HEARING DATE: MONDAY, SEPTEMBER 27, 2004**