

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

MINUTES FOR December 13, 2004

(Approved as corrected January 24, 2005)

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. **Council members excused:** Carol Sugimura. **Staff present:** Tona Henninger, Steven Buckley, Brett Lucas, Bob Swanson and Maria Elena Marquez. There were approximately 30 people in the audience.

B. APPROVAL OF MINUTES OF September 13, October 25 and November 8, 2004

Mr. Nielsen moved, Ms. Goodbody seconded that the Council approve the minutes of September 13, October 25, and November 8 as presented. The motion passed 6/0.

C. PUBLIC ANNOUNCEMENTS:

A member of the audience announced that Jeff Moore was nominated "Business Person of the Year" for Castro Valley.

D. REGULAR CALENDAR

- 1. CONDITIONAL USE PERMIT, C-8145, and BOUNDARY ADJUSTMENT PERMIT BA-20-04** – Application to realign three existing lots in order to build a new assembly hall for the Plymouth Brethren IV Church and to temporarily place a portable building on the site to hold meetings while the new meeting hall is being constructed, in an R-1-SU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 4035 Seven Hills Road, south side, 180 feet east of Parsons Avenue, unincorporated Castro Valley area of Alameda County, designated County Assessor's Parcel Numbers: 084D-1342-38-00 and 084D-1342-004-00.
Informational Report Only – No Action

Ms. Adesanya recused herself. Mr. Buckley presented the staff report. He said that this item is set for environmental review. This is an initial meeting to provide an opportunity for comments and issues that the public believes needs to be addressed in the initial study. The Environmental review will be published for additional public comment.

Glenn Brothers, representing Plymouth Brethren IV Church, approached the podium. Mr. Brothers stated that this church is part of a worldwide congregation. It has 69 local members. Members of this church had previously been meeting for the last 40 to 50 years in Oakland. The church would like to relocate to Castro Valley. The church purchased property two years ago and have submitted proposed site plans. Mr. Brothers stated that they have plenty of parking for the congregation. They have met with the Planning Department, the Clean Water Agency and the Fire Department to address any concerns in regards to the project. Mr. Brothers stated that they feel they have addressed all concerns expressed by these various agencies. Mr. Brothers stated that they have had meetings with neighbors and have also gone door to door to address any concerns they might have. Mr. Brothers stated that at the former site in Oakland they had a very good relationship with all the neighbors and plan to continue to be a good neighbor at this new location. Mr. Brothers shared drawings of the proposed building. He stated that it is a low profile building. The church does not plan to rent the building to anyone, the building is intended for religious worship only. Mr. Brothers expressed his desire to work with the neighbors or the council in regards to any concerns they might have on the proposed plans.

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Mr. Nielsen asked if the private road and the emergency access will be combined. Mr. Brothers answered yes. Mr. Nielsen inquired about the hours of operation. The Applicant answered that the hours will be from Monday through Friday, 7:30 p.m. to 9:00 p.m. in the evening, Saturday, 9 a.m. to 10:30 a.m. and Sunday morning service at 6:00 a.m. 9:30 a.m. and 4 p.m. Mr. Nielsen asked if there will be a youth choir during evening services. The Applicant said no. Ms. Goodbody asked Mr. Brothers if they intend to hold any type of ceremonies. Mr. Brothers answered only weddings, no large gatherings. Mr. Kenny Holt, representing the Applicant, mentioned that some of the plans had been changed to accommodate a landscape buffer on the side of the building and closest to a neighboring house.

Michael S., resident at Vaughn Avenue, said he has two issues in regards to this building. The speaker stated that the applicant said that there was a meeting at the church about two weeks ago but neither he or many of his neighbors were not notified of the meeting. One of the issues is that they would like to keep the street the way it is; if the church wants to get rid of those ugly eucalyptus and palm trees that is okay. As far as the gate that the applicant said they will be using for emergency or temporary access he wants to emphasize that the street should remain a dead end street. He would like to see the environmental impact report if it is completed. He and his neighbors have had problems with water, drainage and a retaining wall. There have been problems in regards to water and sewage coming into the lower parts of their residences. They are very concerned with the level of water in this area.

Mr. Frank closed the matter before the public. Mr. Nielsen asked the applicant about to the water and sewage issue the neighbor just mentioned. Mr. Brothers explained that both issues will be addressed by the Clean Water Department. There will be a new engineered system for the property. Mr. Brothers wanted to mention that there were lots of notices informing the residents in regards to the meeting for the neighbors.

The Chair asked that the developer try to mitigate any impact and address any issues addressed by the neighbors.

- 2. CONDITIONAL USE PERMIT, C-8345 – PEREZ -** Application to allow continued operation of a community care facility for 33 elderly adults, in an “R-1-SU-RV” (Single Family Residence, Secondary Unit, Recreational Vehicle) District, at 17926 Apricot Way, east side, 70 feet north of Seaview Avenue, in the unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 84C-0921-108-02.

Mr. Buckley presented the staff report. He said that the application is for a renewal. Mr. Frank asked Mr. Buckley about the third bullet in page 3 of the Staff Report. Mr. Buckley said that staff has visited the site, the issue has been resolved and there were some outstanding fees. Mr. Frank asked about the building maintenance and if those matters have been resolved. Mr. Buckley answered yes. Mr. Carbone said that this matter was set up for a one year evaluation.

Mr. Tony Perez, the Applicant, stated that he did not have much to say. Mr. Perez stated that he has attended various meetings, the facility has gone through some problems and some neighbors have expressed concern with certain issues. Mr. Carbone mentioned that he had to meet all requirements. Mr. Perez said that he and his wife are registered nurses. He is retired from the Navy. When asked about Code Enforcement fees not paid so far, Mr. Perez said he will be glad to

pay the fees. Mr. Perez stated that he and his wife are members of the Cornerstone Baptist Church in Pleasant Hill and the Foothill Baptist Church in Castro Valley, and they want to extend their ministry to the elders of the community. The continuance of the use permit for this facility will benefit those who are elderly residents. Mr. Perez stated that they have made considerable improvements to the facility and addressed the concerns of the neighbors.

Public testimony was called for.

Irma Virgilio, resident at 17910 Apricot, said that the facility is a good neighbor and asked the Council to continue their use permit.

Mr. Frank asked council members for their recommendations. Mr. Carbone said that he spoke with one of the neighbors and that he is satisfied. He has no reason not to approve the conditional use permit.

Mr. Carbone made motion for approval of C-8345 for 3 years. Mr. Carbone emphasized that all of the guidelines will still be part of this permit and that nothing changes. All in favor. Mr. Nielsen seconded. Motion passed. 6/0.

- 3. TENTATIVE TRACT, TR-7580 – HEYER DEVELOPMENT, LLC** – Application to subdivide one parcel into six lots, on one site containing 41,320 square feet (0.95 acres), located at 4261 Heyer Avenue, south side, corner of Beverly Place, unincorporated Castro Valley area Alameda County, bearing County Assessor's designation: 084C 0750-009-00.

Mr. Buckley presented the staff report. He said that the Applicant has worked with the adjacent neighbors to address their concerns. Mr. Buckley pointed out that there is also a lot size consistency report attached to the staff report. Neighboring lots range from 5,000 square feet to 12,000 square feet. The size of the lots for this project appear consistent with this neighborhood.

Mr. Nielsen asked if the zoning is for 5,000 sq. ft. lots. Mr. Buckley said yes. Mr. Frank asked if off street parking has been considered. Mr. Buckley said that the turnaround is kind of short, more for vehicles inside the property. Mr. Nielsen asked if the Fire Department approved this project. Mr. Buckley said yes.

The Applicant was invited to come to the podium.

Mark Crawford introduced himself and said he is working with the Applicant in this project. Mr. Crawford stated that the applicant has worked with the adjacent neighbors to address any issues of concern. He pointed out that most of the development on Beverly Place are 5,000 square foot lots. Mr. Crawford stated that this is a good development.

Public testimony was called for.

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Russ Peves, resident at 4192 Mabel Avenue, said that he has been a 45 years resident of Castro Valley. He received the notice in the mail. His concern is not the lot size but the loss of privacy. There are lots of trees on this property, 30 to 40 feet tall and is concerned that they will be chopped down. Mr. Peves stated that he does not like the thought of having two story houses and neighbors looking down into his yard. The houses, that have been infill on Beverly and Helen, are single story homes, one story or two story subdivision.

Mr. Frank asked Mr. Buckley to look into the concern expressed by Mr. Peves with the two story homes. Mr. Buckley said the tract map has conditions such as landscaping to address privacy concerns.

Mr. Foster, resident at 4249 Beverly Place, said his house is right across the fence from this project, the turnaround will be right at the end of his house. His concern is with privacy and noise issues. Vehicles will be turning around, and the limitation of the turnaround will make it very hard for Waste Management trucks and other vehicles will have a difficult maneuvering.

Mr. Carbone asked Mr. Foster if he is opposed to the construction of the roadway of this property . Mr. Foster said no. Ms. Adesanya asked if the homes are one or two stories. Mr. Buckley said there is one story house at the end of the road. Mr. Frank asked how wide is Beverly Place. Mr. Buckley said he believed it is 25 feet with curb.

Robert S. Schaefer, resident at 4204 Beverly Place, said he and his wife have lived for 20 years at this address. He is a member of a pioneer Castro Valley family, his deceased father was the former chair of this Council, his mother-in-law teaches in Castro Valley public schools. He said that the artist rendition of this drawing is inconsistent with the plans. It demonstrates the entryway to Beverly Place, however does not demonstrate what is supposed to be the immediately adjoining the entryway to the proposed subdivision. His understanding is that the proposal for the subdivision involves two story houses. Their home is on Beverly Place and is one story. Mr. Schaefer stated that there are also quality of life issues. What is the impact going to be to the home owners as far as the construction hours 7 a.m. to 7 p.m. Monday through Friday, and Saturday and Sunday. He said they spent a year calling and complaining. He is against infill subdivision off Heyer Avenue for safety, traffic considerations, impact of construction disruption, noise and quality of life impacts. They are asking to create subdivision. He said council members are aware of all infill on Heyer Avenue. It is time for the council to limit construction hours.

Mr. Carbone asked Mr. Schaefer what are reasonable work hours for him. Mr. Schaefer said Monday thru Friday 8 to 5 and 9 thru 4 on Saturdays and no construction allowed on Sundays.

Richard Rufer, resident at 4307 Heyer Avenue, is concerned with the impacts to air quality. Mr. Buckley said there would be insignificant impacts to air quality. Mr. Rufer said that a bunch of buildings, concerned with the soils structure having toxic materials, not toxic and not polluting. Mr. Buckley said that the Applicant may be able to provide additional documentation as to the conditions. Mr. Rufer said that the existing site was not just a residence, it is a very old structure.

Mr. Buckley said that if the project receives a favorable recommendation by the Planning Commission, the existing family residence will be demolished. The applicant will need to apply for a demolition permit.

Gordon Sims, resident at 4207 Beverly Place, said he has lived in Castro Valley for 30 years. They moved to Beverly Place to a single story building, very quiet and no traffic. He agrees with comments that Mr. Schaefer made, the infill situation is getting out of hand in Castro Valley and we have to give it a hard look.

Barbara Foster, resident at 4249 Beverly Place, said that their house is one directly at the end of the driveway and 6 feet from the development. She asked if there will be any kind of barrier between the development and their home. Also, she said that there are some lovely old trees and if they could be protected. She also complained about noise from cars.

Mr. Frank closed the issue before the public and called the Applicant to the podium.

Mark Crawford addressed the issues from the speakers. He stated that the privacy issues can be addressed in different ways. He stated that some of the homes could be designed so that there will not be any windows on the side of the neighbors. Mr. Crawford stated that the applicant is willing to use architecture and landscaping to address any of the noise and privacy issues. Regarding the existing trees on the property, extra efforts can be made to save them. As for Mr. Foster's concern it is a turnaround is more like a parking space, not a turnaround. The artist drawing created for the meeting of the Homeowners Association on Beverly was to give some idea of what the project might look like. Mr. Crawford stated that he has not been able to come to an agreement in regards to Beverly Court. The construction hours will be Monday through Friday, from 6 a.m. to 7 p.m. Regarding Mr. Russ Peves comments on dust, the Applicant is giving close attention to make sure that dust is kept to a minimum. As far as the soil is concerned there has not been a history of industrial use on this property so there should not be a concern with contaminated soil. In regards to the existing home, the applicant has to apply for a demolition permit from the Building Department. As far as Mr. Sims' issues on noise and turnaround, some landscaping and some other measures will be considered to lessen the impacts on his property.

Mr. Carbone asked Mr. Crawford about impact and what is he proposing for the divider between the two properties. Mr. Crawford said he believes 3 foot fence strip will be located on that side of Beverly Place. Maybe a 6 foot fence or some other type of fencing on our side. There is no landscaping showing on the plan. Mr. Carbone asked the height of the fence. Mr. Crawford replied it will be a 6 foot high fence.

Ms. Adesanya asked Mr. Crawford why did he choose the west side of the street. Mr. Crawford said that because it is naturally close to that side. Mr. Nielsen questioned the study done on the lot size consistency for the area. He stated that the surrounding lots are a little wider. The Chair asked if this lot is zoned PD. Mr. Buckley stated that it does not apply to this lot.

Mr. Carbone moved for recommendation for approval of TR-7580 with conditions of approval set forth in the Staff Report.

The Chair asked Mr. Buckley if there is a reason why they can't build single story homes. Mr. Buckley said that he believes the size of the homes and size of the yards would not allow single

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family story homes. Mr. Frank asked Mr. Buckley if he has any feedback from the neighborhood. Ms. Adesanya said that the County tried to require an additional landscape strip along the roadway.

All in favor. Motion passed. 6/0.

- 4. SITE DEVELOPMENT REVIEW, S-1955, LAVASSANI** – Application to allow the operation of a restaurant and tavern with banquet and conference facilities in the CVCBD, Sub 10 (Castro Valley Central Business District Specific Plan, Sub Area 7) located at 3295 Castro Valley Boulevard, south side, about 287 feet east of Chester Street, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 84A-0040-018-04.

Mr. Lucas presented the staff report. He referred to the responses of referrals.

Robert Lavassani, a Castro Valley resident for 35 years and applicant, apologized for the past nuisance in this address, and said that they are planning to have an enjoyable entertainment and delicious food, fine dining and dancing every Friday and Saturday evening at this location. Also offering banquet and catering facilities. The menu will include American, Italian, Mediterranean, Asian and Mexican food. Also, featuring business lunch buffet for \$6.50 daily from 11:30 a.m. to 3:30 p.m. Also, Sunday brunch from 11:30 to 3:30 p.m. He asked the support of the Council to complete this project.

Mr. Frank asked Mr. Lavassani what type of live entertainment he is planning for this facility. Mr. Lavassani said that he will provide music that everybody can enjoy. Mr. Moore asked if the same band will play weekly. Mr. Lavassani said it will be a different band every week. Mr. Carbone asked what age clientele is he targeting. Mr. Lavassani said all ages.

Public testimony was called for.

Judy Hyder, resident at 4941 Beacon Hill Drive, she is the property owner of the townhouses on Chester Street. She purchased the property at the beginning of this year, it is a complex of 3 building townhouse apartments, they have put much time, money and effort in completely turning around the property. She has very fine tenants. The back building borders the proposed project. In the past, there have been a lot of problems with this property. One tenant moved out in May because of these issues. There is loitering in the back of this property, drinking, wheelies and the pounding of the radio bass, skid tire marks, noise is a serious issue at this location. Because of the structure of the building people talk very loud at the back of the property and it echoes against the back wall. The sound is really intensified in that area. She asked if there is any way to change that; when people come out of the restaurant there will be gatherings around the cars. She doubts that is going to change ever. She asked if there will be security at all hours. Problems with the billiards hall were not only on week ends, it was any night of the week. There is garbage thrown over the cyclone fence, right on the parking lot on the property line. The owner of the property has never had to put any type of structure or create a buffer zone between the two properties. The other problem is that the second level of the basement and earthquake issues. Ms. Hyder expressed her concern with the banquet groups. She stated that her main concerns are noise, loitering and privacy.

David Cota, resident at 22652 Second Street, Hayward, representing CommPre (Community Prevention of Alcohol – Related Programs) said they have serviced Hayward and urban areas for 15 years. CommPre did not receive notice and found out about the application through the Castro Valley Forum, in the community entertainment portion of it. He said they are here to support the community members who are opposing the proposed project. He also questioned the Applicant in regards to the type of liquor license.

Dick Bigelow, resident at 20656 Redwood Road, approached the podium and said that he is the developer of the Beverly Place single family homes and the owner of the property to the east of this project that includes the ice creamery, the photography and the chiropractor. He is concerned with what happens to this adjacent property. The application sounds fantastic but if it is not it could turn into a Muggs like the one on Redwood Road, attracting lowlifes from all over the East Bay, who would engage in knife fights, shootings, stabbings, etc. He asked the Council if they are going to recommend approval to extend the continued use permit.

Mr. Frank asked Mr. Bigelow if he would like to see something else at this location. Mr. Bigelow said maybe combining the whole corner and make it a mini shopping center, but he has not had any cooperation from anybody. Mr. Nielsen asked Mr. Bigelow if he had any objection if it was only a restaurant. He said no, he would have no objection if it is a well run and well managed business.

Devon Corkery, resident at 20660 Edgewood, representing his father, Link Corkery, who sent a letter to the Council in opposition to the project. The letter was entered into the record. Also, Mr. Corkery read a letter sent by Keith Powers, one of his tenants. This letter was also entered into the record.

Roger Lowe, resident at 20948 Chester Street, adjacent to the property itself, expressed his concern with the noise. He asked county staff if all the neighbors were notified. Mr. Lowe said he walks every morning, 3 miles walk in the morning, and 3 miles walk in the evening and noticed that the notice was not posted that morning; it was posted in 3 places, right in front of the building and 3 more places, only south side of the boulevard where the building is not on the other side of the street; no pamphlets whatsoever on Chester Street. He has no mailer, nothing in the mail. His main concern is the liquor license. Supervisor Nate Miley has expressed his concern with the sale of liquor in Oakland and how it affects the neighborhood. This is another sale of liquor on Castro Valley Blvd. It does nothing for the community. Mr. Lowe stated that he is not against music but if they will be playing from Monday through Thursday, he thinks that 10 p.m. is more than adequate, weekends 11 p.m. until 2 in the morning is not right. Noise and liquor license are his main concerns.

Jo Ane Urrutia, resident at 18691 W. Cavendish Drive, Robert Lavassani's associate, referred to the concerns about loud music and said that they are not looking at heavy metal, but music for adults. She said they know that Hard Rack Billiards had a bad reputation. However, it was not from them, it was from the previous tenant. She said what they are trying to do for Castro Valley is a fine dining club, she assured it is not going to be loud and boisterous. Castro Valley can really use something nice, it is going to be done with care, and they reserve that right. They tried to clean the element that was there; they have been stopped for 5 months and it is not the

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Council's or their fault what happened in the past. She asked for the Council's help, and said they have obstacles to overcome.

Mr. Nielsen asked Ms. Urrutia if Mr. Lavassani has any other type of operation as he is proposing for Castro Valley. Ms. Urrutia answered no. She asked council to approve the project and that they are not catering to youngsters but to adults.

Marlene Hepp, resident at 38642 Cherry Lane, Fremont, said that she owns property next to Judy Hyder, and that with her explanation she has no more to add. She said she has lost tenants. It could be very nice, but approving a CUP for one year will mean that she might be losing more revenue on her investment. She said that one year is not going to be a big problem and asked Mr. Lavassani if there would be a dress code or cover charge, if there will be security outside, security happening during hours of operation, and after hours. As far as the bar is concerned, Mr. Lavassani said that the bar will be closed when the restaurant is closed. Ms. Hepp stated that it should close one hour earlier and they should have a dress code and cover charge.

A speaker from the audience stated that she has lived in Castro Valley for 47 years and mentioned the problems at the billiards. She said she knows the town, and she knows there were problems with the pool hall. She thinks that the club will be a nice place, and mentioned that most restaurants like Carrows, Bakers Square are closed at 9 p.m. so the club will be a nice thing to have as long as they have security.

Public testimony was closed.

Mr. Lavassani said that as far as security is concerned, there will always be security outside and inside, uniformed security, in the evening specially weekdays, dinner time security from 5 to 11 p.m. weekends and after closing. Mr. Frank asked Mr. Lavassani if he closes at 11 p.m., how is he going to address security after hours. Mr. Lavassani said he will lock the driveway. He said he will also address the noise issue in the parking lot. Mr. Frank asked Mr. Lavassani if he were at full capacity, assuming one parking space for 4 people, how many employees does he plan to have. Mr. Lavassani said he will have 20 employees. Mr. Frank asked where will the employees park. Mr. Lavassani said employees will have to find other places to park.

Mr. Nielsen mentioned the concerns of the community, he asked Mr. Lavassani if he would entertain working out a CUP for the restaurant with bar and to address some of the concerns of the community. The community is very sensitive about what happened in the past. He said he would feel much better about giving him an opportunity to respond to the community about noise concerns and suggested that he meet with County staff and work out the details. The Chair stated that he recognizes the past problems and that it is not Mr. Lavassani's fault but MAC is trying to improve the quality of life in Castro Valley. He has some concerns about the project. Mr. Lavassani said he will do his best to solve all of the issues.

The Chair asked that Mr. Moore recuse himself since he was mentioned in the staff report and made some comments in regards to the project.

The Chair said that people who live nearby called him and told him that they are concerned about the billiards. There are specific concerns about security, noise, after hours, parking issues,

overflow parking, employees in the street, hours of operation, liquor license, impact on adjoining properties and loss of income for the owners of rental properties.

Mr. Carbone addressed Council and expressed his concern with the future plans that Redevelopment has for this area and how the proposed project would affect those plans. The Chair stated that Mr. Lavassani does not have enough parking, and that he needs to address security issues. Ms. Goodbody concurs with the Chair. She recommends Mr. Lavassani to just sit down with County staff and find solutions to the different concerns. She asked Mr. Lavassani why he wants two bars, most restaurants have one bar. Ms. Adesanya asked if it was intended to be a nightclub or entertaining and dancing and if that is the case she does not see the need to close at 2 a.m. A family will not go to dinner at midnight. Mr. Lavassani said it will not be a night club. She also asked about landscaping, and Mr. Lavassani said they will have some landscaping.

Discussion ensued amongst councilmembers on redevelopment plans for the area and not wanting to waste Mr. Lavassani's time if this is not going to be approved. Marita Hawryluk, from the Redevelopment Agency, said that the strategic plan is currently in progress, looking into timeline. They have gathered a lot of information and anticipates coming to some conclusion in March. Redevelopment is looking at options for development along Castro Valley Blvd. Ms. Hawryluk said that part of the strategic plan is not only to identify the vision in regards to potential projects during the stages of more economic development for that area but actually for any site within the development area large or small, when they look at priorities, will identify various ways for the development potential in conjunction with property owners or landowners.

The Chair told Mr. Lavassani that the matter will be continued. Mr. Lavassani asked for how long. The Chair directed the applicant to talk to County staff and Redevelopment. Ms. Henninger said there are also code issues with the building. Mr. Moore told Mr. Lavassani that he has two applications, one is a Site Development Review and the other is a Conditional Use Permit for a liquor license and asked him if he would open without the liquor license, he assumes the other application will come up as soon as possible, he thinks he can get the permission for approval for the operation just opening the restaurant without a liquor license.

The Chair told Mr. Lavassani to contact the Redevelopment Agency. There are some areas you need to address and then come back with the directions. He made the motion to continue the matter to a future meeting date. The motion passed 6/0.

- E. OPEN FORUM** – None.
- F. CHAIR'S REPORT** – None.
- 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, JANUARY 10, 2005

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