

**MINUTES OF MEETING**  
**ALAMEDA COUNTY PLANNING COMMISSION**  
**SEPTEMBER 7, 2004**  
**(APPROVED SEPTEMBER 20, 2004)**

**FIELD TRIP**

The Commission convened at 224 W. Winton Avenue, Room 111, Hayward, California, at the hour of 1:30 p.m.

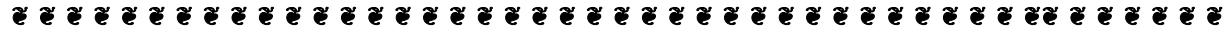
**MEMBERS PRESENT:** Mike Jacob, Chair; Frank Imhof, Vice Chair; Commissioners Compton Gault, Glenn Kirby, Lena Tam, Ario Ysit.

**MEMBERS EXCUSED:** Commissioner Richard Hancocks.

**OTHERS PRESENT:** Steven Buckley, Assistant Planning Director.

**FIELD TRIP:** The meeting adjourned to the field and the following properties were visited:

1. **TENTATIVE PARCEL MAP, TR-7549 – DAN BRIGGS** – Application to allow conversion of eight apartment units into condominiums, in a R-3 (Four Family Residence) District, located at 22242 North Sixth Street, east side, approximately 150 feet north of Knox Street, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designations: 0415-0100-12-01 and 0415-0100-126-02.
2. **MODIFIED TRACT MAP, MTR-7337 – AGARWAL/BALTHAZAR** – Application to modify an approved Tract Map, TR-7337, a subdivision of two properties comprising 3.66 acres into 16 lots, at 2492 and 2512 D Street, unincorporated Hayward area of Alameda County, bearing County Assessor's designations: 0416-0200-019-00 and 0416-0200-022-01.
3. **2193<sup>rd</sup> ZONING UNIT and TENTATIVE TRACT MAP, TR-7530 – ROBERTS/UTAL** – Petition to reclassify from R-1-SU-RV and R-1-B-E-SU-RV Districts to the PD (Planned Development) District, and application to subdivide three parcels into 38 single family lots, located at 4524 Crow Canyon Place, approximately 500 feet south of Crow Canyon Road, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designations: 084C-1068-001-00, 084C-1068-007 and 084C-1068-008-00.
4. **2195<sup>th</sup> ZONING UNIT – LANGON HOMES, LLC** – Petition to reclassify from the R-S-D-35 (Suburban Residence, 3,500 square foot Minimum Building Site Area/Dwelling Unit) to a PD (Planned Development) District, to facilitate subdivision of one parcel into four lots



and construction of a two-story single family dwelling on each new lot, located at 759 Bartlett Avenue, north side, approximately 141 feet east of Hesperian Boulevard, unincorporated Hayward area of Alameda County, bearing County Assessor's designation: 0412-0087-069-02.

5. **URBAN / WILDLAND INTERFACE** - Site visit and discussion of fire risks in the suburban areas of Fairview and Castro Valley and recent fire events.

**REGULAR MEETING**

The Commission convened at the Public Works Building Auditorium, 399 Elmhurst Street, Hayward, California, at the hour of 6:00 p.m.

**MEMBERS PRESENT:** Mike Jacob, Chair; Frank Imhof, Vice-Chair; Commissioners Compton Gault, Richard Hancocks, Glenn Kirby, Lena Tam, Ario Ysit.

**OTHERS PRESENT:** Steven Buckley, Assistant Planning Director; Ronald Gee, Senior Planner; Rodrigo Orduna, Planner; Eric Chambliss, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately 21 people in the audience.

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

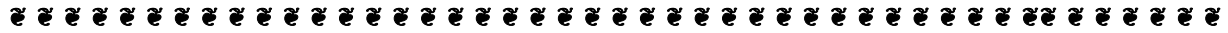
**ANNOUNCEMENTS BY THE CHAIR:** The Chair announced the creation of a committee with Commissioners Imhof, Ysit and Kirby as members from the Supervisorial Districts impacted by the US Fish and Wildlife Service rulemaking regarding California Tiger Salamander. Commissioner Kirby would serve as the Chair.

In reference to the Committee created at the September 2<sup>nd</sup> Commission Meeting to meet with County staff, City of Pleasanton, RMC and Granite Construction staff, the Chair announced the inclusion of Commissioner Gault as another member. The Committee will report to the Commission at the October 18<sup>th</sup> meeting.

**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 Minutes** - September 2, 2004 - Approval of Minutes to be continued to September 20, 2004. Commissioner Kirby made the motion to approve the Consent Calendar as recommended. Commissioner Tam seconded the motion, which carried 7/0.



**REGULAR CALENDAR:**

1. **TENTATIVE PARCEL MAP, TR-7549 – DAN BRIGGS** – Application to allow conversion of eight apartment units into condominiums, in a R-3 (Four Family Residence) District, located at 22242 North Sixth Street, east side, approximately 150 feet north of Knox Street, unincorporated Castro Valley area of Alameda County, bearing County Assessor’s designations: 0415-0100-12-01 and 0415-0100-126-02.

Mr. Buckley announced that staff recommendation was for a two weeks continuation to allow the Applicant to submit additional information on compliance with the Condominium Conversion Guidelines. No public testimony was submitted. Commissioner Kirby made the motion for a continuance to September 20 and Commissioner Gault seconded. Motion carried 7/0.

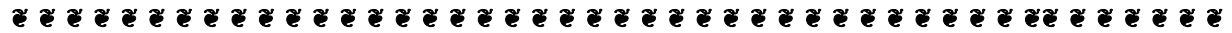
2. **MTR-7337 – AGARWAL/BALTHAZAR** – Public hearing to receive comments on a Negative Declaration prepared for a proposed modification of approved Tract Map, TR-7337, a subdivision of two properties comprising 3.66 acres into 16 lots, at 2492 and 2512 D Street, unincorporated Hayward area of Alameda County, bearing County Assessor’s designations: 0416-0200-019-00 and 0416-0200-022-01.

Mr. Buckley presented the staff report adding that the Applicant and the consultants who worked on the environmental study were available for questions.

Public testimony was called for. Mr. Agarwal indicated that they have tried to address every concern. Public testimony was closed.

Commissioner Kirby made the motion for a continuance to October 4, 2004 and Commissioner Gault seconded. Motion carried 7/0.

3. **2193<sup>rd</sup> ZONING UNIT AND TENTATIVE TRACT MAP. TR-7530, ROBERTS/UTAL** –Pursuant to the California Environmental Quality Act, review of a Draft Environmental Impact Report for a 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 staff report. Commissioner Tam asked if any comments have been received. Mr. Buckley replied that only a few comments had been submitted with no unusual concerns.

Public testimony was called for. Scott Gregory, consultant with Lamphier-Gregory, who prepared the EIR for the project on behalf of the County, described the key environmental issues including the geological report, water quality, potential biological impacts, tree preservation, land use compatibility, relocation of retaining wall outside the riparian habitat area, traffic impacts and the related Watercourse Protection Ordinance.

Commissioner Tam asked for the number of houses that could be built under the alternative that excluded the riparian area and used standard zoning density. She also noted that during the site visit, concerns were raised about parking on Crow Canyon Place and also the number of trips on Crow Canyon Place.

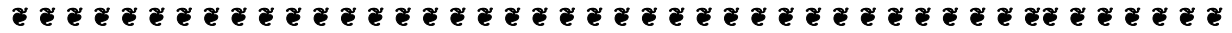
Mr. Gregory replied that twenty-nine houses could be built and the access from Veronica would be only for emergency purposes. He also outlined other alternative plans included in the EIR. Both the Fire Department and Public Works, Traffic Division, have suggested red-curb-ing Crow Canyon Place, adjacent to Crow Canyon Road, to improve access on that street.

Commissioner Jacob requested clarification on the oak woodland and riparian areas that would be affected, and the location of the top of bank for the creek.

Gus Enderlin, 4159 Ravenwood Place, said he was neither in support nor against the project but complained on the non-availability of the DEIR. He also asked why the matter was being heard by the Planning Commission before being heard by the CVMAC. He expressed concern with the process, but thought that the analysis was probably quite thorough based on his experiences, and the County should support development in urban areas due to the limitations imposed by Measure D on the rural areas.

Diana Hannah, 10142 Cull Canyon Road, also complained of the non-availability of the DEIR. Her concern was the creek. Federal law requires 300 foot setback from center of the creek or highwater mark and the Department of Forestry and Fire Protection now requires 100-200 feet clearance, especially in the greenbelt areas. This project was proposing only a 20 feet setback from the creek.

Janice and Frank Delfino, 18673 Reamer Road, spoke in opposition. Ms. Delfino felt that the Commission should not allow encroachment into the creek setback and urged that no exemptions be allowed and that vegetated swale and bio-filters be monitored and maintained. She expressed concerns regarding the impact downstream, drainage and storm water, fish, creek erosion and tree replacement. She also pointed out that Crow Creek and Cull Creek were confused in the EIR. Mr. Delfino questioned the quality of the geotechnical report, requested clarification on the location of the fault and further discussed the inadequacy of proposed tree replacement. He was concerned that the creek would continue to erode and that the retaining walls and future residents



could be affected over the long term. In response to Commissioner Tam, he said that his property was about two miles away from the site, but he was very familiar with the area.

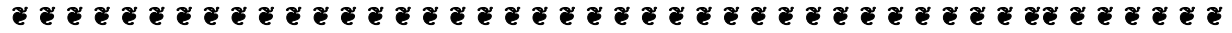
Howard Beckman felt that this was an outrageous proposal and complained that the Friends of the San Lorenzo Creek was not notified. He felt that this project was contrary to every County policy including the Castro Valley Plan and the General Plan, did not meet the intent of Planned Development zoning, was an act of environmental vandalism, and construction would destabilize the creek and bed with no storm water management plan. Such a plan should not move forward.

Vadim Pokotylo, 20008 Gem Court, also complained on the unavailability of the DEIR and that some neighbors had not received any notification. He also had the same concerns regarding the creek. This area had a lot of wildlife and the creek had a lot of water in winter, both of which were not reflected in the DEIR. His concerns included run-off, drainage, trees and noise impacts from the freeway, and noted that this area also joins with the Don Castro Park area.

Linda Bennett said she received the DEIR this week and had not read the complete report. She hoped to meet with Friends of San Lorenzo Creek and submit a formal response. Twenty feet of the bank were lost during the last flood, affecting structures on some properties. Her concerns were similar to the previous speakers including impact to the riparian habitat, neighboring homes and the creek, and precedent setting for relaxing the requirements for setbacks. She suggested that no construction be approved from October to May as it would affect/damage the creek, the flood plains and change the habitat. Ms. Bennett asked if residents along the downstream portions of the creeks were notified.

Public testimony was closed. Commissioner Hancocks stated that the project would clearly be over-building the site as it was more than what the property could support. Commissioner Kirby agreed that the EIR did a good job identifying the issues and noted the alternative plans. Commissioner Tam pointed out the neighbors' use of the site, reminded all to check with staff regarding the availability of the DEIR, and asked if the site was affected by Measure D. Mr. Buckley apologized for the unavailability of the DEIR but noted that public notice was mailed in advance and a scoping meeting had occurred with CVMAC a few months ago. He assured that additional notices will be mailed to interested parties including downstream property owners along San Lorenzo Creek and the EIR was available at the Planning Department. The EIR concludes that there is no increased run-off after mitigation. This area near Crow Canyon Road is not governed by Measure D but is governed by the Castro Valley Area Plan. He also pointed out that although this was not part of a public recreation area or trail system, there was a small adjacent HARD community park and public open space in the vicinity. This matter will be heard by CVMAC this Monday, September 13<sup>th</sup> for additional public comments.

Commissioner Gault said he had concerns regarding the creek and, as such, was interested in a response from the Corps of Engineers, Fish and Game Department and other related agencies. His concerns were the location of the retaining wall, disturbance to the creek bed, run-off, downstream affects and drainage. He requested additional information on the efficiency of bio-filters, history of their use, and the habitat restoration measures that would implemented.



Commissioner Imhof recommended that staff visit the building that was affected by the floods as noted by Ms. Bennett, if possible, and determine if there were buildings in creek areas that were not permitted. He also asked if the 44-foot wide bridge would affect the creek. Mr. Buckley noted the Watercourse Protection Ordinance requirement of the setback from the top of the bank and 2:1 slope from the channel flow line of the creek. The bridge would be a two-way street with a walkway and it will be located in the creek water course area.

Commissioner Kirby added that perhaps there is a way to maintain a check-list to ensure that all interested groups are notified since similar over-sights have occurred in the past. His main categories of concern for this project were related to mitigation measures identified in the DEIR and how they would be maintained over the years, such as the vegetated swales, and suggested that having lot lines extending to the bottom of the channel would be problematic for common maintenance. He suggested more strict conditions before the approval of the project.

The Chair said he would like to see some sort of variation between alternatives to creek setback development layout verses the final plan with the previously proposed mitigation measures, perhaps presented side by side, and information on the average lot size.

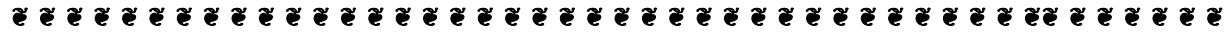
The matter was continued to October 18, 2004.

4. **ORDINANCE UPDATE CONCERNING GARAGE CONVERSIONS**  
– Consideration of a proposal by the County Ordinance Review Committee and Planning Department Staff to update the County Zoning Ordinance to restrict conversions of residential garages into habitable and/or storage spaces unless certain on-site conditions are met.  
(Continued from August 2, 2004).

Mr. Orduna presented the staff report and, at the request of Commissioner Kirby, provided further explanation on the items for which the Commission had requested clarification at the previous hearing. Commissioner Kirby also requested clarification on #3 on Page 4 regarding the possible requirement that there be an internal connection between the garage space and residential area. He asked if a use could be conditioned such that the garage be reconverted once a particular use of the garage has ceased. Mr. Gee indicated that Home Occupation rules would apply and suggested that perhaps a restriction be made against the deed. Commissioner Kirby added that although complicated, he would like a mechanism that when the use returns to a single family home, the garage is reconverted thus eliminating nonconforming uses.

Public testimony was called for. Kathie Ready, San Lorenzo Village Home Association, spoke in support of the ordinance. Garage conversion was a huge problem in San Lorenzo and, as such, she urged approval.

Public testimony was closed. The Chair thanked staff for the research and agreed with Ms. Ready. In reference to Section C, he indicated that variances should not be approved unless the



use is proposed for non-residential business use, so that home businesses that did not cause adverse impacts to land use could be accommodated.

Commissioner Tam discussed the temporary use of the garage as a storage space during construction or additions to the house, and what conditions of approval could be added to an approval to require conversion back to a garage. Mr. Buckley indicated that this was a different issue and referenced on Page 2 of the report. Commissioner Ysit thought that once a building permit is issued, materials could be stored anywhere on the property during construction activity.

The Chair added that a variance would apply to situations only if the lot did not meet parking requirements. Commissioner Tam agreed with Condition #7 and suggested 500 feet radius for item B on Page 3 under Site Development Review Procedure. Commissioner Kirby recommended using the word 'minimum' before 300 feet.

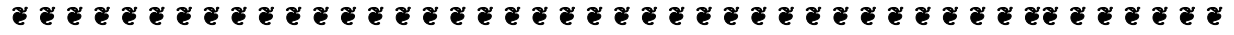
Commissioner Gault said he wanted to make sure that at the sale of a property, the permit to convert the garage to non-garage use becomes null and void. A discussion followed regarding SDRs. County Counsel indicated that the issue was whether the permit went with the land or went with the user. Commissioner Kirby asked if Variances were granted for non-residential uses, such as home offices, can the space be converted back to a garage once the home office is no longer necessary - some specificity was needed. Mr. Buckley pointed out that Section C was for SDRs and not Variances.

Commissioner Gault felt that there was a need to stop the variances and this was an appropriate document for standards and guidelines that should be followed very strictly, and a variance application should be measured against them. He made a motion to approve staff's recommendation. The Chair re-suggested adding the word 'minimum' before 300 feet. Commissioner Kirby suggested Option 2 be included in the motion. Commissioner Gault amended his motion to include the above suggestions and Commissioner Tam seconded. The Commission voted unanimously in favor of the motion.

**STAFF COMMENTS & CORRESPONDENCE:** Mr. Buckley announced that Policy Planning Division could be available to provide further information on hazard mitigation programs or perhaps the item could be agendaized for a future meeting. In reference to the ruling on the California Tiger Salamander, he announced that the comment period will be closing in a few weeks and asked if the Commissioners would be writing individual letters or one letter on behalf of the Commission. The Chair replied that one letter from the Commission would be appropriate. Commissioner Kirby shall serve as the Chair and the Committee will provide an update at the first hearing in October.

**CHAIR'S REPORT:** The Chair thanked staff for the tour of the Hayward Hills fire area.

**COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS:** Commissioner Imhof requested that a tour of the bio-swales in the East County and a 370 acre project in Fremont. Mr. Buckley indicated that the Clean Water Program staff would also like to make a presentation to the



Commission, so a presentation could be coordinated with the field trip. The Chair suggested that perhaps it could be set prior to a hearing on the Crow Canyon Place project.

**ADJOURNMENT:** There being no further business, Commissioner Kirby moved to adjourn the meeting at 8:25 p.m. Commissioner Gault seconded the motion. Motion carried 7/0.

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