

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
JUNE 7, 2004
(APPROVED JUNE 21, 2004)

FIELD TRIP: 1:00 p.m.

The field trip was called to order at 224 W. Winton Avenue, Hayward, California, at the hour of 1:10 p.m.

MEMBERS PRESENT: Commissioners Ario Ysit, Chair; Compton Gault; Mike Jacob, Vice Chair; Lena Tam.

MEMBERS EXCUSED: Commissioners Glenn Kirby; Frank Imhof; and Richard Hancocks.

OTHERS PRESENT: Steven Buckley, Assistant Planning Director.

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

1. **2186th ZONING UNIT –CRAWFORD** – Petition to reclassify from the R-1-SU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District to PD (Planned Development), to allow construction of 20 townhouse-type apartment units with one-car attached garages for each unit, in 7 two-unit buildings and 3 three-unit buildings, with 21 uncovered parking spaces, located at 2854 Grove Way, north side, approximately 250 feet east of Betlen Way, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation number: 0416-0060-030-02.
2. **MODIFICATION TO 1862nd ZONING UNIT, TENTATIVE TRACT MAP, TR-7155 and CONDITIONAL USE PERMIT, C-8276 – GHOSH** – Petition to modify the 1862nd Zoning Unit by allowing reduced setbacks, modification to the lotting pattern and redesign of the dwelling units, located at 16100 Maubert Avenue, north side, approximately 280 feet west of 162nd Avenue, unincorporated San Leandro area of Alameda County, bearing County Assessor's designation number: 0080-0048-043-00.
3. **TENTATIVE PARCEL MAP, TR-7528 – KAO** – Petition to convert a nine-unit apartment building to condominiums, in a R-S-D-25 (Suburban Residence, 2,500 square foot Minimum Building Site Area/Dwelling Unit) District, located at 16715 to 16787 Tiger Lane, west side, corner of East Lewelling Boulevard, unincorporated San Lorenzo area of Alameda County, bearing County Assessor's designation number: 0413-0063-001-00.
4. **TENTATIVE PARCEL MAP, TR-7535 – LANGON** – Petition to convert an eight-unit apartment building to condominiums, in a R-S-D-3 (Suburban Residence, 2,500 square feet Minimum Building Site Area/Dwelling Unit) District, located at 16267 Ashland Avenue, west side, approximately 51 feet south of Bertero Avenue, unincorporated San Lorenzo area of Alameda County, bearing County Assessor's designation number: 080C-0473-034-02.



5. **TENTATIVE TRACT MAP, TR-7526 – WONG** – Petition to subdivide an 18-unit apartment building into 18 condominium units, in the CVCBD (Castro Valley Central Business District Specific Plan) District, located at 21059 Wilbeam Avenue, west side, approximately 243 feet of Kerr Street, unincorporated Castro Valley area of Alameda County, bearing County Assessor’s designation number: 084A-0046-003-04.

6. **TENTATIVE TRACT MAP, TR-7467 – ROMBOUGH/WRIGHT** – Scoping meeting pursuant to the California Environmental Quality Act for the Environmental Impact Report for the proposed subdivision project at 23096 Mansfield Drive, approximately 670 feet south of Kelly Street, unincorporated Fairview area of Alameda County, bearing County Assessor’s designation number: 0416-0200-005-00.

REGULAR MEETING: 6:00 p.m.

The meeting was held at 399 Elmhurst Street, Public Works Building Auditorium, Hayward, California.

MEMBERS PRESENT: Commissioners Ario Ysit, Chair; Compton Gault; Richard Hancock; Mike Jacob, Vice Chair; Glenn Kirby; Lena Tam.

MEMBERS EXCUSED: Commissioner Frank Imhof.

OTHERS PRESENT: Steven Buckley, Assistant Planning Director; Jana Beatty, Senior Planner; Eric Chambliss, County Counsel’s Office; Nilma Singh, Recording Secretary.

There were approximately 17 people in the audience.

CALL TO ORDER:

The Chair called the meeting to order at 6:10 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 PLANNING COMMISSION MINUTES** - April 5, May 3 and May 17, 2004.

The Chair noted that April 5th Minutes were not available. In reference to May 3rd Minutes, Commissioner Jacob made a correction on Page 5, last sentence, by adding the words ‘did not agree’; and on Page 8, second full paragraph, fifth line, to read “Commissioner Jacob said he was not concerned...”. Regarding May 17th Minutes, Commissioner Tam corrected her motion for the Consent Calendar to state



that she abstained from Consent Calendar item #3, General Plan Conformance Report.

Commissioner Kirby made the motion to approve May 3 and 17th Minutes as modified above. Commissioner Tam seconded the motion. Motion for May 3rd Minutes carried 6/0 and for May 17th carried 5/1. Commissioner Gault abstained from the vote on the May 17th Minutes; Commissioner Imhof was excused for both votes.

2. **TENTATIVE TRACT MAP, TR-7526 – WONG** – Petition to subdivide an 18-unit apartment building into 18 condominium units, in the CVCBD (Castro Valley Central Business District Specific Plan) District, located at 21059 Wilbeam Avenue, west side, approximately 243 feet of Kerr Street, unincorporated Castro Valley area of Alameda County, bearing Assessor’s designation: 084A-0046-003-04. (To be continued without discussion to June 21, 2004).

3. **MODIFICATION TO A ZONING UNIT AND CONDITIONAL USE PERMIT, C-8267 – FAIRVIEW FIRE PROTECTION DISTRICT** – Modification to the 2058th Zoning Unit to allow transfer of Fire Station Title from Alameda County to the Fairview Fire Protection District, on one site containing approximately 1.15 acres, in a PD (Planned Development) District, located at 25862 Five Canyons Parkway, unincorporated Castro Valley area of Alameda County, bearing County Assessor’s designation: 0417-0289-008-00. (Continued from February 2, April 5 and May 3, 2004; to be continued without discussion to July 6, 2004).

4. **CHEVRON PIPELINE RELOCATION AND WATERSHED PROTECTION PROJECT** – Chevron Pipeline Company proposes to construct and operate a new pipeline segment (approximately 7.5 miles long) to be joined to an existing petroleum products pipeline in order to reduce the risk of water supply contamination at the San Antonio Reservoir in the event of a pipeline failure within the reservoir’s watershed. The relocation of the existing pipeline is a condition of the Project applicant’s current right-of-way lease agreement with the San Francisco Public Utilities Commission. The proposed pipeline segment is generally within an existing electrical transmission line easement and would extend for approximately 6 miles through an area north of the San Antonio Reservoir and south of Vallecitos Road (Highway 84). The proposed pipeline segment would separate from the existing pipeline at the northeastern end of the Project site within Sycamore Grove Regional Park and rejoin the existing pipeline approximately 1 mile south of Livermore and approximately 1 mile southwest of the Vallecitos Road (Highway 84)/I-680 Interchange near San Antonio Creek. The area through which the proposed pipeline segment would pass is generally characterized as grasslands and rolling hills, currently used for grazing. Once the proposed pipeline segment has been completed within the alignment ultimately selected, the existing pipeline segment near the San Antonio Reservoir would no longer be used, and would be decommissioned in-place.
(Continued from March 15, May 3 and 17, 2004; to be continued without discussion to July 6, 2004).

Commissioner Gault made the motion to approve the Consent Calendar per staff recommendations.



Commissioner Tam seconded the motion, which carried 6/0. Commissioner Imhof was excused.

REGULAR CALENDAR:

1. **2190th ZONING UNIT - MOHLER** - Petition to reclassify the subject property to a PD (Planned Development with an Agriculture-Cultivated Agriculture base zone) District, so as to maintain all the development rights and restrictions in the A-CA district, except that operation of a heliport (personal helicopter landing and take-off from a helipad) only as described herein, is permitted, on one site containing approximately 122 acres within an "A-CA" (Agricultural, Cultivated Agriculture) District, located at 7490 Mines Road, east side, approximately 2.2 miles south of Tesla Road, unincorporated South Livermore area of Alameda County, bearing County Assessor's designation: 099A-2420-004-24.

Mr. Buckley noted that staff recommendation was for a continuance to July 19. Commissioner Gault made the motion to continue the matter without discussion to July 19. Commissioner Kirby seconded the motion. The Chair announced that speaker cards have been submitted and Commissioner Tam recommended that public testimony be submitted and then the matter continued. Commissioner Gault amended his motion to include the above. Mr. Buckley presented the staff report. Commissioner Hancocks asked why this was being rezoned to an "A" District rather than a "CA" and "PD" District, so that flight strips would be allowed as conditional uses. Staff replied that by rezoning to an "A" District, it would remove other provisions of the "CA" District. Mr. Kirby asked if other zoning districts allowed flight strips and, as such, if another applicant could meet the flight path and noise requirement, could they propose a helipad. Commissioner Tam asked if the pad has been used for emergency purposes in the five years of its existence and if there were guidelines for an emergency landing since both the helicopter and the landing pad both were very small in size. Mr. Buckley replied it has not been used for emergency purposes adding that perhaps it was more of a concept than reality. Mr. Kirby said that he would like to discount the functionality of an emergency landing pad. The Chair said he was also concerned with the size of the pad functioning as an emergency landing area.

Public testimony was called for. Suzanne Clark, property owner at 6852 Mines Road, spoke against the proposal. Her property was about 1.7 acres, the smallest one in the neighborhood and approximately ½ mile from the pad. Her concerns included safety as it frightens horses, disturbance and noise, loss of privacy and decrease of property values. Since here husband was a Vietnam veteran, the low flying helicopter also brings about a fearful reaction. She believes there is plenty of flat area for emergency landing elsewhere in the area, including fields and roadways. In response to a question from the Chair, she confirmed that the horses were kept in paddocks.

Howard Beckman, a San Lorenzo resident, stated that his testimony was on the procedural issues. He asked staff to re-state the reasons that staff was encouraging the rezoning to "PD". Mr. Buckley explained that the applicant had made a request for rezoning, and staff was evaluating this request. The Planned Development District provides for uses that do not otherwise fall under other Districts, noting Mr. Hancocks' comments. Mr. Beckman felt that the Planned Development District (PD) was being abused by the Planning Department in order to get around restrictions within zoning districts. He also pointed out that the Planning Director, at the last hearing, had stated that the PD District will not be used for this purpose. A helipad, under Federal Aviation, State Aeronautics, and the County Airport Land Use Plan was considered an airport. Mr. Beckman also felt that further environmental analysis would not be decisive in determining if a helipad was necessary. A noise analysis will determine if the use is



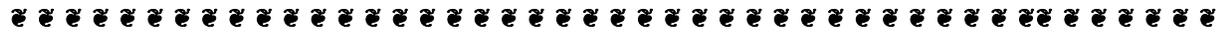
compatible with other land uses around the airport, but the larger question is whether an airport should be built at this location at all.

Joan Seppala, opposite property owner at 7911 Mines Road, thanked the Applicants for making information available regarding the application. Since the nearest airport was about seven miles away, she believes the project is more for convenience than necessity. The sound of the helicopter is very loud, especially as it is in a contained canyon, and it may set a precedent for others to apply. If approved, she suggested limiting the number of flights, especially if other similar applications will be approved, the flights be divided equally, perhaps 2 per week, fifty per year and the take-offs be from the east, perpendicular to Mines Road, away from the populated areas, for only one helicopter, from 7 am - 7 pm weekdays and 8 am – 6 pm in week-ends. Although no complaints have been made, the neighbors were fully aware of the flights as it was very loud and didn't realize they could complain to any particular authority. As exemplified by an emergency helicopter landing in the fields near Mines Road a few days ago, this pad was not required for emergency purposes. In response to a question from Commissioner Tam, she said she could not confirm the flight frequencies but sometimes there were several per day, nor could she differentiate between the emergency landings and the Applicant's flights, but agreed that it was very disturbing and did feel like a 'war zone'.

Eugene Reindel, Aviation Noise Consultants, representing the Applicant, said he had provided the first report and had an updated report on single event analysis on seven properties, five outside the Mohler's 122 acre parcel and two within. The Chair advised him to submit the reports to staff. Commissioner Kirby asked if the canyon and the flat area had been taken into account. Mr. Reindel replied that the calculations did include the terrain features.

Jeff Wright, Heliplanners, representing the Applicant, said he has worked on heliport projects throughout the country. He provided clarification on the proposal. The existing concrete pad was only a parking pad and the landing pad, once approved, will be a concrete pad, approximately 150 feet to the east. The helicopter will hover over the landing pad before parking on the existing pad. The helicopter used was very small, a four-sitter. He was not sure if the existing pad has being used for emergency landing in the past. The suggestion that the site could be used for emergency purposes came from the Sheriff's Department and for only very local purposes and the Applicant concurs with this; it is not likely a real consideration in this application. In response to a question from Commissioner Kirby, Mr. Wright further explained that he plans and designs heliports. Hospital and Sheriff's heliports were not considered public uses and have to go through Caltrans permitting process, but cannot be used by the general public. The proposed project is a personal-use heliport, which is exempt from Caltrans regulation. Another step is approval through FAA, an air space study which results in a letter indicating whether there is any air space interference issue or not. An Applicant meeting with a FAA representative has been rescheduled and an approval should be obtained by July. In response to a question from Commissioner Tam, he clarified that the plan was for a concrete 25 feet x 25 feet pad without any lighting since no night flights were being proposed, out in the field to provide a clear approach and departure path. He further explained that the helicopter would hover before moving over to the parking pad leaving one pad available for emergency landing of public agency equipment, if needed. Commissioner Gault said he had noise concerns, how far the noise extended, and the flight patterns. He asked for the distance currently used as the hovering area. Mr. Wright replied that the flights depart from the east towards the northeast and he would have to check with Mr. Mohler regarding the distance. The flight path depends in part on the weather.

William Mohler, Applicant, stated that emergency landings occur constantly in the Mines Road area, but his pad has not been used yet for emergency purposes. In reference to terminology, many consider this as



a helipad, although he didn't think that a field would qualify. He was willing to comply with all FAA safety requirements and re-directing flight paths. The helicopter approaches from the southern direction because of prevailing winds, at about 1,600 feet. The final approach includes about 4,500 feet of lineal travel across his own property, diagonally across the land. At about ½ a mile from the property line, the helicopter is approximately 500-600 feet above the ground. Commissioner Kirby asked if he had discussed rezoning the property to an "A" District where this is a permitted use as a Conditional Use Permit. Mr. Mohler explained that initially he had applied for a Conditional Use Permit, and later it was confirmed that because his property was in an "A-CA" District it was not allowed without rezoning to PD. His property is at the edge of the South Livermore Plan Area and since water is an issue in this area, other than cattle farming, he did not foresee pursuing intensive agriculture or subdivision of his property. Commissioner Kirby suggested that Mr. Mohler consider the implications of rezoning to an "A" District. Mr. Mohler replied that he would consider it, as long as it did not affect his neighbors' activities. Commissioner Hancock asked if the rezoning to a "PD" District had been suggested by staff or was it his decision. Mr. Mohler replied that it had been suggested by County staff.

Public testimony was closed. Commissioner Gault re-stated his motion for a continuance to July 19th and Commissioner Kirby seconded the motion adding that he would like to receive additional information on the distinctions between private and public heliports. Commissioner Hancock asked if the Commission needed to make a determination as to what constitutes a heliport as stated under the Pre-Hearing Recommendation, on page 1 of the staff report. Commissioner Gault amended his motion to reflect that the confirmation be part of the continuance. Commissioner Tam thought the staff report states that FAA did not have jurisdiction for private heliports. Mr. Buckley explained that a letter of determination should be obtained during the continuance period. Motion carried 6/0. Commissioner Imhof was excused.

2. **2186th ZONING UNIT – MARC CRAWFORD** – Petition to reclassify from the R-1-SU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District to PD (Planned Development), to allow construction of 20 townhouse-type apartment units with one-car attached garages for each unit, in 7 two-unit buildings and 3 three-unit buildings, with 21 uncovered parking spaces, located at 2854 Grove Way, north side, approximately 250 feet east of Betlen Way, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 0416-0060-030-02.

Commissioner Kirby made the motion to continue this item without discussion to June 21, 2004 and Commissioner Gault seconded the motion. Motion was carried 6/0 with Commissioner Imhof excused.

3. **MODIFICATION TO 1862nd ZONING UNIT, TENTATIVE TRACT MAP, TR-7155 and CONDITIONAL USE PERMIT, C-8276 – RABI** – Petition to modify the 1862nd Zoning Unit by allowing reduced setbacks, modification to the lotting pattern and redesign of the dwelling units, located at 16100 Maubert Avenue, north side, approximately 280 feet west of 162nd Avenue, unincorporated San Leandro area of Alameda County, bearing County Assessor's designation: 0080-0048-043-00.

Mr. Buckley presented the staff report. Commissioner Hancock asked why this Commission had not revisited this PD after two years had lapsed on the original application. Mr. Buckley said he did not know, adding that the Tract Map was approved in 1999 and the Rezoning was approved in 1989.

Public testimony was called for. Casimir Jatczak, a member of the Ashland Community Association,



pointed out that the houses were proposed very close together and asked if there was a play area, and thought there was not enough room for children to play. He understands from discussions with the current residents that there is a drainage problem in this area. He has had similar problems on his property. He did not believe the project made sense.

Indarjit Chadha, Project Engineer, said he has been working with County staff, Mr. Phil Sawrey-Kubicek, for a year and a half and made all modifications on his advice. There is a drainage plan which has been approved by Public Works, the Final Map is ready for recordation and the modifications requested would not change the Tract Map. All the lots, lot lines, street improvements remain as is. The only change recommended was for the building pad itself: three lots are to be changed to a 5 foot rear yard to fit a single family home instead of a duplex; all others will have a ten-foot rear yard setback. No faults have been found through the geotechnical study and, as such, rear yard setbacks could be reduced to 5 feet. All fill areas would be subject to the approval of a Soil Engineer. A Grading Permit has also been obtained. The street has also been modified to smooth the curve, in response to the Traffic Engineer's comments. He did not understand the denial recommendation since all concerns have been resolved.

Public testimony was closed. Commissioner Hancocks pointed out that the project has been modified significantly with significant yard reductions to allow doubling of square footage and changed from duplex to single family homes and, as such, was not a minor modification. Commissioner Kirby noted that although Applicant states that the proposal does not significantly affect the Tract Map and all requirements of the initial approval have been met and as such was a minor modification, he agreed with Commissioner Hancocks that the square footage has doubled and the change from duplex to single family homes would not be considered minor modifications. Commissioner Jacob asked staff what course of action remained for the Applicant if this was not considered a minor modification. Staff explained that the subdivision map, in terms of parcel lines, still stands and the question was what could be built. The Tentative Map expires in 2005 and, as such, the applicant could submit a different building, landscape and street plan. Commissioner Jacob felt that the modifications were minor but thought there was no justification for the Conditional Use Permit. He did not see a project better than what was approved initially, and that cost and sales price were not justifications. Commissioner Kirby noted that the project was not asking for a density increase. Commissioner Hancocks made a motion to find that the request was not a minor modification. Commissioner Tam expressed concern about the affordability of the housing, and seconded the motion. Motion carried 5/1, with Commissioner Jacob voting no. Commissioner Imhof was excused.

4. **TENTATIVE TRACT MAP, TR-7467 – ROMBOUGH/WRIGHT** – Scoping meeting pursuant to the California Environmental Quality Act for the Environmental Impact Report for the proposed subdivision project at 23096 Mansfield Drive, approximately 670 feet south of Kelly Street, unincorporated Fairview area of Alameda County, bearing Assessor's designation number: 0416-0200-005-00.

Ms. Jana Beatty presented the staff report and introduced the project manager, John Rombough.

Mr. Rombough stated that although twenty-two homes could be built, they were proposing only sixteen homes. This project would be an enhancement to the neighborhood, similar to other projects in the neighborhood. Two meetings with the neighbors have been held to address their concerns regarding traffic, speeding and speed bumps. Although none of these issues have been resolved, recommendations have been submitted to staff to be included in the conditions of approval. He was available to answer any questions.



Public testimony was called for. Maxwell Murray, property owner at 2614 Pepperwood Place, on the other side of the creek, said he has lived at this address since 1993. The creek gets active during the winter season and he was not sure how, with the sixteen homes and retaining walls, there would be adequate area for the wildlife to exist. The neighborhood has concerns on the effect this project will have on the environment including the creek area and, therefore, oppose this development.

Public testimony was closed. Commissioner Jacob noted that the environmental study would discuss the riparian area, and the County should address what was noted on the Commission's field trip, i.e. several cars parked in the creek-bed on other local properties. He felt that the project does recognize the existence of the creek bed and, as such, has provided setbacks, and also the owners were willing to work with the neighbors. Commissioner Kirby concurred with Commissioner Jacob adding that the scoping session provides an opportunity to further define what the study would be and the extent the Commission could rely on the Notice of Preparation and Initial Study to cover these issues. Commissioner Gault said he was also interested in the riparian area, the setbacks, the current law and ordinance that define the setbacks for riparian areas and waterways, and the related new legislation. His other concerns were traffic and road study, and he hoped that current up-to-date traffic patterns will be used in the study. He felt that communication with neighbors should continue throughout the process and urged neighbors to submit their comments. Commissioner Tam concurred adding that there are significant impacts on regional biological resources and that habitat conservation planning is important. She was interested in roadway access, especially for emergency vehicles, due to the road width, line of sight, and increased trips. Commissioner Kirby added that some projects ignore the asset of a riparian area and he hoped that the project would include the benefit of this area and perhaps include trails that the residents could use. The Chair agreed with the above adding that the existing trucks and equipment on nearby property should be removed from the creek.

STAFF COMMENTS & CORRESPONDENCE: Mr. Buckley stated that the Applicant for Item #3 had submitted a speaker card, and wanted to speak. The Chair stated that public testimony was closed, and the applicant's representative had already spoken.

CHAIR'S REPORT: The Chair announced that the June 4th Conference had been a success.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS: Commissioner Jacob asked for placing on the agenda the preparation of a County-wide circulation element and discussion on what the process what be for its creation.

Regarding the new parking permits, Commissioner Hancocks asked what constitutes Planning Commission business. The new permits only allow parking for the meetings. A discussion followed. Commissioner Gault noted that four different permits have been issued to Planning Commissioners since the beginning of the year. Commissioner Kirby felt that with each issuance there was a further tightening of the language/procedures, and part of the problem with defining a Commissioner and his business. The Chair requested that a letter be sent to the Director of GSA, Mr. Aki Nakao on the above issue, and that a presentation be made if the permits could not be expanded to cover all Planning Commissioner parking needs.

ADJOURNMENT:

