

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
JANUARY 5, 2004
(APPROVED FEBRUARY 2, 2004)

The meeting was held at the hour of 6:00 p.m. at 224 W. Winton Avenue, Hayward, California.

FIELD TRIP: 1:30 p.m.

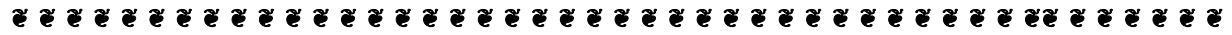
MEMBERS PRESENT: Commissioners Compton Gault; Frank Imhof; Mike Jacob, Vice Chair; Glenn Kirby; Lena Tam

MEMBERS EXCUSED: Commissioner Ario Ysit, Chair; Richard Hancocks

OTHERS PRESENT: Steve Buckley, Assistant Planning Director

FIELD TRIP: The meeting adjourned to the field and the following property was visited:

1. **2185TH ZONING UNIT AND TENTATIVE PARCEL MAP 8210 – CORRAL** – Petition to rezone from a R-1-SU (Single Family Residence, Secondary Unit) District, to a PD (Planned Development) District, for the purpose of subdividing one site into three parcels with less than 5,000 square feet, on one site containing approximately 0.27 square feet, located at 1417 Thrust Avenue, west side corner, southwest of Oriole Avenue, unincorporated Ashland area of Alameda County, bearing County Assessor's designation: 0080-0035-099-00.
2. **2168TH ZONING UNIT AND TENTATIVE MAP, TRACT 7434 – MAY/PATEL** – Petition to reclassify from a PD (Planned Development) District, to a PD (Planned Development) District, allowing 16 single-family lots on one site containing approximately 1.73 acres, located at 3738 E. Castro Valley Boulevard, north side, approximately 750 feet east of Crow Canyon Road, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 0085-5400-007-01.
3. **VARIANCE, V-11792 – JOSE CARO** – Referral from the West County Board of Zoning Adjustments for an application to allow construction of an attached addition to an existing detached garage, thereby covering 38% of the required rear yard, where 30% is maximum, and a fence five feet, one half inch high, where four feet is maximum, in an R-2-B-E (Two Family Residence, 8,750 square foot m.b.s.a.) District, located at 1445 – 168th Avenue, north side, approximately 427 feet east of East 14th Street, unincorporated Ashland area of Alameda County, bearing County Assessor's designation: 080A-0100-026-00.



4. **STEVE SOUZA and VICKI CRANE, VARIANCE, V-11800** – Application to allow an existing fence in the front yard of a residence that varies in height from four feet seven inches to five feet six inches as the fence steps up a sloping street and front yard where four feet is the maximum allowed, in a R-1-RV (Single Family Residence, Recreational Vehicle) District, located at 16037 Gramercy Drive, south side, approximately 296 feet southeast of Selborne Drive, unincorporated San Leandro area of Alameda County, bearing Assessor’s Parcel Number: 080A-0170-013-00.

5. **COMSTANTIN and MARINA LELEU, VARIANCE, V-11803** – Application to allow construction of an attached addition providing a 15 foot front yard (as measured to bay window) where 20 feet is required, in a R-1-SU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 2079 Sydney Way, south side, approximately 217 feet west of Carlton Avenue, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 084B-0420-014-00.

6. **THOMAS and DARLENE SOLDONIA TRUST, VARIANCE, V-11807** – Application to allow a fence height at side yard property lines and at the rear yard property line that a maximum of seven feet five inches in height where six feet is the maximum allowed, in a R-1-SU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 18844 Lenross Court, south side, approximately 217 feet west of Seven Hills Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 084D-1341-032-00.

REGULAR MEETING: 6:00 p.m.

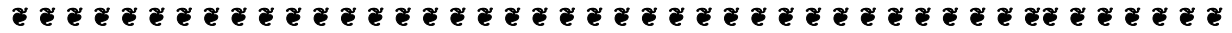
MEMBERS PRESENT: Commissioners Compton Gault; Frank Imhof; Mike Jacob, Vice Chair; Glenn Kirby; Lena Tam

MEMBERS EXCUSED: Commissioner Ario Ysit, Chair

OTHERS PRESENT: Steven Buckley, Assistant Planning Director, Holly Janvier, Recording Secretary

There were approximately ten people in the audience.

CALL TO ORDER:



The Chair called the meeting to order at 6:02 p.m.

ANNOUNCEMENTS BY THE CHAIR: There were 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** – October 6, October 20, November 3, and December 15, 2003

Commissioner Gault moved to continue the minutes to the next meeting. Commissioner Imhof seconded the motion. The motion was carried 5/0.

REGULAR CALENDAR:

2. **2146TH ZONING UNIT - MARCHAND** - Petition to reclassify from the R-1-L-BE-CSU-RV (Single Family Residence, Limited Agricultural, five acre minimum building site area, 100 feet median lot width, 30 feet front yard, Conditional Secondary Unit, Recreational Vehicle Regulation) District, to a PD (Planned Development) District, allowing a 1280 square foot secondary unit, on one site containing approximately 11.45 acres, located at 8600 Oak Tree Lane, southwest side, approximately 340 feet southeast of Norris Canyon Road, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 085-5000-001-19. (Continued from November 3, 2003; to be continued without discussion to January 5, 2004.) (Continued from December 15, 2003.)

Mr. Buckley presented the staff report. Public testimony was called for. Richard Flynn, representing Mr. Marchand, said there was formerly a lot of activity on the site. He said his client had to sue the former owner of the site because the former owner bulldozed the creek. He said it would take over an hour to explain all the background on this site. He added that the first Conditional Use Permit was withdrawn, not because of the Castro Valley Municipal Advisory Council's advice, but because the former owner had filed for a Conditional Use Permit and neglected to indicate the home in question on the plot plan. The application was withdrawn

because staff advised Mr. Marchand to do so, and to file a rezoning application. Mr. Flynn noted that there were sites from 3/4 acre on up in the area, including a five and a six-acre site near Mr. Marchand. He felt the zoning supported the project. He said the unit had been there for 27 years without any detrimental effect to the neighborhood. He said the proposal is in compliance with the Specific Plan and the Secondary Unit Policy. Mr. Flynn added that the structures had been reviewed by Building Inspection and Mr. English, and both found with minor modification, that the units would be in compliance. Mr. Flynn said the sanitary system was found to be working properly by County staff. He said his client would like the Commission's blessing to proceed with the proper permits to legalize the secondary unit. He added that the Assessor was invited out and Mr. Marchand is paying taxes on the unit. He also stated that there was an adequate water supply provided by springs on the Marchand property, and there had been no problems in the last 27 years.

Commissioner Tam asked how long the 1,284 square foot unit had been rented. Mr. Flynn said that it had been rented for the entire time Mr. Marchand had owned the property, until the complaint was filed. Commissioner Tam asked if the owner understood that this unit was illegal. Mr. Marchand said he found out when the complaint was filed that it was illegal. Mr. Flynn added that his client was ready to make any modifications required by any County agency.

Susan Pisani, the adjoining neighbor, said that the earlier application was withdrawn because it was recommended for denial to the Castro Valley MAC, and Mr. Marchand's only option was to withdraw and go for a rezoning. She stated that the County Environmental Health originally said that the septic system was deemed inadequate, and the applicant added another system. She added that the unit was not rented now due to Zoning Enforcement issuing an order so that no one could live there. She added that when Mr. Marchand bought the home, it was stated on the sale documents that the unit was not in compliance, so he knew of it from the beginning. She added that there are two illegal units, the secondary unit and a two-car garage 30 feet away were also built without permits.

Ms. Pisani went over the Exhibit that she had submitted to the Commission earlier that evening, to prove her points. She said she was the immediate adjacent property owner. She noted that they had a 50-foot easement on Mr. Marchand's property. She stated that the Marchand site was over 50 percent-unpacked landfill. She noted that there was an un-engineered retaining wall built on the unstable area. She said there was only one spring on the property, and the spring pumps two to three gallons a minute, where five gallons is the requirement. The only other spring in the area is her spring.

Ms. Pisani stated that Mr. Marchand sold them their property with the spring, and then took back the spring for his own use. After that Mr. Marchand sued them for taking water from the spring, and stated that without it, he wouldn't have enough water for landscaping, bathing and drinking. She said Mr. Marchand never had rights to that spring and it was never his. Mr. Marchand lost his lawsuit, and the spring remains with her property. Mr. Marchand has sued six of his neighbors thus far for various things. Commissioner Kirby asked if the landfill and wall were engineered. Ms. Pisani said they were not engineered. Commissioner Tam asked about the water tank and if there was an easement. Ms. Pisani said there was a tank. She said the former

owner of Mr. Marchand's property put the tank there so that gravity would bring the water down. She said she had three tanks on their property holding 20,000 gallons and they run out of water in the summer, so felt Mr. Marchand's tank was inadequate. Public testimony was closed.

Commissioner Tam moved staff recommendation. Commissioner Gault seconded the motion. Commissioner Tam said she had the same concerns as the Castro Valley Municipal Advisory Council had and that the property was bought knowing the unit was illegal, and continued to be used for nineteen years after that. She stated that this was not a good precedent. Commissioner Kirby said the photos submitted confirmed his suspicions that Building Inspection overlooked the house thinking it was the shed. He felt that if this project was not approved, the bathroom and kitchen would have to be removed, and the unit returned to a shed. Commissioner Imhof asked how this was considered a secondary unit. Mr. Buckley said it had a full bath and kitchen, so was considered a secondary unit. Commissioner Imhof asked if staff would inspect to make sure the units were vacated. Mr. Buckley said they would. The motion passed 5/0.

3. **2183RD ZONING UNIT AND TENTATIVE PARCEL MAP, PM-7475 - THOMPSON** - Petition to reclassify from the R-S-D-20 (Suburban Residence with 2,000 square foot m.b.s.a.) District, to a PD (Planned Development) District, to allow subdivision of the site for the construction of six townhouse units, on one site containing approximately 0.37 acres, located at 20119 and 20133 Forest Avenue, west side, approximately 70 feet west of Omega Avenue, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designations: 084C-0726-043-00 and -044-00. (Continued from December 15, 2003.)

Mr. Buckley presented the staff report. Public testimony was called for. Mr. Thompson said his plan was to build six attractive townhouses. He noted that there was already some attractive landscaping on the site. He said after meeting with staff, he felt all problems had been worked out. Commissioner Kirby asked about fire access. Mr. Thompson said they have the space and they had no problem in using it for a turnout. Commissioner Kirby asked if the buildings would be sprinklered. Mr. Thompson said they would all be.

Andrew Duncan, a neighbor to the rear, said he had lived there for seventeen years. He stated that a 30-foot building, 32 feet from his door would have an impact. He was concerned about window placement and size on unit six. He was concerned about landscaping, and site lighting. He said the applicant had indicated it was taken care of, but he didn't elaborate. He had concerns about the driveway and lights on cars coming down the drive, and asked for a sound barrier. At the MAC meeting on November 24th, they agreed that this would all be discussed, but he felt the applicant had been uncooperative.

Commissioner Tam asked if there would be fencing to block sound. Mr. Buckley said there would be, and they could condition a solid, dense fence. Mr. Duncan asked for over six feet of fencing. Mr. Buckley said Mr. Duncan and the other neighbor would have to agree with each

other, since the fence would also affect other neighbors. Mr. Duncan said he just wanted enough height to keep sound and light out, he felt that seven feet would be adequate.

Commissioner Imhof asked if the neighbors would be willing to help pay for the fence. Commissioner Kirby said it could be built on Mr. Thompson's property only, if they didn't.

Commissioner Kirby moved approval modifying Condition 12 to add unit six be designed to give minimum effect to the neighbor, and add with a fence of a minimum six feet to avoid noise and light from entering neighboring property. Commissioner Gault seconded the motion.

Commissioner Imhof suggested an eight-foot wall. Commissioner Kirby and Commissioner Tam pointed out that eight feet could cause problems with light, and this should be negotiated between the applicant and the neighbors. Commissioner Gault had concerns about driveway placement. Mr. Buckley said they had discussed this with traffic engineering, and they were trying to save two trees. Commissioner Kirby amended his motion to add a note that the Commission shared concerns with staff regarding traffic and would like them addressed. Commissioner Gault amended his second. The motion passed 5/0.

4. **2185TH ZONING UNIT AND TENTATIVE PARCEL MAP 8210 – CORRAL** – Petition to rezone from a R-1-SU (Single Family Residence, Secondary Unit) District, to a PD (Planned Development) District, for the purpose of subdividing one site into three parcels with less than 5,000 square feet, on one site containing approximately 0.27 square feet, located at 1417 Thrust Avenue, west side corner, southwest of Oriole Avenue, unincorporated Ashland area of Alameda County, bearing County Assessor's designation: 0080-0035-099-00.

Mr. Buckley presented the staff report. Public testimony was called for. The applicant said she was just trying to provide separate homes with separate owners. Commissioner Tam asked about the options proposed by staff. Ms. Corral said she was open to the options. The engineer for the project, Bruce Starr, stated that Option One looked good. Public testimony was closed.

Commissioner Kirby said the Commission visited the property, and he felt parking and open space requirements needed to be met. He said none of the new options submitted met those requirements. Commissioner Kirby moved for denial. Commissioner Gault seconded the motion, based on inadequacy of open space and parking.

Commissioner Imhof agreed, but submitted an alternative motion to use Option Two, moving the parking to be parallel to the buildings and in the rear using an easement. The area of Parcel three would be increased and parcel two would be lessened. Commissioner Gault said he would be willing to remove his second, however, Commissioner Kirby said he would not change his motion. Commissioner Gault said he would then not remove his second.

Commissioner Gault suggested sending this back to staff for reconfiguration that would meet

parking and open space requirements. Commissioner Kirby said he would entertain continuing, but felt that there was no way to solve the problems that this site had. Everyone withdrew their motions and seconds. Commissioner Gault moved for continuance to January 20, 2004. Commissioner Kirby seconded the motion. The motion was carried 5/0.

STAFF COMMENTS & CORRESPONDENCE: There were none.

CHAIR’S REPORT: There was none.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS:

Commissioner Kirby asked about an update on the Oak Terrace project. Mr. Buckley said he would check.

Commissioner Jacob said Commissioner LePell’s term on the Commission was up, but she would be missed. He said the Commission should discuss an appropriate way to commend her on her time on the Commission, and they should discuss ideas at the next meeting. The other Commissioner agreed. Commissioner Kirby suggested the Commissioners coming up with some “whereases” for a resolution. Commissioner Gault agreed and suggested e-mailing Mr. Wallace, as he was the one who usually wrote the resolutions for retiring Commissioners.

ADJOURNMENT:

There being no further business the meeting was adjourned by the Chair at 7:32 p.m.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY