

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
JANUARY 21, 2003
(APPROVED FEBRUARY 3, 2003)

The meeting was held at the hour of 1:30 p.m. in the Auditorium of the Public Works Building, 399 Elmhurst Street, Hayward, CA

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Commissioners Lena Tam, Chair; Matthew Edwards; Compton Gault; Glenn Kirby; Audrey LePell; Ario Ysit

OTHERS PRESENT: Gerald Wallace, Assistant Planning Director, Chris Bazar, Assistant Planning Director, Phil Sawrey-Kubicek, Senior Planner, Louis Andrade, Planner III; Lisa Asche, Planner III; Brett Lucas, Planner II; Karen Borrmann, Public Works Agency Liaison; Holly Janvier, Recording Secretary

There were approximately eight people in the audience.

CALL TO ORDER:

The meeting was called to order by the Chair at 1:35 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 – January 6, 2003**

Commissioners LePell and Gault made corrections to the minutes. Commissioner Kirby moved to approve the minutes as corrected. Commissioner Gault seconded the motion. The motion passed 5/0, with Commissioner Edwards not having yet arrived.

2. **2118TH ZONING UNIT - DEIGERT** - Petition to rezone from a PD (Planned Development, 1489th Zoning Unit permitting R-1-L-B-E) District to a PD (Planned Development, allowing all the uses of the 1489th Zoning Unit and a second unit) District, on one site containing approximately 1.22 acres, located at 5622 Jensen Road, northwest side, approximately 200 feet north of Cypress Ranch Road, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 085A-0001-026-00. (Continued from December 2, 2002. To be continued, without discussion to February 3, 2003.)
3. **2139TH ZONING UNIT - AQUINO** - Petition to reclassify from the R-S-SU (Single Family Residence, Secondary Unit Permitted) District to a PD (Planned Development) District, for the purpose of constructing a 4-unit apartment building, while retaining the two existing houses, on one site containing approximately 0.47 acres, located at 199 - 196 Cherry Way, north side, approximately 400 feet east of Meekland Avenue, unincorporated Cherryland (Hayward) area of Alameda County, bearing County Assessor's designation: 429-0010-034-00. (Continued from December 16, 2002; **this application has been withdrawn by the applicant.**)
4. **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 December 2, 2002; continued without discussion until February 18, 2003.)
5. **MODIFICATION OF THE 1923RD ZONING UNIT & CONDITIONAL USE PERMIT, C-8108 - LEIDER/OAK TERRACE DEVELOPMENT** - Application for modification of the 1923rd Zoning Unit, with the relocation of the access road and modification of the lotting pattern, on one site containing approximately 58.96 acres, in a PD (Planned Development) district, located at Oak Terrace, east side, approximately 0.2 miles east of Fairview Avenue, unincorporated Hayward (Fairview) area of Alameda County, bearing County Assessor's designation: 085A-6000-002-03. (Continued without discussion to February 3, 2003.)
6. **MODIFICATION OF ZONING UNIT, MZU-2130, AND CONDITIONAL USE PERMIT, C-8112 - THAKOR PATEL** -

Application to amend the approved Site Development Plan to allow a new *porte-cochere*, revise the parking lot and first floor plan configuration, relocate the indoor swimming pool, and reduce the number of hotel rooms from 59 to 58, in a PD (Planned Development, 2130th Zoning Unit, allowing a 59-room hotel) District, located at 789-817 West A Street, unincorporated Happyland Area of Alameda County, designated Assessor's Parcel Number: 0432-0020-016-02. (Continued from December 2, 2002; continued without discussion to February 18, 2003.)

7. **BOARD OF ZONING ADJUSTMENT REFERRAL FOR VARIANCE, V-11564 - PRISCILLA BAYANI-** Application to allow a five foot front yard where a minimum 20 feet is required to facilitate subdivision of one parcel containing approximately 1.71 acres into four parcels (Tentative Parcel Map, PM-7945), in an R-1-B-E-CSU-RV (Single Family Residence, 10,000 square feet minimum building site area, 80 feet median lot width, Conditional Secondary Unit, Recreational Vehicle) District, located at 4937 Crow Canyon Road, east side, about 50 feet north of Cull Canyon Road, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 085-5355-001-00. (Continued from November 18, 2002; continued without discussion to February 18, 2003.)

Mr. Wallace made changes to the continuance dates of Items #2, 5 & 7. Item #2 was continued to March 3, 2003, Item #5 was continued to February 18, 2003 and Item #7 was continued to March 17, 2003.

Commissioner Kirby moved to approve the remainder of the consent calendar per staff recommendation, with the changes made by Mr. Wallace included. Commissioner Gault seconded the motion. The motion was carried 5/0, with Commissioner Edwards not having yet arrived.

REGULAR CALENDAR:

8. **GENERAL PLAN CONFORMANCE REPORT - PURCHASE OF SHEA HOMES PROPERTIES BY EAST BAY REGIONAL PARK DISTRICT:** Request of the East Bay Regional Park District (EBRPD) for a General Plan Conformance Report under Government Code Section 65402 for the purchase of properties from Shea Homes located near Pleasanton Ridge, approximately 1.5 miles south of Interstate 580, designated County Assessor's Parcel Numbers 941-2400-001-03, 1-04, 1-07, 1-08, 1-10, 085A-3300-002-03, 085A-3275-002-03, and 085A-3275-002-04, in the unincorporated area of Alameda County.

Mr. Lucas presented the staff report. Commissioner Kirby said he was pleased to see this on the agenda. He moved to find the project in conformance with the General Plan. There was a second by Commissioner LePell. Commissioner Kirby said as this park moved ahead, it would move toward Castro Valley, and would move the vision for trails to connect Sunol to Mt. Diablo. The motion was carried 5/0 with Commissioner Edwards not having yet arrived.

9. **GENERAL PLAN CONFORMANCE REPORT - PURCHASE OF WIEDEMANN PROPERTY BY EAST BAY REGIONAL PARK DISTRICT:** Request of the East Bay Regional Park District for a General Plan Conformance Report under Government Code Section 65402 for the purchase of properties from Wiedemann located east of the northern terminus of Eden Canyon Road, approximately 2.2 miles north of Interstate 580, designated County Assessor's Parcel Numbers 085A-1900-001-01 and 085A-1900-001-02, in the unincorporated Castro Valley area of Alameda County.

Mr. Lucas presented the staff report. Commissioner Tam asked if this project would create public access where there was none, and whether this was different than the previous project. Mr. Lucas said this would be the same. Commissioner Kirby asked if there would be access through the Wiedeman property for a trail. Mr. Lucas said not as yet. Commissioner Gault moved to find the project in conformance with the General Plan. Commissioner LePell seconded the motion. The motion passed 5/0, with Commissioner Edwards not having yet arrived.

10. **REPORT ON PROCEDUES FOR PROCESSING AGRICULTURAL CARETAKER UNIT APPLICATIONS**

Ms. Asche presented the staff report. She made a correction to the staff report regarding the Ordinance Code numbers. She reviewed the Site Development Review approval process. Commissioner Edwards arrived.

Commissioner LePell asked about the new form. She asked about defensible space. Ms. Asche said that defensible space was the 30-foot space around the home with lack of vegetation. Mr. Wallace said this was the term used by the Fire Department. Commissioner LePell said it should be asterisked, with an explanation of the meaning. Commissioner LePell questioned the language of the resolution, because she found it confusing. Mr. Wallace said that it was County Councils boilerplate statement. Commissioner LePell asked if it should be made more readable. She asked about the 30-foot height limit. Mr. Sawrey-Kubicek said there is no actual height limit in Agricultural areas.

Commissioner Gault asked if the original time limit that was usually given was three years. Ms. Asche said caretakers units were different from secondary units, and usually were given three years, but now they are looking at taking it out to five years. Commissioner Gault asked if the permit would only be reviewed new or if there were complaints. Ms. Asche said it would be reviewed whether there was a complaint or not. Commissioner Gault said that because of

problems in the past, he wanted to make sure that these units were physically looked at. Mr. Bazar said they didn't necessarily all need a visit. If there were problems or complaints, a public hearing process was provided for. Commissioner Gault said he knew of instances where there were no complaints for applications, but there was a problem with the site. He wanted to make sure that the property was being used for what it was supposed to be used for. Ms. Asche said the Planning Director could allow less than five years. Commissioner Gault still felt there could be a problem. Mr. Bazar said the Agricultural community felt there was an overly regulatory approach by planning to the renewal of their caretaker units.

Commissioner Tam asked if the Agricultural Commission approved this proposed process. Mr. Bazar said it was approved as submitted to them. Commissioner Ysitt agreed with Commissioner Gault that there could be a problem with septic and water that may not be known without a visit. Ms. Asche said the original application would make sure everything was in compliance with Planning, Fire and Environmental Health, so there shouldn't be a problem in that area. Commissioner Ysitt said he would still like someone to visit the site and walk it to make sure that everything was the same. Mr. Bazar said if that is what they want, there might be cost issues to address. The fee would be a major concern to the Agricultural community.

Commissioner Kirby said on the review handout there should be language stating that the applicants could be subject to review. He suggested digital images of all four elevations be submitted with the application to see if there had been changes to the structure. He was not clear how the renewal would work. Would it be as new or would it have new conditions. Ms. Asche said if the applicant complied originally, and still had the need, it should still have the same conditions. Staff could help with the first renewal. Commissioner Kirby felt the first renewal would be like a new application. Ms. Asche said there could be a lot of cutting and pasting to help streamline the process. Commissioner Kirby referred to the wording, and asked if all additions or dwellings exceeding 500 feet would be subject to the Site Development Review process. Mr. Bazar said it would apply to any new structure. Commissioner Kirby asked if there were concerns about the number of these units that could be in an area. Ms. Asche said they looked into State law for this. Commissioner Kirby said there was some need for transient workers, and this could include a larger dwelling for these people. Mr. Bazar said they have had concerns in the Housing Element about this. It should be addressed there.

Commissioner LePell asked if there had been some abuses, or why this was being addressed? Mr. Bazar said the Agricultural community asked for things to be done in a less bureaucratic and costly manner. They felt there were too many hurdles with the current system. Commissioner LePell said she was glad that this was being addressed, but felt costs for inspection could be passed on to the applicant. Mr. Bazar said they would talk to the sub-committee and the Agricultural Committee about the language suggested by Commissioner Kirby, as well as the idea of a visit expressed by Commissioners Gault and Ysitt. He asked if there was a preference. Commissioner Kirby asked if there was a need for a visit, could the costs be recovered the same way Code Enforcement does. Mr. Bazar said they could, but photos would be his first choice before a visit.

Commissioner Edwards asked if there were any members of the Agricultural community present to testify. Commissioner Tam opened public testimony. Connie Jess, a member of the

Agricultural Sub-Committee said submitting photos would be more stringent. She asked why they would want to check for a temporary building that received the proper permits when they don't for a permanent building. She added that the community has had problems getting loans to build when they have a three-year permit that is conditional. The five-year plan would make it a renewal so the applicant wouldn't have to go through any new requirements that had come in. Commissioner Kirby said this was an excellent example of the difference between a temporary building, and a permanent building, with a foundation and being on the tax role. He said he just wanted the applicant to take pictures so that staff could see that there was not a new second floor, or some other major change. Ms. Jess said the renewal would be signed under penalty of perjury, and felt that was enough. She added that the Fire Department reviews her units every year anyway. Public testimony was closed.

Commissioner Edwards agreed with Ms. Jess. He asked for conditions to be reviewed by the Agricultural Committee. He said the expenses of the Agricultural community are many, and he didn't know how they survived. He felt that when things are too hard, people opt out. He wanted everything up front, and if there was a complaint, they would come down hard on the person. Commissioner Kirby said he was supportive of the process proposed. He just wanted to make sure things were caught. He felt the wording about being subject to possible inspection should be there, and more documentation would likely prevent a visit. He moved for approval per staff recommendation with changes to Title 17, to move forward with the new wording, with a conformation from the Agricultural Committee as to the new wording. Commissioner Gault agreed with the added language. He said it would likely make some, who might not be complying, to be more honest. Commissioner Gault seconded the motion. Commissioner Ysitt asked if this was going to the Agricultural Committee next week. Mr. Bazar said it was. They would see it back as a consent item to let the Commission know how it worked out. Commissioner LePell said she just wanted it as an information unless there was a major change. The motion passed 6/0.

11. **2164TH ZONING UNIT AND TENTATIVE MAP, TRACT 7418 - ATWAL** - Petition to reclassify from the R-S-D-3 (Suburban Residence, 3,000 square foot m.b.s.a.) District, to the PD (Planned Development) District, to allow construction of nine townhouse condominium units on one site containing approximately 0.54 acres, located at 19505 Meekland Avenue, west side, approximately 50 feet south of Cherry Way, unincorporated Hayward area (Cherryland) of Alameda County, bearing County Assessor's designation: 429-0005-018-00.

This item was tabled till after Item #12. At that time Mr. Andrade presented the staff report. He reviewed the recommendation and conditions. Commissioner Kirby noted that the units were in the back, and parking in front, unlike the townhouses next door. He asked if this was a lower density to the units next door. Mr. Andrade didn't think so.

Commissioner LePell said she lived in condominiums in Cherryland where they could have used the open space, so she was pleased the Cherryland Association suggested a play area. She asked where it would be. Mr. Andrade said between the two buildings. Commissioner LePell said the

architecture was interesting, but suggested dormers for added light. She asked if the trees on the site could be saved. Mr. Andrade said most of the trees were volunteers and not cared for. They would likely be removed, with the exception of the large tree at the front of the property. Commissioner LePell suggested saving as many trees and shrubs as possible. She asked about any historical significance of the house on site. Mr. Andrade said as far as he knew there was none.

Public testimony was called for. Satish Narayan the applicant said they had been working with staff. They had several other projects in the works at this time. He had objections to reducing the project to eight units. He said there were parks two and six blocks away. He requested the approval of the Commission with the nine units. He said they could move the two buildings together and add additional landscaping. They might need to reduce parking, but this project was on a bus line.

Commissioner Tam asked about increase in the balcony space and skylights. Mr. Narayan said that could be done. Commissioner LePell asked if balconies are open space. Mr. Andrade said they could be, but they had to be eight feet to be considered. He added that with the additional side yard, and balconies, that would compensate for open space. Commissioner LePell felt cars going under balconies were a problem because of smoke and other odors. She also felt more of the landscaping could be saved.

Commissioner Kirby said the applicant suggested putting the buildings together, and adding more space to the back to keep the ninth unit. He was open to reducing the yard and providing larger balconies. He asked if the Fire Department turnaround could be moved to provide more landscaping. An associate of Mr. Narayan said he was told by the Fire Department that the fire turnaround wasn't actually needed.

Commissioner Edwards said he was looking at density. He thought it was seven units. He needed a reason to allow more. He said one problem was parking. Two spaces were already off site. Mr. Narayan said the project was a little high end of what the general plan allowed, but they have open space, and the design is more expensive. The landscaping would exceed County standards and improve the area. The two off site spaces were acceptable in the County. Commissioner Edwards asked if seven units were the standard. Mr. Andrade said that was correct, and the project next door was at a higher density than what was being asked for.

Commissioner LePell still felt this site needed a play area. Streets needed to be crossed to get to the parks nearby. She didn't want to give up a play area or open space. She favored the eight units with the play area. Mr. Wallace said according to the rules to determine the allowed units, they could round off numbers over .7 to allow one more unit. Under these rules there were eight units allowed. Mr. Narayan again said that bringing the spaces together would allow for the open space for playing.

Commissioner Gault felt a play area should not be by a railroad crossing. Mr. Naryian said it would be walled off from the tracks. Commissioner Gault said it would have to be very secure. Mr. Andrade said the play area should be central in the project. If the Fire Department doesn't need the turnaround, that could help with the play area.

Kevin Simas, who worked in selling the site spoke next. He wanted to see the area upgraded. He felt the architect had exceeded what was in the area. He felt allowing the nine units was nothing compared to what the community would receive. Public testimony was closed.

Commissioner Edwards moved for continuance to February 18, to allow for redesign to add a play area, and the wall to the rear to be incorporated. Checking on the density and turnaround, and the setbacks needed to be done. He felt seven feet was tight. Commissioner Gault seconded the motion. Commissioner Kirby asked for the play area to be in the middle of the project. The motion passed 5/0, with Commissioner Ysitt being excused at 3:00 p.m.

12. **2165TH ZONING UNIT - EDEN MEDICAL CENTER** - Petition to reclassify from the R-S-D-3 and R-S-D-15 (Suburban Residence, 1,500 square feet per unit) District, to allow a temporary construction staging area enclosed by a 6-foot high fence and C-O (Administrative Office) uses, to a PD (Planned Development) District, on one site containing approximately 0.74 acres, located at 19980 Stanton Avenue, east side, approximately 100 feet north of Nordell Avenue, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designations: 084A-0165-014-01, -015-01 & -0279-001-00.

Mr. Sawrey-Kubicek presented the staff report. Commissioner Kirby said he was confused about the process. He was unclear as to why this rezoning had to be done for the temporary use. Mr. Sawrey-Kubicek said the staging area was not allowed under the current zoning. Commissioner Kirby asked why there were no conditions, since this was adjacent to residential. Mr. Sawrey-Kubicek said there were some conditions, but more could be added. Commissioner Kirby asked for conditions to minimize the impact to the adjacent community.

Commissioner LePell asked why the houses on the site had been demolished. Mr. Sawrey-Kubicek said he didn't know, but noted that they were not of historical significance. Commissioner LePell felt there should have been notice given before the houses were taken down. She said she had a problem with the word "temporary" being used for a five-year project. She asked that the time be made clear in future staff reports. Commissioner LePell noted that at a conference on water issues, which she had attended, they suggested not using paving in parking areas, but gravel to allow water return to the water table. She asked for a more attractive fence to lessen the view impact on the apartment dwellers next to the site. Mr. Sawrey-Kubicek said the fence would have vinyl slats on all four sides. Commissioner LePell asked about the number of vehicles that would be going in and out of the site. Mr. Sawrey-Kubicek said the applicant could address that.

Public testimony was called for. Bob Bosold from Eden Hospital said they had several projects going on at once. He spoke about the need for the site for equipment storage. He said there wouldn't be much traffic. There had been a lot during the pipe construction project last year. Commissioner Kirby asked if fabrication would be going on, on the site. Mr. Bosold said that

was being done at the work site. Commissioner Kirby asked if Mr. Bosold would agree to some additional conditions. Mr. Bosold said he would.

Commissioner LePell asked about hours of operation. Mr. Bosold said they would work 7:00 a.m. to 4:00 p.m., six days per week. Commissioner LePell asked about a security guard. Mr. Bosold said the 2 guards at Eden Hospital would patrol the whole campus. Commissioner LePell asked about the number of cars that would be going in or out. Mr. Bosold said about a dozen cars would use the site. Commissioner LePell asked if the materials would be covered. Mr. Bosold said they wouldn't. Public testimony was closed.

Commissioner Edwards moved for approval per staff recommendation, with a condition requiring solid fencing, the six conditions on page 3, and following paragraph to be made into three additional conditions. Commissioner Kirby said he also wanted to add that no fabrication be done on site, only storage. He suggested adding muted lighting. The motion was amended to reflect these additions. Commissioner Gault seconded the motion. Commissioner LePell asked for the word "attractive" to be added to the condition for the fence. She favored solid fencing. The motion was carried 6/0.

STAFF COMMENTS & CORRESPONDENCE:

Mr. Wallace apologized for the confusion on the meeting place for the Commission. The Commission said they would like to keep meeting at the current location for as long as possible.

Mr. Wallace announced that Adolph Martinelli, CDA Director, would retire at the end of March. He also stated that he would be retiring at the end of March, but would be back in April for three or four months. Mr. Sawrey-Kubicek and Ms. Janvier would act as contact persons, until a replacement was named.

CHAIR'S REPORT: There was none

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS:

Commissioner LePell announced a water conference on February 5, at the Oakland Museum. She announced the upcoming Eden Area General Plan community meeting. She mentioned an article in the newspaper about the Supervisors selling land at the Dublin BART station. No one else had seen the article.

Commissioner Kirby reported that the copy of Footprints for Livable Space report that they had been given did not have anything about Alameda County's Measure D efforts. They only mentioned Contra Costa County's open space protection plans. Commissioner LePell agreed. They suggested sending a letter to the authors. Commissioner Gault asked for an official letter. Commissioner Kirby offered to draft the letter. This would come back as a future agenda item.

Commissioner Gault said Mr. Wallace had been an important asset to the Commission and the Castro Valley Municipal Advisory Council during his many years with the County. He added that Mr. Wallace had done an exemplary job with the Castro Valley Municipal Advisory Council and the community. He was to be duly honored and thanked for his service.

ADJOURNMENT:

There being no further business, Commissioner Gault moved to adjourn the meeting at 4:02 p.m. Commissioner LePell seconded the motion, which carried 5/0, with Commissioner Ysit excused.

JAMES SORENSEN - PLANNING DIRECTOR
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY