

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
MAY 19, 2003
(APPROVED JUNE 2, 2003)

The meeting was held at the hour of 1:30 p.m. at 951 Turner Court, Hayward, CA

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Commissioners Lena Tam, Chair; Glenn Kirby; Audrey LePell; Ario Ysit, Vice Chair

MEMBERS EXCUSED: Commissioners Compton Gaul, Mike Jacob

OTHERS PRESENT: Bruce Jensen, Assistant Planning Director, Phil Sawrey-Kubicek, Senior Planner, Louis Andrade, Planner III; Sonia Urzua, Planner II; Ineda Adessanya, Contract Planner; Karen Borrmann, Public Works Agency Liaison; Holly Janvier, Recording Secretary

There were approximately twenty people in the audience.

CALL TO ORDER:

The meeting was called to order by the Chair at 1:38 p.m.

Mr. Jensen asked that Item #7 be heard out of order, following the presentation by Ms. Bach. The staff planner for the project had to be at a meeting beginning at 2:00 that day. The Commission had no problem with moving it forward. (For purposes of order, the items will stay in numerical order in this document.)

ANNOUNCEMENTS BY THE CHAIR:

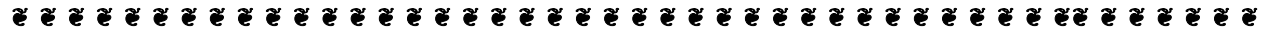
OPEN FORUM:

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 – May 5, 2003**



Commissioner LePell and Commissioner Tam made corrections to the minutes. Commissioner LePell moved to approve the minutes as corrected. Commissioner Kirby seconded the motion. The motion was carried 4/0, with Commissioners Gault and Jacob excused.

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 April 21, 2003. To be continued, without discussion to a date as yet to be determined.

3. **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. (To be continued without discussion to a date as yet to be determined.)

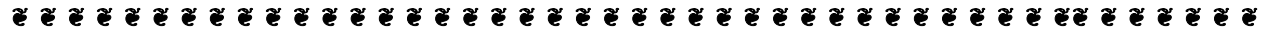
Commissioner Kirby moved to approve the remainder of the Consent Calendar per staff recommendation. Commissioner LePell seconded the motion. The motion was carried 4/0, with Commissioners Gault and Jacob excused.

REGULAR CALENDAR:

4. **PRESENTATION BY DIAMERA BACH OF THE PUBLIC WORKS AGENCY CLEAN WATER PROGRAM**

Ms. Bach presented a report on the NPDES. She gave a brief background, starting with the purpose. She stated that the Federal Clean Water Act, State and local ordinances mandated this. She spoke of the process for permitting. The Alameda County Public Works Agency, Community Development Agency and General Services Agency would work together to implement the program. She spoke about the elements of the program. She moved on to the new provisions, and went over the next steps.

Commissioner Kirby noted that pollutants could get into water through storm drains. He said that not having non-permeable surfaces are adding to the problem. He recalled a recent project which was required to have grading to force water to the storm drains. He asked if there had been



6. **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 April 7, 2003.)

Commissioner Tam noted that staff had recommended a continuance at the request of the applicant. Commissioner LePell moved to continue the project to July 21, 2003, at the request of the applicant. Commissioner Kirby seconded the motion. The motion was carried 4/0, with Commissioners Gault and Jacob excused.

7. **2169TH ZONING UNIT AND TENTATIVE MAP, TRACT 7370 – HOFFMAN & VAUGHN FAMILY TRUST** - Petition to reclassify from a PD (Planned Development) District allowing Commercial Uses, to a PD (Planned Development) to allow nine residential units, on one site containing approximately 1.28 acres, located on Villareal Drive, south side, approximately 75 feet west of Clement Drive, unincorporated Castro Valley area of Alameda County, bearing County Assessor's Designation: 085A-6405-166-00. (Continued from May 5, 2003.)

Ms. Urzua presented the staff report. Commissioner Tam asked about a petition submitted to the Castro Valley Municipal Advisory Council. She asked whether it was asking for no construction on the site. Ms. Urzua said that was correct. Public testimony was called for.

Brad Thompson said the residents had been using the site for overflow parking for their Club House, and the Shepell Builders were in error for not following their master plan to make the subject site a commercial area. Commissioner Kirby asked if the speaker meant this site should have been commercial, in order to provide additional parking for the clubhouse. Mr. Thompson said no, it should have been designed for parking, not commercial or residential, but Shepell sold the site. The new owner wanted to put in housing but the Homeowners Association felt there were too many units being proposed. The Association had tried to buy the site, but the price was too high, so Shepell sold to someone else.

Mr. Thompson said no one wanted a commercial building on the site either. He produced brochures distributed by Shepell advertising that the area would be parking. He said the residents had been using the site for parking and wanted Shepell to put in parking. Commissioner LePell asked when the Association looked at this, and presented buying the lot. Mr. Thompson said that

Shepell wanted 1.5 million dollars to develop the lot for parking. The residents felt this was too much.

Commissioner Kirby noted that the clubhouse and this site were separate parcels. He asked whether this site had been suggested for parking in the commercial site plans. Mr. Sawrey-Kubicek said during the Site Development Review process, the clubhouse parking area was deemed sufficient. Commissioner Kirby said if this were built as commercial, the residents still wouldn't have been able to use it for overflow parking.

Frank Vaughn the applicant came forward. He said 1.7 million was needed to develop this site for a parking lot, but the residents didn't want to pay the \$15.00 per home, per month, for six years to buy and develop the site. He said, regarding the site, he didn't feel responsible for providing parking for the clubhouse. He stated the school which was 200 feet away, could be used for parking overflow, since the overflow parking was needed mostly on week-ends, evenings, holidays and during the Summer when the school was closed. He added that the area across from the school, which doesn't have homes, could provide parking for 25 more cars. With both the school and the area across from it, there would be approximately 50 spaces.

Commissioner Ysitt asked if parking was permitted on the street across from the school. Mr. Vaughn said it was. Commissioner LePell felt there was a handsome development there. She was distressed over the disagreement between the Association and the residents. She said buying the lot by the residents was not financially feasible, so Mr. Vaughn was sold the site. She felt the Association should have worked toward a compromise. She said she looked at how to make a project work. She added that she supported the project as reasonable. Commissioner Tam asked whether Mr. Vaughn had talked to the Association about his idea for parking. Mr. Vaughn said he just came up with the idea this past weekend. He said there was a lot of bitterness toward the builder by the residents.

Tracey Davenport wanted the Commission to delay a decision or deny the petition. He was told that the site was to be developed commercial, but if sold, the Association had first right of refusal. He said the Association didn't inform the residents of the first sale till the site was sold. He said the negotiating committee he was on was not allowed to meet to work out a compromise. He added that council had not represented the Association. He stated that the impression, which the seller gave the buyers, was that this site was for the use of the community as the community matured. He felt that parking was inadequate for the amenities available at the clubhouse. He said these issues should have been resolved between the seller and Association long ago, but definitely before any sale of the site. He asked for a postponement till the Association could address these issues.

Dorothy Falconer stated she opposed the new development. She felt it would adversely effect the neighborhood. She said building homes on the site would cause traffic and safety issues. She asked who would be responsible for directing traffic under the new parking arrangement proposed by the applicant. She said all meetings of the Association were conducted in secret with regard to the sale of the site.



Casey Sideman said the applicants bought the lot knowing it was zoned commercial. She felt the site was unsuitable for houses because of its location. She added that the neighborhood school was full, and said there was a waiting list for the children of residents who could not get into the school.

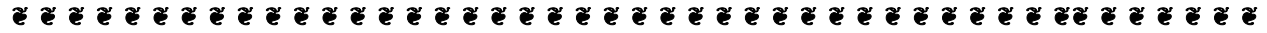
Mr. Vaughn said the original zoning on the site was agricultural, and was only zoned residential when the Palomares Hills project was created. Later this site was zoned commercial. He said originally, the master plan was for 1900 homes, now it was for 1600 homes, and he didn't feel another 8 homes would make much of a difference. He said the negativity was toward Shapell. He felt that even if this site were to stay commercial, there were many people who did not want a commercial building in this area either. No matter what, not all would be satisfied.

Commissioner Kirby said he was unclear as to how much back and forth discussion there had been between the applicant, the Association and the residents. Mr. Vaughn said there were three meetings in four months. Commissioner Kirby agreed that many would not want this to be a commercial site either. He did feel that the residents felt this would be developed in the future to benefit the community. He added that there needed to be some community benefit mitigation, with more discussion for compromise.

Mr. Rutishauser, the other applicant, said there would always be someone against a project, and added that not everyone would be happy. He stated the petition received by the MAC was from only 300 of the 1600 people living in the development. He asked why people couldn't walk or ride their bikes to the clubhouse. He felt they could delay a decision, but the president of the Association favored their project. Mr. Vaughn pointed out that the president and former president said they could not get support for any commercial development in this area. Public testimony was closed.

Commissioner LePell said she was concerned that the Association was not represented that afternoon. She noted the Commission had asked other applicants to try to work things out with neighbors in the past. Ms. Urzua said the only comment from the Association was that a sub association, fitting in with the main association be created. Commissioner LePell asked if staff could work to facilitate meetings with the applicant and others. Mr. Jensen said they could.

Commissioner LePell moved to continue the application until June 16, 2003, to allow time for the Association, applicants and residents to meet and try to work out a compromise. Commissioner Ysitt seconded the motion. Commissioner Tam said the County was under mandate to provide infill housing. She said exceptions to master plans had happened in the past with Centex to provide infill housing. The Commission didn't mediate, but felt the applicant had come up with a good idea to work with the school for parking, and the Association working with event coordinators to direct traffic. Commissioner Kirby said he was frustrated with the Association and residents lack of communication. He did support homes on the site but supported continuance to allow some communication between concerned parties. The motion was carried 4/0, with Commissioners Gault and Jacob excused.



8. **2170TH ZONING UNIT – STEPHEN/KRAUSE** – Petition to reclassify from the R-1-B-E (Single Family Residence M.B.S.A. 20 Acre) District, to a PD (Planned Development) District, allowing a principle and secondary unit, one site containing approximately 27.09 acres located at 109 Castlewood Drive, west side, approximately 0.7 miles northwest of Fairway Lane, unincorporated Pleasanton area of Alameda County, bearing County Assessor’s designation: 0946-4391-028-00. (Continued from May 5, 2003.)

Ms. Adessanya presented the staff report. Commissioner Kirby said that at the top of the hill there were only a few 20-acre sites. He asked if they were connected to sewer or had septic tanks. Mr. Sawrey-Kubicek was unsure. Commissioner Tam said that granted they have a variance for septic from the Board of Supervisors, could the Commission than make recommendation for sewer hook up. Ms. Adessanya said that this project would go to the Board for final approval and they would have the final say, so the Commission could make the recommendation they wanted. Commissioner Ysit asked how the primary unit was being serviced. Ms. Adessanya said it wasn’t built yet, but both units would be served by the same septic system. Commissioner Ysit said he had trouble understanding the County allowing a septic system when there was sewer service in the area. Public testimony was called for.

John Sarantoge represented the applicant. Commissioner Kirby said they had walked the road on their field trip. Commissioner Kirby asked if the park and fire districts had asked for access through the gate on site. Mr. Sarantoge said they hadn’t, but expected they would. He added that sewer access would be extremely costly to the applicant. He said the City of Pleasanton felt sewer was better, but there was no precedent. He said their site was the only viable site up there for a standard septic system. They are proposing an engineered septic system.

Commissioner Tam said other sites in the area might be on a septic system, and asked if the applicant knew of any plans for bringing sewer in. She asked about negotiations with the Castlewood Homeowners Association. Mr. Sarantoge said this site was not subject to the Castlewood CC and Rs, but they were sensitive to the wishes of the Association and Country Club. There was a report with regard to insurance coverage. It stated that the insurance company wanted between three and six million dollars in liability coverage. The applicant said they carry a policy themselves, and are willing to add language holding the County Club harmless as they had requested.

Commissioner LePell said that in the conditions of approval, she would like a sentence stating that the address should be lit. She said she was told that septic systems were to be discouraged in all areas. With regard to the proposed office, she felt a home this elegant would be adding a lot more traffic by adding an office. She was told that Mr. Krause was an insurance agent and would like a home office on the site. It wouldn’t be a business with customers visiting.

Commissioner Ysit asked what would be done with the runoff. He was told there would be a collection areas with distribution. Mitigation had been put in the road plan for this.



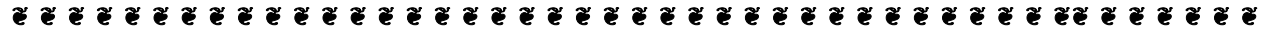
Commissioner Kirby said the electrical would require about 3,500 feet of trenching along the road. He was told PG & E has an easement for that, and that the septic system would be a pressure system. Commissioner Kirby said that if there were more septic systems, the County might want to have the engineered type. Commissioner Kirby asked if inspection fees were recoverable. He was told that recovery of inspection fees would be part of their agreement.

Tom Rutherford, General Manager of Castlewood Country Club, said his concern was for safety. He added that the community was not generally gated. He said the County Club was not just for the residents, as they had members from all over the area. His concern was what would happen during construction with regard to public safety. He said there were no sidewalks and the residents were concerned. He had further concerns with regard to the size of vehicles using the roads. He asked for someone manning the gate with a flag, and added that there shouldn't be work on Saturdays, Sundays or holidays. He maintained the area was well used by the public. He asked for a control system. He asked for a bond for any road damage that might occur, and dust and litter control. Mr. Rutherford asked for limiting size and number of trips of trucks for the project. He requested some sort of fire control and coordination for utility control. He further requested a deed restriction that there would be no further subdivision of the property.

Commissioner LePell asked if the road past the gate was private. Mr. Rutherford said the Country Club owns all the roads from Foothill Road up. Commissioner LePell said that since they owned the road, they should be responsible for maintaining it. Mr. Rutherford said that the residents maintain some of the roads. There was a question as to whether the Association wanted to send a representative to the meeting that evening. The applicant said he had been expecting an answer from the president to her requests, but received a last minute request by her for information, which he was providing. Commissioner Ysit asked about whether Mr. Rutherford's requests were possible. Mr. Sarantoge said he had asked for the concerns in writing, but had not received them as yet. He added that as an owner, Mr. Krause was already paying road maintenance fees.

Mr. Krause said the Association was challenging the rezoning. He said he was a diabetic and had high cholesterol. He said he needed to treat his diabetes by diet, and the home he was asking for was for a live in cook. He added that he keeps getting delays from the Association.

Leo Stephen, the builder, said he had built for another resident and had a good record. He said there were a lot of trucks for construction and delivery. He felt the roads could be managed. He said his company had been good caretakers for two years and had no complaints. He added that the Association was not qualified to comment on hydrology and soils questions. Commissioner Tam asked whether geotechnical, fire, and others had been addressed at the Association meeting. Mr. Stephen said they were, and followed up on. He added that sewer hookup would require easements through other owner's property. He was also told by Environmental Health that when one went as far as it would take to hook up to the sewer, it was not the best idea. Mr. Rutherford added that after hearing testimony, there was mostly concerned for protection from liability issues. He added that there was a specific issue against the project by the Association, because the units were not attached. They were afraid others would want to build income property. Public testimony was closed.



Commissioner Tam said notices were sent out and continuances were asked for twice. Now when the project finally comes to the Commission, the Association didn't send a representative.

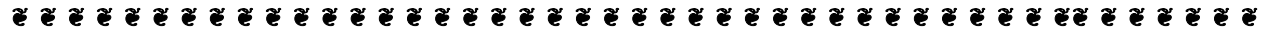
Ms. Adessanya said all responses to referrals were faxed to the president of the Association over a week ago. Commissioner Tam said the Commission looked at the legal perimeters of the request, and if issues were addressed. Other things would need to be worked out during the construction phase. She was not happy continuing this again. Commissioner LePell said she felt there was new testimony and she was concerned about safety issues. This site was very removed and high. She wanted safety conditions added.

Commissioner Kirby said this was a good presentation. He said they were close to resolution. He felt the safety issues were getting to the gate. Commissioner Kirby moved approval, adding that the builder and applicant were responsible for controlling construction access between the road and gate, the fire access would be maintained and the office not occupied. Commissioner Ysit seconded the motion adding that it would be unfair to continue this again. He felt a bond might be in order, but the Board could make that decision. Commissioner LePell said she would vote for the project because of the way the motion was worded. She asked the word "lighted" be added to the sign condition. Commissioner Kirby amended his motion to reflect this. Commissioner LePell felt the project needed to move on. Commissioner Ysit amended his second. The motion was carried 4/0, with Commissioners Gault and Jacob excused.

9. **2173RD ZONING UNIT AND TENTATIVE TRACT MAP, TR-7448 – LANGON** – Petition to reclassify from an R-S-D-25 (Suburban Residence, 2,500 square foot m.b.s.a.) District, to a PD (Planned Development) District, to allow 14 single family lots, on one site containing approximately 0.97 acres, located at 377 – 407 Lewelling Boulevard, south side, approximately 265 feet west of Meekland Avenue, unincorporated San Lorenzo, area of Alameda County, bearing County Assessor's designations: 0413-0031-005-00 and –006-00. (Continued from May 5, 2003.)

Ms. Adessanya presented the staff report. Commissioner LePell said she didn't see anything about the historical background of the existing homes mentioned in the staff report. She also noted that there was no comment from the Traffic Department to this application. She felt they should have commented, as Lewelling Boulevard was being dug up in the near future. Ms. Adessanya reported the comments from the Traffic Division, which were in the file.

Commissioner LePell asked about creation of a Home Owners' Association for in the project. Mr. Sawrey-Kubicek said this was a single family residence project, and wouldn't require one. Commissioner LePell asked about the street maintenance. Mr. Sawrey-Kubicek said there would be a private street handled by a joint maintenance agreement. The agreement would be filed with the County. Public testimony was called for.



David Langon said there was no historic value in the two houses on the site. Joseph Gorney, the architect for the project, said they had considered different layouts for the site, and felt what they were proposing was the best one. Commissioner Tam asked about drainage. Mr. Langon said the drainage would run down the center of the road and to the channel. Commissioner LePell noted that fluid spills from the cars would be mixed in it. Mr. Gorney said the water would go through a separator of grass or sand before going to the storm drain. Mr. Jensen said there could be some environmental impact.

Commissioner Tam asked if there could be a tie in to the storm-drain. Ms. Borrmann said that if this street were not planned to empty into the storm-drain, and they caused it to drain there, it could overtax the drain. Commissioner Kirby noted that the goal was to try to keep pollutants away from the bay. He said it was better to have this runoff go to the storm-drain through a separator.

Commissioner LePell asked for a sign stating that this was a dead end street. Mr. Gorney said they would post a private street sign. He added that he was unsure about the separator, as to whether it was made of sand. Commissioner Kirby said they could condition that. Public testimony was closed.

Commissioner LePell moved approval per staff recommendation, adding to Condition 5, to provide the storm-water runoff be fitted with separators and filters as was necessary to avoid pollution the channel. Commissioner Ysitt seconded the motion. The motion was carried 4/0, with Commissioners Gault and Jacob excused.

10. **APPEAL OF SITE DEVELOPMENT REVIEW, S-1834 BY THE APPLICANT – NAZARETH** – Appeal of an approved Site Development Review to allow construction of ten apartment units on one site containing approximately 20,908 square feet (0.48 acres), in the CVCBD-SUB-11 (Castro Valley Central Business District, Subarea 11) District, located at 21091 Wilbeam Avenue, west side, approximately 260 feet north of Norbridge Avenue, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 084A-0046-005-04.

Mr. Andrade presented the staff report. Theresa Nazareth, the appellant, stated that her project as originally proposed was within the zoning requirements for the site, and added that two guest-parking spaces, which were not required, had been added. She said she had added a five-foot walkway as well, to satisfy the concerns of the Castro Valley Municipal Advisory Council. She added that she was near BART, and was aware that the County encouraged higher density in transit corridors.

Commissioner LePell said there were a lot of trees on the site. She asked about the oak tree. Ms. Nazareth said she would keep it if it were feasible. She said a lot of the trees were bad.

Commissioner LePell said she would like landscaping saved where possible. She asked about setbacks. Mr. Andrade said this project met the setback requirements, but one neighbor complained about the closeness to her property, so the MAC had only recommended approval for nine units, so as to provide a 40-foot setback, instead of the required 20-feet. Landscaping was proposed for screening, but the same neighbor complained about the shade that would come from the trees.

Commissioner Kirby asked how many spaces the Castro Valley Municipal Advisory Council looking for. Mr. Andrade said no specific number was discussed, but noted that extra parking was not required. He added that there was only two-hour parking during the day on the streets, but most guests come at night. Commissioner Kirby said this was close to BART, but there were still concerns about parking.

Commissioner Kirby said that although he didn't usually go against the Castro Valley Municipal Advisory Council recommendations, he felt removing a unit for parking and privacy was excessive. Ms. Nazareth felt she had gone out of her way to provide a beautiful project and follow the rules, and couldn't understand the decision. Public testimony was closed.

Commissioner Tam said she agreed with Commissioner Kirby. Two extra parking spaces were provided, even though the Ordinance didn't say they were needed. Commissioner Kirby said the site supported the ten units and was within the zoning. He felt the applicant had done her best to comply with the Castro Valley Municipal Advisory Council requests. Commissioner Kirby moved to grant the appeal, and allow the ten units. Commissioner Ysit seconded the motion. Commissioner LePell asked for drought tolerant plantings to be added to Condition 19. Commissioner Kirby amended his motion. Commissioner Ysit amended his second. The motion was carried 4/0, with Commissioners Gault and Jacob excused.

STAFF COMMENTS & CORRESPONDENCE: There were none.

CHAIR'S REPORT: There was none.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS:

Commissioner LePell said she appreciated the drought tolerant wording being added to the last project. She said it was not official language, but she would like the wording to become a policy. Mr. Jensen said that in the mean time it could be made an unofficial policy.

Commissioner Ysit asked for a report on engineered systems for septic tanks. He asked how many different types of these there were. Mr. Jensen said he didn't have an answer to that.

Commissioner Kirby emphasized that the Commission was reluctant to overrule a recommendation by the Castro Valley Municipal Advisory Council, but in that afternoons case, they felt they had good reason.



ADJOURNMENT:

There being no further business Commissioner LePell moved to adjourn the meeting at 5:47 p.m. Commissioner Kirby seconded the motion. The motion was carried 4/0, with Commissioners Gault and Jacob excused.

**JAMES SORENSEN - PLANNING DIRECTOR
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY**