

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
JULY 17, 2006
(APPROVED AUGUST 7, 2006)

FIELD TRIP: 10:00 A.M.

MEMBERS PRESENT: Commissioner Glenn Kirby, Vice Chair.

MEMBERS EXCUSED: Commissioners Ken Carbone; Richard Hancocks; Frank Imhof, Chair; Mike Jacob; and Alane Loisel.

OTHERS PRESENT: Steve Buckley, Assistant Planning Director.

The Commission convened at 224 W. Winton Avenue, Room 111, Hayward, California, at the hour of 10:00 a.m., but did not adjourn to the field to visit the following property:

1. **MODIFIED ZONING UNIT, MZU-2050 and CONDITIONAL USE PERMIT, C-8418 – MOLINARO** ~ Petition to modify 2050th Zoning and Conditional Use Permit, C-8418, by allowing the expansion of an existing winery with winery related uses by the construction of a new 15,000 square foot event center and changing Provision of Classification #2, regarding the maximum building envelope from 2.5 acres to 5.9 acres on a site containing 20.79 acres, in a PD (Planned Development, 2050th Zoning Unit) District, located at 7986 Tesla Way, north side, corner northeast of Greenville Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99A-1602-013-02.

REGULAR MEETING: 1:30 P.M.

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

MEMBERS PRESENT: Commissioners Ken Carbone (arrived late); Richard Hancocks; Frank Imhof, Chair; Mike Jacob; Glenn Kirby, Vice Chair.

MEMBERS EXCUSED: Commissioner Alane Loisel.

OTHERS PRESENT: Chris Bazar, Planning Director; Steven Buckley, Assistant Planning Director; Darryl Gray, Assistant Planning Director; Karen Borrmann, Public Works Agency Liaison; Brian Washington, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately eleven people in the audience.

CALL TO ORDER: The Chair called the meeting to order at 1:35 p.m.

ELECTION OF OFFICERS – The Chair announced that the Election of Officers will be moved to the evening meeting.

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** - June 5 and 19, 2006.
2. **ZONING UNIT, ZU-2204 and AGRICULTURAL SITE DEVELOPMENT REVIEW, S-1978 – BRAUN/THOMPSON** ~ Petition to reclassify from the ‘A’ (Agricultural) District to a P-D (Planned Development) District with an Agricultural District base-zone, and allowing one secondary dwelling unit, on one site approximately 3.21 acres, located at 8855 Pleasanton-Sunol Road, west side, approximately 1.8 miles north of the intersection with Highway 84, Sunol area of unincorporated Alameda County, bearing County Assessor’s Parcel Number: 0096-0320-003-00. (Continued from July 18, August 1, September 19, October 17, November 21, December 19, 2005 and January 23, March 6, April 3 and June 5, 2006; to be continued to August 21, 2006).
3. **ZONING UNIT, ZU-2230th and PARCEL MAP, PM-8910 – LAMB SURVEYING INC./CAMPBELL** ~ Petition to reclassify one parcel from R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acre Minimum Building Site Area) District to a P-D (Planned Development, allowing one acre parcels) District, and to allow subdivision of one lot into four parcels, located at 1365 Hilliker Place, east side, corner south of Las Positas Road, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 099-0015-026-06. (Continued from January 23, February 21, April 3 and 17, May 1 and June 5, 2006; to be continued to August 21, 2006).
4. **ZONING UNIT, ZU-2231st and PARCEL MAP, PM-8909 – LAMB SURVEYING, INC./WATERMAN** ~ Petition to reclassify one parcel from R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acre Minimum Building Site Area) District to P-D (Planned Development) District, and to allow subdivision of one lot into four parcels, located at 1339 Hilliker Place, east side, approximately 320 feet south of Las Positas Road, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 099-0015-

025-04. (Continued from January 23, February 21, April 3 and 17, May 1 and June 5, 2006; to be continued to August 21, 2006).

5. **ZONING UNIT, ZU-2236 and SITE DEVELOPMENT REVIEW, S-2064 – SUGANAGUNTA/NALLURI** ~ Petition to reclassify one parcel containing approximately 5.67 acres from the “A” (Agricultural) District to the P-D (Planned Development) District, so as to construct one main dwelling and one secondary dwelling, , located at 9895 Foothill Road, west side, approximately 2.1 miles south of Castlewood Drive, Sunol area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 096-0290-001-06. (To be continued to August 7, 2006).
6. **ZONING UNIT, ZU-2236 and TENTATIVE PARCEL MAP, PM-9182 – BHUKHAN** ~ Petition to reclassify one parcel approximately 5.67 acres from the “A” (Agricultural) District to a P-D (Planned Development) District, to construct one main dwelling and one secondary dwelling, , located at 9895 Foothill Road, west side, approximately 800 feet west of Kent Avenue, Ashland area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 096-0290-001-06. (To be continued to August 7, 2006).
7. **ZONING UNIT, ZU-2237 and TENTATIVE PARCEL MAP, PM-9182 – BHUKHAN** ~ Petition to reclassify one parcel approximately 0.50 acres from the R-1 (Single Family Residence) District to a P-D (Planned Development) District, to allow four single family dwellings on parcels with a minimum net parcel size of 3,775 square feet, located at 910 Delano Street, south side, approximately 800 feet west of Kent Avenue, Ashland area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 080C-0484-029-00. (To be continued to August 7, 2006).
8. **ZONING UNIT, ZU-2202 and TENTATIVE PARCEL MAP, PM-8560 - HOPSON** ~ Petition to reclassify two parcels totaling 1.96 acres from the R-1 (Single Family Residence) and R-1-B-E (Single Family Residence, one acre per 1976th Zoning Unit) Districts to the R-1-B-E District (allowing for a 30,000 square foot Minimum Building Site Area for parcels 2 & 3), and to allow subdivision of one site into three lots with the existing dwelling to remain, located at 22750 Valley View Drive, east side, approximately 850 feet north of Kelly Street, Hayward area of unincorporated Alameda County, bearing County Assessor’s Parcel Numbers: 417-0140-028-00 and 417-0151-001-00. (Continued from April 18, 2005, February 6, April 3, May 1 and June 19, 2006; to be continued to August 21, 2006).

Approval of June 5th Minutes was continued to the next meeting. Commissioner Kirby made the motion to approve June 19th Minutes as submitted. Commissioner Hancocks seconded, which carried 4/0/2 with Commissioners Carbone and Loisel excused.

Commissioner Jacob made the motion to approve the remainder of the Consent Calendar as recommended by staff and Commissioner Kirby seconded. Motion carried 4/0.

REGULAR CALENDAR:

1. **MODIFIED TRACT MAP, MTR-7118 – COURTNEY** ~ Petition to allow modification to TR-7118 to subdivide one site containing 3.17 acres into 19 parcels in a PD (Planned Development, 1762nd Zoning Unit) District, located at the southwest corner of Page Street and Miramar Avenue, San Leandro area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 080A-0197-001-06 and 080A-199-001-06. (Continued from September 19, October 17, November 21, December 19, 2005, January 23, March 6, April 3, May 1 and June 19, 2006).

Mr. Buckley presented the staff report. As recommended by the Castro Valley MAC, staff would like to include an additional condition that guest parking be part of the Site Development Review. The lots without street parking which will be accessed by private driveways will provide guest parking on their properties. Regarding geological issues, Public Works has reviewed and approved the slope stability study. Mr. Buckley also pointed out that the presentation on the over-head has been submitted by neighbors in opposition and who have view concerns. Commissioner Jacob added that he had received written comments with view concerns in his package with the same photographs.

Public testimony was called for. The Applicants were not available and no other testimony was submitted. Based on the steepness of the slope and the close proximity to the fault, Commissioner Jacob asked whether it would be appropriate to require a separate geologist's seismic safety report or as an inclusion in the initial soil investigation report. Commissioner Kirby suggested strengthening Condition 21.d. Ms. Borrmann indicated that it would be appropriate to have a separate condition requiring a final seismic report or including compliance to the geotechnical report in Condition 17. A Special Inspector could also be requested to be on-site. Commissioner Jacob suggested an addition to both Conditions 17 and 21 and recommended that in the future more specificity be provided. He made the motion to move staff recommendation for an approval with an additional geologic review per Public Works Agency and staff discussions to Conditions 17 and 21. Commissioner Kirby seconded the motion which carried 4/0/2 with Commissioners Carbone and Loisel excused.

2. **TENTATIVE TRACT MAP, TR-7747 and SITE DEVELOPMENT REVIEW, S-2048 – K & Z HOMES** ~ Application to construct eight condominium units on one parcel containing approximately 0.46 acres, in a R-S-D-15 (Suburban Residence, 1,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at 20378 Stanton Avenue, east side, approximately 187 feet south of Denning Court, Castro Valley area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 084A-0181-014-00. (Continued from May 1 and June 19, 2006).

Mr. Buckley presented the staff report.

Public testimony was called for. Joe Hasnain, representing K&Z Homes, explained that in response to the Commission's concerns regarding inadequate guest parking, the project has been re-designed to create three additional guest parking spaces by moving units 1, 2 and 3 five feet further back into the lot providing only 15 feet rear yard setback.

Public testimony was closed. Commissioner Kirby said that although he appreciated the Applicant's willingness to make adjustments, he was not supportive of a variance. Commissioner Jacob agreed adding that his preference was the original plan. He made the motion to approve the proposal initially presented at the June 19th hearing which does not require a variance for the rear yard, and that the parking requirements would be adequately satisfied under the Condominium Guidelines. Commissioner Kirby seconded and the motion carried 4/0/2 with Commissioners Carbone and Loisel excused.

3. **ZONING UNIT, ZU-2227 - JENSEN** ~ Petition to reclassify one parcel containing approximately 154,887 square feet (3.55 acres), from the R-1-L-B-E (Single Family Residence, Limited Agriculture, 5 acre Minimum Building Site Area, 300 feet Median Lot Width, 30 foot Front Yard) and A (Agricultural) Districts to the R-1-L-B-E-SU (Single Family Residence, Limited Agriculture, 5 acre Minimum Building Site Area, 300 Median Lot Width, 30 foot Front Yard, Secondary Unit) District, located at 2740 Park Way, west side, approximately 500 feet east of Kilkare Road, Sunol area of unincorporated Alameda County, bearing County Assessor's Parcel Numbers: 096-0543-021-00, 096-0543-022-00, 096-0543-023-00, 096-0543-024-00, 096-0543-028-00, 096-0543-032-00 and 096-0543-033-00. (Continued from April 17, 2006).

Mr. Gray presented the staff report. Environmental Health has submitted background data on the septic tank systems indicating that both systems were installed with approvals on the same property. He further explained the error on the site plan presented at the last meeting which has been corrected now. Commissioner Imhof requested clarification on the septic system and Commissioner Kirby pointed out that the graphic representation does not reflect the slope correctly. Staff explained that the system was built for one extra bedroom unit. He also provided clarification on seven assessor's parcel numbers. Commissioner Jacob asked if there is a provision for approving applications on properties subdivided before the Subdivision Map Act for reclaiming these subdivisions or if there was a process of abandoning county property. Mr. Gray said that the site is recognized as one building site and that he could do additional research and report back to the Commission on ways to resolve the large community-wide issue of paper streets.

Public testimony was called for. Mr. Jensen confirmed that the topographical lines were incorrect. Although the home association has tried unsuccessfully to resolve the issue of the

numerous parcel numbers and streets on old parcel maps, there have been no problems with his insurance policy and so he believes the parcels are properly recognized as shown.

Commissioner Carbone arrived.

Public testimony was closed. Commissioner Kirby made the motion for an approval and Commissioner Hancock seconded. Commissioner Jacob requested that the motion include staff to work with the applicant on the abandonment issues and if it could be done expeditiously. Commissioner Kirby amended his motion adding that perhaps staff could bring back a report on the process of resolving such issues with the Assessor's office which would also provide future direction. Motion carried 4/1/1 with Commissioner Carbone abstaining. Commissioner Loisel was excused.

4. **MODIFIED ZONING UNIT, MZU-2050 and CONDITIONAL USE PERMIT, C-8418 – MOLINARO** ~ Petition to modify 2050th Zoning and Conditional Use Permit, C-8418, by allowing the expansion of an existing winery with winery related uses by the construction of a new 15, 000 square foot event center and changing Provision of Classification #2, regarding the maximum building envelope from 2.5 acres to 5.9 acres on a site containing 20.79 acres, in a PD-ZU-2050 (Planned Development, 2050th Zoning Unit) District, located at 7986 Tesla Way, north side, corner northeast of Greenville Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99A-1602-013-02.

Mr. Buckley presented the staff report.

Public testimony was called for. The applicants were not available. Harry Galles, 3640 Jerrold Road, said his property was about ½ mile from the winery which was northwest of Greenville Road and not northeast as stated in the staff report. His concern was that this facility would be the third large event center within a mile from his property. Although an approval will not have an environmental impact, it will have an impact on the neighbors and result in increased traffic. Initially, with only a tent, events were held only in the weekends but now there are events held from Wednesday to Saturday, day and night with loud music till 11 pm. The applicants are not good neighbors and do not respond to complaints. He was not against building the center but, with open doors, noise will be a concern. Mr. Galles requested that some consideration be given to the neighbors and, if approved, conditions be imposed on the operation. Commissioner Carbone asked if he would be opposed to a self-contained facility with no noise impacts. Mr. Galles replied no and re-stated that his main concern is noise as events run late at night.

Public testimony was closed. The Chair requested clarification on the noise limitation in the rural County. County Counsel replied that there is the CUP provision and the Noise Ordinance. Commissioner Hancock said he was not sure of the connection of a event center to the wine business. Commissioner Kirby suggested that perhaps conditions could be imposed to construct the building to minimize the noise; keep the doors closed during events; require on-site security and management after events to regulate flow of traffic; and to look at the Conditions of

Approval for the Wente facility as an example. He thought that it was not a minor modification. Commissioner Jacob made the motion to move the finding that it is a major modification and Commissioner Hancocks seconded. Motion carried 5/0/1. Commissioner Loisel was excused.

ELECTION OF OFFICERS: Commissioner Jacob nominated Commissioner Kirby as the Chair as he felt that significance should be placed on seniority as well as for rewarding a Commissioner for showing leadership, enthusiasm, energy and time commitment to the Commission. Nomination carried unanimously.

Commissioner Kirby nominated Commissioner Carbone as Vice-Chair and Commissioner Imhof seconded. Motion carried unanimously.

STAFF COMMENTS & CORRESPONDENCE: None.

CHAIR'S REPORT: None.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS: None.

ADJOURNMENT: There being no further business, Commissioner Jacob made the motion for an adjournment to 6:00 p.m. and Commissioner Carbone seconded. Motion passed unanimously.

SET MATTERS: 6:00 P.M.

The Commission convened at the Public Hearing Room, 224 W. Winton Avenue, Hayward, California, at the hour of 6:00 p.m.

MEMBERS PRESENT: Commissioners Ken Carbone, Vice Chair; Frank Imhof; Mike Jacob; and Glenn Kirby, Chair.

MEMBERS EXCUSED: Commissioner Alane Loisel and Richard Hancocks.

OTHERS PRESENT: Chris Bazar, Planning Director; Steven Buckley, Assistant Planning Director; Brian Washington, County Counsel's Office; John Bates and Arthur Valderrama, Public Works Agency; and Nilma Singh, Recording Secretary.

There were approximately sixty-two people in the audience.

CALL TO ORDER/ROLL CALL

ANNOUNCEMENTS BY THE CHAIR – None

OPEN FORUM – No one requested to be heard under Open Forum.

REGULAR CALENDAR

1. **CONDITIONAL USE PERMIT, C-8465, SMITH / VINEYARD MEMORIAL CEMETERY – Review of Mitigated Negative Declaration ~** Application to allow a cemetery and related uses and structures to be developed on a portion of a 110-acre site, in an A (Agricultural) District, located on North Livermore Avenue, west side, approximately ½ mile north of U.S. Highway 50, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 903-0008-004-01.

Mr. Buckley presented the staff report.

Public testimony was called for. Jack Smith, representing his daughter, a co-owner, stated that the project will be an asset to the area with an attractive front and heavily landscaped. Although there is adequate water on the property, a study is currently being conducted to confirm this. The buildings will be hidden from view, and will be developed with all modern equipment.

Alice and David Quinn, property owners at 2300 N. Livermore Avenue, spoke against the proposal. Ms. Quinn pointed out that the proposed cemetery will be in the middle of the valley and in full view of the neighbors. They would like to keep the valley rural and agriculturally preserved. Their main concern is water as this area is a unique watershed drainage for Cayetano Creek, portions of which run all year. Other concerns include the effect of the new proposed wells on their drinking wells; air quality as the crematory will be releasing more mercury which will have an effect on the air and food chain; and the archeological findings which are not mentioned in the MND. Commissioner Carbone noted that any agricultural use would increase the water usage. Ms. Quinn replied that lawns use the most water compared to the drip irrigation system used in vineyards and/or orchards. Mr. Quinn added that this land was never intended for a cemetery which would be inappropriate and an eye-sore. He pointed out that Mr. Adolph Martinelli who was the prior Planning Department Director, will affect subconsciously how staff will do their job. There is a need for long term planning for this area.

Harriet Newman stated that she and her husband, Bill Newman, were the property owners of 7200 Camino Tassajara in Pleasanton, which was adjacent to another proposed large cemetery, Creekside Memorial Park. Two large cemeteries were not needed six miles apart. Upon review of the MND, they are of the conclusion that the Smith Cemetery is a better proposal and further provided comparison of the two. This site is flat land and landscaped such that it will be almost invisible to its neighbors and motorists whereas Creekside will be located on the ridgeline; although the new water usage could adversely affect the quality and quantity of existing wells, this proposal is more sustainable since it is smaller in scope and will be located on flat land with little run-off; Smith Cemetery will provide a 300 foot buffer from the creek; there would be only two residences approximately 1,000 feet from this proposed cemetery compared to the 8-10 at the Creekside location; and a full EIR is being required for the Creekside cemetery due to the severe environmental impacts.

Lona McCallister, 4700 Belroma Road, North Livermore, submitted a letter in opposition from her neighbor. She also spoke against the proposal. If cremations will occur on site, she requested an estimated number of cremations planned per year adding that if it is a large number, it would be unacceptable as it would be hazardous to the adjacent community. Ms. McCallister also asked if mercury scrubbers will be used as part of their activities and if not, why not. Although an important issue, the IS did not cover the mercury emissions. This proposal is not in compliance with the Measure D open space program. Replacement of 100 year old trees would take long and be risky. Drilling new wells in an area that already has limited sub-basins is another concern together with the septic system which raises the issue of ground water contamination. There is a need for additional studies.

Bob Baltzer, 944 El Caminito, Livermore, said that although he was the Chair of Friends of Livermore, he was speaking for himself. There are several legal issues related to Measure D and ECAP that need to be explored. He further read Page 80 of the ECAP.

Tom Reitter stated that although he was a City Councilmember, he was speaking as a Livermore resident. He urged all to read the CDA Director, Marc Robert's letter dated January 10th addressed to Mr. Sorensen outlining why the proposal is inconsistent with Measure D.

Upon confirmation from staff that a crematorium is being proposed within the mortuary, Commissioner Jacob asked if it would be subject to air quality management district review and if the embalming process would be part of the crematorium. Staff pointed out the basic analysis on page 49 regarding the embalming process. Doug Herring, Project Environmental Consultant, confirmed that the crematorium would require a permit from the Air District but the District will not be involved with the embalming operations. Commissioner Jacob requested that the next staff report reflect that the crematorium process and the use of mercury will be subject to Air Quality Management District's regulations. Commissioner Imhof asked if a cemetery is allowed Measure D Open Space and if a separate type of septic tank was required for the embalming operations. Mr. Bazar noted page 85 of the MND and Mr. Herring said that an advanced septic system will be required, including a holding tank for medical waste water which will be hauled off-site by a hazardous waste management company, similar to other cemeteries.

Mr. Bazar suggested inviting Environmental Health staff for the next meeting to provide clarifications. Commissioner Kirby agreed adding that it would be helpful for the Commission and the public to have a clear understanding of how the closed systems work regarding vapor, water and waste disposal so as to not affect the watershed and air. Concerns have been raised regarding the amount of water usage and, as such, clarification is needed to quantify the extent of water consumption for landscaping compared to a vineyard or an orchard. Clarification is also needed regarding compatibility to Measure D Policy 334, 335 and 340, ECAP and South Livermore Plan.

Commissioner Jacob made the motion to continue the matter to August 7th and Commissioner Carbone seconded. Motion carried 4/0/2. Commissioners Hancocks and Loisel were excused.

2. **CONDITIONAL USE PERMIT, C-8205, CEDAR GROVE COMMUNITY CHURCH** ~ Petition to construct a new church campus totaling approximately 82,000 square feet of floor area with 508 parking spaces, on a 14-acre site, in the A-CA (Agricultural-Combining) District, located at 2060 South Livermore Avenue, northeast side, approximately 0.25 miles southeast of Tesla Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099-0900-004-04.

Mr. Buckley presented the staff report adding that a request has been made for an additional field trip to allow the public participation. Mr. Bazar added that all field trips are noticed and open to the public.

Henry Mutz, representing Cedar Grove, explained the purpose of the church and the acquisition of the property which was the result of a denial for expansion at the current location. All meetings/contacts with County, City of Livermore, Wente Vineyards and Senior Pastors of neighboring churches have been positive. A letter of approval has also been obtained from Assemblyman Guy Houston.

Marshall Kamena, Mayor of Livermore, pointed out that Money magazine has named the City of Livermore as the 32nd greatest city to live in. He urged an approval.

Tom Reitter, City of Livermore Councilmember, said he was speaking for himself. This facility will be located at the major entrance of both the County and City's wine country. He felt that this was more appropriately an urban use than an agricultural use. In March, 2000, Measure K was approved which defined the southern urban growth boundary and also requires the City to oppose any urban uses beyond the city boundaries. The South Livermore Valley Plan was intended to protect and enhance agricultural uses. Regarding the septic system, Mr. Reitter read page 32 of the EIR. Since this project is too big, inappropriate and contradictory to Measure K, he recommended a denial.

Carolyn Wente, 5565 Tesla Road, President of the Winegrowers Association, read her written statement. The South Livermore Valley Plan discourages non-compatible non-agricultural uses such as the proposal. One of the goals of the Plan is to discourage or minimize development on land suitable for viticulture, as this site is. The Association had tried unsuccessfully to meet with the church representatives to identify alternative sites. On January 12, 2006, the South Livermore Valley Plan was named the American Planning Association's 2006 Outstanding Planning Award for implementation and, as such, she felt strongly that the Plan is successful and must be protected.

Marjorie Leider said she was the Vice Mayor of Livermore but she was speaking for herself. Both Livermore Planning Commission and the Design Committee had turned down the expansion at its original site which was in an unsuitable area. The City of Livermore has in the past worked with big churches but the proposed church with 500 parking spaces is not an appropriate entrance to the wine country and all the goals and objectives of the South Livermore Valley Plan.

Bob Baltzer, property owner at 944 Caminito, concurred with the previous speakers. Policy 340 prohibits any development not contributing to agriculture. A church may be legally allowed but it is not right as it does not contribute to expand agriculture in any way.

Harriet Cole, representing Tri-Valley Conservancy (TVS), read and submitted her written testimony. An approval will unravel the South Livermore Valley Plan. TVS supports the Plan. The easements over the vineyards of Concannon, adjacent to the church site and paid for with public funds, would be adversely impacted by the proposed church. She urged for a denial.

Jean King, 4205 Colgate Way, urged the Commission to protect the Plan by encouraging agricultural and not urban uses.

Gail Shearer, Tazetta Vineyard, 1972 S. Livermore Avenue, complained regarding the inadequate notice for this meeting and field trip especially since she is the closest neighbor. She further requested a continuance to allow additional time and another field trip during which the Commission should note the location of the Lutheran Church on South Livermore Avenue and Robertson Park inside the Urban Growth Boundary. Transition uses are not recognized by both Measure D and Measure K. She noted the contents of her July 13th letter. There is no discussion in the EIR that the site is already developed with residential uses and no further development is allowed under the Cultivated Agricultural District. If an approval is to be considered, the three existing dwellings should have to be removed. Ms. Shearer said she had the same concerns as Mr. Quinn regarding Mr. Martinelli's involvement.

Joanne Bezis, 1969 S. Livermore Avenue, read and submitted her written testimony adding that she also did not receive any form of notification. She has lived in this area for 32 years. Her concern was the disappearance of the rural life. She further read ECAP Policy 340, Page 81. An approval would permanently eliminate agriculture on the largest acreage available in the neighborhood, 14 acres of possible vineyard land, and be against the Agricultural District's regulations and should be denied. The impact would be quite significant. Traffic is another main concern as an approval will result in church traffic entering and exiting in front of her property. Page 130 of the FEIR mentions the widening of South Livermore Avenue and Ms. Bezis said she was not in favor of relinquishing any portion of her property. The FEIR was not corrected to reflect that this site is under City of Livermore fire and police jurisdiction.

Richard Ryon, 1183 Glenwood Ct, President of Friends of the Vineyards, said he has submitted his written testimony. He urged a denial. If the matter is not denied, Mr. Ryon requested a continuance of 60-90 days after which the matter should be heard in City of Livermore in conjunction with Tri-Valley Conservancy. The proposed church complex is an urban use and not suited within the South Livermore Valley Plan area as it is not compatible with the surrounding area.

John Fletcher, 1972 S. Livermore Avenue, stated that the biggest issue is the urban use in a rural agricultural area. He is the nearest neighbor and he shares property lines on two sides. With the proposal to alter the road, he will share a third side also. The FEIR tries to make the project look

good by not answering all questions raised, such as, the result of construction dust on the grapevines; noise has not been measured from the rear of his property; vision from the road; drainage on the east; and the removal of old trees.

Mike Rushford, 1890 S. Livermore Avenue, said his concern was lighting trespass. Roadside lighting has not been discussed. Un-shielded lighting should be avoided in the country side. He also discussed the traffic pattern. Speeding is a problem in this area. An approval will result in heavy traffic on Sundays and evenings. The pavement quality and the road width in this neighborhood are inadequate.

Dave Stark, 2175-7th Street, stated that he owns and operates Page Mill Winery and his property is adjacent to the Shearer property. He read his written testimony. If approved, the wine country ambience will suffer.

Brian Voss said he owns Concannon Vineyards which shares 2,500 feet of property lines with the project site. This land is 10% of the total 150 acres available area, has unique soil good for grapes which does not exist any where else. The view corridor at Tesla Road needs to be looked into as it is exposed and is the entrance to the wine country. Mr. Voss noted the South Livermore Valley Plan and the Mayor's testimony.

Public testimony was closed. In response to Commissioner Jacob regarding RLUIPA claims as contained in the letter received from the applicant's Counsel, Mr. Washington explained that RLUIPA is a 5-6 year old Federal law, which prohibits discrimination in land use decisions against religious institutions and any decision that will burden any practice or exercise of a religious faith. Commissioner Jacob said that during the field trip, he had noted that the existing church facility is well kept. He agreed with the speakers that the proposal has the characteristics of an urban use, yet the City denied an expansion inside the Urban Growth Boundary. He asked staff if there were other specific issues related to the church other than the location. Commissioner Imhof requested another field trip before the next meeting and, if possible, he would join the Commission at the site. He also requested input from Public Works regarding the condition of the street. The Chair suggested a site visit at 3 pm.

John Bates, Public Works Agency, stated that the Agency is in the process of some remedial paving and striping along S. Livermore Avenue and Tesla Road. Commissioner Imhof pointed out that the asphalt has deteriorated on S. Livermore Avenue and recommended a visit before the next meeting. Mr. Bates replied that he had visited the area last week. Some patching work is being done on Tesla Road. Although work on S. Livermore Avenue has been scheduled for next week, it may be delayed due to another project. Chair Kirby said he would like to know the distance between the two left-hand turns; if there is an expectation of any additional width on the applicant's side of the road; or any paving of existing right-of-way or any acquisition of right-of-way. Mr. Bates confirmed that there will be paving within the right-of-way. The Chair requested graphic representation on the scope of the plan to widen in order to identify which properties would be affected. Commissioner Imhof suggested County Counsel's presence at the field trip. Mr. Bazar indicated that Counsel has recommended a closed session on potential litigation.

The Chair summarized that the Commission will hold a field trip on August 7th around 3 p.m. Mr. Bazar added that staff will coordinate the field trip at a set place and time for the benefit of the public. Chair Kirby said he shared concerns with the previous item such as the impact and the consistency with the General Plan and ECAP. Commissioner Jacob made the motion for a continuance to August 21st with a Field Trip on August 7th. Commissioner Imhof seconded and the motion carried 4/0/2. Commissioner Loisel and Hancocks were excused.

The Chair announced a recess.

The Commission reconvened.

3. **VESTING TENTATIVE TRACT MAP, TR-7305 - ALCORN/DELCO ~**
Application to allow subdivision of one parcel into seventeen parcels on a site containing approximately 3.99 acres in an R-1-CSU-RV (Single-Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4653 Malabar Avenue, south side, approximately 250 feet west of Pepper Street, Castro Valley area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 084C-0835-001-07. (Continued from June 19, 2006).

Mr. Buckley presented the staff report. Commissioner Jacob said he appreciated PRHC's memo and expressed concern regarding the comments on the fifth bullet point. Chris McMorris, historic consultant for the EIR, explained the three codes as listed in the paragraph and confirmed that this criteria was used to determine the historical significance.

Public testimony was called for. David Alcorn, son of George Alcorn, said his father had donated portions of his property for the expansion of Seven Hills Road. The opposition is denying the opportunity for many to live in Castro Valley. Every requirement has been satisfied.

James Alcorn said that George Alcorn, although a good man, was not a historical person. In the mid 1940's, he removed the chicken houses because of the smell and in consideration for the neighbors. The proposal does not include any variances but meets all zoning requirements. The original request was for 30 homes but has now been modified to 16 only. He urged an approval.

Herman Welm, representing Delco Builders, confirmed that the units have been reduced to 16, the project is in compliance to all related policies. Commissioner Carbone requested clarification on the existing large lot. Mr. Welm explained that the existing house has an identity with large trees and, as such, the project has been planned around it, saving the trees.

William Fleishhacker, attorney representing Delco Builders, explained the reasons for the EIR and which did not find any historical significance. CEQA also requires evaluation of a reasonable range of alternatives. The park alternative was not considered as it is speculative. He urged certification of the FEIR.

Sonya Howes representing Castro Valley Preservation Alliance, submitted letters on behalf of the Alliance and James Milward, Architectural Consultants, Castro Valley. The EIR is still not

adequate. Her copy of the DEIR did not contain the section on traffic and although she had made a request, she has not received it to-date. In the FEIR, many of the mitigation measures are written in such a way that it appears the developer is being requested and not required to install the measures; and the developer 'should' rather than 'shall'. The FEIR also does not respond to the comments of RQWCB letter dated February 19th; does not evaluate the potential for adverse impacts arising from the failure to comply with 203 MPDES; entirely ignores comments in 2-4; and fails to discuss the cumulative impacts such as scenic, traffic, open space and historic. A condition of approval should be included to prevent future subdivision of Lot A. Until the County Register of Historical Resources is complete, this project should not move forward.

The Chair announced that other speakers, namely Susan and George Reinheimer, Cindy Barclay, Ethel and Louis Morgan, and James Milward have donated their time to Susan Hersch.

Susan Hersch, representing Castro Valley Preservation Alliance, read and submitted her written testimony. She voiced the following concerns: the EIR process requires additional administrative review prior to certification; the only proposal for EIR consultation was written and weighed heavily in favor of development; notification of FEIR was inadequate; the public was advised at the June 19th meeting not to speak on the issue of open space; the lack of response from the Fire Department; the FEIR did not place any emphasis on the significance on the property's historic importance; the alternative of smaller homes on bigger lots, consistency with the surrounding neighborhood was not considered; an approval will result in degrading the quality of environment and eliminate local history; and the proposal is not consistent with the Castro Valley General Plan. She introduced a picture of the property and requested a continuance until changes can be made to FEIR and further analysis is completed on the EIR process that fulfills the intent of CEQA and the Superior Court.

Public testimony was closed. Commissioner Jacob asked the EIR consultant if there was any differentiation in replacing the word 'should' to 'shall' in the original DEIR on pages 211 through 213: Traffic 1.a. and 1.b; Bio-1.a, 1.b and 2.c. and requested clarification on the technical response on pages 11-19. Mr. Jason Chafin confirmed that there would be no difference between the words and explained that the response numbering was a typo. Commissioner Jacob suggested making an affirmative statement reflecting that the existing lot could not be subdivided. Commissioner Imhof asked if a response had been received from the Fire Department. Mr. Buckley replied yes and the cul-de-sac has been designed per their recommendations. Mr. Bazar added that staff has no objection to the replacement of the word 'should'. Commissioner Carbone felt that the project was too dense and although not opposed to any development of the property, he could not support the project as proposed. Commissioner Kirby thought that the work of the PRHC is under-valued and was concerned that their letter was worded more strongly than before. He also had problems with the EIR process and could not support the certification. Commissioner Jacob made the motion to certify the EIR with the following modifications to DEIR and FEIR: amendment of the word 'should' to 'shall' on page 211; traffic mitigation measure 1.a., 1.b., Biological Resource Section 1.a. (page 213), 2.b., 2.c., FEIR page 11-19, Response to Comment 2.3 as 2.4 and comment 2.3 to 2.1 and 2.2. Commissioner Imhof seconded. Motion carried 2/2/2 with Commissioners Kirby and Carbone dissenting. Commissioner Loisel and Hancocks were excused.

Due to a tie vote, Commissioner Imhof made the motion for a continuance until such time there is a full Commission. Commissioner Carbone seconded. Motion carried unanimously.

ADJOURNMENT: There being no further business, Commissioner Jacob moved to adjourn the meeting at 9:00 pm. Commissioner Carbone seconded. The motion was carried 6/0.

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