

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
NOVEMBER 5, 2007
(Approved December 17, 2007)

FIELD TRIP:

MEMBERS PRESENT: Commissioners Vice Chair; Glen Kirby, Chair; and Kathie Ready.

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

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner.

The Commission convened at 224 W. Winton Avenue, Room 111, Hayward, California, at the hour of 1:30 p.m. and adjourned to the field to visit the following properties:

1. **VARIANCE, V-12072 - JOE and MARIA MENEZES** ~ Petition to allow construction of an attached addition providing a 28-foot building where 25 feet is the maximum allowed, in a R-1-B-E (Single Family Residence, 6,000 square foot Minimum Building Site Area) District, located at 3462 Bridle Drive, north side, approximately 100 feet north of Cattle Avenue, Fairview area of unincorporated Alameda County, bearing Assessor's Parcel Number: 425-0090-015-00. **Staff Planner: Christine Greene**

REGULAR MEETING: 6:00 p.m.

MEMBERS PRESENT: Commissioners Ken Carbone, Vice-Chair; Frank Imhof; Mike Jacob; Glenn Kirby, Chair; Alane Loisel and Kathie Ready.

OTHERS PRESENT: Chris Bazar, Planning Director; Rodrigo Orduña, Senior Planner; Phil Sawrey-Kubicek, Senior Planner; Eric Chambliss, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately thirteen people in the audience.

CALL TO ORDER: The Chair called the meeting to order at 6:00 p.m.

ANNOUNCEMENTS BY THE CHAIR: *None*

OPEN FORUM: Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes. *No one requested to be heard under open forum.*

CONSENT CALENDAR:

1. **APPROVAL OF PLANNING COMMISSION MINUTES** – September 17 and October 15, 2007.
2. **TENTATIVE PARCEL MAP, PM-9408 – PALOMARES CATTLE COMPANY** ~ Petition to allow subdivision of a site into six lots, in an “A” (Agricultural) District, located at 31253 Palomares Road, east side, approximately 3.7 miles south of Palo Verde Road, Castro Valley area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 085A-3701-008-00. (Continued from June 18 and September 17, 2007; to be continued to December 3, 2007). **Staff Planner: Phil Sawrey-Kubicek.**

Commissioner Jacob made the following corrections to the September 17th Minutes: Page 5, 4th paragraph, 4th sentence to read: “The financial commercial component is an after-thought”; page 8, 1st paragraph, replace the word ‘ordinance’ with ‘legislation’ and a typo page 11, first paragraph. He made the motion to approve the amended September 17th Minutes and Commissioner Carbone seconded and the motion carried unanimously.

Commissioner Jacob made the motion to approve October 17th Minutes as submitted and the remainder of the Consent Calendar as recommended by staff. Commissioner Carbone seconded. Motion carried 5/0/1 with Commissioner Loisel abstaining and one vacant.

REGULAR CALENDAR:

1. **VARIANCE, V-12072 - JOE and MARIA MENEZES** ~ Petition to allow construction of an attached addition providing a 28-foot building where 25 feet is the maximum allowed, in a R-1-B-E (Single Family Residence, 6,000 square foot Minimum Building Site Area) District, located at 3462 Bridle Drive, north side, approximately 100 feet north of Cattle Avenue, Fairview area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 425-0090-015-00.
Staff Planner: Christine Greene

Mr. Sawrey-Kubicek presented the staff report. In response to the Commission’s questions during the Field Trip, he explained that with the addition, on the downhill side, the highest elevation would be 32.5 feet and on the uphill side would be 23.5 feet; with a 4:12 roof pitch (6:12 existing roof) and the estimate highest roof peak for the addition is 8 feet higher than it is now.

Public testimony was called for. Joe Menezes, co-applicant, read the letter of support from Fairview Community Club pointing out that the 28 feet height is due to the slope. He has had no problems with his neighbors and had shown the proposed plans to them. Nevertheless, Ms. Armstrong has urged the neighbors to go against him.

At the request of the Chair, staff provided clarification on the proposed measurements.

Mr. Menezes pointed out that the ceiling height is only eight feet. He had discussed and explored options with the architect and this is the best plan. Michelle Menezes, co-applicant, said this has been a seven year process. The only other option, in the event this proposal is denied, is a rear L-shaped expansion which will obstruct views and which the immediate rear neighbor is unaware of. She urged an approval--a project which she felt will have positive impact to their and neighboring property values.

Mary Turcaud, 3477 Bridle Drive, submitted written comments in opposition. She was concerned that an approval would have a major impact on the neighbors and interfere with her peace.

Judy Armstrong, 3486 Bridle Drive, pointed out that she would lose about 30-40% of her view. She opposed the variance and further discussed the findings. The height ordinance is to protect public health, safety, peace, comfort, convenience and general welfare, more specially to protect the character and stability of an existing development. Devaluation of property values poses major life style impacts; major privacy issues are at stake; and will have detrimental effects to the neighboring properties. She felt that granting of this variance will not be consistent to the intent and spirit of the height ordinance.

Paul Armijo, property owner at 3465 Bridle Drive, stated that he lives across the street. Although he felt that every property owner should be able to improve their property, this proposal causes unreasonable harm; all properties are hillside single story older homes and any height variance will impact the views which will lower the property values; property owners have paid extra for the views and a precedent will be set. He pointed out that Mr. Menezes can expand in the rear.

Lauretta Wiggins, 3474 Bridle Drive, said she was speaking on behalf of her mother who had bought the property for the view and would like to continue to enjoy and retain it. In response to Commissioner Ready, she confirmed that any conforming expansion in the rear will totally block their view.

Ms. Menezes reiterated that they would build in the rear if this variance is denied which will impact Ms. Wiggin's and Ms. Armstrong's views. Mr. Menezes pointed out that Mr. Armijo will not lose any views. At the request of the Commission, he submitted photographs in support.

Public testimony was closed. The Chair noted that the Commission had visited the site today during the Field Trip. He felt that the proposed design is superior to the alternative design and recommended that the windows on the right elevation (on the east) that look down be screened for privacy. In response to Commissioner Jacob, staff explained the average building height term and description. A discussion followed regarding the ridgeline, calculations based on the average height of the roof and the possibility of a 27 feet building height. Commissioner Jacob stated that he would support a variance for a 27 feet building height.

Commissioner Ready pointed out that the boat in the driveway did not meet the Zoning code. The Chair recommended that the motion include the following two conditions: the original driveway cut be eliminated, concrete be removed and area restored with landscaping; and the east windows be redesigned to eliminate privacy issues. Commissioner Carbone suggested that the architect explore the possibility of restacking the roof to reduce the height; and questioned the accuracy of the photo simulations. Staff replied that the first packet was presented by a licensed surveyor and the last page was submitted by Ms. Armstrong.

Commissioner Loisel made the motion to make the findings in the affirmative and approve the variance with the above recommendations--redesign the east windows to maintain privacy and the removal of the original driveway (curb cut and concrete) on the east and re-established with landscaping. At the request of Commissioner Jacob, the motion was amendment to include a modified third finding to read: ".....would not cause a significant impact on the surrounding properties because the average is less than 27 feet accounting for the step down design of the building." Commissioner Jacob seconded the amended motion which carried unanimously, 6/0 and one vacant.

2. **PROPOSED ZONING REGULATIONS RELATING TO MOBILE OUTDOOR BUSINESS** ~ The proposed amendments would define Mobile Outdoor Business, allow them as Conditional Uses in certain commercial zoning districts, and set siting and performance criteria for them. **Staff Planner: Rodrigo Orduña**

Mr. Orduña presented the staff report and noted receipt of a letter of concern from the Law Offices of Eric Nishizawa. Commissioner Ready pointed out that the Ordinance Review Committee's recommendation is not reflected in the staff report and she was not sure why this matter was before this Commission. Mr. Bazar explained that this is the process for ordinance amendments.

Public testimony was called for. Richard Hancocks concurred with Commissioner Ready adding that the Committee had supported economic development for the unincorporated area but this is not a step in that direction. Under the current Ordinance, the food trucks can stop for 20 minutes at one location. This method is working for short-term stops because many food truck owners see an economic opportunity for themselves but are not interested in investing in the communities. Although Redevelopment Agency has concerns regarding improvements to the commercial corridors, they were unaware of this hearing. He encouraged the Commission to allow catering vehicles to remain as regulated and if any changes, to allow them in the Industrial Districts as conditional uses.

Kathy Gil, Cherryland Community Association, in opposition, said that she did not want this look or feel in their neighborhood as they were trying to clean up the neighborhood.

Public testimony was closed. Commissioner Jacob questioned the catering vehicle provision and asked for the distinction between a caterer and mobile outdoor business. A discussion ensued regarding the definition and types of mobile outdoor businesses; Section 17.52.250—replacement of the 20-minute stay with a CUP which can be

revoked; provision for public right-of-way vs. private property; proposed performance criteria #3; display of Health Department permits; and to allow in commercial districts complimenting existing businesses. Commissioner Ready reiterated her concerns that the staff report is not a reflection of the Committee's recommendation, and the lack of fairness to the existing businesses that have invested in the community, adding that Conditional Use Permits are not generally revoked. The Chair agreed adding that although staff has recommended good conditions, additional work is needed. His other concern was performance criteria #3 which he thought should be expanded. He suggested including the Ordinance Review Committee's recommendation, and staff to explore other types of potential processes to allow for some less than permanent opportunities. Mr. Bazar suggested referring the matter back to the Committee for a 'clean-up'.

The Commission agreed to referring the matter to the Committee for clarification; staff to look at other types of mechanisms for less than permanent uses, a traditional definition of a caterer, use another term instead of "catering truck", discussion on '20 minutes stay', CUPs to be granted on parcels with another approved primary use; clarification on 15.52.1100.A.2, the distance between similar uses, and verbiage to eliminate kiosks not associated with main businesses, and separate food trucks from other types of outdoor portable businesses.

Commissioner Ready made the motion to refer this back to the Ordinance Review Committee with the above recommendations and Commissioner Loisel seconded. Motion carried unanimously, 6/0 and one vacant.

STAFF COMMENTS & CORRESPONDENCE: *None*

CHAIRS REPORT: The Chair reported on the successful CCPCA Conference with a good Commission attendance and announced that he will not be available for the December 3rd meeting.

COMMISSION ANNOUNCEMENT, COMMENTS AND REPORTS: *None*

ADJOURNMENT: There being no further business, Commissioner Jacob moved to adjourn the meeting at 8:00 p.m. Commissioner Loisel seconded the motion. The motion was carried 6/0.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY