

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
DECEMBER 17, 2007
(Approved January 22, 2008)

FIELD TRIP: 11:00 a.m.

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

MEMBERS EXCUSED: Commissioners Ken Carbone, Vice Chair; Frank Imhof; 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. **ZONING UNIT, ZU-2254 - GARNHART** ~ Petition to reclassify one site containing 18,000 square feet from the R-1 (Single Family Residential) District to a P-D (Planned Development) District, to allow seven multi-family residential units, located at 1129 and 1143 Grove Way, north of Birch Street and south of Oceanview Drive, Cherryland area of unincorporated Alameda County, with the Eden Area General Plan (Low and Medium Density Residential Land Use), bearing Assessor's Parcel Number: 428-0011-111-01. **Staff Planner: Howard Lee**
2. **ZONING UNIT, ZU-2249 - EVART** ~ Petition to rezone one site containing approximately 0.22 acre from R-1 (Single Family Residence) District to a PD (Planned Development) District, to allow a secondary unit, located at 22610 Valley View Drive, north west side, approximately .24 miles north of Kelly Street, Fairview area of unincorporated Alameda County, bearing Assessor's Parcel Number: 417-0140-021-06. **Staff Planner: Andrew Young**
3. **TENTATIVE TRACT MAP, TR-7871 – WONG** ~ Petition to allow subdivision of two existing parcels into eleven single family lots, in an R-1 (Single Family Residence, Fairview Plan) District, located on the east side of Bayview Avenue, the east side and 100 feet north of Jacobs Street, Fairview/Hayward area of unincorporated Alameda County, bearing Assessor's Parcel Numbers 417-0050-076-00 and 417-0050-099-00. **Staff Planner: Beth Greene**
4. **TENTATIVE TRACT MAP, TR-7874 – SEVILLA/LAGUNA** ~ Petition to allow subdivision of one site containing 0.51 acres into seven condominium units in a R-S-DV (Suburban Residence, Density Variable) District, located at 195 Poplar Avenue, south side, approximately 700 feet west of Princeton Street, Cherryland area of unincorporated Alameda

County, bearing Assessor's Parcel Numbers: 0429-0091-077-03 and 0429-0091-078-00. **Staff Planner: Rodrigo Orduña**

REGULAR MEETING: 1:30 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; Eric Chambliss, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately twenty-one 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** ~ November 5 and December 3, 2007. *Commissioner Jacob made the motion to approve the both November 5 and December 3 Minutes (Consent Calendar) and Commissioner Ready seconded. Motion carried unanimously, 6/0 and one vacant.*

REGULAR CALENDAR:

1. **ZONING UNIT, ZU-2254 - GARNHART ~ Preliminary Plan Review** - Petition to reclassify one site containing 18,000 square feet from the R-1 (Single Family Residential) District to a P-D (Planned Development) District, to allow seven multi-family residential units, located at 1129 and 1143 Grove Way, north of Birch Street and south of Oceanview Drive, Cherryland area of unincorporated Alameda County, with the Eden Area General Plan (Low and Medium Density Residential Land Use), bearing Assessor's Parcel Number: 428-0011-111-01. **Staff Planner: Howard Lee**

Mr. Orduña presented the staff report and the Chair announced that the Commission had visited the site during the Field Trip.

Dan Garnhart, Applicant, stated that he purchased his property eleven years ago which had been very poorly maintained with a dilapidated front house. He was unsure why there was any interest in preservation. The property contained seven units at the time of his purchase and any reduction in the number of units will have a financial impact. His sole

intent is to renovate the property. In response to the Commission, Mr. Garnhart confirmed that the primary front dwelling is a duplex, all improvements were done with permits, the removal of a single-story cottage with a garage attached and a photograph of the dwelling prior to demolition had been submitted with his application. The Chair asked staff if there is a permit for the front historic dwelling. Staff pointed out that the staff report only indicates seven legal non-conforming units on the property but a check could be made. Mr. Garnhart added that he had applied for the rezoning at the suggestion of Planning staff. The Chair discussed the different setbacks and Building and Fire Departments' requirements for a garage compared to a dwelling unit noting that it would be more favorable to have a garage, a non-habitable structure than a dwelling unit. Mr. Garnhart stated that a five-foot setback would not allow for parking. He asked if the unit could be 'grandfathered in' due to its age. Staff pointed out that with the removal of the seventh non-conforming unit, consideration should only be given to six legal nonconforming units. Mr. Garnhart can continue with the remodeling/maintenance of the existing legal nonconforming units and a garage but to legalize the units and since the General Plan allows a maximum of five units on site, he would have to apply for a rezoning and General Plan amendments. Mr. Garnhart reiterated that his intent is solely to renovate and not to expand.

The Chair stated that if the matter is re-heard for rezoning, he will consider the entitlement aspect and the legality of the front unit. The matter was continued to allow the applicant to continue working with staff and Code Enforcement.

2. **ZONING UNIT, ZU-2249 - EVART** ~ Petition to rezone one site containing approximately 0.22 acre from R-1 (Single Family Residence) District to a PD (Planned Development) District, to allow a secondary unit, located at 22610 Valley View Drive, north west side, approximately .24 miles north of Kelly Street, Fairview area of unincorporated Alameda County, bearing Assessor's Parcel Number: 417-0140-021-06.
Staff Planner: Andrew Young

Mr. Orduña presented the staff report.

Public testimony was called for. James Evart, applicant, explained that the issues on the property are twofold: sibling rivalry from his brother and building up the rapidly depleting trust. He is only trying to use the wasted space and the easement was recorded on August 6th. In response to the Commission, he confirmed that there are six rented rooms in the main house with a studio in the basement -- a total of nine, and this is not a boarding house. Staff noted that there is no provision for boarding homes in a single family home, requested direction from the Commission regarding interpretation and suggested that perhaps the Commission would like to consider what defines a boarding house in future. He further read the related section of the Ordinance. Commissioner Ready expressed parking and setback concerns. The Chair asked if the Applicant was willing to maintain the single family home as such with no kitchen facilities. Mr. Evart replied yes and further explained the parking situation: there is a driveway beside the two-car garage, a two-car pad and one in front of the garage, on the left side, two spaces in front of the abandoned/condemned house on the left, one space across the street and

one at the end of the cul-de-sac; the narrowest part of the driveway is 13 feet; confirmed that there are only two gas meters in front with a test site; two electrical meters and the rent is \$650 a month.

James Pate, 22607 Valley View Drive, stated that there is an impact to the neighborhood. His concerns included parking—the elimination of one parking space next to the telephone phone has resulted in ‘nose parking’ which makes it difficult for him to back out of his driveway; turnaround for emergency vehicle; the increased number of cars in the court; this is a single family home with six tenants currently living in it and two in the other house; the refrigerator and stove have been moved back in the secondary unit; the setback from his property line is only three feet; the applicant is making a profit while the neighbors are inconvenienced; and Zoning Enforcement and Building Department have been aware of the situation. Mr. Pate submitted copies of the Applicant’s Letter of Intent.

Juanita Vasut, property owner on the left at 22767 Valley View Drive for 52 years, said that she did not support the increased number of units and cars.

Peter Natale, 22680 Valley View Drive, stated the following in opposition: there is no street parking available in front of his property due to the existence of a fire hydrant; the Applicant and his tenant with bigger cars park on the street, past his property; expressed concerns regarding guest parking and construction over a storm-drain pipe; requested the status of the easement in the event the property is sold; and asked whether the dwelling is considered two or three story-unit as a three-story dwelling requires a front fire main and central fire system which are not provided. In response to the Chair, staff said he was not sure that the basement area has been approved as habitable space noting that the above-ground square footage is not large enough to be considered a full story.

Steve Evart submitted related papers in opposition noting the Letter of Intent. There are two half-way houses on the street already and another is not needed. The adjacent house is semi-condemned with the owner living sporadically on site and, as such, the parking in front of this house is not always available; parking area provided is not 22 feet; the house is a dorm and improvements have been completed without permits.

James Evart, in rebuttal, said that he is not making a profit and documentations can be submitted in support, confirmed that no one is living in the basement which has only one window; all permits have been obtained; the storm-water drain was installed by the County; the owner of the condemned house is not allowed to live there as it is red-tagged, which can be confirmed with the Building Department; his house increases the value of the neighboring houses; and a survey has been done to confirm property lines. In response to Commissioner Jacob, he confirmed that the bank related papers submitted by Steve Evart is only a solicitation for a mortgage.

Public testimony was closed. Commissioner Loisel requested clarification on the project description on page 4. *Commissioner Ready said she could not make the findings for the PD and made the motion to deny the PD and Commissioner Loisel seconded.* Commissioner Jacob said that the space below the garage could be utilized for a non-

residential alternative use and he supported the removal of the eucalyptus trees and replacement with native trees. The Chair suggested looking at the definition of boarding houses in the near future and requested that Code Enforcement be informed of the concerns stated above. *Motion for a denial carried unanimously, 6/0 with one vacant.*

3. **TENTATIVE TRACT MAP, TR-7871 – WONG** ~ Petition to allow subdivision of two existing parcels into eleven single family lots, in an R-1 (Single Family Residence, Fairview Plan) District, located on the east side of Bayview Avenue, the east side and 100 feet north of Jacobs Street, Fairview/Hayward area of unincorporated Alameda County, bearing Assessor's Parcel Numbers 417-0050-076-00 and 417-0050-099-00.
Staff Planner: Beth Greene

Mr. Orduña presented the staff report. Commissioner Jacob requested clarification on Development Services comments 5, 6 and 7 (page 5) and why staff was not recommending inclusion in the Final Map as a Condition of Approval. Staff explained that the requirements have been deferred for inclusion by Public Works. In response to the Chair on the proposed 18 foot long parking spaces instead of 20 feet, staff indicated that a standard space has to be either 10'x18' or 9'x20'.

Public testimony was called for. Y.T. Wong referencing Development Services' letter dated December 10th, stated that staff planner, Beth Greene, had indicated that recommendations 6 and 7 were erroneous and, as such, not included. There is a separate EBMUD access to the tanks and there are no recorded easements via his or any other properties. The front three substandard parking spaces as reflected in the initial Map have been revised and all spaces now comply with the 180 square foot standard space. Mr. Wong further read his letter of support and introduced the project Engineer and Architect.

D'Arcy Tomlinson, 2979 Ralston Way, said that they have lived in this area for 14 years. An environmental assessment is critical as traffic on Kelly Hill, 'B' and Maud Streets will be impacted, there are existing traffic concerns in this area, the existence of three other concurrent projects within ½ mile on Kelly Hill and to be consistent with the Fairview Specific Plan. Also, the petition from the 75 surrounding property owners notes existing traffic issue as their primary concern. Other concerns were the compatibility to the existing neighborhood and the viewshed. The view of four homes on the back of Jacobs and Ralston Way will be impacted and severely decrease property values as a result. She further requested clarification on the drainage issue as the area does have a run-off issue. Mr. Fred Tomlinson pointed out that Commissioner Carbone had supported seven homes at the last hearing which was not reflected in the July minutes. Although the Traffic Division states no traffic concern, traffic is their main concern. The Fairview Specific Plan also requires ongoing traffic analysis for 'B', Maud and Kelly streets. Infill projects are required to fit with the existing neighborhood and a seven-house project will be a good fit. His other concerns included lack of sidewalks and loss of private views.

Sarah Stevens, adjacent property owner at 22514 Bayview Avenue, stated that she shares 180 feet of the property line. Her concerns were the removal of the two mature oak trees and the proposed density. She recommended an inspection by an arborist during the grading and construction period. Eight houses would be more appropriate. Her other concerns/issues included the following: the sellability of the homes with two massive water towers in front; the five feet landscape buffer; the height of the retaining wall and fencing along her property line; the grading of the gentle slope of the property; and the types of landscaping plants for the buffer zone at the north end of the private road. In response to Commissioner Ready, she confirmed that, although maps are unclear, the oak trees are on her property--one fully and the other 60 % on her property. The Chair advised her that this is a civil matter.

Kelly Rocchio, 2542 Jacob Street, stated that her property directly backs into the proposed development. She also has a mature cypress tree on her property and requested the list of trees proposed to be removed. Ms. Rocchio also expressed concerns regarding the retaining wall, grading, the existing power pole, and the increase in traffic.

Julie Caylor, an 11-year resident at 2555 Hermosa Terrance, also expressed traffic concerns noting that lack of sidewalks is another issue for this area.

Carol Harris, 2967 Ralston Way, confirmed that traffic is a very major issue and any additional housing will contribute to the existing problem. View impact was her other concern.

Public testimony was closed. Commissioner Carbone agreed with the existing traffic concerns although they were not directly connected to this project suggesting perhaps a condition requiring garages to be used solely for parking. Although the project meets all the requirements, he felt that the density was too dense and he had concerns with the on-site parking, retention of the oak trees and open space. Commissioner Ready agreed with the density concern and suggested 9-10 homes and retention of the trees. Commissioner Jacob said he was pleased with the scaled down project and requested clarification on the view shed in reference to Lot 10 noting that the project will impact one property directly and the lack of drought-tolerant native plants. Staff agreed that this could be required as a condition of approval.

In response to Commissioner Imhof, Project Engineer, Ninh Le, explained the necessity of the retaining wall adding the finished grade on the corner lots are lower than the existing contours and his survey is based on the recorded information. The Chair noted that at the July meeting, the Commission had recommended retaining three trees and a tree replacement plan. Although the height of the rear four units could perhaps be reduced further, he was in support of the project. Commissioner Loisel said she did not have any concerns other than the site issue. Traffic issues are not related to this project only. A discussion ensued regarding the sight issue, interpretation of view sheds under Fairview Specific Plan, the location of guest parking spaces, Lot #11 and retaining the garage for parking. Commissioner Carbone recommended recordation of retaining the garage solely for parking and inclusion of this in the CC&Rs.

Commissioner Jacob made the motion to approve staff's recommendation for an approval with an additional condition regarding the recordation of the retention of garage solely for parking and a notation to be enforced through the CC&R, inclusion of native drought-resistant landscaping subject to Planning Director approval before Final Map and working to preserve the viewshed in reference to Lot #11 (either by lowering the finish-floor elevation, or reconfiguring and reducing the floor area of the second story). Commissioner Carbone suggested affected neighbors to work with staff/applicant. Commissioner Loisel seconded and the motion carried unanimously, 6/0 and one vacant.

4. **TENTATIVE TRACT MAP, TR-7874 – SEVILLA/LAGUNA ~**
Petition to allow subdivision of one site containing 0.51 acres into seven condominium units in a R-S-DV (Suburban Residence, Density Variable) District, located at 195 Poplar Avenue, south side, approximately 700 feet west of Princeton Street, Cherryland area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 0429-0091-077-03 and 0429-0091-078-00. **Staff Planner: Rodrigo Orduña**

Mr. Orduña presented the staff report. The Chair announced that the Commission had toured the property during the Field Trip. Commissioner Ready expressed concern regarding the exposed meters. Staff explained that the development of the property was approved without staff's input on the orientation of the front unit and suggested that perhaps the Commission could discuss options with the Applicant.

Public testimony was called for. Teresita Laguna, co-applicant, described the project in detail. She felt that this is the best project for this property.

Public testimony was closed. To comply with the Condo Guidelines, staff suggested that the Commission could consider the passive open space area as an active children's play area. Commissioner Jacob recommended a crosswalk from the sidewalk on the play area side and drought-tolerant native landscaping. Commissioner Carbone recommended screening the utility cabinets and the Chair pointed out that it will be covered by the electrical code requirements. Mr. Chambliss, County Counsel, agreed.

Commissioner Carbone made the motion to move staff recommendation for an approval with additional conditions to reflect inclusion of drought-tolerant native landscaping, active play area with crosswalk, and screening for electrical meters facing the street in accordance with the building architecture. Commissioner Loisel seconded and the motion carried unanimously, 6/0 and one vacant.

STAFF COMMENTS & CORRESPONDENCE: Staff announced that the Ordinance Review Committee unanimously recommended that Outdoor Mobile Business not be included in C-1 and C-2 Districts. Mr. Bazar announced the appointment of the new Commissioner, Richard Rhodes.

CHAIRS REPORT: *None.*

COMMISSION ANNOUNCEMENT, COMMENTS AND REPORTS: Commissioner Imhof suggested a workshop on view sheds and review of boarding houses. The Chair added definition of single family homes relating to renting out rooms and/or other uses. Mr. Bazar recommended referring the matter to the Ordinance Review Committee.

ADJOURNMENT: There being no further business, the Chair moved to adjourn the meeting at 4:40 p.m. Commissioner Loisel seconded the motion. The motion was carried 6/0, one vacant.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY