

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
MARCH 17, 2008
(Approved April 21, 2008)

REGULAR MEETING: 1:30 p.m.

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

OTHERS PRESENT: Chris Bazar, Planning Director; Rodrigo Orduña, Senior Planner; Brian Washington, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately ten people in the audience.

CALL TO ORDER: The Chair called the meeting to order at 1:30 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 Commission Minutes ~ March 3, 2008.** *Commissioner Carbone made the motion to approve the March 3rd Minutes as submitted and Commissioner Jacob seconded. Motion carried 5/1/1 with Commissioner Ready abstaining and Commissioner Imhof absent.*

Commissioner Imhof arrived.

REGULAR CALENDAR:

1. **TENTATIVE PARCEL MAP, PM-9408 – PALOMARES CATTLE COMPANY** ~ Petition to allow subdivision of one parcel, containing approximately 666.25 acres, into six lots, in an "A" (Agricultural) District, located on Palomares Road, east side, approximately 3.02 miles south of Palo Verde Road, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 085A-3701-008-00. **Staff Planner: Phil Sawrey-Kubicek**

Mr. Orduña presented the staff report. Commissioner Carbone asked if calculations based on the minimum frontage for the developed lots through the canyon were available as part of the lot size consistency requirement. His felt that a subdivision will change the look of the canyon. Staff replied no, pointing out that there were no minimum frontage requirements under the East County Area Plan. The immediate area has a pattern of long,

narrow lots. Mr. Bazar added that minimum frontage and lot size consistency are different issues. The Chair asked for the possibility of an agreement, conservation easement, or perhaps through a CC&R, to assure that the agricultural acreage, outside the future 2-acre building sites, remain under single management.

Public testimony was called for. Anthony Varni, representative, explained that each lot has 800 feet of frontage on Palomares Road and is 5,000 feet deep. The current owner has owned this property for about 40 years. The purpose of this request is to obtain some flexibility of agricultural use. In response to the Chair regarding single management, Mr. Varni said he could not agree. Each 100-acre parcel is self sustaining with natural source of water and could operate on its own. A limitation would not be workable.

Public testimony was closed. Commissioner Jacob expressed his concern regarding any subsequent development; whether they were confirming definitive future building envelope sites, and if yes, whether or not there is a need for additional information, such as the location of the road within the building envelope; the location of the corrals; the viability of single management; the potential location of the building sites given the slope limitations; the policy of retaining large contiguous agricultural acreage (agriculture vs. conservation easements); and the commercial viability of smaller acreage for grazing in the future. The Chair asked if the building envelopes, as shown in the aerial photographs, are the actual building sites; and, if other building sites are proposed later, would those require frontage on Palomares Road or be located away from the road with driveway access only. Mr. Bazar, in response, stated that the building site locations are only illustrative given that the site conditions will place some constraints on final location of building sites; and frontage could be achieved through a driveway. The Chair agreed with Commissioner Jacob, adding the need to, at least, define a reasonable area where the building sites could be located as there are other areas on the east that could have a less severe slope and be more readily buildable. Also, some other areas of the resulting lots could have fewer vegetation, thus allowing for the conservation of open space for prevention of wildfires. Staff indicated that the Conditions of Approval could explicitly require the building envelopes to be outside the 25+% slope which is also a requirement of the Resource Management Plan and the square footage of the driveway is included in the total building site acreage. Commissioner Loisel said she had similar concerns and agreed on the need for additional information. Commissioner Jacob also questioned the legality of declaring building sites as part of the subdivision while leaving the issue of biological assessment to future environmental analysis and potential mitigation after the building sites have been chosen. Mr. Bazar pointed out that there is the Site Development Review process for all new residences in this zoning district.

Mr. Varni, in rebuttal, pointed out that each parcel is individually usable and manageable as reflected in the letter from Wente Land & Cattle Company. He also confirmed that there is no intention to build and any subsequent application will allow a detailed review process; and that each lot is viable.

Commissioner Carbone asked if notifications of could be made for future reference. Mr. Bazar replied yes, the Conditions of Approval would be the most formal method.

Commissioner Jacob made the motion for a month's continuance to allow County Counsel to look into the legality of the Commission's potential actions requiring a conservation easement as part of this subdivision. Commissioner Loisel seconded. The Chair requested that a statement, to be used in the future, be included, perhaps in the Conditions of Approval and/or resolution, regarding the Commission's comments in reference to the location of the building envelope close to the road, special consideration of the wildlife area, and agricultural management as a single parcel. Motion carried 6/1 with Commissioner Imhof abstaining.

2. **TENTATIVE TRACT MAP, TR-7842 – PETER LAU** ~ Petition to subdivide one parcel, containing approximately 40,755 square feet (0.93 acres), into five lots, in the R-S-CSU-RV (Suburban Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4269 Heyer Avenue, south side, approximately 810 feet west of Forest Avenue, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 084C-0745-001-00. **Staff Planner: Andrew Young**

Mr. Orduña presented the staff report. The Chair noted that the Commission, although it had not been able to tour the property at the last meeting, had seen it from the adjacent lot. He was not sure if the design of the bio-swales was appropriate for this parcel since it appeared to be more decorative than useful, and recommended a similar design as the neighboring property. Staff had also noted the PRHC's determination of no historical significance.

Public testimony was called for. Yev Philipovitch, project engineer, stated that he will look at the adjacent bio-swales. The parking plan was modified based on the CVMAC's comments. Although building plans are not available, a plan showing buildable area is available. He will also look into the adjacent bio-swales.

Public testimony was closed. Commissioner Carbone, noting CVMAC's approval, made the motion to approve the subdivision based on staff recommendation. Commissioner Ready seconded. Commissioner Rhodes said he had concerns regarding street guest parking due to the close proximity of the school. Although the lots are deep enough to provide on-site parking, there are no building/parking plans. At the Chair's suggestion, staff indicated that a condition of approval for the subdivision require any resulting development to provide a 20-foot deep driveway in front of the garages for additional guest parking. Commissioner Jacob also recommended drought tolerant plants for Condition #25. Motion was modified to reflect the above amendments, which carried unanimously.

3. **VARIANCE, V-12083 – ESCOBAR** ~ Petition to allow an attached addition with a six feet front yard setback and a three feet seven inches rear yard setback where 20 feet is the minimum required in the front and rear yards, on one site containing approximately 5,663 square feet, located at 14747 Midland Road, west side, approximately 200 feet north of Placer Drive, San Leandro area of unincorporated Alameda County, bearing

Assessor's Parcel Number: 080-0002-001-04. **Staff Planner: Andrew Young**

Mr. Orduña presented the staff report noting the receipt of Hillcrest Knolls Association's letter. The Chair announced that the Commission had toured the property at the last meeting, including some of the properties reflected in Table 1, and noted the hilly mixed surrounding area.

Public testimony was called for. Maria Villanueva, owner, requested the services of an interpreter. Staff, translating, explained that the contractor, who did not have a license, walked out of the project at the issuance of a 'stop work order'. They had not been aware of the required setback nor that permits had not been obtained. Currently, the house is half completed and if this variance is approved, all necessary permits will be obtained.

Public testimony was closed. Commissioner Ready asked why CVMAC had not considered this application. Mr. Bazar explained that the Hillcrest Knolls area, at the time when the application was submitted in July and heard by BZA in October, 2007, had not been included in Castro Valley. Commissioner Carbone noted that although this area is unique and precedent has been set, there is a need to stop such developments. A discussion ensued regarding the functionality of the design, closeness to the street, existing usable area on the property, precedent setting situation, and the statutory findings. The Chair stated that he could not make the findings in the affirmative but would consider a minor variance, closer to the required setbacks and perhaps preliminarily reviewed by a Plan Checker.

Commissioner Ready made the motion to deny the variance as she could not make Findings #1 and 3 in the affirmative. Mr. Bazar explained that if the Commission's intent is to allow for submission of a redesign, the applicant will have to wait a year upon denial. Commissioner Ready withdrew her motion. *Commissioner Carbone made a substitute motion for a continuance to allow the applicant to work with staff. Commissioner Jacob seconded and the motion carried unanimously, 7/0.*

4. **GREEN BUILDING SUBCOMMITTEE REPORT - *Informational Item Only*** - Informational Report from the Planning Commission Subcommittee on Green Building – Introduction to Green Building best management practices and current events at local jurisdictions and organizations.

Commissioner Jacob, a Subcommittee member with the Chair, explained that this matter is informational, to familiarize the Commission with the concept, ideas and issues of Green Building as applicants are presenting specific references to some of these standards.

Wendy Summer, representing *StopWaste.Org*, stated that their mission is to reduce waste and provided an overview of the following: Guidelines and Rating – the use of LEED; Third Party Verification, Multi-Family Guidelines, Bay-Friendly Landscaping Guidelines; GreenPoint rating program, Green policies and trends (civic vs. private

development, voluntary and incentives vs. mandatory); recommended approaches; implementation options; mandatory policy requirements; and resources and recommendations. *StopWaste.Org* will be undertaking a energy cost effective study in the near future for the new 2008 Title 24 requirements, which will become effective in 2009; and also on a new Bill to provide local jurisdictions additional control without liability. She further provided their contact information and invited the Commission for a tour of their 'platinum' rated building. In response to the Chair, she indicated that the Guidelines developed for the County are applicable State wide. The Chair asked if any of the goals could be included in the Conditions of Approval. County Counsel replied no. Commissioner Carbone expressed concern about any inclusion and felt that there were already too many requirements and adding another would be unreasonable: too new with many changes. However, this was the right direction for implementation in future and more education was needed with incentives. Perhaps some components could be made mandatory. Commissioner Rhodes recommended staff encouragement. Mr. Bazar agreed. An Ordinance would be helpful. The Chair requested clarification on the requirement of the Multi-Family Guidelines.

Karen Kho explained that she is working with CDA-Affordable Housing program staff and the Greenpoint checklist has been included in the evaluations of projects that apply for the Notice of Funding Availability.

Elizabeth Durney, Consultant with KEMA and a board-member of Redwood Empire Chapter of the US Green Building Council, focused her presentation on LEED-a national green building rating system; percentages; advantages; energy consumptions and atmosphere impacts; commissioning; indoor environmental quality; LEED ratings; and process and policies that encourage LEED. In response to the Commission, Ms. Durney further added that most cities currently have LEED equivalent checklists; Build It Green has been the leading product in the last 10 years, helping form local Green Building rating systems and LEED for Home Systems nationally.

Bob Glover representing Home Builders Association Northern California, read his written statement in support. The Association is also working towards the reduction of green house gas emissions. By 2020, their builder members are committed to reducing their carbon emissions by 30% from the 1990's level, the first such commitment in the State and perhaps also the nation. He also noted the upcoming rating system for renovations, possibly in June, 2008, for older existing homes. The Association feels that Built It Green offers the best Green Building rating standards/systems for residential developments and the LEED program for commercial developments.

The Chair thanked all for the combined presentation and requested an up-date on future training. Mr. Orduña stated that Howard Lee is the lead staff planner and there is a developer's roundtable with Green Building through the County on May 28th. Ms. Kho confirmed. The Green Advantage Builder/Developer Forum is scheduled for May 28th, from 8:30-2:30, at the new Ohlone College, a joint outreach by different jurisdictions in southern Alameda County, to provide information on Green Buildings and increase awareness.

STAFF COMMENTS & CORRESPONDENCE: *None.*

CHAIRS REPORT: *None.*

COMMISSION ANNOUNCEMENT, COMMENTS AND REPORTS: Commissioner Imhof requested a site visit to the first two bio-swells built in Fremont. The Chair recommended a spring site visit.

Commissioner Jacob announced that he has become a member of the Board of Affordable Housing Associates and will recuse himself from related applications in future.

ADJOURNMENT: There being no further business, the Chair moved to adjourn the meeting at 4:00 p.m. Commissioner Imhof seconded the motion. The motion was carried 7/0.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY