

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
OCTOBER 4, 2004
(APPROVED OCTOBER 18, 2004)

FIELD TRIP:

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:

MEMBERS PRESENT: Commissioners Ario Ysit; Compton Gault; Mike Jacob, Chair; Lena Tam.

MEMBERS EXCUSED: Frank Imhof, Vice Chair; Glenn Kirby and Richard Hancocks.

OTHERS PRESENT: Steve Buckley, Assistant Planning Director and Bruce Jensen, Senior Planner.

1. **MODIFIED TRACT MAP, MTR-7314** – Petition to modify an approved Tentative Map with the subdivision of one parcel into 19 condominiums, in a R-S-D-25 (Suburban Residence, 2,500 square foot Minimum Building Site Area) District, located at 20351-20391 Royal Avenue, southwest side, approximately 175 feet northwest of West Sunset Boulevard, unincorporated Hayward area of Alameda County, bearing County Assessor’s designation: 0432-004-008-01.
2. **PARCEL MAP, PM-8447 – RICH** – Application to subdivide one 76 acre parcel into two lots (Variance, V-11788 allowed two parcels, 44 acres and 32 acres, where 100 acres is the minimum) in an “A” (Agricultural) District, located at 3265 Laughlin Road, east side, approximately 1.8 miles north of I-580, unincorporated Livermore area of Alameda County, bearing County Assessor’s designation: 099B-5475-005-01.
3. **MODIFICATION OF ZONING UNIT, MZU-1767A and CONDITIONAL USE PERMIT, C-8325, AIDA SILVA** – Petition to allow modification of a Planned Development District to allow a shopping cart retrieval and washing operation, extend the current hours and days of operation and allow fencing up to eight feet in height, in a PD (Planned Development) District, located at 11842 Main Street, south side, approximately 300 feet west of Bond Street, unincorporated Sunol area of Alameda County, bearing County Assessor’s designation: 96-140-012-00.
4. **LA VISTA QUARRY PERMIT EXTENSION PROJECT - SURFACE MINING PERMIT SMP-41, DUMBARTON QUARRY ASSOCIATES, INC.** - Petition to extend the period of operation at the La Vista Quarry by twenty (20) years beyond the termination date of the existing permit, to the year 2028, and modify the mining and reclamation

plan to include further excavation below and into the base of the floor of the existing quarry site, including continued mining, production and sale of aggregate, recycling of construction materials, and production and sale of asphaltic concrete. The existing asphalt concrete plant would also be modernized and upgraded, and operations could be conducted up to 24 hours per day. The project site is located on the western slope of the hills east of the City of Hayward, approximately 700 feet east of the intersection of Mission Boulevard and Tennyson Road, in the unincorporated area of Alameda County.

REGULAR MEETING

The meeting was held at the hour of 6:00 p.m. at Public Works Auditorium, 399 Elmhurst Street, Hayward, California.

MEMBERS PRESENT: Commissioners Compton Gault; Richard Hancocks; Mike Jacob, Chair; Glenn Kirby; Lena Tam and Ario Ysit.

MEMBERS EXCUSED: Frank Imhof, Vice Chair

OTHERS PRESENT: Chris Bazar, Planning Director, Steven Buckley, Assistant Planning Director; Bruce Jensen, Senior Planner; Cindy Horvath, Transportation Planner; Eric Chambliss, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately 39 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.

Audrey Lepell, 299 Ocie Way, Hayward, stated that she would be providing written testimony on La Vista Quarry.

CONSENT CALENDAR:

1. **APPROVAL OF PLANNING COMMISSION MINUTES -**
September 20, 2004.
2. **2196th ZONING UNIT – CIVIC PARTNERS –** Petition to reclassify from the C-1 and C-2 (Retail Commercial and General Commercial) Districts to a P-D (Planned Development) District, to allow reclassification of 30 parcels to implement the San Lorenzo Village Center

Specific Plan, located at 15800 Hesperian Boulevard, east side corner of Nimitz Freeway, unincorporated San Lorenzo area of Alameda County, bearing County Assessor's designations: 412-039-001-03; 412-039-002-00; 412-039-003-00; 412-039-004-02; 412-042-112-00, -113-00; 412-031-092-00, -093-00; 412-034-002-05; 412-034-005-06; 412-034-006-06; 412-034-006-07; 412-034-008-07; 412-034-008-09; 412-034-009-06; 412-034-009-08; 412-034-010-04; 412-034-009-06; 412-034-009-08; 412-034-010-04; 412-039-011-02; 412-034-011-02; 412-034-012-00; 412-034-013-07; 412-034-013-09; 412-039-023-03; 412-039-024-03 and 412-039-026-00. (To be continued without discussion to November 1, 2004).

Commissioner Kirby made the motion to approve the Consent Calendar as submitted and Commissioner Tam seconded. Motion carried 6/0. Commissioner Imhof was excused.

REGULAR CALENDAR:

1. **MODIFIED TRACT MAP, MTR-7314 – CRAWFORD** - Petition to modify an approved Tentative Map with the subdivision of one parcel comprising 1.16 acres and 19 apartments into 19 condominiums, in a R-S-D-25 (Suburban Residence, 2,500 square foot Minimum Building Site Area) District, located at 20351-20391 Royal Avenue, southwest side, approximately 175 feet northwest of West Sunset Boulevard, unincorporated Hayward area of Alameda County, bearing County Assessor's designation: 0432-004-008-01.

Mr. Buckley presented the staff report.

Public testimony was called for. Mr. Crawford provided the history of the site and project adding that he was not aware of any neighboring concerns.

Public testimony was closed. Commissioner Gault made the motion to approve the application as recommended by staff. Commissioner Tam seconded the motion, which carried 6/0/1. Commissioner Imhof was excused.

2. **MODIFIED TRACT MAP, MTR-7337 – AGARWAL/BALTHAZAR** – Petition to modify an approved Tract Map with a subdivision of two properties comprising 3.66 acres into 16 lots, at 2492 and 2512 D Street, north side, approximately 100 feet west of Madeiros Avenue, unincorporated Hayward area of Alameda County, bearing County Assessor's designations: 0416-0200-019-00 and 0416-0200-022-01. (Continued from September 7, 2004).

Mr. Buckley presented the staff report adding that an additional map distributed to the Commission prior to the hearing shows the 2001 approval showing the originally-planned storm

drains. The site plan included with the staff report shows the reduced pipe length of the current project, only necessary for streets to provide access through the side. Also distributed prior to this hearing is Page 2 of the Regional Water Quality Control Board's (RWQCB) letter which had been omitted from the Commission package in error. He further outlined the Board's concerns which were adequately addressed in the Negative Declaration. Mr. Buckley also noted receipt of the support letter from Fairview Community Club, prior to this hearing. Regarding a boundary issue with the neighbor, the Chair asked what extent of the issue was reflected in staff's recommendation. Mr. Buckley replied that the resolution indicates that the matter has been resolved.

Public testimony was called for. Vijay Agarwal, Applicant and Jitender Makkar, project designer, were available. In response to Commissioner Kirby, Mr. Makkar indicated that they were comfortable with staff recommendations.

Public testimony was called for. Glen Moss, attorney for the adjacent property owner, said that there continues to be a dispute over 10 feet of property. They thought that the 1990 recording of the Deed had resolved the dispute but it had not. No response was received from the Planning Department to his October 2003 or the August 30, 2004 letter. He received a letter this evening from the project civil engineer. Mr. Moss requested that the Conditions of Approval reflect that the 10 feet in question be made part of Mr. McPherson's property. This problem, which exists all along D Street, arose when the survey marks were removed during street repaving. Commissioner Kirby asked if the deed had actually been recorded in 1990 and if this agreement would appear if a title search is made. In response to the second question regarding the title search, Mr. Moss replied that perhaps, depending on the timeframe. He urged enforcement of the 1990 agreement adding that Mr. McPherson was willing to pay for any additional costs of recording the deed.

Shannon Smallwood, property owner at 23825 Madeiros Avenue, said her concerns were traffic related which included the removal of the bus-stop to accommodate the project and the wildlife habitats. All passengers from the area between Maderios and Randell Avenues will have to walk over a mile and a half for transportation. She did not think that D Street could take any additional traffic and listed surrounding projects that already contribute to the increased traffic.

Bruce Bergondy, 2440 D Street, said he had similar concerns. He asked if a stop-sign has been considered at the corner of Maderios Avenue to control traffic. Mr. Buckley replied that although no stop-sign was being proposed, the Applicant has to pay the Traffic Impact Mitigation Fee to be used by the Public Works Agency for various projects.

Commissioner Tam asked if any significant levels of traffic concerns were identified that required mitigations and if concerns were noted regarding the amount of traffic on D Street. Mr. Buckley replied that one concern was the sight distance obstruction at the driveway. The existing large shrub/tree at the front of the property would be removed as part of construction of the new street entrance. The amount of traffic does not cross the threshold for the Congestion Management Agency and PW Traffic Division has no concerns. Commissioner Gault pointed out that AC Transit will work with the Traffic Division on the issue of safety of passengers and

buses when the bus stop location is reviewed.

Thomas McPherson, adjacent property owner at 2438 D Street, stated that his family has owned this property for over 30 years and all old chain survey measurements were inaccurate and ten feet off.

Public testimony was closed. The Chair asked if Conditions 4 and 5 on Page 4 regarding the Final Map would adequately address the boundary dispute issue. Mr. Buckley indicated that the letter dated November 19, 1992, to the County Surveyor, had requested that the Tract-5965 be recorded with the disputed ten feet as part of the project and, as such, for this project it will be recorded similarly. The Chair requested further clarification, stating that he expected that the boundary would be determined and resolved as part of the Final Map. Mr. Chambliss agreed.

Commissioner Gault made the motion to adopt the Mitigated Negative Declaration and approve Modified Tentative Map, Tract 7337 per staff recommendations. Commissioner Kirby seconded the motion. The Commission voted unanimously on the motion. Commissioner Imhof was excused.

3. **LA VISTA QUARRY PERMIT EXTENSION PROJECT - SURFACE MINING PERMIT SMP-41, DUMBARTON QUARRY ASSOCIATES, INC.** - Petition to extend the period of operation at the La Vista Quarry by twenty (20) years beyond the termination date of the existing permit, to the year 2028, and modify the mining and reclamation plan to include further excavation below and into the base of the floor of the existing quarry site, including continued mining, production and sale of aggregate, recycling of construction materials, and production and sale of asphaltic concrete. The existing asphalt concrete plant would also be modernized and upgraded, and operations could be conducted up to 24 hours per day. The project site is located on the western slope of the hills east of the City of Hayward, approximately 700 feet east of the intersection of Mission Boulevard and Tennyson Road, in the unincorporated area of Alameda County.

Ms. Horvath presented the staff report.

Public testimony was called for. Bob McCarrick, President, Dumbarton Quarry Associates, said he was available to answer any questions.

Jim Moita, on behalf of his mother residing at 292 Bodega Street, pointed out Figure 3-10. He had written a letter in 2001 to Ted Froyland, Public Works Grading, advising the County of illegal grading. None of the adjoining neighbors had been notified of the last permit extension in 1999 or for any work in the last few years, especially the large illegal grading of the hillside. He distributed and discussed photographs in support and the inappropriateness of the EIR because most of the environmental damage has already occurred. Mr. Moita requested that additional trees be included in the mitigation measures to provide a buffer zone that had once existed.

Decrease of property values was another concern. In regards to litigation options for monetary compensation, he has been advised that time has lapsed.

Gillian Holmes said she was speaking on behalf of Ms. Silva, property owner at 878 Overhill Drive, an adjacent neighbor and two other properties in the area. Ms. Silva has about 52 questions and concerns to-date. Some of her main concerns were dust; potential ground pollution/well-water contamination as some neighbors depend solely on well water and there is no related data since operation; noise (vehicle movement and machines) and late operational hours. She acknowledged that the EIR does include mitigation measures to reduce noise with noise barriers along the buildings. Mr. Holmes asked if the Commission would be making a site visit during operational hours. Under these circumstances, she asked how Ms. Silva would be able to keep tenants or sell her properties at best prices. In response to Commissioner Tam, she said Ms. Silva purchased her properties about 32 years ago.

Kevin Dowling, City of Hayward Councilmember, thanked the Commission for making a site visit. He disagreed with the EIR that the project was near Hayward; it was completely surrounded by the City of Hayward. Although the EIR also mentions County designated scenic road, this was within the City's Redevelopment area and, as such, would make no sense to extend the permit for twenty years. This was not a rural area any more and he further described some pending and proposed redevelopment projects for the area. He was not sure if the County should act on this application and further suggested either to deny or to continue the matter until annexation to the City occurs. Some of the concerns noted so far were noise, visual impact, light issue and monitoring of conditions if approved as a 24-hour operation, volume of truck traffic, pedestrian safety, air pollution, earthquake faults, landslide issues, and the extent of development for this area. Mr. Dowling asked what the urgency was for this renewal since there were four more years until the current application expires and, as such, he suggested that the County work with the City and the residents, and allow the City to make the final decision. He also questioned the notification process. Commissioner Tam asked for the status of annexation. Mr. Dowling replied that the City had plans for housing and recreational uses and an extension for twenty years was very alarming.

Bob Johnson, 779 Overhill Drive, said he has lived in this area since 1990. His complaints included noise from the boilers, especially at night; visual impact; trucks dropping materials and double-parked on public streets; dust, erosion/landslides/flooding during winter months resulting in a pond with silt. He urged a denial.

Public testimony was closed. Commissioner Kirby asked how much expansion could be allowed if the quarry is allowed to operate and consideration should be given to the proposed up-grades and the hours of operation. Commissioner Tam said she had been unaware of the potential of an additional 20 years of reserve at the site that had not been communicated to the City. She asked what communication, if any, had occurred regarding this matter.

Mr. Jensen explained that the quarry had anticipated being out of this area by 2008, mining would be discontinued gradually and the last two years would be reclaiming the site. Meanwhile, the asphalt production has grown due to lack of another site. Since unable to find an

alternative location, the Applicant would like to continue at this location. At the same time, they have continued talks with the City regarding the possibilities after annexation. Commissioner Tam asked if there have been on-going complaints from neighbors regarding dust, noise, traffic and safety issues. She also asked if there was public access to the surrounding EBRPD properties. Mr. Jensen replied that complaints could have been made to Public Works but he does not know of any. The one major concern submitted was for the area behind the pit which needs to be filled in and the steepest portion rounded off. He had not been aware of a serious dust problem. Regarding the EBRPD land, no trails were close to the property boundaries which was separated by a barbed-wire fence. He stated that additional fencing could be added around the quarry.

Commissioner Kirby noted that although EBRPD had trails and there were private stables on the north side, EBRPD has strict requirements to stay on trails. He asked if there would be a review on the type of up-grading asphalt batch equipment if annexation does not go through and the possibility of moving the site further south of the property. Mr. Jensen replied yes adding that the existing plant is four years old. The up-grading will be similar to the Vulcan plant and he further described the process for containment of the blue smoke. The proposal did not include relocation and if ever considered, it would be to a location that is approximately 60 feet lower than the present grade to prevent visual and erosion concerns. Commissioner Hancock asked if the dust problem was related to the operation or to insufficient water usage or due to the winds. Mr. Jensen indicated that since complaints had not been received so far, he felt that the problem existed during operational hours but would decrease once up-graded.

Commissioner Ysitt agreed with the above Commissioners. He felt that additional screening was needed for the visual impact from Mission and Industrial Boulevards. He suggested contacting Cal Trans for an encroachment permit for landscaping on both sides of the road going up to the site. He agreed with the noise problem, especially at night adding that he would make a site visit during operational hours and at night.

Commissioner Gault concurred with Commissioner Ysitt. He felt that the dust problem was a valid complaint. Dust was generated by trucks in summer, trucks left a lot of sediment on Mission Boulevard, and he had a concern for trucks coming down the hill. Perhaps additional watering was needed. He also agreed with landscaping along the property lines to decrease the visual impact, buffer noise and reduce the dust problem. He was also concerned with the expansion on the hillside which impacts the neighbors; groundwater and well contamination; and annexation.

The Chair thanked Councilmember Dowling for his testimony and urged continued dialogue with the City. He summarized the issues/concerns which included dust, ground water pollution, vehicle noise, trees and landscape mitigation, visual impact of hillside, truck traffic mitigation, safety, fencing and encroachment issues and mitigation measures on the blue smoke control.

Commissioner Tam recommended that staff work more closely with the City to ensure their issues are appropriately addressed in the EIR. She asked if the continuance date should be extended to a later date. Staff replied yes. The Chair recommended the November 15th date

adding that the matter could be continued beyond then if not ready for an action. In reference to the annexation issue, Commissioner Hancocks asked if the County had a Deference Policy. Mr. Jensen replied that the City will complete the annexation process in early 2005 and, meanwhile, the County was working on the Surface Mining Permit. Comments from the City have been included in the EIR and additional comments will be received through their comment letter, and all comments will be included in the Final EIR. Commissioner Tam asked if the environmental analysis will be used for the annexation. Staff replied yes. The Chair requested a timeline. Chris Bazar, Planning Director, added that information on LAFCO will also be included in the next staff report. Commissioner Ysitt also requested well monitoring in response to the well contamination concerns.

Commissioner Tam made a motion to continue the matter to November 15, 2004. Commissioner Kirby seconded the motion, which carried 6/0.

STAFF COMMENTS & CORRESPONDENCE: None.

CHAIR'S REPORT: None.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS: None.

ADJOURNMENT: There being no further business, Commissioner Gault moved to adjourn the meeting at 7:40 p.m. Commissioner Kirby seconded the motion. The motion was carried 6/0.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY