

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
NOVEMBER 21, 2005
(APPROVED DECEMBER 19, 2005)

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Commissioners Ken Carbone; Richard Hancocks; Frank Imhof, Chair; Mike Jacob; Glenn Kirby, Vice Chair; Alane Loisel and Edith Looney.

OTHERS PRESENT: Chris Bazar, Planning Director; Steven Buckley, Assistant Planning Director; Sandra Rivera, Assistant Planning Director; Brian Washington, County Counsel's Office; Nilma Singh, Recording Secretary.

There were approximately eighteen people in the audience.

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

ANNOUNCEMENTS BY THE CHAIR: None.

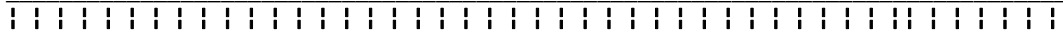
OPEN FORUM: Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes.

Howard Beckman, resident of San Lorenzo, said he had concerns regarding the trend of Smart Growth, mostly around transient-oriented areas. He felt that this Commission needed to be more pro-active about this trend and suggested a semi-annual or an annual workshop/discussion. He recommended inviting the Planning Director from the Association of Bay Area Governments to discuss Smart Growth and ABAG's ongoing Smart Growth efforts in the Bay Area.

Mark Crawford, a Castro Valley resident, distributed an information package on the EBMUD property for sale in Castro Valley. This is a crown piece of 24 acre undeveloped land which could be used as a parkland. He has contacted many public officials, including Castro Valley Municipal Council (CVMAC) who has requested agendaizing this item on their December 19th agenda.

CONSENT CALENDAR:

1. **APPROVAL OF PLANNING COMMISSION MINUTES** - Commissioner Loisel made the motion to approve the November 7th Minutes as submitted and Commissioner Looney seconded. Motion carried 6/1 with Commissioner Carbone abstaining.
2. **TENTATIVE TRACT MAP, TR-6864, ONE STOP DESIGN, INC.** – Petition to subdivide one parcel into five lots, located between 25129 and 25165 Second Street, south side, approximately 903 feet west of Winfeldt Road, Fairview area of unincorporated Alameda County, bearing County Assessor's designation: 0425-0150-006-00. (Continued from January 18, March 7, May 2, June 20, July 18, August 15, September 19 and October 17, 2005; to be continued to December 19, 2005).



3. **MODIFIED TRACT MAP, MTR-7118 – COURTNEY** – Petition to allow modification to TR-7118 to subdivide one site containing 4.60 acres into 19 parcels in a PD-ZU-1762 (Planned Development, 1762nd Zoning Unit) District, located on Page & Miramar, east side, corner south of Page Street, San Leandro area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 080A-0197-001-06. (Continued from September 19 and October 17, 2005; to be continued to December 19, 2005).

4. **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 and October 17, 2005; to be continued to December 19, 2005).

5. **ZONING UNIT, ZU-2207 and TENTATIVE TRACT MAP, TR-7614, UTAL** – Petition to reclassify three parcels containing approximately 1.17 acres from the P-D (Planned Development, 1779th Zoning Unit) to a P-D (Planned Development) District, allowing subdivision into 10 parcels intended for single-family dwellings, located at 18911 and 18919 Lake Chabot Road, approximately 234 feet northeast of Keith Avenue, Castro Valley area of unincorporated Alameda County, bearing Assessor’s Parcel Numbers: 084B-0502-045, 084B-0502-055 and 084B-0502-046. (Continued from June 20, July 18, September 6 and 19, and October 17 2005; to be continued to December 19, 2005).

6. **Motion to Reconsider Action Taken at 7/18/05 - AMENDMENT TO CONDITIONAL USE PERMIT, C-4158, REPUBLIC SERVICES – VASCO ROAD LANDFILL** - Application to extend the term of the Conditional Use Permit for this facility (“Permit”) from 2008 to December 31, 2022; and to formalize permission to continue to conduct waste diversion and materials recycling operations that have been ongoing for a number of years on the site. The Vasco Road Landfill (VRL) (formerly Vasco Road Sanitary Landfill) is an existing permitted landfill in an A (Agriculture) District, located at 4001 North Vasco Road, east side, approximately 1 mile north of Dalton Road, Unincorporated Livermore area, designated as Assessor's Parcel Numbers 99B-4901-2-3; 99B-4926-1-1, 1-2, 2- 4, and 2-5; and 902-6-2-2. (Continued from August 1,

September 6 and 19, and October 17, 2005; to be continued to December 5, 2005).

7. **SURFACE MINING PERMITS AND RECLAMATION PLANS SMP-38, SMP-39 and SMP-40, RHODES & JAMIESON** – Petition to make three parcels in Eastern Alameda County available for sand and gravel extraction operations, two of the parcels, SMP-38 and SMP-39 located south of Livermore Airport, SMP-38 close to the Livermore Golf Course, and SMP-39 close to Jack London Boulevard, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Numbers: 904-0001-007-26, 99B-3661-001-04 and 99-200-002-00. (Continued from January 3, March 21, June 20 and August 15, 2005). **Application withdrawn.**

Commissioner Carbone made the motion to approve the remainder of the Consent Calendar per staff recommendation and Commissioner Looney seconded. Motion carried unanimously.

REGULAR CALENDAR:

1. **PLANNED DEVELOPMENT (PD) DISTRICTS** – Staff update on the response from the Ordinance Review Advisory Committee (ORAC) regarding the Planning Commission’s direction to review draft findings for Planned Development Districts, and request for direction for next steps.

Mr. Bazar presented the staff report.

Public testimony was called for. Howard Beckman pointed out that the ORAC was formed about 2 ½ years ago to discuss land use planning issues and to act as a sounding board to amend ordinances which staff incorrectly states as being formulated through the Housing Element. He urged that the Committee have at least a couple of meetings to discuss the issue of design guidelines.

Public testimony was closed. Commissioner Hancocks noted that most of the concerns from the community were related to residential PDs. In regard to staff’s discussion on the Commission’s relationship to the ORAC, Commissioner Kirby thought that the Commission could take recommendations from the Committee; the Committee could also take recommendations to the Board of Supervisors (BOS), as an independent recommendation. He supports the Committee maintaining an independent voice, and he looks forward to their recommendations on design guidelines. Currently, there is no established procedure as to how recommendations from the ORAC is brought to the Planning Commission or the BOS. Commissioner Looney stated that she has attended numerous Committee meetings and thought that the Committee should continue the design guideline issue.

Commissioner Carbone felt, in regard to the PD findings, that a basic guideline be developed to be used by staff in the interim while the details are worked out. Mr. Bazar agreed noting that Finding 4 and 5 could be greatly expanded. Commissioner Kirby felt that a methodology was needed to establish the number of units on net acreage including findings and entitlement. Commissioners Loisel and Hancocks recognized that a more expansive review is beneficial but will require a significant amount of time. Both agreed to move this item forward to the BOS, if necessary, in phases. Commissioner Jacobs pointed out that the findings would include these specific issues. The Chair recommended that a draft list of findings be prepared for the next meeting.

Commissioner Kirby made the motion that the recommended staff Findings 1 through 5 be ‘fine-tuned’; include a process that leads to design review; and, clearly state the entitlement process. The density and unit count would be the same as allowed under the general zoning. Commissioner Loisel seconded. Mr. Bazar stated that the Review Committee, at their next meeting on Tuesday, could discuss and make a recommendation on the Findings. Motion carried unanimously.

2. **MORATORIUM ON RESIDENTIAL DEVELOPMENT OF COMMERCIALY-ZONED PROPERTY** - Discussion of possible recommendation to the Board of Supervisors for a moratorium on development of commercially zoned property as residential use.

Mr. Bazar presented the staff report.

Commissioner Carbone said his concern was the protection of commercial properties in the business districts, the lack of a guideline for mixed uses and the destruction of the economic food chain. In response to Commissioner Loisel, Mr. Bazar clarified that the focus was primarily in the west county if the moratorium was linked to the economic development strategy. This would cover most of the commercial areas in the west county. Commissioner Hancocks felt that this issue needs to be looked at expeditiously but carefully and Commissioner Kirby noted the pressure to increase density in order to comply with the goals of the Housing Element. Commissioner Jacobs requested clarification on the public health and safety concerns. Mr. Buckley explained that by not stopping the developments, pending resolution of planning processes could have an affect. The Chair asked if the moratorium would include the redevelopment areas and mixed use. Mr. Bazar replied that it would include the major commercial corridors in the Redevelopment areas. Commissioner Hancocks discussed his concern of the lack of employment growth in the unincorporated areas.

Public testimony was called for. Cheryl Miraglia, in support of a moratorium, stated that she had concerns regarding the economic vitality of the unincorporated area. She is concerned with the decrease of neighborhood retail space and the resulting tax revenue from commercial uses. She supports only two exemptions: 1) properties with approved projects but without a building permit; and, 2) those that have a completed, not just initiated, EIR.

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Maryann McMillan, a San Lorenzo resident, asked if the Bockman Road project would be exempt. The DEIR was already in circulation. If not, she requested that the project be not exempt. This property could be developed and maintained similarly as the one on Channel Avenue.

Noreen Phillips, 948 Via Honda, also requested that the Bockman Road project be included in the moratorium. Her concerns included the size of the commercial space, location of the school, health and safety of the neighborhood and school children, and the present traffic problem.

Cliff Sherwood, a Castro Valley resident, said that he has been unsuccessfully looking for properties for commercial opportunities in San Lorenzo, Ashland and Cherryland areas. Although most are under-developed, the owners would like to rezone their properties to residential and, as such, he cannot compete with the residential developers.

Howard Beckman, in support, stated that a moratorium is needed to allow time to resolve policy issues which are based on the economy of the Eden area, which is the most densely populated area without revenues. The General Plan does not deal with the economic issues. He was opposed to tying the moratorium to the progress of an economic strategic initiative. The moratorium should be global and cover the entire Eden unincorporated area.

Kathie Ready, President, San Lorenzo Homeowners Association, stated that businesses have been driven away to make allowance to the Housing Element and the County has not aggressively pursued businesses with 'perks' like the surrounding cities. She was in support of a moratorium but urged that it not include the Bohannon Partners project/Village Square on Hesperian Blvd.

John Thorpe, a Castro Valley resident, said he usually opposes moratoriums. However, due to landowners deliberately allowing deterioration of their properties and the reduction of neighborhood commercial properties, he was in support at this time until the mixed use is defined.

Public testimony was closed. Commissioner Looney asked what the moratorium will be based on and if it will be an emergency measure. Commissioner Carbone requested that the definition be made clearer. Although the complaints received were valid, Commissioner Jacob felt that a moratorium was the wrong avenue to take and agreed on the need for a mixed use definition. Commercial impacts can be both positive and negative. The Housing Element is not related to this issue. He asked what it would take to build viable commercial, its impacts and requested statistics on the number of building permits pulled for construction and new business permits, and information on how mixed uses are financed. Commissioners Looney and Loisel concurred with Commissioner Jacob with Commissioner Loisel adding that she thought rezoning was the issue. Commissioner Kirby said he was skeptical of a moratorium as a tool since he believes the necessary tools were already available. He also believes the moratorium could also be costly. He agreed that a mixed use definition was needed and suggested a definition on retention of commercial also. A mixed use project would be first floor streetscape commercial and, rear and above be higher residential. He further discussed the time frame of a moratorium adding that he

||||| would like additional information before he would support a moratorium. Commissioner Hancocks said he was pleased with the community's response. The Commission further discussed the possibility of a feasibility study, commercial viability, disparity for residential development, development decisions based on time frames for various plans and/or current market value and zoning reclassifications and revitalization process. Mr. Bazar suggested a presentation from the economic consultant preparing the development strategy, Denise Conley, and Eileen Dalton, Redevelopment Director, at the next meeting to explore economic questions raised by the Commission. He noted the following issues that the Commission would like addressed by the next meeting: definition of mixed use, exemptions, pipeline issues, economic development strategy, public process, geographic extent, multi-family question, time frame and economic and legal aspect.

Commissioner Jacob made the motion for a continuance to December 5 and Commissioner Carbone seconded. Commissioner Jacob requested different drafts. Motion carried 5/2 with Commissioners Loisel and Looney dissenting.

STAFF COMMENTS & CORRESPONDENCE: Mr. Bazar reminded the Commission for Set Matter Item at 6 pm.

CHAIR'S REPORT: The Chair pointed out the absence of the 3-minute timer clock and the non-working wall clock.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS: Commissioner Kirby announced his unavailability at the December 5th hearing.

ADJOURNMENT: Commissioner Jacob made the motion for an adjournment to 6 pm and Commissioner Looney seconded. Motion passed unanimously.

Set Matter (This item will not be heard prior to this time).

Time: 6:00 p.m.
Place: Public Hearing Room
224 W. Winton Avenue
Hayward, California

MEMBERS PRESENT: Commissioners Ken Carbone; Richard Hancocks; Frank Imhof, Chair; Mike Jacob; Glenn Kirby, Vice Chair; Alane Loisel and Edith Looney.

MEMBERS EXCUSED: Commissioner Hancocks.

OTHERS PRESENT: Chris Bazar, Planning Director; Steven Buckley, Assistant Planning Director; Jana Beatty, Senior Planner; Brian Washington, County Counsel's Office; Nilma Singh, Recording Secretary.



A. Call to Order/Roll Call

B. Announcements by the Chair: None.

C. 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.

There were approximately twenty-seven people in the audience.

D. Regular Calendar

1. **ZONING UNIT, ZU-2193, AND TENTATIVE TRACT MAP, TR-7530 – BOUNDARY CREEK LLC** – Petition to reclassify a site comprising approximately 8.25 acres from the R-1-SU-RV and R-1-B-E-SU-RV Districts to the PD (Planned Development) District and Tract Map to allow subdivision of three parcels into 28 lots for development of single-family homes, located at 4524 Crow Canyon Place, approximately 500 feet south of Crow Canyon Road, Castro Valley area of unincorporated Alameda County, bearing Assessor’s Parcel Numbers: 84C-1068-001, 084C-1068-007 and 084C-1068-008.

Mr. Bazar presented the staff report and introduced Jana Beatty, senior planner and Scott Gregory, Principal of Lamphier-Gregory, EIR consultants. Ms. Beatty further explained that the revised project has been scaled down to 28 homes, both grading and structures have been moved back from the creek area and the established riparian corridor, the custom home has been eliminated, and access will be through a series of cul-de-sacs instead of a loop road with access through Veronica Road and fence lines will be at the property lines (view fences). Mr. Gregory outlined the CEQA process, DEIR and FEIR and further summarized the related sections in the staff report. One of the purposes of the re-circulated DEIR was to assemble all conditions and redesign the project accordingly. The DEIR includes a comparative analysis, compilation of all information regarding biology, historical and cultural, hydrology and water qualities. Thirteen comment letters were received and all issues have been responded to in the FEIR.

Commissioner Loisel requested legal clarification on the Commission’s initial approval and action tonight and the 40-day time frame. Mr. Bazar explained that not all aspects have to be acted on legally within 40 days and Commissioner Kirby noted that although the project has substantially the same footprint, there is a revised site plan and, as such, even with a different Commission action tonight, there will not be a conflict. In response to Commissioner Looney, Ms. Beatty said the project involves a net of four acres. Commissioner Jacob requested clarification on no project alternative, Figure 10.1. Mr. Gregory described the differences adding that substantial differences are the elimination of the loop road and the custom house, and storm water detention and water quality feature.

Public testimony was called for. Arlene Utal provided a power-point presentation on the property history, project location, old photographs, an aerial photograph of the site, new site plan, original and proposed bridge including the walkway and project benefits. All areas outside the property lines including the creek area, riparian areas and biological zones will be the responsibility of the homeowner's association, to be included in the CC&Rs. She urged an approval.

Commissioner Jacob asked if the language for the fence line, which will be on the property line, will remain the same and requested clarification on the fencing around the water quality basin and if it will be open for public. Mr. Bazar stated that although the property line has been moved up, it will be outside the biological zone and the language is the same. Using the site plan, Ms. Utal stated that the basin will have no public access and in response to the Chair, said the lot containing the water basin is about 5,000 square feet. Commissioner Kirby questioned the retaining wall and asked if structures were 30 feet or less from the rear property line. Ms. Utal confirmed that although some lots do have retaining walls, necessitated by compacting the project, they will not be located in the biological zone. Lot 4 has a setback of approximately 20 feet and all houses will be sprinkled.

Janice Delfino, 18673 Reamer Road, pointed out that the FEIR does not contain any comments made by the Commission at the October 3, 2005 hearing. In response to her comment regarding the lack of a neighborhood park, the response in the FEIR which is Don Castro Regional Park, ½ mile away is not correct. It is about two miles. Conservation area is not a play area and she felt that 28 houses would be too many.

Gregory pointed out that the comments on the merits of the project were not related to the environmental characteristics of the project or the CEQA process.

Terry Preston pointed out that the FEIR did not address all of her comments and she further read her written statement. With the aid of a map from the Castro Valley General Plan, she noted that this is a high fire risk area which has not been disclosed in the FEIR although all involved departments have been aware of the existence of this map. The entire area including the corridor is heavily wooded area with eucalyptus trees. Trees on the surrounding properties cannot be removed to accommodate this project and, as such, per Senate Bill (SB) 1369, a 100 foot defensible space from occupied structure is mandatory. It was inappropriate to use the checklist for project rating as it has not been released for public review nor has it been included in the FEIR. Furthermore, the SB-1369 also requires severe habitat modification of vegetation, which will result in degrading of the habitat and open the canopy, which have not been disclosed in the FEIR. She further read the letter from RWQCB (Regional Water Quality Control Board) dated June 5, 2005 noting that the County has not provided the letter as requested in the above letter. Ms. Preston also pointed out that the insurance company makes the 'final call' and not the fire department. Conservation easements are not exempt. Another map from the CV General Plan shows that the entire property is located within the oak riparian woodland/wildlife corridor which she complained that the Planning staff has ignored. This project is surrounded by retaining walls and fences which severely degrades the use of the corridor by many species. No response

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has been prepared for the Water Board's April 21st letter but placed in the FEIR as an appendix. The FEIR is incomplete and a violation of CEQA process.

Diana Hanna, a Castro Valley resident and Chair, Bay Creeks Coalition, read her written testimony, displayed a photograph of the oak woodland and concurred with Ms. Preston's testimony. She had made repeated unsuccessful requests to Supervisor Miley's office for the checklist and Mr. Bohman has not written a letter regarding the high fire risk. She was not opposed to the project but to the density adding that 26 lots would be more appropriate. Providing 100 feet defensible space would resolve some issues and make it possible for homeowners' to obtain fire insurance. Ms. Hanna also requested that the Commission continue the matter until a full Commission was available.

Beverly Axelrad, Friends of the Cull Canyon Creek, said she supported Ms. Preston, Ms. Hanna and the Delfino's comments.

Cheryl Miraglia said she has concerns regarding some of the responses in the FEIR. This project is in conflict with CV General Plan, density and not compatible with surrounding neighborhood and she further read and discussed the response from the FEIR. She thought that most of the words would be unnecessary if the project adhered to the CV General Plan, Watercourse Protection, and respected the biological resources and defensible space and the community. She urged a denial.

Frank Delfino asked when the Commission had received their paperwork as he had received his on Saturday and who would control the open space. He was concerned that due to the lack of recreation, juveniles would jump the fence into the creek area.

Roxann Lewis, 17750 Madison Avenue, stated that 28 lots on a 4 acre parcel was not consistent with the neighboring lots. She also urged a continuance until all Commissioners were available.

Matt Turner, Friends of Crow Creek, complained that the creeks in Alameda County have been severely degraded by approvals of such projects.

Howard Beckman asked for the width of the road. The Chair said it was 28 feet. Mr. Beckman said he was 'fed up' with Lamphier Gregory's dismissive and evasive responses to comments in a number of EIRs including this project. He hoped to see in the future competition from other environmental specialists on similar creek-side projects. He has unsuccessfully requested on numerous occasions for better illustrations on grading plans on slopes, particularly for creekside projects. Similarly, this project does not have grading illustrations and, as such, this project should have been denied. A letter had been submitted on behalf of the Friends of the Creek identifying long term issues. The three main points are the creek protection ordinance minimum setback from the creek; the bridge is to carry utility lines into the subdivision and not for access, and although per page 1072 of FEIR, the California Fire requirement is 40 feet minimum road width, Veronica Street is 32 feet which is not adequate to provide sole access to the site; and additional discussion on the management of conservation easement is needed.

Suzanne Barba, 5787 Highwood Road, CV, thought that the reduction from 38 to 28 homes

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made this a significantly different project.

Winnie Thompson, Connie Deets both of Madison Avenue and Phillip Gordon representing Ohlone Audubon Society, all submitted written comments in opposition.

Public testimony was closed. Commissioner Kirby noted his two concerns at the last hearing were the protection of the conservation area and a better understanding of the retaining walls. He has just become aware of SB-1369 and was not sure if the Fire Department's requirements reflect those of SB-1369. Mr. Bazar distributed copies of an email received late Friday from Mr. Bohman noting the second paragraph which he felt could clarify some of the issues. Mr. Gregory explained that per Fire Department's testimony, although this property is in a high fire zone, it does not meet all criteria; though 100 feet setback is required for a high fire zone, the defensible space requires a vegetation management which is not a mandatory setback nor does it require full removal of vegetation; and removal of all dead or dying vegetation was not necessary. The County Fire Department vegetation management plan ensures environmental concerns are properly addressed. The checklist was a site specific checklist. Commissioner Looney announced that she had received a phone call from Linda Bennett who was disappointed that the bridge still exists. She was concerned with the lot sizes. Mr. Gregory said that the neighborhood has mixed sizes and the smaller lots on this site were a result of providing open space.

Commissioner Jacob suggested a reference to Section 5117 to provide clarity and per Fire Marshall's testimony before Board of Supervisors that defensive space only applies to rural projects. He further discussed Conditions 14 and 28 noting that #28 did not reflect Director of Public Works. Staff suggested addition of "...in conjunction to Public Works...". Commissioner Jacob requested clarification on Resolution #27(a), (b) and (c) on Page 7. The Commission discussed the insurance issue, RWQCB's comment letters and their responses; tree replacement ratio and types of replacement trees, native or non-native trees and Figure 5-5 of DEIR in reference to areas requiring replacement trees.

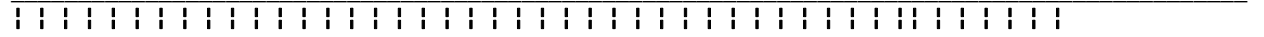
Commissioner Jacob made a motion to recommend certification of the re-circulated EIR including the findings and Commissioner Loisel seconded. Motion carried 4/2 with Commissioners Kirby and Looney dissenting. Commissioner Hancock was excused.

Commissioner Jacob made the motion to move staff recommendation for the PD reclassification subject to Exhibits B and C and Commissioner Loisel seconded. Motion was tied at 3/3 with Commissioners Carbone, Kirby and Looney dissenting. Commissioner Hancock was excused.

Commissioner Jacob moved staff recommendation for an approval of Vesting Tentative Map, TR-7530 with modification to 26(b) and 28(c) to include Department of Public Works. Commissioner Loisel seconded. Motion was tied at 3/3 with Commissioners Carbone, Kirby and Looney dissenting. Commissioner Hancock was excused.

Mr. Bazar summarized the above action and upon conferring with County Counsel will determine if the matter will be reheard by the Planning Commission or Board of Supervisors.

Commissioner Kirby re-stated that he would not be available at the December 5th meeting. The Commission opted for the matter to be heard by the Board of Supervisors.



E. Adjournment: There being no further business, Commissioner Loisel moved to adjourn the meeting at 8:20 p.m. Commissioner Jacob seconded the motion. The motion was carried 6/0.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY