

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
APRIL 21, 2008
(Approved June 2, 2008)

FIELD TRIP: 11:30 am

MEMBERS PRESENT: Commissioners Kathie Ready and Richard Rhodes.

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

OTHERS PRESENT: Jana Beatty, 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 property:

1. **PLANNING COMMISSION DETERMINATION, D-164 – MOSTOFI and ONSORI** ~ Planning Director-initiated Determination as to the compliance with the East County Area Plan for the reconstruction of a service station with auto-related accessory uses, in the ‘A’ (Agricultural) District, located at 10 Grantline Road, east side, corner southeast of I-580, Tracy area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 099B-7700-012-02. **Staff Planner: Jana Beatty**

2. **TENTATIVE TRACT MAP, TR-7872 and SITE DEVELOPMENT REVIEW, S-2121 - CLARE** ~ Petition to allow subdivision of one site containing approximately 1.26 acres into 25 condominiums (17 new and 8 existing), in a R-S-DV (Suburban Residence, Density Variable) District, located at 360, 370 and 372 Sunset Boulevard, north side, approximately 500 feet east of Princeton Street, Cherryland area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 429-0055-019-00, 429-0055-051-00 and 429-0055-052-00. **Staff Planner: Jeff Bonekemper**
(This item was continued)

REGULAR MEETING: 1:30 p.m.

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

MEMBERS ABSENT: Commissioner Ken Carbone, Vice Chair.

OTHERS PRESENT: Chris Bazar, Planning Director; Rodrigo Orduña, Senior Planner; Jana Beatty, Senior Planner; Bill Lepere, Public Works Agency Liaison; Brian Washington, County Counsel’s Office; Nilma Singh, Recording Secretary.

There were approximately eleven 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 17, 2008. *Commissioner Jacob, with a correction on page 6, made the motion to approve the Minutes and Commissioner Ready seconded. Motion carried 5/0 with Commissioners Carbone and Imhof absent.*

REGULAR CALENDAR:

1. **CONDITIONAL USE PERMIT, C-8652 – ECHO LANDSCAPE ~**
Petition to allow an outdoor storage facility for a landscape business on one parcel containing approximately 250 feet, in a M-2 (Heavy Industrial) District, located at 2401 Grant Avenue, northwest side, approximately 250 feet west of Railroad Avenue, San Lorenzo area of unincorporated Alameda County, bearing Assessor's Parcel Number: 080G-1178-003-02.
Staff Planner: Richard Tarbell.

Mr. Orduña presented the staff report. A representative was present but no testimony was submitted. The Chair felt that although the Conditions of Approval were adequate, he recommended replacing the word 'ground' in Condition #4 with 'permeable surface'. In response to Commissioner Jacob, staff confirmed that all containers will be covered by a roof and on an impermeable surface leading to a drainage system and to public sewer noting that storm water protection is under Public Works Agency. Commissioner Jacob recommended modifying Condition #4 to read "...direct contact with the ground including any impermeable surface at any time." He also expressed concern with the word 'store' in Condition #1 and suggested inserting the word 'temporarily' in front of the word 'store'. *Commissioner Ready made the motion to approve the application per staff recommendations with the above modifications to Conditions #1 and 4. Commissioner Loisel seconded and the motion carried 5/0 with Commissioners Imhof and Carbon absent.*

Commissioner Imhof arrived.

2. **PLANNING COMMISSION DETERMINATION, D-164 – MOSTOFI, ONSORI, ARDAVAN** ~ Planning Director-initiated Determination as to compliance with the East County Area Plan for the reconstruction of a service station with auto-related accessory uses, in the 'A' (Agricultural) District, located at 10 Grantline Road, east side, corner southeast of I-580, Tracy area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099B-7700-012-02. **Staff Planner: Jana Beatty**

Ms. Beatty presented the staff report.

Public testimony was called for. Ardi Onsori stated that the property was purchased in 1995 to build a modern service station but was prevented by the level of contamination. Although Chevron has no concerns with a development on contaminated land with new equipment, County Water District does. Since 1995, the site has been actively going through a clean-up process. Reports indicate that the level of contamination is improving with time. Commissioner Jacob noted that the property was used for cattle grazing as indicated in the staff report. Mr. Onsori replied no. There is a cattle ranch on the adjacent parcel and his property is fenced off.

Connie Jess, property owner at 15850 Jess Ranch Road, Tracy, stated that she has operated a ranch on the adjacent property for twenty-nine years and confirmed that the subject parcel has been fenced off since the demolition of the old station. She was in support of the proposed plan and street widening. Her only concern is the unauthorized Park & Ride which has created an unpleasant situation and increased the crime rate. A service station would resolve some of the problems.

Public testimony was closed. The Chair asked if there would be infrastructure upgrades to facilitate the operation if approved. Staff replied yes, there would be significant upgrades. Mr. Lepere, Public Works Agency, confirmed that there would be frontage; street; curb, gutter and sidewalk; drainage and other improvements. Commissioner Ready said she had noted the large number of cars parked at the Park & Ride site and thought that abandoned vehicles could become a problem that would need to be resolved before the operation of the service station. She asked if this would be a 24-hour station. Commissioner Imhof said that the original station was a 24-hour operation. The Chair indicated that his issue is largely related to Measure D conformance although there is a great need for such a use in this area. Commissioner Loisel asked if another similar application had been filed prior to this application and noted that in 1996 Mr. Onsori was informed that he could proceed with the project even though the clean-up had not been completed. Environmental Health added that they would not oppose a service station if one had previously existed at the same location. Although there is an existing well, they would discourage its use for water supply. Commissioner Jacob stated that although he would support a service station at this location, he expressed concerns with precedent setting for a use based on discussions between the property owner, Chevron and Environmental Health, and the use of the word 'intent' with no affirmative action prior to Measure D. He did note that the Applicant had previously spoken regarding this issue under Open Forum. Commissioner Ready felt that the reopening of a service station

would solve the parking/street problem and serve the surrounding community. The Chair re-iterated that Measure D sets special circumstances for this area and no application has been filed to-date. A discussion followed regarding Measure D implications, a link or continuation of a non-conforming use and precedent setting.

Public testimony was re-opened. Mr. Onsoni further explained that although he has prospective investors, the banks require a clearance. Currently, Chevron has monitoring wells on site and provides quarterly reports.

Public testimony was closed. The Chair stated that although there may be some record of the Applicant's affirmative actions before Measure D, he was cautious of setting any precedent with Measure D. Commissioner Loisel felt that the Applicant has tried to go through the processes of establishing a service station and, in between this period, Measure D was approved. In response, Commissioner Jacob asked if there is a way to determine 'abandonment'. County Counsel noted his letter adding that Findings need to be made.

Commissioner Loisel made the motion for a determination that this has been an on-going use, with the efforts of clean-up eradicating the contamination, this site has always been a gas station and this decision will continue the use of a gas station at this site, and abandonment is not an issue. Commissioner Ready seconded. Motion carried 4/2 with the Chair and Commissioner Jacob dissenting and Commissioner Carbone absent.

A discussion ensued regarding the accessory use. The Chair said that he would support these uses if operated by the same owner. Although there is a demand for the accessory uses in this area, he was unsure how many uses a one-acre parcel would support. Mr. Bazar explained that the CEQA document will address this issue and County Counsel added that it would also be subject to the provisions of the Ordinance on the 'non-conforming use'. *The Chair made the motion that if the use is a non-conforming use, then the accessory uses be treated similarly. Commissioner Loisel seconded, which carried 6/0 with Commission Carbone absent.*

3. **TENTATIVE TRACT MAP, TR-7872 and SITE DEVELOPMENT REVIEW, S-2121 - CLARE - Preliminary Plan Review** ~ Petition to allow subdivision of one site containing approximately 1.26 acres into 25 condominiums (17 new and 8 existing), in a R-S-DV (Suburban Residence, Density Variable) District, located at 360, 370 and 372 Sunset Boulevard, north side, approximately 500 feet east of Princeton Street, Cherryland area of unincorporated Alameda County, bearing Assessor's Parcel Number: 429-0055-019-00, 429-0055-051-00 and 429-0055-052-00. **Staff Planner: Jeff Bonekemper. (This application was continued.)**

4. **TENTATIVE PARCEL MAP, PM-9408, PALOMARES CATTLE, INC.,** ~ Petition to allow subdivision of one site containing approximately

666.25 acres into six lots, located on 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 March 17, 2008) **Staff Planner: Phil Sawrey-Kubicek.**

Mr. Orduña presented the staff report noting the inclusion of new Conditions 3(e) and 4 which protects the grazing areas, open space and natural habitats. Any driveways leading to the building site will be included in the 2-acre building envelopes. The Chair complimented staff on the thorough response to the Commission's concerns. He asked for the timeframe of the biological studies. Staff replied that each parcel will be studied on its own except for the livestock easement. In response to Commissioner Rhodes, he further explained that the archeological resource condition is a standard condition of all subdivisions. Commissioner Ready also complimented staff on the thoroughness of the staff report.

Public testimony was called for. Mr. Varni said he agreed with the recommended conditions noting that CVMAC had unanimously approved this application.

Public testimony was closed. Commissioner Ready made the motion to approve the application and Commissioner Rhodes seconded. Motion carried unanimously, 6/0, with Commissioner Carbone absent.

5. **STATE ASSEMBLY BILL 2939, GREEN BUILDING STANDARDS**
~ Planning Commission initiated discussion and action item regarding State Assembly Bill 2939, the Building Standards and Green Buildings bill, for consideration of a recommendation to the County Personnel / Administration / Legislation Committee of the Board of Supervisors to take a position in support of the proposed State legislation.

Mr. Bazar pointed out that recommendations relating to any legislation are made to the PAL Commission. Bill Lepere, Public Works Agency, has been working on the Green Building Ordinance and is available as a resource along with Shawn Wilson, Supervisor Lai-Bitker's Chief of Staff. The Chair thanked staff for including the Subcommittee in their communications. Commissioner Ready expressed concerns regarding building stability, especially for seismic-hazard zones. The Chair explained that this legislation complements the codes and allows the local jurisdictions to go beyond Title 24 and Mr. Bazar added that the Seismic Code takes precedent and cannot be undermined. Commissioner Jacob pointed out Page 5 # (2) of the proposed bill, which states that the seismic code governs if there are any conflicts.

Mr. Lepere stated his support for the legislation. A draft ordinance is being developed which will not change the safety standards. Some of the issues, to obtain rating points, are high efficiency lighting, landscaping, cooling systems etc.

No public testimony was submitted. *Commissioner Jacob made the motion in support of a recommendation to the PAL Committee and the Chair seconded. Motion carried unanimously, 6/0 with Commissioner Carbone absent.*

STAFF COMMENTS & CORRESPONDENCE: Mr. Bazar announced the following: Mr. Orduña has been appointed as the “Green Building staff” and he is also leading the Design Guidelines process; consultant interviews were scheduled last Friday; the Commission will be staffed, due to restructuring, by different Senior Planners and Assistant Directors based on geographic and/or topics instead of one Assistant Director; and the new Planning Director, Albert Lopez, will be coming on board on May 19th.

CHAIRS REPORT: The Chair reminded all of the Green Building Forum to be held at Ohlone College on May 28th.

COMMISSION ANNOUNCEMENT, COMMENTS AND REPORTS: *None.*

ADJOURNMENT: There being no further business, Commissioner Ready moved to adjourn the meeting at 3 p.m. Commissioner Jacob seconded the motion. The motion was carried 6/0.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY