

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

Minutes for June 13, 2005

(Approved June 27, 2005 as corrected)

A. CALL TO ORDER: The Chair called the meeting to order at 6:37 p.m. Council members present: Andy Frank, Chair; Dean Nielsen, Vice Chair. Council members: Ken Carbone, Karla Goodbody, Jeff Moore and Carol Sugimura. Council members excused: Ineda Adesanya. Staff Present: Ronald Gee, Tona Henninger, Bob Swanson and Maria Elena Marquez. There were approximately 40 people in the audience.

B. Approval of Minutes of May 23, 2005.

Mr. Nielsen motioned with a second by Mr. Moore that the Council approve the minutes of May 23, 2005 as corrected. Motion passed 6/0.

C. Public Announcements.

Bob Swanson stated that the Castro Valley Farmers Market is open and running and very successful. On opening day 2000 attended the event, since then 2500 attended this past weekend. The number of food vendors will be expanded. There will be 23 farmers and 13 artisans. A lot of people from Castro Valley have applied to sell their wares. It is a great social event with music. He invited everyone to attend. It takes place every Saturday from now to October 31, between 9 a.m. and 1 p.m.

D. Regular Calendar

1. VESTING TENTATIVE MAP, TRACT-7305 – The project is an application to allow subdivision of one parcel into seventeen parcels on a site containing approximately 3.99 acres in an R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4653 Malabar Avenue, south side, approximately 250 feet west of Pepper Street, unincorporated Castro Valley area of Alameda County, bearing Assessor's parcel numbers: 084C-0835-001-07.

An Initial Study, which is a written statement to determine the possible impact to the environment by the proposed project, has been prepared pursuant to the California Environmental Quality Act (CEQA) and State and County Guidelines. The Initial Study will be available for public review and comment for a period of 30 days, ending on Thursday, June 30, 2005. The purpose of the Initial Study is to determine the scope of the Environmental Impact Report that is to be prepared for the project.

Mr. Frank stated that at this meeting the Council will be taking public comment only.

Mr. Gee presented the staff report. The hearing is the result of an October 14, 2004 Superior Court decision which vacated the adoption of a mitigated negative declaration and approval of the vesting tentative map for the project which created a 17 unit subdivision. As a result of that action, it has been sent back for environmental review and the initial study has been prepared for the project. At this time, we would like to take recommendation from the Castro Valley MAC on any issues of concern. There is a 160 page initial study which includes the original historical reviews and also an update on traffic, design and other issues. The initial study itself determined that the initial information needs to be prepared for considerations as part of the EIR. The three issues were mainly: traffic, biology and cultural/historic resources. This council can also request that issues of concern be included in the report. The EIR scope is going to be reviewed by the Planning Commission on June 20th. The Parks, Recreation and Historical Commission will hear this item sometime in July. There will be no decisions made tonight. Once the EIR is completed, it will come back before MAC for another public hearing and then will go back to the Planning commission again. Mr. Frank asked if the applicant needs to be present tonight. Mr. Gee said no, however the Consultant for the project is here tonight mainly to take notes on the comments.

Ms. Goodbody asked if a date has been set for the Historical Commission hearing. Mr. Gee said not yet.

Mr. Moore said that just for clarification for members of the audience, he would like them to be specific on the issues they would like to address on the initial study.

Scott Gregory, Principal of Lamphier and Gregory, is the environmental consultant for this project. There are also sub-consultants that are part of their team, JRP Associates, to analyze the historical cultural resources significance of the site and its potential impact. The purpose of tonight's meeting is to hear comments and issues of concern to the community that need to be addressed in the EIR process.

Mr. Moore asked Mr. Gregory to explain, for clarification purposes, the contractual obligations and who exactly hired the firm. Mr. Gregory stated that they have been retained by Alameda County and they work for Alameda County, but they are paid by the applicant. The County does not pay the consulting fees. Their services and scope of work are specifically directed by Steve Buckley from the Alameda County Planning Department.

Mr. Carbone asked Mr. Gregory about the determination of the average size lots. Mr. Gregory said that there will be a full staff report in terms of the consistency with the general plan. Generally it is part of the staff report; their document will also address environmental issues.

Mr. Gregory stated that they feel they have fully addressed all concerns regarding traffic, biological, cultural and historical resources. He asked that if there were still concerns he would like to hear what they are so they can address them. Mr. Frank stated that there are more than just three issues that need to be addressed. Mr. Gregory stated that if the community still has issues on hydrology, storm water quality, and things like that, that have not been adequately addressed in the initial study, they certainly would like to know. Mr. Nielsen asked about storm water and compliance issues. Mr. Gregory said that it is his understanding that this is a continuation of the previous application undergoing further additional CEQA review. Mr. Moore asked if the Clean Water regulations, as they currently stand, are being applied to this project. Mr. Gregory said he did not have the answer. Mr. Moore said it is highly technical, but it makes a big difference in cost and what is the benefit to the community. He also asked about the County's position on this issue. Mr. Gregory stated that the most recent regulations were applied.

Mr. Frank stated that the public has issues and wanted to know how much time the public has to review and comment on the document. Mr. Gee stated that he believes it has been available since June 1, and that he could mail copies to interested parties if necessary. He believed that we have distributed some copies to people that were active in the new process and the last go around. Mr. Gregory said that one of the benefits of this scoping meeting is to add to the mailing list for people that may not have gotten an initial study, that they now get notice of the availability of the draft.

Public testimony was called for.

Steve Studebaker, resident at 4550 Malabar Avenue, stated that he has several concerns. One of them is the report. He received his last Friday and this is a 168 page document and he did not have the time to read it in its entirety. He stated that the report says that most houses on Malabar are 3 to 2 stories, which is incorrect. There are a few two story houses but mostly single story homes. The other thing is size of the street and the safety factor. He said he has heard MAC members and Supervisor Miley speak to the safety issue on these projects. The history is significant but it has not been adequately addressed in this report. The report says HARD is not interested in this property but under the right circumstances they will be very interested in this property. That needs to be looked up as an option. The traffic in Malabar will be impacted. In general, the public is opposed to this project, there are better uses for this land. Need to find another way to use this property that can benefit the community.

Lawrence Hutchings, resident at 18729 Brickell Way, stated that he wanted to comment on aesthetics and history. We have been discussing these issues for the last four years. There have been many discussions on what houses to include in this study. A community is made up of many things. We would like to compensate the owner of this property. The county has said this location is ideal

for a park. On the aesthetics, he would like to see MAC address the street width. There is also the Alcorn parcel, 1956 home, that has not been included in the development. This property could be developed at a later date, this could add another two houses to this 16 home project. The community has addressed its concern to this council, to the county and in legal proceedings. Finally we have the initial study, but the consultant needs to look at the impact on this neighborhood. Have this study be a non-biased report.

James Milward, resident at 18177 Judy Street, stated that the initial tentative map prompted the lawsuit. At the last meeting this council moved to recommend approval of the project and instructed the developer to look at 8,000 square foot lots or larger due to the curvature of the entrance on Seven Hills Road. However, this final map does not reflect your initial instructions to the developer. In fact two lots are less than 6,000 square feet. This community advisory board ignored the discrepancy without comment that one board member disqualified themselves since they were working for the developer and the council approved this vesting tentative map. And subsequently, these were the reasons for the lawsuit. The initial study prepared by Lamphier and Gregory compared the size lots figures as presented in their document, page 74 to 96. The Superior Court specifically instructed the county to include the litigators in discussions on the EIR process. This 200 page initial study document makes assumptions that we must now refute in 30 days. Lamphier-Gregory did not contact any of the interested party on this project. How many lawsuits is it going to take for the County to get it right? Castro Valley is losing its heritage and its last open space to developers that want to concrete every last piece of open space. Castro Valley was # 2 in the entire world in chicken production. The initial study is flawed.

George Reinheimer, resident at 4564 Malabar Avenue, down the street from the proposed project, stated that most of his comments have already been addressed. He stated that the public comments on this initial study should focus on accuracy and completeness of the analysis contained herein so as to further refine the scope of the EIR. This document is not complete, has not assessed or addressed noise or aesthetics.

Susan Hersch, resident at 18217 Judy Street, stated that she is a member of the Castro Valley Preservation Society. In terms of access to the report, fliers were posted only in 5 locations, 3 on adjoining property on Malabar, one on Pepper Street and Malabar and none were posted on Seven Hills Road. Furthermore, the fliers have not been revised to let the public know that the comment period had been extended to July 7. In terms of time frame, Mr. Gee said that the report was available since June 1. That is not correct. She called Mr. Buckley on June 1, and apparently there were problems with the printers. Finally on June 3, Mr. Buckley said that they were mailed out. Many of us received the report on June 6th and June 7. However, we now only have 7 days to review this huge report which is very complex in nature. This report apparently has taken up to 6 months to be written, to be reviewed by County staff and be revised. Two weeks before the

Planning Commission has time to review it is a short time. In terms of the questions rated in this report, she would like to see all of the sources for all of the questions being rated. This report indicates that the basis for these questions are consistent with CEQA guidelines Appendix G .

Mr. Frank asked Mr. Gee if there was any information available for the public in regards to Ms. Hersch's questions. Mr. Gee stated that this is not a finished document. The reason for this hearing is to see what else needs to be addressed. Ms. Hersch said she would like to read the guidelines that CEQA has. Mr. Gee said that CEQA addresses issues of significance as far as what constitutes a significant impact. This criteria could be included in the document. Ms. Hersch said she would like to see the criteria; she would like to see the wording as CEQA presented it and if it has been reworded; she would like to make a comparison. Mr. Gee said that the County has several guidelines. The CEQA guidelines are so general and each community can develop their own standards. Ms. Hersch said that this report specifies that is based on CEQA.

Mr. Frank asked Mr. Gee if the information is on file for public review at the County offices. Mr. Gee said yes, it is available at the Planning Department located at 224 West Winton Avenue, Hayward.

Ms. Hersch said that in terms of environmental assessment in the report, she thinks it is incomplete. The environmental Site Assessment by Northgate Environmental Management does not include an assessment of more than 23,000 square feet at 4563 Malabar, which is included in this study and is part of 3.99 acre parcel. Since this portion of the parcel may be developed at a later date and is included in the project site, both reports should be revised to include this assessment. In terms of reference to the Castro Valley Plan, this report references page 60 of the Castro Valley Plan when it discusses how the authors believe their project meets. Neither her own copy nor the two copies available on file at the C.V. Library contain page 60, and in fact pages 60 to 63 are missing. According to her interpretation, and is written in the Castro Valley Plan, the preservation of this property needs to go off the C.V. Plan which include providing for community identity, separating communities with open space, providing unique and attractive focal point for community, providing an aesthetical pleasing environment and protecting natural scenic features, among others goals. She personally called Eric Wileyard on Friday (he is now the general manager of HARD), because the report indicated that the site would not be suitable for its purposes. He reiterated that if HARD is able to secure appropriate funding, HARD would be willing as before to pursue this property as a park for an area in Castro Valley that is underserved. As far as aesthetics, she knows it has been mentioned that photos contained in this report are poor. The report incorrectly states that looking south from Malabar no distant mountains can be seen. It subsequently contradicts the statements that the ridge mountains of the San Mateo Peninsula can be seen as well as a panorama of Castro Valley. As an undeveloped piece of property, it gives the area much needed open space for residents and

maintains a rural atmosphere within a suburban area. In these trying times, adding additional development rather than preserving precious land, does not serve this community. The evaluation under Aesthetics totally misses the point, in her opinion. It is the property itself which most of us view as a scenic vista, serves to preserve a focal point and provide a sense of community, not the vistas out there but the property itself. Destroying what little is left which prevents beauty is a loss to this entire community. She would like to know from contractors what mitigation factors can be presented that would not destroy its aesthetic value. We contend in your study that the project would have potentially significant impacts in at least two areas of aesthetics, it would have substantial adverse effect in the scenic area and would substantially degrade the existing visual quality of the site and its surroundings.

Susan O'Keith, resident at 4598 Malabar, stated that she read the report and said that the original traffic report was outdated and that they should be doing another one and she hopes they will do it legitimately. Two weeks ago she and her husband left for work and saw a teenager sitting on the corner with his bike and when approached he said that an engineer had paid him money to sit on the corner to count cars from 7 to 9 and 4 to 6. She is concerned about exactly what type of study they are going to do.

Mr. Frank asked Mr. Gee how County does traffic study. Mr. Gee explained Traffic hires a traffic engineer for traffic count. Ms. O'Keith said she does not consider one day sitting on a corner as a legitimate study. Mr. Gee said that Bob Preston, from the Traffic Department, is involved in reviewing traffic studies. This is a different type of study.

Ms. O'Keith said she also looked at the street pictures of the four proposed houses on Malabar Avenue. These houses are not going to be leveled with the street, they are going to be built up and probably they are going to have 10 feet above, but the picture shows a lot of space between the houses. There is no way you can put four 3,000 square feet houses and have 20 feet between them on the street. It is not showing the height of the houses. The picture makes one think that these four lawn houses are curved along the property. If that is the case they are going to be flooded because in the corner there is a huge drain that the developer is trying to cover up. That area has flooded in the past. She hopes to get a legitimate traffic study this time.

Trish F. said that on page 63, the initial study authors conclude that a former UST approximately 200 feet uphill are "presumably upgraded on the subject site does not pose a threat to the underground water". This is incorrect. First, there are no records indicating that the UST has been removed, and may in fact still exist or maybe it was removed without permit or documentation. On page 64, the initial study incorrectly states "there appears no risk or hazard related to the former on site under storage tank". This may apply to soil, near the soils sampling location. The consultant however, incorrectly used the wrong type of drill, able to collect

ground water sample. Ground water at the site is likely adversely impacted from potentially ongoing release from under underground UST on Pepper Street, residual contamination and/or the under storage tank. A ground water sampling program should be conducted and evaluated prior to a potential approval. On page 65, the initial study authors incorrectly state no further investigation is warranted. The potential for ground water contamination exists due to the lack of documentation regarding nearby upgrading and on site under storage tanks. Water sampling should be mandated and evaluated prior to any potential project approval.

Mr. Carbone said that the traffic in the entry way of that project is of concern: the density of the project, standard roadway widths, non private roadway, as originally stated. He asked about the possibility of reviewing the original MAC minutes regarding the establishment of a minimum lot size not an average lot size.

Mr. Moore said that one of the speakers had mentioned that staff was working with the litigants and asked if that has happened. Mr. Gee said no, this is the normal CEQA review process. Once the document is completed than there can be workshops. The preparation of the EIR document has to be done by the consultant. The preparation has to be objective. Mr. Moore asked what about a committee. Mr. Gee said that that could be part of the recommendation

Mr. Nielsen said it is imperative that we get a copy of the court decision so we know what we are dealing with. Secondly, has anyone consulted with the family to find out if there is an underground storage tank. Several people have mentioned this and there is no mention of this in the report. The other thing is the elevation of these homes. The height issue can become quite controversial because everyone assumes that the developer would take into consideration the elevations surrounding houses. The height issue should be addressed, because if there is a 10 foot burm before these houses are constructed, we definitely have to see it. There can't be a variance of more than a foot or two. The other concern is the street width. This should also be given consideration because of the size of the development.

Mr. Moore questioned the park issue brought up by some speakers. Is it a viable alternative? Mr. Gee said that as far as the project, there are two ways the developers can help in that process which is to pay a park dedication fee to provide open space, but as far as the actual project to be designated as actual park site, generally this issue would have to be addressed through the General Plan amendment process. Mr. Moore stated that he just wants to know if the park idea is a feasible solution and if someone is actually able to buy the property.

Mr. Gee said that as far as the EIR process, CEQA requires that we identify project alternatives and that specifically can be evaluated as a specific alternative. Mr. Nielsen asked if that was a site consideration in the new Castro Valley General Plan and if it has been identified as a potential park with the General Plan

committee to have that included as a park. Mr. Gee said yes. Mr. Frank said that they were looking at sites that provide the availability of land. Mr. Frank continued discussion on the traffic count and also the elevation issue.

Ms. Goodbody asked for clarification on CEQA process as it relates to the cultural/historical sources. When doing background research investigation on that, is it only the county historical commission that is looked at, or is the state historical body looked at as well and what regulations and what their criteria is for historical sources. If there is a difference in the criteria, what does CEQA says as to which body has jurisdiction?

Mr. Gee stated that the County does not have its own landmark criteria, and that was an issue in the Court case. The county in using the state guidelines shows that it does not fit the state criteria. Ms. Goodbody asked if the County is going to come up with its own set of guidelines and criteria as to the local landmarks, or stay with state guidelines. Mr. Gee said that the County is in the process of developing guidelines but was not sure if they would be adopted prior to this project being finalized.

Mr. Frank said that according to the lawsuit it seems that the state wanted a more local opinion on the historical issue. Could we get a local historical society, maybe Hayward, to weigh in on the historical issue? Mr. Gee said the County can have the County Counsel get back to the council with the court decision and see if this is feasible. Mr. Frank asked for the court document. Mr. Gregory said he does not have a solid answer on the historical issue. Mr. Frank said that the Court order indicated that it should be done. Mr. Gregory said that this is a fairly unique situation, this is not where he has a lot of historical background to re-analyze previous court decisions. However, typically there is a specific process with CEQA which includes meetings like this one for public input and comment prior to preparation of the draft, and he believed that they had three sessions one with the Planning Commission and one at the PRHC. The purpose is to gather that information, other meetings outside of these guidelines are typically done by County staff not by the consultants.

Mr. Frank said that the Council wants to know that whatever is done is going to be in compliance with the Court order, that the Council has taken adequate measures in the review process whether is done by the CEQA process or by planners and staff, and in compliance with the court order. There obviously needs to be something done in compliance. The Council needs County Counsel to look at these issues so that Council can review and the cut off date may have to be extended, so those matters can be taken care of. Right now the Council does not have the steps outlined by the County Counsel. He thinks that the request made by Mr. Nielsen is appropriate.

Mr. Moore instructed County staff to consult with County Counsel in regards to these legal issues. Mr. Gee told Mr. Moore that County staff can get something in

writing. Mr. Nielsen said that the Council still needs a copy of the court order along with their interpretations.

Ms. Sugimura requested clarification in terms of where the park stands on their level of interest and asked if this is a serious proposition. Mr. Gee said that County staff will try to get a formal response.

2. **CONDITIONAL USE PERMIT, C-8312, GRIMES & BALDWIN** – Application to allow the continued operation of a horse boarding facility for 63 horses, and the continued occupancy of 2 mobile homes for caretakers in an “A” (Agricultural) district, located at 8018 Crow Canyon Road, west side, 25 feet north of the intersection with Norris Canyon Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 0085-1750-006-06.

Mr. Gee presented the staff report. He said that currently we are in a position where this application was submitted in June 2004. Planning staff has contacted the applicant on numerous occasions to have him secure a fire clearance but this was never implemented. As of April 12, 2005 Planning received an updated site plan, but the applicant had not secured fire clearance. Staff informed the applicant by mail that if the necessary requirements were not submitted by May 27, 2005 to the Planning Department, staff would recommend denial of the application.

Mr. Nielsen asked about vehicles on the site. There is mention in the report of a house trailer and several other vehicles that are not on approved surfaces. Mr. Gee said that there are existing violations and safety concerns, particularly the bridge across the creek onto the property. County could not recommend approval for any new entitlements. Mr. Nielsen asked if Council should proceed since the bridge situation has not been addressed. Mr. Gee said yes.

Mr. Grimes said that he has talked with the County and the Fire Department numerous times. Mr. Grimes updated the Council on the permits and work he has done on his property. Mr. Grimes stated that he has a civil engineer if the council has any questions. He is working on the road and the bridge. One trailer was going to be removed. The other trailer that was by the creek has been moved. It is used maybe two nights a week by a woman that lives in Paso Robles. She cuts the grass and works with the horses when she is there. Mr. Grimes mother-in-law lives in the other trailer. Her house will be finished in August and that trailer will be gone. When he got this packet on Saturday, it had additional things in there that they wanted done. He said he does not have problems with doing this work. It is going to be very expensive and will need time to do it. He said he does not funds. He said that they have been working on this since last year.

Mr. Frank said that County says there has been no activity, no work done on the site and asked if there has been any real measurement. Mr. Gee said that in applying for time extension, basically what we try to do is evaluate what has been done and as far as implementing conditions and where he is now. We need

something written, documentation of work that has been done. In fact there has been no contact. The last letter outlined what needs to be done, but still the staff planner has not had any contact with Mr. Grimes. Mr. Frank asked what are the basis for getting where we are now. Mr. Gee said that it has been over a year.

Mr. Nielsen said that he did not see that letter with the conditions as part of the report. Mr. Gee said that there is a copy of the April 12, 2005 letter, also the May 27, 2005 letter was included.

Mr. Moore asked if the bridge was the biggest issue and if everything else is relatively minor. Mr. Gee said we need some verification from the Fire Department that has been done, but health and safety issues take precedent. Mr. Frank asked what is the issue about the bridge, if it needs to be rebuilt or reinforced. Mr. Gee said Building and Fire need to know if the bridge can take a fully loaded water truck. Mr. Frank said we do not know anything about these issues. The Fire Department and the Building Department are suppose to go out and tell the applicant what to do. Mr. Frank asked Mr. Gee that if it has to do with timing if the applicant has been told what to do or has he been sitting there not knowing what to do. This is what he wants to find out.

Mr. Grimes said that the Fire Department said that we needed better address signs, and he replied: "tell me exactly what you want and I will do it". They told him to get some reflective letters, and he said he already has them. If they (Fire Department) want six 8-10 inch letters, they need to tell him.

Mr. Frank asked Mr. Grimes if has received anything from the Fire and Building Department to tell you specifically what you need to do to comply with the requirements.

Mr. Grimes said regarding the bridge, he talked with Bob Bohman. He wanted a walkway put on each side of the bridge, with a fence for safety; he wanted all the trees cut, 15 feet up, they grew again and need to be trimmed. Mr. Nielsen asked Mr. Grimes if Mr. Bohman physically came and inspected the property and gave him a letter saying what he wanted done. Mr. Grimes said he has not seen him on the property but he believes that he was there. Mr. Gee said that in the letter sent on September 2004, it says specifically what needs to be done. Mr. Nielsen told Mr. Grimes that he was notified in writing what he needed to do with the bridge and asked him if he had been working in compliance since September of 2004. Mr. Grimes said yes.

Mr. Clark, the civil engineer, said he has been working with Mr. Grimes on the bridge trying to get this done. We are working on complying with Fire Department issues. We are doing survey for his use permit, doing on site for him as the site consultant from his business.

Mr. Frank told Mr. Clark that on page 2 of letter dated September 27, 2004, mentions that "the bridge shall be certified to its load capacity and posted as such in accordance with fire standards". Mr. Clark said he is making some rehab work reinforcing raising two feet to get it a little bit out of the water, exact structure plans to do that and make it structurally sound and that he will certify this.

Mr. Frank said that in the past we review things, because you don't want things that go on and on. Mr. Frank asked again Mr. Clark how long to get it done. Mr. Clark said he can get the building permits and in as little as three weeks actually get the bridge in place once the permits are granted. Mr. Frank asked him if he has the permits. Mr. Clark said no.

Mr. Moore said that a year is awful long and what is a reasonable amount of time. Mr. Frank told Mr. Clark that he maintained focus with the main issue, if there are other issues that need to be addressed, they can be addressed later in the process, but that he has to focus on the bridge. Mr. Clark said that his role was not to carry the permit process forward, there were specific items on the project.

Mr. Gee said that the County can not approve the building permits for the bridge until the violations have been cleared. Mr. Grimes needs to clear the violations first. Ms. Henninger said that is part of it. Number of issues need to be brought to the various agencies for review. Mr. Moore said that staff recommendation is denial. In order for them to continue their conditional use permit process they need to clear violations and then deal with all the conditions of approval. How long to clear the violations? Mr. Grimes said that as soon as he finds out exactly what they want, it took him 5 days to get a permit to get a hot water tank.

Mr. Frank asked how long will it take. Ms. Henninger said that there are various departments involved: Building, Environmental Health, Fire, Planning, and Clean Water. We can say however that each department has responded in writing with specifics, the application is very clear. She was on the property last week and there are certain items that need to be done. They can be looked at. Until we got that together, it has been one year long. If he can bring us what is necessary from the various departments.

Public testimony was called.

Mary Philips, resident at 8086 Crow Canyon Road, is opposed to having this situation go any further. The Council should not approve the CUP to this applicant. The applicant has had a year to resolve these issues. The previous CUP required that they have a fire clearance and a dust abatement program which has never been implemented. The applicant has the access road located right next to her house and the horse arena has been expanded to her property line. There are no water trucks on the premises. It gets very dusty. There are also a number of illegal residences on the premises. One that is not shown on the site plan. The house on the property is actually a duplex. The septic is draining into the creek.

The bridge work has not been done; in case of an emergency the bridge might not be able to hold an emergency vehicle. There is a storage trailer business going on at the site and the trailers are located on my property line and they look atrocious. There is somebody living in the RV on the property all week long, not just a couple of days; there is also an extension cord running across the property to the RV which is a fire and safety hazard. There are a lot of issues with the dust and the road on this property. This property has been raised 8 feet and the dust just comes over her property, into her house and it is really a mess. She asked the County not to let this happen. There is no water truck, they have no intentions of complying with the county requirements. She has been verbally assaulted while walking in her property near the horse arena, because that area is coveted by the people that have their horses there. She has not been able to use her property due to the issues she has mentioned. Mr. Grimes brought a bulldozer into her property and took a big chunk off her property. It was malicious, it ended in litigation and she prevailed but she does not think that she should have to go through more litigation to have this situation resolved. Also, they fly the Confederate flag on their business. As a Mexican-American woman, she finds it very offensive; she has photographs of it. She asked the Council if it is within their scope to have this flag taken down. Mr. Frank told her that the Council hears strictly land use issues, and if she has other issues, she needs to direct them to County Counsel. She mentioned letter dated March 17, 2005 sent to Kate Conner and asked that council be given a copy of her letter.

Jeanette Baldwin, resident at 8018 Crow Canyon Road and James Grimes' wife, gave a brief synopsis of this project. She takes care of the books and tries to keep the place solvent, which is a hard thing to do. This conditional use permit came up last year and they were the guinea pig for the new requirements of this conditional use permit. There was much more required from them to prevail. The bridge is a rail road, solid steel, it is not going to break, it has been there since the 70's, it has always been accepted. They invested over \$5,000 to upgrade the bridge last year. They probably have another \$ 8,000 to invest to get up to code. The reason for the delay is that people do not have that kind of money. We have been pursuing the permits to riping up wires to hire a civil engineer. The permit went from \$ 600 to \$1,000. It has been a tremendously expensive procedure because every time the county agencies come up with different required standards. Nothing has significantly changed in their property in the last 8 years. They have a manure management plan now where they remove the manure from the property once a week. They did that last year. They had a water trailer that waters the arena everyday. They have invested thousand of dollars to take care of these things.

Sharon Villarreal, resident at 17060 High Pine Way, stated that she is a boarder and has been there for over 6 years. In the time that she has been there, there have been significant upgrades to the property and it is one of the nicest boarding facilities in the Castro Valley area. There have been upgrades in the indoor and outdoor arena, the electrical system has been upgraded within the barn itself and

within the arena. Mr. Grimes has excellent dust control practices, the arena is watered every day, for her as a rider it's very important. Additionally, the manure practices are excellent; there have been minimal flies. She knows that when Mr. Grimes needs to upgrade something he does it. She asked the Council to give Mr. Grimes a reasonable amount of time to make the necessary upgrades.

Julie Dawn, a boarder at this facility since 1999, stated that there have been many improvements during the years that she has attended this facility. They have dust control measures, sprinklers, the arena is being worked every day, there is a trailer with a water tank, there's additional people that work at the arena. During the summer, the indoor and outdoor arena is available and there is no issue with the dust. Also, the manure situation is under control. If you look at all the boarding facilities in Castro Valley, which are very few, this is one of the nicest ones. There needs to be a plan when and how all of these issues can be addressed.

Mr. Grimes said that regarding Ms. Alexander's dust complain, they use 2,500 gallons of water a day on the outdoor arena and 500 to maybe 1,000 in the indoor arena. They use fly predators from Spalding Labs, we remove manure off site, usually 5 to 7 days, whenever the trailer gets full. This has nothing to do with the permit only. There was a confederate flag on the property, it has not been up for a year; his wife is Choctaw Indian, his son was married to a Mexican woman, his sister was married to a Mexican man, his niece is married to a black police officer, so he does not see how race can be involved in this in any way.

Public testimony was closed before the public.

Mr. Nielsen said that it seems that there is a need for a plan with a time table for completion on compliance issues. He asked Ms. Henninger if this was an agreement with her. Ms. Henninger said that there are a number of things that need to be resolved. She would need to bring a planner to the site to make a list of the non-compliance issues. Mr. Nielsen said if it would not make sense if she can do this within the next two to three weeks. Ms. Henninger said yes and to continue this for 30 days and if not ready it can be extended. Mr. Nielsen said that in fairness to the property owner, if it is going to require raising the bridge, he obviously needs to get the estimate together. The Council needs to bring this to a close.

Mr. Moore said that he agreed with Mr. Nielsen for a continuance, but also for the applicant, a year is a long time, if there has been miscommunications, he just like to see you reasonable amount of time. If a schedule can not be worked out, the Council might want to consider denial of the conditional use permit application until Mr. Grimes gets all the violations cleared up so everyone can move forward. Mr. Nielsen agreed.

Mr. Nielsen made a motion to continue this matter for 30 days. Mr. Moore seconded. Motion passed 6/0.

3. **CONDITIONAL USE PERMIT C-8406, DANIEL AND CONSTA DAVIS** – Application to allow the continued operation of a child care facility for 49 school age children in an R-S-CSU-RV (Suburban Residence, Conditional Secondary Unit, RV Regulations) District, located at 4779 Heyer Avenue, south side, 350' west of Center Street, unincorporated Castro Valley, Alameda County, designated Assessor's Parcel Number: 084C-0700-001-02.

Mr. Gee presented the staff report. There are no changes to the existing operation, all State and County requirements have been met already and because of the shortage of quality private child care services, staff is recommending approval. Mr. Frank said that there is a history of conditional use permits over the years, is it appropriate to consider more than three years. Mr. Davis said that he asked for 5 years the last time but he did not get it. Ms. Sugimura asked the applicant if there were any complaints in regards to the facility. He said no. Mr. Carbone asked him how many years has he been in the facility. He said 7 years.

Public testimony was called for. No public testimony was submitted.

Mr. Carbone moved approval of Conditional Use Permit 8406 for a period of 7 years with all planning considerations. Ms. Goodbody seconded. Motion passed 6/0.

4. **PARCEL MAP, PM-8632, SYED** – Application to subdivide one parcel totaling 0.74 acres into two lots, in a R-1-RV-(Single Family Residence, Recreation Vehicle) District, located at 18851 Cindy Way, southwest side, 276 feet southeast of Titan Way, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084B-0375-030-01.

Mr. Gee presented staff report. There were some concerns expressed by neighbors about the steepness of the property but as far as Grading adequate to the side, the Grading Department said that a grading permit is not required. The Fire Department said it could be required for access, sprinklers, as far as the fire truck Mr. Gee said there will be a retaining wall that has to be built and it will require a building permit but not a grading permit.

Masood Syed stated that he is a Palo Alto resident, but he has been working in this area, Fremont, Newark, Hayward for the last 6 months with his partner, and they have been looking for a suitable place to live. His partner in business is his brother. They would like to subdivide the property into two lots. They like Castro Valley and its area. He thinks that the lot area conforms to the neighborhood. He asked Council to approve his application. This is the best land use for this lot.

Public testimony was called for.

Steve Westernen, resident at 18853 Cindy Way, stated that he lives next door to this property and said that there was one thing that was not considered in the lot split and actually in the dimension of the sizes. There are a couple of properties that are bigger and that were not considered in the square footage. Also he wanted to present the Council a couple of pictures of existing property, which do not show the actual grade and steepness of this road. He is concerned because he lives next door and on top of the retaining wall is more like 8 to 10 feet. He is a general contractor. He built his home in 1984; he was required back then to get a soils report, which showed the underground springs in that area. This hill is completely riddled with underground springs, as he pointed out. This hill does have shell which in turn has a lot of surface water. He is afraid the position of this road at this point water sipping through the retaining wall and flooding his property. He is suggesting to a mandatory soil report and relocate the road to a more suitable position on the property. He agrees with the other people, he prefers a brand new house compared to a dirt road. He is not opposed to the house. A couple of the neighbors who could not come to this meeting signed a petition in opposition. He referred to a letter dated June 6, 2005 sent to Kate Conner, and asked the Council to take into consideration his concerns (copy of the letter in the staff report). Also, back in 1995 the area was zoned for secondary unit, back in 1995 the County changed the zoning and revoked the secondary units on this hill. Also, the Fire Department is concerned about that tight turn. He asked the Council not to approve this application and have the applicant do more to stabilize the area.

Antoinette Farinha, resident at 18942 Crest Avenue, stated that her property borders the property in question, she was never notified of this subdivision; no posters on Crest Avenue. She was told by Mr. Westernen last week of this meeting. Although they live on different streets, her house borders his property on the south end. She has $\frac{3}{4}$ of an acre, as Mr. Westernen does. Another neighbor who was unable to attend this hearing also has $\frac{3}{4}$ of an acre. None of those parcels were considered in the average of the size parcels. She is concerned how her home is going to be affected. When she purchased the home in 1978, it was a 3.5 parcel, it was divided into the 3 parcels. At that time when they bought the property, the previous owner of her property was in litigation with a subdivision on the south end of her property. They built at 19100 Crest Avenue, a condominium complex and in doing so they diverted the natural water springs which came onto her property and subsequently cracked the swimming pool which had to be filled in. Since then, she has had to do extensive drainage repair to her property. Her concern is that the drainage in her property can not handle the water coming from the hillside which is directly below this planned area. Another concern is that she read in this report that a grading permit would not be required. Several years ago, the previous owner of this property decided he was going to make a road exactly where this man would like to plan the road today. He began moving dirt around, so he could get behind his house. Mr. Westernen and she called the County. They came and supervised and realized that he could not do that and that he needed a grading permit at that time. He stopped work and

brought a lot of fill which loosen the hill. Mr. Western and she built a retaining wall in order to keep the dirt from sliding into their property. She has pictures of the house and the retaining wall where you can see how close this house is to where they want to put the road. It is also difficult to landscape; it is expensive but it is possible. The hillside will lose dirt into her property. She wants to make sure that whatever work is done there, whatever road is built that it is secure, that it follows all the guidelines and a grading permit is obtained. It is a precarious hillside and it requires a lot of engineering.

Mr. Nielsen asked Ms. Farinha how high the retaining wall is behind her home and what is the set back from her home to the property line and if the retaining wall was on the property line. She said she has a cottage as a secondary unit. Mr. Frank asked if she uses ground mat for the soil landscape. She said yes, that is part of the landscape.

Ruth Rymer, resident at 2572 Titan Way, Mr. Frank read her comments on the speaker card: Slipage, sliding of earth seems not to be properly addressed by various government agencies. She was not present.

Greg Strand, resident at 18789 Titan Place, which is above of the proposed subdivision. He is concerned about the placement of the house on the lot. Certainly the gentleman that bought the property is happy with it because it contains best of views of Castro Valley, panoramic from his rear yard. Any housing development will obscure the view from his home. Any development will block and devalue his property. This lot is very unusually shaped. The previous owner acquired part of a lot of his house back years ago, it is an odd shape. It is actually bordered by 8 other properties that will be affected by this construction. The property is situated as such that the sewage needs to be pumped up. It did not function in the past, causing sewage to come up, the pumps failed, so he is worried about that. He is concerned about having more traffic. He asked council to take into consideration all the neighbors that bought houses there to enjoy the beauty of Castro Valley. He is also concerned about fire access. If a house is built upright behind his house, there is only a small driveway. The hill is soaked in the winter, it is very wet. The previous owner moved a lot of dirt on his own, if you want to go look at the property it has been moved around quite a bit. He is also concerned about construction, noise, debris, dust and that the neighborhood is getting packed in.

Jim Duran stated that he is the previous owner of 18851 Cindy Way, and said that he understands all of the concerns expressed by the neighbors. He has been there for more than 20 years. He had a unique opportunity to sell the property, and with consideration to his neighbors, a home that would not only upgrade their homes, but values up to an area where they would enjoy. He can't say that he finds any complications here, whatever problem that may occur, he is sure that Mr. Syed probably anticipated this, and he has made or will make arrangements, corrections, and things that are necessary to make the place buildable and suitable.

He is moving into a new development, homes and schools are already in place. Unfortunately development of the land should not surprise anyone. If someone is complaining about the sewer they have to realize that all three of them at the bottom of the hill utilize the same type of pumping station

Ms. Cuza, resident at 18789 Titan Place, stated that they moved in 1979. When they moved to this property they bought it from Century 21, nobody told them anything about the property. They had a fence between them and the previous gentleman. All of a sudden 10 years ago, they came and said "this fence does not belong to you". They removed all of the bushes without any notice. They called the police that day. They had to pay extra money for the view when they bought the house. They moved from Chicago and now all of a sudden all this complication has arised. Maybe they would have allowed to build for in-law unit because they don't have exit to their property. They moved us they took the land now we do not know what is going on.

Mr. S. Engineer of record for Mr. Syed, stated that he listened to most of the concerns. There will be a sewer in place before they apply for the final map. The other property sitting there has one bedroom. He just took all the property dimensions for that unit, it is going to be remodeled and the front bedroom removed. There will be addition in the back of the house, in order to make a wider driveway, that issue we have already...The other issue for the traffic is for one family two cars, one additional car for guest parking which is also referenced in the report itself, lot in the back is big enough to provide additional parking There should not be any question for the parking itself.

Ms. Nielsen asked Mr. S. about the front bedroom that is in the left hand of the house if it is going to be removed. Mr. S. said yes. That bedroom is about 23 feet long. Putting a 20 foot road as for stability is concerned. The retaining wall is required there because originally he did not have a topographic map. Other things you can do to stabilize the soil is to keep everything in the same place to and make it look it better. You can also a mechanically stabilize embankment walls that don't require any footing. Mr. Nielsen asked Ms. S. that he mentioned he is going to move the bedroom, how wide will that driveway be. Mr. S. said 22 feet wide but it will away from the property, the requirement is 16 feet.

Public testimony was closed.

Mr. Moore said he is glad to hear that the engineer said that a soils report will be provided. He would definitely recommend Grading Department be involved. He is surprised that grading permit would not be required, but he leaves that to the discretion of the County. As far as number of lot goes, he did not see the large lots in the actual calculation of the net size but he did not see anything, three 30,000 square foot lots, that is pretty big.

Mr. Carbone said he thinks it is still sub-dividable, 10,000 square foot should be considered as a parcel to re-calculate the actual size, brought us at previous meeting, make sure this is consistent,. Mr. Moore said that the fact that only two lots are being proposed, large lots is pretty good, it could have been 5,000 square foot lots. Technically he does not see any problems.

Mr. Nielsen said he agrees with Mr. Moore that this is a difficult parcel to work with because of the topography. They did a good job as far as utilizing it. He is concerned about the other parcels not being included as far as the average lot size, but with the 22 foot wide driveway, it should accommodate the grade difference. He agrees with Mr. Moore that the soils report should be mandatory on this parcel.

Mr. Carbone said he does not think the pictures do justice for how steep it actually is. He thinks realizing that the square footage is there, and the way the other properties are surrounded. He thinks it is a pretty odd piece especially for how steep it is. Mr. Moore said that the grades are absolutely not at all unusual. We have an actual topographic survey, look at a picture it is deeper. Mr. Carbone said that it looks a lot different than appears here

Discussion ensued amongst councilmembers and county staff on the probability of placing secondary units on these lots. Mr. Gee stated that the El Portal Ridge slope is too narrow, there is not enough parking and not practical to allow the secondary units, through MAC the CSU district was eliminated for this area. Councilmembers also discussed technical issues such as soils control and management, soils stability, drainage system, retaining walls.

Ms. Goodbody said that it seems like there are outstanding concerns that the Council has so she would recommend continuance. Mr. Moore said he can't recall a subdivision project based on technical issues. He is surprised, for grade standpoint, drainage standpoint things are more complicated; from the sewer standpoint it is pretty standard, from the retaining wall it is nothing that we had not seen before.

Mr. Carbone mentioned the Altamira water runoff problem and drainage issue. It ended up in litigation. Mr. Moore said the developer has to deal with grade, with soil stability, has to deal with sewer, the Council should be looking at land use.

Mr. Moore motioned for approval of Parcel Map 8632 with staff consideration, and he is certainly willing to pull the council members for enhance conditions of approval from the technical standpoint: soils report, adequate drainage be provided in conjunction with the Public Works Department and all utilities. Mr. Nielsen seconded. Motion passed. 6/0.

5. **PARCEL MAP, PM-8695 – DOYLE** – Application to subdivide one parcel totaling 1.00 acre into two lots, in a R-1-B-E-CSU-RV (Suburban Residence

w/Conditional Secondary Unit and Recreation Vehicle, 10,000 square feet Minimum Building Site Area and 70 feet minimum lot width) District, located at 17611 Almond Avenue, west side, approximately 342 feet northwest of Walnut Road, Castro Valley area of unincorporated Alameda County, bearing Assessor's designations: 084D-1160-015-00.

Mr. Gee presented the staff report. Staff is recommending approval.

Fred Doyle, Applicant, stated that he has lived in the property for 30 years and would like to subdivide it in half. He would like to build a single story house where he can live on. He is interested in being a good neighbor. He likes living with his neighbors, he likes Castro Valley, he is involved in youth activities and in several sports, also involved with his grandchildren. He worked for the County for 32 years at the Juvenile Hall. He has better estate plans so he can leave for his two sons. Everything that needs to be done, he will do it. He wants to keep his neighbors happy.

Public testimony was called for.

Richard Price, resident at 17551 Almond Road, stated that he has lived on that same private road for 45 years. That road is maintained by 5 homeowners. They are here tonight and they are not so much concerned about what Mr. Doyle wants to do, but they have issues that need to be discussed. Several years ago he submitted an application for re-zoning and he wanted to build a house at that time but the application was rejected because of the environmental impact on that small private road. Years ago increased traffic and putting another driveway and he accepted that. However, if this one is approved, he will re-submit an application and see if he can build a house too and that will be on the other side. This is a tranquil part of Castro Valley; the road is 350 feet long, is maintained by 5 homeowners, at end of road there use to be a school, now it is a park. At first all the neighbors-homeowners were concerned with the change. One of the problems he has with construction on that private road would be the heavy equipment. It cost them to keep that road maintained and asked who is going to pay for that.

Mr. Frank asked Mr. Price that the main criteria in recent years main concern is the road width, inadequate road width in the homes. Mr. Price said yes. That private road is 25 feet wide, when you cut a sewer line for a new construction, you are going to cut a hole on that street. At the end of that private road are some of his neighbors that are senior citizens that will require emergency services occasionally and they need to maintain that road empty of cars so emergency vehicles can get up there. He does not object the new house. He would like to see some of the plans before he finds out how are they going to cut a driveway into a small private road. His concern is with change.

Arthur Bellar, resident at 17575 Almond Road, at the end of the private road. He is concerned about properties that Mr. Doyle has. He has requested a permit to

build a pool house, but he does not have a swimming pool. Mr. Frank asked him to focus on the lot itself with the proposed split, the main issue is the lot split. He asked that the subdivision be delayed until other things are straightened out. His house extended his kitchen on the south side, east side of his house to within the foot of the property next door to him, house over their sewer pipe and property line. His partner and he put new plywood siding in their house, that kitchen was not built on that property at that time, two garages 23 feet apart, he moved them bordered them and made a house. He has people living in there for the last two or three years. We should wait, until he straightens this out.

Ron W. stated that he lives across the easement from Mr. Doyle. He is not opposed to Mr. Doyle building a home for himself, his concern is having another family moving to the home where he is now, which will mean more traffic and right across the street is a fence where his property is, but what happens if he builds a home, concerned how he gets out of his driveway, he has not seen any proposals about what the real plan is, where the house is going to be situated, it is not a road, it is a driveway, basically is what it is.

Public testimony was closed.

Mr. Nielsen said he is concerned about emergency vehicle access road and if something is not done to take care of that, anyone else can subdivide property and amplify the problems. Maybe they should consider putting a turnaround for emergency vehicles between the two parcels, that way a fire truck or an ambulance or any other emergency vehicle could get in and out without a problem, then emergency vehicle access would not be a problem.

Discussion ensued in regards to the easement and the turnaround for emergency vehicles. Mr. Nielsen said if they keep a turnaround center property line so the fire truck you can use as part of the driveway. Mr. Doyle said that his house is going to be a beauty, it will be a one story house, it will not block the view, it will not be a big house. Mr. Nielsen asked Mr. Doyle if he would consider putting a 10 foot easement on each side. Mr. Doyle said yes.

Discussion ensued among council members and Mr. Doyle regarding the roadway width.

Mr. Moore said that the issue of road maintenance, if you start bringing up trucks and you actually damage part of the roadway part of your construction, that cost will be bore by you. Mr. Doyle said that he will put it in writing. Mr. Moore said that one of the neighbors said that there has been a lot of work without permits. Mr. Doyle said that his son lived there for a period of time, there was a pool, he has permits that have a bathroom and eventually after he moved out, he had another friend living there, they did some modification for their own comfort. He has never had a complaint in 15 years.

Mr. Moore made motion for approval of Parcel Map 8695 with staff considerations with the following conditions of approval: 1) The applicant will run an 8 foot wide easement along the frontage of his property to allow a wider private roadway access; 2) the owner will prepare a written statement on how he is going to propose the deal with roadway repairs or damages shared roadway during the course of construction and maybe talk with neighbors, something in writing that addresses everyone's concerns. Also, a provision that the applicant is to resolve un-permitted work, file permits and deal with that prior to final map. Ms. Goodbody seconded. Motion passed 6/0.

E. Open Forum

Mohammad Shaiq, requested the Council's opinion on parcel located at 20546 Center Street. Mr. Frank asked Mr. Shaiq the size of the parcel. He said approximately one acre and would like to build 15 town homes. Mr. Frank asked Mr. Shaiq the approximate size of the homes. Mr. Shaiq said 25,000 square feet. The property is located next to Ravenwood, there is a commercial area, two homes and this property. this is very small lot.

Mr. Carbone said he personally has feelings that parcels that are close to that are going to be residential single family homes and he probably stick with single family homes. He suggested Mr. Shaiq to go talk to his neighbor, this just happened, you can have a very decent project there.

Mr. Shaiq said that with a single family house, Mr. Frank asked him what type of frontage the parcel has. Mr. Shaiq said 97 feet and the deep is 450 Mr. Frank Ravenwood was 2500 square feet. Mr. Moore said that he agrees with Mr. Carbone maybe a well designed higher density Mr. Shaiq said that he would like to go to medium density. Mr. Moore is backing against the high density sharing if you got single family homes right next to it we do have the option where he can submit a quick preliminary sketch, have it noticed and agendized and then he can bring it before the Council, because it is a fantastic design with great architecture. Mr. Moore told Mr. Shaiq that he actually has to file an application, it is a very basic minimal sketch, he does not have top spend a lot of money, he can present the Council with something and go to the merits of his own design project before he gets too far down the road.

Mr. Carbone told Mr. Shaiq that the Council just adopted the Housing Element and there are a number of parcels that have been identified, he might want to look at it and see if there is a type of development like the one he wants to do.

Mr. Nielsen asked Mr. Shaiq if he is just trying to find out what he can do with the property. The neighborhood is single family dwelling.

Mr. Moore asked staff what type of application this would be. Mr. Gee said it would be a tentative map.

F. Chair's Report

Mr. Frank announced that this will be Mr. Gee's last meeting. He will be moving to Napa.

Mr. Frank referred to a message from Dr. Larry Tabor regarding parking problems at Castro Valley Blvd. and Lake Chabot Road.

G. Committee Reports

Mr. Carbone said that he is speaking with Chris Bazar, regarding scheduling a meeting how the recommendations are being taken in the BZA and the Planning Commission and also number of inconsistencies. He said that this is an opportunity to get Mr. Bazar at the MAC meeting to address these issues. The next meeting will be Mr. Carbone's last meeting. Ms. Henninger said it is a public meeting and County Counsel did attend the last land use meeting. Workshop will be June 27 at 5:00 p.m.

H. Staff Announcements

Ms. Henninger announced that at the next meeting, June 27, 2005, there will be an election for Chair and Vice Chair.

I. Council Announcements, Comments and Reports

Mr. Carbone mentioned that the by-laws needed to be discussed here before Mr. Bazar. The way the MAC was designed anything that pertains to Castro Valley needs to be brought before this Council. Ms. Goodbody asked if the Council is talking about amending applications. Council members said no. Mr. Carbone said that the point is everything that is brought to the County that pertains to Castro Valley could potentially come here. Mr. Nielsen said the Council could take a look at it and select what they want to see.

Ms. Henninger cautioned that this practice could be discriminating

Discussion ensued amongst councilmembers on how the procedure to handle the various applications related to Castro Valley can be handled.

J. Adjourn –

There being no further business, the chair adjourned the meeting at 9:55 p.m.

: