

**MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
DECEMBER 15, 2003
(APPROVED FEBRUARY 2, 2004)**

The meeting was held at the hour of 1:30 p.m. at 224 W. Winton Avenue, Hayward, California.

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Commissioners Ario Ysit, Chair; Compton Gault; Frank Imhof; Mike Jacob, Vice Chair; Glenn Kirby; Audrey LePell; Lena Tam

OTHERS PRESENT: Chris Bazar, Planning Director, Steven Buckley, Assistant Planning Director, Bruce Jensen; Senior Planner; Alice Glasner, Planner III; Karen Borrmann, Public Works Agency Liaison; Eric Chambliss, County Counsel; Holly Janvier, Recording Secretary

There were approximately seventeen people in the audience.

CALL TO ORDER:

The Chair called the meeting to order at 1:38 p.m.

ANNOUNCEMENTS BY THE CHAIR: There were 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 PLANNING COMMISSION MINUTES** - October 6, 20, and November 3, 2003

Commissioner Ysit announced that the minutes would be continued to the next meeting, since some of the Commissioners did not have their copies.

2. **2146TH ZONING UNIT - MARCHAND** - Petition to reclassify from the R-1-L-BE-CSU-RV (Single Family Residence, Limited Agricultural, five



acre minimum building site area, 100 feet median lot width, 30 feet front yard, Conditional Secondary Unit, Recreational Vehicle Regulation) District, to a PD (Planned Development) District, allowing a 1280 square foot secondary unit, on one site containing approximately 11.45 acres, located at 8600 Oak Tree Lane, southwest side, approximately 340 feet southeast of Norris Canyon Road, unincorporated Castro Valley area of Alameda County, bearing County Assessor’s designation: 085-5000-001-19. (Continued from November 3, 2003; to be continued without discussion to January 5, 2004.)

- 3. **CONDITIONAL USE PERMIT, C-7777 – M. A. CENTER** – Petition to expand an existing church facility by allowing construction of a new worship/activities room, with new kitchen, and to add 1,500 square feet to the existing prayer hall, on one site containing approximately 166.17 acres, in an A (Agricultural) District, located at 10200 Crow Canyon Road, west side, approximately 1.3 miles north of Norris Canyon Road, unincorporated Castro Valley area of Alameda County, bearing County Assessor’s designation: 0085-1050-006-01. (Continued without discussion to February 2, 2004.)

Commissioner Kirby moved to approve the remainder of the Consent Calendar as recommended by staff. Commissioner Gault seconded the motion. The motion was approved 6/0, with Commissioner Imhof not having yet arrived.

REGULAR CALENDAR:

Item #6 was recommended for continuance, but the applicant was present and wished to speak. This item was taken out of order and heard first. (See Below.)

- 4. **PERIODIC REVIEW OF CONDITIONAL USE PERMIT, C-4158, VASCO ROAD SANITARY LANDFILL** - Review to allow continued operation of an existing landfill (Vasco Road Sanitary Landfill, VRSL) in an A (Agriculture) District, located at 4001 North Vasco Road, east side, approximately one mile north of Dalton Road, Unincorporated Livermore area, designated as Assessor's Parcel Numbers 99B-4901-2-1 and 2-3; 99B-4926-2-1, 2-2, 2-4, and 2-5.

Mr. Jensen presented the staff report. Commissioner Tam said she had reviewed the 1983 conditions, and felt they were vague because of information available at the time. She asked if the conditions had been implemented. Mr. Jensen said some had, others would be later. Of the 63 new ones, some had been implemented due to state guidelines, and others would be. He added that some of the old ones might be obsolete. Public testimony was called for.

David Tam of the Sierra Club stated that he had concerns that had to do with the last page of the staff report. The Club reserved the right to comment on the new administrative fees that would be imposed in the coming months. He said that he and his organization were frustrated that the environmental checklist did not involve environmental fees, which would encourage the applicants to be more environmentally active. He expressed concern for daily cover fees. He stated that there were three cities that use the landfill, Berkley, Pleasanton, and Livermore. He said Berkeley and Pleasanton don't recycle the daily cover. He would like to see that this is done by raising a fee to encourage recycling. He said that Livermore inputs sludge, part of which was from Pleasanton. This was a concern with respect to the other landfill in East County.

He stated that most of what comes from Oakland is green waste. He asked the Commission encourage recycling instead of coverage. Commissioner Kirby said Mr. Tam was suggesting a fee for the non-recycled material. He added that his concern was that it was not only sludge, it had dust, concrete and contaminated soil. He asked if Mr. Tam knew the percentage of these other products that were in the mix. Mr. Tam was unsure. Commissioner Tam said to continue with that, she asked whether the 10-acre pad would require rezoning and more environmental review. Mr. Jensen said it would.

Commissioner LePell asked about fees. She questioned whether they would be coming up in the near future. Mr. Jensen said staff had begun looking at fees with County Counsel. Commissioner LePell asked if Mr. Tam was looking at more fees. Mr. Tam said he was. Fremont would look at choosing a landfill the next day. It would give 3 million dollars. The need for financing recycling is important. It is currently under-financed. He said more revenue was needed to encourage recycling in the business and institutional area. Households were doing great.

Dick Ward, the neighbor across from the entrance to the landfill, said he had submitted comments to Mr. Jensen. He said he was not concerned about the day to day running of the landfill. He said the driveway was a concern. He noted that there was a lot of noise from trucks. He asked that the landfill driveway be relocated, especially since they were using the land on the other side from where they were entering. He said he had received a letter from the landfill stating they would relocate the entrance when the Vasco Road improvements were implemented. He felt this was the best way to go, but knew that there were problems getting funding.

He said another problem was odor, but that had improved recently. The operators had installed a berm that helped. However, the problem with odors from the unwashed trucks was still a problem. The gas flare was another problem. It was now in line of sight to his property. There was high-pitched noise 24 hours a day. As to recycling, he had no opinion as to rezoning or changing the ordinance. Rezoning to a PD left things open to later changes. He added that composting odors concerned him, and if this would be allowed, he asked for a full EIR. He felt that the five-year reviews should be continued. He expressed concern from mosquitoes in the ponds bringing disease from the landfill out. He asked for jake brakes to continue to be disallowed. He asked for any increase of hours to be spelled out, as this would impact his lifestyle. Commissioner LePell said she understood methane gas was odorless and poisonous.

Mr. Ward said the landfill had installed a flame to dispose if it.

Rich Thompson of Waste Management went over the letter they had submitted. They were concerned since the Altamonte Landfill, which they operate, had to go through a detailed EIR. They had to look at the size of the project, the hours of operation as well as tonnage being imported. He felt that Vasco Road Landfill was exceeding their allowed daily amounts. Another concern was the fees. They had to pay extra fees and feel that all landfills should pay the same fees. He also expressed concern about earthquake issues at the Vasco Road Landfill. Their seismologist said there was a problem at the Vasco Road site. The other issues were traffic and ground water issues.

Commissioner Tam thanked Mr. Thompson for his comments. She said there were comments in the staff report about the earthquake issues. She asked if this addressed his concerns. He said part of the Greenville Fault went under some of the facilities of the Vasco Road Landfill site. Commissioner Tam asked about the purchase of the Bosley property donation to the Park District. Mr. Jensen said that was done to protect endangered species. It was a trade of land. Commissioner Imhof asked if the map in the staff report was a County map. Mr. Jensen said it wasn't. He asked if the Greenville fault line on the map should go the way it was shown, or if it was wrong and the line went straight. Mr. Jensen said this was a matter of a disagreement between experts. Commissioner LePell noted there were fault maps available.

Scott Gordon, representing the applicant, said in 1985 Mr. Thompson challenged the CUP for the landfill, and tried to sue. It was not allowed, because it was for a business reason not CEQA. CEQA cannot be used that way. It was brought up and dealt with, but now was being brought up again, and this disturbed him. Commissioner LePell asked about the waste types received. One of the things allowed was asbestos and lead contaminated material. She said this was dangerous material, but the staff report said hazardous materials were not accepted. She was confused. Mr. Gordon said there were different types of asbestos, and the one they accept is what California considers non-hazardous. The same for the lead based waste. Commissioner Kirby asked about tonnage fees for open space, if it could be assessed here, and if the other types of cover could be assessed as tonnage also. Mr. Jensen said he would like to reserve comment until the next staff report. Mr. Bazar said they were aware of the level playing field comment, but the facilities were different and different things might apply. Public testimony was closed.

Commissioner Kirby asked for more information on alternative daily cover. He was concerned about the reclamation and if this would be on top or capped off. Commissioner Tam asked to see a listing of violations, and how they were addressed. Commissioner Jacob asked to include information on the surcharge for the Vasco Road improvements that were applied in the conditions. Commissioner Imhof asked if there was a realignment plan for Vasco Road. It was mentioned that the funding was no longer available because of the budget. Commissioner Gault asked what the timeline was originally. He understood that it was now ten years, and that, he felt was too much time. Some kind of improvement needed to take place. He also asked what they could do to facilitate the project. Mr. Bazar said this work was a priority, but they needed to find alternative funding. Mr. Jensen said he had been talking to Mr. Preston of Traffic. There were two parts to the realignment. First was PG&E realignment. This money is still there. Then was

the realignment itself. The bulk of the money went away for that. With the money gone, there ceased to be a need for the first part. Traffic Engineering Division staff said they could do some things to use the money that would help eliminate the safety hazards, such as center dividers. Commissioner Ysit said he had a problem with waiting 10 years for Mr. Ward to get the driveway realignment. He said the road needed to be looked at around Mr. Ward's property. He added that the level of traffic there was never intended to be what it was.

Commissioner Kirby moved for continuance per staff recommendation. Commissioner LePell seconded the motion. The motion was carried 7/0.

5. **EQUINE STREAMLINING PROJECT** - Hearing to consider amending the Zoning Ordinance of the Alameda County Ordinance Code to modify the provisions of the A (Agricultural) District (Chapter 17.06) to make 'Boarding stables and riding academies' a Permitted Use subject to Site Development Review rather than a Conditional Use and adopting an underlying policy statement.

Mr. Bazar presented the staff report. He introduced several people involved in the project, such as Karen Sweet and Larry Gosselin. There was a power point presentation going over the reasons why they were asking for the boarding stables to be subject to Site Development Review instead of a Conditional Use Permit. Some reasons were that the Conditional Use Permits were not being filed because applicants had to keep applying every few years, but the Site Development Reviews would last longer, and would encourage applicants to apply, with only periodic review by planning. A planner in the Ag office in Livermore, would handle these applications, and thus would make it more local and convenient for the applicants. He noted that the Clean Water Division, Health Department and Fire Department would still monitor the facilities. He touched on a few unresolved issues, which had been referred to the Agricultural Advisory Committee. Mr. Bazar said some of these were issues, which went beyond the Planning Department, so the Ag Committee was the best place for them. There was a traffic issue that needed recommendation from the Commission. There was a question of grandfathering stables. Traffic conditions could change over the life of a permit. They needed guidance as to whether this would be considered once, or are brought back if there was an issue. He noted that the proposed streamlining process was exempt from CEQA.

Commissioner LePell asked who would be doing reviews for non-compliance. Mr. Bazar said it would be a staff action. Commissioner LePell felt this should be spelled out. She asked why voluntary manure pick up would be allowed. She felt it should at least start out as mandatory. It could otherwise cause problems. Ms. Sweet said some facilities could compost on site and some could be put back into the pastures. Commissioner LePell said no matter what the solution, each application should have a program that is acceptable to the County. Mr. Bazar said this needed to be addressed now, especially for small operations. He stated that they do need to have a program now.

Commissioner Kirby said he was supportive of the idea, but he felt that Ag parcels have the

widest list of uses. He didn't want any unintended uses. Changing this to a permitted use would apply even to a one-acre site that wanted a stable. Mr. Bazar they were looking at the general plans and large parcels in the areas. He felt this was a specific use. Equestrian facilities had specific needs. He felt it wouldn't affect any other types of property in the Ag area, such as landfills or wineries. There was a general discussion on appropriateness of certain sites as equestrian facilities. Mr. Bazar added that by being less rigid, they would be getting more people to apply and work within the system.

Commissioner Kirby asked if Castro Valley applicants would have to go to East County. Mr. Bazar introduced Alice Glasner, Planning's new resource planner, and said that if people who lived closer to Hayward wanted to come to the Hayward office, they could. Commissioner Kirby felt a clear set of standards needed to be in existence for amnesty for people who wanted to be grandfathered in. Commissioner Tam appreciated the work that went into this proposal. She felt this was in the spirit of Measure D. She supported the project. Commissioner Jacob asked if this would apply to racehorse facilities. He was told it would.

Commissioner Gault said that Commissioner Kirby covered most of his concerns. However he was concerned that if things changed over a period of years, conditions could be outdated, and he felt they should be brought up to code. He felt there could be a loss of life, both human and animal. He didn't like grandfathering without meeting current standards. He asked how many stables were not in compliance. Ms. Sweet said they didn't have records. Vector Control may have some idea. She felt less than half of the facilities are applying for permits. Commissioner Gault asked how they expected to get people to apply, if they didn't know how many there were who didn't apply. He asked if the planner in the Ag office would be dedicated to this project. Mr. Bazar said no, but they would be in the office three to four days a week, and deal with all agricultural issues in East County. He added that he wanted to clarify that this wasn't a grandfathering issue, but an amnesty issue. The applicants would still have to comply with all the County regulations.

Commissioner Imhof asked if all stables would have to comply. Mr. Bazar said Breeding and Training facilities are permitted uses in an Ag area. This would apply to the other types, which are boarding and riding academies. Commissioner Imhof asked if wells could be sealed on top to stop runoff. He also said he would like water tested regularly. Mr. Bazar said Clean Water would likely be involved in something like this. Commissioner Imhof asked if the County required a testing of every well in the county. Mr. Bazar said he was unsure, that was a Public Works issue. Ms. Borrmann said she was unsure, but knew they were developing guidelines in the Clean Water Department. Mr. Bazar said he could say there was a concern, so it was on the record, but this went beyond what this application was trying to do.

Commissioner LePell said the state was setting new recommendations for setbacks from the streams. Commissioner Tam said every County was being asked to reduce runoff. She added that there is a requirement for testing and sealing wells. Commissioner Gault said that when transferring from a Conditional Use Permit to a Site Development Review, you should look at the traffic conditions and make sure there wasn't going to be an issue in the future. Commissioner Kirby agreed that when dealing with a permanent use, they had to look at the

traffic issue. Public testimony was called for.

Larry Gosselin, a Veterinarian, East County Board of Zoning Adjustments Member, and agricultural resident, said there was a two horse per acre limit in the Zoning Ordinance, so a one acre parcel couldn't operate a boarding facility. Regarding traffic, development traffic has not been addressed as to its impact to the agricultural community. Regarding nitrate contamination, there was no science known to measure its impact to water. What is known, is nitrates volatilize in the California environment. He said people in the horse business say developing a horse ranch is the most difficult undertaking they have ever had. He asked for two conditions to be added: First that the Ag Commission determine definition of terms, and second that all the other County Departments be required by the Commission, to work with the Planning Department to develop equine facilities. There was a discussion of Boarding Facility application problems in the past. Commissioner Imhof asked if manure was so good, what in it was bad. Mr. Gosselin said it had phosphates, too. Public testimony was closed.

Commissioner Gault moved to adopt the Ordinance per staff recommendations, with a discussion of definitions being brought to the Ag Advisory Committee, and that there be a committee made up of members of the Ag Advisory and inter-County agencies to come up with specific policies regarding equine projects about amnesty with the Site Development Review applications; and that traffic be looked at and improvements made according to current conditions and the permanent nature of the use.

Commissioner Jacob asked that the confusion about grandfathering be cleared up, and that language be changed in Condition 1a to read: The appropriate Board of Zoning Adjustments shall decide application for Site Development Review under this section, and a public hearing be required;

Condition 1b to read Where the holder of an existing Conditional Use Permit is found to be in compliance with all conditions of the existing Conditional Use Permit, the Planning Director shall recommend approval of a Site Development approval for the facility with no new conditions except as allowed by the County Policy for Equine facilities in the A (Agricultural) District, to the appropriate Board of Zoning Adjustments;

Condition 3 to read Site Development Reviews under this section shall not have an expiration date. However, they shall be subject to periodic review for compliance with Condition of Approval of the Site Development Review and with relevant County ordinances including all water quality rules and regulations. Such reviews shall occur every five years at minimum, or as needed to ensure compliance; and

Condition 5 to read Site Development Review approval under this section shall not be construed to confer upon a boarding stable any exemption from any health, nuisance, or public safety ordinances or their subsequent enforcement or confer any other unique privileges upon a stable.

Commissioner Imhof added recommendation to cap wells.



Commissioner Gault amended his motion to reflect these changes. Commissioner Jacob seconded the motion. The motion was carried 7/0.

6. **2183RD ZONING UNIT AND TENTATIVE PARCEL MAP, PM-7475 - THOMPSON** - Petition to reclassify from the R-S-D-20 (Suburban Residence with 2,000 square foot m.b.s.a.) District, to a PD (Planned Development) District, to allow subdivision of the site for the construction of six townhouse units, on one site containing approximately 0.37 acres, located at 20119 and 20133 Forest Avenue, west side, approximately 70 feet west of Omega Avenue, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designations: 084C-0726-043-00 and -044-00.

Mr. Buckley presented the staff report. He said he had reviewed the application and didn't feel the project was ready to be brought before the Commission for a decision. Public testimony was called for. Commissioner Imhof arrived.

Ron Thompson, the applicant, said he was upset because he was postponed twice before. He said he resolved all the prior requests of staff. He noted that it wasn't a complicated project. He briefly described the project. He didn't know of anything else to do. He said the Tract Map was changed three times already. Commissioner Kirby suggested referring the project to the Board of Supervisors without comment if the applicant was in a hurry, but felt the Commission couldn't act without information. Mr. Thompson said he had been working with staff and hadn't been asked for anything new. Commissioner Kirby asked what Mr. Thompson was asking for. Mr. Thompson asked to move the project on with approval, and he would comply with what staff would later request.

Mr. Bazar noted that it was too late to be placed on the next Board agenda, since it had to go out early due to the holidays, and the project wouldn't go till February anyway. He did acknowledge that it was a straightforward project. Commissioner Ysitt said all the surrounding neighbors were told this would be continued, and if they objected, they were not there to testify. He added that if sent on without recommendation, the Board might perceive that there was a problem with the application. Commissioner Gault agreed about the noticing, and said he wanted to hear what the referral agencies had to say. He recommended continuance. Commissioner Tam asked why the delay. Mr. Buckley said there were questions about guest parking and open space. Details needed to be worked out. Commissioner Tam said staff needed to be more diligent. They needed to make sure things were scheduled so as to have the proper response for agencies.

Commissioner Gault moved to continue the project to January 5, 2004. Commissioner LePell seconded the motion. The motion was carried 7/0.

STAFF COMMENTS & CORRESPONDENCE: There were none.



CHAIR'S REPORT: There was none.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS:

Commissioner Ysit stated that he would not be at the next Commission meeting.

Commissioner Gault reported on the November, 2004 California Planning Commissioners Conference progress.

Commissioner Imhof asked about the County building remodel at Elmhurst and Winton. Mr. Bazar said it was on schedule, and noted that a recording/sound system had been purchased for meetings. Ms. Borrmann stated that the Zoning Counter would be moved out of the Elmhurst building auditorium within the next couple of weeks. The Commission suggested finding out if the auditorium would be available to them for their meetings.

ADJOURNMENT:

There being no further business Commissioner LePell moved to adjourn the meeting at 5:20 p.m. Commissioner Kirby seconded the motion. The motion was carried 7/0.

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY