

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

Minutes for May 23, 2005

(Approved as corrected June 13, 2005)

A. CALL TO ORDER: The Chair called the meeting to order at 6:30 p.m. Council members present: Andy Frank, Chair; Dean Nielsen, Vice Chair. Council members, Ineda Adesanya, Ken Carbone, K arla Goodbody and Jeff Moore. Council members excused: Carol Sugim ura. Staff present: Ronald Gee, Steven Buckley, Jana Beatty, Bob Swans on, and Maria Elena Marquez. There were approximately 70 people in the audience.

B. Approval of minutes of May 9, 2005

Mr. Nielsen moved, with a second by Mr. Carbone, that the Council approve the minutes of May 9, 2005 as corrected. The motion passed 5/0. Council members Sugimura and Adesanya were excused.

C. Public Announcements

Mr. Carbone announced that this coming Saturday, May 28, everybody is welcome to attend the first Farmers Market at the Castro Valley BART parking lot. A ribbon-cutting ceremony will take place at 9:00 a.m.

Council member Adesanya arrived a few minutes late.

D. Regular Calendar

1. HOUSING ELEMENT IMPLEMENTATIONS ACTIONS – Update regarding implementation amendments to the County General Plan and modifications to the Zoning Ordinance and Specific Plans necessary to comply with provisions of the Alameda County Housing Element, adopted by the County Board of Supervisors in October of 2003 and conditionally certified by the State Department of Housing and Community Development in January of 2004. Said modifications are as follows:

- A. Amend portions of the General Plan, and reclassify sites in the *Ashland-Cherryland Business District Specific Plan* and the *Castro Valley Central Business District Specific Plan*, and in areas currently designated for urban infill development in the Ashland, Cherryland, Hayward Acres, San Lorenzo, Fairmont, and Castro Valley communities to provide opportunity sites for higher density development.
- B. Add a definition to the Zoning Ordinance for the term “emergency homeless shelter”.

- C. Modify existing provisions to conditionally allow emergency homeless shelters within one or more of the following zoning districts: R-3, R-4, C-1, C-2, and/or similar districts within Specific Plan areas.

Ms. Rivera made a Power Point presentation (see Staff Report).

Mr. Buckley stated that the environmental review for this process is conducted under CEQA. The project has evolved over time. The Negative Declaration was first issued in February based on the original proposal of policies and programs that were being implemented through zoning and homeless shelters. Since then, the project has been revised, and the Negative Declaration has been revised, which is a statement with mitigated measures so there will be no significant environmental impacts remaining. The second document was circulated in April and the comment period closes next week. The approach is basically to consider on a programmatic level all of the sites that are going to be considered, the density ranges that are going to be considered and performance standards for homeless shelters. This document, which has been circulated and is available from the Planning Department, lists potential environmental impacts according to the standard check list and acknowledges that there are potential impacts in a variety of areas such as traffic, noise and air quality. It also identifies mitigation measures that reduce those impacts to less than significant levels, for example water quality, where there is a concern of urban runoff from public lots and streets. There are programs that address this issue through permits and design standards which are all explained in the Negative Declaration. If that document is found to be adequate, then it will be adopted as part of the overall program.

Ms. Rivera said that the document is also available at the Community Development Agency web site. The next meeting will be June 2 at the Board of Supervisors. The Board will not be acting on this date but will hear the same information presented at this hearing and the recommendations from MAC. The Planning Commission is expected to hear this on June 20 for their final recommendation to the Board. On July 7 the Board will then take final action.

Public testimony was called for.

Mr. Nielsen said that the County has done a good job making the homeless shelter section more workable and eliminates the concerns the community had in regards to it in the residential areas.

Sophia Limnios stated that she owns commercial property on Castro Valley Blvd. and is ready to develop the property. She is concerned about the planned 1,000 foot separation between homeless shelters and schools. She thinks this will bring a lot of people who will go up and down and mess up

Castro Valley Blvd. and Castro Valley in general. She asked how this was developed and who gave the authority to do all those changes.

Ms. Rivera said that every jurisdiction is required by the State to accommodate a variety of housing types; emergency homeless shelters are one of those types. Currently, the ordinance allows homeless shelters in all districts, should an application come in, but we have none in the County at this time. The State requires that the County's Housing Element, a part of the General Plan, includes and accommodates for this housing type. The emergency homeless shelter policy that was adopted as part of the last Housing Element Update permitted shelters in both R-3 and R-4 Districts. Through the public review process, we are now recommending that these shelters only be allowed in the R-4 District as a conditional use. R-4 Districts have higher density residential uses, such as apartment houses, and are located closer to transit.

Ms. Limnios asked why the County wants to compare Castro Valley with San Leandro and Hayward when everybody knows that San Leandro has a bigger population than Castro Valley. She would like to have a copy of the proposed law from the State.

Mr. Carbone told Ms. Limnios that her question has more to do about her vision about the future growth of Castro Valley, which is not the topic of this meeting. Ms. Limnios said that as a resident of Castro Valley, she is concerned with homeless people. Mr. Carbone told her that we all share the same concerns, but these are the facts; all of Castro Valley is open to having higher density housing as Ms. Rivera had brought up. The potential development areas now are very small compared to what was shown before. Ms. Limnios said that she still would like to see the document from the State. Mr. Frank asked her to request the copy from the Planning Department.

Darlene Rufino, resident at 4006 Milton Avenue, said that she was a resident of Hayward for 13 years and FESCO opened a homeless shelter on C Street, right across from their home. They were highly impacted. For that reason they moved to Castro Valley. It was a family homeless shelter that personally affected her because there was a domestic violence situation. The traffic generated at the facility also impacted the neighborhood.

Mr. Moore asked Ms. Rufino if she had been notified by the City of the proposed project. She said yes and a church in the community was supporting this effort. The community tried to stop it. FESCO bought the property and adjacent properties and made it into a homeless shelter. They owned the whole block. Mr. Moore said that any of these uses require a conditional use permit which requires public input, so solicitation of approval and comments from neighbors to try to avoid and minimize these problems. With these new policies, we will be able to place them in appropriate areas for this use. He

asked Ms. Rufino if it was a local group of churches or was it owned by the city or the county. Ms. Rufino said she could not really answer to that, she knows they were notified and a lot of residents attended the meetings to oppose it.

Public testimony was closed.

Mr. Carbone said that this plan has come a long way since its original inception and the impacts to Castro Valley have been reduced dramatically.

Mr. Frank said the Council members all agree that staff has gone to great lengths to respond to public comment. County staff has done a fine job listening closely to our comments and trying to implement them. County staff has also defined homeless shelter and created a hearing to ensure the public has input and gave the community measures for enforcement. Mr. Nielsen also said that County Planning staff did a good job.

Mr. Moore made a motion to approve staff report modifications to the zoning ordinance of the Specific Plan, in conformance with the Housing Element. Mr. Nielsen seconded. Motion passed 6/0.

- 2. CONDITIONAL USE PERMIT, C-8145, GREG BROTHERS/KEN HOLT/MANILA AVENUE CHURCH (aka PLYMOUTH BRETHREN IV/BAY GOSPEL HALLS) –** Application to allow a community facility (church) and temporary placement of a portable building for meetings while a new meeting hall is being constructed, in an R-1-SU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 4035 Seven Hills Road, south side, 180 feet east of Parsons Avenue, unincorporated Castro Valley area of Alameda County, designated County Assessor's Parcel Numbers: 084D-1342-038-00, 084D-1342-004-00 and 084D-1342-005-00.

Mr. Gee presented the staff report. This is the third hearing, the first one was in December, the last one at the end of April. Concerns for the church use identified by neighbors included traffic, emergency vehicle access, noise, construction scheduling, on-site lighting, church use effects on property values, potential pre-school use, site drainage, potential visual impacts, lack of hearing notification, among others. In addition, there were two sets of petitions, one for and the other against. There was no Council discussion and the public hearing was continued until today. The draft Initial Study/Mitigated Negative Declaration was sent out on May 2; it was distributed to neighbors and nearby property owners. Additional meetings about the document and application were conducted by the applicant with the neighborhood. There were comments about the Initial Study, mainly having to do with traffic, as well as number of phone calls directed to staff. Traffic issues mainly concerned access and the number of cars that would go on to the property from Seven Hills Road since the main driveway is on the slope of

a hill. In talking with the County Traffic Engineer, some of the sight distance issues can be resolved either by relocating the driveway and increasing the wattage of the street light at the front of the houses. One option was to allow one-way ingress to the site from Seven Hills Road and egress only from either of two side streets, Vaughn Avenue and/or Milton Avenue. These were offered as alternative mitigation measures in the Initial Study. There was one specific comment about the lack of adequate biological review of the site. The caller identified three potential species that were considered endangered (see page 6 of the staff report for details) and said that, historically, they have been on the site and should be protected. According to Public Works Agency Environmental staff, three or four of the species that were mentioned did not appear on any state or federal list as endangered, threatened or as a species of concern. If these species are not identified on the Natural Diversity Data Base Map, a resource map, it does not preclude their presence. It is a matter of identifying and clarifying whether or not the habitat area is actually suitable for those species. The proposed church site is located in a developed, urbanized area that does not appear to have the requisite habitat characteristics to support these species. Implementation of identified mitigation measures were agreed to by the applicant and were incorporated in the project. The draft mitigation measures address light and glare, the aesthetics of the site and ensure conformity with the neighborhood. There are air pollutant control measures during construction, a cultural resource protection/mitigation measure in case there is a cultural resource found during construction. There are also mitigation measures related to geology and soil resources. Drainage issues related to hydrology and water quality will be addressed as well as fire prevention and again transportation issues.

Kenny Holt, representing Bay Gospel Halls, said that they want to develop the property for church use. The County has done well to answer most of the concerns that were raised. He introduced several persons that came to the meeting to answer questions that may arise. He introduced Ronald Fussell, Mr. Greg Brothers, Mr. Dan Brothers, other persons from Los Angeles and from the National Building Committee.

Public testimony was called for.

Edward Childress, resident at 19123 Vaughn Avenue since 1952, he said that he is extremely pleased to live in Castro Valley and pleased to have such a marvelous atmosphere in Castro Valley. The reason why they have this positive atmosphere is because of the churches. However, what we have to do is look at what is practical with respect to what Castro Valley can provide as far as accommodation of another church. He said that there are 9 different churches within 1.1 square miles of the proposed location. The existing structure of Castro Valley will not support another church, with the congestion, traffic, sewer usage that it brings, resulting in water drainage; the damage to the adjacent properties will be excessive. The church is proposing to be built in the southwest corner. Local residents are not clear as to what religion is practiced by the church

members. Their recommendation is to utilize this land for its true intent: single family dwellings.

Darlene Ru fino, resident at 4006 Milton Avenue, asked how this project is proposing to keep the flow of traffic away from the neighborhood, will there be barrier stops signs, or traffic calming devices to slow down vehicles for pedestrian safety; which light standards will be used at the site; will it be possible to have the light standards designed or adjusted so the light will be directed away from the adjacent properties; what hydrology studies and data is available for the project site; what do the studies say about the flow of storm water off the proposed site, about the stability and erosion potential of the hill; what measures will there be to keep storm water away from the properties; regarding the previous chicken farm, she asked if staff checked into the Williamson Act on proposed chicken farms. She said Ronald Gee talked about some endangered species, but with the proposed church being built on the site, she considers their small cul-de-sac community an endangered species!

Shawn McCoshum, resident at 3875 Link Court, stated that he was born and raised in Castro Valley. He said that Ronald Gee talked about the species that he named are not in danger but the point is that it is a very large area of breeding for the Alameda County whipsnake. He would like to know where the permits are that were signed for the development of the land because the Endangered Species Act signed in 1987 prohibits destruction of habitat. He said that 157 hectares were set aside in Alameda and Contra Costa Counties to save the species; however, some of the species are known in this area, people have seen them in their yards. Also, even though the habitat is not protected right there, it is illegal to kill the animals; bulldozing will kill them because they live in tunnels, underneath the ground, and he would like to see a proposal that will allow them to remove the snakes carefully if they are present at this time. How long ago was the ecological impact study done? From what he has seen, it is very incomplete. Also, about remnants of bodies being found, the potential owner of the land said that one of his family members was buried underneath the chicken coop which no longer exists. He asked about any burials in the land prior to surveys being done.

Mr. Gee said the site is not contiguous to any nearby open space; the habitat area as requisite habitat area to sustain endangered species is not just a matter of grass or soil. Of the biological surveys done in the Castro Valley area, they have only found endangered species mainly in the park areas, not in densely urbanized areas. As far as the whipsnake, he did check with three different biologists from Public Works Agency Environmental staff in the County. Mr. McCoshum would like to know who did the study. Mr. Gee will follow up on that and he will give Mr. McCoshum the names of the biologists that did the study.

James Luiz, resident at 18929 Thornbury Avenue, said that a petition signed by neighbors at the last meeting has been updated. The 37 signatures not opposing the site were signed in 2003, with many of those residents no longer residing in

the area. The church fact sheet states they do not use computers but have a web site; during the prior meeting, the female members of the church were not allowed to speak; it appears to be no members of color or ethnicity other than white; what is the criteria to join the church?; other arguments against the church can be found in a copy that has been entered into the record. The bottom line is that the Council will make a decision, the people of Castro Valley that live on Thornbury, Milton and Parsons Avenues, Seven Hills Road, are the ones that have to live daily with the Council decision. He asked the Council to please choose wisely.

Lois Goggin, resident at 18836 Lenness Court, stated that she does not know the whole plan of the site, but she lives nearby and she has a major drainage problem on her property. Luckily, the County property is behind her and will take over the job of taking care of the drainage. It will cost the County approximately \$25,000 or \$30,000 dollars. She has lived in the house for 34 years and this never happened before. She asked if there is a plan for the church to take over complete responsibility if there is any kind of a drainage problem in the future. Also concerned when she drives around Castro Valley, she sees numerous signs put up by Alameda engineering; they do a lot of drainage for the residents; for some reason there is a lot of drainage problems for the residents, it is very expensive to put in a French drain. She has put out a lot of money and it has been a major problem. She still has a lot of water on her land, every 3 minutes the pump goes on and pumps the water off. It has been going on since last spring. She would like to know what is going to happen to the other properties just below this land on Seven Hills Road.

Mr. Gee said that the way the ordinance is written, any drainage must be controlled at pre-development levels. If anything, this project will correct any existing drainage problems for neighboring sites on the property. It has to be designed so that on-site drainage is directed to a County storm drain system. Since the drainage system design will be based on a gravity flow, it will go towards Milton and Vaughn Avenue to connect with the County system directly. This project will improve the drainage situation in the neighborhood. Ms. Goggin said things change, the land changes, and that something changed so that the church site gave her all that water. She knows what the County can do something about drainage. Drainage is not permanent, it is only permanent if it is natural. Pipes need to be cleaned, pipes break. Sanitary District and EBMUD are out checking their pipes. There is always going to be a problem with a system that needs to be cleaned and checked, so somebody needs to be responsible and it will cost money to do that.

Erik Nelson, resident at 4086 Milton Avenue, stated that in general he is concerned about the peace and quiet of their little cul-de-sac neighborhood which will be adversely affected by the church coming in. He looked at all the materials that have been sent out, and he has not seen anything that convinces him that there is going to be a problem; there is going to be increased traffic. Milton and Vaughn are the only emergency access. He asked what will happen further down the line.

In the response to neighbor concerns that were documented regarding the growth of the church; the response in the document to him was very unsatisfying. Basically, just mentioning that from 12 members to 68 members in the last years, that is a slow rate of growth but what do they expect in the future. He has a document that submitted, if you start at 12 in 1970 and you end up in 2005 at 68, that is an average growth of 1.5% per year, and if you carry that growth out 5% per year, they will be at 120 member capacity in just over 10 years, and in 2016 they will be at the limit that the facility can handle. He said that in coming years, we are probably looking at additions and construction, and he has to believe that Milton and Vaughn will continue to be an issue, as far as the access to the property.

Mr. Carbone told Mr. Nelson that this lot at some point is going to be developed, whether it is a church or not, there can be potentially 6 homes. They require a street that will be put in there for these homes, roughly generate the same size area as the parking lot of the church and asked him if that was more acceptable for him. Mr. Nelson said that there is a trade-off and he understands what they will get from having single family homes. He believes that their property values will be adversely affected with single family homes rather than the church. Just increase tax revenue; tax revenue is a concern for him. He said that the property is zoned for single family homes.

Sophia Limnios stated that she knows very well this piece of land; she knows it is always very busy. How are we going to be able to build a church up there the way it will be built. They need to communicate with their own people; they are going to create traffic problems. She opposes the church.

Anne Elwart, resident at 4016 Seven Hills Road, stated that she would definitely rather have houses. She said that a few days ago a member of the congregation approached her around 8:30 p.m. after finishing bible studies and asked her where the "black lady" lived. Even though she told her that the black lady's name was Diana, she continued referring to her as the black lady. She said they (church members) did not want to talk to her, but suggested she was a sexual predator. This was very inappropriate; the timing was not correct. She is upset about the church coming in. She wants her name on the record that she is opposed to this group coming in to their neighborhood.

Diana Levy, resident at 4024 Seven Hills Road for quite a number of years, said that what everybody should do is step away and examine what is going on here. A small number of members are looking for a new location for a church facility, so what do they do? They sold their facility in Oakland, they used the proceeds from that site and purchased three parcels of land on Seven Hills Road. They canvassed the neighborhood in 2003 seeking community support. However, this canvassing was very selective; meetings have been held at the current site and again some neighbors have been informed, others not. She had been informed. Since she made her statement at the last meeting, she received something in the

mail. As the previous speaker said, someone was coming to her home to speak to her at 8:30 p.m. She said that as a property owner on Seven Hills Road, she would rather have homes there than have to worry about what is being preached, what doctrine philosophy is put in the young minds of the kids, including their kids. She said they (the neighbors) don't need separatism and exclusiveness.

Deena Burton, resident at 4005 Milton Avenue, said she wants her name on record that she concurs with her neighbors that she has had snakes on her property. Her property backs up with the church lot. She has several concerns; one of them is drainage. She heard at the beginning of the meeting that access from Seven Hills is not appropriate, and they are looking at the side streets. Mr. Gee said one of the ideas that was discussed was for one entrance on Seven Hills Road, either Milton and Vaughn would be used as an exit point; otherwise those two remain as emergency access for fire trucks. Ms. Burton asked Mr. Gee if he had driven on Milton and Vaughn Avenues, that if there are cars parked on both sides of the street, two cars cannot pass. The streets are very narrow on Milton Avenue; there is parking for possibly one vehicle, not even in front of each home. Parking is very limited. She talked with several neighbors and the concerns were traffic. She has spoken to several people and these are the issues that will impact our neighborhood. She would rather see homes developed on the site.

Renee Lias, resident on XXXX XXX XXXX, said she was concerned with the comment by Mr. Gee allowing access on Milton Avenue, and she thought when she saw the proposal, that this couldn't possibly happen. Now she is hearing that it is an alternative and the street is not wide enough. She has small children and is concerned about traffic coming in and out of that street. It is very narrow; there are approximately 6 small children on that block. She was very concerned by the comments made by her neighbor on Seven Hills Road. She, as a black woman, is offended by their use of the word nigger or referring to her as such. She is a woman who deserves respect as well as herself. She is also concerned about drainage. Her major concern is the fact that the Mitigated Negative Declaration that they received is a draft. She would like to see a final version. She had some environmentalists look at the document and there were some concerns. She would like to see the final proposal before she brings those issues to Mr. Gee and Alameda County. She thinks this Board should not make any recommendations. It is obvious that the work has not been done by Alameda County. They are still proposing alternatives. They have not dealt with endangered species.

Charles Steinhaus, resident on 18920 Thornbury Avenue, stated that basically he wanted to talk about a quick topic on how this street might change. He grew up on Thornbury Avenue. It is not a through street, and the tactical advantage to having not a through street is you have less traffic on there. There is also a security issue of not having a through street, it cuts down on crime. If you open up the street, you have an increase in potential for crime because now, if anybody is on the street and have an immediate neighbor watch, all the police have to do is block their escape; there is no way you can get out. If you have a porthole in the

back fence or there is a pedestrian traffic, you allow people on the street to escape. If you do have emergency access to the back end of the street and you have the gate locked, you invite a disaster similar to the MGM Grand Hotel, where you put a lock on the exit to keep the exit secure but it no longer functions as an emergency exit. This is an issue that nobody has brought up, but he thinks it is important because it deals with everybody's safety and asked the Council if it can be addressed in any way.

Mr. Gee said that emergency access gates are locked but have a universal lock that both the Sheriff's Department and the Fire Department can open, if needed. There are also closed security gates that are essentially crash gates; the Fire Department does not like them because they damage their fire trucks. There are other alternatives like a panic bar that can be added to one side of the gate. But as mentioned before, they are trade-offs, depending on what kind of designs people are comfortable with, the costs involved and what would be appropriate for the fire department, depending on what kind of equipment they have that serves the area. All these things will be worked out, so it will be functional as part of the final design. Mr. Steinhaus asked Mr. Gee, how does he prevent the gate from being tampered with unauthorized access. Mr. Gee said this is part of the trade-off, if this is one of the alternatives to ensure that there is emergency access like this, you need to have a more secure gate that is bigger with other means to keep people from the outside from climbing over. If anything, all the plans that have been submitted so far do not have large security fences in keeping with the neighborhood. Mr. Steinhaus asked if you have even foot access out from the street, it tends to compromise the integrity of the street. Right now the barb wire fence that was behind the barricade is down. He said that if you open up the street, you invite more potential hazards. Mr. Gee said that the church is proposing a perimeter fence with a secure gate as shown in the drawing behind him. The perimeter fence and gate, as proposed, would limit access from all three adjacent streets.

Terry Markham spoke on behalf of his mother in law, who lives on Reamer Road. He stated that there are a lot of questions that came up tonight and would like to clarify some of them. It seems like we stray from the issue. This is a land use issue and that is what the Council will decide on; what is the best use for this property. He spoke at the last meeting about what happened in Los Angeles; it is a very similar situation, the neighbors were worried about who we are, and what we do, what is going to happen there and what is going to happen to property values. He said that the property value went up 50%, but he said he said he was wrong, it went up 200%. They have not had one complaint in all the years since they moved there, in fact, they had neighbors that came to thank the church for coming in. Realistically, Castro Valley could not have better neighbors, we are not here to abuse the County, we are here to support the County. There has not been one issue that we have not tried to mitigate. We have gone out to speak with the neighbors, we try to understand their concerns, we try to change things, even now if there is anything that comes up, we will try to work with you to mitigate

anything that is offensive to you. That is what we did in Los Angeles and we are going to do the same thing here. He apologized if anybody is taking things wrong for the ethnic issue. The brethren is a multi-ethnic organization in many countries in the world. They have nothing against ethnic situations at all and they embrace them all. They are committed to uphold what people of Castro Valley want, to make Castro Valley a better place. He thanked the Council for considering this.

Doug Korb, resident at 18951 Vaughn Avenue, stated that he missed the last meeting that the church had on-site. He lives directly next door and is the one that is going to be closest to the proposed building. He is also a local realtor, looking at it in a more practical way than a lot of the other eloquent speakers and neighbors. He still thinks that it is better use to put in new single family homes than a church. He knows there are a number of churches in the community, apparently nine; that seems to be adequate to him. He certainly is opposed to the location of the proposed church in reference to his property and based on comments that somebody else made about proposed construction hours. He is definitely opposed to construction hours; those hours seem to be quite long especially if it is going to be 7 days a week.

Mr. Frank requested clarification to Mr. Gee regarding the hours. Mr. Gee said that the hours mentioned in the report are what the Noise Ordinance allows for the County. Mr. Korb said that it sounded like they were proposing to move back the church in reference to the location and he does not see any drawings and asked if there are some available to look at and what that distance actually is.

Mr. Gee said that there are plans that do show some of the screening, the landscaping. Debo Sodipo, with Carona Engineers, explained the location in a drawing. From the last meeting, the building was going to be about 10 feet from the property line, they moved the building 12 feet, so now there are 22 feet clearance from the subject property.

Mr. Moore asked Mr. Gee how many required parking spaces and how many are actually proposing. Mr. Gee said that currently they have 80 parking spaces, and based on calculations, it is one space for every four seats; they actually require 64 spaces, but they provide 80.

Debo Sodipo, with Carona Engineers, said he is responsible for preparing construction documents for this project. He would like to address most of the issues that were raised. The first one is noise. As was mentioned at the previous meeting, the church does not use musical instruments, voice only and this really does not disturb the neighborhood. The second issue regarding women treated as subservient, he said that the person in charge of this project is a woman, in fact the only woman. He has never been in a situation where race issues have been raised. This is the first time and it is not only disturbing, it is really ugly and offensive. He has lived in the U.S. for 25 years; he is originally from Nigeria, and to come here and listen to comments that absolutely have no basis. He has been in

Mr. Holt's office and he has a local, African-American employee. What would have happened if he does not hire an African-American consultant? Please, should you decide tonight, not let any of those comments affect the Council's decision. Next comment from D. Rufino regarding traffic, light standards and hydraulics; it is not because of traffic, it has to do with traffic volume. He went back and took a look at the plan they had. We moved the entrance to this site east along Seven Hills Road; we moved about 40 feet to be able to meet sight distance requirements the County required for this project. They have a drawing here that shows that the entrance to the site has been moved. There will be trees along the driveway entrance to screen the church itself. There was one issue at the previous meeting about light standards; one neighbor did not want the light to shine into the residence. We are taking another look but won't have any serious impact in terms of light. Hydrology and drainage; there are no drains but there are several locations where the ground slopes towards the neighbors. Naturally, when it rains, you will get runoff; that is the result of the combination of both. When you develop a property of this size, the County holds you to very high standards in terms of drainage. He described a system to collect runoff and how they would be able to direct it into the public drainage system.

They had a meeting a couple of weeks ago at the site and invited the neighbors to respond to any questions about drainage. A couple of neighbors came and he personally walked the site, the backyard of those neighbors, and wanted to know how the issue of drainage was going to be addressed. We will make sure that that issue is taken care of. Constructing this project will make the drainage easier. James Luiz concern about hours of construction: on projects like this, when it comes to public hearing, the County determines what the maximum hours that will be allowed for construction, limitations that are put on the project, sometimes Monday thru Friday, 8 to 5, sometimes Saturday; it is unfair to insinuate that we are going to have construction 7 days a week; we will abide by the hours that the County requires. The issue of peace and quiet brought up by Eric Nelson and the issue of Milton and Vaughn, the emergency vehicle access. When you designate a point of emergency vehicle access to a project, that is what it is. If the Council decides to change that into a Road, there are several ways to be able to keep an emergency vehicle access: you can have a gate with a lock; you can have removable bollards that have locks on them; there are no circumstances under which that road will be used as an access road. Also, the comment regarding security: he said that this is a church of 69 members, even the maximum number of people, in the year 2016, 120 people, the impacts are out of proportion. There are 80 parking spaces on this lot, no church has a membership where every member drives a car. He thinks it is unfair for them to say to them that it is not acceptable. The church members have a church and they have a right to open a church. He asked the Council to please face the issues tonight. Mr. Nielsen asked Mr. Sodipo if the neighbors were notified ahead of time when the church was going to be on the site. Mr. Sodipo said yes. He said he saw the envelopes that were sent out.

Ms. Goodbody asked if any members of the community in Castro Valley or in Oakland that are here tonight to speak in support of the project. She asked people from the audience in support of the project to come forward.

James Holt, who is a member of the congregation and a San Leandro resident, said that one question that has come out about tax revenue. It was his understanding that churches still pay assessment for schooling, for emergency services, not the base property tax, and asked if someone could clarify that. Mr. Nielsen said that churches pay a reduced property tax for emergency services, it is not for any commercial issues. The tax is probably about a quarter of the normal tax rate. Mr. Holt said there is still some tax revenue from the church. The other issue was some neighbors have asked why they chose Castro Valley for their church. He said he is a young man, 26 years old, and recently was able to get married and start a family. They chose this area because is affordable. It is a nice place to start families and the church members are generally homeowners. It is a good place to be and he appreciates the Council's support.

Dan Brothers stated that he lived in Oakland for 50 years; he brought his family to Castro Valley last year. We have come here, we can tell you where we come from, we were there for 50 years, from 1954 through 2004. It will be a criticism, it will be something we would feel very challenged about, to the area we are coming from and the neighbors appreciated it. They fought for us to stay there and we came here because we are family oriented and a congregation, Christian fellowship, and we keep close to our elders and to our young people, to our children, we don't want them 50 miles away, to settle where we were. We came here, we want to be accepted, we are happy here and we are praying to God that this would be allowed, we will not be a negative influence in Castro Valley.

Hugh Fusse II, resident at 15937 Cambrian Drive, San Leandro, referred to the snakes on the site, and said that it is something he finds interesting himself. He mentioned that his father worked in the Natural History Museum of London for many years. We can be assured that they will work along with whom ever they need to work to get this matter resolved to a satisfactory result. He mentioned that Mr. Buckley understands the matters that have been raised about the snakes. Mr. Buckley said Mr. Gee answered in terms of the habitat and proximity. Alameda snakes include habitat is not only grassland, but grassland with sage scrub and rock out cropping and the closest area is in the hills above Five Canyons, and generally they need large acreage and exposed hillsides and to the best of his judgment, this site is too isolated and is not properly conditioned, and he thinks that is what Mr. Gee confirmed with Public Works.

Lady who is a homeowner next to the church, 18951 Vaughn (did not say her name) said she feels a little outnumbered. She does not know how many are residents and how many are church members. She knows you keep mentioning that there are 69 members. Her question was what is going to happen in a year or two years. Her issue (she has met with several of the members and they are very

cooperative) was parking. Their homes, their bedrooms are upfront. She gets up at 5:00 a.m. and on weekends, she does not want to hear cars coming in, backing up or engines. She does not want the noise. They have talked about putting up some trees, as far as blocking up the church so we do not see this huge building. Eventually something is going to be built there anyway and the gentleman that spoke earlier about not letting certain religions coming to the community, there are churches everywhere. Why Castro Valley? She said she is not suggesting you can not have that particular church there, she really does not care. She is concerned about noise, parking 69 members and as mentioned before, it is a family-oriented church. She assumes that the church will grow, because if not, what is the point of going through all this trouble about this huge nice church? She is concerned about how big it will grow.

Sharin McCoshum, resident at 3875 Link Court for 21 years, stated that she is really amazed that a site without the community's total approval could have a church. Maybe there needs to be a vote. When people buy their homes on a cul-de-sac to raise their children, the comment that eventually this will get developed, why? Maybe the community needs to come together and create another park. (background applause) He told the Council that when they make their vote, how would you feel? Why did you choose your home site? She said that if this was in the middle of Columbia or Palomares Hills, you will get the same reactions from the neighbors.

Debo Sodipo responded to the issue of building height and the mass of the building. The building itself is going to be under 25 feet tall. There isn't anything in terms of the height of this building that is unusual. Also, we talked about the fact that there will not be a steeple for this church. The building, if it has been properly landscaped, will have good screening from the street. The visual impacts will be almost imperceptible.

Public testimony was closed.

Mr. Nielsen asked staff that when the Council first looked at this project, the Vaughn and the other side street were strictly for emergency exit only and asked if that has changed. Mr. Gee said that in the Initial Study and Mitigated Negative Declaration, there were alternative mitigation measures identified that could resolve the traffic access and volume issues, i.e., could reduce the potential impact to a less than significant level. Any alternative could be adopted. As of this date, the church does not want to have access onto Milton Avenue or Vaughn Avenue; they want to retain them for emergency access only. I was just discussing with County Traffic Engineer that the side street access was only one alternative method of addressing traffic on Seven Hills Road. The Initial Study/Mitigated Negative Declaration is an information document only that must be adopted prior to final decision by the Board of Zoning Adjustment. Any adopted mitigation measures will become mandatory conditions of project approval. The Council's recommendation here, including which traffic mitigation measure may be

appropriate, will be forwarded to the Board of Zoning Adjustments for its decision at their hearing this coming Wednesday.

Mr. Moore asked if it (Milton/Vaughn Avenue egress) was required by any agency or the County or is it being presented as an option; but it has not been required the site plan. Mr. Gee said that it is a combination of both; Traffic Engineering staff and the Fire Department want to have emergency access maintained, the more the better. Mr. Moore said the Fire Department and the Traffic department require one. Mr. Gee said the County Traffic Engineer would like to see a connection between Vaughn and Milton and to connect Seven Hills Road to relieve some of the traffic along Parsons Avenue. It would be good to have a walkway, but, for liability reasons, that was not practical and not to have people crossing the property. The way the proposal was structured was to minimize contact from the outside and only to provide for emergency access; that is the current proposal now.

Mr. Carbone said that the landowner has the right to develop what they want to develop on their property, but we need to know exactly the decision we are making here. We have had a couple of emotional meetings and that makes things difficult. He asked if the Council is actually making this as a land use decision. Mr. Frank said yes, this is a land use decision.

Mr. Moore said that he agrees this is a land use issue. From a biological standpoint, he believed it has been answered by the County and that is not an issue. As far as the hours, it is very common to condition hours of construction allowed by the County, typically Monday through Friday, reduced hours on Saturday and nothing on Sunday; that issue could be addressed or mitigated. In regards to emergency vehicle access, he proposed if they are not required, to be eliminated to the extent possible; it should be clearly stated they are not for public access, only for emergency vehicle access. Regarding the drainage issue, he believes it can be mitigated since comprehensive engineered drainage plans will solve any problems; the design will comply with Clean Water requirements and the issue will be addressed. His biggest concern is that although the project technically meets County requirements, it does not mitigate the fact that it is two lots wide and impacts the two neighbors towards the back. The site plan can be adjusted to move it away by eliminating parking spaces. That can move the church building towards the middle of the site to alleviate some of the massing concerns. Mr. Frank said he concurred with Mr. Moore, that the idea will mitigate any impact on the neighbors. If that would be an avenue, we should consider it in terms of a recommendation.

Mr. Carbone said Traffic Engineering is finding this is not a major issue but he personally feels the neighborhood will be heavily impacted. He wonders if its information will translate in to something that is very accurate. Traffic Engineering calculates in a certain way that is looking outside the box based on what the County is giving us for information. The houses versus this project will

be a better project. He feels that the houses will impact the area more than the church. He said it is going to be a 24/7 thing; it is going to be 18 or 20 cars with a project of 6 to 8 homes. All of these things are very similar.

Ms. Goodbody said that residents have indicated their preference.

Mr. Moore said that every church that comes before us, the Council has the same issues. It is based on a bigger context why one is accepted and another one is not accepted.

Mr. Carbone asked if the Council was in a position of making recommendations based on what the community itself is saying.

Mr. Frank said the central question is land use and whether churches are a conditionally permitted use in the vicinity under the Zoning Ordinance.

Mr. Nielsen said that as far as impact on the community, speaking with the engineer and the Planning Committee, the impact of moving the building towards the center of the lot, makes a tremendous difference as far as the livability of the neighborhood, and asked Mr. Sodipo if he would have any problem in moving the church towards the center of the property and leaving a 20 foot side yard and 22 foot rear yard, would that be acceptable? Mr. Sodipo said yes, but they are trying to maximize the parking spaces.

Mr. Nielsen asked Mr. Sodipo again if he would be willing to move the church building 20 feet from the side and 22 feet from the rear property line? Mr. Sodipo said yes.

Mr. Moore made motion for approval of the Conditional Use Permit C-8145 with staff considerations and several modifications and recommendations for conditions of approval. The first one is that the site plan be redesigned to provide a minimum of 22 foot rear yard set back and 20 foot minimum side yard; that the hours of construction some are restricted, exclude construction on Sunday, reduce hours on Saturday, normal hours from Monday through Friday; the emergency vehicle access be restricted at Vaughn Avenue and Milton Avenue with a recommendation that a clarification be made from the Traffic and Fire Department to eliminate any emergency vehicle access if not required, to eliminate the possibility to minimize the impact on the community; also, he would like to recommend an enhanced landscape package, part of the Clean Water issue, the location would warrant an enhanced landscape package. Mr. Nielsen seconded the motion. Motion passed 3/2. Council members Carbone and Goodbody opposed. Ms. Adesanya recused herself.

3. **ZONING UNIT, ZU-2207, AND TENTATIVE TRACT MAP, TR-7614 – UTAL** – Petition to reclassify three parcels comprising approximately 1.17 acres from the PD (Planned Development, 1779th Zoning Unit) to a PD (Planned Development) District and allowing subdivision into 10 parcels intended for single-family dwellings, located at 18911 and 18919 Lake Chabot Road, approximately 234 feet northeast of Keith Avenue, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 084B-0502-045, 084B-0502-055, and 084B-0502-046.

Ms. Beatty presented the staff report. Ms. Beatty said that staff is doing a CEQA review and an Initial Study to be completed by the end of May. Also, staff anticipates being able to identify potentially significant environmental impacts in the areas of air quality, geology, hydrology and noise, among others. Thus far, we have not come across any issues that would be problematic and would be mitigated to a level of insignificance. However, as part of the project, the Traffic Division recommends that the intersection of Lake Chabot and Quail be modified. There will be guest parking spaces provided within the site and several spaces on Huber, and the landscape could contain park benches or picnic tables where recreation facilities will be provided, if any. The Fire Department is concerned about the existing width of Huber Drive and the current lack of parking controls on this street. As a result of their concerns, they are requiring that the homes on the site be sprinkled for fire protection. As mentioned in the staff report, the Castro Valley Chamber of Commerce had a meeting last week on Thursday (for that reason we were unable to get the results in the staff report). The Chamber members did vote to recommend retention of the commercial spaces. Much of their conversation was focused on their existing policies. In order to be consistent with their policies, they do not want to see commercial uses removed from Castro Valley. Normally, they will focus on areas in the central business district. However, they felt this site was close enough to that area, so they want to make the recommendation to retain the commercial area.

Arlene Utal, Applicant, representing Next Bay Properties, stated that the piece of property being discussed is an infill site located at the corner of Quail and Lake Chabot, approximately over one acre site, containing a drug store which closed several years ago, and supermarket which closed last year. When they looked at the property, they did some evaluation of what would be appropriate. Directly next to the site is a brand new five unit townhouse. On the other side of the site is an auto service center that has some permit issues. The site borders, different uses: a single family on Huber and the townhouses. Everything on the site would have to be torn down regardless of the use, so they looked at single family homes. Ultimately, based on the neighborhood and based on economics, they determined that the single family project would be best suited for the site. They ended up with a pretty good plan of 10 lots. As you enter the site on Huber, it is a single entrance in and out. It is a T-four house along one side of the property, and then six more back on Lake Chabot. There is a pretty substantial break between Lake Chabot and the actual site. We looked originally at considering Lake Chabot as our in and

out for the site. This intersection has been a very high accident area; this is a very big consideration, very concerned about that. The real line into Quail is very awkward into the shopping center, even though it existed like this, it is really unacceptable. Our engineers agreed to re-evaluate, and what they did was make Huber with a new sound wall along Lake Chabot, a good neighbor fence, basically the lands cape from this side of the development. The residences on Huber will have no major traffic impact. With Full drive through, they definitely would have impact from the front shopping center when it was in full use. They did have a traffic study done, which was given to staff. 10 single family homes that will range about 2,000 feet, elevations were done earlier. They feel they will complement the neighborhood; it will help property values along Huber. There will be some impact to the homes on Huber. Even when the shopping center was in full motion, it had impact. Again, she visited the center and there are still people sitting in their cars, still very deteriorated. It is a very simple project.

Mr. Carbone asked Ms. Utal if she stated that staff and County do not recommend entrance off of Lake Chabot Road; they recommended you go to Huber Street. Ms. Utal said that was correct.

Ms. Beatty said that the first plan that the applicant proposed was actually a through street, going from Lake Chabot to Huber and that is the plan that we sent over to the Traffic Division for recommendation. The senior traffic engineer was very concerned because of the high accident rate that existed along that stretch of Lake Chabot. Also, talking to members of the Fire Department, they routinely have to go out and pry people out of cars on that intersection. They did not like that particular plan with the through street. Based on those comments, this is the next plan that the developers proposed. The Traffic Division has not analyzed the plan that would have access only off of Lake Chabot.

Mr. Carbone said we have not gotten anything on Huber this big, how are they going to propose 10 more homes and vehicles coming out Huber to Keith, how do you get out? You are going to end up going out Keith and there is no traffic concern without a light. Does Traffic Engineering think that this is acceptable? Ms. Beatty said that's what they related to staff.

Mr. Nielsen said that the swim club further down the street, when they have events both sides of Huber aligned with cars because they don't have parking in the swim club. You can't get around the corner back out of Lake Chabot because it is too narrow. Ms. Beatty said that was one of the concerns of the Fire Department, that is why they required the home sprinklers, because even with the existing conditions, a fire truck can not get out of there. Mr. Nielsen said what is going to change if they put 10 homes there, nothing is going to change because the emergency vehicle still could not get out of Huber. Ms. Beatty said that parking should be restricted even if there is no project.

Ms. Adesanya stated Ms. Utal said she considered several uses and asked Ms. Utal if she had considered mixed use. Ms. Utal said yes. She said that at the Chamber of Commerce hearing, a prior developer that looked at the site, looked at the same scenario with mixed use both commercial and residential. What happens with a small site like this is that parking becomes a severe issue, not enough space to do what we consider # 1 retail and # 2 residential. We looked at off-site parking, ratio parking, eliminating a lot, enough home parking, retail-residential, 16 town house scenario and ultimately 10 house scenario. She sent out 40 neighborhood packages and she got several phone calls. None were opposed to the project, most people wanted to know when they were going to be built.

Public testimony was called for.

Stephen Dearborn, resident on 3254 Keith Avenue, was concerned with parking and traffic. The Fire Department has concerns about limiting our parking there, even with our driveway our cars are almost sticking in the streets as it is. With the view obstructed as you back up, street is not wide enough and there are a lot of children in the neighborhood. Also a concern is the traffic onto Huber. He called the developer. He does not want to be negative, but he wanted to know what their idea of the lot was. The developer told him they have drawn different plans, they did not want to spend \$100,000 dollars to exit on Lake Chabot Road. Also, if traffic has to enter and leave the development, access in front of the Fire Department, either way has to be Lake Chabot Road. Keith is just around the curb where there have been accidents. We would still have the same problem, but magnified.

Edward Dang, resident at 18865 Huber Drive, stated that he has similar concerns about exit on Huber Drive. The Fire Department is concerned; they even required sprinklers, if a fire engine will need to get in to a property some way. Limiting sidewalk parking is unfair to residents, you have to understand that on Huber Drive only the middle portion is unpaved sidewalk, people are parking on property and on the street. If you have an exit on Lake Chabot Road, that will be the south side of that property. What their objection was the intersection of Quail is right in the middle of the property versus Lake Chabot Road, but if you move the exit down to the very south end of the property, you may alleviate that problem especially with a stop sign. They will have to eliminate probably one residence. Makes more sense, just have all that traffic go on Lake Chabot Road and avoid Huber Drive, before making a decision, please visit the site. He agrees with a previous comment on the swim club, it is something we tolerate. It is no way any emergency vehicle would be able to go back and forth in any reasonable way. Lake Chabot Road is completely the backyard to the property, you just look at a blank wall. It is not good aesthetics for Lake Chabot Road.

Rich Milan, resident on 3261 Keith Avenue, said that he noticed the County has parking places designated on Huber Drive. Ms. Beatty said those are parking spaces that the developer has proposed. Mr. Milan asked if those parking spaces

are required for this complex. Ms. Beatty said those are guest parking spaces. Mr. Milan asked if they are required for this development. Ms. Beatty said yes. Mr. Milan said that he works at the Fire Department Station 5. They never responded to one call, especially on Keith Avenue, and he has never heard of an accident. He thinks it will be safer to exit on Keith Avenue with a crosswalk across the community center. He asked that the project be sent back, it does not make sense, it is dangerous, not a good idea.

Michael Vaz, resident on 3254 Keith Avenue, stated that he works in San Jose. He gets up at 5:30 a.m. and has to deal with traffic. His concerns are traffic and parking. Why not have a traffic light on Lake Chabot? Christiansen and Lake Chabot have a stop light, all coming into Lake Chabot. He has lived at this address since 1992 and has never seen a traffic accident on Quail. The problem is the swim center there. Almost half his pick up has to extend into Huber traffic, no way two vehicles can pass. He would like to see the access in and out of Lake Chabot, not on Huber. He is afraid that if this goes through, they will widen Huber and he will lose 4 feet of his existing home. He suggested to get a traffic light on Lake Chabot.

Melba Akehurst, resident at 18915 Huber Drive, stated that they moved to this address in March 1951. For those not aware of that street, on her deed says it is a private street, County said it is a substandard street. She is concerned about children and their safety. Huber Drive is very narrow and the children walk to school. She also teaches defensive driving, she is a member of the American Association of Retired People. It is a well known fact that a controlled intersection is safer than an uncontrolled intersection. As far as the accidents on Lake Chabot versus the accidents on Huber Drive, it would be a lot better if the developer were to scale down the project and sacrifice one lot. She stated that the average is 9 trips a day per house for that area.

Kenneth Akehurst, resident at 18915 Huber Drive, stated that his wife covered most of his concerns. They have lived at this address for 54 and a half years, they are not opposed to the houses. They are definitely opposed to the plan for traffic, it is ridiculous what they are proposing.

John Thorpe, resident at 17400 Parker Road since 1957, stated that he has lived in this area all his life. When he was younger he could walk from Castro Valley Boulevard up to Lake Chabot Road, almost no homes on Somerset. He feels very strongly that there are some policy decisions here. He disagrees with the plan. He was astonished about all the accidents. He shopped at Andy's when there was a market there, then became Carl's Drugs, and shopped when they took over the market. He is sure there are accidents on Lake Chabot Road, however he thinks it is not a hazardous area. Primarily, as population increases and of course the enormous prices of homes today, they build more and more residential homes. He believes there is a policy issue here and we have to preserve the commercial. Mr. Hahn deliberately torpedoed those buildings so he could increase the value

and sell for residential. When Carl's Drugs moved out, there was a trail clothing store there and Mr. Hahn would not fix the roof and the roof collapsed. Mr. Hahn did not maintain the property. He would not fix the parking lot or the lights. It got so dilapidated that people did not want to shop at the grocery store. The County put chains to try to deal with the trash. Mr. Bell got two different set of investors to try to buy the property, negotiations lasted about three years. There is no need to increase traffic flow. Not everything will have to be torn down. The market structure is sound and can be restored. Society should not encourage landlords who go for 5 years without paying real estate taxes. The County should require landlords to maintain their properties.

Cliff Sherwood, Castro Valley resident, stated that he lives in the neighborhood, and believes that the commercial use should remain in this area. The Redevelopment Agency just completed a study where they say there is a need for additional 150,000 square feet for commercial space in Castro Valley, and that included about 25,000 or 30,000 square feet of additional market space. The General Plan says to save commercial development. He thinks that this property has all the things that are required for commercial. It has strong demographic base around it, it has visibility, it has traffic, it has a stop light, it has what commercial developers look for. He would encourage denial of this application and not reward the landowner for not taking care of its tenants and therefore giving him a bonus.

Public testimony was closed.

Ms. Utal wanted to make clear to everybody that they made their application to have an entrance and exit on Lake Chabot. The Traffic Department directed the change and put their entrance and exit on Huber. She said they can change that to Lake Chabot. She is deeply concerned with the comments that came through from the head of the Traffic Department, Bob Preston, that was very clear on what direction to take for this subdivision. What she heard from the audience was that basically the people that live on Huber support single family residences; the two gentlemen that got up afterwards, she does not know their relationship to this property. She believes they do not live on Huber. If they have some alternative motives but the property owner has the right to sell his property and do whatever he wants to do with it. Very minor comments from another resident that said to move the road to the south side of the property, regardless of what he thinks, the road is going to have a line in Quail. The Traffic Department agrees to the subdivision ingressing and egressing off of Lake Chabot Road. The comments she got were completely supportive of a single family residential community, not a single person said they wanted commercial.

Ms. Adesanya asked Ms. Utal how many neighbors called her to support the project. Ms. Utal said she received 8 phone calls, between 5 and 10 responses. Ms. Utal said that there is a Housing Element that exists in Alameda County and this property would contribute to the desperate need for infill housing, and it was

identified in the Housing Element. The site is appropriate for between 8 and 18 units.

Mr. Carbone said that the property was removed from the Housing Element and it was because the General Plan and recommendations from the CAC and the new General Plan direction is to keep it commercial.

Mr. Moore said that the Policy issue in his opinion and this particular site has a lot of history and a lot of discussion in other contexts. Overall it is like the only piece of neighborhood commercial property in the area that exists. There is a need for housing, but there is also need for commercial, so he will consider carefully to rezone to eliminate the only last remaining neighborhood commercial in the area. Mr. Moore said he thinks it is a great residential design, but it is the wrong property.

Mr. Nielsen said he agreed with Mr. Moore because when this came through he thought what happened to the other small grocer in the area. If you go to Al's Market on Somerset you can not even get in. They have good business but the problem is he can not service the residents in the area. He feels badly for the property owner if this is not his desire, but knowing the amount of business we need in Castro Valley and looking to the convenience of the neighborhood, he just can't see changing the zoning. Mr. Frank said he concurs with Mr. Moore and Mr. Nielsen.

Mr. Carbone said that the Housing Element has re-identified a number of sites in Castro Valley that will support the need for housing. This particular site needs to stay commercial, maybe a mixed use development. The impacts on Huber will be significant. He would like to direct some comments to Bob Preston about the inaccuracy of his findings and asked how he substantiated it.

Ms. Adesanya pointed out that this application requires General Plan amendment supporting low density residential. This application is not in compliance with the General Plan. It needs a General Plan amendment in addition to the rezoning, it does not comply with the General Plan. In addition, the environmental review that is anticipated, mentions air quality, hydrology and geology, noise, but in CEQA you have to consider land use, and this is not compatible with the land use designation. This is something we should not consider at all.

Mr. Carbone asked staff if they can respond to Ms. Adesanya concerns and if they are accurate, and if what was presented and discussed was close enough.

Mr. Buckley acknowledged he just heard some concerns about the process on this project and would like to clarify them. This project is a rezoning and tentative map, and due to scheduling issues and Planning Department intent to conduct a preliminary plan review PD's, we have heard various concerns about the PD process and whether it is being used properly and whether they are being

processed in a way that provides enough public discussion. This project will go back to the Planning Commission at the end of the Environmental Review process. In terms of concerns about commercial, the General Plan is interesting on this site and some other sites on Lake Chabot Road in some other pocket commercial areas includes commercial and high density residential and optional uses under the General Plan. This site is designated PD for commercial because it includes special uses like the dry cleaner as an allowed use. Also the PD included several neighboring parcels that have since been developed as townhouses and other sites that still remain. So, the area currently has a PD as appropriate mechanism to roll over if you think that is appropriate. The Castro Valley General Plan in page 2 of the Staff Report lists the site as both convenience commercial and medium and high density residential, that just acknowledges existing conditions in several pockets of commercial. In terms of the policies regarding commercial, there is a policy that says it should be retained. It also says that it may be expanded to improve service to the area residents. That is the policy regarding convenience commercial. However, the areas also shown on the map are similar to several other sites on Lake Chabot Road, and other areas, so the cross hatching indicates medium and high density residential is also allowed under the General Plan. Then we turn to the policies to figure out what that means, and it talks about the density is 6.7 units per acre or more, medium and high density residential, they are located generally in four areas. They can be infill, outside of the central area, if they are near convenience uses like parks and they can be in the central area, there is a wide range of options.

Mr. Carbone said that the General Plan for Castro Valley is being updated. This site should not be considered until the document is finalized. Mr. Buckley said that the draft Castro Valley Plan is still in the very early draft stages, so that is really not something that we can consider at this point. In terms of the Housing Element, picking and choosing opportunity sites, that certainly has evolved.

Mr. Nielsen asked staff about the process in reviewing Planned Development applications. He stated that the process needs changing. If the developer approaches the Planning Commission before getting public input for all of Castro Valley, then we are wasting our time by sitting here because developers will bypass Castro Valley MAC, will go directly to Planning Commission and getting indication from them to what is acceptable and totally voids our hearing process. Mr. Carbone said that also voids the concerns from the community.

Mr. Buckley said that it was certainly not their intent, and said that they are working out the kinks. He acknowledged that they made a scheduling error in this case by bringing it to the Planning commission first, to see if they had any initial comments. Mr. Frank said that in fairness to the applicant and to the people that were there, the Council needed to come up with a recommendation.

Mr. Moore said that under the General Plan, the loss of the only piece of neighborhood commercial in that area, everything is all gone. Mr. Frank said that at this point we can have a recommendation.

Ms. Adesanya said she would like to see a proposal for mixed use development, and maintain commercial in that particular site. Mr. Frank asked the Council to move for approval or denial, or open up for considerations.

Ms. Utal requested a vote. She said that when she went to the Planning Commission, that was at 100% recommendation of staff. It was not bizarre for the Planning Commission to get a CEQA review of this document or environmental review of this document. It was actually kind of strange if you go ask for an environmental opinion to the Planning Commission. So she has heard the same thing, that she as a developer had no intention to bypass this Council, that was absolutely not the case at all. Mr. Carbone asked Ms. Utal which person from staff made that recommendation. Ms. Utal said that Mr. Sorensen had recommended the CEQA review. She actually filed a letter to request exemption from the CEQA review. That was what triggered the request for an opinion from the Planning Commission. There was no intent to bypass this body.

Ms. Adesanya moved denial of Zoning Unit 2207 and Tentative Tract Map 7614, primarily due to the traffic congestion that will be increased on Huber Drive. Also, because of the need to retain commercial at this site.

Mr. Moore said that to him that is the whole reason, everything else can be mitigated, but is the loss of the commercial. Mr. Nielsen seconded. Motion denied. 6/0.

E. Open Forum – None.

F. Chair's Report – None.

G. Committee Reports – None.

H. Staff Announcements – None.

I. Council Announcements, Comments and Reports – None.

J. Adjourn – There being no further business, the Chair adjourned the meeting at 9:50 p.m.

Next Hearing Date: Monday, June 13, 2005 –