

MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
JANUARY 13, 2010
(APPROVED FEBRUARY 24, 2010)

The Regular Meeting was held at the hour of 6:00 p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward, California.

FIELD TRIP: 1:00 p.m.

1. **JAY GRUENDLE / VERIZON WIRELESS, CONDITIONAL USE PERMIT, PLN-2009-00112** – Application to allow continued operation of an existing telecommunications facility with no proposed changes from existing Conditional Use Permit, C-7511, in a PD (Planned Development) District allowing R-1-L-B-E (Single Family Residence, with Limited Agricultural Uses, 40,000 Minimum Building Site Area) District Zoning, located at 5241 Jensen Road, east side of the street, approximately 0.3 miles northeast of Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085A-0350-005-07. **Staff Planner: Carole Kajita.**
2. **STEVE HATHCOX, CONDITIONAL USE PERMIT, PLN-2009-00113** – To allow the continued operation of a 170-foot high radio tower, in a R-1-L-B-E (Single Family Residential, Limited Agricultural Uses, Five Acre Minimum Building site Area, 300 foot Median Lot Width, 30 foot front yard, and 20 foot side yard) District, located at 27640 Fairview Avenue, east side, approximately 300 feet south of Oakes Drive, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Number: 085A-6200-015-00. **Staff Planner: Andy Young.**
3. **AZAR HUSSEIN / SCHOOL OF HEALING TOUCH, CONDITIONAL USE PERMIT and SITE DEVELOPMENT REVIEW, PLN-2009-00141** - Application to allow continued operation of a massage therapy establishment including the following services: massage training, physical therapy, rehabilitation, massage, skin care, electrology, counseling, hypnotherapy, acupuncture, acupressure, herbalist, and micro pigmentation; allow replacement, and new signage, façade improvements including: new doors, gutters, wood shutters, and window planter boxes, in a CVCBD-S5 (Castro Valley Central Business District – Sub Area 5) District, located at 2881 Castro Valley Boulevard, approximately 100 feet west of Nunes Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084A-0017-006-01. **Staff Planner: Howard Lee.**
4. **HAYWARD AREA PARK & RECREATION DISTRICT / CLEAR WIRELESS, LLC, CONDITIONAL USE PERMIT, PLN-2009-00145** – Application to allow installation of two 26.1 inch, and one 15.3 inch in diameter microwave antenna dishes; two 42 inch by 12.7 inch panel antennas, and one 4 inch in diameter GPS antenna, on three corners of an existing PG&E transmission tower, with an equipment enclosure located at the base of the tower, in a PD (Planned Development, 1337th Zoning Unit) District, located opposite 17249 San Franciscan Drive, east side, approximately 325 feet south of the T intersection with Bellingham Drive, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085-6311-001-00. **Staff Planner: Andrew Young.**

5. **CLEAR WIRELESS, LLC / CHRISTIE – CONDITIONAL USE PERMIT, PLN- 2009-00146** - Application to allow installation of a wireless telecommunications facility including three (3) antennas, three (3) microwave antennas, and one (1) equipment cabinet on an existing commercial building rooftop, in the CVCBD-S9 (Castro Valley Central Business District – Sub Area 9) District, located at 20980 Redwood Road, east side, approximately 50 feet north of Norbridge Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 084C-0615-005-00. **Staff Planner: Howard Lee.**

6. **CLEAR WIRELESS LLC / CHRISTIE – CONDITIONAL USE PERMIT, PLN- 2009-00153** - Application to allow installation of a telecom facility, including three (3) panel antennas, three (3) microwave antennas, and one (1) BTS equipment cabinet to be located on an existing PG&E tower, on an “A” (Agricultural) District parcel that is 11 acres, located on Matilda Lane, west side, approximately one half mile east of Fairview Avenue, unincorporated Fairview area of Alameda County, designated Assessor’s Parcel Number: 085A-6100-005-03. **Staff Planner: Jeff Bonekemper.**

MEMBERS PRESENT: None. Members visited sites on an individual basis.

MEMBERS EXCUSED: Chair; Dawn Clark-Montenegro; Vice Chair, Kathy Gil; Members, Jewell Spalding, Frank Peixoto and Ineda Adesanya.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner.

FIELD TRIP: The meeting adjourned to the field and the following properties were visited:

REGULAR MEETING: 6:00 p.m.

MEMBERS PRESENT: Chair, Dawn Clark-Montenegro; Vice Chair, Kathy Gil; Members, Jewell Spalding, Frank Peixoto and Ineda Adesanya.

MEMBERS EXCUSED: None.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner; County Counsel, William Fleishhacker; and Yvonne Bea Grundy, Recording Secretary.

There were approximately 6 people in the audience.

CALL TO ORDER: The meeting was called to order by the Chair at 6:05 p.m.

ANNOUNCEMENTS BY THE CHAIR: The Chair made no special announcements.

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.

Neighborhood Preservation Ordinance Abatement Hearing

There were no items scheduled for the Neighborhood Preservation Ordinance Abatement Hearing.

CONSENT CALENDAR:

There were no items scheduled for the Consent Calendar.

REGULAR CALENDAR

1. **STACI ROMBOUGH, VARIANCE, PLN-2009-00061** – Application to allow: a) building site status for a site of 2,479 square feet, where 5,000 square feet is required; b) a 0.27 foot rear yard setback, where 20 feet is required; c) a 1.04 foot street side yard setback, where 10 feet is required; d) a 2.47 foot front yard setback where 20 feet is required; e) a 2.95 foot setback side yard setback, where five feet is required; and f) one parking space, where two are required. The site is zoned R-1 (Single Family Residential), located at 2005-150th Avenue, west side, north of 149th Avenue, in the unincorporated Hillcrest Knolls area of Alameda County, designated County Assessor's Parcel Number: 080-0006-013-04. (Continued from July 22, August 26, September 23, October 28 and December 16, 2009). **Staff Planner: Howard Lee.**

Staff reviewed the history of the application. The recommendation was approval. The item was continued to allow staff to provide a map of undersized lots in Hillcrest Knolls, including the method of lot creation. Addition information was also collected from the Tax Assessor's Office. Member Peixoto pointed out an error in the staff report. The reference to the BZA in 1998 was incorrect. The BZA was not empanelled at that time. A Zoning Administrator was responsible for zoning decisions. Initial Board questions were as follows:

- Is this parcel affected by the Lot Merger Ordinance that was in effect in the 1950's
- Are there other area parcels that were affected by the Lot Merger Ordinance
- Was the site legally sub-divided
- When was area zoning changed to "Residential"
- What were all past uses on the site
- Were past variances granted as principal or secondary to residential uses
- Were past variances granted for both parcels
- Were past use permits granted in conjunction with Residential Uses
- Is the BZA responsible for determining building site status
- Is the BZA responsible for determining minimum lot size
- What section of the site does not meet required setback allowances

- Are all of the substandard lots on the Planning List zoned “Residential”
- Did any transactions take place on the sites prior to the Original Owner selling the properties
- When did the lot, and the adjoining parcel cease to be owned by separate people
- How many utility poles exist on the site
- What are the Fire Department requirements

Staff said initially the site was used as a welding then a tool and die shop. Later the site was used as furniture repair shop, and for storage. Use permits were not required because the original use was not, residential. County Counsel added that the original use was commercial. At some point the use became non-conforming. The Board will be making a determination on building site status. The site is assumed to be legally subdivided. Regarding the Lot Merger Ordinance, the Chair said she raised the question about the Lot Merger Ordinance, because the parcel was originally part of the lot next door. Staff did not have complete details if the lot was subject to the 1950’s Lot Merger Ordinance. However based on information available, that probably is not the case. The Ordinance mainly effected sites in East County that were less than 100 acres. Later there was a court case that threw the Ordinance out of use. These parcels then were recognized as separate lots. Of the 52 lots in the immediate area less than 5,000 square feet, most are existing non-conforming lots. Some contain habitable homes which are mainly existing, non-conforming. Most sites have not requested variances to further develop the lots. An overview of the types of variances that have been requested can viewed by using a sample composed of the first ten lots on the list. Lot #1 is the subject property. Lots #2 and #3 have not requested any variances. Lot #4 received a variance in 1962 asked for a variance for building site for reduced area, side yards at 3 feet. Lot #5 obtained a variance in 1952 to allow a reduced front yard from 20 feet to zero feet, and side yards to 1.5 feet, Lot #6 requested a variance in 1991 to allow an addition and a 3 foot side yard, a 16 foot rear and parking in the required setback. Lot #7 was existing non-conforming, no variances requested. Lots #8 and #9 have not obtained variances and are existing non-conforming lots. Lot #10 on Altamont Road was granted a variance in 1992 for an addition and a 1 foot-11 inch foot side yard and a 12 foot front yard. It is a triangular shaped piece of property. Within the sample group, all of the lots with the exception of Lot #3 have Residential Zoning classification. There are possibly further lots in the area not zoned for residential use. Staff confirmed the subject Lot #1 is the smallest parcel, and more than 50% deficient of the Zoning requirement.

County Counsel clarified the adjacent lot was used for a residence. The home was built in 1948. Member Adesanya pointed out Variance, V-1136 was for a furniture store. She questioned if the site was still being used as a residential use. Counsel told the Board the Subdivision Map Act contains two sections that address parcels created prior to 1972. These parcels are presumed to be legal. Prior to the Map Act there was no County Ordinance that governed subdivision, unless parcels were 5 acres, or more. Around the time the home was built on the adjoining parcel, in 1953. The parcels began to be referred to with separate parcel numbers. However the owners were the same. Another section of the Parcel Act states that if a subsequent party purchases a lot, there is a presumption of innocence. The original owners transferred the parcels with two separate deeds. The Carters bought the both sites. There were separate lenders for each site. The parcels went into foreclosure. In 2008 the adjoining parcel was sold, and loan was obtained by the new owner from Deutche Bank. Member Spalding asked what took place at the sites prior to the property being re-sold. She was not aware of a record. Staff said the Applicant may have further information for that time period. One of the 1998 variances for the adjoining lot was denied. The furniture store use on the parcel related to this application was not in conjunction with a residential use. Board Members pointed out the staff report refers to both parcels as one until 2008. How can a variance

apply to a portion of the property. Staff said there are two utility poles present on the site. The side near the residence does not meet the 5 foot setback requirement. A window, door; or one hour fire wall can be added to meet fire code. The Applicant's proposal is to create a one hour fire wall with the use of stucco.

Member Adesanya announced for disclosure purposes that she had met with the Applicant's Representative for an informational meeting. She was not present at the prior hearing on the matter. Public testimony was opened.

Carlos Plazola told the Board he believed the issues raised as to the history of the property were resolved at the prior hearing. The staff report was excellent, and answered outstanding questions. Mr. Plazola reviewed how the Applicant obtained the lot. Mr. Beck did not purchase the site. He made a general loan to the prior owner, when the loan defaulted. Mr. Beck ended up with the property. It is not uncommon for separate deeds on adjoining parcels. Mr. Plazola owns two lots with separate deeds. Mr. Beck would like to build a viable house. Based on Housing Element thresholds, a 5 person family should use 30% of their income toward housing. The proposed home would fit this scenario. Mr. Plazola walked the neighborhood and asked neighbors to complete a survey. Twenty five people signed the survey in support. All neighbors with the exception of one person changed their minds about the project. He submitted a map indicating properties in support, and opposition to the project. Neighbors said originally they were told the site was to become a multi-story housing unit. Others were under the impression there had been multiple Code Violations at the site. The only neighbor opposed is Mrs. Galdacio. Mr. Plazola also presented a graphic proposal of a home design placed within required set-backs. The proposed design would be 500 square feet, which is not livable. Board questions for Mr. Plazola were as follows:

- How many months did Mr. Beck carry the loan prior to default
- Did Mr. Beck consider a two story structure with a larger garage
- Did Mr. Beck consider 10 foot setbacks
- Is there a configuration that can expand the yard area
- What was total amount owed on the property \$75,000 or \$250,000
- Is the 5 person Household allowance based on affordable housing limits
- What language was used in the survey conducted with the neighbors

Mr. Plazola said a two story structure was not considered. So much is owed on the site an additional investment is not financially viable. Mr. Beck filed the Notice of Default. A foreclosure company handled the sale. Mr. Plazola believed \$200,000 dollars was owed on the property however Mr. Beck is present to answer further questions. The Survey asked if neighbors were: In favor of; Neutral; or Opposed to the project.

The property owner Mr. Beck told the Board, the outstanding amount owed was \$200,000 dollars. At the public auction of the property the highest bid that was achieved was \$75,000 dollars. Therefore it reverted back to Mr. Beck. The original interest only loan to the property owner was made 2 and one half years ago. The loan was at a rate of 9%. The prior owner made one payment on the \$200,000 dollar loan extended. After 3 months Mr. Beck filed a Notice of Default on the property. He acknowledged he is not very savvy in foreclosure matters, and is unsure why the Trustee Deed of Sale states \$108,000 dollars. A foreclosure company handled the transaction. Mr. Beck believes a representative from the foreclosure

company bid \$75,900 dollars in response to a bid of \$75,000 dollars. All he knows is that he ended up with the site. He did not intend to do this however at this juncture something must be done with the property. The site cannot remain in its current state. It is an eyesore. The issue of economic viability is valid. Member Adesanya asked the Chair what was the nexus between the value of the property and the decision regarding variances. It is not the Board's per view to determine or challenge the value of the property. Member Spalding pointed out the Applicant's Representative said economic viability was indeed an issue. The Vice Chair said some of the confusion may be related to a letter submitted by resident of Hillcrest Knolls stating the property was purchased at auction for \$75,900. Mr. Beck said that amount was a bid. Based on her Real Estate background, The Vice Chair said Mr. Beck is the grantee. Typically this is recorded in a different manner than the deed presented. County Counsel acknowledged neither that he nor the Applicant was familiar with all of the ins and outs regarding foreclosure. The technicality of a foreclosure bidding process is probably not relevant to the Board's decision. Further questions for the Applicant were as follows:

- What type of loan made to the prior owner
- What was Mr. Beck's initial impression of the site
- Did Mr. Beck conduct due diligence on the site prior to extending the loan
- Did the prior owner present Building Site Plans
- Did Mr. Beck estimate costs to complete the project

Mr. Beck said Mr. Carter owned the property. He gave Mr. Carter a secured Real Estate Loan to remodel the property. Mr. Carter did present building plans. Mr. Beck used a title company who verified the property owner was Mr. Carter. Mr. Beck drove by the property. He thought the property could be made into a single family home. He knew a variance would be required. He estimated the cost would be approximately \$100,000 dollars.

Ms. Deborah Molina asked the Board to approve the variance request to create a single family home. Providing single family housing units is a goal supported by the Draft Eden Plan, and Alameda County Housing Element. Mr. Beck's property would fall under the Affordable Housing Plan Goals: Goal #1. To provide sites suitable for housing development in a range of type and location and tenure, Mr. Beck's small property is in the Unincorporated County, and would make use of limited resources. The proposal is compatible with current zoning. Goal #2, Is to provide opportunities to maintain, housing opportunities for low, low and very low and moderate income households. Over concentrations of subsidized housing should be avoided. Mr. Beck's site would fall under the category of affordable housing. Increasing the housing opportunities for residents. Goal #3. Limits governmental constraints and mandates access opportunities to low, and very low and moderate income households. Over concentrations of subsidized housing should be avoided. Requiring Mr. Beck to comply with current setback requirements or raise the structure would unnecessarily increase the costs. Planning staff has also recommended approval with modification to the setback requirements. Goal #4. To ensure sound housing units in safe residential neighborhoods. Granting the variance would provide safe housing that would improve the neighborhood. To re-build is contrary to Goal #4. The home would add to the pool of affordable homes. A vacant home would only invite vandalism. Ms. Molina closed, and asked the Board to support the proposal.

Mr. Howard Beckman said he had attended many meetings since the BZA was created. He supports Boards and Commissions as decision making bodies. However there is a level of frustration and annoyance. He does not understand the grounds of questioning. It appears to be completely irrelevant to the necessary grounds required to permit a variance. There has been discussion of zoning, and

transactional history. All implications are that the lot was created prior to creation of the Zoning Ordinance in the 1950's. The site is legal non-conforming. The idea of legal non-conforming is to move toward the future. Variances are not intended to revert to prior uses. As he understands the owner purchased; and/or ended up with the property recently and quite unwillingly. The issues are irrefutable if he conducted due diligence. The law requires the owner to perform due diligence. The owner assures he is aware the property is non-conforming status of the property. The Applicant proposes more than minor setbacks. The Applicant is bound to meet the grounds for a variance. The variance history of surrounding lots is not valid grounds upon which to grant a variance. However the Planning staff report refers to this history. The sentiments of the neighborhood are valid. In response to the previous speaker's reference to the Housing Element requirements, they are valid only with an approved Plan. Ms. Molina is referencing a Draft which is not valid, yet. A variance to resolve a safety valid, a self induced variance is not. The owner was paid a fair price for the property in 1964. The second and most important concept in Mr. Beckman's mind is required findings. There should be some distinct characteristic about the land to create an unnecessary hardship. Board Members asked Mr. Beckman to clarify his support in favor of; or in opposition to the application. Also if he believed the parcel was created when the Freeway was put in. Mr. Beckman said he did not believe the parcel was created when the freeway was installed. Mr. Beckman was not in favor of application approval.

Mrs. Cardacia told the Board the neighborhood did not have an attorney to represent them. However the issue remains there is no available parking. She lives in the neighborhood. Her mailbox has been hit many times. The rear of her home has also been hit multiple times. Recently she saw Mr. Beck taking some wood out of the existing garage. His vehicle was parked on the berm but still extended into the roadway. Cars had to go around his vehicle to continue up the street. Mrs. Cardacia has lived in the neighborhood for 30 years. She is not against Mr. Beck personally. She is against the traffic and the location of the site, which is at the top of a hill. Mr. Beck says he is concerned about return of value. He should be happy to retain, some value. Many people lost everything. Mrs. Cardacia then referred to the letter submitted by Mr. Beck. In the letter he says the Assessor's Office does not take information from the Applicant. Mrs. Cardacia said she talked directly with the Assessor's staff who confirmed they did take the information from the property owner. They even set an appointment with Mr. Beck to inspect the site. He did not show, and never contacted them to re-schedule. She then referred to the survey she conducted with the project description contained on the Public Hearing Notice. In the comment portion of her responses, most said the site was too small. In addition parking was not sufficient. At the prior hearing Mr. Beck intimidated people with a lawyer, secretary and researcher. This does not address the issue as to the telephone poles on the site. The rendering Mr. Beck uses does not show the second pole. The rendering is not accurate. The question is how the proposal will impact the community. Mr. Beck says he will sell the property. He will make his money, and get out. The neighbors will be stuck with the leftovers. Perhaps Mr. Beck should sell the property to the County to allow widening of the road. The Board should not allow six variances.

Mr. Lemke said he has lived on Plaza Drive since 1970. He is in agreement with the previous speakers who object to the project. Excellent points were made. Building Codes should not be weakened. In this particular case the Planning Department is recommending six variances be granted. This weakens Building Codes. If the property lines are correct, the site is still 500 or 600 square feet or less. Mr. Lemke said he spoke to Project Planner, Howard Lee as to why the recommendation was approval. He was told nothing had changed. In his opinion that is not an answer. The project questions the judgment of the County. At this time he continues to support denial. He asked present staff to explain further.

Ms. Denise Blackman said she is somewhat sympathetic as she supports property owner's rights. However the property is "as-is". When you obtain a site with this type of structure, you know what you are getting. The photo simulation of the project looks great but a real car will not fit at the site. Real kids cannot play in the yard. There is no side or back yard. The former garage will be made into a home for 5

people. The rendering has pine trees. The trees at the site are birch. The rest of the neighboring homes have livable space around them. Zoning is supposed to protect people from this type of project. She does not like the idea of a person from outside the neighborhood coming in to make money. When you buy a lot without a building on it that is just what you get. She confirmed there is a second telephone pole on the site. The lot is dangerous. The community does need housing however this option is not it.

The Chair re-called Mr. Pazola to testify regarding the telephone poles and alternate designs. Mr. Plazola had had departed the Hearing. Ms. Molina did not have further information to add to previous testimony. Public testimony was closed.

Member Peixoto said when the BZA underwent training they were told economic reasons were not sufficient grounds to approve a variance. Member Peixoto said he remembered a case before the BZA a variance request was submitted because the owner said the lot was unusable. The BZA denied the variance. The conditions were found to be self induced. He had issue with Tentative Findings #1 and #2. The owner has different options that can be explored. In this case, the variance was self induced. Member Spalding said her understanding was that was not necessarily true. Issues with related financial components could be fuzzy. In this case both sites were owned by the same person. The prior owner got creative. If the requested setbacks were granted the rear yard would be 3 inches. This is severe. Member Spalding agreed with Member Peixoto, options were available. The owner may also be tempted to pave the entire frontage. Regarding Tentative Finding #3, the project would be dangerous. The Chair pointed out the Applicant's Representative said the not all options are financially viable. She agreed paving the front area was a concern. The street is marked "No Parking" in that area. Do to the shape the apron may be completely paved in an attempt to provide parking. Excessive paving would also be in violation of the Neighborhood Preservation Ordinance, which prohibits more than 50% of the front yard. Further Board questions for staff were as follows:

- Is the apron on the site within the public right of way
- What is the distance between the driveway and the front door of the home
- Has there been a change since the R-1 (Single Family Residential) zoning has been instituted
- What is the definition of infill
- Is this use considered, a use conversion
- Is the project subject to CEQA
- Are there alternate uses allowed at the site
- Can a smaller home be developed at the site
- What side of the property is considered the frontage
- Is this property within the jurisdiction of the Castro Valley Plan

Staff confirmed a section of the driveway was within the public right of way. There would roughly be a one foot distance to the door of the home. The Zoning Ordinance assigns the narrower of the frontage of a corner lot as the frontage. The site plan indicating the streets at the front, and rear are accurate. At this site 150th Avenue is the front of the property. The street side yard setback is required to be a minimum of 5 feet. There has been no change to the R-1 Zoning since instituted. Staff is said the property is located

within the Castro Valley Plan, within the General Plan. It is unlikely an Initial Study would be required to study possible impacts. A Study would probably conclude the site is an exemption category not subject to CEQA rules, as there is an existing structure. Infill is considered development of a vacant or unimproved lot. In a broader sense infill can be used in relation to underdeveloped lots. This is considered a uses conversion, as it has been converted from its prior use. Staff was unsure of possible design options, as the alternate design the Applicant submitted was just completed today. Most likely it would be difficult to develop the lot, due to its limited size. Primary uses allowed on the parcel are a single family home, a vacant parcel, the growing of a crops or a garden.

The Chair commented the original owner was aware they were creating a smaller lot. They must have understood the limitations of the parcel. The site in question once was used as a welding shop. The home they built on the adjoining lot was 800 square feet. Everyone would like to see a nicer home however during the period the site has been vacant. There have been fewer challenges. The only way to access the front door of the property is to use the public right of way. This would force some to take over the public right of way for private use. In addition, the site is located at the only access point to Saturn Drive. This is a very busy thoroughfare. There have been no changes to improve traffic for a number of years. The Applicant has even submitted a rendering showing an alternative. All be it a smaller one. There is also the possibility of a second story. The Applicant could consider alternate designs, and then return for variance consideration. However the proposal in its present format is too severe.

The Vice Chair motioned to deny PLN-2009-00061, Rombough. Required Tentative Findings #1, #2 and #3 cannot be made. Regarding Finding #1 Granting the variance would constitute special privilege. The multiple variance requests are extreme. Other homes in the area that have been granted variances have not been to the same extent. Regarding Finding #2 The project would not be consistent with the Residential, "R-1" Zoning. The proposed driveway would be adjacent to the front door, and within the public right of way. Regarding Finding #3, Safety will be an issue with the configuration of the driveway, and the amount of traffic that exists in the neighborhood. Although the proposed structure appears to be an improvement from a physical appearance perspective, the design is not helpful. Member Peixoto seconded the motion.

The motion to deny PLN-2009-00061, Rombough passed 5/0.

APPROVAL OF MINUTES: Member Peixoto motioned to accept the Minutes of November 4, 2009 with submitted corrections. The Vice Chair seconded the motion. Motioned carried 3/0/2/ Member Spalding abstained. Member Adesanya abstained, as she was not present at the November 4, 2009 Hearing.

Member Adesanya motioned to accept the Minutes of December 16, 2009 with submitted corrections. The Vice Chair seconded the motion. Motioned carried 5/0.

STAFF COMMENTS & CORRESPONDENCE: Staff announced the Appeal of PLN-2009-00098 Oscar & Susan Miller to be heard by the BOS was continued. The Party appealing the BZA decision has hired a Sound Consultant. The next meeting between the Parties is on February 01, 2010. Staff will follow-up to determine when the Appeal can again be placed on the BOS Calendar.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:

Member Spalding asked staff for further information regarding Field Trip Agenda # 2, **STEVE HATHCOX, CONDITIONAL USE PERMIT, PLN-2009-00113** – To allow the continued operation of a 170-foot high radio tower. Does the request for continued operation propose an increase in tower height? Staff clarified the continued operation will remain unchanged, with no increase in tower height. The BZA can also set height limits in Conditions of Approval.

ADJOURNMENT: There being no further business, the hearing adjourned at 8:30 p.m.

ALBERT LOPEZ - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS