

**MINUTES OF MEETING**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**FEBRUARY 9, 2011**  
**(APPROVED FEBRUARY 23, 2011)**

The Regular Meeting was held at the hour of 1:30 p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward, California.

**FIELD TRIP: 1:30 p.m.**

**MEMBERS PRESENT:** None. The Field Trip was cancelled. Members visited properties on an individual basis.

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

**OTHERS PRESENT:** Phil Sawrey-Kubicek, Senior Planner.

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

1. **SOUTH CONGREGATION JEHOVAH'S WITNESS – SAN LEANDRO / KEVIN CONNELL, CONDITIONAL USE PERMIT, PLN-2010-00074** - Application to allow building renovation, and an addition to an existing church facility, including a new building interior, office space, and facility upgrade for ADA compliance, in an RS-D3 (Suburban Multiple Residence, 2,500 square feet Minimum Building Space Area per Dwelling Unit) District, located at 1605 Mono Avenue, west side near the cross street of Marcella Avenue, in the unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080-0040-044-07. **Staff Planner: Howard Lee.**
2. **MIKE RODE / LORLEEN RODE TR., VARIANCE, PLN-2010-00155** - Application to allow expansion of a non-conforming dwelling, retaining a detached accessory structure (carport) in the front half of the lot, within six feet of the side property line, within six feet of the main dwelling, and attaching to the main dwelling unit to an existing secondary dwelling unit so as to combine the two dwelling units into one unit, resulting in a rear yard of two feet, four inches where 20 feet is the minimum required, in an R-1 (Single Family Residence) District, located at 17200 Rogerio Street, northeast corner at 172<sup>nd</sup> Avenue in the unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080A-0111-007-00. **Staff Planner: Andy Young.**
3. **OROMO CHRIST EVANGELICAL LUTHERN CHURCH / YADETA GU, CONDITIONAL USE PERMIT, PLN-2010-00162-** Application to allow continued operation of a church in an R-1 (Single Family Residence) District, located at 100 Hacienda Avenue, southwest side, near the cross street of Hathaway Avenue, in the unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 429-0001-132-00. **Staff Planner: Christine Greene.**
4. **HAYWARD FELLOWSHIP/ DEBRA GRIM & LEE PETSAS/ NGUYEN TRS., CONDITIONAL USE PERMIT, PLN-2010-00170** - Application to allow continued operation of a clubhouse (Meeting Hall for Alcoholics

Anonymous) in a TC (Transit Corridor) District, according to the Specific Plan for Ashland Cherryland Business District, located at 16250 East 14<sup>th</sup> Street, northeast side, approximately 260 feet northwest of 163<sup>rd</sup> Avenue, in the unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080-0063-035-02. **Staff Planner: Richard Tarbell.**

5. **AT&T MOBILITY / EDEN MEDICAL CENTER, CONDITIONAL USE PERMIT, PLN-2010-00172** - Application to allow continued operation of a façade mounted telecommunications facility (AT&T) in Sub Area 4 within the Castro Valley Central Business District Specific Plan, located at 20103 Lake Chabot Road, west side, approximately 2/10<sup>th</sup> of a mile north of Castro Valley Boulevard, in the unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Numbers: 080A-0279-010-00 and 080A-0279-011-00. **Staff Planner: Christine Greene.**
  
6. **GANDOLFI / CASTRO VALLEY COMPANION ANIMAL HOSPITAL, CONDITIONAL USE PERMIT, PLN-2010-00178** - Application to allow continued operation of a veterinary hospital in a C-1 (Retail Business) District, located at 2509 Lessley Avenue, south side, at the intersection with Redwood Road on the east side, in the unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 416-0030-002. **Staff Planner: Christine Greene.**
  
7. **ARAB AMERICAN COMMUNITY CENTER / MORRAR MONIR, CONDITIONAL USE PERMIT, PLN-2010-00213** - Application to allow an approximately 2,900 square foot community facility (cultural and educational center) with minor rehabilitation of the building interior, in a FA (Freeway Access) within the Ashland Cherryland Business District, located at 18553 Mission Boulevard, west side, south of the intersection of Lewelling Boulevard, in the unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 414-0021-002-02. **Staff Planner: Andy Young.**

**REGULAR MEETING: 6:00 p.m.**

**MEMBERS PRESENT:** Chair, Dawn Clark-Montenegro; Members, Jewell Spalding, and Frank Peixoto.

**MEMBERS EXCUSED:** Vice Chair; Kathy Gil.

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

There were approximately 14 people in the audience.

**CALL TO ORDER:** The meeting was called to order by the Chair at 6:08p.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:**

**1. Serving Community Church, Lake Chabot Rd.,  
Castro Valley, CA 94546**

In violation of Alameda County Ordinance 6.65.030 A (7) & B (2).  
1. Graffiti, broken windows and unsecured doors of the buildings.

Member Peixoto motioned to uphold the staff recommendation, declare the property a public nuisance and require abatement in 10 days. Member Spalding seconded the motion. Motion carried 3/0.

**2. Chandrika & Abhinesh Prasad, Grove Way, Hayward CA 94541**

In violation of Alameda County Ordinance 6.65.030 A (1).

1. Unlawful outdoor storage of discarded household furniture, trash, rubbish and debris in the front yard.

Member Spalding motioned to uphold the staff recommendation, declare the property a public nuisance and require abatement in 10 days. The Vice Chair seconded the motion. Motion carried 3/0.

**3. Herman Cruz / NDEX West LLC, Cherry Way, Hayward CA 94541**

In violation of Alameda County Ordinance 6.65.030 A (1).

1. Unlawful outdoor storage of discarded household items, trash, rubbish and debris in the side and rear yards as well as the rear patio area.

Member Peixoto motioned to uphold the staff recommendation, declare the property a public nuisance and require abatement in 10 days. Member Spalding seconded the motion. Motion carried 3/0.

**Alcoholic Beverage Sale Regulations Administrative Hearings**

There were no Agenda items scheduled for the Alcoholic Beverage Sale Regulations Administrative Hearings Calendar.

**CONSENT CALENDAR:**

- AILIAN LU / CHINESE HEALTH CENTER, CONDITIONAL USE PERMIT, PLN-2010-00135** - Application to allow operation of a massage therapy business (Chinese Health Center) offering acupuncture, acupressure, pressure point massage and foot reflexology, in a C-1 (Retail Business) District, located at 17780 Hesperian Boulevard, east side, south of Hacienda Avenue, in the unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 412-0071-024-04. **Staff Planner: Andy Young.** (Continued from October 27, November 10 and December 8, 2010 and January 12, 2011; to be continued to February 23, 2011).

Member Spalding motioned to accept the Consent Calendar as presented. Member Peixoto seconded the motion. The motion carried 3/0.

**REGULAR CALENDAR**

- MIKE RODE, VARIANCE, PLN-2010-00155** - Application to allow expansion of a non-conforming dwelling, retaining a detached accessory structure (carport) in the front half of the lot, within six feet of the side property

line, within six feet of the main dwelling, and attaching to an existing secondary dwelling unit so as to combine the two dwelling units into one unit, resulting in a rear yard of two feet, four inches where 20 feet is the minimum required, in an R-1 (Single Family Residence) District, located at 17200 Rogerio Street, northeast corner at 172<sup>nd</sup> Avenue, in the unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080A-0111-007-00. **Staff Planner: Andy Young.**

Staff reviewed the application and recommended approval. Initial Board questions were as follows:

- Was the home built prior to Zoning
- Was the carport structure built prior to Zoning
- Is the cottage or carport attached to the home

Staff said actual building dates for both structures cannot be confirmed. It is believed they were built in 1942 prior to Building Department records. The Zoning Ordinance was adopted in 1946. When the Ordinance was instituted, the Assessor tried to update records in the 1950's. Information regarding the carport appears after 1959. The carport is not attached. The Zoning Ordinance considers the carport a detached accessory structure. It is not attached to the main dwelling unit. There is approximately 4 feet, 6 inches between the home and the structure. Public testimony was opened.

The Applicant / Builder, Mike Rode was present. The Assessor's Office provided a report regarding the property. It includes a small drawing of the site. The carport was built before 1959, prior to permit requirements. Mr. Rode sent a copy to the Planning, and Building Departments. All Departments involved have pre-approved the proposal. Further drawings have not been submitted or requested at this time. As the variance process is still in the approval stage. There are also budget constraints. The variance includes the building of a small portico between the two buildings, thereby connecting them. Both roofs will flow together in a pitched, gable style. The exterior will be finished with stucco. The home will then consist of one footprint, and look like one house. On the interior, the cottage will become an attached Master Suite. Board questions for the Applicant were as follows:

- Are there renderings available to show the finished project
- Why is the cottage not fully attached to the home in a more cohesive way
- What happens to the front door of the cottage

Mr. Rode said further drawings can be prepared. He and the Architect provided what staff requested. Staff then referenced plans indicating the connection between the cottage and the home. Mr. Rode confirmed the cottage door will remain. It will become a bedroom door. The existing porch will be screened, and enclosed with the ability to still see outward. The proposal is the most cost effective way to approach the existing structures. The design also retains the maximum amount of interior wall space. It creates a retreat like ambiance in the Master Suite with one point of entry from the Family Room. Building permits had already been obtained to upgrade the cottage. However it seemed an ideal time to make the home more complete, and upgrade to property. The cottage is only 450 square feet. The proposal will create more functionality, with a laundry and bathroom room off of the space. The design will also improve re-sale, and marketability value. The addition is not large. It would serve any new family well.

Mr. Richard Hancocks commented the Ordinance clearly prohibits the expansion of non-conforming uses. The expectation is at some point. Non-conforming uses should come into conformity with current Zoning requirements, and practice. Alameda County has a long practice of occasionally granting variance

requests to expand non-conforming uses. Planning staff's explanation is that it has always been done. He asked for the legal justification. Courts have made it clear. A variance is means to restore parity to a subject property, compared to surrounding properties, in similar zoning. This action will overturn a prohibition. A variance was never meant to do this. It is meant to provide relief, minor modifications to standards. This is overturning a prohibition. Mr. Hancocks asked the Board to keep this in mind. Member Spalding asked Mr. Hancocks if the Applicant's variance request was not indeed an attempt to bring the non-conformity, into conformity. Mr. Hancocks responded that was a question for the Board. This was not pointed out in the staff report. The variance request is also for setbacks, and other issues. This variance is to overcome the prohibition on the non-conforming use.

Architect, Richard Slie has done Residential Design since 1973. The difficulty is dealing with existing structures. It is impossible to meet existing codes. If the two structures can be joined non-conformity will no longer be an issue, resulting in conformance with R-1 (Single Family Residential) Zoning. The corner lot creates a hardship, regarding the carport. The 20 foot front, 5 foot side and rear setbacks create a 35 foot building envelope, for home and garage. Mr. Slie asked the Board to consider all of the structures are in existence. The cottage is single story. It adjoins the two story end of the residence. The proposal is to extend the cottage fascia line, to the house. The pitch of the roof line will be mirrored between the two structures. It will not look like an attachment. The cottage door will disappear inside the screened area. The footprint of the home and the cottage will not go outside of the current boundaries. Only the square footage needed to connect the structures will be added. It would be possible to pitch the carport roof. This would visually improve the front perspective. It would also improve water drainage, allowing the addition of gutters. Currently 75% of rain water runs onto the neighbor's property. A pitched roof would also stabilize the carport. Board questions for Mr. Slie were as follows:

- What is the structural condition of the cottage
- If the carport was attached to the home would parking requirements change

The condition of the carport is okay. However the structure is 40 years old. If the carport were attached to the house, side setbacks would become an issue. Once the cottage is attached to the home, square footage increases to 2,200 square feet. This will require parking for two vehicles. If the carport is attached it will only accommodate one vehicle. Mr. Slie was unaware further drawings and elevations were required at this point of the project. Had he been, they would have been provided.

Mr. Rode returned to testify. He presented a hand drawn picture of what the finished project will look like. Highlighting the connected area and matched roof pitch. The property is laid out as such. A front entry is ideal. Public testimony was closed.

Staff clarified that once the cottage and home are joined, they become one unit. The square footage created by adding the hallway area between the structures is a physical expansion. Once joined, the non-conforming aspect of the structures is eliminated. The variance is also to retain the non-conforming setbacks. The Chair was uncomfortable retaining the carport structure. It was possibly built without benefit of permit. Staff said the structure was there prior to 1959, possibly prior to the requirement of Building permits. The structure is functional. Because of its non-conforming status, maintenance cannot exceed 25% of the maximum value of the structure, in a period of one year. If the roof is pitched, it would exceed that maintenance threshold. Once you go beyond maintenance, the structure must meet current Building Code requirements. Modifications would require a one hour fire wall on the portion facing the property line. It is considered a detached accessory structure, because it sheds water. The location is not a sufficient distance from the home, to meet Fire Code. If the structure were literally attached to the home, another variance would be needed for the front, and side yard setbacks. Member

Peixoto pointed out the carport keeps vehicles from filling on-street parking. Staff confirmed two on-site parking spaces are required. However they do not have to be covered.

The Board thought a continuance might be in order. This would allow the Applicant to explore options, as they are attempting to improve the property. Additional Exhibits of the exterior can also be produced. Staff reminded the Board the present proposal is a variance, to expand a non-conforming dwelling by adding the hallway between the home and the cottage, also to retain the existing setbacks. If the carport is modified, an additional variance would be required for parking. The Board could consider the variance to connect the cottage and the home. Then separately deny the side variance setback affecting the carport, thus requiring its removal. However the existing carport was built prior to the Ordinance requiring two, on-site spaces. Originally, one space was required. Replacement parking must be placed slightly forward from the present location. Public testimony was re-opened to speak with project Architect, Mr. Slie.

Mr. Slie pointed out, options can be explored. However most lots in the area have a width of 50 feet, this property is only 35 feet wide. It would be difficult to conform to current Ordinance requirements. This is why the carport is an integral part of the proposal. The Applicant would like to retain it. The shape of the lot is a huge issue. Public testimony was closed.

The Board asked staff to obtain additional information about the carport. There may be a possibility of esthetic improvement. The Applicant can also supply elevations of the proposal(s). This will enable the Board to determine if the modification will improve the façade, and how it will impact the neighborhood. Staff will explore the possibility of a single car garage however front and side yard setbacks, may present issues.

**Member Peixoto motioned to continue, Variance, PLN-2010-00155 to the March 9, 2011 Hearing to provide visuals, elevations of the exterior design, and the carport.**

**Member Spalding seconded the motion. The motion to continue Variance, PLN-2010-00155, Rode to March 9, 201, carried 3/0.**

2. **GANDOLFI / CASTRO VALLEY COMPANION ANIMAL HOSPITAL, CONDITIONAL USE PERMIT, PLN-2010-00178** - Application to allow continued operation of a veterinary hospital in a C-1 (Retail Business) District, located at 2509 Lessley Avenue, south side, at the intersection with Redwood Road on the east side, in the unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 416-0030-002. **Staff Planner: Christine Greene.**

The staff recommendation was approval. The Castro Valley Municipal Advisory Committee voted unanimously, recommending application approval. Public testimony was opened.

Ms. Valarie Draper was present, representing Castro Valley Companion Animal Hospital. The Board asked how long the business has been at the location. Ms. Draper confirmed over 20 years. Public Testimony was closed.

Member Spalding recommended Condition #4 be modified, removing category b (Land Development). The Applicant should also maintain the property in a clean, graffiti free manner.

**Member Peixoto motioned to uphold the staff recommendation of approval.** Condition #3, Shall now include the following language: *The property shall be maintained in a clean, graffiti free manner.* **Member Spalding seconded the motion** with the following modification to Condition #4, Shall remove

category *b* (*Land Development*).

**The motion to approve Conditional Use Permit, PLN-2010-00178 Castro Valley Companion Animal Hospital passed 3/0.**

3. **ARAB AMERICAN COMMUNITY CENTER / MORRAR MONIR, CONDITIONAL USE PERMIT, PLN-2010-00213** - Application to allow an approximately 2,900 square foot community facility (cultural and educational center) with minor rehabilitation of the building interior, in a FA (Freeway Access) within the Ashland Cherryland Business District, located at 18553 Mission Boulevard, west side, south of the intersection of Lewelling Boulevard, in the unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 414-0021-002-02. **Staff Planner: Andy Young.**

The staff recommendation was approval. Initial Board questions were as follows:

- Does the Specific Plan list "community facility" as an allowed use
- Will the site be used as a school
- What is the student age range
- What are the proposed Hours of Operation
- How many parking spaces are required
- Will the exterior façade be improved
- Has the Ashland Association provided comments

Staff explained when the Specific Plan is silent the Zoning Ordinance takes precedence. The Specific Plan does not provide an extensive list of allowed uses. The Ordinance allows a community facility use within the C-1 (General Commercial), C-O (Administrative Office) and C-2 (General Commercial) Districts. The facility will be a gathering place. It is not an Elementary or High School affiliated with the State, or School District. Classes will be held at the site. Open to anyone in the community. Similar to the format used by Hayward Area Recreation. Under the community facility definition, assembly use requires 22 parking spaces. If the use were to accommodate 120 people seated, 55 parking spaces are necessary. The parking lot is shared. Although some of the spaces are used by Jack in the Box, sufficient spaces are available. The Applicant has not yet filed for non-profit status. They are awaiting the outcome of the permit application. The building is an existing storefront. Former signage will be removed. Landscaping will also be added. The Ashland Association has not provided comment, but asked additional questions: was the Arab American Community Organization in existence prior to the permit request. Staff is unsure. The Applicant can provide more information. Public testimony was opened.

The Applicant, Monir Morrar was present. The Arab American community has requested that a committee be formed to establish a non-profit organization. The organization will run the center. The name of organization will be, Arab American Community Center. The Board will consist of 5 Members. The center will be a meeting place offering after school programs on Arab art, culture, and music. The center will also provide job search resources, immigration information, assist needy families and new immigrants. The center will promote cross cultural events in addition to Arab American Culture. Lectures will not only explore Arab American Culture but Humanities, Law, and Nutrition. Mr. Morrar then asked for the Board's approval. Board questions for the Applicant were as follows:

- Has the Applicant submitted a non-profit incorporation application to the Secretary of State
- Who is the property owner
- Are exterior renderings available of the improved façade concept

- Will new signage be erected
- Will further landscaping be added
- Who will maintain the site
- Will the primary function be a school, or community facility
- Is the Applicant familiar with the neighborhood, surrounding the site

Mr. Morrar told the Board incorporation papers would be filed immediately, if permit approval is obtained. Currently they are individuals. All Board Members will be determined upon permit approval. Mr. Morrar will be the Director of the Center. The community facility will not be a school, but a teaching center for language, and culture. The goal is to teach children. They need activities to keep them off the internet. After school classes and tutoring sessions will hold 20 kids maximum, and run 45 minutes in length. Parents are required to pick-up their children. There will be addition activities in conjunction with charity organizations, like Holiday clothing giveaways. The Center will lease space from the owner. Mr. Morrar has operated the Sports Plus store during the past 4 years. It is located in the same center. He is aware the neighborhood has some crime issues. At times it can be dangerous. However he will do his best to secure the facility. Regarding the façade, a rendering has not been produced. The building exterior was painted 2 years, ago. The old signage will be removed. In the future additional plants will be added. Maintaining landscaping at the center will not be a problem. He is a farmer by trade. The group will keep the area, trash and graffiti free. Member Spalding reminded the Applicant, Conditions of Approval require that landscaping be installed within 6 months of permit approval.

Ms. Carroll Duran is one of the Officers of Lewelling Market Center. The property has been in her family since 1946. Her parents both passed away a few years ago. She and her sister both live out of State. They are doing the best they can. They have invested \$200,000 dollars on property improvements, including a new roof. She is concerned that no one will be around to care for the planter boxes, and landscaping requested. The prior bar at the site was problematic. It generated constant Sheriff's calls. She received many requests to allow another bar. However she believes the community facility is an appropriate use. Upkeep is a problem, in the neighborhood. There was a murder across the street, in the last year. The electrical system was vandalized, resulting in \$13,000 thousand dollars in damage. Mr. Morrar is a good tenant. Ms. Duran told the Board she did not have funds for, extensive upgrades. She was surprised to hear about the planter box requirement. As the proposed use will not be a money making operation. Had she replaced the use with another bar, a use permit would not have been necessary. The building has been painted, and re-roofed. She is unsure planters are appropriate, but is willing to work with Alameda County Redevelopment.

Mr. Richard Hancocks took extreme issue with the staff position, the Specific Plan is silent. Specific Plans are written in generalities. The Specific Plan relies heavily on illustrated examples of what is expected. The examples are all retail stores. This is reflective of the goal to revitalize the area within the Ashland Cherryland Specific Plan. The land use designation, FA (Freeway Access) District is unique to the Specific Plan area. It supersedes the Zoning Ordinance. The Specific Plan is not silent as to conditional or permitted uses. It does state: residential development, fast food drive-in, gas use, etc. is allowed, as a conditioned use. It is clear the Specific Plan does not list, community facility. The description of community facility is more of a, public facility. However the use described by the Applicant is a, community club. The community club use is listed in the R (Residential) and the C-1 (Commercial) Districts. The Specific Plan is quite clear about the specified use pattern in this area, retail. There are two conditionally permitted uses, no others. The Specific Plan is not silent as to what is permitted in the FA District. Staff responded the illustrative examples listed do not constitute an exhaustive list of allowed uses. If that were the case many of the existing business in the community would not be allowed, in the District. The recently adopted Eden Plan has a housing overlay, as a secondary use. Housing as a secondary use is allowed within the Zoning Ordinance is high density. A



commercial facility use is permitted as a conditional use within the RS and RD high density areas. Member Spalding said all can probably agree that a community facility is allowed within high density. However the FA designation allows for large scale general commercial uses, benefiting from freeway access and exposure. The Applicant says the facility will target a specific community, and the general public. Regarding, the list of allowed uses, drug store, home improvement, hardware, auto sales, plant nursery, and fast food are noted. Mr. Hancocks said in no disrespect to the Applicant. This type of activity is always encouraged in the community. However the purpose of the Specific Plan is to revitalize the business corridor, for business uses. There are many Specific Plans on the books. They are structured to rely on illustrative examples, whereas the Zoning Ordinance lists specific businesses. The Specific Plan intent is to give the reader an expectation of the pattern of businesses activity, within the area. Member Spalding asked if he believed any community facility, open to the public is allowed in this area. Mr. Hancocks responded, no. All non-retail or non-commercial activity would not be allowed. Member Spalding asked based on that premise why a church would be allowed. Mr. Hancocks clarified the Applicant embraces all members of the community who want to participate. However a community facility as defined by the Zoning Ordinance is allowed in all Districts. This is the differentiation. What the present application is describing, is a community club, under the County definition. Staff read the definition of *community facility*: church, rectory, convent, school, nursery school, library, college university nursery school, outdoor recreation facility, public utility building, or newspaper carrier distribution center. A *community club house* is also allowed as a conditional use in a C-1 District. Mr. Hancocks pointed out the District is FA. Staff responded if the Specific Plan is silent, the Zoning Ordinance is then referenced. The closest District to the location is a C-1 District. The use is allowed, with the granting of a use permit. Mr. Hancocks said ultimately the Board would determine if indeed the Specific Plan is silent.

Mr. Matt Weber from Alameda County Redevelopment was in support of the staff recommendation. He has worked with the tenant for a year, to find suitable space. The tenant's other business (Sports Plus) at the same location, has had no incidents. The location has been vacant for several years, prior to that the Sheriff was called frequently. The community center can be a cap stone for the community, and involve the community at large. Redevelopment has talked with the owner about a façade improvement grant. Vacant space can make an area stale, if it remains vacant too long. The Board asked the following questions:

- Will grant status be hampered by State Budget issues
- Would the property owner, or the tenant enter into a grant agreement
- Will Public Works be adding further improvements

Mr. Weber explained a tenant or property owner can submit the façade improvement application/agreement. This may include signage, plants, and frontage improvements. Applications must include the property owner's signature. If the proposed use requires a use permit, approval must be obtained prior to submission. The Applicant works with an architect contracted by Redevelopment to develop plans. Staff confirmed, landscape plans would then be reviewed and approved by Planning. Mr. Weber told the Board, Lewelling Boulevard improvements are slated in 5 years. Public Works may add further frontage improvements, at that time. Some grants require a deposit, which is returned at completion. At this juncture there has been discussion of taking Redevelopment funds. However there this has not gone into effect. The project would not be hampered by this.

Mr. Ashraf Morrar is in support of the application. He is a friend of the family. He grew up in San Leandro. He remembered taking part in Key Club, during High School. He harkened back to the work they did in the community. The center can be a service mechanism. This is a good opportunity to engage youth, and assist in the transition from High School to adulthood. This will help kids see, they are a part

of a community as a whole. He has taken a few classes at the San Leandro Community Center, Yoga and Salsa Dancing. The center will offer classes to the community, in a similar model. The center will help people engage on a community level. He urged the Board to approve the project.

Mr. Jamil Abu-Hamdeh lives in Walnut Creek. He was excited to hear about the center from Monir. He helped design the interior of the facility. Family, grandchildren, and friends are excited about after-school class offerings in Arabic language, art and dancing. He requested the Board approve the permit. He is not a member of the committee now, but may be in the future. Member Spalding asked if the organization was official, or a group of people. Mr. Hamdeh explained, currently a group of individuals discussing details of the project, and seeking a location. Once the permit is obtained, the process will move forward. The committee Director, Mr. Morrar will then file to establish the non-profit.

Mr. Hassan Sharif told the Board he was one of the committee members. Mr. Sharif, as well other members are experienced in building centers for the community. There is an Arab Cultural Center in San Francisco. There is also a State, National, and Federal non-profit Association. The community would like to have a place to coalesce, in the East Bay. A proper location had to be identified. Mr. Morrar is long time participant on the Arab American community scene. The committee members wanted to ensure a facility could be provided, and the permit process was complete. The process takes a lot of energy, based on experience participating with other national boards and committees. The Arab community at large wants to build bridges. One is to give youth born here, a flavor of the culture. The other is to the community at large, to dispel myths about Arab culture. The committee will create an East Bay, non-profit. He appreciates the commitment from the Redevelopment Agency. If the center needs funds, they will be raised through personal donations. He knows the neighborhood is not the best. However if life is injected into the neighborhood, the character of the neighborhood will change. The proposed Hours of Operation are from 8 a.m. to 8 p.m. Children will not be there late. They will be careful. The center is there for community service. They take pride in what they endeavor. Once approval is obtained, the committee will move forward. Member Spalding said proof of non-profit status, and names of committee members will be required. Mr. Hassan said once the committee is informed of the full requirements, they will be met. Counsel clarified the use will be dictated by Conditions set in the Board's approval. Conditions can be added to address landscaping, also the non-profit status of the operator, if the use is subject to that requirement. The operator will then be subject to terms set.

The property owner, Ms. Duran did not understand the façade improvement requirement. The use will not be a money making venture. Ms. Duran has worked with Redevelopment for a year, to determine the best use. The proposed community facility use is best way to maintain the site. It should also eliminate Sheriff's response calls. The Chair explained the Façade Improvement Program consists of a grant. Ms. Duran questioned what will happen if the grant does not materialize. She did not have the funds to improve the site, at the present time. She asked the Board the parameters of her responsibility. For example landscape installation, and watering.

Mr. Matt Weber of Alameda County Redevelopment clarified the Façade Improvement Program includes funds for exterior improvement. This can include sidewalks, signage and landscaping. Redevelopment proposes to include landscaping and signage, in the improvement plan. The Chair pointed out the tenant confirmed he would care for the plants, during testimony. Mr. Weber confirmed he has been in discussions with the tenant throughout the entire development proposal, which includes landscaping and signage.

Member Spalding pointed out, Conditions of Approval are important as the Applicant is interested in approving the property. The Property Owner seemed apprehensive at first, but seems to have come

around. Public testimony was closed.

Member Peixoto was concerned, if the Specific Plan allowed issuance of a CUP for this use. Staff again explained when the Specific Plan is silent you then refer to the Zoning Ordinance. The Specific Plan gives some examples of what is allowed, but does not list all possibilities. However the Specific Plan does state outright, uses that are not allowed. The parking area does include the spaces by the Jack in the Box. They require 27 spaces which are delineated by the planted area.

**Member Spalding motioned to uphold the staff recommendation of approval, as stated in Tentative Findings and Conditions of Approval, in addition to the following modifications:**

Tentative Finding #4, shall add the word, *Zoning Ordinance*.

Condition #1, the word maintained shall be replaced with the word *retained*.

Condition #2, shall add the following language, *The Applicant is responsible for maintaining the premises and the area immediately adjacent to the Community Facility parking spaces, in a clean, trash and graffiti free manner.*

A further Condition shall be added: *Proof and evidence of filing submission to the California Secretary of State for non-profit status confirming the Operator, must be submitted to the Planning Director within 90 days of approval.*

A further Condition shall be added: *Occupancy of the Community Facility cannot exceed 120 persons at any one time. If an increase in occupancy is proposed, a new Conditional Use Permit is required.*

A further Condition shall be added: *An Administrative Conditional Use Permit issued by the Planning Department is required prior to all special events.*

**Member Peixoto seconded the motion. The motion to approve, Conditional Use Permit, PLN-2010-00213, Arab American Community Center, passed 3/0.**

**APPROVAL OF MINUTES:** Member Peixoto motioned to accept the Minutes of January 26, 2011 as submitted. Member Spalding seconded the motion. The motion carried 3/0.

**STAFF COMMENTS & CORRESPONDENCE:** The appeal of the Board of Zoning Adjustment's denial decision regarding, Variance, V-12114 Nazareth was overturned by the Alameda County Board of Supervisor's. However the Applicant will now be required to comply with more stringent Conditions of Approval.

**BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:** Member Spalding asked if any recent decisions of the Board of Zoning Adjustments had been appealed to the Board of Supervisor's. Staff confirmed there were none.

Member Peixoto spoke with Supervisor Miley's Office. The Board of Supervisor's will appoint someone to fill the West County Board of Zoning Adjustments vacancy by March.

Member Spalding asked if there was a formal process to expedite Code Enforcement appeals to the next immediate, Board of Supervisor's Agenda. A formalized process will prevent the community from being exposed to blight, for an extended period of time. Staff responded, although a formal process does not

exist. Every effort is made to schedule appeals, as soon as possible.

**ADJOURNMENT:** There being no further business, the hearing adjourned at 9: 20 p.m.

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**ALBERT LOPEZ - SECRETARY**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**