

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

**REGULAR MEETING: 1:30 p.m.**

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

**MEMBERS EXCUSED:** None.

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

There were approximately 8 people in the audience.

**CALL TO ORDER:** The meeting was called to order by the Chair at 1:30 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:**

1. **Robert J. & Kristen M. Wright III, James Avenue, Castro Valley CA 94546**  
In violation of Alameda County Ordinances 6.65.030 A (1), A (3), A (8), A (9), A (10), B (6), E (1), 17.52.330 Yard Regulations and 17.30.150 RV Regulations
  1. Accumulation of miscellaneous items, garbage, debris, tires and bricks; 2) Dead vegetation; 3) Inoperative vehicles stored on the property; 4) Camper shell(s) and boats stored on the property.

The Vice Chair motioned to uphold the staff recommendation, declare the property a public nuisance and require abatement in 10 days. Member Peixoto seconded the motion. Motion carried 3/0. Member Spalding had not yet arrived, therefore she did not participate in the vote.

**Alcoholic Beverage Sale Regulations Administrative Hearing:**

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

**CONSENT CALENDAR:**

1. **FRED PRICE / EL SHADDI MINISTRIES, CONDITIONAL USE PERMIT, C-8762, PLN-2009-00037, VARIANCE, PLN-2008-00020** – Conditional Use Permit Application to allow continued operation of a church, formerly (Second Chance Christian Church) and a Variance Application to allow 18 on-site parking spaces where 46 on-site parking spaces are required in a R-C

ABCD (Residential Commercial, Ashland Cherryland Business Specific Plan) District, located at 565 East Lewelling Boulevard, south west side, corner southwest of Wickman Court, unincorporated San Lorenzo, area of Alameda County, designated Assessor's Parcel Numbers: 413-0031-053-00, 413-0031-054-00 and a portion of 413-0031-010-03. (Continued from November 12, 2008 and January 28, February 25 and May 27, June 10, July 8, September 23, October 28 and December 16, 2009; and April 14, August 25, November 10 and December 15, 2010; and January 26, 2011; to be continued to March 9, 2011). **Staff Planner: Richard Tarbell.**

2. **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 and February 9, 2011; to be continued to March 9, 2011).
3. **T MOBILE USA / ANA GOMEZ, CONDITIONAL USE PERMIT, PLN-2009-00142** – Application to allow installation of a telecommunications facility including one 65 foot high mono-pine (artificial tree), in an R-S-D-25 (Residential-Suburban, 2,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at the southeast corner at the intersection of Nielsen and Grant Avenues (no street number) in the unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 411-0030-001-05. **Staff Planner: Andy Young.** (Continued from December 08, 2010 and January 26, 2011; to be continued to March 23, 2011).

Staff announced the application would be moved to the March 9, 2011 Agenda. The Applicant has submitted all outstanding paperwork.

4. **WU HUI, VARIANCE, PLN-2010-000176** - Application to maintain a two story accessory structure where one story is permitted, in a R-1-RV (Single Family Residence, Recreational Vehicle Parking Regulations) District, located at 16027 Gramercy Drive, southwest side approximately 200 feet south of Selborne Drive, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 080A-0170-011-00. **Staff Planner: Christine Greene.** (Continued from December 15, 2010 and January 26, 2011; to be continued to March 23, 2011).

**Member Peixoto motioned to accept the Consent Calendar** with a modification to Item #3, PLN 2010-00142 T-Mobile, Ana Gomez. **The Vice Chair seconded the motion. The motion carried 3/0.** Member Spalding had not yet arrived, therefore she did not participate in the vote.

#### REGULAR CALENDAR

1. **PO HEI CHAN, SITE DEVELOPMENT REVIEW, PLN-2009-00111** – Application to allow conversion of a one car garage to habitable space, in an R-1

(Single Family Residence) District, located at 15750 Via Corta, east side, approximately 300 feet north of Via Pacheco, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 412-0017-106-00. **Staff Planner: Shahreen Basunia.** (Continued from January 12, 2011).

Staff recommended approval of the application. The estimated additional storage needed is a 6 by 6 foot storage shed. This in addition to the existing space at the rear of the structure will satisfy the 800 cubic feet required. Initial Board questions were as follows:

- Is the existing laundry room open to the family room
- Is the family room accessible from the interior, or accessed from the exterior of the home
- Are there windows located on the exterior walls

Staff confirmed the family room area is not accessible from the exterior. It is accessed from the interior, of the existing home. The laundry room is open to the living room area. The exterior wall of the garage does not have windows, as required. The Applicant is present, and can provide further information. Public testimony was opened.

The Applicant, Mr. Po Hei Chan was present. He would like to convert the garage into habitable space to provide more space for the 3 women in the family. One room will be used for his daughter, one for himself, and one as an office. Mr. Chan would like to have more children soon. The conversion will provide more space. There are two steps that go down into the laundry room, separating it from the living room. There is no doorway however there is plexus glass section between the living room and family room. Mr. Chan has identified a 10 by 10 by 10 foot storage shed at Home Depot. The Chair asked Mr. Chan if he confirmed the shed would comply with San Lorenzo Village Homes Association rules. Mr. Chan confirmed with the HOA, the shed can be added at the rear of the site. Public testimony was closed.

**Member Peixoto motioned to uphold the staff recommendation of approval. The Vice Chair seconded the motion. The motion to approve, Site Development Review, PLN-2009-00111 carried 3/0.** Member Spalding had not yet arrived, therefore she did not participate in the vote.

2. **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.**

Staff reviewed the application, and recommended approval. The Chair asked why the Building Department had no objection to the project. However recommended submitted plans, be rejected. Staff clarified, the project does not meet the threshold for adherence to impervious surface requirements. Further impervious surface will not be added. Therefore, the regulations would not apply. Public testimony was opened.

Mr. Kevin Connell was present representing the church. Board questions were as follows:

- Has the Applicant read the staff report

- Is this project a Site Development Review
- Will the building footprint be expanded
- Will all site modification take place on the building interior
- Is there a handicapped accessible zone in front of the site
- Has the Applicant changed since the last permit
- Why are the plants recommended adaptable to Mediterranean conditions
- Do Design Guidelines currently in discussion apply to this project

Mr. Connell confirmed he read the staff report. He is in agreement with Conditions of Approval. The church continuously tries to maintain landscaping, and keep the site graffiti free. The barbed wire fence was removed, today. Staff explained the application is a Conditional Use Permit. The project is an expansion, renovation. They are adding to the footprint, but not capacity. The addition will be used as administrative space. Public testimony was closed.

The original Use Permit from 1962 did not have an expiration date. The Applicant is now making a change to the original permit. It has not been determined if the operator has changed, over time. Staff displayed color renderings of the slated interior and exterior changes. There are 2 handicapped accessible parking spaces at the rear of-site. An additional accessible space is located front, street side. A new Ordinance went into effect January 2011. It was developed by the Alameda County Waste Management Authority. *Bay-Friendly Landscape Guidelines, Sustainable Practices for the Landscape Professional*. These Guidelines are incorporated into the project. The Design Guidelines for unincorporated County are not referenced for this project. They are due to be complete, later in the year. Member Spalding thought a further Condition of Approval, was appropriate. The Applicant must notify the Planning Director 60 days prior to a change in ownership and/or operator.

**Member Peixoto motioned to accept the staff recommendation of approval with the following modification.** A new Condition of Approval will be added (#6). The Applicant must notify the Planning Director 60 days prior to a change in ownership and/or operator. **Member Spalding seconded the motion** based on Exhibit "B". **The motion to approve, PLN-2010-00074 South Congregation Jehovah's Witness, San Leandro passed 4/0.**

3. **OROMO CHRIST EVANGELICAL LUTHERAN 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.**

Staff reviewed the application. The recommendation was approval with the following modifications: Condition #3 shall now include the word, graffiti. Condition #5 shall now require the Applicant to renew and finalize old building permits for the modular building, within 60 days. Condition #6 requires that a mandatory review of the permit be conducted, at the end of 10 years. The San Lorenzo Village Home Owners Association submitted a letter. They have no objection to the continuing operation. The Chair asked if the modular building was used as a living quarter. Staff confirmed it was not. Public testimony was opened.

Gouta Yadeta has been the Pastor since 2007. He discovered the permit was expired upon receiving a letter from the County. The congregation has not expanded, since the ministry was started. Board questions for the Applicant were as follows:

- Has the Applicant read the Conditions of Approval, especially #4 regarding landscaping
- Is the church the owner of the property, or the tenant
- When was the modular unit installed at the site
- Are there plans to improve to the parking lot
- Are there plans to re-roof the chapel building on the site
- When does the use permit for the cell tower (tree pole) expire

Pastor Yadeta confirmed the church owns the building. The facility is leased one day a week to a Hispanic Church Ministry. The facility is donated one day a week for an, Alcoholics Anonymous sobriety meeting. There are no current plans to re-roof the chapel, auxiliary buildings, or upgrade parking lot. This is all slated for a 2012 upgrade. The Pastor then reviewed the Conditions of Approval. The church will be able to water, year round. Maintaining, weeded, living grass. The modular building was placed by the prior owners. It is used as a food pantry. The prior church took out a building permit, however never obtained final electrical approval. Pastor Yadeta will obtain all required permits. The use permit for the telecom facility (tree pole) will expire in 6 years. The Board asked the Applicant to consider an upgraded tree pole at the time of renewal, as designs have improved. Public testimony was closed.

After Board discussion, **Member Spalding motioned to uphold the staff recommendation of approval with the following modifications:**

Condition #3, Site maintenance shall include the trimming and removing dead tree branches, and painting the premises.

Condition #5, The Applicant shall initiate all necessary applications with the Building Department to obtain permits for the modular building, within 60 days of use permit approval.

Condition #6, Shall also require permit review in the period of 1 year from the date of approval, and in 10 years. This will allow staff to ensure all appropriate permits have been obtained, and Conditions are in compliance.

A new Condition shall be added requiring, notification to the Planning Director 60 days prior to a change in the ownership and/or the operator of the facility. This action will activate a review of the use permit.

**The Vice Chair seconded the motion. The motion to approve, Conditional Use Permit, PLN-2010-00162, Sierra Pacific Synod Evangelical Lutheran Church passed 4/0.**

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.**

Staff recommended approval with the following modifications. Condition of Approval #2, The Hours of Operation shall now be 8 a.m. to 10 p.m., 7 days per week. Condition of Approval #4 shall add the word graffiti. Condition of Approval #5, shall require the fence to be repaired within 30 days. The staff report

regarding parking calculations based on occupancy load shall now state, 7 square feet per person. Initial Board questions were as follows:

- Does the definition of a *conference hall* more closely match the use, as opposed to *club house*
- Who is the property owner
- Has the Applicant changed the last CUP was filed
- What is the scope of proposed Redevelopment Agency improvements, how will they impact the project
- Given the current State budget climate, what is the potential impact on Redevelopment projects on this site, and the immediate area
- What improvements are proposed for the rear of the site, i.e. landscaping, additional seating, and further amenities
- Will old signage be removed from the site
- Is the front suite of the property occupied
- Are there other potential tenants for the shopping center, if so how will this use impact them

Staff explained the use meets the definition of a *Community Club House*, in the Zoning Ordinance. A Clubhouse containing facilities for neighborhood civic or social activities, operated by and for residents in the vicinity..... The property owner is Tam Nguyen. Debra Grim is the representative of Alcoholics Anonymous, Hayward Fellowship. The Applicant has not changed since the first permit. Staff did not have further information beyond the original referral from the Redevelopment Agency. It does appear the front of the site, is vacant. Regarding signage, staff will verify if the Specific Plan requires sign removal. Board Members voiced concern over the extent of possible Redevelopment Agency participation. The original referral was submitted in November, 2010. The only comment was no objection as long as the Applicant is not in violation, of the existing permit. If the site is within a Redevelopment Zone to soon be upgraded, the scale of that upgrade should be taken into account. The possibility of improvements being cancelled is an important factor. The rear of the site is mostly asphalt. Given Alcoholics Anonymous use as a club house, the use should be up-graded making it more amenable. There may be a way to partner with the tenant. These are important related questions because they support, Tentative Finding #2: Will the use be properly related to other land uses and transportation and service facilities in the vicinity. Improvements may affect other businesses at the site, and/or uses in the area. Public testimony was opened. There were no requests to speak. Public testimony was closed.

Board Members suggested a continuance was in order to speak with the Applicant, and the Redevelopment Agency.

**Member Peixoto motioned to continue the application to the March 23, 2011 Board of Zoning Adjustments Hearing.** The Applicant shall be present to speak with the Board. A representative from the Redevelopment Agency shall also be present. Staff will update the staff report with ordinance requirements, regarding signage.

**Member Spalding seconded the motion. The motion to continue PLN-2010-00170, Hayward Fellowship to the March 23, 2011 Hearing, passed 4/0.**

**APPROVAL OF MINUTES:** Member Peixoto motioned to accept the Minutes of February 9, 2011 with submitted corrections. Member Spalding seconded the motion. The motion carried 3/0. The Vice Chair was not present at the February 9, 2011 Hearing. Therefore she did not participate in the vote.

**STAFF COMMENTS & CORRESPONDENCE:** The West County Board of Zoning Adjustments decision to uphold the Code Enforcement staff recommendation; declaration of public nuisance regarding the property on Picea Court, was appealed to the Board of Supervisor's. BZA Members asked if the appeal was submitted within the required time period. County Counsel said the matter was currently being reviewed by his office. Abatement options removal and/or fines and fees in the event the nuisance is not brought into compliance, are also under review. Member Spalding believed the cargo container was a safety hazard, due to the location. Staff will have the Director of Code Enforcement follow-up at the next hearing.

The West County Board of Zoning Adjustments decision to uphold the staff recommendation of approval, PLN-2010-00213, Arab American Community Center was appealed to the Board of Supervisor's. A member of the community did not believe the use was allowed in the FA (Freeway Access) Zoning District.

**BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:** The Chair asked the status of Item #3 on the Consent Calendar, PLN-2009-00142 T-Mobile USA. Staff informed the Board, revised plans have been submitted. They are under review. The application will be placed on the March 23, 2011 Agenda.

The Chair asked if the Board of Supervisor's modified the height of the telecom facility, PLN-2010-00129- T-Mobile during the appeal process. Staff confirmed they did not.

**ADJOURNMENT:** There being no further business, the hearing adjourned at 3:07 p.m.

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