

**MINUTES OF MEETING**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**FEBRUARY 25, 2009**  
**(APPROVED ON MARCH 11, 2009)**

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

**MEMBERS PRESENT:** Vice Chair, Kathy Gil; Members, Jewell Spalding and Ineda Adesanya.

**MEMBERS EXCUSED:** Chair, Dawn Clark-Montenegro.

**OTHERS PRESENT:** Phil Sawrey-Kubicek, Senior Planner; County Counsel, Andrea Weddle; Yvonne Bea Grundy, Recording Secretary.

There were no members of the public in the audience.

**CALL TO ORDER:** The meeting was called to order by the Chair at 1:35 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. Efrain and Carmen Zavala, 2648 Grove Way, Castro Valley, CA 94546**  
In violation of Alameda County Ordinance 6.65.030 A(1), G(1) and M(1).
  1. Debris and miscellaneous items in the front yard.
  2. Front wall in disrepair.

Member Spalding motioned to uphold the staff recommendation. Declare the property a public nuisance, require abatement to be completed within 10 days. Member Adesanya seconded the motion. Motion carried 3/0. The Chair did not participate in the vote, as she was not present at the Hearing.

- 2. Edwin and Sharon Fong, 18066 Via Rincon, San Lorenzo, CA 94580**  
In violation of Alameda County Ordinance 6.65.030 F(1) and M(1).
  1. An abandoned and unsecured house.

Member Spalding motioned to uphold the staff recommendation. Declare the property a public nuisance, require abatement to be completed within 10 days. Member Adesanya seconded the motion. Motion carried 3/0. The Chair did not participate in the vote, as she was not present at the Hearing.

- 3. Ma T. Stoica, 17462 Via Julia, San Lorenzo, CA 94580**  
In violation of the Alameda County Ordinance 6.65.030 A(1), D(1) and M(1).
  1. Garbage, trash, wood, debris and miscellaneous items in the side yard.
  2. Overgrown vegetation in the rear yard.

Member Spalding motioned to uphold the staff recommendation. Declare the property a public nuisance, require abatement to be completed within 10 days. Member Adesanya seconded the motion. Motion carried 3/0. The Chair did not participate in the vote, as she was not present at the Hearing.

- 4. Mahesh and Shilpa Gogri, 19510 Hesperian Blvd., Hayward, CA 94541**

In violation of the Alameda County Ordinance 6.65.030 D(1) and M(1).

1. Weeds in the parking lot and sidewalk.

Member Adesanya motioned to uphold the staff recommendation. Declare the property a public nuisance, require abatement to be completed within 10 days. Member Spalding seconded the motion. Motion carried 3/0. The Chair did not participate in the vote, as she was not present at the Hearing.

*Member Spalding requested the Chair allow Agenda Item #H, Board Comment in the presence of Code Enforcement. At the Chair's discretion, Board Comment was taken.*

**BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:** Member Spalding thought would be helpful for Code Enforcement staff to submit comments to the Planning Commission in response to the Housing Element Plan. In the course of upholding the Neighborhood Preservation Ordinance, Enforcement staff has invaluable info about homes in foreclosure, vacant, and/or abandoned properties. This data may be used in consideration of Housing Element needs for the community. Enforcement staff told the Board that the Planning staff was already participating in the Housing Element inventory process. Regarding Code Enforcement cases as the result of foreclosure, the number of homes is small in comparison to overall cases. Based on 2008 statistical data there were approximately 10 cases out of 2,000 complaints. Staff will review the memo distributed by the Planning Commission, and provide the BZA with further 2008 Code Enforcement data.

**CONSENT CALENDAR:**

1. **GUADALUPE LOZA/FRED FULCHER, CONDITIONAL USE PERMIT, C-8271**– Application to allow continued operation of a mobile outdoor business (Catering Truck), in a PD-ZU-1487 (Planned Development, 1487<sup>th</sup> Zoning Unit) District, located at 691 West A Street, north side, corner, northwest of Royal Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0432-0016-035-00. (Continued from February 11, April 14, April 28, May 26, July 14, September 8, October 13, 2004, March 23, June 22, October 12, December 14, 2005, March 22, May 24, September 13 and November 15, 2006, March 28, July 11, August 8 and September 12, 2007; January 9, April 23, August 28, September 24, October 8, December 10 and 17, 2008 and January 14, 2009; to be continued to March 11, 2009). **Staff Planner: Christine Greene.**
2. **ROBERT NAVARRO, CONDITIONAL USE PERMIT, C-8727** – Application to allow sales and installation of car audio, stereo systems and window tinting in a P-D (Planned Development) ZU-1487 (1487<sup>th</sup> Zoning Unit) District, located at 691 West A Street, north side, corner north west of Royal Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 432-0016-035-00. (Continued from August 27, October 8, December 10 and 17, 2008 and January 14, 2009; to be continued to March 11, 2009). **Staff Planner: Christine Greene.**

Member Spalding asked the status of the C-8271 and C-8727, also if Mr. Navarro was still pursuing the window tinting use at the site. Staff confirmed the property owner is the same. Each tenant is still pursuing the uses requested in submitted permits. Updated plans have been received. Applications, C-8271 and C-8727 will be heard on March 11, 2009.

3. **T-MOBILE / HARD, CONDITIONAL USE PERMIT, C-8734** – Application proposal to replace an existing 25 foot light pole with a new 35 foot pole with lights and four concealed antennas. A new equipment enclosure is also proposed to be located nearby. The subject parcel contains approximately 0.91 acres and is zoned R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, RV Parking) District, located at 18988 Lake Chabot Road, east side, north east of Keith Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1305-012-00. (Continued from July 9, September 10, November 5, 2008 and January 28, 2009; to be continued to March 11, 2009). **Staff Planner: Jeff Bonekemper.**
  
4. **CAMBRA / EL SHADDI MINISTRIES, CONDITIONAL USE PERMIT, C-8762, PLN-2008-00020** - Application to allow continued operation of a church, in a R-C ABCD (Residential Commercial, Ashland Cherryland Business) District Specific Plan, 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 and 413-0031-054-00. (Continued from November 12, 2008 and January 28, 2009; to be continued to April 8, 2009). **Staff Planner: Pat Anekayuwat.**

Member Adesanya asked staff for further information. Staff explained that the Applicant was allowed to use off site parking with past use permits. Thus far in the current permit process the Applicant has not been unable to provide documentation, parking on the adjacent site is permissible. County Counsel met with staff today to provide guidance. There is some indication there may be issue with title and easements with the adjacent property. The Applicant may want to reduce the usage size of the assembly area; or pursue a parking variance in conjunction with a use permit. The considerations are all fairly complex. Member Adesanya asked if a continuation action would allow a use without required parking. Counsel explained the site did provide parking however the right to use such parking may be in question. It is unsure of the possible outcome at this time. The church has been at the site for 20 years. The Applicant should be given a reasonable amount of time to provide documentation. Member Spalding noted that the specific Applicant for the past 20 years may be a relevant fact. Staff will conduct further research, and report back.

Member Spalding motioned to accept the Consent Calendar as proposed. Member Adesanya seconded the motion. Motion carried 3/0.

#### **REGULAR CALENDAR**

1. **MARTHA HERRERA, CONDITIONAL USE PERMIT, PLN-2009-00002** - Application to allow continued operation of a mobile outdoor business (taco truck) in an M-1 (Light Industrial), Ashland, Cherryland Redevelopment District, located at 22221 Hathaway Avenue, southwest side, approximately 400 feet, northwest of West "A" Street, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0077-018-04. **Staff Planner: Richard Tarbell.**

Staff recommended approval of the application. Public testimony was opened. There were no requests to speak or members of the public present. Public testimony was closed. Board questions for staff were as follows:

- Was the Applicant notified of the Hearing
- What Zoning Districts allow Mobile Restaurants
- Is the catering truck an operable vehicle
- Does the property owner operate the catering truck
- Does the property owner operate the standing restaurant at the site
- Does the Applicant operate additional catering trucks in the area
- What Conditions address upkeep of the site and maintenance along the site frontage

Staff confirmed the Applicant had been sent a notice of the hearing, and a staff report. The operation is not related to any other catering trucks in the area. The catering truck is an operable vehicle. Catering trucks are allowed in M-1 (Light Industrial), C-N (Neighborhood Commercial), and C-O (Administrative Office) Districts. The Applicant leases and operates the catering truck, and the standing restaurant on the site. The property owner runs the meat packing plant located on the site, but does not participate with the restaurant or catering truck business. The submitted use application requires the property owner's signature and that of a lessee, if applicable. The site has undergone frontage improvement. The meat packing plant was upgraded last year which may have resulted in some debris. Since completion the debris has been removed, and the site has remained neat. The site appears to be fairly well run. Litter is routinely removed, the landscaping is trimmed, and the grass is mowed. Big O Tires is one site removed from the subject parcel. Big O Tires has also installed some improvements. However there is a parcel containing a home in between the two sites. This may account for the inconsistent frontage along Hathaway Avenue.

Member Spalding pointed out that since the Applicant was not present, there was no opportunity to confirm who would be responsible for site up keep, including litter removal, and landscaping. Staff confirmed that Condition #9 addressed upkeep of the site. County Counsel suggested the nexus between property owner and lessee should follow reasonable proportionality. For example, is the mobile truck causing such an impact that the lessee should be responsible for landscaping as opposed to the property owner? That does not appear to be the case in this particular application. Member Spalding commented that the property owner was receiving benefit as the result of the business use therefore there is a clear nexus that requires certain property owner obligations. Member Adesanya said her perspective was the BZA's action did not bind the property owner in any way than stated in the application. Member Spalding believed the signature of the property owner, and the business operator on the permit application did create a clear nexus for responsibility of the business owner. In the past the BZA has required the installation of landscaping etc. by a lessee. Counsel said her interpretation was the requirement of the landowner's signature on a use application is evidence of their consent of the application. The landowner's signature is also a requirement of the Mobile Outdoor Business Ordinance.

Member Spalding agreed that the lessee should not maintain the portion of the site containing the meat packing facility. However the catering truck will be exposed to the public. The truck and the surrounding area should be maintained. Staff clarified the Health Department requires the catering truck be moved off site daily to remove waste, and undergo cleaning.

Member Adesanya also agreed that the catering truck should be maintained in good condition. The truck should also remain free of balloons, banners etc. Staff confirmed that Condition #6 prohibits the use of balloons, attention getting devices etc.

The Chair recommend the following language as a modification to Conditions of Approval: The catering truck must be maintained and kept in good physical appearance, and condition.

Member Adesanya motioned to approve Conditional Use Permit, PLN 2009-00002 subject to Conditions of Approval, including the following modification. Condition #6 shall include: The catering truck must be maintained and kept in good physical appearance, and condition. The truck should also remain free of balloons, banners etc. as stated in existing Conditions. Member Spalding seconded the motion. Motion carried 3/0.

**APPROVAL OF MINUTES:** Member Spalding motioned to accept the Minutes of January 28, 2009 with submitted corrections. Member Adesanya seconded the motion. Motion carried 3/0.

Member Spalding motioned to accept the Minutes of February 11, 2009 with submitted corrections. Member Adesanya seconded the motion. Motion carried 3/0.

**STAFF COMMENTS & CORRESPONDENCE:**

County Counsel announced that she had been promoted to a Senior Deputy position. A new staff person will be recruited to staff the Board of Zoning Adjustments. In the interim Eric Chambliss will be staff the BZA Meetings.

There is no Board of Supervisor's Meeting in the month of March. The next meeting will be April 14, 2009.

**BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:** At the Chair's discretion this section moved to the first portion of the Agenda.

**ADJOURNMENT:** There being no further business, the hearing adjourned at 2:50 p.m.

---

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