

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
MARCH 24, 2010
(APPROVED APRIL 14, 2010)**

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, Frank Peixoto and Ineda Adesanya.

MEMBERS EXCUSED: None.

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

There were approximately 2 people in the audience.

CALL TO ORDER: The meeting was called to order by the Chair at 1:35p.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 on the Neighborhood Preservation Ordinance Abatement Calendar.

CONSENT CALENDAR:

1. **T-MOBILE USA / CHRIS COONES, CONDITIONAL USE PERMT PLN-2009-00090** – Application to allow installation of a new antenna array on a 11 foot, 6 inch high extension to the top of a 100 foot high PG&E high voltage transmission tower, with ground equipment placed between the four tower legs, in a PD (Planned Development 1268th Zoning Unit) District, located at 18832 West Cavendish Place, north side, approximately 125 west of Troost Court, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085-1510-013-00. **Staff Planner: Richard Tarbell.** (Continued from December 16, 2009; and March 10, 2010 to be continued to April 28, 2010).

Member Peixoto motioned to accept the Consent Calendar as submitted. Member Spalding seconded the motion. Motion carried 5/0.

REGULAR CALENDAR

1. **PRIMERA IGLESIA BAUTISTA MARANATHA / JUAN GARCIA, CONDITIONAL USE PERMIT, C-8701** - Application to allow continued operation of a church in an R-S-D-35 (Suburban Residence, 3,500 square feet Minimum Building Site Area per Dwelling Unit and R-S-D-3 (Suburban Residence, 3,000 square feet Minimum Building Site Area per Dwelling Unit, located at 21625 Western Boulevard, west side, approximately 150 feet north west of Willow Avenue, in the unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0050-007-00. **Staff Planner: Christine Greene.**

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

- Have noise complaints been lodged against the use
- Have all prior Conditions of Approval been met
- Does the church own the home and property at 588 Willow Avenue

Staff told the Board the Applicant had met all Conditions of the prior permit with the exception of the parking lot improvements. Recent Stormwater requirements instituted by Clean Water are stringent. It has taken the Applicant additional time to comply. Outstanding issues have been resolved. A grading permit has now been issued. Conditions of Approval for the current permit require paving, and striping to be complete within 90 days of permit approval. There have been no complaints regarding noise. The church does own the property at 588 Willow Avenue, including the small home located on the property. Public testimony was opened.

Mr. Juan Garcia Junior is a Deacon, and Trustee of the congregation. He filed the original permit, and is overseeing the project. The address of the parking lot is 588 Willow Avenue. A lot of work has gone into the grading plan. The prior permit had to be revised. A corrected update has been submitted to the project Planner. Planning will coordinate with the Building Department to obtain final approval. Board questions for the Applicant were as follows:

- Has Mr. Garcia read the staff report
- What is the breakdown of the work to be completed
- What is the anticipated time frame to complete the concrete work
- What is the anticipated time frame to complete all landscaping
- Can additional landscaping be added
- How many parking spaces are currently available
- Will the parking area be re-stripped
- How will parishioners be directed from the parking area to the church facility
- Will the church area be enclosed with a fence

- What is the function of the house in relation to the church
- Will signage include the church name

Mr. Garcia briefly reviewed the staff report. He has not had a chance to read it thoroughly. The paving is approximately 80% percent of the project. Landscaping is 15%. Member Spalding reminded him, the requirement is landscaping be complete within 150 days. Mr. Garcia responded the issue that has delayed landscaping is installation of the curb cut. Concrete is to be poured the first week of April. Several different pours are required. A total of 220 yards of concrete should be poured by the first week of April, complete by the first week of May. All work is done by volunteers. Landscaping should be installed just after that. Mr. Garcia further explained the church is non-profit. He asked if an extension would be possible. The church anticipates obtaining sufficient funding within 90 days. The home is owned by the church. Some of the rooms are used for Bible Study, the remaining for furniture storage. An additional sign with the church name will be posted in front.

Mr. Garcia explained a church meeting will be held to let people know there is parking available on Willow Avenue upon completion of the lot. There are 5 existing parking spaces for visitors, or new members currently in existence. The church has an agreement with the School District that allows parking at the Cherryland Elementary School. The school has approval to access church parking if needed, as well. When parents drop kids off for school traffic on Willow Avenue backs up. One time Mr. Garcia witnessed a close call. A child almost got hit. The church will work with Planning on design parameters. He is open to any suggestions that will make the area safer. The church area will be enclosed in some manner from the parking lot. Currently there is a walk thorough. The drive through approach was designed with a curb because of the church. Staff told the Board there is also parking in the rear of the church. One additional space can be added.

Mr. Garcia said plans for landscaping have changed since the first submission. The plan has been modified to include the addition of sidewalks. Mr. Garcia did not object to additional landscaping. There is a 3 foot planter in the front of the church. However if too much is added, the result could be the loss of two parking spaces. This would have an impact because an accessible bathroom will be added to the church. A handicapped spot will be necessary. Member Spalding said a maximum of 4 parking spaces in the front of the church should accommodate further planting. The Planning Director can approve the final landscape plan. The Chair said the Applicant should also refer to the Cherryland Association recommendation for ideas. They believe greenery could be added to the left side of the church door. Staff confirmed the front area of the church would accommodate 4 spaces. The Zoning Ordinance requires that parking be provided on-site. Public testimony was closed.

The Chair asked staff if the BZA should designate signage, and require the parking lot to be re-stripped. Staff told the Board they can verify sign placement, size, and verbiage, in addition to location of parking spaces. Conditions of Approval can be expanded to include language that requires all parking spaces be clearly delineated. The Chair said Condition #6 should include: parking spaces on Western Boulevard shall also be delineated. A planting strip shall be added to the north side of the property.

Member Spalding thought the 3 year permit length was acceptable. However the Applicant may need additional time to comply with required Conditions. Four parking spaces should be marked in front of the building on Western Boulevard. Additional landscaping should also be added.

Member Peixoto motioned to uphold the staff recommendation of approval with the following modifications requested by Board Members. All Conditions of Approval must be implemented within 150 of permit approval. The permit will be in effect for a period of 3 years. The parking area along 588 Western Boulevard shall be re-stripped to provide four parking spaces. Additional landscaping shall be

added to the north side of the church façade, and door. Conditions #4, #5 and #7 shall add: The landscaping plan shall be approved by the Planning Director. Member Spalding asked that a further Condition be added: The property shall be kept in a neat, clean and trash free condition. Member Peixoto accepted the proposed modifications.

Member Adesanya seconded the motion. The motion to approve Conditional Use Permit, C-8701 Primera Iglesia Marantha carried 5/0.

2. **ANIL SINGH, CONDITIONAL USE PERMIT, C-8737, PLN-2010-00020 -** Application to allow the expansion of an auto parts and service facility not to include engine, transmission, or differential rebuilding or body repair in the CN (Commercial Neighborhood) District, located at 19592 Center Street, east side, corner of Edwards Lane, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-1062-024-00. **Staff Planner: Shahreen Basunia.**

The staff reviewed the history of the application. A prior proposal that included a canopy, cargo container and expansion of the business was originally submitted in 2008. Unfortunately the former Applicant, the father of Mr. Singh, has passed away. The canopy and cargo container have been removed from the property. The current application, PLN-2010-00020 was heard by the Castro Valley Municipal Advisory Committee on March 8, 2010. The recommendation was approval. Minutes from the CVMAC were distributed to the Board. Initial Board questions were as follows:

- Does initial noticing as an "expansion" cause any conflict
- How many times was the application heard by the CVMAC
- What were the CVMAC recommendations regarding the number of vehicles allowed
- Will a fence be installed at the site
- Does the Applicant propose to add further landscaping
- What precipitated the Conditional Use application
- What type of uses are allowed at the site
- When did the last permit elapse
- What is the cost of a use permit application
- Was the Applicant in compliance with all prior Conditions of Approval
- Was the use permit ever considered for revocation
- Are there any outstanding Code Enforcement violations at the site

Staff explained the application was heard by CVMAC in 2008 in several iterations. The application heard this March does include a request for tandem auto storage parking, the request for a canopy and storage container have been dropped. The CVMAC supported the expansion proposal, as well as the continued

operation now proposed. They did not suggest a permit review during the 5 year permit length. The current project scope has less of an impact compared to the original. As that is the case, noticing is acceptable. The current proposal is now limited to continued operation. Light uses such as oil changes and smog tests are allowed. Heavy uses such as engine and differential re-building are not allowed. There is a fence in existence. The Applicant proposes a 3 foot landscape buffer. Plant types will be specified in the landscape plan. The fee for a use permit application is \$1,500 dollars which the Applicant is responsible for. The prior permit expired in 2001. Aerial photos of the site were taken in 2006. There was a revocation recommendation three years into a five year permit because it was thought there was an expansion of the business. The Applicant was given approval to operate an auto parts and service facility, not to include engine, transmission or differential repair. That case is closed. There are no current Code Enforcement violations at the site. In March of 2008 the outstanding violation of un-installed landscaping was brought into compliance. A fine was paid. The canopy was no longer an issue because it was removed from the site. Regarding expired use permits, typically the Code Enforcement goal is to get the person to file for a use permit. That was the outcome in this case. Ultimately if a business is in operation without permit, the BZA can make a recommendation to Code Enforcement. They would pursue fines and/or legal action. Public testimony was opened.

The Applicant, Mr. Anil Singh was present. His father originally submitted the application in 2008 with a request to retain a canopy, and a cargo container. Mr. Singh's father has passed away, now he has returned to the family business. Mr. Singh discovered the permits were no longer up to date. There were unresolved issues. He is now trying to get things organized. He requested the Board not levy fines so he may use the funds to hire a landscape architect. Board questions for the Applicant were as follows:

- Has the Applicant read the Conditions of Approval
- How many people are employed at the shop
- How many vehicles are stored at the site
- Are disabled vehicles stored at the site
- Are there any personal or employee vehicles stored at the site
- Is parking delineated

Mr. Singh confirmed he had read the staff report. Staff added that Conditions of Approval require submission of plans within 45 days of approval, with 60 days to implement. Mr. Singh believed he could comply with submission outlines. There are two employees at the shop, Mr. Singh and a mechanic. He gets 6 to 8 cars/customers per day. Two cars can be stored inside of the shop. Typically customers drop off their card for service, and return later. If the vehicle is older, it may take time to get parts. There are 2 personal vehicles stored at the site. They are disabled, and belong to his brother. Currently there is no delineation of parking spaces. Public testimony was closed.

Further Board questions were as follows:

- What is the average width of a parking space
- How did CVMAC calculate the on-site vehicle parking allowance
- Is tandem parking allowed at the site

- Does the repair shop work on antique vehicles
- On average how long does it take to order out of stock parts
- How many other repair shops in Castro Valley work on European vehicles

Staff told the Board the Applicant's original request was to have up to 15 cars on-site. The CVMAC believed 6 cars were appropriate on the left of the site, along the fence. In the end a total allowance of 8 vehicles was determined. An average parking space is 9 feet wide. Regarding parking requirements and vehicle placement, parking spots are not designated in the public right of way. Using a site map, staff showed tandem parking is acceptable at the site. Public testimony was re-opened to ask further questions of the Applicant.

Using the site map Mr. Singh showed the north side of the property next to the apartment complex. This is where some of the vehicles would be parked. The shop does work on antique vehicles. European car parts take longer to get. If a standard part is not in stock, an order takes one or two days. A special order, typically takes 1 to 2 weeks. There is only one other shop in Castro Valley that works on European cars, Sal's Auto Repair. The Auto House repairs Japanese cars. Public testimony was closed.

Member Adesanya said the BZA's goal should mitigate the visual impact of multiple parked vehicles, and get the most efficient use of the site. Once landscaping is installed, 10 parked vehicles on the site should be reasonable.

Member Spalding thought overnight storage should be limited to the north side of the property. It does appear 10 cars would fit into that area. The fence at the site is 6 feet in height. However it is difficult to visualize landscape coverage since installation is not complete. Mature vegetation will have an unknown added impact.

The Vice Chair agreed rather than restrict vehicles to an exact daily maximum, visual mitigation should be the goal. The facility is used to repair cars. People usually don't object to cars, just vehicles parked badly. A landscape plan that focuses on fence height, location and plant types should create the desired goal.

The Chair agreed. Given there in a new owner working under staff oversight, the proper implementation of the landscape plan, and appropriate use of the site should take place. There have been no recent complaints about cars. Past complaints were about the canopy, which is no longer part of the application.

The Vice Chair motioned to uphold the staff recommendation of approval with the following modifications. The project description is as stated in the March 24, 2010 Staff Report shall be used:

To allow the continued operation of an auto repair service facility selling a variety of automotive parts and supplies which are installed and serviced on the site but does not include engine, transmission or differential re-building or body repair.

Condition #3 shall be modified: The words landscape along the north side of Center Street shall be replaced with *landscaping and fencing plan*. The Planning Director shall have final approval.

Condition #4 shall have the words, *Planning Director* added.

Condition #5 shall add the words, *of the Board of Zoning Adjustments action*. The Applicant

shall paint the exterior of the building.

Condition #6 shall be removed.

Condition #7 shall add the language, No structural additions shall be added. The words, at any given time shall be replaced with, *at all times* maintain landscaping, paint and upkeep of the building and property.

A new Condition shall be added: Condition #11 shall state: At the close of business, vehicles shall be parked in an orderly manner so as not to cause visual blight.

Member Adesanya seconded the motion. The motion to approve, Conditional Use Permit, C-8737 / PLN-2010-00020 passed 5/0.

APPROVAL OF MINUTES: Member Adesanya motioned to adopt the Minutes of January 27, 2010 with submitted corrections. The Vice Chair seconded the motion. Motion carried 5/0.

Member Peixoto motioned to adopt the Minutes of, February 10, 2010 with submitted corrections. The Vice Chair seconded the motion. Motion carried 5/0.

The Vice Chair motioned to adopt the Minutes of February 24, 2010 with submitted corrections. Member Adesanya seconded the motion. Motion carried 5/0.

Member Spalding motioned to adopt the Minutes of March 10, 2010 with submitted corrections. The Vice Chair seconded the motion. Motion carried 3/0. Members Adesanya and Peixoto were not present at the March 10, 2010 Hearing, therefore they did not participate in the vote.

STAFF COMMENTS & CORRESPONDENCE: Staff will invite a representative from Redevelopment and Economic Development to speak about current and future projects in the Ashland and Cherryland areas. The tentative date is the April 28, 2010.

Staff conducted preliminary research regarding the practice of staggering closing hours for local bars, mentioned by COMPRE. Information thus far, is the process is ineffective. People go from a bar that is closing to a bar that remains open. Staff will report back with further information. Member Peixoto said the concept of rotating hours for businesses has been around a long time. In the 1930's drugstores alternated late closing times on Sundays.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: Member Spalding asked staff where the dividing line for assignments to East and West County Board of Zoning Adjustments are drawn. Recently an item was heard by the East County BZA, although the project would also impact the West County. This was an example of how the designated hearing body may, or may not consider traffic patterns, and traffic access issues. Staff showed a map and explained applications located east of Palomares Road are heard by the East County BZA. Member Spalding pointed out the arbitrary line, split a neighborhood. In addition properties in the East County are larger, on average. As a result, notice may only be sent to a few surrounding properties. Staff responded application notices are sent to properties within 500 feet of a project. For applications that may interest a large number of people, items are also placed in the newspaper. Member Adesanya said the West County BZA can request they provide comment on applications of interest that impact the urban area, to the applicable hearing body. The recent application regarding the dog kennel was heard by the Castro Valley Municipal Advisory Committee. This gave

people a forum through which to be heard. The Chair said perhaps the West BZA could also provide referral comments regarding projects that have a major impact.

ADJOURNMENT: There being no further business, the hearing adjourned at 4:30 p.m.

ALBERT LOPEZ - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS