

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
MARCH 28, 2007
APPROVED APRIL 11, 2007**

REGULAR MEETING: 1:30 p.m.

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

MEMBERS EXCUSED: Lester Friedman.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner; Maria Palmeri, Recording Secretary

There were approximately 13 people in the audience.

CALL TO ORDER:

The meeting was called to order by the Chair at 1:30 p.m.

NEIGHBORHOOD PRESERVATION AND ZONING ORDINANCE ABATEMENT HEARINGS

1. **METROPOLITAN LIFE INSURANCE COMPANY, 15350 E 14TH STREET, SAN LEANDRO, CA 94578 – VIOLATION CODE 6.65.030** – Mattresses and debris on the property. Staff recommendation to declare the property a nuisance and abate in ten days.

Member Clark moved to declare the property a nuisance and abate the property in ten days. Vice Chair seconded. Member Spalding abstain. Motion carried 3/0, one abstain.

ANNOUNCEMENTS BY THE CHAIR: The Chair made no 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.

CONSENT CALENDAR:

1. **GUADALUPE LOZA/FRED FULCHER, CONDITIONAL USE PERMIT, C-8271**– Application to allow continued operation of a drive-in business (catering truck), in a PD-ZU-1487 (Planned Development, 1487th 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 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; to be continued to July 11, 2007).
2. **4000 AUTO WRECKERS, CONDITIONAL USE PERMIT, C-8419** – Application to allow continued operation of an auto dismantling yard, in an M-2-B-E (Heavy Industrial, 5 acre Minimum Building Site Area) District, located at 3810 Depot Road, south side, approximately 0.75 miles west of Clawiter Road, unincorporated Eden area of Alameda County, designated

Assessor's Parcel Number: 0439-0070-008-06. (Continued from April 12, May 10, August 9, August 27, October 11 and December 13, 2006) This property has now been annexed into the City of Hayward.

THIS APPLICATION HAS BEEN WITHDRAWN.

3. **KAREN CARTER, CONDITIONAL USE PERMIT, C-8551** – Application to allow the continued operation of a 15 bed residential care facility, in an R-S-SU (Suburban Residence, Secondary Unit) District, located at 237 Cherry Way, south side, approximately, 500 feet east of Meekland Avenue, unincorporated Cherryland Area of Alameda County, designated Assessor's Parcel Number: 429-0010-047-00. (Continued from February 28, 2007; to be continued to April 11, 2007)
4. **TERESITA LAGUNA, CONDITIONAL USE PERMIT, C-8555** – Application to allow the continued operation of a 22 bed Residential Care Facility, in an R-1 (Single Family Residence) District, located at 268 Lewelling Boulevard, south side, approximately 100 feet east of Tracy Street, , unincorporated, San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 413-0093-002-00. (Continued from January 24 and February 7, 2007; to be continued to April 25, 2007).
5. **JOSE OLIVAREY, CONDITIONAL USE PERMIT, C-8559** – Application to allow the continued operation of an indoor recreation facility in an ACBD-FA (Ashland Cherryland Business Districts Specific Plan) Freeway Access District, located at 20613 Mission Boulevard, southwest side, approximately 100 feet, northwest of Medford Avenue, unincorporated Cherryland Area of Alameda County, designated Assessor's Parcel Number: 414-0041-037-00. (Continued from February 28, 2007; to be continued to April 25, 2007).
6. **HARMAN MANAGEMENT CORP / DAN MUNDY, CONDITIONAL USE PERMIT, C-8569** - Application to allow the continued operation of a drive-in restaurant (Kentucky Fried Chicken), in a C-1 Retail Business District, located at 17630 Hesperian Boulevard, east side corner, northeast of Hacienda Avenue, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 412-0071-024-04. (Continued from March 14, 2007; to be continued to April 25, 2007).
7. **ARNOLDO HERNANDEZ / PETTIT, VARIANCE, V-11978 and SITE DEVELOPMENT REVIEW, S-2051**– Application to allow the conversion of an existing attached one car garage to living space and provision of two uncovered spaces in the rear, in an R-1-CSU-RV (Single Family Residential) District, located at 4421 Alma Avenue, south side, approximately, 770 feet west of Brickell Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-0820-014-00. (Continued from September 27 and November 8, 2006 and January 10, 2007; to be continued to June 27, 2007).
8. **PATRICK LOVE, VARIANCE, V-11982** – Application to allow a garage conversion with on-site parking in the side yard, in an R-1-SU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 3773 Cottage Court, north side, approximately, 284 feet west of Parsons Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1329-017-00. (Continued from April 12, May 24, July 12, July 26, September 27 and November 8, 2006 and January 10, 2007; to be continued to June 27, 2007).
9. **HHT ENGINEERING, VARIANCE, V-12003** – Application to allow subdivision of one site into three lots: 1) an 18 foot driveway where 20 feet is the minimum required; 2) a driveway, one foot from a building wall where 10 feet is required; and 3) an 11 foot rear yard where 20 feet

is required in an R-S-D-35 (Suburban Residence, 3,500 square foot, Minimum Building Site Area per Dwelling Unit Density) District, located at 134 Grove Way, northwest side, approximately, 150 feet southeast of Meekland Avenue, unincorporated Cherryland Area of Alameda County, designated Assessor's Parcel Number: 429-0032-030-00. (To be continued to May 23, 2007).

Vice Chair Peixoto stated that number one has been continued for a long time. Mr. Palmeri stated that he has gone by the establishment and that it is no longer occupied by the previous applicant. He asked that staff contact Zoning Enforcement to check on how many business are occupying the facility. Mr. Palmeri mentioned that it looks like there are a couple of taco wagons on the premises. The Board members asked that item 1 be continued to april 25 rather than July 11, 2007. Member Spalding motioned to accept the Consent Calendar with the confirmed amendment that applications #1, C-8271 be continued to April 25, 2007 instead of July 11, 2007. Member Clark seconded. Motion carried 4/0.

REGULAR CALENDAR

1. **RAYMOND WONG / RAJESHWAR SINGH – CONDITIONAL USE PERMIT, C-8492 and VARIANCE, V-11997** – Application to construct two new secondary dwelling units and retain the existing dwelling as the third unit providing a 12 foot wide driveway where 20 feet is required: a 16 foot rear yard where 20 feet are required; and 7,440 square feet of lot area where 7,500 square feet is required for a third unit in an R-2-B-E (Two Family Residence with a Minimum Building Site Area of 8,750 square feet) District, located at 16790 Los Banos Street in the unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080-0083-007-01. (Continued from July 12, 26, August 23, September 27, October 11, November 15 and December 13, 2006).

Staff presented the staff report. The applicant was not present. Staff stated that the applicant was contacted on March 15, 2007 but did not return the call. Member Spalding asked that page 3 under parking zoning ordinance in 1965 does not specify if it is on site or off site. She asked staff to note that the parking is on site. Vice Chair Peixoto motioned to continue item to April 11, 2007. Member Spalding seconded. Motion carried 4/0.

2. **RABIT NORZEI, CONDITIONAL USE PERMIT, C-8560** – Application to allow a retail store with alcohol sales, in an ACBD Specific Plan – FA (Ashland Cherryland Business District Specific Plan – Freeway Access) District, located at 20930 Mission Boulevard, northeast side, approximately 160 feet north of Saint James Court, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 414-0056-020-03.

Staff presented the staff report. Staff received a letter today for continuance of this item to April 25, 2007. Member Clark asked if the Sheriff's Office had any comments. Staff said there were no objections from the Sheriff's Office.

Mr. Alfredo Coria from Commpre stated that they submitted a letter to the Planning Department. Mr. Coria stated that they oppose this conditional use permit based on their investigation of the place. This community is already overburdened by other alcohol retail stores. There is also an investigation by ABC on their alcohol license. They are also out of compliance with the sign ordinance. The Chair asked if Mrs. Campisi wanted to speak on the item or wait until the next hearing. Mrs. Campisi chose to wait. Member Spalding asked that staff address Commpre's testimony of the license status and also sign ordinance for this establishment.

Vice Chair Peixoto moved to continue this item to April 25, 2007. Member Spalding seconded. Motion

carried 4/0.

3. **SACRED ORDER of CHERABRIM & SERAPHIM, CONDITIONAL USE PERMIT, C-8568** – Application to allow the operation of a church, in a C-1 (Retail Business) District, located at 676 Bockman Road, Unit E & F, south side, approximately, 50 feet east of Via Arriba, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 412-0085-006-03. (Continued from February 28, 2007).

Staff presented the staff report. The staff recommendation is for approval of the application. Vice Chair Peixoto mentioned that they had been located at this location for the last ten years and they had no permit. He recalls that they had another application for a restaurant at the same place. Vice Chair Peixoto asked that condition number 9 should say review in two or three years and expiration in five years.

Public testimony was opened. Mr. Tom Reed, owner of the property, stated that there was another application to a restaurant but was for another unit two years ago. He stated that at the last hearing there was an issue in regards to noise at this location, but it was another unit that was rented for a music store but they are no longer in business. He asked that the condition of having plans by a licensed architect be submitted be changed. He does not see any benefit on having a license architect to submit a plan for a large are with no rooms other than the restrooms. Member Clark asked if Music Depot was subletting the space from the church. Mr. Reed said no, they had their own unit. It was supposed to be a music store but there were some bands playing at unit D. Public testimony was closed.

Member Peixoto asked if they eliminated condition 6, the plans from a licensed architect, would that be okay since the number of parishioners has increased to 30. Staff said that was a condition of the Building Department. Member Spalding asked if there is a building permit on record for this building. The Chair asked if there is a building permit for this building. Phil said that there is not a building permit in the file. The Chair stated that normally the Building Department would determine the maximum number of people that can attend service.

Public testimony was opened. The Pastor, Mr. Ibidabo, stated that the maximum number of people they asked for is 30 people. They have been at the location for the last ten years. No problems with anyone. Members of the board stated that if the building department has the building permit then the applicant does not have to hire an architect. Public testimony was closed.

Member Spalding motioned to continue the item to May 9, 2007. Member Clark seconded. Motion carried 4/0.

4. **GURDIP SAHOTA, CONDITIONAL USE PERMIT, C-8573** – Application to allow liquor sales at Cherryland Grocery where beer and wine sales are already allowed in an R-S-D-35 (Suburban Residence, 3,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at 688 Blossom Way, north side corner, west of Western Boulevard, Unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0019-043-00. (Continued from March 14, 2007).

Staff presented the staff report. Staff recommended approval. Member Clark asked if they sell singles and 40s. The applicant was not present.

Mrs. Campisi, from the Cherryland Community Association, spoke against the application. She stated that there are 32 alcohol outlets in Cherryland. She also noted that the petition they have on file have signatures from out of the area, and she finds it hard to believe that people from Atherton would come to Cherryland to buy hard liquor.

Mr. Alfredo Coria stated that Commpre strongly opposes this permit at this location. There are two schools in close proximity to this location. A lot of the students walk home and pass by this establishment everyday. If they stop by this store to buy other items they will be exposed to advertisement and other alcohol items at this location. There are plenty of establishments with type 21 license in this area. There is no public need for another outlet. Member Spalding inquired about the statement on the staff report saying that this alcohol outlet complies with all policies of the zoning ordinance.

Kathy Gil, president of the Cherryland Community Association, spoke against the application and said that there are plenty of alcohol outlets in the vicinity of this store. There is no need to increase the number of outlets in this area. They already sell beer and wine and they should not be allowed to sell hard liquor.

The Chair stated that this item will need to be continued since the applicant is not present. He asked that staff be more precise when saying that the store complies with 8 of the policies for the zoning ordinance. What does that mean? What ordinance? Member Clark asked if there is any limitation to these outlets being close to a school. County staff stated the policy states 500 feet. The Chair wanted to know how the planner came to the finding of number one, that there is a public need when there are already so many in the area, specifically 32 outlets.

Member Spalding move to continue the item to May 9, 2007. Member Peixoto seconded. Motion carried 4/0.

5. **MARCO ANTONIO ARIAS, CONDITIONAL USE PERMIT, C-8576** – Application to allow sales of hard liquor in an existing tavern/restaurant (Los Molcajetes) in a C-1 (Retail Business) District, located at 22152 & 22154 Redwood Road, east side, approximately 550 north of Grove Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 416-0030-017-02.

Staff presented the staff report. Staff stated that MAC recommended approval of the conditional use permit.

Public testimony was opened. Mr. Edward Guerrero, representing the Arias family, stated that seven years ago he sold the business to the Arias family, and it has been a family restaurant for that long. There has not been any problems or complaints from the neighborhood. The only reason they want to upgrade their license is because they would like to serve margaritas. The business will have the same hours of operation. Nothing will change. He questioned the three year recommendation but will go along with staff's recommendation. Member Spalding asked if the applicant understood the conditions of approval in the staff report. Mr. Guerrero stated that he explained to the applicant the conditions of approval.

Mr. Alfredo Coria from Commpre spoke against the conditional use permit. He stated that this establishment is close to a church. The applicant stated that he is only changing to sell margaritas, but if the ownership of the restaurant changes what stops him from selling other type of hard liquor at the restaurant? Public testimony was closed.

Member Spalding wanted to know if there is a distinction made between selling hard liquor from a store and a restaurant. County Counsel stated that there is a distinction between on and off site sales. Member Spalding stated that there are quite a few outlets, i.e. Trader Joes, Chinese restaurant, grocery store, Town and Country Liquor, that sell alcohol. Chair Palmeri asked if there is a distinction in the policy on existing outlet and grandfathered situation. Member Spalding mentioned that if the Chinese restaurant asked to sell hard liquor how would that fit into the current policy. County Counsel stated that the board has the discretion to make decisions concerning the approval of these permits.

Member Peixoto moved to approve the permit. Member Spalding seconded. Chair Palmeri and Member Clark voted against. Motion denied 2/2. The board asked that this item be continued to May 9, 2007 for a full quorum.

6. **JOE TEIXEIRA, VARIANCE, V-12023, PARCEL MAP, PM-9237** – Application to subdivide one parcel containing 0.54 acres into three lots, and allow an eight foot, front yard setback from the proposed private street where 20 feet is required on one lot where the habitable areas of an existing residence will be retained, allow a 10 foot front yard setback from the street where 20 feet is required on a second lot proposed for new construction, and allow a 16 foot wide, private street where 20 feet is required, in a R-1-SU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 19448 Lake Chabot Road, east side, approximately 250 feet north of Barlow Drive, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 084B-0529-038-04. (Continued from October 25, December 13, 2006 and January 10, February 7 and March 14, 2007).

Staff presented the staff report. Staff recommended denial of the project. Discussion ensued between board members and county staff on consistency of conditions on various projects. Chair Palmeri asked county staff if tearing down or moving a building was a conditions that was normally applied to various projects. Staff stated that sometimes if a building is in bad conditions it is better to take it down and start over.

Public testimony was opened. Mr. Teixeira, the applicant, shared photos of other developments he has done in Alameda County. He stated that he does good work. He said the existing home on the site looks bad on the outside but it is a nice home on the inside. He has discussed the driveway with the fire department and they recommended that he put a sidewalk using a different color so that if need be they can drive over it. They were satisfied with a 12 foot driveway as long as the last home has fire sprinklers. Discussion ensued on what is the front of the house and sideyard.

The Chair asked what kind of improvements will the applicant do to the existing home. The applicant said that he will change the flat roof to a pitch roof, tear down the garage and put it behind the home, and refurbish the inside of the home. Member Spalding stated that she does not view flag lots attractive, but that it would be difficult to develop the parcel without the variances. Public testimony was closed.

Discussion ensued on flood control easements on the property. Member Spalding asked for explanation of MAC decision. Phil stated that the parcel map is approved by the Planning Director, but MAC recommended approval of the parcel map but not the variances. Discussion ensued on size of driveway and parking for residents and guests.

Member Spalding moved to approve application based on that the need for the two variances is not a special privilege because of the unique situation of the long narrow lot burdened by a storm drain easement on the second lot. That the granting of the variances will not be detrimental to the neighborhood, that staff in the past has clearly recommended approval of other setbacks as close to one foot and recommending that the Land Development condition of 2a be deleted. This motion is attached to exhibit b. Vice Chair Peixoto seconded subject to exhibit b on the parcel map. Motion passed 3/1. Member Clark opposed.

7. **FEDERICO RAMOS/NOOR WAIS, VARIANCE, V-12029** – Application to allow construction of four condominium units providing: 1) a 2-foot setback between driveway to dwelling wall, 2) no independent walkway where otherwise required, and 3) 10-feet between buildings where 20 feet is required located at 305 Willow Avenue, south side, east of Banyan Street, unincorporated Cherryland area of Alameda County, bearing County Assessor's Parcel

Numbers: 429-0059-041 and 429-0059-042. (Continued from March 14, 2007).

Staff requested a continuance of this item to April 11, 2007. The applicant has revised plans that would eliminate the need for one of the variances.

Member Clark moved. Member Peixoto seconded to continue this item to April 11, 2007. Motion passed 4/0.

STAFF COMMENTS & CORRESPONDENCE: Staff made no announcements.

CHAIR'S REPORT: . None.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: Members of the board asked county staff to have the Fire Department inspect the facilities asking for extension of conditional use permits. The board expressed concern with extension of permits when the initial Fire Department inspection of 60 days for fire clearance was never done. Phil stated that the Fire Department does not have the staff to make regular inspections.

ADJOURNMENT:

There being no further business, the hearing adjourned at 3:40 p.m.

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS