

MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
MAY 26, 2010
(APPROVED JUNE 23, 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: Jewell Spalding.

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

There were approximately 13 people 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. Recontrust Company, Ralston Way, Hayward, CA 94541**
In violation of the Alameda County Ordinance 6.65.030 A(1), A(8), A(9) and A(10).
 1. Overgrown weeds and vegetation.

Member Peixoto motioned to uphold the staff recommendation of approval, declare the property a public nuisance require abatement in 10 days. The Vice Chair seconded the motion. Motion carried 4/0.

- 2. Vanessa Rubio, Garrison Ave., Castro Valley CA 94546**
In violation of the Alameda County Ordinance 6.65.030 A(8), A(9) & A(10).
 1. Overgrown weeds and vegetation.

The Vice Chair motioned to uphold the staff recommendation of approval, declare the property a public nuisance require abatement in 10 days. Member Peixoto seconded the motion. Motion carried 4/0.

- 3. Tony and Teresa Goulart, Sunset Blvd., Hayward, CA 94541**
In violation of the Alameda County Ordinance 6.65.030 A(1) and B(6).
 1. Unlawful outdoor storage of household garbage, trash, miscellaneous items and debris.

The Vice Chair motioned to uphold the staff recommendation of approval, declare the property a public nuisance require abatement in 10 days. Member Adesanya seconded the motion. Motion carried 4/0.

CONSENT CALENDAR:

1. **T-MOBILE USA / CHRIS COONES, CONDITIONAL USE PERMIT 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 24 and April 28, 2010; to be continued to June 9, 2010).

The Vice Chair asked staff if the Applicant was still working with the HOA to resolve issues that were raised at the April 28, 2010 Hearing. Staff confirmed the Applicant was working with the HOA, and the Neighbor that testified in opposition. The application should return to the BZA on June 9, 2010.

Member Adesanya motioned to accept the Consent Calendar as presented. The Vice Chair seconded the motion. Motion carried 4/0.

REGULAR CALENDAR

1. **PAUL ESCOBAR, CONDITIONAL USE PERMIT, PLN-2009-00177** - Application to allow retention of an existing garage conversion in a rear unit, in an R-S-SU (Suburban Residence with Secondary Unit) District, located at 550 and 552 Cherry Way, north side, approximately 300 feet north east of Haviland Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0019-016-04. **Staff Planner: Jeff Bonekemper.** (Continued from April 14 and May 12, 2010).

Staff announced the Applicant requested a continuance due to a conflicting work schedule. The Chair asked if the original proposal had been re-designed. Staff confirmed a new floor plan had been submitted. It will be included in the upcoming staff report. The Chair opened public testimony. There were no requests to speak. Public testimony was closed.

Member Peixoto motioned to continue PLN, 2009-00177 to June 23, 2010. The Vice Chair seconded the motion. Motion carried 4/0.

2. **BRIAN KHO / SCOTT DONOHUE, VARIANCE, PLN-2010-00036** – Application to allow construction of an attached garage resulting in a third story and an average building height of the residence, 28 feet, 3 inches where two stories and 25 feet is the maximum allowed, and providing a front yard setback of zero feet where 20 feet is the minimum required, in an R-1 (Single Family Residence) District, located at 14641 Midland Road, west side, approximately 330 feet north of Altamont Road, unincorporated Hillcrest Knolls area of Alameda County, designated Assessor's Parcel Number: 079-0004-011-03. **Staff Planner: Andy Young.**

Staff recommended approval of the application. Public testimony was opened. The Architect for the project, Mr. Scott Donohue was present. He stated the staff report gave an accurate representation of the steep slope existent at the site. The property slopes from the apron to the attached garage area. The roof slope will match that of the house. The garage is standard height. The structure has a low profile from

the street. The proposed storage area will only be used for the intended purpose. If the garage were moved forward, an awkward open space between the structures would be created. The benefit of the garage design proposed is a lower profile that is moved back. Board questions for the Applicant were as follows:

- Is there existing parking at the site
- Was the original proposal a carport instead of a garage
- Can the garage be achieved in a single story
- What is the function of the ½ bathroom in the garage
- What is the overall square footage of the storage area
- Will the garage area remain un-finished
- Is there an exterior door to the garage

The home is a new structure. There is no existing parking on the parcel. The adjacent property had a driveway that ran to the house on the northern portion of that lot. The current parking proposal for the Applicant's lot, is in the same as location as the originally proposed parking. The uncovered parking area would have had railings around the perimeter. The enclosed garage will take the same footprint, and have a roof. Staff distributed photographs. The owner will also be using the garage as a multipurpose area. Therefore he would like an occasional use bathroom. The garage is a flight of stairs from the living space. The footings for the entire building create the overall height. The storage area will be approximately 600 to 700 square feet. Storage will be on the 2nd level. The lower crawl space area will remain un-finished. There is an exterior door at the base of the stairs that provides access to the crawl space. A wall separates the crawl space from the house. There is access to the storage area on the 2nd level from the house. The Applicant is a contractor, and would like to park his truck in the garage. The enclosed garage will create a neat presentation from the deck. The garage probably could not have been achieved with a single story. The driveway is fairly level with Midland Road. The area next to the road is very steep. The driveway proceeds down at a drivable slope to the proposed garage. The approximate driveway height at the base of the garage is 18 inches below Midland Road. The garage is 12 feet in height, resulting in a height of 10 feet, six inches.

The Applicant Mr. Kho estimated the square footage of the garage at approximately 500 square feet. A single story garage may be possible. However due to the very steep slope on Midland Road, it would be difficult. The garage is necessary because the original carport proposal only provided a railing 3 feet in height. Mr. Kho has a young daughter, and is afraid she would fall. Also, neighbors would have the ability to climb onto the carport. The Chair asked the Applicant the following questions:

- Will Mr. Kho run his contractor business from the property
- Will Mr. Kho's staff be working from the property

Mr. Kho responded he will not run his business from the site. His staff will not come to the property. The garage will only be used for the storage of materials.

Ms. Dorie Ramirez told the Board she lives on Aurelia Way, one block from the property. Her home is across from Midland Road. She is opposed to the application in the interest of homeowner safety. The area is in a fire hazard zone. Midland Road is narrow and crowded. Fire trucks would not be able to go in, and out. This project will increase traffic. It will also impede hers, and neighboring homeowner's views. Member Adesanya asked how the project would increase traffic. Ms. Ramirez said a zero foot setback as opposed to 20 feet will cause homeowners to park on the curb. Ms. Ramirez explained most homeowners do not have garages. Another home owner that chooses not to use their garage for parking will increase the overcrowding. Ms. Ramirez showed photos to the Board of parking in the neighborhood. Member Adesanya asked if the safety concerns were limited to the construction period. Ms. Ramirez said in her opinion the issues would continue beyond the construction period. Staff clarified the garage door does not have a zero foot setback. The garage door is set back 30 feet from the street. The set back is related to the bridge which is necessary as a result of the steep slope. Two cars can park in the garage, and two cars can park on the bridge. The Chair showed Ms. Ramirez photos simulations of the proposal. The proposal should take cars off of the street. Ms. Ramirez acknowledged the design may help. However signage posted on the street requesting parking be limited to one side would be more helpful. Although the garage and home do not have much height, views will be affected. The height exceeds what is allowed. The Chair asked if Ms. Ramirez could see the Bay over the top of the Applicant's home. Ms. Ramirez said her view is not as impacted as it could be. At this time the parcel next to hers is vacant. However if someone were to build, her view could be impacted. Three separate neighbors will have their views impacted if the project is approved.

Mr. Daniel Faur testified he lived across the street from Mr. Kho. He is concerned with the following issues: At the end of the street there are two elderly women. The street is narrow. If Mr. Kho conducts business from his home, employees could park out front. Ingress and egress for fire trucks could be affected. They may not be able to get to the end of the road. Other neighbors already park on the street. In addition the view from Mr. Faur's home will be affected. He asked the Board to explain the General Plan and how it governed the Applicant's large project. The Chair explained the Minimum Lot Size designation for the area must be 5,000 square feet. Lots can be up to 10,000 square feet for the Hillcrest Knolls area. Mr. Faur continued. Drainage for the area enters a City drain, right in front of Mr. Kho's garage. Mr. Faur has lived there 20 years. He did not want to see or start any problems. He would like to be proactive, and avoid problems. He is also in the construction business. He knows the building will have an impact. He would not like to see a structure the size of the Titanic, in front of his house. The Chair explained the Applicant could have a carport in the same location. Mr. Faur responded, now has a gorgeous view. He would not like to have it spoiled.

Mr. Will Rasmus told the Board he lives one home to the north of the project. He has similar concerns about views and parking. He has a panoramic view at his home. If the garage goes up, he will lose it. The Chair asked him if he could see above a proposal height of 10 feet in height. Mr. Rasmus said 10 feet is the maximum height over which he could see. If a structure is any higher his view will be gone. Member Adesanya asked if there were any existing structures that block his view. He confirmed there were. However they were there when he moved into his home. He acknowledged a new housing subdivision is under construction, at the end of the street. He is unsure how this new subdivision might impact him. Public testimony was closed.

Member Adesanya asked staff to explain the permitted uses allowed regarding detached garages. She also asked the height of the garage from street level so the public could gain a sense of visual impact. Staff explained the Zoning Ordinance allows a detached garage with up to zero foot setbacks, and 15 feet in height. The height of the garage from floor to roof ridge is 11 feet, 11 inches. Member Adesanya pointed out the proposed garage attached to the home is visibly lower than the height allowed for a detached garage. The Ordinance does not require BZA review of a detached accessory structure (garage). Staff confirmed that is correct. Member Adesanya told staff it would have been helpful if photo

simulations had been provided for the public to show the height and impact of different proposals. The Chair then asked staff if a detached structure requires BZA review if it results in a three story home. Staff said such a design would not require review. The Ordinance also allows detached accessory structures in the front yard setback, if a slope is present. The Chair continued, in addition to her concern about use of the storage area. She was concerned with business being conducted from the garage. Staff responded the Applicant can have a personal truck used to go back and forth, parked at his home. He can store normal business materials. However the Home Occupation Ordinance requires that the residential zoning function as such. He cannot have employees coming and going. He cannot store business trucks at the site or receive business deliveries. If enforcement were necessary, Alameda County Code Enforcement would follow their process. The Chair asked staff their opinion on the amount of storage provided and access points to the structure. Staff showed photo simulation, Set#2. The interior of the storage space contains the foundation walls and beam supports for the garage above. This area is not really a functional area. It probably will not be used often. The storage area located on the level beneath the garage is a functional area. However it may not be functional to store a large amount of material due to access location which is through the home. The Chair pointed out there is an exterior door. Staff responded the exterior door is located on the foundation / crawl space level. The Chair said she recently gave a complaint to Code Enforcement about a crawl space area converted into living space. These types of scenarios are exploding in the Hillcrest Knolls area. The issue is substantial. A home identical to this design was just advertised by a Real Estate Agent as a home with 4 bonus rooms, including living room, kitchen and two bedrooms. Essentially the home has been converted to an R-2 use. Staff acknowledged this could be an invitation. Not necessarily for this property owner but perhaps a future owner. Public testimony was re-opened to speak with the Applicant.

Mr. Kho said home use will be limited to storage. Further Board questions were as follows:

- How many vehicles does Mr. Kho own
- Is Mr. Kho a General Contractor
- What type of materials will be stored at the site
- How will materials be moved throughout the house
- What is the purpose of the bathroom
- Will parking spaces in the garage be blocked by storage materials
- Has Mr. Kho erected a height stick to demonstrate the impact of the structure
- Does Mr. Kho anticipate the structure will block the views of surrounding homes

Mr. Kho told the Board he does not plan to conduct business from home. His home will just be used for storage of materials. He has one mini-van. His wife also owns a car. He anticipates possible purchase of one additional family van. This will not be a commercial van. He is an electrical contractor. He plans to use the storage area for wiring, can lighting and basic electric materials. He will carry the materials up and down from the storage space. The area will also be used as a workroom, garden tool storage and a mail drop. A restroom on that level will be convenient. However if the Board is opposed, he will remove it from the plans. The parking spaces in the garage will be used for vehicles. Mr. Kho did erect a height stick, and showed the measurement to his neighbor. The Bay view from Daniel's living space will not be blocked. The living room is 20 feet above his property. The view from his neighbor's garage area will be

blocked.

Mr. Daniel Faur reminded the Board he lives across the street. He confirmed Mr. Kho did erect a height marker. However a stick is an illusion. Once a building is erected you cannot see through it, unlike a stick. Mr. Faur demonstrated how the view from the first floor of his home would be affected. Member Adesanya said there was no County Ordinance on the books presently to protect private views, only public views. Mr. Faur told the Board as a result of the project, he will lose the million dollar view from his home. Mr. Peixoto said in this instance, the argument posed is not valid for BZA consideration since there is no View Ordinance instituted in the County. Mr. Faur closed and asked the BZA to remember the Applicant may plan to conduct business from his home. The Chair said that was one of many issues the Board will consider.

Mr. Will Rasmus told the Board he would like to offer further comments. Although it is a moot point given there is no View Ordinance. He referred to photo simulations labeled, Set #1 to indicate the location of his home. He can see the road from his home. If the project is approved, his view to the road would be blocked. This view is important to him. The Chair asked if the southern view to the homes on Altamont Road would be blocked. Mr. Rasmus explained his southern view was to Midland Road. He acknowledged his view to San Francisco will not be blocked.

Member Adesanya asked Mr. Donohue if he was aware of an alternate design that was lower in height; a design proposal with a flat or semi flat roof in compliance with Ordinance height limitation even though not as attractive; also if he considers the bridge as part of the structure. Mr. Donohue responded, he was not the architect when the original design was proposed. He was hired mainly to complete the garage. Although he has not considered the prior architects design. He understands the original design did consider topography. As a result there may have been some confusion regarding the height of the structure. However from his perspective the current proposal is more attractive. The design fits better with the street. He does not believe a flat roof would fit within height requirements, given the topography. There has been some confusion about the setback of zero feet. The Board has done a good job of explaining this. Member Adesanya repeated that the setback of zero feet is not for the garage structure. It is the distance from the bridge placed at grade level, to the street. Mr. Donohue concurred this is correct. Staff considers the bridge as part of the garage structure. The Applicant could build a detached garage with a zero foot setback at a height of 15 feet. However Mr. Donohue is in agreement the proposal to attach the garage is better. This design is the best for the situation because it hides the cars from the street. Although he has not studied view obstructions, it appears from photo simulation Set #2 there is a downward slope. It would be difficult to get an accurate determination without studying the elevations of homes, across from the site. Public testimony was closed.

Board questions for staff were as follows:

- Since a bridge is proposed for this site why is a variance for a setback of zero feet necessary
- Has the bridge been approved through Public Works
- Has Public Works commented on the drainage grate in front of the bridge
- Can the BZA require the lower garage level remain un-improved
- Is parking allowed on the apron of the property
- How large is the public right of way

- Does staff propose a method to prevent cars from parking in the public right-of-way

Staff explained a variance is required because the structure is at grade level. Staff showed photographs. The right of way is approximately 10 feet. Parking is not allowed within the public right of way, or the roadway. The Board can institute Conditions that prohibit a bathroom on the garage level, prohibit improvement of the garage interior, and prohibit parking in the public right of way, and roadway. The bridge has been approved. Drainage would have been considered during the approval process. The Chair pointed out the alternative to the proposal, is a garage on the street. This design does not seem to benefit anyone. Most people fill their garages and park on the street. A Fire Code actually requires that streets of 20 feet or less do not allow on-street parking. However parking is not enforced on Midland Road. Although she did not agree with all points of the proposed design, the Applicant could erect a design with more of an impact without a variance, and Board review. Member Adesanya said there appears to be room to park off of the street. This may be preferable, in this situation. Member Peixoto noted most living activity takes place on the 2nd floor, of most homes. It does not appear views will be majorly obstructed. The crawl space with a door is an invitation. This could possibly be converted into habitable space. However in his opinion a bathroom on the garage level is acceptable. The Chair responded some of the views to the greenbelt would be obstructed. She agreed with Member Peixoto. The garage space should remain unimproved. In her opinion, the proposed bathroom should also be removed from the project.

Member Adesanya commented the garage would be approximately 30 feet from the roadway. Regarding views, when a home is purchased and a vacant lot is next door. The owner of the vacant property has the right to develop. Although neighbors want to count on the value of their home, the Applicant's proposal is a better proposition than what can be done without BZA approval. She is also concerned about conversion of the storage space. However given the complete overview of the project, she would approve it.

The Vice Chair agreed with the comments stated, although she did not object to the half bath. A bathroom on the lower level would be convenient given the necessity of a stairway to access the home.

The Chair said she lives in Hillcrest Knolls, and hears comments from the neighborhood. People do not like garages placed on the street. Although she does not think the proposal is the best design. The bridge on the site has already been approved by Public Works. The property owner can legally put a garage at the street, even though it does not seem to serve the residence very well. She would reluctantly vote to approve the variance. The Chair passed the gavel to the Vice Chair.

The Chair moved to uphold the staff recommendation of approval with the following modifications: The proposed bathroom must be removed from the project. Parking is to be maintained in a neat manner on the driveway, and not in the street.

Condition #3 shall be modified to add: The garage shall not contain a bathroom. The lower level storage area shall remain un-improved.

Condition #4 shall be modified to add: Vehicle parking shall not be allowed within the paved roadway of Midland Road; Vehicle parking will be allowed on the driveway.

Member Peixoto asked who would be responsible for monitoring parking at the site. Staff said the Highway Patrol. Member Adesanya clarified if a vehicle were partially on a paved surface and partially in the right of way, Code Enforcement would be notified.

Member Adesanya seconded the motion with the following clarification for neighbors present at the

hearing. Building height is measured from the lowest portion of the grade to the topmost point of the building. The Ordinance says height should be no more than 25 feet. This may not always be possible, due to grade. This situation in this location is not much different than a typical lot. The topography makes the height, 28 feet. The Chair asked if an exact finished building height must be declared at this time. Staff confirmed verification of height will be conducted as part of the permit process.

The motion to approve Variance, PLN-2010-00036 passed 4/0.

3. **BEVERLY AXELRAD, CONDITIONAL USE PERMIT, PLN-2009-00108** – Application to allow continued operation of an outdoor recreation facility, in an “A” (Agricultural) District, located at 10200 Crow Canyon Road, northeast side, approximately 700 feet northeast of the terminus of Crow Canyon Road, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 085-0700-002-00. **Staff Planner: Damien Curry.**

The staff recommendation was approval. The Castro Valley Municipal Advisory Committee recommended approval as well with the following modification. The permit shall be for a period of 5 years as opposed to the 10 year recommendation of the CVMAC. Staff explained the Williamson Act would be updated in 5 years. A permit expiration of 5 years will allow an opportunity to incorporate any necessary changes. Member Adesanya pointed out prior use permits were for a period of 5 years. This would be beneficial to allow review of possible Williamson Act changes. Initial Board questions were as follows:

- What caused the lag time for renewal consideration
- Did Environmental Health submit comments regarding the project
- Are expired use permits referred to Code Enforcement after non-submission of an application
- Are any of the buildings on-site visible from the road or perimeter
- Is the facility for private, and public use
- Is the property fenced off from the public
- Have there been any recent incursions onto the site

Staff was unsure of what has caused the delay. A project referral was sent out in the fall of 2009. Environmental Health submitted comments about the septic system. In the past renewal letters were not sent on a routine basis. Now the process has improved. Notification is sent by Planning. There may be follow-up by Code Enforcement. Member Adesanya pointed out that notification is a courtesy, not a requirement. Staff continued. The facility is for private use. Regarding the option of clothing, the property is very large. The terrain is steep. Buildings can not be seen from outside the property. There was an old complaint a long time ago from a person that wandered onto the site. There have not been recent complaints. Public testimony was opened.

Mr. Bill Hendricks the Vice President of Sequoians Inc. was present. A notice from the County was not received, however when he realized the permit had expired. The County was contacted immediately. The County requested further information about the site, including an updated map. The Sequoian’s have used the site since 1947. A hand drawn map was created in 1967. An updated digital version has just been completed. This includes elevations, and the distance to other properties. In addition the ground

map includes a list of all structures, and roadways on the site. Terminology has also been updated to match that used by the County. For example the site does not allow self powered recreation vehicles. They do allow trailer spaces. The County terminology considers trailers, recreational vehicles. It is difficult for someone to access the site from a trail. It is 80 acres, approximately one mile from the roadway. There is a locked gate at the entrance which can be accessed by Safety Personnel. There are steep canyon walls surrounding the property. There is a small 40 foot section that adjoins Hide Away Ranch. The trails are located in very steep terrain. Over time, only one person has wandered into the facility. There are signs posted on the site that require everyone be covered with a wrap, past a certain point. In addition there are signs that indicate when you are about to leave Sequoian grounds. Signage states that people must be covered. Cull Canyon Road terminates at the far left of the site. Roads on the interior of the site are maintained with packed gravel. The water tower is 14,000 gallons. There is another 20,000 gallon water tank for the pool, and a third 5,000 gallon water tank. Fire hydrants are located in front of the pool, and the 5 gallon water tank. Fire Safety Officers are invited to the property each year to familiarize themselves with the property. Mr. Hendricks is a retired Police Commander. It is important Safety Officers know their way around. Mr. Hendricks did not object to the 5 year permit expiration. Regarding updates to the Williamson Act. The site will probably not be effected. The Sequoians will re-apply for a Williamson Contract. There are no plans to add gardens, cattle or grapes to the site. Board questions for the Applicant were as follows:

- What landscaping is present on the site
- Where is the caretaker's unit on the site
- Is there a horse operation nearby the site
- What is the maximum stay allowed at the site
- When were the structures at the site erected
- Are the trails at the site marked
- Is there septic or outhouses at the site
- Do caretakers patrol the site

Mr. Hendricks referred to a map of the site to indicate existing landscaping. The structures on the site were built in 1947. There have been no updates/changes to structures since 1962. There has been no expansion to septic hook-up. Since 1962 the number of cabins has remained at 7. The caretaker's unit is at the end of mobile homes. The horse operation is not on their site. It is located to the north of the property, separated by a large ridge. At the termination of Cull Canyon beginning at the first portion of the roadway, an easement is shared with the Hide Away Ranch. The Donatello property is on the opposite ridge. They share the easement on the right. The Sequoian property is nestled within the hills in between the other sites. With an approved trailer site, the maximum stay allowed is 14 days. After 14 days you must leave the property. The rule has been in place since 1947, and revised in 1962. There are 7 residences that are permanent on the site, and two mobile homes. One mobile home is used for the caretaker unit, the other for the office manager. Permanent residences do have plumbing. The internal trails on the site are marked. The external horse trails that loop through Hide Away Ranch actually belong to the Sequoian's. There has been an agreement since the 1960's with Hide Away Ranch that allows the use. Clothing is required to use the surrounding trails. The 80 acre site is patrolled. The area is highly vegetated. The closest site is 100 acres in size. A digital site map of the property has been provided to the Fire Department, and the Cull Canyon Home Owners Association.

The Applicant, Ms. Beverly Axelrod was present. She has lived on the site for 11 years. There were no further questions for the Applicant. Public testimony was closed.

The Vice Chair motioned to uphold the staff recommendation of approval with the following modification to Condition #6. The permit shall expire in five (5) years, 2015. Member Peixoto seconded the motion. Motion carried 4/0.

4. **WOMEN ON THE WAY, CONDITIONAL USE PERMIT, PLN-2009-00161** - Application to allow renewal of a Conditional Use Permit for an existing recovery center, in an R-1-SU (Single Family Residential with Secondary Unit) District, located at 20424 Haviland Avenue, east side, approximately 154 feet north of Cherry Way, in the unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 429-0019-023-00. **Staff Planner: Carole Kajita.** (Continued from April 28, 2010).

The staff recommendation was approval. The Chair asked how many facilities are operated by Women on the Way, as their website listed two. Staff presented a copy of the Women on the Way web page. The Phase I facility is on Haviland Avenue. The Phase II Facility located on Thrush Avenue is a housing facility. The Administrative Offices are on Lewelling Boulevard. Each use is different. A use permit is site specific, and requires individual applications. Public testimony was opened.

Mr. Ron Gillette was present representing Women on the Way. He explained the State of California license expired in March and did not coincide with the use permit. Mr. Gillette requested Planning send a letter to the State, if they obtain approval. The facility would like to have an additional parking space for visitors. People from State offices often visit the site. The street is narrow. Limiting the number of cars that park on the street would be beneficial. Eight cars can be parked on the driveway. Four spaces designated for facility staff are sufficient. Staff cars usually remain parked for their entire shift. Board questions for the Applicant were as follows:

- Does facility staff split their work shift between the two facilities
- What are "low priority calls" to the Sheriff
- Do neighbors of the facility in support approval
- Does the facility have a good relationship with the community
- What is located behind the facility
- How are residents assigned to the facility
- At what point is a resident transferred to the other Women on the Way facility
- Are residents at the second facility required to stay at the Haviland Ave site prior to transferring
- What percentage of the residents come from the immediate area
- How are the Women on the Way Facilities selected
- What portion of the facility is used for administrative work

- Is there a policy that limits the number of persons smoking outside at any one time

Mr. Gillette explained the other facility is a Sober Living Facility. The routine is not as stringent. It is considered a Phase II Facility. Phase II Facilities do not require a CUP. The facility on Haviland Avenue is a Phase I Facility. Staff is present 24 hours a day. Facility staff may spend half of one shift at the Phase I Facility and then spend the second half at the Sober Living Facility. A low priority call could be one that is placed by a resident at the site that wants to talk to the Sheriff. There has been only one incident where a resident's parole office had to be called to the site. The only issue the neighbors have submitted commented about was regarding residents smoking on the corner. Staff had encouraged residents to exercise and walk. Facility staff did not realize residents were talking loudly early in the morning and smoking while taking walks. The policy now is to first discourage smoking. When residents take walks they must be quiet and respect neighbors. The facility itself is non-smoking. Residents are encouraged not to smoke. If residents must smoke, it is to be restricted to the patio area. This is a grassy area next to the fence. Two to three people can gather in that area at one time, due to limited space. However there is not an official policy. Mr. Gillette did not object to a designated smoking area. He was unsure of the exact percentage, but he estimated that 20% to 30% of residents come from the unincorporated area. Some of the residents are from Oakland, many from San Leandro. The facility staff and residents do get involved with the community. Recently they participated in an event at Lake Chabot. Staff also attended the Cherryland meeting to introduce themselves, and exchange contact information. Periodically they also donate food to the Cherryland Association that is distributed to the needy. The Vice Chair encouraged the staff to get more involved with local Cherryland activities. More interaction can build additional support for the facility. Mr. Gillette said residents are encouraged to go to a Phase II, Clean and Sober Facility. They are also encouraged to get a job or continue their education. Unfortunately there is not enough space to accommodate all who would like to go to Clean and Sober Living on Thrush Street. Many people go home to their families. Women on the Way would like to start a Phase III Facility. Funding and a location are currently being sought. The Organization has a high success rate. Residents are trained not to revert back to old behaviors. Many people fail because they go back to their old territories. There is a large apartment complex behind the facility. There may be questionable activity at the complex or anywhere residents may go. However staff is very aggressive in keeping residents away from anything that can be considered a drug act. The day at the Haviland Avenue facility is very structured. Residents are not allowed to leave the facility unattended. The current facilities were obtained prior to Mr. Gillette joining the Board. He is not familiar with the facility location selection process used at that time. The Vice Chair asked Mr. Gillette if he was aware of the 1:100 Ratio of alcohol outlets to citizens in the Cherrland area. Mr. Gillette acknowledged that was unfortunate. The behavioral modification training the women receive is critical. Residents are taught no matter where they live, they must stay away from alcohol and drugs. The bookkeeping process is intense. The State of California requires certain files be kept. The organization has a bookkeeper that works out of the facility on Lewelling Boulevard. The office contains two desks and a phone. Public testimony was closed.

The Chair asked staff the following additional questions:

- Can additional parking spaces be provided
- Can staff provide a letter to the State of California verifying approval of the permit
- Is there a "Smoking Area" at the facility

Staff told the Board there was sufficient room for parking at the site, including tandem parking on the driveway. Due to congestion, it is probably better to park vehicles off of the street. If the application is approved a Resolution with Findings will be provided to the State of California. The BZA does have the purview to Condition a specific smoking area at the site. Member Adesanya agreed. If the BZA restricts

parking, more problems can arise. The facility may want to organize parking. For example, facility staff can leave vehicles parked once they arrive. This will prevent cars from frequently backing onto Haviland Avenue. The Chair recommended the Applicant provide a Parking Management Plan. This can be reviewed and approved by the Planning Director. Staff continued.

The Vice Chair motioned to uphold the staff recommendation of approval with the following modifications:

Condition #11 will not restrict the number of vehicles. The Applicant shall submit a Traffic Management Plan for approval by the Planning Director within 60 days of permit approval.

Condition #14 shall require that smoking be strictly limited to a designated smoking area on the right side of the property.

Member Peixoto seconded the motion. The motion to approve, PLN-2009-00016 - Women on the Way, passed 4/0.

APPROVAL OF MINUTES: The Minutes of May 12, 2010 were continued to the June 9, 2010 Hearing.

STAFF COMMENTS & CORRESPONDENCE: Board of Supervisor's appeals, JAMES SILVA, VARIANCE, PLN-2009-00010 and ANTHONY & MARTHA CASSINI, VARIANCE, V-12107 will be on the June 8, 2010 Agenda.

Staff announced Alameda County Public Works appealed the BZA's decision to remove two Conditions of Approval regarding dedication of frontage in application, PLN-2009-00102, Saint Antonius Coptic Church. The appeal will be scheduled on a future Board of Supervisor's agenda.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: The Chair said the information sign posted at PIXAR in Emeryville should be used as a template for Alameda County. The sign listed project and contact information, and the length of construction. The graphics were visible and easy to read.

ADJOURNMENT: There being no further business, the hearing adjourned at 4:00 p.m.

ALBERT LOPEZ - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS