

MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
JUNE 9, 2010
(APPROVED JUNE 23, 2010)

The Regular Meeting was held at the hour of 6:00 p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward, California 94544.

FIELD TRIP: 1:00 p.m.

1. **SEVENTH STEP FOUNDATION, CONDITIONAL USE PERMIT, PLN-2010-00028** - Application to allow operation of a residential care facility for up to 16 beds in an RC (Residential Commercial) District under the Ashland Cherryland Area Specific Plan, located at 827 East Lewelling Boulevard, south side, approximately 250 feet west of Morrill Street, in the unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 414-0026-005-00. Staff Planner: Christine Greene.

2. **ABC PRESCHOOL & DAYCARE / MAGGIE LAM, CONDITIONAL USE PERMIT, PLN-2010-00049** – Application to allow expansion of a child care facility from 41 to 56 children, in an R-S-D-3 (Suburban Residential, 2,500 square feet per Dwelling Unit) District, located at 20135 San Miguel; Avenue, west side, approximately 350 feet north of Jeanine Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084A-0124-001-04. **Staff Planner: Christine Greene.**

3. **ELWORTH / VERIZON, CONDITIONAL USE PERMIT, PLN-2009-00099-** Application to allow replacement of three and construction of three new antennas, a total of six new antennas with continued operation of a telecommunication facility in an "A" (Agriculture) District, located at 10410 Crow Canyon Road, north, approximately 16,000 feet northeast of Crow Canyon road and Bellina Canyon Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085-1950-002-09. **Staff Planner: Shahreen Basunia.**

4. **EAST BAY MUD / AT & T MOBILITY - KELLY, CONDITIONAL USE PERMIT, PLN-2009-00154** – Application to allow installation and operation of a wireless telecommunications facility (45 feet tall mono pine) in an R-1-SU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle Parking Regulations) District, located at the end of Brookdale Boulevard, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Numbers: 084D-1100-001-16-00 and 084D-1103-070-04. **Staff Planner: Christine Greene.**

MEMBERS PRESENT: None. Members visited the sites on an individual basis.

MEMBERS EXCUSED: Chair; Dawn Clark-Montenegro; Vice Chair, Kathy Gil; Members, Jewell Spalding, Frank Peixoto and Ineda Adesanya.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner

FIELD TRIP: The Regular Meeting adjourned to the field and the following properties were visited:

1. **SEVENTH STEP FOUNDATION, CONDITIONAL USE PERMIT, PLN-2010-00028** - Application to allow operation of a residential care facility for up to 16 beds in an RC (Residential Commercial) District under the Ashland Cherryland Area Specific Plan, located at 827 East Lewelling Boulevard, south side, approximately 250 feet west of Morrill Street, in the unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 414-0026-005-00. **Staff Planner: Christine Greene.**
2. **ABC PRESCHOOL & DAYCARE / MAGGIE LAM, CONDITIONAL USE PERMIT, PLN-2010-00049** – Application to allow expansion of a child care facility from 41 to 56 children, in an R-S-D-3 (Suburban Residential, 2,500 square feet per Dwelling Unit) District, located at 20135 San Miguel; Avenue, west side, approximately 350 feet north of Jeanine Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084A-0124-001-04. **Staff Planner: Christine Greene.**
3. **ELWORTH / VERIZON, CONDITIONAL USE PERMIT, PLN-2009-00099-** Application to allow replacement of three and construction of three new antennas, a total of six new antennas with continued operation of a telecommunication facility in an "A" (Agriculture) District, located at 10410 Crow Canyon Road, north, approximately 16,000 feet northeast of Crow Canyon road and Bellina Canyon Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085-1950-002-09. **Staff Planner: Shahreen Basunia.**
4. **EAST BAY MUD / AT & T MOBILITY - KELLY, CONDITIONAL USE PERMIT, PLN-2009-00154** – Application to allow installation and operation of a wireless telecommunications facility (45 feet tall mono pine) in an R-1-SU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle Parking Regulations) District, located at the end of Brookdale Boulevard, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Numbers: 084D-1100-001-16-00 and 084D-1103-070-04. **Staff Planner: Christine Greene.**

REGULAR MEETING: 1:30 p.m.

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

MEMBERS EXCUSED: Ineda Adesanya.

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 6:00 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. Theodore & Fran Nascimento, Hayward, CA 94541

In violation of Alameda County Ordinance 6.65.030 A (1), A (8) and A (10).

1. Overgrown weeds & vegetation throughout the property; and
2. Unlawful outdoor storage of discarded, junks, debris, household and miscellaneous items.

Member Spalding motioned to uphold the staff recommendation . Declare the property a public nuisance, and require abatement to be complete within 10 days. The Vice Chair seconded the motion. Motion carried 4/0.

2. Nga Cheng, Sunset Blvd. Hayward, CA 94541

In violation of Alameda County Ordinance 6.65.030 A (1), A (8) and A (10).

1. Overgrown weeds & vegetation in rear yard; and
2. Unlawful outdoor storage of discarded, junks, debris and miscellaneous items in side yard.

Member Peixoto motioned to uphold the staff recommendation . Declare the property a public nuisance, and require abatement to be complete within 10 days. The Vice Chair seconded the motion. Motion carried 4/0.

3. LaSalle Bank Na Trust, Strobridge Ave., Castro Valley CA 94546

In violation of Alameda County Ordinance 6.65.030 A (8) and A (10) & B (6).

1. Overgrown weeds & vegetation in the side & rear yards.

Member Spalding motioned to uphold the staff recommendation . Declare the property a public nuisance, and require abatement to be complete within 10 days. Member Peixoto seconded the motion. Motion carried 4/0.

CONSENT CALENDAR:

1. **-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; March 10 and 24, April 28 and May 26, 2010; to be continued to a future date).

Staff announced the Applicant is still trying to resolve on-going issues. Alternate sites are also being considered. Therefore the next hearing date is unconfirmed. Re-notice will be sent to the public if a hearing date is set. However due to the challenges there is a strong possibility the application may be withdrawn.

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

REGULAR CALENDAR

1. **ELWORTHY / VERIZON, CONDITIONAL USE PERMIT, PLN-2009-00099-** Application to allow replacement of three and construction of three new antennas, a total of six new antennas with continued operation of a telecommunication facility in an "A" (Agriculture) District, located at 10410 Crow Canyon Road, north, approximately 16,000 feet northeast of Crow Canyon road and Bellina Canyon Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085-1950-002-09. **Staff Planner: Shahreen Basunia.**

Staff reviewed the application, including discussion regarding conformance with the Zoning Ordinance. The Applicant's request is to replace 3 existing antennas, and add three further antennas. The staff recommendation was approval with a modification to Condition #4: Trees to be added to the site should be "boxed" California Live Oak. The boxes shall be a minimum of 24 inches. Initial Board questions for staff were as follows:

- Does current zoning conform with the General Plan
- Is the parcel under the Williamson Act
- Does the draft General Plan propose change to the present zoning designation
- Is co-location possible
- Were other carriers at the site required to implement a landscaping plan

The "A" (Agricultural) District does not list a telecommunication facility as a permitted or conditional use. Therefore the reference is then directed to the Alameda County Development Standards for Siting of Telecommunication Facilities (*Development Standards*), adopted by the Board of Supervisors on October 2, 1997. The application therefore is considered under the policies set forth which allows telecom facilities in any District except, H-1. Staff acknowledged many other telecom sites are located on the property. All of the communication facilities are ground mounted. As a result, space on the property is limited. Ground mounted designs are not the best candidate for co-location. Co-location is typically done with taller monopole facilities. Another carrier would be able to co-location with Verizon. This would also add to further visibility of the pole however the location is off of the main road, and fairly remote. The Nextel site was required to implement a landscaping plan. However their use permit has expired. They will be contacted to submit a new application. The AT&T site is not up for renewal at this time. Staff has been unable to locate any building permits or conditional use application for this particular T Mobile site on the property. It does not appear T Mobile assumed the site from another carrier. Further research will be conducted. There is a co-located facility on the property. The Metro PCS site is co-located with Sprint. The existing General Plan calls for suburban low density residential. The zoning is "A" (Agricultural). The parcel is located within the boundaries of Measure D. The parcel density must be consistent with the Agricultural zoning of one home per 100 acres. The parcel is currently under a Williamson Act contract. The Draft General Plan does not propose changes to the zoning designation. Public testimony was opened.

Ms. Michele Phippen was present representing Verizon. The replacement and new installation will be at

an existing Verizon facility. The new installation will actually decrease the height by two feet. The facility is set back behind a hill and not visible from most locations. The project will increase coverage in a less inhabited section of Crow Canyon Road. This will provide added communications in the event of an emergency. Board questions for Ms. Phippen were as follows:

- Is co-location possible on another carrier's ground mounted pole
- Will the new antennas be seen from the road
- Is technology available that would allow one antenna as opposed to three
- Would Verizon consider additional landscaping
- Would addition landscaping inter-fear with communication reception

Ms. Phippen explained the request is for modification of an existing facility, with the addition of three antennas. Coverage is necessary for multiple sectors. Verizon is currently working with 3 frequencies. The panel antennas are directional each can operate on two frequencies. However a third panel antenna is needed to operate the third frequency. The new antennas will increase the load of communication traffic, and provide better coverage. There is no existing technology available at this time that can achieve the coverage objective with one antenna. Verizon is open to co-location. There is a possibility another carrier's equipment is compatible. Typically co-location is easier on a monopole due to the extended height. Co-location would require the stacking of multiple antennas on a single monopole. There must be 10 feet of separation between each antenna. Individual carriers must determine if the Verizon site meets their needs. Regarding visibility, Ms. Phippen disagreed with the staff comment the proposed new antennas would have some visual impact. The new antennas are lower in height. The Verizon site is set back off of the road and obscured by a hill. It is not visible form Crow Canyon Road. The Sprint / Metro PCS site is visible from the road. Ms. Phippen then referred to an aerial photo. There are 3 existing trees at the site, 10 feet in height. Landscaping will not inter-fear with transmission. Verizon does not object to adding further landscaping. Public testimony was closed.

Member Spalding thought the amount of proposed landscaping could be increased. Staff interjected, the availability of water may be a problem. Nextel has a water tank at the site. However water use is likely restricted to Nextel for fire suppression. The Applicant can establish a watering plan for the site at seasonal intervals. In addition they can ask Nextel for access to their water source. The Chair asked how the Fire Department would respond in the event of an emergency. Staff confirmed by water tanker truck. Member Spalding pointed out current Conditions of Approval require an irrigation system to support the landscaping. This system can also support further landscaping. Public testimony was re-opened.

Ms. Phippen confirmed the water tanks on the site belong to Nextel, to aide in fire fighting. Verizon would need to bring in a water tank. An irrigation system would then draw water from the water tower. It would be necessary to increase the tank size to support further landscaping. Public testimony was closed.

Member Spalding thought a minimum of 4 trees would be appropriate. The proposed oak trees should be a minimum 6 feet in height. Two trees should be placed on the south side of the site, two on the west side.

The Chair recommended Conditions of Approval require an irrigation system in addition to the watering plan.

Member Peixoto motioned to adopt the staff recommendation of approval with the following

modifications:

Condition #4 shall add language: *at least four 24 inch box California Live Oaks.*

Two trees shall be placed on the south side of the site. Two trees shall be placed on the west side.

A watering program to support the proposed landscaping shall be submitted to the Planning Director for approval.

Member Spalding seconded the motion. The motion to approve, PLN-2009-00099, Verizon passed 4/0.

APPROVAL OF MINUTES: Member Peixoto motioned to accept the Minutes of May 12, 2010 with submitted corrections. The Vice Chair seconded the motion. Motion carried 4/0.

The Minutes of May 26, 2010 were continued to June 23, 2010.

STAFF COMMENTS & CORRESPONDENCE:

Staff gave the Board an update on actions taken at the 06-08-10 Board of Supervisor's Hearing:

The appeal of Anthony & Martha Cassini, VARIANCE, V-12107 was continued. The Board of Supervisor's would like staff to provide further information about other fence variances granted in the neighborhood.

The appeal of James Silva, VARIANCE, PLN-2009-00010 was continued. The application may possibly return to the BZA in September. There is new information regarding a possible drainage outlet and an easement next to the site, which may prevent the garage from being attached to the home. Additional research is necessary. The BZA Members asked if the Applicant had considered a boundary adjustment at one time. The Vice Chair said her understanding was that a discussion took place at one of the appeal hearings. The Applicant also mentioned a lot split. However this was done prior to his purchase of the property. Board Members hoped that if the application returned to the BZA. Alternate design proposals will be submitted that reduce the structure. These concepts were discussed when the application was originally heard by the BZA.

The appeal of PLN-2009-00110, Coptic Church filed by Alameda County Public Works to return Conditions #34 and #35 to the Resolution 10-23 was granted.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:

Member Spalding told staff it would be helpful if the BZA had the opportunity to review Board Letter summary comments prior to BOS appeals. Based on the example of the Public Works Department appeal of Conditions of Approval for Application, PLN-2009-00110, Coptic Church, based solely on the board letter, the BOS may not have been presented with a complete picture.

Member Peixoto asked staff if the Applicant, PLN-2010-00028 Seventh Step Foundation had come before the BZA in the past. In addition what is the history of the site, and how the use might be impacted as a result of the widening of Lewelling Boulevard. Staff responded the applicant scheduled for the June 23, 2010 came before the BZA for another location. That request for expansion was denied. The BZA had concerns regarding the over concentration of care facilities in the area. Also that facility staff placed by the operator did not provide adequate supervision. That decision was appealed to the BOS. The BOS upheld the denial. The current proposal is to open a new facility at 827 Lewelling. Many years ago the

site was a boarding facility. More recently the site has been a residential care facility. The widening of Lewelling Boulevard to accommodate two lanes will stop prior to the section near the proposed facility. Lewelling Boulevard will remain single lanes on each side, therefore having no further impact. The issues raised by the BZA will be discussed in the staff report.

Member Peixoto also asked staff to confirm the maximum number of children allowed in Conditional Use Permit, PLN-2010-00049 - ABC Preschool, prior to BZA consideration June 23, 2010. Staff will include the requested information.

Member Spalding asked Code Enforcement staff the status of a declaration of public nuisance regarding unsecured buildings, graffiti, and dilapidated conditions at State of California owned properties on A Street. Due to transients, the properties are a hazard. Staff confirmed the adjoining properties were abated as a result of the lack action by the owner. In addition trash, debris and graffiti resulting from transient activity was removed from the nearby creek. The State of California has located a tenant for the buildings. However the zoning does not allow the tenant's proposed use.

Member Peixoto asked if bank owned sites had been complying in response to notices of violation. Staff confirmed there has been a high level of compliance.

ADJOURNMENT: There being no further business, the hearing adjourned at 7:00 p.m.

ALBERT LOPEZ - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS