

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
SEPTEMBER 28, 2005
(APPROVED OCTOBER 12, 2005)**

The 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: Members Frank Peixoto, Chair; Ron Palmeri and Lester Friedman.

MEMBERS EXCUSED: Jewell Spalding.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner; Yvonne Bea Grundy, Recording Secretary

There were approximately 15 people in the audience.

CALL TO ORDER:

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

ANNOUNCEMENTS BY THE CHAIR:

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.

A Member of the Community addressed the Board. He said the County had done a good job with the installation of solar panels in the parking lot. The solar panels are a perfect example of the type of environmental solutions needed throughout the entire area.

CONSENT CALENDAR:

1. **VICTOR BECERRA, SITE DEVELOPMENT REVIEW, S-1991** - Petition to allow conversion of an existing two-car garage into a family room, and replace it with two uncovered legal on-site parking spaces, on a 5,254 square foot lot in the R-1 (Single-Family Residence) Zoning District, located at 17498 Via Alamos, northeast corner with Via Nube, unincorporated San Lorenzo area of Alameda County, bearing County Assessor's Parcel Number: 0412-0079-155-00. (Continued from August 10 and August 24, 2005; to be continued without discussion to October 12, 2005).

2. **BOB MASON, CONDITIONAL USE PERMIT, C-7756** - Application to modify Conditional Use Permit, C-7447 to allow: 1) storage for 20 vehicles; 2) increase from 125 to 145 horses; and 3) to add a feed store at an existing breeding, boarding and training facility for 125 horses, in an "A" (Agricultural) District, located at 24550 Palomares Road, east side, approximately ¼ mile south of Palo Verde Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 085A-2700-001-07. (Continued from December 11, 2002; February 26, March 26, April 23, May 28, June 25; July 23, September 10 and October 8, November 5, 2003; January 14, August 11, July 14,

December 8, 2004, January 26, April 13, June 8, July 13 and August 10, 2005; to be continued without discussion to October 26, 2005).

Jana Beatty gave the Board an information update on the application. Planning staff conducted a recent site visit in conjunction with Alameda County Environmental Health, Code Enforcement and Fire. A partner that had been silent in the past has is now actively participating in the application process and a new tenant is currently leasing a portion of the ranch. Substantial progress has been made regarding manure management has improved compared to past conditions however Clean Water will need to develop a manure plan. Large piles of debris have been removed from the property.

In feed store on the property appears to sell products to the public as well as service the ranch itself. Staff understands that supplies from the store are delivered to people off-site. Several trucks were observed during the visit which accessed the narrow road leading to the property. Staff then submitted samples that were printed from the ranch website which advertises the store. The next step is to bring grading involved and continue to work with clean water on a manure management plan.

The silent partner and ranch manager do not a feed store and RV storage on the property. They would also like to reduce the number of horses. At this point the applicant does not. Staff will talk with County Counsel to determine if there are any possible issues. The Board had the following questions:

- Board Member Palmeri asked staff if the Board could impose a bifurcated decision. For example hear the issues of the remaining debris and RV storage at one hearing and discuss the possible illegal operation of the feed store at a later time.
- Member Friedman asked for clarification as to if the silent partner had a percentage of property ownership, and how that might affect the application. If an application is determined to be invalid does that reactivate Code Enforcement action on the property.
- The Chair asked if the property had a Williamson Act Contract. He also asked how long the vehicles had been stored on the property.

Staff said they would follow up and respond to all of the questions. Member Palmeri said the application had been ongoing for three years. He recommended that the Board hear the application on October 12 and October 26, 2005.

3. **JOSE J. RAMON, VARIANCE, V-11902 and SITE DEVELOPMENT REVIEW, S-1965** – Application to retain two existing dwellings and to construct a new triplex so as to provide: 1) one foot and five feet between a driveway and dwelling wall where 10 feet is required; 2) a 14 feet – 10 inch rear yard where 20 feet is required; and 3) to maintain an existing five foot side yard where 10 feet is required, in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Site Area per Dwelling Unit), located at 299 Sunset Boulevard, southwest side, approximately 325 feet southwest of Princeton Street, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0429-0091-009-00. (Continued from February 9, March 9, April 13, May 11, June 8, August 10 and September 14, 2005; to be continued without discussion to October 26, 2005).
4. **MICHAEL STROM, LAMB SURVEYING INC., VARIANCE, V-11941** –

Application to allow a one foot side yard where five feet is required (lot 1); and a lot less than 5,000 square feet net (lot 2) in an R-S-SU (Suburban Residence, Secondary Unit) District, located at 325 Cherry Way, south side, approximately 124 feet east of Saint George Street, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0429-0014-057-00. (Continued from August 24 and September 14, 2005; to be continued without discussion to October 12, 2005).

5. **TAM, TAM, YU AND KUAN, VARIANCE, V-11952** – Application to allow a 18 feet wide driveway where 20 feet is the minimum and a six feet side yard setback where 10 feet is the minimum with subdivision of the site into three lots, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 18332 Carlton Avenue, east side, approximately 200 feet north of Dominic Drive, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0472-039-00. (To be continued without discussion to October 12, 2005).

6. **BLAKE AND DANA CRISP, VARIANCE, V-11955** – Application to construct an attached addition so as to maintain an existing one foot side yard where five feet is required in an R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 18623 Sandy Road, west side, approximately 320 feet south of Seaview Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-0870-013-00. **WITHDRAWN.**

7. **DONNA WILLIAMS, VARIANCE, V-11958** – Application to allow construction of an attached addition with a front yard setback of 11 feet where 20 feet is the maximum required in an R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 18472 Vernon Court, east side, corner north of Joseph Drive, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1208-021-00. (To be continued without discussion to October 12, 2005).

Member Palmeri motioned to accept the Consent Calendar as submitted with the correction to the hearing dates of Agenda item #2, C-7756. Member Friedman seconded the motion. Motion carried 3/0.

REGULAR CALENDAR

1. **SENECA CENTER/SAN LORENZO UNIFIED SCHOOL DISTRICT, CONDITIONAL USE PERMIT, C-8227** – Application to allow continued use of eleven existing portable buildings at the Seneca Center school, in a R-1-RV (Single Family Residence and Recreational Vehicle) District, located at 2275 Arlington Drive, east side, approximately 100 feet east of Manchester Road, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080A-0174-021-00. (Continued from July 13 and August 10, 2005).

Ken Berriek, a representative for Seneca Center requested that the item be moved to the end of the Calendar. Shane Patterson, the Facilities Director for Seneca Center had been detained due to a medical appointment. The Chair re-assigned the application to item #6 on the Agenda.

2. **NEXTEL, CONDITIONAL USE PERMIT, C-8399** – Application to continue operation of an existing wireless communication facility (cellular site) in an R-1-CSU-RV (Single Family Residence with Conditional Secondary Unit and Recreational Unit) District, located at 20600 John Drive, east side, approximately 480 feet northeast of the end of Regent Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Numbers: 084A-0235-001-03 and 084A-0240-001-02. (Continued from May 11, July 13 and July 27, 2005).

Staff announced that although this particular application had not been referred to MAC the cellular site had been in continuous operation. Numerous carriers also have communications equipment on church property as well. No complaints have been received regarding the operation. The staff recommendation was approval. Member Palmeri asked if applications are required to be reviewed by the Castro Valley Council before they are heard by the West County Board. Staff responded that the Ordinance does not require primary review. Public testimony was opened.

The applicant Mr. Richard Tang, representing Sprint/Nextel was present. Member Friedman asked if Nextel would be amenable to co-location of their facility. He responded Nextel does encourage the practice. The screened location which is in a penthouse behind a screened wall would suit co-location however final approval must be granted by the Church. He then presented the Board with photos of the location. Member Friedman commented that he is familiar with the location and indeed the poles are out of sight. Public testimony was closed.

Member Friedman motioned to uphold the staff recommendation of approval. Member Palmeri seconded the motion. Motion carried 3/0.

3. **REDWOOD CHRISTIAN SCHOOLS, CONDITIONAL USE PERMIT, C-8432** – Application to allow renewal of C-8128 for five years and the addition of a 2,400 square foot physical education room, in a R-1 (Single Family Residence) District, located at 1000 Paseo Grande, west side, terminus west of Via Alamos, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 0411-0030-047-00.

The staff recommendation was approval. Member Friedman asked for clarification regarding Tentative Finding #3. Staff confirmed that the Finding stated in the affirmative was incorrect. Public testimony was opened. Mr. Gus Enderlin, the Director of Facility Development for Redwood Christian School was present. Mr. Bruce John, Superintendent and another Director were present as well. Mr. Enderlin said the staff report was the best that he had seen in his experience with County Boards however there was one inconsistency in the document. One portion recommends expiration in 2010 and another 2013. He then requested that the expiration of the Conditional Use Permit be extended for a period of 8 years. The current Permit, C-8432 expires on March 12, 2008. The new permit would take the 2008 expiration date into consideration and allow the addition of a 2,400 square foot physical education room. When the current permit was granted the Planning Body at that time exempted the school from installing an additional fire hydrant on the site. A letter received from Mr. Bob Bohman states a fire hydrant is required at the site. His requirement would prevail and the Board does not have the authority to waive fire requirements. Mr. Enderline continued and pointed out that other requirements of the CUP would not consistent in practice. The required yearly fire inspection does not take place. When it does it is at the school's request. The planning staff report says the Fire Department will continue the monitor the property to determine if a hydrant is needed. In conjunction with the schools Security Plan a Pastor is on the campus at night as well. Reports are generated and filed with the School Superintendent.

Mr. Bohman has waived the requirement of the portable buildings having sprinklers but if the school is required to install a hydrant they will comply. Mr. Enderline requested the Board clarify the expiration date of the permit. If the expiration is set 5 years from the 2008 expiration date of C-8128 this allows the school to amortize the cost of installation for the new hydrant. The school is struggling financially like many other organizations. Although the space is leased from the San Lorenzo School District Redwood Christian is responsible for the installation and removal at lease termination of any capital improvements. Questions from the Board were as follows:

- Where is the closest hydrant to the school located
- Do all school buildings have sprinklers

Mr. Enderline responded that a sprinkler is located just outside the school gate on Via Alamos which is on the south side of the property. Alameda County Fire feels the location is too far from to service the north side of the property. The original school building has sprinklers. Public testimony was closed. Member Palmeri commented that Alameda County Fire did have the ability to set requirements. Member Palmeri motioned to approve the application with the modification of Tentative Finding #3 that shall be in the affirmative. The expiration date shall be modified to expire on September 28, 2013. Member Friedman seconded the motion.

4. **XUE QIANG CHUENG, VARIANCE, V-11944** – Application to allow:

- 1) 6.7 foot front yard setback where 20 feet is minimum
- 2) 6.4 foot and 8 foot side yard setback where 20 feet is minimum
- 3) 14.7 foot and 7.6 foot rear yard setback where 20 feet is maximum
- 4) 14 foot wide driveway where 20 feet is minimum
- 5) no walkway along the driveway where it is required

in an R-S-D-35 (Suburban Residence, 5,000 square feet Minimum Building Site Area, 3,500 square feet of land per Dwelling Unit) District, located at 836 Blossom Way, north side, approximately 550 feet west of Montgomery Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0414-0071-032-02.

Staff recommended denial of the application. Member Palmeri asked staff why an application that required multiple variances would be accepted at the zoning counter. Applications with this many modifications take an inordinate amount of Board and staff time. Staff explained that applications are told at the zoning counter that an application in that form will probably be denied, however in the end the applicant does have the right to pursue it if they chose. Member Friedman said he shared the same view. Public testimony was opened. The applicant was not present. Staff confirmed that a letter notifying the applicant of the hearing had been sent. Ms. Erica Campisi, representing the Cherryland Association addressed the Board. The application in its current form was not acceptable. The applicant can remove the fourth lot which would allow them to comply with setbacks. Currently three trees exist on the property. No additional landscaping is indicated in the plans submitted. Public testimony was closed.

Member Friedman motioned to deny the application. Member Palmeri seconded the motion. Motion carried 3/0.

5. **MARIO MAPOY, VARIANCE, V-11960** – Application to establish building site status for a parcel without frontage on a county road in an R-S-D-20 (Suburban Residence, 2,000 square feet Minimum Building Site Area per Dwelling Unit) District, located at 2060 Miramonte Avenue, southeast side, approximately 320 feet northwest of Foothill Boulevard, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080A-0204-002-06.

Staff reviewed the description of the project and recommended approval. Member Friedman asked:

- How did the parcel compare to others in the area
- What is the slope of the property

Mr. Sawrey-Kubicek confirmed that staff had been to the site. The parcel was created prior to zoning without a frontage. The parcel size would actually allow 3 units. Several apartment complexes exist in the area however the applicant only proposes two dwelling units on the parcel. The parcel slopes from west to east with an estimated grade of 20%. The property was sub-dived in 1951 and an easement was recorded at that time. Recorder's Office recorders indicate the lot has been legal since 1951. The applicant is requesting a variance for frontage only.

Member Palmeri motioned to adopt staff's Tentative Findings and grant approval as indicated in the staff report, subject to the Conditions contained therein. Member Freidman seconded the motion. Motion carried 3/0.

6. **SENECA CENTER/SAN LORENZO UNIFIED SCHOOL DISTRICT, CONDITIONAL USE PERMIT, C-8227** – Application to allow continued use of eleven existing portable buildings at the Seneca Center school, in a R-1-RV (Single Family Residence and Recreational Vehicle) District, located at 2275 Arlington Drive, east side, approximately 100 feet east of Manchester Road, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080A-0174-021-00. (Continued from July 13 and August 10, 2005).

The staff recommendation is denial of the application however the board can consider granting approval based on testimony and submission of approved building permits. Member Freidman asked staff for clarification as to Tentative Finding #3. Staff confirmed there was an error. The Finding should read in the affirmative. Public testimony was opened.

Shane Patterson, the Facilities Director for Seneca Center, said when the portable buildings were originally placed on the site over the course of the past 5 to 15 years he met with Margaret Elliott, Director of Alameda County Building Inspection. The school was told permits should be obtained through the School District since the buildings were on School District property. The School District had given the school clearance for the buildings. Recently during the renewal process the District said the space was leased by the school therefore permits would be required. The school would have to meet the requirements of the Planning and Building Departments etc. Seneca Center is currently in the process of building a new school on 9 acres of the old Oakland Navy Base property. There have been delays but the property is now in escrow. As for the current site the school has contacted with Michael Willis Architects. They plan to do a survey of the code requirements and prepare a cost analysis. Based on the analysis a plan of action will be set. The survey and analysis should take 5 weeks to complete. If

necessary some of the portable buildings will be removed although it would greatly impact the children that attend the school. A copy of the proposal was presented to the Board. Member Palmeri noted that the proposal was dated October 23, 2004. Mr. Patterson said there had been oversight and the correct date was September of this year.

Mr. Kent Lan, a neighbor of the Seneca Center introduced himself. Mr. Lan said he was speaking on the neighbors behalf as well. Two neighbors are elderly and one neighbor is out of town. He explained that the neighbors were upset because the issues had been going on a long time. He believes the school is beneficial to the students however prior to the school leasing the site former tenants had to comply. He has nothing against the school. His wife attended school on the same site. In the past his wife's Grandfather was involved with Redwood Christian School who occupied the site. A request was made to expand the parking lot. The Zoning Administrator at the time denied the request. Currently 60% of the parking area has been covered to create a play area. Rocks and gravel from the school that are tracked onto the road have created a runway. Vehicles using the street have been damaged. He believes Seneca Center has had sufficient time to rectify all of the issues. He suggested the Board contact the school's accountant to verify how much money the school has generated in the past 15 years. All schools have tight budgets but an exception cannot be made for this particular school. The Oakland Army Base site could take 5 to 7 years before it can be occupied. Mr. Lan presented photographs of the road condition to the Board and closed stating the school has done a lot but they should comply with all required conditions. Public testimony was closed.

Mr. Patterson arrived and apologized to the Board for arriving late. Member Palmeri asked Mr. Patterson why issues of such importance like building code compliance that affect children's safety had been outstanding for such a long period of time. Mr. Patterson responded that the school had installed a two hour fire wall between the portables and the main building and each portable also had earthquake proof tie downs. The new facility at Oak Knoll has been in progress for the past 8 years. The Center did not anticipate that delays caused by the negotiations between the City of Oakland and Navy would drag on this long. At most it should take 2 to 3 years until the new Center could be occupied. Although the exact amount is not known yet costs could reach tens of thousands of dollars to do what is required for Building Department approval. This would be a large amount for a property that will be vacated in the near future. Seneca Center is a well established Foundation with a proven track record. The business records are available to the public. The Foundation does not make a profit.

The Center has spent \$6,000 to put down new rock. It did help the issue but not completely alleviate it. The Center would like to find some compromise and will also to speak with the San Lorenzo School District again since improvements would be long term for them and short term for the Center. If the only option is to remove some of the modular buildings from the property the result will be a reduction in service at the school. The Chair asked what the total number of portable buildings on the property was. Eight trailers were allowed through previous permits, yet there are 11 on the property. Mr. Ken Berrick confirmed there were 11 portables on site. During the past six years he has been at the school site no complaints have been received. Outside the school a phone number is posted so people can contact us if they encounter any issues. In June after a storm tracked gravel onto the road street sweepers were hired to ensure the gravel debris was cleared away. The school site is also compacted on a regular schedule. Mr. Patterson returned to testify and said he would like to seek a compromise of paving a section of the graveled area. Public testimony was closed.

Member Friedman said he understood a new facility was being prepared but in the interim current issues must be addressed and not remain dependant on future plans. The Chair commented that he had been familiar with site since his tenure as a Member of the Fire Safety Board. His up-most concern was that the students be in a safe environment. The neighbors should also feel like the Board is responsive to their

concerns. Public Works should determine if compromise is appropriate. Member Palmeri asked staff when the prior applications had come before the Board. Staff said most recently in December 2000 for an Administrative Conditional Use Permit for temporary placement of an office trailer. That permit expired in 2001. The last CUP approval was received in March 1991 and expired in 1994. The application went before MAC in 2004. Staff was not sure how long issues may have been outstanding with the Building Department. Member Friedman said it did not appear the applicant could make the required findings. Member Palmeri concerns were the following:

- The current permit had been expired for a number of years
- Possible safety issues could exist at the site without compliance to Building, Safety and Zoning Codes
- A organization under similar circumstances had come before the Board and was required to comply with Building, Safety and Zoning Codes

Member Palmeri motioned to deny the application based on the facts that the applicant was not in compliance with the previous condition requiring the parking lot be paved with an all-weather, dust free surface; and the applicant cannot meet current, Tentative Finding #3 based on the information currently in front of the Board. The motion will also reflect that Tentative Finding #3 shall be modified to reflect in the affirmative. Given the permit history, current circumstances of the absence of approved building permits, and non compliance with past conditions, health and safety may be affected. Member Friedman seconded the motion. Motion carried 3/0.

APPROVAL OF MINUTES:

Member Palmeri motioned to approve the Minutes of August 10, 2005. Member Friedman seconded the motion. Motion carried 3/0.

Member Palmeri motioned to approve the Minutes of August 24, 2005. Member Friedman seconded the motion. Motion carried 3/0.

STAFF COMMENTS & CORRESPONDENCE:

Staff Member, Phil Sawrey-Kubicek recommended that the Board hold an additional meeting in the month of October, due to a large volume of applications. After discussion the Board agreed on an October 19, 2005 Meeting at 6:00 p.m. Secretary, Yvonne Bea Grundy verified that Member Spalding had confirmed availability via e mail for that date.

CHAIR'S REPORT: There was no Chair's Report submitted.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:

Member Palmeri said staff and Board Members should develop a meeting format that prevents multiple items that are highly contested from appearing on an agenda at one time. Multiple comment cards were received at the September 14, 2005 resulting in an 11:15 p.m. adjournment. It is not fair for the public, staff or Board Members to sit through extremely long meetings that may result in fatigue, exhaustion of mental capacity and some agenda items not being heard. Member Palmeri posed several suggestions:

- Meeting limits of approximately 3 hours

- Special, set meetings can be scheduled for applications that staff knows upfront will require more than 45 minutes to consider. That policy can be stated on future agendas
- Continue an item and reschedule it for a set date if an item receives more than 10 comment cards
- If it appears an agenda item will take more than 60 minutes, the item can be moved to the end of the calendar
- No agenda item shall begin after 9:00 p.m.
- Hear Code Enforcement Agenda items on a separate Calendar date
- Assign an a set week each month for an optional hearing to be used if necessary, i.e. the third Thursday

The Chair responded that it could prove challenging to determine how many speakers may want to comment on an item when people arrive after the start of meeting. He did acknowledge that 5:00 p.m. to 11:15 p.m. is a long day. The suggestions give the Board and staff something to consider. Member Friedman thought as many cards as possible should be accepted but at three minutes per card, ten might be a manageable number. Member Palmeri queried the Board to see if official policy should be adopted. The Chair proposed that staff discussed the ideas and return with a recommendation.

ADJOURNMENT:

There being no further business, the hearing adjourned at 3:45 p.m.

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS