

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
OCTOBER 26, 2005
(APPROVED NOVEMBER 9, 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

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 7 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.

No one requested to be heard under open forum.

CONSENT CALENDAR:

1. **ADAMS, ADAMS & MORRIS, CONDITIONAL USE PERMIT, C-8411-** Application to allow continued operation of a minor automotive repair shop, in a C-1 (Retail Business) District, located at 186 East Lewelling Boulevard, north side, corner north east of Ashland Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 0413-0019-004-02. (Continued from September 14, 2005; to be continued without discussion to November 16, 2005).
2. **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. (Continued from September 28 and October 12, 2005; to be continued without discussion to November 16, 2005).
3. **ZHITONG ZHANG, VARIANCE, V-11961** – Application to allow a rear yard

setback of 14 feet, eight inches, where 20 feet is the minimum with the subdivision of the site into three lots, in an R-S-D-25 (Suburban Residence, 2,500 square feet Minimum Building Site Area per Dwelling) District, located at 16130 Maubert Avenue, northeast side, approximately 160 feet northwest of 162nd Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 0080-0048-020-04. (To be continued without discussion to November 9, 2005).

4. **ROBERT DEKAS, VARIANCE, V-11966** – Application to retain an attached deck providing a zero foot side yard where six feet is required in an R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4990 Seaview Avenue, north side, approximately 90 feet west of Rockhurst Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-0921-100-00. **WITHDRAWN.**

5. **HENRY CHAN, VARIANCE, V-11968** – Application to reconfigure an existing parking lot so as to provide 32 parking spaces where 37 spaces are required and retain an (e) handicap ramp providing an 11 foot, nine inch driveway access where 20 feet is required, in an C-O [Commercial (Medical and Dental) per Castro Valley Central Business District Plan, Sub Area 4] District, located at 20600 Lake Chabot Road, east side, approximately 84 feet south of Congress Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084A-0160-013-04. **WITHDRAWN.**

Member Friedman motioned to accept the Consent Calendar as submitted with one modification. Item #3, Variance, V-11961 will be continued to November 9, 2005. Member Palmeri seconded the motion. Motion carried 3/0.

REGULAR CALENDAR

1. **GUL AHMAD, CONDITIONAL USE PERMIT, C- 8306** – Application to continue operation of an auto dismantling and auto sales use in an M-2-B-E (Heavy Industrial with Five Acre Minimum Building Site Area) District, located at 3788 Depot Road, south side, approximately 66 feet south of Cabot Boulevard, unincorporated Eden area of Alameda County bearing Alameda County Assessor's Parcel Number: 0439-0070-006-00. (Continued from September 9, 2005).

The staff recommendation was approval. Member Friedman was concerned that a seven year permit may be too long of a period of time. The property is in an area being considered for annexation by the City of Hayward. Staff said the annexation consideration process had been under way for approximately 5 years. The process may not be complete for another 5 to 10 years. Staff suggested the Board set the permit expiration for a period of five years or one year after annexation, whichever occurs first. Public testimony was opened.

The applicant Mr. Gul Ahmad was present. Member Friedman asked if the property had a sewer or septic system. Mr. Ahmad told the Board that a septic system operated on the property. There have not been any problems. Public testimony was closed.

Member Palmeri moved to grant Conditional Use Permit, C-8306. The Permit shall be valid for a period of 5 years or 1 year after annexation by the City of Hayward, whichever occurs first. Member Friedman seconded the motion. Motion carried 3/0.

2. **BAY CHRISTIAN CHURCH, CONDITIONAL USE PERMIT, C-8409** – Application to allow continued operation of a church facility on an existing school site in an R-S-D-35 Suburban Residence, 3,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at 20450 Royal Avenue, northeast side, corner northeast of West Sunset, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0432-0008-036-00.

The applicant, Mr. Mark Thomas, Pastor of Heart of the Bay Christian Center thanked the Board for their consideration. Mr. Thomas said the hours of 9 a.m. to 10 p.m. listed in the staff report were reasonable but periodically staff does need to stay a short time to clean up. One Saturday a month the church conducts a men's ministry meeting. It begins at 8:00 a.m. and approximately 20 men participate. Pastor Thomas asked if a special permit must be submitted each month to accommodate the meeting. The Chair deferred to staff. Phil Sawrey-Kubicek asked if this was the actual schedule, currently being followed. Pastor Thomas confirmed that the schedule had been followed for a number of years. The Chair recommended the hours of operation be modified to begin at daily at 8:00 a.m. since there had been no complaints. Public testimony was closed.

Member Friedman motioned to accept the Tentative Finding in the staff report with the modification of Condition #2. Hours shall be from 8:00 a.m. to 10:00 p.m., 7 days a week.

Member Palmeri seconded the motion. Motion carried 3/0.

3. **JOHN AND ZAMBIA WENTWORTH, CONDITIONAL USE PERMIT, C-8414**- Application to allow continued operation of a residential care facility in an R-S-SU (Suburban Residence, Secondary Unit) District, located at 143 Hampton Road, south side, approximately 238 feet east of Meekland Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0413-0047-004-00.

Staff recommended approval of the application. The Cherryland Association submitted no comments regarding the application. Member Palmeri asked when the referral was originally sent. He believed the Director was currently on vacation. Staff confirmed the referral was sent on July 26, 2005. The Chair asked if another facility, located at 181 Hampton Road was the same type. Staff said they were not sure but perhaps the applicant had additional information. Public testimony was opened.

Mr. John Wentworth confirmed that the facility at 181 Hampton Road was the same type of facility. There have been no issues at 143 Hampton Road or the neighboring facility at Hampton Road. Mr. Wentworth was in agreement with the conditions contained in the staff report. Public testimony was closed.

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

APPROVAL OF MINUTES: Member Palmeri motioned to continue approval of the Minutes of October 12, 2005 to the November 9, 2005. Member Friedman seconded the motion. Motion carried 3/0.

STAFF COMMENTS & CORRESPONDENCE:

A policy discussion regarding possible agenda modifications when considering lengthy agenda items will be scheduled before the end of the year.

CHAIR'S REPORT: No Chair's Report was submitted.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:

Member Palmeri directed a question to County Counsel regarding the content of Board Letters submitted to the Board of Supervisors and the appeal process:

- Is it legally appropriate for an applicant to submit a revised project during the appeal process
- If a modified project is submitted to the Board of Supervisor's, can the BZA request that application be sent back for consideration of BZA and CVMAC

Often when an application is not approved at the Board of Zoning Adjustment level the applicant submits a modified or different project to the Board of Supervisor's. A significant effort is made by the BZA to encourage applicants to modify and/or redesign their projects. The Board was concerned that when a project is changed in this manner they did not have further opportunity to consider applications. The Board also wanted to ensure applicants take advantage of opportunities given at the Board of Zoning Adjustments to bring projects into compliance. County Counsel told the Board he would review the Ordinance language regarding appeals and report back.

The Board asked staff what it cost to file an appeal at the Board of Supervisors. Staff said \$25 to \$100 depending on who files the appeal, the applicant or another party.

ADJOURNMENT:

There being no further business, the hearing adjourned at 2:15 p.m.

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS