

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
NOVEMBER 14, 2007
(APPROVED DECEMBER 5, 2007)**

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

MEMBERS EXCUSED: Kathy Gil.

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

There were approximately 4 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: The Chair welcomed new Member, Ineda Adesanya. Mrs. Adesanya is representing the Castro Valley area on the on Board of Zoning Adjustments.

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. **RICHARD GOLD, CONDITIONAL USE PERMIT, C-8640** – Application to allow continued operation of a “B” Type Service Station, in an ACBD – BDI (Ashland and Cherryland Business District Specific Plan- Business Industrial) District, located at 594 East Lewelling Boulevard, north side, terminus, north of Boston Road, unincorporated San Lorenzo area of Alameda County, designated Assessor’s Parcel Number: 413-0027-058-02. (Continued from September 26 and October 24, 2007; to be continued to December 5, 2007).

Vice Chair Peixoto motioned to accept the Consent Calendar as submitted. Member Clark seconded the motion. Motioned carried 4/0.

REGULAR CALENDAR

1. **BRIAN LESEUR, VARIANCE, V-12071** – Application to subdivide one site into two parcels (with a boundary adjustment) resulting in a zero foot side and a 16 foot, front setback where 10 feet, and 20 feet setbacks respectively are required, in an R-1-CSU-RV (Single Family Residence, Conditional Secondary

Unit, Recreational Vehicle) District, located at 19223 Carlton Avenue, west side, approximately 380 feet south of Massachusetts Street, unincorporated Castro Valley Area of Alameda County, Designated Assessor's Parcel Number: 084B-0441-043-00. (Continued from October 24, 2007).

Staff Planner: Andy Young.

Staff reviewed the application. The Castro Valley Municipal Advisory Committee heard the application at the November 12, 2007 Meeting. The Applicant asked for a continuance. The application is part of a family dispute. Board questions for staff were as follows:

- What was the recommendation of the CVMAC
- Is it necessary for the item to be re-noticed

Staff told the Board that the CVMAC did not have a recommendation. County Counsel informed the Board if the CVMAC leaves an open date for the future hearing. Staff must re-notice the item. Staff agreed upon a hearing date of January 9, 2008. Public testimony was opened. There were no requests to speak during public testimony. Public testimony was closed.

Member Adesanya motioned to continue the application to January 9, 2008. Vice Chair Peixoto seconded the motion. Motion carried 4/0.

2. **KEVIN HINKLEY, CONDITIONAL USE PERMIT, C-8656** - Application to allow a light auto repair facility in a P-D (ZU-1914) (Planned Development) 1914th Zoning District, located at 5265 Crow Canyon Road, south side terminus of Greenridge Road, in the unincorporated Castro Valley area of Alameda County, Assessor's Parcel Number: 085-5300-003-06.

Staff Planner: Pat Anekayuwat.

The staff recommendation was approval. The CVMAC was in favor of approval, as well. The Chair asked the following questions:

- Is the use an ongoing operation
- Did the Applicant appear at the CVMAC Hearing

Public testimony was opened. There were no requests to speak, submitted. Public testimony was closed. Staff explained that the item was on CVMAC Consent Calendar. When application items are non-controversial they are placed on the Consent Calendar. If there is a request for public testimony submitted, the item is moved to the Regular Calendar. The Chair asked Board Members if they would like to continue the item. Typically when an Applicant is not present, the Board continues the item. The Vice Chair pointed out that is standard procedure when the Board is likely to deny an application. Member Adesanya said that she was familiar with the facility, and saw no reason why the Board could not support the staff recommendation of approval.

Member Adesanya motioned to uphold the staff recommendation of approval. Member Clark seconded the motion. Motion carried 4/0.

3. **METRO PCS / EAST BAY KOREAN CHURCH OF THE NAZARENE, CONDITIONAL USE PERMIT, C-8562** - Application to allow continued operation of a telecommunications facility, in an R-1-RV (Single Family Residence, Recreational Vehicle) District, located at 2301 Miramar Avenue, north side, zero feet west of Crest Avenue, unincorporated San Leandro area of

Alameda County, Assessor's Parcel Number: 080A-0191-034-04. **Staff Planner: Christine Greene.**

Staff reviewed the application. The recommendation was approval. The CVMAC recommended approval as well. Member Clark asked staff if the site was located in the El Portal Ridge or Fairmont Terrace District. Staff confirmed the site was in the El Portal Ridge District. Member Clark asked if the HOA had offered comments regarding the application. Staff responded that the application was not referred to the HOA. Public testimony was opened.

Mr. Maryann Miller-Novak was present representing, Metro PCS. She told the Board that CVMAC did recommend approval. The Chair asked Ms. Miller if the item was on the Consent Calendar or heard during the public hearing. Ms. Novak confirmed the application was heard by the Council. A neighborhood person did speak at the Meeting. However they did not identify themselves as a Member of the HOA. Board questions for Ms. Miller were as follows:

- Will the antennas be visible from Miramar Avenue
- Will there be any additional visual changes to the site, other than the 2 antennas that will be added to the cross on the sanctuary building

Ms. Miller said there would be ground equipment on both sides of the church, and sanctuary. A fence will enclose the equipment cabinets, and they will not be visible from Miramar Avenue. The equipment is approximately the size of a refrigerator, and an ice chest. The Chair asked if the fence was part of the current CUP. Staff then referred to Condition #2 which states the fence will be 6 feet in height. Staff clarified that there is another carrier at the site. Ms. Novak interjected, and stated that Metro PCS originally wanted to co-locate with T Mobile. T Mobile has temporary facility equipment currently operating at the site. It is unknown as to when T Mobile will complete the application process. At this juncture Metro PCS would like to move forward. Staff estimated that the height of the T Mobile antennas would be approximately 67 feet high. Public testimony was closed.

Additional Board questions for staff were as follows:

- Is the staff recommendation for a 10 year permit standard for all telecommunication applications
- Given there will be 2 carriers on the site, will additional carriers be able to co-locate
- Would an additional carrier that co-locates, be required to obtain a CUP
- Does staff believe the site should be limited to a maximum of 2 carriers
- Is T Mobile operating under a temporary Conditional Use Permit
- What is the antenna height specified in the revised T Mobile engineering plans
- Will a second cross that houses telecommunications equipment be added to the site

Staff confirmed that a 10 year expiration period is standard for telecommunication applications. It will be possible for additional carriers to co-locate. The goal is not to necessarily limit the number of carriers but to consolidate. T Mobile is currently operating under an expired temporary permit. The temporary

equipment placed at the northeastern corner of the property is 70 feet in height. The T Mobile application for a permanent tower was to house antennas, within the 80 ft high cross. T Mobile has modified their plans and submitted them to the Building Department. The height of the antennas has been lowered to a height of 67 feet. Permits have not yet been issued. However the Planning Department has already signed off on the permanent application. The plans have now been forwarded to the Building Department. An extension for the temporary permit is now being processed. The temporary permit will not be extended beyond 60 days. A telecom carrier that wishes to co-locate on an existing carrier's equipment will not need to come before the Board for a permit. However a new application must be processed through the Building Department. Member Adesanya pointed out the fact that Conditions of Approval for the present carriers can be written to apply to carriers, wishing to co-locate. The Chair recommended that any new co-location on the site, take place on the larger of the two facilities.

Member Clark motioned to uphold the staff recommendation of approval with a modification to Condition #10. Co-location for future carriers shall take place in the following order of priority: Additional equipment shall be placed at the larger tower / cross structure, named in CUP-8478. When that structure is at capacity the smaller tower/cross structure shall be the designated to co-location in the infrastructure named in, CUP-8562. Vice Chair Peixoto seconded the motion. Motion carried 4/0.

4. **IBC BUILDERS / PRASAD, TENTATIVE PARCEL MAP, PM-9516 and VARIANCE, V-12073** - Application to subdivide one parcel measuring approximately 43,560 square foot (1.0 acre) parcel into four lots allowing a six foot side yard where a 10 foot side yard is required in a R-1-B-E (Single Family Residence, per Fairview Plan) District, located at 23330 Maud Avenue, east side, approximately 300 feet south of Pickford Way, unincorporated Fairview area of Alameda County, Assessor's Parcel Number: 417-0210-67. (Continued from October 10 and October 24, 2007). **Staff Planner: Andy Young.**

Staff reviewed the history of the application. The recommendation was approval. The application had been continued from the October 10th and 24th Meetings, to allow a meeting with Alameda County Fire, and the Fairview Community Club. Thus far the HOA has yet to meet with the Applicant. At this juncture the HOA is recommending denial, and would like a continuance to the December 5, 2007 Meeting. The Applicant has submitted revised plans for the project. Initial Board questions for staff were as follows:

- Is the Applicant amenable to a continuance
- Is the project in compliance with the Subdivision Map Act
- Will the existing homes on the property be retained
- What are the specific plans for the utility infrastructure
- Are all utilities required to be placed underground
- Will the Applicant have to dedicate frontage to the County Right of Way

Staff told the Board that the Applicant was present, and could confirm if they would accept a continuance. All new utility infrastructure will be placed under ground. The Chair asked if the under grounding would include existing telephone poles. Recent projects in the area have added telephone poles next to existing poles directly onto the Public Right of Way. Portions of the street have been widened and other sections left untouched, creating an hour glass shape. Staff explained that Alameda County Public Works will be responsible for overseeing the utilities and road frontage. Power poles that already exist will remain unchanged. New power lines will be placed underground. The Applicant will dedicate a portion of the frontage to the County Right of Way. Public Works will widen and install the street. This should create a roadway of consistent width. The Applicant would like to keep the existing homes. This is what created the necessity for the variance. The setback for the home at the front of the parcel does not meet current

zoning standards. Public testimony was opened.

Mr. Indy Chadha, the project engineer was present representing the Applicant. Per the Chair's request at the October 24, 2007 Meeting, he contacted Charles Snipes of the Fairview Community Club. Thus far Mr. Chadha has not been contacted by Mr. Snipes. Mr. Chadha said he also spoke with his staff planner. No additional information has been received by the Planning Department. Mr. Chadha has reviewed the revised plans with Public Works. The project is now comprised of 4 lots. The proposed access and utility easement have been eliminated. Board questions for Mr. Chadha were as follows:

- Where is the property line in relation to the guest parking for Parcel #2 and Parcel#3
- Is there a landscaping plan for the existing homes
- Will the property be landscaped during construction
- Will the project require the street to be widened
- Will the existing shed be demolished
- Will the existing homes be painted to match the new development
- Will the utilities for the site be placed underground
- Where will the parking be located

Mr. Chadha referred to the Parcel Map and clarified that the easement line was next to the curb, not the property line. There will be landscaping for the existing homes, and all of the proposed parcels. In the front of the property there will be a 10 foot section dedicated to the Public Right of Way. The street will be widened by Alameda County Public Works. The street widening used to be the responsibility of the developer. As a result of some streets left in a jagged, zig zag design by area developers, the County now takes that responsibility. As the developer, Mr. Chadha will install the curbs and gutter. The Chair agreed with the process of the County installing the road. The inconsistent roadways that have been installed by some developers have caused line of site road hazards, and visual blight. Mr. Chadha continued and said that all new utilities will be placed underground. This is also a process that is now required by Public Works. The shed will be demolished. The existing homes will be painted to match the new development. The houses will be coated in stucco with a Spanish style finish. Staff clarified that parking would be located in the rear of the parcel.

Mr. Charles Snipes of the Fairview Community Club confirmed that he had been contacted by Mr. Chadha. He did send a fax to Mr. Chadha but the communication did not go through. Mr. Snipes also submitted a copy of the letter to the Planning Department. Unfortunately his wife has been ill and he has not been able to meet. Mr. Snipes asked the Board to continue the application to the next meeting to allow the neighborhood to meet with Mr. Chadha, on site. The Chair asked when the Fairview Club would meet. The application has been continued twice. Member Adesanya asked Mr. Snipes if he could outline his outstanding concerns regarding the project.

Mr. Snipes said he was concerned about the overall impact to the community. It took a period of 3 years to develop the Fairview Plan. All parcels of open space were evaluated individually. Overall density was lowered for parcels. This project will increase traffic to the community. The project may meet the Zoning Density Requirements, but will create sub-standard lots. The Chair interjected and reminded Mr. Snipes that the BZA would only make a determination on the variance. The decision regarding the parcel map would be determined by the Planning Director. The Chair then briefly dismissed herself, and handed the gavel to the Vice Chair to continue discussion of the application. Board Members asked staff for clarification on the following outstanding questions:

- Will the variance apply only to Lot #1
- Will Lots #2 and 4# be non-conforming

- Where will the access driveway be placed
- Does the proposed drainage run across parcels

Staff confirmed that the variance would apply to Lot #1. The setbacks for Parcel #3 would be conforming, and all of the new homes would be conforming. The Planning Director will make the decision on the Parcel Map. Public Works, Clean Water Division will be responsible for addressing drainage on the project. Planning staff will sign off on the final Parcel Map, prior to recordation. The Chair returned to the meeting, and asked Mr. Snipes if his concerns had been addressed. She also asked Mr. Snipes if he was in agreement with the recommendation of the Fairview Fire Department. Mr. Snipes said he would still like to have the opportunity for the Community Club to meet with the developer.

Ms. Cathy Langley told the Board that she lived on the east side corner from the project. She was in agreement with the earlier comments of the Chair. Many of the new subdivisions had installed horrible street alignments. This is providing an area in which young people are engaging in unsafe driving behavior. Ms. Langley has seen young drivers get out of their vehicles and turn the steering wheel so the car spins around them. Increasing development and density, affects the safety of kids. There is a yield sign on D Street but it does not slow down the flow of traffic. Ms. Langley was also in agreement with the recommendation that all power be under grounded for the site. This prevents further eyesores. She asked staff what could be done to ensure this would happen. The Chair explained that a Condition could be added wherein this would be a requirement of the developer. Ms. Langley closed and told the Board that she would also appreciate a continuance of the application.

Member Adesanya asked to confirm that the BZA's determination would solely be on the variance application. The staff report appeared to be slightly misleading. Staff confirmed the BZA was responsible for the decision on the variance. The Planning Director cannot take action on the Parcel Map until there is a decision on the variance. Therefore complete information regarding the application is presented for consideration. The Planning Director will oversee any outstanding issues.

Mr. Chadha returned to testify and provide additional information. He confirmed that he did receive Mr. Snipe's letter, however this would be the 3rd continuance of the application. The concerns raised will be addressed in the application approval process. To ask his client to continue the application again would not be fair. Member Clark made Mr. Chadha aware of the fact that the neighbors could appeal a decision made by the BZA, to the Board of Supervisors. The Chair also pointed out that Conditions could be fashioned to ensure issues are addressed as well. Mr. Chadha asked if the Board would like a gate installed at the street entry, to control traffic. The Vice Chair said that may solve one issue but a gate could cause frustration for the Fire Department. Mr. Chadha responded that all of the requirements of the Fire Department had been met in the original plans. The only adjustment that was made was the reduction of the number of lots. Mr. Chadha said he would be open to additional Conditions of Approval.

Vice Chair Peixoto motioned to uphold the staff recommendation of approval with a modification to Condition #1. A Landscaping Plan shall be submitted to the Planning Director for each individual lot, including existing lots. All new utilities shall be placed underground. Member Clark asked for an amendment to the motion. The shed and carport on Parcel #1 shall be demolished. The Chair asked if the Condition for the Parcel Map, referring to graduated building heights, and corresponding grading could be included. Staff confirmed that this Condition would not be part of the Variance Application, but would be included with the Parcel Map. Member Adesanya seconded the motion. The Motion to approve Variance, V-12073 was approved 4/0.

5. **MIKE BOCKS, VARIANCE, V- 12085** - Application to allow a garage conversion providing: 1) Three parking spaces where four are required; 2) A zero foot setback from the driveway where 10 feet is required; and 3) A two foot side

yard where five feet is required in an A-C-B-D Specific Plan - RC (Ashland and Cherryland Business District Specific Plan, Residential / Commercial) District, located at 330 Lewelling Boulevard, south side, 50 feet west of Tracy Street, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 413-0097-021-00.

Staff Planner: Christine Greene.

Staff requested a continuance to January 23, 2008 on behalf of the Applicant. The Applicant is aware of the staff recommendation of denial. Therefore they are considering their options. The Chair asked the following questions:

- Have comments had been submitted from the Home Owners Association
- Is the project within a Redevelopment Zone

Staff responded that the San Lorenzo Village Homes Association submitted a letter which stated they were adamantly opposed to the variance. The Redevelopment Agency is also opposed to the project. Public testimony was opened. There was no public testimony offered. Public testimony was closed.

Member Clark asked if staff observed evidence of additional uses during site visits. Staff said the variance application may be as a result of an initial complaint to Code Enforcement. There is a structure, and picnic tables on the property. Some community members believe the site is being used as a motor cycle clubhouse. Vice Chair Peixoto referred to comments from Alameda County Traffic Division that west bound traffic would include 2 lanes. However east bound traffic will only include 1 lane. Staff should clarify the proposed traffic flow.

Vice Chair Peixoto motioned to continue the application to January 23, 2008. Member Clark seconded the motion. Motion carried 4/0.

6. **BEVERLY DIXON, VARIANCE, V-12087** – Application to allow a four foot rear yard where 20 feet is the minimum required to retain an existing solarium, located in an R-1-BE-CSU-RV (Single Family Residence, 7,000 square feet Minimum Building Site Area, Conditional Secondary Unit, Recreational Vehicle Parking) District, located at 5953 Highwood Road, south east side, approximately 500 feet north of Lomond Way, unincorporated Castro Valley area of Alameda County, Assessor's Parcel Number: 085-1605-012-00. **Staff Planner: Christine Greene.**

Staff recommended approval of the application. The Castro Valley Municipal Advisory Counsel was in favor of approval, contingent upon the Applicant obtaining a property survey. A neighbor of the Dixon's wanted to verify the actual location of the property line. Public testimony was opened.

The Applicant, Ms. Beverly Dixon said she purchased the home in 1992. The prior owner installed the solarium with the benefit of permits, 5 years prior to her purchasing the home. Ms. Dixon said she took plans of the solarium to the Building Department in anticipation of termite repair work. The Building Department discovered there was a discrepancy between the dimensions submitted in the original plans vs. the actual size of the structure. As a result it now appears a variance is needed, although the structure was inspected and permitted. The original plans state the room was to be 8 feet by 12 feet. The actual structure is larger. The prior owner may have misrepresented the dimensions in order to comply with the setbacks. The neighboring property owner is also under the impression that the solarium is on his property. The neighbor is willing to split the cost of a land survey. Mrs. Dixon said if the outcome of the

survey is that the solarium is on her property. She will proceed with the solarium repairs.

Mr. Felix Elizalde told the Board that his home is located behind the Dixon's home. He was in agreement with the CVMAC's proposal. He will split the cost of the survey with the Applicant.

Mr. Leonard Farrauto said that the CVMAC had announced that if the Applicant obtained a survey they were free to pursue the application. He asked the Board if it was necessary for further review, prior to the Applicant obtaining a Building Permit. The Chair explained that the Board could not make a decision based on facts, not yet presented. The BZA is a semi adjudicatory body. Once the survey information has been determined the application will come back for review. Then the BZA can take action. It will not be necessary for the application to return to the CVMAC. Public testimony was closed.

Member Clark motioned to continue the application to December 12, 2007. Vice Chair Peixoto seconded the motion. Motion carried 4/0.

APPROVAL OF MINUTES: Vice Chair Peixoto motioned to approve the Minutes of October 10, 2007. Member Clark seconded the motion. Motion carried 3/0. Member Adesanya abstained as she was not yet a Member of the Board of Zoning Adjustments.

The Chair continued the Minutes of October 24, 2007 to allow Member Gil to be Present. Member Clark motioned to continue the Minutes. Vice Chair Peixoto seconded the motion. Motion carried 4/0.

STAFF COMMENTS & CORRESPONDENCE:

Staff announced that the Meeting Calendar times would be changed for December due to the Volunteer Recognition Dinner. The December 5, 2007 Meeting will be held at 1:30 p.m. The December 12, 2007 Meeting will be held at 6:00 p.m. The Field Trip departure time, will be announced.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:

Vice Chair Peixoto asked staff to review the Application Appeal Process. Staff explained that an appeal of a West County Board of Zoning Adjustments action is heard by the Board of Supervisors. After the BOS makes a determination, Planning Staff creates a Resolution. The Vice Chair asked staff to forward BOS Minutes to BZA Members.

ADJOURNMENT:

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

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS