

**MINUTES OF MEETING  
WEST COUNTY BOARD OF ZONING ADJUSTMENTS  
FEBRUARY 10, 2010  
(APPROVED MARCH 24, 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.

**FIELD TRIP: 1:00 p.m.**

**MEMBERS PRESENT:** None.

**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 meeting adjourned to the field and the following properties were visited:

1. **SAINT ANTONIUS COPTIC CHURCH / SAM HANNA - CONDITIONAL USE PERMIT, PLN- 2009-00102** - Application to allow continued operation of a church, with the expansion of the facility consisting of a 16,200 square foot multi-purpose building on an adjacent parcel to the south requiring a Variance for a 40 foot average building height, where 30 feet is the maximum height allowed, in an R-1-B-E (Single Family Residence, 10,000 and 6,000 square foot Minimum Building Site Area, 60 foot Median Lot Width, 20 foot Front Yard, 7 foot Side Yard Minimum) District, located at 2500 Hansen Road, west side, approximately 300 feet north of East Avenue, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Numbers: 426-0130-072-00 and 426-0130-003-01. **Staff Planner: Richard Tarbell.**
2. **BONORA / CLEARWIRE LEGEACY, LLC, CONDITIONAL USE PERMIT, PLN-2009-00148** – Application to allow construction and operation of a telecommunication facility (rooftop antennas and microwave dishes) in a CN (Neighborhood Commercial) and PD (Planned Development, 1417<sup>th</sup> Zoning Unit) District, located at 19125 Redwood Road, west side, at the southwest corner of Wilson Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0583-003-06. **Staff Planner: Christine Greene.**
3. **GAYLER CONSTRUCTION, CONDITIONAL USE PERMIT, PLN-2009-00159** - Application to allow construction of a single family dwelling with a 10 foot side yard setback where 20 feet is required in an R-1-B-E (Single Family Residence, 5 acre Minimum Building Site Area, 60 foot Median Lot Width, 20 foot Front Yard, 7 foot Side Yard Minimum) District, located at 26036 Clover Road, south east side, approximately 500 feet southwest of East Avenue, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Number: 425-0240-006-00. **Staff Planner: Damien Curry.**
4. **SUSAN MYERS / JULIE ELWOOD & KONSTANCE SARMENTO - CONDITIONAL USE PERMIT, PLN-2009-00172** - Application to allow operation of a commercial indoor recreation facility, in a C-1 (Retail Business)

District, located at 15294 Liberty Street, east side, at the eastern terminus of Oriole Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080-0035-010-03. **Staff Planner: Damien Curry.**

**REGULAR MEETING: 6:00 p.m.**

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

**MEMBERS EXCUSED:** None.

**OTHERS PRESENT:** Phil Sawrey-Kubicek, Senior Planner; County Counsel, William Fleishhacker; Code Enforcement staff; and 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 6:15 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. **Cynthia L. Stricklin, Via Natal, San Lorenzo, CA 94580**  
In violation of the Alameda County Ordinance 6.65.030 A(1).
  1. Junk, debris and miscellaneous items in the front, side and rear yards.
  2. Overgrown vegetation in the side and rear yards.

Member Spalding 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. Member Adesanya had not yet arrived therefore did not participate in the vote.

**CONSENT CALENDAR:**

1. **BONORA / CLEARWIRE LEGACY, LLC, CONDITIONAL USE PERMIT, PLN-2009-00148** – Application to allow construction and operation of a telecommunication facility (rooftop antennas and microwave dishes) in a PD (Planned Development, 1417<sup>th</sup> Zoning Unit) District, located at 19125 Redwood Road, west side, at the southwest corner of Wilson Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0583-003-06. **Staff Planner: Christine Greene.** (To be continued to February 24, 2010).

Member Peixoto motioned to accept the Consent Calendar as presented. The Vice Chair seconded the motion. Motion carried 4/0. Member Adesanya had not yet arrived therefore did not participate in the vote.

**REGULAR CALENDAR**

1. **SAINT ANTONIUS COPTIC CHURCH / SAM HANNA - CONDITIONAL USE PERMIT, PLN- 2009-00102** - Application to allow continued operation of a church, with the expansion of the facility consisting of a 16,200 square foot multi-purpose building on an adjacent parcel to the south requiring a Variance for a 40 foot average building height, where 30 feet is the maximum height allowed, in an R-1-B-E (Single Family Residence, 10,000 and 6,000 square foot Minimum Building Site Area, 60 foot Median Lot Width, 20 foot Front Yard, 7 foot Side Yard Minimum) District, located at 2500 Hansen Road, west side, approximately 300 feet north of East Avenue, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Numbers: 426-0130-072-00 and 426-0130-003-01.  
**Staff Planner: Richard Tarbell.**

Staff informed the Board the presentation was a preliminary hearing. The Board will get an overview of the project in order to garner feedback. The Applicant is in the process of completing an initial study. When complete, the study will go out for a 30 day review. The project is anticipated to return for review by the Board on April 14, 2010, including comments from the initial study. Initial Board questions were as follows:

- What is the height of the building on the adjacent parcel
- Is the proposed project on a separate parcel
- What is the average building height of the proposed facility
- Will the approved use of the church continue with construction of the new facility
- Will project approval affect the current cup expiration date
- Was this project considered in recent years
- Is the project located within the Fairview Plan
- How are the two uses connected
- How is the current use affected if the expansion request is denied
- Is the initial study presently ready for review
- How does the proposed stepped design affect the neighboring residential home
- What is the name of the creek and/or tributary located behind the site
- Is the Creek Moratorium still in effect

Staff explained the application is continued use of a church facility, with expansion of the facility. The Board has the option of approving the facility expansion request for a period of 10 years. In conjunction, conditional use of the church can be extended to the same length. The Board can also let the existing

church permit remain on a separate expiration track. The project is within the Fairview Specific Plan. Member Spalding asked that the Plan be further considered prior to the next stage of review. The new permit can be considered on an individual basis. However it depends on language. The “use / activities” on each of the parcels is in conjunction with the other. Although the properties are separate. The parcels could be considered as a total site. The parcels are individual, and could be sold separately. However the Applicant is the same. The parcels can be merged. A driveway between the two parking lots on the Hansen Street side will connect the parcels. A draft of the initial study is ready. Comments will be garnered, which will be circulated to staff. Comments can be sent to the BZA or reviewed at the April 14, 2010 Hearing. Average building height can vary depending on roof design. Typically multi-story buildings average a 10 foot separation between floors. Anticipated roof height is added to determine an average. The proposed grade from parking lot to the top of the roof is 34 feet. This is an approximate average height for a 3 story building. The tributary behind the building flows into Sulphur Creek. The Moratorium applied to residential projects, and would not have effected this proposal. However the Creek Moratorium is no longer in effect. Staff confirmed a past project was denied by the Zoning Administrator. Further research is required to determine what the proposal entailed. If the BZA were to deny the present request, the Applicant could wait a period of one year, alter the design and return for consideration.

The project architect, Mr. Karl Danielson told the Board he has worked with staff for a year. He presented the project using graphics and maps. The site drops approximately 18 feet. The goal is to give the building a single story profile, from the street. This is more appropriate for the residential characteristic of the neighborhood, and creates a lower profile. The rear will show more elevation. The front façade is 17 feet. The balance of the height is comprised by the roof. The Ordinance allows height to be averaged. The maximum height allowed is 39 feet. Average height was calculated using the measurement from the top of the roof, down to the lowest rear grade. The proposed design is an average of 47 feet. To accomplish the project without a variance, a flat roof could be employed. However that would make the front building façade, 27 feet. The rear wall would be 39 feet. Perception was a strong consideration. A flat roof design with a higher profile would not be as attractive. Design was selected based on the neighborhood. However Mr. Danielson acknowledged the flat roof proposal would not accommodate the recreational use. The elevation of the windows will reduce light that escapes after dusk. Board questions for the Applicant were as follows:

- What is the vantage point from the rear
- Will anyone see the rear of the building
- Has the church contacted the neighbor at the rear of the site
- Has the church contacted the neighbor on Hansen Road

There is one home that can see the rear of the proposed facility. It is on the other side of the ravine, and sits quite a distance from the church property. The frontage of the home is located off the street.

Deacon Sam Hannah confirmed the church contacted the Condominium Association on Hansen Road. The staff Planner was present at the meeting. Preliminary plans were distributed. Since the meeting, plans have been improved. The neighbors provided positive feedback. The site had been used as a dump for mattresses and trash. It is now clean. A second meeting was called for an update however no one attended. The individual home owner was invited to a separate meeting. There are 30 mature trees on the back side of the property. They will remain. Further trees will also be planted. This will provide additional privacy for the neighbor. Further questions for the Applicants were as follows:

- Who owns the church property
- Will the parcels be merged

Deacon Hannah said there is no established Dioceses or Bishop for Northern California. The Coptic Church is under the leadership of their Pope. The property is under the church's name. Deacon Hannah did not believe merging the two parcels would be a problem.

Mr. Karl Danielson returned to testify. He asked the BZA to identify problematic issues, so they can be addressed. The church has been working on the project for a year, they are anxious to move forward. Member Spalding asked if he was aware of the Creek Committee. The proposed location is close to the head water of Sulphur Creek. She asked staff how the project would be impacted by the potential Creek Ordinance. Mr. Danielson said thus far staff has not informed him of a Creek Ordinance Committee. Originally the ravine cut directly through the property and up to the school. Now there is a building site on the property. A drain is provided on Hansen Road. The water runs through the property, and into the creek. If the proposal is implemented water will be treated before flowing into the drainage area. This is the only change proposed. The goal is to improve the site. The stepped design into the depression should improve drainage, and alleviate issues. Member Spalding concurred it is advantageous when sites fit well with area topographical features. Water retention is a consideration.

Deacon Hannah returned to testify. There is an existing basket ball court in use, located in the parking lot. The Board pointed out there is an active basketball league in the area. If the court was indoors, it would be further utilized. This could have an impact on traffic. Increased traffic may impact Hours of the Operation, creating an impetus to operate past 9:30 p.m. These considerations should be explored in the initial study. Deacon Hannah said occasionally there is a midnight mass. However there is no proposal to further extend facility hours. Public testimony was closed.

Further Board questions for staff were as follows:

- Can the project be a PD (Planned Development) as opposed to a Variance and CUP
- Has a referral been sent to the Fairview Fire District
- Has a referral been sent to the Clean Water Division
- Does Planning staff attend Creek Ordinance Committee Meetings
- Due to the incline and terrain, are mechanisms in addition to curb cuts necessary to slow traffic
- Will the project be affected by the Future Width Line
- Are changes there proposed to the Grading Ordinance
- Will Public Works be specific about which waste water proposal they support in the (SWPPP)
- Will addition "trips" be generated to the site with the proposed expansion
- What type of roof has been selected for the project
- Has a lighting plan been submitted

Staff confirmed the application was referred to Fairview Fire, and Clean Water. Clean Water had no comments. On similar projects like this, issues might arise regarding drainage. This would be a consideration for Land Development. There are changes proposed to the Grading Ordinance. Creek Ordinance Committee leadership is through Public Works. A Senior Planner attends meetings. The parcel can be merged with the adjoining one. At this juncture a lighting plan has not been submitted. The future width line was established on Hansen Road in the 1970's. The width is probably 60 feet. The Chair said further comments, discussion and preferred method should be stated regarding storm water management. The project will be a 16,000 square feet multi-purpose building. Traffic slowing methods may be necessary. The proposed curb cuts are not sufficient. A traffic slowing device may be necessary due to the terrain. Board Members agreed specifics are needed to determine which Storm Water Protection Policies recommendations would be implemented. The future width line may need to be revisited, to determine traffic study relevancy. A lighting plan is also necessary to determine the exterior impact of the proposal on the surrounding area. Although the flat roof is not esthetically preferred, the possibility should not be ruled out. This would remove the height variance. Member Adesanya said it appears preliminary work completed indicates findings can be established, to recommended approval. Staff should prepare draft findings for review, and recommendation as to why one permit process is more beneficial than another.

Staff explained the next step in the application process is a project review scheduled for the April 14, 2010 Hearing.

The Vice Chair motioned to adopt the staff recommendation of continuance to the April 14, 2010 Meeting. Staff will take proposed recommendations under advisement. Member Adesanya seconded the motion. Motion carried 5/0.

**APPROVAL OF MINUTES:** The Minutes of January 13, 2010 were continued to review comments of the Applicant. The Minutes of January 27, 2010 are continued to February 24, 2010.

**STAFF COMMENTS & CORRESPONDENCE:** The Appeal regarding, PLN-2009-00098 Oscar & Susan Miller heard at the January 12, 2010 BOS Agenda will be continued for one month. People were present in support of Applicant, and the use. There were others present in opposition to the application. A neighbor said they complained of noise 3 years, and again 2 years ago. Supervisor Miley did not get involved at that time. The neighbor conducted a sound study they contend the use violates the Noise Ordinance. A log to document noise will be kept. It was decided the Applicant will complete an initial study. One proposal is to enclose the batting cages. This probably isn't viable. It would be difficult to meet the open space requirement that 30% of the rear yard remain open. In the interim, rules set by the BZA will be in effect. The Vice Chair noted a person in support of the application testified, there were no issues until the batting cages were expanded.

Due to cancellation of the February 2, 2010 BOS Meeting, all Agenda items were continued. Further comments will be sought from the City of Hayward regarding the Eden General Plan. The Housing Element and Eden General Plan will be heard at the March 2, 2010, BOS Hearing.

The BZA decision of denial regarding Variance Application, V-12107 Cassini was appealed to the BOS.

**BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:** Member Spalding asked for further information regarding Field Trip, GAYLER CONSTRUCTION, CONDITIONAL USE PERMIT, PLN-2009-00159. Staff said the lot is in existence. Building status was awarded in the 1960's. A variance is required due to slope, installation location of septic leech field, and trees. The leech field will be placed below the property.

**ADJOURNMENT:** There being no further business, the hearing adjourned at 7:30 p.m.

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**ALBERT LOPEZ - SECRETARY**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**