

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
FEBRUARY 22, 2006
APPROVED MARCH 22, 2006**

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; Jewell Spalding and Lester Friedman.

MEMBERS EXCUSED: None.

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: The Chair made no 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.

CONSENT CALENDAR:

1. There were no items scheduled for the Consent Calendar.

REGULAR CALENDAR

1. **CHERYL RAPP, CONDITIONAL USE PERMIT, C-8477** – Application to allow continued operation of a 86 bed residential care facility, in an R-S-D-35 (Suburban Residence, 3,500 square feet, Minimum Building Site Area per Dwelling Unit) District, located at 718 Bartlett Avenue, south side, approximately 550 feet east of Hesperian Boulevard, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 432-0004-035-02.

Staff recommended approval of the application. Board questions were as follows:

- Why was the initial application filed for a total of 86 beds
- Is a ten year expiration date appropriate for the facility
- Is the trailer on the property used solely for office space
- Was the trailer originally a "temporary use"

- Is the parking surface paved

Staff responded that the applicant had submitted an application in 1995 for 62 beds with a proposed expansion at the rear of the facility for 24, additional beds. The expansion was never implemented. Since, the applicant has discovered that the State of California maximum for a facility of that type would be 62 beds. Thus the maximum number of beds requested is now 62. There have been no problems, issues or complaints regarding the facility. Staff believes in this case a ten year expiration date would be appropriate. The trailer is used for office space. The use permit for the trailer is part of another application which has not expired yet. The Building Department has no issues with the trailer. The Board could incorporate the trailer into the current application by considering it a detached accessory structure. The Zoning Ordinance requires that parking surfaces be comprised of an all-weather material. The applicant can confirm the existing parking lot material during public testimony. Public testimony was opened.

Ms. Cheryl Rapp said the permit request is for 62 beds because there are no plans for expansion of the facility. The trailer was installed in 1998 for office use and medical record storage. It was approved as part of a use permit that does not expire for another two years. The parking lot area is covered with gravel. Public testimony was closed.

Member Friedman motioned to adopt the staff finding of approval with the recommendation of a ten year expiration date. Member Palmeri seconded the motion with a request for a modification and clarification. Permit, C-8477 does not apply to the trailer on the property. The applicant can apply for renewal in two years when the applicable CUP expires. Member Friedman accepted the modification. Motion carried 4/0.

2. **OMNIPOINT DBA/T MOBILE, CONDITIONAL USE PERMIT, C-8478** - Application to allow a cellular telecommunications facility, in an R-1-RV (Single Family Residence, Recreational Vehicle) District, located at 2301 Miramar Avenue, north side, approximately zero feet west of Crest Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080A-0191-034-00.

Staff announced that Conditional Use Permit, C-8478 would be continued to March 8, 2006 in order for CVMAC to review the application. Member Friedman motioned to continue the item. Member Spalding seconded the motion. Motion carried 4/0.

3. **OMNIPOINT DBA/T MOBILE, CONDITIONAL USE PERMIT, C-8479** – Application to allow a telecommunications facility, in an R-1 (Single Family Residence) District, located at 800 – 820 Bockman Road, south side, approximately, 50 feet east of Via Media, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 412-0082-001-00. (Continued from February 8, 2006).

Staff recommended approval of the application with one correction to the staff report. The ACDSSTF Policy does have a limit regarding the mounting of free standing monopoles. Free standing monopoles must be 300 feet from residential development. Member Friedman pointed out another correction. The applicant shall allow other wireless carriers to co-locate at the site. Public testimony was opened.

Javier De La Garza, representing T Mobile thanked Planner Christine Greene for her guidance through the application process. He was in agreement with the Conditions of Approval. The placement of the enclosed equipment cabinet has been resolved with the landlord of the property. Updated drawings have been already been submitted. Public testimony was closed.

The Chair told the Board he had talked with the San Lorenzo Village Home Owners Association, and they also approved of the application. Member Palmeri motioned to adopt the staff Tentative Findings and Conditions of Approval subject to modification of Condition #19. Conditional Use Permit C, 8479 shall expire in five years on February 22, 2011. Member Spalding seconded the motion. Motion carried 4/0.

4. **JERRY REILLY/WEST WINTON AVE. LLC, VARIANCE, V-11980** - Application to allow 1) one site with 3,948 square feet as a building site which is less than the minimum 5,000 square feet required; and 2) allow an addition above the garage with a zero foot front yard setback where 20 feet is required, in an R-1 (Single Family Residence) District, located at 14643 Saturn Drive, west side, approximately 600 feet south of Joan Drive, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Numbers: 079-0006-033-02 and 079-0006-032-02.

Staff recommended approval of the application. Member Palmeri had several concerns:

- Elevation drawings have not been provided
- Zoning Ordinance, 17.52.120 in the staff report was not quoted in its entirety. Since the two parcels in question are less than 4,000 square feet, are they excluded from the exception rule
- Did the Hillcrest Knolls Homeowners Association respond to a referral or were they omitted from the referral list.
- Is the request for the zero foot set back on the Saturn Street side of the parcel? If so would the proposed driveway be within the Public Right of Way

Member Spalding asked staff if a Site Development Review would be required. She referred to a letter submitted from the Grading Department, stating the site contained undocumented fill. Staff confirmed that a grading permit would be required before any work could commence. County Counsel clarified that Section 17.52.120 did also include Subsections, A-H. In this case Sub Section D could apply to the lots in question. The lots are deficient as a result of condemnation of a portion resulting from public use. Staff further indicated that the variance application is the process used to alter ordinance rule. Member Spalding thought the ordinance document could also be viewed as internally inconsistent. Section D is written in such a way that a lot would potentially be less than 4,000 square feet. In this specific application, merging the two parcels would result in a 3,948 square foot lot. The total of both are 52 feet short of 4,000 square feet. Member Friedman asked if the applicant owned the vacant parcel on Saturn Street that has already been granted building site status. Staff believed the applicant owned that lot as well. Currently a building permit application is pending on that lot. Public testimony was opened.

The applicant, Mr. Gerald Reilly told the Board that West Winton LLC was a land development company. During his presentation he confirmed that his company owned the 4,290 square foot vacant lot in addition to two others. The vacant lots on Saturn Drive are reduced in size as a result of sections that were taken to create the 580 Freeway. If the lot at 14643 Saturn Drive were developed it would enhance

the neighborhood by preventing further dumping and generating tax revenue. Mr. Reilly's interpretation of the Zoning Ordinance was that Subsection D allowed a 25% reduction of lot size, therefore the application could make the variance requirements. He showed examples of homes his firm had constructed on Weir Drive. They are also located on a slope. In reference to Pre Hearing Recommendation #2 which would require the removal of the second proposed driveway and parking pad. He believed the site would look better aesthetically with the parking pad. A vertical drop also exists just behind it the proposed parking area. The parking pad would provide frontal access to the home and a postal delivery spot. However if the Board finds it more appropriate to remove the second driveway he will follow their recommendation. Staff responded, although it would provide a parking space for that home it would prevent others from parking on the frontage area. Public testimony was opened.

Ms. Olivia Santos said she lived on Saturn Drive just a few houses from the proposed site. She was concerned and submitted a petition with 33 signatures opposing the application. She has received multiple parking tickets, and her car has been towed as a result of the limited parking. Emergency vehicles have a difficult time accessing the street which could have a dramatic impact if a fire broke out. It is also dangerous for pedestrians. Member Spalding asked Ms. Santos what she thought of the proposed on-street parking. Ms. Santos said that she had not seen the plan but was unsure that a driveway was a viable solution. For example, desperate people already park in her neighbor's driveway and also double park on the street. On several occasions she was unable to get out of her own driveway.

Mr. Ted Wolny said the issues regarding the application and the parking problems were being confused. The real issue is density. The County should use the no parking signs already posted on Saturn Drive as a reference. One neighbor owns seven cars. Four are parked in the driveway but three are parked on the street. The proposed development is not appropriate for the neighborhood. His lot is 6,000 square feet which is probably average for the area. In addition to exception for minimum lot size other considerations are the unique hilly topography, and the mix of rental and residential use. The given demographic creates a lot of cars.

Sue Krysko presented photographs of parking issues. Her concern was that the two additional parcels are located on the side of the street where parking is not allowed. Currently homeowners use the vacant parcels for parking and there still are not sufficient spots. If the space above the garage on the proposed home were turned into a second unit this would add more vehicles to the neighborhood. Parking enforcement is limited. On one occasion an ambulance came up the street. She had to back up three houses into someone's driveway to let it pass. She closed and said one home would be ok but not two.

Mr. Randall Johnson said he had lived in the neighborhood for 13 years. He is the former President of the Hillcrest Knolls Home Owners Association. In the past only one home existed on the three parcels. The second proposed house with a zero foot setback takes away pedestrian access. If the parking pad were allowed, the County could never install sidewalks. Parking is horrendous. Currently there is a vacant duplex next to the lot. Once the duplex is occupied, more parking issues will occur. Someone even added dirt to the vacant lots so they could be used for parking lots. Another problem could result from the proposed two story garage. It would be right on the street. The proposed homes would block emergency access to the back side of the lots. Cal Trans and Oro Loma Sanitary need access to the rear area. Member Spalding asked what was the average size lot size for the area. Mr. Johnson said many of the lots were created in the 1940's and are classified as non-conforming. Some also have in-law units that are grand-fathered in. The range is from 5,000 to 13,000 square feet.

Ms. Glenda Enos told the Board that she lived directly across the street. The road measures 19 ½ feet. She would look directly into the window of the proposed home. She thought one home would be ok but that two were unacceptable. She confirmed that parking is horrendous. When the frontage area is used

for dog walking or other activities it is necessary to move aside to allow someone to pass. Prior to the applicant purchasing the lots she and other neighbors used the area for parking. The new owners have fenced the lots in anticipation of construction. The loss of parking has already had an impact.

Dawn Clark-Montenegro, the President of the Hillcrest Knolls Homeowners Association asked the Board to continue the matter to allow her to meet with the property owner and the neighbors. She anticipated that a solution could be found. The HOA supported the parking pad concept because it provided parking. Two HOA Members thus far are in support of the application.

The applicant clarified that an additional two feet had not been purchased from a neighboring property contrary to the belief of some in the neighborhood. He believed all of the issues have been addressed. Member Spalding asked Mr. Reilly the following questions:

- What is the amount of habitable space vs. non-habitable space
- Are there any design solutions that would eliminate the need for a zero setback variance
- Would the parking pad be used solely be used for the proposed home

Mr. Reilly said the habitable space would be 972 square feet. The second story would be used mostly for storage. There is no separate access for the second story. The garage would be located on the property line. He acknowledged that parking was a problem however the parking pad ensures that there is guest parking for the home. The existing parking issues are an outgrowth of the large number of grandfathered in-law units. Denying the application will not solve the parking issues in the area. The size of the proposed home is in balance with the lot size. The designated parking is more than the Planning Department requires. Staff confirmed there would be two spaces in the garage, two in the driveway and one guest spot. Typically guest parking is located on the street.

Member Palmeri asked staff if the parking pad was in the public right of way, and if redevelopment funds were available. Perhaps the Board could require the developer to install a pedestrian access strip along with parking. County Counsel confirmed the Board could require that of an applicant. Member Spalding said that a parking lane solution could be problematic. The Zoning Ordinance in compliance with Measure D requires a 9 foot distance from the road center line. A sidewalk would take 5 feet. The applicant said he could not afford the additional costs for moving utilities or adding sidewalks. The size of the project could not carry the increase in expenses. He thought the project was good in its current form. He then asked the Board for a vote. Public testimony was closed.

The Chair commented that the applicant had met the number of parking spaces required. Member Spalding pointed out that the current parking proposal would not conform to Measure D. Member Palmeri said he was familiar with the area and agreed that it was problematic. He did not have issue with the house and the four parking spaces. Before he could move forward with a decision on granting building site status, a zero lot line and encroaching into the right of way he would need more information on the following:

- What are the requirements to expand into the right of way for private use
- What are the costs
- Is there redevelopment revenue available for sidewalks/parking strips
- Are alternative/conforming design choices an option for the site

Member Palmeri motioned to continue the application for 30 days. The HOA shall meet with the applicant and the neighbors. Staff can also modify the staff report to include possible conforming design alternatives. Member Spalding seconded the motion. Motion carried 4/0.

STAFF COMMENTS & CORRESPONDENCE: The new Member, Dawn Clark has been appointed by the Board of Supervisors and should begin at the end of March.

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

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: None.

ADJOURNMENT:

There being no further business, the hearing adjourned at 3:30 p.m.

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS