

WEST COUNTY BOARD OF ZONING ADJUSTMENTS

MINUTES OF MEETING

SEPTEMBER 26, 2007

(APPROVED OCTOBER 24, 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.

MEMBERS EXCUSED: Kathy Gil.

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

There were approximately 16 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 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.

CONSENT CALENDAR:

1. **OSBORNE/NSA WIRELESS, CONDITIONAL USE PERMIT, C-8638** – Application to allow continued operation of a telecommunication facility in a M-1 (Light Industrial) District, located at 22020 Center Street, east side, corner northeast of Grove Way, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 417-0010-007-05. (Continued from July 25, 2007; to be continued to October 24, 2007).

2. **ALI REZ MASOUDI-MOFRAD / ANN MARIE HOLLAND, CONDITIONAL USE PERMIT, C-8645** – Application to allow the continued operation of an auto sales lot in the an ACBDSP - TC (Ashland Cherryland Business District Specific Plan- Transit Corridor) District, located at 16285 East 14th Street, northeast side, approximately 110 feet northwest of 163rd Avenue, unincorporated Ashland area of Alameda County, designated Assessor’s Parcel Number: 080C-0479-006-03. (To be continued to October 24, 2007).

3. **AMERICAN TOWER CORPORATION, CONDITIONAL USE PERMIT, C-8646** - Application to allow the continued operation of a radio transmission facility (cell site) in an “A” (Agricultural) District, located at 23205 Eden Canyon Road, east side, approximately 100 feet north of the Interstate I-580 Freeway, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 085A-1200-001-00. (To be continued to October 24, 2007).

4. **VARIANCE, V-12003 – HHT ENGINEERING** - Application to allow subdivision of one site into three lots: 1) an 18 foot driveway where 20 feet is the minimum required; 2) a driveway, one foot from a building wall where 10 feet is required; and 3) an 11 foot rear yard where 20 feet is required in an R-S-D-35 (Suburban Residence, 3,500 square foot, Minimum Building Site Area per Dwelling Unit Density) District, located at 134 Grove Way, northwest side, approximately 150 feet southeast of Meekland Avenue, unincorporated Cherryland Area of Alameda County, designated Assessor’s Parcel Number: 429-0032-030-00. (Continued from March 28, May 23, August 22 and September 26, 2007; to be continued to October 24, 2007).

5. **VARIANCE, V-12061 - SEAD SISIC** - Application to allow a six foot high fence where four feet is the maximum, and to allow an accessory structure in the front half of the lot in an “R-1-RV” (Single Family Residence, Recreational Vehicle) District, located at 18658 Crest Avenue, northeast side, approximately 440 feet northwest of Titan Way, in the unincorporated Castro Valley area of Alameda County, and designated Assessor’s Parcel Number: 084B-0370-007-13. (Continued from May 23, June 27 and August 22, 2007; to be continued to October 24, 2007).

6. **KENNETH KREMER, VARIANCE, V-12080**- Application to consider a petition to allow subdivision of one parcel containing approximately 17,362 square feet into two lots, with the retention of an existing secondary dwelling unit as a legal non-conforming use where not otherwise allowed, limited to ordinary maintenance and minor repair only, two stories in height where one story is the maximum, and with a two foot, six inch side yard where seven feet is the minimum for residential use, in an R-1 (Single Family Residence) District, located at 22440 Charlene Way, unincorporated Castro Valley area of Alameda County, Assessor’s Parcel Number: 416-0130-001-00. (To be continued to October 10, 2007).

7. **MAURO ESCOBAR, VARIANCE, V-12083** - Application to allow an attached addition with a six-foot front yard setback where 20 feet is the minimum, in a R-1 (Single Family Residence, located at 14747 Midland Road, west side, approximately 200 feet north of Placer Drive, San Leandro area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 080-0002-001-04. (Continued from August 22, 2007; to be continued to October 10, 2007).

Member Clark motioned to accept the Consent Calendar as submitted. Vice Chair Peixoto seconded the motion. Motion carried 3/0.

REGULAR CALENDAR

1. **SITE DEVELOPMENT REVIEW, S-2125 – PERRY BUILDERS –** Application to allow a garage conversion, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 21636 Lake Chabot Road, north east side 200 feet north west of Orange Avenue,

in the unincorporated Castro Valley area of Alameda County, bearing County Assessor's Parcel Number: 415-0060-077-00.

Staff recommended approval of the application. The Castro Valley Municipal Advisory Committee was also in favor of approval. Public testimony was opened.

Mr. Robert Perry of Perry Builders was present. Mr. Perry explained that originally the plans for the conversion were submitted to the Building Department in July of 1988. The plans were in compliance, and approved but never implemented. At the time a Site Development Review was not required. The same plans have now been re-submitted. The project is in compliance with the current Ordinance. The Board had no questions for Mr. Perry. Public testimony was closed.

Vice Chair Peixoto motioned to approve the application. Member Clark seconded the motion. Motion carried 3/0.

2. **OSBORNE/EASTWOOD, CONDITIONAL USE PERMIT, C-8547**
Application to allow continued operation of a wireless communication facility (Sprint/Nextel) in an "A" (Agricultural) District, located at Eden Canyon Road, east side, approximately 2/3's of a mile north of I-580 Freeway, in the unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085A-1200-001-11. (Continued from March 14 and September 12, 2007.)

Staff reviewed the application. The recommendation was approval. The Castro Valley Municipal Advisory Committee was also in favor of approval. Public testimony was opened. Mr. Chris Durand of NSA Wireless was present, representing Sprint / Nextel. Mr. Durand was in agreement with the Conditions of Approval. The Regulatory Program Fee will be paid within 30 days. Public testimony was closed.

Member Clark asked staff why co-location was not recommended in Condition #7. Staff responded the restriction of co-location, was an error in the staff report. Co-location should be allowed at the site.

Member Clark motioned to approve the application with a modification to Condition #7. The Applicant shall, allow co-location at the site. Vice Chair Peixoto seconded the motion. Motion carried 3/0.

3. **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.

Staff reviewed the application and recommended approval. Initial Board questions were as follows:

- Is the project within a Redevelopment Zone
- How is the trailer on the site being utilized
- Have all of the safety issues at the site been resolved

Staff confirmed that the site was not in a Redevelopment Zone. Staff was unsure of the exact use of the on-site trailer. The location is a fuel site where the fuel is dispensed into drums. The fuel is used for race cars. They believe the trailer is used to transport fuel drums. Staff is working with the Applicant to resolve any issues at the site, and estimated it would take 45 days to bring everything into compliance. Public testimony was opened. No one came forward to submit testimony. Public testimony was closed. Vice Chair Peixoto said he was concerned with fire safety. He believed the application should be continued for one month. Staff and the Fire Department need a determination regarding the following issues, in addition to the issues that have already been raised:

- Is the fuel stored on the site volatile
- Is there nitroglycerine in the fuel
- Has a fire inspection been conducted on the property
- Does the Applicant have a current Fire Certificate issued by Alameda County Fire

The Chair agreed. Member Clark asked staff to communicate to the applicant, the Board would like to see all safety issues resolved prior to the item returning for consideration. Vice Chair Peixoto motioned to continue the application to October 24, 2007. Member Clark seconded the motion. Motion carried 3/0.

4. **SAL’S COLLISION REPAIR, CONDITIONAL USE PERMIT, C-8647** - Application to renew expired use permit (C-7789) and transfer a paint spray booth from 965 Rufus Court to 972 Rufus Court in an, ACBD - TC (Ashland and Cherryland Business District Specific Plan) Transit Corridor District, located at 965 & 972 Rufus Court, east side, approximately 200 feet

southwest of Mission Boulevard, Unincorporated Cherryland area of Alameda County, Assessor's Parcel Numbers: 428-0011-016-04; 428-0011-017-00; 428-0011-020-00 and 428-0011-018-00.

(Continued from September 12, 2007).

Staff was in favor of approval of the application. The Alameda County Redevelopment Agency had no objections to the application. Public testimony was opened. The Applicant, Mr. Abraham Alonzo asked Board Members if they had questions. He told the Board that he wanted to incorporate green business practices that would be beneficial to the community. Although green business practices are not a requirement as of yet, he would like to be proactive. The new facility will create additional jobs. A total of 15 people will be employed. Board questions were as follows:

- Has the graffiti in the immediate area been removed
- Are there homes located behind the new location

Mr. Alonzo said that the graffiti was not at his site, it had been removed. One of the positive effects of the business moving to the new building is the impact it will have. He will be working with the Redevelopment Agency to improve the entire area. The area behind the new building is located in a cul-de-sac. The building behind the new shop is, commercial. Public testimony was closed.

Vice Chair Peixoto motioned to uphold the staff recommendation of approval. Member Clark seconded the motion. Motion carried 3/0.

The Chair called a brief recess at 2:54 p.m. The hearing was reconvened at 3:05 p.m.

5. **JACK MOORJANI / UNION 76, CONDITIONAL USE PERMIT, C- 8648, SITE DEVELOPMENT REVIEW, S-2128** - Application to allow an alcohol outlet in conjunction with a service station in the CVCBD Specific Plan Sub Area 1 (Castro Valley Central Business District Specific Plan, Low Intensity Retail), located at 2445 Castro Valley Boulevard, southeast, approximately 200 feet southwest of Stanton Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084A-0007-011-02.

Staff recommended denial of the application. The Castro Valley Municipal Advisory Board also recommended denial on September 24, 2007. Vice Chair Peixoto asked if the CVMAC also recommended denial of the Site Development Review. Staff clarified that CVMAC recommended denial

of Conditional Use Permit, C-8648, to allow an alcohol outlet. The Council proposed the Applicants revise the remodeling/expansion design, and then apply for a variance. A variance would be required because the lot coverage is beyond what is allowable per the Zoning Ordinance for service stations. The Chair asked if the CVMAC vote and recommendation was unanimous. Staff believed that to be the case. Public testimony was opened.

The Applicant, Jack Moorjani told the Board that he had been a 76 Station Dealer since 1973. The station is one of the remaining in the community that still offers "full service". The location is kept clean, and the station offers a 5 cent per gallon discount on Wednesdays. On Mondays they pump the gas for female customers. Mr. Moorjani and his wife do volunteer work in the community. Mr. Moorjani explained that the gasoline industry has problems. It is difficult to make a profit if a station is limited to selling gas. He has been an independent station owner since 2005. All improvements and expenses are paid for by the station owner. There is no corporate assistance. The credit card company makes more money than the station owner, as they get a percentage of sales. A convenience store and expanded auto services would be cost effective, and increase income. The addition of beer and wine sales would contribute financially. Automotive repairs are conducted on site. There have been no complaints to the Bureau of Automotive Repairs or violations of Alameda County Ordinances. Mr. Moorjani would like to complete the expansion of both buildings on the site simultaneously, to retain his customer base. The current outdoor bay is uncovered. The project would cover the bay, and provide an area to store equipment and hazardous materials. The current proposal will include modernizing the buildings, and additional parking. The cost is \$750,000.00. The sale of beer and wine will help support that kind of financial investment. The CVMAC denied the beer and wine license, but each Council Member said verbally they were in favor of the expansion. Mr. Moorjani had applied for assistance through a Redevelopment Program. The request was denied because Redevelopment thought Mr. Moorjani should be able to obtain assistance through Conoco Corporation. Mr. Moorjani reiterated that people are under the impression that gas companies pay for improvements. That is not the case. Financial assistance will not be forthcoming. The Chair again asked staff if the CVMAC decision to recommend denial was unanimous. Staff confirmed that the decision was unanimous. The Chair asked Mr. Moorjani if he was currently selling wine and beer. Also which aspect of the permit was higher in priority, expansion of the business, and property improvement or the sale of beer and wine. Mr. Moorjani said there is a small snack store at the station. Currently he does not sell beer or wine. The Chair asked Mr. Moorjani to clarify if the sale of wine and beer was less important than the expansion and improvement. Mr. Moorjani stated that both the expansion and sales were important. However without permit approval of the alcohol sales, the project will not be possible. He was advised by staff to apply for the permits together in the event one aspect of the permit was not approved. Mr. Moorjani said that he would prefer both uses at the property.

Mr. Muthana Ibrahim of MI Architects testified that the percentage of building coverage on the lot was 22% with the exclusion of the fuel canopies. The fuel canopies do not have walls, and he believed they should be excluded from the building coverage ratio.

Mrs. Janki Moorjani told the Board that she and her husband researched the proposal before moving forward with the project. The consumer is always right. The community is very happy with their business. People ask for beer and wine, that is an important consideration. As business owners they want to keep the community happy. She asked the Board to consider the sale of beer and wine, as she and her husband are going to put a considerable amount of money into the project. The Castro Valley Municipal Advisory Council was in favor of the expansion proposal. Mrs. Moorjani said, personally they do not consume alcohol but this is what consumers are requesting. There will not be crowds of people who want to purchase alcohol. Just the customers they already serve. The sales would bring in additional revenue. They have been working with the Redevelopment Agency for 2 years on the project, and have just gotten started in earnest. The project is a big consideration, and they don't want to get pinched financially. Member Clark asked the Applicants what was the profit margin on beer. Mr. Moorjani said although some people thought the use of such products is bad, the profit on beer and cigarettes was 60%. Increased income would be vital to the business. Public testimony was closed.

Vice Chair Peixoto and the Chair asked staff the following questions:

- Is the expansion solely on the interior of the building
- Can the existing fuel canopies be excluded from the lot coverage calculation
- Does the proposed expansion exceed the 20% lot coverage, allowed in Zoning Ordinance Section 17.52.970
- Can the Applicant apply for variance instead of a conditional use permit, and combine it with the Site Development Review application
- Does Zoning Ordinance Section 17.52.970 apply to all of the gas stations in the area that want to sell alcohol

Staff clarified that the proposal was to increase the size of the building. This would not be limited to the interior. The proposal will cover approximately 22% of the lot. The canopies cannot be excluded from the lot coverage calculation. The Zoning Ordinance includes roofs. The canopies are considered roof

structures. A structure is defined as something that sheds water and can provide shelter. The application before the Board is a Conditional Use Permit, not a Variance. If the Applicant applied for a variance the Board would first make a determination. The variance would also be reviewed by the CVMAC. If the variance permit were approved, the Planning Director would then make a determination regarding the Site Development Review. The Chair thought a continuance might be appropriate in respect to the SDR. This would allow the applicant time to revise the plans, and submit a variance application for consideration with the Site Development Review. Staff agreed that was a viable option. Staff told the Board that the Ordinance does not apply to all stations. Many gas stations were in use prior to the creation of the Zoning Ordinance. Staff believed there was a State Law that may differ from the requirements of the County. However the County Alcohol Policy Statement would be considered for all alcohol outlets. Vice Chair Peixoto commented that he did not object to the expansion of the station. However, he did have issue with an alcohol outlet. The Chair added that it may be helpful to provide clarification to the community regarding State and County Alcohol Policies applicable to gas stations. As there are many stations in the area. Public testimony was closed.

Vice Chair Peixoto pointed out that the County Alcohol Policy is to prevent an over concentration of alcohol outlets in any one area. In Census Tract 4310, there are two off-sale alcohol establishments allowed. However there are three operating. In the same Census Tract, there are four on-sale establishments allowed. However there are 18 operating. Clearly this is an over concentration of alcohol outlets. As a result, the finding that there is a need for the “ use”, cannot be established.

Vice Chair Peixoto motioned to deny CUP Application, C-8648. Finding #1 shall be modified. Regarding Finding #1: The use is not required as a public need as there is a proliferation of alcohol outlets within the Alcoholic Beverage Control Census Tract # 4310. The current number exceeds the maximum allowed. Finding #2: Although the use as a convenience store is property related to the land use, the sale of alcohol will be contrary to established Policy in the District. Regarding Finding #3, The use will adversely affect the health and safety of persons residing in the vicinity, due to the close distance of two churches with day care facilities, the mix of alcohol and driving could be detrimental. Regarding Finding #4, The use will be contrary to the specific intent and the standards for the District because alcohol sales are prohibited at service stations by the Zoning Ordinance, and would not be consistent with the adopted Alameda County Alcohol Policy Statement. Member Clark noted for the record that one church with a pre-school is located within 500 feet of the station. She asked that Finding #1 and Finding #3 be modified to include her statement. Vice Chair Peixoto accepted the modification. The motion to deny the application for the Conditional Use Permit, C-8648 carried 3/0.

There was no determination on the application for Site Development Review, S-2128. The Applicant can

choose to modify the SRD or continue with the application process in its current form. The Chair asked County Counsel if the Applicant chose to re-file for a variance permit if consideration could be given on application cost. Counsel responded that it was acceptable for the Board to make that determination. Member Clark motioned to continue SRD, S-2128. Vice Chair Peixoto seconded the motion. Motion carried 3/0. Staff said the date would remain open. Once the revised application is received, staff will set a date and re-notice the application.

6. **SILRAY & SILVIA DELA CADENA, VARIANCE, V-12057 and SITE DEVELOPMENT REVIEW, S-2111** – Application to allow construction of a house within an area that is 30% or greater in slope, where no structures are allowed on such slopes by the Madison Area Specific Plan; located on a vacant parcel approximately 1,200 feet north of Seaview Avenue on Common Road, east side of Castro Valley Creek, in the R-1-B-40-CSU-RV (Single Family Residence, 40,000 square foot Minimum Building Site Area, 150 foot Median Lot Width, 30 foot front yard, Conditional Secondary Unit) Zoning District and within the Madison Area Specific Plan, unincorporated Castro Valley area of Alameda County, Assessor's Parcel Number: 084C-0895-041-00.

Staff recommended approval of the application. Public testimony was opened. The Applicants, Mr. Silray, and Mrs. Sylvia De la Cadena gave their speaking time to their Architect. Mr. Ken Ibarra explained that he was the second Architect the De la Cadena's hired to work on the project. At prior hearings there were many references to the Madison Avenue Specific Plan. To prepare himself Mr. Ibarra spent time studying the Specific Plan, and visited the site. Mr. Ibarra referred to the newly designed site plan and front elevation. The square footage has been changed from the prior proposal. From a designer's standpoint if the lot has been deemed buildable, the property obviously can be used for a home. There is a lot of scrub oak and vegetation that will have to be removed from the 35,000 thousand square foot site. However there is a 25,000 thousand square foot area of the lot, suitable for a home. The lot will be preserved. Although the new driveway design is longer than the prior design, Mr. Ibarra did not anticipate exporting as much soil from the lot. There will be a lot of grading but the proposal will not remove as much soil as other projects completed in the area. The new proposal will retain as much matter as possible, on the site. In his professional experience, justifying a variance in areas of 30% slope or greater is a common concern in many jurisdictions. At this particular site, 400 to 500 square feet of the lot does not have a slope of 30%. This cannot be fudged by a survey. There is speculation that originally there was 5,000 square feet on the lot with less that a 30% slope. Speculation has occurred that landslides caused the 5,000 square feet to be reduced to 400 square feet. There has been no trauma to the site. The property has been tested by Agencies deemed expert, by the County. From the area at the top of lot to the

bottom of the creek, improvements will be added.

Ms. Namie Fukunaga told the Board that she had lived on Elaine Court for 8 years. Modern technology may support the building of a house on the lot. However she questioned the safety due to mud slides. There was a mudslide/landslide on the property just 1 year ago. The prior owner built a retaining wall after the incident. Ms. Fukunaga experienced a mudslide on the corner of her property. Evidence of the mudslide that occurred on the Applicant's property is visible from Ms. Fukunaga's property. Even though a study has been completed, this does not allow for what may occur in the future. The Board should take into consideration the prospect of the same happening in the future.

Ms. Martha Copra gave her speaking time to Martin Lysons. Mr. Lysons said he was present representing Ed and Martha Copra. The Copra's have the most at stake in terms of impact. They will be the most affected by the proposal as they live at 5385 Elaine Court, directly above the site. The Fukunaga and Copra site are adjacent, and share a property line. He agreed with the CVMAC's decision to deny the variance application. The Copra's recognize that the De la Cadena's have the right to build a home. However to have a home at the site will require a variance from the prohibition of building in areas of 30% slope. In requesting a variance, the request should be narrowly tailored. If not tailored to meet the criteria of the Specific Plan and the Zoning Ordinance, this could constitute a finding of special privilege. This would also mean that Finding #2 could not be made in the affirmative. Granting such a variance request would also set precedence in addition to the diminution of the Madison Area Specific Plan. The neighborhood put considerable work into revising the Specific Plan. They agreed wholeheartedly with the requirements. Although the re-design is appreciated, the current plan has not been reduced. Grading should be minimized into sloped areas. The new plan increases grading, into the slope. The retaining walls would be 15 to 20 feet high. The impact on the neighbors has not been reduced. Neither does the current proposal come closer to Specific Plan compliance. More grading will be necessary compared to the prior design. The original design employed multiple levels, to reduce the impact to the existing slopes. The current plan is a 2 story design but increases the bulk and size of the home. The home will also be surrounded by huge retaining walls. Mr. Lysons disagreed with staff report. In addition to the points previously raised, he revisited the staff Findings. Regarding Finding #1, The current design proposal was not applicable to special circumstance. The challenges present, do not justify the current design. Regarding Finding #2, The proposed grading is not justified, the Applicant's should actively seek alternatives. The site is challenging, however you can build without a variance. Other applicants have been successful in changing their proposals and reducing grading. It is incumbent upon the De la Cadena's to seek a design concept that fits with the surrounding terrain, and that can be executed well. The design should be more narrowly tailored to meet the Specific Plan Guidelines as closely as possible. The Copra's are opposed to approval of the variance application, until such time a

design is presented which is tailored to the Ordinance, and reduces grading. The Chair asked Mr. Lysons the following questions:

- What portion of the parcel is not within an area of 30% slope or greater
- How can the Applicant's achieve their a design without a variance
- What are the specific concerns regarding the proposed design
- Can the square footage of the current design be reduced

Mr. Lysons agreed that the portion of the lot with less than a 30% slope was 400 square feet. The Chair commented that most homes now average 2,500 square feet. Mr. Lysons clarified that his clients do not want to restrict the Applicants from requesting a variance. If a variance is necessary, the request should be narrowly tailored to the Ordinances and the Specific Plan. The design should minimize the impact on the surrounding area. Grading must be reduced. The impact of the overall architecture design must be considered. The CVMAC recommended that the mass of the project be reduced. The house should be reduced further in size. The Chair clarified that the square footage had been reduced by 1,300 square feet. Mr. Lysons clarified that the original design has been reduced. However the reduction in size has been negated by the massive retaining walls. The walls will be on three sides of the home. There is twice the mass. The retaining walls should also be reduced in size, as they add to the mass, and bulk. The proposal will also impact views from down below. The overall aspect of the project will affect the Copras.

Mr. Ed Copra said he did speak with the De la Cadena's at the CVMAC Meetings. His home looks down on the Applicant's site. He would be looking down at the monstrous home as well as Ms. Fukunaga. Mr. Copra asked the BZA to deny the application based on the fact that the project did not comply with the Specific Plan. The De la Cadena's Architect, Mr. Ibarra said he did not see any evidence of landslides. The County documented landslides in the 1980's. The previous owner, Mrs. Elliot had to erect concrete retaining walls which cost \$20,000.00 dollars, to prevent the property from sliding. Soil erosion caused the areas of the property that are less than a 30% slope to be reduced to the current square footage. The Architect, Mr. Ibarra told the CVMAC he spend an hour at the site. Had he stayed longer, he would have observed evidence of the mudslides that occurred in the past year. The Chair asked Mr. Copra if he had talked with the De la Cadena's. Mr. Copra said only during the course of the public hearings. Mr. Copra thought an alternative would be a split level design, as opposed to the tri level design. A split level house would reduce the amount of grading necessary. The Copra's home is 2,500 square feet. The proposed De la Cadena home is still larger than the Copra and the Fukunaga put together. There is nothing in the Conditions of Approval that addresses the fact there will be no retaining wall at the top of the property.

Mr. Copra was concerned about liability, and who would protect his property. Mr. Copra closed, and asked the Board to deny the variance.

The Chair called Mr. Ken West. Mr. West gave his speaking time to Mr. Lyle Bogue. Mr. Bogue said that he lived at 17800 Madison Avenue which is directly across Madison Common from, Parcel A. He is in support of the Madison Avenue Specific Plan. The Plan has been supported by the Board of Supervisors, CVMAC, and Planning Commission. The Board of Zoning Adjustments has recently denied two variance requests for this parcel since the updated Plan was passed by the BOS. There have been 12 hearings regarding the Specific Plan update within recent years. The work sessions held by Nate Miley's office were well attended by people within the Plan area. The previous owner of this property was present at all of those meetings. The size of the parcel is not 40,000 square feet, as stated in the staff report. The parcel is 31,500 square feet. Approximately 90% of the parcel is on a slope of 30% or more. Real Estate practices are such that the property should have been sold with a disclaimer. The new owner should have been notified about all of the issues, up front. The major question raised during the revision of the Madison Avenue Specific Plan was if construction shall be prohibited in areas of a 30% slope. This was determined by a survey sent out by the Planning Department, to all area residents. The language in the survey was very specific. The outcome of the survey was that 78% of the respondent's were most concerned with the complete restriction on land sloped more than 30%. Land has moved in the area. Building on an unacceptable location within the site can be dangerous to the creek. Building within the sloped area of the lot would be detrimental. Properties on lower ground could be jeopardized.

Mr. Bogue asked the Board to deny the application based on the fact that multiple County Agencies and the community are in support of the Specific Plan. This application is not in compliance with the Specific Plan. Mr. Bogue also addressed the staff findings. Regarding Finding #1. All properties in the area are prevented from building within a 30% slope. Regarding Finding #2. The owners should have been aware of the properties status when they purchased it. Another parcel with a similar application located directly across the street was denied by the CVMAC and the BZA. Regarding Finding #3. The granting of the variance would be harmful to the riparian habitat and the creeks. The amount of dirt removed would be 320 truck loads. This would generate 620 total trips. Each trip would require the use of a two lane road. At one half hour per trip it would take a total of 20 working days, which equates to one solid month, 8 hours per day. If the Applicant's store earth on the property, it could end up in the creek. The creek could also overflow. The two creeks in the area should be protected, as well as the community. The diverse riparian habitat is worth saving. The project will also cause damage to the road. Mr. Bogue closed and asked that the variance application be denied.

Mrs. Winifred Thompson gave her time to Gerald Thompson. Mr. Thompson told the Board he lives at

17764 Madison Avenue. His home is across from Parcel #B. Mr. Thompson read a letter he submitted to the BZA requesting denial of the application. Mr. Thompson asked the BZA to: Uphold the Madison Avenue Specific Plan with updates approved in 2006 by the BOS. Uphold the 5 to 1, CVMAC vote on September 10, 2007 and the 4 to 1 vote on April 9, 2007, recommending denial of the application. The Madison Plan area is the only one within the unincorporated County that prevents building on 30% slopes. Mr. Thompson said that the Board of Supervisors decision to approve, V-7790 began all of the issues when the lot was given building site status. The lot was 33,000 thousand square feet. The requirement of the Ordinance in 1979 was a 40,000 thousand square feet minimum. At the time of approval based on the Parcel Map presented there did appear to be a buildable area on the site of 5,000 thousand square feet. Now due to natural erosion, the buildable area appears to be 400 square feet. Regarding the staff findings, there may be an argument of special circumstances due to topography. However the Applicants proposal to build on canyon walls is in violation of the Specific Plan. The hardship is self created due to an oversize home design. Regarding grant of special privilege, To grant the variance would be special privilege. None of the other lots in the area can build in an area greater than 30% slope. Regarding the variance proposal being detrimental, The project could cause danger to properties located below the site. Landslides have occurred in the area. Soil could also go into Kelly Canyon Creek. The removal of 2,600 cubic yards of earth material from the hillside would also be detrimental. Mr. Thompson believed the design should adhere to the Madison Avenue Plan created for the area. Mr. Thompson then pointed out errors within the staff report. The staff report reflected the old plans submitted by the prior Applicant, Mr. Aufdermauer. The De la Cadena's have submitted more current plans. Mr. Thompson said that the CVMAC also raised possible CEQA questions. Mr. Thompson asked staff if a determination had been made regarding the necessity of an EIR.

Mr. John Aufdermauer testified he lived at 17580 Madison Avenue. Mr. Aufdermauer was in support of the Variance and Site Development Review. The De la Cadena's site is 200 feet north of his parcel. He also owns two additional properties, one parcel adjacent to the De la Cadena's. He attended the Madison Avenue Plan meetings, and gave input when the Plan was revised. Mr. Aufdermauer pointed out some of the plan revisions: Requirement of a Site Development Review. Extensive grading and drainage plans are now required. More flexibility is allowed with setbacks, with a minimum of 10 feet. Height limitations were changed. Slopes are no longer averaged. There are measured from existing grade. Regarding slope requirements, the Plan requirements did not change from the 1975, Specific Plan. At the time of the revision Mr. Aufdermauer asked the BOS, the CVMAC, and staff if the variance process was still available for properties in the Plan Area. Mr. Aufdermauer was assured that the variance process was still available. Mr. Aufdermauer then addressed the staff findings. Regarding special circumstances applicable to the site, due to creek set back limitations which are 25 feet from the top bank of the creek in this particular area. The top of the creek is an artificial marker. The measurement must be taken from the

lowest point of the creek bed, and at a 2:1 slope ratio. Then 20 feet back from the creek. This requirement will push the home further up the hill. The area within which the house will be placed is in conformance with the creek set back. A variance cannot be obtained for creek set backs. Most of the lot is sloped more than 30%. Mr. Aufdermauer was in agreement that the buildable area was approximately 400 square feet. Under the same circumstances another site in the area would have a variance request granted. The granting of this application would not be special privilege, as the home size is reasonable for the area. The building envelope is also reasonable. The eight homes built in the local area since 1980 are an average of 3, 947 square feet. The proposed home is 4,210 square feet. Another home recently approved by the CVMAC is a total of 4,349 square feet. Application Z-7794 was approved in 1993 by the Zoning Administrator. This proposal is similar and would not be harmful to the creek. The California Department of Fish and Game has acknowledged that the creek is in need of repair. With properly engineered retaining walls and drainage, the creek will be protected. Mr. Aufdermauer said as a resident of the neighborhood he was also concerned with safety, and retaining the beauty of the creek. The Chair asked Mr. Aufdermauer what he estimated the required soil removal to be. Mr. Aufdermauer said he was not an engineer. Therefore he was unsure of what the impact of soil removal would be, and its possible affect on the creek.

Ms. Roxann Lewis, submitted information prepared by neighbor that could not be present at the meeting. Ms. Lewis lives at 17750 Madison Avenue. She reiterated Mr. Andy Frank's sentiments at the most recent CVMAC Meeting. Either there is a Specific Plan for the area or there is not, what is the benefit of a Plan that is not followed. Ms. Lewis referred to Section #5 of the Madison Avenue Plan which prohibits building in areas of 30% slope or greater. The Applicant's request is prohibited by the Specific Plan. The buildable area of the lot is very small. The De la Cadena's and the seller of the property were well aware of the zoning restrictions. The seller of the property even participated in the revision of the Specific Plan. Ms. Lewis also believed it was a mistake to deem the location as a building site in 1979. The parcel was less than an acre, without sufficient frontage. The original size of the parcel has also been reduced. Ms. Lewis disagreed with the staff report, Regarding Finding #1. The Applicants are not limited. They can build on a small portion of the site. Regarding Finding #2. Granting the application would grant special privilege. Other property owners are prohibited from building within a 30% slope. Regarding Finding #3, Granting the variance would be detrimental. The area is a designated riparian area. Extensive grading would be required. The project would remove 2,600 cubic yards of earth. This is in violation of Section #5 of the Madison Avenue Specific Plan. Grading shall be kept to a minimum. Ms. Lewis asked the BZA to deny the variance, and uphold the Specific Plan. The entire canyon has a problem with soil slippage. The creeks are also under protection. The Chair asked Ms. Lewis if she had talked with the Applicants to discuss alternatives. Ms. Lewis responded that she had not met with the De la Cadenas. However they, as well as the seller knew about the issues. A variance might be available but

the application should be denied based on the Specific Plan. There is no need for a Specific Plan, if people can seek a variance to avoid it.

Mr. Silray De la Cadena asked to reserve speaking time to respond. The Chair granted the request. The Architect, Mr. Ibarra clarified that the CVMAC said an Environmental Impact Report, may be required. That determination has not been confirmed. Additional information may be required in addition to testimony given. Geotechnical and Hydrology studies have been conducted in the entire area, from the top of the hill to the creek. If this application were approved the Applicant's will have to perform. Mr. Ibarra read from the most recent soil engineering report conducted in August 2006 by Geotechnical Engineering Incorporated. Regarding landslides and colluviums, the California Geological Survey Seismic Hazard Zone Map shows an area in the northwest corner portion of the property in a Blue Zone, which has a potential for earthquake induced landslides. During the recent reconnaissance to the property he observed no evidence of recent deep seeded land sliding at, or adjacent to the site. A swell with colluviums is present in the field, and they are more extensive in some of the borings but the layer is relatively thin, approximately two and one half feet thick. This is not indicative of a deep seeded landslide. Else where on the site the top soil is underlined by hard sandstone, and shale. Due to the hardness of the bedrock, in spite of the steepness of the slopes, the area should not be subject to slope instability. Mr. Lysons says the properties below the site have a lot at stake. However even the neighbor's Attorney, Mr. Lysons acknowledged that the property is worthy of a variance. Mr. Ibarra said he wanted to clear up some remaining misconceptions. The retaining walls will be no more than 8 feet tall. Not the 15 to 20 foot height that was mentioned. There are 2 terrace retaining walls. The elevation change from the front of the property to the rear of the property would be about 20 feet in height. The driveway is now lengthened. This will increase grading. However any multi level project will require grading, including a single or split level design. The consideration is how much grading will would be required. This particular design is nestled into the hillside. As a result you may see a massive roof from up above, but there is no blockage of views. The homes are well above the site. Public testimony was closed.

Board questions for staff were as follows:

- Are the plans shown in the staff report the most current design presented by the Applicants
- Did the Board of Supervisors Resolution, Z-7794 in 1973 occur prior to the Madison Avenue Specific Plan
- Does the Madison Plan completely restrict building on slopes greater than 30%

- What is the total number of variances that have been denied for a similar request
- What is the estimated amount of soil removal required for the project
- What is the estimated number of trips required for soil removal
- What is the length of time anticipated to complete the project
- What would be the most appropriate design for the 400 square foot that contains less than a 30% slope
- What is the anticipated height of the retaining walls

Staff believed the original Madison Avenue Plan was created in 1975. The BOS revised the Madison Plan in 2006. Since the most recent revision two variance requests were denied, one in 2006, and the other in 2007. Staff said the height of the retaining walls cannot be determined from the plans presented. Options for the site could range from, choosing not to build a home, reducing the size of the home, or layering, multi level design set into the slopes. However building into a 30% slope would require a variance. The Specific Plan does state, that building is not permitted in areas of 30% slope. However there is also a section in the Plan that states, the intent is to identify an area of 30% slope so building can be avoided in these areas. It is also incumbent upon the applicant to justify a variance if, building encroaches onto these areas in any way. Regarding grading alternatives, Public Works will have to provide a calculation. The current design, places the home in the hillside. Updated, full size plans have been submitted by the Applicant. The Chair did not believe Board Members had received all of the current materials. A limited continuance may be necessary in order for the Board to review new material, and make an informed decision. It would also allow staff to further examine what special circumstances may be present on the site. Retaining walls appear to be a major issue. The area has a history of landslides. There is a real possibility of detriment, due to land slides. Grading must be addressed. People are also sensitive about the number of trips generated with this type of project. Additional time for consideration may also be beneficial to the Applicants as there may be ways to reduce costs. Staff estimated that it would take 6 weeks to obtain additional information. The Vice Chair said although the 30% slope of the property will not disappear, a continuance would be appropriate. Currently the Board had 3 Members. In October the Board will have all of the vacancies filled, and contain 5 total Members, thus increasing input.

Silvia De la Cadena asked for a day time hearing because she has two small children. The Chair said she believed one of the neighbors requested the matter be heard at an evening meeting. Mr. De la Cadena responded that he made several attempts to meet with additional neighbors. Only one neighbor was willing. Neighbors from the audience said that had not been the case. The Chair asked staff if perhaps they could assist the Applicants in coordinating a meeting with the neighbors. The project Architect, Mr. Ibarra asked the Board for clarification regarding the additional information requested. The Chair asked Mr. Ibarra to provide the height of the retaining walls, updated sets of plans, and the amount of earth work required for the project.

Vice Chair Peixoto motioned to continue the Application to the October 24, 2007 Meeting. Staff should include the Minutes of September 26, 2007 with the staff report. Member Clark seconded the motion. Motion carried 3/0.

7. **VARIANCE, V-12060 – AC MAHARAJ CONSTRUCTION** - Application to allow the construction of two new single family dwellings with a zero foot setback from the existing dwelling wall to the driveway where 10 feet is required, in an R-S-SU (Suburban Residence, Secondary Unit) District, located at 670 & 672 Hampton Road, north side, approximately 150 feet northwest of Camden Avenue, Unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 414-0026-100-00. (Continued from May 9, June 13, June 27 and July 25, and August 22, 2007).

Staff reviewed the history of the application, and recommended denial. The application has been on the Calendar five times. Public testimony was opened. The Applicant was not present to offer testimony regarding the application. Neither was a Representative for the Applicant. Vice Chair Peixoto asked Board Members if they wished to consider a continuance in light of the denial recommendation, and due to the Applicant not being present. Member Clark said typically she would consider a continuance. However the application has been continued several times. The Applicant has not been present at any of the prior hearings. Staff interjected. They believe a Representative was present at one of the meetings. Member Clark clarified that the contractor for the project appeared at one hearing.

Mr. Howard Beckman, an area resident and a Member of Friends of San Lorenzo Creek submitted a speaker card that he wished to be read into the record. He was not able to stay throughout the entire hearing. The Chair then read Mr. Beckman's comments.

#1 Zero setbacks are unacceptable under any circumstances!

#2 The Friends of San Lorenzo Creek were not notified of the matter. Friends of the Creek were concerned that no new retaining wall be built. The fence between the parcel and the creek should be composed of natural wood, as opposed to masonry or cyclone material. Mr. Beckman requested that the Board continue the matter.

Mr. Ronald Palmeri a former Member of the BZA spoke to the Board. He stated for the record that he lived at 2851 Eugene Terrace in Castro Valley. However he lived in Cherryland for many years. He and his wife still own 3 homes in Cherryland. He is a Member of the Cherryland Association, and maintains close ties with tenants, friends, and former neighbors. Mr. Palmeri said he wanted to make three points, and bring additional details to the attention of the Board.

A correction should be made to page 3 of the staff report. Addendum dated September 26, 2007, 2nd bullet. The staff report states the owner has lived on site for the past 4 years, and plans to continue to do so. This is a misstatement. Mr. Palmeri said he verified on the tax record that the owner lives in Hayward, and has never lived at the property. The property on Hampton Road is listed as non owner occupied.

The current use of the property is illegal because 2 of the homes are being used as, board and care homes. Neither home has been issued a Conditional Use Permit. Mr. Palmeri previously requested that Alameda County Code Enforcement site the owner for operating a business without a permit. Thus far, he does not believe staff has done so. The use is a detriment to the community. The earlier staff report neglected to mention these facilities house registered sex offenders. The Applicant proposes to tear down 1 home on the site, and build 2 larger homes in the rear of the site. The purpose is to house more sex offenders. The Applicant owns 7 additional homes for sex offenders within Alameda County. The site at 670 & 672 Hampton Road is less than one block from the Women's Parole Facility on Haviland Avenue. The site is only one block from the Seven Step Foundation Facility for parolees. The Cherryland Community has been turned into an out source prison facility, for the State of California. This is a major through fare for the Redevelopment Agency. The street is within the "Walk to School Safe Zone" supported by the community and the BOS. In addition the Colonial Acres School is in the area. A large number of children must walk in front of the property to get to school. The Applicant has not been present at prior hearings. The contactor said the Applicant's mother and family live at the site. This is not true. Mr. Palmeri was in support of the staff recommendation of denial. In addition to the staff Tentative Findings, that the site was a detriment by not providing the required on-site parking spaces. The use is a total detriment to the entire Cherryland area. The Chair asked Mr. Palmeri if he was in agreement with the staff finding that special circumstances apply to the property. Mr. Palmeri's said in his opinion there

were no special circumstances present. All of the dwellings and lots in the area were constructed at roughly the same time. The applicant could expand the existing home. In addition to the issues raised thus far there are traffic issues with the, blind driveway. The street is a well traveled street by vehicles that want to circumvent the 238 Interchange. The Chair commented that the Redevelopment Agency could use the opportunity to add additional trees to the area. This would have a great impact and further improve, and preserve the neighborhood. Mr. Palmeri closed and stated that the presence of sex offenders definitely would not, improve the neighborhood.

Ms. Ingrid Moller who lives at 311 Saint George Street, introduced herself. She told the Board that she was also on the Executive Board of the Cherryland Association. The Association has expressed opposition to the project. The HOA is concerned with the zero foot setback and the insufficient number of parking spaces necessary for a boarding house. In addition to the concerns raised by Mr. Palmeri, the larger concern is about the residents. Ms. Moller looked up reasons for conviction of some of the individuals, on the Megan's Law Website. The staff report states there are 12 sex offenders living on the property. Ms. Moller said the crimes were reprehensible. She read a list of charges which included: lewd acts with a child under 14 years, sodomy with a child under 16 years, continuous abuse of a child under 16 years, possession of obscene material, lewd and lascivious act with a child with force able rape. Ms. Moller raised the question as to if the new homes would be used for sex offenders. The use would not be appropriate for the area. The area was selected by the County to receive sidewalks because this area is used by children that attend Colonial Acres School. The sidewalks are intended to make the walk, safe. The 670 & 672 Hampton Road site is directly on this path. There are also many Immigrants in the area that speak English as a second language. They may not be as aware of who their neighbors are, or be familiar with Megan's Law. Therefore they could be more vulnerable. Property values can also be affected. If people are aware there are sex offenders in the area they may not buy property. Ms. Moller said that there are rights for sex offenders, but they must be weighed against the rights of children. Public testimony was closed.

Additional Board questions for staff were as follows:

- Can more than 6 sex offenders be housed together
- Are offenders restricted to care facilities
- Can there be more than 1 boarding house on a dwelling site

- What is the scope of Zoning Enforcement to investigate how many offenders are living in the home
- Does the fact that the boarding home is near a school have an impact on Zoning Enforcement's ability to investigate

Staff responded that the Zoning Ordinance definition of a residential care facility is considered 6 persons, or more. A boarding house is allowed in the R-1, Zoning District. The house must provide the parking required by the Ordinance. The Boarding house differs from a residential care facility in that the clientele are not referred by an Agency. The maximum number of persons allowed, are not specified in Ordinance 17.04.010. Member Clark interjected that a State Law allows sex offenders to house together, as long as the total number does not exceed 6 in one dwelling. She was unsure if the State language required the housing to be a residential care facility. County Counsel said that he could research any housing restrictions and/or requirements. Regarding Megan's Law, he believed was a noticing law. Counsel said he could obtain more information and report back, if the Board was amenable to a continuance. Vice Chair Peixoto pointed out that the specific issue before the Board was consideration of a variance. The Members should focus on variance findings. The Chair said Members could discuss the matter further after public testimony was closed. Vice Chair Peixoto asked Board Members if they would like to continue the application. The Chair said Members could also consider that possibility during Board discussion. Vice Chair Peixoto said he believed the motion should be denied. However the application should not be denied on the basis of the zero set back. All of the homes in the area have similar setbacks. This is inherent within the Cherryland Area. Property cannot be improved without taking setbacks and placement of existing homes into consideration. The application should be denied, based on the lack of required parking. The required number of parking spaces cannot be met as stated in Tentative Finding #2. Public testimony was closed.

Vice Chair Peixoto motioned to deny the application. Member Clark seconded the motion. Vice Chair Peixoto commented that application, V-12060 had been on the Board Agenda many times. A Representative for Applicant only appeared once. He would like to meet the Applicant, but again there was no one present at the meeting to speak on behalf of the application. However that does not negate the fact the proposal does not meet the variance findings. Board discussion ensued regarding the Tentative Findings. The Vice Chair believed there are special circumstances present, as a result of the placement, and construction of the front house prior to Zoning. The Chair and Member Clark thought a point made during public testimony was relevant. Many of the lots in Cherryland are similar in width and depth, and consistent in their narrow shape. Therefore no special circumstances are present. The Chair pointed out that Tentative Finding #1, could be modified to include the fact that the Applicant did not attend any of

the meetings to offer testimony and/or evidence that special circumstances, were applicable. Vice Chair Peixoto acknowledged the point made. The Chair asked the Vice Chair if he would amend his motion. The Vice Chair agreed if the language clearing states, with the exception of the zero foot setback. Member Clark agreed to the amendment.

The Chair restated the amended motion to deny the application based on the evidence presented.

Tentative Finding #1: There are no special circumstances applicable to the property with the exception of the zero foot setback. The Applicant did not attend any of the meetings to offer testimony and/or evidence that special circumstances were applicable. Motion to deny the application carried 3/0.

8. **PETER BRAUN, VARIANCE, V-12075** – Application to allow construction of an attached addition with a 15 foot - 10 inch, front yard where a minimum of 20 feet is required in an R-1 (Single Family Residence) District, located at 1683 Via Sarita, north side, corner northeast of Via Susana, unincorporated San Lorenzo area of Alameda County, Assessor's Parcel Number: 411-0087-202-00.

Staff recommended approval of the application. Public testimony was opened. Melanie Braun was present, representing the Applicant, Peter Braun. Ms. Braun submitted a letter from the San Lorenzo Village Homes Association in support of the application. Vice Chair Peixoto spoke with HOA Manager, Nancy Van Huffel who confirmed the approval recommendation. The Association was in agreement with all staff recommendations of approval. Ms. Braun was also in agreement with the staff recommendations. Public testimony was closed.

Vice Chair Peixoto motioned to uphold the staff recommendation of approval. Member Clark seconded the motion. Motion carried 3/0.

A Member of the audience, Mr. Ali Rez asked the Chair when his application, C-8645 would be considered. The Chair explained that the item was on the Consent Calendar. The Consent Calendar had already been voted on earlier in the meeting. The Chair further explained that the Board would not make a determination on Consent Calendar items. The application will be heard at the October 24, 2007 Meeting. However Mr. Rez could offer public testimony regarding the item. Mr. Rez said he would return on October 24, 2007.

APPROVAL OF MINUTES: The Chair accepted the Minutes of May 23, 2007 into the record, as a draft. Chair Palmeri, and Member Friedman are no longer on the Board of Zoning Adjustments. The prior Chair

and Board Member were asked to submit written corrections. None was received as of September 26, 2007. The current Board Members were not present at the May 23, 2007 Meeting. Therefore, a quorum to approve the Minutes of May 23, 2007 is not possible.

Member Clark motioned to approve the August 22, 2007 Minutes as submitted. Vice Chair Peixoto seconded the motion. Motion carried 3/0.

Member Clark motioned to approve the September 12, 2007 Minutes as submitted. Vice Chair Peixoto seconded the motion. Motion carried 3/0.

STAFF COMMENTS & CORRESPONDENCE: Staff told Vice Chair Peixoto that per his request Code Enforcement investigated the site at Harmony Drive & East Lewelling Boulevard, regarding an on-going garage sale. The property owner has been notified, and has 15 days to cease the activity. Staff will report back if further action is necessary.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: Board Members asked staff for further clarification of the Zoning Ordinance definitions, and differences between a residential care facility and a boarding house. The Board also asked if there were specific Zoning Ordinance rules regarding sex offenders at either residential care facilities and/or boarding homes. Additional questions were as follows:

- Is there a limit to the number of offenders that can be housed as either type of facility
- Does the Zoning Ordinance coordinate in any way with Megan's Law
- Can Code Enforcement investigate and/or issue citations at a facility, with the proviso they consult with County Counsel
- Does the fact that an applicant owns more than one facility in this jurisdiction, or other jurisdictions impact permit consideration in any way

County Counsel told Board Members that he would conduct research, and report back at the next meeting.

ADJOURNMENT: There being no further business, the hearing adjourned at 5:00 p.m.

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS