

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
JUNE 10, 2009
(APPROVED AUGUST 12, 2009)**

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. The Field Trip was cancelled. Members visited the property on an individual basis.

MEMBERS PRESENT: None.

MEMBERS EXCUSED: Chair; Dawn Clark-Montenegro; Vice Chair, Kathy Gil; Members, Jewell Spalding and Ineda Adesanya.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner. Staff visited the following property.

1. **GENESIS DEVELOPMENTAL SERVICES / JUDITH MONTE, CONDITIONAL USE PERMIT, PLN-2009-00044** – Conditional Use Permit Application to allow the operation and expansion of a recreation facility, within an enclosed building, that provides adult day care for persons with disabilities in a M-1-B-40 (Light Industrial, 40,000 square foot Minimum Building Site Area) District, located at 16440-16444 Ashland Avenue, east side, approximately 100 feet south of the intersection with Galway Drive, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080C-0493-002-06 approximately 18,541 square feet (0.43 acres) in area. **Staff Planner: Christine Greene.**

REGULAR MEETING: 6:00 p.m.

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

MEMBERS EXCUSED: None.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner; County Counsel, Weddle, Lindsey Stern; Code Enforcement Staff; and Yvonne Bea Grundy, Recording Secretary.

There were approximately 102 people in the audience.

CALL TO ORDER: The meeting was called to order by the Chair at 6:05 p.m.

ANNOUNCEMENTS BY THE CHAIR: Per the Chair's discretion Item #2 on the Neighborhood Preservation Ordinance Abatement Hearing, Delano Larsen was moved to the first item on the Agenda.

Neighborhood Preservation Ordinance Abatement Hearing

1. **Delano E Larsen, Christensen Ln., Castro Valley CA 94546**
In violation of Alameda County Ordinance 6.65.030 D(1,3) and M(1).
 1. Overgrown vegetation & weeds.

The Vice Chair motioned to uphold the staff recommendation. Declare the property a public nuisance,

and require abatement to be complete within 10 days. Member Spalding seconded the motion. Motion carried 3/0. Member Adesanya arrived late and did not participate in the vote.

2. **Lawrence and Susan Miller, RE: Fern Way, Castro Valley, CA 94546,** Zoning District: R1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle Parking Regulations).

VIOLATION: Section 17.08.040 A – Community facility (batting cages) in a residential area operating without a Conditional Use Permit.

Member Spalding motioned to uphold the staff recommendation based on overwhelming testimony presented. Declare the property use in violation of the Alameda County Zoning Ordinance and a public nuisance and require the property owners to submit an application for a Conditional Use Permit within 30 days or cease the activity. The Vice Chair seconded the motion. Motion carried 4/0.

The Chair called for a short break at 10:20 p.m. The Meeting was reconvened at 10:30 pm.

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. **T-MOBILE / HARD, CONDITIONAL USE PERMIT, C-8734** – Application proposal to replace an existing 25 foot light pole with a new 35 foot pole with lights and four concealed antennas. A new equipment enclosure is also proposed to be located nearby. The subject parcel contains approximately 0.91 acres and is zoned R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, RV Parking) District, located at 18988 Lake Chabot Road, east side, north east of Keith Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1305-012-00. (Continued from July 9, September 10, November 5, 2008 and January 28, February 25 and March 11 and April 22, 2009; to be continued to July 22, 2009). **Staff Planner: Jeff Bonekemper.**
2. **CAMBRA / EL SHADDI MINISTRIES, CONDITIONAL USE PERMIT, C-8762, PLN-2008-00037** - Application to allow continued operation of a church, in a R-C ABCD (Residential Commercial, Ashland Cherryland Business) District Specific Plan, located at 565 East Lewelling Boulevard, south west side, corner southwest of Wickman Court, unincorporated San Lorenzo, area of Alameda County, designated Assessor's Parcel Numbers: 413-0031-053-00 and 413-0031-054-00. (Continued from November 12, 2008 and January 28, February 25 and May 27, 2009; to be continued to July 8, 2009). **Staff Planner: Pat Anekayuwat.**

Member Spalding motioned to accept the Consent Calendar as presented. The Vice Chair seconded the motion. Motion carried 4/0.

REGULAR CALENDAR

1. **GENESIS DEVELOPMENTAL SERVICES / JUDITH MONTE, CONDITIONAL USE PERMIT, PLN-2009-00044** – Conditional Use Permit Application to allow the operation and expansion of a recreation facility, within an enclosed building, that provides adult day care for persons with disabilities in a M-1-B-40 (Light Industrial, 40,000 square foot Minimum Building Site Area) District, located at 16440-16444 Ashland Avenue, east side, approximately 100 feet south of the intersection with Galway Drive, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080C-0493-002-06 approximately 18,541 square feet (0.43 acres) in area. **Staff Planner: Christine Greene.**

Staff recommended approval of the permit and gave the following updates. Alameda County Building Department will not require further permits as there is no change in the use. The Alameda County Fire Department has confirmed the proposed enlargement is acceptable. The site also has a current Certificate of Occupancy Permit. Condition #5 shall be modified to remove category (a), requiring a Certificate of Occupancy, and the reference to the 2009 letter. Condition #3 shall now state that all parking spaces shall be maintained as parking spaces. Language shall be added that allows the storage of vans and buses on-site overnight and on week-ends. Board Members asked the following initial questions:

- What was the length of the prior use permit
- Does landscaping presently exist at the site

Staff responded the prior permit was for a period of 5 years. There is minimal vegetation in the courtyard area of the building however not at the rear of the site facing the B.A.R.T. tracks. Public testimony was opened.

Ms. Judith Monte confirmed the site encompassed 16440 and 16444 Ashland Avenue. The building currently houses an adult day care program. The proposal expands the use to occupy the entire building. The persons using the facility will remain un-changed. The upgrade will add warmer ambiance, and a broader variety and improved services. The building exterior was re-painted in the past few years. Exterior improvements will take into consideration the large number of homeless people that walk through the area, in addition to preventing the site from becoming a target for vandalism. The site is near San Lorenzo High School. The State License is for 60 persons. At some point in the future occupancy could rise to 70 persons which should not be a problem with the expansion. There is a possibility that additional landscaping can be to the shrubbery along the building. Ms. Monte believed the median area was part of the public right of way. Board Members asked what additional improvements and beautification was specked for the site and patio area. Ms. Monte explained a planter box with greenery had been added to the patio area. The pictures in the staff report do full justice. However the plants have not flourished. The patio area faces the B.A.R.T. tracks and can only be seen from that vantage point. Ms. Monte wanted to avoid government mandated regulations regarding further improvements, as the project has already been quite costly. The use has been in existence for 10 years. There is also a portion at the rear of the site that may be in the public right of way. Member Spalding commented the Applicant had the intent of creating a more inviting, warm ambience. Improved landscaping will go a long way to support that goal.

Ms. Monte explained she was present at the site, and hoped the Board would have toured during the field trip. Her intent was to showcase the nice building interior. Member Spalding reminded Ms. Monte the project proposal is expansion and improvement of the site. The permit process is a method wherein terms and conditions are implemented to support the stated project outcomes. The Board of Zoning

Adjustments was created in response to the former Zoning process which did not always consistently create rules/conditions to support desired outcomes. Member Adesanya thought landscaping conditions should apply to the entire property, including the existing plants that touch the building. Planning staff can provide assistance with landscape plan requirements. Ms. Monte asked if a landscape architect was required. Staff explained an architect was not required. The landscape plan should be drawn to scale, and indicate the types of plants specified. Member Spalding recommended plants that thrive in the local climate, and that are drought tolerant. Public testimony was opened.

Mr. James Neely introduced himself as the Building Manager. In addition he is a Commercial Real Estate Broker. A landscape drawing is included the plans submitted. Mr. Neely explained the parcel is located next to the Union Pacific Railroad tracks. A portion of the area behind the building is in the railroad right of way. The Building Department did not require additional plantings. He did not see how addition landscaping would benefit the property owner. Member Spalding said although the area is not subject to a lot of foot traffic. The day care participants access the patio area. This space could use additional landscaping which also increases the property value, thereby benefiting the owner. Perhaps Mr. Neely can gain some ideas from the Western Garden Book, or Sunset Magazine. Member Adesanya asked if the adults at the Center spent time outside of the building. She believed additional plantings benefit the owner because the entire area is improved, bringing common benefits. The Chair added the site is within a Redevelopment Zone. The building is non-descript, greenery will add beauty to the Ashland area. Board Members agreed the entire community benefits from improvements, and reduces the incidence of blight. Mr. Neely said the owner had made improvements to the site. In the course of the last CUP, the parking lot was re-stripped at a cost of \$180,000 thousand dollars. Ms. Judith Monte added that many of the participants are non-ambulatory. The patio is the designated gathering area. The enclosed fenced area provides safety and prevents people from roaming in the parking lot. Public testimony was closed.

Member Adesanya motioned to uphold the staff recommendation of approval with the following modifications:

Condition #3 shall now include: vans and buses can be parked/stored overnight and on week-ends.

Condition #5 shall have category (a) stricken. Category (b) shall remove the reference to the 2009 letter from the Alameda County Fire Department.

A further Condition (#7) shall be added requiring the Applicant to submit a landscaping plan to the Planning Director within 30 days of use permit approval. Landscaping shall be added to the sides, and area adjacent to the building. All landscaping on the site must be maintained.

A further Condition (#8) shall be added requiring the site to remain trash and graffiti free.

Member Spalding seconded the motion with the following addition.

Condition #4 shall now state, drivers will be instructed not to sound horns to alert riders.

The motion to approve Conditional Use Permit, PLN-2009-00044 passed 4/0.

2. **Informational Presentation by Tona Henninger, Assistant Deputy Director, Code Enforcement Division:** Proposed Ordinance Amendments to the Junk Vehicle, Neighborhood Preservation and Zoning Ordinances; and Draft Ordinance: SB 1137 Vacant Foreclosed Properties.

Due to the late hour, the Informational Presentation was continued to the June 24, 2009 Meeting.

APPROVAL OF MINUTES: Member Spalding motioned to approve the Minutes of May 27, 2009 as submitted. Member Adesanya seconded the motion. Motion carried 4/0.

Due to the late hour the Chair recommended the Minutes of April 22 and May 13, 2009 be continued to the June 24, 2009 Meeting. Member Spalding motioned to continue the Minutes of April 22 and May 13, 2009 be continued to the June 24, 2009 Meeting. The Vice Chair seconded the motion. Motion carried 4/0.

STAFF COMMENTS & CORRESPONDENCE: None.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: The Chair requested that in the future when staff anticipated an agenda item required lengthy testimony, a special hearing be set so as not to delay other applicants and participants.

ADJOURNMENT: There being no further business, the hearing adjourned at 11:00 p.m.

ALBERT LOPEZ - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS