

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

MINUTES FOR February 23, 2004

(Approved as corrected March 8, 2004)

A. CALL TO ORDER: The Chair called the meeting to order at 6:30 p.m. **Councilmembers present:** Andy Frank, Chair, Dean Nielsen, Vice Chair; Councilmembers Ineda Adesanya, Ken Carbone, Karla Goodbody, Jeff Moore, and Carol Sugimura. **Councilmembers excused:** None **Staff present:** Tona Henninger, Ron Gee, Bob Swanson, Brett Lucas and Maria Palmeri. There were approximately 30 people in the audience.

B. APPROVAL OF MINUTES OF February 9, 2003

Ms. Sugimura moved, Mr. Carbone seconded that the Council approve the minutes of February 9, 2003 as corrected.

The motion passed 6/0.

C. PUBLIC ANNOUNCEMENTS: None

D. REGULAR CALENDAR

- 1. 2125TH ZONING UNIT - ANDERSON** – Preliminary discussion for a petition to reclassify from a PD (Planned Development, ZU-1762) District **allowing single family residences** to the R-S-D-15 (Suburban Residence, 1,500 square feet M.B.S.A.) District in order to allow up to 50 apartment units, on one site containing approximately 2.04 acres, located on Miramonte Avenue, southeast corner, northeast of Saratoga Street, unincorporated San Leandro area of Alameda County, bearing County Assessor's designation: 80A-0199-001-05.

Mr. Ron Gee presented the staff report and informed council that this is just an informational meeting. The Planning Department has reviewed the proposal and informed the applicant that several studies need to be done and issues need to be resolved prior to bringing the application to MAC, Planning Commission and the Board of Supervisors for formal consideration. Before the applicant spends large sums of money on various studies, the applicant would like to see if the MAC council is interested in a project of this size and scope on this property. The applicant is proposing to reclassify from a PD (Planned Development) District that allows single family residence, to the PD allowing R-S-D-15 District in order to allow up to 50 apartment units.

Mr. Elwood Anderson, the applicant, addressed the council and stated that he has owned this property for the last 40 years. He would like to develop the parcel and build 50 apartment units. Mr. Anderson stated that the staff report mentions that this parcel was included in the inventory list for the Housing Element and that it could accommodate 56 units. He said he is willing to build 6 more units to make up for the affordable housing requirement for the County. Mr. Anderson shared with councilmembers and audience members a couple of drawing of the proposed project.

Mr. Carbone asked county staff for clarification on the paragraph about the housing element requirements for affordable housing. Mr. Gee stated that there was an inventory taken of parcels in the unincorporated area of the county that could be developed for affordable housing. Just like many of the other lots, this lot was allocated 70 units. It does not mean that they have to build this many units but that this parcel could eventually be at an 80% density developed to accommodate 56 units.

Mr. Stephen Mueller, resident at 16527 Russell Court, stated that he has lived in this area for many years. He is very concerned with the zoning change for the area. He stated that the zoning change will bring a lot more units to the area and put a burden on parking for the current residents. Most people in this neighborhood have two or three cars, there are a lot of illegal units in the area and to add this many units will just add to the parking and congestion problems in the area.

Mr. Timothy Eagen stated that his concerns are the same as the previous speaker. He is concerned with how these additional units will affect the property values in his neighborhood. This development will bring additional traffic, noise and have an impact in our neighborhood. He stated that he has lived on Russel Court for five years and he is very concerned with such a huge development. He would not mind if the development was just for 13 homes.

Mr. Anderson stated that the project has plenty of parking for its residents. All of the traffic from these apartments will be coming down to Foothill and not to any of the other streets in the area. Mr. Anderson stated that he lives at the corner of Toledo and Page and he said that the traffic would not affect him at all. He also stated that the soil is very stable on this hill and he is not concerned with soil issues.

Mr. Moore inquired county staff in regards to the EIR for the project. Mr. Gee stated that an EIR will have to be done for the project. Ms. Adesanya asked if Mr. Anderson is asking for a PD, she stated that the staff report does not clarify if they need a PD or not. Mr. Gee stated that to have a multi-family development he needs to apply for rezoning. In 1987 the site was rezoned to a Planned Development which allowed R-1 District uses. The applicant needs to reclassify the property to allow the 50 apartment units development. Mr. Nielsen asked if this development is comparable to others in the area. He said that the area has apartments to the south, north and west of the proposed project. Mr. Gee stated that yes this development is comparable to other apartment developments in the area. Discussion ensued amongst councilmembers in regards to parking and the number of units. Mr. Moore stated that the density is appropriate for the area. He said that most people would like to see less development and more parking but this development has enough parking and it is consistent with the development in the area. The Chair announced that it seems that all councilmembers are agreement with the project and thanked Mr. Anderson for coming before the council.

2. **SITE DEVELOPMENT REVIEW, S-1908 – BIGELOW** – Application to retain a security gate on the east side of the parking area to block access to adjacent property, and therefore not complying with the requirements of “S-1423, Exhibit B” dated March 24, 1994, in CVCBSP-Sub7 (Castro Valley Central Business District Specific Plan) District, located at 3315 Castro Valley Boulevard, south side, 220 feet west of Wilbeam Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 84A-0040-019-009.

Mr. Ron Gee presented the staff report. He stated that the proposed project is to allow a gate in the rear parking area behind the retail building, to block vehicle access from the adjoining parking lot accessed from the east. The applicant decided to install the gate because of problems with teenagers in the area at night partying on his roof and littering the parking lot.

Mr. Gee stated that the Fire Department reviewed the application and asked that the fence be removed or provide the Fire Department with keys for the locked gate. The Castro Valley Chamber stated that this is not consistent with the Specific Plan for the boulevard. The plan encourages shared parking for the businesses along the boulevard. The Planning Department also received a total of 80 petitions against the fence. This gate makes it hard for Fire trucks to enter the back area of these businesses. This gate also has caused some problems for the restaurant next door. The customers have to go around the block when exiting the area.

The Chair stated that he can remember clear back to the 70's when this parking lot was open to the adjacent businesses. This was used for ingress and egress of the businesses in this area. Mr. Moore stated that it sounds like this is a legal issue. The Chair stated that this should be referred to County Counsel.

Mr. Bigelow, the applicant, stated that he bought this property in 1996. He has spent a lot of his own money to improve the property. He has replaced the paving in the parking area and he has purchased new awnings. Mr. Bigelow stated that he was having a lot of problems with teenagers partying late at night on his parking lot and also graffiti on his building. They also blocked his driveway, not allowing customers to drive to the back of the building. These youngsters frequent the billiard building next to his business. He tried to reason with the teenagers to no avail. He also called the Sheriff's Office numerous times. He stated that the youngsters used his property as a meeting point. Once he installed the fence, things improved for his customers and tenants. He no longer has delivery trucks blocking his parking spaces and he no longer has trouble with teenagers loitering his property. He also had a lock installed on the gate. His neighbors have never talked to him to try to negotiate some kind of an agreement. He has done some research and found out that the house behind the restaurant is owned by the Fong's. He stated that the restaurant only has 14 parking spaces. If the Fongs are having difficulty with parking, they could remove the house and use the parcel for additional parking for their business. He is not willing to have others use his parking lot and not have parking for his customers and tenants.

Mr. John Hoppstetter, resident of Castro Valley, stated that they are frequent customers of the restaurant. He has lived in the area since 1976 and feels that this gate should not be allowed. He stated that this driveway is used for ingress and egress for the businesses at this location. If there is a fire in the restaurant, the customers will need to get out and the fire trucks will need to come into the property. It will be very hard for them to do so with this locked gate. It is easier to get out of the parking lot and into the boulevard from this driveway. He also commented on the poor sound system for the MAC room.

Ms. Teresa Fong, owner of the restaurant, stated that she has over 1000 petitions against the locked gate. Her customers come from everywhere, not just from Castro Valley. She stated that her restaurant brings a lot of business into the area. The gate is very unfriendly and it hurts the merchants. It is a safety hazard. It is very hard to exit the parking lot; most customers like to exit thru Mr. Bigelow's property. There is no excuse to have a locked gate. This lot has been open for so long that Mr. Bigelow is in violation of the prescriptive law. The reason for the lock is not the troubled teenagers. Ms. Fong stated that Mr. Bigelow did not want to give them the keys for the gate. The gate was put there for selfish reasons and it has nothing to do with the teenagers. Safety is more important and this gate is a fire hazard.

Mr. Nielsen asked Ms. Fong how many customers the restaurant accommodates. Ms. Fong stated that they can accommodate about 70 people in the restaurant. Mr. Nielsen asked if the numbers included the banquet room. Ms. Fong stated that including the banquet room around 110 customers. Ms. Fong stated that she does not own the home behind the restaurant. She has nothing to do with the house and only owns the restaurant. She stated that they have leased the house since 1998 and even though the house is owned by someone named Fong, it is not their house nor are they related to the owners. Ms. Fong stated that if Mr. Bigelow has an issue with the property, he needs to take it up with the owner of the house.

Mr. Carbone stated that this issue is not going to benefit anybody. There has to be some agreeable way to make it work for everyone involved. It does not seem fair that customers from other businesses use Mr. Bigelow's parking area with no compensation to him. Mr. Nielsen stated that the restaurant's parking lot has only 14 parking spaces; it is not enough parking to accommodate 110 customers. Ms. Fong wanted to enter the petitions into the record.

Ms. Luwana DeYoung stated that she owns a business down the street from this property. Businesses on the boulevard share parking, but it is not fair to have customers and delivery trucks use Mr. Bigelow's parking area without any compensation. Maybe Ms. Fong can pay Mr. Bigelow to have his parking lot fixed, but they need to pay the usage of the space. The argument about safety for the restaurant's customer is doubtful, in case of fire most people will be leaving out the front door.

Mr. Dave Knudsen has leased the ice creamery from Mr. Bigelow and part of the reason for him to lease this property was the parking spaces available for customers. It is dangerous to have a lot of traffic coming in and out of this parking lot. The ingress and egress out of both parking lots is very dangerous. One is no better than the other. Something needs to be figured out so that all businesses can benefit from the parking.

Ms. Frances Gault stated that she frequents the restaurant and it is not easy to maneuver to get out of the parking lot. She stated that she would like to see the gates come down. She feels it is a fire hazard. This needs to be a merchant friendly area so the public wants to frequent this area. Customers need to be able to park wherever they want to park so they can go shopping.

Mr. Bigelow stated that he was shocked to hear that the gate was put there for selfish reasons. It has nothing to do with being selfish. He also stated that Ms. Fong never approached him about the keys for the gate. Mr. Bigelow shared with councilmembers property records for the restaurant and the house behind the restaurant. The paperwork shows Fongs owns both properties. The Chair asked Ms. Fong if she was the owner of the property and Ms. Fong replied that she is only leasing the restaurant and does not own the house or the restaurant. Mr. Bigelow stated that if the Fongs are so concerned with parking they can tear down the house and put more parking behind the restaurant. Mr. Bigelow also mentioned that of course they have so many petitions because it is easy to ask every customer that comes into the restaurant to sign the petition. Some people most likely did not even know what the petition was about and he said that he was willing to work with the Fongs on some kind of mutual agreement for parking arrangements.

Ms. Henninger informed the council that this matter started out as an enforcement issue. This property is in violation of the conditions of approval for the site review. She stated that they agreed ten years ago to have the parking lot open. Discussion ensued amongst councilmembers on the parking situation and fire hazard considerations. Mr. Nielsen stated that clearly the restaurant does not have enough parking and Mr. Bigelow should be compensated for the maintenance of his parking lot. Ms. Goodbody asked county staff if council should be making a recommendation on this application when clearly the business owners need to come to some kind of an agreement on this issue. The Chair reminded every councilmember that the issue at hand is the violation of the conditions of approval on the site review development for this property. The other issues are not relevant to the council tonight.

Mr. Nielsen asked if there was any kind of agreement for damage of the parking lot so that Mr. Bigelow can get compensated. Mr. Gee stated that a lot of these issues sound like a civil matter. Mr. Moore just wanted to mention that he is also leasing an office on the boulevard and they have the same parking issues with the adjacent business owner. He stated that this situation should get resolved sooner than later because it only gets worse. It is very frustrating to have delivery trucks blocking the parking lot. It becomes an unfortunate situation for customers and tenants alike.

Ms. Adesanya stated that she remembers this specific application and if in fact the applicant is violating the conditions of approval for the site review then she cannot support this application and create a hazardous and unsafe condition in this parking lot. She also encouraged the Fongs to try and negotiate with Mr. Bigelow.

Discussion ensued amongst councilmembers and how the parties involved in the spirit of cooperation needed to work something that would benefit all of those involved.

Ms. Adesanya moved, seconded by Mr. Carbone to recommend denial of the site development review because it is in violation of the conditions set forth for S-1423 and the policies for the Castro Valley Central Business Specific Plan.

The motion passed 7/0

- 3. SITE DEVELOPMENT REVIEW, S-1917, SAMUEL ALIKIAN** – Application to allow an optometric center in the CVCBDSP, Sub 10 (Castro Valley Central Business District Specific Plan, Sub Area 10, Eastern Castro Valley Business/Eastern Entrance), located at 3717 Castro Valley Boulevard, south side, about 350 feet east of Yeandle Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 84C-621-2.

Mr. Gee presented the staff report. The proposal would allow an optometric center retail/medical office use to replace a former bar/restaurant. According to the applicant about 80% of her retail income is generated both from patients who receive eye examinations and patient referrals that have their prescriptions filled.

Mr. Nshan Alikian, the applicant, stated that the project is self explanatory. He stated that this is a better use for the area.

Ms. Laurie Chalkin, the tenant, stated that she wants to expand her practice. She currently occupies a 1000 square foot space. She is also an occupational therapist and will be doing rehab services at the future location. She needs the additional space for a therapy room. She stated that this new business will improve the area.

Ms. Hara Alikian, representing the owner, stated that there is enough parking to support the future business. She stated that this business is better suited for the area and asked that council approve the application.

Mr. Nielsen moved, seconded by Mr. Carbone that the council recommend approval of the site development review subject to the conditions and considerations outlined in the staff report.

The motion passed 7/0

E. OPEN FORUM – None

F. CHAIR'S REPORT – The Chair reminded everyone of the March 15 meeting for MAC. He stated that the items on the agenda will be the Measure B, 238 freeway ramps and California Street baseball. The agenda has not been formalized so if you have any items to add to the agenda let him know.

Councilmembers discussed the LAVMA pipeline and damage to local streets.

G. COMMITTEE REPORTS – None.

H. STAFF ANNOUNCEMENTS, COMMENTS AND REPORTS – Ms. Henninger encouraged everyone to attend the unincorporated meeting on Wednesday night at 6:30p.m.

I. COUNCIL ANNOUNCEMENTS, COMMENTS AND REPORTS – None.

J. ADJOURN – The meeting was adjourned at 8:30p.m.

NEXT HEARING DATE: MONDAY, MARCH 8 , 2004