

MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
FEBRUARY 5 2003
(APPROVED MARCH 12, 2003)

The meeting was held at the hour of 6:00 p.m. in the Auditorium of the Public Works Building, 951 Turner Court, Hayward, CA

FIELD TRIP: 1:00 p.m.

MEMBERS PRESENT: Members Dennis Botelho, Chair; Sharon Callaham

Members Excused: Ron Palmeri; Frank Peixoto; Jewell Spalding.

OTHERS PRESENT: L. Darryl Gray, Assistant Planning Director.

FIELD TRIP: The meeting adjourned to the field and the following property was visited:

1. **JUVENAL ARTEAGA, CONDITIONAL USE PERMIT, C-8120** – Application to allow operation of a mobile drive-in business (catering truck) in a ‘TA’ (Transit Access) District, located at 16035A East 14th Street, west side, corner southwest of the intersection with Ashland Avenue, unincorporated San Leandro area of Alameda County, bearing Assessor’s Parcel Number: 080C-0476-001-00.
2. **TELECARE CORPORATION/GENE RAPP, CONDITIONAL USE PERMIT, C-8138** – Application to allow operation of a residential care facility (in-patient sub-acute care for clients with developmental disabilities) within an existing congregate care building, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 18949 Redwood Road, west side, approximately 560 feet south of the intersection with Seven Hills Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 084D-1358-001-02.
3. **GERARD DEVELOPMENT, VARIANCE, V-11663** – Application to allow construction of a new single family dwelling providing 20 feet front yard where 30 feet is required (Lot 13), in a R-1-B-E (Single Family Residence, 10,000 square feet Minimum Building Site Area) District, located at Twin Creeks Place, east side, approximately 220 feet south of the intersection with Twin Creeks Court, unincorporated Fairview area of Alameda County, bearing Assessor’s Parcel Number: 426-0061-017-00.
4. **GERARD DEVELOPMENT, VARIANCE, V-11665** – Application to allow construction of a new single family dwelling providing 20 feet front yard where 30 feet is required (Lot 11), in a R-1-B-E (Single Family Residence, 10,000 square feet Minimum Building Site Area) District, located at Twin Creeks Place, east side, approximately 110 feet southeast of the intersection with Twin Creeks Court, unincorporated Fairview area of Alameda County, bearing Assessor’s Parcel Number: 426-0061-013-00.
5. **GERARD DEVELOPMENT, VARIANCE, V-11667** – Application to allow

construction of a new single family dwelling providing 31 feet six inch front yard where 25 feet is required (Lot 9), in a R-1-B-E (Single Family Residence, 10,000 square feet Minimum Building Site Area) District, located at Twin Creeks Court, east side, approximately 140 feet south of the intersection with Twin Creeks Place, unincorporated Fairview area of Alameda County, bearing Assessor's Parcel Number: 426-0061-017-00.

6. **BERNARDO BUTTLER, SR, VARIANCE, V-11698** – Application to allow construction of an attached addition thereby reducing the required front yard from 20 feet to 17 feet-8 inches and retaining a garage conversion providing zero parking spaces where two are required, in a R-1 (Single Family Residence) District, located at 18184 Rainier Avenue, east side, approximately 200 feet southeast of Whitney Court, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 413-0055-015-00.
7. **AARON SELINGER, VARIANCE, V-11712** – Application to allow a zero feet setback from the access driveway where 10 feet is required in a R-S-SU (Suburban Residence with Secondary Unit) District, located at 19231 Lowell, west side, approximately 230 feet north of Medford Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0413-0043-020-00.

Neighborhood Preservation Ordinance Abatement Hearing:

Time: 5:30 p.m. – 6:00 p.m. - Canceled

REGULAR MEETING: 6:00 p.m.

MEMBERS PRESENT: Members Dennis Botelho, Chair; Sharon Callaham; Ron Palmeri; Frank Peixoto; Jewell Spalding.

MEMBERS EXCUSED: None

OTHERS PRESENT: L. Darryl Gray, Assistant Planning Director, Lisa Asche, Planner III; Christine Greene, Planner I; Brett Lucas, Planner II; Richard Tarbell, Planner II; Sonia Urzua, Planner II and Nilma Singh, Recording Secretary

There were approximately forty-five people in the audience.

CALL TO ORDER:

The meeting was called to order by the Chair at 6: 20 p.m.

ANNOUNCEMENTS BY THE CHAIR:

The Chair reminded the audiences that cell phones and pagers are turned off during the public hearing. At his request, Mr. Gray explained Conditional Use Permits and Variances.

CONSENT CALENDAR:

1. **DOMINICK and LINDA CUEVAS, CONDITIONAL USE PERMIT, C-7780** – Application to allow operation of a commercial horse boarding facility for up to 20 horses in an “A” (Agricultural, 100 acre Minimum Building Site Area Per Dwelling Unit) District, located at 1151 Calhoun Street, approximately 0.5 miles east of Mission Blvd, unincorporated Hayward area of Alameda County, Assessor’s Parcel No: 083-0100-001-03. (Continued from January 23, February 27, May 8, July 24, September 25, October 23, November 20, 2002, January 22, 2003; to be continued without discussion to March 12, 2003).
2. **FRANCES SHERMAN, CONDITIONAL USE PERMIT, C-8017** – Application to allow continued operation of an outdoor storage facility in a M-1 (Light Industrial) District, located at 2227 Dunn Road, north side, approximately 650 feet west of the intersection with Clawiter Road, unincorporated Mt. Eden area of Alameda County, bearing Assessor’s Parcel Number: 439-0016-019-02. (Continued from November 13, 2002, January 8, 2003; to be continued without discussion to March 12, 2003).
3. **JOSE FERNANDEZ, VARIANCE, V-11643** – Application to retain an existing dwelling providing a two foot rear yard (20 feet required), two feet side yard (10 feet required) on a lot containing a 13-foot driveway (20 feet required), zero foot setback from driveway to dwelling (10 feet required) in a R-S-D-20 (Suburban Residence, 2,000 square feet per dwelling unit density) District, located at 254 Poplar Avenue, northwest side, approximately 250 feet southwest of the intersection with Princeton Street, unincorporated Cherryland area of Alameda County, bearing Assessor’s Parcel Number: 429-0091-026-02. (Continued from January 8; to be continued without discussion to April 9, 2003).
4. **L. FU/DAVID LAU, VARIANCE, V-11708** – Application to allow construction of three new dwellings providing: 1) six feet side yard where 15 feet is required; 2) zero foot setback from the driveway to two dwelling unit walls where 10 feet is required; and 3) 12 feet driveway where 20 feet is required, in a R-3 (Three Family Residence) District, located at 2256 Regent Way, southeast side, approximately 420 feet northeast of Cross Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 084A-0270-006-00. (Continued from January 8; to be continued without discussion to February 26, 2003).
5. **CHEUK FUNG, CONDITIONAL USE PERMIT, C-7920** – Application to allow construction of a service station (Type A) with a convenience mart and car wash facility on a portion of an existing 1.4 acre site, in a C-1 (Retail Business) District, located at 997 Grant Avenue, northeast corner of the intersection of Grant Avenue and Washington Avenue, unincorporated San Lorenzo area of Alameda County, bearing Assessor’s Parcel Number: 085-1700-001-00. (Continued from July 24, September 11, October 23, November 13, 2002 &

January 22, 2003).

Mr. Gray suggested that Regular Calendar item #1 could be moved to the Consent Calendar since the application was recommended for a continuance to February 26, 2002. Member Palmeri moved the motion to approve the Consent Calendar per staffs' recommendations and with the above modification. Member Spalding seconded the motion which carried 5/0.

REGULAR CALENDAR:

1. **CHEUK FUNG, CONDITIONAL USE PERMIT, C-7920** – Application to allow continued operation of a commercial horse boarding facility for up to 80 horses, occupancy of two temporary caretaker dwellings and one permanent structure for office/caretaker, in an “A” (Agricultural) District, located at 7324 Crown Canyon Road, west side, approximately one mile north of Coldwater Drive, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 085-1700-001-00. (Continued from July 24, September 11, October 23, November 13, 2002 & January 22, 2003). **(This item was moved to the Consent Calendar).**

2. **RON SIMMS, CONDITIONAL USE PERMIT, C-7986** – Application to allow continued operation of a commercial horse boarding facility for up to 80 horses, occupancy of two temporary caretaker dwellings and one permanent structure for office/caretaker, in an “A” (Agricultural) District, located at 7324 Crow Canyon Road, west side, approximately one mile north of Coldwater Drive, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 085-1700-001-00. (Continued from July 24, September 11, October 23, November 13, 2002).

Lisa Asche, Planner, read the project description. In response to Member Palmeri, she confirmed that currently there were two caretakers units. The Chair asked for the term of the permit. Ms. Asche replied that it would be the standard three years. Member Spalding noted the lack of response from the Traffic Division. Ms. Asche agreed that there was no response but the Applicant did plan to widen the driveway area.

Public testimony was called for. Ron Simms, Applicant, said he had bought the property in November and since then, extensive improvement work has been completed. He further described some of this work. In response to Member Palmeri, he explained that these were modular homes, two for office and one as caretaker's unit. The Chair asked if there were plans for additional stalls. Mr. Simms replied no. He concurred with all the conditions.

Public testimony was closed. Mr. Gray explained that sometimes there were more than 72 horses, hence a permit for 80 horses provided a buffer zone. Member Spalding noted that since this was a continued use and the absence of response from Traffic Division, she suggested deleting Condition #5 (d) 'Traffic Engineering Section. Mr. Gray explained that the Board could not act on any requirements from Traffic Division. Member Spalding moved the motion to approve the application as recommended by staff with the above modifications and Member Palmeri seconded it. Motion carried 5/0.

3. **TELECARE COPORATION, CONDITIONAL USE PERMIT, C-8138** – Application to allow operation of a residential care facility (Inpatient long-term care facility) for up to 37 mentally disabled adult clients, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Special Recreational Vehicle Parking Standards) District, located at 18949 Redwood Road, west side, approximately 560 feet south of Seven Hills Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084D-1358-001-02.

Mr. Gray read the project description.

Public testimony was called for. Cameron Coltharp, Corporate Facility Manager, introduced the other Telecare representatives, Ms. Jane Johnson, Director of Development and Sheryl Kuhn, Director of Community Services. He described the project and Telecare business, and further outlined the permit process actions including meetings with Supervisor Miley, Eden Advisory Group, Redwood Christian School, Sheriff's Department, neighbors and public meetings. Residents would be non-violent mentally disabled adults who were not sex offenders currently living in the community. To address the neighbors' noise concerns, Telecare was proposing an 8-12 feet high stone wall and new windows/doors for security and noise reduction and a front fence if necessary. Member Spalding asked for noise buffer along Wilson Avenue. Mr. Coltharp said an 8 feet redwood fence was proposed for the southern side. Member Palmeri asked for the number of other facilities owned by Telecare. Mr. Coltharp replied that currently they had four in-patient, sub-acute locked facilities. Member Spalding asked for the ratio of supervision that Mr. Coltharp said would be answered by Jane Johnson. He explained 'delayed egress' and in response to the Chair, he indicated that the air conditioning unit could be relocated to the southern side yard but was open for other options.

Jane Johnson, in reference to the ratio of supervision, explained that it would be 1-3 or 1-4, depending on the needs of the clients. Although the clients were voluntary, they could leave the facility at any time but staff would work with clients/families to find new lodging, transportation and on-going services. Mr. Gray requested clarification on the definition of 'community' in reference to where the clients would be coming from. Ms. Johnson said East Bay communities (Alameda and Contra Costa counties).

Tom Kelly, 4349 Elvira Place, spoke against the project. His property was directly opposite and over the years, there had been several problems. He complained of lack of straight answers and notification. Mr. Kelly requested clarification on staffing ratio.

Susan Camper spoke on behalf of her mother who lived in the adjacent apartment. There was nothing dividing the two properties. She felt that the term 'mental disabilities' was vague and broad. These were not bad people but could get into bad situations and be disruptive. Although she was not against mental health patients, she was not sure if this was the right location. It was on a very busy street, down the street from a school. Ms. Camper thought that it was important to clarify the type of clients.

Jeff Schanngs, property owner at 4233 Nando CT, spoke in support. He was the most impacted neighbor as his property backed into the subject property. Since the closure of the prior skilled nursing facility, there has been a lot of vandalism, trespassing and over-grown weeds. He felt that this current situation was worse than what Telecare was proposing. He was pleased with their availability to the neighbors and had requested a 10 feet wall to avoid climbing over. Mr. Schanngs also thought that noise from the air conditioning unit was not a problem but added that the back-up generator was noisier.

Irene Gregorio, 4466 Heyer Avenue, spoke on behalf of her two sisters who have lived on Wilson Avenue since 1942. They have had a lot of problems with the prior nursing facility and were afraid of the same problems. Such a facility did not belong in a residential area. In response to Member Spalding regarding the fence, Ms. Gregorio said high fences were not appropriate.

Bruce Johnson, Superintendent of Redwood Christian Schools, read his written testimony. If approved, he suggested the following additional conditions: 1) Telecare to install fencing around the perimeter and gates to provide a safer environment; 2) The residents will always be accompanied inside and/or outside and will never be permitted to walk to the Bonfare Market without supervision; 3) The residents not be allowed day passes unless accompanied by family member or responsible adult; 4) Sex offenders, at any level, will never be considered as residents; 5) Violent offenders, at any level, will never be considered. If any residents exhibit violence or take part in illegal activities and/or a harass the neighbors, they will be discharged per California's 3-day discharge requirement; and 6) Staff will always be responsible to all concerns/calls from neighbors and to notify the local schools if a patient leaves unsupervised.

Chuck Fehely, 4155 Wilson Avenue, said he had safety concerns and felt that lawsuits were guaranteed. Patients leaving the facility with families would not be safe.

Casia Ruiz, property owner at 18461 Vernon CT, said the first notification of the project was from the Forum. There had been many problems with the prior facility. The side yard was very small and residents had sat outside. His concerns included children walking in front of the facility; noise problems since this was a quiet neighborhood and parking since there would be 26 parking spaces on the property and parking on Redwood Road was limited.

Dave Wilkerson, 4341 James Avenue, felt that some neighbors would be seriously impacted by this project. Instead, this property could be used for housing. Telecare has come in with a 'fast attitude' and was looking for a fast approval. Since Telecare was the first interested party, they did not have to have an approval. Granting an approval could impact this community and, as such, Mr. Wilkerson urged that no hasty decision be made but the matter continued for additional testimonies.

Dave Koryoinski, 18875 California Street, complained that he had not received any notice for the first hearing. There were schools and a teen center in the vicinity and hence this was not a good location.

Lola Hrush, 4156 Wilson Avenue, read her written testimony. She asked what the community could do if conditions were not met and suggested that perhaps the conditions should be legally drawn and signed by Telecare for the safety of the community. In response to Member Spalding regarding the 10-foot fence, Ms. Hrush said the clients would feel that they were in a prison. She also requested clarification on Condition #20.

Ruth Garrett, property owner at 4164 Wilson Avenue, said she was familiar with the prior situation and did not want to continue with it. She had sent a letter to the Board outlining the history of the property. She thanked the Chair for his site visit. Her main concern was noise. Such a facility in a residential area was not good either for the community or the residents. In response to Member Spalding regarding the proposed fence, Ms. Garrett said the residents would feel locked in and looking out the window would see this high fence. Other uses for the property should be considered such as a senior facility or a school. Ms. Garrett urged a denial.

Carol Schweigert, 4347 Elvira Place, said her property was directly in front of the facility. Her concerns

included client wandering, ringing doorbells at night, night noise, and safety for elderly and children walking in front of the facility.

Frank Boatman, property owner at 4309 Seven Hills Road, asked that since that clients stroll past his house, could the County assure him in writing that he would not be held responsible if they had injured on his property. The Chair advised him this should be addressed with the County Counsel.

Jeff Schula, 18864 Redwood Road, said his property was across the street, on the northern side. He felt that a residential care facility was not appropriate at this location but preferred a senior home. His main concern was also children walking in front of the facility.

Al Goggins, 18456 Vernon Court, said he was neither for nor against the project but had concerns regarding the flyer that stated 'serious mental health patients'. He felt that clarification on the type of patients was needed. He also agreed that there was a risk involved as there was a chance of interactions with the patients and the children and/or community, especially since he rides the bike. If approved, he suggested that aerial lighting be cut off completely.

Public testimony was closed. The Chair asked for clarification on the notification procedure. Mr. Gray explained that notices were mailed to property owners within a 300 foot radius. Regarding the complaint of 'fast tracking', he explained that Planning Department was asked to proceed with this application by a County Supervisor. Member Palmeri asked if the fence height was a State requirement and Member Spalding requested clarification regarding lighting. Mr. Gray said fence height was not a State requirement and that the Board could approve a higher fence than allowed, and it was the Board's discretion regarding on-site lighting. In reference to liability, sometimes the County was liable to negligence.

Public testimony was re-opened. Ms. Johnson, in response to Ms. Urzua, explained in-depth the clientele type. Member Spalding pointed out Superintendent Johnson's six recommendations, especially #4. Ms. Johnson replied that a thorough risk assessment would be completed and there was a related written policy. Mr. Coltharp added that Telecare would consider front fencing but not to give an institutional appearance, perhaps fencing along the front door but not around the front perimeter; was willing to notify the schools; and asked that the community notify the facility of patients in the community. Member Palmeri asked if he would agree to a condition reflecting that the facility cease to operate in case of non-compliance. Mr. Johnson agreed but pointed out that Telecare was mission driven and not operated for profit and provided ownership clarification. Telecare was not the property owner. Mr. Gray suggested perhaps improving staffing ratio and two additional conditions to reflect youth occupational training on-site with liaison from the school district and Regional Occupational Center, and on-site community advisory club. Ms. Johnson agreed pointing out that an on-site community advisory club already existed. While stating that Federal regulations require client confidentiality, she was willing to work on a notification process. Member Palmeri thought that since numerous concerns were raised regarding safety of children and clients, some front fencing was needed. Ms. Johnson replied that their mission was to provide a home-like facility with suites, hence, was not concerned with the rear 10-foot high fencing. She suggested fencing around the front door but not the entire facility. Member Peixoto questioned the freedom of clients. Ms. Johnson explained that clients could leave whenever they desired but with either a staff or an adult. Their goal was to provide a discharge location. Member Callahan said the Board had made a site visit today and has received numerous testimonies regarding safety and 'feeling scared'. But there have been more problems during the last four years when the property has set vacant than there would be with the proposed project.

The Chair announced a ten-minute break at 8:50 p.m.

Public hearing reconvened at 9:05 p.m. Member Palmeri pointed out that since the findings could be made in the affirmative, an approval could be granted. Regarding the recommended conditions, he discussed the following: a 10-foot high fence was not appropriate for the neighborhood and that the fencing material should be consistent throughout the property. He did not see similar concerns for a 10-foot fence for the north side. Condition #5 should include some type of front fencing but not to block the driveway and the fencing material to be approved by the Planning Director; Condition #6 should also reflect that residents not be allowed to leave unless under supervision and the supervision ratio be 1:4; Condition #16 to reflect that no residents have a history of sex offence and the facility to notify the three neighborhood schools, with no names, of any residents in the community; Condition #19 to indicate that permit was not transferable but the Planning Director be notified of change of ownership and the application be either re-considered or revoked; and Condition #20 be modified to include on line 6 "... so as to be re-considered or revoked." His only concern was the term of the permit, ten years. Mr. Gray explained that a ten-year permit was a short permit in respect to investment. The track record and approval of other permits for longer periods was taken into consideration. Member Spalding agreed with Member Palmeri adding that perhaps the neighbors be allowed their input regarding the common fence and that a 15-year permit be considered. The Chair disagreed with a 15-year permit. Mr. Gray suggested the words "certificate of occupancy" for Condition #20. Member Palmeri moved the motion to approve the application subject to the twenty recommended conditions (approval for 10 years) with the above modifications and the two additional conditions recommended by Mr. Gray. Member Peixoto seconded the motion that carried 5/0.

4. **NAVICO, INC., VARIANCE, V-11511** – Application to approve as a building site a parcel four acres in size where five acres is required, in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acres MBSA, 300 feet median lot width, 30 feet front yard, 20 feet side yard) District, located at China Court, southwest side, approximately two miles west of Fairview Avenue, unincorporated Fairview area of Alameda County, bearing Assessor's Parcel Number: 0425-0260-001-00. (Continued from October 23, 2002).
5. **NAVICO, INC., VARIANCE, V-11512** - Application to approve as a building site: 1) a parcel four acres in size where five acres is required and 2) without frontage on a county road, in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acres MBSA, 300 feet median lot width, 30 feet front yard, 20 feet side yard) District, located at China Court, southwest side, approximately two miles west of Fairview Avenue, unincorporated Fairview area of Alameda County, bearing Assessor's Parcel Number: 0425-0260-002-00. (Continued from October 23, 2002; to be continued without discussion to February 26, 2003).
6. **NAVICO, INC., VARIANCE, V-11513** - Application to approve as a building site: 1) a parcel four acres in size where five acres is required and 2) without frontage on a county road, in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acres MBSA, 300 feet median lot width, 30 feet front yard, 20 feet side yard) District, located at China Court, southwest side, approximately two miles west of Fairview Avenue, unincorporated Fairview area of Alameda County, bearing Assessor's Parcel Number: 0425-0270-002-00. (Continued from October 23, 2002; to be continued without discussion to February 26, 2003).

Mr. Gray announced that items 4, 5 and 6 could be acted on simultaneously. The Final Map was submitted by the Applicant showing subdivision of the ten-acre parcel, which was recorded in November

2002. Hence, recommendation B was appropriate. Member Spalding asked if a new street was being proposed. Mr. Gray replied no and further provided clarification on the subdivision. Member Spalding noted that this was a private road and not a County road that occasionally was an issue. Member Peixoto moved the motion to approve the applications as recommended by staff. Member Callaham seconded the motion that carried 5/0.

7. **TUCKER HOFFMAN, VARIANCE, V-11641** – Application to subdivide one parcel into three lots thereby providing a 3,644 square foot Minimum Building Site Area where 5,000 square feet is required (parcel 2) and 6.5 foot rear yard where 20 feet is required (parcel 2), in a R-S-SU (Suburban Residence, Secondary Unit) District, located at 18347 Standish Avenue, west side, approximately 300 feet north of Alden Road, unincorporated Cherryland area of Alameda County, bearing Assessor's Parcel Number: 413-0047-040-00. (Continued from December 18, 2002 & January 22, 2003).

Mr. Gray presented the staff report.

Public testimony was called for. Mr. Hoffman described his project in detail with maps and photographs. There were other lots that did not conform to the 5,000 square foot requirement. The community preferred homeowners to renters and were willing to sign a petition. Member Spalding asked if he had read the Cherryland Homeowners Association's letter. Mr. Hoffman explained that he had tried unsuccessfully to meet with the Association after reading the letter. In response to Member Palmeri's request for the contact person's name at the Association, Mr. Hoffman stated that it was Ms. Grace.

Mr. Doug Rogers, Civil Engineer, in support described the proposal that was to subdivide the one parcel into three separate lots with the existing buildings. No density change was proposed. The only change would be three owners and new boundary lines on the map only. Member Peixoto noted that the findings could not be made in the affirmative and asked if the rezoning recommendation had been considered. Mr. Rogers responded that since only one parcel did not meet the square foot requirement, rezoning was not necessary. He pointed out other smaller lots created by similar sub-division. Based on this, he disagreed with the home association that a precedent would be set. This proposal was ideal for first-time homebuyers and, as such, the County should encourage such projects. He suggested alternative findings.

Public testimony was closed. Mr. Gray noted that the Board could compromise these types of projects that would deter from being appealed to the Board of Supervisors. If approved, he suggested the following conditions: Lot 2 to be established as a non-conforming lot; installation of automotive garage door openers for each three units to address street parking concerns; Applicant proceed with Parcel Map; and comply with other County agencies/departments such as Fire and Building Departments. Member Palmeri disagreed that non-conforming uses in a neighborhood justified relaxation of the lot size. He disagreed with Mr. Rogers' alternative findings adding that he also disagreed with creating a non-conforming use to facilitate a monetary use and that many sub-divisions have met with minimum lot sizes. He agreed with staff's recommendation. A discussion followed special circumstances. The Chair said he had parking concerns. An in-depth discussion followed regarding zero lot line adjustment, easement and alternatives. Member Palmeri suggested getting direction from the Planning Director. In response to the Chair, Mr. Hoffman agreed to a continuance to meet with Planning Director and staff to reconsider an alternative. Member Spalding added that curb, gutter and sidewalk should also be discussed. Mr. Hoffman replied that frontage was already installed. Member Palmeri moved the motion to continue the matter to February 26, 2003. Member Callaham seconded the motion that carried 5/0.

8. **ALLEN YUAN/GEE TIN LEUNG & SHU TONG YUEN, VARIANCE, V-11693 and SITE DEVELOPMENT REVIEW, S-1850** – Application to allow

construction of four dwelling units providing: 1) 17-1/2 feet wide driveway where 20 feet is required; 2) zero foot setback from driveway to dwelling wall where 10 feet is required; and 3) retain a detached garage where otherwise not allowed, in a R-S-D-35 (Suburban Residence, 3,500 square foot Minimum Building Site Area) District, located at 528 Blossom Way, north side, approximately 400 feet east of Haviland Avenue, unincorporated Cherryland area of Alameda County, bearing Assessor's Parcel Number: 429-0019-049. (Continued from January 8, 2003).

Mr. Gray presented the staff report.

Public testimony was called for. David Speer, Architect, explained the project noting that there would be five parking spaces and one turnaround space in the rear. It would be a color concrete walkway. He agreed to all the five recommended conditions but requested clarification on the setbacks as stated in Condition #1. The original proposal was for a six feet setback. Member Spalding asked if there would be parking restrictions along the driveway. Mr. Gray explained that it would be a Fire Department requirement. In response to the Chair, Mr. Speer indicated that there would be one guest parking.

Public testimony was closed. Member Palmeri said he had concerns with the 12 feet driveway when the Fire Department requirement was 20 feet, off-street parking since street parking was not available and layout in reference to density requirements. Member Spalding asked why the Fire Department would approve a 12 feet driveway. Mr. Gray explained that it was a zoning requirement and Mr. Speer added that a sprinkler system would be installed. Member Peixoto pointed out that parking was an overall concern for the area and moved the motion to approve the application per staff's recommendation. Member Callahan seconded the motion that carried 4/1. Member Palmeri voted no.

D. **Approval of Minutes** – January 8 & 22, 2003. The Minutes were not available and the Chair noted that the Board was behind in approving minutes.

E. **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.

The Chair recommended using the 224 West Winton facility for future hearings. Mr. Gray pointed out that this facility would not be available much longer due to remodeling but would check.

F. **Staff Comments & Correspondence**

G. **Board Announcements, Comments & Reports**

H. **Adjournment** - There being no further business, the hearing was adjourned at 10:50 p.m.

**JAMES SORENSEN - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS**