

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL
MINUTES FOR February 28, 2005
(Approved as corrected March 14, 2005)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:30 p.m. **Council members present:** Andy Frank, Chair; Dean Nielsen, Vice Chair. Council members, Ineda Adesanya, Ken Carbone, Karla Goodbody, Jeff Moore and **Council members excused:** Carol Sugimura. **Staff present:** Tona Henninger, Ron Gee, Rodrigo Orduna, Maria Elena Marquez. There were approximately 20 people in the audience.

The Chair announced that the following items will be continued as follows: **Variance V-11882, Greves**, will be continued to **March 28**; **S-1922 and PM-8587, Silva**, will be continued to **March 14**; and the Housing Element Implementation Program will be continued to **March 14**.

B. APPROVAL OF MINUTES OF January 24, 2005

Mr. Nielsen moved, with a second by Ms. Goodbody, that the Council approve the minutes of January 24, 2005, as presented.

The motion passed 6/0

C. PUBLIC ANNOUNCEMENTS: None.

D. REGULAR CALENDAR

- 1. VARIANCE, V-11882, GREVES**, Application to construct a detached garage located in the front half of the lot and within the future width line adopted by ordinance where not otherwise permitted and 3 feet from the property line where 6 feet are required, in a R-1-L-BE (Single Family Residence, Limited Agriculture, 5-acre minimum building site area) District located at 6270 Crow Canyon Road, west side, 0.74 miles north of Cold Water Drive, in the unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 0085-1600-003 (**Continued to March 28, 2005**).
- 2. SITE DEVELOPMENT REVIEW, S-1922, AND TENTATIVE PARCEL MAP, PM-8587, SILVA** – Applications to construct three (3) town home units on a 0.28 acre site, in a R-S-D-15 (Suburban Residence with 1,500 minimum building site area per dwelling unit) District located at 20085 Wisteria Street, west side 400 feet north of Ganic Street, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084A-0154-004-01 (**Continued to March 14, 2005**).
- 3. CONDITIONAL USE PERMIT, C-8362, SUNG** - Application to allow continued operation of a before and after-school child care program for up to 70 children in a PD (Planned Development, 1529th Zoning Unit) District, located at the convergence of Glenwood Drive and Carson Lane, south side, across from Kit Lane, unincorporated Castro Valley area of Alameda County, and designated Assessor's Parcel Number: 85A-6402-0028-00.

Mr. Gee presented the staff report. The current staff recommendation is to grant a time extension for up to 10 years.

Mimi Albert, the Applicant, said she agrees with everything staff said; she is the supervisor and they have been doing this for several years.

Public testimony: No public testimony was submitted.

Mr. Carbone said he agrees with a 10 years permit. They have been working for several years without incident.

Mr. Carbone moved to approve Conditional Use Permit, C-8362 for a term of 10 years with Planning considerations as written. Ms. Goodbody seconded. Motion passed 6/0.

4. **CONDITIONAL USE PERMIT, C-8376, BILLALON/LIN** Application to allow continued operation of a wireless telecommunication facility in a "A" (Agricultural) District, located at 6390 Grassland Drive, northeast side, 1,200 feet, southeast of Sunnyslope Avenue, in the unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 085A-1400-001-11.

Mr. Gee presented the staff report. This is a facility operated by Verizon Wireless. Previous approvals have been granted. There has been a number of other companies on this property. The unusual thing about the time extension is that landscape plan was requested back in 1993 but apparently was not submitted. There is no problem with recommending the continued operation of this facility. As far as the landscape plan, there is no specific condition.

Lori Billalon, the Applicant, said that most of the landscaping is on the other side of their site which has mature oak trees and bushes that pretty much hide everything. She said she is willing to come to the office and discuss that with a staff person. She said that in the original plans they showed designated existing landscaping, some trees as line trees, so she does not know of anything that would hide it any better since everything is very mature.

Mr. Carbone asked if that bright color could be painted green. Ms. Billalon said that it is possible. Mr. Carbone said more of a green color to match the surrounding trees and landscaping would be better; it is taller than anything there.

Public testimony was called for. No public testimony was submitted.

Mr. Gee said it is proposed for 8 years, expiration date November 2013.

Mr. Moore moved for approval of Conditional Use Permit, C-8376, with staff considerations, and also adding condition that the exposed portion of the tower be painted green. Mr. Carbone seconded. Motion passed 6/0.

5. PARCEL MAP, PM-8563 – LANGON – Application to subdivide two parcels totaling 2.91 acres into three lots, in a PD [Planned Development, allowing R-1-L-B-E (Single Family Residence with Limited Agricultural Uses, 40,000 square feet Minimum Building Site Area)] District, located at 5600 Jensen Road, northwest side, approximately 0.89 miles northeast of Castro Valley Boulevard, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designations : 0085-5200-005-00 and 0085-5200-006-00.

Mr. Gee presented the staff report and distributed copies of maps.

Mr. John Langon, the Applicant, said that it is a nice development that will enhance the neighborhood. Castro Valley still needs to have upper income homes and a property this size meets all requirements, with the lot width and depth; many of the lots are bigger but are not buildable. Having the substantial 40,000 feet lot, it is a big area for nice houses, nice estates, and it falls within the realm that County and the City provide to make it what they are looking for.

Public testimony was called for. No public testimony was submitted.

Mr. Carbone said the way the driveways will be cut into these parcels, that it is on a hill. Will there be grading before it gets up into to the property? Mr. Langon said they have to swing a little bit to get to each one. Mr. Carbone asked if it has not been laid out yet, will there be another discussion? Mr. Langon said they are going for the lots at the present time but he thinks that the lot width is approximately 160 to 180 feet minimum to each one, but it will make it for the traffic. Mr. Carbone is concerned about visibility. Mr. Langon said that there were a lot of bushes in the roadway. Before it was not maintained, it was a blank spot, and to avoid liability they cut everything down; however, that will be the first thing that we will take into consideration.

Mr. Frank read a letter from James Knuppe in support of the project. Letter entered into the record.

Mr. Nielsen moved to approve PM-8563 with planning considerations. Mr. Carbone seconded. Motion passed 5/0/1. Mr. Moore recused himself.

ORDINANCE UPDATES – Review of potential updates to the Zoning Ordinance regarding:

1) fence regulations; 2) catering vehicles and outdoor businesses; 3) inclusion of a definition of "Restaurant"; and 4) location of tents/canopies within residential districts. Mr. Orduna presented the staff report and added that the Ordinance Updates will be heard by the Planning Commission on March 7 and possibly by the Board of Supervisors early April.

The Council recommended the following:

Fences: There should be differentiation between fencing regulation (and regulation in general) between rural areas and urbanized areas, and perhaps even between hilly areas and flat areas. Recommend 6' tall solid fence with 1 ft. tall lattice (or other see-through material) fencing, and 2 ft tall lattice (or other see-through material) fencing if approved through an Administrative Use Permit. In rural areas, an 8 ft. tall see-through fence may be appropriate. Material should not be restricted; in urbanized residential areas, a cyclone fence may be appropriate if no taller than 4 ft. in front yard areas.

Catering Vehicles: Allow them on a temporary basis with Administrative Use Permits within all commercial districts if part of a special event, such as a fair. Allow them through a Conditional Use Permit process within all commercial districts if the regulations of Resolution 92-30 are incorporated into required development standards, with the additional requirements that: 1. they be restricted from being located within a certain distance of each other and from all fast food restaurants, 2. they be held responsible for collecting garbage within a certain distance from their facility, 3. that they obtain a health permit, and 4. they obtain a business license.

Restaurants: All alcohol sales should be regulated through a Conditional Use Permit process (currently, a restaurant that sells alcoholic beverages with a meal only on the menu, but does not qualify as a "Tavern" as defined in Section 17.04.010, does not require a Conditional Use Permit). Given that, the proposed regulation that at least 67% of restaurant (and casual meal restaurant) revenue be from the sale of non-alcoholic food and beverage should be removed. A regulation should be added that fast food restaurants can not sell alcohol.

Free-Standing Canopy Structures: The following regulations should apply:

1. 10-foot maximum height.
2. 200 sq. ft. maximum horizontal dimension, or maximum coverage of 30% of the rear yard area, whichever is the lower dimension.
3. to be located at a minimum of 5 feet from rear and side property lines
4. not to be located within front or street side yards
5. to be made of non-combustible materials

Public testimony was called for.

Dave Dykes, resident at 4482 Heyer Ave., Ordinance Review Committee member, said that he is concerned about the garbage catering vehicles leave behind and that restaurants are responsible for the mess they leave, ice left at the end of the day, garbage all over. The issue is real restaurants competing with them. A lot of these trucks come from San Jose, therefore they do not pay taxes to Alameda County. They pay the taxes to Santa Clara County. Restaurant owners are paying taxes to Alameda County.

John Ryzanych, resident at 2490 McLeod Ave., and Ordinance Review Committee member, said that some of the history might be helpful related to restaurants. A proposal was brought up by CommPre, with some concerns that maybe it is appropriate to put some controls on availability of alcohol through restaurants and outlets; a lot of the input

came from restaurant owners. There is a possibility this issue might be a preventive measure that is enforceable.

Dave Dykes asked how many canopies you can put in your back yard, if you have a one acre or ½ acre lot. He made comments regarding height that were discussed in the last meeting. He has two of them that are dilapidated next door. He has seen Castro Valley go downhill and is becoming a problem in his neighborhood. He added that people should be able to have 10 foot fences if they have 10 foot canopies.

7. **ORDINANCE UPDATE FOR REASONABLE ACCOMMODATION FOR DISABLED AND SENIOR PERSONS** – Consideration of a “Reasonable Accommodation” provision to the Zoning Ordinance to allow disabled and senior persons the use of residential structures to meet their individual needs (reasonable accommodation provisions for disabled persons are already required by the 2003 *Housing Element* as mandated by the State; reasonable accommodation for senior persons would be a County-initiated provision).

The Council recommended the following:

The reasonable accommodation permit should be finite, to go with the proposed use. There should be a mechanism in place, other than a deed restriction, that creates a source of disclosure and public notification for the permit, so that neighbors know what is proposed, even though they may not have an opportunity to comment.

Public testimony was called for.

Charles Snipes said that his understanding is that reasonable accommodation is only for people that require the accommodation and not the property and when that reasonable accommodation no longer exists for that individual, then you do not have a requirement for a reasonable accommodation. We need to treat that reasonable accommodation with the individual and not the land. There is no additional benefit, if you sell the property. Mr. Frank said that all we need is a form of disclosure.

Marc Crawford asked what if a person is a tenant. Mr. Frank said that typically if the tenant is a disabled person he has a right to make cause and adjustments to the structure with the understanding that he has to convert back to its original state unless the owner decides to retain it and find out through the Building Inspection Department the legal requirements.

John Ryzanych said that putting up a tent for weddings is a temporary structure, that is part of the debate.

8. **Housing Element Implementation Program** – Public Hearing to consider **amendments to the County Zoning Ordinance and Specific Plans** necessary to comply with provisions of the Alameda County Housing Element, adopted by the County Board of Supervisors in October of 2003 and certified by the State Department of Housing and Community Development in January of 2004. Said modifications are as follows:

1. Reclassify sites in the *Ashland-Cherryland Business District Specific Plan*, *Castro Valley Central Business District Specific Plan*, *Fairview Area Specific Plan*, and in areas currently designated for urban infill development in the Ashland, Cherryland, Hayward Acres, San Lorenzo, and Castro Valley communities to provide opportunity sites for higher density development.
2. Add a definition to the Zoning Ordinance for the term “emergency homeless shelter.”
3. Modify provisions of the R-3 and R-4 zoning districts to allow emergency homeless shelter, as defined, as a permitted use in these districts. **(Continued to March 14.)**

E. OPEN FORUM –

Suzanne Barba, a Castro Valley resident, said that some of the subjects discussed tonight, the Castro Valley MAC is working on them, the San Lorenzo Village Homeowners Association and Cherryland are doing the same, all are coming up with different recommendations, on what the Zoning Ordinance Committee came up with and if staff is planning to melt them together and then come back again and asked if things will be enforced differently in each one of the cities. She said that people from San Lorenzo were very strong and how are you going to please everybody. Mr. Orduna said that either we take everybody’s recommendation and take it to the Planning Commission and then take everybody’s recommendation to the Board of Supervisors and then they decide, or we take everybody’s recommendation and the Planning Commission comes back with their recommendation and we shop around to everybody again to make sure everybody understands and we take it to the Board. Suzanne Barba asked if the Planning Commission has to put it together.

F. CHAIR’S REPORT – None.

G. COMMITTEE REPORTS: There were no committee reports.

H. STAFF ANNOUNCEMENTS, COMMENTS AND REPORTS -

Mr. Carbone asked when we will be able to comment on the General Plan. Mr. Frank replied that the Council is trying to have the General Plan on the schedule in a workshop format on March 21, and the Housing Element on March 14.

I. COUNCIL ANNOUNCEMENTS, COMMENTS AND REPORTS – None.

J. ADJOURN: There being no further business, the Chair adjourned the meeting at 9:20 p.m.

NEXT MEETING DATE: March 14, 2005