

## **CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL**

### **Minutes For July 11, 2005**

(Approved as corrected August 22, 2005)

**A. CALL TO ORDER:** The Chair called the meeting to order at 6:40 p.m. Council members present: Dean Nielsen, Chair; Jeff Moore, Vice Chair. Council members: Karla Goodbody and Carol Sugimura. Council members excused: Andy Frank and Ineda Adesanya. Staff present: Steve Buckley, Tona Henninger, Jana Beatty, Bob Swanson and Maria Elena Marquez. There were approximately 25 people in the audience.

**B. APPROVAL OF MINUTES OF JUNE 27, 2005.**

**Mr. Moore moved, seconded by Ms. Goodbody, that the Council approve the minutes of June 27, 2005 as corrected. Motion passed. 4/0**

**C. PUBLIC ANNOUNCEMENTS – None.**

**D. REGULAR CALENDAR**

**1. CONDITIONAL USE PERMIT, C-8312, GRIMES & BALDWIN -**  
Application to allow the continued operation of a horse boarding facility for 63 horses, and the continued occupancy of 2 mobile homes for caretakers in an “A” (Agricultural) District, located at 8018 Crow Canyon Road, west side, 25 feet north of the intersection with Norris Canyon Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s Parcel Number: 0085-1750-006-06.  
**Continued from June 13, 2005.**

Mr. Buckley presented the staff report. He stated that at this point staff has identified numerous issues and is working with the applicant and there has been good progress. Staff received several documents just last week and statements from the applicant regarding different aspects of the issues. Staff recommendation is to continue this item until August 25 to allow for final resolution and recommendation.

Mr. Nielsen asked Mr. Grimes if he agreed to continue the item until August 25. Mr. Grimes said the engineer is working on the bridge and that most of the electrical work is done. They still have to bring gravel in to make the road dry for the Fire Department, and there is an inspection scheduled for the propane tank and the electrical. Clean Water said the new storage water was fine where it was, but another said that they might want to relocate it, because they had an issue with the tank room. The Grading Department told him not to touch it until they came and take a look at it, but he was not notified. They came on a Wednesday and nobody was there. They still have not had a response from them to move it or not move it. Mr. Nielsen asked Mr. Grimes if he wanted to present the project tonight either for approval or disapproval or if he wanted to delay it until all the conditions are

met and asked when he will feel comfortable to come back before the MAC. He agreed to wait until August 22.

**Mr. Moore moved to continue this item to August 22. Ms. Goodbody seconded. Motion passed. 4/0.**

2. **CONDITIONAL USE PERMIT, C-8431 – CHENG CHUL NAM –** Application to relocate an existing alcohol outlet within an existing commercial center building in a CVCBDSP-SUB7 (Castro Valley Central Business District Specific Plan – Sub-area 7) District, located at 20459 Redwood Road, west side, 400 feet north of Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, and designated Assessor's Parcel Number: 084A-0080-011-09.

Mr. Buckley presented the staff report. He stated that this project is coming before the MAC as a use permit, and would be the first use permit for the operation based on the move which requires a transfer of the alcohol license from one address to another. The shopping center has several store fronts, some of them are vacant and this will occupy one of those vacant store fronts. The main purpose is to open a corner location for a new tenant that is proposing to come in. The site maintains its 1950's character and one of the issues that the Chamber of Commerce raised was that they would like to see some improvements to the parking, landscaping and building façade. This relocation does not trigger all of those improvements but the site development review is expected when there is a more substantial tenant improvement. The liquor store's sign would also be subject to site development review. The Redevelopment Agency similarly expressed some interest because of the relationship to the overall strategic plan in Castro Valley but neither the Chamber of Commerce or the Redevelopment Agency had any objections to this particular permit. Staff has found that the use is consistent with the Castro Valley Plan in terms of the retail activity and so we have attached some conditions of approval that could be considered by the MAC as part of this action.

Ms. Sugimura asked if the new location is the same size as the previous location. Mr. Buckley said the new location appears to be smaller based on the site plan submitted.

Bob Lee, representing Mr. Nam, the applicant. Mr. Nam requested that his name be corrected. His first name is Chung instead of Cheng. Mr. Lee asked for approval of this application for an indefinite term instead of 10 years. Mr. Moore asked staff if that was possible and said that 10 years is a long time. Mr. Moore said that it is difficult to grant permits indefinitely. Mr. Buckley said that it is not very typical, but permits can have a very long term Mr. Buckley said that we have large operations like a land fill or a quarry that has a 15 year term, which is meant to provide a chance to revisit the permit, but once they are up and running typically they have the right for continued operation unless they are a nuisance, so the 10 year term will be for review and renewal.

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

Ms. Sugimura asked about the exterior design as recommended by the Chamber of Commerce. Mr. Ralph Sorani, the property owner, said that the whole idea of moving the alcohol outlet is to facilitate the remodel and bringing in upscale tenants to the center. The corner is a more viable focal point and part of the new design awning at the store front. The whole building will be remodeled. Some of the future tenants will be Jamba Juice, Peets Coffee, etc., so it will be a much more upscale tenancy for the community.

Ms. Goodbody asked Mr. Sorani about the timeline on the remodeling project. Mr. Sorani said that it has been a slow process because it took a lot of negotiation to get the liquor store to move, and negotiating with the potential tenants you have to go over leases. He has already contacted various architects, and he is in the process to have the exterior remodeled, hopefully, by this time next year. Peet's Coffee is going to be coming. Mr. Moore asked if Peets is going to come in. Mr. Sorani showed their signage proposal.

Mr. Moore said that he was not aware that longer use permits could be granted. He can not support a 15 years extension and asked the applicant how long has the liquor store been there. Mr. Sorani said since 1956. Mr. Nam has been the operator for 27 years. Mr. Sorani said that he is downsizing to a smaller space. The signage will be less conspicuous with control over signage in the windows, for a very upscale renovation. Ms. Goodbody asked if the other two tenants will be relocated as well. Mr. Sorani said no.

**Mr. Moore moved to approve Conditional Use Permit C-8431 with staff considerations and a modification of the expiration time from 10 years to 15 years. Ms. Goodbody seconded. Motion passed. 4/0.**

- 3. VARIANCE, V-11919 and SITE DEVELOPMENT REVIEW S-1982 – KENT LINN/ROBERT D. BROWN** – Petition to construct two units on one site containing one existing unit, for a total of three units, and to result in expansion of a non-conforming use by maintaining an existing 3 ft. non-conforming side yard where 10 ft. are currently required, on property in the R-S-D-3 (Suburban Residence, 2,500 sq. ft. minimum building site area per dwelling unit) Zoning District, measuring approximately 13,939 sq. ft. (0.32 acres), located at 20258 Anita Avenue, west side, 835 feet north of Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, designated County Assessor's Parcel Number: 084A-0124-007-02. **Continued from June 27, 2005.**

Mr. Buckley presented the staff report. He said that there have been comments from neighbors regarding the proximity of the addition to the residents to the fence line. There was concern that the addition could be located 2 feet rather than 3 feet from the property line. We understand from the Applicant's representative,

that the data is verified and the addition is not any closer than indicated on the plans, which is 3 feet. The main issue before the Council is the site development requires a fair amount of paving for the parking and turnaround area, due to the lot configuration. Otherwise the project does provide the necessary yards and includes some covered parking as well as the open parking shown.

Robert Brown, resident at 20258 Anita Avenue, stated that he had a survey done a year ago for the north and south points and he plans to have the finished survey when they start the project so all the dimensions proposed will be accurate. Paving was proposed to be solid asphalt or concrete, however Mr. Orduna requested to use pavers, so the ground can saturate and we propose to do that. Those are the two items that he needed to verify.

Mr. Nielsen asked Mr. Buckley if pavers qualify as approved surface as far as parking and driveway. Mr. Buckley said yes.

Public testimony was called for. No public testimony submitted.

Mr. Moore asked Mr. Buckley if the new units have proper set back. Technically the now conforming set back is going to remain for the existing house, but not the new ones. Mr. Buckley said yes.

Ms. Sugimura asked if the question of the property line as asked by the neighbor saying that the fence is located 2 feet in the property is inaccurate and asked if that was correct. Mr. Buckley said yes and prior to construction the applicant will complete the survey and potentially will re-build the fence if is not in the right location.

Mr. Nielsen asked if the fence in question is the set back in the building. Mr. Buckley said that the assertion was that the building was measured from the fence so they are related. Mr. Brown said that he has the surface markers on the front, that is where they took their point. He is going to complete the survey from the north and south points. He has known his neighbor for a long time and believes they will work out any issues.

Mr. Nielsen said that his only concern is the property line if it is less than 3 feet, if it is down to one foot, then it will pose a problem for fire protection, and asked Mr. Brown if he would be willing to alter the building in order to go to a standard yard set back. Mr. Brown said yes, he can build a fire wall there.

**Ms. Goodbody moved to approve Site Development Review, S-1982 and Variance, V-11919 with planning considerations and suggestions. Mr. Moore added the stipulation that if the set back is one foot or less then the plan be either re-modified or a fire wall constructed for Fire code requirements. Ms. Sugimura seconded. Motion passed. 4/0.**

4. **SITE DEVELOPMENT REVIEW, S-1985** – Application to remodel an addition of an existing restaurant and reconfigure parking and landscape areas in a CVCBD, Sub 10 (Castro Valley Central Business District Specific Plan, Sub Area 10) District, located at 3714 Castro Valley Boulevard, northeast corner of the intersection of Yeandle Avenue and Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 84C-0724-063-00. **Continued from June 27, 2005.**

Mr. Nielsen said he had to recuse himself. Since there were only 3 Council members left and there was no quorum, Ms. Henninger said that the item will have to be continued to the next meeting, July 25, 2005.

The neighbor had questions regarding drainage. Mr. Nielsen told him he can bring his concerns to the next meeting. Mr. Moore told him that he can also talk to staff and the project architect.

5. **TENTATIVE PARCEL MAP, PM-8595 & VARIANCE, V-11933, KUAN/YU/TAM** – Application to subdivide one site into three parcels, containing approximately 0.57 acre, and so as to provide 3'-6" side yard where 10' are required and a 16'-6" wide driveway where 20' are required, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit with Recreational Vehicle) district, located at 19225 Lake Chabot Road, west side, 106 feet south west of Christensen Lane, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 084D-0515-002-00. **Continued from June 27, 2005.**

Mr. Buckley presented the staff report. He said that this item was brought before the MAC at the June 27, 2005 meeting. The meeting was continued to explore some additional alternatives. The request was for further exploration of alternatives of whether two driveways could serve the project rather than one to potentially avoid the requirement for the variance. Based on all definitions in the subdivision ordinance and the zoning code, there are constraints because of the number of guest parking spaces and because Lake Chabot Road does not have guest parking on it in this area due to turn lanes and red curbs. We've assumed that all the guest parking will have to be provided on site. So the driveway easement would have to serve the required parking for the units plus the guest parking and as such the driveway becomes a lane as defined by the subdivision ordinance. If you divide it into two driveways, we are still assuming that the guest parking for the front unit would be part of that lane, because of the limited lot area. What staff pointed out is that you could reduce the driveway width and provide a bigger set back in the dwelling wall but that will require a variance, or you could reduce the driveway width and more close to conform to a two way driveway, but still require a variance for the set back.

Mr. Moore asked Mr. Buckley to explain the alternatives in the staff report. Mr. Buckley said that what is being proposed is a 16.5 foot driveway and a 3.5 set

back. Total distance is 20 feet. Staff is dealing with guest parking and driveways. Mr. Moore asked if it is OK now. Mr. Buckley said the concern is about traffic on Lake Chabot Road. He said it is not recommended but it is presented as an option, as a way to consider whether it will help the other driveway but it really does not seem to because they will still need variance for the other set back.

Mr. Nielsen had a question on the original submittal. It looks like there is no other turn out and that with two off street parking, is there enough space between the end of that and the property line to accommodate two more cars and guest parking. Mr. Buckley said yes. If they did that, would that meet the requirement as far as off street parking for this project. Mr. Buckley said yes, but we do not count yards used for parking towards required parking. The main question is if the Council recommends two lots or three lots.

Lilly Tam, representing Kuan Tam (her father), said that his main idea is to have three lots with two driveways.

Mr. Moore told her that at the last meeting she said that they wanted to have two driveways. He told her that staff and the council members think that is not safe. Mr. Moore said that the Council has the same proposal as the last time but with a secondary driveway which is in his opinion not a good idea. Council members want to vote on this project, but what they suggested at the last meeting was either two lots or three lots and move the house. He asked the applicant if he wanted to do that.

Lilly Tam said that they are using the set back of 3.5 and driveway of 16', for 2 lots, and the house would have its own driveway.

Ms. Goodbody said that she thought the Council was clear on the discussion here why they thought it was unfeasible and unsafe to do the three lots. Her understanding was that the applicant would come back with one of the proposals, moving either the house or having the two lots with one driveway. Mr. Moore said that council members thought that the 3.5 foot set back was too close to a driveway.

Mr. Buckley said that alternative B is not their proposal. Their proposal is to keep the three lots with the two driveways, so alternative A is their proposal.

Mr. Moore said that in his experience the Council have allowed side yard set backs for one lot in the back, but not for two lots. In his opinion, the issue is the amount of traffic going back there for such a close distance between the driveway.

Mr. Nielsen said that apparently there was disagreement and suggested continuance in order to consider what the Council is requesting or told the applicant that he can request approval or denial at this meeting.

Ms. Sugimura requested clarification on page 3 of the staff report, second paragraph, 7<sup>th</sup> line up to the end of that paragraph.

Mr. Buckley said if the guest parking for the front house did not require use of the main driveway, then it would not be serving 3 lots, so it would not be a lane, so that helps. But because the back unit would still needs guest parking they need the four spaces for the two units plus the two more guest, so still bumps over the 12 foot width and will have to be 20 foot driveway with the 10 foot set back. There is no way around it given there is no guest parking on the street. If there was guest parking on the street, it would be different. We have seen 3 and 4 foot set backs from driveways for multiple units, so this variance is not entirely unheard of. It is just unique given the guest parking situation and slope of the site as well.

Ms. Sugimura asked if it helped if there were 2 lots instead of 3. Mr. Buckley said that the only way to avoid variances is to have one lot in the back.

Mr. Buckley explained to the applicant that he can have one lot in the back and no variance and the MAC is considering whether they want to go with one lot and no variance, or two lots with a variance. That is the fundamental decision. The Applicant said that he wants two lots with a variance.

Ms. Sugimura asked if their request was only option A, three lots with a variance. Ms. Goodbody said she can not support the three lots.

Public testimony was called for. No public testimony submitted.

**Mr. Moore moved denial of Tentative Parcel Map 8595 and Variance 11933 with some clarifications that voting for denial was based upon the applicant's request for either of two things: one driveway with three lots and a side yard set back variance, or three lots with two driveways and a side yard set back variance. Ms. Goodbody seconded. Motion denied. 4/0.**

**E. Open Forum** – None.

**F. Chair's Report** - None

**G. Committee Reports** - None

**H. Staff Announcements, Comments and Reports**

Ms. Henninger announced that the new council member Cheryl Miraglia will come to the next meeting on July 25, 2005.

**I. Council Announcements, Comments and Reports**

Mr. Moore requested creation of a subcommittee to develop some residential design guidelines recommendations, with the purpose being that staff pass it out to potential developers, to hopefully deal with set backs and other issues. His thought was set backs, floor area ratio, driveway widths, etc. Ms. Henninger asked Mr. Moore if this would be a subcommittee of the MAC. Mr. Moore proposed 3 members of the MAC. Mr. Buckley said we can solicit input from development community representatives, neighborhood groups. It can become more complicated or streamlined, depending on the approach.

Mr. Nielsen said the Council can do it as an item on the third meeting of the month agenda and we can do it as a working committee within the Council.

Mr. Moore said his thought was that there would be a subcommittee of the MAC with three persons as a starting point. Ms. Henninger said it would focus on guidelines.

Mr. Nielsen asked Ms. Henninger if she would come back with those guidelines for such a committee. Ms. Henninger said staff will come back with some sort of guidelines.

Mr. Swanson said that the farmers market is wonderful and gave thanks to the Castro Valley community for supporting it.

**J. Adjourn** – Meeting was adjourned at 7:35 p.m.

**Next Hearing Date: Monday, July 25, 2005**