

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL
Minutes for January 9, 2006
(Approved as amended on February 27, 2006)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:30 p.m. Council members present: Dean Nielsen, Chair; Jeff Moore, Vice Chair. Council members: Andy Frank, Carol Sugimura, Karla Goodbody and Cheryl Miraglia. Council members excused: Ineda Adesanya. Staff present: Tona Henninger, Jana Beatty, Darryl Gray, Bob Swanson and Maria Elena Marquez. There were approximately 15 people in the audience.
- B. Approval of Minutes of December 12, 2005**
Mr. Frank moved to approve the Minutes of December 12, 2005 as corrected with a second by Ms. Sugimura. Motion carried 5/0.
- C. PUBLIC ANNOUNCEMENTS – None.**
- D. Consent Calendar**

The purpose of the Consent Calendar is to group routine items that may be approved by one motion, unless a request for removal for discussion or explanation is received from a member of the Council or a member of the public. If discussion is desired, that item will be removed and considered separately before Regular Calendar items on the agenda.

- E. Regular Calendar**
- 1. Status Update on Strobridge Avenue Traffic Flow Modification Project – Daniel Woldesenbet, Public Works.**

Mr. Woldesenbet said that on January 31 they will secure a permit from Caltrans. They are in the process of ordering some traffic control signs that will be placed on the off ramp at various locations advising people that there will be no access thru Strobridge eastbound. The contractor will get the signs sometime between January 13 or 14. Hopefully, if the weather will cooperate, we will have construction beginning as soon as signs are installed.

Mr. Nielsen said he had some concerns and asked Mr. Woldesenbet if the study will continue as far as closing BART. Mr. Woldesenbet said they will be securing a series of projects in the Bay Area, one of which will include looking at the closure of River Bank on a permanent level. This is a temporary measure until the widening of Redwood Road and 238 is completed. They will keep that study in place.

Public testimony was called for.

Daniel, a concerned citizen, said he would like to consider the temporary park closed. He also wanted to ask how they approach the matter bringing the issue back for the study to be completed. They also had the opportunity of bringing other supervisors. Other proposals in the neighborhood have been mentioned by MAC. A proposal was approved by MAC and the Board of Supervisors to close River Bank. He would like to take the necessary steps to do the one item Supervisor Haggerty had asked before spending the money do whatever you have to do in terms of the study to have Supervisor Haggerty to say "yes, this is the proper material". He asked if MAC was the proper place, in six or eight months to put it back on the agenda and see where that study is. He wants to make sure that it is not lost in the shuffle over the years.

Mr. Nielsen asked Mr. Woldesenbet what would be a reasonable time for the council to follow up on this. Mr. Woldesenbet said sometime in February. This temporary closure would be for about a 5 year period waiting for 238 widening to be done. The study will be part of the bigger spending 5 millions dollars. We will come back to MAC after the various projects that we are looking. Mr. Nielsen asked Mr. Woldesenbet if it would reasonable to have him come back for the third meeting in February. Mr. Woldesenbet said that he can give an update in March to see what the expenditure plan is.

Daniel, concerned citizen, said that for them in the community to have the closure in place, they just need to spend the money on the study, and it sounds like they are waiting to incorporate a lot of other things in the area. If March is too soon, he wanted to clearly state that this was approved by the Board of Supervisors and he knows they were waiting for the County to approve the overall plans. At that point make sure that either the money is allocated and not touched so they know how much the study is going to cost and is put aside. His fear is that if they wait, the money will be gone. He would like to wait until it makes sense and move forward, as long as the money is not spent and set aside.

Mr. Nielsen said that if the money is approved in March, then the MAC will be in a position to make a motion on the River Bank closure as the number one project. Until the money is there, MAC can not do that.

Miguel Gutierrez stated that he knows that the Strobridge project had been approved. He would like to consider an additional study be done to see the impact on westbound traffic at the other two exits on 580. If we close Strobridge, it will put all that traffic back into the first exit, which will divert into Grove Way. He would like to make sure that additional studies are done to see how that traffic will be diverted and what else will be impacted and eliminate any future problems for all the Baywood neighborhood as well.

Mr. Nielsen told Mr. Gutierrez that the second part is when the money is available, the closure of River Bank will have to address the impacts as part of the

study.

Mr. Woldesenbet said that that is part of the condition of the permit.

2. Castro Valley Park/East Bay Municipal Utility District (EBMUD) Property – Marc Crawford, resident, Castro Valley.

Mr. Crawford stated that he wanted to bring everybody up to date on the ongoing efforts to secure this park land for Castro Valley. On December 13, 2005, EBMUD Board approved a resolution extending the bid opening date from January 12 to February 28, which gives us over 6 extra weeks to try to figure something out. That same week, CDA and HARD had a joint meeting with one developer to discuss options for the property. Unfortunately, that developer's idea for the park was a buffer zone around the outside of the parcel, and he would reserve all the level ground on top for the houses and such. Eric Willyard made pretty clear he wanted the top section of that property for a park. He met with Eric Willyard on January 3, 2006 and went over some possible options for the park. HARD will send a letter to CDA suggesting a minimum of 10 acres to be set aside for the park and he expressed to him the community's overwhelming needs for a ball field.

Two possible options going forward would be Alameda County to buy the parcel, using surplus property authority funds; Surplus Property is a division of CDA. It was set up to administer surplus military property. The agency has generated hundreds of millions of dollars for the County by sale of land in Dublin. The current balance in that account stands at about 200 million. Some of that has been spent. Some of those properties have been sold and he is still trying to find where that money is gone. He made a request for some sort of accounting of the budget, how much money is gone over the last several years. The interest on the account is currently earmarked to pay for the new juvenile hall as well as undisclosed projects. BART has been the biggest benefactor of these land sales. They were given the land for the Dublin-Pleasanton station. The County is currently spending 30 million dollars to build the BART parking garage in that single location. The second option would be a private developer buys the land and negotiates with the County and HARD to retain as much land as possible for the park. Unfortunately, under the current park dedication ordinance, a developer would require to set aside one acre and would not have to pay any park dedication fees. A possible third option would include the County buying the parcel, then having the project approved and selling it to the developer. This seems to be less appealing to the County because of the potential conflict being the developer and the agency approving of the project. He is trying to get a copy of the appraisal from EBMUD. At first the price was at 15.5 million and it seemed kind of low. The bottom line is that you will have to build 100 houses out there in order for that project to work. That is not going to leave much park land left under that scenario. What the community needs to decide is, at this point, going forward with a large meeting to show our leaders that we want the entire site of the park,

with some sort of deal worked out between entities involved. He suggested to ask the County for 20 million dollars for the park land and construction of the park. It sounds like a lot, but if you look at the windfall that the County has gotten from all the property in Dublin, that is a very small percentage of that money and we are a large percentage of the population in the unincorporated areas. The County is our government body. If we were a city, we could buy land and be part of the park system. The County needs to step in and help.

Ms. Miraglia asked how we can make this park a reality whether it is through surplus authority or any other mechanism within the County. It would be a benefit and she would like to propose that the MAC tries to set up a meeting with a couple of members of MAC, Supervisor Miley and Chris Bazar. The person that would be of most assistance would be the CDA Director. She suggested and made a motion to set up a meeting with Supervisor Miley. Ms. Goodbody seconded.

Mr. Gray advised the Council that a meeting on the item was not noticed as an action item on this agenda but the Council need not vote on a motion to make its wishes known to planning staff and the general public. Mr. Frank asked whether the Brown Act requirements had been met because the item was on the agenda.

Mr. Nielsen said it is on the agenda, so the Council can make a motion to do this. Motion carried 6/0.

Mr. Crawford said there will be a large community meeting on this. Soccer clubs, baseball folks, people that live around the site, a whole lot of interested parties will be there. It will be necessary at some point to send a message as to how much the community wants this.

3. **VARIANCE, V-11963 – THOMAS VAN VOORHIS** - Application to approve as two building sites, lots that are reduced in area from 100 acres to five acres and 73.23 acres in an "A" (Agricultural) District, located at 22000 Eden Canyon road, southeast side, approximately one mile northeast of Hollis Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 85A-2201-12.

Mr. Gray presented the staff report. He stated if a variance is approved, both lots would be subject to site development review approval by the Planning Director to construct new homes. However, Applicant's request at this time is to grant building site status to a 2.17-acre parcel that was created as part of a property exchange that occurred back in 1968. In 1968, it should be noted that the property and surrounding area were zoned A-2 where the minimum lot size in that District was 5 acres. What prompted this transaction was a desire by the previous property owner to acquire a more suitable access road into his property, located in the front corner of an adjacent property. Mr. Gray stated that what occurred back in 1968 was essentially a land exchange. The property owner at that time

acquired 2.17 acres with the access driveway from the adjacent property in exchange for 2.93 acres at the back of his property. Such an exchange was consistent with the Subdivision Map Act at that time. In 1972, the County changed the minimum lot size area from 5 acres to 100 acres. While the 2 acre parcel never enjoyed building site status, the entire 82 acre property was a building site in '72 and remains a building site today. The applicant purchased the property in 1973. Mr. Gray indicated that Mr. Van Voorhis spent a great deal of time researching the property history and collecting zoning information as factors in support of granting the variance. But in the end, the lot was created in 1968 when the minimum lot size was 5 acres. Essentially, staff recommendation is based on factors that show the entire property is one building site now, the 2.17 acre was never assessed by the County as a separate lot and the variance would be seeking more rights than previously enjoyed. Mr. Gray concluded that these considerations are the reasons why staff does not support the application.

Mr. Nielsen asked Mr. Gray if all the canyons need 100 acres. Mr. Gray said aside from a few areas along Palomares Canyon, yes.

Mr. Frank asked if the lot was a legal lot and when was it created. Mr. Gray said that the lot was created in 1968. The concept of the land lot adjustment was not formalized in the subdivision map act until February 1972. The practice of transferring property as lot line adjustment creates a separate parcel description for that brief moment in time. In this case it appears to have been merged as one parcel under one tax code. It never existed as a separate parcel except for that brief moment in time when it was transferred.

Mr. Frank responded that if it did not happen in 1957 or in 1967, did it suddenly appear on the scene? Mr. Gray replied that he could not say it suddenly appeared on the scene because a separate assessor's tax code number was never issued by the County.

Mr. Van Voorhis, applicant, opened his comments by stating that there are two ways that the Board of Zoning Adjustments could look at this application and he hoped that the MAC makes a recommendation on the affirmative; one is based on the equity of allowing the owner of this property to act as intended based on the existence of a 1964 unfiled tentative map and the Subdivision Map Act (SMA). The other is based on certificates of compliance he received from the County showing that they were legal lots but not building sites as interpreted by Mr. Gray. Under the first option, Mr. Van Voorhis stated that in his opinion government code section 668841.6 provides that parcels created prior to March 4, 1972 are conclusively presumed to be legal parcels. The section goes on to say that the owner has to obtain a certificate of compliance before he gets a grant of approval to build on the parcel. He has done that.

Mr. Van Voorhis discussed code section, 66499.35 F,1,E, which requires that all certificate state requirements for building on any parcel with permits or other

grants of approval. This is statutory language that is in the code section, and in his opinion the SMA states that if there is a condition, that condition has to be spelled out as an actual condition. He indicated that no specific language was used in the certificates given him. Mr. Van Voorhis stated that he felt that compliance was issued unconditionally. He believes staff's comment that by buying the two parcels together that there was a merger. He indicated that there is a specific section under the SMA that holds that the contiguous parcels are not merged because of common ownership, so there is no merger.

In continuing his presentation, Mr. Van Voorhis indicated that at the time the 2.17 acre parcel was created, zoning did require 5 acres but there was provision in the zoning ordinance saying that a lesser area, 2.5 acres specifically, and could be used as a building site. He felt that staff misinterpreted what that particular section of the zoning ordinance means. Mr. Van Voorhis stated that he went to prior code sections from current date to 1960's there is different language in different code sections, some require 2.5 acres, others say any lesser amount of 5 acres as determined by staff, even the current code allows for a building site of 4,000 sq. ft. could be a separate building site. There are competing and contrary positions in the ordinance where the Board of Zoning Adjustments has the right to look at the equities of the situation and allow the person to use his property as a separate parcel.

Mr. Van Voorhis stated that the most important County code section is Section 23 where the Board of Zoning Adjustments has the power to relax the strict application of regulations where there are practical difficulties and unnecessary hardship. He indicated that it would be a hardship to not have 2 building sites, which he thought he purchased in 1973. He pointed out that Staff agrees that if this variance is granted that it would not be detrimental to the area. Eden Canyon Road is unique from the other canyon roads in that it dead-ends after 3 miles. He has owned the property for 33 years. The Fire Department has allowed him to put the road in and said that he can only have two houses. Following what Mr. Gray had already said, Mr. Van Voorhis stated that he is entitled to two houses, one main house and one subsidiary house for workers. Moreover, since he acquired the property, he had four engineers, Fish and Game, water quality control, EPA, even the Fire Department dictating how he get onto the property. He has put over \$200,000 into planning the driveway over the creek, which needs the approval of these agencies. To do this, Mr. Van Voorhis indicated that the Board of Zoning Adjustments and the CVMAC require 3 things: are there special circumstances involved, are there special privileges in doing this, and is it detrimental to the public or to the neighborhood. He asked the Council to make a recommendation for approval.

Ms. Miraglia asked if there is one tax bill for the 82 acres and one for the 2.17. Mr. Van Voorhis said that it is a single tax bill but the deed itself describes it as two parcels, parcel one and parcel two. He was told that the Assessor will issue a second tax bill.

Mr. Nielsen, in responding to Mr. Van Voorhis comment, restated the question. His understanding was that there is one deed that shows two parcels. When the applicant purchased the property there was no question that there were two parcels, one deed, one home and one secondary dwelling.

Mr. Van Voorhis said he could not answer the question but maybe Mr. Gray could respond to the question. His understanding was that in 1973, the rule was that you had to have a primary dwelling on each parcel. He believes that he is entitled to two primary dwellings. Further discussion followed regarding conditions versus no conditions for certificates of compliance, SMA requirements, parcel sizes in 1968, 1972 and 1973 under zoning, and the certificate of compliance process.

Public testimony was called for. No public testimony submitted.

Mr. Moore made a motion for denial due to the fact that the Council cannot justify a variance when the lot was created in 1968 under 5 acre zoning. Mr. Frank asked if the lot was a legal lot in 1968 and if it was a separate property. Mr. Gray said that as a separate parcel it did not meet zoning but that it did exist briefly as a separate parcel.

Mr. Moore said that this is a complicated issue and as an advisory council member, he is basing his recommendation on the fact that he is taking what Planning staff has presented to the Council. It can be legally correct, but from his standpoint, it is not a legal parcel and it has never been a legal parcel. That is the basis for his recommendation in his motion for denial. Mr. Frank seconded the motion. Ms. Goodbody abstained. Motion passed 5/1.

- 4. VARIANCE, V-11976 – ADAM ANDERSON –** Application to allow construction of an attached addition thereby reducing the required side yard from eight feet to three feet in a R-1-CSU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 4409 Sargent Avenue, south side, 160 feet west from Alana Road, in the unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 84C-0695-007-02.

Mr. Nielsen requested to be excused for the remainder of the hearing. He left at 7:35 p.m. Mr. Moore, the Vice chair took over.

Ms. Beatty presented the staff report. She said that there is development space on this property to put the garage elsewhere and will not require a variance. However, there are a couple of factors which potentially preclude that, one of them two large trees to accommodate this construction and also drainage. Staff has considered those issues, although technically all the findings need to be made in the affirmative to recommend approval of the variance, there are other circumstances which the MAC may want to consider. The current recommendation is denial.

Dina Anderson, applicant, stated that she has lived in Castro Valley for many years. She explained from the perspective of a biologist that they have two redwood trees and a pine. They have all kind of vegetation in their back yard all of which absorb water, protecting the neighbors from water run off and erosion, also providing habitat for wildlife. There are 30 species of birds in her backyard. Development will destroy these trees and remove the habitat for many organisms. It is not necessary to destroy this. She is asking to allow them to build a garage attached to their house on an area that is already paved. This will not cause any environmental damage. She highlighted some of the report findings carried out by Timber Resources Consultants. They recommend against building the garage in the back. They support building the garage attached to their house in the front. One point is the loss of the two large trees and surrounding vegetation resulting in an increase of run off to adjacent landowners. The two 24 inch conifers located in their backyard potentially require 250 gallons weekly which equates to 10,000 gallons a year. In addition to their stock value to trees and associated vegetation, improve air quality, help conserve energy, reduce erosion and provide valuable wildlife habitat. She stated that they need the two car garage. The car port that exists does not secure nor protect their cars. Their backyard is not that large. Putting a two car garage will allow them to take their cars off the street. Allowing them to build the garage attached to their house is beneficial to their neighbors both aesthetically and for the prevention of water soil erosion, better for wildlife, better for their family and better for neighbors. She has many letters from neighbors in support.

Adam Anderson, applicant, stated that the decision that the Council will make today, it could make an impact in Castro Valley for many years. He would like to be assured that the large redwood trees will continue to grow. There are 4 important points to consider: neighbors are in favor of the variance; the environmental issues that are associated with the alternative plan are disastrous for the ecosystem in general; their plan does not change the look or feel of their neighborhood; their plans are in keeping with the County's policy of discouraging garage conversions. It provides two off street parking places. As you see, they have many letters of recommendation from their neighbors. He stressed that the water runoff is very bad. He gave several examples of different set backs in the adjacent street. He said that most homes have two car garages. Their lot is adjacent to a lot on Alana Street so the backyard of this lot is actually their side yard.

Mr. Moore asked Mr. Anderson if the neighbor on Alana and Sargent is in favor of this. Mr. Anderson said yes.

Ms. Miraglia asked Mr. Anderson if he is planning a new roof for the entire structure or if he is going to match the roof on the garage. Also, she asked Mr. Anderson about the plans for the driveway, currently asphalt. Mr. Anderson said he will put cement. Ms. Miraglia said that the car port was approved years ago and basically he will be replacing what was the garage and the car port with something that will look a lot better than a car port.

Public testimony was called for. No public testimony submitted.

Ms. Miraglia made a motion to approve Variance, V-11976 with the conditions that the Planning staff recommended. Mr. Frank seconded. Ms. Goodbody abstained. Motion carried 4/1.

5. **CONDITIONAL USE PERMIT, C-8469 - SON X. HOANG** – Application to allow operation of an alcohol outlet (Tony and Ted’s Liquor) in conjunction with a convenience store in a CVCBDSP-SUB3 (Castro Valley Central Business District Specific Plan – Consumer/Medical Oriented Retail/Service /High Density Residential) District, located at 2688 Castro Valley Boulevard, north side, corner of Park Way, unincorporated Castro Valley area of Alameda County, and designated Assessor’s Parcel Number: 084A-0181—057-03 and 058-03.

Ms. Beatty presented the staff report. She mentioned that COMMPRE has written a letter that was not sent in time to be included in the packet. A representative is in attendance. Also, a Sheriff’s Department representative is in attendance to speak on the matter. Staff did not include the recommendation of the Sheriff’s Department in the staff report because they were waiting for their comments.

Son X. Hoang, applicant, stated that he has lived in Castro Valley for 9 years. Last year the building was red-tagged by the County so they need to repair it. His license expired. He has not been in operation for up to six months. Now the building is completely remodeled, it has been approved by the County. He was accused of selling alcohol to minors and selling alcohol without permission. He had merchandise in the building and the County put a red tag not allowing him to go inside the building. His merchandise is still there. He would like be back in business. The building is in very good shape now. He has a certificate from the County.

Mr. Moore asked if the violations have been cleared. Ms. Henninger said they have not. The Sheriff’s Department can provide some statistics for the Council.

Mr. Hoang said he went to Court for the case of sale to a minor and this happened two years ago. The case was dismissed because there was no evidence. He was not guilty on that. He has a paper to prove that. Last year he went to get his merchandise and somebody called. He thinks he does not have any violation.

Sargent James Jukich, from Community Policing, stated that he has some issues with this application on permit and he would really like to see this postponed until his office can do a full investigation. The statistical information he has now, one comes from the Alcohol Beverage Control where Mr. Hoang’s license was suspended 3 different times by the Alcohol Beverage Control for sales to minors. This license was also surrendered to the Alcohol Beverage Control in October 21, 2004. This license does not expire until July 31, 2006. His understanding is that the

license is basically surrendered, but he needs to look with ABC as to why the license was suspended. He had suspensions on 2000 and 2001 for sale to a minor; May 31, 2003 he had a sale to a minor when he received this suspension from ABC. Also, March 11, 2005 after the building was red tagged, a deputy from his unit observed a subject knocking on the door of the business and observed Mr. Hoang answered the door to make a transaction in a paper bag to the gentleman at the door. When the deputy approached the door to contact Mr. Hoang, he shut and locked the door and ran across the building, basically attempting to hide from the deputy. He was arrested for selling merchandise after his license was suspended and also for occupying a red tagged building. Another disturbing fact that was just handed to him was over 40 calls for services to that liquor store over a one year period, 11 reports taken by the Sheriff's Department. Three or four reports of drunken public, disturbances, vandalism, maybe the victim called from that address. Sargent Jukich asked the Council to postpone this issue until he can do a full investigation. He said he needed to look at the independent part of the investigation. He thinks there are lot of bars and alcohol sales facilities in that area.

David Cota, representing COMMPRE, stated that they submitted a letter regarding the sales to minors. He did some research from other previous owners of this establishment and they did not have any sales to minor violations. This is the only applicant at that location having those sales to minors violations. In addition to that, he mentioned that granting a CUP to this establishment will violate the Alcohol Policy statement which prohibits new alcoholic uses to be established in this over concentrated area. Other alcoholic establishments are already in place according to ABC census tract. There should be only 4 establishments and there are 6 in existence, 19 on site in that location. He also mentioned that restaurants that have on site 41 license privilege consumption as well. Also, there is a park, the Golfland-Golden Tee Family Park, which is a family park and there are a lot of children during weekdays and weekends. Also, Policy statements prohibits new outlets to be located within 500 feet to other alcohol outlets.

Ken Carbone, stated that the use permit issue that came up for the protection of their community, and the reason they have it. One of the things the Council has to make a decision on is what is going to come up regarding this application. He hopes the Council makes the best decision. He personally witnessed at two separate times this individual selling in the parking lot while the building was closed. He just wanted to confirm what Sargent Jukich said.

Public testimony was called for. No public testimony submitted.

Mr. Hoang said that he has lived in Castro Valley for 9 years. He bought Tony and Ted Liquor in 1996. He stated that the building is very old and that the landlord is an old lady who could not handle the building, so she sold the building to him. He asked why it is so difficult to do business in Castro Valley. He thinks he does not have any violations.

Mr. Moore told Mr. Hoang that the Council has different opinions from law enforcement community and some of the charges that Sargent Jukich wants to investigate seem pretty severe and seem to be quite a few of them. Also, it was brought up that the facility has been a liquor store for many years, and problems of this magnitude have occurred only since he has operated it. The Sheriff's Department needs more time to investigate. Mr. Hoang said he did not break the law.

Mr. Moore told Mr. Hoang that the Council has heard his points and the issues of the staff report can be addressed directly to staff. Also, he will have the opportunity to work with law enforcement to address their concerns. No decision will be made at this meeting. Mr. Moore asked staff and Sargent Jukich for consideration and asked how much time will be needed to review these issues. Mr. Moore continued the item for two weeks.

Ms. Miraglia told Mr. Hoang that COMMPRE gave the Council a report from ABC that shows that his license was suspended several times. Mr. Hoang agreed with that. He said he did not sell liquor to a minor but his employee did.

Ms. Miraglia made a motion to continue this issue until the Council receives the report from law enforcement. It will be continued to January 23, 2006. Mr. Frank seconded. Motion passed 5/0.

ZONING UNIT, ZU-2206, AND TENTATIVE TRACT MAP, TR-7592 – LANCAR DEVELOPMENT - Petition to reclassify one parcel comprising approximately 31,115 sq. ft. (0.71 acres) from the R-S-D-20 (Suburban Residence, 2,000 sq. ft. minimum building site area per dwelling unit), to a PD (Planned Development) District allowing subdivision into 10 parcels intended for single-family dwellings, located at 20345 Forest Avenue, west side, approximately 1,050 north of Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084C-0724-083-00 & 084C-724-082-00. **(Continued to January 23, 2006).**

E. Open Forum

Ken Carbone stated as information for the Council that they had an ongoing debate regarding the conversion of commercial property versus residential property, one in particular which is the Lake Chabot market. The whole process has been undermined by continuance after continuance, the residents have showed up diligently meeting after meeting, there have been 4 or 5 continuances. Finally, they put a stake in the ground and there will be a meeting on March 6, 2006. This Council has heard hours of testimony. Mr. Moore asked Mr. Carbone who was making the request for continuance. Mr. Carbone said he was not sure but staff will make the recommendation. They will put something in the Consent Calendar and then it will get changed.

Ms. Beatty said that for this particular issue, staff is initiating a review at the request of the Planning Commission. The applicant submitted an economical feasibility study for two different scenarios; one for entirely commercial development and another for mixed use development. Staff decided that it would be a good idea to get that study peer reviewed. Right now Planning is in the process of initiating the contract for the peer review. Unfortunately that process is time-consuming, which is the reason for the delay.

Mr. Carbone said that this was the commitment. He recommended to continue it for an additional month to give them additional time, so we did not post this and drag all this people to the MAC one more time. They are estimating a time of completion because of the sensitivity of the project.

- F. Chair's Report – None.**
- G. Committee Reports – None.**
- H. Staff Announcements, Comments and Reports – None.**
- I. Council Announcements, Comments and Reports – None.**
- J. Adjourn – Meeting was adjourned at 8:35 p.m.**

Next Hearing Date: Monday, January 23, 2006