

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL
Minutes for February 27, 2006
(Approved as presented March 27, 2006)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:35 p.m. Council members present: Dean Nielsen, Chair; Jeff Moore, Vice Chair. Council members: Andy Frank, Ineda Adesanya, Carol Sugimura, and Cheryl Miraglia. Council members excused: Karla Goodbody. Staff present: Alex Amoroso, Steve Buckley, Sonia Urzua, Tona Henninger, Bob Swanson and Maria Elena Marquez. There were approximately 25 people in the audience.
- B. Approval of Minutes of January 9 and January 23, 2006**
Mr. Nielsen made corrections to item E.1 on page 1, paragraph 2 and the last sentence of page 2 of the January 9, 2006 minutes. No changes were made to the January 23, 2006 minutes. Mr. Frank made a motion to approve both minutes as amended with a second by Mr. Moore. Motion carried 5/2 with Ms. Goodbody and Ms. Adesanya excused.
- C. PUBLIC ANNOUNCEMENTS – None.**
- D. Consent Calendar**
No consent items.
- E. Regular Calendar**
- 1. Proposed Amendments to the Plan for the Upper Madison Avenue/Common Road Area.** Consideration of amendments to the Specific Plan for the Upper Madison Avenue/Common Road Area, (hereinafter the “Madison Specific Plan”) which establishes zoning regulations for all those parcels accessed from Madison Avenue and Common Road north of Seaview Avenue in Castro Valley. Proposed Plan amendments include requiring Site Development Review for significant construction, allowing flexible side yard setbacks, refining maps of the Plan area and reinforcing slope controls.

Alex Amoroso presented the staff report. He summarized the history of the Madison Specific Plan and stated that in 2005, a proposal to build a home in the area with several variances spiked interest in development. The Planning Department went through a relatively short process, with three to four public meetings with residents and Supervisor Miley’s office. The proposed language was identified, a ballot was sent out and the input requested on a series of issues.

As stated in the staff report, various issues were discussed at the public workshops. Six were resolved as three issues were unresolved. The first unresolved issue was regarding updating boundaries by adding three parcels. Two of the three are located at the north end of the Plan area accessed off of

Madison Avenue. The vote was 25 to seven in favor of adding them. The owners of the three parcels do not want to be included.

Ms. Sugimura asked if the three families were part of the workshops. Mr. Amoroso stated that yes, they were invited but only one attended. Sixty notices were sent to the residents within the Plan area.

Mr. Nielsen asked if the three parcels have access only on Madison Avenue. Mr. Amoroso said that the third parcel is an independent island and it is essentially inaccessible.

Ms. Miraglia asked if those owners that do not want to be included gave a reason why.

Mr. Frank asked if there was any precedent. Mr. Buckley stated that the South Livermore Valley Plan was amended to add parcels.

The second unresolved issue is regarding side yard setbacks. In order to minimize the number of variances for side yard requirements, it was proposed that new houses or house additions have a minimum distance to side property lines of 20 feet average. The proposal is for flexibility. For example, the property would have 10 feet on one side and 30 feet on the other side. There was a 17-17 tie vote.

Mr. Nielsen stated that that was unusual because Castro Valley has the same side yard setbacks on both sides.

The third unresolved issue is regarding height measurement on slopes. The citizens expressed interest in height measurement that followed the slope.

Mr. Amoroso requested that the MAC provide its insight before proceeding to the Planning Commission.

Mr. Nielsen asked staff if at this point the study is finished. Mr. Amoroso said that he believed it was as far as we can go except for the unresolved issues. Mr. Nielsen asked Mr. Amoroso if he was looking for a recommendation from the Council.

Public testimony was called for.

Roxann Lewis, resident at 17750 Madison Avenue, stated that the area has two natural creeks and it is designated riparian and watershed area. She asked that the county adopt the measures and standards. All the recommendations should be approved except 3A (requires 20 feet on each side) and 4B (no huge massive houses). She also asked to update the historical facts. She stated that residents should abide by the Plan and that no special circumstances exist. She indicated that Supervisor Miley proposed a ban on construction bordering watersheds. She

is concerned that when construction does occur in their area, large cement trucks could damage the 1947 bridge that goes over the creek. She suggested using half-load trucks instead of full load trucks. She also said that other current property owners could sell their land to developers in search of large lots for many homes. She thanked County planners Alex Amoroso and Lou Andrade for helping.

Mr. Moore asked if during the last update, the flooding and drainage was addressed. Ms. Lewis assumed Public Works would take care of it. Mr. Amoroso explained that the Grading Department of the Public Works Agency hears those concerns. Mr. Moore stated that with major pieces of development, if the applicant deals with Planning and does not find out about this issue, there could be lots of trouble.

Ms. Miraglia asked if there was a restriction regarding impervious surface. Mr. Amoroso stated that one was not included in the Plan. Mr. Moore said that a note or something regarding impervious surface requirements should be included.

Jim Bissell, resident at 17480 Madison Avenue, owner of one of the three parcels proposed for inclusion in the plan, objected, saying he did not see the necessity of additional restrictions on his property. Access and hillside slopes are among the existing "significant problems" for future development, he explained. Mr. Bissell was also speaking on behalf of the Gossets.

Mr. Nielsen asked Mr. Bissell if he did not want or he did not need to be included. Mr. Bissell said he did not want to be included. There is no need because of the existing restrictions. Mr. Neilson stated that the Plan included protections as well as restrictions. Mr. Bissell reiterated that including the parcels in the Plan made no sense because they were so far beyond and outside the Valley.

Mr. Frank asked if the Willow Glen Court was the "Red & White" property that uses Madison Avenue as an access road. In its present form, it still impacts the Plan area because it borders the area.

Mr. Bissell said that those parcels are completely built up. He said there are so many regulations and from the engineering standpoint, so severely limited. The specific plan does not need to address those issues.

Connie Deets, resident at 18413 Madison Avenue, said that Alex Amoroso has been wonderful while working with the residents. She favors restricting building on 30% slopes and the 10% setbacks. She stated that in the 1975 language, there was a maximum of 23 houses. Now, there are 21 houses. Nobody wanted to change that. The 8-foot road cannot handle any more traffic, especially on that bridge. She also thinks that other current property owners could sell their land to developers in search of large lots for many homes.

Mr. Nielsen said that part of the problem is that Madison Avenue is a private road and property owners have work to do as far as upgrading bridges and roads. Ms. Deets said when they all bought those properties with a 23-house limitation. None of them wanted to upgrade the road to a superhighway, just maintain it.

Lori Childers said that she did not want to go against the Gossets but some day the property will change hands and is concerned about future developers. Furthermore, she stated that Willow Glen does affect the Plan area because of flooding.

Public testimony closed.

Mr. Frank asked which were the recommendations from staff. Mr. Amoroso said that based on staff report and testimony:

- Recommend approval of the changes to the Madison Plan where resolution was achieved for items 2, 3B, 4A, 4C, 5A and 5B;
- Recommend adding those parcels identified in item 1 to the Madison Plan;
- Recommend whether side yard requirements should be changed as described in item 3A; there was no strong recommendation;
- Recommend whether the method for measuring building heights on slopes should be changed as described in item 4B.

Ms. Adesanya asked if there were any particular constraints to the Bissell and Gosset properties. Mr. Amoroso explained that both parcels have a large part of 30% or greater slope and the Plan is clear about the implications. Ms. Adesanya asked that if we stick to the plan, the placement of accessory structures could be affected? Mr. Amoroso answered that potentially yes, the placement of accessory structures could be affected.

Ms. Miraglia requested clarification with regard to variances on these aspects of the specific plan.

Ms. Adesanya said that variances from the general plan were not available. If specific plans provide quantitative measures, then they implemented as a zoning ordinance. Some jurisdictions do not allow specific plans to get that specific. Here, the Madison Plan has historically been implemented as a zoning ordinance.

Mr. Moore indicated that he supports staff recommendation on these items. He said that while construction would be difficult, a developer would try to get 10 lots on that land. He described some of the larger parcels of Madison Avenue as "a carrot at the end of this nice little valley". Opening the door for development could become a problem. Mr. Nielsen asked staff if their recommendations include another body sitting and arguing the same thing for this particular area.

Ms. Adesanya asked Mr. Bissell if there was anything that he would be anticipating right now. Mr. Bissell said he was not anticipating anything right now and that there was no need to include them in this plan.

Mr. Moore made a motion for acceptance of the Madison Area Specific Plan recommendation set forth in the document and support of recommendations for the three unresolved issues including support for the flexible side yard set backs. Also, adding wording regarding impervious surface and grading. Ms. Miraglia seconded. Mr. Amoroso requested to clarify the motion. Ms. Miraglia retracted second. Mr. Frank seconded. Motion carried 5-1-1. Ms. Miraglia voted no and Ms. Goodbody excused.

2. **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 Numbers: 084A-0181-057-03 and 058-03. **(Continued from January 9 & 23, 2006)**

Mr. Buckley presented the staff report.

Alan West, representing the applicant, stated that he did not receive the Sheriff's report prior to the hearing. He requested several times if this report had been received. He requested a two-week continuance in order to review and rebut the Sheriff's written report.

Mr. Nielsen said that the item would be continued to the next meeting however, since the Sheriff's Department representative is in attendance he would make his presentation.

Sargent James Jukich presented a report on the investigation conducted by his department which includes a map showing an over concentration of alcohol outlets. A copy of this report was entered into the record.

Mr. Moore asked Sargent Jukich whether in comparison with other liquor stores, what was the average number of problems in a time frame. Sargent Jukich said that regarding sales to minors this was a problem period. ABC conducts investigations. He could not say if this was average. Sergeant Jukich said it is not a huge problem [relative to other establishments].

Mr. Moore asked staff if we were discussing the applicant or the use of the space. Mr. Buckley said we were discussing the use as an alcohol outlet and that the main issue was alcohol policy. What the staff report discusses is the proximity and over concentration. In terms of policy on similar uses, what are similar or not

similar uses. As stated in the staff report, the other issue is the proximity to public places such as schools. Also, there are other stores like Chabot Liquors and bars and restaurants nearby. The policy would indicate 500 feet from recreational uses. That is one of the other considerations.

Public testimony was called for.

David Cota, representing CommPre, stated the reasons for their opposition to the granting of this conditional use permit, as reflected in their letter dated January 5, 2006. A copy of this letter is included in the staff report.

Mr. Nielsen continued this item to the March 13, 2006 hearing.

3. CONDITIONAL USE PERMIT, C-8478 – OMNIPOINT dba T-MOBILE

Application to install and operate a wireless telecommunication facility in an R-1-RV (Single Family Residential with Recreational Vehicle) District, located at 2301 Miramar Avenue, north side, unincorporated Castro Valley, and designated Assessor's Parcel Number: 080A-0191-034-04.

Ms. Urzua presented the staff report.

The applicant, Javier de la Garza, representing T-Mobile, stated that he read the staff report and agrees with the findings.

Mr. Nielsen told Mr. De La Garza that the design is neat and congratulated him saying that the cross structure is complimentary to the church. Ms. Miraglia concurred with Mr. Nielsen comments.

Public testimony was called for. No public testimony submitted.

Ms. Miraglia made a motion to approve Conditional Use Permit, C-8478 with staff recommendations. Mr. Moore seconded. Motion carried 6/0/1 with Ms. Goodbody excused.

4. TENTATIVE PARCEL MAP, PM-8874 – LUCIANI – Application to subdivide one parcel containing 0.34 acres into two lots, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4518 Heyer Lane, north side, approximately 169 feet east of Schlosser Avenue, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084C-0780-036-00. (Continued from January 23, 2006)

The Applicant was not present. However, Mr. Buckley asked to take testimony from the people in the audience that came to this hearing and for the record.

Public testimony was called for.

Jo Ann Cullom, resident at 19430 Solitaire Court, presented a letter to the Council. A copy of the same was entered into the record. She opposes the project. She stated that the project would contribute more traffic and block access during construction. She said the private road and parking were already at capacity. The subdivision would block views and take away their privacy. Castro Valley is already too dense.

Mr. Frank asked Ms. Cullom if Solitaire Court was a private road and if it was privately maintained. Ms. Cullom said yes.

Mr. Moore asked if it is a private road and someone subdivides a lot, does the new lot have rights to the private road. Mr. Buckley said he would have to look more into that. A Parcel Map originally split the lot in 1981 then it was subsequently split again.

Mr. Luciani, the applicant, appeared. Mr. Buckley presented the staff report.

Mr. Buckley, Mr. Nielsen and Mr. Moore discussed about the placement of guest parking.

Mr. Luciani said that his basic idea is to subdivide the lot and build a home in the back, taking the existing structure and doing an addition to the front, then compensate for open space. Mr. Moore asked Mr. Luciani if he was going to build a house. Mr. Luciani said yes. Mr. Moore said that the neighbors are concerned about the size of the structure. Mr. Luciani stated that he planned to build a house of measuring between 1500 to 1700 square feet with a two-car garage.

Mr. Moore said that the guest parking space does not necessarily have to be a covered structure. Mr. Moore said that it is pretty standard and it is not a special restriction. Mr. Luciani said there is a new development on the street and it seems to share property lines.

Public testimony was called for.

James Chakeres, resident at 19450 Solitaire Court, said he is opposed to this subdivision. Basically, the road itself is 20 feet wide; he measured it himself, fence to fence which is basically a narrow road. They have lived there for 15 and a half years. It is a very small lot, very congested and part of the problem is that it is in a blind spot. That lot was already subdivided. If they change this, it will impact the serenity of the area and will take away the view and the quietness. They have to put plumbing and have to open the road to get to the sewage, which is another impact. The road cannot be blocked. Mr. Moore asked Mr. Chakeres if the roadway is asphalt or concrete. Mr. Chakeres said it is asphalt and it is narrow. The road itself costs a lot of money to fix. They have a maintenance fee between homeowners.

John Montalvo, resident at 4514 Meyer Avenue, said that his house is behind this property. They have lived there for three years. They like the quietness of the neighborhood; their backyard has good space. They built a pool a year and a half ago. There was no one around, only some trees. Due to construction on the area and on Heyer Avenue, the concrete has been broken. The road is a little rough. Mr. Moore asked Mr. Montalvo how big his lot is. Mr. Montalvo said it is 7,400 square feet with a 2,400 square feet home.

Mr. Luciani said that as far as heavy equipment is concerned, he uses a small bobcat that fits in a full size truck and is able to back up there. He thinks there is easy access to the road for construction crews.

Mr. Nielsen said that the road is not 25 feet wide. One of the speakers indicated that it is 20 feet wide. As far as damage to the road is concerned, Mr. Luciani said that he will repair the road.

Mr. Frank asked Mr. Luciani if he accesses the property through Solitaire Court. Mr. Luciani said that for the most part, he accesses through Heyer Avenue. Mr. Nielsen asked Mr. Luciani if he is a party to the road maintenance agreement and if he will be willing to participate. Mr. Luciani said yes and the road is all his land.

Public testimony was closed.

Ms. Miraglia said that she was concerned about the access because it is very narrow. She just does not feel it should have a house there and there is no need to infill every single lot in Castro Valley. She is opposed to that.

Ms. Adesanya asked if the stucco storage identified in the tentative map is a secondary unit.

Mr. Moore said that infill development was supported in the County. He thought the size of the proposed house was okay. He thinks the issue is the roadway width. He can support the project if the developer is responsible for the improvement of the road, dedicates an off street parking space, and agrees to limit the size of the home to 1700 square feet of livable space.

Mr. Moore made a motion to approve Tentative Parcel Map, PM-8874 with Planning considerations and including the 1700 square foot limitation on the residence. Motion carried 5/1/1 with Ms. Miraglia opposed and Ms. Goodbody excused.

F. Open Forum – None.

G. Chair's Report

Mr. Nielsen said that he was pleased with the turn out regarding the Steering Committee bond issue and asked anyone on MAC if they would like to serve on this Committee. Those council members interested should call him and let him know. Ms. Adesanya asked how long the commitment will be. Mr. Nielsen said it will last through November. Signatures will be collected by August. Ms. Adesanya asked Mr. Nielsen if we determine boundaries. Mr. Nielsen said that all Castro Valley will be included by identifying the zip codes master.

- H. Committee Reports – None.**
- I. Staff Announcements, Comments and Reports – None.**
- J. Council Announcements, Comments and Reports – None.**
- K. Adjourn**

The meeting was adjourned at 8:35 p.m.

Next Hearing Date: Monday, March 13, 2006