

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL
Draft Minutes for June 12, 2006
(To be approved)

A. CALL TO ORDER: The Chair called the meeting to order at 6:30 p.m. Council members present: Jeff Moore, Vice Chair. Council members: Andy Frank, Cheryl Miraglia, Ineda Adesanya and Carol Sugimura. Council members excused: Dean Nielsen, Chair. Staff present: Bruce Jensen, Sonia Urzua, Andy Young, Tona Henninger, Bob Swanson and Maria Elena Marquez. There were approximately 30 people in the audience.

B. Approval of Minutes of April 24 and May 8, 2006.
Vice-Chair Jeff Moore announced that approval of the minutes will be deferred to the end of the meeting since council member Adesanya has not arrived yet.

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 clarification 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.

1. CONDITIONAL USE PERMIT, C-8487 – T-MOBILE USA - application to allow continued operation of a wireless communication facility (T-Mobile) in an A (Agricultural) District located at 6390 Grassland Drive, north east side, 1200 feet southeast of Sunnyslope Avenue in the unincorporated Castro Valley area of Alameda County, and designated Assessor's parcel numbers: 085A-1400-001-10 and 85A-1400-001-06. **(Continued from May 22, 2006)**

Ms. Miraglia moved to approve the Consent Calendar with a second by Ms. Sugimura. Motion carried. 4/0 with Mr. Nielsen and Ms. Adesanya excused.

E. REGULAR CALENDAR

1. 2200TH ZONING UNIT and TRACT MAP TR-7709 – FOREST CIRCLE LLC - Petition to reclassify three parcels (and portions of two adjacent parcels) from the R-S-D-20 (Suburban Residence, 2,000 square foot Minimum Building Site Area/Dwelling Unit) District to a P-D (Planned Development) District, so as to construct 35 townhouse units, located at 20560 Forest Avenue, east side, approximately 550 feet north of Castro Valley Boulevard, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 084C-0713-013-00, 084C-0716-001-05 and 084C-0716-001-06 (and associated

Assessor's Parcel Numbers: 084C-0723-007-03 and 084C-0713-012-01).
(Continued from May 8 and May 22, 2006).

- 3. VARIANCE, V-11993, FOREST CIRCLE, LLC/HARRY & MARY TODD -**
Application to allow construction of a new detached secondary unit two stories, 26 feet in height where one story and 15 feet in height is the maximum allowed; and providing three-and-half feet side and rear yard where five and 20 feet are required, in an R-S-D-20 (Suburban Residence, 5,000 square foot Minimum Building Site Area) District, located at 20554 Forest Avenue, east side 350 feet, north from the intersection with Vincent Court, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number 84C-0713-012-01.
(Continued from May 8 and May 22, 2006).

CONDITIONAL USE PERMIT, C-8499 – JAVIER PENA - Application to allow the operation of an alcohol outlet in conjunction with a supermarket (El Rancho Supermercado), in a C-N (Neighborhood Business) District, located at 22291 Redwood Road, west side corner north of Grove Way, unincorporated Castro Valley area of Alameda County, bearing Assessor's designation: 415-0100-054-00. **(Continued from May 22, 2006).**

Ms. Urzua presented the staff report. She stated that two letters of opposition were received, one from CommPre, and one from the owner of the Town & Country alcohol outlet.

Mario Prado, representing the applicant, stated that this is a family owned operation. The main target is addressing the need for a very close niche in the supermarket arena which would serve clients looking for a certain type of ethnic products. There is no other outlet in the community. He described the services, which the store would provide. This license would complement their business model. Mr. Prado asked the Council to approve his application.

Ms. Miraglia asked the applicant if the beer and wine imports are from Mexico or somewhere else. The applicant said products are also from other Latin American countries like Colombia and Venezuela.

Public testimony was called for.

David Cota, representing CommPre, stated his opposition to the granting of the permit. He stated that the application is a violation of the County's Alcohol policy based on the sensitive uses provision and the 500-foot limitation. He also stated that there are other establishments that sell other Latin American brands and they also have ethnic beers. Mr. Cota asked the Council to deny this application.

Ms. Miraglia said she agrees with Mr. Cota and she is opposed. Ms. Sugimura stated that convenience was not a sufficient reason to support the application. However, she understands the desire to be able to serve the ethnic population.

Mr. Moore asked if the market before this one sold beer and wine. Ms. Henninger said they did. Mr. Moore said that he has no problem with this market selling beer. Mr. Frank agreed with Ms. Sugimura and Ms. Miraglia. He is also opposed.

Mr. Frank moved to deny Conditional Use Permit, C-8499 with a second by Ms. Sugimura. Mr. Frank withdrew the motion.

The applicant recognized that other establishments were located within 500 feet. He also noted that Trader Joe's was approved in April 10, 2002. There were already establishments within 500 feet and still they were approved. The applicant explained the differences between the proposed operation in terms of size and scope. The applicant asked the Council to reconsider.

Ms. Adesanya arrived at 6:45 p.m.

Mr. Moore said it is compelling to hear that Trader Joes was approved.

Mr. Frank noted the constraints placed by the County's Alcohol Policy. Mr. Frank said he has no choice but to deny it.

Ms. Henninger said that this application would go to the WBZA on Wednesday, June 14. Mr. Moore and Mr. Frank asked staff for clarification on the findings and conditions included in the staff report.

Ms. Henninger explained the Board of Supervisor's actions with regard to the Public Convenience and Necessity determination delegated to the WBZA.

Mr. Frank said he had no problem with the proposed permit providing that we have a restriction of one year.

Ms. Miraglia said that as Ms. Henninger suggested, it would be best to continue it to the next meeting.

Mr. Moore told the applicant that a technicality was involved because of the Public Convenience and Necessity determination. He gave the applicant the choice of continuing the item.

The Applicant said that he would like to continue it.

Mr. Moore continued the item to the next meeting, June 26, 2006.

3. **GENERAL PLAN CONFORMANCE REPORT – PROPOSED SALE OF EAST BAY MUNICIPAL UTILITY DISTRICT'S SYDNEY RESERVOIR PROPERTY** - Request by the Real Estate Services Section of East Bay Municipal Utility District (EBMUD) for a General Plan Conformance Report

under Government Code Section 65402 for the disposal of a 2.18+ acre property located off Sydney Way, north side, between the cross streets of Carlton Avenue and Stanton Avenue, in Castro Valley, unincorporated area of Alameda County, designated County Assessor's Parcel Number 84B-0410-006-10.

Bruce Jensen presented the staff report. He indicated that the Planning Commission will hear this item on Monday, June 19, 2006.

Mr. Jensen said that the Council is asked to make a recommendation to the Planning Commission. The Planning Commission itself will make a determination and the General Plan conformance; they will determine whether or not the sale is in conformance with all of our general plan documents, that will be the Castro Valley Plan, the Housing Element, the updated Castro Valley Plan. Mr. Moore asked about the appropriateness of the sale of the property. Mr. Jensen said it would conform to the general plan.

Mr. Moore & Ms. Miraglia asked for clarification of the purpose of coming before the Council. Mr. Jensen said it is coming before the MAC because it is in Castro Valley and because this Council deserves the opportunity to weigh in and give their opinion to the Planning Commission just as staff will give their opinion to the Planning Commission. If the Planning Commission determines that it is not in conformance with the General Plan than that means that EBMUD will need to apply and obtain a general plan amendment for this property.

Ms. Adesanya asked Mr. Jensen to address access to the a parcel that is being proposed, or if it is an easement. Mr. Jensen discussed zoning restrictions, access easements and the property details.

Ms. Adesanya asked if the easement already includes the subject property. Mr. Jensen said that it has access to the easement.

Mr. Moore said that a variance would be required if it was to be developed to its full potential based on its current zoning requirements. Mr. Jensen said yes.

Public testimony was called for.

Suzanne Lavine, resident at 2764 Sydney Way, was concerned about traffic, over development of the area, and obstructing views.

Pat Rafferty, resident at 18754 Crest Avenue, was concerned about traffic, over development, the existing easement, and the retention of open space.

Public testimony was closed.

Ms. Adesanya requested clarification about the general plan designation, as it appears that the sale of the property will be in conformance with the general plan,

but it is not in conformance with the zoning ordinance. Mr. Jensen said that the sale of the lot is in conformance with the general plan. He described the different potential buyers. Ms. Adesanya asked if the sale of the property requires CEQA review. Mr. Jensen said no. Ms. Adesanya asked under what circumstances would the sale of public property not be in conformance with the general plan. You would have to have a policy in the general plan that says "no, you can not sell it" or "there are restrictions on the sale of this", in which case it would not be in conformance. But we do not have such policies.

Ms. Adesanya moved approval of the General Plan Conformance in agreement with staff's conclusion and recommendation, with a second by Ms. Miraglia. Motion carried 5/0/1 with Mr. Nielsen excused.

4. SITE DEVELOPMENT REVIEW, S-2060 – RONALD DAVIDSON

– Application for the construction of a new single family home in an "A" (Agricultural) District, located at 15282 Cull Canyon Road, east side, 5 mile north of Crow Canyon Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 85-1200-001-24

Ms. Urzua presented the staff report. She stated that the only issue raised by the planner was an outstanding bill from the Grading Department for a grading permit that was not paid for.

Mr. Ronald Davidson, the applicant, explained the background of the grading permit issue.

Public testimony was called for. No public testimony submitted.

Ms. Miraglia asked if the structure could be seen from the street and noted the absence of any gate or fence detail. Ms. Miraglia also asked if the fencing is a part of the landscape plan. Mr. Davidson showed where the gates are going to be and said that most of the property cannot be seen and cannot get access to it. Ms. Miraglia asked if any trees have been removed. Mr. Davidson said no and he is adding a few more trees. Ms. Sugimura asked Mr. Davidson if he has close neighbors. Mr. Davidson said no.

Ms. Miraglia moved for approval of Site Development Review, S-2060 with the recommendation that the Planning Director not approve until the Planning department receives verification of paying the grading department fee. Mr. Frank seconded. Ms. Adesanya asked if the conditions from the Fire Department were included in the recommended conditions of approval. Staff said that condition # 10 requires that the Fire Department send a letter approving. Motion carried 5/0/1 with Mr. Nielsen excused.

5. VARIANCE, V-11987 & PARCEL MAP, PM-8605 – FONG & FONG, APC
Petition to allow subdivision of one parcel containing approximately 20,569 square feet into two lots resulting in median lot widths respectively of 62'-6" and

47'-6" where 80' are required, in a R-1-B-E-CSU-RV (Single Family Residence, 10,000 MBSA, 80' MAW, Conditional Secondary Unit with Recreational Vehicle) District, located at 17472 Almond Road, north side, 600 feet south west of Vineyard Road, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation 084D-1250-031-01. (**Continued to June 26, 2006**).

6. **TENTATIVE TRACT MAP, TR-7775- - WEISS** - Application to subdivide one parcel containing approximately 44,866 square feet (1.03 acres) into five parcels in an R-1-RV (Single Family Residence, Recreational Vehicle) District, located at 18698 Crest Avenue, east side, 100 feet northwest of Lyle Street, unincorporated Castro Valley, bearing County Assessor's designation: 084B-0370-006-01.

Ms. Urzua presented the staff report. She said the primary issue is the lot size consistency. She also noted Environmental Health's concerns. Staff noted the Council had various options in terms of making a recommendation to the proposed configurations.

Mr. Moore asked for clarification of the Council's options. Mr. Young made various clarifications and explained the environmental review implications.

Mr. Frank and Mr. Young discussed the history of this application and elaborated on the environmental health concerns related to a methamphetamine lab previously operated on the subject property. Mr. Frank expressed concerns about resolving the contaminated soil clean up before considering a new proposal.

Ms. Miraglia, Ms. Adesanya, and Mr. Moore discussed to what extent the Council should deliberate on this matter at this hearing and the environmental steps to take. Ms. Adesanya asked staff to require an initial study. Mr. Young noted that the public testimony tonight could be used as a pre-scoping session that will start to shape the issues addressed in the initial study.

Mr. Moore and Mr. Frank addressed Mr. Weiss, the Applicant and discussed the contaminated soils issue raised by Environmental Health. Mr. Moore told Mr. Weiss that Environmental Health Department was not satisfied.

Mr. Moore asked if he had met with the neighbors. Mr. Weiss said he did not meet with the neighbors.

Mr. Weiss discussed his proposal in terms of lot sizes, grading, and tree removal.

Mr. Moore asked whether average or median lot sizes would be used as a comparison point. Mr. Young said median lot size is probably most representative.

Public testimony was called for.

Mr. Moore read a letter from Linda Nakhai, resident at 18654 Crest Avenue. (The letter was entered into the record).

Ellen Sherman, resident at 2512 Titan Way, spoke in opposition to the proposal.

James Krysiak, resident at 18730 Crest Avenue, spoke in opposition of the 5 homes considering topography. He supports 2 or 3 homes.

Marianne Nolte, resident at 18754 Crest Avenue, was concerned about drainage, fire hazards, and west high grasses. She thinks the developer is irresponsible

April Stewart, resident at 18755 Crest Avenue, spoke against the project. She was concerned about landslides and numerous problems with clean up of the property

Charles Peterson, resident at 18639 Laredo Road, was concerned about removal of trees, drainage, traffic, and ground contamination from the meth lab. He is opposed to five homes, but supports one or two.

Kevin Zhang, resident at 18754 Crest Avenue, representing his sister, appeared and expressed opposition to the proposal. He is concerned about safety, privacy and traffic.

Ms. Miraglia said that the real issue is with grading. She would like to see a revised proposal and retention of trees.

(Ms. Miraglia left the meeting at 8 p.m. for personal reasons.)

Angie Gomes, resident at 2548 Titan Way, said she is concerned about grading, soil erosion, noise, and loss of privacy. She requested the Council to oppose this project.

Gina Gatto, resident at 18755 Crest Avenue, read a letter from Stefan Zavala, resident at 2524 Titan Way, who is concerned about traffic, noise and water drainage. He is also concerned about removal of all existing trees from the property. He supports 2 homes only. The letter was entered into the record.

Cliff Sherman, resident at 2512 Titan Way, was concerned about lot size, soil test, removal of trees and density. He is opposed to this project

Bill Welte, resident at 18611 Laredo Road, spoke in opposition of the project. He said that the developer should talk to the neighbors.

Jack Rux, resident at 18623 Laredo Road, said that he is concerned about earthquake landslide possibilities and removal of trees. He was also concerned about lack of privacy.

Kenneth Pilgrim, resident at 18716 Crest Avenue, spoke in opposition. He is concerned about density, road too narrow for proposed use, and no buffer to adjacent property as discussed in previous petitions.

Lenore Stormes, resident at 18646 Crest Avenue, was concerned about traffic, stop sign, drainage, slides, density, and removal of trees.

Kathy Beringer, resident at 18618 Crest Avenue, spoke in opposition of this project. She is concerned about density, lot size, parking, topography of property and congestion of area. She recommended denial.

Public testimony was closed.

Mr. Weiss spoke and noted everybody's concerns. He said he cannot go around the neighborhood but he is willing to work with the neighbors to address all their concerns. He stated that parcels immediately adjacent measure 10,000 square feet.

Mr. Moore encouraged Mr. Weiss to communicate with the neighbors.

Ms. Adesanya agreed with Mr. Moore's recommendation. After hearing all public testimony, she thinks an initial study should be required before moving forward. She said that a grading peer review of the geotechnical report should occur. She wants to see a corrective action plan, describing how to remediate the contamination. Lot size density should be reduced. Lot size consistency criteria should be met.

Ms. Sugimura said that she also encourages dialogue with the neighbors. The issue of erosion, drainage, tree removal, really needs to be addressed and discussed, and an initial study is appropriate. She thinks that 5 houses are too many for the area.

Mr. Frank said that the initial study still needed to be done. Density should be decreased

Mr. Moore recommended considering neighborhood meetings to discuss issues of drainage and landslides. He asked staff if an initial study was recommended. Mr. Young said he has not reached that decision.

Mr. Moore told Mr. Weiss that the Council can take action at this meeting or he can decide to come back. Mr. Weiss decided to continue it to a future date.

8. **TENTATIVE PARCEL MAP, PM-8992 – BROTHERS** Application to subdivide one parcel containing 0.68 acres into two lots, in a R-1-CSU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle Parking) District, located at 18629 Reamer Road, southwest side, 450 feet west of Walnut Road, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084D-1155-034-00.

Ms. Urzua presented the staff report. Ms. Urzua said that Planning staff preferred retaining the 80-foot frontage by accessing Parcel 2 with an easement.

Mr. Moore asked for clarification on the lot sizes for the two proposed lots. Mr. Young said that parcel 1 could have been smaller. Mr. Young commented about the alignment of the rear property line of Parcel 1.

The applicant, Glenn Brothers, explained that he resides on the property and planned on preserving the house. He commented on the reasoning behind the configuration of the proposed parcels.

Public testimony was called for.

Frank Delfino, resident at 18673 Reamer Road, stated that he moved to the location east of the property 51 years ago. He expressed concerns about trash, protecting his property from vehicles coming off of Reamer, and damage to the oak trees on his property during construction. He is not opposed to the subdivision but he wants to protect his resources.

Janice Delfino, resident at 18673 Reamer Road, emphasized the importance of retaining the existing guardrail in front of her property and the Brother's property.

Roxane Arnett, resident at 18573 Reamer Road, stated that she does not object to the subdivision of the property, however, the access and parking are rather difficult, particularly at the west side of the street, that is the reason for the guard rail. Street parking needs to be considered.

Public testimony closed.

Mr. Brothers said that he plans to keep the guardrail. Regarding the other issues, he plans to do a lot of grading, and will provide plenty of off street parking.

Ms. Adesanya asked about the proposed set back. Mr. Young said it is 12 feet.

Mr. Moore commented on the configuration of the proposed property lines.

Ms. Adesanya supported increasing the rear lot.

Mr. Young made a comment about keeping the oak trees.

Mr. Frank said he would like to see the existing frontage remain and utilizing an easement. He also relayed some comments left by Ms. Miraglia recommending approval of the recommendations, given requirements, protection of storm water runoff, and an easement for sewer construction.

Mr. Brothers, Mr. Young, Mr. Moore discussed the design of the driveway.

Janice Delfino repeated her concerns about retaining the existing guardrail. She noted that it is the County's guardrail. It was put there because Reamer Road is a steep road.

Mr. Brothers and Mr. Moore further discussed the guardrail. Mr. Moore directed Mr. Brothers to consult with Planning and Public Works staff about making any changes to the guardrail.

Mr. Frank made a motion to approve Parcel Map, PM-8992 with the following changes: 1) provide an access easement to the property; 2) give the applicant an opportunity to maintain the guardrail, unless he provides an alternative that satisfied the County; 3) separate driveway in the back; 4) curb into the driveway for ingress and egress; 5) re-configuration the parcels, making the property align with the back portion of the house, and thus bring the lot size more conforming and 6) other Planning considerations as set forth in the staff report..

Ms. Henninger said that the applicant's authority on the guard rail issue is limited because it is in the public right of way.

Discussion ensued among Council members and staff regarding the creation of an easement.

Mr. Frank withdrew the previous motion. Mr. Frank moved for approval of Parcel Map, PM-8992 with Planning considerations and the following considerations: 1) provide one access easement to the property, 2) adjust the boundary lines to make the property align with the back portion of the existing house and enlarging the proposed parcels so that the overall lot size is conforming 3) that the applicant should discuss with the County the County controls the guard rail, guard rail maintained in terms acceptable to the County, to insure protection of the neighboring properties be created intent used of the guard rail. Ms. Adesanya seconded. Motion carried 4/0/1/1 with Mr. Nielsen and Ms. Miraglia excused.

9. **ZONING UNIT, ZU-2235 & TENTATIVE TRACT MAP, TR-7756 – LANGON** - Petition to reclassify one parcel comprising 15,120 square feet from the R-S-D-25 (Suburban Residence, 2,500 square feet Minimum Building Site Area per Dwelling Unit) District to a PD (Planned Development) District, so as to allow demolition of one existing dwelling and construction of six town-homes,

each on its own parcel, located at 20026 San Miguel Avenue, east side, approximately 680 feet north of Jeanine Way, Castro Valley area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 084A-0109-009-02.

Ms. Urzua presented the staff report. Ms. Sugimura asked if there are two parking spaces per unit. Ms. Urzua said they could not be counted as two car garages because one parking space does not meet the minimum dimensions required by the ordinance.

John Langon, applicant, stated that he believed two cars could park in the garage. His proposal showed six parking spaces on the street. The spots are a little bit over 17 feet and a couple of inches although the minimum is 18 feet. The average car is 15 feet so there is ample room for 6 car spots.

Mr. Frank raised concerns with traffic, parking, and congestion.

Mr. Langon further opined that parking would not be an issue.

Public testimony.

Steve Brostrom, resident at 20050 San Miguel, expressed concerns about the historical significance of the existing house on the subject property, removal of trees, potential loss of privacy and the absence of on-site guest parking. He said that nobody talked to him about what they were doing with the property. He does not see any curb appeal. Plans front and back look almost the same, except for a little ornament filler in front. He has seen old ranch style houses that incorporate the same look of the units.

Public testimony was closed.

Mr. Langon discussed the deteriorating condition of the existing house. He pointed to the proposed landscape plan that will replace the trees. He disagreed that the building had no curb appeal. It is a nice project. It is within the general plan in Castro Valley.

Ms. Adesanya asked about the size of the garages. Mr. Langon said they are 18 feet wide.

Mr. Moore and Mr. Frank discussed recently reviewed projects where guest parking was also an issue; particularly the project on Stanton Avenue. Mr. Frank asked staff if special consideration would be allotted to this proposal given its proximity to the BART station. Ms. Urzua said yes, and referred Council members to page 8 of the staff report. Mr. Frank said downtown access to shopping, transportation, given consideration as to parking, high density areas.

Mr. Moore raised an issue with the proposed rear yard setbacks. Ms. Urzua clarified that this was a petition to rezone the property and thus the zoning requirements set forth in the ordinance are relaxed.

Mr. Moore proposed placing two guest parking spaces on the street side of lots one and six.

Mr. Langon, Mr. Moore, and Ms. Adesanya continued to deliberate on the location and dimensions of guest parking spaces.

Mr. Frank read comments left by Ms. Miraglia proposing reducing the total number of units, and suggesting a continuance to allow applicant to revise the proposal. Mr. Frank repeated his suggestion giving this petition special consideration for its proximity to the downtown core. Ms. Urzua said that staff would have an issue with requiring parking in the front yard given the recommendation in the staff report that the applicant should improve the street side view of the building.

A discussion ensued among council members and staff regarding garage widths and parking issues.

Mr. Frank moved to approve Zoning Unit, ZU-2235 & Tract Map, TR-7756 with all Planning considerations and the following modifications: 1) parking spaces conform to the County standards 2) provide two conforming guest parking spots in front of lots 1 and 6. Special consideration is being given due to the proximity to downtown core and transportation opportunities in the area.

Mr. Moore clarified the motion in terms of size, location and the number of parking space. Ms. Sugimura seconded Mr. Frank's motion. Motion carried 4/0/1/1 with Mr. Nielsen and Ms. Miraglia excused.

F. Open Forum – None.

G. Chair's Report – None.

H. Committee Reports

- **Eden Area Alcohol Policy Committee**
- **Redevelopment Citizens Advisory Committee**
- **Castro Valley Parkland Committee**
- **Ordinance Review Committee**

I. Staff Announcements, Comments and Reports –

Ms. Henninger said that the election of officers would be on the next agenda. Also, there will be a discussion on MAC regulations on that agenda.

J. Council Announcements, Comments and Reports – None.

K. Adjourn

The meeting was adjourned at 9:50 p.m.

Next Hearing Date: June 26, 2006