

## **CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL**

### **Minutes for November 27, 2006**

(Approved as amended January 8, 2007)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:30 p.m. Council members present: Dean Nielsen, Chair; Ineda Adesanya, Vice Chair. Council members: Jeff Moore, Andy Frank, Dave Sadoff and Carol Sugimura Council members excused: Cheryl Miraglia. Staff present: Steve Buckley, Sonia Urzua, Bob Swanson and Maria Elena Marquez. There were approximately 15 people in the audience.
- B. Approval of Minutes of November 13, 2006.**  
The minutes of November 13, 2006 were continued to the next meeting.
- C. PUBLIC ANNOUNCEMENTS – None.**
- D. Consent Calendar - None.**
- E. Regular Calendar**
- 1. Reappointment of Jeff Moore to the Castro Valley Redevelopment Citizens Advisory Committee.**

Mr. Sadoff moved to approve the reappointment of Mr. Moore to the Castro Valley Redevelopment Citizens Advisory Committee. Mr. Frank seconded. Motion carried 6/0/1 with Ms. Miraglia excused.

- 2. Castro Valley Redevelopment Strategic Plan:** Review the final Draft Castro Valley Redevelopment Strategic Plan and recommend that the Plan be forwarded to the Redevelopment Agency Board of Directors for final approval. Presentation by the Redevelopment Agency.

Marita Hawryluk from the Redevelopment Agency (RDA), gave an update on the Plan, which was approved by the community and the Castro Valley Redevelopment Citizens Advisory Committee at the February 2006 meeting. She described the next steps before presenting the Plan for consideration and adoption by the Board of Supervisors. The Executive Summary is attached to these minutes and available on the Redevelopment Agency's website.

Ms. Hawryluk stated that although Ms. Miraglia was unable to make the meeting, she did contact her prior to it with some specific questions regarding the residential development proposed for the Library District section of the plan that she requested her to answer at the meeting for the record. She (Ms. Miraglia) asked if the units on page V of the Executive Summary (and on page 45) referred to an actual development proposal or a project in the works. Ms. Miraglia had also asked for clarity on if the MAC approved this plan tonight, did that mean that a

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developer who comes forward with a proposal for that amount of units with the amount of parking specified in the plan is pretty much guaranteed approval? In other words, was the MAC approving in theory a four story structure over a parking podium with 128 units and 128 parking spaces as well as ten condos with ten spaces for this area?

Ms. Hawryluk answered that the housing units and or any specific retail square footage identified in any of the catalyst sites are all for conceptual purposes and are suggesting what could go on a site. Any actual development will have to move through the regular planning application process and if any environmental review work was necessary, that would also have to be completed as part of that specific development project. Ms. Hawryluk acknowledged that she, Eileen Dalton, Seth Kaplan, bob Swanson, Stanley Fong, and Dean Nielsen have already met with developer Scott Andrews to discuss conceptually his idea for the library district but that no project application has been filed.

Ms. Hawryluk said that the purpose of approving/adopting the Plan is so that the vision of what should be developed is now a public record and it will have in a certain sense, some teeth that the MAC and other County staff/committees can use to say this is what we want here if the developer proposes something grossly different. The specific components where a new apparel store, bookstore or restaurant actually go, will have some fluidity for the developer to work with.

Mr. Moore asked about the RDA's outreach efforts. Ms. Hawryluk explained the RDA's approach. Mr. Moore asked about the properties adjacent to the new library. Ms. Hawryluk spoke about "opportunity sites" as identified in the Plan.

Ms. Adesanya noted the absence of the word "draft" on the Plan, and about the need to coordinate RDA's efforts with other concurrent Planning efforts, such as the Castro Valley General Plan and the Economic Development Strategic Plan.

Mr. Nielsen asked about the streetscape design and asked if the Citizens Advisory Committee is working on the specifications for the design criteria. Ms. Hawryluk described the Public Works Agency's role in the effort and that of a landscape architect. Mr. Nielsen asked about the status of the design criteria.

**Mr. Moore made a motion that the Castro Valley Municipal Advisory Council recommend approval by the Board of Supervisors of the Draft Redevelopment Strategic Plan. Ms. Sugimura seconded. Motion carried 6/0/1 with Ms. Miraglia excused.**

3. **TENTATIVE PARCEL MAP, PM-9237 & VARIANCE, V-12023 – JOE TEIXEIRA** - Application to subdivide one parcel containing 0.54 acres into three lots, and allow a 4' corner side yard setback from the private street where 10' is required, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 19448 Lake Chabot Road, east

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side, approximately 250 feet north of Barlow Drive, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084B-0529-038-04. **(Continued from October 23 and November 13, 2006)**

Ms. Urzua presented the staff report.

Mr. Moore asked about the location of the front door. Mr. Teixeira said that the door is facing Lake Chabot Rd. as the front of the house. Mr. Teixeira explained that he bought the property a year ago.

Ms. Adesanya and Mr. Neilsen asked staff for clarification on the graphics attached to the staff report.

Mr. Teixeira expressed concern with the determination that the yard closest to Lake Chabot Road is not the front yard.

Mr. Frank described the implications of poorly subdivided properties in terms of parking problems, garbage access, and waste management.

Mr. Moore said that this is not a good design from a policy standpoint.

Public testimony was called for.

Mike Mitchell, resident at 19394 Lake Chabot Road, expressed concern about allowing the exception and the impact on the value of his property. He also believed that determining the front yard as the side facing Lake Chabot was acceptable.

Mr. Garcia lives next to Mr. Teixeira. He inquired about the proposed driveway. He has no reason to oppose the proposal as long as there are enough parking spaces.

Mr. Teixeira responded to Mr. Garcia's concerns regarding parking and the proposed driveway width.

Ms. Adesanya asked staff about the applicability of compensating open space for lot 1.

Mr. Moore noted that the Council is concerned with the issue of lot size set backs. Mr. Nielsen added that what the Council looks for proposals to equal the average lot size in the area. Mr. Moore said that on this particular project, the lot sizes were reasonable.

Mr. Frank said that he has a problem with the configuration.

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Mr. Sadoff concurred and suggested that the applicant explore other options regarding the existing residence.

Mr. Teixeira said that his lots were bigger than some surrounding lots.

Mr. Frank expressed concern about the precedent of approving this proposal as is.

Mr. Moore asked Mr. Teixeira if he has talked to Mr. Bohmann. Mr. Teixeira said that Mr. Bohman told him that the house required fire sprinklers.

Mr. Nielsen expressed concerns about the parcel map's layout.

Ms. Sugimura expressed concern about the lot sizes and the number of lots.

Ms. Adesanya asked staff about the 4-foot variance request. She generally does not accept the idea of approving new subdivisions with a variance, but thought this may warrant an exception.

Mr. Moore offered the applicant an opportunity to continue the item. Mr. Nielsen told Mr. Teixeira that he had the option of redesigning the project and bringing it back.

Mr. Teixeira said that the Planning Dept. tells him one thing and the Council tells him another thing. He does not know which way to go. He said that that house has to stay. It will complement the other two homes. The existing home is going to be as presentable as the others.

Mr. Moore said that there are three issues here: the number of lots, the width of the driveway and the set backs. He has no problem with the number of lots. He is concerned with the width of the driveway. One narrow road will reduce the set back and the orientation towards Lake Chabot.

Ms. Adesanya asked council members to clarify if Mr. Teixeira can choose to move forward with the Council's negative recommendation or go back and re-design the project. He can request to be continued until he works it out differently. She asked Council members to be clear if there is any way that he can come back, without moving the existing house, and possibly receive the Council's favor.

Mr. Nielsen asked staff if lot reduction is possible without a variance. Ms. Urzua said no if the existing house is retained. Mr. Teixeira said that the Planning Department told him there would not be a problem. Ms. Adesanya asked staff if there can be a deferred condition where the front house would have to be modified or moved in order to meet the ordinance after the rear two lots are developed. Mr. Buckley said that it has never been done.

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Ms. Sugimura asked why the front yard has to be considered facing the private road, why it can not be as it is today facing Lake Chabot Road. Ms. Urzua said that front yards are defined by Ordinance.

Mr. Sadoff asked staff if the house could be rotated.

Mr. Nielsen told Mr. Teixeira that the problem is the set back and if it would be feasible for him to move that house to the back that would solve the problem. The variance is the problem. Mr. Teixeira agreed to continue the item.

**Mr. Frank made a motion for continuance of Tentative Parcel Map, PM-9237 & Variance, V-12023. Mr. Sadoff seconded the motion. Ms. Adesanya clarified that the applicant should work with staff to develop an enforceable condition stating that enforcement of the front yard setback would be deferred until the construction of one house. In addition, the road would be redesigned so as to provide one consistent road width. Motion carried 6/0/1 with Ms. Miraglia excused.**

4. **CONDITIONAL USE PERMIT, C-8527 – ALFRED CARBONETTI-** – Application to allow a massage therapy business in the CVCBD Specific Plan Sub-area 7 (Castro Valley Central Business District Specific Plan – Sub-area 7) District, located at 20200 Redwood Road, Suite 10, west side 110 feet of Modesto Street, unincorporated Castro Valley area of Alameda County, bearing County Assessor’s designation: 084C-0770-001-00.

Ms. Urzua presented the staff report.

Mr. Alfred Carbonetti, applicant, stated that he has had a massage therapy business in Castro Valley since 1990. He recently moved from a suite on Castro Valley Boulevard to a larger facility on Redwood Rd. The Sheriff’s Department governs him from the licensing standpoint. Part of the requirement by the Sheriff’s Department is to make sure that the property is zoned for massage therapy.

Mr. Nielsen said that the report does not mention any citations or violations. Ms. Urzua said that Code Enforcement staff indicated that they had no objections to the application. Ms. Adesanya asked Mr. Carbonetti what was the reason for moving. Mr. Carbonetti replied that he needed a larger space and quieter than Castro Valley Blvd.

Public testimony was called for.

Dave S. stated that he lives on Modesto Street, around the corner from Mr. Carbonetti. He asked Mr. Carbonetti about his complaint history if any. Also, he asked the Council if the applicant would be the sole certified massage therapist at this location and if that is a condition in continuing to have a permit to locate a

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massage therapy parlor. He mentioned that there have been other massage therapy businesses on the other side of the freeway where there were problems. He wanted to make sure that they are not having the wrong kind of business. Mr. Carbonetti said there are no citations. All his credentials and business license are current. He has always been the sole proprietor of his business. He does not sublet his space to any other therapist.

Ms. Urzua said that the Sheriff's Department regulates the terms of the license. At this point, the conditional use permit does not specify that he needs to be the sole proprietor. It has been established in the analysis that Mr. Carbonetti is the sole proprietor.

Ms. Adesanya asked if the owner sells the business to another vendor with a separate business name, would he be required to obtain their own permit. Ms. Urzua said that generally they run with the land so someone else will be able to operate it under the same site plans, and conditions.

**Mr. Moore moved to approve Conditional Use Permit, C-8527 with staff considerations and a modification to add a condition of approval that states that the use permit applies specifically to Mr. Carbonetti and if there were a change in ownership, the permit would have to be reconsidered. Mr. Frank seconded. Motion carried 6/0/1 with Ms. Miraglia excused.**

5. **VARIANCE, V-12027 – JOSEPH McGRATH** – Application to allow construction of a detached accessory structure (garage & shop) location of the front portion of a lot, less than 75 feet from the front property line, in a R-1-L-B-E (Single Family Residence, Limited Agricultural) district, located at 31089 Palomares Road, south west side 2.8 miles south east of Palo Verde Road, Castro Valley area of unincorporated alameda County, bearing County Assessor's designation: 085A-3600-003-14.

Mr. Nielsen recused himself. Ms. Urzua presented the staff report. The staff planner found special circumstances related to the steep topography of the site. The planner recommends approval.

Mr. Frank asked about setting up a separate meter for an accessory structure.

Mr. McGrath explained that establishing a separate meter is a matter of practicality. It is much closer to an existing power pole. Mr. Frank said that the County requests clarification or verification that power is within the property lines. Mr. McGrath said that he could easily structure an easement on his adjacent parcel to carry power underground, underneath his bridge. Mr. Frank asked if the source has to come from the bridge. He asked Mr. McGrath if he could bring power to the area in question. Mr. McGrath said that he has not received direct responses to any issues with separate metering the accessory structure. He said that Mr. Nielsen misread his plans showing an existing overhead power line and

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he only showed that part of the parcel that shows that there is an existing easement into the parcels across his other adjacent parcel. He will never encroach on Mr. Nielsen's property.

Mr. Frank asked about feedback from the neighborhood. Ms. Urzua said that Planning received only the one comment from Mr. Nielsen.

Ms. Adesanya said that under the tentative findings, it is noted that there are other similar accessory structures in the vicinity.

Mr. McGrath stated that regarding the comment of the Regional Water Quality Control Board, there are no red-legged frogs in the area. The river actually flows longer in season, so there are no frogs in his stream.

Mr. McGrath said that there was also a question about a licensed biologist. His understanding is that there is no such thing as a licensed biologist. He tried to find one.

Public testimony was called for. No public testimony submitted.

Mr. Sadoff said that he is concerned about the Water Board relinquishing environmental control to Fish and Game yet there are no comments from Fish and Game. Typically when you are close to a creek and there is any land disturbance that might have adverse impact on the creek, this requires best management practices (BMP's). He asked Mr. McGrath if he had any mitigation measures in mind.

Mr. Moore said that as a comment, he is working with two Fish and Game applications at this time and unless you submit an application to Fish and Game and pay, they will not send a word.

Mr. Sadoff said he is concerned with potential adverse impacts.

Mr. Moore said that if it has to get a grading permit, BMP's for erosion control will be mandated by the County for erosion to protect the creek. The Council can request that he put erosion control measures around the project site.

Ms. Adesanya said that under specific conditions of approval they are not going to respond to a referral. Based on the planner's evaluation, there are no requirements from Fish and Game. Ms. Adesanya said that the condition should rest as is, if they are applicable they apply; if they are not applicable, they don't apply.

**Mr. Frank moved to approve Variance, V-12027 with Planning considerations and potential encroachment with the condition that any new meter installation not encroach on another's private property. Mr. Moore seconded. Mr. Sadoff added the recommendation that erosion control best**

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**management practices be part of the approval. Mr. Frank amended the motion to include erosion control measures. Motion carried 5/1/1/ with Mr. Nielsen recused and Ms. Miraglia excused.**

- 6. SITE DEVELOPMENT REVIEW, S-2085 – SAM’S SIGNS** - Application to allow new signage on an existing building (Chicago Title) in a PD (ZU-1798) District, located at 3300 E. Castro Valley Boulevard, #A, north side corner, south west of Center Street, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 84C-1053-104-05.

Ms. Urzua presented the staff report. She said that the proposal appears to be consistent with the overall intent of the Alameda County Zoning Ordinance.

Chris Margolini, representing the Chicago Title Company, explained why they contracted with Sam’s Signs.

Public testimony was called for. No public testimony submitted.

**Ms. Adesanya moved to approve Site Development Review, S-2085 with staff considerations. Mr. Sadoff seconded. Motion carried. 6/0/1 with Ms. Miraglia excused.**

- 7. SITE DEVELOPMENT REVIEW, S-2088 – KELLER WILLIAMS** Application to allow new signage on an existing building (Keller Williams) in a PD (ZU-1798) District, located at 3300 E. Castro Valley Boulevard, north side corner, south west of Center Street, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 84C-1053-104-05.

Ms. Urzua presented the staff report. She said that as proposed, the replacement signage meets with the overall intent of the Alameda County Zoning Ordinance and staff recommends approval.

Andrea Szekrenyi, representing the applicant, appeared and made herself available for questions. Ms. Adesanaya asked about the location of the signs.

Public testimony was called for. No public testimony submitted.

**Mr. Sadoff moved to approve Site Development Review, S-2088 with staff considerations. Mr. Frank seconded. Motion carried 6/0/1 with 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 –**

Mr. Buckley explained that an online option would be available in order to fulfill the ethics training requirement. Information would be mailed to all members of the various County advisory and decision making bodies.

**Council Announcements, Comments and Reports - None.**

**J. Adjourn**

The meeting was adjourned at 8:57 p.m.

**Next Hearing Date: December 11, 2006**