

**CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL**

**Minutes for January 22, 2007**

(Approved as corrected February 26, 2007)

**A. CALL TO ORDER:** The Chair called the meeting to order at 6:35 p.m. Council members present: Dean Nielsen, Chair; Ineda Adesanya, Vice Chair. Council members: Jeff Moore, Andy Frank, Cheryl Miraglia, Carol Sugimura and Dave Sadoff. Council members excused: None. Staff present: Tona Henninger, Sonia Urzua, Bob Swanson and Maria Elena Marquez. There were approximately 20 people in the audience.

**B. Approval of Minutes of January 8, 2007**

**Ms. Sugimura and Mr. Sadoff had minor corrections. Mr. Sadoff approved the minutes of January 8, 2007 as corrected. Ms. Sugimura seconded. Motion carried 4/2/1 with Mr. Moore and Mr. Nielsen abstaining. Ms. Miraglia arrived after the minutes were approved.**

**C. PUBLIC ANNOUNCEMENTS – None**

**D. Consent Calendar**

**VARIANCE, V-12042 – EDWARD TANAKA** – Application for construction of an attached addition providing a 30 foot building height where 25 feet is the maximum allowed, in a R-1-RV (Single Family Residence, Recreational Vehicle) District, located at 16896 Robey Drive, north east side 630 feet south of 167<sup>th</sup> Avenue, unincorporated San Leandro area of Alameda County, bearing County Assessor's designation: 080A-0221-016-00.

Mr. Nielsen asked council members if they wanted to move the two items on this calendar for discussion. Ms. Sugimura asked that if there was a letter in opposition for one of the items if it needed to be moved to the regular calendar. Mr. Nielsen replied that only if the council feels the letter warrants moving it for discussion. He said it could be entered into the record. The letter is from Elden Palmer opposing Variance, V-12042.

**Mr. Frank moved to approve the consent calendar with a notation that a letter was received in opposition to Variance, V-12042. Ms. Adesanya seconded. Motion carried 6/1 with Ms. Miraglia arriving after the consent calendar was approved.**

**PARCEL MAP, PM-9408- PALOMARES CATTLE COMPANY-** Application to subdivide one parcel into six, containing approximately 666 acres in an "A" (Agricultural) District, located at 31253 Palomares Road, east side, approximately 3.7 miles south of Palo Verde Road, Castro Valley area of

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unincorporated area of Alameda County, bearing County Assessor's designation: APN 085A-3701-008-00.

**E. Regular Calendar**

**1. Presentation of Implementation Measures for the Madison Area Specific Plan: Slope and Storm Runoff Controls – Lou Andrade**

Mr. Andrade, from the Planning Department, made the presentation. Stanley Fung from the Public Works Department attended the meeting to answer questions.

Public testimony was called for.

Roxann Lewis, resident at 17750 Madison Avenue, described the residents' role in developing the Madison Avenue Plan, along with Mr. Amoroso and Mr. Andrade. She said they would be watching to make sure and bring it to the County's attention if there are any discrepancies particularly in terms of quantifying grading. She would not like to see variances granted after all the work that has been done.

John Aufdermayer, resident at 17580 Madison Avenue, stated that he has three additional lots covering 2.66 acres on Madison Avenue for site development review. He said he attended most of the meetings for the revision of the specific plan. With regard to variances, he hoped that public hearings would still consider the variance petitions. His plans are drawn up almost exactly for this. All grading, retaining walls is consistent with the plan so no one has a question about what is going to be done.

Public testimony closed.

Mr. Moore said that a lot of time was spent on the calculation of the 30% grade and how to determine and calculate the 30% slope on a project. He asked Mr. Andrade what was the final resolution on how it was calculated. Mr. Andrade said that you map all those areas that are 30%. It is basically a straightforward right angle. He said that the 2-foot contours is shown. These areas would then be avoided. Ms. Adesanya asked if it was possible to get a proposal on a lot when it is not a natural slope. Mr. Andrade said it is possible. The idea is to preserve the natural slope.

Mr. Nielsen said that one of the concerns that the neighbors had before that some of the properties have been graded before the project was submitted. He hopes that all the neighbors keep an eye on any grading ahead of the permits so we don't have a similar problem.

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With regard to variances, Ms. Adesanya asked what is required from the proposal. Mr. Andrade replied that the specific plan acts as the ordinance for that district. Findings would need to be made for a variance.

Mr. Frank said that it was a good job done.

Mr. Nielsen said that it shows that when a problem arises, the County Public Works can raise the question and work with the community and come up with a solution. **Mr. Frank moved to approve the Implementations Measures for the Madison Area Specific Plan. Mr. Sadoff seconded. Motion carried 7/0.**

2. **VARIANCE, V-12037 – MICHAEL GAHAGAN** - Application to allow a Secondary Unit of 720 square feet where 640 square feet is maximum, in a R-1-B-E-CSU-RV (Single Family Residence, 10,000 square feet, Minimum Building Site Area, Conditional Secondary Unit, Recreational Vehicle) District, located at 4157 Krolop Rd., south side 450 feet west of Vineyard Ave., Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084D-1140-017-12. **(Continued from January 8, 2007 to February 26, 2007).**
3. **VARIANCE, V-12041 – LUIS BARBOSA** – Application to allow construction of a new single Family Dwelling 27.5' high where 25' is maximum allowed, in a P-D (ZU-1451) (Planned Development, 1451<sup>st</sup> Zoning Unit) District, located at 2867 Eugene Terrace, south side 270 feet west of Dominic Court, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084B-0405-036-00. **(Continued from December 11, 2006 and January 8, 2007).**

Ms. Urzua presented the staff report. She explained that this item was continued to give time for neighbor input, received in December 2006, in order to incorporate comments from Chabot Estates Architectural Review Committee. Since then, the applicant has gone to that group and received comments. She mentioned a small error on page 5 that says "Chabot Estates ARC Requirements" which should have been omitted.

Miguel Godinez, property owner, said that he took care of the height and the balcony issue and that his neighbors seem to be okay with that.

Public testimony was called for. No public testimony submitted.

Ms. Adesanya requested clarification from staff regarding the balcony projections. Ms. Urzua stated that the proposed balcony was modified.

**Ms. Miraglia moved to approve Variance, V-12041 with staff recommendations. Mr. Moore seconded. Motion carried 7/0.**

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4. **VARIANCE, V-12045 – TONY FURLONG** - Application to allow a 16.5 foot rear yard where 20 feet is required with the construction of a new single family dwelling in a R-S-D-20 (Suburban Residence, 2,000 square foot Minimum Building Site Area per dwelling unit density) District located on Meadow Lark Drive, south side, terminus of Meadow Lark Drive, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 084C-0724-045-00. **(Continued from January 8, 2007).**

Ms. Urzua presented the staff report. This variance was before this Council two weeks ago. The direction given by MAC members was that the applicant should revise the proposed floor plan building footprint. At that point, the members were not willing to support a rear yard set back variance as the applicant could either encroach on the front yard set back or not encroach at all to any set back. The project has not changed. The staff planner set out for the Council the implications of this pushing the building forward onto the front yard set back. This is the only change in the staff report since the last meeting.

Mr. Nielsen asked staff if the applicant is not willing to change the footprint of the house. Ms. Urzua said no.

Tony Furlong, applicant, said that the cars would not protrude into Meadowlark Drive. He was told by the County planner that it would be better to have a set back behind. He met with some of his neighbors last Monday and they seemed to be satisfied.

Ms. Adesanya asked Mr. Furlong if he had contacted the owner of the multi family just behind him who was opposed to the rear yard set back. Mr. Furlong said no.

Mr. Moore and Mr. Nielsen asked staff if it can be used compensating open space to adjust that on the side yard. Ms. Urzua said that open space applies the R1 District.

Public testimony was called for.

Dale Ruiz, resident at 20370 Yeandle Avenue, spoke in support of the project after meeting with the applicant and learning more about the proposal. The applicant will put a new fence to keep their privacy together. He wanted to make sure they are in agreement about fence and trees. He mentioned a letter from a neighbor (Foster and Virginia Wood) and his main concern is the project's timeline. The letter was entered into the record. Another neighbor next to him is concerned with dust when construction begins. Mr. Ruiz said he is happy with what is going on and has no more concerns.

Linda Billings, resident at 20267 Meadowlark Drive, said that she agreed with Mr. Ruiz. She said that she is happy to see residential homes in that area as

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opposed to apartment buildings or townhouses. Also, in their area all of the residents are long-term residents and have more invested in that neighborhood than people living in apartments. She urged the Council to approve this variance.

Public testimony was closed.

Ms. Miraglia said that she would like it better if it could be moved as was discussed the last time, but as long as the neighbors are okay with the variance, she is fine with that too.

Ms. Adesanya said that given the change in communication, she could support it.

**Mr. Frank made a motion to approve Variance, V-12045 with Planning considerations and also with the consideration that the neighborhood and the owner agree to a new fence and planting trees for privacy. Ms. Miraglia seconded. Motion carried 7/0.**

5. **TENTATIVE MAP, PARCEL MAP, PM-8570 - PARKINSON** - Application to subdivide one site into four parcels, containing approximately 1.14 acre in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit with Recreational Vehicle) District, located at 2757 Talbot Lane, south east side, 300 feet north east of Stanton Avenue, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 084B-0460-004-00.

Ms. Urzua presented the staff report. She indicated that not included in the staff report is a parcel map approved on Stanton, parcel map 8208. It was one lot divided into two, the other lot sizes of those two is around 7,000 square feet.

Council members Neilsen, Adesanya, and Frank discussed the referral response from the Fire Department.

Mr. Moore asked staff if the decision to leave some of the lots on Darlene 10,500 square feet because of the practical standpoint flag lot configuration and those lots could not be subdivided. Mr. Moore said it is quite reasonable as long as there is a rationale for over 10,000 lot width or configuration flag lot.

Mr. Frank asked if the property's contours limit the developer to that size configuration to lot #1 or could they reconfigure the other lots.

Mr. Nielsen raised some concerns about grading. Ms. Urzua said that there has to be some grading and at this point in order to encroach into the required rear yard. The applicant states that no grading is proposed. If grading were involved, the Grading Department would have to issue its grading permit before the Parcel Map was approved.

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Mr. Moore and Mr. Frank discussed the impacts on net lot sizes after widening Talbot Lane based on the Fire Department's comments.

Ms. Miraglia said that she thought the 36 feet is just along the width the frontage of the property not all along Talbot.

Yev Philipovitch, civil engineer for the project, said that the width of Talbot Lane adjacent to this property is about 38.5 feet. Mr. Moore asked him if this was the paved section. Mr. Tazman McCabe, contact person for the project, said that pretty much it is curb to curb. Mr. Philipovitch said that the width of the road varies. Mr. McCabe said that Talbot Lane is designated as 15 feet and on parcel map 2067 there was an access easement given for another 23.5 feet, the left of that 15 feet makes 38.5 feet total access. The actual curb to curb is approximately 36 feet.

Mr. Philipovitch said that all of the other set backs are met, parking and utilities are provided, there is no intention to put any grading. He does not know why the other big lots remain. Mr. McCabe said that it is an existing house that the owners want to maintain. Mr. McCabe said that EBMUD has the access easement off at the top end. Mr. Moore asked if the owner that is subdividing lives in that house. Mr. McCabe said that they spent some time there. It is like a second home.

Ms. Adesanya asked if this was drawn to meet the Fire Department requirements. Mr. Philipovitch said yes, the Fire Department requirements for the driveway is 20 feet.

Mr. Nielsen said that they could extend the eastern boundary it looks like to bring the lots into compliance as far as size but they prefer not to not to disturb the house.

Mr. Sadoff asked Mr. McCabe about the trees proposed to be removed. Mr. McCabe said that there are two in lot 3.

Mr. Moore asked if the access easement is for the sole benefit of EBMUD. His concern is that if it is sold and they decide to tear the existing house down, the subdivision would set this precedent for the lower net area of 5,300 square feet. If this access easement could be created as a driveway, someone could come back and put 3 more lots here with that size. Now it would be a 6 lots subdivision. Mr. McCabe said that it appears it is a general easement. He knows that EBMUD owns the property behind.

Mr. Nielsen agreed with Mr. Moore regarding the potential for development. Mr. Philipovitch said that it is hard to tell.

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

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Mr. Moore said that lot size consistency is the issue. He supports a two-lot subdivision. The proposal has substantially less than the average lot size. As far as the additional lot development, he would not want to put a restriction on somebody for subdividing his or her parcel in the future. They are making a conscious choice not an economic one, to limit the lot size because there is an existing house there.

Ms. Miraglia, Ms. Sugimura and Mr. Sadoff said that they agree with Mr. Moore and also support two lots. Ms. Sugimura asked if some changes could be made to lots 2 and 4.

Mr. Nielsen asked Mr. Philipovitch if he wanted a decision, he needed to go back and talk to the owner and have him consider two lots instead of 3. The item can be continued to a future meeting so he can make that decision for the owner.

Mr. Philipovitch agreed to continue the item to a future date so he can talk to the owner. Ms. Urzua requested clarification regarding the preferred number of total lots. Mr. Philipovitch said that as far as the size of the lot is concerned, just move the line and make it average size.

#### **F. Open Forum**

Connie Deets, a Madison Avenue resident, said that she wanted to make sure that the previous variance was never used as an excuse to grant a new variance. She just heard County on Variance V-12041 that a variance was referenced that there were other variances in the area. This is what she has been fighting in her neighborhood and asked staff that this not be done.

Ms. Urzua explained what findings are required before a variance is granted. She also explained how variances are described within the context of zoning history.

Ms. Deets said that she was told by Planning staff that one variance does not provide an excuse for another variance to be given. She is opposed to using a variance as a reference for some other variance. She had that situation in her neighborhood..

#### **G. Chair's Report – None.**

#### **H. Committee Reports**

- **Eden Area Alcohol Policy Committee**
- **Redevelopment Citizens Advisory Committee –**
- **Ordinance Review Committee**

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Ms. Miraglia said that the December 2006 and January 2007 meetings have been cancelled. The next meeting is scheduled for February 27.

**I. Staff Announcements, Comments and Reports –**

Ms. Urzua asked council members if they want to meet on Tuesday, February 13. She indicated that at this time there are no items scheduled for that agenda. Council members agreed to cancel the meeting. The next meeting is scheduled for February 26.

Ms. Urzua said that she would make additional copies of the lot consistency policy for those interested. She also provided an update on a site development review approval previously granted by the Council.

Ms. Adesanya reiterated her request on updates for items considered by the BZA and Planning Commission.

Mr. Moore asked if there would be a venue change for the MAC meetings. Ms. Urzua said not at this point.

Council members asked about the ethics training. Ms. Urzua said she would send the web site address so they can do it online.

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

Council members asked about the next scheduled General Purpose meeting on January 29. Ms. Henninger told them that this is a special meeting.

**K. Adjourn**

The meeting was adjourned at 7:49 p.m.

**Next Hearing Date: February 26, 2007**