

## **CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL**

### **Minutes for November 26, 2007**

(Approved as presented December 10, 2007)

**A. CALL TO ORDER:** The Chair called the meeting to order at 6:30 p.m. Council members present: Jeff Moore, Chair; Cheryl Miraglia, Vice Chair. Council members: Andy Frank, Dean Nielsen, Carol Sugimura, Sheila Cunha and Dave Sadoff. Council members excused: none. Staff present: Jana Beatty, Bob Swanson and Maria Elena Marquez. There were approximately 6 people in the audience.

**B. Approval of Minutes of November 13, 2007.**

The approval of the minutes of November 13, 2007 will be continued to the next meeting.

**C. PUBLIC ANNOUNCEMENTS – None.**

**D. Consent Calendar**

**E. Regular Calendar**

**1. Sabrina Linden – Pacific Union Homes**

Ms. Linden gave an update on the presentation to the HARD committee a month ago. She also said that they have had individual meetings with neighbors and said that there will be minimal impact on the neighborhood. There will be a total of 11 acres of parks and open space and trails in this area (showing a graphic to the council members). Also, there will be a soccer field and a soft ball field.

Ms. Miraglia asked Ms. Linden if there will be more room for additional parking. Ms. Linden said yes. Ms. Miraglia asked how many units are planned. Ms. Linden said they are still working on that balance.

Mr. Nielsen asked Ms. Linden if the name of the park will be Veterans Memorial Park. She said yes, it was named by HARD.

Mr. Moore asked how many neighbors they meet at a time. Ms. Linden said they have smaller meetings so they can have more intimate conversations about their maintenance centers.

Ms. Linden will come back for the next meeting.

**2. Frank Mellon – EBMUD – Presentation on current conditions of water supply.**

Mr. Mellon gave an update on the current conditions of water supply in the Bay Area. He said they are asking customers to conserve water because there is a problem with the water supply if we don't get a normal year rainfall. Next year they will be asking to cut back from 15 to 25%. If it goes one more year we are talking 65% and that is commercial as well as residential. He also said they have rebate programs. He encouraged everybody to conserve water.

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Mr. Moore asked Mr. Mellon about the water use outdoor and indoor according to the chart. He said there are cities that have clean water for landscaping and asked if in a build up area are we ever going to see that or it is not practical. He said EBMUD is working on that.

Mr. Mellon also said that the earthquake retrofit project is done.

3. **CONDITIONAL USE PERMIT, C-8673 – GAHAGAN** - Application to allow a massage therapy business in the CVCBD Specific Plan – Sub 10 (Castro Valley Central Business District Specific Plan – Sub-area 9) District, located at 20997 Redwood Road, west side corner south west of Redwood Court, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 084A-0064-011-09.

Ms. Batty presented the staff report.

Michael Gahagan, said that the process driven by the Alameda County Sheriff's Department for this permit, it is lengthy process in recognition of the risk or danger for this type of business. One of the reasons he chose this building is because it has a professional look. He will go overboard to communicate that this is a clinical therapeutical business in every aspect of the business, from advertising to having signs next to the price list that will go in every room. The people he will eventually find to work there they need to go through a very rigid process with the Sheriff's Department. That is a reflection of some of that process from the Planning Department. The people need to get licenses, be members of a professional association, be fingerprinted, have no criminal records. It is heavily regulated by necessity. The objective is an image of cleanliness. They are all independent contractors.

Mr. Nielsen asked Mr. Gahagan if he had been in this business before. Mr. Gahagan said no.

Ms. Cunha asked Mr. Gahagan why independent contractors. The reason is payroll taxes.

Public testimony was called for. No public testimony submitted.

Ms. Miraglia said that it seems there is not enough parking while the staff report says that it meets the criteria. Ms. Beatty said that is correct.

**Ms. Miraglia moved to approve Conditional Use Permit, C-8673 with staff recommendations and considerations. Mr. Nielsen seconded. Motion carried 7/0.**

4. **SITE DEVELOPMENT REVIEW, S-2119 – MCDONALDS/RHL DESIGN GROUP** – Application to allow the demolition and reconstruction of a McDonald's restaurant with a drive through located within the CVCBD-SUB1 (Castro Valley Central Business District Specific Plan, Sub Area 1) District, located on 1620 Strobridge Avenue, east side, 200 feet south of Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Numbers: 084A-0007-022-00, 084A-0007-023-02, and 084A-0007-023-03.

Ms. Beatty presented the staff report. She said that this issue went a couple of times to the Planning Commission for determination because the use of a drive through establishment

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is non-conforming. It was asked that the Planning Commission make a determination as to whether the reconfiguration of this drive-through service would constitute an expansion of a non-conforming use. Ultimately, the Planning Commission decided not to make a decision whether it is an expansion or not. What they are proposing is pretty self explanatory. Reduction in the amount of parking spaces, currently there are 58 parking spaces, they are proposing to go down to 51, however, only 44 spaces are required. They need to do that to have more landscaping. They are proposing a typical McDonald's sign. We are asking for two recommendations from this Council, one for the site development review and the other to the use of the drive-through lane. The Public Works Traffic Division, with their recommendations, they do not feel the driveway configuration will have any negative impacts.

Mr. Moore said that looking at all the attachments, what was the specific intent, if this was a part of the corporate palette they can consider.

Malcolm Carruthers, representing RHL Design, said that the intent is that once they have a design that is satisfactory, the MAC will find a determination going back to the Planning Commission. The present design is essentially a more contemporary look from the traditional. The idea of being here tonight is to get some feedback in terms of McDonald's recognizing the fact that this is more or less what the design will look like, what the city would like to see. The confusion with the non-conforming use, everybody would like to see the specific plan adjusted. One of the issues is that it is such an old building, and utility lines, like the sewer lines, are deteriorated. It is really time to tear the building down and come up with a new building design. What you see is a representation of what the new building would look like. The site plan shows the major features reorganizing the parking and adding additional landscaping.

Mr. Frank asked Mr. Carruthers what is the primary choice that he has. Mr. Carruthers said that his primary choice would be the one that is in the package.

Mr. Nielsen asked Mr. Carruthers what were the design options. Mr. Carruthers said 3 or 4 palette options. Mr. Carruthers said that the design options are variations in terms of the architecture. Mr. Nielsen said that the design of the McDonald's in Lafayette and Brentwood do not look anything like the one he is proposing for Castro Valley. Mr. Nielsen told Mr. Carruthers that he is asking the Council to approve a design that some of the council members do not agree with and yet wants to Council to approve the option of a drive-through improves McDonald's business. We are not given the option of either the Lafayette design or the Brentwood design. Mr. Carruthers said that the Brentwood design was done to match the surrounding area and the specific plan for the entire region. Every other building in that area of Brentwood was designed exactly the same way. Mr. Nielsen said that there is not a building in Castro Valley that looks anything like the design McDonald's is proposing. Mr. Nielsen said that we haven't been given any options as far as building design is concerned and this building is not compatible with anything in Castro Valley. Mr. Carruthers said that they are not asking for a concession on the drive-through, the drive-through is actually designed to make the operation more efficient. They are actually decreasing the area of the building without increasing the area of the kitchen.

Ms. Cunha asked Mr. Carruthers the reason for going down more than 200 feet in the building size and eliminating some of the parking spaces. Mr. Carruthers said they are

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reducing the building size and increasing the landscaping. Ms. Cunha said she is concerned about the loss of parking spaces because that McDonald's is always full.

Mr. Frank asked if reconfigurations to the driveways are usually done to increase the efficient customer services to the consumer. Mr. Carruthers said yes and that is exactly the purpose of that drive-through.

Public testimony was called for.

Drew Bardet, representing McDonald's Corporation, said that for years they have been putting band aids on the facility. The parking lot needs work and the utilities are starting to fail, so it is time to do something new there. They are here tonight for two reasons: to get a read on the use issue and also on the design. They expect to discuss finishes, landscaping and signage. They can present other options and move forward.

Ms. Miraglia said that she liked the enhancement of the landscaping; she is not concerned about parking because they offer the amount of parking that is required. She also does not see the change in the driveway as an expansion of the drive through, she has no problem with that; however, she has an issue with the design. In her opinion, we lose charm with the contemporary design. In Castro Valley, she would like to retain some uniqueness. For Castro Valley, stucco and tile are appropriate, like the Adobe Art Center in a more of Spanish style. The lines on this particular building are too straight and she doesn't like such a dark color.

Mr. Nielsen said he understands McDonald's desire to have their premises noticed. He agreed with Ms. Miraglia that uniqueness has its merits in some locations but not at the entrance to Castro Valley. He agreed with the change as far as the drive through is concerned. The design is such a departure from other restaurants in Castro Valley. It departs tremendously from the tone of the streetscape and the rest of Castro Valley. Mr. Frank concurred with Ms. Miraglia and Mr. Nielsen's comments.

Mr. Sadoff said that he is in favor of the configuration and also he likes the landscaping and the trees in between McDonald's and Wendy's. He is glad that they (McDonald's) are open to working with us in getting a building appropriate for that location at the entry to Castro Valley.

Ms. Cunha concurred, she said we need a new McDonald's, but she is concerned about eliminating parking spaces.

Ms. Sugimura said that the design is a little bit sharp and she does not like the yellow awning.

Mr. Moore said he has no problem with the site, it is an appropriate use, he understands the loss of the 7 spaces. He likes the idea of working with McDonald's to enhance the entrance landscaping, it is an important aspect. The massive aspect of the building is simplistic and he feels we can do better.

Ms. Sugimura said that she hates the idea of losing more parking spaces, but she thinks that the trash enclosure should not be open. Mr. Moore said there is a staff

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recommendation to consider losing another parking space to provide additional landscaping to screen the trash enclosure.

Mr. Moore suggested address the site issue first, it would be appropriate to make a motion on that and then talk about the aesthetics. Ms. Beatty said that it would make it easier for staff to make two separate motions.

**Ms. Miraglia made a motion that the Council makes a determination that the changes proposed to the drive-through do not constitute an expansion of an illegal non-conforming use. Mr. Frank seconded. Motion carried 7/0.**

Mr. Moore invited the applicant to address the Council's concerns regarding the massing and architectural issues.

Mr. Carruthers said that the design that they presented is McDonald's corporate architecture and they are representing them. They would welcome the opportunity to be free to do something here. They will be happy to return with different designs and different architecture, recognizing the location is such signature location.

Drew Bardet said that he has been involved in hundreds of this type of projects. They will not force a design in a community. They understand that there is community involvement and design review boards, it is a collective effort. He asked the Council to bear with them, they have to start somewhere and they would like to move forward. He mentioned that in Brentwood there was a standard architecture established so that dictated what they did as far as finishes. The one in Lafayette was an existing bank building. They kept the structure and all they did was put some colors but no new construction. They are flexible and they try to do what is right. Mr. Bardet asked the MAC for examples of architecture in Castro Valley that they would recommend.

Mr. Moore recommended changing the massing of the building, it is just a rectangular structure with arches. Get rid of some of the linear features by breaking it up with different elements, possibly use some three-dimensional pop-outs to eliminate the massing. The biggest issue is the massing elements.

Mr. Bardet said that they will bring something back.

Mr. Nielsen said that the Council appreciates the fact that they (McDonald's) are willing to work with us. Mr. Bardet said they understand the importance of the location in the city.

Mr. Moore said that because this is an unusual site configuration he asked Mr. Carruthers and Mr. Bardet to look at all the elevations and treat them with the same materials and palette, not just the front elevation. He said the Council needs to make a motion to continue the site development review portion of the project.

**Mr. Nielsen moved to approve continuance of Site Development Review, S-2119. Mr. Frank seconded. The project was continued to January 14, 2008.**

**F. Open forum**

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Viorel Hodis, resident at 4628 Crow Canyon Place, spoke about a project they are working on at Jensen Road, it is a 5 lot subdivision. He is proposing 7,500 square foot lots on a lot that has 7,500 square foot zoning. It is located near properties that have various lot sizes that go from 1 acre to for example Crow Creek has lot sizes from 3,700 to 50,000 square feet which is one of the properties that backs up to their property. Another property right next to them that has 14 units that according to the zoning those 14 units are basically 3,200 square foot lot assignment. Basically, he is here to give the Council a preview of that and get some suggestions before he brings the actual project for consideration.

Mr. Moore told Mr. Hodis that lot size consistency is going to be the major factor on his project.

Mr. Hodis said that the project is located at the corner of E. Castro Valley Blvd. and Jensen Road, is the second property in the left hand side of the 14 unit apartment complex. Mr. Nielsen said that it is kind of a transition piece between the apartments directly in front and then the development to the west 5,000 square foot lots. Mr. Hodis said there are 50 homes there. It is a lot swing, from 3,700 to 5,800 square foot lots. Mr. Nielsen asked if they were all detached. Mr. Hodis said yes.

Mr. Moore said that normally the Council will discount lots that can be subdivided but it sounds like adjacent to a higher lot size requirement.

Ms. Beatty said if it is the area she is thinking of off Jensen, the entire stretch of Jensen that is a PD district where the minimum lot size is 40,000 square foot.

Mr. Hodis said that their property is part of a PD which was approved prior to purchasing the property and the existing zoning is 7,000 square feet.

Mr. Moore asked Ms. Beatty when was it rezoned. Ms. Beatty said years ago. Ms. Beatty said that if Mr. Hodis needs specific information and feed back, we can put it on the agenda as an informational item. Mr. Hodis said he already has an application on this.

Ms. Greene (Elizabeth) said that there were some issues that had to be worked out about the property line and she understands that he (Mr. Hodis) had done that but we still do not have the revised plans yet that show the new property line. The lot size consistency is going to be an issue, how are we going to determine that.

Mr. Frank said where are the findings and why it was approved. Mr. Hodis said it is already approved. He is not asking to rezone it, he is only asking what is there already and what is on the books already.

Mr. Moore said he has never seen a lot size consistency calculation done. Usually there are 5,000 or 10,000 in the immediate area, but to go from 7,500 on one property line and 5,000 on the other

Mr. Frank said there is a reason: the reason was because the lack of water and the other reason was because of the lack of sewer.

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Mr. Moore asked about lot size consistency in an area such as this. Ms. Beatty said that it is pretty clear in the general plan that you can take specific neighborhoods and when you go from 7,500 to 40,000 to her personally is like a different neighborhood. Mr. Moore said that he agrees with that.

Mr. Hodis said that right now there is this 14 unit apartment complex that is basically on a ratio of 3,300 per unit. He is trying to make the best use of the land.

Mr. Moore told Mr. Hodis to talk to neighbors.

**G. Chair's Report - None**

**H. Committee Reports**

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

Ms. Sugimura said that there are two more sessions for task forces, this Wednesday, November 28, 6 to 8:30 p.m. at Supervisor Lai Bitker's office and the final one, Thursday, November 29, 6 to 8:30 p.m. in Supervisor Miley's office.

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

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

Ms. Miraglia said that she noticed in the newspaper that Hillcrest Knolls has been added to the Castro Valley General Plan, and that they are going to add an eighth person to the Council, that gives the Council an even number of people. She wondered if this Council had any say in that at all.

Bob Swanson said that Supervisor Lai-Bitker said that if Hillcrest Knolls comes in they want to be able to appoint a person to represent that particular area. Supervisor Miley said yes.

Mr. Moore concurred with Ms. Miraglia. Ms. Miraglia said that because this is not an agenda item, the Council can not take action

Mr. Nielsen said that with El Portal Ridge coming in and with Hillcrest Knolls being in play, he does not understand why they did not come to an agreement on the appointment between the two of them. Ms. Miraglia said that every neighborhood in Castro Valley is not represented and why they had to add Hillcrest Knolls at this point.

Mr. Nielsen said he is concerned because they are adding 300 homes with representation. Ms. Miraglia said that that appointment should not take place until one of the seats at the Council is vacated. In her opinion, 8 members are too much.

Mr. Sadoff said that the PRHC will hold its meeting on December 6. They will be reviewing the draft historic preservation ordinance and encouraged all to attend.

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Mr. Frank asked Mr. Sadoff for the consensus. Ms. Sadoff said that the ordinance inventory is underway to improve the way the buildings are recognized as potentially historic. The forms will be completed for 50 properties in the budget.

Mr. Moore suggested to put it in on the General Purpose meeting agenda.

**K. Adjourn -**

The meeting was adjourned at 8:15 p.m.

**Next Hearing Date: Monday, December 10, 2007**