

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

Minutes for May 14, 2007

(Approved as corrected July 9, 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, Cheryl Miraglia, Carol Sugimura and Dave Sadoff. Council members excused: Andy Frank. Staff present: Tona Henninger, Jana Beatty, Bob Swanson and Maria Elena Marquez. There were approximately 20 people in the audience.

B. Approval of Minutes of April 23, 2007.

Ms. Sugimura presented minor corrections. Ms. Sugimura moved to approve the minutes of April 23, 2007 as corrected. Ms. Miraglia seconded. Motion carried 6/0/1 with Mr. Frank excused.

C. PUBLIC ANNOUNCEMENTS –

Mr. Swanson announced that the Farmers Market will open Saturday, May 18, 2007, at 9:00 a.m. at the Castro Valley BART station. Everyone is invited.

D. Consent Calendar – No Items.

E. Regular Calendar

1. TENTATIVE PARCEL MAP, PM-9016 AND VARIANCE, V-12006 - JING HUANG – Application to allow the subdivision of one lot into three, and to allow a side yard setback of five feet, six inches where ten feet is required, located at 21125 Tye Court, northwest side, approximately 500 feet north of Norbridge Avenue, Castro Valley area of unincorporated Alameda County, bearing the Assessor's Parcel Number 084A-0025-002-00. **(Continued from March 26, 2007).**

Ms. Jana Beatty presented the staff report. She stated that this item was last heard at the March 26 meeting. The Council continued it to this date when the applicant presented changes to the plan to be considered by the Council. The Council did not discuss it but took public comment. Staff is recommending denial.

Ms. Sugimura said that in one of the letters dated 12/06 included in the packet, there is a comment about flood areas and the area can not be built on. She asked if that is true. Ms. Beatty said that if that were the case, Public Works would not allow the project to move forward. It could be in an area of 100 year flood or 50 year flood. There are many conditions of approval that can be applied during the building permit process.

Steve Montel, representing the applicant, stated that he revised the plans to improve certain conditions. He reiterated all the changes that he made to the current plan. He shifted the house from the property line as compared to 13 feet and 17 feet on the prior application. There is a geologist report on the subject property. The new construction will conform and comply with the civil engineering requirements. In regards to traffic flow, he gave a drawing to the Planning Department showing two cars. They are not adding additional cars to the street. Each house will have a two car garage and parking space. The design of these homes is a very good design in the sense of maintaining the market value of the neighborhood. The house on parcel A will be upgraded.

Public testimony was called for.

John Coates, resident at 2650 Cohoe Court, which is adjacent to Tyee Court. He stated that he shares 175 feet of the property line with the applicant. He expressed his concerns about the lot size consistency. He presented a letter to the Council, which was entered into the record.

Ms. Miraglia, Mr. Moore and Ms. Adesanya agreed with Mr. Coates. They cannot support this project because it does not meet the lot size consistency.

Mr. Sadoff said that the 5 lots, 10,000-13,000 square feet, should not be excluded from the lot size consistency analyses because they likely would not be recommended for lot division by the MAC, because such division would result in sub-lots far below the median. He suggested that the applicant split it into two lots. Mr. Montel said that it depends on the applicant, it is an economic situation.

Mr. Nielsen told Mr. Montel that the consensus of the Council is to split the lot into two instead of three lots. Mr. Montel said that Mr. Huang understands that if it is denied, he can appeal the decision to the Board of Supervisors. Mr. Montel asked Mr. Huang if he is willing to make it two lots instead of three. Mr. Huang said yes.

Mr. Nielsen continued the item to a date to be determined. Mr. Montel agreed.

Mr. Moore told Mr. Montel that in order to avoid a variance, he was cutting a portion of the house. If he is going to come back with a two lot subdivision and still keep the same relative set back even with the narrow one, he does not have to cut off the house. He made this comment just in case someone else has a different opinion. He is making a substantial move in the right direction splitting the lot into two lots.

2. **CONDITIONAL USE PERMIT, C-8583 – NEWLIFE CHRISTIAN CHURCH** - Application to allow the continued operation of a church, in a CVCBD Sub 7 (Castro Valley Central Business District Specific Plan – Sub-area 7) District, located at 20394 San Miguel Avenue, east side 550 feet of Castro

Valley Blvd., in the unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 084A-0112-016-02.

Ms. Beatty presented the staff report. She stated that staff has not received any negative comments from any of the agencies that the application was referred to and Code Enforcement has not received any complaints.

Carolyn Simmons, who is part of the family who owns the property where the church is, stated that the church has been a good tenant and they would like to continue the relationship. They have not had any problems. This is the third time that they applied for a conditional use permit. Ms. Beatty said that staff is recommending the same approval period.

Public testimony was called for. No public testimony submitted.

Mr. Sadoff asked staff on the performance standards # 8. It says that the permit shall be limited to five years duration, May 23, 2012, with the Board of Zoning Adjustments option to review and re-hear it after one year to consider modification of the conditions of approval. He asked if this Council is also part of that process. Ms. Beatty said that this is something that the WBZA does occasionally. Sometimes they opt not to hear if they have not had any complaints. She told Mr. Sadoff if he wants to be part of that process, staff can add that into conditions of approval if you want to hear it again.

Mr. Nielsen asked Ms. Beatty if it was possible to extend this permit to 10 years. Ms. Beatty said yes.

Ms. Adesanya said she supports extending the permit to 10 years.

Ms. Adesanya moved to approve Conditional Use Permit, C-8583 with Planning considerations and recommendations except that performance standard # 8 be modified to recommend that the permit should be 10 years duration. Mr. Sadoff seconded. Motion carried 6/0/1 with Mr. Frank excused.

3. **VARIANCE, V-12061 – SEAD SISIC-** Application to allow a 6' high fence where 4' is the maximum and to allow an accessory structure in the front half of the lot in an "R-1-RV" (Single Family Residence, Recreational Vehicle) District, located at 18658 Crest Avenue, northeast side, 440 feet northwest of Titan Way, in the unincorporated Castro Valley area of Alameda County, and designated Assessor's parcel number: 084B-0370-007-13.

Ms. Beatty presented the staff report. She stated that staff was able to make the findings for the 6 foot fence height the unusual circumstances on the property being the home is constructed at the back of the lot so the front yard essentially serves as the back yard. Staff feels that the privacy afforded to the property

owner by a 6 foot fence essentially for their backyard area is appropriate, however, for the accessory building, staff was not able to make the findings. Staff recommends approval for the fence but not for the accessory structure.

Sead Sisic, applicant, stated that he bought the house 4 years ago and it was in very bad condition. He redid the sidewalk and built the fence. John Torentino inspected the property and said that everything was OK. He said he did not know that he needed a permit for the gazebo.

Mr. Nielsen asked Mr. Sisic if the gazebo could be moved. Mr. Sisic said there is no space where to move it.

Ms. Miraglia asked Mr. Sisic (showing one of the pictures) if that part was already there and if he just added on the front part of the accessory structure. Mr. Sisic replied that the fence was there before and there were bushes.

Mr. Moore and Ms. Sugimura asked Mr. Sisic if everything, the gazebo included, were there when he bought the house. Mr. Sisic said yes.

Mr. Moore asked staff that when Mr. Sisic bought the property if he expanded an existing use and if it could be considered pre-existing non-conforming. Ms. Beatty replied that it does not matter if the previous owner built it.

Public testimony was called for. No public testimony submitted.

Mr. Moore said that Mr. Sisic's option is that he could move it and solve the problem.

Mr. Nielsen said that he is concerned that the fence is 6 foot high and when he backs out of there he cannot see oncoming traffic. He realizes that there is a privacy issue but it is dangerous for neighbors.

Ms. Miraglia suggested that the applicant puts some landscape where the fence is. She would like to see this front extension gazebo taken off.

Ms. Adesanya asked staff how close we would get to making the findings for the variance if we got rid of the sight distance problem. Would we then have the 30% issue in terms of special privileges.

Mr. Moore said that the staff planner was able to make the findings for the six foot height fence on the property line which deals with sight line issue. There are sight issues if the variance is approved. He asked staff how were the findings made for that. Ms. Beatty said that she would disagree with finding # 3.

Ms. Henninger reminded council members that there are ordinances related to pools, and a six foot fence would not be available to the public.

Mr. Nielsen said that setting the fence back would eliminate the traffic answer and if there is a gazebo there, you would have to look at the 30% yard requirements to see how much

Mr. Nielsen said that the applicant has no choice. The pool is there and nobody has a problem with the fence.

Ms. Beatty and Ms. Henninger said they disagree with the report. Ms. Beatty said we can take it to Public Works to see if they have any ideas as far as having the fence angled back.

Ms. Miraglia suggested that the applicant move the fence back.

Mr. Nielsen said that the choices are the Council can approve it with the traffic and the fence consideration taken care of.

Mr. Moore said that if the issue of sight could be handled some other way because it is a safety issue. The issue of aesthetics is different.

Mr. Nielsen told Mr. Sisic to work with Public Works and Planning to see if they can solve the problem and then bring it back. Line of sight is a safety issue on the street itself. He told Mr. Sisic to come back with a design that will solve serious issues.

Mr. Moore asked staff to clarify the findings on the variance for the height. Ms. Beatty replied that there are certain circumstances where we have seen a health and safety issue.

Ms. Miraglia said that even that would be a variance because it sits in the front yard.

Mr. Sisic said that the Public Works inspector was there and did not complain about anything.

Mr. Nielsen told Mr. Sisic that the item will be continued to give him a chance to work with Public Works and the Planning Department to try to solve the problem.

4. **TENTATIVE PARCEL MAP, PM-9416 – AMINI** Application to subdivide one parcel containing 0.37 acres into two lots, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 19823 Lake Chabot Road, west side, approximately 200 feet south of Somerset Avenue, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084A-0170-008-00.

Ms. Beatty presented the staff report.

Ahmad Amini, applicant, stated that he would like to subdivide the property into two lots for living spaces, nothing for business. His brother-in-law will occupy the second house.

Mr. Moore asked Mr. Amini that since this is only a two lots subdivision 16 foot paved driveway and asked if the Fire Department would allow a narrow driveway landscaping adjacent to the house. More landscaping and less concrete and still meet all the safety issues. Mr. Amini said he is willing to comply with the safety requirements from the Fire Department.

Mr. Nielsen said that it can be requested in the motion. The Council has approved driveways for a two lot split without a variance.

Public testimony was called for.

Debra Goldenberg, resident at 19760 Louise Court, expressed her concerns as far as privacy, having a two story building looking into her backyard that will change the property value. Two stories is out of scale for the surrounding houses. She requested some assurance that the 20 feet set back will remain. She said that Mr. Amini needs to put up a fence, the existing one is an open wire fence that is falling down. Also, there is a tree on her property line and she would like to keep it.

Dan, also a neighbor, said that his concern is with parcel 2, he asked the Council and the applicant to consider a set back from the north side property. Also, he is concerned about sun exposure, one side of the property is a parking lot.

Mr. Nielsen asked staff if the set backs are 20 feet for both structures. Ms. Beatty said yes.

Mr. Moore told the previous speaker that the zoning requirements are no different than would be in his own home, he can build a two story structure if he wants to. The applicant will enjoy the same rights and privileges than anyone in the area as long it is zoned the same. The Council can ask the applicant to increase the set back, but he meets all the guidelines.

Mr. Moore moved to approve Tentative Parcel Map, PM-9416, with staff considerations and modification to possibly re-visit the width of the driveway to try to reduce it if possible to provide additional landscaping on parcel 1. Ms. Adesanya seconded. Motion carried 6/0/1 with Mr. Frank excused.

F. Open Forum

Susan Watkins, resident at 20112 Redwood Road, stated that she has a totally flat lot listed, located on Redwood Road. She would like to split it into two parcels.

She would like to leave the existing home in the lot that is sort of in the middle. She met with Phil Sawrey-Kubicek, who looked at some drawings and he said they looked OK to him. She also met with Bob Bohman, the Fire Marshal, who also looked at the drawings and did not seem to have a problem. The lot is a certain width in the front and then narrows down in the back of it. The new structure would be in the back. There is one point where the corner of the existing house and the corner of the fence are only 12.5 feet wide. Both of them had no problem with that. They told her to bring it before the MAC to get an opinion.

Mr. Nielsen said it would not require a variance. Council members discussed the location of the driveway. Mr. Moore told Ms. Watkins to go back to the Planning Department and talk to Mr. Sawrey-Kubicek to see if staff can support make the findings. Mr. Sadoff asked Ms. Watkins if she could alter the design to make the driveway on the other side of the house straight. She said no.

G. Chair's Report –

Mr. Nielsen spoke about the Castro Valley General Plan meeting regarding the western boundary. He met with County Planning Alex Amoroso and Lou Andrade. In fairness to the residents up there, and rather than trying to create a situation where a situation does not exist, he found out that several property owners have not been notified that the border changed, that area has been included in the 1985 Master Plan and the one previous to that. He spoke with Chris Bazar about having a joint meeting with the neighborhood, also inviting people from the Eden Area Plan to see if the neighbors want to remain in Castro Valley or stay with the Eden Area Plan. They chose a neutral ground, a church where people can meet. The meeting will be in two and a half weeks. Planning will conduct the meeting to see how much interest there is in adjusting the western border of the Master Plan. If the area is adjusted, it is going to cost money and time. If the consensus is to leave it the way it is, we will move on and the Planning Commission will hear the Eden Area Master Plan and either approve it or disapprove it. Castro Valley will continue on with its own Master Plan approval process.

Ms. Sugimura said she spoke with several residents that were not included in the notification regarding the boundary change.

Mr. Moore said that there is an individual who is very much an advocate in that area for that change. We were informed at the last meeting that there is a person that is trying to push this thing through, and this person asked if the residents are going to be given one opportunity to show up and vote.

Ms. Nielsen said that what the Council is trying to do is to notify everyone that was notified initially. He said the Council is trying to figure out if there is interest in doing it. The Council needs to take care of that obligation.

Ms. Adesanya suggested to encourage people to submit written comments.

Mr. Moore said there has never been much of an interest.

Mr. Nielsen said the Council is looking at the mailing list to make sure we have included as many people as possible.

Ms. Miraglia asked why is the Council doing a separate meeting. It is going to have to come back to MAC because we all voted to include it in the general plan. If we are expected to go to this other meeting on neutral ground, the decision will be made here.

A discussion ensued among council members whether there needs to be a MAC special meeting about boundaries issues.

Ms. Adesanya encouraged staff to be clear that the school district boundaries have nothing to do with the Castro Valley-Eden Area. Ms. Miraglia said that also it has nothing to do with property value.

Ms. Henninger said that it will be a CVMAC special meeting.

H. Committee Reports

Ms. Sugimura spoke about the Eden Area Livability Initiative. She said that the reason she got involved with this is that this gives all of us an opportunity in two ways: it gives the unincorporated areas a chance to come together in a larger group to have a stronger voice as a resident or as a person who has a business in Castro Valley. It gives them an opportunity to take a look at the future quality of life in Castro Valley.

- **Eden Area Alcohol Policy Committee**

Mr. Nielsen said that at the next meeting, the alcohol fee ordinance will be discussed as well as the explanation as far as the cost of the program. We are getting reports from the Sheriff's Department about crimes involving alcohol. The next meeting will be on Monday, May 21.

- **Ordinance Review Committee**

Ms. Miraglia said that the Committee review over secondary units but no decisions were made. In 2003, the State mandated a new law for secondary units and if your jurisdiction does not have one adopted, it falls to this. We are 4 years behind getting the secondary units ordinance up to date. Also, the discussion included density, aesthetics, emergency access, set backs, floor

area ratio and what other jurisdictions are doing, but no resolution. More information will be provided at the next meeting.

Mr. Moore asked if the State mandates an allowable minimum area and the ordinance has still to be subject to the State requirements. He asked if the floor area ratio can be imposed.

- **Redevelopment Committee**

Ms. Miraglia asked Mr. Nielsen to give an update on the Redevelopment meeting regarding the Lake Chabot property. Mr. Nielsen said several things have come up. He asked if we could include the area close to Lake Chabot which is a consideration but also the area going south on A street to the Hayward border, that whole area back in there from the theater, the Japanese garden, the whole block, he asked if it could be included in Redevelopment. They are going to look at it. One significant thing about doing that is that the City of Hayward cannot annex Eden Area if it is in Castro Valley Redevelopment zone. Redevelopment members are looking at it and at the next meeting other areas will be discussed for consideration. He also said that Castro Valley needs a post office. Castro Valley does not have a site large enough to accommodate one. There are several units down there and low income housing is a concern; commercial property on the other side of A Street, between A street and the creek is a produce market, it is an eye sore. The other consideration is when the State of California realigns the on/off ramp for Center Street, the area behind the service station behind Grove Way, that area also is a candidate for commercial development, should that be included also. We asked each member of the Citizens Advisory Committee to look at possible areas to expand the area that they cover. It will be done one at a time.

Ms. Miraglia asked Mr. Nielsen if they studied the financial impact. Mr. Nielsen said there are funds for any particular project but they certainly do not want to annex a new area. When an area is included for the Redevelopment district increased taxes from that point on do not go to Redevelopment. Ms. Miraglia asked if it does not go into Redevelopment, where those tax dollars go. Mr. Nielsen said if anyone has any recommendation as far as additional property that seems to make sense to put in this category for study, to inform the CAC (Citizens Advisory Committee).

I. Staff Announcements, Comments and Reports –

Mr. Nielsen and the council members agreed not to have the next meeting on May 29. However, on Thursday, May 31 there will be a special meeting on boundary issues.

J. Council Announcements, Comments and Reports

K. Adjourn

The meeting was adjourned at 8:12 p.m.

Next Hearing Date: Tuesday, May 29, 2007