

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL
Draft Minutes for January 28, 2008
(Approved as corrected February 25, 2008)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:00 p.m. Council members present: Jeff Moore, Chair; Cheryl Miraglia, Vice Chair. Council members: Andy Frank, Dean Nielsen, Dave Sadoff and Sheila Cunha. Council members excused: Carol Sugimura. Staff present: Tona Henninger, Jana Beatty, Bob Swanson and Maria Elena Marquez. There were approximately 60 people in the audience.
- B. Approval of Minutes of January 14, 2008**
Mr. Frank made a motion to approve the minutes of January 14, 2008 as presented. Ms. Cunha seconded. Motion carried 5/2/0 with Ms. Sugimura excused and Mr. Sadoff absent. (Mr. Sadoff arrived a few minutes after the motion was made).
- C. PUBLIC ANNOUNCEMENTS – None.**
- D. Consent Calendar - No Items.**
- E. Regular Calendar**
- 1. TENTATIVE PARCEL MAP, PM-8694 – TET –** Application to subdivide one parcel containing 0.66 acres into three lots, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 18821 Carlton Avenue, west side, approximately 400 feet south of Sydney Way, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084B-0420-007-00. **(Continued from January 14, 2008) Staff Planner: Jeff Bonekemper**

Ms. Beatty summarized the staff report. She stated that this item was on the last agenda but it had to be continued due to members of the public receiving the incorrect plans during the notification period. Public testimony was taken at the last meeting and there was some concern about the configuration of the access driveway and there is also an adjacent private cul-de-sac. Mr. Moore asked Ms. Beatty if there was any written document that required the applicant to have to complete the cul-de-sac. Ms. Beatty said not to her knowledge. Mr. Moore said that there is nothing in writing on record that requires the applicant to do that.

Mr. Moore called the applicant to the podium. Since the applicant was not present at the time, Mr. Moore put this item on hold until the time the applicant arrives. (This item was presented at 7:04 p.m. with Mr. Tet in attendance).

Mr. Tet said that the conclusion is to add the driveway at the north side and have 3 lots; the house at the center will remain. At the planner's request, he drew the plan. Mr. Moore asked Mr. Tet if he had had a chance to talk to his neighbors. Mr. Tet said he spoke with them before they left at the previous hearing.

Public testimony was called for.

Richard Villalobos, resident at 18785 Carlton Avenue, thinks that the private street will not be a solution to the problem. He is opposed to the project.

Jim Fisher, resident at 18851 Carlton Avenue, said that he is not opposed to this property being developed. He said that according to County records (copy of letter dated 11-21-1975 entered for the record) the status of public road could be given by the County by declaring it a County road and accepting it into the County Road System. Now, he is finding out that Mr. Tet does not want to put the other half of the road.

Dianne Fisher, resident at 18845 Carlton Avenue, is not against subdividing this property; however, she and her husband have not been able to reach any compromise with Mr. Tet. She is concerned about the impact on her driveway if that property is developed on the other side.

Leigh Kimmelman, resident at 18847 Carlton Avenue, said that Mr. Tet's proposal negatively impacts residents in Carlton Avenue. If this plan moves forward, the road will forever remain unfinished. When he purchased his property 3 years ago, he was told that if and when this property would be developed, Mr. Tet would have to give 25 feet for the County and it will become a full street. He is also concerned about traffic and safety issues. He requested the Council to reject the proposed plan.

Mr. Nielsen asked Mr. Kimmelman if Mr. Tet offered the possibility of giving less property. He said that Mr. Tet offered to give 9 feet on that side which would then leave his house 5 feet from the curb.

Samuel Tet, resident at 18821 Carlton Avenue and applicant's son, asked the Council not to allow the lot to be any less wide than it is because he does not want to live in a shotgun house.

Bruce Starr, surveyor of the project, said that he drew a proposal to widen the existing street to some sort of private street because a 50 foot wide County road which would be the minimum would only be 63 parcels and if you have a 20 foot front set back and 20 foot rear set back, it ends up with pretty shallow houses. The prior owner to Mr. Tet's property had a shallow piece of property and that probably was the reason they did not complete their half of the private street. They made some proposals to add parallel parking and convert that into more of a private street but they have not come to an agreement with the neighbors.

Mr. Tet said if his neighbors are willing to negotiate, he is ready to go ahead with his plans. The staff planner approved his plans of the private road. Mr. Moore asked Mr. Tet if he proposed this to his neighbors (looking at a map that Mr. Tet showed him). They saw it and did not like it. Mr. Tet said yes. Mr. Moore said that according to this document (County letter dated 11-21-1975) there is absolutely no requirement for them to widen the street to 50 feet. He also sees an option that seems very reasonable; finish it up. Also, a letter dated 1-30-07 from neighbors saying that Mr. Tet must agree to dedicate 25 feet of his property (the letter was entered into the record).

Mr. Sadoff asked if Mr. Tet was aware of this document. He is opposed to have the private street at the north side of the property. It is a bad idea to have asphalt on both sides. It will be intrusion to the parcels to the north.

A lengthy discussion ensued among council members. The consensus was that they can not support the project as it is; the neighbors clearly stated against the project. Ms. Cunha said she would like to see the street finished. Mr. Frank said he is more inclined to have the issue continued and bring it back before the Council so the Council can make a proper recommendation to the Planning Commission.

Public testimony was re-opened. Mr. Kimmelman, representing his neighbors, said that removing the house opens up the negotiations. If there is an agreement to move the house, they are acceptable to negotiating a reasonable thing.

Mr. Frank moved for continuance. Ms. Miraglia seconded. Mr. Tet should arrange for a meeting to review a couple of plans and what he has to offer. Ms. Miraglia said that the petition should be reasonable as well. Motion carried 6/1/0 with Ms. Sugimura excused.

2. **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. **Staff Planner: Jana Beatty. (Continued from January 14, 2008; Continued to February 11, 2008).**

3. **ZONING UNIT, ZU-2255 & TENTATIVE TRACT MAP, TR-7903, HTT ENG./JARVIS** - Petition to rezone one site containing approximately 1.02 acres, from R-1-CSU-RV (Single-Family Residence, Conditional Secondary Unit, Recreational Vehicle) to PD (Planned Development), allowing subdivision into nine lots, ranging from 4,000 to 4,260 square feet, and site specific standard setbacks, located at 4597 Edwards Lane, south side, approximately 0.25 miles east of Center Street, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 084C-1062-062-00. **Staff Planner: Jeff Bonekemper**

Ms. Beatty summarized the staff report. She stated that if approved, the project would require an Initial Study under the requirements of CEQA. Planning staff has brought the project before MAC for a preliminary review in order to address several issues arising with the proposal to better guide the applicant and staff.

Mr. Moore said that the Council is just taking testimony and getting general feedback.

Mark Jarvis, applicant, stated that it has been about a 14 month process with the Planning Department. They originally started with a much larger, denser project. They want to create a development that does not create too much traffic, addresses their needs of some density for a project and creates some affordable housing. They are open to hearing from the neighbors' concerns. He invited the neighbors to contact them because they have architectural and design ideas for the area. There will be a pass through to Paradise Park to allow people to be able to get to the park. They are also proposing to add to Paradise Park a play structure with swings, slides, also adding on the left hand side a signage that goes on the retaining wall to add to the value of the park. They are proposing to complete the pass through from Edwards to Paradise which was never completed when it was granted to Castro Valley back in the early 60's.

Public testimony was called for.

Janet Britt, resident at 4579 Edwards Lane, said that she is not opposed to the development but she is opposed to the rezone of the parcel. Some of her neighbors did not receive the notice about the hearing. She is concerned about traffic volume. Also, residents are concerned about the opening of the end over that field.

Thomas Caploe, resident at 19250 Rolling Hills Court, said he is not against the development but his biggest concern is the size of the proposed project. He asked for an opportunity to do some research regarding the CEQA study. He also would like to review the developer's application and the tentative zone changes. He asked if there is a proposed walk way through Paradise. He is also concerned with emergency vehicle access, yard setbacks and parking. He would like to review the geological and hydrological conservation, flora and fauna to see what the developer has proposed.

Earl Bedard, resident at 4549 Edwards Lane, stated that he did not receive the post card notice in the mail and said the notices in the telephone poles faded with the rain. He knew about the meeting through his neighbors. He said the neighbors did not have enough time to review the details of this project. He is concerned about traffic.

Mr. Moore asked Ms. Beatty to explain the notification process to the audience. She said that the standard notification is sent to residents living within 300 foot radius. Neighbors outside the 300 foot radius will not be notified. Neighbors can call the Planning Department and be placed on the mailing list for this project.

Luwana DeYoung, resident at 4594 Paradise Knoll, stated that she is not opposed to the development but she is opposed to the rezoning. She mentioned that back in April 2006 the tree service went to that property and started cutting all the trees. This was done without any notification because it is private property. It should remain zoned the way it was originally intended for a number of reasons because of the density involved. The owls, animals and wildlife have relocated as it is already. She said that a buffer between the park and make it less invasive into the park area and be in compliance with whatever the task force is hoping to develop for the water shed area.

Richard DeYoung, resident at 4594 Paradise Knoll, is concerned with the pass through. It is privately owned property over most of this land. This means that no property would have to be purchased from the owner to the north. He is also concerned about traffic.

Dan Gallagher, resident at 19256 Gliddon Street, stated that he is not opposed to the development. He said that the zoning has already been set up for the property. He asked the Council to deny the application in the interest of preserving the quality of life in this area.

Susan Levenson, resident at 4764 Rolling Hills Way, was concerned about making the development a public street not a private street; this guarantees access to the park. She is also concerned about safety issues and lot size. If lots become smaller, it means a detraction from their home values. Also, they need sidewalks.

Ann Simpson, resident at 4780 Rolling Hills Way, was concerned about traffic, safety and parking. She said that if lot sizes are reduced, it will set a precedent in the area.

Dee Donaldson, resident at 19286 Parkview Road, is opposed to the zoning change and also said that Parkview should not be opened to Edwards Lane. Also, she is concerned about traffic. She thanked the Council for helping her get some red paint at the curb on Center Street and Edwards.

Mr. Jarvis (applicant) responded to some of the concerns of the speakers. He said they wanted to make sure that everybody has enough parking for their units. He addressed the issue of traffic and said that according to the staff report, the Public Works Department has recommended only traffic counts for selected streets to better determine impacts. As far as the Fire Department is concerned, they found the access and turnaround to be adequate with the addition of sprinklers and hydrants. Regarding the trees, he said that they were cut before he purchased the property. He is willing to plant more trees that would add to the park. As far as private owned property for the driveway, having some easement that would be for the immediate surrounding neighbors they can use pass through without having made it public, it is for the immediate development. He acknowledged that the retaining wall is very large; it will add more privacy to the park; it has a lot of trees that hang over, telephone poles, broken fence; it is really bad looking. He is proposing that the retaining wall will actually have some decoration with the name of Paradise Park. He addressed the storm water issue by saying that the Planning Department made extensive revisions that made him completely design the storm water treatment. The house size was also addressed. They do not want to see a large house on a small lot. The other alternative was to go exactly with the zoning. Homes are two story, 4 bedrooms, 3 baths, 2400 square feet. Sidewalks will be addressed.

Mr. Moore asked Mr. Jarvis what the neighborhood gets in return, what specifically is the advantage of the community. Mr. Jarvis told Mr. Moore that he is only asking to this Council and the Planning Department exactly what has been approved for other projects with no exception. He offered to finish the street, to do the sidewalks, to add a signage to the park. He is willing to do what is necessary to improve the immediate area in order to get this approved.

Ms. Miraglia told Mr. Jarvis not to waste his time and money going in this direction. She would be opposed unless he changes to 6 homes instead of 9.

Council members Nielsen, Frank, Cunha, Sadoff and Moore concurred with Ms. Miraglia. The item will be continued to give the applicant and the neighbors an opportunity to get together and discuss the project.

4. **CONDITIONAL USE PERMIT, C-8444 - SURESITE CONSULTING GROUP, LLC/SPRINT/RAYMOND CHOY-** Application to allow continued operation of an existing wireless telecommunications facility, in a C-N (Neighborhood Business) District, located at 22253 Redwood Road, northwest corner of Grove Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 415-0100-054-00. **Staff Planner: Christine Greene**

Mr. Moore recused himself. Ms. Beatty summarized the staff report. She stated that the wireless facility is not proposing to change in any way.

Mr. Nielsen said that the antenna has been moved and it is very visible and ugly.

Rochelle Swanson, representing SureSite Consulting/Sprint, stated that this application was filed in 2005. She stated that there was a fire in the antiques store and it is her understanding that the County is trying to get it rehab and changed. The antennas were taken out of there. The applicant is not happy with the location of the existing antennas which are now located to the rear of the roof but will be located back into the sign structure once the building is repaired. The owner, Mr. Choy, is fixing the roof and repairing the building. They were able to keep the site up and were able to continue to provide service during construction. Sprint is asking to allow them to continue and meet conditions of approval, go back in that sign off as Mr. Choy finishes out his own building. Mr. Nielsen asked Ms. Swanson any time frame as to when the repair will be completed. Ms. Swanson replied that it is her understanding that the work will be done very soon. Mr. Nielsen asked Ms. Swanson if the owner has given her any indication. Ms. Henninger said that the building owner has been working with the Building Inspection Department.

Ms. Miraglia said she would not feel right approving the application when the owner is not in compliance with the Neighborhood Preservation Ordinance. She would want him to bring the property in to compliance with the Neighborhood Preservation Ordinance prior to approval of the CUP. She does not want to penalize Sprint. She is assuming that Mr. Choy has had some monetary compensation from Sprint. Ms. Swanson said that she will ask if they are allowed to continue operations. They need the height as they were originally approved since it is a very unique spot due to the topography and to continue with their operations in good faith.

Mr. Nielsen told Ms. Swanson the Council will consider a continuance so she can make sure they are in compliance. She agreed. Ms. Miraglia said that we don't want to go for an unlimited amount of time. Ms. Swanson asked if they could have a time limit included in the conditions of approval because the condition would provide a bit of stick with the property owner and Sprint. Ms. Beatty commented the time limit would give the property owner an incentive to get the work done and comply with the Neighborhood Preservation Ordinance. This would allow Sprint to move on with the project.

Public testimony was called for. No public testimony submitted.

Mr. Nielsen moved to approve Conditional Use Permit, C-8444 provided the antenna be enclosed as previously provided that the project is completed in 6 months before a return to the MAC. Mr. Frank seconded. Ms. Miraglia asked if it only applies to the antenna and the sign and not to the blight issue on the property.

Ms. Beatty said that any sort of non-compliance with the Neighborhood Preservation Ordinance will be followed up by Code Enforcement. Mr. Nielsen said that if it is not done in 6 months, they will have to come back. Mr. Nielsen said that the Council can approve as long as the property is in total compliance with the Neighborhood Preservation Ordinance.

Mr. Nielsen amended the previous motion. He moved for approval of Conditional Use Permit, C-8444 with the provision that the renovation be completed within 6

months or the application comes back to this Council for an extension of the approval of the antenna. Mr. Frank seconded. Motion carried 5/1/1 with Ms. Miraglia opposed and Ms. Sugimura excused.

- 5. PARCEL MAP, PM-9236 AND VARIANCE, V-12071 – BRIAN LESUR –** Application to subdivide one parcel containing 0.37 acres into two lots, with a Boundary Adjustment, and allow a 16'-deep front yard where 20' is required on Parcel 1 and a 0' street side yard setback where 10' is required on Parcel 2, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 19223 Carlton Avenue, west side, approximately 380 feet south of Massachusetts Street, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084B-0441-043-00. **Staff Planner: Andy Young.**

Mr. Moore noted that one of the applicants is in attendance (the applicant's sister had to leave because her mother suddenly got sick).

Ms. Beatty summarized the staff report. She indicated that a copy of the Settlement Agreement and Release was provided at end of 2007. Planning staff confirmed that the above mentioned document was identical to the copy received by this department in November 2007.

Brian Lesur, applicant, stated that staff planner Andy Young asked him to come. He said that his lawyer sent a copy of the legal documentation. This is a family dispute so he was advised by his attorney not to come. However, he agreed to sign anything that is needed to make this go through. He does not want to upset his neighbors. He has lived at this address for 10 years and would like to be neutral on this. He will sign anything if the Council agrees to let the lots split go through.

Mr. Moore told Mr. Lesur that after lots of public testimony, the problem with the subdivision and the lot size, he has an option to solve the problem but there is resistance among family members. The expectation that the Council has is that the Council will do a revision that is going to make the rear lot bigger and the other one smaller. The Council has not seen that. He asked Mr. Lesur his comments on this. Mr. Lesur said that to his knowledge, the upper lot, (owned by his sister), if she gives enough footage to satisfy Council requirements, can go through.

Mr. Moore asked Mr. Lesur if the lot on Carlton could be made smaller and so could the lot in the back so everybody gets a little. Mr. Lesur replied that he actually gave up his parking so he only has one parking spot now. Mr. Moore told Mr. Lesur that this is the problem and he disagrees with that. He understands that this is a family dispute but the Council is looking at land use issues. Personal issues can not be taken into account by the Council. There is a substandard lot and a way to solve it. He told Mr. Lesur that if he is not willing to solve it because of whatever reasons, the Council will take a vote on it.

Mr. Nielsen said that the Council can not approve a substandard lot. One of the reasons is that the front and the back parcels need to give up some square footage so the center lot is consistent with the neighborhood. If that does not happen, it will not be approved. Mr. Moore told Mr. Lesur that the next time that the Council see this, if the middle lot is not consistent with the neighborhood, it will probably be denied.

Public testimony was called for.

Dan Grimes, resident at 14221 Carlton Avenue, stated that he submitted a letter today with neighbors' signatures that are opposed to the project. He also wanted to clarify one of the staff reports where Andy Young indicated in one section that several people were in support of the subdivision and he mentioned 2 individuals and Hollis Lesur, one is her ex-husband and the other is her ex-boyfriend. They are not immediate neighbors. Mr. Moore asked Mr. Grimes if he just wanted the lot to be consistent with the zoning ordinance. Dan Grimes asked why they first asked for a secondary unit and then suddenly they wanted to separate it; now all of a sudden then want to change the whole thing. Mr. Nielsen said that as he recalls, Hollis Lesur wanted to own her own property.

Ms. Miraglia made a motion to continue Parcel Map, PM-92336/Boundary Adjustment, BA-15-07 and Variance, V-12071. Mr. Sadoff seconded. Motion carried 6/1/0 with Ms. Sugimura excused.

6. **TENTATIVE PARCEL MAP, PM-9458 – SOWUNMI** – Application to subdivide one site containing .40 acre into three parcels in a R-S-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4175 Seven Hills Road, south side, 480 feet east of Parsons Avenue, Castro Valley area of unincorporated Alameda County, Assessor's Parcel Number: 084D-1342-008. **Staff Planner: Andrew Young (Continued to February 11, 2008)**
7. **SITE DEVELOPMENT REVIEW, S-2144 – LONGS DRUG STORE** ~ Petition to allow a drive-thru pharmacy window, in the *Castro Valley Central Business District Specific Plan* "Sub-area 10") District, located at 3667 Castro Valley Boulevard, south side, approximately 570 feet east of Redwood Road, Castro Valley area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 084C-0621-001-04. **Staff Planner: Howard Lee**

Ms. Beatty summarized the staff report. She noted that the Redevelopment Agency would not necessarily object to the installation of a drive-thru pharmacy as long as the current proposed site changes do not preclude consideration of working towards realization of the future plans for this catalyst site as outlined in the Strategic Plan.

Shannon Carroll, with PSM Architects and representing Longs Drugs, stated that basically as an added service to its customers, Longs Drugs would like to add this drive thru window. It will only be open the same hours as the pharmacy. If you see the elevations in the packet, the new construction would match the existing construction with the same details and materials. She noted that there is a minor error in the packet that describes the new addition as brushed aluminum cylinder parapet. It should read: "brushed aluminum cylinder down light" and "parapet with white textured finish ..."

Mr. Moore said that he generally does not have a problem with the use of a drive-thru window. Mr. Frank said he thinks it is an excellent project.

Mr. Nielsen asked Ms. Carroll what is the shaded area to the south of the drive-thru. Ms. Carroll said it is existing landscaping. Mr. Nielsen asked how many parking places would be displaced. Ms. Carroll said 13. Mr. Nielsen is concerned about losing parking spaces.

He said that the Council's purpose is to help promote business in Castro Valley. He told Ms. Carroll that she can eliminate the landscaping.

Mr. Sadoff asked Ms. Carroll how often is the parking lot at 100% capacity. She said not often, if ever. He is concerned about losing landscaping near the western area. Ms. Carroll said "it won't be lost".

Ms. Carroll said that they recently learned about a neighbor of the property that has some concerns and they discussed them with him. In addition to this project stop and right turn only arrow, they would like to add a sign exit. It would be right at the end of the drive-thru.

Mr. Moore asked Ms. Carroll if there is going to be a gate there that prohibits people to go back there. Ms. Carroll said that it has not been discussed.

Public testimony was called for.

Sam Alikian, property owner at the side of Longs, said that his main concern is traffic to his side, trucks loading on both sides, the way they do it now is his side only. Also, people go and skate there. He asked if Longs can put a no skating sign or a fence.

Mr. Frank asked Mr. Alikian if that is the area for the garden center. Mr. Alikian said yes.

Mr. Sadoff said it is a great idea to put the drive-thru. Also, there is another advantage this gives increased visibility to that side of the building.

Ms. Miraglia said a 24 hour pharmacy is needed in Castro Valley. Longs Drugs is missing an opportunity here.

Mr. Sadoff moved to approve Site Development Review, S-2144 with Planning considerations and the installation of a "no skate boarding" sign. Ms. Cunha seconded. Motion carried. 6/1/0 with Ms. Sugimura excused.

F. Open Forum – None.

G. Chair's Report – None.

H. Committee Reports

- **Eden Area Alcohol Policy Committee**
- **Redevelopment Citizens Advisory Committee**
Mr. Nielsen informed that there will be a meeting on Wednesday, January 30.
- **Ordinance Review Committee**
Ms. Henninger informed that the January meeting has been cancelled.
- **Eden Area Livability Initiative**

I. Staff Announcements, Comments and Reports

Ms. Beatty asked council members if all agree that future meetings start at 6 p.m.
Ms. Henninger said that the next agenda is pretty full so the Council might want to consider having a special meeting. Mr. Moore suggested to put this issue on the next agenda for discussion.

Ms. Henninger said that the Planning Department is considering changing the microphones in the Board Room at County's expense.

J. Council Announcements, Comments and Reports

Ms. Miraglia informed that the China Bowl never did the side and the landscape is all weeds. Also, the shopping center at Heyer and Center, there is a store that has a rolling down metal thing and asked whether or not they have an approval. She wanted to know when is that property supposed to be finished since there is still no signage on any of those buildings.

Mr. Moore said that the signage is not part of their application. It is supposed to be a final redesign. The tile color selection was not what the owner wanted. They are trying to go back and see what to do to change that color before putting the signage. The Redevelopment Agency was not able to accommodate, for whatever reason, and that was a shame because it is such a focal point.

K. Adjourn

The meeting was adjourned at 8:56 p.m.

Next Hearing Date: MONDAY, FEBRUARY 11, 2008