

**CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL**  
**Minutes for March 10, 2008**  
(Approved as presented April 14, 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, Carol Sugimura and Dean Nielsen. Council members excused: Sheila Cunha and Dave Sadoff. Staff present: Tona Henninger, Jana Beatty, Bob Swanson and Maria Elena Marquez. There were approximately 15 people in the audience.

**B. Approval of Minutes of February 25, 2008**  
The minutes were continued to the next meeting.

**C. PUBLIC ANNOUNCEMENTS - None**

**D. Open Forum – None.**

**E. Consent Calendar –**

**1. SITE DEVELOPMENT REVIEW, S-2151 – BERKELEY SIGNS –** Application to allow new signage in a CVCBD Specific Plan – Sub 9 (Castro Valley Central Business District Specific Plan, Sub Area 9) District, located at 21168 Redwood Road, east side 120 feet south of Pine Street, unincorporated Castro Valley area of Alameda County, bearing Assessor’s designation: 084C-0605-011-03. **Staff Planner: Richard Tarbell.**  
**This item was moved from the Regular Calendar.**

**Mr. Nielsen moved to approve Site Development Review, S-2151. Ms. Miraglia seconded. Motion carried 5/2/0 with Ms. Cunha and Mr. Sadoff absent.**

**F. Regular Calendar**

**1. VARIANCE, V-12104 – KENNETH A. KREMER –** Application to allow expansion of a nonconforming use (2 story secondary units with reduced set backs) with the construction of a detached garage, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 22440 Charlene Way, east side 200 feet south east of Redwood Road, unincorporated Castro Valley area of Alameda County, bearing County Assessor’s designation: 416-0130-001-00. **Staff Planner: Christine Greene.**

Mr. Moore informed the people in the audience that this hearing is for this variance application and that the Council will not be taking testimony of any type on the subdivision.

Ms. Beatty summarized the staff report. She made it clear that there is no expansion of the non conforming structure itself and this application is not related to the sub-division. Staff is recommending approval.

Mr. Nielsen asked if there is pending action on this property. Ms. Beatty said yes, it will be heard by the WBZA on Wednesday, March 12. Mr. Nielsen said the Council does not know how this building will affect the proposed subdivision. The garage as proposed here will be in an area that may conflict with the other parcel, if the parcel map is approved by the Planning Director. Mr. Nielsen said that the Council does not have a way of knowing

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whether it will comply or not. Mr. Moore said that the Council has not had a situation like this one before.

Kenneth A. Kremer, applicant, said that he submitted the application for a 2 car garage. This proposal and application is an independent project and totally incompatible with the concurrently proposed parcel map and variance.

Ms. Miraglia asked Mr. Kremer if it is incompatible, if the other one is approved if this is not going to be built. Mr. Kremer said that it is right in the middle of the proposed driveway. Mr. Moore asked Mr. Kremer what will happen if the subdivision is approved. Mr. Kremer said that he has the option to build a 2 car garage. Mr. Moore told Mr. Kremer that he has the legal right to do both. Ms. Beatty said that she is not sure if a condition would be necessary for what Mr. Kremer is saying will be in the middle of the driveway. Mr. Kremer requested the Council to consider only this application. Mr. Moore said this is an unusual circumstance. Mr. Kremer said that if the parcel map were approved, the approval conditions having that driveway as proposed, the driveway as proposed in the parcel map could not exist.

Mr. Frank suggested to move forward on this application as it stands.

Ms. Miraglia asked Mr. Kremer why he wanted to go with this variance when he has not heard about the other one. Mr. Kremer said he is not optimistic that he is going to get the lot split, so he and his partner decided to explore other uses on the property. He is pursuing a simple 2 car garage addition.

Public testimony was called for.

Gail Moore, resident at 22499 Charlene Way, is concerned about the side set back and wants to know what the garage is going to be for. She is opposed to the garage.

Gordon Burkhart-Schultz, resident at 22525 Charlene Way, said that in order to consider this variance, the WBZA requested specifically that the existing 2 car garage be inspected to see if it was safe. Ms. Beatty said that the WBZA has not taken action but received testimony. Mr. Burkhart-Schultz asked if the property has been inspected to warrant a variance. Ms. Beatty said no, and this application is different and is for the new structure.

Mr. Moore asked staff if Mr. Kremer got this variance and builds the structure, how this application for subdivision decided not to build the garage, will he still have a variance for the other building that could be applied for a future application. Ms. Beatty said that one can make the argument that findings could be similar because it is an existing structure; however, it is a separate application and we have to look them individually. Mr. Moore said that this is the application the Council has before it now, and what may happen is mere speculation.

Mr. Burkhart-Schultz asked if the Council is sufficiently satisfied that the building has been inspected and is sufficiently safe to warrant a variance. Mr. Moore said that there is a recommended condition of approval that the application meets requirements of the Building Inspection Department.

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James Faulkner, resident at 22506 Charlene Way, spoke for himself and also representing Lillian Barrett, and made comments related to the subdivision. Mr. Moore reminded him that his comments had nothing to do with this variance.

Karolyn Burkhart-Schultz, resident at 22525 Charlene Way, said that her questions were already answered.

Larry Kuzni, resident at 22450 Charlene Way, said that he is concerned about the foundation of that house; his yard has a shallow foundation. Mr. Moore told Mr. Kuzni that it is a totally detached garage, 75 feet away from that structure, it is not touching it. Mr. Kuzni said that it still bothers him. He complained that Mr. Kremer never cleans the property. Mr. Moore told Mr. Kuzni that this is not the right forum for that type of concerns and that any questions regarding these concerns, he can address the Building Department as far as building code issues, or grading issues, to go to the Public Works Agency. Mr. Kuzni said that Mr. Kremer runs a business from his home.

Ms. Henninger told Mr. Kuzni that Mr. Kremer cannot run a business from his home. Mr. Moore said that is on a complaint basis. If someone has a complaint, it will go to Code Enforcement. All uses in the county are protected through a complaint process.

Bridget Paquette, said that she is concerned about the granny unit because it was built without permits. She asked why this small little house needs another garage. She said that the people that live in that house have a glass company and they store their supplies there. She is concerned that the variance for the granny unit needs to be looked at. The nursing home facility owns the property.

Public testimony was closed.

Mr. Kremer addressed Ms. Moore's concerns and said that he has no intention to run a business. Mr. Lucas's son lives at the house and is employed by a glass company other than that of his father. The younger Lucas, as part of his job, drives a glass truck to and from home. Mr Lucas Sr. has a commercial leased property from which he operates his business. No business will be operated out of the property. Regarding the BZA issue with Mr. Burkhart-Schultz, he said that it was postponed and there was no final determination and this variance is a different application.

Mr. Moore requested Ms. Beatty that for the benefit of the audience, to explain the variance for clarification. Ms. Beatty said that the only reason that the variance is required is because it is illegal non-conforming on the site. A new building could have been approved. He is not proposing any further expansion to the building.

Ms. Miraglia suggested to change the wording to say: "expansion of a non-conforming unit".

Mr. Nielsen said that it bothers him that all of the driveways in this area are gravel. Mr. Moore said that in the industry standard, the whole civil engineering world is going to pervious pavement in order to comply with other things.

Mr. Frank concurred with Ms. Miraglia and Mr. Nielsen. The only issue he sees here is a core issue and it is an important one. He said that it is confusing the way it is worded.

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Mr. Nielsen made a motion to approve Variance, V-12104, with the understanding that the garage be located in a position where it would be conforming with the lot split Ms. Beatty said that each application is separate.

**Mr. Nielsen made a motion to approve Variance, V-12104 with the condition that the driveway be paved with asphalt. Mr. Frank seconded. Motion carried 5/2/0 with Ms. Cunha and Mr. Sadoff absent.**

2. **SITE DEVELOPMENT REVIEW, S-2151 – BERKELEY SIGNS** – Application to allow new signage in a CVCBD Specific Plan – Sub 9 (Castro Valley Central Business District Specific Plan, Sub Area 9) District, located at 21168 Redwood Road, east side 120 feet south of Pine Street, unincorporated Castro Valley area of Alameda County, bearing Assessor’s designation: 084C-0605-011-03. **Staff Planner: Richard Tarbell. This item was moved to the Consent Calendar.**

G. **Chair’s Report** - None.

H. **Committee Reports**

- **Eden Area Alcohol Policy Committee**
- **Redevelopment Citizens Advisory Committee**  
Mr. Nielsen said that there will be a meeting on Wednesday, March 12.
- **Ordinance Review Committee**
- **Eden Area Livability Initiative**

Ms. Sugimura said that the Community Charrette will be on April 5, from 9 a.m. to 3 p.m. at the Eden United Church of Christ in Hayward. There will be 4 sessions in March by topics. If someone is interested in any of the issues raised in the October 6, 2007 meeting, should attend one of the sessions.

Mr. Moore had a procedural question involving this project on a technical basis. He is assuming just taking public testimony for quite a while and an action would be taken, if it is appropriate to be the seat of the chair hearing public testimony and no action. Ms. Beatty said that it depends on the type of application. Actually at that time we didn’t take any action, before the project died, this time around we have an SDR and a General Plan.

I. **Staff Announcements, comments and Reports** – None.

J. **Council Announcements, Comments and Reports** – None.

K. **Adjourn**

The meeting was adjourned at 6:38 p.m.

**Next Hearing Date: Monday, March 24, 2008**

