

**CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL**  
**Minutes for September 8, 2008**

(Approved as presented September 22, 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, Sheila Cunha, Dean Nielsen, John Ryzanych and Dave Sadoff. Council members excused: none. Staff present: Tona Henninger, Sonia Urzua and Maria Palmeri. There were approximately 15 people in the audience.
- B. Approval of Minutes of July 28 and August 25, 2008**  
**Member Miraglia moved to approve the minutes of July 28, 2008 as submitted. Member Cunha seconded. Motion carried 6/1. Member Nielsen moved to approve the minutes of August 25, 2008 as submitted. Member Ryzanych seconded. Motion carried 7/0.**
- C. PUBLIC ANNOUNCEMENTS / Open Forum**  
Mr. John Aufdermauer, resident at 17580 Madison, asked council for input on an existing project he has on Madison. He described the project as a new single family dwelling to be built with no variances. He wants to minimize grading as much as possible. The Chair said they can't comment on the project, but he understands that there have been significant changes and new rules for grading and you are trying to get an assessment from council. Member Frank said that these questions should be referred back to the Grading Department and Engineering Department in Public Works. The Chair informed the applicant that he could bring it back as an informational item only. The Chair said the council can't comment because of Brown Act rules.
- D. Consent Calendar – None**
- E. Regular Calendar**
- 1. PARCEL MAP, PM-9329 – NOOR WEISS** – Application to subdivide one approximate 1.03 acre parcel into four parcels with net lot areas between 6,430 and 8,250 square feet. Pedestrian and vehicular access would be provided from Crest Avenue. Each lot would accommodate one new single family home. No buildings are proposed for construction; only infrastructure necessary to serve individual lots. The project is located at 18698 Crest Avenue, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 84B-370-6. **Staff Planner: Phil Sawrey-Kubicek**

Sonia Urzua introduced Kevin Collin, the consultant planner for the project. He gave a power point presentation. He described the site as a flag lot, comprised of a 45' wide stem that connects to a large, generally rectangular area with dimensions of approximately 240 feet by 150 feet. The proposal is to subdivide this lot into four parcels. Previously the application was for five parcels. The applicant is requesting approval of this subdivision, grading, access road construction, and utility installation. There are no homes proposed at this time. The planner shared an aerial photo showing an overlay of the separate parcels and hammerhead turnaround.

In June 2006 the Council expressed concern with the following:

1. Clarification on potential contamination from clandestine methamphetamine producing lab – The applicant has addressed the toxic clean up of the property to the County's satisfaction.
2. Peer review of geotechnical report – This has now been finalized.
3. Initial Study to assess potential environmental effects – The Initial Study is now available for public review.

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4. Meeting with the neighbors – A letter from the applicant was sent to residents within a 300 foot radius inviting them to a meeting to discuss the project. The applicant said that at the time he received one reply.

Neighbors at the time also expressed concern with drainage, fire hazards, geological hazards, traffic, privacy, noise and tree removal. All of these have been addressed by a Mitigated Negative Declaration (MND) and concluded that all of the potentially significant environmental effects can be mitigated to a less-than-significant level. The applicant will make sure that there are no asbestos before demolition of the structure on the site. The property does contain eucalyptus trees which will be trimmed. In regards to the hydrology on the site, the applicant will follow the County's Storm Water Program which is now handled by the State Regional Board. Concerning noise, there is a mitigation measure addressing construction time periods, seven days a week, which is regulated by the County.

For those in the audience that would like to submit comments to the MND and Initial Study in writing, please do so before September 29, 2008 deadline so County staff can respond to your concerns.

Member Miraglia questioned the planner on the 2006 concern expressed by the neighbors in regards to grading and retaining walls. She did not see it addressed in the report. Member Nielsen asked if he had the measurements for the retaining walls. The Chair pointed out that the plan shows all retaining walls to be from 3 to 4 feet in height. Mr. Sadoff asked if the larger lots were excluded from the lot size consistency calculations. The Chair concluded that lots over 12,000 square feet had been excluded from the calculations. The Chair stated that he was pleased to see the table and calculations, as in the past these were not provided.

Discussion ensued by council members on previous plan and current plan. Council members commented that the current plans are much better as it follows the contour of the lot with retaining walls being significant lower in height.

The applicant, Mr. Noor Weiss approached the podium and said that he can't add anything else to the presentation but will answer questions. He said the engineers were also present to answer any questions from the council.

Member Ryzanych questioned the guest parking on Crest and distance from homes. The hill is 6 to 8 feet of climbing. The applicant said this is the best situation for guest parking. The applicant mentioned the trees and how there was a lot of objection to getting rid of them. The applicant offered to replace them with other trees. There is a concern with fire danger to the homes. Sonia Urzua said there is not a replacement policy for trees but the applicant should take into consideration the esthetic value to the property, nesting potential, habitat for bird species and that is something the neighbors want to preserve.

Member Sadoff questioned the outreach to residents within the 300 foot radius. The applicant said he sent letters on January 10, 2007, but only received one complaint in regards to drainage. On August 1, 2008 he again sent out letters to adjacent neighbors within the 300 foot radius and only received one response from a neighbor concerned with protection from cars sliding off the road and hitting his house.

Public comment was called for.

The Chair read into record the note from Stefan Zavala, resident at 2524 Titan Way. He expressed concern with storm drainage and stated that it should be directed to the street sewer on Crest Avenue. Instead of water from gutters and roofs going into neighbors property it should be directed to the sewers. He also expressed concern with hours allowed for construction so as not to disturb the neighbors. He also asked that the property owner contact him before attempting to alter existing fencing on his property.

April Stewart, resident at 18755 Crest Avenue, expressed her concern with the calculations on the basic map for the proposed project. The square footage on the MND is 29,624 and the actual exhibit is 29,324, there is an extra 300 square feet added to the house pads. As the dialogue states the applicant is working with 41,850 square feet which only leaves 12,226 square feet for roads, parking, easements, and setbacks, and it does not seem to be the right square footage. She expressed concern with the possibility of having the wrong topography map and therefore the wrong description/calculation of how much land will be used. She requested that County staff check the numbers. In regards to staging she would like to have it away from the Day Care Center on Crest and Nile because of the dust and other pollutants to the children. The other concern is the drainage from this property, there should be mitigation from the developer to install sidewalk and gutter in expectation of the "100 year rains" and better control of the water coming off of this lot. On Crest not everyone has sidewalks and with a continuous sidewalk the water can go right into the drains. On the removal of the trees there should also be mitigation and a landscape plan for the site. She would also like to see landscape for the site. It should be installed and be at a higher priority so that when it rains the runoff can be controlled. Trees soak up water in the roots and helps from stop soil slippage.

Dr. Marianne Nolte, resident at 18754 Crest Avenue, stated that she lives one house below from this site and at the last meeting brought up concerns with erosion close to her back fence. She also thanked the council members for remembering the issues from the last meeting and bringing up the erosion. She expressed concern about Mr. Weiss' community outreach efforts. This property has been neglected, the applicant has not taken care of drainage, no good faith, nothing has been done. Does the County have the manpower to follow up on all the issues on the report? He did not work with the neighbors. She showed pictures of the property. The property is not being kept, weeds are overgrown, the pine trees are infested with pine beetle and now is dead. An arborist said this tree has infected the neighboring trees. Two members of my home now have respiratory illness, they can't take the pollutants from the construction. There is no space on the street for guest parking. History tells us that the applicant does not care about the Crest Avenue neighborhood and can he be trusted.

Gina Gatto, a resident at 18755 Crest Avenue, across the street from this site. She would like to see three homes built, with more parking at the top and less overflow of parking on the street. The proposed parking on the street faces directly into the neighbors home. The lights will be shining right into their home. She also questioned the fiscal soundness of the project. There is some suggestion of foreclosure of the property. Does not want to see a project started and stopped which could worsen the drainage issue for the property. She would like to make sure that the County keeps track of their working hours and a name and phone number for the neighbors to call. She would like to see the applicant penalized if they do not abide by the schedule. Would like hours shortened and no work on the weekends. She would like to know if there will be a homeowners association and who does the upkeep for the private road.

Bill Wentz, resident at 18611 Laredo Road, said he does not recall any outreach done by the applicant. He heard about the project from a neighbor who lives on Crest. He is a general contractor who works on infill projects. He expressed concern with the hours of work. Infill projects are treated different because one has to be considerate of the neighbors. He schedule his crew for morning indoor work and no Sundays, even though the ordinance allows it. 82 hours a week is too much, this is a longterm project and two years of noise to the neighbors. The County does not have the manpower to police the hours of work. The parking situation on the Hillcrest project down the street was a problem, the first resident that moved in had 11 cars. A lot people use their garage for storage. Parking is inadequate. The hours of work can be changed not to bother the neighbors.

Kathy Beringer, resident at 18618 Crest Avenue, said she has the same issues and is also concerned with the density of the project. The last time this project was presented it was for five homes, now it is for four,

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three homes would be better. This property is less than an acre. There are some issues with the calculation for the lots. She questioned using a soils report dated 2003 from a previous project for mitigation measures for geological effects. Does not see how this report can relate to this project. The other project was smaller and the report is outdated. She expressed concern with the property being on default and having project go forward. The mitigation measures should read "shall" and be mandatory. The outreach done by the applicant to the surrounding neighbors was a feeble attempt.

Kenneth Pilgrim, resident at 18716 Crest Avenue, lives adjacent to the driveway for this project, stated he has similar concerns with the project. A lot of the issues could be addressed if the density was reduced. The MND did not address the naturally recurring asbestos. There is a widespread area in the Bay Area that has been defined where the recurring asbestos occur and it should be reviewed by a geologist. The access road and parking issues could be resolved if the density was decreased. The solvency of the project is a concern. The retaining wall on his property was not built to stand up to this kind of traffic and it will fail with the current configuration of the home and put my home in jeopardy.

Patricia Hines, resident at 2554 Titan Way, southeast corner of this property. She stated that her main concern is the water. Years ago she installed very expensive drainage system to take care of drainage issues. She hopes that sidewalks address drainage issues. In the last couple of years she had to call zoning enforcement on the overgrown weeds because of fire danger. She expressed concern about retaining walls and also hours of work. She hopes the 8:00 a.m. starting time by County rules applies to this project.

Public comment was closed.

Mr. Noor Weiss approached the podium to respond to comments from neighboring residents. The calculation concerns will be addressed by the engineers. The easements and setbacks all comply with County's regulation. The homes will be about 2,500 square feet. The staging and dust, these are issues controlled by the County. If there are complaints, the County will respond to the calls. The staging will be done within the project, it will be visible from the street. The water going down the street from this site goes to the curb drain but if the neighbors want it to go to the storm drains it could be added to the conditions of approval. The trees can be removed, most of them are dead. The neighbors are very emotional about this project. The applicant said he has spent a lot of money to make sure all the issues have been addressed.

He also addressed the letters he sent to the neighbors. It was sent from an attorney's office but not to scare anyone. He stated that anyone could have called him and he would personally contact them and would have met them at the site. In regards to trees and the slope area where there is erosion, he can't start any work without any permits. The complaints could have been addressed to the County and they would have called me to fix the problem as a neighbor, not as a developer. In regards to the parking, we are complying with County parking requirements. The parking on the street is for guests. In regards to reducing the number of lots it will only increase the number of retaining walls and grading for the parking spaces. He has created a buffer zone for the neighbor and landscaping. In regards to the project being left unfinished, the County requires an estimation from the Engineer's estimate and requests a bond for the project. The County will go in and use the bond to finish the project. There was no mention of the hours of operation on the report. No one starts before 7, the hours can be from 7 to 3. If the workers deviate from that schedule, a call can be made to the County for them to investigate. The question in regards to the Homeowners Association, there will be one for the residents on this project to take care of road maintenance, storm drainage, sewer and any other issue that might come up. One person complained about not receiving a letter in regards to the project. The mailing list was generated by the Title co. for the 300 foot radius.

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The size of the property is about an acre. The geotech engineer is here and he can answer any questions about the soils report and soil on the site. The existing building can't be demolished without a permit and it requires a letter from the California Air Quality Control and they will check the asbestos report. This project is using the contour line of the lot. The drainage of the lot after construction will be much less than under the present condition. Once the construction is completed the rain and any other water will go to the drainage system. There will be dissipaters which will make the water flow much slower than currently does. The County will send a letter to address overgrown weeds. If there is a problem with the weeds a neighbor could have called and it would be taken care of by the applicant or the County will hire someone to cut the weeds.

Member Frank said that the main concern of the neighbors is erosion and slides in that area. He would like to hear from the engineers and maybe that will leave the neighbors more at peace in regards to this issue. He also mentioned that he should have addressed the neighbors personally instead of sending a letter. The letter was not personal, very cold and in this day and age people have forgotten how to talk to people and have relationships. It is not anything against the applicant but it could have been done better.

Member Nielsen asked if the hammerhead could be done in a different way to accommodate more parking. The applicant said that arrangement could add more retaining walls.

Member Cunha asked the applicant if the property is in default. The applicant said no and that the property did go up for sale in the past.

The engineer approached the podium and referred to the exhibit explaining to council members and everyone in attendance, about grading, drain sites rain water filtration. Rain gardens and bio swales are techniques used to comply with the Federal Clean Water Act. These systems are to filter minor pollutants before they drain into the bay.

Member Sadoff asked for an explanation on the soils report and that it was used for another project for three units. This work was done for a project on this site for someone else. The County hired a firm to review the report and we modify the plan to fit the geology and situation of this project. Member Sadoff said he understands the concern with the drainage. He asked about the serpentinite rocks or asbestos issue. The engineer said that this area does not have asbestos. This area have gabro which is a diet base.

Member Ryzanych asked about flood issues versus clean water issues. The engineer shared the map with the audience and explained how the drainage system will work and its location on this site. He explained about maintenance and clean out of system. Member Ryzanych asked who is going to take care of clog-ups. The Chair said that the County normally asks for a maintenance agreement of the system and it is recorded.

The Chair entered comments from Ellen Sherman, resident at 2512 into the record. She expressed concerns with drainage, road, redwood trees, fence and fire hazard.

Member Sadoff asked if there is a bond requirement from Public Works for road work. The Chair said that a bond is necessary for the right of way work, but for private street bond no. Member Sadoff said he had concerns if there is financial issues. The Chair said this project is not any different from any other developer or projects. The risk is present.

The Engineer explained that the standard procedure for minor subdivisions, the facilities that serve the lot are private such as grading, storm drain system, curbs and pavement. A bond will be required for lots to be accessible. The Chair said couldn't you just construct it instead of posting a bond. The Engineer said the easiest way is to post the bond. The cost is about one percent of the cost of construction.

Member Miraglia said in order for this project to go forward, in her opinion, the hours of work would have to be reduced, absolutely no Sundays, all water management references on the report should be changed from “should” to “shall”, the approval should be subject to hydro modification, the County should require landscaping, irrigation, and maintenance from date of final approval to take-over by HOA and condition of approval to address weed abatement.

Member Nielsen said this project as submitted is a great improvement to the last one. The last plans had huge retaining walls, not a pleasing addition to Castro Valley. If he had met with the neighbors would have been better instead of sending a letter. The mention of adding a bond for sewer is over kill, the swale system is great and complies with the Clean Water Act.

Member Ryzanych said that some consideration should be taken in case of delays of selling properties, and there could be a season of rain and would hate to see slides into neighboring properties. Member Cunha said the hours of operation is a concern with delivery trucks starting way before 7:00 a.m.

Member Frank agreed with comments.

Member Miraglia made a motion to approve the project with Staff recommendations and the following:

- 1) Construction hours reduced to M-F 7:00-5:00; Saturday 8:00-1:00; and none on Sunday
- 2) All references and conditions to Stormwater and Best Management Practices be changed from “should” to “shall”
- 3) Approval subject to Hydro Modification if required by the County
- 4) Require street present landscaping, irrigation, and maintenance from date of final approval to take-over by HOA
- 5) Ongoing aesthetic weed abatement and erosion control

Member Frank seconded. Motion passed.

**F. Chair’s Report – None.**

**G. Committee Reports**

- **Eden Area Alcohol Policy Committee – None.**
- **Redevelopment Citizens Advisory Committee - None**
- **Ordinance Review Committee - None**
- **Eden Area Livability Initiative - None**

**H. Staff Announcements, Comments and Reports – None**

**I. Council Announcements, Comments and Reports - None**

**J. Adjourn –**

The meeting was adjourned at 8:07 p.m.

**Next Hearing Date: Monday, September 22, 2008**