

**CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL**

**Minutes for June 8, 2009**

(Approved as submitted July 13, 2009)

**A. CALL TO ORDER:** The Chair called the meeting to order at 6:03 p.m. Council members present: Jeff Moore, Chair; Cheryl Miraglia, Vice Chair; Sheila Cunha, Dean Nielsen, Andy Frank, Dave Sadoff and John Ryzanych. Council members excused: None. Staff present: Albert Lopez, Sonia Urzua, Bob Swanson and Maria Elena Marquez. There were approximately 10 people in the audience.

**B. Approval of Minutes of April 27, 2009**

Council member Cunha moved to approve the minutes of April 27, 2009 as submitted. Council member Miraglia seconded. Motion carried 6/1/0. Council member Frank abstained.

**C. PUBLIC ANNOUNCEMENTS / OPEN FORUM – None.**

**D. CONSENT CALENDAR – No Items.**

**E. REGULAR CALENDAR**

Council member Moore noted that item PLN2009-00059, Neighborhood Church will be continued to June 22. Also, item #5 will be heard first on the agenda.

**1. SITE DEVELOPMENT REVIEW, PLN2008-00045 – CHANDARASANE**

Application to allow additional signage at an existing restaurant business frontage in Castro Valley Central Business District Specific Plan – Sub Area 10, located at 3774 Castro Valley Boulevard, north side, 260 feet west of Forest Avenue, in the unincorporated Castro Valley area of Alameda County, designated County Assessor's Parcel Number: 084C-0724-068-00. **(Continued from January 12 and 26 and February 23, 2009) Staff Planner: Richard Tarbell.**

Ms. Urzua summarized the staff report. She said that this item was heard in January 12, 2009. Staff is recommending approval of the two signs.

Council members Nielsen and Moore asked questions about the parking sign. Staff discussed how it was addressed in the narrative and the exhibit.

Council member Sadoff referred to the Redevelopment's comment regarding the condition of the existing roof signage and its current need of maintenance and repair. Ms. Urzua said a condition regarding the general maintenance was included.

Stacey Chandarasane, applicant and new business owner, said that the hanging sign in the parking lot can't be removed. Council member Moore told Ms. Chandarasane that she understands that the parking sign is not technically part of the application and it is not going to get approved at this meeting.

Council member Nielsen said that the total signage is within the square footage it would normally be approved then it might just have that fact verified rather than bring it back with another application and go through a public hearing again.

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Ms. Urzua expressed concern that the parking sign might be considered a pole sign, which is inconsistent with the Specific Plan. Council member Nielsen said that if it was moved against the fence and became part of the fence it would satisfy the square footage requirement.

Public testimony was called for. No public testimony submitted.

Council members Miraglia and Moore said that they would like to see the sign removed and improved. Council member Frank noted that sometimes parking signs help direct the public. Council member Moore said that he personally has no problem with the concept of the sign, his only concern is the aesthetic but this particular sign is not part of the application being considered.

Council member Miraglia asked staff how can the Council condition the recommendation so that the business owner does not have to come back to the MAC just for this one sign.

Ms. Urzua said that the applicant can submit details consistent with the specific plan for Planning Director approval.

**Council member Nielsen moved to approve Site Development Review, PLN2008-00045 with the condition that the Planning Director approves a final signage for customer parking replacing the old one. Council member Cunha seconded. Motion carried 7/0.**

**2. SITE DEVELOPMENT REVIEW, PLN2009-00023 – CVS PHARMACY**

Application to allow new signage on an existing commercial building, within the Castro Valley Central Business District Specific Plan – Sub Area 10 District, located at 3667 Castro Valley Blvd, unincorporated Castro Valley area of Alameda County, designated County Assessor's Parcel Number: 084C-0621-001-04. **Staff Planner: Shahreen Basunia**

Ms. Urzua summarized the staff report discussing the drive through and landscaping. She said that staff is recommending approval.

Council member Sadoff said that the main sign at the front façade is 48 inches and asked the applicant what the existing dimension is. The applicant said it is 40 inches.

Public testimony was called for. No public testimony submitted.

Council member Miraglia asked about updating lighting and landscape. Council member Frank asked that better lighting should be added to the conditions as better lighting would provide a safer environment to the patrons. The Chair explained to the applicant that this would require coordination between owner and contractor.

Council member Frank asked that lighting be improved prior to Planning Director's approval. The Applicant said that they have done this in other locations and that he understands it needs to be done prior to final approval.

**Council member Miraglia moved to add that owner shall improve lighting at the drive through, change for the condition about landscape from "applicant" to**

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**“owner” should be done prior to Planning Director’s approval. Council member Cunha seconded. Motion carried 7/0.**

3. **SITE DEVELOPMENT REVIEW, PLN2009-00059 – NEIGHBORHOOD CHURCH** – Application to allow the addition of 27,800 square feet to an existing church and school facility in an R-1-CSU-RV (Residential Suburban, Secondary Units, Recreational Vehicle) District, located at 20600 John Drive, unincorporated Castro Valley area of Alameda County, designated County Assessor’s Parcel Numbers: 84A-0240-001-02, 84A-0228-001-03, 84A-0235-001-06, 84A-0230-003-03, 84A-0230-001-02, 84A-230-004-00. **Staff Planner: Jeff Bonekemper (Continued to June 22, 2009).**

4. **An Ordinance of the Board of Supervisors of Alameda County, CA adding Section 470 “Construction and Demolition Debris Management” to the Alameda County General Ordinance Code Chapter 15.08, Building Code. Presentation by Allen Lang, Building Inspections Department**

Allen Lang, Building Department Official, summarized the latest revisions. Also, attached to the staff report is a copy of a memo from the Castro Valley Sanitary District. The staff report did not change.

Council member Nielsen reiterated his earlier call for more information. Allan Lang summarized his efforts at providing more information and stated that the fee is not a surcharge but a payment for staff time.

Council member Frank asked about potential increases to garbage fees. Mr. Lang said this is not connected to residential waste, only construction debris.

Roland Williams, Manager of Castro Valley Sanitary District, explained the Sanitary District’s position on the matter.

Discussion ensued on cost to consumer, having waste hauled off the site and how much Castro Valley Sanitary District charges the consumers. Council members directed questions to Mr. Williams regarding the type of debris, what type of waste needs to be separated and what are the costs associated with it. Mr. Williams informed the Council that the Sanitary District has its own ordinance but if the Building Department is going to enact its own ordinance, the District will rescind their own because there is not sense in having two ordinances in the County.

Council member Moore said that the Building Department is here to present an ordinance for recycling requirements. The application would ensure and requires a developer or resident to recycle construction and demolition debris.

Council members expressed concerns with the cost of the ordinance to developers.

Council member Moore explained that this is the price to pay for sustainability. He says that the fees are very reasonable.

Council member Sadoff said that this is the reason why the county should take the lead on this is because by the time it finally gets to the Castro Valley Sanitary District, the projects are usually too far in the process to have the Sanitary District take over.

Public testimony was called for.

Mark Crawford, resident of Castro Valley described his experience with construction waste disposal and its costs under the Waste Management contract. Discussion ensued on cost of fees.

Council member Moore asked Mr. Lang about the purpose of the ordinance. Mr. Lang said that the fees are to recover staff time that is 100% cost. Any time the Building Department implements a new program, the department has to find a way to pay for it. He says his estimate is pretty reasonable.

More discussion ensued about the proposed requirements.

Marc Crawford asked if the builder/developer can take the material anywhere they want. Mr. William said if someone has their own truck they can, otherwise they need to get a dumpster from WM. Marc Crawford said that remodels using their own dumpsters which is a majority of builders are currently doing, will not be able to do this anymore.

Council member Moore asked if we are looking for a recommendation. It will be before the Board of Supervisors on June 30.

Council member Miraglia said she did not mind the fees but was concerned with the duplication of efforts between the Sanitary District and the Public Works Agency.

Mr. Williams said that in the past they had asked the Building Department to have a box in each building application to notify the Castro Valley Sanitary District of each new construction project and it was not done. He said the Sanitary District does have an ordinance but there is not a fee structure attached to it. Mr. Nielsen asked that Mr. Williams send a copy of the ordinance to council members.

Mr. Crawford continued to express his opposition to the ordinance.

Council members all agreed that the Council needs more information in order to make an informed decision on this subject. Council member Moore suggested that a subcommittee be created to look into this ordinance. He made a motion to continue the item to the next meeting. Council member Sadoff seconded. Motion carried 7/0.

5. **ADMINISTRATIVE CONDITIONAL USE PERMITS, PLN-2009-00013, 14, 15, 16, 17 & 18.** Appeal to the Board of Supervisors of Marketshare, Inc. from conditions (4) and (6) of the Planning Director decision to approve applications PLN 2009-00013, 16, and 18 for temporary placement of off-site directional tract signs. Condition (4) directs the applicant to, in digital, print, and all other media, guide visitors on routes through the City of Hayward where logical, rather than via Fairview Avenue for north and east bound traffic. Condition (6) approves said applications for a period of six months, rather than for one year. Marketshare, Inc. also appeals the Planning Director decision to deny applications PLN-2009-00014, 15, and 17 for temporary placement of off-site directional tract signs. **(Continued from May 26, 2009) Staff Planner: Damien Curry.**

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Albert Lopez, Planning Director, summarized the staff report. He said that this appeal would be heard at the Board of Supervisors the next day. The Code allows for the directional signs for a period of six months. The fundamental questions in reviewing the proposed signage are whether all six signs proposed necessary to direct visitors to Stonebrae development, and do the signs contribute to a disproportionate level of signage on County roads. Taken as a whole, the actions of the applicant, including the installation of un-permitted signs, are directing a disproportionate level of traffic over county roads, and that reasonable conditions of approval are needed on the three approved signs to ensure fulfillment of the purpose and intent of the Zoning Ordinance. He directed Council members to the photographs of the staff report for the location of the signs.

Council member Sadoff asked Mr. Lopez what sort of penalties are envisioned for not securing permits or not being in compliance. Mr. Lopez described the Code Enforcement procedure.

Council member Nielsen said that residents on the route of the signs have complained. Mr. Lopez said he has heard a couple of complaints. Council member Nielsen said that if the traffic flow is significant that would be one serious thing to consider. Mr. Lopez said it is hard to measure that, he said we are not re-opening Stonebrae or the EIR. The application is being reviewed just for the location of the signs, it is hard to know how much traffic is being generated from the posted signs and the other means of advertising.

Council member Frank asked how does the signage for Stonebrae compares to the signage for Five Canyons and Chappelle Development. Mr. Lopez said he did not know exactly what all the other subdivisions have been constructed in the past in terms of signs on county roads versus city roads.

Council member Miraglia clarified for the record that she is a resident of Five Canyons and a member of Five Canyons Homeowners Association. She does not think she has to recuse herself as she does not gain from this situation. She said that the Five Canyons Homeowners Association supports the signage.

Council member Moore asked if this issue was brought before the Council through a Code Enforcement action that caused the re-application for a use permit or if it was brought by an individual or a group. Mr. Lopez said that it was through a complaint and that while investigating the complaint staff became aware that there were not permits or expired permits on the signs. Council member Moore asked if all of the signs were originally approved. Mr. Lopez said that only 2 of them were approved.

Steven Miller, Applicant and President of Stonebrae Country Club, said that subsequent to writing the staff report, several things have occurred. He said the staff report does not mention the last PGA golf tournament in April. This 4 day event generated 20,000 spectators and the Sheriff's Office and the Hayward Police Department were in charge of the on and off site traffic flow and other activities. He referred to the Sheriff's Office report stating that there were no incidents or complaints and traffic flow was normal. The web site at the request of the homeowners, Five Canyons and other individuals has been changed. Stonebrae has a total 14 directional signs and only 6 are associated with the route in question. Five Canyons Homeowners Association board have written a letter in support of the two signs that were denied at the Five Canyons Parkway. They strongly encourage the Council to allow those two signs to exist. The third sign in question is

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located on Fairview Blvd. between the intersection of Five Canyons Parkway, Fairview and the Stonebrae Development. The sign is a directional sign informing drivers that Stonebrae is down the road; however, if the general consensus is that it disturbs the ambiance or rural feeling that exists along Fairview, the signs will be removed. He said that they are trying to be good neighbors and they also have a lot to offer.

Public testimony was called for.

Jewell Spalding, resident at 27647 Fairview Avenue, provided a detailed account of the history of this project. She supports staff decision to deny the signs and is opposed to the appeals.

Andy Wilson, resident at 31438 Greenbrier Lane, spoke in support of staff decision to deny the appeal and requested the Council to deny it.

Charles Snipes, resident at 3059 Rafahi Way, supports staff and requested that the appeal be denied.

Chris Furlong, resident at 27715 Fairview Avenue, is opposed to the signage and requested denial of the appeal.

Dale Silva, resident at 25633 Clover Road, supports staff and requested that the appeal be denied.

Jesus Armas, assisting Stonebrae in the application process urged the Council to support the appeal, particularly with the modifications to condition # 6 as noted.

Council member Moore asked what has been changed to the web site, also requested some clarity from council member Miraglia on what the Homeowners Association of Five Canyons have stated.

Steve Miller said that he has elements of control over 3 separate web sites, Stonebrae.com, TPC SFBay.com, PGA Golf Tournament, all 3 web sites have been modified. These signs have been there for 3 years. Marketshare was instructed to immediately apply for the necessary permits. He also said that part of their mitigation was to spend and allocate 1.2 million dollars to the county for traffic mitigation for the routes mentioned in the report. The funds have been paid and re-paid to the county four years ago. In regards to the issue that there were no Castro Valley businesses associated with golf, he could not verify, but the last event generated over \$300,000 for local charities. Mr. Armas mentioned that condition # 6 really relates to the sign permits that have to be renewed every six months. He thinks that it is incredibly inappropriate almost all of these types of signs to have to apply for a permit every six months. The signs are in existence during the project's life. He said that applying for a new sign permit in this county every 6 months it is really unfair.

Council member Nielsen asked Mr. Miller if he has had an opportunity to talk to the Homeowners Association about removing the sign. Mr. Miller said they did not talk to anybody but they are willing to do that in order to move forward.

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Council member Miraglia said that they are being paid for the space but she did not know how much. She said that the board did not automatically support the retention of these signs until the directions and the map were changed, so regardless of any money coming in because of the signs the responsibility to the Five Canyons and Castro Valley communities was such that they would not lend their support or give a letter of support until those directions and the map were changed.

Council member Sadoff asked Mr. Miller if the contract explicitly state that Marketshare was responsible for any or all current signs. Mr. Miller said that they are responsible for all the negotiations with land owners.

Council member Moore asked Mr. Miller what were the directions on the web site before it was changed. Council member Miraglia said that basically the directions routed everyone through 580 and then Castro Valley, Five Canyons and Fairview instead of directing people coming from San Mateo and San Jose thru 880, they were directed to drive thru Castro Valley.

Council member Cunha asked Mr. Miller if the website have links to the developers. Mr. Miller said that he does not have rights over the web site but he could make suggestions but that he could not guarantee that may occur. Council member Cunha told Mr. Miller that he should encourage them to do that.

Public testimony was closed.

Council member Miraglia said that now that those changes have been made, she personally does not have any problem with their signage.

Council member Nielsen said that it was too bad that the original web site directed traffic in the wrong direction but they took reasonable steps to correct it.

Council member Dave Sadoff said that it is inappropriate to reward an applicant who is currently out of compliance with code especially when they are asking for more moderate terms under the appeal process. He can not support that.

Council member Cunha said that perhaps a review would be appropriate but not the process of having to apply again. She asked that Stonebrae work with its builders to have their web site changed.

Council member Moore agreed with Council member Cunha. He would like to see a periodic review for the permits and that reapplying for a permit every six months is not appropriate. He suggested an annual review.

Mr. Lopez suggested that the review should be done as needed and web sites are easy to change at which point it would be good to either require the renewal of the administrative use permit or revocation. Council member Moore asked that a periodic review should be necessary only if there is a complaint to Zoning Enforcement, otherwise maybe it is not necessary. Mr. Lopez said that periodic review if necessary sounds reasonable.

Council member Nielsen asked if it would be appropriate to give a developer a permit for as long as the development is going to last, i.e. 100 homes will take longer than six

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months. The signage should be approved on that basis then if they need an extension it would be appropriate for them to re-apply and pay the fees again.

Council member Miraglia said that she is opposed to having 6 months, it needs to be somewhere in between, she would rather see a conditional use permit for 2 or 3 years with a condition that a complaint will trigger the review of the permit.

Council member Ryzanych said that another element should be the removal of the signs once all homes are sold. Council member Moore said that once they are sold there is already an existing condition where they have to remove it within an X number of days. Mr. Lopez said that staff could add additional language in reference to obsolete or abandoned signs shall be removed within 30 days.

Council member Moore summarized the tentative motion that use permit with a period of 2 to 3 years, accept the offer to remove the sign on Fairview, have some sort of clause stating that upon the sale of the last home that they will remove the obsolete signs within 30 days.

Council member Miraglia stated that the only thing the council should be considering is the appeal on the Fairview Avenue side. Council member Moore asked if the motion would be to affirm the appeal but modify with conditions that would eliminate one of the signs and any other items. Council member Miraglia made a motion to affirm the appeal on the Five Canyons Parkway signage but modify condition # 6 to reflect a 3 year conditional use permit. She said that staff recommendation was to uphold the Planning Director's decision for removal of the signs.

Council member Moore suggested that two separate motions be made.

Mr. Lopez said the Planning Director decision is to approve 3 signs, of those 3 there is one that the applicant has volunteered to remove, the others that were denied specifically the two on Five Canyons he wants to sustain the appeal on those two.

Council member Miraglia motioned to affirm the appeal to approve the Planning Director's decision except for 15 and 17 on Five Canyons Parkway and the appeal and modify condition #6 to 3 years versus 6 months. The Council is sustaining the appeal on two. Mr. Lopez said that the sign that was closest to Stonebrae that was denied we are recommending that the applicant says OK, for # 14 the appeal will be denied, # 18 is approved, # 15 and # 17 along Five Canyons those one will appealed as sustained. Council member Miraglia said to add a request to the developer to contact the builder and ask him to change the map and directions. Council member Nielsen seconded. Motion carried 6/1/0. Council member Sadoff opposed.

**F. Chair's Report**

**G. Committee Reports**

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



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

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

**The Chair re-opened the Open Forum Portion of the Meeting.**

Marc Crawford raised the issue of a matter pending before the BZA regarding a batting cage operation. He suggested that the Council should hear the matter.

Council member Miraglia stated that if the MAC can hear this matter then it should.

**J. Adjourn**

The meeting was adjourned at 8:40 p.m.

**Next Hearing Date: Monday, June 22, 2009**