

**CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL**

**Minutes for November 23, 2009**

(Approved as presented December 14, 2009)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:02 p.m. Council Members present: Cheryl Miraglia, Chair; Dave Sadoff, Vice Chair. Sheila Cunha, Dean Nielsen, Jeff Moore and John Ryzanych. Council Members excused: Andy Frank. Staff present: Sonia Urzua and Maria Elena Marquez. There were approximately 7 people in the audience.
- B. Approval of Minutes of November 9, 2009**  
The minutes of November 9, 2009 were continued to the next meeting.
- C. PUBLIC ANNOUNCEMENTS / Open Forum – None.**
- D. Consent Calendar – No items.**
- E. Regular Calendar**
- 1. AMEND CHAPTER 15.36, GRADING EROSION AND SEDIMENT CONTROL, OF THE COUNTY GENERAL ORDINANCE CODE,** to clarify and amplify the procedures to be used in enforcement of the grading regulations, including the implementation of new fees and fines associated with such enforcement. The amendment to the grading ordinance also modifies the regulations for obtaining and completing a grading permit in recognition of the necessary interfaces with other County regulations, such as the storm water discharge, the floodplain management, and the zoning ordinances. **Presentation by Public Works Agency Staff.**
- Bill Lepere, with the Public Works Agency, summarized the staff report. The Grading Ordinance had not been updated since 1982. The revision will make the ordinance consistent with new requirements and will add some definitions. Staff intends to present to the Board of Supervisors in December or early January, after presenting to the Planning Commission and unincorporated services.
- Council member Moore and Mr. Lepere asked about the grading and agricultural uses.
- Council member Sadoff and Council member Moore and Mr. Lepere discussed issues related to the Watercourse Protection Ordinance such as grading next to a creek and
- Council member Miraglia suggested that the Council receive a red lined copy. Mr. Lepere agreed.
- 2. PARCEL MAP MODIFICATION (MPM) PLN2009-00110 – LUCIANI -** Application to allow removal of condition #22 of Parcel Map PM-8874 that restricts the living area of Parcel #2 to 1,700 square feet, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4518 Heyer Lane, north side,

approximately 169 feet east of Schlosser Avenue, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084C-0780-036-00. **Staff Planner: Howard Lee**

Ms. Urzua summarized the staff report. She stated that four neighbors submitted letters in opposition to the project due to traffic, parking, privacy and access concerns.

Council member Moore verified that the applicant who did the original subdivision is present and now asking for revision.

Council member Miraglia did not notice any changes in the staff report from the original application and asked why the applicant is coming back before the Council.

Ms. Urzua said there are no changes to the site.

Mr. Luciani, applicant, said that in the original application he mentioned his desire at the time suggested a certain size, he assumed at that time that the standard zone would dictate the size of the home. When the letter was sent to him stating what the conditions for developing were, he went to the Planning Department to ask what could be done and was told that the whole process had to be started all over again. He was asked to address some of the neighbors' concerns. He was under the impression that this was a new standard that was going to be set up. Since that happened, he has seen several properties. One of the neighbor's concerns was the width of the road and that road on Heyer is actually 16 feet wide. The surrounding properties are all over 2,000. These properties down on Heyer there are over 3,000 square feet.

Council member Moore explained to Mr. Luciani that how the conditions of approval are set. He gave the applicant a copy of the minutes from that hearing. Mr. Luciani said that since the application was accepted, six homes on Jean Court were built and there are all between 2600 and 3000 square feet. He explained the parking and setback features of his proposed site plan.

Public testimony was called for.

James Chakeres, resident at 19450 Solitaire Court, spoke against the proposal. He expressed concerns over the size of the proposed structure, privacy concerns due to the proximity of the house to their fence and fire hazards. He thought that there will be an increase in traffic volume. Also, the view is a concern as well as the fence, if Mr. Luciani wants to lower the fence, he would like to raise his fence, and wants Mr. Luciani to pay for a privacy fence.

Council member Moore clarified to Mr. Chakeres that the issue before the Council is about removing a condition of approval.

Mr. Chakeres said that safety is number 1, fire hazard is number two and the privacy is number 3, that all needs to be addressed.

JoAnn Cullom, resident at 19430 Solitaire Court, spoke in opposition to the proposal. The road is too narrow. Two cars can barely pass. Everyone loses their privacy, they lose landscaping, they lose any sense of separation view. Also, she is concerned with the traffic issue. There will be no cops there to keep them from coming and park on Solitaire Court.

Tom Rylander, resident at 15420 Solitaire Court, spoke in opposition to the proposal. Mr. Luciani should keep with his agreement.

Mr. Luciani referred to the square footage. He referred to his statement where he mentioned building something in the 1,700 square foot house range. His understanding is that the R zonings are for to determine the habitable space by square footage and by lot set back, that does not mean that should change the condition of that property. He also discussed his experience in participating in the Joint Maintenance Agreement which they used against him which prohibits him from subdividing the property. He has spent thousands of dollars in attorney's fees trying to contact their attorney (they changed attorneys 3 or 4 times). They made it difficult for him even to obtain the Joint Maintenance Agreement. They made it impossible. His attorney wrote it and handed it to them. They made comments and said that he needed to change it. He did and they did not respond. They have not been cooperative as well. The parking and congestion issues have been addressed. There is a three car apron for this property which is far away from each other more than other properties in the area. As far as access is concerned the road is 8 feet wide, there are 4 cars there, there are 4 homes there, one more does not make much of a difference. Other properties that have more congestion have been approved since this subdivision. He doesn't see any reason why this property should not have any sort of discrimination towards it as opposed to any other property in Castro Valley.

Public testimony was closed.

Council member Moore said that he remembers this project and acknowledged the applicant's desire to do this. When you go to the application process, you negotiate the deals and got the subdivision with the conditions. Coming back at this time is difficult to justify how to go through and change that. It is part of the subdivision process.

Council member Miraglia noted that the condition was put there because there was so much concern about the parking and driveway and the size of the house. While the MAC approved the Parcel Map with the square footage limitation, she was opposed. She was also surprised to see the project on this agenda especially because nothing has changed.

Council member Nielsen said that when lot splits like this are done all the neighbors are involved and generate a compromise. They talked about additional house. The size of the house was one of the compromises to split. As far as he is concerned, the original lot split should stand and the Council should not increase the size of the home.

Council member Ryzanych concurred with other Council Members. There is a process and the process has been enacted. There is always the option of applying again.

**Council member Moore moved to deny the application to remove the condition of approval # 22 of Parcel Map, PM-8874. Council member Nielsen seconded. Motion passed 6/0/1 with council member Frank excused.**

Council member Miraglia told Mr. Luciani that he can appeal the decision of the Planning Director.

**F. Chair's Report- None**

**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**

There was a brief discussion about the

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

Ms. Urzua told Council Members that she is working on the details of moving to the Castro Valley Library.

**J. Adjourn**

The meeting was adjourned at 6:37 p.m.

**Next Hearing: Monday, December 14, 2009**