

**CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL**

**Minutes for June 28, 2010**

(Approved as corrected July 26, 2010)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:04 p.m. Council Members present: Cheryl Miraglia, Chair. Dave Sadoff, Vice Chair, Sheila Cunha, Dean Nielsen, John Ryzanych, Jeff Moore and Marc Crawford. Council Members excused: none. Staff present: Sonia Urzua, Bob Swanson and Maria Elena Marquez. There were approximately 30 people in the audience.

**B. Approval of Minutes of April 12, May 24 and June 14, 2010**

**The minutes of April 12, 2010 were not included in the packet.**

**Council Members Miraglia and Nielsen submitted minor corrections to the minutes of May 24, 2010 and Council Member Sadoff clarified his motion regarding the Batting Cage Ordinance what he meant to say was: "Council Member Sadoff said that the issue here boiled down to noise; that we already have a noise ordinance; and therefore the batting cage ordinance is unnecessary and redundant. Council Member Sadoff made a motion to deny the proposed Draft Ordinance for Batting Cages in Residential Districts". Council Member Sadoff made a motion to approve the minutes of May 24, 2010 as corrected. Council Member Cunha seconded. Motion passed 5/2. Council Member Moore and Crawford abstained.**

**Council Member Cunha moved to approve the minutes of June 14, 2010 as submitted. Council Member Nielsen seconded. Motion passed 6/1. Council Member Crawford abstained.**

**C. PUBLIC ANNOUNCEMENTS / OPEN FORUM**

Seven residents appeared and expressed concern about a micro telecommunication site installed in the right of way on Crane Avenue. A multi-page document was submitted and entered into the record. The speakers were interested in stopping future installations and were concerned about the aesthetic impacts, and both safety and health effects of telecommunications facilities such as the one installed by T-Mobile on Crane Avenue. Two speakers asked that the equipment be removed.

Council Member Miraglia clarified that the Council cannot discuss issues on Open Forum. She informed the audience that a moratorium would be considered for adoption by the Board of Supervisors on June 29, 2010.

Ms. Urzua explained that if the moratorium is adopted, it will mean that in 45 days no new telecommunication sites could be installed in the right of way. Council Member Miraglia asked Ms. Urzua how people interested could get a copy of the draft ordinance. Ms. Urzua said that people interested can leave their e-mail contact so she can e-mail them the information.

Council Members asked Ms. Urzua about zoning requirements for installations in the right of way; how other jurisdictions address this issue; and whether the moratorium could be extended. Ms. Urzua explained that the Public Works Agency regulates the right of way. Best practices in other jurisdictions will be explored during the moratorium period. Yes, the moratorium can be extended.

A discussion ensued regarding whether encroachments permits were required and if so, if they were properly obtained.

**D. Consent Calendar - No Items.**

**E. Regular Calendar**

- 1. CONDITIONAL USE PERMIT, PLN2009-00154 – EBMUD/AT&T MOBILITY - KELLY**  
– Application to allow installation and operation of a wireless telecommunication facility (45 feet tall mono pine), in a R-1-SU-RV (Single Family Residence, Secondary unit is permitted, Recreational vehicle parking is permitted) District, located at the end of Brookdale Boulevard, Castro Valley area of unincorporated Alameda County, bearing assessor's Parcel Numbers: 084D-1100-001-16 and 084D-1103-070-04. **(Continued from June 14, 2010) Staff Planner: Christine Greene**

Ms. Urzua summarized the staff report. She said that this item was before this Council two weeks ago. The applicant provided the information requested by the Council at the previous meeting which included maps analyzing alternative sites. Staff recommends approval.

Pat Kelly, agent for AT&T Mobility, discussed the proposed project and described the additional materials presented as requested by the MAC.

Council Member Nielsen asked the applicant to elaborate on the "shadowing effect" and asked that staff provide coverage maps for all of Castro Valley. He also requested that staff advise the Council the total number of cell sites in Castro Valley.

Council Member Crawford asked Ms. Kelly how the coverage plot maps are created and if AT&T actually take equipment to the site, generate a signal and measure it or if this is something that an engineer does. Ms. Kelly said that he does both. Council Member Crawford asked about the financial and technical constraints and requirements with EBRPD alternative site.

Council Member Moore noted that the applicant complied with the MAC's request for additional information. He added that staff should look at broader policies.

Council Member Miraglia asked Ms. Kelly if the configuration proposed for EBMUD was also proposed for EBRPD. Ms. Kelly said that the owners of the property have seen these drawings, they are very aware of the design.

Public testimony was called for.

L. Wood lives next to the EBMUD property. She asked about an existing small pole on the site. It was clarified that the pole was used for two-way radio communications and not a cell site.

Council Member Sadoff said that this applicant went the extra mile, she brought exactly what the Council asked for.

**Council Member Moore made a motion to approve Conditional Use Permit, PLN2009-00154. Council Member Cunha seconded. Motion passed 4/3 with Council Members**

**Miraglia, Crawford and Neilsen opposed. Council Member Moore said that there is a difference of opinion among Council Members and asked if there is a way the Council can move towards resolution on these issues. Council Member Miraglia said that this can be part of discussion of the moratorium.**

2. **SITE DEVELOPMENT REVIEW, PLN 2010-00056 – FANG/SENTY** - Application to allow repainting of the building exterior, install new ATM & safe deposit night drop including required lighting, provide accessible ramp to new ATM, new awning, and exterior door modifications in the Subarea 10 (S10- Castro Valley Central Business District Specific Plan) District, on a site measuring 7,461 square feet (0.17 acres) located at 3549 Castro Valley Boulevard, south side, 160 feet east of Redwood Road, Castro Valley area of unincorporated Alameda County, designated Assessor's Parcel Number: 084C-0618-10. **(Continued from June 14, 2010) Staff Planner: Howard Lee**

Ms. Urzua summarized the staff report. She said that this item was on the previous meeting agenda but the applicant was not present so no discussion occurred. Staff recommends approval.

Peter Senty, architect and representing Fremont Bank, introduced other speakers who were present and available to discuss the project. He presented and discussed the proposed landscape plan including the improvements on the adjacent parcel which provides parking for the bank.

The head of the security for the bank explained that the location of the ATM is based on security concerns and on the physical constraints due to the configuration of the building.

Council Member Miraglia asked Mr. Senty to describe the reasoning behind the configuration of the proposed ramps. Mr. Senty gave a detailed explanation of the location of the ramps showing the graphics and the drawings.

Council Member Crawford expressed concern with proceeding with interior improvements that were tied to exterior improvements pending approval. Mr. Senty explained why the bank had to work quickly. Council Member Crawford also expressed concern with the ramps. He noted that Planning staff recommended that the ATM be placed at the top of the landing near the front door. He also said that he was concerned with the demolition to the ATM location before the permit was secured. He felt pressure as a Council to approve the design that the Council may not agree with. Mr. Senty said that he takes that concern seriously. When Howard Lee called him to tell him that the demolition had occurred, he went to the site to see what had happened. He explained why the demolition occurred.

Council Member Miraglia Mr. Senty if it is possible to move the ATM to other location. Mr. Senty said that it would involve a pretty drastic redesign. Council Member Crawford told Mr. Senty that he has chosen a route for approval and construction of this project that is problematic because instead of bringing the whole package at one time to be analyzed, he decided to bring it in these pieces.

Council Member Moore said that he didn't have a problem with the proposal, and that he liked the idea of enhanced landscaping.

Council Member Nielsen concurred with the architect, he said that it is not an attractive site. Putting two ramps in the front which really needs landscaping did not make sense to him. He asked Mr. Senty about the possible impacts to the project with regard to time and costs, if the ATM machine were moved. Mr. Senty said that it would be crippling to the project.

A discussion ensued about the type of ATM being proposed. The bank's Director of Security said that the best safety spot for the ATM is in the front. The more visible the safer it is. The reason they get moved to the other spot is because it is 8 feet deep and has to go back 8 feet. His main concern is robberies.

A discussion ensued about the interior requirements for the particular type of ATM being proposed.

Public testimony was called for. No public testimony submitted.

Council Member Sadoff concurred with Council Member Moore and said that he does not have a huge issue with the design. The applicants presented their case of why it would be difficult to move it and given what they have presented, he would be inclined to vote in favor.

Council Member Ryzanych agreed with Council Members Moore and Sadoff.

Council Member Miraglia reiterated her concerns with the ramps and said that will not be able to vote in favor of the application.

Council Member Crawford said that he cannot support it because the project needs to be complete. The interior and the exterior designs need to be submitted at the same time.

Council Member Nielsen said that the ATM should be moved and therefore, he could not support the design of the building.

Council Member Miraglia asked the applicant whether he would like this to be continued or take a vote from the Council. Ms. Urzua explained the implications for taking the vote or accepting a continuance.

Sandi Redmond, Director of Facilities for Fremont Bank, explained the financial and time constraints. Council Member Moore asked the Council if there is something the Council can do to enhance a better solution given the situation. Council Member Crawford said that the Council is not asking not to open the bank, the Council is only asking for the relocation of the ATM machine, a bunker style machine similar to the one that Wells Fargo is using.

Frank Rivera, Wells Fargo representative, described other ATM products that the bank may want to consider. Ms. Redmond said that she never heard anything negative two weeks before opening. Council Member Crawford said that he spoke with Planning staff that did speak to her about this very location and that she chose to go the other way. He said that this is not the first time that this location has come up with these discussions between Planning and the bank. Council Member Miraglia asked if the bank could open without an ATM. Ms. Redmond said yes.

**Council Member Moore made a motion for approval of Site Development Review, PLN2010-00056 with staff considerations. Council Member Ryzanych seconded. Motion failed 3/3/1 with Council Members Miraglia, Nielsen and Crawford opposed. Council Member Cunha left before the motion was made.**

**3. SITE DEVELOPMENT REVIEW, PLN 2010-00055 – LUCHINI -**

Application to allow the removal and replacement of two illuminated wall signs and on 4 foot monument sign for Fremont Bank in CVCBD- S10(Castro Valley Central Business District – Sub Area 10) District, located at 3549 Castro Valley Boulevard, south side, 150 feet east of Redwood Road, Castro Valley area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 084C-0618-010-00. **Staff Planner: Carole Kajita**

Ms. Urzua summarized the staff report. Staff recommends approval.

Richard Luchini, described the proposal.

Public testimony was called for. No public testimony submitted.

**Council Member Moore made a motion to approve Site Development Review, PLN2010-00055 with staff considerations. Council Member Nielsen seconded. Council Member. Motion passed 6/1/0. Council Member Cunha left before the motion was made.**

**4. SITE DEVELOPMENT REVIEW, PLN2010-00081 - CLAYBAR ENGINEERING/WELLS FARGO BANK, – To allow the installation of ATMs and ADA facilities at a bank and an adjacent commercial building, in the Sub Area 7 (Castro Valley Central Business District Specific Plan, Sub 7) District, located at 3538 Castro Valley Boulevard, northeast corner of the intersection of Castro Valley Boulevard and Redwood Road, Castro Valley area of unincorporated Alameda County, designated County Assessor’s Parcel Number: 084C- 0773-005-03. Staff Planner: Damien Curry**

Ms. Urzua summarized the staff report. Staff recommends approval.

Frank Rivera, representing Claybar Engineering for Wells Fargo Bank, answered questions from Council Members.

A discussion ensued about the current issues with parking and circulation on the site. Mr. Rivera responded by stating that Wells Fargo is currently exploring solutions.

Public testimony was called for. No public testimony submitted.

**Council Member Sadoff moved to approve Site Development Review, PLN2010-00081 with staff considerations. Council Member Crawford seconded. Motion passed 6/1/0. Council Member Cunha left before the motion was made.**

**F. Chair’s Report**

Council Member Miraglia reported that the alcohol CUP draft ordinance will be presented to the MAC on July 12.

**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**

Ms. Urzua and Council Members that discussed scheduling the annual elections. Based on planned absences, the elections will take place on August 9.

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

**J. Adjourn**

**The meeting was adjourned at 8:17 p.m.**

**Next Hearing Date: Monday, July 12, 2010**