

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

Minutes for September 27, 2010

(Approved as submitted October 11, 2010)

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, John Ryzanych, Marc Crawford. Council members excused: Jeff Moore. Staff present: Sonia Urzua, Andrew Young, Bob Swanson and Maria Elena Marquez. There were approximately 6 people in the audience.

B. Approval of Minutes of September 13, 2010

Council member Miraglia had a correction at the bottom of page three, add “all” before “point sources within 1,000 feet should be considered”. Council member Nielsen moved to approve the minutes of September 13, 2010 as corrected. Council member Cunha seconded. Motion passed 4/2/1. Council member Ryzanych abstained and council member Moore excused.

C. PUBLIC ANNOUNCEMENTS / Open Forum

D. Consent Calendar

E. Regular Calendar

1. PG&E / AT&T, ZANINOVICH, CONDITIONAL USE PERMIT, PLN-2010-00077 – Application to allow continued operation of a telecommunications facility (Cell Site) with modifications, in a M-1 (Light Industrial) District, located at 22020 Center Street, east side, 270-foot north of Grove Way, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 417-0010-007-05. **Staff Planner: Richard Tarbell.**

Ms. Urzua summarized the staff report. Staff is recommending approval with a two year expiration date and a provision that the subject facility should be combined with the other monopole on the site.

Council member Sadoff asked if staff had discussed the possibility of co-locating the two monopoles with applicant. Ms. Urzua did not know.

She noted a typo in condition # 8 regarding co-location. It should say “shall allow” instead of “shall not allow”.

Liz Zaninovich, representing AT&T, said that she concurred with the decision to approve the conditional use permit and made herself available for any questions from the Council.

Council member Sadoff asked Ms. Zaninovich about co-locating the two monopoles and including a camouflaged design. Ms. Zaninovich said that Mr. Tarbell called her to discuss it. She said that if they co-locate one of the main concerns would be the increased height to accommodate the two carriers. She discussed painting the pole and adding a radome to hide the panels.

Council member Sadoff and Ms. Zaninovich discussed using vegetation to camouflage the facility.

Council member Miraglia and Ms. Urzua discussed the function of lining up the expiration periods for the two monopoles.

Council member Nielsen expressed concern over the radio frequency emissions of the proposed facility.

Council member Crawford and Ms. Zaninovich discussed the potential of building a mono pine at this site and particularly, what height such a facility would have. For this particular site it does not make sense to have a mono pine because it is a PG&E substation. She said that it is very expensive to build a mono pine.

Public testimony was called for. No public testimony submitted.

Council member Sadoff recommended approval based on the fact that the expiration dates would be synced. At that point in time the carriers work with staff to try to minimize the visual impact. Council member Miraglia agreed with council member Sadoff. She would like to see some landscaping in this property and that site needs to be improved.

Council member Nielsen emphasized the need for a comprehensive approach to telecommunication installation in order to impact what he observed to be the proliferation of these installations.

Council member Miraglia agreed that coverage maps should be generated and that the task should be a priority for the Planning Department.

Ms. Urzua said that we will keep these comments in mind. She stated that the federal government regulates cell tower communication facilities and they only leave local jurisdictions with a limited amount of jurisdictions.

Council member Crawford expressed concern with waiting for the carriers to improve the site in two years when the site currently needs improvements. Council member Crawford said he was not satisfied with the way these towers look even though the mono pine might be an expensive investment.

Council member Ryzanych asked staff if there was anything with regard to height that would preclude currently a mono pine installed two carriers and accommodate the business between them. Ms. Urzua said no.

Public testimony was re-opened.

Matt Gallagher, resident at 5382 Greenridge Road, expressed concern with monopoles.

Council member Cunha supported approving the CUP with the two year term.

Council member Cunha made a motion to approve Conditional Use Permit, PLN2010-00077. Motion failed. Discussion followed. Council member Nielsen said that cell towers are proliferating in our neighborhoods and that we need to find a way of curtailing this.

Council member Sadoff made a second motion to approve Conditional Use Permit, PLN2010-00077 with staff considerations and directing the applicant to work with staff to co-locate and camouflage when the current permit expires. Council member Cunha seconded. Motion passed 6/0/1 with Council member Moore excused.

2. **CONDITIONAL USE PERMIT, PLN 2010-00129/T-MOBILE USA/COONES** - Application to allow the installation and operation of a telecommunications facility consisting of two cabinets and six antennas on a PG&E tower. The property contains 33,900 square feet (0.78 acres), is zoned R-1-BE-CSU-RV (Single Family Residential, Conditional Secondary Units, Recreational Vehicle) and is located at 5314 Crown Court, northwest side, 284 feet southwest of Greenridge Road, in the unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 085-1601-006-00. **Staff Planner: Sonia Urzua. Continued to October 11, 2010**

3. **REZONING AND TENTATIVE TRACT MAP TR-8031, PLN2009-00174 – TRAGNI / HARWOOD** – Application to rezone two existing lots from the R-S-D-20 (Residential-Suburban, 2,000 square feet minimum building site area per dwelling unit) District to a Planned Development (PD) District, and subdivide the site by Tentative Tract Map 8031 into seven lots for six new townhomes and one common lot, with site-specific development standards, resulting in an average density of about 13.1 units per acre. Located at 22243 & 22247 North Sixth Street, west side, 150 feet north of Knox Street, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 415-0100-106-00 and 415-0100-107-00. **Staff Planner: Andrew Young**

Ms. Urzua summarized the staff report. She stated that this petition was before the Council on March 2010. After MAC considered this project, the Planning Commission also reviewed it as a preliminary review and gave their opinion of the proposed design. There has been a lot of work and collaboration between the Planning staff and the applicants. The applicant provided staff with a letter from a resident that was not able to attend this meeting. The letter is from Jenny Chan, resident at 22237 North Sixth Street who is in support of the project. The letter was entered into the record. Staff is recommending approval for this rezoning and tract application.

Douglas Harwood, representing the applicant, stated that there are 6 units that they are proposing in two separate main structures incorporating three units in each, two story three bedrooms, and two car garages for each unit. One of the main things that he switched around was the parking scenario and the streetscape. He wanted to try to attempt to make the streetscape more pedestrian friendly and getting a little bit more of vegetation from that streetscape to the face of the town homes. In the far back corner of the lot there are 4 parking spaces with a common play area and some additional public space along the street side.

Council member Miraglia referred to the minutes from MAC and the Planning Commission and it seems to her that here [discussed in the minutes] is the all important stuff that he needs to fix. In her opinion, while he made changes to the appearance, he didn't address any of the really important things like the setbacks, the number of units, building form and mass.

Mr. Harwood said that for the project to be financially feasible is six units, if they go below that the project doesn't pencil out. If you go with the six units number you have this puzzle left over with the inside and outside setbacks, minimum distances for vehicle backing, parking supply, and

private yard area. If these things were relaxed it could be different, but to get six units on that lot, this is the only design possible.

Council member Miraglia said that the key [or trick] there is to get those units on that lot with that particular configuration, but she thinks that the lot could be structured, but she said it would take a re-design. Mr. Hardwood said that it's not possible, and this is the most efficient use of the space based on his numerous studies of the site. You cannot have six units on that lot with two-car garages with the proper depths of drive and private space.

Council member Crawford said that he had looked at this project in great depth, as a member of the Design Guidelines Task Force when the Guidelines were coming along to its final version. He said this project came to the MAC about the same time and it became a sample project for considering how the Guidelines could be applied to this project and all the ramifications. He said that it is possible to do a redesign on this it will take a "single-loaded" driveway on one side of the property and all of the units would have to be on the opposite side. He said there is plenty of room for the applicant to meet the setback requirements and it wouldn't need to be a PD to do it under the RS district. He agreed with council member Miraglia, that the MAC turned this down for a couple of reasons, it is too dense and there is not enough set back. Nothing has been done to correct that, yet it was brought back. Granted, he said, it looks a lot better now but there have been no structural changes.

Mr. Harwood said that six units is not possible [with that configuration] because of the requirements for garage area and setbacks. Council member Crawford replied back to Mr. Harwood that it is possible and he still doesn't understand why the project was brought back before MAC when the Council turned it down because of the structural issues involved – the lack of a setback. . He thought a car door would hit one of the front doors – that's how close the setbacks are. That is why we have a 10' [setback] requirement. From the minutes that was the issue. The MAC said it had to be changed, but it hasn't been, he said.

Vito Tragni, owner, said that it was his understanding from the March meeting that it was not structural problems, it was to make it more pleasing. We worked diligently with the Planning Commission, so he was asking if it doesn't meet the requirements of MAC or Alameda County Planning. He said that they met the requirements of Planning. Council member Miraglia told Mr. Tragni that she has the minutes of that meeting and saw that council member Moore acknowledged the economic concerns of the project, but identified a lack of compliance with the setbacks, density, and front yard and parking setbacks.

Mr. Tragni said they met the requirements of the Planning Commission. He said he thought council member Crawford was suggesting apartments, being stacked along one side, because it is zoned for apartments, which would be easier, but he was trying to do something better. He thought he could perhaps build 12 apartments. He thought six townhomes would be more beneficial to the neighborhood.

Council member Crawford told Mr. Tragni that the reason that he is asking for a PD is because he can't meet the requirements and it isn't true to say that he is meeting all the requirements. The PD process is used to get relaxation of the requirements. The project can't be approved because it doesn't have a 10 foot set back from the street to the building, so the only way you can build this is to get a PD, and go through a process that involves the MAC, separate from the PC. When it

came before the Council in March it wasn't acceptable due to the set back and the density and nothing has been changed in that area – it's the same project.

Mr. Tragni said that he is going through a variance to improve the site. He doesn't need a variance to put 12 apartments [on the site]. It was his understanding that we had solved most of the problems. He said he believes the neighbors would like townhomes instead of apartments. And it has to be feasible.

Ms. Urzua referred to page 13 of the staff report, the tables that compare how the project measured up to all of our standards in terms of the general plan, the zoning – RS – the PD requirements and considerations that we have to pass, and condo guidelines assessment as well. The areas where this project does not meet the standards, she noted that there is a small typo of setback requirement of 4 feet that is not supposed to be bold italic. The issue that council member Crawford raised is that when an applicant applies for a PD if the concept is that there is a trade off for a higher level design to compensate for the deficiencies that may arise when the applicant applies for a PD may arise such as the walkway separation from the driveway, smaller items that are highlighted in bold and italics, the project overall is a proper trade off for these other deficiencies. She said that overall this project does meet most of the standards which are applicable in this case.

Andy Young, staff planner for this project, said that in several conversations with Mr. Tragni he told him that the current zoning would allow 5 units per parcel subject to site development review and the RS standards, so not more than 10 units on the two parcels together. In such a case, he would have to meet all of the requirements, including the 10 foot set back from any driveway. For the PD, he said they felt the proposal would provide compensation, or a balancing between relaxation of the set back standard from the central driveway by improving the design of the streetscape, building materials, providing street orientation towards north Sixth Street, providing a tot lot and actually providing a sort of a net balance of on- and off-street parking because it does provide 4 off street parking spaces and there is still essentially frontage space for 4 cars. The additional 4 units' guest parking demand will be provided for entirely on-site. He noted that the concern by MAC expressed before in the March hearing with guest parking and that's obviously a big concern for some of the neighbors. We felt it is consistent with the condominium guidelines, the rules that we have laid down for developers throughout the County's RS district areas where people are proposing condominiums or condominium conversions where we set aside these on and off street parking guidelines. It was never argued to the developer that he will have to provide the entire guest parking on site. We would not deem it fair to change the rules that the developers have been working from, in the condominium guidelines that have been adopted by the County.

Council member Sadoff referred to page 11 of the staff report, table 2 regarding parking, it looks to him that he (Mr. Young) is saying that they would not need a condition of approval, that each one has to maintain their garages for vehicle storage and parking only and that they can use it for storing boxes or whatever. He asked Mr. Young that given the parking issues here, what justifies that. Mr. Young said that the standard Homeowners Association, CC&R that each of the parking spaces and each of the garages will have to be maintained free and clear of boxes and reserved for parking. Council member Sadoff said that was not his interpretation. Council member Miraglia concurred with the way member Sadoff read it and that she had not seen it in the conditions either. Mr. Young explained that the conditions of approval had not been prepared yet. They are

normally prepared and sent to the Planning Commission, based on the Council's comments. But most of the conditions of approval are discussed in the staff report.

Council member Nielsen noted the 8 condominiums across the street, and the lot sizes are a lot smaller, the requirements were stringent but they were met. He said they were really looking for a hybrid. As council member Crawford said, if these were strictly condominiums, stacked along one side, the problem would be they would not look like individual homes, like these [proposed] would. He said that the Council's problem is that if we go ahead and approve this, then other developers will come saying that we (the Council) approved a 10-foot setback [exception] for these two lots and they should expect the same. He and Mr. Tragni discussed the condominium project that was approved across the street.

Mr. Harwood asked if the main concern was with vehicular traffic. Council member Crawford said that the main concern was the massing of the buildings in relation to the road way and the massing is too great and the County has spent an enormous amount of money to come up with design guidelines. This type of development of this configuration was constantly held up as an example of what we don't want to do, because we don't have the setbacks. He said he admired the design, but said they are too close to the driveway. Under the design guidelines you simply will not be able to do that. If you don't have 10 feet we can't even look at your plans.

Mr. Harwood said that his understanding was that he needed to go through the PD process when you want to change the rules a little bit. He was told to follow the condominium guidelines - not the condominium "rules", because the idea of the PD is to establish its own rules. Council member Crawford said that there are a number of guidelines and policies that you have to abide by and they are enunciated in here and that the PD is not automatic, sometimes they are denied for reasons like this. Mr. Harwood said that with respect to massing and scale, for two story buildings streetscape-wise, they look like homes from the front - from the street elevation, looking at the context of the neighborhood we are definitely not beyond things that are actually larger across the street.

Council member Sadoff said that one thing that was brought up at the March hearing was that when a PD is proposed there has to be a give and take for the betterment of the community and he doesn't see a give and take here.

Mr. Tragni said that based on that he is giving 6 townhomes that are going to be owner-used as opposed to 10 apartment that are going to be tenants. The quality of life is better with having homes on the street other than more apartments. He said he could meet all the apartment parking requirements because they are smaller. Council member Sadoff said that there are still potential issues with parking, the massing of the buildings and that density is a potential concern. He said he didn't see what was in it for the community. They discussed further what the requirements would be for apartments, and whether it would be possible to build 10 apartments on the site with existing zoning requirements.

Mr. Harwood asked Mr. Young if density was an issue because he thought that it was not. Mr. Young said he didn't consider this to be too dense for the site and it is consistent with and lower than a substantial number of lots in the vicinity.

Council member Miraglia said that in her viewpoint the density issue comes up because all of this

other criteria can't be met. If it were less dense, these issues would not come up. She said that if you go through the condominium guidelines there are several things that are deficient, the entry porches are less than 12 feet from the driveway, there is no unique landscape treatment around the driveway, the trash cans are going to be in the garage, there is no added storage plans, the set back of 3.5 feet instead of 10 feet, the floor area ratio is off. In her opinion there is a lot of deficiencies in there that if you have 5 units, or you redesign this, you wouldn't have these issues or have to go to a PD.

Council member Crawford asked Mr. Young if he has ever seen a situation in his experience where the RS-D-20 density was actually achieved, because unless you go to three stories or more, it is simply impossible to meet the setbacks. Theoretically, you could get 10 units in there if you went to a three story [building] because all you would get on the bottom floor would be garages. Mr. Young said that the units would be very small, and none of these condominium guidelines would apply if you did apartments. At 5 units it does go to site development review and we would present those [plans] to the Council, the Council's recommendations would go to the Planning Director and that would be acted on accordingly.

Public testimony was called for. No public testimony was submitted.

Council member Miraglia referred to the issue of public benefit, in the zoning ordinance, Section 17.18.020 on PDs, which says: "the determination of the proposal would benefit the public necessity, convenience and general welfare would be based in part on conformance of the proposal with the provisions of this chapter". She asked staff to speak about it.

Mr. Young said that on a project like this the idea originally was for larger parcels of 2 to 5 acres, essentially to establish neighborhoods within that larger site. Here, you have about a half acre site and you are creating a "micro-neighborhood" and you are providing public benefits, such as shared open space, the general front yard area, and a common tot lot area. There is certain amount of balance here in that the developer has stepped forward and added a lot of design details that we have not had in the past in a lot of these projects. And the whole principle of a PD, of a trade off [is met], that you relax some standards in gaining some benefit of a design improvement over what might otherwise be developed on the site. Council member Miraglia said that as far as a public benefit, the PD's that she has seen where there is open space, a small park, that's public benefit, but a tot lot is private, for the people just within that property and she did not see that as public benefit. Mr. Young said for a site like this, Planning accepts applications for PDs on smaller parcels like this half-acre site or smaller still, but trying to provide a public amenity on a parcel like this would be [difficult – perhaps] you might consider a community garden or a general tot lot for the neighborhood. It might be viable, but it would be exceptional, and basically, you would have to give up a whole unit and dedicate an additional 20 feet of one of the front yards for some larger community area. Council member Miraglia said that it is really too small project to be in a PD because it doesn't meet the public benefit requirement and there isn't a way to do that. Mr. Young said that the general Planning Department principle of the public benefit is creating small sites that provide a good quality of life within those sites. Mr. Young cited the Forest Circle as an example where the amenities are internal to the site.

Council member Crawford asked staff why this project doesn't have a turnaround in the rear and how a vehicle is supposed to turn around or how is it supposed to back up 200'. Mr. Young said they can turn around. The geometry was checked out and it works. Council member Crawford

asked if there was a new turn around standard in the County, because what he has seen required for decades is much more than this. Essentially, you would need one of those parking spaces to not be used so it can be a turnaround. Ms. Urzua said that 25 feet is the standard back space. Council member Crawford said that 25 feet is the back up for the garage not for the turnaround space at the end of a 200 feet private street or driveway. Mr. Young asked for clarification, that council member Crawford meant when the parking spaces are filled, for a car to turn around, and the council member affirmed that was what he meant. Council member Crawford said the requirements would not allow for a car just to maneuver back and forth reversing itself.

Council member Crawford also referred to page 3 of the tables, table # 5, which says that an increase in density shall require additional findings, and a public benefit. He said the proposal has four lots under 2,000 square feet, and less than the R-S-D-20 zoning. He asked if the PD is being used to go under the 2,000. Mr. Young said no. Looking at the gross density is not creating more than one dwelling per 2,000 square feet. Council member Crawford said that when you are creating super lots you can't count the roadway space and in his calculation he counted the roadway space. Mr. Young said that that has never been part of the density calculation just because he is creating a lot that is less than 2,000 square feet is not considered increase in density. Council member Crawford said that the minimum lot size for the RS-D-20 is 5,000 square feet. We are creating lots that are under the 2,000 square feet Mr. Young said that as a condition you are changing it to a PD in which case is one lot per 1,953 square feet, so it is not multiple units per smaller lot, is one unit per lot. He is not asking for any increase in density.

Council member Miraglia told Mr. Young that the letter from the Fire Department is dated February 5, 2010 and asked him if they have looked at this plan and have they gotten a sign off from the Fire Department on this project. Mr. Young said that the Fire Department is satisfied with the 20 foot clear area of the combined street and for the length of the street they would not require a fire truck turnaround.

Council member Crawford said that he was not suggesting a fire truck turnaround, he was just suggesting anybody that drives to the end of that street and finds four occupied parking spaces having the ability to turn around.

Council member Nielsen told Mr. Harwood that the Council is trying to make this work because the buildings are attractive and the Council is trying to work with you to come up with something that would benefit the community. He asked if there was a way that they can redesign the internal design so to move the entry way back to 6-7-8 feet and move the garage back to where it wouldn't tower over the driveway. He said that he doesn't have a problem with the density, but when there is just 3½' off the driveway, it is a safety hazard. He would consider maybe 7' as a setback, because it would be closer, but not 3½'. Mr. Harwood asked council member Nielsen if he was talking about the entry door. Council member Nielsen asked Mr. Harwood if he would be willing to move the entry portion. Following some discussion, Mr. Harwood said yes, he would do so.

Mr. Young said that there was a change in the interpretation of this 15 foot dimension. The standard practice, such as for the condominium conversion that was across the street it was built to condo standards and that was 10' from the side and that was pretty much the understanding of a rear yard setback requirement for most condo town homes projects. The design guidelines

committee evolved this 15 foot requirement for both directions – that any dimension must be a minimum of 15 feet now.

Council member Crawford said that they (design guidelines committee) make suggestions and then staff goes back and changes them and send them back to them again. He said that the design guidelines have not been accepted by the Board of Supervisors yet. He told Mr. Young that he is bumping up against the flaws in our Zoning Ordinance and that is why we are having design guidelines done so we can make these changes and when projects like this come up and are evaluated you are not going back and forth. Council member Crawford said that the consensus that has been delivered is that nobody wants these buildings this close to private streets. He and Mr. Harwood discussed the issues of form, height, going to three stories, setbacks and what the neighbors would like at some additional length. Council member Crawford emphasized that what was not wanted was a feeling of concrete halls with concrete sides, which seems to be what was proposed here. Mr. Harwood asked if the 15' dimension were not actually required now, perhaps they could move the garage 5' back. Council member Crawford said to his knowledge there is no current requirement for 15' behind the garage. He can show 20 townhomes and condominiums and it has been a 10' requirement.

Mr. Tragni said that the Planning Department is recommending approval on this project and asked if the Council was in conflict with the Planning Department and asked if the Council was just advisory. Council member Miraglia said yes. Mr. Tragni said that some of the neighbors support the project. Council member Miraglia said that the larger public is who the Council answers to and what the Council is here to do is to uphold the ordinances and the guidelines. She said that the whole PD issue has been a bone of contention for years, and most people want to try to get away from PD's because what happens is we end up giving so much and there is no public benefit here. Mr. Tragni asked how the Council represents the public. Council member Miraglia told Mr. Tragni that the Planning Department has an opinion and the MAC has their opinion and they are not always in line with each other.

Council member Crawford said that he was not here when this was presented in March 2010 but the minutes and the staff report clearly reflect the concerns over density. This setback issue is an example of what we don't want to do and why we are continually concerned with the PD process. The applicants has the option of taking the Council's advice and redesign the project, perhaps by reducing the unit size to 1,400 or 1,500 square feet, or reduce the upper story area and bring it back from the street. The number of units was a concern. While the project looks pretty, he can't support it.

Council member Ryzanych said that one of the problems that we have is the long term effect, unfortunately it is a stressed piece of property, and we are pushing more into it than would fit here, that is the problem with the PD. It is a completely misuse of the PD and it has been his contention with the Planning Department for a long time. Mixed use is supposed to include retail and things like that and it has been an abused section of the code, of zoning for a long time. This project looks good, but is functionally the same. A 1,500 or even 1,400 square foot unit is practical. The community is not so much concerned with accommodating development for financial purposes as much as we are for sustaining a good community. One of the problems that we see with developments like this is that eventually green turns to parking, because practicality wins over cosmetics. Someone gets a boat, or a junked car, and then people argue about what is

and isn't allowed. From the community stand point we are more in favor of looking at a less dense piece of property.

Council member Crawford made a motion to deny Tract Map, TR-8031, PLN2009-00174 based on lack of the 10 foot setback and the units being too large, too dense, with too much square foot area of development on the site. Council member Sadoff seconded. Motion passed 6/1/0 with council member Moore excused.

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

The Castro Valley General Plan Work session will be held on Monday, October 4, from 4 to 7 p.m. at the Planning Department Conference Room, 224 W. Winton Ave., Room 111.

I. Council Announcements, Comments and Reports

Council member Miraglia reported about Caltrans' blighted property.

The Climate Action Plan meeting will be on Wednesday, September 29 at 6 p.m. in the Public Hearing Room.

J. Adjourn

The meeting was adjourned at 7:39 p.m.

Next Hearing Date: Monday, October 11, 2010