

**MINUTES OF MEETING  
THE WEST COUNTY BOARD OF ZONING ADJUSTMENTS**

**JULY 10, 2002**  
(Approved July 24, 2002)

The meeting was held at the hour of 6:00 p.m. in the Auditorium of the Public Works Building, 399 Elmhurst Street, Hayward, California.

**CALL TO ORDER:**

The meeting was called to order by the Board Secretary at 6:12 p.m.

**MEMBERS PRESENT:** Dennis Botelho; Sharon Callaham; Ron Palmeri; Frank Peixoto; and Jewell Spalding.

**MEMBERS EXCUSED:** None

**OTHERS PRESENT:** Ronald Gee, Senior Planner and Nilma Singh, Recording Secretary,

There were about 30 members of the public in the audience.

**Announcements by the Chair:** None

**A. CONSENT CALENDAR**

1. **BOB MASON, CONDITIONAL USE PERMIT, C-7756** - Application to modify C-7447 (continued operation of a horse breeding and boarding facility for 125 horses and occupancy of five caretaker's quarters) by allowing: 1) an increase from 125 to 145 horses, 2) storage of 20 recreational vehicles, and 3) continued operation of a grain and feed store, in an "A" (Agricultural) District, located at 24550 Palomares Road, east side, approximately 0.25 miles south of Palo Verde Road, unincorporated Castro Valley area of Alameda County, Assessor's Parcel No: 85A-2700-1-7. (Continued from May 22<sup>nd</sup>; to be continued without discussion to August 14, 2002).
2. **THE STADIUM CLUB, CONDITIONAL USE PERMIT, C-7948** - Application to allow a Tavern in a C-1 (Retail Commercial) District, located at 15698 East 14<sup>th</sup> Street, northeast side, north corner with Plaza Drive, unincorporated San Leandro area of Alameda County, Assessor's Parcel No: 80-0034-007. (Continued from May 22<sup>nd</sup> & June 26; to be continued to August 28, 2002).
3. **SUSANA FLORES, VARIANCE, V-11560** - Application to allow: 1) a 4' rear yard where 10' is required and 2) a 2' side yard where 5' is required with the expansion of a nonconforming structure through construction of an addition, in a R-1-S-U (Single Family Res, Secondary Unit Allowed) District, located at 1618 - 152<sup>nd</sup> Ave, south side, approximately 100' east of the intersection with Lark Street, unincorporated San Leandro area of Alameda County, Assessor's Parcel No: 80-29-12. (Continued from June 12<sup>th</sup>; to be continued to August 14, 2002).
4. **PRISCILLA BAYAN, VARIANCE, V-11584 and TENTATIVE MAP, PARCEL MAP PM-7945** - Application to subdivide one parcel containing approximately 1.71 acres into four parcels and

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to allow a 5' front yard where 20' is required, in a R-1-B-E-CSU-RV (Single Family Residence, 10,000 sq.ft. mbsa, 80' median lot width, Conditional Secondary Unit, Recreational Vehicle) District, located at 4937 Crow Canyon Road, east side, approximately 50' north of the intersection with Cull Canyon Road, Unincorporated Castro Valley area of Alameda County, Assessor's Parcel No: 85-5355-001. (Continued from May 22<sup>nd</sup>; to be continued without discussion to July 24, 2002).

5. **MR & MRS CHONG, VARIANCE, V-11614** - Application to allow construction of an attached addition (single car garage) thereby reducing a side yard from the required 5' to 0' on a parcel with split zoning of C-2 (General Commercial) District and R-1 (Single Family Residence) District, located at 16873 E. 14<sup>th</sup> Street, southwest side, approximately 600' southeast of the intersection with 170<sup>th</sup> Ave, unincorporated San Leandro area of Alameda County, Assessor's Parcel No: 80B-301-12.(Continued from June 26<sup>th</sup>, to be continued without discussion to July 24, 2002 ).

Moved and seconded by Members Palmeri and Callaham to approve the Consent Calender, except for Item #6, per staff recommendation. Motion passed 5/0.

6. **CECIL ARRIZON, VARIANCE, V-11640** - Application to allow construction of a detached accessory structure (storage building) covering 38% of the required rear yard where 30% is the maximum allowed in a R-1 (Single Family Residence) District, located at 16641 Meekland Ave, west side, approximately 100' south of Ano Ave, Ashland area, unincorporated San Lorenzo area of Alameda County, Assessor's Parcel No: 413-23-25. (To be continued without discussion to July 24, 2002).

This item was moved to the Regular Calendar. Mr. Gee presented the staff report. The Chair noted that no decision would be made today.

Public testimony was called for. Carol Dieter, 16683 Meekland Avenue, said she was concerned for her neighborhood. She confirmed that this was not a storage building but a dwelling unit. She opposed this proposal and any other storage buildings in the neighborhood. She had received the initial notice and asked clarification on the notification process. Member Spalding also felt that the neighbors should be notified of a continuance. Member Palmeri asked if this was in San Lorenzo or Ashland area and thought there was confusion regarding the Redevelopment area. He suggested a continuance during which time the matter could be referred to other associations outside the area, such as Cherryland and Ashland Community Associations. Mr. Gee explained that the mailing address is in San Lorenzo which is tied to the nearest Post Office only. Properties that are north of Lewelling Boulevard are located in the unincorporated Ashland area. However, this site is now in the redefined Cherryland Redevelopment area, located south of Highway 238.

Judy Eisenberg, 288 Ano Avenue, pointed out that all the properties in this neighborhood had single car garages and felt that too many cars would bring the neighborhood down. Member Callaham suggested that the public should submit their concerns in writing, addressed to the Board of Zoning Adjustments.

Jean Jacob, a resident of Cherryland, said she would like to keep the area as single family residence.

Eileen Bellinger, Ano Street resident, also stated that this was zoned for single family residences and not designed for additional buildings.

Public testimony was closed. Member Palmeri moved the motion, seconded by Member Callaham, to continue the matter to August 14<sup>th</sup>, during which the matter would be re-noticed and referred to Ashland and Cherryland Community Associations. Motion passed 5/0.

## **B. REGULAR CALENDAR**

### **CONDITIONAL USE PERMITS:**

7. **ST. ANTONIUS COPTIC CHURCH, CONDITIONAL USE PERMIT, C-6783** - Consideration of Revocation which conditionally approved the expansion of an existing church facility by the addition of a two-story classroom building and a single-story church resource center in an "R-1" (Single Family Residence) District, located at 2500 Hansen Road, west side, 400' north of East Avenue, Hayward, Assessor's No. 426-130-72. (To be continued to a date to be announced or the matter may be dropped and no further action required).

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A 10 minute break was taken since the Board and the members of the public did not have the correct staff reports. Both items 7 and 11 were moved to the end of the agenda to be discussed concurrently.

- 8. RICHARD MAGNUSON, CONDITIONAL USE PERMIT, C-7723** - Consideration of revocation of Conditional Use Permit, to allow the operation of a massage therapy establishment (Aromatherapy Oil Body Rub) in a C-1 (Retail Business) District, located at 21715 Redwood Road, west side, opposite of Watson Street, unincorporated Castro Valley area of Alameda County, Assessor's Parcel No: 415-90-68. (Revoke).

Mr. Gee presented the staff report adding that the Applicant agrees to the revocation and was aware that new uses would be allowed.

Public testimony was called for. Richard Magnuson, property owner, concurred with the revocation. He requested confirmation that the revocation was only for this permit and no other uses. Member Botelho confirmed.

Public testimony was closed. Member Spalding moved the motion, seconded by Member Peixoto, to revoke the permit as recommended by staff. Motion passed 5/0.

- 9. CHARLES & DONNA KOOPMAN, CONDITIONAL USE PERMIT, C-7841** - Application to allow operation of new commercial riding and boarding facility for seven horses in an "R-1-L-B-E" (Single Family Residence, Limited Agriculture, 5-acre Minimum Building Site Area) District, located at 10320 Crow Canyon Road, west side, 1.8 miles north of Norris Canyon Road, Unincorporated Castro Valley Area of Alameda County, Designated Assessor's Parcel No. 85-1901-2-2. (Approval subject to 13 conditions).

- 10. CHARLES & DONNA KOOPMAN, CONDITIONAL USE PERMIT, C-7850** - Application to allow continued operation of a commercial riding and boarding facility for 35 horses in an "A" (Agriculture) District, located at 10330 Crow Canyon Road, west side, 1.8 miles north of Norris Canyon Road, Unincorporated Castro Valley Area of Alameda County, Designated Assessor's Parcel No. 85-1901-2-1. (Approval subject to 17 conditions).

Mr. Gee presented the staff reports, noting that Conditional Use Permit, C-7841 (Item #10) was located on the adjacent property. On June 12<sup>th</sup> a memorandum between the applicant, Public Works Traffic - Engineering and the Planning Department was agreed to which clarified actions that needed to be taken within 90 days including dedication of 20-foot wide grading easement and phased in improvements for future widening of Crow Canyon Road. Member Spalding pointed out the difference between permit application numbers and numbers of recommended conditions. Mr. Gee explained that it was due to the terms of the Mitigated Negative Declaration which included a condition outlining a manure management plan for the larger horse boarding facility.

Public testimony was called for. Charles Koopman, Applicant, confirmed that all issues have been resolved and he concurred with all the recommended conditions.

Public testimony was closed. Member Peixoto moved the motion, seconded by Member Spalding, to approve both applications, C-7841 and C-7850, subject to the recommended conditions as contained in the staff reports. Motion passed 5/0.



11. **ST. ANTONIUS COPTIC CHURCH, CONDITIONAL USE PERMIT, C-7978 & VARIANCE, V-11623** - Application to allow 1) expansion of an existing church facility with an addition below the parking structure to provide three guest rooms and four storage areas; 2) construction of a multi-purpose building on the adjacent parcel to the south; 3) to retain two freestanding signs 9'-3" in height where 4' is the maximum permitted in an R-1 (Single Family Residence) District, located at 2500 Hansen Road, west side, approximately 400' north of East Avenue, unincorporated Fairview area of Alameda County, Assessor's Parcel No: 426-0130-072. (Approval subject to 7 conditions).

Moved to the end of the agenda with Item #7.

12. **EPIPHANY LUTHERAN CHURCH AND SAN LEANDRO CHARTER ACADEMY, CONDITIONAL USE PERMIT, C-7987** - Application to allow the operation of a public charter school for up to 240 students in addition to the placement of six (24' x 60') portable buildings in a R-S-D-20 (Suburban Residence, 2,000 sq.ft. mbsa per dwelling unit) District, located at 16248 Carolyn Street, east side, approximately 50' north of Foothill Blvd, Ashland area, unincorporated San Leandro area of Alameda County, Assessor's Parcel No: 80A-188-1-5. (Approval subject to 13 conditions).

Mr. Gee summarized the staff report.

Public testimony was called for. Ema Arcellana, Director of San Leandro Charter Academy, stated that since there was a need for a public school in this area., the Academy has already received many applications. The Academy was working closely with all other agencies and she described improvements completed to-date. In reference to Condition #8, Member Spalding asked whether or not a landscape plan was available since some areas needed maintenance. Ms. Arcellana replied no. In reference to Condition #9, Member Spalding discussed noise issues. Member Botelho asked if the entire school area would be fenced for safety reasons. Ms. Arcellana said yes.

Public testimony was closed. Mr. Gee provided clarification on Condition #8. A landscape plan would be submitted for Planning Director approval before issuance of a building permit or occupancy of any school buildings. Member Botelho felt that the condition should specifically reflect that the entire area needs to be fenced. Mr. Gee suggested adding a sentence to Condition #8 regarding fencing and lighting for security purposes. Public testimony was re-opened. Ms. Arcellana indicated that new lights would be installed in the parking lot, flood lights at the end of each portable. Member Callaham moved the motion, seconded by Member Palmeri, to approve the application subject to the thirteen conditions as recommended by staff with the above modification to Conditions 8 and 9 regarding security. Motion passed 5/0.

13. **CASTRO VALLEY WOMEN'S CLUB, CONDITIONAL USE PERMIT, C-8015** - Application to allow continued operation of a clubhouse (Castro Valley Women's Club) in a PD (Planned Development, 1581<sup>st</sup> Zoning Unit) District, located at 18330 Redwood Road, east side, approximately 90' south of intersection with Emily Court, unincorporated Castro Valley area of Alameda County, Assessor's Parcel No: 84C-851-97. (Approval subject to 11 conditions).

Mr. Gee presented the staff report adding that CVMAC has recommended expiration in five years.

Public testimony was called for. Pauline Riddle, Vice President of the Club, described the goals of the Club.

The Council had also recommended that the club could remain open till 9:00 pm on Sundays for club use only.

Dick Bigelow, a representative of the Club, confirmed the above.

Public testimony was closed. Member Botelho also confirmed that CVMAC had recommended the change of hours and to extend the term of the permit to five years. Mr. Gee suggested modifying Condition #2 to read, "...and 9:00 am and 9:00 pm on Saturday for exclusive club use after 8:00 pm and on Sunday from 9:00 am to 8:00 pm. Member Spalding moved the motion, seconded by Member Peixoto, to approve the application as recommended by staff, with Condition #'s 2 and 11. Motion passed 5/0.

- 14. SAN LORENZO UNIFIED SCHOOL DISTRICT/SUSAN SUNG dba ADVENTURE TIME, CONDITIONAL USE PERMIT, C-8021** - Application to allow a child care facility (an extended day care) for a maximum of 50 children ages 5 to 12 years old, in a R-1 (Single Family Residence) District, located at 879 Grant Avenue, north side, approximately 100' east of the intersection with Via Prado, unincorporated San Lorenzo area of Alameda County, Assessor's Parcel Number: 412-0022-007. (Approval subject to 4 conditions).

Mr. Gee presented the staff report. Member Botelho requested clarification on Condition #2 regarding school parking. Mr. Gee replied that these spaces were for staff.

Public testimony was called for. The Applicant was not available and no other testimony was submitted. The Chair suggested a continuance. Members Spalding and Peixoto felt that since the facility has been in operation for many years with no complaints, this was a renewal application and no testimony has been submitted in opposition, a favorable decision could be made today. Member Peixoto moved the motion, seconded by Member Spalding, to approve the application as recommended by staff. Motion passed 4/0. Member Botelho voted no.

### **VARIANCES:**

- 15. ABEL VIEIRA, VARIANCE, V-11634** - Application to allow construction of an attached single-story addition providing a 5'-6" rear yard where 20' is required, in a R-1 (Single Family Residence) District, located at 1866 Corte Verde, south side, approximately 100' east of Via Represa, unincorporated San Lorenzo area of Alameda County, Assessor's Parcel No: 411-6-24. (Approval subject to 2 conditions).

Mr. Gee presented the staff report adding that the detached garage was an illegal structure with no building permit. Both buildings, the main dwelling and the illegal garage, occupied more than 30% of the rear yard and as a result, there was not much open space. Although staff has recommended conditional approval, there was still the question of an illegal building and lack of compensating open space. Member Palmeri asked for clarification on open space calculations.

Public testimony was called for. Mr. Vieira, Applicant, stated that a Building Permit had been issued for the garage. Member Botelho suggested a continuance during which time a copy of permit could be submitted and an accurate staff report prepared. Mr. Vieira agreed.

Mary Cedarholm, property owner at 15747 Via Nueva, said her concern was the lack of building permits in

this area. She asked why only the Applicant had to apply for a permit. Member Botelho advised her to contact Zoning Enforcement.

Public testimony was closed. Member Peixoto moved the motion, seconded by Member Callaham, to continue the matter for two weeks, to July 24<sup>th</sup>. Motion passed 5/0.

16. **JOHN VALENTE, VARIANCE, V-11638** - Application to allow construction of an addition on a parcel with a 10' median lot width where 50' is required, in a R-1 (Single Family Residence) District, located at 2673 D Street, south side, approximately 130' west of Mayville Drive, unincorporated Hayward area of Alameda County, Assessor's Parcel No: 426-10-8. (Approval subject to 4 conditions).

Mr. Gee presented the staff report adding that a written response had been received from Fairview Community Club.

Public testimony was called for. Kim Steinbeck, property owner, explained her proposal. She requested clarification on Conditions #2 and 4. Fairview Community Club has recommended that the driveway be painted red. Since her house was set back on the property, the driveway was not usually used for parking. Ms Steinbeck said that approval from the Fire Department was not subject to any requirements.

Charles Snipes, President of Fairview Community Club, said that flag lots were common in the Fairview area. The Club supported the proposal and had suggested that the first 10 feet of the driveway be identified as an emergency zone. He pointed out that adding the 2' easement made the driveway 12'. Member Spalding agreed.

Bob Steinbeck felt that marking the driveway red would be offensive to the front property owners. This would be most appropriate for a multiple residence on a single lot but not for a single residence. It was possible to drive about 20 emergency vehicles as close as 20 feet of the main residence.

Public testimony was closed. Member Spalding said that since flag lots were a problematic issue, the amended Fairview Specific Plan significantly attempts to address this. This area already had many "No Parking" signs which was not too attractive. Member Palmeri moved the motion, seconded by Member Spalding, to approve the application subject to as recommended by staff. Motion passed 5/0.

17. **MR & MRS KEITH POWERS, VARIANCE, V-11639** - Application to allow construction of an attached addition so as to reduce the rear yard setback from 20 feet to 5' feet in an R-1-CSU-RV (Single Family Residence, Conditional Sec. Unit, Rec Vehicle) District, located at 4826 Seaview Place, on the west side, approximately 60' north of Seaview Ave, unincorporated Castro Valley area of Alameda County, Assessor's Parcel No: 84C-935-3-28. (Approval subject to 3 conditions)

Mr. Gee presented the staff report.

Public testimony was called for. Keith Powers, Applicant, said that the construction in the front yard was landscaping/mowing strip. The Community Center was located on 10 feet higher elevation and both properties were separated by a 6-foot wall. He submitted photographs in support adding that he concurred with the recommended conditions.

Public testimony was closed. Member Callahan moved motion, seconded by Member Palmeri, to approve the application subject to three conditions as recommended by staff. Motion passed 5/0.

7. **ST. ANTONIUS COPTIC CHURCH, CONDITIONAL USE PERMIT, C-6783** - Consideration of Revocation which conditionally approved the expansion of an existing church facility by the addition of a two-story classroom building and a single-story church resource center in an "R-1" (Single Family Residence) District, located at 2500 Hansen Road, west side, 400' north of East Avenue, Hayward, Assessor's No. 426-130-72. (To be continued to a date to be announced or the matter may be dropped and no further action required).
  
11. **ST. ANTONIUS COPTIC CHURCH, CONDITIONAL USE PERMIT, C-7978 & VARIANCE, V-11623** - Application to allow 1) expansion of an existing church facility with an addition below the parking structure to provide three guest rooms and four storage areas; 2) construction of a multi-purpose building on the adjacent parcel to the south; 3) to retain two freestanding signs 9'-3" in height where 4' is the maximum permitted in an R-1 (Single Family Residence) District, located at 2500 Hansen Road, west side, approximately 400' north of East Avenue, unincorporated Fairview area of Alameda County, Assessor's Parcel No: 426-0130-072. (Approval subject to 7 conditions).

Matter reconvened at the end of the agenda.

Mr. Gee presented both staff reports pointing out that the new application, C-7978/V-11623 would replace the old permit and announced that the plans for a multi-purpose building has been withdrawn. Although the previous conditions were not complied with, the Church was currently working towards compliance and was willing to dedicate land for future widening of Hanson Road. Member Spalding asked if the other property owners were aware of this requirement. Mr. Gee replied no, unless they had recently applied for a discretionary permit approval. It was unclear if the guest rooms would have kitchen facilities. Member Botelho noted the prior conditions did indicate that no expansion was allowed for ten years. Member Peixoto questioned the sign issue, safety and traffic concerns.

Nabil Ghabrial, church member, confirmed that the application for a multi-purpose room has been withdrawn. The sign has now been reduced to one two-sided sign. A total of three rooms were being proposed. While stating that neighbors, Fire, Sheriffs and Planning Departments were not informed of festivals in the past, the Church was willing to notify all future events. Loud speakers were used only during the annual festival. He submitted photographs of property improvements taken last week. Landscape improvements have been being installed. The Church has allowed use of their parking lot for immediate neighbors.

Mary LaVincent, Oak Creek resident, spoke in opposition. She asked if the Board had read the agreement between the Oak Creek Association and the Church which states that no more expansions would be made. Currently, a grading issue has been noted. Member Spalding asked if this Agreement was included in the Permit, noting that the attached Resolution, Z-5907 makes reference to exhibits. Ms. LaVincent said that Resolution Z-5907 was an older resolution from 1986. There was a newer resolution from 1996.

Eunice Phillips, Ex-President of Oak Creek Association, said that this was a private agreement which stated that no expansion would be made contiguous to the Oak Creek properties.

Malca Chall, current President, stated that two letters, explaining the position of the Board, were submitted to Planning staff, Mr. Tarbell. The Board did not oppose the proposal or any buildings proposed for the

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south side which would not be contiguous to Oak Creek. After the regular June meeting, a special meeting was held with the Church. Ms. Choate asked if the Board had copies of the above letters. Member Spalding suggested that in future correspondences be addressed to the Board of Zoning Adjustments with a request that copies be made for each Board member.

Ms. La Vincent, on behalf of another Oak Creek resident, Michael Miller, read and submitted a copy of his letter of opposition. Her concerns included all new expansions, parking on the sides of Hansen Road during festivals and the illegal trailer which has not been removed to-date. She asked who would take care of the illegal trailer. Member Botelho asked if the Sheriffs Department had been called on the parking issue. She replied yes, pointing out that 'No Parking' signs were posted on both side of Hansen Road. Mr. Gee explained zoning enforcement procedures and that the staff report did not define everything clearly.

Joy Choate, also a Oak Creek resident, said she had met with the Church. The agreement had been that the temporary buildings would be removed once the improvements has been installed. As a resident and a member of Association, she did not oppose the proposal. She would not be able to see the storage from her house. Ms. Choate felt that the same issues were being heard repeatedly.

Brett Burton, an 18 year resident of Oak Creek and a member of the Board, said he had voted against the proposal and stated his agreement with Ms. La Vincent. The Church has grown a lot and it was time to enforce a time limit. Hansen Road widening would include the removal of the fence and the sign. During the last festival, cars were parked on both sides of Hansen Road.

Public testimony was closed. Member Peixoto questioned the possibility of a new start with the matter re-noticed and a new staff report prepared. He would vote against the application (C-7978/V-11623) as is. What would be the status of C-6783? Member Spalding requested clarification on the re-notice process since the initial notification was completely different from the current modified request. The neighbors should be notified of the new proposal and the continuance date. She appreciated the meeting/progress between the Church and the residents, and the sign reduction. She asked how many lots were being used and stated an interest in the guest rooms. Perhaps the trailer could be removed during the next continuance. Member Palmeri asked clarification on "substantial improvements" as stated in the staff report. There has been many changes that were not reflected in the staff report. He felt that the matter be continued a final time during which time a detailed up-dated staff report would be prepared. Member Callaham felt that the Board has heard the same testimonies regarding the trailer since the first hearing. She asked why it has not been removed. Member Botelho agreed that the trailer has been a continuing problem. He asked if the Board could ask that the trailer be removed within 60 days or act on the revocation. He also suggested that the applications be withdrawn and re-submitted again since there were a lot of pending problems/issues and the proposal has been modified at every hearing. His other concern with the guest rooms. Mr. Gee recommended a continuance during which time the matter would be re-noticed for the current proposal.

Public testimony was re-opened. The chair asked if the Applicant wanted a decision today or a continuance. The church opted for a continuance. Public testimony was closed.

Member Spalding suggested that the Applicant meet with Planning staff to clarify exactly what was being proposed. Mr. Gee added that a new revised plan or a written statement was needed and suggested a two month continuance period. Member Palmeri moved the motion, seconded by Member Spalding, to continue the matter to September 11, 2002, during which the Applicant would submit current information in clear, concise words and an accurate detailed staff report, with specific findings in reference to the violations, be prepared and submitted with a complete package. Motion passed 5/0.

**D. Approval of Minutes - June 26, 2002 - Minutes were unavailable at this time.**

**E. Open Forum -**

Member Peixoto said since minutes were not available in a timely manner, it was difficult to remember the details. He felt that a lot of details were not needed but should only reflect names, dates and motions made. Member Botelho felt that for now, the details should be included. Since the appeals were heard by the Board, they needed to know why the applications were denied. Until the Board letters truly reflect the discussions and reasons for actions by the BZA, detailed minutes were necessary. Member Spalding felt that it was relevant to indicate that perhaps 20 neighbors spoke in opposition/support because of specific reasons. Member Palmeri agreed with Member Peixoto. For every action, he felt it was important to include the findings upon which the decision was based. He suggested that the findings could be discussed specifically during or at the end of the hearing.

The Chair asked if copies of the Board letters could be made available to the BZA at a prior public hearing before they were submitted to the Board of Supervisors. He also asked for the time frame on appeals. Members Peixoto and Spalding said that the BZA has also requested for the results of the appeals heard by Board of Supervisors but none has been received to-date. Mr. Gee explained that appeals must be filed within ten calendar days of BZA action and the matter was heard by the Board within 30 days, generally the first Thursday of each month. Member Botelho noted that only one appeal was not over-turned by the Board of Supervisors. The items were placed on the Consent Calendar and, with no discussions, were approved. Member Spalding felt that items withholding the BZA's decision should be placed on the Consent Calendar. Member Palmeri, while stating that their official role was to implement the Zoning Ordinance and an unofficial role, which was consistent with "gray areas" on the interpretation of the Ordinance, he felt that it was difficult to make a decision in these "gray areas" if there was a lack of direction by staff. When Board letters are inconsistent with the staff report prepared for the BZA, we should address this with the staff person writing the Board letters to the Board of Supervisors. In the past when items were denied by the BZA, the Board letters have indicated that findings could be made in the affirmative. He suggested that BZA members receive the Board letters at the same time as the Board of Supervisors so comparisons could be made. Member Spalding requested that the staff report prepared for the BZA should be included in the Board of Supervisor's package. Mr. Gee replied that a copy of the same staff report, a copy of the BZA Resolution along with the Board letter were sent to the Board, and that the Planning Director reads and signs every Board letter, and finalizes Consent Calendar items. The Chair pointed out that the Supervisors do not read the attachments but only the Board letter. He was of the understanding that Planning staff usually contacts the individual area Supervisor's staff person prior to the Board hearing for discussion.

The Chair also complained that BZA packages were incomplete and contain erroneous staff reports. Member Spalding requested the minutes to reflect that this was the second consecutive hearing when it has been acknowledged that erroneous staff reports have been prepared. Although requested, copies of all public comments have never been included in the package. Since the BZA members represent different community areas, feedback was needed especially for the "gray areas" of the Ordinance. Mr. Gee explained that the Zoning Ordinance states that when there was a Zoning Administrator position (now Planning Director), that person made an Ordinance determination which could be appealed to the Planning Commission to provide clarification of "gray areas." As such, this Board could also formally, as a body, refer items to the Planning Commission for interpretation. Member Palmeri's concern was that the BZA has to rely on the BZA Secretary for interpretations and the incomplete staff report, especially when certain uses were not allowed under Specific Plans.

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The Chair stated that items heard on Monday by the CVMAC should not be heard by the BZA on the following Wednesday. He would like sufficient time in-between for MAC minutes to be prepared and staff reports to reflect the Council's recommendation. Currently, he could confirm the Council actions because he attends the hearings. Member Spalding agreed, re-stating that staff reports were incomplete. She asked if information was intentionally withheld. Member Palmeri suggested that all items heard by CVMAC should be continued until the BZA members received a copy of the Council's recommendations. Mr. Gee asked if an addendum would be sufficient. Member Botelho felt that since addendums were made available very late or just before the hearings, it did not provide sufficient time for review. Member Peixoto pointed out that a time frame was involved.

Member Palmeri indicated that every application was supposed to be referred to local community associations. Although most areas in the unincorporated Alameda County were subject to redevelopment and it would be appropriate to refer applications to the Redevelopment Agency, none of these applications indicate as such. Member Botelho agreed and Member Spalding thought it could be included in the findings.

The Chair requested that the Neighborhood Preservation Ordinance and Junk Vehicle be presented to the BZA in the first 15 minutes of the next public hearing. This would enable the Board to make a recommendation since it has been recommended that the BZA would be the hearing board for West County abatement hearings. The matter will be heard by the Board of Supervisors on August 1, 2002. Member Botelho added that the BZA was the hearing board on the Liquor Policy also. Member Spalding pointed out that initially, the appeals were to be heard by the Planning Commission but now were heard by the Board of Supervisors.

Member Peixoto requested that the two sections of the agendas, Consent and Regular Calendars, each have their own items listed with separate numbers.

F. Next Hearing Date : July 24, 2002 - 1:30 p.m.

**There being no further business, the hearing was adjourned at 10:25 p.m.**

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**JAMES E. SORENSEN - SECRETARY  
WEST COUNTY BOARD OF ZONING ADJUSTMENTS**