

DRAFT MINUTES
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
MAY 26, 2021

REGULAR MEETING: 1:30 p.m.

The Chair welcomed everyone to the virtual meeting. She gave instructions on how to participate in the zoom meeting by calling in.

MEMBERS PRESENT: Dawn Clark-Montenegro, Chair; Members Lewis, Spalding and Voves.

MEMBERS ABSENT: None

OTHERS PRESENT: Planning staff: Andrew Young, Rodrigo Orduna; Code Enforcement Ed Labayog, Jazmin Sanchez, Recording Secretary and Heather Littlejohn, County Counsel.

CALL TO ORDER: *The meeting was called to order by the Chair at 1:30 p.m.*

ANNOUNCEMENTS BY THE CHAIR: None

Tobacco Retailer Regulations Administrative Hearings - None

Neighborhood Preservation and Zoning Ordinance Abatement Hearings – Ed Labayog informed the board members that per County Counsel’s advice, he is not able to provide an update on specific cases.

Alcoholic Beverage Sale Regulations Administrative Hearings – None

OPEN FORUM: Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes. The chair instructed speakers on how to participate in the zoom meeting. *There were no speakers.*

Field Trip Report – None

Consent Calendar - There are no items

Regular Calendar

PLN2020-00292, CONDITIONAL USE PERMIT, FIRST PRESBYTERIAN CHURCH OF HAYWARD/TINY HOMES - CHIZU BUCKALEW – Application for the Mandatory Review of Conditional Use Permit (PLN2018-00061) for the existing six tiny homes providing innovative or unconventional housing to alleviate homelessness located within a church parking lot, in an “CC” (Community Commercial) District, located at 2490 Grove Way, north side, 200 feet, east of Redwood Road, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 416-0030-014-03. The project is Categorically Exempt from the California Environmental Quality Act, Article 19, Section 15301, Class 1, Existing Facilities. **Staff Planner: Christine Greene, Action Item**

Christine Greene presented the staff report. On May 10th, the Castro Valley Municipal Advisory Council recommended approval of the project. Concern from the public included lack of maintenance, increase in burglaries for adjacent residential and commercial properties and increase of homeless and RV parking in the area. The applicant said he is addressing the parking of RV on Grove Way and met with Public Works traffic division to limit parking on Grove Way in front of the Church. The Sheriff's Office said the calls for service has increased. There is an additional condition of approval for a security plan for the site to be submitted within 60 days. Staff recommends to the Board to approve the Conditional Use Permit to allow the continued use of the existing six tiny homes providing innovative or unconventional housing to alleviate homelessness located within the church parking lot. If the board determines that the use is appropriate, the conditions of approval should be considered.

Member Spalding asked about the two-hour parking limit and is it included in the conditions of approval. Staff said it is not in the conditions because there is already signage on Grove Way but it has not been enforced. The Chair asked about the cumulative effect of all the services on the neighborhood.

Public comment was open.

Jake Medcalf, the applicant, said he is here to answer questions. He said the program is fantastic. He said the signs are up for parking on Grove Way and now it needs to be enforced.

The Chair asked if they are providing services to the RVs residents. There was a lot of trash, shopping carts and people hanging out. The community members are stating that there is a cumulative impact to the adjacent neighbors. Jake Medcalf said he has a 24hour security service program and also maintenance on an on-going basis. The church offers various services, including a mobile medical clinic and a shower program. People are not hanging with no intended purpose and it is not allowed. The Chair asked if they have outgrown the space where they are located. The applicant said no. The Chair asked if he read the neighbors' complaints. The applicant said the neighbors have his phone number and they may contact him. The Chair asked what is the timeline, once he gets the call, for fixing a problem. The applicant said the system works. Staff has been trained by the Sheriff's Office. We are all together in this world. The time from when a call is received to when it is checked out is a matter of minutes. Staff has been trained when to call the Sheriff's or not. The Chair asked if there is a security plan. The applicant said the Sheriff's Office already has the plan. Member Spalding asked if the phone number is posted around the property for people to call if there is an issue. The applicant said the neighbors have been able to call him or get a hold of anyone at the church. Member Voves asked if this is a 24-hour line. The applicant said it is a 24-hour line.

Kelly Abreu said if neighborhood was already going down before these programs, then the problems can't be blamed on the programs. The programs keep things from getting worse.

Dr. Anne Maris, Friends of San Lorenzo Creek, said she does not live close to this location. People are having a hard time and the church is filling a purpose. Appreciate what the church is doing. She is grateful for the services. The County has 30 acres of vacant land on Foothill and no plans. There is a need for housing. She asked the board to help.

Hera Alikian said she has raised the issue of parked RVs throughout Castro Valley. She said Public Works needs to place a parking limit on these various locations and get enforcement. She said some areas are not assigned a two-hour parking.

Cindy Torres said she supports the project and should have more programs like this in other areas.

Matt Turner lives down the street from this project and said the church does a tremendous job. This church is immaculate. The issues with RVs need to be addressed by Public Works and these are issues that are not related to the tiny homes project.

Public comment was closed.

Member Spalding said she is a regular attendee of the businesses in this area but agrees with the comments on parked RVs. There is a line of sight issue of oncoming cars and it makes hard for people coming out of the driveway. She suggested to add to condition #9 the words: “to keep the area free of trash and graffiti”. She also asked that a phone number be posted in case something comes up. Member Lewis said the church has done an excellent job and the tiny homes is not causing the problems. Member Voves agrees with Member Spalding’s suggestions on the added condition and posting the phone number.

The Chair said if there is a number what is the response time. Even before the problem of RVs parking, there was already a problem with the line of sight at that corner and maybe Public Works needs to look at a parking prohibition. She said she drove by the site a couple of times and there were a number of vehicles parked at this site. Member Spalding said the applicant said there is a 24-hour phone number does someone answer the phone or is it a message.

Member Spalding moved to approve PLN2020-00292 with the modification to number 9 adding the words at the end of the sentence “keep area free of trash and grafitti” and also add a condition number 16 which would require the posting of a 24 hour emergency phone number along the perimeters for visitors or occupants. She said the location of the signs can be discussed between staff and the applicant. Member Spalding suggested to place them at entrances and exits or anyplace where trash has been collecting. Member Voves seconded the motion.

The Chair wanted to make a suggestion to staff to contact the Sheriff’s Office to make sure to enforce parking requirements.

Andy Young conducted the roll call. Yeas: Chair Clark, Members Voves, Spalding and Lewis. Motion carried 4/0.

PLN2017-00206, SITE DEVELOPMENT REVIEW, ABELINO ESPINOZA / APPLE CREEK FARMS – Application to allow the continued operation of a horse boarding facility for up to 80 horses and the continued occupancy of three agricultural caretaker dwelling units, in an “A” (Agricultural) District, located at 7324 Crow Canyon Road, west side, 0.30 miles, south of Norris Canyon road, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 085-1700-001. The project is Categorically Exempt from the California Environmental Quality Act, Article 19, Section 15301, Class 1, Existing Facilities.
Staff Planner: Christine Greene – Action Item

Christine Greene presented the staff report. The Castro Valley Municipal Advisory Council on May 10th heard the matter and recommended approval of the project. There is an outstanding issue which the applicant needs to address regarding Environmental Health requirements. Staff recommends that the Board approve the Site Development Review to allow continued operation of a horse facility for up to 80 horses and the continued occupancy of three agricultural caretaker units, per the enclosed conditions of approval.

Member Spalding asked about the FAR and why is a covered arena counted for FAR for this application. Staff said the indoor arena is included in the calculation. Member Spalding said Measure D’s intention was not intended to allow illegal activities in the ag industry. Staff said for this purpose is not illegal because this was approved prior to the plan. Andrew Young said they may remodel according to the zoning requirements. This subject has been debated in great detail in the Ag committee and other operators on Crow Canyon have the same issue.

Member Voves asked if the arena is considered habitable space or for assembly as it relates to FAR. Staff said it is an assembly space. Member Voves asked if this is the only site plan on file, was there a real survey that shows the septic tank location, propane, water tanks, etc. Staff said it is the only site plan. The policy has been to get ag applicants to come to the planning department with their plans and not get professionally drawn plans.

Member Lewis wants clarification on the prior CUP conditions, are they temporary, one says that the main house would be demolished. There are a number of residences. The other question is the encroachment on the creek. Staff said there is no calculation for the residences. Regarding the home that was supposed to be demolished, past reports did not give a reason why the home had to be demolished, so she concluded that it should be left on the property. Regarding the creek setback, the existing buildings have been there for years and there was no comment from Public Works. Member Lewis said just because they were existing they are not grandfathered in. Staff said she did not think that the applicant should have the expense to hire a surveyor to submit better plans with the application. Member Lewis said they are not abiding by the Creek Ordinance, it should not be ignored.

The Chair asked if Environmental Health is asking for a new septic system. Staff said no, they might be able to keep the old one. The Chair asked about the SDR and is it approved by the

Planning Director. Discussion ensued amongst board members and staff on why this application has to go thru the SDR and CUP process.

Heather Littlejohn, County Counsel, said that it looks like the application has some non-conforming uses. In order for this board to approve this application, it is important that this board be very clear on what is being approved today based on the non-conforming use. It is essentially converting an expired CUP (Conditional Use Permit) to a SDR (Site Development Review) which would not normally be approved. Should they change any of these uses, they would not be able to rebuild it, the application is still under the non-conforming use. Rodrigo Orduna asked Christine if any of the structures have building permits. Staff said the Building Department did not respond to the referral. Rodrigo Orduna said the previous application was approved and the location has not changed.

Public comment was open.

Esmeralda Espinoza, the applicant, said this is a small business and trying to comply with all the requirements. An inspector from Environmental Health inspected the property and said everything was fine. There was not mention of the structures by the creek or setback. As far as the septic tanks, currently going thru the process and now waiting for a response from Environmental Health.

Member Spalding asked about the creek setbacks measurements and a letter dated October 2018 related to the creek setbacks. County Counsel asked staff who enforces the Watercourse Protection Ordinance. Christine Greene said it is the Public Works Agency. The application was referred to them and they sent it back with no comments. Rodrigo Orduna noted that these buildings are there with permission from the Planning Department approval of previous application from years ago at the current location and they are caretaker dwellings. Member Lewis noted that the caretaker units are far away from the creek and the ones they are referring to are the storage buildings. County Counsel said given all the issues regarding these buildings by the creek and the caretaker units, she advised the board to continue the item for better clarification on these issues.

Member Spalding agreed. She asked about the four homes, one is 1,900 sq ft, one is 2,600 sq ft and a third one is 2,200 sq ft. She asked if they are all caretaker units. Christine Greene said there are four homes on the property. One is the main house and the other three are caretaker units. She said there is not an ordinance that dictates how big a caretaker unit has to be. Member Spalding said she needs clarification about the creek. Christine Greene said she thought that to figure out the creek setback would be too costly for the applicant and a big investment. Member Spalding said staff should be encouraging ag but at the same time the creeks should not be trashed.

Member Lewis said the item should be continued. The creek issue needs to be resolved. The Chair said maybe they could remove the buildings close to the creek. Member Spalding said it only becomes an issue if they are storage trailers. Mrs. Espinoza she said the cars and parking has been moved, and the inspection was done. There is nothing by the creek and when the inspector came over she asked us to move the cars. There is nothing close to the creek.

Andrew young said the biggest concern is the manure pile and is it being managed.

Bruce King, Friends of San Lorenzo Creek, said that it seems obvious if staff had been to the site they would have observed the conditions of the site. They are not in compliance with the watercourse ordinance. It is not a big cost to the owner. If you walk there you can see what is close to the creek. It is very easy. The current site plan is not to scale, there are small structures and trailers that people live in and there has been grading by the creek. It is very frustrating and staff needs to visit the site and look at it. The Watercourse Protection Ordinance has been in effect for forty years. The creek could have been damaged.

Rodrigo Orduna expanded on the exemptions to the ordinance. Member Spalding said the key is to require setback as part of the conditions of approval. Member Lewis said her guess is that no one has been to the site. The Chair asked about a field trip. County Counsel said the requirement for site visits without having the public attend is that there can't be a quorum present.

Dan Davini said he knows the owner of this property. He said the process will be a burden to the applicant and the applicant said he could move the trailer. It is a bureaucratic burden. He cleaned up the property. He has not built anything and the manure is away from the creek.

Kelly Abreu does not know anything about this property. Obviously the issues are topography, grading and the Planning department did their job. The ones not here are the director of Public Works and Grading and Building department staff. They are the experts. Need the right people at these meetings.

Dr. Anne Maris, on the San Lorenzo creek board, echoed Bruce King's remarks. It would not be too onerous for the applicant. The job is not being done by Public Works. Need to protect the resources. Creeks are severely damaged, follow minimum guidelines and pollution comes from ag and urban. It is important to honor the 20 ft setback. She volunteered to help.

Tyler Dragoni agrees with the previous speakers. There are certain people that should be in the room and are not. Perhaps the County could facilitate that and do it in a reasonable way. Overall how often does the SDR approval include non-conforming approval from past applications. How can this board ensure that the watercourse is being protected if the report for the septic system is not issued yet. Important information such as leach field, location need to be on the table before approval of the project.

Christine Greene the applicant had to turn in a better exhibit to Environmental Health, the Planning exhibit was not accepted by Environmental Health.

Dale Silva has known the applicant for a while. They put their life savings into this project and he is doing the right thing. Planning is recommending approval and it should be approved.

Speaker said she heard all the comments and she understands not trying to make it hard for the applicant. The facility is stepping up to make the corrections. The equine industry is such an important part of the well-being of everyone. She encouraged the board to approve the project.

The Chair asked if there are any structures of any kind next to the creek. The applicant said the horse trailers used to park in the front. The Chair said on both sides of the creek there is nothing on either side. The applicant said he instructs people not to park by the creek. People come in and out all the time.

Member Lewis said this item should be continued and the board should do a site visit, and perhaps should be able to tell the applicant how far they need to be away from the creek.

Public hearing was closed.

The Chair asked if two board members may attend the site visit at a time. Member Spalding said if staff could schedule a site visit. It is a riding stable and if someone is interested they may walk there. Appreciate the comments from Friends of San Lorenzo Creek and by visiting the site this board may come up with something that is easily complied with.

The Chair asked the applicant if they are okay with a site visit. There will be at least four visits. Esmeralda Espinoza said they will be out of the country and be back on June 11th. Staff said the next meeting after that will be June 23rd. The Chair said the field trip will be done prior to the meeting. Ms. Espinoza asked for time and date of the site visit. She agreed with June 23rd meeting date.

County Counsel spoke on Measure D, no new uses can be permitted if they violate Measure D. However, Measure D also speaks to non-conforming uses. She said at the next meeting staff will bring more information on these issues.

The Chair moved to continue PLN2017-00206 to June 23rd to allow staff time to bring more information on non-conforming use and also give the board members time to do a site visit. Member Lewis seconded the motion.

Andy Young conducted the roll call. Yeas: Chair Clark, Members Voves, Spalding and Lewis. Motion carried 4/0.

PLN2020-00281, CONDITIONAL USE PERMIT - CASTRO VALLEY PARENT

NURSERY SCHOOL INC / THORNBERRY, ALISON – Application to allow continued operation of a nursery school for 28 pupils, with 2 sessions per day, 5 days per week, in the "R1-CSU-RV" (Single Family Residential, Secondary Unit, Recreational Vehicle Parking) District, located at 3657 Christensen Lane, south side, 50 feet west from the southern terminus of Almond Road, Castro Valley area of unincorporated Alameda County, designated Assessor's Parcel Number: 084B -0531-006-00. This project is categorically exempt under CEQA pursuant to section 15301 (Existing Facilities). **Staff Planner: Damien Curry – Action Item**

Damien Curry presented the staff report. The original conditional use permit was approved in 1983. This is a continued operation of a community facility consisting of a nursery school with no changes from the previous permit. The Castro Valley Municipal Advisory Council on May 10th recommend approval of the project. Staff recommends approval of the subject application, subject to the proposed conditions.

Member Spalding asked if this is a co-op of parents of young children. Staff said it is a cooperative operation where parent participation is key.

County Counsel Heather Littlejohn wanted to clarify that the mandatory review is not a permit expiration, it needs to come back in ten years for a mandatory review. Staff agreed. The Chair

asked who initiates the review, the applicant or planning. Staff said the applicant initiates with a notice from Planning. Andy Young said it could also be initiated by a complaint.

Public comment was open.

Alison Thornberry, the applicant, said this is a co-op and connected to the Adult School. Have two directors that are employed by the Adult School and also the co-op. This is not a day care, it is a pre-school. The co-op has been at this location for the last 64 years.

Public comment was closed.

Member Spalding wanted a clarification on the conditional use permit expiration. Damien Curry said this is a mandatory review. If the zoning had not been changed, the applicant could potentially request more students than they are currently permitted for, however with the changes for the general plan this is no longer an option. Member Spalding said normally a CUP has a time lapse. Damien Curry said that is true for applications such as cell towers. Member Spalding wanted to know which ones expire and which ones do not.

Rodrigo Orduna said the ordinance never said the conditional use permit expired. There is no ordinance that says they have to expire.

Member Spalding moved to approve PLN 2020-00281 with conditions of approval. Member Lewis seconded the motion.

Andy Young conducted the roll call. Yeas: Chair Clark, Members Voves, Spalding and Lewis. Motion carried 4/0.

CONDITIONAL USE PERMIT, PLN2019-00174 - Anyi Jiang– Application to allow the operation of a new massage establishment, in the *Ashland Cherryland Business District* “District Mixed Use” (DMU), located at 20613 Mission Boulevard, 150 feet northeast of Medford Avenue, unincorporated Cherryland area of Alameda County, designated Assessor’s Parcel Number: 414-0041-037-00. The Application is Categorically exempt from the requirements of the California Environmental Quality Act, per Article 19, Section 15301, Class 1, Existing facilities. **Staff Planner: William Chin – Action Item**

William Chin presented the staff report. On April 13th, the Eden MAC recommended approval of the business with a 4 to 3 vote. Staff recommends that this board approve the conditional use permit to allow operation of a massage business, based on drawings on file at the Planning Department. If the board determines that the use is appropriate, the conditions of approval should be considered.

Member Voves asked if the update of the building is included in the conditions. William Chin said it is condition #5. He said the Sheriff’s Office requires that the inside of the office may be seen from the street. Member Spalding asked if they were operating without the permit. William Chin said they are new tenants and there was a complaint to Code Enforcement back in May of 2019. Due to COVID they had not been operating. Member Spalding asked if the karate school

had been previously approved. William Chin said yes. Member Spalding asked about condition #22, which speaks of a yearly inspection.

The Chair asked about condition #22 and is it to inspect the entire site. William Chin said yes. The Chair asked if the building permit will not be issued until the CUP is approved. Staff said yes. Rodrigo Orduna said the building permit is to allow a wall that separates the space. William Chin said it will allow for a second business on site.

Public comment was open.

Tyler Dragoni said he lives close to this proposed project. He disagrees with staff and this area has a concentration of these types of businesses. There has been a history of massage parlors that do not abide by the rules. County Ordinance is very clear that a massage parlor is not allowed in a building that has a residence at the same location, a massage establishment is not allowed. The neighborhood needs more business diversity, rather than the methadone clinic, the marijuana dispensary, etc. He asked the board to abide by the rules and encourage businesses on the corridor.

Member Spalding asked Mr. Dragoni what is the ordinance preventing the business where a residence is located in the same building. Mr. Dragoni said the code number is 3.24.1.0, section N. Member Spalding asked if there is a residential use at this building. Staff said yes.

Monica Lee said she is representing the owner Anyi Jiang. She said this location had a massage business in the past. The owner has spent a lot of money on this property. There is an apartment but the entrance is separate.

Matt Turner said he supports the previous speaker Tyler, this neighborhood is heavily impacted and it has been neglected and damaged. This neighborhood needs defense and not businesses that degrade the quality of life.

Dr. Anne Maris speaking in support of the Cherryland Association and their concern about this business, said she lives about a mile from this location. She said this is a critical location for Cherryland and this is not what is needed in this neighborhood. Need to build a neighborhood for locals and provide jobs. This should not be granted.

Michael Freed, resident on Hampton Road, spoke of the location of these establishments in the neighborhood. EALI was proposed by the Supervisor and right now the neighborhood is not walkable. Not clear on the dividing wall that separates the unit and the possibility of another business. He frequently walks the neighborhood and it is difficult to walk around for various reasons. Would like to have more conditions for the project. He asked the board to look at this close before making a decision. He invited the board members to walk around the neighborhood.

Member Spalding asked about a letter from the Cherryland Association. Cindy Torres said there was a letter from the Cherryland Association and she encouraged the board to read the letter. A lot of the issues were already mentioned by previous speakers. Cherryland today has an abundance of tobacco shops, liquor stores, car businesses, and it lacks services for the residents

of the area. This location was historically a gym, it was owned by a great community member. This community deserves better businesses. She urged the board to deny the application.

William Chin said if the project is approved, the owner would hire additional employees.

Ms. Lee, representing the business owner, said the hours are from 10a.m. to 7:00 p.m. The owner of the business lives in Hayward. She has been spending a lot of money for the application process. This is a very small shop. The business will be open seven days a week.

Public comment was closed.

The Chair asked about the issue that Mr. Dragoni raised and that this business may not be located in a building in which a residence is located. Rodrigo Orduna said this business will not be allowed. County Counsel said the CUP is under Title 17 and is administered by the Sheriff's Office. It is possible for this board to issue a contingent approval, if you deny the permit the zoning ordinance is clear that they may not apply for another 12 months.

Member Spalding said she can't make the findings. There is an overabundance of massage parlors. Understand County Counsel's legal analysis. She said her motion would be to deny the application.

Member Spalding moved to deny PLN2019-00174 because the tentative findings of 3 and 4 can't be made. Number three based on the testimony from neighbors that said why this is adverse to the community and be detrimental to the public welfare. Title 3 says that massage parlors and a residential dwelling unit can't be in the same building. The Chair said there is a conflict between Title 17 and Title 3. Member Lewis seconded the motion.

Andy Young conducted the roll call. Yeas: Chair Clark, Members Voves, Spalding and Lewis. Motion carried 4/0.

The Chair informed everyone on the ten-day appeal period process.

PLN2020-00155, DESIGN REVIEW AND CONDITIONAL USE PERMIT, ROLAND P. WILLIAMS/CASTRO VALLEY SANITARY DISTRICT (CVSAN) –Design Review and Conditional Use Permit to allow construction and operation of administrative offices, a service, maintenance and corporation yard at 21195 Center Street, unincorporated Castro Valley, at APNs 084C-0650-001-03 and 084C-0650-002-04. The proposed project would include an approximately 20,000 sq. ft., two-story building that would provide office space and other facilities such as equipment storage, conference rooms, employee amenities, and a public counter for CVSan staff to interact with the public. The project would also include vehicle parking and maintenance facilities and a separate building to house chemical products, paint, and emergency fuel. The applicant would provide 72 parking spaces. Pursuant to CEQA guidelines the applicant, serving as the lead agency has prepared a CEQA IS/MND, approved by the agency Board of Directors. **Staff Planner: Nisha Chauhan – Action Item**

Nisha Chauhan presented the staff report. The applicant agreed to create a neighborhood

committee for the duration of the project to address neighbors' concerns. An eight-foot concrete block wall will be installed at the rear and side of the property. The applicant has committed to not having no more than two 3 axle vehicles on site. The site will not have a vehicle lift system or an Auto Pit System. Staff's recommendation is that the board review the site plans and attachments in the staff report, take public comment on the project, deliberate as to the merits of the project, and approve the project.

Member Lewis said the conditions of approval was contradictory as it relates to hours of operation on number 25. Staff said the conditions of approval on the staff report is correct. Member Spalding asked if the building will be open for community meetings. Nisha said the condition is in response to comments made by CVMAC. Member Spalding wanted to know the reason for not wanting the wash system. Staff said CVMAC felt that the equipment would give more of an industrial look to the facility. Member Voves asked who will be designing the concrete wall. Staff said the applicant has an architect.

Roland Williams presented a power point. He thanked the board for the work they do. He gave a brief presentation. He introduced Landon Lochrie, Associate Engineer and Stephanie Fujimura, Senior Architect with the Dahlin Group. He gave a brief description and history of the Castro Valley Sanitary District. He said the normal hours of operation are 7:00 a.m. to 4:00 p.m., however if there is an emergency, the District has to respond at anytime. He expanded on the services offered by the District to the residents of Castro Valley. The District has outgrown the office they currently occupy. This site, previously used by Caltrans, is a good location the District. The exhibit of the new building design is a result of input from CVMAC members and the public during public hearings. This project is important to the community and how the district delivers service. He spoke on the outreach efforts of the District and that most of the input was favorable. He shared an exhibit showing the parcel that was being used by Caltrans and was purchased by the District in 2013. Landon Lochrie reviewed the services and operations provided by the District. Stephanie Fujimura shared the design of the new two-story proposed building which will allow for future growth. This is a LEED certified building. She spoke on the location of the building on the site, minimizing the impacts to adjacent neighbors. She spoke on the large education garden where the district can provide activities to the community. She said they considered removing the wash bay, which is a pressurized hose, but the district has decided to keep it. She shared a new design for the wash bay. She expanded on the use of the various spaces within the building. Roland Williams said the district is committed to being good neighbors and meet regularly with the neighbors during construction. There is also a community advisory committee which meets very frequently.

Member Lewis asked what type of car maintenance will be done at the building. Landon Lochrie said the maintenance will be such things as checking fluids, changing lightbulbs, but any kind of significant repair is done off site. There are no impact guns. Member Lewis asked if there is any type of vehicle lift for the location. Roland Williams said currently there is a lift at the previous location but not one that gets lifted up high in the air. There will not be any electric lifts of any kind. Member Lewis asked about adding it as conditions of approval. Roland Williams said he is okay with that.

Member Voves asked if vacuuming will be done inside. Roland Williams said most likely in one of the bays. Member Voves asked about charge stations. The architect said there will be charge

stations. Member Voves asked how tall is the garbage enclosure. The architect said it will be taller than the wall. There will be planting along the wall.

Member Spalding inquired about the demonstration garden and the statement that it depends if the land in the right of way is purchased from Public Works. She asked about the landscape in the back wall. The architect said there will be landscape. Roland Williams said they have acquired the land from Public Works for the demonstration garden. He said if the board wants to add a condition he is fine with it. Member Spalding asked how many three axle trucks they have. Roland Williams said none. Member Spalding said there needs to be landscaping by the back wall. She asked about the neighborhood committee and who is going to appoint the neighborhood committee. Discussion ensued amongst Member Spalding and the architect on the LEED requirement and at what level. Member Spalding asked if there could be a condition of approval for the LEED requirement. Roland Williams said that would be fine.

The Chair inquired about the current fleet. Roland Williams said there are 13 vehicles which includes large vehicles and a prius. The Chair inquired about the bays. Discussion ensued about the bays, roll up doors, and the need for them to keep vehicles safe and protected. The Chair inquired about the design changes since the last CVMAC meeting. Staff said the wash bay station now has added landscape. Roland Williams said the façade at the rear of the building has been changed. The roll up doors are not 14 feet high which accommodates the tallest trucks which are 12 feet. All the changes have added an additional \$300,000 to the cost of the project. The Chair asked about the gray industrial look. Roland Williams said the CVMAC was fine with the color. Their concern was more about the roll up doors. Member Voves asked about the roll up doors and how many times will they be used. Roland Williams said in the morning and at night when the trucks are back at the site. The Chair asked if the vehicles will be electric. Roland Williams said they are mainly diesel, one Prius and three hybrids vehicles. The Chair asked where will the cars get filled up. Mr. Williams responded at a gas station down the street.

Public comment was open.

Nina Turner lives on Grove Way and drives by this site everyday. It is currently an eyesore and has chain links fences around the property. This project will be a great improvement. Does not understand all the questions about the roll up doors. The equipment needs to be protected. The project is an improvement. This site is next to the freeway, a busy street, so in terms of noise this is already a noisy neighborhood. She encouraged the board to approve it.

Matt Turner echoed the comments of the previous speaker, this is a great improvement to the neighborhood. Lives two blocks from this location. The District has done a great job on the design. There will be charging stations. There are many reasons to support this project. The District's elected board has been working on this project for a while. Too bad it was denied at the CVMAC meeting. There are not too many buildings such as this in the unincorporated area. They provide great service and he encouraged the board to approve the project.

Hari Alikian, property owner of the RV park, said she is excited for the new building but her real concern is the industrial look at the back of the building. There have been some changes since the CVMAC meeting. She said she does not want any landscape by the back wall because that is

where the utility lines, sewer and water lines are. She expressed concern with the car wash. The City of Hayward operates three bays and services 500 vehicles. There should be performance standards for public facilities. There are older people that live in the RV park and if the wind blows it will carry the noise to that area. This board should send this project back to the CVMAC so they may review the new changes.

The Chair asked Ms. Alikian if she had reviewed the plans. She said no. She said her concern is the back of the building and noise. Member Spalding said that noise can be improved by having landscape to block some of the noise. The site is improved with landscaping. She did not understand why she did not want landscape when it could help with the noise issue. Appreciate that the utility lines are located by the back wall, but not all landscaping have deep roots.

Tyler Dragoni said he supports the project. The District has been very accommodating regarding the concerns and has addressed them. Castro Valley should be very proud of the project. In the past, other communities ran out of money and the sanitary districts were absorbed by other districts. This project should be supported.

Marc Crawford said the reasons why CVMAC denied the project is the oversize warehouse component which results in an industrial use. Castro Valley has no industrial zoned parcels. Whatever gets approved here will set a precedent for Public Facility (PF) zoned parcels. The Project is far oversized for the needs of the applicant. There is a severe lack of proper conditions of approval for a project of this size and impact. There is a need for performance standards for public facilities. Finding #4 is being made without performance standards, which do not exist. The CEQA process was a joke because the applicant approved their own CEQA document. This use will affect the value of neighboring properties. Staff states that the parcel's history is rational to approve the project. None of the neighboring Sanitary Districts have their service yards located in the downtown area, they have the offices but not the service yards. This project has been tainted by the Planning Director favoring the project and ignoring community concerns. The applicant has been unwilling to make reasonable changes to the warehouse because of this corruption of the normal application process. The District has been bullying public officials by requiring personal e-mails, texts and phone records along with threats of a lawsuit if the project is not approved. This is not appropriate behavior from an applicant. The PF district was not created for an industrial service yard, it was created to give the public a say before it was sold for residential use which was the prior problem. In the normal process an application is heard by a hearing body and changes made if required. The process has not been followed in this case. He asked that this board respect the CVMAC board and deny the project which may finally prompt the District to reduce the size of the back of the project by 75% and make this a much more acceptable and conforming project.

Member Spalding asked if Mr. Crawford was a CVMAC member when the decision was made. Mr. Crawford said he chaired the MAC when this item was heard the first three times by that board. Member Spalding stated that he is not a MAC representative. Member Crawford said he is not speaking as a MAC representative. Member Spalding said on the comment about the District doing their own CEQA, school districts review their own, it is a state law. Member Crawford said the public entity should not be reviewing their own CEQA. It is the epitome of a conflict of interest. Member Spalding said right now that is state law.

Dan said he watched the CVMAC meetings and the consensus was that this is the wrong place for this building. He said he is against it. He spoke about the efficiency of having the new location and cost compared to the current cost of rent, \$63,000 yearly, being paid to house the engineering staff to the cost of this new building in the millions. 20,000 square feet is extravagant. The rate payers will have rate increases. Oroloma rates are 60% of the district's rates. He asked the board members to think about the rate payers.

A speaker, former employee of a water district, said she knows a little something about districts. This is not overspending. This is planning for the future. The rates are still lower than other districts. They are planning to have their staff at this new building for the next 40 to 70 years. It is going to be a beautiful addition to Castro Valley.

Public comment was closed.

Member Lewis asked if there were other sites considered given the opposition. Roland Williams said they did look at other sites starting in 2011 and when the Caltrans site came up, this was a clear path and there are very few sites that are zoned public facilities.

Member Spalding said under conditions of approval #7, mitigation measures are not listed or attached. They need to be attached and part of the conditions. The way it is written is not acceptable. Staff said she will add the measures. Member Spalding said landscaping along the back wall would be more attractive to the residents of the RV residents. There should be some plants that could be planted so the residents can enjoy the improvements. Roland Williams said they are willing to commit to working with the neighbors to come up with the right landscaping. This site is three feet higher than their property. The owner does not want the vegetation to be invasive. Member Spalding said planting and landscaping would be aesthetically pleasing. The architect said the original plans did have landscape. The property owner wanted all the landscaping taken out. Member Spalding said she thinks the residents would appreciate the landscaping. She asked about condition #4, what is the neighborhood committee, it does not define the membership. Roland Williams said when they had the community meeting, the original thought was to invite everyone in the vicinity. The district wants to be committed to have the meetings. The suggestion of having a committee is a good idea. The intent was to have community meetings and inviting the residents. Member Spalding said the wording could be changed to "neighborhood annual outreach program." Roland Williams said they have a map showing the address areas that were notified. Member Voves said to add neighborhood notification. Nisha Chauhan asked the board to go thru every condition.

Nisha said the language on condition #26 should be changed since the District acquired the land from Public Works.

The Chair called for changes sequentially. There were no changes to conditions #1 and 3. The following are changes in bold to conditions 2, 4 and 5:

2. Minor modification(s) to plans marked, PLN2020-00155 Exhibit "B", "**dated May 11, 2021**" as well as to these Conditions of Approval, may be conducted as an administrative Planning Department staff-level procedure not requiring a public hearing. The

determination of minor modification(s) and of the level of staff review necessary shall be subject to the discretion by the Planning Director.

4. The permittee shall establish and maintain “**annual neighborhood outreach program**” for the entire duration that the facility operates at this site as a forum to maintain dialogue and address neighbor concerns. Ample notice of meetings of the committee shall be provided to adjacent neighbors. **“Neighborhood notification map attached”**

Member Spalding said staff may tweak the language on this condition as necessary.

5. An eight foot (8’) Concrete Block wall shall be installed along the project rear and side property lines, **“the architect and CVSan will include the neighbors for input on landscape selection and design of the wall”** subject to zoning conformance and final approval by the Planning Director.
6. All site improvements, including all landscaping, grading, stormwater treatment, drainage control, exterior structures, and buildings, **“will”** be subject to review and approval by Alameda County Planning Department and Public Works Agency (PWA). All site improvements shall be subject to laws, policies, and regulations applicable at the time of application for respective Demolition, Grading, Site, Stormwater, Encroachment, or Building Permits.
7. A final landscape plan shall be reviewed and approved by the Planning Director prior to building permit issuance. Landscaping shall be of sufficient variety to enhance the visual character of the property. The plan shall demonstrate compliance with the California State Water Efficiency Landscape Ordinance, or successor ordinance, and with the Alameda Countywide Clean Water Program stormwater treatment and stormwater pollution prevention drainage regulations.

Member Spalding asked staff to attach the CEQA mitigation list.

8. A final landscape plan shall be reviewed and approved **“which shall include trellises to mitigate the industrial look”** by the Planning Director prior to building permit issuance, **“for the construction of the building subject to condition #5.”** Landscaping shall be of sufficient variety to enhance the visual character of the property. The plan shall demonstrate compliance with the California State Water Efficiency Landscape Ordinance, or successor ordinance, and with the Alameda Countywide Clean Water Program stormwater treatment and stormwater pollution prevention drainage regulations.

Member Spalding said number 5 and 8 are potentially inconsistent, because can’t get the building permit without the landscape plan. Nisha Chauhan said number 5 is just the wall. Member Spalding said number 8 is just compliance. County Counsel said that this condition might have to do with the actual building itself. She suggested adding to #8 **“prior to building permit issuance for the building, subject to condition #5”**

No changes to 9, 10 and 11.

12. New proposed structures shall comply with Alameda County Green Building Ordinance **“and be LEED Certified”** Construction & Demolishing Debris Management program and California Green Building Code.

No changes to 13, 14, 15, 16, 17, 18, 19, 20 and 21

22. Uses on the property shall comply at all times with the Alameda County Noise Ordinance. **“The permittee shall, prior to occupancy, submit and adopt a noise plan.”**
25. Hours of operation of **“regular maintenance functions”** shall be limited to be from 7 a.m. to 4 p.m., Monday through Friday. **“Emergency and community operations may occur on weekends and after hours”** These hours of operation may be expanded periodically on an as-needed basis for system maintenance purposes.
26. ~~If CVSsan acquires adjacent ROW land from the County of Alameda for the purposes of installing a demonstration garden, those lands will require both General Plan and zoning designations.~~ CVSsan shall work with the County of Alameda to apply appropriate land use designations which could include submitting a Planning application with CVSsan as the applicant.

Strike the first sentence and keep second sentence.

27. This Conditional Use Permit shall be implemented within a term of three (3) years from the date of this approval, or it shall be null and void. Implementation is defined as Issuance of Building Permits and commencement of construction under the authority of the issued Building Permits.
28. A mandatory review shall be conducted at the end **“of one year review after occupation and”** five (5) years from the date of this approval. As a result of the mandatory review, a permit for renewal and public hearing may be required to review the original conditions of approval to determine compliance with the findings that supported the original permit approval. Any condition of approval modified or added will ensure the activity continues in conformance with the intent and purpose of the Zoning Ordinance, and shall be of the same force and effect as if originally imposed. Review costs shall be borne by the applicant.

Member Voves noted that the additional conditions that was included in the letter to Planning should be included in the conditions of approval. Nisha Chauhan said the 3 axle trucks and no more than two. Member Lewis said she wants to add two more conditions. Discussion ensued on the roll up doors and noise. Member make sure that no roll up doors are not installed and overhead doors.

Member Lewis said she wants condition # 29 that says “ no maintenance of non- CVSsan vehicles and #30 no stationary lifts shall be installed.” Roland Williams said that is included in the letter but did not say stationary.

The Chair asked who is handling the conversation with the neighbor and when will it start. The architect said as soon as they get the permit. The Chair asked if they could add additional landscape to help with visual and hide some of the industrial look. She asked about adding landscape barrier from the chemical shed and the parking area. Roland William said they can install trellis. Member Spalding said this condition could be added to 6 or 8. Nisha said she will make the changes and will send it to the applicant for review. Rodrigo asked Nisha to coordinate with the Chair to review the changes.

The Chair asked the board members if the changes warrant sending this item back to the CVMAC for their review. The consensus from the board members was that it does not warrant sending it back to MAC. The Chair said the main concern was the roll up door. Member Spalding said it has been addressed. Member Lewis said having both doors for security purposes, driving one way and coming out is better than backing out of the door. Rolland Williams said one of the charts shows the traffic flow. The trucks also have back up alarms. Member Spalding agreed and said they are loud. She said there could be a condition added regarding noise just in case with new employees down the line might want to change it. She said a separate condition all together saying that “the district has to have a noise plan.” Andy Young suggested adding language to condition #22.

Member Spalding moved to adopt staff’s recommendation of the conditional use permit application with the modifications to conditions of approval numbers 2, 4, 5, 6, 7, 8, 12, 22, 25, 26, 28, adding additional agreements by the district on no stationary lifts. She said to add to 22 the noise abatement plan which shall address the drive thru and backing up of the trucks and the roll up doors which should read over head doors. A new condition #29, which says “No maintenance of non- CVSan vehicles.” Member Voves seconded the motion. Member Spalding added that the revised conditions of approval should be sent to the board members for review.

The Chair suggested that this item should be sent to the CVMAC for an update. This is not a condition to the motion. *Andy Young conducted the roll call. Yeas: Members Voves, Spalding and Lewis. Nays: Chair Clark. Motion carried 3/1.*

The Chair informed everyone on the ten-day appeal period process.

APPROVAL OF MINUTES: MAY 12, 2021 – Item continued to the next meeting.

STAFF COMMENTS & CORRESPONDENCE: The Chair and board members thanked Andy for all his work with this board.

BOARD’S ANNOUNCEMENTS, COMMENTS AND REPORTS: None

ADJOURNMENT: *There being no further business, the hearing adjourned at 8:20 p.m.*

ALBERT LOPEZ - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS