

MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
APRIL 13, 2005
(APPROVED APRIL 27, 2005)

The meeting was held at the hour of 1:30 p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward, California.

FIELD TRIP: 1:30 p.m.

MEMBERS PRESENT: Members Frank Peixoto, Chair; and Judy Roos.

MEMBERS EXCUSED: Ron Palmeri; Jewell Spalding and Lester Friedman.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner

FIELD TRIP: The meeting adjourned to the field and the following property was visited:

1. **ADELAIDE G. CASTRENCE, CONDITIONAL USE PERMIT, C-8363** – Application to allow the continued use of an existing 23 bed residential care facility for developmentally disabled persons in a R-S-SU (Suburban Residence, Secondary Unit) District, located at 261 to 269 Medford Avenue, south side, approximately 100 feet west of Lowell Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Numbers: 0429-0014, 0429-0014-03 and 0429-0014-002-04.
2. **PAMELA ZELL RIGG, CONDITIONAL USE PERMIT, C-8380** - Application to allow continued operation of a pre-school for up to 150 children in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Site Area per Dwelling Unit) District, located at 16492 Foothill Boulevard, northeast side, approximately 130 feet south east of Miramonte Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 080A-0204-004-06.
3. **JENNIFER LYELL, CONDITIONAL USE PERMIT, C-8381**- Application to continue operation of a pre-school for 26 children in a R-1-CSU-RV (Single Family Residence with Secondary Unit and Recreational Vehicle) District, located at 3657 Christensen Lane, south side, approximately 60 feet from the end of Almond Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0531-006-00.
4. **OAKLAND PALLET COMPANY, CONDITIONAL USE PERMIT, C-8383** – Application to allow continued operation of a storage facility (pallet repair and storage) with a permanent wood grinder in an M-1-B-40 (Light Industrial, 40,000 square feet Minimum Building Site Area, 150 feet Minimum Lot Width, 30 feet Front Yard and 20 feet Side Yard) District, located at 2500 Grant Avenue, southwest side, approximately 942 feet southwest of Worthly Drive, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 0438-0010-008-02.
5. **J & M INCORPORATED, CONDITIONAL USE PERMIT, C-8385** –

Application to continue operation of an outdoor storage yard, in an M-2-B-E (Heavy Industrial, 5 Acre Minimum Building Site Area) District, located at 3826 Depot Road, south side, approximately 0.75 miles west of Clawriter Road, unincorporated Eden area of Alameda County, designated Assessor's Parcel Number: 0439-0070-008-04.

6. **MC DONALD'S CORPORATION, CONDITIONAL USE PERMIT, C-8387** – Application to allow continued operation of a drive-through restaurant (Mc Donald's) and to extend the drive-thru hours of operation from 1:00 a.m. to 24 hours a day in a C-2 (General Commercial) District, located at 347-375 West A Street, approximately 200 feet east of the Nimitz Freeway, unincorporated Cherryland Area of Alameda County, designated Assessor's Parcel Numbers: 0429-0077-021-02, 0429-0077-022-02 and 0429-0077-023-02.
7. **MARIA ROSSANA SCHLAEPFER, CONDITIONAL USE PERMIT, C-8390** – Application to allow continued operation of a day care facility and to increase the capacity at the facility from 30 to 40 children, in an R-2-B-E (Two Family Residence, 8,750 square feet Minimum Building Site Area) District, located at 21619 and 21629 Vallejo Street, southwest side, approximately 956 feet northwest of Sunset Boulevard, unincorporated Cherryland Area of Alameda County, designated Assessor's Parcel Numbers: 0428-0001-051-00 and 0428-0001-052-00.
8. **MYRNA HOAG, VARIANCE, V-11908** - Application to recognize previous expansion of a non-conforming use (tow yard in a residential area) and retention of an eight foot high fence where six feet is the maximum allowed in a R-S-D-15 (Suburban Residence with 1,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at 16037 to 16097 Mateo Street, southwest side, approximately 311 feet northwest of 162nd Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Numbers: 0080-0057-030-00, 0080-0057-036-00 and 0080-0057-037-02.
9. **DE LIN GAO, VARIANCE, V-11912** – Application to construct a third dwelling on a parcel containing an existing nonconforming dwelling (one foot side yard where 10 feet are required) in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Site Area) District, located at 16112 Marcella Street, northeast side of 162nd Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 0080-0051-036-02.
10. **CLIFFORD and JULIE HAMMOND, VARIANCE, V-11915** – Application to construct an attached addition so as to provide a three foot side yard where eight feet is the minimum required, in an R-1-CSU-RV (Single Family Residence with Secondary Unit and Recreational Vehicle) District, located at 4619 Mira Loma Street, south side, approximately 260 feet west of Judy Street, unincorporated Castro Valley Area of Alameda County, designated Assessor's Parcel Number: 084C-0851-055-04.

MEMBERS PRESENT: Members Frank Peixoto, Chair; Ron Palmeri; Jewell Spalding, and Judy Roos.

MEMBERS EXCUSED: Lester Friedman

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner; Yvonne Bea Grundy, Recording Secretary

There were approximately 18 people in the audience.

CALL TO ORDER:

The meeting was called to order by the Chair at 6:00 p.m.

ANNOUNCEMENTS BY THE CHAIR:

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.

No one requested to be heard under open forum.

CONSENT CALENDAR:

1. **BOB MASON, CONDITIONAL USE PERMIT, C-7756** - Application to modify Conditional Use Permit, C-7447 to allow: 1) storage for 20 vehicles; 2) increase from 125 to 145 horses; and 3) to add a feed store at an existing breeding, boarding and training facility for 125 horses, in an "A" (Agricultural) District, located at 24550 Palomares Road, east side, approximately ¼ mile south of Palo Verde Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 085A-2700-001-07. (Continued from December 11, 2002; February 26, March 26, April 23, May 28, June 25; July 23, September 10 and October 8, November 5, 2003; January 14, August 11, July 14, December 8, 2004 and January 26, 2005; to be continued without discussion to May 25, 2005).

Member Palmeri requested that Item #1, Conditional Use Permit, C-7756 be taken off of the Consent Calendar and moved to the Regular Calendar for discussion.

2. **VILLAGE BAPTIST CHURCH / AT&T WIRELESS, CONDITIONAL USE PERMIT, C-8331** - Application to allow a new wireless telecommunications facility steeple on an existing church building with ground level equipment in a R-1 (Single Family Residence) District, located at 1535 Bockman Road, north side, at the intersection with Bandoni Avenue, unincorporated San Lorenzo area of Alameda County, bearing Assessor's Parcel Number: 0411-0057-183-00. (Continued from March 9, 2005; to be continued without discussion to April 27, 2005).

Staff requested a continuance to the May 11, 2005 meeting. Member Roos motioned to uphold staff's

recommendation. Member Spalding seconded the motion. Motion carried 4/0. Member Friedman was excused.

3. **CENTRAL CHINESE CHRISTIAN CHURCH, CONDITIONAL USE PERMIT, C-8378** – Application to expand an existing church facility by the addition of two portable classrooms in an R-1-CSU-RV (Single Family Residence with Secondary Unit and Recreational Vehicle) District, located at 18381 Lake Chabot Road, south side, approximately 65 feet northwest of Dominic Drive, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0472-011-03. (Continued without discussion to May 11, 2005).

Staff requested a continuance to the May 11, 2005 meeting. The Chair motioned to uphold staff's recommendation. Member Palmeri seconded the motion. Motion carried 4/0. Member Friedman was excused.

4. **RYAN GREVES, VARIANCE, V-11882** - Application to construct a detached garage located in the front half of the lot and within the Future Width Line adopted by Ordinance where not otherwise permitted and three feet from the property line where six feet is required, in a R-1-L-B-E (Single Family Residence, Limited Agriculture, 5-acre Minimum Building Site Area) District located at 6270 Crow Canyon Road, west side, approximately 0.74 miles north of Cold Water Drive, in the unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 0085-1600-003-03. (Continued from January 12 and March 9, 2005; to be continued without discussion to April 27, 2005).

Staff requested a continuance to the April 27, 2005 meeting. The Chair motioned to uphold staff's recommendation. Member Palmeri seconded the motion. Motion carried 4/0. Member Friedman was excused.

5. **PATRICK LOVE, VARIANCE, VARIANCE, V-11899**- Application to retain a converted garage so as to locate one required on-site parking space partially in the required front yard where not otherwise permitted in a R-1-CSU-RV (Single Family Residence with Secondary Unit and Recreational Vehicle) District, located at 3773 Cottage Court, north side, approximately 284 feet west of Parsons Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1329-017-00. (Continued from January 26, February 23 and March 9, 2005; to be continued without discussion to April 27, 2005).

Staff requested a continuance to the April 27, 2005 meeting. The Chair motioned to uphold staff's recommendation. Member Palmeri seconded the motion. Motion carried 4/0. Member Friedman was excused.

6. **JOSE J. RAMON, VARIANCE, V-11902 and SITE DEVELOPMENT REVIEW, S-1965** – Application to retain two existing dwellings and to construct a new triplex so as to provide: 1) one foot and five feet between a driveway and dwelling wall where 10 feet is required; 2) a 14 feet – 10 inch rear

yard where 20 feet is required; and 3) to maintain an existing five foot side yard where 10 feet is required, in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Site Area per Dwelling Unit), located at 299 Sunset Boulevard, southwest side, approximately 325 feet southwest of Princeton Street, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 0429-0091-009-00. (Continued from February 9 and March 9, 2005; to be continued without discussion to May 11, 2005).

Staff requested a continuance to the May 11, 2005 meeting. The Chair motioned to uphold staff's recommendation. Member Palmeri seconded the motion. Motion carried 4/0. Member Friedman was excused.

Regular Calendar

1. **BOB MASON, CONDITIONAL USE PERMIT, C-7756** - Application to modify Conditional Use Permit, C-7447 to allow: 1) storage for 20 vehicles; 2) increase from 125 to 145 horses; and 3) to add a feed store at an existing breeding, boarding and training facility for 125 horses, in an "A" (Agricultural) District, located at 24550 Palomares Road, east side, approximately ¼ mile south of Palo Verde Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 085A-2700-001-07. (Continued from December 11, 2002; February 26, March 26, April 23, May 28, June 25; July 23, September 10 and October 8, November 5, 2003; January 14, August 11, July 14, December 8, 2004 and January 26, 2005; to be continued without discussion to May 25, 2005).

Member Palmeri stated for the record that he would only consider moving the item to the next meeting, April 27, 2005. At that point he would take action on the application. The item had been continued since December 7, 2002 and it was unfathomable that any application should take that amount of time. He noted that although he did not necessarily want to ridicule current planning staff it was unacceptable that the CEQA process had not begun when the application had been received in 2002. He also objected to fact that the application process halted Code Enforcement action. New violations have occurred on the property since the application was originally submitted. The ongoing application process allowed the applicant to conduct business while in violation. Member Palmeri said that the West Board of Zoning Adjustments will write a formal letter to the Planning Director regarding the application.

Staff Member Phil Sawrey-Kubicek responded that the CEQA work as well as comment period would not be complete until the June 8, 2005 meeting. Member Spalding asked staff to clarify if the location was called the Eagles Nest Ranch. If so she would like to be present when the item was considered. Member Roos motioned to continue the application to June 8, 2005. Member Spalding seconded the motion. Motion carried 4/0. Member Friedman was excused.

2. **ADELAIDE G. CASTRENCE, CONDITIONAL USE PERMIT, C-8363** – Application to allow the continued use of an existing 23 bed residential care facility for developmentally disabled persons in a R-S-SU (Suburban Residence, Secondary Unit) District, located at 261 to 269 Medford Avenue, south side, approximately 100 feet west of Lowell Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Numbers: 0429-0014-002-01, 0429-0014-03 and 0429-0014-002-04.

Staff recommended approval of the application subject to the conditions contained in the staff report. Member Palmeri asked about the referral response from Alameda County Building Inspection which stated there were discrepancies regarding the history of several structures on the property. Staff clarified that initial research of Building Department records did not mesh up. The buildings have been on the property for a number of years and most likely pre-date zoning requirements. The applicant will be required to obtain building inspection and clearance permits within 30 days of approval. If additional improvements are required by the Building Official or Fire Department they are required to be complete within three months of application approval. Public testimony was opened.

The applicant, Adelaide Castrence was present but declined to address the Board. Public testimony was closed. Member Palmeri motioned to adopt the Tentative Staff Findings and to implement the Pre Hearing Recommendation to grant the permit for a period of three years. Member Roos seconded the motion. Motion carried 4/0. Member Friedman was excused.

3. **PAMELA ZELL RIGG, CONDITIONAL USE PERMIT, C-8380 -**
Application to allow continued operation of a pre-school for up to 150 children in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Site Area per Dwelling Unit) District, located at 16492 Foothill Boulevard, northeast side, approximately 130 feet south east of Miramonte Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080A-0204-004-06.

Staff recommended that the application be granted subject to the Conditions of Approval. Public testimony was opened. The applicant, Pamela Zell Rigg was present. The prior Conditional Use Permit was issued 10 years ago. She requested another ten year approval period based on the facts:

- No complaints have been received from the neighbors
- All requirements of the original permit have been met

The Chair asked Ms. Zell Rigg if she had read Performance Standard #9. Ms. Zell Rigg responded that the procedure appeared to be standard. It was acceptable that the application could be reconsidered at the discretion of the County at the five year point to resolve any issues.

Staff added thus far there had been no issues with the permit and any CUP issued for a longer period of time could be opened up for review prior to expiration if issues arise. Public testimony was closed.

Member Spalding asked staff what the standard was. She commented that:

- The original permit had been issued for a period of ten years
- A public review process could be triggered after a period of five years
- Established pre schools with long running permits had been issued 10 year permits

Staff responded that at the most recent Board of Zoning Adjustments hearing three Conditional Use Permits for schools were considered and each was given approval for a five year period.

Member Palmeri stated that 10 years was well beyond the norm of what was usually done. He motioned

to approve the application for a period of five years with the following modification. Pre Hearing Recommendation #9 shall be deleted. Member Roos seconded the motion. She agreed that the application be consistent with other CUP's of the same type. Motion carried 4/0. Member Friedman was excused.

4. **JENNIFER LYELL, CONDITIONAL USE PERMIT, C-8381-** Application to continue operation of a pre-school for 26 children in a R-1-CSU-RV (Single Family Residence with Secondary Unit and Recreational Vehicle) District, located at 3657 Christensen Lane, south side, approximately 60 feet from the end of Almond Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084B-0531-006-00.

The staff recommendation was approval of the application subject to the conditions contained in the staff report. The Board had the following questions for staff:

- What was the recommendation of the Castro Valley Municipal Advisory Board
- What additional conditions are proposed by Land Development and Civil/Traffic Engineering
- It the permit had been in effect for a 20 year period of time

Staff confirmed that the CVMAC considered the matter at the March 25, 2005 meeting. Approval was recommended subject to the conditions in the CVMAC staff report. The original permit to convert the location to a nursery school was approved in 1983. The recommended expiration period for the current permit is five years. One proposal of Land Development and Civil Traffic is to add trees to the loading zone area along the property frontage. Planning staff is not in agreement with the recommendation. Tree may obstruct visibility. An established loading zone exists and parking is not allowed during peak use periods. The Parking and Traffic Rules which the school employs have been incorporated into Pre Hearing Recommendation #2. Public testimony was opened. The applicant was not present. Public testimony was closed.

Member Palmeri motioned to adopt staff's Tentative Findings subject to Pre-Hearing Recommendation #7. The Permit shall expire after a period of five years. Member Spalding seconded the motion with a modification. The school Parking and Traffic Rules shall be incorporated as part of Exhibit "A". Motion carried 4/0. Member Friedman was excused.

5. **OAKLAND PALLET COMPANY, CONDITIONAL USE PERMIT, C-8383**
– Application to allow continued operation of a storage facility (pallet repair and storage) with a permanent wood grinder in an M-1-B-40 (Light Industrial, 40,000 square feet Minimum Building Site Area, 150 feet Minimum Lot Width, 30 feet Front Yard and 20 feet Side Yard) District, located at 2500 Grant Avenue, southwest side, approximately 942 feet southwest of Worthy Drive, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 0438-0010-008-02.

Staff recommendation was approval of the application. The Board wanted more specific definitions and information regarding the following mitigation measures:

- The water quality management plan required by Alameda County Clean Water
- A definition of "prompt" and "clean" to determine how quickly mud, gravel etc. would be removed from the site and public roads

- How dust on the site will be controlled
- A definition of “minor” on site repair
- The proximity of residences that might be affected by noise generated by the wood grinder

Member Palmeri initially requested the matter be continued to establish an enforcement component to resolve issues that the applicant does not address. He felt it was appropriate to establish parameters for any subsequent owners of the property. Member Spalding added that clear delineation could protect the current owner as well. Public testimony was opened.

Member Spalding asked the applicant if he would be opposed to a continuance for a short period of time. The applicant, Javier Padilla said he could answer many of the questions that were raised. His plan is to pave the dirt surfaces this summer which should eliminate problems. Member Palmeri asked Mr. Padilla if the grading would be complete by the end of grading season, October 1, 2005. He agreed. The closest home is a quarter of a mile from the facility and will not be disturbed by the noise. Public testimony was closed.

Member Palmeri motioned to approve the application for a period of five years, subject to modification of Pre-Hearing Recommendation #7. Specific language shall define the term “promptly” and “cleaned”. Unpaved driveway surfaces must be paved with a hard permanent material before October 1, 2005, subject to obtaining the appropriate permits and approval by the Planning Director. Member Roos seconded the motion. Motion carried 4/0. Member Friedman was excused.

6. **RIDDLE / RST & ASSOCIATES, VARIANCE, V-11897 – and SITE DEVELOPMENT REVIEW, S-1960** - Application to construct 11 condominium units, three stories in height and 33 feet, where two stories and 25 feet are the maximum, on a 0.50 acre site in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Area per Dwelling Unit) located at 156 and 164 Laurel Avenue, north side, approximately 720 feet south west of Princeton Avenue, unincorporated Cherryland area of Alameda County, designated Assessor’s Parcel Number: 0429-0091-065-00. (Continued from March 23, 2005).

Planning staff recommended denial of the application. However the applicant requested a two week continuance to allow his architect to be present. Public testimony was opened. The applicant, Mr. Riddle said due to an incorrect mailing address he received the notification one day prior to the hearing. The correct mailing address was stated for the secretary. Public testimony was closed.

Member Roos motioned to continue the application to May 11, 2005. Member Palmeri seconded the motion. Motion carried 4/0. Member Friedman was excused.

7. **MYRNA HOAG, VARIANCE, V-11908** - Application to retain an expansion of a non-conforming use (tow yard in a residential area) and retention of an eight foot chain link fence in a R-S-D-15 (Suburban Residence with 1,500 square feet Minimum Building Site Area per Dwelling Unit) District, located at 16037 to 16097 Mateo Street, southwest side, approximately 311 feet northwest of 162nd Avenue, unincorporated Ashland area of Alameda County, designated Assessor’s Parcel Numbers: 0080-0057-030-00, 0080-0057-036-00 and 0080-0057-037-02.

Staff Member Phil Sawrey-Kubicek brought an error in the staff report to the Board's attention. Page two, bullet #1 which states expansion of the operation is located in the two middle properties of the property should state in the middle property. Expansion has taken place onto the adjacent properties on both sides. Member Palmeri asked staff to elaborate on:

- The upkeep and appearance of the property mentioned in the agency referral from Alameda County Redevelopment Agency
- The difference in the Zoning Ordinance between a tow yard and a junk yard

Staff responded that in general terms, the property cannot be seen from the Public Right of Way. The business is blocked by the homes on Mateo Street and an eight foot fence. The interior of the site is jammed with cars abutting one another and is littered with miscellaneous parts. There is no distinction in the Zoning Ordinance between tow yard and junk yard. Member Roos asked if the Ordinance contained definitions for tow yard or storage yard. Staff responded there was not.

Public testimony was opened. The sister and representative of the applicant Mrs. Katrina Moretti spoke. She gave the Board a history of the business. Mrs. Moretti apologized to the Board for what she felt was a waste of their time, investigating a long standing business as a result of a complaint. The business has been in operation since 1949 started by the applicant's parents. Their mother passed away last year and their father had recently suffered a stroke. The sisters now run the operation and it is classified as a minority business. Hank's Tow does business with the Highway Patrol, BART and Alameda County. They participated with the beatification of Mateo Street project and interact with the local church and neighbors. Mrs. Moretti acknowledged that the tow yard is packed. Limiting the maximum number of cars on a lot would be nearly impossible. Anyone that has ever had been to a tow yard notices the abundance of cars. Sometimes vehicles are retrieved the next day but usually people do not claim their cars and just walk away. Vehicles are towed from the Public Right of Way and then taken to the lot. A vehicle must be held by law for 30 days before it can go to lien sale.

In regards to tow trucks being parked on the street area, the trucks go out on calls 24 hours a day. Many cars and standard vehicles are stored on the same street for more than a 24 hour period and do not move at all. A fence was installed so as not to inconvenience the neighbors. The business has been in the neighborhood for 40 years. Mrs. Moretti said they could submit petitions gathered in 2005 and 1955 from neighbors who approve of the operation.

The Board had the following questions regarding the business:

- What is the average length of time a car is held on the lot
- How many cars are stored on the lot at one time
- How many vehicles are owned by family members as opposed to the public
- Has soil testing been conducted to determine if leaking oil and fluids have caused contamination and what mitigation measures are being considered for the site
- What is the time limit for a tow truck or vehicle parked on the street
- What is the use of the shipping containers on the property

Mrs. Moretti told the Board that on average a car was stored just longer than 30 days. At that point it could be taken to lien sale. If the vehicle cannot be sold but has an engine or transmission it is automatically assigned value. For it to be crushed, a junk slip is required which takes 30 additional days to issue. She believed that 40 to 75 cars are stored at one time, although she has never taken a count. Four of the vehicles and some farm equipment belong to her father. Soil testing had been conducted on two separate spots in 1992 and the levels were acceptable. Mrs. Moretti closed by saying that if they did

not have the ability to accept cars from the California Highway Patrol and Bart their business will be affected dramatically. Mr. Moretti then introduced himself. He clarified that the street parking time limit was 24 hours. Only the tow trucks park on the street, no junk vehicles. He said he had married into the family 33 ago. There had never been any issues until recently. Mr. Moretti asked the Board to ponder why inquiries into the business suddenly began and who may have initiated the investigation. Public testimony was closed.

Member Spalding asked the applicant if they would allow a continuance so staff could obtain the legal requirements from CHP etc. This would assist staff in determining what was needed to gain compliance and allow the business to continue.

Member Palmeri had concerns about the legality of expanding a non-conforming use of a tow-truck service on land zoned RSD15. The area is now a residential district. The variance requests that two additional parcels that are not non-conforming be converted to an illegal use. A variance is used as a minor relaxation of policy. Not commenting on the existing business but the County policy is to have the Board of Supervisors determine if a non-conforming use would be phased out. His additional questions were the following:

- Is the parcel allocated as a part of the Housing Element Inventory
- If so how would the expansion of the tow business affect the proposed amendment to the General Plan and or State mandated housing requirement
- Would an environmental study be required
- Can County Counsel provide written clarification if the Board has the authority to change an RSD15 to another use

The Chair stated that he was not sure that the question related to re-zoning. Member Palmeri said the zoning on the two opposite parcels might be affected. However he would defer to County Counsel's determination. The Chair asked staff if the presence of non-operative vehicles on private property not being stored inside an enclosed structure could be in conflict with the Junk Vehicle Ordinance. Staff said they did not believe that aspect of the Junk Vehicle Ordinance was applicable to the parcels.

Member Palmeri motioned to continue the application to May 11, 2005. Prior to the hearing staff should: get an answer from County Counsel. Can adjacent parcels that are not considered non-conforming be combined with a variance for expansion of a non-conforming use; verify if the adjoining parcels are part of Housing Element and how the General Plan Update might be affected; if a variance were granted would it be exempt from CEQA if the parcels were not part of the preliminary inventory; and what are the requirements of Fire Department and Clean Water.

Member Spalding amended the motion to include the following requests of staff: confirm which actual addresses were included in earlier CUP's. If there was a difference, staff should verify the description of the project and determine if it was as a result of oversight; determine what standards are required of agencies like CHP since it appears the business has not changed in the past 20 years as much as the policies of their business partners have; and staff should also work with the applicant in the interim to clean up trash at the site. Member Roos seconded the motion. Motion carried 4/0. Member Friedman was excused.

8. **DE LIN GAO, VARIANCE, V-11912** – Application to construct a third dwelling on a parcel containing an existing nonconforming dwelling (one foot side yard where 10 feet are required) in a R-S-D-20 (Suburban Residence with 2,000 square feet Minimum Building Site Area) District, located at 16112

Marcella Street, northeast side of 162nd Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 0080-0051-036-02.

The staff recommendation was approval. Public testimony was opened. Mr. De Lin Gao introduced himself. Member Roos asked Mr. Gao if he was aware of the history of the property. He acknowledged that the oldest structure was the one located at the back of the parcel. He was requesting a variance due to the four foot side set back. Had the older home been built with a five foot set back a variance would not be required. The new proposed third structure would be placed in the center of the lot next to the present homes allowing sufficient space.

Member Palmer motioned to adopt staff's finding to approve the variance. Member Roos seconded the motion. Motion carried 4/0. Member Friedman was excused.

APPROVAL OF MINUTES: Member Palmeri motioned to approve the Minutes of March 23, 2005 as submitted. Member Roos seconded the motion. Motion carried 4/0. Member Friedman was excused.

STAFF COMMENTS & CORRESPONDENCE:

Staff introduced and welcomed the new County Counsel, Brian Washington.

CHAIR'S REPORT: None

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:

The Chair asked the status of the determination of outdoor business. Member Roos said the Ordinance Review Committee's recommendations would be heard at next months Board of Supervisors meeting.

The Chair also asked that:

Code Enforcement conduct a site visit to Hank's Tow. Staff confirmed they would notify Code Enforcement.

The status of a parcel on Meekland Avenue which had a house in front and two rear garages that had been converted to units. The application had come before the Board last October and been denied. Staff said the matter was referred to Code Enforcement. Enforcement staff has an appointment for the location on April 14, 2005 however the appointment notification was returned. The letter was forwarded to the new address. Staff will still visit the site but does not know if the property owner will be present.

Member Palmeri suggested there be some method of monitoring conditions of approval. Currently the only method available was Code Enforcement. Perhaps the Planning Department should impose a fee to consider the staff time required to monitor. Other County Agencies like the Building Department are not bashful. For example fees are charged hourly to review plans. Staff responded that CUP's are done at cost. The Board of Supervisors prefer to keep costs low or reasonable. Member Palmeri responded that monitoring fees could be limited to CEQA requirement. Member Spalding felt a minor increase in fees could support the costs and frequency of re-noticing.

ADJOURNMENT:

There being no further business, the hearing adjourned at 8:00 p.m.

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS