

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
JULY 8, 2009
(APPROVED JULY 22, 2009)**

The Regular Meeting was held at the hour of 6:00 p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward, California.

FIELD TRIP: 1:00 p.m. The Field Trip was cancelled. Members visited sites on an individual basis.

MEMBERS PRESENT: None.

MEMBERS EXCUSED: Chair; Dawn Clark-Montenegro; Vice Chair, Kathy Gil; Members, Jewell Spalding, Frank Peixoto and Ineda Adesanya.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner.

FIELD TRIP: The meeting adjourned to the field and the following properties were visited:

1. **FRED PRICE / EL SHADDI MINISTRIES, CONDITIONAL USE PERMIT, C-8762, PLN-2009-00037, VARIANCE, PLN-2008-00020** – Conditional Use Permit Application to allow continued operation of a church, Variance Application to allow fewer than the required on-site parking spaces, in a R-C ABCD (Residential Commercial, Ashland Cherryland Business Specific Plan) District, located at 565 East Lewelling Boulevard, south west side, corner southwest of Wickman Court, unincorporated San Lorenzo, area of Alameda County, designated Assessor's Parcel Numbers: 413-0031-053-00 and 413-0031-054-00. (Continued from November 12, 2008 and January 28, February 25 and May 27 and June 10, 2009). **Staff Planner: Pat Anekayuwat.**
2. **STACI ROMBOUGH, VARIANCE, PLN-2009-00061** – Application to allow:
a) building site status for a site of 2,479 square feet, where 5,000 square feet is required; b) a 0.27 foot rear yard setback, where 20 feet is required; c) a 1.04 foot street side yard setback, where 10 feet is required; d) a 2.47 foot front yard setback where 20 feet is required; e) a 2.95 foot setback side yard setback, where five feet is required; and f) zero parking spaces, where two are required. The site is zoned R-1 (Single Family Residential), located at 2005-150th Avenue, west side, north of 149th Avenue, in the unincorporated Hillcrest Knolls area of Alameda County, designated County Assessor's Parcel Number: 080-0006-013-04.

REGULAR MEETING: 6:00 p.m.

MEMBERS PRESENT: Chair, Dawn Clark-Montenegro; Vice Chair, Kathy Gil; Members, Jewell Spalding, Frank Peixoto and Ineda Adesanya.

MEMBERS EXCUSED: None.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner; County Counsel, Andrea Weddle; Code Enforcement Staff; Yvonne Bea Grundy, Recording Secretary.

There were approximately 2 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: The Chair welcomed Frank Peixoto on his re-appointment to the West County Board of Zoning Adjustments. Mr. Peixoto's breadth of knowledge and 30 plus years of community involvement are an invaluable asset to the Board. Mr. Peixoto thanked everyone for the sympathy cards and holiday wreath he received during his bereavement period. He is honored to return to the Board of Zoning Adjustments representing San Lorenzo.

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.

Neighborhood Preservation Ordinance Abatement Hearing

- 1. Veronica Navarro/Reconstrust Company, Paradise Blvd., Hayward CA 94541**
In violation of Alameda County Ordinance 6.65.030 D (1), D (3) and M (1).
 1. Overgrown vegetation and weeds throughout the property.

The Vice Chair motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. Member Spalding seconded the motion. Motion carried 5/0.

- 2. Washington Mutual Bank, Banyan St., Hayward, CA 94541**
In violation of Alameda County Ordinance 6.65.030 D (1), D (3) and M (1).
 1. Overgrown vegetation & weeds throughout the new construction site.

Member Spalding motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. Member Peixoto seconded the motion. Motion carried 5/0.

- 3. HSBC Bank, Medford Ave., Hayward, CA 94541**
In violation of Alameda County Ordinance 6.65.030 D (1), D (3) and M (1).
 1. Overgrown vegetation & weeds throughout the property.

Member Peixoto motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. The Vice Chair seconded the motion. Motion carried 5/0.

- 4. Chungchiung and Su Juan, Hesperian Blvd., Hayward, CA 94541**
In violation of Alameda County Ordinance 6.65.030 D (1) and M (1).
 1. Overgrown vegetation & weeds on the property.

The Vice Chair motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. Member Spalding seconded the motion. Motion carried 5/0.

- 5. Maria Pena, Lessley Ave., Castro Valley CA 94546**
In violation of Alameda County Ordinance 6.65.030 D (1), D (3) and M (1).
 1. Overgrown vegetation & weeds in front, side & rear yards.

Member Spalding motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. The Vice Chair seconded the motion. Motion carried 5/0.

- 6. Leonard & Sandra Key, Almond Rd., Castro Valley CA 94546**

In violation of Alameda County Ordinance 6.65.030 D (1), D (3) and M (1).

1. Overgrown vegetation & weeds in front, side & rear yards.

The Vice Chair motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. Member Spalding seconded the motion. Motion carried 5/0.

7. Joan Lamm, Santa Maria, Castro Valley, CA 94546

In violation of Alameda County Ordinance 6.65.030 F (1,2) and M (1).

1. Unsecured, red-tagged dwelling.

Member Adesanya motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. The Vice Chair seconded the motion. Motion carried 5/0.

8. John Terzic et al, Vacant lots at President Dr., San Leandro, CA 94580

In violation of Alameda County Ordinance 6.65.030 D (1), D (3) and M (1).

1. Overgrown vegetation & weeds on vacant lots.

The Vice Chair motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. Member Adesanya seconded the motion. Motion carried 5/0.

9. Michael & Dana Rasmussen, Vacant lot at Hannah Dr., San Leandro, CA 94580

In violation of Alameda County Ordinance 6.65.030 D (1), D (3) and M (1).

1. Overgrown vegetation & weeds on vacant lot.

The Vice Chair motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. Member Spalding seconded the motion. Motion carried 5/0.

10. Geeta & Joseph Bhukhan, Delano Street, San Lorenzo, CA 94580

In violation of Alameda County Ordinance 6.65.030 D (1), D (2), D (3) and M (1).

1. Overgrown vegetation and weeds on property.

Member Spalding motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. The Vice Chair seconded the motion. Motion carried 5/0.

11. Aurora Loan Services LLC, D Street, Hayward, CA 94541

In violation of Alameda County Ordinance 6.65.030 D (1), D (2), D (3) and M (1).

- a. Overgrown vegetation and weeds on the property.

The Vice Chair motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. Member Peixoto seconded the motion. Motion carried 5/0.

12. Donna Aulgur, Avenue, San Leandro, CA 94578

In violation of Alameda County Ordinance 6.65.030 D (1), D (2), D (3) and M (1).

- a. Overgrown vegetation and weeds on the property.

The Vice Chair motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. Member Adesanya seconded the motion. Motion carried 5/0.

13. CAA International, Galway Drive, San Lorenzo, CA 94580

In violation of Alameda County Ordinance 6.65.030 A (1), D (1), D (2), D (3) and M (1).

- a. Overgrown vegetation and weeds; and
- b. Mattresses and miscellaneous items.

The Vice Chair motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. Member Peixoto seconded the motion. Motion carried 5/0.

14. **Annabel C. Manausa/Financial Freedom Senior Funding Corp. INDYMAC Bank – F.S.B. c/o Assett Foreclosure Services, Inc., Tulsa Street, San Lorenzo, CA 94580**
In violation of Alameda County Ordinance 6.65.030 D (1), D (2), D (3) and M (1).
 1. Overgrown vegetation and weeds on the property.

Member Spalding motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. The Vice Chair seconded the motion. Motion carried 5/0.

CONSENT CALENDAR:

There were no items scheduled for the Consent Calendar.

REGULAR CALENDAR

1. **FRED PRICE / EL SHADDI MINISTRIES, CONDITIONAL USE PERMIT, C-8762, PLN-2009-00037, VARIANCE, PLN-2008-00020** – Conditional Use Permit Application to allow continued operation of a church, Variance Application to allow fewer than the required on-site parking spaces in a R-C ABCD (Residential Commercial, Ashland Cherryland Business Specific Plan) District, located at 565 East Lewelling Boulevard, south west side, corner southwest of Wickman Court, unincorporated San Lorenzo, area of Alameda County, designated Assessor's Parcel Numbers: 413-0031-053-00 and 413-0031-054-00. (Continued from November 12, 2008 and January 28, February 25 and May 27 and June 10, 2009). **Staff Planner: Pat Anekayuwat.**

Staff reviewed the application and recommended approval. The property is located in a Redevelopment Zone however the Redevelopment Agency had no comments regarding the application. Initial Board questions were as follows:

- What was the length of the original permit
- Has the prior permit expired
- Is the Board considering the use permit for the church in addition to the parking variance
- How many parking spaces were required for the prior use permit
- Was the number of parking spaces approved in the prior parking variance
- Were all of the Conditions of Approval met for the prior permit
- How many buildings are located on the site
- What is the formula for determining parking requirements
- When did the present owner obtain the site
- Who is the owner of the adjacent site

Staff explained the application for permit renewal was submitted prior to expiration in August, 2008. There are two buildings located on the church site both are used for church activities. The application has been in progress for a period of one year. The use permit for a church and parking variance was originally issued in 1991 by the Zoning Administrator. This was prior to the 2001 use permit considered by the

BZA. When the renewal application was submitted for continued use of the church, it was discovered a portion of the property that contains some of the parking, was not under the Applicant's control. At this time the Applicant will have to either gain control of the additional parking spaces or request a parking variance. Previously parking was shared with the adjoining property. The church currently has 11 parking spaces. Staff believed the two sites were originally owned by the father of the neighboring property owner, Mr. Ream. Prior Conditions of Approval have been met. It is unclear in the prior staff report or resolution the exact number of spaces granted, possibly 32 or 36. The total number required is 46. The required number of spaces is based on the number of seats in the main worship hall, one parking space for every four seats. It has not been determined if a formal lease agreement existed, or if the church simply utilized the parking spaces. The neighboring property owner is not aware of a parking agreement. The Board pointed out that a prior permit did require a written parking agreement with the neighbor. Staff clarified the permit with the agreement requirement was approved by in 1991. Staff was unsure if there was a follow up site visit in 2001 at the time of renewal, to confirm the number of parking spaces. The property owner did not express any concerns at the time. Staff then confirmed the Board would be considering both the variance for reduction of parking, and the use permit for continued use of the church. The use permit is contingent upon approval of the parking variance. The variance must satisfy the conditions of the conditional use permit. The Board then reviewed maps of the property, and the adjacent site. In addition to a letter from Mr. John Ream stating he did not support approval, based on activities at the church. Public testimony was opened.

Mr. Fred Price, a Member of El Shaddi Ministries introduced himself. He was representing Michael Cambra, Pastor of the church. Mr. Price had not seen a copy of the letter objecting to permit approval. Staff then distributed a copy. Mr. Price told the Board the parking lot in question was always thought to be the property of the church. The issue did not arise until the permit approval process began. The parcel owned by the church was once held by Mr. Ream's brother. The property line of the church ends at the furthest western point of the building. The parking lot has 11 spaces. The church has been in contact with Mr. Ream, who was also under the impression the parking lot belonged to the church. Presently they are in the process of negotiating a property line adjustment to resolve the issue. Planning staff advised the church to apply for a parking variance in order to allow the use to continue. Although the original parking variance states 32 to 36 parking spaces, there are not 32 spaces in existence between both sites. Site Plan "Exhibit A", submitted with previous applications was not drawn to scale, therefore previous variance applications were in error. The site plan was created in 1991 by the original church that owned the property. El Shaddi began to rent the site, and in the end purchased it. Mr. Price last talked with Mr. Ream 4 weeks ago. Mr. Ream is to send a letter to the effect that based on his understanding with the prior property owner. The parking lot belongs to the church. Once Mr. Price is in possession of the letter, a property survey will be conducted in addition to a lot line adjustment. The church presently uses the parking. There has been no written communication the church is not to use the parking. Mr. Ream expressed to Mr. Price, the church should continue to use the lot. There was an agreement between the prior property owner and other business tenants that used the second building on the site. The businesses operated during the day and did not inter-fear with church activities. El Shaddi purchased the site, and now uses both buildings. It was understood the parking belonged to the church. Unfortunately all discussions have been verbal however Mr. Price is attempting to get written documentation. Thus far Mr. Price has conducted research at the Recorder's Office. He has also received a letter from Al Ream, the original owner of the church property, and brother of the adjoining property owner. Unfortunately the letter did not shed further light on property boundaries. Mr. Price is still under the impression the brothers also believed all of the parking spaces belonged to the church. In his opinion it would make sense the parking lot would be part of the parcel encompassing the church. The building on the neighboring lot does not utilize the parking. Since a parking agreement did exist with the prior church. El Shaddi will move forward with negotiations once the prior church produces the document.

Board questions for Mr. Price were as follows:

- When did the parking issue arise
- Is there sufficient parking in the surrounding area
- Is motorcycle parking allowed in the area
- When did El Shaddi purchase the property
- What is the meaning of El Shaddi
- Are the existing setbacks sufficient for the use
- How many people attend the church

Staff said the area is zoned Commercial, in which, zero foot setbacks are acceptable. Mr. Price told the Board the church purchased the property in 2001. Parking became an issue in 2008. El Shaddi used to rent the second building on the site in 1997. At the time the name of the ministry was Second Chance Christian Center. Another independent church owned the church property and used the larger building. The former church submitted incorrect plans which were accepted by the Planning Department. The name Second Chance was changed to El Shaddi approximately 5 years ago. El Shaddi means God Almighty. El Shaddi was able to purchase the entire property at the end of 2001 and should not be held responsible for the mistake. The church has approximately 100 members. Mr. Price explained the flyer advertising Treasures out of Darkness. It is part of the El Shaddi Ministry. People in the ministry ride motorcycles. They attend motorcycle events and offer prayer to people that need or desire it. The entire congregation is not a motorcycle ministry, but they are motorcycle friendly.

Ms. Karen Dickman was present representing the adjacent property owner, Mr. Ream. Mr. Ream has cancer and has difficulty sitting for long periods of time. She is a friend present at Mr. Ream's request. Mr. Ream has hired an attorney to determine if more information is needed to verify the owner of the parking spaces. Mr. Ream is not currently under the impression the parking is owned by the church. However as a result of the undetermined ownership of the parking, Mr. Ream cannot obtain insurance for his site due to the fenced area. Any persons encroaching onto the property would pose a liability. The inability to obtain insurance has had a negative financial impact on Mr. Ream. He is uncomfortable with the motorcycle event because it is proposed to be held in the parking lot area that is uninsured. The first time Mr. Ream was aware the church claimed ownership of the parking is when the Planning Department contacted him. Ms. Dickman was present at the time Mr. Ream spoke with Mr. Price. Mr. Ream said he would look over the situation, and consider the options. Mr. Ream did not say he would deed, or sell the property to Mr. Price. The title of the property is not in question. Board questions for Ms. Dickman were as follows:

- Is Mr. Ream aware of all the church uses
- Does Mr. Ream live at the site
- How did Mr. Ream obtain the property
- How many structures are located on the property
- Is there an agreement between Mr. Ream and the church regarding parking
- Is there alternate parking available in the neighborhood
- Have there been noise complaints regarding motorcycle noise emanating from the site
- Is Mr. Ream in favor of granting the church gaining permit approval

Ms. Dickman said Mr. Ream objects to the use of his parking lot for the motorcycle rally. He is also uncomfortable with the church's approach of claiming, and using the property in the proposed manner. Mr. Ream would like the Board to take all of the serious issues into consideration and deny the permit, or compel the church to show they indeed own the parking. Mr. Ream had the property deeded to him in 1984 but does not visit often. There is no written agreement between the parties. Mr. Ream became aware of the issues when contacted by the Planning Department. At first Mr. Ream thought the issue

involved another site he owns further up the street. He was unaware the parking lot was being used by the church. The property has been rented for the past 5 years to a friend of his. The tenant uses the site as a residence and does not know the boundaries of the property. The site was originally owned by the father of the Mr. Ream. There was a barn, an office and a house. When Mr. Ream's Father passed away, Mr. Ream and his brother shared the site. They operated a supplement business. The situation was fluid at the time so there was probably no reason to develop a formal agreement regarding parking. Ms. Dickman has read letters in which the tenant complained about the serious noise from the motorcycles. Mr. Ream is also very upset about the motorcycle rally being held on his property. She reiterated there is no agreement in existence regarding the sale or lease of parking. Mr. Ream said he would review submitted requests. Perhaps an agreement can be stuck. However there has been no commitment.

Mr. Price returned to testify. This is the first he has heard of Mr. Ream's concerns regarding the motorcycle rally. He is surprised that Mr. Ream is not in agreement with the church use of the parking lot. Mr. Price said his understanding was the status quo, was to continue. The question about a legal parking agreement has just arisen. Each week the church uses the parking lot in addition to street parking located in the front, and side of the building. Services are on Sunday mornings and Wednesday evenings. Member Spalding said it appears there is a possibility of a potential future agreement. However at this point there is objection to use of the parking. Mr. Price said he received an e mail from the staff Planner which contained correspondence between the County and Mr. Ream. Mr. Ream believed the parking on his property belonged to the church. When motorcycles come to the church, typically 7 to 10, they park on the street. When motorcycle events occur at the church people from the neighborhood are also invited. Members Adesanya and Spalding asked Mr. Price if he was familiar with the Conditions of Approval for the prior permit which prohibited outdoor activities. Mr. Price said he was only familiar with the new proposed Conditions. In his opinion he believes the neighbor is raising issues with the application because he has issues with the ministry, and the Pastor. The Pastor has a permanent restraining order against the tenant on the neighboring property. The tenant has verbally and physically attacked the Pastor. The Sheriff does not object to activities at the site. The only complaints to the Sheriff Department have been from the tenant. He has tried to discredit the church. Member Peixoto asked who paid the taxes on the portion of the parcel with the additional parking, and how often. Staff explained the taxes are paid on the property as a whole, and are not related to parking. Mr. Price said in his opinion, the question is still open. Although public records show 11 parking spaces on Mr. John Ream's property, Mr. Price said during discussions with Mr. Al Ream, John Ream, and Mr. Pickett he was told the parking belonged to the church. Mr. Price believes there was a mistake when the property was recorded after a sale between the two original owners. Member Spalding stated taxes and contract issues between the former owners are different from zoning issues. However Mr. Price has acknowledged that based on his knowledge of reading meets and bounds, the information recorded in County records regarding property boundaries is consistent. Mr. Price asked the Board to consider the good public service record conducted by the church ministry. The church benefits the community by feeding people in homeless camps, and provides a place of worship for the community. Until the confusion surfaced during the application process, the church has operated at the site since 1991 without any problems, with the exception of complaints by one neighbor. The church would like to continue to operate until the parking issue can be resolved in a legal manner. El Shaddi has been ready to proceed with the application for sometime. The Planning Department has told the church numerous times the application was not ready. The church has done everything to comply, and prepare for the hearing. Member Spalding asked why the Pastor of the church was not present. Mr. Price explained the Pastor was conducting the Wednesday evening service. Board Members asked Mr. Price if he was aware that events held in the parking lot were not in compliance with the use permit. Also if the up coming motorcycle rally should be cancelled. Mr. Price was unaware the events were not allowed. There is a possibility further permits may be needed. However he believed the event should take place. The event benefits the community by offering a place for families to fellowship. Public testimony was closed.

Board questions for staff were as follows:

- Is the parking on the west of the site “grandfathered” in
- How did staff determine the finding, special circumstance was present at the site
- How did staff determine the present number of parking spaces was insufficient
- Is there a sufficient number of parking spaces if the spaces were combined
- How did staff determine sufficient parking is available in the surrounding area re: Tentative Finding #2
- What is the required size of a parking space

Staff believed the parking was included as part of the original application. Staff relied on the Exhibit submitted by the prior owner. The property is represented as one individual site, including a parking lot. At the time ownership was believed to be held by one person. The former parking lease agreement was between a tenant in one of the auxiliary buildings and the occupants of the main building on the site. The number of parking spaces indicated on the original Exhibit is 32. In addition there was a reference in old staff report that mentions 36 parking spaces. A site visit was not conducted at the time to verify the number of spaces. The number of parking spaces would have been calculated by the use at that given time. For example an industrial use would require 1 parking space per 4,000 feet of floor area. In that instance there would be sufficient space. For a retail use the parking calculation would vary. Counsel said it is unsure as to what the exact case is. The general rule is there are no vested right or an estoppel argument against a government entity to continue a use that has been granted in the past. Even if that use was erroneously granted, the error must be corrected, not continued. Regarding this being viewed a pre-existing non conforming use this would not apply in this situation. Typically a non conforming use is created when there is a change in the law, ordinance. In this case it appears the facts remain the same but were misunderstood, not legally changed. The difficulty is the County has relied upon information presented by the Applicant. Over time technology such as GIS or other methods has provided better understanding of the facts pursuant to the official record. An issue of further use of an area based on past use must be pursued between the property owners. There are a number of legal theories however County Counsel cannot comment and/or advise private parties. The parties may want to pursue legal counsel to see if there is a continued right to use parking.

Regarding Tentative Finding #1, Board Members did not believe special circumstances are present at the site regarding parking. The parking issue is not pre-existing, but created as a result of error. Regarding Tentative Finding #2, granting the variance would be special privilege, other uses in the area can provide on-site parking.

In addition to the Chair’s concern the Applicant would not be able to meet required Findings #1 and #2. She did believe Tentative Finding #3 could be met with on-street parking however the variance request would be for more than 50% of the required spaces.

Regarding Tentative Finding #3 the Vice Chair pointed out the area on Lewelling Boulevard on which the church is located does have open parking. There are no homes until you go further on Wickman Court.

Public testimony was re-opened. The Vice Chair asked Ms. Dickman if Mr. Ream would be open to leasing or selling the portion of the property containing the parking spaces. Ms. Dickman said the topic had been raised. Public testimony was closed.

Regarding Tentative Finding #2 Member Spalding pointed out that other sites in the neighborhood had sufficient parking, including Mr. Ream’s property next door.

Member Adesanya was in support of a continuance. She agreed with other Board Members Regarding Tentative Findings #1 and #2. Regarding Finding #3, 100 people attend the church. People use on-street parking. Perhaps there is map that can support that position, sufficient parking available. The church has been in operation for a number of years using the current number of spaces without an impact, with the exception of one neighbor. A continuance would allow the church to attempt legal acquisition of the parking spaces. Staff confirmed 5 on-street parking spaces are available on Lewelling Boulevard, 31 additional spaces are available on Wickman Court. A parking space is approximately 22 feet long.

The Vice Chair was in agreement, if a continuance was not an option she was leaning toward denial of the application. Perhaps the parties can work out an agreement which can assist the Board in making an affirmative finding in support of the application. Member Peixoto asked if the Vice Chair was leaning toward denial of the use permit or the variance. The Vice Chair said each was dependant on one another.

Member Peixoto said he could make the required findings for the use permit but was unsure if the BZA could do so given the issue with parking. Presently he cannot make the required finding for the variance application. Counsel said the church does not have the necessary parking. The findings of the use permit would have to support the use. She cautioned the Board on approving the use permit without the required parking. Regarding an official cease of a use during an active application process, the official method would require the Board to start revocation proceeding.

The Chair re-opened public testimony for the purpose of speaking to the parties about the possibility of a continuance. Public testimony was re-opened.

Mr. Price told the Board he did not object to a continuance if the church was able to continue operation in the interim. The church believes the spaces belong to the church. Mr. Price will talk with the Pastor. The church will also contact an attorney. This will probably add further time to the continuance, however church Counsel would have to confirm the duration. He asked the Board to be open to possible further continuance.

Ms. Dickman told the Board she did not have Power of Attorney for the property owner Mr. Ream. One concern is Mr. Ream's illness. Sixty days is probably a reasonable continuance period however once legal counsel becomes involved more time may be required. Public testimony was closed.

The Vice Chair recommended September 23, 2009 as Mr. Ream's health may be an issue.

The Vice Chair motioned to continue Conditional Use Permit, C-8762, PLN-2008-00037, and Variance PLN-2008-00020 to September 23, 2009. Member Spalding seconded the motion. Motion carried 4/0.

APPROVAL OF MINUTES: The Minutes of June 10, June 24 and July 22, 2009 were continued to July 22, 2009.

STAFF COMMENTS & CORRESPONDENCE: Board of Zoning Adjustments Elections for Chair, and Vice Chair persons will be held at the August 12, 2009 Hearing. There are no BZA cases on the BOS Appeal Calendar. The Stonebrea application that went before the CVMAC will return to the BOS Calendar on July 14, 2009.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: Member Spalding asked staff to re-confirm Code Enforcement notices sent to vacant properties are sent to lenders, as well.

The Vice Chair reminded Members that she will she will not be present at the July 22, 2009 Hearing. She will be on vacation.

ADJOURNMENT: There being no further business, the hearing adjourned at 9:10 p.m.

ALBERT LOPEZ - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS