

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
SEPTEMBER 12, 2007
APPROVED ON SEPTEMBER 26, 2007**

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.

1. **JASON & DENISE HUMMER, SITED DEVELOPMENT REVIEW – S-2059** - Application to retain a one-car garage converted to habitable space without the benefit of any permits and to locate one required on-site parking space in front of the converted garage on the 52 foot long driveway in a R-1-CSU-RV (Single Family Residence, Conditionally Permitted Secondary Unit, Recreational Vehicle) District located at 3765 Cottage Court, north side, approximately 284 feet west of Parsons Avenue, in the unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel designation: 084D-1329-016-00.
2. **OSBORNE/EASTWOOD, CONDITIONAL USE PERMIT, C-8547** Application to allow continued operation of a wireless communication facility (Sprint/Nextel) in an "A" (Agricultural) District, located at Eden Canyon Road, east side, approximately 2/3's of a mile north of I-580 Freeway, in the unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085A-1200-001-11. (Continued from March 14, 2007.)
3. **CONDITIONAL USE PERMIT, C-8599 – COPTIC ORTHODOX CHURCH** - Application to allow the continued operation of a church facility, in a R-1 (Single Family Residence) District, located at 2500 Hansen Road, west side, approximately 400 feet north of East Avenue, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Number: 0426-0130-072-00.
4. **T-MOBILE, CONDITIONAL USE PERMIT, C-8636** – Application to allow the continued operation of a telecommunications facility in an, ACBD - TC (Ashland and Cherryland Business District Specific Plan) Transit Corridor District, located at 15770 East 14th Street, north side, approximately 170 feet north of Thrush Avenue, Unincorporated Ashland area of Alameda County, Assessor's Parcel Number: 080-0035-104-00.
5. **RICHARD GOLD, CONDITIONAL USE PERMIT, C-8640** – Application to allow continued operation of a "B" Type Service Station, in an ACBD – BDI (Ashland and Cherryland Business District Specific Plan- Business Industrial) District, located at 594 East Lewelling Boulevard, north side, terminus, north of Boston Road, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 413-0027-058-02.
6. **ALI REZ MASOUDI-MOFRAD / ANN MARIE HOLLAND, CONDITIONAL USE PERMIT, C-8645** – Application to allow the continued operation of an auto sales lot in the an ACBDSP - TC (Ashland Cherryland Business District Specific Plan- Transit Corridor) District, located at 16285 East 14th Street, northeast side, approximately 110 feet northwest of 163rd Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel

Number: 080C-0479-006-03.

7. **AMERICAN TOWER CORPORATION, CONDITIONAL USE PERMIT, C-8646** - Application to allow the continued operation of a radio transmission facility (cell site) in an "A" (Agricultural) District, located at 23205 Eden Canyon Road, east side, approximately 100 feet north of the Interstate I-580 Freeway, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085A-1200-001-00.
8. **SAL'S COLLISION REPAIR, CONDITIONAL USE PERMIT, C-8647** - Application to renew expired use permit (C-7789) and transfer a paint spray booth from 965 Rufus Court to 972 Rufus Court in an, ACBD - TC (Ashland and Cherryland Business District Specific Plan) Transit Corridor District, located at 965 & 972 Rufus Court, east side, approximately 200 feet southwest of Mission Boulevard, Unincorporated Cherryland area of Alameda County, Assessor's Parcel Numbers: 428-0011-016-04; 428-0011-017-00; 428-0011-020-00 and 428-0011-018-00.
9. **JACK MOORJANI / UNION 76, CONDITIONAL USE PERMIT, C- 8648, SITE DEVELOPMENT REVIEW, S-2128** - Application to allow an alcohol outlet in conjunction with a service station in the CVCBD Specific Plan Sub Area 1 (Castro Valley Central Business District Specific Plan, Low Intensity Retail), located at 2445 Castro Valley Boulevard, southeast, approximately 200 feet southwest of Stanton Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084A-0007-011-02.
10. **PETER BRAUN, VARIANCE, V-12075** – Application to allow construction of an attached addition with a 15 foot - 10 inch, front yard where a minimum of 20 feet is required in an R-1 (Single Family Residence) District, located at 1683 Via Sarita, north side, corner northeast of Via Susana, unincorporated San Lorenzo area of Alameda County, Assessor's Parcel Number: 411-0087-202-00.
11. **TIM & HELEN NGUYEN, VARIANCE, V-12078** – Application to allow the construction of an attached addition encroaching 10 feet into a Special Building Line, where 20 feet is required, in an R-1-CSU-RV (Single Family Residential) District, located at 3694 Quail Avenue, west side corner, south of Seven Hills Road, unincorporated Castro Valley area of Alameda County, Assessor's Parcel Number: 084D-1300-001-21.
12. **KENNETH KREMER, VARIANCE, V-12080**- Application to consider a petition to allow subdivision of one parcel containing approximately 17,362 square feet into two lots, with the retention of an existing secondary dwelling unit as a legal non-conforming use where not otherwise allowed, limited to ordinary maintenance and minor repair only, two stories in height where one story is the maximum, and with a two foot, six inch side yard where seven feet is the minimum for residential use, in an R-1 (Single Family Residence) District, located at 22440 Charlene Way, unincorporated Castro Valley area of Alameda County, Assessor's Parcel Number: 416-0130-001-00.

MEMBERS PRESENT: The field trip was cancelled. Members visited field trip sites individually.

MEMBERS EXCUSED: Chair; Jewell Spalding; Vice Chair; Frank Peixoto; Member, Dawn Clark-Montenegro.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner

FIELD TRIP: The field trip was cancelled. Members visited sites individually.

REGULAR MEETING: 6.00 p.m.

MEMBERS PRESENT: Chair; Jewell Spalding; Vice Chair; Frank Peixoto; Member, Dawn Clark-Montenegro.

MEMBERS EXCUSED: None.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner; County Counsel; Eric Chambliss; Recording Secretary; Yvonne Bea Grundy.

There were approximately 9 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 announced that Member Ronald Palmeri's term as the West County Board of Zoning Adjustments Cherryland Representative had officially ended on September 11, 2007. She acknowledged his dedication, and the extensive amount of time and service he dedicated Board.

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. **GUADALUPE LOZA/FRED FULCHER, CONDITIONAL USE PERMIT, C-8271**– Application to allow continued operation of a drive-in business (catering truck), in a PD-ZU-1487 (Planned Development, 1487th Zoning Unit) District, located at 691 West A Street, north side, corner, northwest of Royal Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel 0432-0016-035-00. (Continued from February 11, April 14, April 28, May 26, July 14, September 8, October 13, 2004, March 23, June 22, October 12, December 14, 2005, March 22, May 24, September 13 and November 15, 2006, March 28, July 11 and August 8, 2007; to be continued to January 9, 2008).

Vice Chair Peixoto asked staff why action on the permit had been delayed to January of 2008. Staff explained they had mistakenly given the Board incorrect information at the past hearing. The Board of Supervisors had not yet approved the Mobile Restaurant Ordinance. The BOS will hear the matter in

January. The Board of Zoning Adjustments can take action on Conditional Use Permit, C-8271 and C-8389 in January, 2008. The Chair asked if there was a time limitation under which an item can remain on the Consent Calendar. County Counsel responded there was no limitation. The BZA had discretion regarding the Consent Calendar.

2. **FRANCISCO PENA, CONDITIONAL USE PERMIT, C-8389** – Application to allow the operation of a temporary outdoor business (Catering Truck) in a TC (Transit Corridor) District, located at 16211 East 14th Street, southwest end of 162nd Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080C-0479-003-00. (Continued from January 11, March 22, May 24, September 13 and November 8, 2006, February 7, April 11, July 11 and August 8, 2007; to be continued to be continued to January 9, 2008).
3. **OSBORNE/EASTWOOD, CONDITIONAL USE PERMIT, C-8547** Application to allow continued operation of a wireless communication facility (Sprint/Nextel) in an "A" (Agricultural) District, located at Eden Canyon Road, east side, approximately 2/3's of a mile north of I-580 Freeway, in the unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085A-1200-001-11. (Continued from March 14, 2007; to be continued to September 26, 2007).
4. **TERESITA LAGUNA, CONDITIONAL USE PERMIT, C-8555** – Application to allow the continued operation of a 22 bed Residential Care Facility, in an R-1 (Single Family Residence) District, located at 268 Lewelling Boulevard, south side, approximately 100 feet east of Tracy Street, , unincorporated, San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 413-0093-002-00. (Continued from January 24, February 7, March 28, April 25 and June 13; to be continued to December 12, 2007).

The Chair re-opened the Consent Calendar at the end of the Regular Calendar, to accept public testimony regarding Conditional Use Permit, C-8555.

Mrs. Doris Marciel told the Board that she lived adjacent to the facility at 220 Lewelling Boulevard. She asked for updated information regarding the issues the applicant was attempting to resolve with the Fire Department. Mrs. Marciel said that she had given testimony at past hearings regarding the application, and submitted written statements. She has also submitted a letter regarding the most recent incident involving a resident of the facility. Mrs. Marciel was very concerned about the ongoing continuations. The permit for the facility expired in 2006, and has been operating since the present. She asked staff if they had obtained the information the Chair requested, verifying the number of patients from John George Psychiatric Facility. Mrs. Marciel did not believe the applicant's license allowed for the care of the mentally disabled. She also pointed out that Lewelling Boulevard is used as detour for the freeway. As a result the area is very busy. The facility is not appropriate for a high traffic area. Some of the residents are unpredictable. On July 18th, 2007 one of the female clients was tragically killed by an oncoming train. By the time the train operator realized she was on the tracks they were unable to stop. People from San Lorenzo High School who saw the resident approaching the tracks tried to get her attention, to no avail. Mrs. Marciel staff said the tragedy raises many questions; was the resident off of her medication; or is there licensed staff at the facility to administer medications. Staffing levels may look good on paper however staff persons may not be sufficiently trained. Mrs. Marciel believed it was appropriate to have mentally disabled patients removed from the facility. Mrs. Marciel requested the County install a traffic light between Hesperian and Via Granada to slow down traffic. School buses also need to turn into the

bus yard. Due to traffic congestion, buses often they have to wait 10 minutes to get through. In addition to traffic problems, there are many liquor stores in the area. Recently two of the clients brought a flyer to the local church that stated it was a “drop off” facility. What is the definition of “drop off”, and is this allowed at the site. Mrs. Marciel said she had also heard the term “half way house” used to describe the facility. Although she was unsure of what characterized a “half way house”. Board Members had the following questions for staff:

- Has the applicant submitted architectural plans for upgrading the facility
- Has the applicant entered into a contract for replacement of the fire system
- Has the applicant submitted a copy of their current State Care Facility License
- Does the State License qualify the Applicant to care for mentally disabled or disturbed persons
- Does staff have statistics on the number of accidents, incidents or deaths connected to the facility
- Has the owner installed a fire wall at the site
- Has the Building Department provided a complete list of issues and/or violations

Staff explained that the file was not available at the Hearing, as the item was on the Consent Calendar. As of yet they did not have a determination of client status. The Zoning Ordinance definition of Residential Care facility does not contain the term, “drop off facility” or “half way house”. The applicant has not submitted plans as of yet. The Planner will provide additional information when the item returns for action in December. Mrs. Marciel said she talks with the Staff Planner working on the permit often for status updates. She asked the Board what would happen in the event the Applicant was not ready to proceed in December. Staff responded that the BZA would determine the next step. One scenario could be to deny the permit, and shut down the facility. The Chair said that many issues had been raised. She requested that staff incorporate patient statistics, the possible impact of the widening of Lewelling Boulevard, and the recent death of the resident into staff analysis. Staff should also provide a more detailed definition of Residential Care Facility. All of these issues have an impact on the ability of a person to care for themselves within this corridor. Mrs. Marciel said she did not object to a residential care facility in the neighborhood. However she did object to mentally disturbed patients as residents in that particular environment. She did not know what made the person who apparently committed suicide so despondent. However she hoped there wouldn’t be anymore tragedies. Public testimony was closed.

5. **SAL’S COLLISION REPAIR, CONDITIONAL USE PERMIT, C-8647** - Application to renew expired use permit (C-7789) and transfer a paint spray booth from 965 Rufus Court to 972 Rufus Court in an, ACBD - TC (Ashland and Cherryland Business District Specific Plan) Transit Corridor District, located at 965 & 972 Rufus Court, east side, approximately 200 feet southwest of Mission Boulevard, Unincorporated Cherryland area of Alameda County, Assessor’s Parcel Numbers: 428-0011-016-04; 428-0011-017-00; 428-0011-020-00 and 428-0011-018-00.
(To be continued to September 26, 2007).
6. **ARNOLDO HERNANDEZ / PETTIT, VARIANCE, V-11978 and SITE DEVELOPMENT REVIEW, S-2051**– Application to allow the conversion of an existing attached one car garage to living space and provision of two

uncovered spaces in the rear, in an R-1-CSU-RV (Single Family Residential) District, located at 4421 Alma Avenue, south side, approximately, 770 feet west of Brickell Way, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-0820-014-00. (Continued from September 27 and November 8, 2006; January 10, March 28, June 27 and July 25, 2007; to be continued to October 12, 2007).

7. **VARIANCE, V-12003 – HHT ENGINEERING** - Application to allow subdivision of one site into three lots: 1) an 18 foot driveway where 20 feet is the minimum required; 2) a driveway, one foot from a building wall where 10 feet is required; and 3) an 11 foot rear yard where 20 feet is required in an R-S-D-35 (Suburban Residence, 3,500 square foot, Minimum Building Site Area per Dwelling Unit Density) District, located at 134 Grove Way, northwest side, approximately 150 feet southeast of Meekland Avenue, unincorporated Cherryland Area of Alameda County, designated Assessor's Parcel Number: 429-0032-030-00. (Continued from March 28, May 23 and August 22, 2007; to be continued to September 26, 2007).

Member Clark motioned to accept the Consent Calendar as submitted. Vice Chair Peixoto seconded the motion. Motion carried 3/0.

REGULAR CALENDAR

1. **JASON & DENISE HUMMER, SITE DEVELOPMENT REVIEW – S-2059** - Application to retain a one-car garage converted to habitable space without the benefit of any permits and to locate one required on-site parking space in front of the converted garage on the 52 foot long driveway in a R-1-CSU-RV (Single Family Residence, Conditionally Permitted Secondary Unit, Recreational Vehicle) District located at 3765 Cottage Court, north side, approximately 284 feet west of Parsons Avenue, in the unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel designation: 084D-1329-016-00.

Staff recommended approval of the application. Member Clark asked staff the following questions:

- What are the total number of independent parking spaces required
- Does the applicant have to provide covered parking
- Does the required storage space have to be attached to the home

Staff explained that the property was built in 1950. At the time the Parking Requirement was 1 parking space. As a result, for the applicant to comply with the present Ordinance, parking will have to be replaced at the 1950 Standard. The proposed single parking space in front of the converted garage would meet the threshold. The space cannot be located in the first 20 feet of the property, and does not have to be covered. The Chair asked if this was considered on-site or off-site parking. Staff confirmed the parking requirement was on-site. There are no off-site parking requirements. Storage space requirements do not have to be attached to the home. A storage shed is acceptable. Public testimony was opened.

Mr. Jason & Mrs. Denise Hummer were present. Mr. Hummer said they were in agreement with all of the Conditions of Approval. The Chair asked the applicant if the applicants if they read the staff report. They acknowledged they had. Mrs. Hummer said, currently they do not have 100 cubic feet of storage available. However they are working with Planning Staff to see if they could comply with the requirement. There is some storage space above the garage which they use to store Seasonal Items. They

would like to incorporate this area to meet the 800 cubic foot, storage requirement. The Hummers said they would also put a shed in the backyard to provide additional space. Staff informed the Applicants they could use the pre-existing storage toward the requirement. However more space would be needed for the storage of garden tools etc, and items typically stored in a garage. The Chair asked Mrs. Hummer to ensure that the size of the shed, placement of the shed, and storage requirements met the zoning ordinance requirements. Mrs. Hummer confirmed that specific issue had been reviewed with the Planner. They will submit revised plot plans to verify the final design is acceptable.

The Chair said that since staff acknowledged that the storage space which currently exists in the garage can be used to meet the 800 cubic feet of storage requirement. This should be incorporated as part of Condition #6. Staff agreed. Vice Chair Peixoto motioned to adopt the staff recommendation of approval. Member Clark asked for a clarification to the motion. The Applicant shall be required to retain the existing attic space. Staff agreed that the requirement could be added to Condition #6, as well. The Chair raised the question as to the need for Condition #10, pertaining to Public Works. Staff agreed that this Condition could be omitted as well. Vice Chair Peixoto accepted all of the proposed modifications. Member Clark seconded the motion. Motion to approve, S-2059 passed 3/0.

2. **CONDITIONAL USE PERMIT, C-8599 – COPTIC ORTHODOX CHURCH** - Application to allow the continued operation of a church facility, in a R-1 (Single Family Residence) District, located at 2500 Hansen Road, west side, approximately 400 feet north of East Avenue, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Number: 0426-0130-072-00. (Continued from July 11, August 8, and August 22, 2007).

Staff reviewed the application and the recommendation was approval. Member Clark asked if the Oak Creek Home Owners Association had responded to the referral request. Staff confirmed it was standard procedure to send referral to the HOA for the appropriate subdivision when processing applications. There has been no communication from the Oak Creek Association. Public testimony was opened.

Mr. Nabil Prial introduced himself as the Applicant. He asked the Board to extend the permit from a 5 year period to a 10 year period, due to the expense. Mr. Prial said all of the work requested by staff had been completed. He then presented photographs to the Board. The parking lot has been re-surfaced, and disabled signage has been added. Amplified music has not been used at the church per the Condition in the prior permit. The outdoor event that was held annually at the site was held at their Pleasanton Church this year. Board questions for the applicant were as follows:

- Has Mr. Prial reviewed the staff report
- How long has Mr. Prial been involved with the church, and is he active with future organizational planning
- Is the vacant lot next to the property owned by the church
- Would Mr. Prial be amenable to a condition requiring the vacant lot to remain clear of debris
- Was Mr. Prial aware of the agreement with the Oak Creek HOA which prohibited expansion of the church prior to the violation and subsequent revocation consideration in 2002

Mr. Prial confirmed that he had read the staff report. He was in agreement with all of the Conditions of Approval, although he would like the permit to be extended to a length of 10 years. The vacant lot is

owned by the church. They have installed a fence to prevent dumping, and homeless people from squatting on the property. Vehicles have been abandoned on the property in the past. The Sheriff's Department has assisted the church in their removal. Mr. Prial did not object to a condition requiring the lot remain clean and clear of debris. He has been involved with church since 1976. He is not actively involved with the future planning of the church. He clarified that the church did not expand in 2002. The church did make use of all of the existing space they had. The issues were all resolved with the Planning Department, and the Oak Creek HOA. Public testimony was closed.

The Chair also stated that she was unsure that Condition #7 a, b and c should apply, since there is no proposed expansion to the building. In addition Land Development has not given any specific instructions for the applicant. The Chair asked staff if a 10 year permit length would be acceptable. Staff confirmed that a 10 year expiration date would be acceptable. However staff recommended the permit be revocable if deemed necessary. Regarding Condition #7 a, b and c, the Applicant would need to seek approval from these Agencies if they sought permits of any kind. Member Clark asked if Public Works would be responsible for monitoring the site in the event of a noise compliant or drainage issues. Vice Chair Peixoto interjected that Public Works did not investigate noise issues. That would be done by Code Enforcement. Staff did acknowledge that Public Works would be consulted regarding drainage issues. The Chair pointed out that the church had been there since 1976. The present drainage should remain unchanged. She recommended that Alameda County Fire be the only Agency the Applicant consult, as the other Agencies were not to be applicable to the continued operation of the church.

Vice Chair Peixoto moved to adopt the staff recommendation of approval. Condition #7 shall be modified. Sections, a, b and c shall be deleted. Condition #10 shall state that the permit shall expire in 10 years, September 12, 2017. If any issues arise at the site, Code Enforcement can pursue them. Member Clark seconded the motion. Motion carried 3/0.

3. **T-MOBILE, CONDITIONAL USE PERMIT, C-8636** – Application to allow the continued operation of a telecommunications facility in an, ACBD - TC (Ashland and Cherryland Business District Specific Plan) Transit Corridor District, located at 15770 East 14th Street, north side, approximately 170 feet north of Thrush Avenue, Unincorporated Ashland area of Alameda County, Assessor's Parcel Number: 080-0035-104-00.

Staff reviewed the history of application, C-8555. Approval was given in 1998 for a temporary communications facility on wheels. The facility is now operated by a different owner. The current applicant is new, and the application would be valid for 1 year. T-Mobile anticipates it will take 12 months to install the permanent facility. At that time, T-Mobile will apply for a new permit. Staff was in favor of a 1 year approval. The Redevelopment Agency was also in favor of the recommendation. Initial Board questions were as follows:

- Where is the exact location of the temporary facility
- Is the fact that the equipment is temporary preventing co-location of additional carriers
- Has the graffiti been removed from the site

Staff told the Board the site was across from Bayfair Mall. The site is also a PG&E Station. The station is in need of some clean up work. However the graffiti has now been removed. Co-location can be addressed when the Applicant returns for the permanent application. The permanent equipment will be a stealth tower design. Public testimony was opened.

Ms. Julie Ho was present on behalf of T-Mobile. Ms. Ho explained the temporary permit would allow time to submit new plans. The Chair asked Ms. Ho if she understood that the current permit would not be a 10 year renewal of the temporary placement. Ms. Ho acknowledged the current permit was for 1 year. Plans for the new tower installation will be drawn during the temporary permit time. She estimated it will take a year to process the plans through T-Mobile's Engineering Department, and to then obtain a building permit. The Chair asked Ms. Ho to consider what process should be implemented to ensure the entire site will remain clean in addition to the equipment cabinets. Public testimony was closed.

Member Clark believed the Applicant should install landscaping as soon as possible. The Chair thought, a temporary permit for 6 months would be acceptable. Staff explained that it would take at least 4 months for both the Planning and Building Departments to review the plans. This may not allow sufficient time to obtain building permits. The Board could consider adding to Condition #15: The Applicant shall maintain and install landscaping to assist in shielding the existing equipment cabinets. Landscaping will also assist in keeping the cabinets free of graffiti. Vice Chair Peixoto asked what type of landscaping would be installed at the site. He recommended that a Condition be added, requiring the Planning Director grant final approval of the landscaping plan. The Chair expanded Condition #15 to also include: The entire site and landscaping shall be maintained in good condition. This shall include keeping the equipment cabinets, fencing, and other structures graffiti free and in good condition. Staff was in agreement with all of the modifications.

Member Clark motioned to approve Conditional Use Permit, C-8636 subject to the following modifications: Condition #15, The entire site and landscaping shall be maintained in good condition. This shall include keeping the equipment cabinets, fencing, and other structures graffiti free and in good condition. The applicant shall install landscaping at the site to assist in keeping cabinets, fencing, and other structures graffiti and in good condition. The landscaping plan requires approval by the Planning Director prior to the installation of landscaping materials. Condition #16, Conditional Use Permit, C-8636 shall expire in one year on September 12, 2008. Vice Chair Peixoto seconded the motion. Motion carried 3/0.

Mrs. Doris Marciel submitted a request to speak on Consent Calendar item, C-8555. The Chair announced that the Consent Calendar had been acted upon. However the Consent Calendar would be re-opened for public testimony at the end of the Regular Calendar.

4. **PATRICK LOVE, VARIANCE, V-11982** – Application to allow a garage conversion with on-site parking in the side yard, in an R-1-SU-RV (Single Family Residence, Secondary Unit, 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 April 12, May 24, July 12, July 26, September 27 and November 8, 2006, January 10, March 28, June 27 and July 25, 2007).

Staff explained that the applicant would like to convert the garage, and locate parking 13 feet into the front yard set back. The staff recommendation was to continue the application to October 10, 2007. The application was heard at the September 10, 2007 Castro Valley Municipal Advisory Council Meeting. The Council's decision was a tie vote 3 to 3. Three Members in favor of an approval recommendation. Three Members did not support approval recommendation. The Council would like to have the entire 7 Member Council present, and review the application at a future meeting. Member Clark asked staff if V-

11982 was located next door to S-2059 which was heard earlier by the BZA. Staff confirmed the sites were next to one another. However, Site Development Review, S-2059 the Right of Way curves, which all sufficient room for parking in the setback, whereas the site for Variance, V-11982 is located closer to the street. Public testimony was opened. There was no one present to offer testimony concerning V-11982. Public testimony was closed.

Vice Chair Peixoto motioned to continue the application to October 10, 2007. Member Clark seconded the motion. Motion carried 3/0.

5. **ROBERTO GOMEZ, VARIANCE, V-12069** - Application to allow the expansion of a nonconforming parcel, four feet side yard where 10 feet is required, with the construction of a new single family residence, in a R-S-SU (Suburban Residence, Secondary Unit) District, located at 20253 Concord Avenue, west side, approximately 200 feet south of Hampton Road, Cherryland area of unincorporated Alameda County, designated Assessor's Parcel Number: 414-0036-055-00. (Continued from July 11 and August 22, 2007).

Staff reviewed the history of the application. The item was on the August 22, 2007 Agenda, and continued because the applicant was not present. The Board had concerns that the Building Department had mistakenly issued Mr. Gomez a permit without the Planning Department signing off. A Stop Work order was issued pending the outcome of the hearing, and is currently in effect. Member Clark asked if all of the Code Enforcement violations had been resolved, including the cargo container on the property. Staff was unsure if the issue of the tent structure over a car had been resolved. The construction debris on the property is allowed while work commences. The cargo container is being used in conjunction with the project. Member Clark asked staff if the Cherryland Association had submitted comments in addition to the letter, and testimony at the prior hearing. Most of the debris referred to in the letter from the HOA has been removed. Staff confirmed no additional comments had been received from the Cherryland Association. Public testimony was opened.

Mr. Robert Gomez asked the Board for approval of the project. Mrs. Gomez was present as well. Mr. Gomez said that construction had already begun. He did know an error had been committed. He obtained his permit from Building, and then proceeded with the project. The process has caught him by surprise. The Chair asked if the site had been cleared of debris. Mrs. Gomez told the Board that the tent and vehicle had been removed from the property. Mr. Gomez confirmed he was in agreement with the Conditions of Approval. The Chair asked Mr. Gomez if he understood that a landscaping plan must be submitted before he could start construction on the project. Mr. Gomez agreed. Public testimony was closed.

Member Clark motioned to uphold the staff recommendation of approval. Vice Chair Peixoto seconded the motion. Motion carried 3/0.

6. **TIM & HELEN NGUYEN, VARIANCE, V-12078** – Application to allow the construction of an attached addition encroaching 10 feet into a Special Building Line, where 20 feet is required, in an R-1-CSU-RV (Single Family Residential) District, located at 3694 Quail Avenue, west side corner, south of Seven Hills Road, unincorporated Castro Valley area of Alameda County, Assessor's Parcel Number: 084D-1300-001-21.

Staff recommended approval of the application. Member Clark asked if an indemnification clause would be appropriate. Staff said an indemnification clause was usually a requirement with Site Development Review applications. This application differs in that the encroachment is into a Special Building Line,

not a Future Width Line. The lot is a corner lot with a street side yard. The request is for an encroachment of 10 feet. Technically the frontage is on Quail Avenue. If Seven Hills Road were to be expanded this would not result in the removal of a portion of the addition. The Special Building Line is associated with Future Width Line in that if Seven Hills Road were expanded the addition would be 10 feet from the edge of the Public Right of Way. The Chair commented that the likelihood of the Future Width Line being exercised for Seven Hills Road was small. Staff agreed. Public testimony was opened.

The Applicant, Mr. Nguyen present. Mr. Richard Atthow was also present. Mr. Atthow was responsible for the construction of the addition. Mr. Atthow asked the Board what conditions the Fire and Building Departments would set. The Chair explained that each Department will inform him of specific requirements. The Chair reminded Mr. Atthow that the new addition must be consistent in design, coloring etc. with the existing home. Mr. Atthow confirmed that he understood. Public testimony was closed.

Vice Chair Peixoto motioned to approve Variance, V-12078. Member Clark seconded the motion. Motion carried 3/0.

7. **TERESITA LAGUNA, CONDITIONAL USE PERMIT, C-8555** – Application to allow the continued operation of a 22 bed Residential Care Facility, in an R-1 (Single Family Residence) District, located at 268 Lewelling Boulevard, south side, approximately 100 feet east of Tracy Street, , unincorporated, San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 413-0093-002-00. (Continued from January 24, February 7, March 28, April 25 and June 13; to be continued to December 12, 2007).

The Chair re-opened the Consent Calendar to accept public testimony regarding Conditional Use Permit, C-8555.

APPROVAL OF MINUTES: As a result of Member Palmeri's term ending the day prior to the Meeting. The Chair continued the Minutes of August 22, 2007 the next meeting to allow Mr. Palmeri to submit changes or corrections.

STAFF COMMENTS & CORRESPONDENCE: Staff announced that the Board of Supervisors upheld the Conditions of Approval set by Board of Zoning Adjustments regarding the appeal of Conditional Use Permit, C-8489, Ramiro.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: The Chair asked County Counsel about how the disposition of a past set of unapproved Minutes of May 23, 2007. Due to a combination of the end of the term for two Board Members, and the fact that two present Board Members were absent for the May 23 Meeting, there has not been a quorum to approve the Minutes. Counsel told the Board Members the Minutes can be listed on the Agenda. The Chair can then announce that the Minutes of May 23, 2007 can be entered into the record but not approved due to the lack of a quorum.

ADJOURNMENT: There being no further business, the hearing adjourned at 7:30 p.m.

CHRIS BAZAR - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS