

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL
MINUTES FOR January 24, 2005
(Approved as submitted February 28, 2005)

A. CALL TO ORDER: The Chair called the meeting to order at 6:30 p.m. Council members present: Andy Frank, Chair; Dean Nielsen, Vice Chair. Council members, Ineda Adesanya, Ken Carbone, Karla Goodbody, Jeff Moore and Carol Sugimura. Council members excused: None. **Staff present:** Ronald Gee, Tona Henninger, Bob Swanson, Maria Elena Marquez. There were approximately 20 people in the audience.

B. APPROVAL OF MINUTES OF December 13, 2004

Ms. Sugimura moved, seconded by Ms. Goodbody, that the Council approve the minutes of December 13, 2004, as corrected. The motion passed 7/0.

C. PUBLIC ANNOUNCEMENTS –

The Chair announced that Fine Arts will have a fund raiser at Redwood Christian School, next Friday, January 28, 2005, at 7 p.m.

D. REGULAR CALENDAR

1. CONDITIONAL USE PERMIT, C-8360 – Application to allow the continued occupancy of a mobile home for security purposes in conjunction with a park in an “A” (Agricultural) District, located at 6132 Greenridge Road, 225 feet north of Mesa Verde Way, unincorporated Castro Valley area of Alameda County, designated Assessor’s Parcel Number: 85-1600-003-02.

Mr. Gee presented the staff report. The applicant, Mr. Larry Lepore, Interim Parks Superintendent, requested extension of 10 years. Mr. Nielsen said it seems to be a pattern most of the time to have a resident on the site. Mr. Lepore said they have several, 2 or 3 of their employees, as caretakers. He also said that in his previous job with the School District, they also had caretakers for security purposes on different sites .

Public testimony was called for. No public testimony submitted.

The Chair asked the Council if they were ready to make a motion.

Mr. Moore made motion for approval of C-8360 with staff recommendations. Mr. Carbone seconded. Motion passed 7/0.

2. SITE DEVELOPMENT REVIEW, S-1955 – LAVASSANI – Application to allow the operation of a restaurant with banquet facilities in the CVCBD, Sub 7 (Castro Valley Central Business District Specific Plan, Sub Area 7) located at 3295 Castro

Valley Boulevard, south side, about 287 feet east of Chester Street, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 84A-0040-018-04.

Mr. Gee presented the staff report. This project was reviewed at the December 13, 2004 meeting and was continued for additional information. Most of the information requested was in response to both neighborhood and CVMAC comments. There are some concerns that have to do with hours of operation, security, parking and landscaping improvements. The Applicant submitted a revised project description with a reduced floor plan and parking plan for the supper club to address these concerns. To reduce parking requirements, they have reduced the proposed restaurant floor area and re-designated the remaining space as either storage or other non-accessible areas to the public. They have retained the services of the Castro Village security firm for patrolling the site and have proposed installation of new security camera and lighting. For entertainment, there will be background music, not meant to be loud, and the side door of the building would remain closed to minimize and outside noise. For landscaping, they have revised plans to include some new shrubs and vines along the back fence since there is not much space available with new drainage and parking facilities. There were additional comments regarding the way the plans have been revised by the Fire Department in combination with other fire safety issues.

The Applicant was invited to come to the podium. Mr. William Alexander, project architect, said they have a lot more work to do on the project, lots of detail has to be put into it, with building improvements, site preparation and retrofit. They also have to work with the Castro Valley Sanitary District and Environmental Health Department. Draft conditions of approval for S-1955 prepared by County staff need to be incorporated into the project. He also submitted petitions signed by people supporting the project that were entered into the record.

Public testimony was called for.

Katie Nelson, resident at 20184 San Miguel Avenue, said that Mr. Lavassani owns a building on W. Winton Ave. in Hayward and asked why he wants another one so close in Castro Valley. Also, she read in a newspaper that he owns a business in Contra Costa County. She opposes the project because she thinks it is not going to be good for Castro Valley.

Susan Odell, said she has a student at Castro Valley High School. When the billiard hall was operating, she would not allow him to go there. Having the supper club will mean more of the same problems. She feels it is not adequate and said that Castro Valley does not need this element, for the safety of the children.

Freddy Olson, a Castro Valley resident, spoke in favor of the project and said that it will be great for the community. It will be different from the billiards; the previous business was a negative situation. The supper club will be much more upscale and it will increase (tax) revenue for the community.

Suzanne Barba, Castro Valley resident for 25 years, said the parking situation is a problem. She read the handouts and mentioned the use for banquet facilities for 300 people. The parking will not be adequate because they will also need extra help (employees) and that will mean hiring more people. They will depend on car pooling. The size of the parking area will certainly not work.

Mr. Lavassani responded to some of the concerns. He said that he does not have a business in Contra Costa County, and if he has a business in Hayward, that has nothing to do with Castro Valley. People are free to go to Hayward or Castro Valley.

Mr. Alexander, the project architect, a Castro Valley resident himself, said he was involved with the project before and that this is going to be a club for adults with dinner, dancing, and a ballroom. It will not be a negative situation as it has been depicted. At this time, we are limiting the parking for up to 244 people only. This idea that we will have 300 people is incorrect; we will not have that amount of people. We talked to the Fire Marshal and we know their regulations. We are working with the Planning Department and Traffic Engineering to make sure that everything is okay. This is not a negative presentation.

David Cota, representing CommPre, stated that once again, CommPre was not notified about the hearing. Last December, they were not notified and asked how Staff was going to receive comments from them if they were not notified. CommPre's major concern is the lack of a business license. He asked who will be running the business? He also wanted to direct the Council attention to some inconsistencies in the Staff Report. On page 5, it mentions the sale of beer and wine only. The proposed project calls for two bars. Why two bars if only beer and wine will be served? The project also proposes dinner with open bar from 5 PM to 11 PM. Why an open bar if they're only serving beer and wine? Also, the Applicant is proposing a businessmen's luncheon buffet style from 11:30 AM. to 2:30 PM on weekdays with a bar facility available. He would like to remind the Council that this type of use will likely increase the number of people driving intoxicated back to the work place. This application clearly contradicts what Castro Valley residents want, therefore, he would like to ask the Council to deny this application.

Mr. Alexander told Mr. Cota that he was sorry that he was not notified. What he is reading is the minutes from the previous meeting. The revisions that we have and were submitted to the Planning Department tonight, we have reduced the number of seating to 225, we have only one bar, also the parking has been

amended, the hours have been changed. Mr. Frank asked Mr. Alexander to repeat the hours of operation.

Mr. Gee also read the hours (please see staff report). Mr. Lavassani changed the proposed closing time to 1;00 AM, one hour earlier than originally proposed.

Public testimony was closed.

Ms. Adesanya asked Mr. Alexander if the 244 people will be based on the ground floor only. Mr. Alexander said yes, and said that the second floor will not be used for any purpose. She asked Mr. Lavassani to address the bar facility for business lunch. He said they will only have beer and wine, no hard liquor. Mr. Moore asked Mr. Lavassani if it was his intention to go for a liquor license.

Ms. Goodbody asked Mr. Lavassani if he still intended to have two bars. Mr. Lavassani said that he only wants one. She said there is inconsistency between the staff report and his information sheet; the staff report mentions that the employees will use 10 spaces while the information sheet mentions they will use 15 spaces. Her other comment is that, in his information sheet, he mentions he intends to use the surrounding neighborhood for overflow parking. This petition that he provided only has 6 Castro Valley residents; the majority of these addresses are from people that do not live in Castro Valley. Mr. Lavassani said the petition is from people that work in Castro Valley.

Ms. Sugimura asked Mr. Lavassani what other business he has in Hayward and if he has experience running a supper club like this. He said he has a deli and market, and that he had a restaurant.

Mr. Frank asked staff, with the operation of any restaurant, if there is a violation of permit conditions or any other Code Enforcement issue, can the supper club be brought back for CVMAC review. If it is brought back for review, can any new restrictions be added? Does the Planning Department review these uses annually? Mr. Gee said that any permit violations can be cause for permit review or possible revocation hearing. Any interim or periodic review can be made a condition of approval of the permit within any defined time period. They can take the form of either an administrative review with a report to CVMAC or a full hearing. New permit conditions can be added at that time.

Ms. Adesanya said that a couple of community members, including CommPre, seem uncomfortable about the particular use, that it will attract unwanted elements, and would like to ask them what are their concerns are.

Katie Nelson said that she works for the Police Department and that a business called Franchise was the same type of environment, it was located out on Mission Blvd., and was closed down. There were stabbings, noise, cars broken into, and people leaving drunk that got arrested.

Another concerned resident, who did not say her name, said that Mr. Lavassani asked about the type of entertainment they will have and is concerned with the element it will bring; it will draw a younger crowd. Enough has been brought up to the citizens and this element is going to be negative for children. As far as the security from the Village, it is weak; young ones will try to get in. It is going to be mainly people from out of town. Traffic problems, including parking itself, will not be positive for Castro Valley.

Mr. Lavassani replied regarding the property in Hayward. He said it is a different bar and night club and it was located on W. Winton Ave. At the present time, it is a garage. In regards to Ms. Nelson, who lives on San Miguel Avenue, he reminded her about that video shop in the corner. It was a car wash before and was a place for kids to hang around, smoking and drinking. People do not know exactly what kind of business he is going to have. They are claiming that the element is dangerous for the kids. There is a coffee place where all kids hung around there smoking and drinking. He said he will not allow kids hanging around in his place.

Mr. Carbone asked staff what is the zoning for this property. Mr. Gee said the site is located in the Castro Valley Center Business District Specific Plan, Subarea 7, Castro Valley Boulevard/Redwood Road – Intensive Retail Core. The subarea allows Land Use Group A: Intensive Retail Commercial uses which includes full service restaurants and cocktail lounges as Allowed Uses.

Ms. Adesanya asked if there have been any additional comments from the Chamber of Commerce since the staff report. Mr. Gee said there has been no change to the Chamber's opposition to the project, even with the proposed modifications.

Mr. Carbone said his concern is based on the fact Redevelopment Agency felt that this would be an inappropriate use, the hours of operation are too long, traffic and other related problems would result. Also, Redevelopment Agency concerns have not changed as well; the property is considered to be in a primary location in the redevelopment area. There are potential conflicts and it would be difficult to make findings of consistency with the Central Business District Specific Plan. He recommends a decision be postponed since we are short a few months, until the March decision from the Redevelopment Agency about the strategic economic development plan is made.

Mr. Nielsen said that he agrees with Mr. Carbone. We are very close to the completion of the Master Plan and he is not sure that this use fits the Master Plan. Castro Valley needs a quality restaurant. He said he is troubled by having this project come up now before the Master Plan is adopted, considering the Master Plan will not be ready for years and years to come. Committing a prime

commercial property in the middle of downtown Castro Valley for a restaurant is premature.

Mr. Moore said that a long time ago, the issue came up with a building moratorium in Castro Valley which was unanimously rejected by everybody. There is a certain degree of unknown time frame; it could be a couple of months, it could be six months and that is a bit of a problem. He said that if he was a business owner, he would say he does not want to wait for the moratorium. When the issue came up, the Council agreed to deal with it. That is a bit unfair.

Mr. Carbone said that was what the Council discussed and there were a lot of properties that were not allowed to make these improvements. When you see such a controversial piece of property, it is why we decided to have this opportunity to have the discussion now.

Mr. Moore said that in his opinion, if there is moratorium or not, everybody comes in with a project. He is sensitive to both sides. Why ask the man to wait? Why, if it takes six months, why not make a recommendation? You cannot go on waiting forever.

Mr. Carbone said everybody has personal concerns about the unknowns. He is considering the lack of a formal Castro Valley business plan. This is so controversial. Something that is very clearly written has to ensure that a "yes or no" recommendation is possible. It has to be more specific.

Mr. Moore said from the controversy standpoint, the scope of the project has been reduced to meet the County's parking requirements. If this building is not adequately improved, or anything else from the building standpoint, we still have the issue of a commercial use adjacent to a residential neighborhood. It is going to get a lot of attention if they do not deal effectively with the predominant issues of security, code enforcement and safety. A lot of the controversial issues are not going to go away. The last time, neighbors spoke here about no fence, so something has been moved. Something has to be changed and they asked the Council if some members feel we are moving in the right direction.

Mr. Frank said that the Council feels that the security should be increased. This can be directed to the Sheriff's Department. The other factors in terms of the number of tables, minimizing congestion, improving circulation enough or not, addressing issues before the County, a moratorium is appropriate in order to do so. He said the Council needs to sit down and say, "Let's makes sense." The Applicant has taken the time, so the Council needs to take some form of an action, formalizing into a motion, unless the County has additional information.

Ms. Adesanya said that if the Council is going to consider a motion for approval, she would like to have a little more discussion. Regarding the Redevelopment Agency, she is curious to know if there have been discussions about what type of

uses might be appropriate in any of those categories. They are not asking for a variance, not to the old Castro Valley Specific Plan. Mr. Carbone said that the Council was very clear about what they told Mr. Lavassani the last time.

Mr. Frank said that the longer the business stays open, the more you expose yourself to problems. Ms. Goodbody asked whether employees carpooling or taking BART would be able to do so if they are scheduled to work as late as 2:00 AM.

Bob Franklin, BART representative, said that the last train leaves Dublin-Pleasanton at midnight, about 12:10 AM for the last train coming to the area (westbound). The last train would arrive about 12:40 AM from the other direction.

Ms. Nielsen said that because this falls within the zoning, one of his biggest objections is the liquor license, he is concerned about the opening until 2:00 AM in the morning and the Council needs to take that into consideration. He thinks that Mr. Lavassani has gone a long way, working with the community, the hours have been restricted and he is working to improve relationship with the neighbors. He thinks the Council should give him consideration.

Ms. Adesanya asked staff if it is typical for a restaurant to sell beer and wine. Mr. Gee said yes but it would be subject to a separate conditional use permit application approval.

Mr. Frank said that due to the potential for unwanted circumstances, if the applicant enhances the lighting for additional security, would this have an impact on the neighbors in terms of lights. Mr. Gee said that Planning conditions require all lights to be directed on-site only. There are metal screens that can be attached to light fixtures to direct light beams so they block any light from leaving the site.

Mr. Moore asked if the use permit can be looked at again in one-year to review what is being proposed. Mr. Gee said that a condition can be added to require permit review in one year's time.

Ms. Goodbody asked about the colors of the building. Mr. Lavassani and Mr. Williams showed sample of colors for the building. See Page 5 of the staff report about color signage. There will be no neon on windows.

Mr. Frank asked council members to formalize a motion. Mr. Moore made a motion to approve S-1955 with staff recommendations and the following modifications: 1) that the maximum operating hours be limited to midnights on weekends; and 2) bring the project back in a year. Ms. Goodbody seconded.

Mr. Carbone asked about the type of liquor licenses required for the use. Mr. Gee said that they can apply for different categories of liquor licenses. The California

ABC needs local approval before a license can be issued. The Planning Department cannot give its endorsement until a separate conditional use permit application is approved.

Mr. Frank requested that Mr. Gee clarify for Mr. Carbone when he said approval, does that mean the liquor license request goes before the Council or it goes before some other agency? Mr. Gee said that a separate conditional use permit application would require Council review and West County Board of Zoning Adjustment approval.

Ms. Adesanya asked if a Site Development Review can include a condition that this particular use be approved with the condition that no hard liquor be sold. Mr. Gee said that under the specific plan, whether a particular land use is determined to be appropriate on a property through Site Development Review must be based on compatibility with adjacent conforming development. That condition can be added to ensure project compatibility; it can be made a part of the Council's recommendation.

Council members continued the discussion about the need for a conditional use permit and issues related to the permits. Mr. Carbone said he feels a lot of the community is concerned about having a bar.

Mr. Moore amended the motion that Council recommendation for Site Development Review S-1955 approval include a third condition to prohibit sale of hard liquor as part of the supper club use. Mr. Frank seconded the motion.

Sargent Verge said that the Sheriffs Department has not reviewed the security plan.

Mr. Moore started again and made a motion for approval of S-1955 with the following modifications: 1) Hours of operation be limited to 1:00 AM on Saturdays and Sundays; 2) Full site development review be brought back in 12 months to ensure compliance with conditions of approval that will include review by the Sheriff's Department for approval of a security plan; and, 3) a provision that prohibits sale of hard liquor be added to the site development review. Mr. Frank seconded. Motion passed by a vote of 6/1 (Mr. Carbone opposed).

E. OPEN FORUM –

BART representative Bob Franklin introduced himself. He is one of the new BART Directors and he can be reached just by calling BART.

Suzanne Barba asked if it was appropriate for a person involved with the Applicant and with the supper club project to give testimony. Mr. Moore said his interest ended months ago and his work has nothing to do with this project.

Ms. Adesanya asked about the Zoning Ordinance Update Committee meeting. Ms. Henninger said that the meeting will take place tomorrow, January 25, 2005, 6:00 PM at the Public Works Auditorium, 399 Elmhurst St, Hayward.

F. CHAIR'S REPORT – None.

G. COMMITTEE REPORTS –

Mr. Swanson gave council members a paper to sign for e-mail communications purposes. There are certain rules attached. He said he is also working in getting voice mail for council members so they can have voice mail with the county, e-mail will be enough. Ms. Henninger asked if this is on the county web site. MAC members will be in the county system. The Castro Valley Forum requested e-mail addresses to get a hold of MAC members. Supervisor Miley is the sponsor.

H. STAFF ANNOUNCEMENTS, COMMENTS AND REPORTS –

Ms. Henninger said that this month there will be a review of last year statistics for Code Enforcement. Mr. Frank asked if this was for information purposes only. Ms. Henninger said yes, unless we can bring it back in next agenda.

Mr. Frank asked if someone reviewed the letter of December 15, 2004 from LCS Associates (copy of letter enclosed) regarding Site Development Review S-1874. Mr. Gee said that he would forward the letter to the appropriate staff planner and report back to the Council about the requested modification.

A discussion followed as to whether to have the regular meeting on February 14, 2005. Since a Council quorum would not be available for that meeting, it would be cancelled. Ms. Henninger said she will check the dates tomorrow for the land use and general purpose meetings.

I. ADJOURN: There being no further business, the Chair adjourned the meeting at 8:00 p.m.

NEXT MEETING DATE: Monday, February 28, 2005