

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

Minutes for September 26, 2005

(Approved as presented October 24, 2005)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:30 p.m. Council members present: Dean Nielsen, Chair; Jeff Moore, Vice Chair. Council members: Andy Frank, Ineda Adesanya, Karla Goodbody, and Cheryl Miraglia. Council members excused: Carol Sugimura. Staff present: Jana Beatty, Tona Henninger, Bob Swanson and Maria Elena Marquez. There were approximately 20 people in the audience.
- B. APPROVAL OF MINUTES OF AUGUST 22 & SEPTEMBER 12, 2005.**
Ms. Miraglia motioned, seconded by Ms. Adesanya to approve the minutes for September 12, 2005 as corrected. Motion passed 5/0 Mr. Moore abstained. Ms. Miraglia motioned, seconded by Ms. Adesanya to approve the minutes of August 22, 2005 as corrected. Motion passed 4/0. Mr. Moore and Mr. Frank abstained.
- C. PUBLIC ANNOUNCEMENTS:** None.
- D. CONSENT CALENDAR**
- 1. VARIANCE, V-11960 – MARIO MAPOY –** Application to establish building site status for a parcel without frontage on a county road, in a R-S-D-20 (Suburban residence, 2000 square feet Minimum Building Site Area/DwellingUnit) District, located at 2060 Miramonte Avenue, south east side 320 feet north east of Foothill Boulevard, San Leandro area of unincorporated Alameda County, bearing Assessor's designation: 080A-0204-002-06.
- Mr. Frank moved to approve Variance, V-11960 as submitted. Mr. Moore seconded. Motion passed. 6/0.**
- E. REGULAR CALENDAR**
- 1. VARIANCE, V-11946 – LEE SCOTT –** Application to allow expansion of a nonconforming use (reduced parking spaces) by construction of an attached addition and a detached accessory structure in an R-1-CSU-RV (Single Family Residence) District, located at 21522 Lake Chabot road, east side, 25 feet south of Meg Court, unincorporated Castro Valley area of Alameda County, and designated Assessor's parcel Number: 415-0060-083-00.

Ms. Beatty presented the staff report. This item was heard on September 12, 2005. The Council decided to continue the item in order for the applicant to revisit the idea providing on site parking as well as to potentially reduce the size of the accessory structure. The applicant has informed staff that they would like to provide two car parking in the front of the existing house. Currently, there is a

driveway for one car. They decided that they would not like to provide parking in the rear as the original building permit stated. The WBZA agreed to continue the item to October 12-05 which gives enough time for staff to put in the staff report the recommendations for WBZA from the MAC. Ms. Adesanya asked to what extent is the accessory structure already constructed. Ms. Beatty said that the foundation is in and a few walls.

The Applicant said he wanted to move forward with the variance, obviously if they take off part of the house reduces the value of the house, half of the bedroom which is already 10 feet wide, two bedroom two baths, create 2 car parking. The house has been sitting with a single car, the garage was converted legally a few years ago. They are not adding any people to the property, just making a bathroom to make the house more convenient. Currently it has three bedrooms and one master bath.

Mr. Moore asked Ms. Beatty that because they want to put an addition in the back to a pre existing non conforming use is a variance required because they only have one required parking space where two is required? Ms. Beatty said actually they do not have any conforming parking at all, and that a driveway in the front setback does not satisfy the parking requirement. If they had two conforming parking spaces, they would not need a variance at all. They originally proposed to cut off the side of the house and provide parking in the rear, proceeded with construction, and then decided not to cut off the house. They are willing to provide parking pads for two cars in the front.

Mr. Moore asked the applicant that when he got the permit knowing the conditions and then started construction, he changed his mind and did not want to do it after the fact? The Applicant said that he was told to file for the permit for the variance because they are just going to add a bathroom to the house, the only way to do that is if he put a workshop and saying tear part of the house. Upon guidance, he chose this path. Because there was an issue with the parking, he is just adding a bathroom, not a living space, they told him not to tear down part of the house.

Mr. Nielsen asked the applicant if the County gave him that opinion in writing and if he had a building permit for the garage. The applicant said he does not have it in writing, and that he has a building permit. The applicant said they did not want a garage, they want a bathroom and the only way to do it is to build a workshop in the back. Mr. Nielsen asked the applicant what does a bathroom have to do with a workshop. The Applicant said the only way to add square footage to the house is to have conforming parking which means having a garage on the back. Mr. Scott, the contractor, said he was told to file for a variance. Mr. Frank told the applicant that usually you apply for a variance first and then build the structure. Mr. Frank asked Ms. Beatty if a bathroom is added, would a variance still be required? Beatty said that technically because the structure is not

conforming, the variance would be required. Mr. Moore said he was surprised to know that a planner would say that a variance would be approved.

Public testimony was called for. No public testimony submitted.

Ms. Adesanya asked if the accessory structure in the rear without the bathroom would trigger a variance?

Ms. Beatty said pretty much any structure would require a variance since they are not providing legal parking. Mr. Nielsen asked about the side yard set back in this area. Ms. Beatty said that side yards are 5 feet and rear yards are 20 feet. Mr. Nielsen said that they would need a variance also to place in the garage in that position. Ms. Beatty said that accessory structures can go into set backs as long as they do not cover more than 30% of the lot.

Mr. Moore said that the applicant is in a tough position because a permit was requested, issued and granted. Typically the way it goes, variances are sought and approved and construction starts. Ms. Adesanya thinks that the applicant was simply misguided. She is in support of allowing the applicant to have a bathroom addition to the small house, but she is opposed to the size of the accessory structure. Ms. Miraglia said it is unfortunate that the applicant was given misguided information to go ahead and build a structure without having the proper approval. She supports adding a bathroom but is opposed to the accessory structure. Mr. Frank agrees with what Ms. Adesanya and Ms. Miraglia said. Ms. Adesanya asked if this request could be split apart.

Mr. Nielsen made a motion to continue the item to the end of the meeting to allow time to the applicant to think it over.

2. **SITE DEVELOPMENT REVIEW, S-2022, CHEVRON/RHL DESIGN GROUP** – Application to install new fascia and signage on the current Shell gas station located within the CVCBD-Sub7 (Castro Valley Central Business District Specific Plan, Sub Area 7) District, located at 3495 Castro Valley Boulevard, south side, corner of Redwood Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 084A-064-005-02.

Ms. Beatty presented the staff report. Staff is recommending that applicant provide only one of the two proposed signs. Mr. Moore asked if there will be two Chevrons across the street by the same owners.

Craig Schafer, from RHL Design Group representing Chevron, said he wanted to clarify a couple of things. First of all, they are not replacing monument signs, they are **refacing** existing monument signs. The request was to reface a small monument sign on Redwood Road. The building as it sits only has one Food Mart sign on it. His firm did the drawing for this project seven years ago. What is on the building currently is a Food Mart sign at the entrance of the building. What

they are proposing is a new Chevron Food Mart sign which is very similar at the entrance of the building. They are not increasing the square footage, just changing the colors and refacing the signs.

Mr. Moore asked Mr. Schafer if this was a corporate facility. Mr. Schafer said it is a franchise. Mr. Nielsen asked Mr. Schafer to describe the colors and the canopy. Mr. Schafer said that the canopy Chevron's colors are white, blue and red, essentially most of the Chevrons that you see around the area. On the building itself, they are keeping it mostly gray, the center portion of the building will be white, the roof will remain the same dark gray.

Public testimony was called for. No public testimony submitted.

Ms. Miraglia said that according to the report there are no proposed changes to the landscaping and if there will be something to enhance that corner.

Mr. Schafer said that they are very limited because the site is very tight as it is. He believes that the landscaping in that strip seems to be OK.

Mr. Moore made a motion for approval of Site Development Review, S-2022, with staff recommendations. Ms. Goodbody seconded. Motion passed 6/0.

3. **TENTATIVE TRACT, TR-7684 – COOK/HIFAI** – Application for a condo conversion of two existing apartment buildings located in CVCBD-Sub5 (Castro Valley Central Business District Specific Plan, Sub Area 5) District, at 20421-99 Anita Avenue, west side 350 feet north of Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, bearing Assessor's designation: 080A-01310007-02.

Ms. Beatty presented the staff report. Mr. Moore recused himself because his company is involved in this project.

Mr. Rodgers, with Greenwood and Moore and representing the applicant, stated that this is an informational item at this time and that they have not submitted an application yet. The project is to convert condominiums on two existing adjoining apartment complexes that were constructed in the late 1950's. The design will be combined to create a single condominium complex with a common homeowners association. Currently, the buildings are located in separate adjoining parcels. He feels that the project has substantial benefits for both the neighborhood and the community as a whole. These units will be priced at the lower end of the price range for Castro Valley and the surrounding area. The units will be available for purchase for first time homebuyers. Some of the existing tenants will purchase their units. Approval of the conversion will also provide the owner with the ability to perform substantial upgrades to the property, such as remodeling of the kitchens, bathrooms, upgrading existing landscaping throughout the project and additional new landscaping where possible. Upgrades to the building exterior

such as new windows, new roofing, remodeling of the existing pool area and other common space areas, new patios and balconies, new fencing throughout the site and installation of sidewalks. The bottom line is that converting these apartments into condominiums will be a substantial improvement to the current condition and appearance of the complex. He realizes that there are some deficiencies with respect to the existing zoning ordinance and the County's condominium conversion guidelines. The density of the site is higher than what currently will be allowed. The existing construction has been in this condition for 50 years. They are not proposing any changes or increasing density. As far as the parking issue, they are deficient in parking spaces, there are currently 50 parking spaces on the site. The current zoning ordinance would require 78 spaces for this type of high density use. The proximity of the site to Castro Valley Boulevard and transportation is a mitigating factor to the parking deficiency. Currently, there are no problems with the use of the parking. As for access issues, the zoning ordinance requires a minimum 20 foot driveway width and a 10 foot separation between the driveway and the building. Currently, they do not meet that requirement, but the Fire Department has been on the site and has reviewed the access conditions and has stated that they are satisfied with the proposed access conditions on the property. Open space is the other main item, they are deficient in the private open space requirement. The condominium guidelines require 300 square feet per unit either in the patio or balcony. They have an average in between 100 and 150 square feet per unit. There are some substantial common space areas that make up for that open space deficiency. The existing pool on the site which they are planning to retain. There is also a play area.. Even taking these deficiencies into account, he believes this project has substantial benefits. He had two meetings with the County Planning staff, meeting with the Building Department staff, and also with the Fire Department official. Everyone has been positive and encouraging so far. They (Greenwood & Moore) want the MAC's feelings as to the feasibility of the project so they can move forward.

Mr. Nielsen asked if the Fire Department has driven down on the north side of the property recently. Mr. Rodgers said that they did walk the site and were satisfied with the circulation access. Mr. Nielsen said that he went around the back and it would be extremely difficult for a standard size car, and an ambulance can not go there with any speed at all. Mr. Rodgers said that they are willing to work with the Fire Department and provide whatever additional fire protection improvements might be necessary in order to compensate for that access. The Fire Department officer did not see any major problems with the way the site is at the present time. He said that they actually submitted an application to the Fire Department and they came to the site. Mr. Frank mentioned a few examples of condo conversions in other areas of Castro Valley.

Mr. Rodgers said they realize they are deficient in parking and open space. There are certain benefits here as far as entry level housing for people on the lower end.

Ms. Miraglia said that parking is very important. She would not be willing to compromise on the County's parking requirement. The open space is very important not only for the quality of life but also for the community. At this time, it is just a mass of concrete and asphalt. It would make sense to tear part of building two or all of building two and put in more parking and more open space and more fire access. Mr. Rodgers said they have considered those options, to lose those units and still be able to do the upgrades to build the interior and the exterior of the project.

Ms. Adesanya asked Ms. Beatty if it was possible to have HCD look at the project in reference to the housing element and if there is any County opinion as to what is more in demand, rental or for sale housing. Ms. Beatty responded that both are in need. Ms. Beatty said that with for sale condos like these it might provide opportunities for homeownership for people who might not otherwise have the chance. But, it is taking away valuable rental property and buildings under one ownership are often maintained and improved more easily than a large condo development where you have an association, might not be willing or can afford to pay for improvements. There are positives and negatives on both sides. Ms. Adesanya asked if there is a compelling need for more housing for sale other than the owner wants to convert.

Ms. Goodbody said she is concerned about the ingress and egress. She would like to see better use of open space, community play area for people that live in these communities. She said that parking and ingress/egress should be addressed.

Mr. Nielsen said he went to the site several times last week to see if it can be justified not meeting the parking requirement. During the day when everybody is at work there is space, any space that he could see that was not taken by property owners. Castro Valley does not have over abundance of low to median income housing. It would not justify to convert a building that does not give them the amenities like parking and open space. There are buses on Castro Valley Blvd. but that does not compensate.

Mr. Rodgers invited the owners to come to the podium.

Ms. Hifai said that in terms of parking as of right now the way the residents live there is still enough parking spaces for each resident. They are relying on the fact that they are close to public transportation. She said they are open to what council members mentioned. They have considered the possibility to remove some of the units. In terms of open space, they are going to change the landscape of the entire complex. They plan to make the complex really attractive with play area for the children. In terms of the individual units, some of them have larger balconies or patios, some of them are smaller. Definitely, she is aware of the deficiencies with the project. There is abundance of rentals right now in Castro Valley, but there are not many entry level homes for the first time homebuyers. If they are able to compensate for parking and open space, they will upgrade the interior and the

exterior of the building. She thinks it is important to increase homeownership. They are open to looking at other possibilities if it economically makes sense to tear down part of the building to provide that.

Mr. Nielsen said that the MAC has a process where individuals that would like to discuss projects with the MAC without paying their fees. They can bring their projects to MAC and talk conceptually in general and the MAC can look at the drawings and plot plans. Mr. Nielsen told the applicant if someone has a project, people are free to come to the MAC without paying any fees.

Mr. Rodgers thanked the Council and said they will take their comments into consideration.

4. **TENTATIVE PARCEL MAP, PM-8345 – LAI** – Application to subdivide one parcel containing 0.75 acres into three lots, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4420 Edwards Lane, north side, approximately 700 feet west of Center Street, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084C-0696-011-05.

Ms. Beatty presented the staff report.

Dayna Segner, applicant's wife, stated that their parcel is $\frac{3}{4}$ of an acre. They did research before they purchased the property to see if this was a possibility for subdividing. Their title company did some investigation as well. She referred to PM-8510 that was approved last month. Their proposal has an average lot size of 10,000 square feet. The minimum lot size in the area is 5,000 to 6,000 square feet. They choose to have the bigger lot sizes. They also concur with the agencies recommendations and they are aware of and look forward to working in collaboration with them to ensure safety and parking situation as well as some of the other criteria.

Public testimony was called for.

Doug Johnstone, resident at 19551 Mel Lane, stated that he wanted to express opposition not to the entire project but the principle. He understands that it is a big property that can be split into two. He did want to make certain that it is not rezoned for multi family. His house is on the far end of Mel Lane, there are 3 homes that border Mel Lane. His opposition to this project essentially involves Mr. Lai's plan for the traffic. Mel Lane is a private driveway that services those two properties. Mr. Lai already has a driveway that is in existence. He said that just one week ago they received the notice for this meeting and said that it is not enough time. He would like to request a continuance on this item. He acknowledged that he has an easement. Mr. Lai's deed is part of his deed too. He feels that easement requirement has been already met through his access down below. He feels it is a great imposition on his part. Last week he and his wife met

with Brett Lucas. Mr. Lucas was not aware at the time of the maintenance agreement. He said that Mr. Lai is not a party of the agreement. Mel Lane is an extended driveway, it goes nowhere up to his garage door. After talking briefly with Mr. Lucas, he proposed that the Planning Department offer their offices to negotiate these differences and have the parties mitigate them. He feels that is a great idea. He would like to take Mr. Lucas's offer and in addition to that, he wants to request that Mr. Lai present plans on how he can provide side access to that portion of the property. Mr. Nielsen asked Mr. Johnstone if he was saying that the applicant has no access over Mel Lane. Mr. Johnstone replied that he has access on Mel Lane, it is spelled in the deed but is not specifically in that deed easement statement.

Ms. Miraglia asked Mr. Johnstone if Mr. Lai would have to take out his garage in order for him to do that. Mr. Johnstone said that is one of the things they need to sit down with the Planning Department and explore some alternatives. He said that Mr. Lai had mentioned to him and Mr. Goppert that he would not entertain the possibility of moving that building to get this project approved. He is not going to abandon the project.

Mr. Nielsen said that the Council needs to determine whether he has the right to assign his right of way on the road. It is almost impossible for the Council to make a decision on whether to approve this or not without knowing the accessibility. Ms. Beatty said that Planning has been dealing with this issue more and more recently and County Counsel has told Planning that in such cases it is typically a civil issue.

Mr. Nielsen said that if this approval would be allowed because without determining whether he can use the road or not, the Council would send him the wrong message. Ms. Beatty said that what the Planning Department has been doing in the past, the easement or any sort of right of way agreement must be modified for additional access prior to filing of the final map. Once Planning is done with it, it is up to the applicant to pursue modifying that easement.

Mr. Nielsen said that if approved the condition of approval has to be the question of access it has to be resolved for a permit to be issued or for the split to be completed. Ms. Beatty said that was correct.

Mr. Johnstone said that as far as Mr. Lai's comments, the maintenance agreement is very specific, that is part of their deeds. Mr. Nielsen said that what the Planning Department is saying is that it will have to be resolved before the lot split is complete.

Sherry Johnstone, resident at 19551 Mel Lane, stated that this property was created in 1988. Mr. Lai is not the owner of this road and he has an easement to access his property. She feels this is a private driveway and he is actually giving it to two other people. He is not part of the maintenance agreement and he has not

paid taxes on it He already has an existing driveway parallel to theirs (Johnstones) he can access his property that way. Also, their road will be impacted with the sewer line and the heavy construction. Their privacy and quality of life will be impacted. She requested continuance.

Michael Goppert, resident at 19563 Mel Lane, reiterated what Mr. and Mrs. Johnstone had said. Kids can not go out in the street. When he bought his home, it was almost an idyllic situation, the place was covered with full view with the creek. They will be impacting the quality of life and privacy by using their driveway and forcing them as property owners to take on the liability from a fourth owner. No more homeowners agreements, no more people to deal with. They paid a substantial amount of money. The Council must be aware what the value of these homes are. Putting in place a juncture off of his driveway where his children play is a detriment to his lifestyle. Also, he attended the September 12 meeting and listened to what the Board had to say and the biggest opposition in place was the parallel driveways and the covering of open space. There are parallel driveways on either side of Mel Lane, three driveways in parallel in existence. If you move the building which is now a storage and garage combination, much shorter amount of cement to be spread. He requested more time to consult with his attorney.

Andrew Warner, resident at 4408 Edwards Lane, spoke in support of the project. Anything going up in Mel Lane, they use it for a personal parking lot, driveway goes up and down the street. They don't even pay attention to the JMA as it is. He said he does not have a problem with the building of the two homes either. He has responsibility for the whole Mel Lane just as his two neighbors. It is a lane and not a driveway. They have driveways in their houses as everybody else. As far as he is concerned, he likes things settled and he will see that the JMA is enforced.

Alan Tam, resident at 4468 Edwards Lane, he spoke in support of the project. He said it can increase the house value in the neighborhood. With the population growth in the Bay Area, this will happen sooner or later.

Glenn Dauphin, resident at 4543 Sargent Avenue, said that he had several concerns. He visited the property a few days ago. If there was a fire in any of these houses on Mel Lane you could not get an ambulance and a fire truck. There is not enough room on Mel Lane to get in, there is no turn around. The driveway into the parcel in question has a right turn and then a slight left turn to get in. He is an adjoining neighbor and he is concerned about the possibility that the Fire Department is not able to service the area properly. He asked if 10 foot was a set back and if that was a variance. The set back also impacts houses and asked if there is any compensation for him being the rear neighbor, they will be impacting his privacy. Mr. Nielsen said side yard set backs help mitigate that.

Mr. Moore said that the staff report mentions that there was no objection to the request provided that the following provisions were adopted as conditions of approval and asked Mr. Dauphin if he had a chance to take a look at the staff report. He said no.

Ann Shevenell-McAusland, she represents the owners of 4435 Edwards Lane, Gerald and Janece Shevenell, her parents. They support Mr. and Mrs. Lai developing their lot in the back. She said she has lived in her property 44 years and she has watched a lot of the development in the area. The best point is being an owner and living on that street. They have a concern with traffic, there are three schools that use Edwards Lane as a pass through and it is a big issue. She is aware that a property was just approved for 3 units. She understands that Mr. & Mrs. Lai want to develop their property and that needs to be done. She is here for Mr. and Mrs. Kenneth C., they are also in support of the Lai's. She thinks that all the neighbors can work together to make this work.

Kevin Moore, resident at 4462 Edwards Lane, stated that he is new in the neighborhood and that he does not have any objections whatsoever for Mr. Lai putting two new houses. He would like to see things rectified with the neighbors as well. It is a great idea to enhance the neighborhood. He also would like to see the speed bumps heightened.

Public testimony was closed.

Ms. Segner (applicant's wife) referred to the letter included in the packet, from the attorneys at law, dated September 14. The easement does not stop in her driveway, it goes 85 feet more towards Edwards Lane. It is not an easement for the front of the driveway, but it goes all the way through. She does have an easement to her back yard. The other issue came using the property as a driveway versus an actual lane according to the maintenance agreement. Two of the opposing parties often put vehicles there which can block it for fire hazard and safety issues. Council member Moore had said that the Fire Department has requested to prohibit cars from parking there. There is a parking turn around in their actual property. They have no problem in working in collaboration with their neighbors. They need a tentative agreement qualification and some of these things need to go through as far as collaboration with the different agencies and they fully intend to cooperate with the agencies and with the agreement.

Mr. Moore told the applicant that one of the speakers implied that he (Mr. Lai) had no intention of paying for potential damage done through the course of construction and if he had a comment on that. Mr. Lai said that they plan to pay for anything that is damaged and to participate to keep this road as it is now. As you see from the photographs, it shows Mel Lane goes up according to the maintenance agreement, that is too far many vehicles on Mel Lane. The fire issue, so many cars there that a fire truck would not be able to turn around due to the

amount of vehicles. Mr. Goppert said they do not want fire lanes painted and it is because of the vehicles that are parked there.

Mr. Frank said the Council has a classic example of what has happened recently in Castro Valley. There is adjoining property that went into a subdivision. The typical roadway for a tract that has 5 or more homes can be a county maintained road. Mr. Frank said 36 feet and 11 feet sidewalk and curbs on the side off street parking, there will be a red zone and there will not be ingress and egress, lets say you have a large street, you have your off street parking, adjacent to your home, ingress and egress and proper street parking for everybody in the neighborhood, you have a fire truck, an emergency vehicle, you accomplish what a subdivision would accomplish. He asked if the County has ever taken a place like this and ever given full public right of way. Mr. Frank said that the whole issue is parking. There are two choices of design, versus the 24 foot road plus the gate for off street parking. Mr. Frank asked Mr. Lai if he would be taking into consideration increasing the width of the street. Mr. Lai said that financially it would be infeasible, they would lose too much of the garage, they are planning to enlarge the house to the garage another 10 feet. They could not do that.

Mr. Moore said that he agreed in concept to what Mr. Lai was saying. The Council has seen many subdivisions that have 6 or more lots 24 foot wide in a private roadway. It strikes him that the easement all the way to the back, access all the way to the rear. The Council is trying to be consistent, what is fair to one is fair to the other to make them to go the full size street.

Ms. Goodbody asked Mr. Lai why he did not join the JMA. Mr. Lai said that they did not ask him to. He will be happy to join it.

Mr. Moore asked staff if they are allowed to park there just the way it is now. Mr. Moore said it might be part of the conditions of approval, it might be a technical violation of the original parcel map.

Ms. Miraglia said that the staff report mentions that the applicant can probably get two more parking spaces adjacent to lot 1 and if he could provide additional parking and where is he proposing to do that. Ms. Lai said yes. Ms. Miraglia asked if this was 25 feet wide curb to curb and if we had 3 or 4 feet extra width would that still allow a fire truck enough room or a parking space on one side. Everybody is going to need more parking spaces. They are going to have more parking on parcel 2 and 3 also for the people who are currently there. Mr. Moore referred to a note on the parcel map that says that 2 guest parking spaces shall be provided on parcels 2 and 3. It is his understanding that they intend to fully comply with the parking requirement.

Mrs. Lai said that two additional parking spaces would be for the two houses that they would be developing in the back so they would have their own driveway, plus two additional parking places for guests. In the pictures that he saw there are

seven cars for one person, she believes he did not see an accurate view of how many people are actually staying there. Mr. Nielsen said that he is concerned about emergency vehicle turnaround and he does not see that on the drawing. Ms. Beatty said that is correct because the Fire Department did not request it, they simply stated they had no objections as long as they comply with the final fire requirements.

Mr. Nielsen said there are 6 homes, 5 in particular at the end of this road and there is no way for an emergency vehicle to turn around if there is a problem. Ms. Lai said that is not correct. They have a drawing showing there will be a turn around, it is part of the requirement from the Fire Marshall.

Ms. Adesanya said that the width of the easement is 25 feet, the survey tentative parcel map appears that the road is not quite 25 feet in Mel Lane and that something is incorrect. She asked the applicant if he would be willing to widen it by 3 feet and stick with that to continue the private road.

Mr. Moore said that it looks like a roadway at the entrance, it appears like the driveway goes actually into this gentleman's property. Provide some additional parking for the neighbors to help alleviate problems. The applicant will need the parking in his own property. Mr. Lai asked if that would be a pre-requisite to be approved.

Mr. Frank told the applicant that he is dealing with a subdivision. Subdivisions have to provide off street parking. It is a 20 foot wide road, that would be in compliance with what he is looking for. We don't have a standardization of roadways. What has the County done recently that would apply to the issue. There is an alternative to a public maintained road. What he is looking is what other council members have mentioned, 3, 4, or 5 feet to make the additional off street parking and still maintain the 20 foot ingress/egress for people in and out of the community.

Mr. Nielsen said that the Council can make a recommendation. Ms. Adesanya said that some of this is because we have sequential subdivisions and parcel maps occurring that are actually in effect tract maps, would it not be under CEQA scrutiny in terms of traffic impacts and the parking for instance to be categorically exempt from CEQA. When you have a piece of land and you have subsequent subdivisions of that land and there is a number of years between subdivisions that have to be considered. She asked if staff has taken this into consideration and confirm that this does not violate any of the provisions of CEQA. Ms. Beatty said that staff has looked into that, and has determined that this is not piecemealing a tract map

Mr. Moore made a motion for approval of Tentative Parcel Map, PM-8345 with staff recommendations and the following conditions: that the developer provide a 20 foot wide minimum roadway at their sole expense from the

front of their property along the entire easement and a suggestion that they consider providing some additional parking for the benefit of the neighbors. Mr. Frank seconded. Including all recommendations in the staff report. Ms. Adesnaya abstained. Motion passed. 5/0.

5. **TENTATIVE MAP, PARCEL MAP, PM-8796 – CHRISTENSEN –** Application to subdivide one parcel containing 0.56 acres into three lots, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreation Vehicle) District, located at 3569 Christensen Lane, south side, approximately 650 feet east of lake Chabot Road, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084B-0529-003-00.

Mr. Moore recused himself. Ms. Beatty presented the staff report. She stated that Planning did not receive any negative comments from the other agencies, except from Public Works that a soils report would probably be required since this is in a Seismic Hazard Zone.

Mary Ramos, the applicant, stated that she purchased the property on Christensen Lane. It is an old house quite in need of repair, and she is proposes to split the lot into two additional lots, so there will be a total of three there, all three on Christensen. She talked to the engineer and to the County before she purchased the property. She did not receive any negative input from the gentleman she talked to. Mr. Rodgers said that at this point he does not have much to say except that this is according to the lot size consistency policy, the lots are larger than the median lot size in the area and all of this has been taken into consideration. They do not anticipate a need for variances to develop the property.

Public testimony was called for.

Ron Portwood, resident at 3184 Lucerne Court, stated that his property goes to the south of the proposed development. While he is not specifically opposed to the subdivision of the property, he has concerns based on recent history along Christensen Lane where there was a motion to subdivide 3449 Christensen Lane. The Board at that time denied that subdivision. It is a matter of consistency. The lots along Christensen Lane are larger, and the median area homes happened after the homes on Christensen Lane were built. The proposed subdivision was built in 1960 or later, but just for matter of consistency along Christensen Lane itself because of what has happened, there is precedent in being rejected by the MAC board.

Paul Schaffer, resident at 3431 Christensen Lane, said that three years ago the owners of 3449 split that up into 3 lots, and the basic contention was they wanted to split it into three but was not consistent with the neighborhood. He found it interesting that on page 4 of the staff report they are talking about the consistency of the lots here. His lot is on Christensen Lane and these lots are all averaging. Because of that reason, three years ago the MAC board agreed that it allowed that

subdivision. They wanted three lots and the MAC only allowed two. His only contention is that he thinks two lots would be OK but not three. Ms. Miraglia asked on the other side of the street if the size of the lots are the same. Mr. Schaffer said he believed they are smaller. He said that the only reason he came here is because the owner of that property was going to bring his decision of three years ago about lot consistency on that side of the street, unfortunately he is not here with the MAC decision at that time. Mr. Frank told Mr. Schaffer that he was there at that time, and that he is correct. Mr. Schaffer told the MAC to keep consistency.

Steve Bultemeyer, resident at 3463 Christensen Lane, stated that he has an issue with the proposed driveway width be less than the 20 foot wide minimum. Also, the calculation of the median lot size excluded lots over 11,000 sq. ft., including the property next door to this project, which is nearly 15,000 sq. ft.

Sebira Sabanovic, resident at 1621 Wayne Avenue, San Leandro, stated that she is the owner of the house next door. She is concerned about traffic. The house that she owns is a one story house, has 10,000 sq. ft. and has a swimming pool in the back. She thinks two houses will be fine, but not three.

Public testimony was closed.

Mr. Rodgers, representing the applicant, stated that the main thing is the lot size issue. He has the map for that subdivision down the street that the neighbors were referring too. It shows two lots, the front parcel has a square footage of 7,028 square feet in that area, and the parcel in the rear is 10,460 square feet. They have one parcel that is larger than that, 10,300 square feet, and another lot that is 7,300 square feet. They are definitely in *conformance* in terms of lot size. The parcel down the street was considered the smallest to begin with, maybe 18,000 at the most, there is 17,000 square feet, our lot is 7,000 square foot total that the other lot down the street. In terms of the overall lot size consistency, there are a couple of larger lots adjacent to theirs. It is definitely a mixture of lot sizes but predominantly smaller lots even though there are a few smaller parcels adjacent to theirs. As far as not including properties 11,000 square feet or more, he is not sure if that is the case, but if it was, the reasoning was that those lots can be subdivided in the future into smaller parcels, and generally eliminated from the calculation for that reason.

Mr. Nielsen asked staff to clarify how those larger lots are handled to help the neighbors understand how the lot size consistency was established.

Ms. Beatty said that typically developable lots are excluded from the calculation for average size. Mr. Nielsen asked if those are developable lots that are excluded. Ms. Beatty said that is correct. Mr. Nielsen said that in order to be fair to the various property owners, lots can be split or developed those larger lots 16,000 sq. ft. that would be excluded the average as far as the calculation is concerned. Ms.

Miraglia asked how many lots are excluded. Mr. Nielsen said that if it is a developable lot it can be split, excluded from the calculation as far as the lot size calculation is concerned.

Mr. Frank moved approval of Parcel Map, PM-8796 with staff considerations. Ms. Goodbody seconded.

Ms. Adesanya said that one of the neighbors suggested that on the subdivision down the street this Council considered the lot size of the parcels just on that side of the street. Mr. Frank said that what was taken into consideration was the comment made by the people of the community. He mentioned a few comparisons in square footage of several properties and said that the applicant is certainly consistent within the guidelines.

Motion passed 5/0. Ms. Miraglia abstained.

Mr. Nielsen returned to Variance, V-11946 – Mr. Scott requested continuance so he can discuss it with his wife. The item was continued to October 10, 2005.

F. Open Forum – None.

G. Chair's Report – None.

H. Committee Reports – None.

I. Staff Announcements, Comments and Reports

Ms. Henninger showed a Washington Mutual picture and asked the Council members if they would like to review the application. Council members responded no.

J. Council Announcements, comments and Reports

Ms. Miraglia said that the correction of minutes, currently individually each council member sends them to Maria, council members do not know what those corrections are. She would like to see the corrections. She suggested to e-mail the corrections to everyone. Technically, council members should not be approving minutes without seen the corrections that have been made. Ms. Miraglia asked who does these corrections. Mr. Nielsen asked if the minutes that are submitted for approval are they corrected minutes or not. Ms. Henninger said they are not. Mr. Nielsen said council members need to see the corrected minutes for final approval. Ms. Miraglia said it would be easy enough to just give council members a copy of the corrections. Ms. Henninger said that the Planning Commission does its corrections verbally at the time that they are seated as Planning Commission, they discuss them and agree or not agree. Mr. Frank said that council members can do what Ms. Henninger said to do: read the corrections at the meeting or

council members can bring the e-mail to the meeting, pass them out, and after that the minutes can be approved. Everybody can state their own corrections as necessary. Mr. Nielsen agreed that if someone has corrections for the minutes that they make the corrections verbally at the meeting so everyone can hear them and then council members can vote on the minutes as corrected.

Ms. Miraglia asked clarification from staff how the selection of lots is done for average and asked if staff can put that in writing for her.

Mr. Nielsen asked council members if they received the e-mail regarding the design guidelines brought up at the ordinance update. He is concerned that the MAC is the most concerned about land use and yet the only input that they have would be if they attended the meeting to have their input there. They are considered if it is appropriate to have it in a General Ordinance Committee meeting and have it proposed in that packet rather than having it come from the bodies that are concerned or the MAC. Ms. Henninger said what they usually do is a road show. Mr. Nielsen said that is the input that establishes those guidelines that he is concerned about because the MAC deals with issues, there are other members in the committee that need input as far as the design guidelines are concerned. The land use in Castro Valley is not necessarily the same as the rest of the unincorporated County. It seems an unusual arrangement. MAC is not the one that originated the document.

Discussion ensued among council members regarding the way the design guidelines should be established and if they should be discussed in the General Ordinance committee meetings.

K. Adjourn –

The meeting was adjourned at 9:35 p.m.

Next Hearing Date: Monday, October 10, 2005