

**CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL**  
**Draft Minutes for June 26, 2006**  
(Approved as corrected July 10, 2006)

- 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, Cheryl Miraglia, Ineda Adesanya and Carol Sugimura. Council members excused. Staff present: Sonia Urzua, Tona Henninger, and Maria Elena Marquez. There were approximately 35 people in the audience.
- B. Approval of Minutes of April 24, May 8 and June 12, 2006.**  
The minutes will be continued to the next meeting in July 10, 2006. A copy of the May 8, 2006 minutes must be included in the packet since it was received incomplete.
- C. PUBLIC ANNOUNCEMENTS – None.**
- D. Consent Calendar – None.**
- E. REGULAR CALENDAR**

**1. Election of Officers**

Ms. Miraglia nominated Mr. Nielsen for Chair. Mr. Frank seconded the nomination. Mr. Moore nominated Ms. Adesanya for Vice Chair. Ms. Sugimura seconded. Motion carried 6/0.

- 2. CONDITIONAL USE PERMIT, C-8499 – JAVIER PENA -** Application to allow the operation of an alcohol outlet in conjunction with a supermarket (El Rancho Supermercado), in a C-N (Neighborhood Business) District, located at 22291 Redwood Road, west side corner north of Grove Way, unincorporated Castro Valley area of Alameda County, bearing Assessor's designation: 415-0100-054-00. **(Continued from May 22 and June 12, 2006).**

Ms. Urzua presented the staff report. She stated that the MAC previously heard this item on June 12, 2006. The matter was continued in order for staff to review the ordinance adopted by the Board of Supervisors regarding the convenience and necessity ordinance. This application was submitted prior to the adoption of this ordinance. Three letters of opposition were received, one from CommPre, one from the owner of Town & Country Liquor and another from the Castro Valley Community Action Network. The staff report states that there are approximately 4 outlets within 500 feet from the subject property and one church, which is a "sensitive use". The staff report makes a comparison between this application and the one where Trader Joe's received a permit to sell alcohol.

Mr. Frank asked if the applicant was made aware of the convenience and necessity ordinance. Regardless of the decision made at this hearing, he asked if there is a limit on the re-submittal for the applicant based on this ordinance.

Ms. Urzua said that if it is recommended for denial and the WBZA also concurs, the applicant must wait one year to come back. Mr. Frank asked if the applicant had an opportunity to understand that some event was going to occur, all he had to do was wait one month. Ms. Urzua said that at that point it was still being developed and not yet adopted. Ms. Henninger said that it would be a separate public hearing and not prior to a conditional use permit. Mr. Frank asked if there were no basis for him to become aware and asked if the applicant could wait a year based on this. Ms. Urzua said that any application that receives denial must wait one year. Ms. Miraglia stated that the "similar use" element of the Alcohol Policy was vague.

The applicant was called to the podium.

Mario Prado, representing the applicant, said that based on Resolution 9657 adopted August 3, 1995, he urged the Council to approve their request based on the preliminaries. The opposition by CommPre and CVCAN is based on the 500 feet minimum distance requirement. However, Resolution 9657 states that "for certain such large retailers such as supermarkets where alcohol sales is not the principal venture and for such business is otherwise required by public convenience and necessity this distance requirement may be waived if deemed irrelevant". Their store is approximately 6,000 square feet and they will have approximately 50 sq. feet devoted to the sale of beer and wine. Trader Joe's is approximately 8,000 square feet and they have 360 sq. ft. Also, their customers that attend their market on a regular basis have asked them to provide beer and wine for their convenience. At the time that the permit for Trader Joe's was approved, their establishment, under different ownership, had an active ABC license. Resolution 9657 was adopted August 3, 1995, as noted before, and Trader Joe's permit was approved April 10, 2002 at which time every single item that this Council mentioned, the churches, the taverns and other establishments were already in place plus an active license under different ownership. Mr. Prado urged the Council to reconsider based on these merits.

Mr. Frank asked Mr. Prado if he had a copy of the Resolution. Mr. Prado said yes.

Mr. Nielsen asked Mr. Prado if the beer and wine is sold in singles, in cartons or 12 packs. Mr. Prado said that they are more competitive if they sell in family pack but some can be sold as singles. Mr. Nielsen said that he has serious objections because of the constant problems such as people camping out on curbs and at the sight of children, drinking singles and leaving bottles on school grounds. For this reason and the fact that 5 alcohol outlets are right around the church, there is no need for an additional alcohol outlet.

Mr. Moore asked Mr. Prado if El Rancho just sells the family pack just like Traders Joe's. He agreed with the stipulation of not selling singles. Ms. Sugimura asked Mr. Prado if only Mexican and Latin American beers will be sold. Mr. Prado said that the majority of it would be ethnic beer.

Public testimony was called for.

Ruben Massa, representing CommPre, stated his opposition claiming that this is in clear violation of the Alameda County Policy. CommPre supports a Latino market in the community but not a conditional use permit to sell alcohol.

Charles Mortimer, trustee of the First Presbyterian Church in Hayward, spoke in opposition and asked the Council to deny the application.

Neil Conn, resident at 2663 Hidden Lane, spoke in favor of granting the permit.

Maria Cruz, resident at 1844 Hill Avenue, Hayward, said that she is a customer of El Rancho, and supports the application.

Marc Crawford, resident at 3832 Somerset Avenue, stated the fact that the previous license was abandoned. He is opposed.

James Percival, resident at 19187 Garrison Avenue, supports granting the permit.

Public testimony was closed.

Mario Prado reiterated that they are aware of the laws that regulate the use of ABC licenses and they are willing to comply with all the requirements. He understands the concerns of the community. He urged the Council to reconsider.

Ms. Adesanya asked staff if the previous license was abandoned and if there is any information about the previous license under previous ownership. Ms. Henninger said that the previous license was abandoned due to non payment of the license fee. She asked Mr. Prado how long have they been in this establishment. Mr. Prado said that since November 2005.

Mr. Moore discussed the current application compared to the process and discussion under which Traders Joe's was approved. It has been a market for many years and the applicant is willing to work with the neighborhood.

Mr. Frank agreed with Mr. Moore and said that he is in support with some restrictions.

Mr. Nielsen stated that the Council is missing the point and not protecting the community, he said that there is no question that Castro Valley has over concentration of liquor stores. Mr. Moore clarified that this is not a liquor store. It

is a market. He asked, what is different about Trader Joe's? The Council should consider prohibiting the singles.

A discussion ensued among council members as to the type of beer and wine that will be sold at El Rancho and the beer and wine sold in Trader Joe's and other surrounding establishments.

Mr. Prado said that the sale of beer and wine is only a complement to their larger business model, the beer itself is a small fraction. They are buying an array of other products.

Ms. Adesanya asked staff regarding Resolution 9657 stating that the unofficial copy that the applicant brought in and asked staff to confirm the fact that the Council can waive for certain still in effect. Ms. Urzua said yes.

Mr. Frank said that the Council can impose a time restriction from 6 months to one year. Ms. Adesanya said that the Council should give them an opportunity of 6 months to one year and monitor them.

**Mr. Moore made a motion to approve Conditional Use Permit, C-8499 with the modifications that no single alcohol of any type be sold and imposing a one year expiration period. Mr. Frank seconded. Motion was split 3/3 with Ms. Miraglia, Mr. Nielsen and Ms. Sugimura opposed.**

3. **2200<sup>th</sup> ZONING UNIT & TRACT MAP, TR-7709 – FOREST CIRCLE, LLC Continued.** Petition to reclassify three parcels (and portions of two adjacent parcels) from the R-S-D-20 (Suburban Residence, 2,000 square foot Minimum Building Site Area/Dwelling Unit) District to a P-D (Planned Development) District, so as to construct 35 townhouse units, located at 20560 Forest Avenue, east side, approximately 550 feet north of Castro Valley Boulevard, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 084C-0713-013-00, 084C-0716-001-05 and 084C-0716-001-06 (and associated Assessor's Parcel Numbers: 084C-0723-007-03 and 084C-0713-012-01). **(Continued from May 8, May 22 and June 12, 2006).**
4. **VARIANCE, V-11993 – FOREST CIRCLE, LLC/HARRY & MARY TODD** Application to allow construction of a new detached secondary unit two stories, 26 feet in height where one story and 15 feet in height is the maximum allowed; and providing three-and-half feet side and rear yard where five and 20 feet are required, in an R-S-D-20 (Suburban Residence, 5,000 square foot Minimum Building Site Area) District, located at 20554 Forest Avenue, east side 350 feet, north from the intersection with Vincent Court, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number 84C-0713-012-01. **(Continued from May 8, May 22 and June 12, 2006).**

5. **VARIANCE, V-12013 – ARNOLDO HERNANDEZ** Application to allow expansion of a non-conforming (reduced front yard) dwelling with an attached addition, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 19204 Garrison Avenue, unincorporated Castro Valley area of Alameda County, bearing Assessor's designation: 084B-0568-018-00.

Ms. Urzua presented the staff report. She stated that no objections from the referral agencies were received. The existing house was built in 1949. Ms. Sugimura asked if there is an RV placed there as mentioned in the letter sent by Mr. and Mrs. Palmer. Ms. Urzua said that she thought that it was a misunderstanding taken from the zoning description, which sets forth the zoning R-1-CSU-RV. This is standard zoning in our single-family residential district in Castro Valley. Ms. Sugimura asked if this was an addition to the house. Mr. Urzua said yes.

Mr. Frank and Mr. Nielsen asked staff about the properties features.

Arnoldo Hernandez, applicant, and described the project.

Ms. Adesanya and Ms. Miraglia asked the applicant about the floor plans and whether the construction had already begun.

Public testimony was called for.

James Percival, resident at 19187 Garrison Avenue, spoke in favor of the project and made additional comments about the Palmer's letter.

Kris Palmer, resident at 19154 San Miguel Avenue, stated that she was sorry for the misinterpretation regarding the RV on Garrison. She presented a letter to the Council that was entered into the record. She asked the MAC to consider additions doing to the properties in the area. The Council invited her to make general remarks about the neighborhood during the Open Forum portion of the meeting.

Public testimony was closed.

**Ms. Miraglia made a motion to approve Variance, V-12013 with staff recommendations. Ms. Sugimura seconded. Motion carried 6/0.**

6. **SITE DEVELOPMENT REVIEW, S-2069 – ALFREDO & NANCY GONZALEZ** Application to allow the continued operation of a boarding stable for 80 horses, in a "A" (Agricultural) District, located at 22469 Eden Canyon Road, north west side 0.65 miles north east of Hollis Canyon Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's designation: 085A-0100-003-00. **(Continued to July 10, 2006).**

7. **SITE DEVELOPMENT REVIEW, S-2070 – ALFREDO & NANCY GONZALEZ** – Application to allow 3 mobile homes for on-site agricultural caretakers, in a “A” (Agricultural) District, located at 22469 Eden Canyon Road, north west side 0.65 miles north east of Hollis Canyon Road, unincorporated Castro Valley area of Alameda County, bearing Assessor’s designation: 085A-0100-003-00.
  
8. **MODIFIED TRACT MAP, MTR-7118 – COURTNEY** Petition to modify an approved Tentative Map, to allow subdivision of one site containing 4.60 acres, into 19 parcels, in a PD-ZU-1762 (Planned Development, 1762<sup>nd</sup> Zoning Unit) District, located on Page and Miramar, east side, corner south of Page Street, San Leandro area of unincorporated Alameda County, bearing Assessor’s Parcel Numbers: 080A-0197-001-06 and 080A-0199-001-06.

Ms. Urzua presented the staff report. She stated that staff recommendation is to approve. The conditions would include all those set forth in the PD, setting up story poles prior to construction, a restriction limiting landscaping height so that it is no higher than roof heights.

Mr. Frank and Ms. Adesanya asked staff about the history of the parcel particularly regarding the change in the number of lots.

Ms. Miraglia asked about the state of the grading concerns previously raised. Ms. Urzua said that the grading department has considered the current configuration the current consideration and is satisfied. Mr. Nielsen asked if the soils report has been done. Mr. Urzua said yes.

Ms. Adesanya asked any differences in the conditions of approval from the previous tract approval. Ms. Urzua said that the proposal was essentially the same as the original 19-lot configuration. Staff has been working with different parties and in addition to the 6 conditions included in the PD under zoning unit two more conditions were added. The suggestion was to have the developer install story poles in order to appreciate the proposed buildings and a condition limiting the height of landscaping to protect views. Ms. Adesanya asked if there were any conditions that were revoked. Ms. Urzua said no.

Bill Courtney, applicant, spoke about the changes in ownership and the different lot configurations. He had no objections to the conditions in staff report. He wanted clarification as to whether story pole would be required on all lots.

Mr. Frank and Mr. Nielsen spoke to the applicant about why the story pole requirement would be retained for all lots. They said that the Council was at that time to ensure that all views were not obstructed, elevations to not obstruct the views.

Mr. Frank asked Mr. Courtney if the units two story versus one story. Mr. Courtney said that he is looking into single story.

Public testimony was called for.

Robert Lofendale, resident at 16508 Page Street, stated that he did not oppose the project but was very concerned about new structures obstructing his views. He showed pictures and explained how the views will be obstructed. He and his wife are members of the Palomares Hills Committee, which began in 1980. He read a letter that was entered into the record.

Mr. Moore asked Mr. Lofendale if anything specifically that was previously agreed was missing from the staff report or if he was just reinforcing the fact to make sure that what is in here is accomplished. Mr. Lofendale said that he is reinforcing the fact in 1972 he had some bad battles and lost all of them, that ordinance was put for a reason. He wants to make sure they don't loose again.

Mr. Nielsen asked Mr. Lofendale if what is stated in the staff report covers his concerns. Mr. Lofendale said yes.

Don Borges, resident at 16512 Page Street, showed the real estate listings describing the panoramic views. He asked for clarification on how the story poles work, he wants to make sure that the pole does just not represent the front of the house, the poles blocks their view. Ms. Urzua said that the point of the story poles is to show the highest point of the structure. Don Borges asked that the developer be very sensitive to the feelings and the needs of the community because this is a way of life to them.

Mr. Moore noted that, item # 6 under conditions of approval, requires site development reviews for each house before construction. That is a very beneficial neighborhood in terms of protecting the views. The community will have the opportunity to see a lot more detail in every specific house design. Don Borges said that he appreciates the sensitivity of the current developer towards the needs of the neighborhood.

Joseph Mello, resident at 16529 Page Street, said that the width of the street is confusing. Also, he is concerned about traffic.

Jonathan Robinson, stated that he is new to the neighborhood. The view is important for him. He stressed the importance of safety issue. He also noted that people driving fast on Page Street.

Rose Hart, Page street resident, asked the Council to deny the project. She opined that the project was too dense and noted concerns about sliding.

Public testimony was closed.

Bill Courtney discussed the history of the project and the relationship with the community. With regard to the comment on possible sliding and soil condition, he said that he has been involved with three different owners in the span of almost five years now, they have spent something in excess of \$180,000 in geotechnical and geological reports. They got into fault line studies, which were required by the State of California and by the County. They have taken very exhaustive studies.

Ms. Miraglia asked about the slope stability and if there is a landscape plan.

Bill Courtney said that staff might be able to talk about that further, and as for the landscape plans get developed further in conjunction with the erosion plan, that will be something that we have site development look at that as well.

Ms. Miraglia asked if there were any retaining walls that face Miramar Street. Ms. Miraglia encouraged the applicant to have a landscape plan.

B. Diallo, engineer of the project, said that the retaining walls near Miramar are 5 feet high down slope to the curb, they plan to put shrubs and trees as part of the site development reviews. In regards to erosion, hydro seeding is a temporary measure to be used between the grading and when the houses are constructed and sold.

Public testimony closed.

Mr. Moore moved to approve Modified Tract Map, MTR-7118 with staff considerations. Ms. Adesanya seconded. Motion carried

Mr. Frank requested that the Council should be clear in the motion that there are landscape restrictions not a temporary type of plan.

**Mr. Moore modified the motion to request that a landscape plan be included as part of the site development review package. Ms. Adesanya seconded. Motion carried 6/0.**

## **9. CVMAC Administrative Review**

Ms. Henninger said that since not all of the council members received the packet containing the minutes and the resolution, this item would be continued to the second meeting in July.

Ms. Sugimura referred to the resolution included in the packet regarding the budget where it says that there will be a total of 40 regular and special meetings per year and in the second page it says 30 meetings per year. She asked for clarification. Ms. Henninger said that it was probably a typo.

**F. Open Forum –**

Anthony Parker, resident at 19188 Garrison Avenue, stated that there are some accusations that he is running a body shop out of his house. There have been numerous complaints, he is remodeling his house for that reason his yard has lots of trash, but he has done nothing wrong, he just feels overwhelmed. He said that certain things should be regulated.

Mr. Nielsen asked Ms. Henninger to explain the code enforcement process to Mr. Parker. Mr. Nielsen told Mr. Parker to write a note to the person that makes the complaints explaining the situation of miscommunication. Mr. Frank told Mr. Parker to go to mediation. Ms. Miraglia told Mr. Parker that the zoning ordinances are available on line.

Jim Percival, resident at 19187 Garrison Avenue, said that there also accusations against him, he also spoke in support of Mr. Parker.

Gurdy Diaz, resident at 19155 Garrison Avenue, complained about the school kids parking in her street, she said there are many cars because people rent the house next to her and take her parking space. Mr. Nielsen told her to call the Police Department. She said that there is a trailer parked that takes over a lot of space. Also, there is a house on the corner that has been vacant for many years. Ms. Henninger told her that an empty house is not illegal. The parking issue should go to the school board.

Lynda McLain, resident at 19126 Garrison Avenue, stated that she has similar issues as Ms. Diaz, she lives across the street from the tent that has been up for months in the front yard, it is a tent trailer and somebody is living there. She has the same concerns with other trailers.

Kris Palmer, resident at 19154 San Miguel, complained about Mr. Parker working on 3 cars at a time. She also complained about the debris in his property due to the remodeling. She also addressed the parking issue and asked the Council to take that into consideration.

**G. Chair's Report – None.**

**H. Committee Reports**

- **Eden Area Alcohol Policy Committee**
- **Redevelopment Citizens Advisory Committee**
- **Castro Valley Parkland Committee**
- **Ordinance Review Committee**

**I. Staff Announcements, Comments and Reports –**

Summary of BZA actions regarding matters previously considered by the CVMAC.

Ms. Sugimura and Ms. Adesanya asked staff to include what the MAC recommended.

Ms. Urzua announced that there will be a creek meeting tomorrow.

Ms. Urzua informed that the Planning Department is interviewing for the positions of Planner I and Planner III.

**J. Council Announcements, Comments and Reports – None.**

**K. Adjourn**

The meeting was adjourned at 8:35 p.m.

**Next Hearing Date: July 10, 2006**