

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL
Draft Minutes for February 26, 2007
(Approved as corrected March 12, 2007)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:35 p.m. Council members present: Dean Nielsen, Chair. Council members: Jeff Moore, Cheryl Miraglia, Carol Sugimura and Dave Sadoff. Council members excused: Ineda Adesanya, Vice Chair and Andy Frank. Staff present: Sonia Urzua, Tona Henninger, Bob Swanson and Maria Elena Marquez. There were approximately 10 people in the audience.
- B. Approval of Minutes of January 22, 2007**
Ms. Sugimura had minor corrections. Mr. Sadoff moved to approve the minutes of January 22, 2007 as corrected. Ms. Sugimura seconded. Motion carried 5/0/2 with Ms. Adesanya and Mr. Frank excused.
- C. PUBLIC ANNOUNCEMENTS – None.**
- D. Consent Calendar – No items.**
- E. Regular Calendar**
- 1. Hayward City Manager, Jesus Armas, will provide an update regarding the Route 238 Corridor Improvement Project, as it relates to the unincorporated portion of Alameda County.**

Robert Bauman, City of Hayward Public Works Director, updated the MAC about the environmental process of the Route 238 Corridor Improvement Project. He stated that it was approved by the City Council in November 2005. He described the project's objectives. There has been significant involvement with the County since some changes will be within the County. The City Council is expected to approve the final EIR by the end of July 2007. They are looking to start the first phase of construction in at 2009.

Mr. Moore asked Mr. Bauman about funding for the project. Mr. Altman said that \$ 91 million of Measure B funds was available.

Mr. Nielsen asked Mr. Bauman about surplus funds available in the future for this project. Mr. Bauman explained about Caltrans funds available for local transportation projects.

Ms. Miraglia asked if the County Public Works Agency has analyzed what kind of impact this loop one way system would have on Castro Valley. Mr. Bauman said that they did the technical analysis because it certainly has an impact on the County. They had a presentation with Alameda County Public Works staff and jointly discussed what their conclusions were.

Bob Swanson, Mr. Nielsen and Mr. Sadoff raised questions about surplus property and planning issues.

2. **VARIANCE, V-12037 – MICHAEL GAHAGAN** - Application to allow a Secondary Unit of 720 square feet where 640 square feet is maximum, in a R-1-B-E-CSU-RV (Single Family Residence, 10,000 square feet, Minimum Building Site Area, Conditional Secondary Unit, Recreational Vehicle) District, located at 4157 Krolop Rd., south side 450 feet west of Vineyard Ave., Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084D-1140-017-12. **(Continued from January 8 and 22, 2007).**

Ms. Urzua presented the staff report. She indicated that staff has received two letters from neighbors in the area, one in favor of the proposal and one opposed.

Michael Gahagan, applicant, summarized his family's history with the property and the proposed secondary unit. Mr. Gahagan referred to the language in the neighbor's variance application. Mr. Gahagan asked for clarification regarding the term "non-conforming."

Ms. Urzua distinguished the subject petition and the variance granted to the neighbor.

Mr. Gahagan asked if there were any alternatives or solutions.

Ms. Sugimura, Mr. Moore, and Mr. Nielsen clarified that the issue is not the use but the size. Ms. Urzua agreed. The zoning allows for a secondary dwelling unit limited to 640 square feet and the applicant is asking for 720 square feet. The staff planner cannot make the appropriate findings for that size of the unit. A 640 square foot unit might be available as well with building permits.

Public testimony was called for. No public testimony submitted.

Mr. Moore said that he agrees that the planner cannot make a finding. He suggested having another detached storage unit for storage space. Ms. Urzua affirmed the suggestion and described some zoning code limitations that may apply.

Mr. Moore moved to recommend denial of Variance, V-12037 with staff considerations. Ms. Sugimura seconded. Motion carried 5/0/2 with Ms. Adesanya and Mr. Frank excused.

3. **CONDITIONAL USE PERMIT, C-8547 - OSBORNE/EASTWOOD** Application to allow continued operation of a wireless communication facility (Sprint/Nextel) in an "A" (Agricultural) District, located at Eden Canyon Road,

east side, 2/3 mile north of I-580 in the unincorporated Castro Valley area of Alameda County, and designated Assessor's parcel number: 085A-1200-001-11.
(Continued to March 12, 2007)

4. **PARCEL MAP, PM-9237 & VARIANCE, V-12023 – JOE T. TEIXEIRA** - Application to subdivide one parcel containing 0.54 acres into three lots, and allow an 8 feet front yard setback from the proposed private street where 20 feet is required on one lot where the habitable areas of an existing residence will be retained, allow a 10 feet front yard setback from the street where 20 feet is required on a second lot proposed for new construction, and allow a 16 feet-wide private street where 20 feet is required, in a R-1-SU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle) District, located at 19448 Lake Chabot Road, east side, approximately 250 feet north of Barlow Drive, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084B-0529-038-04.

Ms. Miraglia recused herself.

Ms. Urzua presented the staff report. MAC heard this item during the November 27, 2006 hearing. Staff provided a copy of the minutes of that hearing to the council members as a reference and explained the difference between the two staff reports. At the November 27, 2006 hearing the council members continued the matter and recommended two conditions and also discussed the lot size consistency policy. Mr. Teixeira redesigned the driveway. He, however, does not agree to change the configuration of the existing residence or remove it in any way. With regard to Parcel 1, the proposal remains as it was in November 2006.

Mr. Moore asked if staff was making a recommendation on this. Ms. Urzua said that staff is not making an obvious recommendation.

Mr. Nielsen asked if the parcel fronting on Lake Chabot Road impacted the driveway requirement. Ms. Urzua said that the parcel on Lake Chabot Road is not part of this project.

Mr. Sadoff asked about recommendations from the peer review of the geotechnical report. Ms. Urzua said they were not included in the staff report.

Joe T. Teixeira, owner of the property, disagreed with the project-staff planner's 5,400 square feet average lot size for the project. He also described the surrounding area. The existing home has over 20 feet of front because it is the way it was built facing Lake Chabot. He described his neighbor's property. He is trying to improve the neighborhood.

Public testimony was called for.

Mr. Garcia, Mr. Teixeira's neighbor, stated that Mr. Teixeira is trying to do the right thing for his small lot. They cut a piece of the lot to build the house where he lives. He does not have enough room on one side to actually do anything. He appreciates what he is trying to do. If he moves the fence one foot or more over, with the sewer line for the house behind, he thinks it is not allowed to do that.

Mr. Nielsen said that 13,391 and 25,000 square foot lots do not belong in this calculation. He asserted the previous practice of excluding lots with development potential.

Mr. Moore said there are two issues: the lot size and the setbacks. Mr. Moore raised concerns with granting a variance on a newly created parcel when you can design around it.

Mr. Teixeira said his options for parcel 2 would be limited if the front yard were to be required to face the private street instead of Lake Chabot Road.

Mr. Nielsen and Mr. Teixeira continued to discuss the details of the existing house.

Mr. Moore and Mr. Nielsen made various suggestions to Mr. Teixeira which would eliminate the need for variances. Techniques would include using compensating open space.

Ms. Urzua described the three variance petitions. Mr. Nielsen asked if the Fire Department would allow 16 feet. The Fire Department has expressed support for the revised driveway.

Mr. Moore again expressed concerns with granting a variance on the existing house. Mr. Sadoff said that it sets a bad precedent and the Council does not want to go down that road.

Ms. Sugimura said that although remodeling an existing home is an expensive proposition, she found it difficult to grant a variance.

Mr. Nielsen repeated his opinion that including the two large lots unfairly impacted the average lot size consistency analysis for this project.

Mr. Teixeira asked for clarification on the methodology of measuring the 16 foot roadway.

Ms. Urzua said that it depends on how he defines his property line. Mr. Moore said that on parcel 2 there is no easement, only on parcel 1. The easement is only granted for parcel 1. What was the Fire Department's final answer. Mr. Nielsen asked if the sidewalk will be leveled to the street. Ms. Urzua said that pedestrian

distinguishing this pedestrian easement with style country technique that some people do.

Mr. Moore told Mr. Teixeira that he is not going to get support for the 8 foot variance which is the only remaining one in the front house. Mr. Moore suggested granting approval on the parcel map and denying the variances. Ms. Urzua reminded council members that it will go to the BZA in the future.

Mr. Teixeira felt confused and discriminated against. He cited another development in Castro Valley where the setbacks appeared to be relaxed. Mr. Nielsen asked Mr. Teixeira if he wanted a vote at this meeting.

Mr. Moore told Mr. Teixeira that the County, for the benefit of everybody, makes these rules. There are no special circumstances. Mr. Moore told Mr. Teixeira the Council is going to vote and later on he can appeal the decision.

Ms. Urzua said that the recommendation by MAC will go to the WBZA and they can concur or disagree with this Council. At that point there is an appeal process.

Mr. Moore made a motion to approve Parcel Map, PM-9237 with the subdivision of 3 individual parcels and denial of all variances. All development would have to be in complete conformance with Alameda County Planning design guidelines; specifically parcel one will have to be remodeled or something will have to be done so that it complies with zoning regulations. Mr. Sadoff seconded. Motion carried 4/0/1/2 with Ms. Miraglia recused and Ms. Adesanya and Mr. Frank excused.

5. **SITE DEVELOPMENT REVIEW, S-2107 – ZOU/HOANG** – Application to allow the remodel of an existing building to be used as a restaurant in the CVCBD, Sub 3 (Castro Valley Central Business District Specific Plan, Sub Area 3) located at 2688 Castro Valley Boulevard, north side, west of Lake Chabot Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 84A-0181-057-03. **(Continued to March 26, 2007)**

F. Open Forum

Luke Blacklidge, presented a potential project which would convert a 21 unit apartment complex into condominiums. He described the building, available parking, floor plans, and the possibility of acquiring an adjacent lot to develop conjunctively. He is familiar with the condo conversion guidelines. The project would be deficient in terms of floor area ratios, private open space.

Mr. Nielsen and Mr. Moore asked Mr. Blacklidge to explain the difference between the zoning requirements under ordinance versus the guidelines. Council members made various suggestions on how to increase the project's livability features and amenities such as adding a play area, or other communal spaces to

mitigate the deficiency in private open space. Mr. Blacklidge expressed interest in the suggestions.

Mr. Moore said that the Planning Commission looks at the guidelines fairly strictly. In his opinion, the guest parking is not technically in the guidelines, sometimes maybe some visitor guest can be placed off site, to allow for more landscape area and still provide a first class design. Mr. Blacklidge said they have the two parking spaces per unit.

Ms. Sugimura said that more open space and communal area as well as parking for visitors are important. Mr. Moore said that the key issue is parking and open space.

Mr. Moore raised the issue of providing a mechanism which would facilitate bringing things before the MAC on an unofficial basis without having to spend a lot of money to try to get some input.

Ms. Henninger responded by explaining that potential applicants have the option of meeting with a senior planner to discuss the design. She explained the shortcomings of attempting to provide a limited analysis on a partial application.

Mr. Moore described the financial implications for potential applicants over time. Mr. Nielsen explained that if an applicant goes through the process and if they meet zoning and lot size requirements, the process would be sufficient. For example, if they are familiar with the conversion requirements, they can adjust their proposal. Like the previous speaker (Mr. Blacklidge) they did their own work and requested the MAC opinion.

Ms. Henninger suggested including the proposed projects as an item in the open forum portion of the agenda. Ms. Henninger would consult with County Counsel to verify the appropriateness of this suggestion.

Mr. Moore described his experience with potential applicants and their interests.

Mr. Nielsen described his reservations about opining on a subdivision of various scales without a sufficient amount of information.

Ms. Henninger again suggested including these types of items in an agenda under open forum. Mr. Nielsen said that if it is in the agenda, the Council will have to recognize public comment also. Ms. Henninger described the shortcomings of discussing a project outside of the formal application process.

G. Chair's Report – None.

H. Committee Reports

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

Ms. Miraglia said that there would be a meeting on February 27, 2007.

I. Staff Announcements, Comments and Reports –

There will be a meeting on Wednesday, February 28 at 7 p.m. at Eden Medical Center, for the Castro Valley General Plan public comment.

J. Council Announcements, Comments and Reports

Ms. Miraglia thanked staff for including the Policy Statement for Lot Size Consistency. She raised the concerns about the practice of excluding lots with development potential. She asked if this issue could be placed on the MAC agenda. Mr. Nielsen agreed and suggested formalizing the matter in order to come up with some language.

K. Adjourn

The meeting was adjourned at 8:40 p.m.

Next Hearing Date: March 12, 2007