

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

Minutes for August 13, 2007

(Approved as corrected August 27, 2007)

A. CALL TO ORDER: The Chair called the meeting to order at 6:35 p.m. Council members present: Ineda Adesanya, Chair; Jeff Moore, Vice Chair. Council members: Dean Nielsen, Cheryl Miraglia, Carol Sugimura and Dave Sadoff. Council members excused: Andy Frank. Staff present: Tona Henninger, Andy Young, Bob Swanson and Maria Elena Marquez. There were approximately 25 people in the audience.

B. Approval of Minutes of June 25 and July 23, 2007

Ms. Sugimura submitted minor changes. Mr. Sadoff moved to approve the minutes of June 25, 2007 as corrected. Ms. Miraglia seconded. Motion carried 6/0/1 with Mr. Frank excused.

The minutes of July 23, 2007 were continued to the next meeting. Ms. Adesanya requested that comments be given to staff so the Redevelopment Citizens Advisory Committee portion can be clarified

C. PUBLIC ANNOUNCEMENTS – None.

D. Consent Calendar – No Items.

E. Regular Calendar

1. MIRA VISTA – Art Carrera, Public Works

Mr. Carrera distributed copies of pictures of the guard rail at the end of Mira Vista. The guard rail was installed in the 70's when the street was extended as part of the development. Horses are boarded at the back side of the property, near the barn. Over the past year the Public Works Agency received complaints from residents about horse boarding activities taking place in the street. The Agency was concerned that people are tripping on the steps within the County road right-of-way, when they are accessing the property in the back. Based on that information, the Public Works Director extended the guard rail across this opening to preclude pedestrian access from Mira Vista. We received an encroachment permit [application] from the operator of the horse boarding facility to install a gate that will allow vehicle access through the existing guard rail. They (Public Works) are looking to install a pipe gate in the guard rail to allow for vehicle access from Mira Vista. They are looking to the MAC's input for direction on approval of the encroachment permit.

Mr. Nielsen asked if there were a couple of meetings with the neighbors in order to reach an agreement as far as access and the conditions of the access. Mr. Carrera said yes, that Supervisor Miley's office and the Public Works Director

met in the field with the residents and after that meeting the decision was made to extend the guard rail. There was a subsequent meeting after the guard rail was extended. We asked Supervisor Miley's office to try to mediate this process. There were concerns about additional traffic, noise and horse boarding activities. Public Works was ready to abandon the plan, but we wanted the Crocketts to have a chance to speak up on the matter, and since they were out of town, it was not appropriate to take action yet.

Rebecca Crockett Burnett, Applicant, resident at 4746 Ewing Road, owners of the property, said that they are requesting a use permit to have access to their property and restoration of foot path from Mira Vista. They have boarded horses since 1971 when they purchased the property. She described her personal experience with horses on the property, and showed published materials about the property. In order to maintain and properly serve their city barn they need full vehicle access to their property from Mira Vista and the restoration of the foot path. She cited other nearby properties with similar secondary access, and stated it set a standard that should justify the MAC approval for their request for property access. They also wish to maintain good relationship with their neighbors. Many of their neighbors value open space and support their request for access. It is their intention to keep their city farm and they need access to maintain it.

Mr. Nielsen asked Ms. Crockett if they currently have a horse permit from Animal Control for the horses on the property. Ms. Crockett said yes. Mr. Nielsen asked how many animals they have permission to have. Mr. Crockett said they have permission for 6. Mr. Nielsen said the requirements are that they maintain control as far as manure, flies and dust. Mr. Crockett said that has been addressed.

Ms. Adesanya asked Mr. Carrera what were his comments on this. Mr. Carrera said they (Public works) are taking a neutral position; they can live with a gate opening or no gate opening; it is whatever suits the community.

Public testimony was called for.

Terry Sullivan, resident at 17388 Oak Canyon Place, stated that he came to support the Crocketts in their use of the land for horses. When the horses were brought into the property, an access was granted. The property is well maintained, barns are painted and the manure is picked up every day. Since access has been limited, some of those issues are becoming a problem for him. He prefers the horses as opposed to houses. The concerned neighbors in the area support horses. It is a nice addition and is a positive aspect for the neighborhood.

Diane Morrison, resident at 4748 Mira Vista Drive, spoke in support of the Crocketts. She moved a year and a half ago and loves horses.

H. Sullivant, resident at 4740 Mira Vista Drive, said that one of the neighbors, John Canestro, was unable to attend but sent a letter. Like the two other meetings

before, there are two issues. Right now, he did not think anybody is objecting at this point having four horses on the property. His comment is not about the horses but about the barrier that allows people to come down Mira Vista and enter the property. That is what they are objecting to. He supports keeping the barrier as it is today. The problem with the barrier is when he found that the people that own the horses put the gate in front to remove the barricade so trucks and cars could enter the property. They park on Mira Vista Drive and the people walk around the barrier to water and feed the horses. Before Mira Vista was extended, this activity was carried out on the owner's property on Ewing. This can be verified by the CUPs issued on this property since the late 50's until 1975. In fact, there were very few horses there at any one time, and for several years there were no horses. That is why there was little problem for many years with people access the property from Mira Vista.

As a result of this plan, a letter was sent to the County objecting to removing the barrier and it also requested that the barrier be extended 3 feet so the people boarding horses would have to use the owner's property. In December 2006, the County extended the barrier which eliminated the horse traffic but the watering and feeding continued. When the barrier was extended, the County cannot put 3 feet in and 2 weeks later the horse owners removed it, defaced the property and therefore the County was notified of this. The County came back and put another extension, which they welded in. This shows some of the problems they have with people boarding horses. They don't own property in the area, they are boarding the horses with the people that own the property, and they do not even own a horse.

He described how his property abuts the horse property, and that he filed a building permit to build a home after filing a parcel map that was approved. The building permit was turned down because it was not on a County public road, and could not remove the barricade. He applied for another building permit which was approved, however he had to provide \$ 5,000 for a performance bond to guarantee the extension of Mira Vista. Road petition # 952 was approved and it called for a barrier to be installed at the north end. Since this has been in place for over 30 years, why would the County remove a barrier to satisfy people that board horses and do not live in the area or a property owner that does not own any of the horses. The County says that they did not find a regulation that bars removing the barrier. The road petition call for the barrier to be installed so there must be a policy that calls for the barrier in the first place in a deed of land to maintain road progression which was part of the Master Plan in Castro Valley. He also said he had a petition, that of 24 residents on Mira Vista, 19 want to keep the barrier in place; the other opinions were not known or clear.

Ken Carbone spoke in support of the Crocketts. He said to take horses out of the equation. This is a publicly maintained roadway. They have the right to access their property. In his opinion, this has been a huge waste of staff time.

Steve Talmadge, resident at 18843 Sandy Road, spoke in support of the Crocketts and asked the Council to grant access.

Kari Beringer, resident at 4757 Mira Vista Drive, said that she would like to have the barrier intact.

Jim Rosevear, resident at 17007 High Pine Way, said that the previous speaker mentioned that he had access to this property for a long period of time and that the Crocketts should be given the right to have access to the property via Ewing. This issue is not about the horses, it is about introducing traffic to Mira Vista. The additional traffic at different times of day and night, taking of horses in and out and down the hill is disturbing. They already access thru Ewing, why do they have to have access thru another neighborhood. Mr. Crockett has access, he can use this access. In a prior meeting, Mr. Crockett said that he likes to have them come on Mira Vista because if he is entertaining and having people over, it is disturbing to have people in and out his property from Ewing. It is silly to upset 24 homes on Mira Vista Drive and High Pine because Mr. Crockett does not want the traffic on Ewing.

Ms. Adesanya confirmed with Mr. Rosevear that his main concern is that he believes the site has current access on Ewing and would like to see the barrier remain in place on Mira Vista.

Mr. Crockett said that they have used the property since 1985. At that time there were only three horses and they always used Mira Vista for access. There are other properties in the vicinity with the same characteristics as theirs, with different access, not sure why. The County has access to their public property at various locations, three on Lake Chabot Road, 5 or 6 on Redwood Road, and one at the end of Grovenor Dr. Mr. Crockett did not see what the issue is with different access to the property. Rebecca Crockett explained that the access thru Mira Vista makes it possible to have delivery trucks for hay at the property. In order to keep the horses they need this access. Ms. Crockett reiterated that they will not develop the land. She said there have been horse activities on this property since 1975.

Ms. Sugimura asked how is the hay being delivered since the barrier went up. Ms. Crockett replied that they have used wheelbarrows. Because of the barrier the truck can't have access to the property. Ms. Sugimura asked how much increase in traffic are they anticipating. Mr. Crockett said that one truck a day to feed the horses. During the weekends they have access to work with the horses. Mr. Crockett said they have had ownership and access to this property for the last 36 years.

Mr. Nielsen stated that at one of the previous meetings, he and the property owner agreed to provide County approved gate and road surfaces and a truck turn around. The turn around will enable the truck to drive and turn around into the property instead of having to back down Mira Vista from Long Pine. The owner

agreed to whatever they need to do to make it work. Ms. Crockett said that the Fire Marshall highly recommended they have access thru Mira Vista because of safety issues if the barn caught on fire.

Mr. Moore askedt about the issue of transportation of mud and if they were going to be dragging mud onto the street. Mr. Crockett said they will comply with the County's requirements for road surface cover. This will insure that there will not be any mud going onto the street.

Ms. Adesanya questioned the current barrier shown at the end of Mira Vista installation. Mr. Crockett said that the main barrier was installed this year and they extended it in December and then the posts were installed last month. Ms. Adesanya asked what the applicant would like to see restored. They asked that the foot barrier be restored and also to have some type of vehicle access to the property. Ms. Adesanya asked when was the last time they had vehicle access. Mr. Crockett said it was in 1985 before the barrier went up.

Robert Steinback, resident of High Pine Way, stated that 34 years ago the horses were all over the place. Now there are only million dollar homes. Mr. Steinback complained about the flies, dust, and that this might be due to the improper maintenance of the facility. He said he used to own horses but not anymore and that Castro Valley years ago used to be just chicken farms but that is no longer the case. He is opposed to the access.

Ms. Sugimura stated that it is not about the horses but about the barrier.

Ms. Adesanya asked staff if the applicant required a use permit. Ms. Henninger said it is just the encroachment permit. It is not before the Council as an action item. The council can do one of two things: give comments to Mr. Carrera so he can bring back with his decision or bring it back on the agenda for formal action or both.

Mr. Moore said that this was clearly an access issue. Property owners are entitled to access to their property. Mr. Nielsen agreed with Mr. Moore and said there is no reason for a barrier. It is an access issue, when you have a property adjacent to a county road, you should have access.

Ms. Miraglia said she had no problem with accessing the piece of property or encroachment permit to accommodate the horses. She asked Ms. Henninger to explain the issue of boarding and not boarding and what is considered an approved use for the zoning on this property. Ms. Henninger said that the Zoning for this property does not require a conditional use permit process if they have 4 or less horses. The question is if this should be considered a boarding facility. If only local residents are boarding horses, then formally, it is not a boarding facility. Ms. Miraglia said that when an encroachment permit is issued, can it be conditioned to just for vehicles access for the purpose of servicing the horses. If

this piece of property is developed later on, would this entrance be used as an access to the property.

Mr. Carrera said that he and Mr. Nielsen spoke to the Planning Department and there would be a couple of conditions. One is that there be no additional building structure. Mr. Nielsen added that the access would be restricted to the property owners and that they would have to develop the property in order to open it and make it accessible to the public thru Mira Vista. The current access would be a restricted use. This board can condition it. The barrier was installed due to a safety issue.

Ms. Sugimura said she had no problem with the access but she would like to see the traffic minimized to the property owners only as to not affect the residents of this area. Mr. Sadoff said that he supports access due to the constraints at the other entrance.

Ms. Adesanya asked Mr. Carrera the reasoning for the installation of the barrier in 1985. Mr. Carrera explained that normally at the end of a cul-de-sac such as this one where it ends on the dirt, the barrier is installed as a protection to the drivers so they do not continue driving on the dirt road. He said the barrier could also be made of wood instead of metal. Ms. Adesanya asked what would be the preferred solution to the County. Mr. Carrera said the County would like to see a pipe key type of hinge that swings open and also looking for an all weather surface to minimize mud onto the public road way.

Mr. Moore suggested that the item be brought back for approval on the consent calendar. Ms. Adesanya said she would like to be clear on the Council's direction and support given the recent history of the site. Ms. Adesanya said this item will be on the next meeting's agenda for Council's action and recommendation to the Public Works Director for vehicular and pedestrian access with some restriction as mentioned.

2. **VARIANCE, V-11982 – PATRICK LOVE** – Application to retain a converted one-car garage so as to locate one required on-site parking space partially in the side yard and on a five foot easement along the west property line where otherwise not permitted in a R-1-CSU-RV (Single Family Residence, Conditionally Permitted Secondary Unit, Recreational Vehicle) District, located at 3773 Cottage Court, north side, approximately 284 feet west of Parsons Avenue, in the unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel designation: 84D-1329-017-00. (Continued from July 23, 2007).

Mr. Young presented the staff report. He said that the Council heard this item a year ago in March. The applicant needed to modify and record the easement before it could return to this board for recommendation. The Garage Conversion Ordinance was recently updated by the Board of Supervisors but the change does not affect this proposal in any direct manner. Consideration for granting the

variance might be constraints to additions to the property, the required rear yard area relatively steep and it would eliminate the amount of usable open space for the owner if he were to develop the area behind his house.

Ms. Sugimura asked Mr. Love if the easement had been modified. Mr. Love replied that the easement was not modified. He said that he moved 25 years ago to this house and it had a converted garage. In 2004 in order to improve this converted area he started to fix up that portion of the house. When he was doing all the repairs, a County investigator came and told him to stop work and that he needed permission. He applied for the variance, and the variance says that he needs a certain number of feet beyond the set back to park his vehicle. When he was before this Council in May or June of 2006 he showed the Council pictures of his house. No new report has been written since he made this second application. Mr. Moore at that time asked him if he would have enough space to park. In his neighborhood they have one car garages. He is only required to have one car garage. He came about 5 feet short on the set back so he has to apply for the variance. Mr. Nielsen said at the time that he could not vote favorably because the easement was not permanent. He and his neighbor do not want a permanent easement. He asked at that time what he needed to do in order for the Council to vote favorably. He revised his application not including the easement. He went to talk to the planner at that time, Shahreen Basunia. This staff report does not reflect his revised and current application.

Ms. Adesanya asked Mr. Love where his current parking space was being proposed. Mr. Love replied in front of what used to be the garage. Mr. Moore asked Mr. Love if he bought the house already converted. Mr. Love said yes and the parking does encroach into the 20 foot front yard setback and that is the reason for the variance. Ms. Adesanya asked staff if this was done without the benefit of Planning or Building permits and it was done prior to the purchase or ownership of this particular owner. Ms. Henninger said yes.

Mr. Sadoff said he thought that the variance was for the side yard set back not the front yard set back. Mr. Love said he has submitted a different application and the staff report does not reflect the change. Ms. Henninger asked that this item be continued in order to get the staff report corrected. Mr. Moore said that if Mr. Love is applying for a variance for the required parking in front of it, the easement issue is no longer an issue. Ms. Henninger said that the garage conversion ordinance has changed.

Ms. Adesanya asked Mr. Love if he agreed to a continuance. Mr. Love said yes but asked who's responsibility is it to find out what happened to the revision that he made with Ms. Basunia. Ms. Henninger told Mr. Love that Planning will do it internally but that he should follow up to make sure it is correct before it is presented to this board.

This item will be continued to the next meeting, August 27, 2007.

3. **MODIFIED SITE DEVELOPMENT REVIEW, MS-1752-D – SAFEWAY, INC.** – Application to modify on-site signage and allow exterior remodel of an existing building on the CVCBD, Sub-7 (Castro Valley Central Business District Specific Plan, Sub-Area 7) District, located at 20629 Redwood Road, west side, north of Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Numbers: 84A-0080-011-11 and 011-12.

Mr. Young presented the staff report. The proposal is a modification of the on-site signage. The store was the subject of a major makeover in 2001. The report summarizes the changes to the site including signage and describes the general plan including design policies and staff assessment as well. It also includes comments from the Castro Valley Chamber of Commerce, which were summarized, included comments on the dock area and trash area including a preference for the existing color scheme. Comments from the Redevelopment Agency were also summarized.

Nancy Bogess, store designer for Safeway, said that she is here only to speak to the new paint job, and new corporate branding. She does not have any knowledge on the prior conditions in regards to the trash enclosure.

Mr. Nielsen asked the applicant if she has any input as far as the trash enclosure. She replied that she has no knowledge on what the prior conditions were and she would have to find out what the outstanding issues are. She is only handling the paint job and the changes to the signage. Mr. Nielsen stated that Safeway did not comply with the conditions from the prior permit. He is concerned with the trash compactor and also the trailer that is left for months at a time on the left side of the driveway. The store manager has ignored the community and Redevelopment's request to remove the trailer. He requested that a representative from Safeway address the Council on these outstanding issues.

Ms. Miraglia said she was glad to see a change from the current color, but stated that the proposed color is too dark. She asked if there can be a compromise. The Council can go from something as not quite as dark as the red that it has now to some warmer tones. Also, she requested to do something that addresses the massiveness of the building.

Public testimony was called for.

Ken Carbone spoke on his behalf and also as a previous MAC member. He wanted to clarify some of the things that have gone wrong with this project from inception. The building height from Castro Valley Blvd. is about 8 feet taller than it was approved for. Nick Hansen, who also was a MAC member and one of the original designers of the building, decided to make some changes in the heating and cooling systems. All of a sudden the air conditioning units were facing the street, then the building height was increased with a parapet to cover up the

system, which turned into a lot larger structure from the street than originally was designed for. No changes aesthetically were made to the building to try to minimize or reduce the size or mass of that building. The color that was proposed somehow changed. We were looking at a variety of different colors. That color was more of a trim color. That was one of the main concerns. There are a lot of dimensional characteristics that can be added to that building to actually reduce its height. He asked that council look at ways of improving the looks of the structure when deciding on future colors for the building. The concerns Mr. Nielsen expressed about the trash compactor was a concern with the original application. Those questions were to be addressed and nothing really happened. This Council has an opportunity to address all of these past concerns at this time. He cautioned council members to be careful on the decisions regarding the monument sign and color of the building.

Ms. Adesanya asked council members for their comments on color. Mr. Sadoff said he had no issue with it. Mr. Nielsen said that it was not a single color, there were 3 different colors in the front of the building, the red was an accent. Ms. Adesanya asked what was behind the proposed color scheme proposed. Nancy said that these are corporate colors and this is mandated by their corporate office.

Ms. Sugimura agreed with Ms. Miraglia. She said she is disappointed how untidy and trashy it looks in the back of this building. She would prefer no monument signage at all because it is beautifully landscaped and there is enough signage on the building already. Mr. Moore said he understands the corporate colors and he thinks they could do better than what is being proposed.

Ms. Adesanya asked Nancy why they were proposing to put a sign at the corner. Nancy said it was a corporate decision. Mr. Nielsen told Nancy that the signage you have on the store, adequately advertises it. Ms. Miraglia said that the monument sign is totally unnecessary. She likes the landscape. A discussion ensued among council members regarding the two coffee signs and how the outside area will look. Council members also discussed the type of materials on the outside and light signs.

Ms. Adesanya asked for suggestions for change on the architectural elements. She heard some desire to have feed back on non compliance with the existing conditional use permit. She decided that Council was not prepared to act on this item.

Mr. Nielsen said that Redevelopment is leading the charge as far as the sign is concerned. He told the applicant that if he wanted to move along with his project, he would leave the sign out until the streetscape is further along.

This item was continued to a date to be determined.

F. Open Forum

Sabrina Linden, representing Pacific Union Homes, Inc., informed the Council on their successful bid for the EBMUD property. She stated that they are a small local private developer, the headquarters are in Danville. Pacific Union likes to work with communities from the very beginning. They have a long history of projects that they have done. There are in the preliminary stages of the project and they came before the MAC to ask for comments council members might have to proceed forward with this process. At the present time they are going before local agencies like MAC introducing the company. Generally, when they reach out to communities they like to have smaller community meetings. That is probably the direction they will head down in the future.

Ms. Miraglia encouraged Ms. Linden to meet with the people that were behind Measure "Q" and a park of some kind to be a component of whatever project the (Pacific Union Homes) brings forward, density is going to be a major issue. Hopefully it will not be too dense. Ms. Linden said they are in the very early preliminary stage. Ms. Adesanya encouraged Sabrina Linden to include some sort of public open space element to the development.

Mr. Nielsen suggested that Pacific Homes work with MAC, Planning Commission and Supervisor Nate Miley's office to address community concerns. It saves the developer time. He also suggested that they contact other community parties to form a working group to move the project along. Mr. Moore stated that they should work with small local groups on community outreach.

Ms. Adesanya stated that it would be appropriate to have neighborhood small group meetings. She asked that they incorporate and use the MAC forum so the Castro Valley community can have input in the proposed development, and come before the MAC as many times as necessary. Discussion ensued amongst councilmembers, county staff and the applicant on how to proceed.

Mr. Swanson recommended that Ms. Linden work closely with HARD. He stated that 63% of the population in Castro Valley wanted a park at this location.

G. Chair's Report – None.

H. Committee Reports

- **Eden Area Alcohol Policy committee - None**
- **Redevelopment Citizens Advisory Committee - None**
- **Ordinance Review committee**

Ms. Miraglia informed council that the next meeting will be sometime in September.

- **Eden Area Livability Initiative**

Ms. Sugimura said the next meeting will take place on September 13 6:30 p.m. in a place yet to be determined. There will be a joint leadership meeting on the issue of livability in the various communities. Subsequent to that there will be a town hall meeting on October 6, conducted by the Prevention Institute. On October 27 there will be a community priority forum developed out of the town hall meetings.

I. Staff Announcements, Comments and Reports – None.

J. Council Announcements, Comments and Reports – None.

K. Adjourn

The meeting was adjourned at 8:43 p.m.

Next Hearing Date: Monday, August 27, 2007