

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

Minutes for January 14, 2008

(Approved as presented January 28, 2008)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:30 p.m. Council members present: Jeff Moore, Chair; Cheryl Miraglia, Vice Chair. Council members: Andy Frank, Dean Nielsen, Carol Sugimura, Dave Sadoff and Sheila Cunha. Council members excused: None. Staff present: Jana Beatty, Bob Swanson and Maria Elena Marquez. There were approximately 30 people in the audience.
- B. Approval of Minutes of December 10, 2007**
Ms. Cunha made a motion to approve the minutes with minor corrections by Ms. Sugimura. Mr. Sadoff seconded. Motion carried 7/0.
- C. PUBLIC ANNOUNCEMENTS** – None.
- D. Consent Calendar - No Items.**
- E. Regular Calendar**
- 1. Redevelopment Agency – Proposal to adopt a shared parking implementation policy related to the Site Design Guidelines for surface parking as described in the Castro Valley Business District Specific Plan.**

Marita Hawryluk, with the Redevelopment Agency, summarized the Shared Parking Policy. Consultants Nelson Nygaard and Wallace Roberts & Todd were commissioned to pursue an analysis of the potential for shared parking implementation in Castro Valley. Staff is currently reviewing with County Counsel the mechanism for implementation of this policy.

Ms. Sugimura asked Ms. Hawryluk what feedback she got from the tenants. Ms. Hawryluk said that it was mixed but has been all positive.

Mr. Nielsen said that the Citizens Advisory Council has not seen this report and that the RDA will need the support of the CAC to move ahead with this. Ms. Miraglia said this can come to this Council with a recommendation on the policy from the CAC. Ms. Hawryluk said that the CAC does support the project. Ms. Miraglia said she supports shared parking but does not support the way this has been calculated. Mr. Moore agreed with the 3.3 ratio.

Public testimony was called for.

Sofia Lemios asked Ms. Hawryluk how to make smaller parking ratio work within existing properties. Ms. Hawryluk said she presented the components of

the shared parking implementation plan and there are some details that need to be finalized on how to make this mechanism happen.

Public testimony closed.

Mr. Moore asked Ms. Hawryluk if she is looking for approval from this Council. Ms. Hawryluk said yes.

Council members Nielsen, Miraglia and Sadoff concurred that # 2 in the staff report is not reasonable and also would like to see the CAC to look at this. Ms. Miraglia said to look at the 5 and have the CAC to focus on a particular point and that point would be item # 2. Ms. Sugimura said she would like to know the tenants and owners' reactions because they are the ones who will be impacted.

2. **SITE DEVELOPMENT REVIEW, S-2129 – PAPIERNIAK** - Review of shared parking arrangement in conjunction with a previously approved remodel for the existing building located within the CVCBD-SUB 7 (Castro Valley Central Business District Specific Plan, Sub Area 7) District, located at 3295 Castro Valley Boulevard, south side, 300 feet east of Chester Street, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 084A-0040-018-04. **Staff Planner: Jana Beatty**

Ms. Beatty summarized the staff report. She stated that the Council approved the application at the October 8, 2007 meeting; however there was some discussion about parking. Staff is recommending that the MAC modifies the previous motion to include the shared parking agreement.

Ms. Hawryluk said that RDA is working with the property owner and they are moving forward with this project.

Mr. Nielsen said that Mr. Papierniak brought a copy of the agreement so the Council considers approving Mr. Papierniak project based on County final review of the agreement. The final review of the agreement meets the spirits of the shared parking concept.

Mr. Moore said that approving 3.3 space ratio had to go back to CAC.

Ms. Beatty said that the shared parking condition we have been doing for years. In this area, the specific plan allows for shared parking. In an informal way we have been implementing that portion of the specific plan, what Redevelopment is doing is formalizing it. What this SDR is doing is going on what we have done in the past.

Mr. Nielsen said he wanted to make sure that the terms of the agreement between the two property owners meets Planning needs as far as this specific project and

parking is concerned. He does not see any problem in approving it, but feels uneasy approving it without the CAC reviewing it.

Ms. Miraglia said that if the Council were to approve the shared parking agreement, does that mean that regardless of the mixed of uses within the buildings, it really does not matter what the mix of uses because they have the shared parking arrangement. Ms. Beatty said they can propose uses that are permitted in that district.

Mr. Moore said that they are subjected to the current parking regulations before the adjustment of the 3.3 which means that they will be limited to 125 spaces based upon current mixed uses the parking ratio stand. Ms. Beatty said that the Specific Plan does not give a number.

Ms. Miraglia said that if the uses between the two buildings were really under regular parking requirements would be 150 spaces but they have 125 and we have approved this shared agreement. What if you end up with several restaurants, the number of spaces that normally would be required is huge but still you have 125, there does not appear to be any restrictions at all just the fact that they have the shared parking agreement is the motion that we have been asked to approve. Ms. Beatty said it is very unlikely that that scenario would happen, but yes.

Mr. Sadoff if we go ahead and vote in the affirmative per staff recommendations, would that be give approval for the 3.3. Mr. Nielsen said no, just for this one.

Mr. Frank said that the former issue presented to us by Redevelopment is a recommendation not in place. The issue before us is what we deal now with the County. We have an opportunity to make a decision. The Council is in full capacity to act.

Ms. Miraglia said that the Council gives carte blanche to Mr. Papierniak to put in whatever kind of businesses inside this building regardless.

Mr. Moore asked Ms. Beatty if there was a restriction or not. Ms. Beatty said we are treating him no different than the other businesses with similar projects.

Mr. Papierniak said that he has been working on this project for a year and has spent a lot of time and money. He is looking to go along with the current idea of 3.3. He can not use the second floor for a restaurant. He is looking at the guidelines of the Castro Valley General Plan that says that the zoning ordinance should include provisions that would encourage adapted reviews of such structures such as reduced parking requirements. Their 2 buildings (his and his neighbor) are the biggest projects involved in the shared parking plan. It has a big start going 125 spaces. He is asking this Council to approve his project, get it going, it is close to the 3.4 and make this happen. Six more months or a year and

a half to go back and forth to finalize this and you can go ahead and make a zoning regulation. This Council approved this project October 8, 2007.

Public testimony was called for. No public testimony submitted.

Ms. Miraglia said that 3.3 is not standard. Secondly, the general plan does talk about reduce parked requirements but it does not speak about unrestricted parking requirements. Her opinion is that shared parking is what we want. She does not feel comfortable because it lacks details, it lacks analysis, they do not know what is going in there and is like writing a blank check. Mr. Nielsen said that the two property owners did what we asked them to do. They were asked to come up with an agreement between the two of them. The fact that the parking ratio is fairly close to what the overall, the RDA not CAC wants to see implemented. If they put tenants in there over-parked, those tenants will leave. He proposed to go ahead and approve the original motion.

Mr. Moore said to re-word the motion. He does not have any problem with the 3.3 he agrees with the concept of shared parking. It can be worded just it is disassociated from the comment. Mr. Nielsen asked what was the correct number. Ms. Beatty said 125 spaces were what was proposed by this parking agreement. 123.8 would be required under the 3.3 formula. Mr. Nielsen said if there is no objection he would like to make a motion to amend original motion to 125 spaces from 82 spaces. Mr. Frank seconded. Ms. Miraglia said she can not support that.

Mr. Papierniak said he is not sure if the Council wants to go on that direction, that the shared parking agreement is already done. If you come up with the 125, they want him to have 70, his 70 into his square footage would be 3.4. He does not have 125. Mr. Frank said it is in conjunction with the shared parking agreement, a total of 125 parking spaces shared between the two property owners fill their needs.

Mr. Nielsen said the way to achieve that is to modify the original motion best utilized putting 125 available parking stalls as agreed to in the shared parking agreement between the two property owners. Mr. Frank seconded. Motion carried 6/1/0 with Ms. Miraglia opposed.

3. **TENTATIVE PARCEL MAP, PM-9419 – DELUCCHI** - Application to subdivide one parcel containing 1.00 acre into two parcels in a R-1-CSU-RV (Single Family Residence, Secondary Unit, Recreational Vehicle Parking) District, located at 19050 Hayes Street, south side, 250 feet north of Massachusetts Street, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084B-0510-008-00. **(Continued from December 10, 2007). Staff Planner: Andrew Young**

Mr. Moore recused himself. Ms. Beatty summarized the staff report. Staff received one comment from Joel Sabenorio, resident at 3181 Keith Avenue,

expressing his concern with the effect a new residence on Parcel 2 such as how the site would drain and how it would affect his privacy, views and light.

Ms. Miraglia asked if the proposed driveways were made of gravel. Ms. Beatty indicated that Mr. Doug Rogers, from Greenwood and Moore, or the applicant, can provide that information.

Peter Delucchi, applicant, said that the driveways are made of concrete. He said that he has lived there 8 years and it is a lot of property for just one person to take care of it. That is why he wants to split it in two. Doug Rogers, with Greenwood and Moore, said that the components of the lot size consistency policy, the Fire Department has reviewed this project and has approved it as proposed. The comments received from one neighbor regarding drainage, the tentative map that is proposed drainage provisions that were installed directly drainage to Keith Ave. That concerned has been addressed. The project meets all the set back requirements.

Mr. Frank asked Mr. Delucchi what was his reaction about the one request that was made with regards to trees as a buffer. Mr. Rogers said that he does not see any objection.

Ms. Miraglia asked what about reducing the building envelope. Mr. Rogers said it will not be necessary. Mr. Nielsen asked Mr. Rogers if the building envelope meets all the county set back requirements. Mr. Rogers said yes.

Mr. Sadoff said that too many large mature trees were removed from parcel 2. Mr. Rogers said there are still a lot of trees.

Public testimony was called for. No public testimony submitted.

Ms. Miraglia said that this looks acceptable to her. She would like to see a condition of approval about the buffer tree planting, also that the building envelope be reduced by 50 square feet and also that it be designed with appropriate north-east and west-facing windows, balconies, details, moderate colors and landscaping so as to ensure compatibility with the surrounding area.

Mr. Frank moved to approve Tentative Parcel Map, PM-9419 with Planning considerations and recommendations that the 50 square foot reduction as part of Planning considerations and the tree buffer in Parcel 2. Mr. Nielsen seconded. Motion carried 7/0.

4. **SITE DEVELOPMENT REVIEW, S-2141 – SIGN PRODUCTIONS/BANK OF AMERICA** Application to allow new signage for a bank building, in the Castro Valley Central Business District Specific Plan – Sub-area 7 (CVCBDSP-SUB 7) District located at 3067 Castro Valley Boulevard, south side corner, approximately 250 feet west of San Miguel Avenue, Unincorporated Castro

Valley Area of Alameda County, designated Assessor's Parcel Number 084A-0036-003-01. Staff Planner: Richard Tarbell – **(Continued from December 10, 2007). Staff Planner: Richard Tarbell.**

Ms. Beatty summarized the staff report. She stated that the Redevelopment Agency agrees with the suggested changes proposed to allow new signage.

Matt Sieck, representing the applicant, described the sign and said that it is a red awning, with the Bank of America whiting, exact same color and same material.

Ms. Miraglia asked Mr. Sieck who makes decisions regarding the color of the awning. Mr. Sieck said Bank of America.

Public testimony was called for. No public testimony submitted.

Ms. Miraglia said that she does not like the color of the awning and would like to see Bank of America do something that is more in keeping with the rest of the building. The rest of the council members concurred.

Mr. Sieck said that he can not make the final decision but Bank of America would go for and do a change of color.

Mr. Moore moved to approve Site Development Review, S-2141 with the change to a neutral color, with a staff level approval. Mr. Nielsen seconded. Motion carried 7/0.

5. **VARIANCE, V-12094 – JEFFREY & JANELLE McDONALD JEFFREY/JANELLE McDONALD** – Application to allow a 6'high fence where 2' and 4' is maximum allowed, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 18563 Madison Avenue, west side corner south west of Seaview Avenue, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084C-0865-001-03. **Staff Planner: Howard Lee**

Ms. Beatty summarized the staff report. Staff is recommending approval of the variance.

Jeff McDonald, applicant, said that his neighbors are happy with the property so far. When he purchased the property, the whole side yard was overgrown that nobody could see around the corner. The neighbors have positive reaction to what he has done to the property.

Public testimony was called for. No public testimony submitted.

Ms. Miraglia said that she disagrees with Mr. Rogers from Public Works, who says that the Watercourse protection does not apply here. She has spent a lot of

time studying the ordinance before when they were going to revise it and it does apply here. She does not have an issue with a 4 foot fence there due to visibility, but further ordinance the applicant should be participating in the permit process that ordinance calls for. When the applicant goes to a permit process, the direct or of Public Works can make the exception. Unfortunately, Public Works is telling us and the McDonalds that the Watercourse protection does not cover this. Friends of San Lorenzo Creek adamantly believe that this ordinance applies to this.

Mr. Frank asked what does it mean to Mr. McDonald and if there are other matters that are part of the permit process. Ms. Miraglia said that the permit process is involved and there is process in play to protect the water sheds.

Mr. Moore addressed the issue of safety. Mr. McDonald said that one of the big issues is to keep this area clear during the winter time. There really needs to be something there. Public Works said there was no problem. We really do need this fence here.

Mr. Nielsen asked Mr. McDonald if he is asking the Council to approve the board fence to keep neighborhood kids to prevent access to the creek in the back. Mr. McDonald said yes. Mr. Nielsen told Mr. McDonald that he will have to get approval. He said that Flood Control put a 6 foot fence for safety reasons.

Ms. Sugimura referred to page 3 of the staff report, last paragraph. Discussion continued among council members and the applicant regarding height limits and the creek. Mr. Moore told council members to make clear for the motion that the Council is accepting the County's statement that it does not apply to this one and move forward and make it clear that is not setting a precedent.

Mr. Frank moved to approve Variance, V-12094 as stands explaining staff recommendations and reduction size. Ms. Cunha seconded. Ms. Miraglia made clear that she agrees with the overall concern about safety but she will abstain only because she does not believe that it is within their purview and the Watershed ordinance applies. Mr. Sadoff asked if the motion will end stating that Madison Avenue frontage will not be reduced the 4 feet. Mr. Frank said he would rather go with the 6 foot as recommended by the property owner. Motion carried 5/2 with Mr. Sadoff and Ms. Miraglia abstaining.

6. **TENTATIVE PARCEL MAP, PM-8694 – TET - Application to subdivide one parcel containing 0.66 acres into three lots, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 18821 Carlton Avenue, west side, approximately 400 feet south of Sydney Way, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084B-0420-007-00. Staff Planner: Jeff Bonekemper**

Ms. Beatty summarized the staff report.

Alexandru Tet, applicant, said that this is the last version. He tried for a few years having the driveway from the north side. He asked for 4 lots but agreed to 3. House # 2 and existing remain lot # 1 and lot # 3 is empty now. He consulted with the Fire Department regarding driveway. The Planning Department agreed with that. Recommendation by planner Beth Greene

Public testimony was called for.

Dianne Fischer, resident at 18845 Carlton Avenue, adjacent neighbor to the southwest border of Mr. Tet's property, stated that they are not opposed to Mr. Tet's request to subdivide his property. She said that the public road is maintained by 4 families who live there. When Mr. Tet wanted to build his house without subdividing in August of 2001, the eastern side of the existing residence, leaving one residence intact and wanted to use their easement for access to the rear house. At that time, this Council advised him that one condition would be to remove an existing large shed and reduce the size of the existing house to 9,600 square feet. This plan was abandoned. They then approached the plans to subdivide the property into 4 lots facing the curb at the property line and again using their easement for access to the 4 houses. They advised Mr. Tet that the agreement with the County if it was divided he would have to give some land for the road. At that time, the County advised him he needed to prove that he had access to their easement. Mr. Tet told them at that time that he could only give 9 feet without jeopardizing his existing house. This plan was not acceptable to them. This plan also has been abandoned. It seems to her that if he has room for a lane on the other side, he would have room on their side, make it a county road and resolve a lot of problems.

Leigh Kimmelman, resident at 18847 Carlton Avenue, stated that a copy of the plan that he got last week from the Planning office, is different than the plan that council members have. The easement that was proposed was to keep the existing easement next to the street that they use for ingress and egress and leave the existing fence and shrubbery there. He asked which plans are correct. Mr. Moore told Mr. Kimmelman that the Council will be acting on the plans that they have. Mr. Kimmelman indicated that one of the reports that he picked up said that the county engineering recommendation was to widen the street to make it a county road. Mr. Tet's lawyer sent him a letter saying that they wanted to have access to the road. Basically, it says to give 25 feet to the County. Mr. Tet was not agreeable to that at all.

Mr. Nielsen said that the County's report is based on this proposal, not the one in the package. Ms. Beatty asked Mr. Tet which were the correct plans. Due to the confusion with the plans, Mr. Moore determined that this item will be continued to the January 28 meeting for clarification.

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7. **TENTATIVE TRACT MAP, TR-7932 – KLEIN** Application to subdivide one site containing approximately 40,327 square feet (0.93 acres) into two lots and allow conversion of 19 apartment units into condominiums, in a R-S-D-20 (Suburban Residence, 2000 square feet Minimum Building Site Area per Dwelling Unit) District, located at 20670 Forest Avenue, east side, approximately 500 feet north of Castro Valley Boulevard, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 084C-0716-002-01. **Staff Planner: Howard Lee**

Ms. Beatty summarized the staff report. Mr. Moore recused himself. She stated that the proposed site does not meet the requirements related to parking or setbacks and the majority of the recommended Condominium Guidelines have not been addressed sufficiently; however, the applicant wanted to present the project concept to the MAC for preliminary review and comment.

Donald Klein, applicant, said that the housing is pretty high and this eliminates a lot of people who want to be homeowners. We hear a lot about entry level housing and he feels that this project falls in the category of entry level housing. He said it is a good proposal. The only difference between living in a one bedroom apartment and one bedroom condo is people can start homeownership.

Doug Rogers, with Greenwood and Moore, said that they are presenting this project before the MAC just to get preliminary comments at this point. There have been a couple of meetings with Planning Department staff. Before they go too far with this project, they wanted to make sure that they had an agreement to provide something that have at least a chance of being approved. The project is an older building dating to 1960. The apartments were built 40 years ago. It does conform to the current zoning ordinance in all respects in terms of density and set backs. It meets all the requirements with the exception of parking. They are providing 28 on site parking spaces. They have 16 one bedroom units that are around 600 sq. ft. The majority of those are regular to single persons currently and they anticipate that the majority will be occupied by single owners in the future. There are two bedroom units on the site and they provided 2 designated parking spaces for those two bedroom units. The remaining of the parking would be guest parking. Technically, there will be 11 guest parking spaces. The property is within one block from Castro Valley Blvd. They currently meet all of the condominium guidelines with the exception of private entrance requirements. There is no common play area proposed and they are committed to eliminating one of the apartment units and convert it to a common recreation room for the use of all the condominium owners.

Ms. Miraglia asked if there will be common laundry facilities and no washers and driers in the units. Mr. Rogers said that currently there is a common laundry facility. Mr. Rogers said that the purpose of this meeting was to get comments from this Council. Council members prefer laundry facilities in the units as opposed to common laundry facilities.

Ms. Nielsen said that in the Condo conversion there is a requirement for so many laundry areas for the number of units.

Public testimony was called for.

J. McDonald, spoke on behalf of the applicant, he said he has known Mr. Klein for over 20 years, and he does nothing but the highest quality projects. Mr. Kleine put together a good project here.

Mr. Rogers asked for direction from the Council. If the Council feels that regardless of what they do as far as some of these issues, some of the issues that they can not resolve any further, they need to start to move on at that point.

Mr. Sadoff asked Ms. Beatty what is the difference in the requirements for parking in apartments as opposed to condos. Ms. Beatty said that is quite a difference because the parking guidelines for condos are much higher.

Ms. Miraglia said that in her opinion, parking is a huge issue not only for this particular property but if you were a member of this Council approved the condos next door which were deficient in parking and it is already a problem with parking in Forest Avenue in general. Also, a play area for children is extremely important. She is not inclined to approve it without play area and deficient parking

Mr. Nielsen said that with some screening in the inner court to have a better privacy as far as the entrances are concerned could be done at very little expense.

Ms. Cunha said it needs a larger laundry area.

Mr. Frank agrees with the parking issues. Because the County allows you to do things to County code regardless of what happens on a re-sale, the default would be the parking area, the open area for the kids and the laundry. He does not agree with the condo conversion.

Ms. Miraglia said that this was to give feedback to the applicant so no motion is needed. Mr. Rogers said that if they decide not to proceed with the condominium conversion and the other alternative would be to just split the house from the apartment complex, that would be one option. They will come back with a new proposal in a later date.

F. Open Forum –

Cheryl Holland, resident at 2050 170th Avenue, spoke about existing problems in her neighborhood, she said there are no sidewalks, narrow streets, lack of parking, bad drainage, lot of underground streams, etc. She has neighbors that are building additions, no variances. She also complained about a neighbor's activities.

Ms. Miraglia said that the Ordinance Update Review Committee meets on the 4th Tuesday of the month, she invited Ms. Holland to come to one of the meetings, there will be design guidelines, there will be a focus committee just on that and the Planning Department is actually working on what criteria that will be.

Neil Shumate, resident at 4075 Picea Court, Hayward Hills Property Association, asked council members if they were willing to support a view-sunlight ordinance throughout the unincorporated area of the county.

Mr. Moore told him yes and invited him to join the Ordinance Update Review Committee.

G. Chair's Report - None

H. Committee Reports

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

Ms. Sugimura informed council members that there will be two meetings, one will be the Education Across the Lifespan Task Force, on January 15, from 6 to 8:30 p.m. at Supervisor's Lai-Bitker's office, and the other one, the Local Commercial, Residential & Community Places Task Force, January 17, from 6 to 8:30 p.m. at the Eden United Church of Christ. Also, on Saturday, April 5th, from 9 a.m. to 3 p.m., a Community Charrette to choose the final priority projects for the unincorporated areas.

I. Staff Announcements, Comments and Reports

J. Council Announcements, Comments and Reports

Mr. Sadoff said that the Historical Preservation Ordinance Committee is having another public workshop February 7, at 7 p.m. at 224 W. Winton Ave., Public Hearing Room.

K. Adjourn

The meeting was adjourned at 9:38 p.m.

Next Hearing Date: Monday, January 28, 2008