

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL
Draft Minutes for February 11, 2008
(Approved as corrected February 25, 2008)

A. CALL TO ORDER: The Chair called the meeting to order at 6:00 p.m. Council members present: Jeff Moore, Chair; Cheryl Miraglia, Vice-Chair. Council members: Andy Frank, Carol Sugimura and Dave Sadoff. Council members excused: Dean Nielsen. Staff present: Tona Henninger, Jana Beatty and Maria Elena Marquez. There were approximately 10 people in the audience.

B. Approval of Minutes of January 28, 2008
The minutes of January 28, 2008 were continued to the next meeting.

C. PUBLIC ANNOUNCEMENTS – None.

D. Consent Calendar

1. SITE DEVELOPMENT REVIEW, S-2119 MCDONALDS/RHL DESIGN GROUP
Application to allow the demolition and reconstruction of a McDonald's restaurant with a drive through located within the CVCBD-SUB1 (Castro Valley Central Business District Specific Plan, Sub Area 1) District, located on 1620 Strobridge Avenue, east side, 200 feet south of Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Numbers: 084A-0007-022-00, 084A-0007-023-02, and 084A-0007-023-03. **(Continued from January 14, 2008). Staff Planner: Jana Beatty**

Mr. Sadoff moved to approve the Consent Calendar. Ms. Cunha seconded. Motion carried 6/1/0 with Mr. Nielsen excused.

E. Regular Calendar

1. PARCEL MAP, PM-9236 & VARIANCE, V-12071 – BRIAN LESUR Application to subdivide one parcel containing 0.37 acres into two lots, with a Boundary Adjustment, and allow a 16'-deep front yard where 20' is required on Parcel 1 and a 0' street side yard setback where 10' is required on Parcel 2, in a R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 19223 Carlton Avenue, west side, approximately 380 feet south of Massachusetts Street, Castro Valley area of unincorporated Alameda County, bearing County Assessor's designation: 084B-0441-043-00. **(Continued from January 28 to February 11, 2008). Staff Planner: Andy Young.**

Ms. Beatty said that since the previous meeting there has been no change.

Mr. Moore said that at the previous meeting, the Council decided to take a vote at tonight's meeting if there were no changes. Mr. Sadoff moved to deny Parcel Map, PM-9236 and Variance, V-12071. Ms. Miraglia seconded. Motion carried 6/1/0 with Mr. Nielsen excused.

2. TENTATIVE PARCEL MAP, PM-9458 – SOWUNMI Application to subdivide one site containing .40 acre into three parcels in a R-S-CSU-RV (Single Family Residence,

Conditional Secondary Unit, Recreational Vehicle) District, located at 4175 Seven Hills Road, south side, 480 feet east of Parsons Avenue, Castro Valley area of unincorporated Alameda County, Assessor's Parcel Number: 084D-1342-008. **(Continued from January 28 to February 11, 2008). Staff Planner: Andrew Young**

Ms. Beatty summarized the staff report. She indicated that Planning staff's conclusion is that the proposal does not closely meet the standards in the Zoning and Subdivision Ordinances and should not be approved unless MAC deems such a denial to be an unreasonable reversal of the 2003 approval.

Mr. Ekundayo Sowunmi, representing the applicant, said that in 2003 he prepared a tentative parcel map that was approved by the County Planning Department for a similar subdivision. At that time, the developer proposed new homes to be built and proposed to demolish the existing building. The property owner approached him, concerned that he will have to demolish the existing house. He talked to Mr. Ron Gee (staff planner at that time) and he said that the parcels had to follow parcel map subsequent approval. He decided it was not acceptable. The new tentative parcel map went through the process. The time expired for the previously approved parcel map. He met with Phil Sawrey-Kubicek and Andy Young 3 times and discussed this map. The main difference between this and the previous is that it required the 3 lots to include an access easement. Essentially, at that time there were 3 separate lots with a separate lane to provide access for the 3 lots. The previous owner got an agreement with the new owner. He does not know if it was recorded or not.

Public testimony was called for. No public testimony submitted.

Mr. Frank asked staff the differences between the 2003 parcel map versus the 2008. Ms. Beatty said there is not a substantial difference. Since that time both staff and the Council were looking at this more closely at lot size consistency.

Mr. Sadoff said there are a lot of little issues and he does not feel comfortable with the way it is presented. The lot size consistency is one of them plus the parking issue and the dry well.

Ms. Cunha asked Mr. Sowunmi if this property was sold after the first subdivision was approved. Mr. Sowunmi said yes, to the new owner.

Zaoxin Rong, owner, said that when he bought this house it already had the approval for 3 parcels. He paid for the 3 parcels; county staff told him there was no problem and to go ahead and buy it.

Ms. Miraglia asked Mr. Rong when he bought the property. Mr. Rong said in 2004. Mr. Frank asked Mr. Rong if he was aware that things expire or change. Mr. Rong said he didn't know at that time. When he found out about the problem, Mr. Sowunmi told him that it had expired.

Ms. Sugimura requested clarification on page 7, third paragraph, where it says that the average lot size is 6,936 square feet and by comparison, the proposed average lot size for the subdivision, 5069 square feet is noticeably smaller than the prevailing lot size.

Mr. Moore asked Ms. Beatty if the average lot size at the bottom of table 2 is the proposed lot size. Ms. Beatty said that the 5069 is the proposed net lot area. Mr. Moore said that he is concerned about the fact that this was just recently approved. Looking at the tables he asked what the numbers would be if we add those up. This is a proposal for an identical project that was previously approved.

Mr. Frank asked if the guest parking arrangement that is proposed now is substantially different when the tentative map was submitted.

Ms. Miraglia said that if this one was something even a little bit better than the one that was approved before. She would feel better if there was more parking, it will help the average the lot size a little bit.

Mr. Moore said that a landscaping provision could be made in the conditions of approval for lot size 1, making sure it has good street presence not just the side of the house, a little bit more enhanced design requirement.

Mr. Frank said that the major thoroughfares do not provide for off street parking in subdivisions. He asked what is substantially different in what was presented back then versus now in terms of the parking requirements. He asked Mr. Sowunmi if the previous tentative map provided for any off street parking. Mr. Sowunmi said that there was no off street parking. Mr. Frank said that providing sufficient off street parking has been an issue. If the driveway envelope is larger, than you have rather than separate guest parking you have the guest parking or you have parking on the envelope of the lot itself. Mr. Frank asked Mr. Sowunmi when he could find out about the drainage. Mr. Sowunmi said he is reviewing the files.

Mr. Frank asked Ms. Beatty what is the average for the surrounding area. Ms. Beatty said 6,936 square feet.

Mr. Moore said that a precedent has been recently set. If you are to recalculate the average and take out the street parcels that can be subdivided, it is going to come way down. He agrees with the parking. He asked Mr. Rong if he is going to build the houses or sell them. He told Mr. Rong if he can try to get 1 or 2 more parking spaces along the front with the provision of increasing the rear yard set backs to 25 feet. He has a spot for turn around required by the County.

Mr. Frank thinks that he (Mr. Rong) can resolve the parking arrangements. He would be fine with the way it is, understanding that it was previously approved. Ms. Miraglia said that the parking is the biggest issue for her.

Mr. Moore said that 2 car garages, 2 full size driveways, one additional guest parking which meet all the requirements, there is no deficiency. He would be inclined to approve this project with enhancements to the front and nicer landscaping and façade maybe site development review. It has full set backs. The applicant is not asking for variances.

Mr. Frank told Mr. Sowunmi that what he is providing is guest parking inside the envelope, 2 car garages with full size driveway park off the street. On the envelope he does not see a problem. The issue would be the landscape and the aesthetics. He asked Mr. Sowunmi if he is going to have a dry well there additionally or not. Mr. Sowunmi

said no if they are not allowed. The whole idea of the dry well is to conform to the storm water provision prevention in terms of the discharge off site.

Mr. Moore thinks that the dry well in conjunction with the storm drain system is a great idea. Mr. Sowunmi said that he will work with the County staff. Ms. Beatty said that the terminology for dry well is something that we normally call retention maintenance for swales. Mr. Sowunmi said they don't call it drywell.

Mr. Sadoff said that he would have voted against in 2003. He believes that the lots in this project are substantially smaller than the prevailing lot sizes. He will vote against.

Mr. Frank moved to approve Tentative Parcel Map, PM-9458 provided the applicant meets requirements of drainage as required by the County and additionally has an enhancement program for landscape in Seven Hills Road and site development review for parcel 1. Ms. Sugimura seconded. Motion carried 4/2/1 with Mr. Sadoff and Ms. Miraglia opposed and Mr. Nielsen excused.

3. **TENTATIVE TRACT MAP, TR-7842 – PETER LAU** - Application to subdivide one parcel containing approximately 40,755 square feet (0.93 acres) into five parcels in an R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4269 Heyer Avenue, south side, 810 feet west of Forest Avenue, unincorporated Castro Valley, bearing County Assessor's designation: 084C-0745-001-00. **(Continued from January 14 to February 11, 2008). Staff Planner: Andrew Young**

Ms. Beatty summarized the staff report. She indicated that Planning staff would recommend that if the Council is inclined to approve the development, Public Works has recommended modification of the driveway that is facing on to the street be removed and access provided on the new access driveway and also staff notes that the net lot size for one of the parcels is below 5,000 square feet. The planner notes that with some minor modifications to the lot sizes it could be brought up to 5,000 square feet.

Ms. Miraglia asked Ms. Beatty if this tract map does not have the specific building envelope that has elevations or garage locations. She mentioned that the staff report says that: "these features must be added to the tentative tract map before it can be approved by the Planning Commission". She asked why it was not included for them to review. Ms. Beatty said that the planner either felt that it needed preliminary review or since Public Works is recommending some modifications and also the lot size needs to be modified before it went to the Planning Commission possibly expecting new plans to come in based on MAC recommendations to be incorporated.

Yev Philipovitch, representing the applicant, said that the smallest lot has more parking that they intended to put. They have been coming back and forth. They were scheduled 2 times before but it was postponed because of the confusion. The smaller lot size indicated has 2 parking spaces on it which really are not needed. We only need 4 parking spaces in the front; there will be separate parking in the front. We can remove 2 of the parking and that will increase the net size of the lot. Regarding drainage, the subdivision that was built next door, they provided a very nice looking swale drainage in the back. These lots slope gently towards the back. Castro Valley Sanitary District does not see a problem with it. He prepared a drainage report that was submitted to the County but he

thinks that it has not been reviewed yet. Staff seems to be comfortable with it but didn't get official approval because usually that comes with the improvement plan. The width of the roadway comes in one place 20 feet required this is actually short.

Public testimony was called for.

Steve Phillips, resident at 19586 Xenie Court, spoke in support of the subdivision.

Richard Rufer, resident at 4307 Heyer Avenue, east of the track, said that he is concerned about regulations and rules that the County has in place to mitigate noise and dust pollution in construction sites like this one.

Ms. Beatty said that Public Works has standard conditions for dust control, noise and hours and days of operations of construction.

Mr. Frank said that as long as the applicant meets the recommendations from the County with respect to the front lot and make adjustments to the lots, he is conforming to the subdivision next door. As such, he should be able to go ahead with his subdivision.

Ms. Sugimura said she is concerned with the smaller lot size.

Mr. Moore said that he likes that he left the big lot in the front. He still keeps the presence of the large lot and the feel of the street does not change.

Ms. Miraglia asked if the Council needed to include the fact that Mr. Lau indicated those 2 parking spaces would be removed to allow for modification. Mr. Moore said that however they can make it, they would comply.

Ms. Miraglia moved for approval of Tentative Tract Map, TR-7842 with the condition that they bring the smallest lot size to comply to meet the 5,000 square feet minimum and meet the County's considerations and recommendations. Mr. Sadoff seconded. Motion carried 6/1/0 with Mr. Nielsen excused.

- 4. CONDITIONAL USE PERMIT, C-8662 – T-MOBILE** Application to allow a telecommunication facility (cell site T-Mobile) in a P-D (ZU-1334, 1336, 1341) Planned Development (1334th, 1336th & 1341st Zoning Unit) District, located at Coolidge Court, north east side corner of Summer Glen Place, unincorporated Castro Valley area of Alameda County, bearing County Assessor's designation: 085A-0100-002-08. **Staff Planner: Christine Greene**

Ms. Beatty summarized the staff report. She said that the Council saw this application 2 months ago. At the hearing, a neighborhood association appeared to be upset saying that they did not have the time to review the proposal, so the Council decided to continue the application in order to give the association a chance to review and comment. Staff has not received any comments from this neighborhood Association. However, staff knows that the meeting did recently take place and the applicant has told staff that she will be able to give an update on that meeting.

Mr. Sadoff asked if the association was noticed for this meeting tonight. Ms. Beatty said that at that meeting (December 10, 2007) it was continued specifically to this date. Mr.

Frank said that the Association said that because of the meeting, they might have to issue a resolution and it might take further into the month. They indicated that they might not be able to meet the first meeting in February.

Kelly Pepper, representing T-Mobile, said that she met with the Palomares Hills Homeowners Association on January 29 as well as with the Summerglenn Homeowners Association on February 6. At both meetings, she definitely made them aware of tonight's hearing as well as the WBZA. Both meetings were relatively mixed in terms of support and opposition. Some people felt that there was no service there that was needed and safety issues for not having service; other people expressed concern about the visibility and cabinets for the poles. They (T-Mobile) are looking into rotating the equipment cabinets about 90 degrees to accommodate their concerns about visual impacts of the cabinets and planning some landscaping in front of it to make it a little bit less visible.

Ms. Sugimura asked Ms. Pepper if there was a way that the cabinets could be moved 50 more feet. Ms. Pepper said that they are going to have their surveyor re-survey because they found different measurements from different people. She said that it appeared to be about 300 feet to the nearest residence in Summerglenn. There is some flexibility in location. Also, they will try to locate it in an area where there is visually visible.

Public testimony was called for.

Ken Lee, resident at 7308 Longmont Loop, said that the facility is very close to the properties. He mentioned that on Five Canyons there is a similar antenna there. It was rejected by the community. He would like to know why it was rejected. He said there are no antennas in that neighborhood. He is against the proposal.

Barbara Gain, resident at 20050 Summer Crest Drive, requested the Council and staff to get a non-biased environmental study to ensure that this telecommunication facility satisfies CEQA. The study would cover such items but not limited to the impact on economics, health, visual, public safety, etc. She is concerned about how residents in this community would benefit from such antennas since this is only T-Mobile service and only cover an approximate range of a half of mile.

Kelly Pepper said that T-Mobile had an independent report prepared by an independent engineering firm that evaluated their proposed facility and was submitted to the County, in conjunction with the current FCC standards and found that they are way below the FCC requirements for exposure. The copy of the report was handed out at the homeowners association meetings as well.

Mr. Moore said that this is pretty common for the County, when the Council sees this type of applications and everybody asks about radio frequency issues. The report was brought and deemed to be adequate to meet all that FCC requirements by the County. Mr. Moore addressed Ms. Gain concerns regarding CEQA. CEQA is categorically exempt as small structures. The requirement to ask for independent assessments is something that this Council does not have the authority to do.

Ms. Beatty said that it will be required to get a building permit that conforms to the building code. They will have to conform to this permit.

Tom Wong, resident at 7771 Coolidge Court, asked if this would open for an additional antenna on the same site in the future. Ms. Beatty said that Planning does encourage co-location of antennas meaning we would like to have carriers locate in the same area ideally on the same pole. Any new carrier would be required to go through the conditional use permit, so neighbors will get notice that there will be a public hearing.

Elvira Lewinsky, resident at 20003 Summer Crest Drive, Summerglenn, said that her concern is the same as the previous speaker, as far as inviting other carriers and also build antennas at the same location. She is concerned about the cumulative effect and also the effect on the environment and on the animals that live in the area. Also, she is concerned about the aesthetic value as well as the possibility of a landslide.

Ms. Sugimura asked what happened to the voice of the Association. Mr. Frank said that Mr. Peterson said when he was here (December 10) that he could have a finding in time to present to the Council and they (the homeowners association) were going to have their first meeting in February after the Council have discussed it and Mr. Peterson indicated that they could have it later on. Mr. Frank asked Ms. Beatty if Mr. Peterson indicated to staff how soon to move forward with the applicant in terms of rendering a decision. Ms. Beatty said that Mr. Peterson didn't contact the planner and the issue was continued to this date.

Mr. Moore reopened public testimony.

Barbara Gain said when she attended the Summerglenn Association meeting, her interpretation was that they (neighbors) don't have a say. Mr. Frank said that the entire Palomares Hills Association comprises about 1,600+ units to have some type of input because it is affecting the entire subdivision and obviously your sub-grouping should have an opportunity to respond. Barbara Gain said if there is a way they (Summerglenn neighbors) can go back to their association to say they want to have a vote and asked if there was a time limit.

Ms. Pepper said that she attended both Associations meetings and both indicated they don't make a recommendation. They just wanted to make a presentation and answer questions. Mr. Frank said that the Palomares Hills Association has been outspoken. He would like to have Mr. Peterson and would like to know what they think and find out something from somebody with authority in the Association.

Ms. Miraglia said that the whole reason that the Council continued this was to allow this Association to get together with their membership to have these meetings. T-Mobile has been diligent in meeting with this people. It is too bad that there is no representative from the Homeowners Association to speak with a resolution from them (the association) and somebody should be at this meeting. If they really wanted to be diligent, the association could have sent a letter to everyone asking for their feedback on a survey. She would not like to see this item continued again at this point.

Mr. Frank disagreed. Mr. Sadoff said that the homeowners association was noticed about this meeting and elected not to be here to comment. Ms. Cunha agreed with Mr. Sadoff. Ms. Sugimura does not understand the Association's lack of presence. Mr. Moore concurred.

Ms. Miraglia said that she was glad to hear that T-Mobile is looking to change the angle a little bit. Those cabinets are huge. She would like to see screening of those cabinets and along with that actually T-Mobile will have to get somebody to water it, this should be part of the condition as well should this Council approves it. Mr. Moore said he would recommend more landscaping. Ms. Sugimura said that she is concerned for the lack of action on the part of the association. The residents are the ones that will be impacted by this. She concurs with Mr. Frank to go for the continuance.

Mr. Frank asked Ms. Beatty what was the next step. Ms. Beatty said that it will be heard by the WBZA on Wednesday, February 13.

Ms. Miraglia moved to approve Conditional Use Permit, C-8662 with the condition that mature screening be put in front of those cabinets and ongoing water program. Ms. Cunha seconded. Mr. Frank asked the maker of the motion and the second that they contact the Board of Directors about the meeting on the 27th. Ms. Miraglia amended her motion. Ms. Cunha seconded. Motion carried 6/1/0 with Mr. Nielsen excused.

- 5. SITE DEVELOPMENT REVIEW, S-2147 – CPS SIGNS** - Application to allow new signage (Extra Space Storage) on an existing building in a CVCBD-SUB 10 (Castro Valley Central Business District, Subarea 10) District, located at 3939 Castro Valley Boulevard, south side corner, south west of I-580, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 84C-0630-006-06. **Staff Planner: Richard Tarbell**

Ms. Beatty summarized the staff report. She stated that the Redevelopment Agency supports the project.

Bill Glifford, representing CPS Signs for the change of sign of Extra Space Storage.

Ms. Miraglia said that it was too bad that the owner of the property did not attend the meeting. She said she has no issue with the sign but she has an issue with the color of the doors. Every single door throughout the building is green and in her opinion it looks awful. Mr. Moore said that there is a requirement side development review proposed colors and put that on the agenda for the future.

Ms. Miraglia moved to approve Site Development Review, S-2147. Ms. Cunha seconded. Motion carried 6/1/0 with Mr. Nielsen excused.

- 6. SITE DEVELOPMENT REVIEW, S-2148 – FUGFUGOSH** Application to allow new signage, in a C-N (Neighborhood Commercial) District, located at 18950 Lake Chabot Road, east side corner southeast of Quail Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 84C-0630-006-06. **Staff Planner: Christine Greene.**

Since the applicant did not attend the meeting, Mr. Moore continued this item to the next meeting, February 25.

- 7. Council's discussion on future meetings' time change.**

All council members agreed to change the time of the meetings to start at 6:00 p.m.
Motion carried 6/1/0

F. Open Forum

Suzanne Barba, resident at 5787 Highwood Court, spoke about the Governance Task Force agreement on publicly appointed people on commissions and boards. It was advertised publicly, people can apply. The task force has a list with the kind of skills they need. There will be a screening committee and then the Board of Supervisors will have the final say. Also, there are quite a few people unhappy that the Board of Supervisors overrules the Planning Commission, MAC and WBZA decisions. A lot of times they say it is for compassionate reasons. They do a re-hearing after these commissions spent all this time. It would be more of a supreme court. Also, a community manager that would act like a city manager. The cost was brought up. She read in the paper that a utility tax is coming up. Supervisor Lai-Bitker will have a meeting on Wednesday regarding re-authorizing this utility tax. Supervisor Miley mentioned that some of the funds might be used for the community manager. The funding for this has not been discussed at all. At the same meeting, they will represent the unincorporated area. They had a stake holder at the table. Nobody from Castro Valley was there to speak. The Sanitary District did get some money, but Hayward was right there to tell them what they could and could not do and Hayward got their share of money for the inconvenience. The utility user tax is a little disturbing. Supervisor Miley has increased the amount of money they are going to ask for. The money is divided between the Sheriff's Department, the Library and the Planning Department, not divided even because the Sheriffs' Department gets a large amount of that money and the Library gets a smaller amount and Planning gets a small amount of that.

G. Chair's Report

H. Committee Reports

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

Ms. Sugimura said that there will be a Joint Leadership meeting on Wednesday, February 20, from 6 to 9 p.m. at the Public Hearing Room in Hayward. The topics will be: Task Force Identified Projects & Strategies, Community Analysis update and distribution and Issue & Problem Tracking Status Update from October 2007's community forum. Also, there will a Community Charrette on Saturday, April 5, 2008, from 9:00 a.m. to 3:00 p.m. at the Eden United Church of Christ.

Ms. Miraglia said that she sent an e-mail to Nate Miley and it is her understanding that there is a contention of people that are promoting these multi plans and representing Castro Valley. We need to get this and if they wanted to be able to say that, perhaps we should get a recommendation from this Council. Perhaps we should have it processed.

Ms. Sugimura said that governance is one of the task force issues. That issue will be raised at least no later than the April 5th meeting.

Ms. Henninger said it is open for anybody. Multiple things have been showing. At the last meeting the task force narrowed down to 5 priorities and voted. Ms. Sugimura said to take a look at the web site for meeting information. She also said that Alameda County representation is always good.

I. Staff Announcements, Comments and Reports

Ms. Henninger suggested to move the open forum to the beginning of the meeting, after the public announcements. Mr. Moore agreed.

J. Council Announcements, Comments and Reports

Ms. Miraglia said that at the last meeting Mr. Tet and his neighbors were in attendance but have not been able to come to an agreement. At the end of the meeting the Council's instructions to them was to get together. She asked Council members if 1 or 2 of them could go and mediate or attempt to mediate. Mr. Nielsen agreed to mediate with her. She is trying to get a date but she is waiting for Mr. Nielsen's response. In the meantime, she asked council members about their opinion on this. She said that the intention was never to do it as representative of MAC. Mr. Sadoff said that if the Council goes down this path to be very sensitive to the Brown Act and do not get more than 3 council members involved.

K. Adjourn

The meeting was adjourned at 7:54 p.m.

NEXT HEARING DATE: Monday, February 25, 2008