

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

Minutes for January 26, 2009

(Approved as corrected February 23, 2009)

- 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, Sheila Cunha, Dean Nielsen, Dave Sadoff and John Ryzanych. Council members excused: Andy Frank. Staff present: Tona Henninger, Sonia Urzua, Bob Swanson and Maria Elena Marquez. There were approximately 10 people in the audience.
- B. **Approval of Minutes of January 12, 2009**
Council member Cunha moved to approve the minutes of January 12, 2009 with minor corrections from Council member Miraglia. Council member Sadoff seconded. Motion carried 6/1/0 with Council member Frank absent.
- C. **PUBLIC ANNOUNCEMENTS / Open Forum** – None.
- D. **Consent Calendar** – None
- E. **Regular Calendar**

Ms. Urzua informed the Council that item # 5 will be heard as item # 2 and item # 2 will be heard as item # 5.

- 1. **PROPOSED AMENDMENT TO ZONING ORDINANCE – REVISING SECTIONS RELATING TO AGRICULTURAL CARETAKER UNITS** *This amendment is designed to reconcile an inconsistency between the Zoning Ordinance and the Building Ordinance with respect to construction details for agricultural caretaker units.* The proposed amendments would allow agricultural caretaker units to be permanent structures under certain circumstances where such structures are now required to be temporary. The proposed amendments would also clarify the type of information that must be submitted by a property owner to demonstrate the need for an agricultural caretaker unit. The proposed amendments also provide clean-up for text that was inadvertently left in the Zoning Ordinance during consideration and amendment in 2003. **Staff Planner: Bruce Jensen**

Mr. Jensen summarized the staff report. He said that this matter was reviewed by this Council on November 2008.

Public testimony was called for. No public testimony provided.

Council member Nielsen said that the presentation addressed his concerns. Also, the changes to the ordinance will give the Planning Director an opportunity to use the rule of reason other than trying to turn this down. If the commitment of Planning is that this is phase 1, he does not have a problem. He said that we need to add how many units can go on a 2, 3, 4 or 5 acre site depending on the caretaker need. He thinks the Planning Director will be in a good position to determine that.

Council member Miraglia supported the changes and recommended that Planning tighten up the language and make it stricter and start that process.

Council member Miraglia moved to approve the Proposed Amendment to the Zoning Ordinance – Revising Sections Relating to Agricultural Caretaker Units with the recommendation that the Planning Department start the process to tighten up the language and make it stricter regarding number and types of units. Council member Cunha seconded. Motion carried 6/1/0 with Council member Frank absent.

2. **CONDITIONAL USE PERMIT – C-8737 – SINGH** Application to allow the expansion of an auto parts and service facility not to include engine, transmission, or differential rebuilding or body repair in the CN (Commercial Neighborhood) District. Applicant requests an existing two-car canopy and a 40' shipping container being used as a storage shed be allowed to remain on the subject property. The subject parcel contains approximately 0.24 acres and is located at 19592 Center St, east side, corner of Edwards Lane and Center St., in the unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 84C-1062-024-00. **(Continued from September 22, 2008 and January 12, 2009). Staff Planner: Sonia Urzua**

Ms. Urzua summarized the staff report. She stated that the proposed use has been operating without a valid conditional use permit since 2001. She noted that the conditions of Conditional Use Permit, C-6922 granted in 1996 mention service station Type A. Staff sees this reference as a way to emphasize the minor nature of the auto related facility. Also, in 1999 the Zoning Administrator included a condition of approval requiring landscaping in the area near the intersection. The pre-hearing recommendation is to approve the plans marked as Exhibit A on file with the Planning Department, with the modification eliminating the canopy structure and cargo container and subject to the general conditions stated on page 7 of the staff report.

Council members Moore and Nielsen asked staff about how the ordinance addresses outdoor storage of vehicles.

Bill Lane, architect representing the owner, described the background of the current application. He disagreed with staff's updated recommendation. He asked the Council to approve his client's application. He said that removing the canopy and storage container removes the purpose of the application.

Public testimony was called for. No public testimony was submitted.

Council member Moore asked staff about the staff report previously prepared for the September 22, 2008 hearing. He summarized staff's comments. He said that Mr. Lane's question regarding the definition of a canopy versus a building. Ms. Urzua said that this is the first time that staff hears a proposition that a structure in front of a building would be considered a building in itself. The canopy is made of metal but the material itself is not a determining factor whether or not definition in our zoning code. She read the definition of a building from the general ordinance code.

Council member Moore said that according to the parcel zoning history, the use permit was granted, but expired several years ago. He said that these structures were never approved in any documentation that the County has and any valid use permit the fact that whether it is a canopy or a building may not be relevant, whatever it was it should have come through a use permit application and the merits could be discussed.

Council member Nielsen disagreed with the statement that the canopy structure is not used for working on cars. He said that he personally has observed work being done in that structure. He also mentioned a neighboring building where they also work on cars but has extensive landscaping and they keep it neat. As far as the container is concerned, whether it is allowed or not, at least it should have a side yard set back requirement as any other structure. In his opinion, the container is an eye sore to the neighborhood.

Council member Sadoff said that the storage container is an issue for him but not the canopy.

Council member Ryzanych asked staff to clarify as to the allowed use of containers in commercial applications. Ms. Urzua said that there are some limitations in the Specific Plan. Council member Ryzanych said he has a problem with the way this facility is being managed. He has observed transmission and storage of engines, full engine transmission underneath the canopy. The container needs to be addressed according to code with regard to set backs. Ms. Urzua clarified the setback requirements.

Council member Moore asked staff about the previously imposed conditions of approval related to landscaping. He asked the applicant to address Council's concerns.

Bill Lane said that the canopy is used for the preparation of cars. He said he didn't know about the business operation. The issue about engine rebuilding transmission they do replace engines and transmissions, they do not repair them which he believes is acceptable under the ordinances under repair facility. He disagreed with staff's determination regarding the canopy. He said that the canopy enhances the look of the property.

Council member Moore asked about the allowable use and the scale of such a use.

Council member Miraglia said that the applicant's web site, engine re-builts and swaps are listed under services.

Council member Nielsen asked staff about the definition of auto repair. Ms. Urzua read what was authorized under the previous CUP and explained why this is not a service station, per se.

Council member Moore asked Mr. Lane how long is an average car stored on the site. Anil Singh, applicant, said that cars are kept about a week. There were a lot of cars that were not running, and he is trying to get them out. There are only a few left and he thinks it will be a month or so. Some of these cars were left by owners. He has some liens on the cars and is trying to hunt the old owners. Generally, cars stay there no more than a week.

Council member Moore said that parking on the site appears not to be an issue. He expressed concern about landscaping and the overall condition of the site.

Council member Nielsen said that there is a need for mechanical repair in Castro Valley. The main building and the shop are neat and clean. Obviously the applicant is providing a service. The appearance in Castro Valley is very important. The business needs serious help as far as landscaping is concerned. The site is not acceptable. He asked the applicant

what he can do in order to improve the appearance of the site. Something has to be done because it is open to view.

Mr. Singh said he is aware that he is not allowed to work outside. It is just himself and another guy and he knows that the landscape needs to be cleaned up. He said he can hire a landscaper.

Council member Moore asked Mr. Singh if he wanted to consider continuance because it is not going to be approved favorably.

Ms. Urzua suggested that Council members look at the 1996 resolution that was granted as an example of what type of services were approved. Therefore, even though this is not by definition a service station it is a good illustration of the type of uses that they perform.

Council member Moore asked Council members for a consensus in order to move ahead. Council members Sadoff, Cunha and Ryzanych had concerns with the storage container. The canopy not an issue for Council member Sadoff and Cunha but an issue for Council member Ryzanych. They were also concerned about landscaping.

Council member Miraglia said the only reason she would like to see this item continued is for County Counsel to weigh in on what this business currently does.

Council member Nielsen said the business has operated without a conditional use permit for a long time. First of all, it is a service station without selling gas, they need to do something as far as the lay out is concerned to satisfy the Council. He asked if it was possible to legalize an additional building like the canopy. Ms. Urzua said that it would be an accessory structure.

Ms. Henninger said that canopies and tents are going forward to the Board. She was not sure what the language has been proposed. She said she would caution that this may not be considered an accessory structure. Council member Nielsen suggested to give the owner a chance to come back with landscaping, screening and phasing out the container that some of the Council members object to.

Council member Moore asked the applicant if it was clear to him what the Council is asking because when it comes back, the expectation would be that he has the answers to all these questions because if not then it will probably not be reviewed favorably. Mr. Singh said he has to take care of landscaping, not store cars for too long, not to do work under the canopy and get rid of the storage container.

Council member Moore said that this item will be continued to a date to be determined.

3. **SITE DEVELOPMENT REVIEW, S-2176 – DAVID KASLIN** - Application to allow new signage on an existing building in a CVCBD-SP-SUB-3 (Castro Valley Central Business District Specific Plan, Subarea-3) District, located at 2626 Castro Valley Boulevard, north side, approx. 400 feet west of Lake Chabot Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 84A-0181-073. **(Continued from November 10, 2008) Staff Planner: Damien Curry**

Ms. Urzua summarized the staff report.

Jamie Benson, from the Redevelopment Agency and representing the applicant, said that she has not had much contact with the property owner.

Council members Moore and Miraglia asked about a code violation on the site and requested further clarification from Ms. Henninger. Ms. Henninger said that no Code Enforcement violations were found on the 5 different properties that were referred for review. Two of these properties have a different owner.

Ms. Benson restated the Redevelopment Agency's interest in making sure that the properties are in compliance.

Council member Moore said that he never heard of a project that the Redevelopment Agency policy issue on whether they want to give Redevelopment Agency money to an individual for certain other properties, he did not know whether it was appropriate for the Council to make a recommendation on anything other than the site design. The Council can approve it or disapprove it if there were no compliance in the building. He asked the other Council members' opinion.

Council member Cunha said that if the Council approves it, is up to Redevelopment if they are going to move forward.

Ms. Benson said that if this Council approves it, she will bring it back to the Redevelopment Agency director to let her know the issues that this building is in compliance versus the other buildings that are not, specifically the Redevelopment area there are still concerns from their (Redevelopment) perspective.

Council member Miraglia said that this Council can certainly vote that way, the Council could look at it. She thinks it is not appropriate to give Redevelopment funds to anyone who is in violation of County ordinances or County buildings.

Council member Nielsen said that the MAC is in a unique position. The Council needs to take into consideration the interest of the community as well as land use. If you look at the scope of what the MAC should do, the concerns of the community are a big part of it. If Mr. Kaslin is posing a problem in other areas of the community, the Council has the obligation to consider that. The Council should make it clear that it does not approve what is happening with these other properties.

Council member Moore said that he agreed with Council members Nielsen and Miraglia but he is concerned that if Redevelopment does not want this project to go through, they should not bring it before the Council. The Council will not vote on, it is a policy issue. If they want to bring the issue for discussion and what the Council thinks as far as policy goes that is totally appropriate, but the Council has not seen the merits and does not know the facts of the other properties. He thinks it is not the right policy decision. The Council can either vote on its merits or can ask Redevelopment to withdraw the application until they decide to move it forward. He said that there is no violation as far as the site on this property.

Council member Nielsen said he is in support of Redevelopment's position. Mr. Kaslin needs to bring these other properties up to standards. He would have grounds for appeal to go to the Board of Supervisors if the Council turns this down because there is no reason to turn this down because this property is in compliance.

Ms. Benson said that her preference is that the signage application is approved and then she brings back this application and review it with Eileen Dalton and let her know the MAC's comments as to whether or not the project is fully funded by Redevelopment.

Public testimony was called for. No public testimony was submitted.

Council member Sadoff said that the Council does not want to reward Mr. Kaslin for wrong doings or code violations; however the Council needs to look for the interest of Castro Valley. This is an improvement for Castro Valley. He is in support of this project.

Council member Moore requested a motion of the merits on the site development review.

Council member Sadoff moved to approve Site Development Review, S-2176. Council member Cunha seconded. Council members Miraglia and Nielsen opposed. Motion carried 4/2/1 with Council member Frank absent.

4. **SITE DEVELOPMENT REVIEW, PLN2008-00045 – CHANDARASANE**
Application to allow additional signage at a restaurant in Castro Valley Central Business District Specific Plan – Subarea 10, located at 3774 Castro Valley Boulevard, north side, 260 feet west of Forest Avenue, in the unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-0724-068-00. **(Continued from January 12, 2009) Staff Planner: Richard Tarbell**
5. **SITE DEVELOPMENT REVIEW, PLN2008-00061 – EDEN TOWNSHIP HEALTH DISTRICT** Application to construct a medical office building using modular trailer units, not to exceed 8,000 square feet, with demolition of four existing office buildings (16,071 est. square feet), in the CVCBD, Sub 7 (Castro Valley Central Business District Specific Plan, Sub Area 7) District, located at 20410 Lake Chabot Road, east side, about 450 feet north of Castro Valley Boulevard, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Numbers: 84A-0158-008-05 and 84A-0158-010-04. **Staff Planner: Andrew Young**

Mr. Moore recused himself. Ms. Urzua summarized the staff report. Staff recommendation is that the Council takes public testimony regarding the proposed project, deliberate as to the merits of the proposal and make a recommendation to the Planning Director to approve the project with Planning considerations.

Jason Albright from Greenwood & Moore and representing the applicant, said that they have worked with staff to review all the details of the project and they are in general conformance with what staff recommended.

Public testimony was called for. No public testimony submitted.

Council member Miraglia said that the plans look fine; however, she would like to see the northern portion a bit of landscaping added because there is a lot of asphalt there, she

understands that the district does not want to go to a great expense because they are going to be building later on, but it is right on Lake Chabot Road.

Council member Nielsen concurred with Council member Miraglia.

Council member Nielsen moved to approve Site Development Review, PLN2008-00061, with the addition of some more planting. Council member Cunha seconded. Motion carried 5/1/1 with Council member Moore recused and Council member Frank absent.

6. Discussion related to public contact options for Council Members.

Bob Swanson said that the citizens wanted to get in touch with Council members. The ITD Department set up e-mail addresses for each of the Council members. He asked Council members if they agreed to give their e-mail addresses to citizens. Council member Moore asked if it would be electronic communication. The consensus among Council members was to give County e-mail addresses to anyone interested in contacting them.

F. Chair's Report – None.

G. Committee Reports

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

Council member Miraglia asked about Redevelopment funds that would go to the Castro Valley Chamber of Commerce to expand the area Chamber in some effort towards economic development in the area. She said that she did not have the details of that and asked the other Council members if they knew about it.

Council member Moore noted about an effort to work together and obtain some funding in appropriate and mutually beneficial basis.

Council member Miraglia requested that the Council gets an actual presentation from the Redevelopment Agency.

Bob Swanson discussed Supervisor Miley's efforts in trying to develop economic Castro Valley. The Chamber has been volunteering their time to work with the Supervisor. The Supervisor's feeling is that we need more professionals to do it and the Castro Valley Chamber is situated in such a way where they have been organizing businesses for a long time. The Redevelopment Agency has been negotiating with them, and hired them essentially to help with the redevelopment and planning development of the area. Council member Miraglia said she has an issue with getting a phone call from an individual who was very angry about it and who is not in Castro Valley and for herself that is a Council member and does not know anything about it. Bob Swanson said that it has not gone to CAC, this has been pretty much an internal discussion within Supervisor Miley's office with the Chamber and Redevelopment.

Council member Nielsen said that the County has a business development person. Mr. Swanson said yes and he will be working together with the Chamber.

Council member Moore said that the understanding is that it will progress through the public disclosure portion and then will come to MAC, and the CAC.

Council member Miraglia asked Mr. Swanson if the opinion of MAC members might be solicited in the process. Bob Swanson said yes, it has been an internal thing that has not gone out yet but it would benefit the community.

- **Ordinance Review Committee**

Council member Miraglia informed that this month's meeting was cancelled.

- **Eden Area Livability Initiative**

H. Staff Announcements, Comments and Reports

Bob Swanson said that two meetings are coming up, one on Thursday and the other one on Saturday.

I. Council Announcements, Comments and Reports – None.

J. Adjourn

The meeting was adjourned at 7:48 p.m.

Next Hearing Date: Monday, February 23, 2009