

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL
Minutes for March 23, 2009

(Approved as submitted April 13, 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, Andy Frank, Dave Sadoff and John Ryzanych. Council members excused: None. Staff present: Sonia Urzua, Jana Beatty, Bob Swanson and Maria Elena Marquez. There were approximately 40 people in the audience.

B. Approval of Minutes of March 9, 2009

Council member Frank moved to approve the minutes of March 9, 2009 as presented. Council member Miraglia seconded. Motion carried 7/0.

C. PUBLIC ANNOUNCEMENTS / Open Forum – None.

D. Consent Calendar –

- 1. CONDITIONAL USE PERMIT, PLN2009-00026 – MICHAEL, FRANCES & AAHL** – Application to allow continued operation of a daycare facility, in a RS-D3 (Suburban Residential, As Specified) District, located at 20135 San Miguel Avenue, west side, 350 feet north of Janine Way, in the Castro Valley area of unincorporated Alameda County, designated Assessor's Parcel Number: 084A-0124-001-04, 084A-0124-002-04. **Staff Planner: Richard Tarbell – Moved from the Regular Calendar.**

Council member Moore proposed moving item # 2 on the Regular Calendar to the Consent Calendar. Council member Miraglia made a motion to move item # 2 from the Regular to the Consent Calendar. Council member Cunha seconded. Motion carried 7/0. Council member Miraglia moved to approve Conditional Use Permit, PLN2009-00026. Council member Cunha seconded. Motion carried 7/0.

E. Regular Calendar

- 1. Sutter Medical Center Replacement Hospital Project** – Petition to certify the Environmental Impact Report (SCH No. 2008052019), approve a Castro Valley General Plan Amendment (PLN2009-33), Castro Valley Central Business District Specific Plan Amendment (PLN2009-33), Planned Development Zoning and Land Use and Development Plan (PLN2008-2259) and Parcel Map (PM-9874). The Sutter Medical Center, Castro Valley project ("SMCCV Project") would develop a new acute care hospital to replace the existing hospital on the Eden Medical Center site. The new hospital would total approximately 230,000 square feet and would contain approximately 130 licensed beds in private, single-patient rooms, and an additional 34-station universal care unit. The project would also relocate an existing helistop, construct a new 80,000 sq. ft. medical office building with physician offices, out-patient surgery, urgent care clinic and other uses, and would involve the development of related improvements and facilities such as a central utility plant, surface parking, a direct, on-site connection to the existing parking garage, driveways and loading areas, landscaped areas, and signage. The SMCCV Project will involve demolition of the existing Eden Hospital (after completion of the proposed new hospital), the Laurel Grove Hospital, several small medical office buildings (totaling approximately 19,500 sq. ft.), and an adjacent 42-unit apartment building (the Pine Cone Apartments on Stanton Avenue). The existing Eden Hospital would remain operational until completion of the new hospital, at which time it would be demolished and replaced with landscaped surface parking. The facility is located at

20103 Lake Chabot Road on County Assessor's Parcel Numbers: 084A-0279-005-10, 084A-0279-007, 084A-0279-010-00, 084A-0279-001-01, and 084A-0279-002, in the Castro Valley area of unincorporated Alameda County. **Staff Planner: Jana Beatty Weldon**

Council member Moore recused himself. Ms. Beatty summarized the staff report. She stated that this project has been before the Council several times. The design and EIR are finally completed and we are asking the Council for its recommendation for a requested approval from the Planning Commission. Jesus Armas, project manager, introduced the President and CEO of Eden Hospital, George Bischalaney. Also, present at the meeting is the architectural team. A video presentation followed. He said that they have been working on this project for more than 10 years. He requested the Council's approval. He noted the state mandate to improve the hospital and the funding sources for the project. He stated that the San Leandro Hospital remains a concern for Sutter due to the losses incurred. They are working very closely with the Eden Township Health Care District who is the owner of the property. They lease the property from the District.

Dev Mahadevi, a District Representative stated the District's support for the project.

Council member Sadoff noted the changes to the project as set forth on page five of the staff report and asked what precipitated those changes. Ms. Beatty explained that maintenance and cost were the reasons for changes to the living wall component. The wall will still be blocked. Mr. Armas said that the estimated cost of the project is \$320 million dollars and the adjoining medical offices are another \$80 million dollars. The project has to be looked at very carefully while maintaining the fundamental integrity of the design and also look at all aspects goals and objects described. The architectural team is available to answer any questions.

Council member Miraglia said that she had the same reaction about the living wall. She asked Mr. Armas if there are any renderings. Mr. Armas said yes. She said she was happy to see the reduction in the construction hours. However, she asked for clarification with regards to the days and hours specified by the contractor. Mr. Armas said they have to go through specific requests through the Public Works staff.

Public testimony was called for. The following residents spoke on behalf of the project, and noted the hospital's professional reputation within certain specialties, and the proposed architectural design.

Dwight Perry, Frank Rico, Doug Jones, Bill Quirk, Suzanne Barba, Hazel Fugett, Phyllis Moroney, George Pacheco and Craig Ragg.

The following residents spoke against the project expressing concerns about the potential of closing San Leandro hospital and future impacts on regional needs.

Stephen Cassidy, Sonya Howes, John Bass, Tim Holmes and Craig William.

Public testimony was closed.

Mr. Bischalaney responded to some of the speakers' concerns about capacity, noting the benefits of having all private rooms, the universal care unit, the features of the emergency department. He also added that they are adding an urgent care capacity to the medical

office building so patients can themselves triage in a lower level of care, they can move patients from the emergency department to the urgent care center.

Council member Nielsen asked Mr. Bischalaney if there are some statistics about the number of beds per population in the Bay Area for a hospital to accommodate. Mr. Bischalaney said yes. Council member Nielsen recognized that there is a timing problem if the project does not move forward.

Council member Sadoff said that he shared the same concern about capacity particularly during national disaster. However, he is in favor of the project.

Council member Cunha also shared concerns about San Leandro hospital and is also concerned about the 130 bed capacity. She said she would like to see more beds.

Council member Frank concurred with a lot of the statements and shared the concerns of all Council members. He noted the potential for expanding the hospital in the future. It is an area hospital. He can not see jeopardizing the area for health care. He felt they should move forward because of the timeline.

Council member Miraglia said that closing San Leandro Hospital will impact people from Castro Valley. She expressed concern that EIR did not consider cumulative impacts. However, she is supportive of the project. She said that the concern regarding the San Leandro impending closure is real and significant and one that she strongly and earnestly urged Sutter to proactively address in a manner which did not adversely impact this beautiful project. The total closure of San Leandro Hospital will negatively impact the residents of Castro Valley and San Leandro.

She said she was prepared to make a motion that allows that to happen while leaving the final determination regarding any impacts from San Leandro's closure up to the Board of Supervisors.

Council member Miraglia made a motion that the Board of Supervisors weigh heavily whether the impending closure of San Leandro Hospital will cause a cumulative impact that should be addressed in the EIR and take into consideration any new information that may come to light by the time they deliberate on the matter and decide whether they need to have the question of the San Leandro's closure addressed prior to their approval of the project. If the Board determines that there is no significant impact, then the Sutter Medical Center Castro Valley project should be approved in substantial conformance with the documents EIR certification, general specific plan amendments and re-zonings 2.1, 2.3, and 2.4. Council member Cunha seconded it.

Council member Frank said doing a restriction is not necessary. He said that it is important that Council members present their view points. Council member Miraglia said the Council is only recommending. Council member Frank said that recommending is a matter of a motion too and take into consideration by the Planning Commission and the Board of Supervisors and he thinks that in that recommendation you need to look at the issue at hand. He told Council member Miraglia that she raised questions that all council members agree but there are considerations that need to be evaluated with respect to San Leandro, but he does not feel that the certification of the EIR should be tied down in this matter, it should move forward as it has been presented.

Council member Sadoff believed that Council member Miraglia's motion is appropriate. Motion passed 4/2/1. Council members Nielsen and Frank opposed. Council member Moore recused himself.

2. **CONDITIONAL USE OPERMIT, PLN: 2009-00026 – MICHAEL, FRANCES & AAHL** – Application to allow continued operation of a daycare facility, in a RS-D3 (Suburban Residential, As Specified) District, located at 20135 San Miguel Avenue, west side, 350 feet north of Janine Way, in the Castro Valley area of unincorporated Alameda County, designated Assessor's Parcel Number: 084A-0124-001-04, 084A-0124-002-04. **Staff Planner: Richard Tarbell – Moved to the Consent Calendar.**

3. **SITE DEVELOPMENT REVIEW, PLN: 2009-00008, THRIFTY OIL CO./BURNS** – Application to reopen a closed gas station (a legal non-conforming use) following a change in ownership, in the CVCBD, Sub Area 3 (Castro Valley Central Business District Specific Plan, Sub Area 3) District, located at 2512 Castro Valley Boulevard, north side, east of Stanton Avenue, in the unincorporated Castro Valley area of Alameda County, designated County Assessor's Parcel Number: 84A-0181-078-00.

Ms. Urzua summarized the staff report. She summarized the referral responses. Staff recommends approval.

Council members Sadoff and Moore asked staff to clarify the staff report regarding the policy for non conforming uses.

Howard Burns, representing Thrifty Oil Company, said that this is a family owned company, and one time they were the largest independent oil refinery in the State of California, currently they lease most of their gas stations to ARCO. He said that they had an issue with contamination that had been cured and then suddenly contamination showed up again. We are in a legal dispute with Union Oil. Alameda County Health Department told them that they do not need to monitor it anymore because they have 3 quarters of clean levels that are acceptable. Once they issue a no further action letter, they will be in a position where they can go forward and re-open the station and who ever operates the station going forward does not have to look back and say one of those people cause the problem if something happens again.

He admits that they should have done a better job with the weeds. He described upgrades to the facility. He also described the proposed remodeling of the small building. He responded to the suggestion from Public Works to close two driveways. He was not willing to do that. Staff is recommending 3 parking spaces and turn the other 2 into landscaping. By closing the driveway, he will be able to add more landscaping.

Council member Sadoff asked Mr. Burns what was holding up his "no further action" letter right now and how long it has been requested from the Health Department. Mr. Burns said 4 1/2 months. The process is esoteric, the last tank test they did was only one month ago. He said he is in communication with the Alameda County Health Department person.

Council member Miraglia agreed with staff statements regarding the poor emphasis on design and the general aesthetics concern. She said she personally does not have a problem with going with 4 parking spaces and the 5th space for landscaping. This is very important for her. She asked Mr. Burns to change the façade on that building and to

change the color scheme. Mr. Burns said that he is open to change the color scheme and the façade, while being conscious of his budget. He asked for more direction as to changes to the proposal.

Council member Nielsen made some recommendations as to the location of additional landscaping by making changes to the driveway width on Stanton. These changes may make the starkness disappear. Mr. Burns said he can do that.

Council member Ryzanych told Mr. Burns that is a good idea to bring some options in regards to the color scheme. See the McDonald's and 76 gas station for ideas.

Council member Moore said that with the concessions made it should probably be brought back for public hearing unless something more specific can be agreed to although he is sensitive to the fact that budget is an issue, designing by committee often times is a tough way to go. The Council will give him enough direction.

Council member Sadoff said that the main sign appears to be too big.

Ms. Urzua told Council members that this site development review is specifically for the reopening of the gas station and according to the planner the applicant is willing to come back with signs and all those details and proper designs. Council member Moore said that the Council's primary decision tonight will be whether or not we can extend the pre-existing non-conforming use or in conformance with the specific plan as the land use issue, all site development review issues as far as aesthetics and stuff will be brought back to the Council. Ms. Urzua said yes.

Public testimony was called for. No public testimony submitted.

Council member Miraglia asked for clarification on the scope of the SDR petition and opined that the SDR should entail the details of the signs and site design as well.

Council member Frank asked about scheduling for a hearing. Mr. Burns said he can return in 30 days and asked if he can have the support to open his station

Council member Moore told Mr. Burns that he is generally in favor of the project if the project has positive attributes. He also would like to ask the Council to try to give more specifics with regard to changes to the driveways, and landscaping. He would like to see more landscaping along Castro Valley Boulevard, removing the 5th parking space, slurry coat on the asphalt, canopy detail, mounding on the landscaping, trim details, and brake metal.

Council member Miraglia also referred to the color scheme used on the McDonald's property. She would like to see awning, ledger stone, and supports on the sign.

Council member Sadoff said he would like to see options on the signage.

The item was continued to a date to be determined.

4. **TENTATIVE TRACT MAP, PLN TR-7946 – JOHN LANGON** – Application to subdivide an approximately 5.2 acre site into nine lots to allow the construction of nine single-family dwellings, in an Planned Development (Zoning Unit ZU-1529) District,

located at Jensen Road, east side, one mile northeast of East Castro Valley Blvd., in the Castro Valley area of unincorporated Alameda County, designated Assessor's Number: 085A-6402-031-02. **Staff Planner: Howard Lee**

Ms. Urzua summarized the staff report. Ms. Urzua said that this project is brought before this Council for its feedback. It is not considered complete for the purposes of CEQA and Streamline Permit Act and the Regional Storm Water Permit.

Council member Moore saw the biggest issue to be the lot size consistency policy but also noted the absence of a biological assessment and a storm water treatment plan. He told the applicant that the Council can take public testimony.

John Langon, applicant, said that he was under the impression that the application was complete. He gave a brief explanation of the process he went through to have the project ready. He explained that 16 testing pits were required by the Grading Department. With regards to the zoning, he stated that several planners told him the zoning was for ½ acre lots.

Council member Moore asked Mr. Langon that, given the miscommunication regarding the incomplete status of his project, would he want the item discussed at the meeting even though the Council will not make a decision tonight, it will only take testimony. More exchange occurred regarding the difference between the zoning designation and the lot size consistency.

Public testimony was called for.

Lee Shilts, resident at 20320 Hunters Knoll, spoke against the project. He supported the 1 acre lot size.

Mike Deigert, resident at 5622 Jensen Rd., also spoke against the project as it was inconsistent with the 1 acre lot sizes. He also raised a concern with the applicant's decision to strip the lot. He also stated that the applicant had to hydro seed the lot.

Gilbert Peterson, resident at 5695 Jensen Rd., urged the Council not to approve this particular project. He expressed concerns with the lot size consistency and the applicant's decision to strip the lot.

Victor Brenes, resident at 5855 Jensen Road, said that he is concerned about the ability of the narrow road to support increased traffic. He also had a concern about the sewer line.

Cossette Sun, resident at 5895 Jensen Road, spoke against the project. She is concerned about the number of lots and also had concerns about conditions during construction.

Larry Kuzni, resident at 21454 Knappe Place, spoke against the project. He supported Ms. Sun's comments and added the concern about stop signs to address more traffic.

Public testimony was closed.

Council member Moore read two letters, one from Bruce Conway, resident at 5720 Jensen Road, who opposes the project and is also concerned about safety. The other is

from James Knuppe, resident at 4545 Crow Canyon Place, supports the project and stated that the proposal is a good idea and the property was an eyesore. Both letters were entered into the record.

Mr. Langon disagreed that the lots should be one acre. He stated that Jensen Road has less than 100 houses. He stripped the lots under advisement of the grading inspector. These will be custom homes, not a tract.

Council member Frank asked Mr. Langon about the sewer line and pressurized system. Mr. Langon said that the system was put in about 7 years ago. An easement went in some of the neighbors.

Council member Miraglia asked Mr. Langon how far back the gate would be. Mr. Langon said 50 feet.

Council member Moore asked if each home would be required to go through a site development review. Mr. Langon said yes.

Council member Frank said that the bulk of the homes there are 1 acre but the homes that Mr. Langon is trying to build are custom homes. The question still remains about how strong is ZU-1529 unit versus what you find up and down Jensen Road, he asked if it was an exception because its proximity to the Jensen development. He requested more information on that. Ms. Urzua referred to page 9 of the staff report, under "Conformance with the Zoning Ordinance" paragraph.

Council member Nielsen asked if this was a regulation or a recommendation to staff. Ms. Urzua said that per the Zoning Ordinance, the actual minimum lot size for this zoning is 5,000 feet.

Council member Moore concurred with Council member Frank and asked if whether the zoning unit or the lot size consistency policy carried more weight.

Council member Miraglia said that the underlying zoning is a minimum requirement. The lot size consistency applies even if the underlying zoning is much less. The policy is to follow the lot size in the area. She also advised staff to review the Canyon Area Plan.

Council member Nielsen expressed concern that Mr. Langon has progressed this far given the precedent that the Council stay behind of lot size consistency in neighborhoods.

Council member Miraglia said that the biological resources analysis is absolutely critical and she thought that the Council should not be looking at this without proper environmental review. She said she was appalled that the property was totally stripped. She also stated that the property could support four or five lots at a maximum.

Council member Sadoff said that it is disingenuous to state that you have to completely strip a property to have a drill or an excavator in there.

Council member Nielsen said that if the Council gives Mr. Langon guidelines as far as the lot size consistency that would have the most impact on this development.

Council member Moore suggested that Mr. Langon come back. He also expressed concern that the applicant got this far with the lot size consistency issue.

Council member Frank asked about the history about the zoning unit.

Ms. Urzua provided some background on zoning units in general. Zoning units are also consistent with the general plan. Council member Frank asked what is the findings of the County with respects to the zoning unit because one overrides the other whether there is inconsistency. Ms. Urzua said that typically the general plan is broader than the zoning unit. The one acre is the one that the staff analysis concluded was the median lot size.

Council member Moore said that the Council cannot make a decision on this tonight. He noted the need to further discuss and clarify whether the ½ acre set forth in the zoning unit or the one acre size under the lot size consistency policy would apply here. The Council can certainly ask for clarification to be brought back to us next time.

Mr. Langon said he went several times and talked to four different individuals in the Planning Department all the way from the top talking to everybody to make sure this was what it was and they told him it was a half acre. If it was going to be a half acre, this is what it was zoned for. Council member Moore asked Mr. Langon if he was aware of the lot size consistency policy. Mr. Langon said yes. He said he had three meetings with Phil Sawrey-Kubicek. This was their interpretation and what was zoned for.

Council member Nielsen told Mr. Langon that there have been dozens of lot size consistency decisions made by this Council, substantiated through the Board of Supervisors and the lot size consistency has been the norm.

Council member Miraglia said she is glad to see the Council is going to get a clarification on the issue. Looking into history, the way she saw it in 1993 when Shapelle was approved most of their lots were much more smaller, they recognized that since this was closer to Jensen where the average lot size was one acre that they made half an acre, but then the lot size consistency policy came into effect after that. In her estimation that trumps the other.

Council member Moore said that this project was brought to the Council incomplete. The Council has a major issue on the lot size consistency that can significantly impact the decision on how the Council wants to move with this. If it gets brought back to the Council just for the lot size consistency for a informal read, he would generally support that but he wanted to make sure that the Council is not going to hear public testimony again on all other issues, the Council will just deal with lot size consistency then it would go and have a full application with all the biological, drainage and grading plans, everything done so the Council has sufficient information to take action on.

Council member Sadoff asked that the biological study encompass the two adjoining properties as well.

Council member Moore said he would like to continue this with two clarifications for next time: a reading on a lot size consistency specifically to determine if the 1529th Zoning unit and the lot size consistency policy have any interaction that is other than the Council's normal interpretation of the lot size consistency and then clarification on the

due that the unusual fact that the site was stripped, what impact, if any, does it have on the biological assessment for the site in order to be deemed complete when it comes back.

This item will be continued to a date to be determined. Neighbors will be re-noticed.

F. Chair's Report – None.

G. Committee Reports

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

H. Staff Announcements, Comments and Reports

I. Council Announcements, Comments and Reports

J. Adjourn

Council member Sadoff moved to adjourn in honor of the slain Oakland Police Department officers including Castro Valley resident Sergeant Daniel Sakai. Council member Cunha seconded. Motion carried 7/0. The meeting was adjourned at 8:39 p.m.

Next Hearing Date: Monday, April 13, 2009