

SUMMARY MINUTES OF MEETING
CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL
MARCH 22, 2021
APPROVED MINUTES

The Regular Virtual Meeting was held at the hour of 6:00 p.m.

REGULAR MEETING: 6:00 p.m.

MEMBERS PRESENT: Chair Carbone, Members: Moore, Mulgrew, Padro, Prokopoff, Killebrew and Thomas.

MEMBERS EXCUSED: None

OTHERS PRESENT: Nisha Chauhan, Senior Planner; Heather Littlejohn, County Counsel; Michael Flemming, Christine Greene, Planning Staff; and Jazmin Sanchez, Recording Secretary.

CALL TO ORDER: The meeting was called to order by Chair Carbone at 6:00 p.m.

ROLL CALL: Chair Carbone, Members: Mulgrew, Moore, Thomas, Padro, Killebrew and Prokopoff.

SUBCOMMITTEE UPDATE: The Chair said there have not been any meetings.

SAFE PATHWAYS TO SCHOOL – None.

AD HOC SUBCOMMITTEE ON CITY OF HAYWARD / 238 PARCELS – Shannon Killebrew said she attended a meeting with the County and the City for an update on the project. The City is planning to build 96 units of affordable housing on their parcel. There were three scenarios presented for the County owned parcels. The first one is to rehabilitate the units that are there; the second scenario is to create a land trust and the third one is to demolish the existing apartments and build senior housing. Albert Lopez said that in the past the Planning Commission had meetings on the various parcels. There have been discussions with the City with regards to expressed concern by the City on rezoning the parcels. There seems to be support for the City project. There have been some controversy with other housing projects and this one could potentially have some issues regarding rezoning. Staff will be looking at the zoning for these parcels and doing community outreach for future plans.

OPEN FORUM – Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes. – The Chair let the speakers know that this is only for items that are not on the agenda.

Public comment was open.

Carter Heming spoke on behalf of Castro Village. He gave an update on new leases to tenants for the village, which includes restaurants and a bakery. He said they will periodically give the MAC updates on what is going on at the village.

Tyler Dragoni asked Shannon Killebrew to come to the Eden MAC for an update on the 238 parcels.

Public comment was closed.

APPROVAL OF MINUTES – *February 8, 2021. Member Prokopoff moved to approve the minutes as submitted. Member Moore seconded. Nisha conducted the roll call. Yeas: Members Carbone, Padro, Moore, Prokopoff and Thomas. Member Killebrew and Mulgrew abstained. Motion passed 5/0/2*

CONSENT CALENDAR - No items.

REGULAR CALENDAR

PLN2020-00255 CONDITIONAL USE PERMIT, MIMI ALBERT, ADVENTURE TIME- Application to allow continued operation of a childcare facility for 70 children at 20001 Carson Lane, south side, 700-foot east of the convergence of Glenwood Drive and Carson Lane, unincorporated Castro Valley area of Alameda County, designated Assessor's number: 085A-6402-028-00. This project is Categorically Exempt from the requirements of the California Environmental Quality Act; Article 19, Section 15301, Class 1, Existing Facilities, involving negligible or no expansion of a use beyond that existing at the time of permit application.

Staff Planner: Michael Flemming – **Action Item**

Michael Flemming presented the staff report. Staff recommends that the Castro Valley Municipal Advisory Council recommends approval of the application to the West County Board of Zoning Adjustments.

Member Padro moved to approve PLN2020-00255 with the conditions of approval. Member Thomas seconded the motion. *Nisha conducted the roll call. Yeas: Members Carbone, Padro, Moore, Prokopoff, Killebrew, Mulgrew and Thomas. Motion passed 7/0.*

PLN2020-00145, CONDITIONAL USE PERMIT, HAYWARD AREA RECREATION DISTRICT / MMI TITAN INC., CROWN CASTLE – JUSTIN ROBINSON – Application to allow continued operation of an existing wireless telecommunication facility (Italian Cypress), in a R-1-SU-RV (Single Family Residential, Secondary Unit, Recreational Vehicle) District, located at 3541 Quail Avenue, south side, 50 feet, east of Lake Chabot Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1305-003-02. The project is Categorically Exempt from the California Environmental Quality Act, Article 19, Section 15301, Class 1, Existing Facilities. **Staff Planner:** Christine Greene – **Action Item**

Christine Greene presented the staff report. Staff recommends that the Castro Valley Municipal Council recommend approval to the West County Board of Zoning Adjustments for the conditional use permit, allowing the continued operation of the wireless telecommunication facility based on the drawings "Exhibit A" on file with the Planning Department including a ten year expiration date. If the Council determines that the facility is appropriate, the enclosed conditions of approval should be considered. Staff asked for a maintenance plan which requires weekly inspection of the facility, and minor repairs to be done within a week of notification and major issues to be addressed within 90 days of reporting.

Member Moore said the photos of the site do not look appealing. He asked if the applicant was asked to fix the facility. Staff said they were notified but never addressed the maintenance issue. Member Moore said this is unacceptable. Member Mulgrew said the staff report, condition #9 was not met. Staff said it is an honor system and it is up to the applicant to submit a status report. The applicant just submitted a report. Member Mulgrew said pieces of the tree fall all the time and asked about danger to the public from falling pieces. Staff said she was not aware of anyone getting hurt. Member Thomas said this is a major company and they should make sure that it is maintained.

Public comment was open.

Peter, neighbor that lives across the street, said the neighbors were assured that this would absolutely be maintained. The past tree was replaced with this current tree. They do maintenance only to make sure that the facility is working and not to fix the tree. The tree is an eyesore. These major companies are not meeting their responsibility. He suggested to give them just six months or a year until they fix it.

Justin Robinson, the applicant, apologized for the lack of maintenance. He said Crown Castle has recently taken over the management of this facility. Crown castle has corrected some of the issues with this tree.

Public comment was closed.

Member Moore asked Justin how long he has been in charge of this project. Mr. Robinson said since the end of last year. Member Moore expressed concern with changing of staff and upkeep of the facility. Mr. Robinson said they will provide staff with a 24-hour phone number for company contact. Member Moore asked if there is a way to require a bond. The chair said the problem with this project is that it is not being maintained and there has to be some responsibility and the applicant held accountable. Heather Littlejohn, County Counsel, said the conditions of approval are appropriate and it can be enforced in order to bring them to compliance. The bond is an interesting option and see no legal reason not to have it. If there is a safety issue, there needs to be evidence on file to support it. Rodrigo Orduna said the council may consider a shorter time for the conditional use permit to make sure that the company complies with all conditions.

Discussion ensued amongst councilmembers and County Counsel related to lack of maintenance and how much time to give the current operator to make the repairs.

Mr. Robinson asked for 90 or 120 days for repairs. The Chair suggested giving the applicant a year permit and 120 days to make the repairs. If they meet all conditions, they may come back in a year for the ten-yc gear permit.

Member moore moved to approve PLN2020-00145 with changes to the term of the permit to a year, and giving the applicant 120 days to fix the facility. Christine Greene said condition #22 should read the permit shall expire within a year, and repair to be done within 120 days, conditions #21 instead of 90 days, it should read 120 days for maintenance. Member Padro seconded the motion.

Nisha conducted the roll call. Yeas: Members Carbone, Padro, Moore, Prokopoff, Killebrew, Mulgrew and Thomas. Motion passed 7/0.

PLN2020-00155, SITE DEVELOPMENT REVIEW AND CONDITIONAL USE PERMIT, ROLAND P. WILLIAMS/CASTRO VALLEY SANITARY DISTRICT (CVSAN) – Site Development Review and Conditional Use Permit to allow construction and operation of administrative offices, a service, maintenance and corporation yard at 21195 Center Street, unincorporated Castro Valley, at APNs 084C-0650-001-03 and 084C-0650-002-04. The proposed project would include an approximately 20,000 sq. ft., two-story building that would provide office space and other facilities such as equipment storage, conference rooms, employee amenities, and a public counter for CVSan staff to interact with the public. The project would also include vehicle parking and maintenance facilities and a separate building to house chemical products, paint, and emergency fuel. The applicant would provide 72 parking spaces. Pursuant to CEQA guidelines the applicant, serving as the lead agency has prepared a CEQA IS/MND, approved by the agency Board of Directors.

Staff Planner: Nisha Chauhan – **Action Item**

Nisha Chauhan presented the staff report. The staff report has been updated to include comments from past meetings. The staff report also includes results from a neighborhood meeting of the Sanitary District with some of the neighbors and Member Moore. The design and layout of the project are consistent with the Castro Valley General Plan, the development standards of this code and any approved design guidelines. The project meets the findings of the conditional use permit. The recommendation is for Council to review the site plans and the staff report, take public comment on the project, deliberate as to the merits of the project, and provide a recommendation regarding the project.

Member Moore asked about light duty vehicle. Is it being judged by weight, size or axle, and also what is light duty maintenance. He asked for legal definitions of light duty. The front of the building is great, but there are no pictures of the side of the building and what the industrial building looks like in the back. Staff said they do not

have a definition for light duty vehicle maintenance. Member Moore said the two vehicles he has seen are not light duty. The Chair said these are questions for the applicant. Member Killebrew asked about the history of the rezoning for this area. It seems that this parcel was rezoned as Public Facility. Albert Lopez said the Castro Valley General Plan included some rezoning for a lot of parcels. This parcel was designated as Public Facility and most likely related to the previous use. In 2020 there were a lot of meetings related to rezoning for a lot of parcels in Castro Valley. Albert Lopes said the minutes reflect the discussion during those meetings. After the CVMAC recommendations the item went to the Planning Commission and then the Board of Supervisors. The Board decided to require a conditional use permit for public facilities to address some of the community's concern. There was a list of type of vehicles that are going to be at this facility, but predominantly they have light use trucks and there is not going to be heavy maintenance for the trucks. In the packet there is a description of the vehicle maintenance and it is considered light duty.

The Chair asked that staff address the request for a summary of what happened at previous meetings. Nisha Chauhan said there are comments in the staff report and she has also included the minutes from previous meetings. The Chair asked the applicant to explain vehicle maintenance.

Roland Williams, General Manager for the Castro Valley Sanitary District, said the presentation will answer a lot of the questions the council brought up at the previous meeting. The District had a meeting with some of the neighbors and Member Moore. The presentation will also address some of the concerns expressed at that meeting. This project has been in the works since 2013. The District has outgrown the current location on Marshal Street and for efficiency it needs to have the operation and staff under one roof. At the meeting with the neighbors there were some concern with the trees on the west side of the property and the utility lines. The preliminary plan in 2017 was brought to this council and the current plans reflect changes to address input at the previous meetings by the council.

Stephanie Fujimura showed the design of the building presented in 2017. At the time the Council expressed concern with the industrial look of the building. This is not an industrial use. The Design Guidelines were not yet in place when this application was submitted, but the District was open to make changes with more contemporary features. She addressed the noise concern from the neighbors and the sound wall to be built to minimize any noise from the facility to the neighbors. Landon Lochrie addressed the concern expressed by the council at the February 2021 meeting. They included noise, maintenance, soundwall, utilities near the property line, future changes to the site, maintenance of trucks, noise of large vehicles, and the environmental report. He spoke of the operating hours for the facility. All vehicle repairs are done by an outside party. Vehicle maintenance done at the site includes safety inspection, tire pressure, fluid levels, batteries, etc. No jacks or lifts are used at this facility. The district does have a variety of shop tools and the district is committed not to use them before 8:00 a.m. to address noise concern from neighbors. The vehicle bays are about 100 feet from the neighbors. The Sanitary District conducted noise tests. The district will adjust the solid waste pick up to minimize noise, noise silencers will be installed for the stand by onsite generator, and build the sound wall prior to construction. The district will meet with the neighbors to review the sound wall design and landscape. There was some concern with trees near utility lines for the neighbor. He shared photos of vehicles used by the district.

Roland William said the trucks weigh less than 30,000 and the only one that is heavier is the Vac-Con truck. The District has been working on this project for about 11 years. The current design is the best for this location. He said the District is committed to not have no more than three axle vehicles or larger on site. The vehicles need to be ready to go for routine or emergencies in the community. The District is mandated to have the quickest response possible, ready to roll out. There will not be any lifts on site. The District is willing to have a

neighborhood committee during and after construction that could meet once a year or more often to discuss any concerns.

Public comment was open.

Hera Alikian, owner of the mobile home park behind the proposed project, thanked the Sanitary District for including and considering the issues they raised at the meeting. The only concern she has is with the sound wall, which looks like an eight-foot wall and taking into consideration the slope from the District's parcel, this wall will be approximately 11 foot high. She wants to know if it can be 6 to 8 ft high. She also asked for a 24 hours phone number the tenants at the mobile home park may call if they have any issues during construction. She asked for a definition of a maintenance yard and where does that fall under the zoning. As far as future use for the site, she would like some language specifying the use so as not to have any future issues with the facility.

Gary Wolf, a resident of Castro Valley for 17 years, supports this project. He is a licensed Environmental Engineer with 36 years of experience and would like to tell a story that is relevant to tonight's decision. He has worked for the State and San Francisco Bay Water Board and dealt with sewer/water regulation. He said in the past, during a heavy storm, water would be mixed with sewage causing a lot of health problems. Sewers are a vital infrastructure in the community. It needs to be maintained and the district has to abide by very strict rules. An effective sewer requires trucks and a close location to serve its community. This is one of the main reasons for this facility, it will help the community keep it safe from disease. The community should not be caught up in the details. Overall the council needs to look at the benefits to the community.

Alan Brown, neighbor of the current facility on Marshall Street, said he has lived at this location for the last 23 years and the Sanitary District has been a fine neighbor. Zero factor as far as noise is concerned. The garbage trucks make more noise and so does the constant noise from I-580 traffic. After hours there is no noise. No issues over the years. If there is an issue, I just drop by and it is taken cared of. He is in favor of the project.

Lily Flagg, a member of the Sanitary District Advisory Committee, supports the project. The district serves this community, it takes care of this community. The district is a good neighbor and there is no reason to believe their behavior will change. The location on Center St has been an eyesore for years, this project will improve that site and the entrance to the community. This makes sense for the District and our community. Strongly urges the council's support.

Public comment was closed.

The Chair said the comments have been misleading. The council knows that this project will be a benefit to the community and the corner. The design team has done a great job, but there is a need to look at the overextended service bay in the back. The building appears to be an industrial building, the meeting space is not in question. There is a need to fine tune this project and move it forward.

Member Thomas thanked the architect for the presentation. He questioned the comment from Bonnie Terra on the referral letter dated February 10th and some concerns the Fire Department had with the project. Staff said the concerns have been addressed and the plans have been revised to meet the Fire Department's requirement.

Member Moore expressed the following comments regarding the proposed project:

- Nice design and landscape
- Back side of building looks industrial

- This corner is the entrance and exit to this community
- Concern with creating a precedent for future projects on the Boulevard
- Concern with allowing industrial use on the boulevard
- Need to have a standard
- Sanitary District emergencies are not the same as Fire Department's
- The exhibit does not show back side of building
- District needs to show other communities with facilities such as this one in the main boulevard in town
- Not right location for this facility

Member Mulgrew asked about the fuel and other chemicals stored on site. Mr. Williams said a small amount of fluids are kept in the storage shed located in the back of the lot. Member Mulgrew asked about the rent paid at the village. Mr. Williams said it is about \$5,300 a month. Mr. Mulgrew said he wanted to speak for the ratepayer. This is a well designed project, but a luxury project. The District is paying \$60,000 per year against a project that will cost 15 million. The district is providing a service now and does it well at the current location and this project is costly. Member Williams said the District ran the numbers and it is cost effective. He offered to share the reports with him.

Member Prokopoff said a lot of the comments are about the long-term use of this property. The idea of a commitment of a three-year term for community meetings is not sufficient. This building is being built for growth. What assurances can the District provide that the operation will not outpace the nature of the neighborhood. Mr. Williams said the design of the building is for room to grow. The District has outgrown the current location and the District expects that growth will depend on requirements from the regulators.

The Chair spoke on the maintenance to the trucks and the maintenance for the large trucks is done off site at a third party. He said there is not an objection to the design of the building at the front of the property, but he expressed concern with what part of the building could be seen from Castro Valley Boulevard. The concern is with what people can see when driving on the boulevard. He asked the architect if they can come up with an exhibit that shows what people see when driving on the boulevard. Stephanie Fujimura said the back of the building is blocked by the apartment building. They can only see the front of the building. She also addressed Member Moore's concern with having the building at this location and that other cities do not have such a building on a boulevard in town. She mentioned that the City of Dublin's building is on Dublin Boulevard. Member Moore said that is not true, it faces the freeway and the service yard where all the maintenance is done is down by the freeway from the site.

The chair said he created a punch list as follows:

- Need elevation from Castro Valley Blvd
- Show parking for trucks
- Six bays may not be necessary but it keeps trucks from elements
- Doors should be removed on three of the six bays to minimize industrial look
- Leave one single door on one of the bays
- Storage for service items is necessary
- The definition of service vehicle needs to be defined
- Maintenance of trucks off-site need to be specified in conditions of approval
- Enclosed work area is important, keep one bay with a door
- Storage of large vehicles could be done off-site
- Concern of neighbors is first and foremost

Member Moore added to his initial concern with the site:

- Outdoor truck wash area looks industrial
- Cresco and rental yards use this type of wash racks
- It will generate a lot of steam and water
- The spray wash is industrial, not typical wash rack
- Need to clarify how often spray wash will be used
- When lumber yard goes away, what if someone comes with industrial use application
- Agree with consolidation, but this building does not belong at this corner
- Consolidate everything but maintenance and service to the vehicles
- The boulevard deserves better than industrial use
- Okay with a carport with awnings to park trucks in the back and not inside
- Wash rack needs to be removed
- Concern with noise when trucks backing up from parking bays

The Chair said the elephant in the room is the public facilities definition, what happens now with such site as the one on Center Street for EBMUD, they use that site for water trucks. Albert Lopez addressed concern with setting a precedent at other locations in Castro Valley as the chair mentioned the EBMUD site. Albert said he is not familiar with the EBMUD site but there are very few parcels zoned public facilities. Each project has to be evaluated on its own merit. It does not mean that the decision made on this project will be the same for another future project. If it is a code enforcement issue, that is a different process. If EBMUD is using the site inappropriately then Code Enforcement needs to be contacted and a complaint filed.

The Chair read the comment from Guy Sandoval and the view of the building from the boulevard. The Chair said something needs to be done about the industrial look and use of the building. Stephanie Fujimura asked if Member Moore could define “industrial” look and what would make it not an industrial look. Member Moore said it is an industrial use when the building has metal doors for the parking bays and it has a wash rack. For a non-industrial, the rolled-up doors need to be removed and no wash rack. This guarantees down the road that there will not be an air compressor installed, changing tires and servicing the equipment. The Chair said there are two things going on here and the building could support a service yard. Member Moore said any vehicle over 26,000 pounds is an industrial vehicle and certainly anything over 30 foot in length. He said if the front of the building is taken away and leave the metal building, the back side is an industrial building, it is a service yard. The Chair said remove the wash rack and four the bays and just have covered parking for the trucks.

Member Killebrew has not problems with the design but wanted to address the chemical storage and if the District could have a specific list of chemicals. Also, it would be good to have assurances that there will not be growth, having more employees is one thing, but more service trucks is a concern. Need to have a specific list of what is going to be stored at the site. Roland Williams said he is not sure about the concern with the designation for the parcel as public facilities, because there are not other properties with this designation on the boulevard. The Chair said the comment was the comparison as it relates to the boulevard and would this same building be allowed to be built on the boulevard. He said the reason that the public facilities was created is because of the abuse from the school districts in the past. Albert Lopez said there are no other Public Facilities zoning on the boulevard. This site is a unique site. The Chair said there was a big investment for the boulevard and the challenge is the back piece of this project. He asked Member Moore if the changes were made, how would he feel about the three axle vehicles. Roland Williams said the District does not own three axle trucks. There are three water trucks. He said he does not anticipate the need to buy anymore trucks.

Member Padro understands the concerns from both sides. Bottom line is based upon on what the council heard, what would be a deal breaker and how can we make this work without having to go back to the drawing board. Roland Williams said the wash rack can be pulled. Member Padro that is a huge step. He asked council about the roll up doors and that at the meeting with the neighbors they requested that the bays have doors to minimize the noise. This might be a deal breaker for them. All the trucks are very expensive and keeping it in the building is important and adds service life. Member Padro said it is to the best interest of the District to keep the doors maintained.

The Chair said he has installed the rolled-up doors before and they are very noisy. They make more noise than the trucks. Member Moore said there is not a ventilation system in the parking bays and to run them inside they have to have one. Mr. Williams said in the morning they open up the doors before they start the trucks. Member Thomas said, does taking the wash rack out, does that solve the issue of making it not industrial. The Chair said that is just one piece of it.

Roland Williams asked if the council could encapsulate the recommendation so that this project may move forward. The Chair said no, because the council's recommendation will be ignored. The council needs to have a new drawing showing what it will look like and a formal application.

Member Moore said he wants the inspection of the trucks to be as described in the DMV description on the back of the Class A Driver textbook. That would be acceptable.

Roland Williams said this is just an inspection they do every morning for their trucks and not sure why it needs to be a condition, it is a walk around. The Chair said the decision to be made is to remove the industrial piece of the building and allow put four carports, drive thru and it can be the same way and remove the doors and remove the wash rack. Staff said Member Killebrew asked for a list of chemicals kept on site. Roland William said some of these things the council is asking are things that are regulated by other agencies such as the Fire Department and not sure why this needs to be a condition of approval. These things are already being done on a yearly basis to comply with state regulations. The architect asked if it would be okay to keep the doors on the bays and dressed up the back side of the building. The Chair said no, needs to have a drive thru bay, the building can stay the same but remove the doors. The architect asked if the storage one keep the doors. The Chair said yes, maybe even wider and the other four bays open. The architect said there are six bays. Two bays for maintenance and two bays open. She asked how they should respond to the neighbors in response to their wish to have doors. The Chair said the doors are very loud, louder than the trucks, it will eliminate this from becoming something else other than what is being proposed. The architect asked if it could be a condition of approval. The Chair said no, it is not going to happen.

The Chair listed the following requests:

- Basic maintenance description and what is not done on site
- Remove rolling doors from three of the bays, total of six doors
- Keep doors on the fourth bay closest to the building
- Building may remain the same
- Bay with the door may be made larger
- Rolling doors are noisy

Roland Williams asked that the turnaround be quick as they have been working on this project a while. The Chair asked Nisha to repeat the main points expressed by councilmembers.

Nisha stated the following:

- Have a definition of maintenance at the site
- Truck maintenance to occur off site
- Use definition of DMV maintenance
- Remove the car wash rack
- Okay to have welding tool for indoor use only
- Remove six rolling doors, three on each site
- Keep one rolling door, one on each side, and they may be larger
- Need elevation of the building from the boulevard
- Projection from the district on future truck needs

Member Moore made a motion to continue item PLN2020-00155. Member Padro seconded the motion. *Nisha conducted the roll call. Yeas: Members Carbone, Padro, Moore, Prokopoff, Killebrew, Mulgrew and Thomas. Motion passed 7/0.*

CHAIR'S REPORT: None

COUNCIL ANNOUNCEMENTS, COMMENTS AND REPORTS: None.

STAFF COMMENTS & CORRESPONDENCE: None

ADJOURNMENT: There being no further business, the hearing adjourned at 9:30 p.m.

ALBERT LOPEZ - SECRETARY
CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL