

**MINUTES OF MEETING**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**SEPTEMBER 10, 2008**  
**(APPROVED 09-24-08)**

The meeting was held at the hour of 6:00 p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward, California.

**FIELD TRIP: 1:00 p.m.** The Field Trip was cancelled. Members visited properties on an individual basis.

**MEMBERS & STAFF PRESENT:** None.

**MEMBERS EXCUSED:** Chair; Jewell Spalding; Vice Chair, Frank Peixoto; Members, Dawn Clark-Montenegro, Kathy Gil and Ineda Adesanya.

**FIELD TRIP:** The Field Trip was cancelled. The following properties were visited on an individual basis.

1. **BAY GOSPEL HALLS, CONDITIONAL USE PERMIT, C-8738** - Application to allow continued operation of a church in an R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, Recreational Vehicle) District, located at 4035 Seven Hills Road, south side, approximately 180 feet east of Parsons Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1342-004-03. **Staff Planner: Christine Greene.**
2. **JOSE & GUILLERMINA RAMIRO, CONDITIONAL USE PERMIT, C-8747** - Application to allow continued operation of a tavern (Stadium Club), in an ACBD – SP – TC (Ashland and Cherryland Business District Specific Plan-Transit Corridor) District, located at 15698 East 14<sup>th</sup> Street, east side, corner north of Plaza Drive, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080-0034-007-00. **Staff Planner: Richard Tarbell.**
3. **ALI REZA / MASOUDI-MOFRAD, CONDITIONAL USE PERMIT, C-8753** - Application to allow an auto sales business in an ACBD – SP – TC (Ashland and Cherryland Business District Specific Plan-Transit Corridor) District, located at 16230 East 14<sup>th</sup> Street, approximately 240 feet south east of 162<sup>nd</sup> Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080-0063-038-00. **Staff Planner: Damien Curry.**
4. **STEVEN HATHCOX, VARIANCE, V-12124** - Application to allow a side yard setback of 17.25 feet where 20 feet is the minimum required with the construction of an attached addition in an R-1-L-B-E (Single Family Residence, Limited Agricultural, 5 acre Minimum building Site Area) District, located at 27640, east side, approximately 300 feet south of Oakes Drive, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Number: 085A-6200-015-00. **Staff Planner: Damien Curry.**

**REGULAR MEETING: 6:00 p.m.**

**MEMBERS PRESENT:** Chair, Dawn Clark-Montenegro; Vice Chair, Kathy Gil; Members, Jewell Spalding and Ineda Adesanya.

**MEMBERS EXCUSED:** Frank Peixoto.

**OTHERS PRESENT:** Phil Sawrey-Kubicek, Senior Planner; County Counsel, Andrea Weddle; Yvonne Bea Grundy, Recording Secretary.

There were approximately 9 people in the audience.

**CALL TO ORDER:** The meeting was called to order by the Chair at 6:07 p.m.

**ANNOUNCEMENTS BY THE CHAIR:** The Chair made no special announcements.

**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.

No one requested to be heard under open forum.

#### **NEIGHBORHOOD PRESERVATION ORDINANCE ABATEMENT HEARING**

1. **VIRGINIA A. OREAR, 2959 East Avenue, Hayward, CA 94541**  
In violation of Alameda County Ordinance Section 6.65.030 D (1), D (2), D (3) and M (1).
  1. Tall weeds and overgrown vegetation.

Member Adesanya moved to uphold the staff recommendation. Declare the property a public nuisance, and require abatement to be completed within 10 days. Member Spalding seconded the motion. Motion carried 4/0. Member Peixoto was excused.

2. **SERGIO VAZQUEZ 181 Laurel Ave., Hayward, CA 94541**  
In violation of Alameda County Ordinance Section 6.650.030 A (1 & 2) and M (1).
  1. Debris, furniture and miscellaneous items store in rear yard.

Member Spalding motioned to uphold the staff recommendation. Declare the property a public nuisance, and require abatement to be completed within 10 days. Vice Chair Gil seconded the motion. Motion carried 4/0. Member Peixoto was excused.

3. **MOHAMMAD MADRASWALA, 20378 Stanton Ave., Castro Valley, CA 94546**  
In violation of Alameda County Ordinance Section 6.650.030 D (1 - 3) and M (1).
  1. Overgrown vegetation & weeds in rear yard.

Vice Chair Gil motioned to uphold the staff recommendation. Declare the property a public nuisance, and require abatement to be completed within 10 days. Member Adesanya seconded the motion. Motion carried 4/0. Member Peixoto was excused.

4. **HARVEY G OTTOVICH TR, 303 Laurel Ave., Hayward, CA 94541**  
In violation of Alameda County Ordinance Section 6.650.030 F (6) and M (1)
  1. Graffiti on fence facing Princeton Street.

Member Spalding motioned to uphold the staff recommendation. Declare the property a public nuisance, and require abatement to be completed within 10 days. Member Adesanya seconded the motion. Motion carried 4/0. Member Peixoto was excused.

**CONSENT CALENDAR:**

1. **T-MOBILE / HARD, CONDITIONAL USE PERMIT, C-8734** – Application proposal to replace an existing 25 foot light pole with a new 35 foot pole with lights and four concealed antennas. A new equipment enclosure is also proposed to be located nearby. The subject parcel contains approximately 0.91 acres and is zoned R-1-CSU-RV (Single Family Residence, Conditional Secondary Unit, RV Parking) District, located at 18988 Lake Chabot Road, east side, north east of Keith Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084D-1305-012-00. (Continued from July 9, 2008; to be continued to November 5, 2008). **Staff Planner: Jeff Bonekemper.**
2. **ANIL SINGH, CONDITIONAL USE PERMIT, C-8737** – Application to allow the expansion of an auto repair facility in the CN District (Commercial Neighborhood) District. Applicant requests an existing two car canopy and a 40 foot container unit be allowed to remain on the subject property, the subject parcel contains approximately 0.24 acres and is located at 19592 Center Street, east side, corner of Edwards Lane and Center Street, unincorporated, Castro Valley area of Alameda County, designated Assessor's Parcel Number: 084C-1062-024-00. (Continued from May 28 and June 25, 2008. (Continued from July 9, 2008; to be continued to October 8, 2008). **Staff Planner: Jeff Bonekemper.**

Member Spalding motioned to accept the Consent Calendar as presented. Vice Chair Gil seconded the motion. Motion carried 4/0. Member Peixoto was excused.

**REGULAR CALENDAR**

1. **ALI REZA / MASOUDI-MOFRAD, CONDITIONAL USE PERMIT, C-8753** - Application to allow an auto sales business in an ACBD – SP – TC (Ashland and Cherryland Business District Specific Plan-Transit Corridor) District, located at 16230 East 14<sup>th</sup> Street, approximately 240 feet south east of 162<sup>nd</sup> Avenue, unincorporated Ashland area of Alameda County, designated Assessor's Parcel Number: 080-0063-038-00. **Staff Planner: Damien Curry.**

Staff reviewed the application, and recommended denial. Initial Board questions were as follows:

- Is the project exempt from CEQA
- Was the site a residence prior to the current use
- What size vehicles will be sold at the lot

Staff confirmed the application was exempt from CEQA. The Applicant is not proposing new construction to the lot, or building. Staff was unsure of the complete history of the site. Most recently a roofing company occupied the site. It could have been a residence many years ago. The Applicant is present and can provide more information about proposed vehicle sales. Currently there are trucks stored

at the site. Public testimony was opened.

The Applicant, Mr. Mofrad presented photographs of the property to indicate the type of sales he would be conducting. He sells small and medium duty, pick-up trucks. There will be no large vehicles. The present site is directly across the street from his old business. Mr. Mofrad has done business in the Ashland Cherryland, business corridor for 30 years. Eight months ago the former site, 16305 East 14<sup>th</sup> Street was sold. Holland Oil owned the property. Mr. Mofrad conducted business at the site for 20 years. When his last use permit was renewed he inquired as to what would happen, if the property were sold. He said he was told he would just pay rent to a different landlord. Therefore he did not look for another site. The property was sold and he received an eviction notice, with threat of a law suit if he did not move. He had to auction off an inventory of 120 trucks, equipment, tools etc. at a huge loss. To make matters worse due to the economy. The auction did not pay him. The present site at 16230 East 14<sup>th</sup> Street was not available at the time. In the interim he has been doing business as a wholesaler on Industrial Boulevard, in order to keep his wholesale license active. Fortunately the site across the street is now available. Over the years he has contributed to the community. Mr. Mofrad said his business generated sales tax for the County. He has many repeat customers, contractors, plumbers etc., and has never been sued. He operates his business with dignity and integrity. Thus far he has not received an offer from the County or the School District for compensation. While maintaining his business across the street he patrolled the surrounding area for trash. Often he found needles and condoms. He has children too, and wants to keep the environment safe for everyone. Mr. Mofrad acknowledged that parks were needed but the community should also help the small business man. He asked the Board to reconsider the staff recommendation of denial. The business is the same type that he has always run. In addition to his auto sales business across the street, he had a business on the corner of Ashland Avenue and East 14<sup>th</sup>, for 11 years. There has never been a violation at his prior dealership with the Sheriff, Environmental Health or any other Agency. The only reason he is now looking for a new location is the School and Park Districts bought the old site. There had been discussion of the transaction for years. He did not look for another site because he was told it would be a while. He was surprised to receive a letter informing him of a law suit, if he did not move. Thankfully the site across the street, formerly occupied by Richard's Roofing became available. The working people in the neighborhood need dependable trucks.

Board questions were as follows:

- How is the property zoned
- Is Mr. Mofrad aware of the Redevelopment plans for the area
- What type of signage would be displayed

Mr. Mofrad told the Board that his car lot was much nicer than other lots in the area. He even plans to add more landscaping. The current sign is temporary, and will be replaced. There are 2 offices on the property that he has redecorated.

Staff said their position was not based on Redevelopment plans. The Ashland Cherryland Business District Specific Plan requires that all auto businesses be within an enclosed building. When the prior application for 16305 East 14<sup>th</sup> Street was before the BZA the Applicant was informed the permit length was for a period of 1 year, to allow him to find another site. The Applicant was told there was a pending deal to sell the property to Hayward Area Recreation District. Mr. Mofrad told the Board that he had been on a month to month lease for 20 years with Holland Oil. He was not notified directly about the sale. He saw a "For Sale" sign at the car lot behind his. A week later he received a stack of letters threatening a law suit. Mr. Mofrad said he did not see how a 120 vehicle inventory could be stored indoors. It would be impossible to erect a building to hold 50 to 60 vehicles at the site. Mr. Mofrad believed he deserved to stay in business. In his opinion, the County kicked him out of his other site. The County should now

assist him to remain in business, not push him out. Additional Board questions were as follows:

- Can Zoning for the site be changed
- Are all of the vehicles required to be stored inside of a structure
- Were recommendations offered from Redevelopment
- What were the sales volumes at the prior site
- Is business currently being conducted at the new site

Counsel believed the property would require re-zoning amendment to the Specific Plan, to allow auto sales with vehicles outside. A variance would not be the appropriate tool. However further research would be necessary to determine the appropriate mechanism. The staff report indicates that vehicles seen from the street should be in an enclosed building. Possibly vehicles that are not visible street-side could be stored on the exterior. Staff added that the intent of the Specific Plan is to no longer allow the typical car lot along the East 14<sup>th</sup> Street corridor. Staff acknowledged that a complete copy of the Specific Plan was not available at the hearing to determine further context. The general intent is to have open air car lots in other Districts. The Plan also takes into account an overview of the entire area. The intent is also to upgrade the area. Vice Chair Gil explained to Mr. Mofrad that the County did not kick him off of the property. The property owner sold the property. Mr. Mofrad responded that all of the car lots stretching from San Leandro to Oakland may have a few vehicles stored inside. However most of the inventory is stored outside. He reiterated he did not believe it was possible to erect a structure that could hold his entire inventory. In his case the local government bought the property. They should help him stay in business. He attended the sale of the former Holland Oil properties. The only bidders were the County and H.A.R. D. He lost \$700,000 in the process of the interim move to Industrial Boulevard. He had to have a physical location, in order to retain his wholesale license. Presently he cannot conduct retail sales. Now he is ready to go back into business. A business license has been issued but he has not opened yet. Mr. Mofrad plans to retire in a few years. Currently he has children in college. Sales were going okay before he closed. Even though the economy is slow. People still purchase used vehicles, to save money. Member Spalding asked staff if they could meet with Mr. Mofrad to determine how to shield vehicles placed at the front of the site. Although the application is for a limited duration, perhaps additional landscaping would provide further coverage. Staff said they were willing to meet with the Applicant but they did not see how the goal could be accomplished, at this site. The building is set back from the street. Mr. Mofrad said because of the lot depth. He can put large trucks at the back, and small pick-ups at the front of the lot. A truck cannot be shielded. Some of the trucks must remain visible in order for customers to determine they wish to make a purchase. However approximately 1/3 of the inventory is enclosed at the rear of the lot. There is also a fence at the rear of the site. He would be willing to add more landscaping. Mr. Mofrad said he was willing to do whatever it would take, in order to resume business.

Ms. Cindy Grider the spouse of Mr. Mofrad said the loss of the business has had a dramatic financial impact, on the family. When the Mofrad family ran the lot across the street, there were never any problems. They kept the lot and the surrounding area clean. The family also pulled weeds, and picked up garbage up and down East 14<sup>th</sup> Street. At the new site they have already installed upgraded wrought iron fencing, in addition to new office carpeting. Their auto sales business has proven to be viable. The family contributes to the community, and to the tax base. Now they have are encountering nothing but problems. If they cannot find another place and re-open soon they will lose their home. Ms. Grider has recently lost her job as a result of downsizing. She does not want her family to become a statistic. The business that was located across the street was successful. Some customers came from Southern California to purchase vehicles. Ms. Grider does not see how the front of the property can be enclosed. A vehicle has to catch a customer's eye, in order for them to want to make a purchase. That is the nature of the auto sales business. The whole situation is very upsetting, but she is trying to work through the difficulties. Ms. Grider said she did not understand why so many problems are arising now. Her impression is that the

Ashland Cherryland Plan does not want any of the old businesses. She asked what business types the County would prefer. Member Adesanya explained that the Specific Plan was adopted in 1995 with input from the community. If there was a business that pre-dated the Specific Plan and did not conform to new zoning, it became non-conforming. Once a non-conforming use ceases, the new zoning rules apply. Now that a new site is being considered, the application is processed as a new application. Although Mr. Mofrad has done business in the County for years, the application process is the same as a new business owner would experience.

Mr. John Carter said he was the 3rd generation of store keepers at Pacific Apparel. Pacific Apparel (The Ben Davis Store) was started in 1946. He thanked the Board for the explanation. Mr. Carter did not completely understand the Specific Plan requirements for auto sales. In his opinion the County should do all they can to retain, existing businesses. It is very difficult to bring new businesses to the area. The last business to occupy the site where Mr. Mofrad would like to open is ready to sell the property back to the bank. Mr. Mofrad is a good neighbor. He witnessed a crime, and helped the Sheriff apprehend the perpetrator. Mr. Carter said he did not know of any other auto dealerships that are enclosed. He has lived in the area since 1946, there have been no sidewalks. The project requires tax dollars. In order for the County to maintain its tax base, good people should be assisted to stay in business.

Mr. Eddie Gonzales said his father has owned the barber shop across the street for 57 years. He did not realize Mr. Mofrad was having so many issues. He has known Mr. Mofrad for 35 years, since he had a business on Ashland Avenue. Mr. Mofrad sells a quality product. He re-paints, tunes up and refurbishes all vehicles. Mr. Gonzales has referred people to the car lot, and never had a complaint. Mr. Gonzales then gave the Board a history of the area. The original structure on the site was a 3 bedroom home. Later it was converted into an auto sales lot. Richard's Roofing has been the most recent business. Mr. Gonzales said it would be a stretch to change Zoning, given the history of the area. Mr. Mofrad works hard and puts in long hours. The County should not try to eliminate the business. When the County has a determined use for the lot, Mr. Mofrad can leave. He will retire fairly soon. However the recent events have caught him by surprise. The Board should find a way to let Mr. Mofrad use the space. When Richard's Roofing was there, a lot of activities were taking place. Transients were also coming to the site at night. Mr. Gonzales has also had incidents of broken glass at his site. He replaced 5 windows recently as a result of vandalism. In response he has installed fencing. Since Mr. Mofrad has installed fencing at the proposed site. There has also been an impact on crime. The fact that he works late is a further deterrent to crime. There are a lot of nooks and crannies on that side of the block. Recently things have gotten worse. Just this week he saw a kid with a gun under his shirt. Kids come to the area from out of town. After dark they terrorize, and then leave by the morning. The area is completely different, at night. People also loiter. Mr. Mofrad's presence acts as a deterrent. There are no other immediate plans for the site now. He believed the County should let Mr. Mofrad give the site a go. He has been through an ordeal. There should not be an impact until there is another use for the site. The lot has limited frontage. Vehicles will naturally be set back from the street. Mr. Mofrad will bend over backward to work with the County. Mr. Gonzales was in favor of Mr. Mofrad's business remaining on East 14<sup>th</sup> Street.

Mr. John Carter returned to testify. He asked if Mr. Mofrad could use a large canopy to serve the purpose of enclosing the lot frontage. Staff explained that a canopy would not satisfy Ordinance requirements. Public testimony was closed.

Further Board questions were as follows:

- What is the General Plan designation
- Does the Ashland Cherryland Plan allow vehicle sales
- Are vehicle weights a consideration

- What type of lot entry is required
- Does the entire frontage have to be enclosed
- What type of enclosure is required
- Are the frontage requirements different for pedestrian and/or vehicles
- Did the Cherryland Association comment on the project
- Did the Ashland Association comment on the project

Staff said they were unsure of the General Plan designation. They can conduct further research. Vehicle tonnage is not relevant to the Zoning Ordinance. Counsel said the Specific Plan was somewhat ambiguous. The entry type is not specified. Staff added that the General Plan intent is to have the building enclosed. Staff did not have further information available at the hearing, regarding area that is not visible from the street. Lot entry requirements do not differentiate between pedestrian and vehicle approach. The zoning classification is based on vehicle sales. The intent is to have vehicles inside of a structure. All auto intent uses are lumped together, in the General Plan.

Member Spalding said the Applicant had been inadvertently caught between the Redevelopment Agency, and the economy. There is also crime in the area. Mr. Mofrad has already made a substantial investment, and has no where to conduct business. The Applicant was quickly evicted from his prior location. His business has proven to help reduce crime statistics in the area. A use permit request is for a limited time period of one, three or 10 years. The permit can be conditioned so the Applicant will know exactly when or if, he will need to relocate.

The Chair said at this juncture adequate information was not available regarding the Ashland Cherryland Specific Plan. A continuance may be helpful for the Applicant to work with staff to determine how to satisfy the intent of the Plan and continue to run the business.

Vice Chair Gil asked for more information regarding referral responses. Staff said they had not received comments from either the Cheryyland or Ashland Associations. Mr. Carter interjected from the audience. One of the Ashland Association Board Members had been ill. As a result the Association has been on hiatus. The Vice Chair said she lives in Cherryland, and can understand why the Specific Plan was written. When you drive down the street you don't want to see businesses ill suited for the area. The section of East 14<sup>th</sup> Street by the Bayfair Mall has been cleaned, and has vastly improved. The Vice Chair said she has compassion for Mr. Mofrad's dilemma, but understands the need for the Specific Plan.

Member Adesanya said she agreed the application should be continued. She would also like to review the Draft General Plan. Staff can explore zoning options. Perhaps there will be no solution; or the Applicant may be able to build a structure. An additional fence may meet the intent of the Specific Plan. There should be a method to set the trucks back from the frontage or behind a building. The business brings long term benefits like the contribution of sales tax. There should be a way to find common ground, and support the intent of the Ordinance.

Members Spalding and Adesanya also recommended the Applicant speak with Redevelopment. A representative from the Redevelopment Agency should also be present when the application returns for consideration.

Mr. Mofrad said the continuation was acceptable. He presented a sketch of the proposed layout. Parking at the front is limited. The width can hold 10 to 12 trucks. Mr. Mofrad would only place 5 to 6 trucks, at the lot frontage. Planters will be added, too. Member Spalding suggested Mr. Mofrad continue to refine his ideas with staff. He may also look for examples on the Auto Row District in Oakland. Many of the

auto businesses are enclosed. Mr. Mofrad said he would consider the suggestions. He wants to comply with County Ordinances. However there is another open air car lot at East 14<sup>th</sup> and 170<sup>th</sup> Avenue. The business is new, and not kept up. He asked staff to investigate. Public testimony was closed.

Member Spalding motioned to continue Conditional Use Permit, C-8753 to the October 22, 2008 Meeting. Staff will work with the Applicant to consider options and get Redevelopment input. Staff should further research Board recommendations offered during the hearing. A representative from Redevelopment should be present at the October 22 Meeting. The Ashland and Cherryland Associations shall also be contacted about the project. Vice Chair Gil seconded the motion. Motion carried 4/0.

*The Chair adjourned the Hearing for a short break at 7:45 p.m. The Meeting was reconvened at 7:55 p.m.*

2. **STEVEN HATHCOX, VARIANCE, V-12124** - Application to allow a side yard setback of 17.25 feet where 20 feet is the minimum required with the construction of an attached addition in an R-1-L-B-E (Single Family Residence, Limited Agricultural, 5 Acre Minimum Building Site Area) District, located at 27640 Fairview Avenue, east side, approximately 300 feet south of Oakes Drive, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Number: 085A-6200-015-00. **Staff Planner: Damien Curry.**

Staff recommended approval of the application. Member Spalding recused her self because the property being considered is located across the street from her home. She did not participate. The Chair asked Counsel if Member Spalding was required, not to participate. Counsel explained that a Member can use their own discretion. If they feel it is appropriate. That is sufficient. Initial Board questions for staff were as follows:

- What is the width of the parcel
- What is the Zoning setback requirement
- Do special requirements exist as a result of the radio transmission tower

Staff told the Board a small corner of the property was sold to the City of Hayward for a water tank. The City eventually sold it back. The frontage width is 77 feet. The property is wider at the rear. The side yard setback requirement is 20 feet. The prior Conditions of Approval for, C-3855 have been amended. The radio tower use is no longer contingent upon the prior owner occupying the site. Public testimony was opened.

Mr. Charles Snipes, the President of the Fairview Community Club was present. He had no comments in addition to the position stated in the letter from the Community Club. He made himself available for questions. The Applicant should effect a boundary adjustment of 3 feet between the lots, since he owns both parcels. This would eliminate the need for a variance. Mr. Snipes said he spoke with Mr. Hathcox, and gave him a copy of his letter. The Chair asked if Mr. Snipes and the Applicant had a meeting of the minds. Mr. Snipes said there was an exchange of ideas. Mr. Snipes pointed out to Mr. Hathcox there may be some confusion about the Planning Department advice. Mr. Snipes was unsure if the parcel once used to house the water tank, was considered a buildable site. He did not believe that was the case. Therefore a lot line adjustment seemed reasonable.

Staff explained that the parcel was a legal lot prior to the institution of Zoning. The lot was created in 1952. Zoning went into effect in 1957. The lot can be used if the sewer, and square footage requirements can be met. Mr. Snipes pointed out that the access to the City of Hayward sewage system was not open to



new subscribers. A septic system would be necessary. The necessary square footage required for leech lines would leave limited lot area. Staff acknowledged that the lot is smaller than the 40,000 square feet required. A variance request for a septic system could be submitted to Public Works. The Applicant could also dig a well. From the Planning Department stand point. The lot is a legal lot. The Applicant can build on the parcel if they satisfy setbacks and building height etc. The Chair added to staff's comments. The Applicant had a legal right to develop the property. Mr. Snipes agreed.

Member Adesanya asked if the Applicant could effect a 3 foot lot line adjustment without losing non-conforming status. Counsel was not 100% certain. There is a possibility the adjustment would affect the smaller parcel but not the larger parcel, requesting the variance. Case law may exist which allows, slight adjustment. Additional research would be necessary. Staff further explained that the lot had an L (Limited Agricultural) Zoning Designation. A site development review would be required to develop the smaller lot. A site development review would also be required for the larger parcel. The setback requirements are 30 feet for the front yard, and 20 feet for the side yard. Forty feet would be taken by side setbacks. As a result of the Zoning, it would be very difficult to develop the large lot, without a variance.

The Applicant, Mr. Hathcox was present, and presented photographs of the property. He pointed out that he was not extending toward the property line, but closer to the front street side of the parcel. The side yard setbacks are already in existence. The house was built in the 1950's. His family is growing, and he would like to enlarge this home. The proposal is to build a garage and laundry. The space will be created by removing the existing deck. A portion of the living room will also be removed. The dining room and pantry wall is already in existence. Public testimony was closed. After further consideration the Board had additional questions for the Applicant. Public testimony was re-opened.

- Does the Applicant own the adjacent lot
- Is the water tower located on the same lot
- What are the Applicant's plans for the adjacent lot

Mr. Hathcox told the Board the lots are separate. The smaller lot is used to store his boat and trailer. There was an option to purchase the smaller lot when he bought his home at 27640 Fairview Avenue. He purchased the adjoining lot with cash. Mr. Hathcox said preferred not to execute a boundary adjustment. He believed he would lose his investment, if the size of the smaller lot were reduced. He inquired with Planning about building a garage on the lot to store his boat. The Zoning Ordinance requires a home to be attached. The placement of a home would be challenging because it would have to sit behind the garage. Based on the initial inquiry he does not plan to combine the lots. At this juncture he would like to keep his options open. Public testimony was closed.

Staff further explained that if the setback were 18 feet as opposed to 17 feet  $\frac{3}{4}$  inch, a variance would not be required. The Zoning Ordinance will allow a building wall that encroaches 2 feet into a setback, to continue. In this case the Applicant's side yard is 9 inches short of the Zoning requirement. Public testimony was closed

Based on staff's testimony, Board Members were in support of the staff recommendation of approval.

Vice Chair Gil motioned to uphold the staff recommendation of approval. Proposed Tentative Findings and Conditions shall be adopted. Member Adesanya seconded the motion. Motion carried 3/0.

Member Spalding recused her self and did not participate in the discussion, or vote regarding Variance, V-12124. Member Peixoto was excused.

**DISCUSSION OF PROPOSED CHANGES TO WEST COUNTY BOARD OF ZONING ADJUSTMENTS RULES AND PROCEDURES.**

Member Spalding motioned to adopt the following changes to the West County Board of Zoning Adjustments Rules and Procedures:

Thereof in the Public Hearing Room, of the County of Alameda Community Development Agency, Building, 224 West Winton Avenue, Hayward, California

Unless otherwise provided in the notice of the Board's meeting, the field trip shall commence at the hour of 1:00 p.m.

The officers shall be elected by a majority of the Board members, taken by written ballot or oral voting if there is more than one candidate for each office. The voting shall occur in open session.

The general order of the agenda shall be as follows:

- 1) Field Trip
- 2) Call to Order / Roll Call
- 3) Announcements by the Chair
- 4) Neighborhood Preservation and Zoning Ordinance Abatement Hearings
- 5) Open Forum
- 6) Consent Calendar
- 7) Regular Calendar
  - a) Public Hearings on Conditional Use Permits
  - b) Public Hearing on Variances
- 8) Approval of Minutes of previous Meetings
- 9) Staff comments and correspondence
- 10) Board announcements comments and reports
- 11) Adjournment

Vice Chair Gil seconded the motion. Motion carried 4/0. Member Peixoto was excused.

**APPROVAL OF MINUTES:** Member Spalding motioned to adopt the Minutes of August 27, 2008 as modified. Member Adesanya seconded the motion. Motion carried 4/0.

**STAFF COMMENTS & CORRESPONDENCE:** Parcel Map, PM-9566 - Kremer will be heard at the October 14, 2008 Board of Supervisors Meeting.

**BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:** The Annual Cop Shop BBQ Fundraiser will be held on October 17<sup>th</sup> at 5:30 p.m.

**ADJOURNMENT:** There being no further business, the hearing adjourned at 8:30 p.m.

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**ALBERT LOPEZ - SECRETARY**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**