

**MINUTES OF MEETING
WEST COUNTY BOARD OF ZONING ADJUSTMENTS
SEPTEMBER 23, 2009
APPROVED OCTOBER 14, 2009**

The Regular Meeting was held at the hour of 1:30 p.m. in the Alameda County Building, 224 West Winton Avenue, Hayward, California.

REGULAR MEETING: 1:30 p.m.

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

MEMBERS EXCUSED: None.

OTHERS PRESENT: Phil Sawrey-Kubicek, Senior Planner; County Counsel, William Fleishhacker; Code Enforcement staff; and 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 1:39 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.

Mr. Howard Beckman urged the Board of Zoning Adjustments to continue Agenda items as opposed to referral to the Planning Commission, when it appears a decision cannot be reached. Mr. Beckman said in his experience the Planning Commission was incompetent when dealing with variances, as opposed to the Board of Zoning Adjustments. The BZA has the experience to deal with variance applications. This is the reason a community based Board of Zoning Adjustments was created. To have an impartial, public interest oriented body decide these matters. Typically when variance applications are moved to the Planning Commission, they are too close to the Board of Supervisor's. Applications become politicized. A recent application was referred to the Planning Commission, the results of which caused Mr. Beckman to make the aforementioned comments.

Neighborhood Preservation Ordinance Abatement Hearing

1. Collin Gillespie / Reconstruct Company, Saturn Drive, San Leandro, CA
In violation of Alameda County Ordinance 6.65.030 B(2) and M(1).
Unsecured vacant residence and accessory structures on the property.

Member motioned to adopt the staff recommendation. Declare the property a public nuisance, require abatement to be complete within 10 days. The Vice Chair seconded the motion. Motion carried 5/0.

CONSENT CALENDAR:

1. **FRED PRICE / EL SHADDI MINISTRIES, CONDITIONAL USE PERMIT, C-8762, PLN-2008-00037, VARIANCE, PLN-2008-00020** – Conditional Use Permit Application to allow continued operation of a church, Variance Application to allow fewer than the required on-site parking spaces in a

R-C ABCD (Residential Commercial, Ashland Cherryland Business Specific Plan) District, located at 565 East Lewelling Boulevard, south west side, corner southwest of Wickman Court, unincorporated San Lorenzo, area of Alameda County, designated Assessor's Parcel Numbers: 413-0031-053-00 and 413-0031-054-00. (Continued from November 12, 2008 and January 28, February 25 and May 27, June 10 and July 8, 2009; to be continued to October 28, 2009). **Staff Planner: Pat Anekayuwat.**

2. **STACI ROMBOUGH, VARIANCE, PLN-2009-00061** – Application to allow: a) building site status for a site of 2,479 square feet, where 5,000 square feet is required; b) a 0.27 foot rear yard setback, where 20 feet is required; c) a 1.04 foot street side yard setback, where 10 feet is required; d) a 2.47 foot front yard setback where 20 feet is required; e) a 2.95 foot setback side yard setback, where five feet is required; and f) zero parking spaces, where two are required. The site is zoned R-1 (Single Family Residential), located at 2005-150th Avenue, west side, north of 149th Avenue, in the unincorporated Hillcrest Knolls area of Alameda County, designated County Assessor's Parcel Number: 080-0006-013-04. (Continued from July 22 and August 26 2009; continued to October 28, 2009). **Staff Planner: Howard Lee.**
3. **PUBLIC STORAGE, CONDITIONAL USE PERMIT, PLN-2009-00081** – Application to allow the installation and operation of a telecommunications facility (Antenna Array) in an M-1-B-40 (Light Industrial, 40,000 Square Foot Minimum Building Site Area) District, located at 2497 Grove Way, south side, approximately 800 feet east of Redwood Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 0080-001-03-00. (To be continued to October 28, 2009). **Staff Planner: Richard Tarbell.**

Staff announced that as a result of re-scheduling another application, PLN2009-00081 will now be heard on the October 14, 2009 Agenda.

4. **T MOBILE USA / CHRIS COONES - CONDITIONAL USE PERMIT, PLN-2009-00085** - Application to allow a telecommunications facility (Antenna Array) in a PD (Planned Development, 1591st Zoning Unit, allowing single family residential uses with additional conditions) District, located at 17228 San Franciscan Drive, west side approximately 150 feet south of Bellingham Drive (PG&E Easement), unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 0085-6312-054-00. (To be continued to October 28, 2009). **Staff Planner: Andy Young.**
5. **T MOBILE USA / CHRIS COONES - CONDITIONAL USE PERMIT, PLN-2009-00090** - Application to allow a telecommunications facility (Antenna Array) in a PD (Planned Development, 1268th Zoning Unit) District, located at 18832 W. Cavendish Place, approximately 500 feet from the intersection of Troost Court, Castro Valley area of unincorporated Alameda County, designated Assessor's Parcel Number: 0085-1510-013-00. (To be continued to October 28, 2009). **Staff Planner: Richard Tarbell.**

Staff announced that as a result of re-scheduling another application, PLN2009-00090 will now be heard

on the October 14, 2009 Agenda.

Member Peixoto motioned to accept the Consent Calendar with announced date changes to Calendar items #3 and #5. Member Spalding seconded the motion. Motion carried 5/0.

REGULAR CALENDAR

1. **ANTHONY & MARTHA CASSINI, VARIANCE, V-12107** – Application to allow a wrought iron fence, four feet, nine inches in height where two and four feet are the maximum allowed, in an R-1- (Single Family Residence) District, located at 16006 Via Harriet, south side, corner southwest of Via Catherine, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 411-0045-077-00. (Continued from May 28 and September 24, 2008, and August 26, 2009). **Staff Planner: Richard Tarbell.**

Staff announced the Applicant came to the office to request a continuance. The matter can be placed on the December 16, 2009 Calendar. Mr. Cassini will be out the country attending to a sick relative. The San Lorenzo Homes Association stated they are not opposed to the continuance, as they would like to further discuss the application with staff. Member Spalding said she hoped a resolution could be sought to achieve compliance, given the recommendation is denial.

Member Spalding motioned to continue Variance, V-12107 to December 16, 2009. Member Adesanya seconded the motion. Motion carried 5/0.

2. **BAY AREA COMMUNITY SERVICES, CONDITIONAL USE PERMIT, PLN-2009-00064** – Conditional Use Permit Application to allow expansion of a residential care facility for mentally disabled adults from 12 to 15 beds. The one story, 1,230 square foot addition will be attached to the existing facility that includes: three bedrooms, one shower room, one half bathroom, and replacement of the exterior staircase in the same location, in the Fairview Area Specific Plan, R-1 (Single Family Residence) District located at 22505 Woodroe Avenue, west side, approximately 150 feet north of Ralston Way, unincorporated Fairview area of Alameda County, designated Assessor's Parcel Number: 417-0080-005-04. **Staff Planner: Carole Kajita.**

Staff recommended approval of the application with corrections noted for the staff report: On Page #4 one tree, six inches in diameter shall replace, *a tree six feet in diameter*; On Page #5 The Fairview Specific Plan requires the dimension of the side yard to be 10 feet, not *seven feet* as stated. The Table on Page #5 shall now state side yard requirements as 10 feet; On page #6 language stating the current permit is valid until June 27, 2012 will now replace, valid until *June 27, 2010*; On Page #9 regarding Condition .2, the third sentence shall now state PLN-2009-00064 as opposed to *Site Development Review S-2178*. This afternoon, two letters were received from neighbors in opposition to the permit. Concerns included, traffic, noise issues, and trash dumping on neighboring properties. Initial Board questions were as follows:

- Has the facility undergone a change in ownership
- Has the management of the facility changed
- What was the maximum number of beds allowed in the prior permit
- Why is the facility expanding from 12 beds to 15 beds

Staff confirmed Bay Area Community Services was the owner of record for the 2007 permit, and remains the owner of the facility. Staff was unsure why the Applicant changed the 15 bed request, over time. The use permit submitted in 2001 was for a 12 bed facility. The Applicant can provide more information. Public testimony was opened.

The Executive Director of Bay Area Community Services, Mr. Kent Ellsworth was present. The President of the Board of Directors was present, as well as the Chief Program Director, and architectural staff. Mr. Ellsworth gave a synopsis of the facility history. The facility was constructed in 1975, and has been in continual operation. Bay Area Community Services has remained the facility manager. The facility is a crisis care facility. Individuals are referred from Alameda County Behavioral Health Services. The facility provides short term care on a voluntary basis. A staff manages the facility. There are a minimum of two staff members on duty, at all times. During the day there is structured programming. A psychiatrist works with the staff team and residents 5 days a week. A licensed psychologist is present 5 days a week. The hierarchy is Mary Ann Jones licensed psychologist who oversees all of the treatment facilities. There are 7 treatment facilities. This is the only facility that is open 24 hours per day, seven days a week. Board questions for Mr. Ellsworth were as follows:

- What is the definition of a crisis facility
- How many beds are allowed in the current permit
- Has the facility housed 15 residents since its inception
- How does the expansion request correlate with the number of beds at the facility
- Do any of the residents have vehicles
- Are residents allowed to leave the facility
- Is there a procedure in place that documents when residents leave the facility
- Is Mr. Ellsworth aware of the issues with the neighbors such as trash dumping
- Will the facility make repairs to any property damage caused by facility staff or residents

Mr. Ellsworth said the facility is for persons that are ready for release from the hospital but need additional time to adjust from an inpatient or incare facility such as John George Pavilion, before they can re-integrate back into society. Individuals are assessed and assisted in formalizing re-integration plans such as permanent housing, and adjustment to medications. The facility has always been licensed by the State of California for 15 beds. Mr. Ellsworth believes there was a clerical error contained in the 2001 permit that stated 12 beds. The facility is not presently in compliance with the American with Disabilities Act. One of the State funding mechanisms is Medical which requires facilities to be ADA compliant. The expansion is will add ADA compliant rooms, as well as additional space. Mr. Ellsworth is not aware of any issues with trash being thrown into the neighbor's yard. Staff can correct the issues. When they are aware of problems, they try to resolve them immediately. In the past staff has knocked on doors to introduce themselves to neighbors. Typically the residents do not have vehicles. The facility has a van to transport residents; or residents take a cab to the facility. The facility is voluntary and residents can choose to leave. If a resident chooses to leave the facility there is documentation process. Ms. Jones the facility coordinator can provide more information during her testimony.

Mr. Kent Shepard told the Board often people use the term NIMBY. However in this case the issues taking place are literally in his backyard. He shares 100 feet of his back fence with the facility. Often he finds trash and empty containers in his backyard. He has gone to facility staff numerous times, and received no help. The only time he has gotten a response is when he visits the facility in person. Mr. Shepard's bedroom is directly on the other side of the fence shared with the facility. He hears noise late at night, and early in the morning. He has two small children, and a daughter that he will not allow to play in the fenced yard. Mr. Shepard is afraid of what debris the children may find. He has legitimate concerns about how management and supervisors run the facility. He understands the facility has to be

there, however he is against any expansion. Board questions for the neighbor Mr. Shepard were as follows:

- What portion of Mr. Shepard's property was damaged by the facility staff
- What are Mr. Shepard's observations regarding traffic in the area
- Where is the noise level the strongest on Mr. Shepard's property

Mr. Shepard said the property damage did not occur on his property. The neighbor that did incur the damage is present at the hearing. Mr. Shepard hears the most noise from his TV room which is adjacent to the fence. However he hears noise along the entire length of his home. It is very difficult to put his children to bed at 8:30 p.m. Four to five people daily are making noise and playing loud music next door.

Mr. Fred Tomlinson said there are traffic problems between the school, park, and Lake Don Castro area. Expansion of the facility will exacerbate an already congested traffic situation. Traffic is so busy that residents are afraid to walk their dogs to the park. The Sheriff and ambulances go to the site 2 to 3 times a week. The Applicant should be required to show how often ambulances come to the site. The Sheriff's call log can support how often the facility has called over time. The facility is directly across from the school that serves K- through 2nd Grade, and a pre-school. The facility is not locked. This could cause danger to the children at the pre-school due to agitated residents. In addition Mr. Tomlinson is concerned because there is no way to clearly distinguish between the residents, and facility staff. This is unsafe. Children cannot differentiate because some residents are scary, and some are not. Residents go in and out, all times of the day. Garbage is also being dumped, that is unacceptable. Damage caused by residents is not being addressed. Neighbors are disregarded, their rights should be respected. The residents should also respect people living in the area. When construction of a brick wall was underway at the site, facility staff knocked down some bricks damaging a neighboring property.

Mr. Oscar Calderon lives on Woodroe Avenue, across the street to the right of the facility. Residents have been seen sleeping out in front of the facility. Often they stare directly into his home all throughout the day. Mr. Calderon works Monday through Thursday. During the summer months he is home earlier and has observed people watching his home and his family while he walks his dog. He is concerned about what occurs when he is not present. Mr. Calderon instructs his children to play in the back yard. He has no way to determine who is a staff person, as opposed to a resident. On two separate occasions people from the facility knocked on his door at 8:00 and 9:00 p.m. asking for a ride to the BART Station. The Sheriff and Fire Department are constantly at the site. If the facility is expanded, additional staff should be assigned. The Chair asked Mr. Calderon how often he called the Sheriff. Mr. Calderon explained he had an alarm at his home, through which he summons the Sheriff. Typically he calls twice a month. However each time the persons left by the time the Sheriff arrived. The persons that came to his home were obviously disturbed, and needed help. The residents need more supervision.

Ms. Susan Clark introduced herself. She lives two doors from the facility, and has a son that attends Woodroe School. Ms. Clark is a forensic social worker currently on sabbatical. She works with groups of persons that have mental issues, in addition to having committed crimes. This is not the type of resident at Woodroe Place. The residents are not more violent than society at large. She apologized to the neighbors. She did not know about any of the issues at the facility, but acknowledged the staff needs to do more. The facility is well respected. Professionals in the industry try hard to get their patients referred to the program at Woodroe Place. There is another facility less than one mile away, at which there are fewer staff members and workers. Staff there does not speak English. Sex offenders are also allowed at the other facility. The clients at Woodroe Place are pre-screened. Ms. Clark does not have a problem with her child living near the residents, if they are supervised. The social worker at the site did come and speak with her. People with mental illnesses typically have additional health problems.

Without facilities like Woodroe, people end up homeless. The fact ambulances come to the facility shows that law enforcement is aware, and responsive. The owners of the Rice School have not complained about the facility. Traffic comes from the condominium complex in the area. The facility has 3 to 4 cars at the site, at any given time. The upgrade to the facility will allow staff to keep people inside, more often. Ms. Clark has lived on Woodroe Avenue for 14 years. She has never had to call the Sheriff about the facility. She did call the facility itself to inform them a few residents were going to the bus stop. Board questions for Ms. Clark were as follows:

- In Ms. Clark's opinion what is the appropriate staffing level for the facility
- How long has the children's day care center been located near the site
- When Ms. Clark was actively working as a social worker did she place anyone at the facility

Ms. Clark told the Board there are two staff members which is appropriate for a 12 bed facility. Often additional staff is present. Ms. Clark notices residents when she goes for a walk. Smoking is a behavior that occurs at a high rate, within the population. Ms. Clark did not know how long the daycare had been in the area. The school once held the property her home is located on. Ms. Clark has never placed anyone at Woodroe Place. The persons she worked with had a history of violence. Placing persons with this profile are not an option at the Woodroe facility.

Dr. Mary Ann Jones is the Chief of Program Operations. She supervises Woodroe Place, and is a Registered Clinician. Dr. Jones apologized for the problems. She assured the Board she will do what it takes to get the issues resolved. There is a psychiatrist at the facility 8 hours per day. A psychologist is there 8 hours per week. A protocol has been established by John George Medical Center. The residents are pre-screened before being assigned. A coordinator conducts a weekly group therapy session, at the site. Most residents do not leave because they feel like it. Residents are with a supervisor. If a resident chooses to leave, it is against medical advice. If a person is agitated the Sheriff is called for a 51-50, to take them to John George. Many people have chronic health conditions like high blood pressure, or diabetes. An ambulance is called for transportation, if there is an emergency.

There are two nurses on staff during the week, one on the week-end. A clinician is on call 24 hours a day. The clinician is required to live no more than 15 minutes away. The facility can create a hotline for neighbors to call. People have fears of persons with mental illnesses. Dr. Jones understands how the neighbors feel. However these people may not have another place to go. The mental health system manages these people. Although the house is small, the facility is located on a 1 acre parcel. The area containing the tree is where people like to gather. The residents like to sit outside, and feel the sun. This helps them recover. The area is always monitored. Residents are taught how to live a regular life. When you visit it feels like a home environment. Dr. Jones said all necessary steps will be taken to ensure intervention, to prevent further issues. Board questions for Dr. Jones were as follows:

- Is Dr. Jones aware of the issues that have occurred
- Which staff people are at the facility daily
- How are patient to staff ratios established
- Is there a required minimum length of stay at the facility
- Is there an established grievance process
- Does personnel staff wear badges
- What are the hours for resident intake and discharge
- How does staff deal with physically aggressive residents
- Is there an emergency plan at the facility
- If a physician is "on duty" is the Sheriff required to process a discharge request
- How often is the Sheriff called to transport a 51-50

- Which County Agency monitors the facility
- Do the residents maintain jobs
- Do the residents have cars

Dr. Jones said the typical turnover for the facility is 14 to 24 days. On a rare occasion, a stay may be extended for a younger person with no other place to go other than a homeless shelter. Most of the residents do not work. They are on General Assistance, and do not have cars. Residents undergo group therapy, and additional required therapy. Dr. Jones said she was not aware of all of the issues mentioned at the hearing. On one occasion the facility van accidentally backed into the brick retaining wall of a neighbor. The property owner was paid for the repairs. There isn't a formal grievance program established for Woodroe Place. However Alameda County has one for more established treatment facilities like Hedco House. Dr. Jones is at Woodroe Place, 7 days a week. She is generally there during dinner time. As a licensed clinician she can assign treatments etc. There is also a licensed Director of the facility present daily, as well. Although the goal of Woodroe Place is to create a home like environment, staff is willing to wear more visible clothing, if it will make people more comfortable. Resident to staff ratios, are one staff person per every 10 residents. Intake and discharge at Woodroe is between 8:00 a.m. and 4:00 p.m. Intakes are not accepted on an emergency basis, or after hours. Woodroe Place only accepts the lowest level of need person(s). If a person requires emergency intake, they are sent to another type of facility. The intake coordinator processes potential residents for Woodroe Place at John George Medical Pavilion. All staff persons have completed a 2 day required training conducted at County facilities. Staff monitors resident behavior, and tries to prevent a situation from escalating. They do not use restraints on residents. Most persons with mental illness are not violent. If a person cannot be handled, the Sheriff is called to conduct a 51-50 to be transported to John George. Although Woodroe Place looks like a home, it is a clinical environment. If a resident states they want to leave, the request is processed through the doctor on duty. If there is no physician on staff at that time the request is processed through the Sheriff's Department, because a physician has determined the length of stay. The Sheriff will do the final assessment. The Sheriff is not required if there is a physician on duty. Physicians are present 20 hours per week, 5 days a week. The facility may have three 51-50 calls per month. The Sheriff is called for safety. Most of the residents that request to leave prior to recommendation are young people. Most often the stay is 14 days, however a physician may establish a 2 to 3 day criteria for a resident. Once a recommended criteria is established by the doctor the persons insurance etc. is verified. Staff meets weekly to determine the status of all other facilities in the County. The Woodroe Place facility is monitored by Alameda County Behavioral Health.

Mr. Tomlinson returned to testify. He requested the Sheriff's report be reviewed to determine which issues were of valid concern, and which were releases from the facility. Staff said the Sheriff's Department referral was in support of the facility.

Ms. Susan Clark returned to testify. She stated when neighbors talk about the Sheriff the connotation is bad or violent. The Sheriff's other role is to assess if someone is safe to be released into the community. Residents are first assessed at John George, however conditions can change. In addition to a community safety role, there is a clinical role as well.

The Applicant, Mr. Ellsworth returned to testify. Board questions for Mr. Ellsworth were as follows:

- Why was the 2007 Permit request also submitted for 12 beds, as opposed to 15 beds
- Is the facility currently in compliance with ADA regulations
- Will the ADA expansion be an area separated from the existing facility
- Is the facility willing to provide a noise buffer to reduce noise at the neighboring property
- Can the facility incorporate addition plantings into the architecture / facility

- Can the facility send a notice to surrounding neighbors with staff contact information
- Is facility staff willing to wear identification badges
- Is facility staff willing to wear uniforms

Mr. Ellsworth told the Board the 2007 application was for 15 beds. The facility has always had State approval for a 15 bed facility. Three of the bedrooms were converted to an office. The facility is not currently in compliance with ADA Regulations. A review was conducted of the entire facility to determine which ADA upgrades were necessary. The interior doors and bathrooms will need upgrades. The ADA compliant bathrooms will be on the ground floor. Mr. Ellsworth said there were a variety of ways to utilize the courtyard area. The Smoking Area can be moved. Plants can be interspersed with the architecture, and around the facility. Notices containing contact information can be sent to neighbors. Mr. Ellsworth was open to adding a form that neighbors could use as an Incident Report. Staff can wear badges. Uniforms can be further considered. Bay Area Community Services has no problems addressing issues. They just need to be made aware of the problem.

Mr. Shepard returned to testify to ask where the designated Smoking Area would be placed. He was concerned due to the possibility of a lit cigarette being thrown into his yard. A fire could ignite. The Fairview Fire District has signage posted. The area is currently at high alert for fire. Public testimony was closed.

Member Peixoto referred to 1991, 2001 and 2007 Staff Reports, which contained four to five Conditions of Approval. The current permit has 23 proposed Conditions. He asked staff what precipitated the increase. Staff explained some of the Conditions are requirements in conjunction with slated construction. Member Peixoto felt it was appropriate to review a log of Sheriff's calls to the site. He would also like to determine the volume of taxis called to the site. In addition when he visited the site he observed the yard was in dire need of attention. Given the state of the front yard he believed the rear yard must be in need of attention, as well.

Member Spalding said she was familiar with the area. Her children used to attend the pre-school. During the 1990's the facility had a well kept appearance. In comparison, currently the facility looks shabby. Member Spalding is happy to hear the facility does not accept sex offenders however other general information is needed. Planning should clarify the statement that this is the only facility of this type. In addition, Member Spalding questioned how the "use" related to language contained in the Fairview Specific Plan. All residential care facilities in the area should be identified, specifically those that provide crisis care. Member Spalding believed there was a facility in the immediate area in which a staff person was killed by a resident. The profile and level of ability of the types of residents referred to the facility should be stated. Local HOA's should also have the opportunity to review the application. The staff report does not address parking. Overall the permit length is too long.

Staff told the Board the application had been referred to the Hayward Hills Property Owners Association, as well as the Fairview Community Club. The Fairview Community Club did not respond with comments. Member Adesanya asked if Member Spalding was attempting to directly compare the facility with others in the area. Facilities that care for different levels of residents may be in another classification. Member Spalding responded she is aware there are different levels of patients at John George Medical Facility. However the Bay Area Community Service staff persons were not able to identify the type of client at the facility. The staff report states this is the only other crisis facility in the area. For need to be established, the profile of patient should be determined. Then if established, the need should be verified as a permitted use in the Fairview Plan. Staff confirmed residential care facilities are an allowed use in County adopted, R-1 Zoning. Member Spalding said she had substantial problems with the application. She did not believe the Applicant could make the required finding for approval. Neighbors have testified

trash is being dumped on adjoining sites, and there has been no response from facility staff. She can see from personal observation the facility has deteriorated over time. The grass was not even mowed in anticipation of the Public Hearing site visit. The staff report is missing critical information as to how the findings directly relate to the services provided at the facility, and a Sheriff's Call Report. Area traffic is already oversaturated. The neighborhood is over burdened. These factors effect the determination before the BZA to increase the number of residents. In relation to Tentative Findings #3 and #4 the use (increase in the number of residents) will have an effect on the neighbors. The project is not a stated objective in the Fairview Specific Plan. Member Spalding is familiar with the objectives as she was an active participant in the development of the Fairview Plan.

Member Adesanya said she was inclined to support the request for expansion to 15 beds. The Applicant has been able to make the required findings since 1975. Amendments are required at this time to provide more appropriate, accurate Conditions. The Landscape plan should address deterioration throughout the site. The Facility Director should work with the neighbors to the north of the site to prevent future intrusions of trash and debris.

The Vice Chair said in her opinion the Sheriff's response to the site is a positive thing. She has worked with law enforcement in the community and believes their role is protection, which is appropriate. The Vice Chair was in agreement with Member Adesanya's support of approval, with changes in Conditions. Condition #9 can be modified to deal with noise levels, if found not to meet the threshold of the County Noise Ordinance. The community should have been notified in the appropriate manner. At this juncture the Applicant should meet with neighbors to determine if there are issues yet to be identified. Together an agreement should be reached. This is what neighbors do. She grew up, and still lives in Cherryland which has a high concentration of residential care facilities. She has been exposed to persons with mental illnesses. This is a part of life. Staff can wear identifying shirts. The permit should not be 10 years in length. Sufficient information was presented to require a 5 year permit length with an annual review. This will allow review to confirm compliance with Conditions, and interjection on behalf of the neighbors if necessary. Control standards can be established to control garbage. Flyers can be distributed to neighbors with contact information for facility staff. When issues arise facility staff can address them in a timely manner. Facility staff should be familiar with incident procedures. A lot of time has been spent responding to issues that could have been addressed, if facility staff had not dropped the ball.

Staff said Board recommendations can be developed into Conditions of Approval. The Chair asked staff to clarify the definition of a "residential care facility". The Applicant should also identify the location of smoking areas at the facility. Staff read the description in the Zoning Ordinance: *a facility that accepts patients that are referred by a County, or State Agency.*

The Chair pointed out, the goal of a residential care facility is that people fit into the surrounding community. This facility appears to be on the cusp of that concept. At this juncture she did not have sufficient information to make a determination either way. The perception to the neighbors is that something bad is occurring, all of the time.

She would like to see the Applicant submit a plan to possibly shield emergency vehicles while at the site. The site plan should also be further developed. The Applicant can return with proposals.

Member Peixoto agreed he would like to see revised plans to determine how the expansion correlates with ADA compliance upgrade. It also appears management is handled in a sloppy manner. If the increase for the expansion is granted and the staff report is to be believed, this facility is one half of the County's capacity for critical care facilities.

Member Adesanya asked staff to clarify if the facility was categorized as a crisis, long term, or short term facility etc. The Chair pointed out that the facility is short term therefore it is difficult to establish a

rapport with the facility residents. The Vice Chair instructed the Applicant to conduct a meeting with the neighbors prior to the next review by the Board.

Member Peixoto motioned to continue PLN-2009-00064 to October 28, 2009. The Applicant and staff shall complete the following:

Confirm how the Fairview Specific Plan relates to zoning for residential care facilities

Provide a map of other residential care facilities in the vicinity, including facilities located within the City of Hayward

Identify other like facilities in the area, including the second critical care facility referred to in the Staff Report

Conduct an informational meeting with neighbors

Provide a method to identify staff including uniforms and ID badges

Produce a contact information flyer of facility personnel

Provide a Safety and Incident Plan for staff

Provide a Site Plan

Provide a Sheriff's call/incident log

Provide a solution to prevent garbage dumping on neighboring sites

Provide a landscape plan for the front and northern side of the site

Designate a smoking area

Submit plans that show how the expansion correlates with ADA compliance requirements

Submit a parking plan which includes consideration of emergency vehicle procedures

Member Spalding seconded the motion. The motion to continue PLN-2009-00064 to October 28, 2009 carried 5/0.

APPROVAL OF MINUTES: – The Minutes of September 9 and August 26, 2009 were continued to October 14, 2009.

STAFF COMMENTS & CORRESPONDENCE: Staff had no comments.

BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS: The Chair commented that recently several Applicants and appellants testified the County should be thankful they choose to do business within Unincorporated County. She did not believe this was appropriate. Staff should communicate to the Board of Supervisor's that such elements are not a basis on which an Appellant can stand for appeal. Each application must stand on required findings. Member Spalding agreed the context an Applicant recently presented. A certain profile of business establishments that would not be welcome in Walnut Creek should be welcome in Unincorporated County, is an insult to the Unincorporated Community.

ADJOURNMENT: There being no further business, the hearing adjourned at 4:00 p.m.

ALBERT LOPEZ - SECRETARY
WEST COUNTY BOARD OF ZONING ADJUSTMENTS