

**MINUTES OF MEETING**  
**WEST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**DECEMBER 17, 2008**  
**(APPROVED JANUARY 17, 2009)**

The 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 and Ineda Adesanya.

**MEMBERS EXCUSED:** None.

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

There were approximately 5 people in the audience

**CALL TO ORDER:** The meeting was called to order by the Chair at 1:40 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. JON D. WILCOX, 24047 Wilcox Lane, Hayward, CA 94541**

In violation of Alameda County Ordinance Section 6.65.030 A (1), A (3) and M (1).

1. Unlawful outdoor storage of piles of debris, wood and metal scraps, appliances, auto parts, household furniture, miscellaneous items, rubbish and debris in the front, side and rear yards.

Member Spalding motioned to uphold the staff recommendation. Declare the property a public nuisance and require abatement to be completed within 10 days. The Vice Chair requested an amendment to the motion. Declare the property a public nuisance and require abatement to be completed within 15 days. Member Spalding seconded the motion. Motion carried 4/0.

**2. COUNTRYWIDE HOME LOANS, 631 Kendall Way, Hayward, CA 94541**

In violation of Alameda County Ordinance Section 6.65.030 A (1), A (3), B (2), D (1), D (3), F (5) and M.

1. A broken window to the rear of the residence;
2. An unsecured vacant residence;
3. Unlawful outdoor storage of household items, furniture, rubbish and debris in the front, side and rear yards;
4. Overgrown vegetation and weeds throughout the property.

The Vice Chair motioned 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.

3. **RANEL C. JONES, 1574-159th Ave., San Leandro, CA 94578**

In violation of Alameda County Ordinance Section 6.65.030 A, B, D, G and M.

1. Graffiti throughout property;
2. Unlawful outdoor storage of miscellaneous items, shopping carts, rubbish and debris;
3. Unsecured structures on the property.

Staff reviewed the property history. The property has a second violation fine of \$500.00 in addition to a \$50.00 hearing fee, and re-inspection fee of \$94.00. This is the second violation of the same type within a 12 month period. Staff recommended the property be declared a public nuisance and require abatement to be completed within 10 days. The County conducted a prior abatement on the site in July of 2008. Approximately 80 yards of debris was removed. This included overgrown vegetation, junk and debris. The site was then secured with plywood. Member Spalding asked staff to review the investigation process, and the application of fines and/or fees. Staff explained a \$94.00 re-inspection fee is charged when a property is re-inspected. If a similar documented violation has occurred at the site within the past 12 months, a \$500.00 second violation fine is also charged. The process is set by the Alameda County Ordinance 6.65. Public testimony was opened.

Mr. Jones told the Board he had recently been experiencing a perfect storm of incidents. He does architectural work by trade. However due to the recent housing market clients can purchase a home for less of a financial outlay, than a custom design. He is in a difficult financial position. Mr. Jones is owed \$100,000.00 dollars. He has filed for welfare in order to get reduced court filing fees. To regain monies owed to him. Mr. Jones owns several properties. Due to a fraudulent foreclosure he lost his property on China Court. Most of the office furniture and items from the China Court property have been moved to his home on Fairview Avenue. The property on Fairview Avenue will come before the BZA in January for Code Enforcement issues. Mr. Jones said he was also going through a divorce. His wife has not removed her belongings. There is an accumulation of 14 years. As a result, Mr. Jones does not have sufficient space to store his items on the property. He acknowledged the property on 159<sup>th</sup> Avenue looked horrible. There have been problems in the past. However this is the first time he has seen graffiti at the site. He does not know exactly who is responsible, but he believes it is his neighbors. Mr. Jones has contacted the Sheriff about theft. Nothing has been done. Mr. Jones said he may have to move into his home on 159<sup>th</sup> Avenue. Thieves have stolen the copper, and all valuables from the home. He has been in an 8 month battle with the insurance company. He estimated the insurance company owes him \$100,000.00. He plans to file a law suit to expedite the process with his home on 159<sup>th</sup> Avenue, and China Court. Mr. Jones told the Board he should have funds within one month. He has cashed in his life insurance policy to obtain money to live on. He is currently in a loan modification process for the property on Fairview Avenue, and must retain cash in reserve to facilitate that process. He may possibly have to make a payment of \$15,000.00 in the next few days. Mr. Jones was not in agreement with items listed in the staff report. He was at the site this morning. There is no debris, or shopping carts at the site. There is a chest of drawers partially on the sidewalk that someone dumped. Mr. Jones acknowledged there is a container with debris, at the rear of the site. The container was holding building materials. The doors can be closed to conceal the contents. He has applied for renewed building permit to finish the roof, and would like to keep the container. He will paint over the graffiti with paint obtained from the County (Recycled Paint Program). The next pick-up day is after Christmas. Mr. Jones asked the Board for time to resolve the issues at both sites. He can appear on January 14<sup>th</sup> 2009 if all of the issues have not been resolved. Board Members then reviewed photographs of the site with Mr. Jones. Mr. Jones asked the Board for consideration as it is the Holiday Season, and he is under a considerable amount of stress. His

children are coming home for Christmas. He will be celebrating their birthdays, and would like to avoid added stress. He also has health problems. He delayed a medical procedure to attend today's hearing. Board questions for Mr. Jones were as follows:

- When can the debris be removed from the site
- Has Mr. Jones arranged a Bulky Pick-up through Waste Management
- Does the graffiti contain profanity
- When was the last Building Permit issued for the property
- Has Mr. Jones considered the option of the County, completing the abatement
- Which property has been set for the January 14, 2009 Hearing

Mr. Jones said the Fairview Avenue property is scheduled for the January 14<sup>th</sup> West County BZA. The debris at that site was brought over from his property on China Court. Staff explained the property on Fairview Avenue is a separate case. In addition to the debris on the driveway, there are piles of concrete at the Fairview site. Mr. Jones told the Board the concrete will be used to upgrade the property. Originally he had two debris bins at the house, one was stolen. Currently he does not have garbage pick-up. He will remove the debris before Christmas. He is obtaining the paint from the County (Free Paint Program). The graffiti will be painted over by the 14<sup>th</sup> of January. It would be more cost effective for Mr. Jones to complete the work himself, as opposed to the County abating the site. He cannot remember the exact date but the last building permit issued was for a new roof. He has the materials to complete work. However he has to constantly move the materials back and forth because there is no way to secure all of the items. Although Mr. Jones is considering moving to the property to alleviate further damage or deterioration, currently there are no utilities at the home.

The Chair said she was concerned because the graffiti contained profanity. It is disturbing to the neighborhood residents. The property is in stark contrast to others in the neighborhood. Member Spalding asked staff if the compliance dates could be bifurcated, allowing 10 days for debris and 15 days for graffiti removal. Staff asked the Board to consider additional information. The property has been visited multiple times over the years. The neighbors and others are very angry and concerned because the graffiti is gang related. Code Enforcement receives calls each week. Staff would like the site abated as soon as the Ordinance allows. The issue has become a priority for the community. Mr. Jones is aware of that fact. Code Enforcement staff has attempted to work with the property owner in the past. However the property was left unsecured. The County secured the property. The current liens on the property are as a result of the past work conducted by the County. The Sheriff's Department has also spent a considerable amount time patrolling the site. Mr. Jones then requested to offer further testimony. The Chair announced that Mr. Jones had already exceeded the 3 minute allotment for public testimony. Public testimony was closed.

The Chair passed gavel to Vice Chair, and motioned 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.

**CONSENT CALENDAR:**

1. **GUADALUPE LOZA/FRED FULCHER, CONDITIONAL USE PERMIT, C-8271, PLN- C-8271**– Application to allow continued operation of a mobile outdoor business (Catering Truck), in a PD-ZU-1487 (Planned Development, 1487<sup>th</sup> Zoning Unit) District, located at 691 West A Street, north side, corner, northwest of Royal Avenue, unincorporated Hayward area of Alameda County, bearing Assessor's Parcel Number: 0432-0016-035-00. (Continued from

February 11, April 14, April 28, May 26, July 14, September 8, October 13, 2004, March 23, June 22, October 12, December 14, 2005, March 22, May 24, September 13 and November 15, 2006, March 28, July 11, August 8 and September 12, 2007; January 9, April 23, August 28, September 24, October 8 and December 10, 2008; to be continued to January 14, 2009). **Staff Planner: Christine Greene.**

Staff gave the Board an update on the status of applications, C-8271 and C-8227. The property owner has submitted a plan to remodel the site. This includes an area for the restaurant, and stereo installation business. Staff has reviewed the site plan, and provided comments. The Applicant is now incorporating recommendations. Staff did not anticipate a prolonged continuance. Member Spalding said she noticed the catering truck has been removed from the site.

2. **ROBERT NAVARRO, CONDITIONAL USE PERMIT, C-8727, PLN- C-8227** – Application to allow sales and installation of car audio, stereo systems and window tinting in a P-D (Planned Development) ZU-1487 (1487<sup>th</sup> Zoning Unit) District, located at 691 West A Street, north side, corner north west of Royal Avenue, unincorporated Cherryland area of Alameda County, designated Assessor's Parcel Number: 432-0016-035-00. (Continued from August 27, October 8, 2008; to be continued to January 14, 2009). **Staff Planner: Christine Greene.**
3. **ANIL SINGH / BILL LANE, 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, September 10, October 8, and December 10 2008; to be continued to January 14, 2009). **Staff Planner: Jeff Bonekemper.**
4. **DARYL DWAYNE MANGRUM – VARIANCE, V-12123, PLN- S-2173** - Application to determine building site status and the reduce front yard setback from 30 feet to 20 feet with the construction of a new single family dwelling in an "A" (Agricultural) District, located at the 4.7 mile marker on Palomares Road, south of Palo Verde Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's Parcel Number: 085A-4100-009-28. (Continued from October 22, November 12 and December 10, 2008; to be continued to January 14, 2009). **Staff Planner: Sonia Uruza.**

The Vice Chair motioned to accept the Consent Calendar as submitted, Member Adesanya seconded the motion. Motion carried 4/0

#### **REGULAR CALENDAR**

1. **RICHARD GOLD, CONDITIONAL USE PERMIT, C-8640** – Application to allow continued operation of a "B" Type Service Station, in an ACBD – BDI

(Ashland and Cherryland Business District Specific Plan- Business Industrial) District, located at 594 East Lewelling Boulevard, north side, terminus, north of Boston Road, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 413-0027-058-02. (Continued from September 26, October 24, November 14 and December 5, 2007; January 9, February 27, April 23, July 9, August 27, October 8, October 22 and November 12, 2008). **Staff Planner: Pat Anekayuwat.**

Staff reviewed the history of the submission. The application had been continued to clarify parcel map requirements. Staff was also to determine if requirements had been met regarding dedication, and deferred frontage improvements. The Deferred Improvement Agreement was located. Conditions were implemented when the Parcel Map was executed. There was no requirement to dedicate parcel frontage. Staff proposed the following changes to proposed Conditions of Approval for C-8640. Conditions #7 and #9 should be eliminated. They are carryovers from the original CUP, and have already been completed. Condition #4 should also be eliminated. In the day to day process of the business, drums are placed outside for pick-up and delivery. The property is screened. The drums are not visible. The Board asked the following questions:

- How often is the property inspected by Alameda County Fire
- Are the pallets stored on site, combustible

Staff believed inspections were conducted, once a year. The pallets are common on industrial/commercial sites. They are not considered, combustible. Public testimony was opened.

Mr. Gold said pallets are stored at the north end of the yard, at all times. This is as far away from fuel pumps, as possible. There are constant shipments from the property. The number of pallets increase and decrease depending on the shipment schedule. The Fire and Environmental Health Departments inspect the site at least once a year. Mr. Gold confirmed that he was unable to locate his copy of the Dedication Agreement with Public Works. Staff clarified the Deferred Improvement Agreement was located. The frontage issue was resolved as part of the original parcel map. Frontage dedication is not a requirement of the current use permit. Member Spalding wanted to insure that Mr. Gold understood it was not a Condition of the use permit, that he dedicate any of his real property. Mr. Gold acknowledged his understanding. However he wanted to make the Board aware there was an initial Dedication Agreement with Public Works. A later modification was made to the initial agreement. Member Spalding responded that any prior agreement with Public Works was separate, and would stand alone from the CUP. The Chair asked Mr. Gold if he would object to an added Condition requiring him to keep the site clean, and graffiti free. Mr. Gold told the Board he keeps the site clean, as a matter of practice. It is frustrating when people graffiti the site. However he would accept the proposed Condition. Public testimony was closed.

Member Adesanya moved to uphold the staff recommendation of approval with the following modifications: Conditions #4, #7 and #9 shall be deleted. A further Condition shall be added requiring the site remain clean and graffiti free. Member Spalding seconded the motion. Motion carried 4/0.

2. **T MOBILE, CONDITIONAL USE PERMIT, C-8774, PLN – 2008 -00040 –** Application to allow continued use of an existing telecom facility in an M-2 (Heavy Industrial) District, located at 16520 Worthley Drive, east side, approximately 0.38 miles south east of Grant Avenue, unincorporated San Lorenzo area of Alameda County, designated Assessor's Parcel Number: 438-0010-004-19. **Staff Planner: Damien Curry.**

Staff reviewed the history of the application. The recommendation was approval. Contact was made with the San Lorenzo Homeowners Association. The Association had no comments regarding the application. The Applicant was not at the prior Hearing because staff inadvertently gave the incorrect time. The Chair asked if the telecom equipment was contained in an enclosed area. Staff confirmed the equipment is not within an enclosed area but contained within a storage yard. Public testimony was opened.

The representative for T Mobile, Mr. Michael Beatty was present. Mr. Beatty told the Board the entire parcel is fenced. Bollards surround the equipment and protect. Regarding Condition #9, T Mobile has just submitted a recent Radio Frequency Report. Mr. Beatty requested that the yearly submission requirement be changed to 5 year increments, as the permit period is for 10 years. In addition he asked why a Regulatory Fee was required. This is usually required with the Application Fee. Staff explained that the Application fee is for processing the entire application. A Regulatory Fee is standard Condition with all telecom applications. The fee is used for continuous research on applicable FCC rules, and regulations. The Radio Frequency Report can simply be a letter stating progress. Counsel added that Conditions are derived from Telecom Siting Guidelines adopted by the Board of Supervisors. The Status Report requirement is fairly consistent. The report confirms the progress of construction and compliance at one and five year intervals. Member Spalding believed the Regulatory Program Fee also covered the cost of investigating an FCC License. Although not a requirement, Member Spalding believed the fee should be used to investigate under ground installation methods. Public testimony was closed.

Member Spalding motioned to adopt the staff recommendation of approval. Member Adesanya seconded the motion. The Chair requested modification to Condition #2. December 12, 2008 shall be changed to January 17, 2009. Members Spalding and Adesanya accepted the modification. Motion carried 4/0.

**APPROVAL OF MINUTES:** Due to meeting room availability the Meeting had to come to a close. The Minutes of October 8 and 22, November 5 & 12, 2008 were continued to the January 14, 2009 Hearing. Member Spalding placed the motion. Member Adesanya seconded the motion. Motion carried 4/0.

**APPROVAL OF 2009 BOARD OF ZONING ADJUSTMENT CALENDAR:** Member Spalding motioned to adopt the 2009 Board of Zoning Adjustments Calendar with a modification. The November 11<sup>th</sup> meeting shall be changed to November 18, 2009. The Vice Chair seconded the motion. Motion carried 4/0.

**STAFF COMMENTS & CORRESPONDENCE:** Due to time constraints, staff did not submit comments.

**BOARD'S ANNOUNCEMENTS, COMMENTS AND REPORTS:** Due to time constraints, comments were not submitted.

**ADJOURNMENT:** There being no further business, the hearing adjourned at 3:05 p.m.

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ALBERT LOPEZ - SECRETARY  
WEST COUNTY BOARD OF ZONING ADJUSTMENTS