

**CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL**

**Minutes for December 12, 2005**

(Approved as corrected January 9, 2006)

- A. CALL TO ORDER:** The Chair called the meeting to order at 6:39 p.m. Council members present: Jeff Moore, Vice Chair. Council members: Andy Frank, Carol Sugimura, Karla Goodbody and Cheryl Miraglia. Council members excused: Ineda Adesanya. Staff present: Jana Beatty, Tona Henninger, Bob Swanson and Maria Elena Marquez. There were approximately 35 people in the audience.

**B. Approval of Minutes of November 14, 2005.**

**Ms. Goodbody made a motion to approve the minutes with corrections, seconded by Ms. Sugimura. Motion passed 4/0. Mr. Frank arrived after the motion was made.**

**C. PUBLIC ANNOUNCEMENTS.**

**D. Consent Calendar**

The purpose of the Consent Calendar is to group routine items that may be approved by one motion, unless a request for removal for discussion or explanation is received from a member of the Council or a member of the public. If discussion is desired, that item will be removed and considered separately before Regular Calendar items on the agenda.

- 1. VARIANCE, V-11974 – OPHELIA HOLLY** – Application to expand a non-conforming use (rear yard set back) with a 240 sq. ft. addition, in a R-1-CSU-RV (Single Family Residence, conditional Secondary Unit, Recreational Vehicle) District, located at 2719 Barlow Drive, south east corner of Carlton Avenue, Castro Valley area of unincorporated Alameda County, bearing Assessor's designation: 084B-0520-034-00.

**Ms. Miraglia moved to approve Variance, V-11974, with a second by Ms. Goodbody. Motioned passed 5/0.**

**E. Regular Calendar**

- 1. THOMAS VAN VOORHIS, VARIANCE, V-11963** – Application to approve as two building sites, lots that are reduced in area from 100 acres to five acres and 73.23 acres; and one parcel without frontage on an approved county road in an "A" (Agricultural) District, located at 22000 Eden Canyon Road, southeast side, approximately one mile northeast of Hollis Road, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 085A-2201-012-00.1. **(Continued to January 9, 2006).**

2. **CONDITIONAL USE PERMIT, C-8328 –ERIC FABIANAC** – Proposal to adopt a Mitigated Negative Declaration and application to expand and operate a boarding and training kennel for up to 150 dogs; occupancy of an Agricultural Caretaker's unit; and construction of a new single family dwelling, in an "A" Agricultural District, located at 10671 Crow Canyon Road, south west side 1.28 north of Norris Canyon Road, unincorporated Castro Valley area of Alameda County, bearing Assessor's designation: 0085-1991-006-00.

Ms. Beatty presented the staff report. She clarified the permit status of the application. In 1996, the Zoning Administrator denied the application (not to this particular applicant but from the previous operator) for a dog training facility for about 10 dogs. It was appealed to the Board of Supervisors and the Board of Supervisors upheld the appeal. Originally, it had a permit for 10 dogs and the facility was extended beyond the 10 dogs. An initial study was prepared for the project. Potentially significant impacts were found in several areas including traffic, noise and cultural resources. However, all of these potentially significant impacts were mitigated to a level of insignificance. This facility is located on a tricky road and traffic was one of the issues considered. The Traffic Division in the Public Works Agency has some concerns about side lines for cars exiting the facility, making turns into the facility and queuing on Crow Canyon Road. A traffic report done by TJKM recommended that the applicant comply with any recommendations from the Public Works Division including possibly widening the road and providing a left turn lane into the facility. These suggestions are included in the mitigated measures for the project and the proposed conditions of approval if the Council decides to recommend approval of the project. A noise study was done by Colin Gordon & Associates that determines that the ambient noise in the area, including vehicle noise on Crow Canyon Road, was more significant than the existing barking dogs. The consultants recommended that a wall be built to provide a visual barrier for the dogs and also the adjacent neighbors. This application is for a Conditional Use Permit. However, staff would recommend that a site development review application be filed later once the architectural plans become more concrete. This would give the Planning Department the chance to review façade designs, the exact placement for the new kennel and the new annex as well as the single family home that is proposed up the hill.

Ms. Sugimura asked how long have they been in operation. Ms. Beatty said that since 1996 and 2003 for the current owner. Mr. Moore said he understood that there was a previous approval for 10 dogs that expired. Ms. Beatty said she believes that is up for 65 dogs and they do not operate at that capacity all the time, but they have the physical capacity for up to 65 dogs. Ms. Beatty was not sure if they had gotten a permit for the expansion. They expect to serve up to 150 dogs during the holidays.

Mr. Fabianac, applicant, stated his background and his wife's background. They own their ranch on Crow Canyon Road since 1988. He leased his property to

Rick Sanders and his wife, who started the dog training facility. He and his wife decided to come home, so they evicted all the tenants in their property and moved back to their ranch in September 2003. They met with the neighbor who originally rented the property and decided that they would start a corporate venture for dog training, dog boarding and dog day care. His associate informed Mr. Fabianac that he had all the necessary permits to begin the process. They started in late September and advertised that they were open for business. He also learned that there was no documentation in place and there were no processes and no procedures. He quickly found out that the relationship was not what he had envisioned and severed the partnership. They became a legal entity called Club K-9 Incorporated and incorporated in November 2003. He learned about the dog care business and how to run a small business. He researched dog parks and found out what people were interested in. There was a shift taking place in how people view their pets. It used to be the family dog and now what he witnesses is that the family dog is actually a family member. He and his wife came up with a vision on how a traditional kennel was run. Traditional kennels take and incarcerate dogs and separate them from one another for safety and security reasons. However, people were more interested in having their pets socializing. They came up with Club K-9 as a way to safely and professionally create an environment where customers came in and put their dogs in a resort type atmosphere. They hired the best people they could find. They hired 3 tech veterinarians and 3 master trainers. Most traditional kennels are run by a mom and pop operation with a couple of high school kids helping out. They took that first year and they developed systems and procedures to provide consistent high quality experiences for both pet owners and their pets. The good thing about a dog park is that dogs get to socialize. The bad part of the dog park is that dog owners were not the same. There are inattentive owners that let their dogs go about and do not police themselves. There are also antisocial dogs that dog owners take to the dog park and don't get along with the other dogs. The experiences at a dog park were very inconsistent. They figured out that it is not about having a monolithic group but many homogeneous groups that individually got along together. In order to do that, they needed a lot of space and fortunately they have 20 acres. Their idea is to have a resort tailored for dogs. In August 2004 they submitted an application to continue to run the current operation and to build two new kennel facilities as well as a home for him and his wife. Their goal is to have the ultimate kennel facility in California. They also want to be kind and considerate neighbors. They are looking at ways of reducing the noise from their new facilities and provide the best environment for the kennel and for the neighbors. He has a copy of Ms. Beatty's findings and all of the findings that she stated are within reason and they are willing to comply with the County's recommendations. They asked for approval of their project.

Ms. Miraglia told Mr. Fabianac she understands that he is operating without a permit and why that happened and asked him about a license from Environmental Health and if he has this license. Mr. Fabianac said he was not aware about this license. Ms. Miraglia told him that he needs one.

Mr. Moore asked Mr. Fabianac what is the average number of dogs that will be housed at the facility and what is the highest number that the facility will house. Mr. Fabianac said during summer time somewhere between 60 and 70 dogs on an ongoing basis; however, during the summer vacation time in July and all the major holidays, their capacity could triple. For Christmas, they have 7 pages of people on the waiting list. He calculated the square footage they have available for running areas divided by what density of dogs was appropriate and that is where the number came up. Ms. Sugimura asked Mr. Fabianac what he does with the antisocial dogs. Mr. Fabianac said that they have a few single pen areas. They tell their customers that they have one free visit to come to them. They always find a home for the dogs. For dogs that can not socialize, they have a few individual pens like a traditional kennel. When the owner comes back, he is told not to bring the dog back.

Public testimony was called for.

Amy Venier, resident at 4883 Seaview Avenue, stated that she and her husband have a 4 year old golden retriever. They have been taking their dog to Club K-9 for several years. According to their experience with several day care facilities for dogs, this is the best facility they have ever taken their dog to. They both work in San Francisco and are gone all day long. It has been a huge help for them and their dog loves it.

Linda Arnold, resident at 3469 Bernal Avenue, Pleasanton, used to live in Castro Valley for about 10 years, now she lives in Pleasanton. She has been to many boarding facilities for her dog over the years, and she thinks this is a quality facility. It is more like a home for the dogs. The dogs are treated well more like part of the family. She travels on business and takes her dogs to this kennel, which is the best facility in the Bay Area.

Brian Pesicka, resident at 10411 Crow Canyon Road, stated that he has been a neighbor of the Fabianacs since May 2004. He has visited the facility and was very impressed at how clean and professional the facility is. He has had no problems with them. They were always very concerned about noise. He has a two year old Rottweiler. Ms. Sugimura asked Mr. Pesicka if he has any problem with noise and odor. He said no.

Janet Barrett, resident at 22504 Charlene Way, stated that she has two children, 10 and 12 years old. When they decided to have a puppy, they looked for a dog care facility and they found it at Club K-9. Her dog enjoys going there. She does not take her dog everyday, it is on an as needed basis. She is in support of the facility.

Kristal Jacobson, resident at 1198 Maywood Lane, Martinez, stated that she has worked for Club K-9 since last year; she started as a client. She is very impressed with how the facility is run by the Fabianacs and the respect that they give to the animals. She has worked for several vet facilities as well as grooming facilities.

She has seen the good and the bad with dog care and the way dogs are treated. She remains there because of the way the dogs are treated and cared for. They are treated like humans. A number of vets have toured the facility and have been impressed with the cleanliness of the facility and the care that has been done to keep them happy, socialized and exercised. She is glad to be part of Club K-9.

Michelle Kehl, spoke on behalf of Club K-9. She and her husband adopted a dog, a two and a half pit bull. She visited a couple of dog day care facilities but she did not like how they looked. They found Club K-9. She spoke about the medical condition of her dog. One of her concerns about taking her dog to Club K-9 was her dog playing with other dogs and getting harmed. The staff takes extra care with her dog and monitors her. It is now 2005 and her dog is doing very well. She fully supports the facility.

John Roeber, resident at 9704 Thunderbird Drive, stated that he is a current dog owner and business owner in Castro Valley. He has seen a lot of changes in the County boarding facilities in the area. Club K-9 is the best. There is not available kennel space and locations. A quality facility is needed in this area. This facility would benefit the residents because their pets can be cared for during the day. The owners' commitment to quality care for the animals that are boarded at their facility is also a big concern. The care and attention that the owners show is unusual and genuine. The staff is very sincere, committed and well trained. Animal treatment is professional. Their plan calls for a concrete block structure that keeps the noise down. He supports the project.

Emily Lamm, resident at 17672 Rockhurst Road, stated that she and her husband take dog ownership very seriously. They have a two and a half years Labrador. They spoke to neighbors to make sure they would not bother them with a new dog. They also spoke to Mr. Fabianac on several occasions before letting their dog at their facility. She stopped by multiple times to see how the facility was run and to see how clean it was. There was never an occasion where her dog was in jeopardy. The staff is very responsive. Her dog has some orthopedic needs and everyone on the staff let them know how the dog is doing. They are very attentive to his needs. It is a great facility, the staff is genuine and sincere with the animals. She supports of the project.

Carl Lamm, resident at 17672 Rockhurst Road, stated that Club K-9 is a very well run operation and top quality boarding. The biggest indicator of the level of boarding that they provide is the long waiting list. He is in support of the project.

Stan Laster, resident at 6 Sandalwood Lane, San Ramon, stated that when he moved to San Ramon 21 years ago, there were plenty of dog facilities. The 3 kennels that he originally went to and liked are gone. The population has continued to increase and the facilities have declined. The main problem has been the capacity. They run an excellent facility. They approach it from a different standpoint. Mr. Laster requested that the Council grant the permit.

Cecilia Fusich, resident at 16994 Bierly Court, stated that she is a recent dog owner. She has a 65 pounds dog that was totally untrained when she got it. She looked around for a training facility. There is a dog day care on Castro Valley Blvd. but they do not train. There is another facility on Crow Canyon, next door to Club K-9. It is not the same quality as club K-9. They offer products to the dogs but are not as healthy as those offered at Club K-9. Her dog was trained by staff at Club K-9. They provide excellent dog day care. The staff is highly qualified. The staff is very diverse, not the average high school kid. They have wonderful reduced rates for people that can't afford the regular rates. It is a great benefit to the community. She asked for approval of the permit.

Jim Stone, resident at 18810 Buren Place, stated that he has a German Shepard and takes the dog everyday with him to work and sometimes he brings it to Club K-9. When he was looking for a place for his dog, he was looking for details, what they do to make their place right. Mr. Fabianac and his wife go the extra detail. The facility is built to the way it should be for the area and good for the dogs. He said when he and his wife went to Club K-9, they did not hear dogs, they heard motorcycles. He also mentioned that when he goes on vacation and if Club K-9 is full, he changes plans so they can take their dog to Club K-9.

Des Moncton, resident at 147 Pebble Place, San Ramon, stated that she has been bringing her dog do Club K-9 for over a year and a half. Before that, she did a lot of research into facilities in the area. She travels a great deal because of her job. She is representing four of her co-workers that also travel a lot. Before she adopted a dog, there were plenty of kennels but not like Club K-9. Club K-9 offers what she calls "all day play". Exercise is critical, the more she plays the healthier she is mentally and physically. It is very convenient to have her dog trained on the premises. Her dog never smells when she picks her up from Club K-9. Staff is always friendly and professional. The facility is clean and well organized. She supports the project.

Sarah Mutka, resident at 5231 Crane Avenue, said that one of the things that she likes from Club K-9 is that they are open 7 days a week for pick up. It is very convenient to be able to come on a Sunday. Her dog was afraid of people. Now she loves other dogs. She will go happily with male care takers. She thinks it is a great facility and would love for them to be able to expand.

Terry O'Shea, resident at 421 Evergreen Court, Danville. She has had dogs for 31 years and has boarded them in many places. They did some research and found Club K-9. She said that Club K-9 is a unique facility and the people are wonderful. The dogs play, they are worn out, they are happy. She hopes it is approved. She supports the project.

Pat Arney, resident at 10730 Canyon Road, stated that she lives across from the facility. They only have 5 neighbors, so there are not too many to complain. One

lady is in Reno and was not able to come. The other one is the people that Mr. Fabianac evicted from his house, and they are not going to complain. Actually it is only three of them. The other one lives at the top of the hill, he does not hear the dogs. They bark 24/7. She can see having a few dogs, but 150 or even 50+ is ridiculous. She spoke with Mr. Fabianac two months ago and he told her how quiet his dogs were and they never bark; he told her to “stay here for 30 minutes and if you hear them bark, let me know”. She only stayed there 15 minutes and the dogs were barking. All dogs bark, unruly or not. On warm summer nights she can't leave her back windows open, she has to close the windows. Also, the traffic on the road is horrible. 39 years ago when she moved, there was no traffic at all. Traffic is bad between 7 and 10 a.m. and 6 and 8 p.m. Mr. Fabianac moved dirt continually for over a month, 15% grade or has it been graded without permits.

Ryan Miller, resident at 10678 Crow Canyon Road, representing his father who has a property across the street and was unable to attend. They did not get any paperwork from the County until last week, December 7. He had written a letter to Mr. Fabianac and his wife, June 18, 2004 about his dogs barking at night. His father wrote another letter to them a couple of weeks later, trying to solve the problem without getting the County involved. His father wrote a letter to staff on November 20, 2004 and asked many times to get staff plan. He did not get any information back until July of this year. The County does not really help the concerned citizens. Just like the previous speaker said, they can not open their windows at night. These people have been doing business for years without a permit. He acknowledged that the facility is great but complained about the barking of the dogs.

Mr. Moore asked Mr. Miller if his father ever received a response. Mr. Miller said he does not know for sure since he is speaking on behalf of his dad.

Sean Miller, resident at 10678 Crow Canyon Road, stated that he works from 14 to 16 hours a day so by the end of the day he is tired and because of the dog's barking he can't get a good night of sleep. He said it is a great facility and the Fabianacs are outstanding people, but the problem is the noise. He really should look into the noise barrier. Also, the road is tough. There needs to be a limit. He also said that the road has a lot of traffic. Limit the amount of cars. The noise needs to be cut down.

Lori Fabianac, applicant's wife, stated that they are putting a concrete structure that will minimize the noise tremendously. They want to control noise because they want to be good neighbors. Animal control has come on several occasions due to the Arneys and the Millers calling and no barking was noted. They also have a bark protocol. If they have a dog that is barking, they switch the play group because the dog is not active and busy. Next, they keep an eye on the dog. If the dog continues to bark, he is kept in a barn. Next, the dog is re-introduced to a new play group. If the bark stops, great. If not, they put a citronella collar on the dog, a training device to curb the barking. If the barking continues, they ask that

the dog not come back. Also, they have an adjacent kennel center which is next door. They have much traffic going in and out in the middle of the night. She hears dogs barking and gun shots going off. It is due to the traffic coming in at all hours of the night. They live on the property, and as a result if anyone barks in their kennel, it is their obligation and responsibility to get up and find out why the pet is barking. Also, she mentioned the independent sound study they have done by Gordon Engineering, pointing out that the traffic level was greater than the noise level emanating from the property and it even took into consideration increasing the capacity up to 150 dogs, the traffic noise level it is still higher.

Mr. Moore asked Mrs. Fabianac if the noise study was a peak noise study. Mrs. Fabianac said it was done for those exact purposes.

Public testimony was closed.

Ms. Miraglia referred to Mr. Miller's letter regarding dogs barking after 9 p.m. and asked Mr. Fabianac at what time dogs go in. Ms. Fabianac said that they are inside by 8 p.m. Ms. Miraglia asked about the neighbors hearing dogs barking after 8 p.m., is it because there are no sound proof walls? Mr. Fabianac said that all of their neighbors have dogs and they are getting a lot of the blame for the barking. Ms. Miraglia asked Ms. Henninger if there was a way to investigate the barking of dogs at the facility next door to them. Ms. Henninger said that Zoning Enforcement can investigate barking but people coming in and out of the property is a separate issue. The Council needs to get that cleared up.

Mr. Moore asked Mr. Fabianac if these facilities were completely enclosed. Mr. Fabianac said that the new facility will be completely enclosed. Most dogs when enclosed, they tend to bark. Animal control people they noticed the same thing very little barking and that is because the dogs are happy.

Ms. Goodbody asked Mr. Fabianac how long will it take to build the concrete structure. Mr. Fabianac answered about 9 months.

Mr. Moore asked Mr. Fabianac if he has talked to the Arneys and to the Millers and if he is willing to build a sound wall and what type of material it will be. Mr. Fabianac said that it will be a composite material, where they put the building, between the dogs play area and Crow Canyon Road, entire building in place. Mr. Fabianac showed a map of the location and explained which of the neighbors will be more affected by the barking.

Ms. Miraglia said that she was very concerned about the neighbors being affected by the noise, and she would like to know if the County can check on the barking from the neighboring facility and see if it is emanating from there, and find out if the sound wall will stop most of the noise. She is very concerned for the noise element for the neighbors. She would like to get some answer.



Mr. Frank said that in the past, what the Council has done, is asked that the neighbors come back to this council let's say in nine months and let the Council know if the applicant has mitigated the issues of concern. If the situation is not mitigated, the Council could provide a time frame for the neighbors and so forth to come back and re-visit the issue. If it is going to take 9 months to build, probably it is going to be a year. In 18 months to re-visit the issue and find out from the neighbors, from the County, and from the people next door, if further mitigation has to be done as part of the permit process. It is worth it to give the applicant the opportunity to move ahead on, and if something does not work out, the applicant will have to deal with it. Some times you have to learn by trial and error, you have to use different capacity materials, sometimes it takes a longer process and it might need to get adjusted. Mr. Frank thinks the Council can re-visit the issue in 18 months, that would be an attempt to work with the neighbors in question. He would go ahead with the condition to see it in 18 months.

Ms. Sugimura said that she is concerned about traffic, noise and number of dogs. Mr. Frank said there is going to be traffic regardless if there is a facility or not. He compared it to a child care facility. Ms. Sugimura said that if the number of dogs doubles, than the amount of traffic will also double.

Ms. Goodbody asked if the application would come back to the Council as a site development review. Ms. Beatty said that if the Council decides to move ahead and approve the project, unless you had requested a condition could be requested for an administrative review in 18 months. The conditional use permit could come back to the Council then, but also the site development review for the actual structure would come back to the Council as well.

Mr. Moore told Mr. Fabianac that as long as he agrees to the mitigating requirements, he agrees with Mr. Frank that he can come back for a review and make sure that it is mitigated.

Ms. Miraglia asked what if the Council were to do that and 18 months later it comes back. There are still complaints that have not been addressed, and they invested a significant amount of money in this facility and we deny the permit. The suggestion is that we could go ahead and approve it, but say instead of this being a basically three year permit, it would come back to us in a year and 18 months.

Mr. Frank said that they could take further mitigated measures in the future to take care of it. If you have something you are providing for the general public and the services they are providing is a public good and is economically driven that they provide greater services then the economics providing with the capacity to mitigate the issue further, there is nothing wrong with it. He understands the risks, there is a financial risk involved, but if it is measured, then if something needs to be done further, then it can be addressed. Sometimes with noise you have to take measures in stages. You do what professionals tell you to do, and try

to help the neighbors, but again, give him the opportunity to mitigate it, he is spending the money to mitigate it. As long as the applicant is willing to spend the money necessary to mitigate the situation, the Council should approve the measure as submitted with the considerations to the County and enforcement agencies, and then the Council makes an 18 month review. The risk is his and he is willing to take it.

Ms. Sugimura asked the applicant what would he do if he was the neighbor and could not sleep because of the noise.

Mr. Fabianac said that first he takes a little bit of exceptions to the neighbors suggesting that they are keeping them up at night. Nobody lives closer to their dogs than they do. They sleep with their windows open every night and the dogs are not constantly barking through the night. They had a professional engineer that came specifically for that reason and he affirms that there is no barking emanating throughout the night. Brian, who lives closest to where the dogs are housed today, does not have any problems with the barking. They have tried to be good neighbors, if they have an occurrence they address it and take care of it.

Ms. Miraglia requested that public testimony be opened again in order to hear Ms. Arney's testimony.

Ms. Arney commented on dogs barking like that next door to Mr. Fabianac. The neighbor next door has about 8 to 10 dogs. Mr. Fabianac has 65. She said that the barking happens all day long. The owner of the dogs barking is the one that he evicted from his place. Ms. Arney said it is hard to have 65 dogs in an old barn, things you don't see and don't hear. Also, about the Animal Control girl that had no complaints, Ms. Arney said that there have been several dogs killed there. The traffic is horrible, the guy next door has the motorcycle, the guy next door is renting, the man that owns the house lives up on the hill and his boy is going to police school so he is the one firing the shots. Mr. Moore told Ms. Arney that all of this is not part of the noise problem and that she can talk to the County staff about it.

Public testimony was closed.

Mr. Moore said that the actual number of 150 dogs is a lot of dogs. They have 65 dogs now with potential problems and asked comments from the Council. Ms. Goodbody said that Mr. Fabianac can come back in maybe 12 or 18 months, limit the amount of dogs and based on what the Council is presented with a year from now, perhaps the Council can re-consider the permit.

Ms. Miraglia said that if you did that in 12 months, is that 12 months from when they build the new building or 12 months from when the permit is granted, because a lot of this will not be abated until they build it, so she asked for

clarification. If it was permitted now, even if it was not 12 months, if it was three years from now.

Mr. Moore said that although there are a lot of issues, he must admit that a lot of work has been done on this application as far as the quality sound mitigation. Hopefully a lot of these issues with the neighbors can be addressed. Mr. Frank said that regardless of the time, 12 or 18 months, does not make any difference. If the neighbors complain to Zoning Enforcement, they can bring it back to this council immediately. If he puts the sound proofing, the sound barriers, all these things into place, it is going to be a tremendous difference. Give them the opportunity. They seem to be agreeable to re-visit the issue. The County can always come back if there is a problem.

Ms. Miraglia is concerned about giving him the opportunity to have 150 dogs. Mr. Frank said that the number of dogs is not the issue. If Zoning Enforcement says that it needs to be cut down, it will have to be cut down. It can be reduced. Obviously, in this case it needs to be reviewed periodically for the benefit of the applicant and the neighbors.

**Mr. Frank moved to approve Conditional Use Permit, C-8328 with the sound proofing as suggested in the testimony, meet the County requirements and be reviewed by the MAC after one year, and then to be reviewed as necessary as determined by the Council after the review with the applicant and if there are any neighborhood responses that bring about a sooner review, they can do such by contacting Zoning Enforcement, and the Council can review the issue on a sooner basis.**

Ms. Beatty said a site development review is in the proposed conditions of approval, they would have to come back regardless. Mr. Frank said that the conditional use permit will be for a year. The issues in regards to the building and other issues can be discussed at the next hearing for the site development review.

Ms. Henninger asked that if within this one year they can go up to 150 dogs. Mr. Frank said if the Council asked them to reduce it, it will be reduced.

Ms. Miraglia said that they can not handle it now. Mr. Frank said that they are going to be handling 65 until the new facility is built. Ms. Henninger requested clarification of the motion.

**Mr. Frank said you have a working progress arrangement, you can not expect 150 dogs right now. He is not asking for that. When the facility is completed at that time, the peak will be 150. He still has to make the transition going from the barn facility until he is going to replace the barn with, it is a work in progress. The Council is going to monitor the conditional use permit on an annual basis and if anything comes up, they can go to Zoning and review it sooner. The Council needs to monitor the**

**situation in progress, so right now he has 65 with the potential on completion to be 150. Ms. Goodbody seconded. Motion passed 5/0.**

- 3. SITE DEVELOPMENT REVIEW, S-2028 – LARSON/ SAIDIAN –**  
Application to allow the construction of a two story, 7240 square foot retail and office building in the CVCBD, Sub 7 (Castro Valley Central Business District Specific Plan, Sub Area 7) located at 3226 Castro Valley Boulevard, north side, approximately 200 feet west of Santa Maria Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Number: 84A-0112-011-00. **(Continued to January 9, 2006).**

**F. Open Forum**

Richard Kalish, representing Dan Gale, discussed a proposed project on Alana Street.

Mr. Moore said that the Council does not make recommendation on investments. Mr. Moore asked Mr. Kalish if his client has talked with staff about their assessment and feasibility on subdivisions. Mr. Kalish said that they talked to the County and they said that on Alana the minimum lot size is 7,500, on Sargent is 5,000. This is 12,000. If it was split, 7,500 and 4,500 it would not meet one or the other. Possibly, it could get that particular lot could be re-zoned for a smaller amount, but they say the first thing to do is to come to MAC to decide if the Council will even consider such scenario.

Mr. Moore said that he could bring it to MAC so that the Council can take a look at it. It seems that lot size consistency is the question. He will have to bring it to MAC on some sort of preliminary basis with an application and notices be sent to the public. Mr. Frank told Mr. Kalish that the Council can not make a commitment. Mr. Kalish said what they were hoping was one of two things: go away, we don't even want to entertain in the future, or yes, keep pursuing it, due your diligence and bring a proposal back. He said he and his client did not expect the Council to give any kind of approval tonight

**G. Chair's Report – None.**

**H. Committee Reports – None.**

**I. Staff Announcements, Comments and Reports**

**J. Council Announcements, Comments and Reports**

**K. Adjourn – Meeting adjourned at 8:32 p.m.**

**Next Hearing Date: Monday, January 9, 2006**

