

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
AUGUST 24, 2006
(APPROVED SEPTEMBER 28, 2006)

The meeting was held at the hour of 1:30 p.m. in the City of Pleasanton Council Chambers, 200 Old Bernal Avenue, Pleasanton, California.

FIELD TRIP: 9:00 a.m.

MEMBERS PRESENT: Members Jon Harvey, Chair; Larry Gosselin and Jim Goff.

OTHERS PRESENT: L. Darryl Gray, Assistant Planning Director.

FIELD TRIP: The meeting adjourned to the field and the following property was visited:

1. **CONDITIONAL USE PERMIT, C-8438** ~ Application to allow modification of an existing Outdoor Recreation Facility so as to enclose and augment marina services including two new buildings of 6,000 square feet and 2,500 square feet, in an "A" (Agricultural) District, located at 6020 Lindemann Road, east side, approximately 0.6 mile north of Byron-Bethany Road, Unincorporated Byron area, Assessor's Parcel Numbers: 99B-7150-012-00; 99B-7150-004-09, 99B-7150-004-08 and 99B-7150-004-07.

2. **BRYAN FORRESTER, VARIANCE, V-12018** ~ Application to approve as a building site a lot with 90.87 feet of effective lot frontage where 150 feet is required, in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acre Minimum Building Site Area) District, located at the intersection of Jacobus and Easthill Avenues, approximately 100 feet north of Kilkare Road, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Numbers: 096-0530-009-00; 096-0531-003-00; 096-0531-004-00 and 096-0531-005-00. **(This item was not included in the Field Trip)**

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Members Jon Harvey, Chair; Larry Gosselin and Jim Goff.

OTHERS PRESENT: L. Darryl Gray, Assistant Planning Director, Nilma Singh, Recording Secretary

There were approximately fourteen people in the audience.

CALL TO ORDER: The meeting was called to order by the Chair at 1:35 p.m.

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.

ANNOUNCEMENTS BY THE CHAIR: As recommended by staff, the Chair announced that Regular Calendar item #2 will be moved to the Consent Calendar, to be continued without discussion to October 26th as recommended in the staff report. Marie Frates, a resident of Midway Road, did not provide any testimony but submitted a copy of her written testimony.

CONSENT CALENDAR:

1. **BOSCO and GERARDA STOCKING, WILLIAM SPEER, JR. and CLAUDE HENSLEY, VARIANCE, V-11924** – Application to modify a nonconforming use (commercial use in an area designated by the General Plan as WM) so as to operate an event center with on-site alcohol sales, in a Water Management (ECAP) District, located at 11984 and 11986 Main Street, south side, end of Kilcare Road, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 0096-0140-002-07. (Continued from June 23, July 28, September 29 and December 15, 2005, May 25, 2006; to be continued without discussion to October 26, 2006).
2. **RICHLAND TOWERS, LLC., CONDITIONAL USE PERMIT, C-8459** ~ Application to allow the construction and operation of a new television antenna and tower (450 feet in height) on Mt. Allison, west side terminus Mill Creek Road, Sunol area of unincorporated Alameda County, bearing County Assessor’s Parcel Number: 096-0090-005-07. (Continued from March 30, April 27, June 29, 2006; to be continued without discussion to September 28, 2006).
3. **T-MOBILE, ELIZABETH PENNINGTON, CONDITIONAL USE PERMIT, C-8508** ~ Application to allow modification and expansion of an existing wireless communication facility In an “A” (Agricultural) District, located at 707 Castlewood Circle, northwest side, approximately 1000 feet west of Castlewood Drive, unincorporated Pleasanton area of Alameda County, bearing Assessor’s Parcel Number: 946-4386-001-19. (Continued to September 28, 2006).
4. **ALTAMONT MOTORSPORTS PARK LLC., CONDITIONAL USE PERMIT, C-8471** ~ Application to continue operation of an existing outdoor recreation facility (motor vehicle raceway), and to allow: a) construction of required safety and general facility upgrades; b) construction of a 50,000 square foot previously approved grandstand cover; c) construction of the previously approved facility identification sign; and d) reconfiguration of the track to accommodate general racing operations in an ‘A’ (Agricultural) District, located at 101 Midway Road, east side, approximately 0.5 mile south of I-580, Tracy area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 099B-7675-005-07. (Continued from March 30, April 27 and May 25, 2006). **This item was moved from the Regular Calendar to the Consent Calendar.**

Member Gosselin made the motion to approve the Consent Calendar with the above modification and Member Goff seconded. Motion carried unanimously.

REGULAR CALENDAR:

1. **STEVE POWELL/ALFRED RHEINHEIMER, CONDITIONAL USE PERMIT, C-8291** ~ Application to allow a winery with tasting room, art and event center and 38 parking spaces, in an “A” (Agricultural) District, located at 5143 Tesla Road, south side, approximately 330 feet east of Mines Road, Livermore area of unincorporated Alameda County, bearing County Assessor’s

Parcel Number: 099A-2340-002-00. (Continued from September 29, October 27, December 15, 2005; January 12, February 22, March 30, May 25 and June 29, 2006).

Mr. Gray announced that Mr. Powell has secured a building permit for the tower building on August 10th. Staff is requesting a continuance to September 28th to allow time for Mr. Powell to resolve all other outstanding issues.

Public testimony was called for. Steve Powell, applicant, confirmed that he has paid all related fees and obtained a permit. The Building Department has requested that every piece of sheet rock be removed for inspection. As such, he requested a longer continuance, perhaps for a few months till spring due to the wine-making season (wine crushing) and a busy holiday season; or an approval with a condition that he continue working with the Building Department as the removal of all sheet rock will probably not be complete until next summer. Member Gosselin said he has been ready to take action for some time and asked for the status of the other building. He agreed with the Building Department's concern with the use of natural gas and electricity in a building for public use. Mr. Powell said that he has an electrical permit.

Judy McPherson, adjacent neighbor, noted the following corrections in the staff report: Page 1 under Planning Considerations, Proposals: #4 reflects a patio deck covering an underground pool used for water storage which has now been filled in and no longer used as such; page 2, first paragraph mentions an event tent. This tent is already in place and Mr. Powell had a gathering in the tent last week with amplified music in the front staging area, a total of two events simultaneously. She requested a denial but if the Board was going to approve the permit, she requested that the Board re-visit the site.

Public testimony was closed. Mr. Gray noted that this process has been on-going for five years and in response for a continuance request, pointed out that the use would be in operation without a permit for approximately three years. The Chair said he agreed with Member Gosselin and Member Gosselin pointed out that the Applicant would like a continuance until next summer which is a long continuance. There is no new information. The risk to the public is great and he did not want this item on the agenda. Hence, he was prepared to take an action to deny the request or to allow for a timeline to be prepared and followed so that the matter is ready for an action. The Chair felt that the matter was moving forward as a building permit has been obtained but due to the request for a long continuance, he was ready to take an action also as much time has been spent on this matter already. Mr. Goff requested clarification on the timeline and Member Gosselin asked for the timeframe of establishing a timeline and a check list. Mr. Gray said that many timelines had been established in the past. A 60-day continuance would be most appropriate but he did not think that the matter would be finalized during this time. Input would also be requested from the Building Permit. Member Gosselin requested a rigid timeline and asked for the date of the last fire inspection. He felt that the removal and re-installation of the sheet rocks would be completed in an appropriate timeframe. Mr. Gray said he could work with Mr. Powell, Code Enforcement and the Fire Marshall with the timeline and, Member Gosselin, in response to staff, confirmed that these actions did not have a bearing on on-site events. In summary, staff indicated that a month's continuance is to allow for construction of a timeline for all outstanding building issues to be completed. If there are issues that cannot be completed by the next hearing date, staff will be in a position to explain how much more time is needed to resolve and have a recommendation for either an action or a continuance. Member Gosselin made the motion to continue the matter for a month noting that he would like an action at that hearing unless there is a very specific reason for a continuance. The Chair seconded and the motion carried unanimously.

2. **ALTAMONT MOTORSPORTS PARK LLC., CONDITIONAL USE**

PERMIT, C-8471 ~ Application to continue operation of an existing outdoor recreation facility (motor vehicle raceway), and to allow: a) construction of required safety and general facility upgrades; b) construction of a 50,000 square foot previously approved grandstand cover; c) construction of the previously approved facility identification sign; and d) reconfiguration of the track to accommodate general racing operations in an 'A' (Agricultural) District, located at 101 Midway Road, east side, approximately 0.5 mile south of I-580, Tracy area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099B-7675-005-07. (Continued from March 30, April 27 and May 25, 2006).
This item was moved to the Consent Calendar.

3. **RIVER'S END MARINA, CONDITIONAL USE PERMIT, C-8438** ~ Application to allow modification of an existing Outdoor Recreation Facility so as to enclose and augment marina services including two new buildings of 6,000 square feet and 2,500 square feet, in an "A" (Agricultural) District, located at 6020 Lindemann Road, east side, approximately 0.6 mile north of Byron-Bethany Road, Unincorporated Byron area, Assessor's Parcel Numbers: 99B-7150-012-00; 99B-7150-004-09, 99B-7150-004-08 and 99B-7150-004-07.

Mr. Gray summarized the staff report and, in response to the Member Gosselin, explained that the Old River Plan is not a Specific Plan but a study which could perhaps become a Plan in the future and listed the number of different cabins. Fuel related issues/concerns would be part of the Fire Department's review.

Public testimony was called for. Mick Lamb announced that one of the business operators and an owner/operator of the marina are available to answer any technical questions. He discussed the three Findings noting that there is a waiting list for boat storage and a petition signed by a number of marine users in support for these services was submitted with the application; boaters require a repair facility as currently they are hauled to the Bay or Stockton/Pleasanton; well maintained boats are environmentally cleaner and when serviced on licensed property, repairs are done in safe and environmental manner; and an approval will establish a marina for boat users and boat repairs. Member Gosselin requested clarification on parking and, in reference to a blind spot at a turn in road, suggested that perhaps the driveway could be moved closer to the road. Ron Allison, owner of boat repair business, replied they were working out the details.

Ron Mize, owner/operator, noted that parking issue is not a problem as there is land available (owned and leased land) to increase the parking if necessary. Option to increase or not is also under discussion as they are getting more requests for boat repairs. The Chair asked for the boat storage capacity. Mr. Mize replied that currently there are 300 boats and could add about 150 more. Mr. Lamb added that there is option to lease land from the adjoining property owner. Member Goff requested clarification on the septic system and disposal of waste water from boats. Mr. Mize explained that no one has room to install the system except them. The plan includes an engineered system followed eventually by a septic system, perhaps making it available to others. Discussions have been on-going. Mr. Allison clarified that this permit request includes its own separate septic system, not contingent upon others.

In response to Member Goff regarding setbacks, Mr. Gray indicated that he would request information from the Health Department. The Board discussed the use description language, an agriculture supporting commercial use versus a commercial recreational facility and what is allowed under the General Plan. Member Goff said he still has concerns regarding gasoline and waste water. Staff explained that clarification will be provided upon receipt of agency referral responses.

Public testimony was closed. The Chair made the motion to continue the matter to October 26th and Member Goff seconded. Motion carried 3/0.

4. **BRYAN FORRESTER, VARIANCE, V-12018** ~ Application to approve as a building site a lot with 90.87 feet of effective lot frontage where 150 feet is required, in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acre Minimum Building Site Area) District, located at the intersection of Jacobus and Easthill Avenues, approximately 100 feet north of Kilkare Road, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Numbers: 096-0530-009-00; 096-0531-003-00; 096-0531-004-00 and 096-0531-005-00.

Mr. Gray presented the staff report noting that Jacobus and Easthill Avenues do not exist and the subject parcel is located on the east behind the 987 Kilkare Road parcel. Staff has recommended a continuance to September 28th to allow time for Sunol Advisory Committee to hear the matter and make a recommendation as well as to provide some inclusive evidence with regard to access and status of the roadway.

Richard Quarry, 975 Kilkare Road, confirmed that Jacobus Road is not an abandoned road and was never a road. He owns a portion of the property. He asked if another entrance will be created other than through the 40-foot easement. Mr. Gray explained that his research today indicates that the easement abuts Jacobus Road but does not connect to Kilkare Road. On the south, there is some land that is not owned by Mr. Quarry or by the Applicant. Mr. Quarry introduced a 1920 map and although it reflects roads, they have never existed. Member Gosselin requested clarification on the easement. Mr. Gray replied that the easement is on the adjoining parcel but stops short on Jacobus Road and short of Kilkare Road and Mr. Quarry indicated on the site plan where his property is located. A discussion followed on the easement, road status, topography and ownerships. Mr. Gray said staff will have an update on the road status and information on ownerships at the next meeting. The Chair requested a site visit for the next hearing.

Public testimony was closed. The Chair made the motion for a continuance and Member Goff second, which carried unanimously.

A. **Approval of Minutes** – Member Gosselin made the motion to approve the May 25th Minutes as submitted and Member Goff seconded. Motion carried unanimously.

Member Gosselin made the motion to approve the June 29th Minutes and Member Goff seconded the motion. The Chair made a correction on Page 4 and the motion carried unanimously for the amended minutes.

STAFF COMMENTS & CORRESPONDENCE: Mr. Gray announced the following department up-dates: he will be unavailable for the last three meetings of this year and Steve Stewart, the new Senior Planner, starting on September 11th, will staff the meetings; Margret Elliott has resigned; there is no new Grading supervisor to-date; there is another new staff planner, Adrian Putra, who will be working on the new cell site on Hilliker Place; Steve Richards is the Contract Planner working on the River's End Marina project and will also be working on the Old River Study and the Altamont Raceway; Gerry Wallace will be working on ordinance language revision including the Altamont Raceway along with Mr. Bazar and

beginning September 11th, the Scientific Review Committee will begin the first of the 2-3 day publicly-noticed discussions.

CHAIR'S REPORT: None.

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: The Board discussed future hearing date options. Mr. Gray noted that historically the Board has not had a December meeting. The Board opted to have a meeting on November 30th and the Chair felt that the decision regarding the December meeting could be made later in the year.

ADJOURNMENT: There being no further business, the hearing was adjourned at 3:35 .m.

CHRIS BAZAR - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS