

**MINUTES OF MEETING**  
**EAST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**SEPTEMBER 28, 2006**  
**(APPROVED OCTOBER 26, 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.

**FIELD TRIP: 9:00 a.m.**

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

**OTHERS PRESENT:** Andrew Young, Staff Planner

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

1. **JOSEPH GORNY, VARIANCE, V-12026** ~ Application to allow construction of a conforming attached two-story addition on a parcel with an existing, non-conforming side yard (one foot, 6.5 inches where 7 feet is required) and front yard (8 feet where 30 feet is required and encroachment into the Special Building Line) in a R-1-L-B-E (Single Family Residence, Limited Agriculture, 5 acre MBSA, 30 foot front yard) District, located at 11771 Foothill Road, north side, approximately 50 feet west of Bond Street, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0165-024-00.
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 site behind 987 Killkare Road, east side, approximately 1.2 miles north of intersection with Foothill Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 096-0530-009-00; 096-0531-003-00; 096-0531-004-00 and 096-0531-005-00, 096-0531-06, 96-0531-11, 96-531-12 and a portion of 96-531-18.
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 Country Club 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.

**REGULAR MEETING: 1:30 p.m.**

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

**OTHERS PRESENT:** Andrew Young, Staff Planner; and Nilma Singh, Recording Secretary

There were six 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:** None.

**CONSENT CALENDAR:**

1. **NICA METALS, CONDITIONAL USE PERMIT, C-8398** ~ Application to allow continued operation of a metal recycling facility, in a M-2 (Heavy Industrial) District, located at 101 N. Greenville Road, east side, approximately 712 feet south of Front Road, Livermore area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 099B-5100-001-33. (Continued from March 30, April 27, May 25, June 29 and July 27, 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 and August 24, 2006; to be continued without discussion to October 26, 2006).

**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, June 29 and August 24, 2006).

Mr. Young announced that staff's recommendation is to continue the item without discussion to allow time for finalization on the environmental paperwork.

Public testimony was called for. Steve Powell, applicant, stated that all inspections for the water tower have been completed, but that Building Inspectors were finalizing review of other areas of the property.

Public testimony was closed. Member Gosselin pointed out that he was looking at the entire project and the water tower is one of the main issues. Member Goff requested clarification on the project description and the Chair recommended a site visit for the next meeting. Member Goff made the motion for a continuance to November 9<sup>th</sup> and Member Gosselin seconded. Motion carried unanimously.

2. **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 Country Club 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 from August 24, 2006).

Mr. Young presented the staff report. Although the applicant was available, she did not provide any testimony and no other public testimony was submitted. The Chair announced that the Board had visited the site this morning. Member Goff made the motion to approve the application as recommended by staff and Member Gosselin seconded. Motion carried unanimously.

3. **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 site behind 987 Kilkare Road, east side, approximately 1.2 miles north of intersection with Foothill Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 096-0530-009-00; 096-0531-003-00; 096-0531-004-00 and 096-0531-005-00, 096-0531-06, 96-0531-11, 96-531-12 and a portion of 96-531-18. (Continued from August 24, 2006).

Mr. Young stated that staff is recommending a month's continuance to the November 9<sup>th</sup> hearing to allow time to obtain responses from the referred agencies upon which staff can make a determination whether an additional 5-6 month continuance is needed to obtain further clarification related to the issues on-site or allow withdrawal of the application. The applicant had been advised that no action would be taken at today's meeting and that his presence was not required. The applicant was not present.

Public testimony was called. Bob Marshall, adjacent property owner at 905 Kilkare Road, provided some history of the parcel. Although he had granted a 40 foot easement on the northern portion to the applicant which was recorded in 1967, the applicant is indicating he has a 90 foot easement. And although Jacobson Road is indicated on the 1928 map, it is not really a road. He requested clarification as to the applicant's access point. The Board indicated that the footprint was not clear during the site visit and the topo map is not clear either. Mr. Marshall agreed adding that the property is steep, similar to his rear yard. The Chair requested a copy of the deeded easement and Member Gosselin requested Mr. Marshall's contact information to make a 'cross-country' site visit.

Margaret Quarry, 975 Kilkare Road, said her main concern is the steepness of the slope. There are a lot of issues involved with access and approving the property as a building site such as drainage, fire access and rock slides although none had occurred so far as she had lived in the area. The applicant had been aware of these issues. If approved, Ms. Quarry asked who will take responsibility of the liability issues. There is a severe drainage issue and the ravine in front of her property floods thereby limiting access. The Sunol Advisory Council had denied the application with a 5/0 vote.

Public testimony was closed. The Chair felt that an approval will impact neighbors pointing out that there is no frontage and a continuance will be in favor of the applicant. Member Gosselin agreed. If progress is made towards an approval, he suggested low impact housing which he thought would also have impact. He also had fire access concerns. Staff pointed out that there needs to be clear indications from the Fire Department and Environmental Health that development on the site is not viable. In addition, the applicant has submitted a Site Development Review application with no building plans. The Chair made the motion for a continuance to November 9<sup>th</sup> and Member Gosselin seconded. Motion carried unanimously.

4. **JOSEPH GORNY, VARIANCE, V-12026** ~ Application to allow construction of a conforming attached two-story addition on a parcel with an existing, non-conforming side yard (one foot, 6.5 inches where 7 feet is required) and front yard (8 feet where 30 feet is required and encroachment into the Special Building Line)

in a R-1-L-B-E (Single Family Residence, Limited Agriculture, 5 acre MBSA, 30 foot front yard) District, located at 11771 Foothill Road, north side, approximately 50 feet west of Bond Street, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0165-024-00.

Mr. Young summarized the staff report adding that the matter was heard by Sunol Advisory Council who voted unanimously to support the Variance request. The Chair thought that the proposal appears to be a major addition with only a similar roof pitch. Staff further explained the proposal.

Public testimony was called for. Larry Oka, applicant, provided clarification on the proposed addition and confirmed that he did not have a foundation plan. A discussion followed regarding setbacks, foundation, removal of walls and the location of the gas meter. Member Gosselin recommended that the utility box for the gas meter be relocated outside the fence to provide direct access to the owner. The applicant agreed.

Public testimony was closed. Member Gosselin made the motion for an approval with an additional condition to reflect the above. Member Goff seconded and the motion carried unanimously.

**APPROVAL OF MINUTES** – The Chair made the motion to approve the August 24<sup>th</sup> Minutes as submitted and Member Gosselin seconded. Motion carried 3/0.

**STAFF COMMENTS & CORRESPONDENCE:** Mr. Young thanked the Board for their patience on his first staffing of a hearing.

**CHAIR'S REPORT:** None.

**BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS:** Member Gosselin thanked staff for including his comments in the BOS package regarding the Garcia appeal, and indicated that the Board's comments on the application were well-represented.

**ADJOURNMENT:** There being no further business, the hearing was adjourned at 2:30 p.m.

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**CHRIS BAZAR - SECRETARY**  
**EAST COUNTY BOARD OF ZONING ADJUSTMENTS**