

**MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
NOVEMBER 8, 2007
(APPROVED JANUARY 24, 2008))**

The meeting was held at the hour of 1:30 p.m. in the Conference Room of the Public Works Operations Building, 4825 Gleason Drive, Dublin, California.

FIELD TRIP: 10:00 a.m.

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

OTHERS PRESENT: Jana Beatty, Senior Planner

FIELD TRIP: The Boardmembers visited the following properties on their own:

1. **CONDITIONAL USE PERMIT, C-8653 - USA EXPLORATION AND PRODUCTION, LLC** ~ Application to allow continued operation of an oil production facility, in an "A" (Agricultural) District, located at 8467 Patterson Pass Road, east side, corner southeast of Greenville Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 099A-1650-001-04; 099A-1650-001-05 and 099A-1650-001-07.
Staff Planner: Jeff Bonekemper

2. **JOHN CIMINO and MICHELLE SIFUENTES, VARIANCE, V-12076** ~ Application to allow reconstruction of a barn covering more than 30% of the required rear yard, in a R-1-B-10 (Single Family Residential, 10,000 square foot Minimum Building Site Area) District, located at 3548 Vine Street, south side, approximately 372 feet west of Bernal Avenue, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 0946-1708-002-02. (Continued from June 28, August 23, September 27 and October 25, 2007).
Staff Planner: Andrew Young

REGULAR MEETING: 1:30 p.m.

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

OTHERS PRESENT: Jana Beatty, Senior 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. **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 Kilkare 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, August 24 and October 26, 2006, January 25, March 22, June 28 and September 27, 2007; to be continued to January 24, 2008). **Staff Planner: Shahreen Basunia**

2. **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, July 27, September 28, October 26 and December 14, 2006, and January 25, March 22, April 26, May 24, June 28, August 23 and November 27, 2007; to be continued to December 13, 2007). **Staff Planner: Andrew Young**

3. **FOSCALINA/LAMB SURVEYING, INC., VARIANCE, V-12064** ~ Application to approve as a building site one parcel reduced in area from the required 100 acres to 39.82 acres and a boundary adjustment between two parcels, in an “A” (Agricultural) District, located at 3073 Cross Road, west side, approximately 0.3 mile south of Patterson Pass Road, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 099A-1750-004-00. (Continued from May 24, June 28, August 23, September 27 and October 25, 2007; to be continued to December 13, 2007). **Staff Planner: Jana Beatty**

Member Goff requested reasons for the continuance recommendation for item #2, Nica Metals, to December 13th. Staff explained that the Traffic Division had not been aware of the adjacent County property and was also working with City of Livermore regarding signalization. She further suggested requesting the property owner’s presence at the next meeting to answer questions regarding landscaping and fencing. The Board agreed. Staff also explained that #3 item, V-12064, is being continued because of Williamson Act Contract issues and there is no up-date on the downtown Sunol issue. *Member Harvey made the motion to approve the Consent Calendar per staff recommendations and Member Goff seconded. Motion carried unanimously.*

REGULAR CALENDAR:

1. **CONDITIONAL USE PERMIT, C-8653 - USA EXPLORATION AND PRODUCTION, LLC** ~ Application to allow continued operation of an oil production facility, in an “A” (Agricultural) District, located at 8467 Patterson Pass Road, east side, corner southeast of Greenville Road, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Numbers: 099A-1650-001-04; 099A-1650-001-05 and 099A-1650-001-07.
Staff Planner: Jeff Bonekemper

Ms. Beatty summarized the staff report adding that a letter was received from the property owner

requesting a five-year permit. Staff is recommending a ten year permit.

Public testimony was called for. John Castellucci, President and CEO, stated that a five-year permit would be a burden on their investment as it is a short period for any profit/investment returns and would be concurrent with other ten-year permits. Production has doubled since last year and work continues on each well. A bond is required by the State. At the request of Member Harvey, he further explained the bond requirement adding that USA Exploration, the only operator on site, had purchased the mineral rights which has precedence over surface land rights. Royalty is being paid to the previous landowner as the Marshalls, the current property owner, had not bought any mineral rights.

Phillip Marshall stated that they purchased the property in April/May, 2007, and would like to use the property in the future. Although they had no concerns and support the permit, they would like to request a five year permit subject to the existing 1987 conditions. In reference to Condition #7 of the 1987 permit, He requested undergrounding the existing utilized pipes at least 36 inches below the surface. Staff provided copies of the 1987 Conditions of Approval to the Board. The Chair recommended underground any new pipes. Mr. Marshall agreed adding that they were working with USA Exploration regarding other minor conditions.

Mr. Castellucci explained the following: he has had on-going discussions with the owners regarding the undergrounding and there are no concerns; the non-utilized existing pipes will be removed and some pipes are being re-located to comply with the owner's request for a driveway; State and Federal statues highly control the regulatory functions of the mineral rights; the mineral right operator has the right to use the surface for purposes of developing the natural resource and the owner does not have the right to unreasonably interfere. Staff asked if there is an easement. Mr. Castellucci replied that the existing 60-year lease has an easement included. He also agreed to all the recommended conditions of approval including the landscaping and added that Mr. Marshall has expressed interest in acquiring mineral rights also. His main issue is the 5-year permit. Member Harvey recommended a continuance to allow time for continued discussions between the operator, Mr. Castellucci and Mr. Marshall, the property owner.

Public testimony was closed. Member Goff indicated his support for a ten-year permit and undergrounding new pipes. The Chair agreed adding that there is a lot of effort/investment involved for a 5-year permit. *Member Goff made the motion to approve the application as recommended by staff with additional condition to reflect that all new pipes be three-feet underground but not to conflict with State and Federal regulations and a 10-year permit. Member Harvey seconded and the motion carried unanimously.*

2. **JOHN CIMINO and MICHELLE SIFUENTES, VARIANCE, V-12076 ~**
Application to allow reconstruction of a barn covering more than 30% of the required rear yard, in a R-1-B-10 (Single Family Residential, 10,000 square foot Minimum Building Site Area) District, located at 3548 Vine Street, south side, approximately 372 feet west of Bernal Avenue, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 0946-1708-002-02. (Continued from June 28, August 23, September 27 and October 25, 2007). **Staff Planner: Andrew Young**

Ms. Beatty presented the staff report and, in response to the Chair, explained that a bathroom would be allowed under special square footage, no bigger than 20 square feet.

Public testimony was called for. Johnny Cimino, applicant, stated that he is in the process of fixing the barn which did not have a bathroom. A shower would be illegal and, as such, he is installing a toilet and a sink.

Public testimony was closed. *Member Harvey made the motion to approve the application subject to the recommended conditions and Member Harvey seconded. Motion carried unanimously.*

The Chair announced a recess at 2:30 p.m. Meeting reconvened at 2:35 p.m.

APPROVAL OF MINUTES ~ September 27, 2007. *Member Harvey made the motion to approve the September 27th Minutes and Member Goff seconded. Motion carried 2/1 with the Chair abstaining.*

STAFF COMMENTS & CORRESPONDENCE: Ms. Beatty asked if the Board would be available for a December meeting. The Chair indicated that the hearing could be cancelled if there are no pressing applications.

CHAIR'S REPORT: The Chair discussed the Crowell application and requested an up-date. Staff replied that she did not have an up-date available. The Chair also expressed his support for inclusion of the project planners' names on the agenda. . He also asked if a planner has been assigned solely for the East County. Ms. Beatty said it was still in the process.

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: *None*

ADJOURNMENT: There being no further business, the hearing was adjourned at 2:45 p.m.

CHRIS BAZAR - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS