

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
MARCH 26, 2009
(APPROVED APRIL 23, 2009)

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; Larry Gosselin, Chair, and Jim Goff

FIELD TRIP: The Board members visited the following properties on their own:

1. **MAYANK PATEL, VARIANCE, PLN2009-00007** ~ Application to allow a five foot - six inch high fence where four feet is the maximum (within 20-feet of a key lot) and a five foot high fence on a retaining wall where two feet and zero foot are the maximum (front yard), in a P-D-ZU-2001 (Planned Development, Zoning Unit-2001) District, located at 844 Castlewood Place, southwest side, corner with Castlewood Drive, Pleasanton area of unincorporated Alameda County, bearing Assessor's Parcel Number: 946-4396-032-03. **Staff Planner: Richard Tarbell**
2. **T-MOBILE, CONDITIONAL USE PERMIT, PLN2008-00082** ~ Application to continued operation of a telecommunications site located on a PG&E electrical tower, in an 'A' (Agricultural) District, located at 5500 Niles Canyon Road, approximately 1.6 miles east of Palomares Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0115-003-01. **Staff Planner: Jeff Bonekemper**
3. **T-MOBILE, CONDITIONAL USE PERMIT, PLN2008-00083** ~ Application to allow the continued operation of a telecommunication site located on a PG&E electrical tower, in an 'A' (Agricultural) District, located at 5575 Vasco Road, approximately seven miles north of I-580, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099B-4926-002-07. **Staff Planner: Jeff Bonekemper**

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Members Jon Harvey, Vice Chair; Larry Gosselin, Chair (arrived late) and Jim Goff.

OTHERS PRESENT: Jana Beatty, Senior Planner and Nilma Singh, Recording Secretary

There were seven people in the audience.

CALL TO ORDER: The meeting was called to order by the Vice Chair at 1:30 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*

NEIGHBORHOOD PRESERVATION AND ZONING ORDINANCE ABATEMENT – None

CONSENT CALENDAR: *(There were no items on the Consent Calendar)*

1. **T-MOBILE, CONDITIONAL USE PERMIT, PLN2008-00082** ~ Application to continued operation of a telecommunication site located on a PG&E electrical tower, in an ‘A’ (Agricultural) District, located at 5500 Niles Canyon Road, approximately 1.6 miles east of Palomares Road, Sunol area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 096-0115-003-01. **Staff Planner: Jeff Bonekemper**

This item was moved from the Regular Calendar.

2. **T-MOBILE, CONDITIONAL USE PERMIT, PLN2008-00083** ~ Application to allow the continued operation of a telecommunication site located on a PG&E electrical tower, in an ‘A” (Agricultural) District, located at 5575 Vasco Road, approximately seven miles north of I-580, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 099B-4926-002-07. **Staff Planner: Jeff Bonekemper**

This item was moved from the Regular Calendar.

Member Goff made the motion to approve the Consent Calendar as amended and per staff recommendations and Member Harvey seconded. Motion carried unanimously, 2/0, with Chair Gosselin excused.

REGULAR CALENDAR:

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This item was moved to the Consent Calendar.

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This item was moved to the Consent Calendar.

Member Gosselin arrived.

3. **MAYANK PATEL, VARIANCE, PLN2009-00007** ~ Application to allow a five foot - six inch high fence where four feet is the maximum (within 20-feet of a key lot) and a

five foot high fence on a retaining wall where two feet and zero foot are the maximum (front yard), in a P-D-ZU-2001 (Planned Development, Zoning Unit-2001) District, located at 844 Castlewood Place, southwest side, corner with Castlewood Drive, Pleasanton area of unincorporated Alameda County, bearing Assessor's Parcel Number: 946-4396-032-03. **Staff Planner: Richard Tarbell**

Ms. Beatty presented the staff report adding that the Applicant is requesting a continuance to April 5th to allow the matter to be considered by the home association. She further described the alternative Board actions. Member Harvey stated that he had visited the site this morning and requested clarification on a 'key lot'; location of the fence line; required fence and fence height above a retaining wall for safety purposes and the Grading permit requirement.

Public testimony was called for. Mayank Patel, applicant, requested a continuance. His fence had been constructed based on the existence of all the neighboring fences and to keep the deer off his property. About eight other properties have similar fences with the same height with no permits. Mr. Patel further submitted photographs of the other fences on Castlewood Drive adding that at the time of his application submission, the intake planner had confirmed that no permits had been obtained for these other fences. He asked why he was being 'singled out'.

Although a member of the Board of Directors, Castlewood Property Owners Association, Joseph Uradnik, 393 Oak Lane, Pleasanton, said he was speaking for himself, as a neighbor. The Association had a meeting on March 18th and the next one is April 2nd followed by May 7th. At the March 18th meeting, the Board voted 4/1 with two members absent, to take no action on this matter. He was not aware that this item was on the April 2nd agenda although there is an opportunity to introduce new items at the meetings.

Bery Brook, adjacent property owner on the right at 852 Castlewood Place, said that his opposition was based on the fact that his house, twelve years ago, was built according to the rules and regulations, and plans were submitted which was not the case in this instance. He thought that a permit had been applied for but denied and the fence installed nevertheless.

Mr. Patel, in rebuttal, urged an approval and the Board to consider the existence of other similar fences for which no permits were obtained. New drawings have been submitted to the home association's Architecture Committee. In response to Member Goff, he acknowledged the error--the outward opening of the left fence gate and the depth of the fence, both of which have been corrected. The fence has been moved three feet into the property to allow a walkway.

Public testimony was closed. Member Goff said he had visited the site today and had noted the neighboring fences. Member Harvey said he would like to know whether a fence above a retaining wall is required for safety purposes. He also recommended a continuance to allow the Applicant to work with the neighbors and the home association. A discussion followed regarding different actions/motions. Member Goff made the motion for a continuance to the next meeting, April 23rd and Member Harvey seconded adding that if an agreement is not reached, the Applicant to come back with some other remedy. Motion carried 2/0 with Member Gosselin abstaining.

APPROVAL OF MINUTES – Member Harvey recommended deleting the words “..use the Plan to..” on page 3, paragraph 4, last sentence. Member Gosselin made the motion to approve the March 12th Minutes as amended and Member Goff seconded. Motion carried unanimously, 3/0.

STAFF COMMENTS & CORRESPONDENCE: Ms. Beatty indicated that the next agenda could possibly include the windfarms applications.

CHAIR’S REPORT: Chair Gosselin apologized for his lateness.

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: *None*

ADJOURNMENT: *There being no further business, the hearing was adjourned at 2:15 p.m.*

ALBERT LOPEZ - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS