

**MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
MAY 1, 2003
(APPROVED MAY 29, 2003)**

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: 9:00 a.m.

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

MEMBERS EXCUSED: Donna Flavetta,

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

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

1. **PAUL MASON, CONDITIONAL USE PERMIT, C-7619 and VARIANCE, V-11363 – Consideration of Revocation of Conditional Use Permit, C-7619 and Variance, V-11363**, that allows outdoor storage, electrical testing, shops, residence converted to office and a modular dwelling, in a PD (Planned Development, 1767th Zoning Unit) District, located at 11842 Main Street, south side, approximately 200 feet east of the intersection with Western Pacific Tracks, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Numbers: 096-0140-012-00 and 096-0140-016-02.
2. **ANITA and HENRY FRANCO, CONDITIONAL USE PERMIT, C-8149** – Application to allow: 1) continued operation of an outdoor recreation facility (practice facility for Mexican Cowboys), and 2) use of the facility for special events such as Charro events, in an "A" (Agricultural) District, located at 7820 Vallecitos Road, south side, approximately one mile east of the intersection with I-680, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Number: 0096-0365-002-03.
3. **LIVERMORE/PLEASANTON ROD and GUN CLUB, CONDITIONAL USE PERMIT, C-8151** – Application to allow continued operation of an outdoor recreation facility (gun club) with overnight parking for recreational vehicles in an "A" (Agricultural) District, located at 4000 Dagnino Road, east side, approximately 1,299 feet east of the intersection with May School Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Numbers: 0902-0003-001-19 and 0902-0003-001-21.
4. **MARTHA DABNEY ZARCONE, TRUSTEE; VARIANCE, V-11735** – Application to allow construction of an attached addition providing a 20 foot front yard where 30 feet is required, in a PD (Planned Development) District, located at 36 Castlewood Road, east side, approximately 0.20 miles north of Castlewood Drive, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 0946-4406-055-02.

REGULAR MEETING: 1:30 p.m.

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

MEMBERS EXCUSED: Donna Flavetta

OTHERS PRESENT: L. Darryl Gray, Assistant Planning Director, Tona Henninger, Code Enforcement Manager; Lacy Starling, Investigating Officer and Nilma Singh, Recording Secretary.

There were approximately 18 people in the audience.

CALL TO ORDER:

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

ANNOUNCEMENTS BY THE CHAIR: None

CONSENT CALENDAR:

1. **JOHN MAXFIELD/SAN FRANCISCO BAY AREA COUNCIL, CONDITIONAL USE PERMIT, C-7751** – Application to expand existing outdoor recreation use (Los Moches Boy Scout Camp) by the addition of new improvements to the dining, sleeping, Ranger quarters, and accessory structures in an 'A-B-E' (Agricultural) 320 Acre MBSA District, located at 18450 Mines Road, west side, approximately 14.7 miles south of Tesla Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 099A-2610-001-02. (Continued from August 29, 2002 and January 30, 2003; continued without discussion to July 24, 2003).
2. **JOSE and MIRIAM DA SILVA, CONDITIONAL USE PERMIT, C-8119** – Application to allow: 1) a commercial horse boarding facility for 20 horses; 2) a permanent caretakers (cottage) unit, and 3) two separate outdoor storage areas, in a R-1-L-B-E (Single Family Residence, Limited Agriculture, 5 acre Minimum Building Site Area) District, located at 5100 Raymond Road, north side, terminus of Ames Street, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 902-0003-002-00. (Continued from April 3; to be continued without discussion to May 29, 2003).
3. **AERIE, INC., CONDITIONAL USE PERMIT, C-8129** – Application to allow operation of a horse boarding facility for 24 horses, including a new barn, stables, arena and round pen, in an A-CA (Agricultural) district, located at 2060 South Livermore Avenue, northeast side, approximately 0.4 miles southeast of Wentle Street, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 099-0900-004-04. (Continued from April 3; to be continued without discussion to May 29, 2003).

4. **CINGULAR WIRELESS, CONDITIONAL USE PERMIT, C-8144** – Application to allow continued operation of a radio transmission facility (cellular telephone antenna) in an “A” (Agricultural) District, located at 16163 Grant Line Road, south side corner, southeast of Altamont Pass Road, unincorporated Tracy area of Alameda County, bearing Assessor’s Parcel Number: 099B-7700-004-01. (To be continued without discussion to July 24, 2003).
5. **JOSEPH and MILLICENT KIMBRO, CONDITIONAL USE PERMIT, C-8150** – Application to allow: 1) continued use as a boarding stable for 80 horses, and 2) continued occupancy of two mobile homes by agricultural caretakers, in an “A” (Agricultural) District, located at 5810 Mission road, north side, approximately 0.66 miles northeast of Sheridan Road, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 0096-0056-007-04. (To be continued without discussion to May 29, 2003).
6. **KAREN E. HUGHES, CONDITIONAL USE PERMIT, C-8154** – Application to allow day spa use (massage and facial rooms) in the existing building envelope of the bed and breakfast facility, in a PD (Planned Development, 1989th Zoning Unit) District, located at 4549 Cross Road, north side, approximately 0.036 miles northeast of Tesla Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099A-1700-005-00. (To be continued without discussion to May 29, 2003).
3. **LIVERMORE/PLEASANTON ROD and GUN CLUB, CONDITIONAL USE PERMIT, C-8151** – Application to allow continued operation of an outdoor recreation facility (gun club) with overnight parking for recreational vehicles, in an “A” (Agricultural) District, located at 4000 Dagnino Road, east side, approximately 1,299 feet east of the intersection with May School Road, unincorporated Livermore area of Alameda County, bearing Assessors’ Parcel Numbers: 0902-0003-001-19 and 0902-0003-00121.

Mr. Gray recommended moving Regular Calendar item #3, Livermore/Pleasanton Rod and Gun Club, C-8151, to the Consent Calendar since it was recommended for a continuance to May 29th. He also suggested trailing Regular Calendar item #1 to the end of the agenda to allow time for the Board to read the Staff Report Addendum. Member Gosselin made the motion to approve the Consent Calendar per staff recommendations. The Chair seconded the motion, which passed 2/0. Member Flavetta was excused.

REGULAR CALENDAR:

1. **PAUL MASON, CONDITIONAL USE PERMIT, C-7619 and VARIANCE, V-11363** – Consideration of Revocation of Conditional Use Permit and Variance, that allows outdoor storage, electrical testing, shops, residence converted to office and a modular dwelling, in a PD (Planned Development, 1767th Zoning Unit) District, located at 11842 Main Street, south side, approximately 200 feet east of the intersection with Western Pacific Tracks, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Numbers: 096-0140-012-00 and 096-0140-016-02.

This application was trailed to the end of the agenda.

2. **ANITA and HENRY FRANCO, CONDITIONAL USE PERMIT, C-8149** – Application to allow: 1) continued operation of an outdoor recreation facility (practice facility for Mexican Cowboys), and 2) use of the facility for special events such as Charro events, in an “A” (Agricultural) District, located at 7820 Vallecitos Road, south side, approximately one mile east of the intersection with I-680, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 0096-0365-002-03.

Mr. Gray summarized the staff report. The Chair announced that the Board had made a site visit this morning.

Public testimony was called for. Mr. Ken Franco stated that he has been in operation for thirty years. The previous public events had created problems hence the proposal for private events. Regarding Condition #20, Mr. Franco felt that having a veterinarian in attendance was unnecessary. He did have one on call. Another concern was Condition #16, having a security guard on the west of the facility since they had ‘invitation only’ events.

Mark Franco agreed with Mr. Ken Franco’s testimony. His concern was Condition #25(b). No sound system was available for any band. He felt that the band could not be restricted to five pieces and further suggested adding the word ‘approximately’ five pieces.

Public testimony was closed. Member Gosselin announced that he has liaison with the Franco family and at the request of Mr. Franco, he was willing to remove himself from any discussion and/or action. Mr. Franco replied that he had no concerns. Member Gosselin continued adding that he agreed with the elimination of the security guard on the west and having a veterinarian on-call only. He asked if the County required a vet on site. Ms Henninger replied that one was required for public rodeos and the one-mile west security guard was also part of the previous public rodeo, which could now be deleted. She also agreed that since there was no sound system, restricting the band was not necessary and could be deleted. The Chair agreed with Member Gosselin regarding the veterinarian. He pointed out that although many other activities occur on the property, this application was for the rodeos only. Member Gosselin made the motion to approve the application subject to the 28 recommended conditions of approval with the following modifications: deletion of the sentence “one (1) security guard to be located about one (1) mile west of facility to prevent potential trespassers at the San Francisco Water District entrance” in Condition #16; Condition #20 to read: “A veterinarian shall be on-call during all rodeo events” and deletion of Condition #25(b). The Chair seconded the motion, which carried 2/0. Member Flavetta was excused.

3. **LIVERMORE/PLEASANTON ROD and GUN CLUB, CONDITIONAL USE PERMIT, C-8151** – Application to allow continued operation of an outdoor recreation facility (gun club) with overnight parking for recreational vehicles, in an “A” (Agricultural) District, located at 4000 Dagnino Road, east side, approximately 1,299 feet east of the intersection with May School Road, unincorporated Livermore area of Alameda County, bearing Assessors’ Parcel Numbers: 0902-0003-001-19 and 0902-0003-00121.

This item was moved to the Consent Calendar.

4. **MARTHA DABNEY ZARCONE, TRUSTEE; VARIANCE, V-11735** –

Application to allow construction of an attached addition providing a 20 foot front yard where 30 feet is required, in a PD (Planned Development) District, located at 36 Castledown Road, east side, approximately 0.20 miles north of Castlewood Drive, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 0946-4406-055-02.

Mr. Gray summarized the staff report adding that the Applicant has to consider the CC&R from the Castlewood Country Club. The Chair announced that the Board had made a site visit this morning.

Public testimony was called for. The Project Architect further described the proposal. An approval has been obtained from the Castlewood Home Association.

Public testimony was closed. Member Gosselin made the motion to approve the application per staff recommendation. The Chair seconded the motion, which carried 2/0. Member Flavetta was excused.

The Chair announced a 10 minutes break at 2:05 p.m.

Public hearing re-convened at 2:20 p.m.

1. **PAUL MASON, CONDITIONAL USE PERMIT, C-7619 and VARIANCE, V-11363** – Consideration of Revocation of Conditional Use Permit and Variance, that allows outdoor storage, electrical testing, shops, residence converted to office and a modular dwelling, in a PD (Planned Development, 1767th Zoning Unit) District, located at 11842 Main Street, south side, approximately 200 feet east of the intersection with Western Pacific Tracks, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Numbers: 096-0140-012-00 and 096-0140-016-02.

Mr. Gray summarized the staff report, explained alternative actions and added that Code Enforcement staff, Ms. Henninger and Ms. Starling were available to answer any questions. The Chair asked for the number of violations and complaints. Ms. Starling replied that she has been dealing with this application since December, 2001 and the file has been opened five times due to complaints. Member Gosselin asked for the property size. Ms. Henninger added that she had met with the tenant last week that had not been aware of the prior permit requirements.

Public testimony was called for. Paul Mason, Applicant, provided the history and plans for the property. He had not been aware or was responsible for the sheds on the property. He has been trying to replace the duplex that had been destroyed by fire. He was not sure what to do as the Sunol Advisory Council recommended disapproval of all his proposals. He stated that he was the largest property owner in Sunol and he felt that there was a political gridlock. In response to the Chair, Mr. Mason replied that the barn was located in the rear.

Jim O'Laughlin said he would like to make corrections to Mr. Mason's testimony. Mr. Mason was not the largest property owner. Sunol Advisory Council had approved plans for a residence for the front lot as there had been a lease sign posted for months. He agreed that the tenant had not been aware of this. Mr. O'Laughlin felt that if this property had been used as a residence, none of these problems would have risen. This was a residential area. The structure parked next to Ms. Grace Kazel's house was being used to store a RV, which he thought was very insensitive. Another complaint was that the crew arrived on site at 4:30 a.m. to prepare for jobs. The tenant has informed the Advisory Board that he was willing to move part of his operation other than the office to another location off-site. Mr. O'Laughlin felt that if this occurred and the fence was relocated, all complaints could be resolved.

Bob Marshall, property owner at 905 Kilkare Road, also spoke in favor of the revocation. An industrial building did not fit in with the community and impacted the neighbors. The adjacent neighbor, Ms. Kazel, has to see a metal wall that he thought was totally inappropriate.

Kathleen Tomaszak said she was the other adjacent property owner. When she had initially bought her property, the subject property was residential. Now the noise keeps her awake. Upon receipt of neighbors' complaints, the issues/concerns are taken care of for a short period only. The commercial use affects the neighboring property values.

Pamela Rueheben, on behalf of the adjacent property owner, Grace Kazel, also spoke in support of the revocation. This was a residential care and they would like to see a Victorian house instead of a commercial use. Ms. Kazel has six windows, all of which have blocked view.

David Chetau, the business owner/tenant, said he was leasing the property and was not sure of the use of the front property. He had not been aware of the meeting with the Sunol Advisory Council. He was willing to move portions of his business, including the trucks and dumpster, to an off-site location. Mr. Chetau said he needed specific rules/conditions. Another clarification needed was the location of the fence. In response to Member Gosselin, he said he has been operating at this site for four years and further described his operation. The trucks make approximately 7-8 trips daily. In reference to the third violation, he indicated that he had more than six employees. Mr. Mason pointed out that the number of employees had not been specified in the prior permit.

Andrew Turnbull, another Main Street resident, said he had taken photographs and talked to the neighbors who would like an action today. He noted that Mr. Chetau was willing to compromise and comply with the conditions within 45 days. Mr. Turnbull concurred with O'Laughlin's testimony and suggested allowing Mr. Chetau 45 days to comply and to be revoked if not complied.

Mr. Mason, in rebuttal, said the fence has been in this location for the last seventeen years and felt that it should not be moved. Although he disagreed with having a residential rental on Main Street as it was neither practical nor economical, Mr. Mason agreed to a Victorian looking commercial building with parking in the rear.

Mr. O'Laughlin requested clarification on commercial and industrial uses.

Mr. Marshall requested confirmation that under the current status, the Applicant could build a residence on the property. Mr. Gray replied that he would have to double-check since approval of Measure D.

Mr. Turnball felt that the location of the fence was very important.

Ms. Reuheben stated that the fence should be located in the front of the residence.

Public testimony was closed. The Chair indicated that he would like to understand this application fully and, as such, did not wish to take an action today. He would like Member Flavetta, who represents Sunol, to be part of the decision. Mr. Gray added that during the continuance period, staff would be able to provide more information and answers to the questions raised today. A consensus was reached for an evening meeting. Member Gosselin said he would like to re-visit the property and suggested that the neighbors and the Applicant also meet. At the request of the neighbors, Mr. Gray clarified that if there was a time change for the next hearing, the neighbors would be notified. The matter was continued to May 29, 2003.

OPEN FORUM:

Mr. Gray discussed the revised garage conversion policy. Although there have not been any such applications in the East County, the Board could make comments after a formal presentation.

Regarding the Governance presentation, Mr. Gray explained that he has submitted a written response from the Board to the Planning Director. A discussion followed.

Member Gosselin discussed appeals and advisory bodies. A discussion followed.

STAFF COMMENTS & CORRESPONDENCE:

CHAIR'S REPORT:

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS:

ADJOURNMENT:

There being no further business, the hearing was adjourned at 4:05 p.m.

JAMES SORENSEN - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS