

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

97-306
AGENDA DATE: July 22, 1997
AGENDA ITEM NO.: 8

DEPARTMENT: Planning

By: Jay Pawlek, Associate Planner

Phone: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes ___ No XXX)

Staff recommends that the Board deny appeal No. 97-4 (Conditional Use Permit No. 250, Joe Simon, applicant), upholding the Planning Commission's approval of Conditional Use Permit No. 250.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

See attached memorandum

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Alternatives - Uphold the appeal, denying Conditional Use Permit No. 250.

COSTS: (XX) Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated Costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

COSTS: () 4/5th Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

Balance in Reserve Contingencies, If Approved:
\$ _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

Memo to Board with Attachments

1. Appellant Information
2. Planning Commission approval letter
3. Planning Commission Staff Report
4. Planning Commission Minutes May 2, 1997
5. Correspondence

CLERK'S USE ONLY

Res. No.: 97-306 Ord. No.: _____

Vote - Ayes: _____ Noes: _____

Absent: _____ Abstained: _____

Approved Denied

Minute Order Attached No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____

ATTEST: _____

MARGIE WILLIAMS, Clerk of the Board

By: _____

Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

Recommended

Not Recommended

For Policy Determination

Submitted for Comment

Returned for Further Action

Comment: _____

A.O. Initials: JJ

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: ED JOHNSON, Planning & Building Director

FROM: MARGIE WILLIAMS, Clerk of the Board 

SUBJECT: APPEAL NO. 97-4; RES. 97-306

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on July 22, 1997

ACTION AND VOTE:

10:00 a.m. Ed Johnson, Planning and Building Director;
PUBLIC HEARING to Consider Appeal No. 97-4, Marjorie A. Miller Appellant; an
Appeal of Conditional Use Permit No. 250; Joe Simon, Applicant

BOARD ACTION: Ed Johnson and Jay Pawlek/Associate Planner, presented staff
report and responded to questions from the Board relative to the annual evaluation and the
process. Public portion of the hearing was opened and the following input was provided.

Persons speaking in support of the appeal:

Marjorie Miller, appellant, stated they purchased their property which
neighbors this project because of the atmosphere and the quiet. She questioned whether
they would be required to have liability insurance as her homeowners insurance would not
cover any bullet holes, etc. She expressed concern with noise impacts and asked who they
should contact if the noise levels are unacceptable; and she noted that McCay Road is one-
lane and is not suitable for additional traffic. She stated that when the applicant was a
member of the Town Planning Advisory Committee for Catheys Valley, he wanted
development to stay along the Highway in the area. She played a portion of a tape
recording of a cannon being fired on the 4th of July at the project site and expressed
concerns with its noise impacts. She said she was hoping that something could be worked
out such as limiting the hours to 10:00 a.m. to 4:00 p.m. and asked who would monitor
the restriction on the number of allowed hunters. She referred to recent letters from
citizens in the newspapers; stated she does not feel they could afford the \$350.00 safety
instruction cost; stated she feels this project will affect the value of their property and
stated she does not feel this project meets the provisions of the Williamson Act or fits with
agricultural use; and stated she does not feel this project will offer employment
opportunities to locals as outside people have been brought in. She further stated that if
the project is approved, that the following issues should be addressed: fencing, sound
berms, posting, only allow 22's, only allow shooting from 10:00 a.m. to 4:00 p.m., and
trash from the weekend campers. She stated that if the activities were allowed without
approving a project, she does not feel that use would affect her property values. She
questioned whether this project was approved by the NRA.

Karl Baumann, Catheys Valley citizen and real estate broker and developer, stated he feels the applicant has rights to his property and he was not going to oppose this project; but after further consideration, he feels this will have a negative impact on Catheys Valley in general. He feels guns are hazardous to everyone, and he feels Catheys Valley is becoming a community and they will have growth and a gun club would not be good. He noted they experienced a loss of a sale of a parcel due to the proposed project. He feels the cannon is a nuisance and this project will have an impact on property values.

Philomene Schultz stated their property goes up Schultz Mountain and neighbors this project. They purchased their property in 1984 and run cattle. She expressed concern that the cattle would be within firing range. She stated she is not anti-gun and she has shot competitively and bullets can kill for up to one and one-half mile away and further. She cited her experiences with various ranges and the types of berms that were used, and she stated that she does not feel that the range being proposed is safe. She feels the sand used to cover the lead will dissipate with rain; and with the allowed number of hunters, up to 60,000 rounds of lead will be allowed per month. She expressed concern with lead impacts on the water. She stated she feels the project will destroy real estate values and result in loss of revenue. She requested that the project be denied. If it is not denied, she requested that a citizen committee be established to watch the project. They would like to be able to enjoy their property.

Persons speaking in support of the applicant:

Joe Simon, applicant, reviewed his handout relative to the project and in response to the concerns presented. He stated the decibels were down to 50 on neighboring properties when they ran sound tests. He stated he would not have approved of the restriction of 10 patrons per week and he wanted to review the materials distributed by Planning, but he was out of town at the time it was prepared and distributed. He stated they will make their revenue from outside people and will not charge locals if they can fit them in cancellation slots, and he will use local labor wherever possible. He responded to questions from the Board relative to the hunting club and shooting range being two different activities -- Planning advised him that he must have a hunting club in order to have a shooting range. He further responded to questions relative to what he will allow to be hunted on the twenty designated acres and his future plans for the range.

Cheri Ridenhour stated she lives across the road from this project and supports it. She feels they would be very careful because the applicants live there with their families. She has not read anything that shows that this would affect property values. There are others in the area who shoot, including unsupervised children. She feels people have to be able to accept changes.

George Luczy stated he moved here from Los Angeles in 1990, and he is a twenty-year veteran of the police department and was assigned to the bomb squad and worked with John Pride. He feels Joe Simon is being penalized with the restrictions by trying to do the responsible thing. He further stated that Mikey (Fowler) and John (Pride) are at the top of their field in the world. John implemented a training program in Los Angeles when they changed their weapons and it has become the standard for the world. He cited his qualifications and noted that he has served as an expert in providing court testimony. He referred to another range that was tested for lead poisoning and none was found after many years of use. He stated he feels it would be an injustice if this project is not approved. If the use is approved conditionally, then it could be suspended at any time.

Bud Swift, neighbor, stated he feels there will be more danger from people hunting in the County with regards to fire and noise impacts than from this project.

John Pride reviewed their plans for the project; stated he has twenty-three years of experience with the police department and three years military experience. He advised that Joe Simon restricts what can be hunted, and he does not allow the deer and rabbits to be hunted. They picked a spot in the middle of the large acreage out of several potential spots that are ballistically sound and there is a mountain in the back. This will be a controlled situation. They will have entry level classes and hunters safety courses. He

stated he feels this will bring dollars to the area from the people coming in for the classes. He feels this range is better designed for environment, ballistics and sound than any other range he has seen.

Mikey Fowler advised that he is a resident of the County and owns a ranch on White Rock. He is a professional marksman and is very experienced with handguns and ran a business previously. He feels this range will be very safe. He has ranges on his property and runs cattle and it does not stress them. He feels these are good plans and recommends approval of the project.

Jim Baker, hunter education instructor for the last seven years in the County, referred to the earlier comment that guns are hazardous, and stated he teaches that what is hazardous is untrained people who do not use them properly. The classes give people an opportunity to be well-trained by top professionals of the world. He referred to an area in downtown Los Angeles known as Chavez Ravine which is a shooting range with activity seven days a week and even night shootings. He noted that people all over Mariposa County will hear gun shots from various residences. He stated the facilities are built with catch basins of sand so that the lead can be collected and recycled. In his classes, the youth are not exposed to live fire. There are other ranges being used in the County that are not creating any problems. He feels this could be an internationally recognized firearms training school.

Rachel O'Rourke, neighboring property owner, stated when the applicant first began using his cannon to protect his apple orchard from the birds, he was very considerate and checked with them to make sure that he was not bothering them. She wakes up to hear shooting on other properties. Others do not collect their leads. She feels this project will bring in tourists. When she visited the project site with Mr. and Mrs. Miller, Mr. Miller was excited about the project and Mrs. Miller was "so-so", but neither were opposed. She has a sixteen-year-old son and wants him to learn how to use firearms properly.

Glenn Binning stated he is friends with both sides of this issue, and he had a Wilderness Unlimited Hunting Club in the past and raised cattle at the same time and there were no problems. This is the same kind of country.

Gloria Palmer stated she lives across the street from the applicant and they have no problem with the project. She noted that Joe Simon tries to help everyone. The cannon firing on the 4th of July did not bother her. When the property was owned by previous owners, it sounded like a war zone during quail and dove season. She referred to her letter to the newspaper and stated she feels the applicant is proceeding in a responsible way.

Connie Salvesson stated that she feels that this project seems very safe and a good idea, and she feels it can help with the economy. It does not pollute.

James Warner commented on the noise and safety issues -- he feels the safety issues have been satisfied, and with regards to the noise, he moved here in 1979 and has heard constant gun fire and has gotten used to it.

Rebuttal:

Marjorie Miller noted that there were several people opposing the project who could not be present at the hearing and that several people signed a petition opposing the project. She noted that a shooting range in Monterey was closed due to lead poisoning. She stated she does not want the project to be approved, but they could continue with their activities or use the Fish and Game range for \$20.00 per family. She reiterated her request that the liability insurance coverage issue be addressed and that the hours of operation be further restricted if the project is approved. She stated she feels this project should be placed in the Commercial zoning.

Clarification and staff wind-up:

Ed Johnson noted that this project has been in the process for some time. Staff responded to questions from the Board relative to its ability to change the conditions for the project and the applicant's request for changes; relative to identifying the location

of neighboring shooting ranges; zoning for the project site; noticing requirements for the project; changes in the project from the original filing of the application; whether it is a permitted use in the existing land use; private shooting range uses versus public; requirement for a hunting club in order to have a shooting range; clarification relative to the requirements for the berms and landscaping; relative to the annual review; occupancy for the hunting club; location of the Whispering Oaks Subdivision and the neighboring properties in relation to the project site; and clarification relative to the allowed hours of use.

Public portion of the hearing was closed and Board commenced with deliberations. (M)Parker, (S)Balmain, Res. 97-306 adopted denying the appeal and upholding the Planning Commission's determination with all of the mitigating measures/Ayes: Unanimous. Hearing was closed.

cc: File