

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
FEBRUARY 22, 2006
(APPROVED MARCH 30, 2006)

The meeting was held at the hour of 1:30 p.m. in City of Pleasanton Council Chambers, 200 Old Bernal Avenue, Pleasanton, California.

FIELD TRIP: 9:00 p.m.

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

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

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

1. **AMERICAN TOWER, INC., CONDITIONAL USE PERMIT, C-8480** ~ Application to allow continued operation of a cellular telecommunication facility, in an "A" (Agricultural) District, located at 11705 North Flynn Road, west side, approximately 0.5 mile south of I-580, Livermore area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 099A-1785-001-13.
2. **AMERICAN TOWER, INC., CONDITIONAL USE PERMIT, C-8481** ~ Petition to allow continued operation of a cellular telecommunication facility, in an "A" (Agricultural) District, located at 5810 Mission Road, west side, approximately one mile north of Vargas Road, Sunol area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 096-0056-008-11.
3. **EBSEN/GREENVILLE EQUESTRIAN CENTER, SITE DEVELOPMENT REVIEW, S-2031** ~ Application to allow continued operation of an outdoor recreation facility (equestrian center) and boarding stable, in a P-D (Planned Development, 2194th Zoning Unit allowing A-CA uses with two dwelling units) District, located at 4180 Greenville Road, east side, southeast corner of Tesla Road, Livermore area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 99A-1900-001-12.
4. **DELWYN LOUNSBURY, VARIANCE, V-11895** ~ Application to approve as a building site one parcel reduced in size from 100 acres to 40.82 acres without frontage on an approved county road, in an A-CA (Cultivated Agriculture) District, located on Mines Road, west side, approximately 686 feet west of Del Valle Road, Livermore area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 099A-2420-006-03.
5. **KLAUSE BERGMANN/CATHI and ERICH METZGER/SILLS, VARIANCE, V-11940** ~ Application to approve as a building site a parcel reduced in area from the required 320 acres to 40 acres and without frontage on an approved County road, in a A-B-E (Agricultural, 320 acres Minimum Building Site Area) District, located at 19600 Mines Road, west side, approximately 150 feet north of Vine Avenue, Pleasanton area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 99A-2605-007-00.
6. **LAMB SURVEYING, INC./PERRY, VARIANCE, V-11977** ~ Application to

approve building site status for two parcels, in an “A” (Agricultural) District, located at 10017 Tesla Road, west side, approximately 2050 feet north of Reuss Road, Livermore area of unincorporated Alameda County, bearing County Assessor’s Parcel Numbers: 099A-2003-015-05 and 099A-2003-015-06.

REGULAR MEETING: 1:30 p.m.

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

OTHERS PRESENT: L. Darryl Gray, Assistant Planning Director; and Nilma Singh, Recording Secretary

There were approximately thirteen 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: The Chair announced that items 4, 5 and 10 be moved from the Regular Calendar to the Consent Calendar, to be conditionally approved per staff recommendation. No public testimony was submitted.

CONSENT CALENDAR: There were no scheduled items on the Consent Calendar.

4. **AMERICAN TOWER, INC., CONDITIONAL USE PERMIT, C-8480 ~** Application to allow continued operation of a cellular operation of a cellular telecommunication facility, in an “A” (Agricultural) District, located at 11705 North Flynn Road, west side, approximately 0.5 mile south of I-580, Livermore area of unincorporated Alameda County, bearing County Assessor’s Parcel Number: 099A-1785-001-13.
5. **AMERICAN TOWER, INC., CONDITIONAL USE PERMIT, C-8481 ~** Petition to allow continued operation of a cellular telecommunication facility, in an “A” (Agricultural) District, located at 5810 Mission Road, west side, approximately one mile north of Vargas Road, Sunol area of unincorporated Alameda County, bearing County Assessor’s Parcel Number: 096-0056-008-11.
10. **PERRY/LAMB SURVEYING, INC., VARIANCE, V-11977 ~** Application to approve building site status for two parcels, in an “A” (Agricultural) District, located at 10017 Tesla Road, west side, approximately 2050 feet north of Reuss Road, Livermore area of unincorporated Alameda County, bearing County Assessor’s Parcel Numbers: 099A-2003-015-05 and 099A-2003-015-06.

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 Assessor's Parcel Number: 099A-2340-002-00. (Continued from September 29, October 27, December 15, 2005, and January 12, 2006).

Mr. Gray announced that contact had been made with Livermore Winegrower's Association. Although a response has been submitted by the Association to the Planning Department, he has not received it yet. As of this morning, Building Department has confirmed that no building permit has been pulled by the Mr. Powell. Member Sblendorio said he had requested a list of permits for similar event centers along Tesla Road/South Livermore Avenue. He also asked if the conditions of approval would be different from the existing facilities. Mr. Gray explained that perhaps a change in operational hours.

Although neighbors were available, no public testimony was submitted. Member Gosselin made the motion to continue the application to the March hearing. Member Sblendorio seconded and the motion carried unanimously.

2. **MICHAEL GBADEBO, CONDITIONAL USE PERMIT, C-8430** ~ Application to allow continued operation of an engineering testing facility, in a PD-ZU-1751 (Planned Development, 1751st Zoning Unit) District, located at 9959 Calaveras Road, north side corner, northeast of I-680, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0335-002-08 and 096-0335-002-09. (Continued from December 15, 2005 and January 12, 2006).

Mr. Gray summarized the staff report adding that internal discussions on Measure D implications have been on-going. Although staff's recommendation is for an approval, the County's opinion is that Measure D does have an effect and thus the operation cannot continue as a conditional use permit.

Public testimony was called for. Michael Gbadebo, applicant, noted the error in the expiration date, which should read February 23, 2013 and requested longer operational hours to accommodate over-time hours. Member Gosselin asked if he would agree to a continuance. Mr. Gbadebo opted for an action.

Public testimony was closed. Member Sblendorio made the motion to move staff recommendation for a conditional approval with modifications to condition #2 to reflect operational hours from 7 am to 7 pm. and Condition #7 to read: ".....expire in seven years, on February 23, 2013." Motion carried unanimously.

3. **DONALD & LISA ARNOLD, CONDITIONAL USE PERMIT, C-8467** ~ Application to allow continued operation of an on-site office trailer, in a P-D-ZU-1391 (Planned Development, 1391st Zoning Unit) District, located at 9950 Calaveras Road, southwest side, corner south of I-680, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0335-

Mr. Gray stated that although staff's recommendation is for a continuance to allow discussion on the minor modification on the Planned Development and the Measure D implications, the January 12th staff report was complete with a recommendation for a conditional approval, subject to four conditions. This application is similar to the previous one. This matter was continued from the last hearing to allow re-

noticing including a longer permit. Member Gosselin noted the on-going clean-up for the Sunol downtown area. Although the Board had discussed the possibility of a longer permit, based on the above implications, he made the motion to approve the application subject to the four conditions as contained in the January 12th staff report. Member Sblendorio seconded and the motion carried 3/0.

4. **AMERICAN TOWER, INC., CONDITIONAL USE PERMIT, C-8480** ~ Application to allow continued operation of a cellular operation of a cellular telecommunication facility, in an "A" (Agricultural) District, located at 11705 North Flynn Road, west side, approximately 0.5 mile south of I-580, Livermore area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 099A-1785-001-13 - **Moved to the Consent Calendar.**
5. **AMERICAN TOWER, INC., CONDITIONAL USE PERMIT, C-8481** ~ Petition to allow continued operation of a cellular telecommunication facility, in an "A" (Agricultural) District, located at 5810 Mission Road, west side, approximately one mile north of Vargas Road, Sunol area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 096-0056-008-11. **Moved to the Consent Calendar.**
6. **EBSN/GREENVILLE EQUESTRIAN CENTER, SITE DEVELOPMENT REVIEW, S-2031** ~ Application to allow continued operation of an outdoor recreation facility (equestrian center) and boarding stable, in a P-D (Planned Development, 2194th Zoning Unit allowing A-CA uses with two dwelling units) District, located at 4180 Greenville Road, east side, southeast corner of Tesla Road, Livermore area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 99A-1900-001-12.

Mr. Gray presented the staff report noting that although staff's recommendation is for an approval, the County's position is for a continuance to March 23 to allow time to refine the new process for equestrian facilities. Member Gosselin asked if this process will involve feedback from the Agricultural Advisory Committee or the subcommittee. Mr. Gray replied that this matter had been referred to the Committee. Member Gosselin stated that he has been involved with the Committee and he did not think that the new process would be finalized by March and, as such, recommended that it would be appropriate for the Board to act on this matter today. The Chair requested clarification on the last sentence of Condition #2. Mr. Gray indicated that the sentence could be deleted. A discussion followed regarding the 'outdoor recreation facility' term in the project description, manure management plan, events on-site, ancillary uses and septic tank requirement. In response to the Chair, staff indicated that no new public comment has been received. The applicants were not available and no public testimony was submitted. Member Gosselin made the motion to approve the application subject to the sixteen recommended conditions. Member Sblendorio seconded and the motion carried unanimously.

7. **DELWYN LOUNSBURY, VARIANCE, V-11895** ~ Application to approve as a building site one parcel reduced in size from 100 acres to 40.82 acres without frontage on an approved county road, in an A-CA (Cultivated Agriculture) District, located on Mines Road, west side, approximately 686 feet west of Del Valle Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099A-2420-006-03. (Continued from February 10 and 24, April 28, June 23, July 28, August 25, September 29, December 15, 2005, and January 12, 2006).

Mr. Gray presented the staff report adding a letter was received from the applicant requesting a continuance to March 23, 2006. The Chair announced that the Board had visited the site today and noted that the access road was very long and deteriorated towards the end. Member Sblendorio said he was not concerned with the length but with the condition. He suggested perhaps an agreement for improvement especially for emergency purposes. Member Gosselin asked if the Board could use similar applications to compare and contrast. Mr. Gray replied yes. In comparison, Member Gosselin thought that the access road for 19600 Mines Road was in a better condition. Member Sblendorio asked if the road is within the easement and, if not, suggested moving the road into the easement as he was not comfortable with prescriptive easements.

Public testimony was called for. Mick Lamb, project surveyor, pointed out that the road has not received the same use as there is no dwelling on the property; and any plans for a dwelling will be subject to a site development review and prior to building approval, the road will be up-graded. It would be unfair to the applicant to deny the same rights as others had. There is specified easement and the applicant has the rights to the road, wherever it is located.

Public testimony was closed. Member Sblendorio made the motion for a continuance to March 23, 2006, and Member Gosselin seconded. Motion carried unanimously.

8. **DAN DEL ARROZ/LAMB SURVEYING, INC., VARIANCE, V-11932 ~**
Application to adjust two lot lines between two existing parcels and to approve as a building site a parcel with no frontage on an approved county road containing 10 acres where 100 acres are minimum, in an "A" (Agricultural) District, located at 9745 Santos Ranch Road, west side, approximately 0.80 miles west of Foothill Road, Pleasanton area of unincorporated Alameda County, bearing Assessor's Parcel Number: 0941-2300-002-09. (Continued from June 23, July 28, August 25, September 29, December 15, 2005, and January 12, 2006).

Mr. Gray summarized the staff report. Member Sblendorio announced that since a conflict of interest did not exist now as his client was not interested in purchasing the property, he could participate. Member Gosselin noted that in the Agricultural District, public and private trails are permitted uses which would also be a public benefit. An agricultural use of the property could provide a nexus and a connection to the Williamson Act. The top of the hill would be an inappropriate building site because of the ridgeline complications and re-forestation program. The Chair pointed out that at the January meeting, the applicant had indicated a willingness to provide a connector trail through his property.

Public testimony was called for. Mick Lamb, project surveyor, in response to the Board, stated the following: the applicant is planning vineyards and other potential compatible agricultural uses, perhaps harvesting timber and grazing and/or equestrian facility on the 10-acre lot; minimal grading will occur for construction of the road; the steepest slope would be only 10% from the driveway to the existing house; most grading will occur on the high ridge; there has been on-going discussions between the applicant and EBRPD regarding the connector trail; an approval would not be granting of any special privileges as this variance is for a building site status without frontage similar to all other properties in this area and there is an existing access utility easement for the 70-acre parcel. In response to Member Sblendorio, he confirmed that if the other parcel is sold, the easement will be recorded for both the prior and new owner and the applicant is willing to provide emergency access through the road.

Public testimony was closed. Member Gosselin agreed that an approval would not be granting of special privileges and suggested the same square footage for both parcels. He made the motion for a conditional

approval with modification to Condition #5 to reflect that the house be located on the lower western slope and not on the ridgeline so as not to be detrimental, development of a connector trail for EBRPD and reforestation program per Planning Director approval. Member Sblendorio seconded the motion requesting an additional condition reflecting that the grading of the road not to exceed 15%. The Chair recommended a 6,000 square foot limit to the dwelling. Motion was modified to reflect this limitation which carried unanimously.

Member Gosselin excused himself for the remainder of the hearing.

9. **KLAUSE BERGMANN/CATHI and ERICH METZGER/SILLS, VARIANCE, V-11940** ~ Application to approve a 40 acre building site without frontage on an approved County road where a minimum of 320 acres is required, in a A-B-E (Agricultural, 320 acres Minimum Building Site Area) District, located at 19600 Mines Road, northeast side, approximately 17 miles southeast of Tesla Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99A-2605-007-00. (Continued from July 28, September 29, December 15, 2005; and January 12, 2006).

Mr. Gray summarized the staff report and distributed photographs of the site pointing out that it was the property with the barn and trailer. The applicants' plan is to finish/remodel the existing structure.

Public testimony was called for. Erich Metzger, co-applicant, stated that although the previous owner had lived on site for 25 years, a building permit had not been obtained for the existing structure. His plan included legalizing the structure with a building permit and, being a licensed contractor, will do the remodeling himself. The existing footprint will be maintained. The Chair asked if the existing structure could be demolished and replaced. Mr. Gray replied yes and would be subject to the site development review.

Public testimony was closed. Member Sblendorio made the motion to move staff recommendation for a conditional approval subject to the two recommended conditions. The Chair seconded the motion adding that he had no concerns because of the existing footprint. Motion carried 2/0/1. Member Gosselin was excused.

10. **PERRY/LAMB SURVEYING, INC., VARIANCE, V-11977** ~ Application to approve building site status for two parcels, in an "A" (Agricultural) District, located at 10017 Tesla Road, west side, approximately 2050 feet north of Reuss Road, Livermore area of unincorporated Alameda County, bearing County Assessor's Parcel Numbers: 099A-2003-015-05 and 099A-2003-015-06. **Moved to the Consent Calendar.**

Approval of Minutes – December 15, 2005 and January 12, 2006. Approval of Minutes was continued to the March meeting.

STAFF COMMENTS & CORRESPONDENCE: None.

CHAIR'S REPORT: The Chair requested clarification on the due date for the Statement of Economic Interest. He also requested an up-date on the possibility of an orientation. Mr. Gray said that it was not a priority at the moment but he would mention this to the Planning Director.

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: The Board discussed the options for the March hearing date and due to the lack of a quorum, the Board opted for March 30th.

ADJOURNMENT: There being no further business, the hearing was adjourned at 3: 25 p.m.

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