

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
FEBRUARY 25, 2010
(APPROVED APRIL 22, 2010)

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

OTHERS PRESENT: Jana Beatty, Senior Planner

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

1. **T-MOBILE WEST CORPORATION/LOEVEN & ASSOCIATES/MILLION, CONDITIONAL USE PERMIT, PLN2009-00047** ~ Application to allow continued operation of an existing telecommunication facility with a change of service provider from T-Mobile to T-Mobile West Corporation and to legalize an additional equipment cabinet, in an "A" (Agricultural) District, located at 2980 East Vallecitos Road, 60 feet southwest of the intersection with Vineyard Avenue, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 950-0007-005-09. (Continued from November 19, 2009). **Staff Planner: Shahreen Basunia**
Cancelled
2. **T-MOBILE WEST CORPORATION, CONDITIONAL USE PERMIT, PLN2009-00066** ~ Application to allow continued operation of an existing telecommunication facility with no changes, in an 'A' (Agricultural), located at 11600 Pleasanton-Sunol Road, east side, north east of Paloma Way, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0376-007-02. (Continued from January 28, 2010). **Staff Planner: Carole Kajita**
Cancelled
3. **RUESGA, CONDITIONAL USE PERMIT, PLN2009-00077** ~ Application to allow a wholesale plant nursery in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acre Minimum Building Site Area) District, located at 1780 Buena Vista Avenue, east side, approximately 0.25 mile south of East Avenue, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99-1250-017-02. **Staff Planner: Damien Curry**
4. **MANCINI, VARIANCE, PLN2009-00140** ~ Application to allow two accessory buildings of 22 feet and 15 feet, 8 inches in height where a maximum height of 15 feet is allowed, in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 4 acre Minimum Building Site Area) District, located at 2940 Reed Avenue, north side, approximately 248 feet east of Edwards Avenue, South Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99-0675-010-11. **Staff Planner: Damien Curry**

5. **FRANK HAEGELAND, CONDITIONAL USE PERMIT, PLN C-8686/HAEGELAND** ~ Application to construct a 19,950 square foot kennel facility, which will include exercise areas, a walking trail and a pet drop off area. The kennel will have the capacity to accommodate up to 400 dogs and 50 cats and will offer a full-range of services, including grooming and training. The facility would employ up to 40 staff, with a maximum of 18 staff on duty during peak business hours. A mitigated negative declaration was prepared for this project pursuant to the California Environmental Quality Act. The subject property contains 37 acres, is zoned A (Agriculture) and is located on the south side of Dublin Canyon Road, 1.75 miles east of Palo Verde Road, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 85A-0800-006-20. **Staff Planner: Jeff Bonekemper**

REGULAR MEETING: 1:30 p.m.

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

OTHERS PRESENT: Albert Lopez, Planning Director; Brian Washington, County Counsel; Jana Beatty, Senior Planner; Tona Henninger, Code Enforcement Manager; Lacy Starling, Zoning Investigator; and Nilma Singh, Recording Secretary.

There were approximately forty-one people in the audience.

CALL TO ORDER: *The meeting was called to order by the 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 ~ The Chair announced that the Abatement calendar has been moved to the end of the Regular Calendar; and Regular Calendar items #1 (PLN2009-00047) and #2 (PLN2009-00066) has been moved to the Consent Calendar, to be approved per staff recommendation; and #3 (PLN2009-00077), to be continued to the next hearing.

NEIGHBORHOOD PRESERVATION AND ZONING ORDINANCE ABATEMENT

1. **JAWID SIDDIQ, LINDEMANN ROAD, UNINCORPORATED LIVERMORE, ASSESSOR'S PARCEL NUMBERS: 099B-7150-010-05, 099B-7150-010-07 and 099B-7150-010-08** ~ 1) Illegal, dilapidated and/or unsafe units, structures and/or decks in violation of Section 110, 503, 505 and 508 of the 2007 California Fire Code; Chapter 15.18, Section 8 of the Alameda County Onsite Wastewater Treatment System and Individual/Small Water System Regulations; Chapter 6.65.030, Sections (A), (B) and (C) of the Alameda County Neighborhood Preservation Ordinance; and Chapter 17.06 of the Alameda County Zoning Ordinance; 2) Junk, garbage, trash, debris, furniture and miscellaneous items in violation of Alameda County Neighborhood Preservation Ordinance 6.65.030 A and B(6).
(Moved to the end of the Regular Calendar)

CONSENT CALENDAR:

1. **SPRINT PCS/MORIN, CONDITIONAL USE PERMIT, PLN2009-00162** ~ Application to allow continued operation of a cell site consisting of six panel antennas, located at the rear of a storage building, in a PD (Planned Development) District, located at 6500 Tesla Road, approximately 400 feet east of Vasco Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99A-2935-002-00. (Continued from January 28th; to be continued to March 25, 2010). **Staff Planner: Jeff Bonekemper**

2. **T-MOBILE WEST CORPORATION/LOEVEN & ASSOCIATES/MILLION, CONDITIONAL USE PERMIT, PLN2009-00047** ~ Application to allow continued operation of an existing telecommunication facility with a change of service provider from T-Mobile to T-Mobile West Corporation and to legalize an additional equipment cabinet, in an "A" (Agricultural) District, located at 2980 East Vallecitos Road, 60 feet southwest of the intersection with Vineyard Avenue, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 950-0007-005-09. (Continued from November 19, 2009 and January 28, 2010). **Staff Planner: Shahreen Basunia**
(Moved from the Regular Calendar)

3. **T-MOBILE WEST CORPORATION, CONDITIONAL USE PERMIT, PLN2009-00066** ~ Application to allow continued operation of an existing telecommunication facility with no changes, in an 'A' (Agricultural), located at 11600 Pleasanton-Sunol Road, east side, north east of Paloma Way, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0376-007-02. (Continued from January 28, 2010). **Staff Planner: Carole Kajita**
(Moved from the Regular Calendar)

4. **RUESGA, CONDITIONAL USE PERMIT, PLN2009-00077** ~ Application to allow a wholesale plant nursery in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 acre Minimum Building Site Area) District, located at 1780 Buena Vista Avenue, east side, approximately 0.25 mile south of East Avenue, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99-1250-017-02. **Staff Planner: Damien Curry**
(Moved from the Regular Calendar; to be continued without discussion to the next hearing)

Member Goff made the motion to approve the Consent Calendar per staff recommendation and Member Harvey seconded. Motion carried unanimously, 3/0.

REGULAR CALENDAR:

1. **T-MOBILE WEST CORPORATION/LOEVEN & ASSOCIATES/MILLION, CONDITIONAL USE PERMIT, PLN2009-00047** ~ Application to allow continued operation of an existing telecommunication facility with a change of service provider from T-Mobile to T-Mobile West Corporation and to legalize an additional equipment cabinet, in an "A" (Agricultural) District, located at 2980 East Vallecitos Road, 60 feet southwest of the intersection with Vineyard Avenue, Livermore area of unincorporated

Alameda County, bearing Assessor's Parcel Number: 950-0007-005-09. (Continued from November 19, 2009 and January 28, 2010). **Staff Planner: Shahreen Basunia**
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4. **MANCINI, VARIANCE, PLN2009-00140** ~ Application to allow two accessory buildings of 22 feet and 15 feet, 8 inches in height where a maximum height of 15 feet is allowed, in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 4 acre Minimum Building Site Area) District, located at 2940 Reed Avenue, north side, approximately 248 feet east of Edwards Avenue, South Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99-0675-010-11. **Staff Planner: Damien Curry**

Ms. Beatty presented the staff report.

Public testimony was called for. Randy Mancini, applicant, submitted color photographs of the proposed barn arena and noted the following: the additional height is for the covered arena (for training horses) venting unit; the color of this arena and the barn will match the existing house; the existing larger barn with eight stalls will be demolished and the new barn will be six inches over the required height (15 feet 6 inches total height) and will have six stalls; the point of entry will be 12 feet; and in response to Member Harvey, Mr. Mancini explained that these are the lowest manufacturer's measurements for a minimum roof slope.

Public testimony was closed. Member Harvey stated that although he has no objections with the project or the appropriateness of the buildings, the Ordinance states that accessory structures have to be 15 feet high unless special circumstances exist with the property. However, he could not find any special circumstances and, as such, he could not make the First Finding. Another concern was precedent setting. He also pointed out that the BOS is looking at longer term solution for building height requirements in Limited Agricultural Districts. The Chair noted that a similar variance heard by this Board was appealed to the BOS – a project that he had no objections except for similar concerns. His intent would be to not slow down projects but to develop a process other than a variance. With his background in the horse industry, the height of the pen is appropriate for both the safety of the horse and the rider. Staff agreed that the 15 feet height limit is not appropriate for agricultural purposes in this district and, as such, internal discussions have been ongoing for a different process other than a variance, perhaps a Site

Development Review process. Staff also acknowledges the difficulty in making the first Finding but at this time there is no other option. Member Harvey pointed out the distinction that special circumstances apply to the property and not the owner, and asked if the BOS would pursue a different process option if this Board continues to approve Variances and thus eliminating appeals. Mr. Lopez replied that the matter will be pursued and presented to the BOS by the Planning Department and the timeframe will perhaps be 2-6 months. *Member Goff made the motion to move staff recommendation for an approval and the Chair seconded. Motion carried 2/1 with Member Harvey dissenting.*

5. **FRANK HAEGELAND, CONDITIONAL USE PERMIT, PLN C-8686/HAEGELAND** ~ Application to construct a 19,950 square foot kennel facility, which will include exercise areas, a walking trail and a pet drop off area. The kennel will have the capacity to accommodate up to 400 dogs and 50 cats and will offer a full-range of services, including grooming and training. The facility would employ up to 40 staff, with a maximum of 18 staff on duty during peak business hours. A mitigated negative declaration was prepared for this project pursuant to the California Environmental Quality Act. The subject property contains 37 acres, is zoned A (Agriculture) and is located on the south side of Dublin Canyon Road, 1.75 miles east of Palo Verde Road, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 85A-0800-006-20. (Continued from January 28, 2010). **Staff Planner: Jeff Bonekemper**

Ms. Beatty presented the staff report noting the inclusion of the memo from County Counsel which discusses the Resource Management Designation and the allowable uses under this designation. County Counsel has made the determination that this is a compatible use under this designation. The Chair requested clarification on the previous approval of a building site status.

Public testimony was called for. Frank Haegeland, applicant, introduced the project architect, Chris Gilman; Mark Fotheringham, Landscape Architect; and Noadiah Eckman, septic and environmental engineer; and displayed color photographs of the proposal including a landscaping plan. Although State Fish & Game and RWQCB require 3:1 mitigation (90 feet); he will provide 180 feet of mitigation with native trees.

Chris Gilman, project architect, explained the following: the aim is to have an attractive, warm structure with a mixture of commercial/residential features; provide height 'break-ups'; suite-designed pens; a kennel designed as streetscape with a hotel-like entrance and easy drop-off and pick-up access; critical access to open yards; 37 acres of open space provides a huge buffer; building to be located along street frontage and leaving the remainder of parcel as open space will have very little impact; freeway created noise already exists and with no close neighbors, there will no lighting and noise issues/concerns. The immediate neighbor, Pat Kennedy, has written a letter of support. In response to the Chair, Mr. Gilman said he has designed about 7-8 veterinary type projects and there are trade magazines/literature for such sites. There is an on-coming trend for such facilities and providing an outdoor environment is very important and different from other types of facilities. The landscape plan, along with the creek mitigation plan, will provide screening. They have agreed with the street widening dedication and a left lane will provide one-way traffic flow. Mr. Gilman further described the inside layout of the building noting that the size of the building is in conformity with Measure D. The Chair asked for the height of the dirt pile. Mr. Haegeland said it is about 8,000 cubic yard. Staff noted that per Grading Department, no Grading Permit has been obtained and all undocumented fill has to be removed or engineered.

Mark Fotheringham, Landscape Architect, in reference to the oak tree mitigation, said that there are 18 substantial sized, healthy and quality oak trees that needed to be mitigated and a total of 54 trees have been integrated in the plan. The micro climate at this site is very conducive to coast life oak. The Chair

noted that the renderings of the architect do not reflect his landscape vision. Mr. Fotheringham pointed out that Mr. Gilman's drawings do not include the additional trees along the front. The front oak trees will grow to 30-35 feet and ever-green trees will provide year around screening.

Member Harvey requested information on density, industry guidelines, square footage per animal, basic waste disposal and the reasoning behind the number 400. Mr. Haegeland explained that there is no unified government standard. However, he is a life time member of American Boarding Kennel Association, now known as Pet Care Service Association which has certification standards. This facility will be above the basic standards -- a 'Hyatt Regency' for kennels. In reference to the 400 number, Mr. Haegeland said economy factors were considered (bank loan...etc) and the market. A very detailed survey of all kennels in Contra Costa, Alameda, Santa Clara, San Mateo and San Francisco was also done including all surrounding areas within 20-30 minute driving time and how the market was covered compared to the number of dogs and cats within these areas (2-3x the number of kennels). Kennel sizes vary and the smallest would be 8x4 with 1-2 dogs. And there is no noise standard for kennels. Dog waste disposal will be through the septic system and in response to a Fish & Game study of possible bacteria in cat feces, cat waste will be taken to the dump.

Noadiah Eckman, Eckman Environmental Corporation, said that she has designed the drip water system and explained that most of the kennel waste will be washed down and collected in an underground tank, treated first with an anaerobic and then with an aerobic system before being disposed off with the drip water system. Solid waste will be pumped every 3-5 years as outlined in the maintenance program. In response to the Chair, she further described the anaerobic/aerobic systems and the new Fish & Game study. The system is far away from the creek and run-offs.

Member Harvey asked the applicant if he had been made aware of any County noise level requirements outside the property. Mr. Haegeland replied no. Noise is not an issue as the site is fronted by the freeway with approximately 2,000+ cars every day, has hills on three sides and no neighbors. The nearest neighbors have no concerns. Since the site is on an existing fill (by Caltrans in 1974), there will be no environmental impacts also. Ms. Beatty explained that noise was analyzed in the Initial Study and it was noted that there are no nearby sensitive receptors. There is also a condition of approval that requires all dogs to be in by 8pm and noise is limited to 65db by 10pm in the Agricultural District.

Public testimony was called for. Dick Schneider said he was one of the drafters of Measure D which was designed to preserve open space/lands for agriculture, habitat protection, natural resource production, protection of use, and all uses to be consistent to open space protection. The voters had applied the stringent Resource Management designation to the CV canyon areas and this area is also in a designated scenic corridor. The Scenic Route Element does not allow non-emergency commercial businesses along scenic corridors. This facility is not consistent with Measure D as this is not an open space use but a high intensive commercial/urban use which will set a precedent to other non-open space uses. Previously, applications for a high school (although allowed under Resource Management designation, it was a high intensity urban use), and a church were denied by the Board of Supervisors. In response to the Chair, he agreed that this project does meet the square foot restriction. Mr. Schneider urged a denial.

Howard Beckman, on behalf of Friends of San Lorenzo Creek, explained that their interest is the entire San Lorenzo Creek Watershed which covers the west Eden Township. The Food Control District 2 embraces the entire watershed and this property drains into this watershed. Most of the streams in the watershed are intermittent and not inferior but part of the entire drainage system. The IS and the applicant indicate that the streambed is badly damaged. The pile of dirt is being used to fill a natural ravine on site, which is part of the intermittent stream. Another concern is precedent setting. Although, RWQCB has

not issued a permit to proceed with a culvert, Mr. Beckman pointed out that the State Department of Fish & Game and RWQCB will not oppose projects but will look at mitigations due to being short-staffed. He asked what other alternative sites were looked at. Another approved kennel in Castro Valley is yet to be constructed. In response to Member Harvey, Mr. Beckman said that although they do not hold a position about the appropriateness of the project, the project size requires the fill of a natural ravine. The Chair asked if he has visited the site and if the tradeoff between mitigation and restoration is not equivalent to the loss of 30 feet of a creek. Mr. Beckman replied that a culvert is not equivalent to a natural stream adding that he has not visited the site, and that he does not have any objections to the project

Diana Hanna, property owner at 10142 Cull Canyon Road, submitted eight letters in opposition and read a letter from Leslie Hardy, a property owner with a large horse boarding facility who strongly opposes this proposal. Ms. Hanna said that she is not opposed to a kennel but the location which would set a precedent as there are other properties on sale; the filling of the creek; and, the continuation and widening of the existing fire trail would impact the creek bank. Ms. Hanna also submitted a letter from Jeremy Sisneroz, another neighbor in opposition, who noted the existence of a new similar business, within two miles, in Pleasanton, 'Doggie Topia' and 'Camp Bow Wow' in Livermore; and another similar business which opened in 2006, went bankrupt and was resold in 2008. All Boards/Commissions need to uphold what the votes voted for, Measure D.

Joan Seppala, a Livermore resident, said she was also one of the drafters of Measure D and opposed the proposal of any size as it violates Measure D, is not an agricultural use and will set a precedent. She urged the upkeep of law and the values of Measure D.

Bob Baltzer, 944 El Caminito, Livermore, concurred with Mr. Schneider and Mr. Flashman's written comments, and urged a denial. A kennel is not comparable to horse boarding as horse riding is an open space use and boarding stables are an accessory use. His other major concern is the 4,000 gallons of water with septic tanks and leach fields; 24 gallons of water per minute is adequate and he asked if the flow is available 24/7. Some of his other concerns are the road widening issues relating to ECAP, consistencies with the CV General Plan and the Scenic Route Element.

Pat Kennedy, 700 Gary Drive, San Leandro, said that he is the adjacent property owner who has a cattle farm and a stable as his tenants. He supported the project which would be a great addition to the area. Although there is adequate water, additional wells could be drilled for more water. As noted earlier that other properties are on sale, Mr. Kennedy indicated that these were part of his property and were not for sale. If the land is not used, it will become overgrown and a fire hazard.

Jason Gerber, a Livermore resident who previously lived on Sunnyslope Avenue in Castro Valley, noted that the Resource Management designation does not expressly prohibit kennels. His concerns included the following: the similarity between kennels and horse boarding and agriculture; the size of the building; up-keep of open space; removal of 100-year oak trees; washing of waste downhill into the creek, emergency exist for 400 dog owners; decrease of property values; and keeping the water table clean. Mr. Gerger urged the up-keep of Measure D and denial of the project.

Matt Turner, a Castro Valley resident and a Measure D supporter, concurred with Mr. Gerber. The Specific Plan for Areas of Environmental Significance was created to protect the visual corridor. The essence of Measure D is to protect open space and the rv storage has set a precedent; this use is a commercial facility and an approval would be in direct conflict with the Specific Plan for Areas of Environmental Significance. In response to the Chair, he confirmed that he had read Measure D.

Glenn Carlson, 25359 GoldHills Drive, Castro Valley, read his written statement. His concern is violation

of Measure D and any legal opinion of kennel as an agricultural use is stretching the meaning beyond reasonable. An approval will set a precedent and Mr. Carlson urged a denial.

Dave Sadoff said that although a member of the CVMAC, he was speaking for himself. He further read his written statement. The basic aim of Measure D is to preserve open space and agricultural uses. This proposal includes construction of a ½ acre facility; filling of the seasonal creek with 3,000 cubic yards of fill; the widening of Dublin Canyon Road to accommodate approximately 980 vehicles daily; removal of 44 trees, 33 coast live oak trees; pumping of large quantities of ground water for daily use; and construction of a large leach field; all of which does not clearly preserve open space or agricultural land and are inconsistent with Measure D. The staff report indicates approval of another kennel on Crow Canyon Road under Resource Management zoning by CVMAC in 2005. However, this approval was an extension of an existing facility's CUP. An approval will set a dangerous precedent. CVMAC's denial motion was based on the size of the facility. However, the applicant has refused to scale down the project. Mr. Sadoff urged a denial as an approval will urbanize a rural setting, set a precedence and the project was simply too big.

Bence Gerber, 6700 Sunnyslope Avenue, Castro Valley, stated that he drives past the site daily and is a strong supporter of Measure D. The surrounding open space is being constantly reduced and he concurred with all the concerns stated so far. Dublin Canyon Road becomes a 'parking lot' on rainy days. Schaffer Ranch project will add to the traffic congestion. He urged a denial.

TW Starkweather, 100 Circle E Ranch Drive, San Ramon, spoke in support. He has reviewed the Findings with staff, the conditions of approval, mitigation measures and has discussed the project with the technical team. The Landscaping Plan with some modification, i.e. faster growing trees, on the street edge will screen and mitigate the visual impact. There are larger agricultural structures than 20,000 square feet. At the adjacent tenants' request, he announced that Jessie Kendall and her husband are also in support of the project. The use is needed and the project will not have any impacts on the neighbors. Such a facility in a densely populated urban area would face major opposition from neighbors with noise concerns. As licensed real estate broker for 38 years, he did not think that such a facility will lower property values. In reference to Measure D. Mr. Starkweather felt that it should not be construed so rigidly and further stated his appreciation of staff's work. In response to the Chair, he confirmed that he had read and voted for Measure D.

Mr. Haegeland, in rebuttal, pointed out the following: the existing kennel on Dublin Canyon Road did not have a permit initially; many different alternative sites were looked at; every County, including Alameda County, defines such a use ("...horse boarding facilities, kennels...") as an agricultural use and he had obtained confirmations as such before purchasing the property. Member Harvey asked if he would consider a scaled-down version and conform substantially to an area that is already disturbed and filled. Mr. Haegeland replied that he has to consider economically. If the project has to be re-designed, it will take another year to re-start with new Board and Commission members. The project and the fill have already been down-sized including re-designing to save the trees. The original plan for a 40,000 square foot facility would have been inconsistent with Measure D.

Public testimony was closed. Member Harvey asked for examples of structures permitted (not requiring CUPs) on this property. Staff read the list and Member Harvey noted that all structures, except for the single family home, were agriculturally related. The Chair pointed out that at the creation of this Board, he had received an information binder which does reflect a kennel as a conditional use. Member Goff stated his support for the project noting that the other kennel approved for the same area was for an extension and not a new use; County Counsel's letter; and that some other use/structure could be

approved for this site. Member Harvey agreed with Member Goff that this is an idle site. Any development will alleviate the illegal dumping on site. However, he could not find the use is to be in compliance with the zoning and General Plan; expressed concern with precedent setting noting that the storage facility was only approved through litigation; and approval for building site status for a residence has resulted in a 20,000 square foot commercial facility application; and the applicant is unable to, for economic reasons, scale down the project to fit better with the terrain and have less of an impact on the watershed. He could not support the project based on Measure D/General Plan and zoning especially for an area outside the Urban Growth Boundary but also thought that such a facility could work in this location otherwise. The Chair thought that this was an appropriate use on rural land (based on the 'binder' which reflects a kennel as a conditional use); land under Resource Management designation is to be managed as a resource; amendments to General Plan through Measure D saves the ridgelines, the environment and the entire property except for the residence footprint that fronts the freeway; the scenic view from the ridge top will be enhanced with this project at the foot by replacing the illegal dumping -- a benefit; the size is limited by Measure D; there is screening potential by trees; the First Finding can be made in the affirmative; the size, the outside and the layout of the facility are beneficial to the animals; and the existence of the freeway will be a great benefit to the noise issues. Although the building is tall, Chair Gosselin pointed out that the upper open space is critical as it exists in every agricultural building; and the building height, in comparison to the 400 feet hillside, will not be significant and/or an issue.

Member Goff made a motion for an approval of the Negative Declaration and the Conditional Use Permit, and with an additional condition that the streetscape be modified with fast growing trees. The Chair second and the motion carried 2/1 with Member Harvey dissenting.

The Chair announced a recess and the hearing reconvened at 4:05

NEIGHBORHOOD PRESERVATION AND ZONING ORDINANCE ABATEMENT
(Moved from the beginning of the agenda)

- 1. JAWID SIDDIQ, LINDEMANN ROAD, UNINCORPORATED LIVERMORE, ASSESSOR'S PARCEL NUMBERS: 099B-7150-010-05, 099B-7150-010-07 and 099B-7150-010-08** ~ 1) Illegal, dilapidated and/or unsafe units, structures and/or decks in violation of Section 110, 503, 505 and 508 of the 2007 California Fire Code; Chapter 15.18, Section 8 of the Alameda County Onsite Wastewater Treatment System and Individual/Small Water System Regulations; Chapter 6.65.030, Sections (A), (B) and (C) of the Alameda County Neighborhood Preservation Ordinance; and Chapter 17.06 of the Alameda County Zoning Ordinance; 2) Junk, garbage, trash, debris, furniture and miscellaneous items in violation of Alameda County Neighborhood Preservation Ordinance 6.65.030 A and B(6).

Ms. Henninger presented the staff report adding that representatives from the Sheriff's, Fire and Environmental Health Departments were available for questions. In response to the Chair, she confirmed that no one was living in these structures. Member Goff asked if some of these structures had been exempt from the proceedings initially. Ms. Henninger explained that the structures had not being addressed initially because they were still occupied by tenants.

Public testimony was called for. Patrick McCarthy, attorney representing the applicant, said that he was somewhat familiar with the case as he has only been involved for a month. He has met with Mr. Lopez, the Planning Director and Code Enforcement staff and agrees with the situation. The Applicant wants to become a better neighbor, take immediate steps to move forward and has hired an architect to analyze the engineering situation and a contractor. In reference to staff recommendation and to ensure no environmental impact, Mr. McCarthy requested 60 days with a status report in between. He also indicated an interest in fencing off the property with a cyclone fence to eliminate trespassing. In response

to Member Harvey, he confirmed his concurrence to all the recommendations except for the 60 days timeframe.

Sgt. Schueller, Sheriff's Department, stated that to-date, there has been no help/corporation from the owner. The Chair asked if fencing the property will help. Sgt. Schuller replied that a fence would be helpful but they can be cut open. Although services calls have decreased, routine patrolling continues in this area.

Ron Allison, 35967 Firestone Court, Newark, stated that he is one of the owners at Rivers End Marina. He thanked staff for the recommendation, urged the Board to keep the same recommendation, and confirmed that there have not been many problems since the red tagging and boarding of the structures. The Chair asked if there is security at night at the marina. Mr. Allison said that their property is about 200 yards away and security is only for yacht club's storage area.

Bill Pease, a Fremont resident and a co-owner of Rivers End Marina, thanked staff for all the mitigation actions. An extension should not be granted as this is a public nuisance (pieces of structures continue to fall into the marina) that has existed for many years. He did not see any reason for hiring an architect and a contractor as the buildings are not even on a foundation and cannot be saved. There is an existing cyclone fence. In response to the Chair, Mr. Pease said he is a bath and kitchen contractor and with a crew of ten, the demolition work could be completed in less than a week.

Robert Harper, 6020 Lindemann Road, representing Livermore Yacht Club, east of the subject property, concurred with staff recommendation. In support, he stated the following; this area has become a dumping ground, unsightly and a health hazard; the County has done an excellent job to-date; the buildings are unsafe and not built to code and, as such, he could not understand the involvement of an architectural firm; there is still a lot of trash; and the existing fence has been cut through and a cyclone fence will slow the demolition process, hinder emergency access and not serve much of a purpose.

Public testimony was closed. In response to Member Harvey, Ms. Henninger said that abatement bill was forwarded to the property owner which has not been paid and, as such, the lien proceedings will be heard by the BOS next Tuesday, March 2, 2010; and County Counsel confirmed that a condition for a bond cannot be added. Member Harvey asked for the possibility of a 30-day progress up-date followed by another 30 days instead of 60 days. Ms. Henninger thought it could be a possibility but noted deterioration concerns. Member Goff stated his support for 30 days. The Chair asked for the number of structures remaining. Ms. Henninger replied that currently there are 11 houses and three accessory structures. *Member Harvey made the motion to move staff recommendation (30 days) and Member Goff seconded. Motion carried unanimously, 3/0.*

APPROVAL OF MINUTES - October 22 and November 19, 2009 - *Member Harvey made the motion to approve the October 19th Minutes as submitted and Member Goff seconded. Motion carried unanimously, 3/0.*

Member Harvey, with a correction -- deletion of the last sentence of the first paragraph, Regular Calendar item #1 and an inclusion of a sentence (at the end of the third paragraph, page 4) to reflect that in response to his question, Mr. Kerri confirmed that he had been aware of a variance requirement, made the motion to approve November 19th Minutes. Member Goff seconded and the motion carried unanimously, 3/0.

STAFF COMMENTS & CORRESPONDENCE: *Ms. Beatty announced that due to renovations to this*

Chambers, hearings will be held temporarily in the City of Livermore Council Chambers

CHAIR'S REPORT: *As previously discussed by this Board, the Chair asked for the possibility of very initial hearings on projects. Mr. Lopez suggested perhaps a study session and/or as an informational item, similar to Planning Commission, with minimal staff review to provide a direction to both staff and the applicant. In reference to billing issues, staff asked if this would be mandatory or upon request. The Chair thought it could be based on requests that are made within perimeters set by staff. Staff felt that sessions should be based on applicants' request. She will prepare a pro and con list for Board discussion at the next hearing.*

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: *None*

ADJOURNMENT: *There being no further business, the hearing was adjourned at 3:45 p.m.*

ALBERT LOPEZ - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS