

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
JUNE 10, 2004
(APPROVED JULY 29, 2004)

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 p.m. – There was no scheduled Field Trip.

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Members Jon Harvey, Chair; Donna Flavetta, Larry Gosselin.

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

There were approximately sixteen people in the audience.

CALL TO ORDER:

The meeting was called to order by the Chair at 1: 40 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 reminded all to turn off their cell phones and pagers.

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

REGULAR CALENDAR:

1. **STONY RIDGE WINERY, CONDITIONAL USE PERMIT, C-7171** – Application to allow continued operation of an existing winery-related use, in a PD (Planned Development, 1818th Zoning Unit) District, located at 4948 Tesla Road, north side, approximately 200 feet west of Mines Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 099-1250-034-00. (Continued from January 29, February 19 and April 29, 2004).

Ms. Beatty summarized the staff report adding that a representative from Zone 7, Matt Katen, was available. In response to the Chair, she further explained that no expansion was being proposed. The current owner will operate the existing wine tasting establishment and the deli/ will have a new operator. Member Gosselin stated that he would like to see a response from Environmental Health. Ms. Beatty explained that Environmental Health was a permitting agency.

Public testimony was called for. Matt Katen from Zone 7 requested a continuance to negotiate mitigation of the conditions imposed on the previous owner. Zone 7's concern was the increasing content of nitrate in the wells. The septic tank on site was equivalent to a single family home and with the increased use,

Zone 7 was concerned that an approval today would exacerbate the problem. As such, he requested a continuance for a short period to allow further discussion on their recommendation for an engineered system or any other option. Ms. Jana pointed out that, if the Board so chose, a separate condition could be added to reflect that a permit be obtained from Zone 7. In response to Member Gosselin, Mr. Katen replied that they had requested a site visit but Environmental Health does not have a well-monitoring program installed yet.

Michelle Offill, adjacent property owner, stated that she has no problems with the winery itself but complained that although the Applicant had initially assured her that the fence would be replaced, she was not receiving any responses now. She has replaced some portions of the fence but others are still missing and she was willing to share the replacement cost. Her other issue was cars being parked on both sides of the gate. She suggested 'No Parking' signs on Tesla Road with no cost to the County.

The new deli operator said she was leasing the restaurant portion of the winery. She had been unaware of Ms. Offill's concerns. Repairing the fence was not a problem but installing a new one was not economically feasible at this time. The estimate submitted by Ms. Offill was very expensive. Although she was not aware of the winery's history, an approval today would enable her to obtain her ABC License and start her business. She also indicated that she would like to discuss the issue of a larger septic tank with Zone 7.

Dale Vaughn-Bowe, Applicant, confirmed that she has worked extensively with Zone 7 on the septic system issue. Although the State has approved their septic system, it has been tied with other County-related issues and, as such, they have not been able to move forward. Ms. Bowe indicated that immediately after the ABC License is transferred and the restaurant is running, she would concentrate solely on the septic system issue. In reference to the 'No Parking' signs, she confirmed that they were already posted and further submitted photographs in support. The fence had been in a good condition until repair construction began. She was not aware of any landscaping concerns. The Chair requested further clarification. Ms. Bowe explained that she had received a letter on Monday. She apologized for not receiving and/or returning the other calls but added that she would like to work with Ms. Offill.

Public testimony was closed. Member Gosselin said he would like to see involvement by Environmental Health be reflected in the conditions. He asked Mr. Katen for a timeframe for plans to be presented to Zone 7. Member Flavetta suggested that perhaps the matter could be approved with an alternative plan to be submitted in three months. Mr. Katen pointed out that Environmental Health was a permitting agency. Member Gosselin then suggested that a representative from Environmental Health be available to answer questions. Member Harvey reiterated the importance of receiving input from Environmental Health, and wanted to see a complete alternative septic plan within four to six months.

In response to Member Gosselin, Ms. Offill explained that the construction had cut the wrong fence post but the error had been corrected. Her concern was that the winery had a liquor license and she had small children, and a fence in-between which was falling down.

The Chair recommended modifying Condition 5 to be more specific and perhaps reflect that fencing shall be repaired in a mutual agreeable manner. Member Flavetta added that it be maintained in a safe and attractive manner. Member Gosselin made a motion to approve the application subject to the seven recommended conditions with Condition 5 modified to reflect that the fence be repaired and maintained in a safe and attractive manner; a plan be submitted for a mitigated septic system within six months for current and future use, and if Environmental Health is not able to participate, a representative be available for an explanation. Member Flavetta seconded the motion, which carried 3/0.

2. **JOSE and MARIAM DaSILVA, CONDITIONAL USE PERMIT, C-8119** – Application to allow expansion of a horse boarding facility from 20 horses to 40 horses, in a R-1-L-B-E (Single Family Residence, Limited Agricultural, 5 acre Minimum Building Site Area) District, located at 5100 Raymond Road, north side, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 902-0003-002-00. (Continued from May 27, 2004).

Ms. Beatty summarized the staff report adding that Zoning Enforcement was working on the abatement of the landscaping business and no response has been received from either Clean Water or Vector Control. Staff was not comfortable with an increase as there was not adequate information to move forward. No plans have been submitted for the increase.

Public testimony was called for. Mariam DaSilva, co-Applicant, indicated that an increase to thirty horses would be appropriate because of the size of the property. Since this is a very windy area, there has never been a fly problem. Once the landscape business moves, the barn will be vacant and for only eight horses, there would be a lot of available area and, and as such, she was requesting an increase. Member Gosselin asked for the number of stalls and the status of her increase request. Ms. DaSilva replied that one barn was empty, one has five stalls and others were open sheds although staff report indicates one of these as a barn. She has had no contact with staff and no scheduled meeting either. She was even willing to increase the number by six only. The Chair asked for a time frame to finalize the move of the landscape business. Ms. DaSilva replied that the move was already in the process.

Lee Savoy, in support, stated that Ms. DaSilva has had two tenants until last month, with three horses in each barn. There have been horses in these barns throughout the last twenty-one years of their existence.

Public testimony was closed. Member Gosselin stated that horses were needed in this area and agreed to a continuance but requested that the Board be provided with up-dates. The Chair pointed out that in this case the landowner was not actively involved but was renting property for horse boarding. Member Gosselin made a motion to continue the application to July 29th with an understanding that staff comments on the progress would be provided for subsequent hearings. Member Flavetta seconded the motion. Motion carried 3/0.

3. **EAST BAY REGIONAL PARK DISTRICT, CONDITIONAL USE PERMIT, C-8288** - Application to allow development and operation of an outdoor recreational facility (Brushy Peak Regional Preserve), in the "A" and "A-B-E" (Agricultural and Agricultural, 160 acre Minimum Building Site Area) Districts, located on Laughlin Road, southeast side, approximately 1.55 miles north of North Front Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Numbers: 099B-5450-001-22, 099B-5475-001-01, 099B-5475-001-02 and 099B-5475-002-02. (Continued from May 27, 2004).

Ms. Beatty summarized the staff report adding that staff would like to recommend an additional condition reflecting improvements on Laughlin Road. The Chair requested clarification on the additional condition. Ms. Beatty explained that this condition only refers to parking. At the time when more than 18 parking spaces are being proposed, some improvements would be required for Laughlin Road. She further announced that Mark Sedall from the Water District would be making a presentation.

Tom Mikkelsen, EBRPD representative, agreed with the additional condition. This would be a graveled lot with some signage and trails that will be used mostly by bikers, pedestrians, and pedestrians. Member Gosselin noted that an archeological report had not been included in their package. Mr. Mikkelsen replied that the report was a confidential document and, hence, has not been released. But anyone could walk in and review the report. He further described the sensitive area in question. There were ten sites that had bedrock mortars that were not movable; eleven caves some of which were habitable and others had debris. To-date there has been no vandalism and Vasco Caves, which is closed to the public, has a caretaker 24 hours a day. Member Gosselin asked if the Native American Resources Group had been notified. Mr. Mikkelsen replied that they have commented on the Negative Declaration. Brushy Peak is a sacred site and they were working with the Group regarding signage and appropriate opening date.

Mark Sedall, Contra Costa Water District representative, stated that the District had sent a letter on May 26th indicating that their expectation was that the park would be developed once and not in phases, that they owned properties closed to the park and wanted assurance that their facilities would not be affected but preserved. They were not opposing the proposal. A meeting has been scheduled for July 13th with EBRPD. He suggested that the trails on the west side have signage to inform public that they cannot proceed further. The Chair asked if the trail connected. Mr. Sedall replied yes, adding that there is a fence at the end of their trail. Mr. Sedall pointed out that their trails were very different and since they had plans to further develop the watershed, the District had some concerns with allowing horses and bikes close to the water. Member Gosselin asked for the possibility of a multi-use trail. Mr. Sedall further stated that south of the lake was off-limits with wildlife protection. Their second concern was the Vasco Caves adding that they were recommending two conditions. A discussion followed regarding the two conditions, trail improvements, security, signage and phasing of the project. Mr. Sedall indicated that the District would like to be involved and meet with EBRPD on a regular basis.

Mr. Mikkelsen agreed with the two conditions proposed by the Water District and confirmed that no action was being proposed for the next five years to connect the trails due to financial reasons and they will aim to protect all resources. He further clarified that this trail is a 'hiking only' trail. He had not been aware of the District's issues/concerns. Mr. Mikkelsen felt that condition was broad and suggested modification.

Public testimony was closed. Member Gosselin said his concerns were the archeological aspect and the access road which needed to be addressed before opening the trails. He felt that there was a risk involved for those not familiar with such roads. Member Flavetta made a motion to conditionally approve the application subject to the thirteen recommended conditions and the two additional conditions submitted by the Water District. Member Gosselin seconded the motion, which carried 3/0.

4. **CURTIS and LINDA SWARTZ, VARIANCE, V-11861** – Application to allow construction of a single family dwelling with a 15 foot front yard where 30 feet is required, in a R-1-B-10 (Single Family Residence, 10,000 square foot Minimum Building Site Area) District, located at 3552 Vine Street, south side, approximately 225 feet west of Bernal Avenue, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 0946-1708-004-00.

Staff summarized the staff report adding that the Applicants had applied for design review which was approved by City of Pleasanton last night. Hence, a 23 foot front yard setback was being provided now. The Applicants will be applying for water and septic services from the City also. Staff provided the Board with new plot plans.

Public testimony was called for. Linda Swartz explained in detail the City's requirements. Their house would be the furthest from the street. The Chair asked if the new revised plans could be considered as Exhibit A. Ms. Swartz replied yes.

Diane Habener, property owner at 385 Linden Way, said she supported the variance application and had no issues.

Public testimony was closed. The Chair asked if a written response had been received from the City to-date. Staff replied no. The Chair requested that staff confirm with City. Member Flavetta made the motion to approve the application subject to the four recommended conditions. Member Gosselin seconded the motion, which carried 3/0.

Approval of Minutes – May 27, 2004. Approval of minutes was continued to the next meeting.

STAFF COMMENTS & CORRESPONDENCE: None.

CHAIR'S REPORT: The Chair asked if the XL Oil Production application had been placed on the Agricultural Advisory Committee agenda. Staff replied that it was on the Committee's June 22nd agenda.

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: None.

ADJOURNMENT: There being no further business, the hearing was adjourned at 3:40 p.m.

CHRIS BAZAR - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS