

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
DECEMBER 15, 2005
(APPROVED MARCH 30, 2006)

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.

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

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

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

1. **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, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Numbers: 096-0335-002-08 and 096-0335-002-09.
2. **METRO PCS/NETWORK DEVELOPMENT, CONDITIONAL USE PERMIT, C-8456** – Application to allow a telecommunications facility, in a PD-ZU-1458 (Planned Development, 1458th Zoning Unit) District, located at 3024 Greenville Road, east side, corner southeast of East Avenue, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 099A-1625-001-09.
3. **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, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 0941-2300-002-09.
4. **M. SILLS, JR., 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, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 99A-2605-007-00. (Continued from July 28 and September 29, 2005).

REGULAR MEETING: 1:30 p.m.

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

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

There were approximately twelve 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 3, 5 and 7 will be moved to the Consent Calendar, to be continued to the January meeting. Consent Calendar item #1 was moved to the Regular Calendar for discussion. He also announced that the Board will have a discussion on the January hearing date.

CONSENT 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, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099A-2340-002-00. (Continued from September 29 and October 27, 2005; to be continued without discussion to January 26, 2006).
2. **ROBERT & CAROL MOLINARO, CONDITIONAL USE PERMIT, C-8418**- Application to expand an existing winery with winery related use by the construction of a new 15,000 square foot event center in a PD (Planned Development) District, located at 7986 Tesla Road, north side corner, northeast of Greenville Road, unincorporated Livermore area of Alameda County, designated Assessor’s Parcel Number: 099A-1602-013-02. (Continued from July 28, September 29 and October 27, 2005; to be continued without discussion to January 26, 2006).
3. **PAUL MASON, VARIANCE, V-11911** – Application to approve as a building site a parcel reduced in size from 1.90 acres to 1.088 acres and construction of a new single family home providing a seven foot front yard where 20 feet is required, in a PD (Planned Development) District, located at 11825 Niles Canyon Road, south side, southeast corner of Western Pacific Railroad Tracks, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 0096-0140-021-00. (Continued from March 24, June 23, July 28 and September 29 2005; to be continued without discussion to March 23, 2006).
4. **BOSCO and GERARDA STOCKING, WILLIAM SPEER, JR. and CLAUDE HENSLEY, VARIANCE, V-11924** – Application to modify a nonconforming use (commercial use in an area designated by the General Plan as WM) so as to operate an event center with on-site alcohol sales, in a Water Management (ECAP) District, located at 11984 and 11986 Main Street, south side, end of Kilcare Road, unincorporated Sunol area of Alameda County,

bearing Assessor's Parcel Number: 0096-0140-002-07. (Continued from June 23, July 28 and September 29, 2005; to be continued without discussion to March 23, 2006).

3. **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, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Number: 096-0335-002-08 and 096-0335-002-09. **(Moved from the Regular Calendar).**

5. **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, unincorporated Livermore area of 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 and September 29, 2005). **(Moved from the Regular Calendar).**

7. **M. SILLS, JR., 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, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 99A-2605-007-00. (Continued from July 28 and September 29, 2005). **(Moved from the Regular Calendar).**

Member Gosselin made the motion to approve the Consent Calendar as modified above. The Chair seconded. Motion carried unanimously.

REGULAR CALENDAR:

1. **WINDWORKS, INC., CONDITIONAL USE PERMIT, C-8216** – Application to allow continued operation of an existing wind generation facility, in an "A-B-E" (Agricultural, 160 acres Minimum Building Site Area) District, located at 12251 North Flynn Road, east side of South Flynn Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 099A-1810-001-00. (Continued from November 13, December 11, 2003; January 29, February 19, March 25, April 29, July 29, August 12, September 23, October 28 and November 18, 2004, January 27, February 10 and 24, 2005, March 24, April 28, June 23, August 25, September 29 and October 27, 2005).

2. **ALTAMONT INFRASTRUCTURE COMPANY/ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY, CONDITIONAL USE PERMIT, C-8243** – Application to allow continued operation of an existing wind generation facility consisting of 404 turbines, in an "A-B-E" (Agricultural, 160

acre Minimum Building Site Area) District, located at 11700 and 11701 North Flynn Road, east corner, southwest of South Flynn Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Numbers: 099A-1770-002-01, 099A-1770-002-02, 099A-1770-002-03, 099A-1780-001-04, 099A-1790-003-00 and 099A-1810-001-00. (Continued from August 12, September 23, October 28, November 18, 2004, January 27, February 10 and 24, March 24, April 28, June 23, August 25, September 29 and October 27, 2005).

Member Gosselin said his interest was in the scope of work of the Scientific Review Committee and their communication with this Board. The Board, with its scientific expertise, could monitor their work which would be beneficial to the committee. Since the efforts of the Windfarm Working Group and staff's role as a facilitator may have been hampered and in response to the community concerns, staff has the option to defer some decision making to this Board.

No other testimony was submitted. The matter was continued to the January hearing.

2. **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, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 099A-2340-002-00. (Continued from September 29 and October 27, 2005; to be continued without discussion to January 26, 2006).

This item was moved from the Consent Calendar. Member Gosselin announced that per staff, information had been submitted late and, as such, the preparation for the Initial Study had been delayed.

Public testimony was called for. Michael Tuuri, Applicant's attorney, stated that all information requested was submitted in July, 2005, after which no new information has been requested. Although he understood that the planner working with his application has left, environmental work has to be completed within 120 days. He requested assurance that an action will be taken in January, 2006.

Scott Owens, Alameda County Building Official, stated that additional information as requested by the Building Department based on an outside plan checker's list, has not been submitted to-date. This was requested on October 24, 2005. The garage structure which was now used a wine storage area/music studio does not have a building permit. Although the Applicant has been asked to have an inspection by an engineer to confirm the integrity of the building, only an application on the three-story structure has been submitted. Mr. Tuuri, in rebuttal, re-stated that all information requested has been submitted and Mr. Powell had been assured that a permit will be approved over the counter for the caretaker's unit. Mr. Owens explained that the caretaker's unit was not the issue but the three-story building.

Public testimony was closed. Member Gosselin asked if a Conditional Use Permit can be approved if only a building permit is missing. Ms. Beatty explained that per CEQA, if the issues were not related to public safety and hazards, or any other concern that could trigger a significant environmental impact, a conditional use permit could be approved with a condition that applicant comply with the Building Department requirements. Member Gosselin indicated that he would like to see a copy of the Negative Declaration at the next meeting whether it was complete or not and requested another field trip. Since there was a possibility of a new Board member at the next meeting, the Chair felt that an early receipt of the Board package would be appropriate. Member Gosselin added that another field trip would be appropriate also and made a motion for a continuance to the January meeting. The Chair seconded and

the motion carried 2/0.

3. **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, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Number: 096-0335-002-08 and 096-0335-002-09. **This item was moved to the Consent Calendar.**
4. **METRO PCS/NETWORK DEVELOPMENT, CONDITIONAL USE PERMIT, C-8456** – Application to allow a telecommunications facility, in a PD-ZU-1458 (Planned Development, 1458th Zoning Unit) District, located at 3024 Greenville Road, east side, corner southeast of East Avenue, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 099A-1625-001-09.

No public testimony was submitted. The Chair announced that the Board had visited the site during their field trip. Member Gosselin asked if the conditions for the existing cell site and this site were similar. Staff replied yes. He made the motion to move staff recommendation and approve the application subject to the eighteen recommended conditions. The Chair seconded and motion carried 2/0.

5. **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, unincorporated Livermore area of 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 and September 29, 2005). **This item was moved to the Consent Calendar.**
6. **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, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 0941-2300-002-09. (Continued from June 23, July 28, August 25 and September 29, 2005).

Ms. Beatty summarized the staff report and the Chair added that the Board has visited the property during their field trip.

Public testimony was called for. Mick Lamb, Lamb Surveying, Inc., stated that the main issue is the ridgeline and the intent is to save the trees which provide screening from the neighboring properties. Although moving away from the ridgeline the terrain is steep, locating the road on the side of the ridge will require minimal grading. Grading plans have been submitted. The intent is to retain the 10% slope. The road is paved up to the new driveway. Mr. Lamb indicated that they were willing to accept any conditions that would ensure privacy of the neighboring properties.

Dan Del Arroz, applicant, stated that he has been working on this project for over a year and was willing

to comply with the requirements of all agencies involved. He further explained that another reason for this variance is to allow public access through an easement to the park district. Linda Chavez from the East Bay Regional Park District is available today and Bob Bohman, Fire Marshall has made a site visit already. Member Gosselin asked if alternative home sites have been considered since the home site on top of the hill was inconsistent with the ridge plans and in view of the neighboring properties. Mr. Del Arroz explained that the original 10 acres is much steeper and, as such, would require much grading. Mr. Lamb added that the northwest area could be potentially served by a road but the biggest concern is grading.

Linda Chavez, EBRPD, explained that the agreement for the easement would provide a connector trail. In the event this permit is not approved, the District was working on other alternatives, perhaps further north which was very steep. Mr. Del Arroz added that an emergency access would be beneficial to both him and the Park District. In response to Member Gosselin regarding removal of trees, Ms. Chavez said that the District was not in favor of removing the trees and, if approved, the District would like assurance that the non-reflective color be used. Although she had made a site visit, she had not visited the site for alternatives.

Mr. Lamb added that any other building site that could be deemed reliable would depend upon on the findings of a soils report.

Public testimony was closed. Member Gosselin thought that Measure D did not differentiate between primary and secondary ridgelines. He appreciated Mr. Del Arroz's cooperation with the emergency vehicle access and Park District. The concerns could be mitigated in two ways which included alternative home site which was less intrusive and screening and the other is to consider total square footage for both sites. Staff indicated that a caretaker's unit could be added on site. The Chair concurred adding that if approved, he would like to emphasize color, lighting and a small footprint with as much landscaping as possible to reduce the impact, especially on the west. Staff replied that these would be covered under the Site Development Review. The Chair also indicated that he would like to see additional discussion and direction from staff at the next meeting. Member Gosselin made the motion to continue the matter to the January meeting and in the event an alternative site is identified, another field trip be scheduled at the next meeting. The Chair seconded and the motion carried 2/0.

7. **M. SILLS, JR., 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, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 99A-2605-007-00. (Continued from July 28 and September 29, 2005). **This item was moved to the Consent Calendar.**

Approval of Minutes – Member Gosselin made a correction to the September 5th Minutes, Page 5, under item #3, C-8291, the last paragraph to include that he would like staff to look into the delays. He made the motion to approve both September 29th minutes as submitted and October 27th as modified above. The Chair seconded and the motion carried 2/0.

STAFF COMMENTS & CORRESPONDENCE: None.

CHAIR'S REPORT: None.

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: The Board opted to have the next meeting on January 12th, 2006.

ADJOURNMENT: There being no further business, the hearing was adjourned at 2:40 p.m.

CHRIS BAZAR - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS