

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
OCTOBER 9, 2008
(APPROVED JUNE 11, 2009)

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

FIELD TRIP: The Board visited the following properties on their own:

1. **WYLLIE/LIVERMORE ROD and GUN CLUB, CONDITIONAL USE PERMIT, C-8754** ~ Application to allow continued operation of an outdoor recreation facility in an 'A' (Agricultural) District, located at 4000 Dagnino Road, east side, approximately 1299 feet east of May School Road, Livermore area unincorporated Alameda County, bearing Assessor's Parcel Numbers: 902-0003-001-19; 902-0003-001-20 and 902-0003-001-21.
Staff Planner: Jeff Bonekemper

2. **MUNN/CORBETT/STONY RIDGE WINERY, CONDITIONAL USE PERMIT, C-8755** ~ Application to allow winery related activities and to expand the existing facilities (additional restrooms), a dressing room, expanding the tasting room and reconfiguring the parking area), in the A-C-A (Agricultural, Cultivated Agricultural Overlay) District, located at 4948 Tesla Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099-1250-034-00. **Staff Planner: Jeff Bonekemper**
Continued

3. **OBAID/KHAN PETROLEUM, INC., CONDITIONAL USE PERMIT, C-8758** ~ Petition to review, renew and amend conditions for the continued operation of a 'Type A' service station, in the P-D (Planned Development) District, located at 3004 Andrade Road, east side, approximately 175 feet south of Mission Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0001-007-07.
Staff Planner: Andrew Young

REGULAR MEETING: 1:30 p.m.

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

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

There were approximately fourteen 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 ~ None

NEIGHBORHOOD PRESERVATION AND ZONING ORDINANCE ABATEMENT ~ None

CONSENT CALENDAR:

1. **RON and JANICE STALEY, CONDITIONAL USE PERMIT, C-8616** ~ Application to allow continued operation of a kennel and occupancy of a mobile home for a caretaker, in an "A" (Agricultural) District, located at 10633 Dublin Canyon Road, south side, approximately 1.6 miles west of Foothill Road, Pleasanton area of unincorporated Alameda County, bearing Assessor's Parcel Number: 941-2750-001-13. (To be continued to November 13, 2008) **Staff Planner: Christine Greene**

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

REGULAR CALENDAR:

1. **BRETT and MONIQUE CAIRES, CONDITIONAL USE PERMIT, C-8741** ~ Application to allow winery-related uses (weddings/events) in an A-CA (Agricultural, Cultivated Agriculture) District, located at 9309 Tesla Road, south side, approximately 3/10th mile west of Reuss Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099A-2003-006-00. (Continued from August 28, 2008) **Staff Planner: Richard Tarbell**

Ms. Beatty presented the staff report noting that this item was continued from the last meeting as the Board had expressed concerns regarding the size of the parcel and the lack of the use of the barn; and due to the need of a full Board to make a decision. Member Harvey asked if the outdoor use is the Applicant's choice or the County's. Staff explained that due to many such issues in this area, the Fire and Building Departments have modified their codes and, as such, the barn will need costly significant changes/upgrades. The Chair expressed concern that property owners/agricultural communities will now face similar issues and further noted page 4 of the staff report, Conformance with Zoning Ordinance, line 6). He suggested perhaps writing a letter to the Planning Commission outlining these aspects of the General Plan. The Board agreed unanimously. Staff recommended that the Board attend related meetings and agendaizing the matter for the December meeting with an invitation to the Building and Fire Official and a representative from Supervisor Haggerty's office.

Public testimony was called for. Brett Caires, applicant, stated that he had a discussion with his adjacent neighbor, Jeff Gill, who had voiced concerns at the last hearing. He further clarified that there are only 5-8 weddings and the other events are birthdays, luncheons. Although the request is for 15 events a year, usually there are fewer events. Member Harvey asked for the possibility of not having any amplified music. Mr. Caires explained that it would be detrimental for wedding events. Currently, the contract conditions require that music is to be turned off at 10pm and away from the neighbors. Ms. Caires added that they are considerate of their neighbors. Member Harvey also noted Condition #2 which includes no catering services to be provided on site. Mr. Caires agreed adding that they have no plans to provide catering services; renting the site is an additional income to their small winery.

Bill Thomson, adjacent neighbor to the south at 9275 Tesla Road, in support, stated that he had no

concerns with the additional use or the amplified music.

Bill Sheehan, 5682 Tesla Road, stated that he lives across the street from Wente Wineries who has large events with amplified music. He felt that this was unfair to the smaller, less financially-able wineries who are restricted by Planning and Building Department requirements. He urged that the Board make a stance on this issue and discuss the viability of such events to Supervisor Haggerty as they are needed to stay profitable. He spoke in support of the Applicant's application. The Chair pointed out that as per earlier discussions, the Board plans to further pursue these issues.

Jeff Gill, adjacent property owner, although in support, expressed concerns with the wordings of the conditions and the noise. Staff suggested modifying Condition #1 to reflect that weekend events be limited to 1 or 2. Mr. Caires agreed to two weddings per month. Member Harvey recommended putting a limit to the number of weekend weddings per month instead of limiting the number of weekend events..

Public testimony was closed. Member Harvey, although not concerned with this use, suggested limiting the number of amplified events. Member Goff said he had visited the neighborhood after the last meeting and had noted the lack of similar outdoor event centers without buildings and the existing event centers that have buildings to hold the events. Although he liked the winery aspect, he expressed precedent setting concerns especially for similar small 5-acre parcels and suggested instead an Administrative Conditional Use Permit. Member Harvey pointed out that the reason for an outside use is the fire flow and the Chair felt that the size is a policy issue. Per South Livermore Valley Plan, this type of uses/events is desired although having a series of similar uses on one particular weekend could be a problem; that each application would be considered on its own basis; such activities support agriculture; noise is not an issue as indicated by the neighbors; and there is also a Noise Ordinance in place. If complaints regarding amplified music are received, perhaps the matter could be brought back to the Board with notification to the neighbors.

Member Harvey made the motion to approve the application as recommended with Condition #1 modified to reflect 8 weekend weddings, a total of 15 events with a one year review. Staff suggested that the matter would be brought back for review only if complaints are received. The Chair seconded. Motion carried 2/1 with Member Goff dissenting.

2. **WYLLIE/LIVERMORE ROD and GUN CLUB, CONDITIONAL USE PERMIT, C-8754** ~ Application to allow continued operation of an outdoor recreation facility in an 'A' (Agricultural) District, located at 4000 Dagnino Road, east side, approximately 1299 feet east of May School Road, Livermore area unincorporated Alameda County, bearing Assessor's Parcel Numbers: 902-0003-001-19; 902-0003-001-20 and 902-0003-001-21.
Staff Planner: Jeff Bonekemper

Ms. Beatty presented the staff report noting that no complaints have been received to-date. Member Harvey pointed out that this Board had requested at the initial hearing that, as a Condition of Approval, 50 BMG guns be not allowed which was not included in the current Conditions of Approval.

Public testimony was called for. Diane Wyllie, representing Livermore Rod & Gun Club, submitted letters in support from the bank and the local law enforcement agencies. She further described their programs. Since membership has doubled in size with 1,700 members, they would like to expand the club with an indoor and outdoor training range for local enforcement and the public. Although a 10-year permit would be appreciated, a 15 year permit would be better, especially for funding purposes. All requirements have been met and an approval has also been obtained from the County Storm Water Pollution Prevention Department. Their storm water system is being used as an example. In response to

Member Harvey, she confirmed that 50-calibre guns are not allowed but agreed to an additional condition reflecting this.

Jim Wyllie, Club President, explained that the building will be designed by the FBI and other government agencies and will include turning targets and lighted conditions, and will be bullet-proof. This is the first step. Staff requested clarification on the use of the proposed canopy. Mr. Wyllie clarified that the canopy was part of the already built range and the new facility will be built on the adjacent land. In response to the Chair, he further explained that the facility had been closed for a year voluntarily for safety reasons during the construction of the existing facility.

Public testimony was closed. Member Harvey recommended that the prior condition regarding the non-allowance of the 50-calibre BMGs be included. Mr. Wyllie indicated that these guns are not allowed by the State. Member Goff requested clarification on Condition #5 and questioned the option of a PD (rezoning). Staff suggested deletion of condition #5 and a discussion following regarding rezoning of the property and term periods. *Member Goff made the motion to approve the application for fifteen (15) years with the deletion of Condition #5. Member Harvey seconded and the motion carried unanimously.*

3. **MUNN/CORBETT/STONY RIDGE WINERY, CONDITIONAL USE PERMIT, C-8755** ~ Application to allow winery related activities and to expand the existing facilities (additional restrooms), a dressing room, expanding the tasting room and reconfiguring the parking area), in the A-C-A (Agricultural, Cultivated Agricultural Overlay) District, located at 4948 Tesla Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099-1250-034-00. **Staff Planner: Jeff Bonekemper**
This item was continued.
4. **OBAID/KHAN PETROLEUM, INC., CONDITIONAL USE PERMIT, C-8758** ~ Application to review, renew and amend conditions for the continued operation of a 'Type A' service station, in the P-D (Planned Development) District, located at 3004 Andrade Road, east side, approximately 175 feet south of Mission Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0001-007-07. **Staff Planner: Andrew Young**

Ms. Beatty presented the staff report. Since service stations are a different type of use because of the environmental requirements and due to precedent setting concerns in agricultural districts, staff has recommended a 5-year approval as previously approved. Similar uses in the West County are also not approved for longer periods but for neighborhood reasons. In response to Member Harvey, she read the description of Type 'A' service stations. The Chair questioned signage removal noting the first paragraph on Page 5. Staff explained that the signs on the fence have to be removed but the County has no authority over Caltrans signage.

Public testimony was called for. Mr. Obaid, applicant, stated that the reason for this modification is to refinance to lower their interest rate and include the additional cost of existing contamination clean-up. Many improvements have already been completed and neighbors have signed a petition in support. In response to the Chair, he confirmed that although contamination treatment has been on-going, the underground water monitoring/filteration will begin sometimes in the near future by Riverhase Associates.

Public testimony was closed. Member Goff pointed out that the prior permit, granted in 2007, was for 5 years, this is a one-year review; there are 4 more years before the expiration; and this request is for 9

additional years. He did not have any concerns. Member Harvey agreed. The Chair also concurred noting that although much investment has to be made, it cannot be used in staff analysis. Staff replied yes, financial hardship is not considered. *Member Goff made the motion to approve the application for four additional years, a total of 10 years, from the original date, and the permit to expire on September 26, 2017 with no future reviews. Member Harvey seconded.* The Chair, in reference to making the finding, noted that the continuity of MTBE contamination remediation warrants an extension. *Motion carried unanimously, 3/0.*

APPROVAL OF MINUTES ~ *Member Harvey made the motion to approve the July 17th Minutes and the Chair seconded. Motion carried unanimously, 3/0.*

Member Goff made a spelling correction on Page 3 (second paragraph). The Chair made the motion to approve the August 28th Minutes as submitted and Member Goff seconded. Motion for approval carried 2/0/1 with Member Harvey abstaining.

STAFF COMMENTS & CORRESPONDENCE: *Staff discussed the November and December meeting dates. The Board agreed to cancel the November hearing and hold the December 11th hearing.*

A discussion followed regarding permanent/temporary foundations for agricultural caretakers' units. The Chair felt that the matter should be discussed by the Agricultural Advisory Committee.

CHAIR'S REPORT: *None.*

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: *None.*

ADJOURNMENT: *There being no further business, the hearing was adjourned at 3:15 p.m.*

ALBERT LOPEZ - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS