

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
APRIL 28, 2005
(APPROVED JULY 28, 2005)

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; Donna Flavetta, Larry Gosselin

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

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

1. **THOMAS and SANDRA CARROLL, CONDITIONAL USE PERMIT, C-8254** – Application to allow continued operation of a horse boarding facility for up to 100 horses and occupancy of a mobile home by a caretaker, in an “A” (Agricultural) District, located at 3660 Cross Road, southeast side, approximately 1.5 miles northeast of Tesla Road, Livermore area of Unincorporated Alameda County, bearing Assessor’s Parcel Number: 099A-1850-001-03.
2. **MICHAEL J. ECKERT, CONDITIONAL USE PERMIT, C-8309** – Application to allow operation of a small winery and tasting room, in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 Acre Minimum Building Site Area, 100 feet Minimum Lot Width, 30 feet Front Yard Setback) District, located at 2416 Marina Avenue, north side, approximately 0.263 miles east of Arroyo Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 0099-0700-011-03. **Cancelled.**
3. **PETER L. WARD, CONDITIONAL USE PERMIT, C-8386** – Application to allow continued operation of a dog and cat kennel for up to 150 animals and continued occupancy of mobile homes by caretakers, in an “A” (Agricultural) District, located at 5815 Mission Road, south side, approximately 1.5 miles west of Andrade Road, Sunol area of Unincorporated Alameda County, bearing Assessor’s Parcel Number: 0096-0001-003-04.
4. **JOHN R. VAN MATRE, CONDITIONAL USE PERMIT, C-8388** – Application to allow operation of a kennel for up to 50 dogs, in an “A” (Agricultural) District, located at 2250 North Livermore Avenue, west side, approximately 700 miles north of U.S. Hwy 50, Livermore area of Unincorporated Alameda County, bearing Assessor’s Parcel Number: 0903-0008-004-14.
5. **KAMRAN SHARAREH, VARIANCE, V-11918** – Application to allow construction of an attached addition (balcony) so as to provide a 26 foot front yard where 30 feet are required, in a P-D (Planned Development) District, located at 47 Upper Golf Road, west side, approximately 429 feet south of Castlewood Drive, Pleasanton area of Unincorporated Alameda County, bearing Assessor’s Parcel Number: 0946-4391-013-00. **Cancelled.**

REGULAR MEETING: 1:30 p.m.

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

OTHERS PRESENT: L. Darryl Gray, Assistant Planning Director, 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: None.

CONSENT 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, and March 24, 2005; to be continued without discussion to May 19, 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, and March 24, 2005; to be continued without discussion to May 19, 2005).
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, 2005; to be continued without discussion to June 23, 2005).
4. **BIOSOLIDS RECYCLING, CONDITIONAL USE PERMIT, C-8311** - Application to allow continued operation of a sanitary landfill (land spreading of

biosolids/digested sewage sludge) in an "A" (Agriculture) District, located in Section 26, off of Jess Ranch Road, approximately 1.5 miles west of Grant Line Road, in Unincorporated Mountain House Area of Alameda County, Designated Assessor's Parcel Numbers: 99B-6400-2-6 and 99B-7800-9. (Continued from September 23, October 28, November 18, 2004, January 27 and March 24, 2005; to be continued without discussion to April 28, 2005).

Staff recommended moving Regular Calendar item 3 (C-8311) and 6 (V-11895) to the Consent Calendar as both were recommended for a continuance. Member Flavetta made the motion to approve the Consent Calendar per staff recommendations and the above recommendation. Member Gosselin seconded and motion carried 3/0.

REGULAR CALENDAR:

1. **THOMAS and SANDRA CARROLL, CONDITIONAL USE PERMIT, C-8254** – Application to allow continued operation of a horse boarding facility for up to 100 horses and occupancy of a mobile home by a caretaker, in an "A" (Agricultural) District, located at 3660 Cross Road, southeast side, approximately 1.5 miles northeast of Tesla Road, Livermore area of Unincorporated Alameda County, bearing Assessor's Parcel No.: 099A-1850-001-03.

Mr. Gray presented the staff report noting that the third finding has not been made in the affirmative. Member Gosselin pointed out that although this is a boarding facility, the sign states 'training'. A discussion continued on training, boarding, public and private facilities.

Public testimony was called for. Janice Williams stated that although she does not make much profit, her intent is to keep the ranch. There is one trainer on site who provides one or two training per day and perhaps 4-5 customers visit the site daily. Obtaining a building permit and manure management would be costly but Ms. Williams added that the manure issue could be resolved perhaps in a month during the dry months when it will be possible to relocate and spread in the rear of the property. She pointed out the following: the driveway was being widened; the creek bed is dry; a berm has been built; winds are very strong and, as such, small doors would not be practical; a fly system is not needed as there are no houses close to the facility and if the cows are removed, there will be a fire hazard. Other departments are requesting an all purpose road which is very costly. She requested additional time.

Thomas Carroll further explained that Building Permit has indicated that no permit is required but Fire Department is requiring it. This property is under the Williamson Act. Although staff is indicating that no response has been received from them, he did contact staff by letters and phone calls, and on April 5 had submitted a manure management plan. His concerns included the cost of a building permit, reducing the number of horses is not fair, financial burden for some requirements, Fire Department's requirement for four additional water tanks; Vector Control has had no concerns in the last 17 years but Planning Department is now requiring a fly control system; and the ADA requirement. Mr. Carroll indicated that they could work on the manure issue only. The road is graveled yearly to maintain a good surface. Member Gosselin asked if it was possible to move the manure pile to a flat area, if an engineer has been located to inspect the barn and stable and the maximum number of horses on the property noting his concern for rear access. Mr. Carroll replied yes to both a flat area and obtaining an engineer adding that although the maximum he has had was 60 horses, he would like to have 100. Ms. Sandra Carroll noted that there has been no change in use and said that this process has been a 'nightmare'. She complained that Fire Department was now requiring conditions that were not necessary since currently there is no fly

problem. During a grass fire, State Fire Department did not have access difficulty.

Ms. Williams further pointed out that once past the gate, mud is a problem and, as such, would like to compost for the next few months. Since this is a big parcel, manure piles and/or relocation should not be a concern. At the request of the Board, Mr. Carroll indicated the location of the round pens on the site plan.

Public testimony was closed. The Chair noted the three main issues which included the change in use, fire access and manure management. Member Gosselin added that the focus is whether or not this is a public facility. A discussion followed regarding public/private use and if the use has been changed. Member Gosselin felt that there was a conflict with the definition of a training facility and the issue was relocating the manure pile away from the creek, which was not a creek but a drainage swale. He suggested that perhaps new manure can be now piled in a new location and the existing pile to be relocated once it is dry. Mr. Gray recommended between May 15th and November 15th. Member Gosselin further indicated that a fly control system was not necessary and raised concerns that staff was now regarding this as a standard condition. Member Flavetta said she had fire concerns and requested clarification on the ADA requirement. She recommended a total of 100 animals (including horses, cows and other animals) A discussion followed on the change in use and change of occupancy, if any. In reference to the recommended conditions of approval, the Board took the following actions:

An approval subject to Exhibit 'B' with a new manure pile and round pen location; #1 to reflect 100 animals; Conditions 2 and 3 deleted; #4 modified to read: "The operator shall provide a copy of the Manure Management Program including: the receiving site's name, address and owner of the property. Manure shall be removed every 10 days between the months May 15 - November 15 annually. Storage of manure pile nearest to the drainage swale shall be moved to a location as approved by the Planning Director"; Conditions 5 and 6 deleted; #7 to read "...7 a.m. to 10 p.m.; Conditions 10, 11, 12 and 13 deleted; #14 to read, "Except as modified by Planning Director, all requirements..." and (b) Resource Conservation replaced with Vector Control; Condition 15 deleted and Condition 16 modified to reflect expiration in five years.

The Board discussed options for a review in the event there was a need to modify any condition. Mr. Gray suggested that perhaps the Applicant could submit a letter to the Board which would allow a discussion at a public hearing and Member Flavetta recommended October 15th by which time the manure pile has to be re-located. Member Gosselin made a motion to approve the application subject to the modified conditions as above and Member Flavetta seconded. Motion carried 3/0. Member Gosselin requested a copy of the resolution.

2. **MICHAEL J. ECKERT, CONDITIONAL USE PERMIT, C-8309** – Application to allow operation of a small winery and tasting room, in a R-1-L-B-E (Single Family Residence, Limited Agricultural Uses, 5 Acre Minimum Building Site Area, 100 feet Minimum Lot Width, 30 feet Front Yard Setback) District, located at 2416 Marina Avenue, north side, approximately 0.263 miles east of Arroyo Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 0099-0700-011-03. (Continued from August 12, September 23, November 18, 2004, January 27 and March 24, 2005).

Mr. Gray summarized the staff report noting that the Applicant has opted to retain the barn and has modified the amount of processing on site.

Public testimony was called for. Mr. Eckert confirmed that the barn had been looked at by several historians and no historical significance had been made. He was available to answer any questions. A discussion followed regarding the phrase 'categorically exempt' and Condition #9. Mr. Gray recommended an approval subject to Exhibit "A" and replacing the word "During.." with "Prior to.." for Condition 9.

Public testimony was closed. Member Flavetta made the motion to approve the application with the above modifications to the recommended conditions. Member Gosselin seconded the motion, which carried 3/0.

3. **BIOSOLIDS RECYCLING, CONDITIONAL USE PERMIT, C-8311** - Application to allow continued operation of a sanitary landfill (land spreading of biosolids/digested sewage sludge) in an "A" (Agriculture) District, located in Section 26, off of Jess Ranch Road, approximately 1.5 miles west of Grant Line Road, in Unincorporated Mountain House Area of Alameda County, Designated Assessor's Parcel Numbers: 99B-6400-2-6 and 99B-7800-9. (Continued from September 23, October 28, November 18, 2004, January 27 and March 24, 2005; to be continued without discussion to April 28, 2005). **Moved to the Consent Calendar.**
4. **PETER L. WARD, CONDITIONAL USE PERMIT, C-8386** – Application to allow continued operation of a dog and cat kennel for up to 150 animals and continued occupancy of mobile homes by caretakers, in an "A" (Agricultural) District, located at 5815 Mission Road, south side, approximately 1.5 miles west of Andrade Road, Sunol area of Unincorporated Alameda County, bearing Assessor's Parcel Number: 0096-0001-003-04.

Mr. Gray presented the staff report and suggested a ten year permit

Public testimony was called for. Mr. Ward said he has been in operation for twenty-four years and no major change is anticipated. The Chair noted that the Board had visited the site this morning and had no concerns. Public testimony was closed.

Member Gosselin made the motion to approve the application per staff recommendation and Member Flavetta seconded the motion. Motion carried 3/0.

5. **JOHN R. VAN MATRE, CONDITIONAL USE PERMIT, C-8388** – Application to allow operation of a kennel for up to 50 dogs, in an "A" (Agricultural) District, located at 2250 North Livermore Avenue, west side, approximately 700 miles north of U.S. Hwy 50, Livermore area of Unincorporated Alameda County, bearing Assessor's Parcel Number: 0903-0008-004-14.

Mr. Gray presented the staff report adding that although no animals were on site currently, the Applicant would like to have a current permit. Member Flavetta discussed Condition #4. Mr. Gray recommended deletion of the condition as it is covered under Condition 5, Environmental Health. The Applicant was available but did not offer testimony. Member Flavetta made the motion to approve the matter subject to the six recommended conditions. Member Gosselin seconded the motion, which carried 3/0.

6. **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, 2005). **Moved to the Consent Calendar.**

7. **KAMRAN SHARAREH, VARIANCE, V-11918** – Application to allow construction of an attached addition (balcony) so as to provide a 26 foot front yard where 30 feet are required, in a P-D (Planned Development) District, located at 47 Upper Golf Road, west side, approximately 429 feet south of Castlewood Drive, Pleasanton area of Unincorporated Alameda County, bearing Assessor's Parcel Number: 0946-4391-013-00.

Mr. Gray summarized the staff report adding that a favorable response via email has been received from Castlewood Homeowners Association and there is no Exhibit B on file as noted in the recommended conditions.

Public testimony was called for. Mr. Sharareh provided a correction that the rear yard was not 15 feet. No other testimony was submitted.

Member Flavetta made the motion to approve the variance subject to three recommended conditions. Member Gosselin seconded the motion, which carried 3/0.

Approval of Minutes – March 24, 2005. Member Gosselin made the motion to approve the Minutes as submitted and Member Flavetta seconded. Motion carried 3/0.

STAFF COMMENTS & CORRESPONDENCE: CDA Staff Appreciation Day is scheduled for this Friday, May 6th and the next East BZA meeting is May 19th.

CHAIR'S REPORT: None.

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: Member Gosselin said he was concerned with the lack of agricultural perspective on some application. A discussion followed on the possibility of an agricultural planner. The Chair suggested that perhaps the newer planners could accompany the Board on the field trips for experience.

Member Flavetta asked if there was a field trip scheduled for the 19th hearing. Mr. Gray replied yes.

ADJOURNMENT: There being no further business, the hearing was adjourned at 4:30 p.m.

CHRIS BAZAR - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS