

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
JULY 23, 2009
(APPROVED SEPTEMBER 17, 2009)

The meeting was held at the hour of 1:30 pm in the City of Pleasanton Council Chambers, 200 Old Bernal Avenue, Pleasanton.

FIELD TRIP: 9:00 a.m.

MEMBERS PRESENT: Members Jon Harvey and Jim Goff

MEMBERS EXCUSED: Member Larry Gosselin, Chair

FIELD TRIP: The Boardmembers visited the following properties individually:

1. **ALAN ANDRESS, CONDITIONAL USE PERMIT, PLN2009-00034** ~ Application to allow an electronic testing facility, storage for associated equipment and a security trailer, in an "A" (Agricultural) District, located at 3001 Morrison Canyon Road, north terminus, Fremont area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0056-002. **Staff Planner: Shahreen Basunia (Continued)**
2. **T-MOBILE/KDI, CONDITIONAL USE PERMIT, PLN2009-00050** ~ Application to allow continued operation of a telecommunication facility on a parcel containing 1.03 acres, located in a R-1-L-B-E (Single Family Residential, Limited Agricultural, 5 acre Minimum Building Site Area) District, located at 1100 Lambeth Road, west side, approximately 500 feet southwest of intersection of Lambeth and Las Positas Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0015-02-08. **Staff Planner: Damien Curry**
3. **WENTE, VARIANCE, VARIANCE, PLN2009-00078** ~ Application to allow construction of two new masonry walls between eight and ten feet in height where six feet is the allowed fence height limit, in an "A" (Agricultural) District, located at 5565 Tesla Road, approximately 0.3 miles east of Mines Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099A-2340-005-03. **Staff Planner: Jeff Bonekemper**
4. **PEASE, CONDITIONAL USE PERMIT, PLN2009-00091** ~ Application to allow an existing license (#40-465848) which currently allows for the sale of beer, be up-graded to include the sale of wine at an existing convenience store; no physical expansion of the structure or improvements to the property is proposed, in an "A" (Agriculture) District, located at 6020 Lindemann Road, one mile north of Byron Bethany Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099B-7150-004-09. **Staff Planner: Jeff Bonekemper**

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Members Jon Harvey and Jim Goff.

MEMBERS EXCUSED: Member Larry Gosselin

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

There were five people in the audience.

CALL TO ORDER: The meeting was called to order by the Vice-Chair at 1:30 p.m.

ELECTION OF OFFICERS FOR THE YEAR 2009-2010 - *Member Goff made the motion to appoint Member Gosselin as the Chair for the year 2009-2010 and Member Harvey seconded. Motion carried.*

Member Harvey made the motion to appoint Member Goff as the Vice-Chair for the year 2009-1010. Member Goff accepted and the motion carried.

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. **ALAN ANDRESS, CONDITIONAL USE PERMIT, PLN2009-00034** ~ Application to allow an electronic testing facility, storage for associated equipment and a security trailer, in an "A" (Agricultural) District, located at 3001 Morrison Canyon Road, north terminus, Fremont area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0056-002. (To be continued to August 27, 2009). **Staff Planner: Shahreen Basunia**
2. **T-MOBILE/KDI, CONDITIONAL USE PERMIT, PLN2009-00050** ~ Application to allow continued operation of a telecommunication facility on a parcel containing 1.03 acres, located in a R-1-L-B-E (Single Family Residential, Limited Agricultural, 5 acre Minimum Building Site Area) District, located at 1100 Lambeth Road, west side, approximately 500 feet southwest of intersection of Lambeth and Las Positas Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0015-02-08. **Staff Planner: Damien Curry**

Item #2 was moved from the Regular Calendar to the Consent Calendar and was continued without discussion to September 17, 2009. *Member Goff made the motion to approve the Consent Calendar and Member Harvey seconded. Motion carried 2/0 with Member Gosselin excused.*

REGULAR CALENDAR:

1. **T-MOBILE/KDI, CONDITIONAL USE PERMIT, PLN2009-00050** ~ Application to allow continued operation of a telecommunication facility on a parcel containing 1.03 acres, located in a R-1-L-B-E (Single Family Residential, Limited Agricultural, 5 acre Minimum Building Site Area) District, located at 1100 Lambeth Road, west side, approximately 500 feet southwest of intersection of Lambeth and Las Positas Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number:

096-0015-02-08. **Staff Planner: Damien Curry**

This item was moved to the Consent Calendar, to be continued without discussion.

2. **WENTE, VARIANCE, VARIANCE, PLN2009-00078** ~ Application to allow construction of two new masonry walls between eight and ten feet in height where six feet is the allowed fence height limit, in an "A" (Agricultural) District, located at 5565 Tesla Road, approximately 0.3 miles east of Mines Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099A-2340-005-03.
Staff Planner: Jeff Bonekemper

Ms. Beatty presented the staff report.

Public testimony was called for. Aris Krimetz, applicant, said he was available for questions.

Bill Sheehan, property owner at 5682 Tesla Road, stated that his house is less than 75 feet from the eastern gate, the nearest neighbor. He had raised a number of concerns at the last meeting regarding Wente which have not been resolved and some of the conditions of approval have not been met. There are two main issues: dust which, although randomly water sprayed, is intolerable especially since his house faces the northwest wind. He had also submitted photographs showing dust clouds as high as the trucks exiting at the last meeting. The second issue is landscaping which was not continued down Tesla Road (on the left side of the gate) as conditioned previously. Since a tree has been removed and not replaced, he has a view of the 300-500 car parking lot. The fence/landscaping will maintain some of the noise and dust. Mr. Sheehan pointed out that these issues are part of the overall project and, if the Board is not going to consider as such, he asked what other options were available to him in addition to contacting Zoning Enforcement to file a complaint. In response to Member Harvey, he indicated that although he has contacted Wente with his concerns, he has not received a response to-date.

Mr. Krimetz, in rebuttal, noted that the intent was not to extend the landscaping any further past the driveway. Removal of several trees was to accommodate truck visibility. Regarding dust, there is a paved area for truck parking and exiting which minimizes the dust problem. Dust-off is also being used and although only two applications have been applied to his area so far, additional layers will continuously be applied. With every layer, it becomes more effective.

Public testimony was closed. In response to the Board, staff explained that prior conditions of approval could be considered; although a copy of the previous resolution is not available, a landscaping condition could be added to the Conditions of Approval; and she was unsure of Public Works Agency's dust enforcement procedures. Member Goff said the additional fence height would be a plus and if any condition has not been met, it can be dealt through Code Enforcement. Member Harvey noted that dust is always an issue in this area and suggested a continuance to allow staff to check the prior Conditions of Approval for any landscaping requirements for the area beyond the gate.

Public testimony was re-opened. Mr. Krimetz said that a continuance would be problematic and he thought that all prior conditions have been met. He agreed that a few trees were removed but there was no new landscaping requirement for this area as there is no water supply.

Mr. Sheehan said that he would be satisfied with a tree, shrubs and bark which would break his view and not be water intensive.

Public testimony was closed. Member Harvey suggested a condition requiring planting of a tree with a

maximum of three shrubs and the applicant to work out the details with staff. Staff said that the standard landscaping condition including drought resistant plants with Planning Director approval would be appropriate. *Member Harvey made the motion for an approval with an additional condition that a drought tolerant tree and up to three shrubs and mulch be installed as determined by Planning Director. Member Goff seconded and the motion carried 2/0. Member Gosselin was excused.*

3. **PEASE, CONDITIONAL USE PERMIT, PLN2009-00091** ~ Application to allow an existing license (#40-465848) which currently allows for the sale of beer, be up-graded to include the sale of wine at an existing convenience store; no physical expansion of the structure or improvements to the property is proposed, in an "A" (Agriculture) District, located at 6020 Lindemann Road, one mile north of Byron Bethany Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099B-7150-004-09. **Staff Planner: Jeff Bonekemper**

Ms. Beatty presented the staff report.

Public testimony was called for. Bill Pease, applicant, expressed his concerns with a 5-year permit and the words 'shall remain revocable for cause...'. He currently has a beer license and would like to include wine. In response to the Board, staff explained that the current use is grandfathered in and all CUPs have an expiration date. Member Goff recommended a 10 year permit.

Public testimony was closed. *Member Goff made the motion to approve the application as recommended by staff but for 15 years and Member Harvey seconded. Motion carried with Member Gosselin excused.*

APPROVAL OF MINUTES ~ *Member Goff made the motion to approve June 11th Minutes as submitted and Member Harvey seconded. Motion carried unanimously*

STAFF COMMENTS & CORRESPONDENCE: *None*

CHAIR'S REPORT: *None*

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: The Board discussed the last South Livermore Valley Plan up-date meeting and any possible impacts of budget cuts to this Board.

ADJOURNMENT: *There being no further business, the hearing was adjourned at 2:15 p.m.*

ALBERT LOPEZ - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS