

**MINUTES OF MEETING  
EAST COUNTY BOARD OF ZONING ADJUSTMENTS**

**JANUARY 30, 2003  
(Corrected and approved February 27, 2003)**

The meeting was held at the hour of 1:30 p.m. in the Alameda County Public Works Operations Building, 4825 Gleason Drive, Dublin, California.

**FIELD TRIP: 9:00 a.m.**

**Members Present:** Board Members Larry Gosselin; Jon Harvey

**Member Excused:** Donna Flavetta

**Others Present:** Phil Kubicek, Senior Planner

**Field Trip:** The following properties were visited:

1. **ANGELUS CATTOOR, CONDITIONAL USE PERMIT, C-8035** – Application to allow continued operation of a horse boarding facility for 50 horses in an ‘A’ (Agricultural) District, located at 7555 Sheridan Road, west side, approximately 1.5 miles south of Interstate 680, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 96-0001-023-00.
2. **HELYN & ROY HAYES & TOVANI, CONDITIONAL USE PERMIT, C-8046** – Application to allow continued operation of a horse boarding facility (T-Bear Ranch) for 60 horses and continued occupancy of two mobile homes and a permanent structure by caretakers in an ‘A’ (Agricultural) District, located at 3000 Andrade Road, south east corner, south of Interstate 680, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 096-0001-007-06.
3. **ERIC STRAHL & BEV MOYNAHAN, CONDITIONAL USE PERMIT, C-8102** – Application to allow continued occupancy of a temporary agricultural caretaker’s dwelling in an ‘A’ (Agricultural) District, located at 10984 Tesla Road, north side terminus, north of Clifford Drive, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099A-2001-002-00.
4. **JENNIFER LYNCH/VERIZON WIRELESS, CONDITIONAL USE PERMIT, C-8111** – Application to allow installation and operation of a wireless communications facility in an ‘A’ (Agricultural) District, located at 6407 Tassajara Road, east side, approximately 1.7 miles north of Interstate 580, unincorporated Pleasanton area of Alameda County, bearing Assessor’s Parcel Number: 985-0002-009-00.

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5. **JAGTAR S. GILL, CONDITIONAL USE PERMIT, C-8117** –Application to allow construction and operation of one wind electric generator with solar array and gas, electric generator in an ‘A’ (Agricultural) District, located at 2089 N. Livermore Avenue, east side corner, north of Interstate 580, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099-0015-001-04.

### **Regular Meeting: 1:30 p.m.**

**Members Present:** Jon Harvey, Larry Gosselin

**Members Excused:** Donna Flavetta

**Others Present:** Darryl Gray, Assistant Planning Director; Judy Mach, Recording Secretary-in-training with Nilma Singh, Secretary.

There were approximately four members of the public in the audience.

### **Call to Order:**

The meeting was called to order by the Chair at 1:35 p.m.

**Announcements by the Chair:** None

### **Consent Calendar:**

1. **JOHN MAXFIELD/SAN FRANCISCO BAY AREA COUNCIL, CONDITIONAL USE PERMIT, C-7751** – Application to expand existing outdoor recreation use (Los Moches Boy Scout Camp) by the addition of new improvements to the dining, sleeping, Ranger quarters, and accessory structures in an ‘A-B-E’ (Agricultural) 320 Acre MBSA District, located at 18450 Mines Road, west side, approximately 14.7 miles south of Tesla Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099A-2610-001-02. (Continued from August 29, 2002; continued without discussion to April 24, 2003).
2. **ALTAMONT WINDS, INC., CONDITIONAL USE PERMIT, C-7853 -** Application to allow operation of a wind power plant facility, Altamont Winds, Inc. in an ‘A-B-E’ (Agricultural) 160 Acre MBSA District, located at 15850 Jess Ranch Road, southwest corner, southwest of Interstate 580, Altamont Pass, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Numbers: **1)** 099B-7800-007-04; **2)** 099B-7800-008-00. (Continued from October 24, 2002; continued without discussion to March 27, 2003).

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3. **ALTAMONT WINDS, INC., CONDITIONAL USE PERMIT, C-7854** - Application to allow operation of a wind power plant facility, Altamont Winds, Inc. in an 'A-B-E' (Agricultural) 160 Acre MBSA District, located at 15850 Jess Ranch Road, south side, approximately 1000 feet west of Grant Line Road, Altamont Pass, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Numbers: 099B-6400-001-003; 099B-6400-001-10; 099B-6400-002-02 & 099B-6425-001-04. (Continued from October 24, 2002; continued without discussion to March 27, 2003).

Referring to Items #2 and #3, Mr. Gray stated that staff had received a call from the representative advising they were close to completing their reports and would like to arrange a meeting to sit down and discuss the project.

4. **LARRY GOSSELIN/DMV INC., CONDITIONAL USE PERMIT, C-7941** – Application to allow a commercial horse boarding facility for 95 horses in an 'A' (Agricultural) District, located at 6550 Collier Canyon Road, west side, approximately 3 miles north of Kitty Hawk Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 0905-0005-006-00. (Continued from October 24, 2002; continued without discussion to February 27, 2003).
5. **RICHARD & MARY STANLEY, CONDITIONAL USE PERMIT, C-8069** – Application to allow continued occupancy of a mobile home for an agricultural caretaker in an 'A' (Agricultural) District, located at 4400 North Livermore Avenue, west side, approximately 6/10<sup>th</sup> of a mile north of Hartman Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 903-0006-003-05. (Continued from October 24, 2002). **Withdrawn.**
6. **RUSSELL & MARIE JACKSON, CONDITIONAL USE PERMIT, C-8100** – Application to allow continued occupancy of an agricultural caretaker's dwelling in an "A-B-E" (Agricultural) 160 Acre MBSA District, located at 6835 N. Vasco Road, east side, approximately 0.3 miles north of Dalton Avenue, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 099B-4990-001-02. (Continued from November 14, 2002). **Withdrawn.**
7. **SHERMAN BALCH, VARIANCE, V-11445** – Application to reduce the minimum five (5) acre net lot size requirement to 4.68 acres to facilitate a two-lot subdivision (PM-7387), thereby providing a five (5) Acre MBSA, 150 foot MLW and 30 foot FY in a R-1-L-B-E (Single Family Residence, Limited Agriculture) District, located at 6010 Alisal Street, east side corner, east of Sycamore Road, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 0949-0015-001-02. (Continued from October 10, 2002; continued without discussion to March 27, 2003).
8. **HELYN & ROY HAYES & TOVANI, CONDITIONAL USE PERMIT, C-8046** – Application to allow continued operation of a horse boarding facility (T-Bear Ranch) for 60 horses and continued occupancy of two mobile homes and a permanent structure by caretakers in an 'A' (Agricultural) District, located at 3000 Andrade Road, south east corner, south of Interstate 680, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Number: 096-0001-007-06. (Continued from October 24, 2002).

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9. **ROBERT H. & SHAWN W. MOTT, CONDITIONAL USE PERMIT, C-8094\_**— Application to allow continued operation of a boarding facility for 60 horses and continued occupancy of two caretaker’s mobile homes in an ‘A’ (Agricultural) District, located at 5150 Sheridan Road, north side, approximately 100 feet northwest of Andrade Road, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 096-0001-015-00. (Continued from November 14, 2002).
10. **JAGTAR S. GILL, CONDITIONAL USE PERMIT, C-8117** –Application to allow construction and operation of one wind electric generator with solar array and gas, electric generator in an ‘A’ (Agricultural) District, located at 2089 N. Livermore Avenue, east side corner, north of Interstate 580, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099-0015-001-04.

Mr. Gray announced that Regular Calendar Items #2, C-8046; #3, C-8094; and #6, C-8117 be moved to the Consent Calendar per staff recommendations. Member Gosselin moved the motion to approve the Consent Calendar per staff recommendations and as modified above, and Chair Harvey seconded the motion. Motion carried 2/1 with Member Flavetta excused.

**Regular Calendar:**

11. **ANGELUS CATTOOR, CONDITIONAL USE PERMIT, C-8035** – Application to allow continued operation of a horse boarding facility for 50 horses in an ‘A’ (Agricultural) District, located at 7555 Sheridan Road, west side, approximately 1.5 miles south of Interstate 680, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 96-0001-023-00. (Continued from October 24, 2002).

Mr. Gray summarized the staff report. He stated that if the Board had questions on maintenance, they could be addressed to the applicant.

Public testimony was called for. The applicant, Mr. Cattoor was present. Chair Jon Harvey asked questions regarding issues of general maintenance, particularly about manure management, and quality of care for the animals. Mr. Cattoor stated that the Fire Department did come out to the property to check the water supply for fire suppression and that he was given more time to bring this issue into compliance. He only has a water tank with spring water, but no well water.

Mr. Cattoor stated that he leases this 140-acre property where he owns a horse boarding facility for 50 horses. He has one boarder who rents an area to keep stray/abandoned animals on this property, as well as others that board horses there, which because of their personal interest, they help with upkeep of the property for their own animals well-being.

Mr. Gray reiterated that Staff has concerns about the quality of care of the animals due to previous boarders having lost interest in their particular horse (animal); therefore, they just abandoned the animal, then due to lack of care, became sick and eventually had to be rescued by Animal Control.

Chair Jon Harvey embellished on this issue where he questioned Mr. Cattoor’s ability to manage this large facility by himself. His main concern was about the manure management plan with so many horses.

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Member Gosselin agreed with conditions/concerns. He then questioned Mr. Cattoor regarding his compliance with Code Enforcement to abate the inoperable cars, junk material and dilapidated sheds. Mr. Cattoor responded that the vehicles have been taken care of and the sheds and other junk would be taken care of as well. Member Gosselin asked Mr. Cattoor if there were any other unresolved issues he wanted to discuss. Mr. Cattoor answered that he had no other unresolved issues.

The Chair asked if anyone else wished to speak on the matter. There was no one else. The Chair then closed the public hearing/comments on this application.

Chair Harvey then stated, for the record, that he and Member Gosselin had visited the site and walked around the area with Planner Phil Sawrey-Kubicek. He felt the boarding facility was pretty valuable although in retrospect that it was minimally maintained, but acceptable. He stated he saw first hand the horse boarding facility; felt it could be maintained much better and kept cleaner; however, due to the owner trying to keep operating costs low, this was probably as good as it would get.

Member Gosselin agreed with the statements by Chair Harvey and that he supported the application. He also asked if Mr. Gray had any unresolved issues to speak about. Mr. Gray advised he had none. He said that the Applicant requested for up to 50 horses; yet Condition #1 limits him to 35. Mr. Cattoor explained that this is a mistake in printing as he now has 35 horses and has the permit for 50 horses. He requested that this mistake be discussed right now and that this should be changed. Mr. Gray stated that it was Staff's judgment to reduce number of horses to 35, but that it was up to the Board to allow 50 horses or reduce allowance to 35 as was recommended in the staff report. Staff's main concern was the quality of care of the animals and the manure management plan of the facility.

Chair Jon Harvey asked if the applicant already had 50 horses at this facility. Mr. Cattoor's answer was affirmative. Member Gosselin asked applicant about the number of stalls he now has at the facility. Mr. Cattoor answered, in the neighborhood of 20; but that he has a lot of pastureland; 140 acres.

Mr. Gray brought up the point that the animals already owned by Applicant were not part of the above-mentioned number of animals. What we are talking about are 50 animals in total, whether they are pastured or stabled; could be either one, as the Board thought that 50 was acceptable based on pasture and stable area.

Member Gosselin moved the motion to grant the application and Chair Harvey agreed and seconded the motion. Motion passed 2/1.

- 12. HELYN & ROY HAYES & TOVANI, CONDITIONAL USE PERMIT, C-8046 –**  
Application to allow continued operation of a horse boarding facility (T-Bear Ranch) for 60 horses and continued occupancy of two mobile homes and a permanent structure by caretakers in an 'A' (Agricultural) District, located at 3000 Andrade Road, south east corner, south of Interstate 680, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Number: 096-0001-007-06. (Continued from October 24, 2002).

**(this item was moved to the consent calendar)**

- 13. ROBERT H. & SHAWN W. MOTT, CONDITIONAL USE PERMIT, C-8094\_** – Application to allow continued operation of a boarding facility for 60 horses and continued occupancy of two caretaker’s mobile homes in an ‘A’ (Agricultural) District, located at 5150 Sheridan Road, north side, approximately 100 feet northwest of Andrade Road, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 096-0001-015-00. (Continued from November 14, 2002).

**(This item was moved to the consent calendar)**

- 14. ERIC STRAHL and BEV MOYNAHAN, CONDITIONAL USE PERMIT, C-8102 –** Application to allow continued occupancy of a temporary agricultural caretaker’s dwelling in an ‘A’ (Agricultural) District, located at 10984 Tesla Road, north side terminus, north of Clifford Drive, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099A-2001-002-00.

Mr. Gray presented the staff report. The applicant is requesting continued occupancy of a second home (a temporary mobile home, in conjunction with a ranching and dry farming operation). Application could be modified to Site Development Review, as this site is only ten acres; therefore, the Applicant will have to apply for rezoning. Hence the Board could either move forward as recommended by Staff or the matter could be continued until the Board of Supervisors act on an Ordinance Amendment.

Public testimony was called for. The Applicant(s) were not present.

Member Gosselin moved to motion for approval. Chair Harvey seconded the motion. Motion carried 2/1.

- 15. JENNIFER LYNCH/VERIZON WIRELESS, CONDITIONAL USE PERMIT, C-8111 –**Application to allow installation and operation of a wireless communications facility in an ‘A’ (Agricultural) District, located at 6407 Tassajara Road, east side, approximately 1.7 miles north of Interstate 580, unincorporated Pleasanton area of Alameda County, bearing Assessor’s Parcel Number: 985-0002-009-00.

Mr. Gray suggested a recess for the Board to review correspondence received yesterday, January 29, 2003, from a private school regarding RF emissions and health concerns.

10 minute recess at 2:00 p.m.

Mr. Gray summarized the staff report. Mr. Gray explained that the application could not be denied for health reasons per state regulations. He added that the letter was referred to the City of Dublin, and also referenced a conversation with City of Dublin Senior Planner, Andy Byle in which the City had no objections to the project because compared to a previous telecommunications application on the same parcel, the proposed project is located a few hundred feet away from Tassajara Road; on the southern portion of the parcel, not on the side facing Tassajara Road. The antenna facility will be comprised of a 45-foot monopine, which is a man-made structure designed to appear as a specimen tree, with eight panel antennas, concealed within the faux tree branches.

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Therefore, visual impact will be minimal because of disguising the facility as a tree. Also the equipment shelter will be finished to match the existing buildings on the property.

Public testimony was called for. Jennifer Lynch, representing Verizon Wireless was present. Member Gosselin questioned whether there were any policies to combine antennas if there are more than one; such as an antenna sprawl.

Mr. Gray answered affirmatively that the policy covers co-location. However, if this isn't feasible, then with ground mounting, there must be 1000 feet separation; but in rural areas this is not much. In the Applicant's case, the existing seven foot antennae are ground mounted and cannot accommodate another service provider; therefore, replacement of the existing ones with another structure that can handle co-location.

Member Gosselin suggested another CUP when the current one expires. Mr. Gray advised that the length of this type of permit is typically ten years and that this specific CUP expires, June 25, 2012.

Member Gosselin asked if they could direct co-location as a condition in the future applications. Mr. Gray answered affirmatively and suggested that if the Board was looking favorably at this application, it could be re-worded such that the expiration date would take place at the same time as first one.

Chair Harvey commented that when looking at co-location, was the topography perspective considered such as going out instead of going up. Mr. Gray again answered affirmatively.

Applicant Jennifer Lynch, representing Verizon Wireless, spoke about ground mounting next to or on the same plane as Nextel. There are issues of interference from Nextel because they are on the same frequency with Verizon. When these poles are on the same plane, there must be several hundred feet between them to avoid this. If vertical, then only approximately 20 feet clearance is needed. However, this is an issue as both companies have similar technology. The property owner expressed his desire for the future applications from other carriers to have them co-locate and be put on the tree pole in the back of the property. Ms. Lynch stated that both Sprint and Cingular Wireless are now on the property but have short term leases. The property owner feels sure they will come back at their lease end and he expressed his wishes to consolidate.

Ms. Lynch addressed the issues raised by the letter received from the school with regard to RF emissions. She explained that she knew of two other schools where these wireless facilities were located directly on their premises and operate well within FCC guidelines. A school in Napa had one wireless facility on a light pole and a school in Benicia had two carriers; one on a rooftop and the other on the ball field. She stated that Verizon had hired RF Engineers who went out and took measurements from school to determine readings and found that maximum output combining both Verizon and Nextel was only three percent (3 %) of FCC standards. The standards that are set are very conservative to begin with and so I believe we have addressed the concerns raised by the school. I have read and agree with the Staff Report and will be happy to answer any questions you might have.

Member Gosselin was not sure of why distance was needed with co-locating when poles are ground mounted. Ms Lynch responded that when antennas are ground mounted at the same height (level), there has to be so many feet between poles because of the interference factor. This is not a problem with vertical and co-location. Also, we benefit from co-location as it is most feasible for everyone and we can recoup some of our costs. To construct a tree pole is an expensive facility

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to build. Member Larry Gosselin stated there is a public benefit to be where it will be and the owner wants it there.

Chair Jon Harvey cautioned that in ten years, the pole might not have space to co-locate. Member Gosselin disagreed as he does not feel it would be helpful in the long term. He prefers tree pole

Member Gosselin moved motion to approve with modification of Item #1 as discussed. Chair Jon Harvey seconded the motion. Motion carried 2/1, with Board Member Flavetta excused.

- 16. JAGTAR S. GILL, CONDITIONAL USE PERMIT, C-8117** –Application to allow construction and operation of one wind electric generator with solar array and gas, electric generator in an ‘A’ (Agricultural) District, located at 2089 N. Livermore Avenue, east side corner, north of Interstate 580, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099-0015-001-04.

**(this item was moved to the consent calendar)**

**Approval of Minutes** – November 14, 2002

Member Gosselin moved the motion to approve the November 14, 2002 minutes and Chair Harvey seconded the motion. Motion carried 2/1 with Board Member Flavetta excused.

**Open Forum:**

Member Gosselin began discussion with regard to an issue he was curious about and spoke with Senior Planner Phil Kubicek. He attended the Agricultural Advisory Committee meeting and states staff was kind enough to refer an applicant from the West Side of the County to the AAC with regard to arena. It was discussed as to whether a variance might be appropriate in a situation like this where the lot size strain on use already occurring here, and where the applicant would not have a special privilege associated with being given approval for a structure that’s already being used by a lot of the neighbors

Mr. Gray stated that the email he received was crafted where there are some problems. If you look at the General Plan and Measure D, they both must head towards Zoning Ordinance that sets the rules. One could always challenge how the rules ultimately came down and whether or not the rules – the zoning ordinance regulations – were consistent with this Initiative that was passed.

Member Gosselin asked Mr. Gray about definition of structures or how to go about making an allowance for construction of certain type structures on a property i.e.(open canopy) and/or special structures. Mr. Gray answered as to how you would do this is to add a definition in zoning ordinance that describes exactly the type of structure that you would not hold in strict accountability or might allow for some addition. For example: in the zoning ordinance you might say ordinarily for non-residential structures and that is what Measure D says. Mr. Gray stated that there are different opinions with regard to intend in Measure D. Further discussion ensued.

**Staff Comments & Correspondence:**

Mr. Gray advised that the Caretakers Unit will be going to the Board of Supervisors.

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**Board Announcements, Comments & Reports:**

Member Gosselin asked the Chair if he could be appointed for Equine Sub-Committee; if Chair had authority to appoint for various committees. Chair Harvey then asked Mr. Gray if he knew protocol for this type action. Mr. Gray stated that he would verify with Board of Supervisors as he knew of no protocol.

Chair Jon Harvey asked as to appointment of New Chair. Mr. Gray stated that perhaps in a year.

Member Gosselin moved to motion to adjourn the meeting. Chair Harvey seconded the motion, with Member Donna Flavetta excused.

**Adjournment:** 3:10 p.m.

**NEXT EAST COUNTY BOARD OF ZONING ADJUSTMENT HEARING**  
**THURSDAY, FEBRUARY 27, 2003**