

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Board of Supervisors

BOARD AGENDA # *A-2

Urgent Routine

AGENDA DATE September 15, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Set a Public Hearing on October 6, 2009, at 9:15 a.m., to Consider an Appeal of the Planning Commission's Denial of Use Permit Application No. 2008-26 - Eastlake Baseball Complex

STAFF RECOMMENDATIONS:

Approve setting a public hearing on October 6, 2009, at 9:15 a.m., to consider an appeal of the Planning Commission's denial of Use Permit Application No. 2008-26 - Eastlake Baseball Complex.

FISCAL IMPACT:

There is no fiscal impact associated with this request.

BOARD ACTION AS FOLLOWS:

No. 2009-606

On motion of Supervisor Grover, Seconded by Supervisor Monteith

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

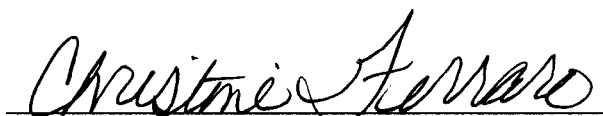
1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

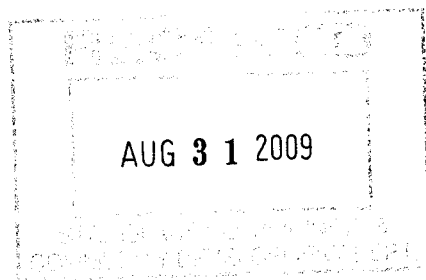


ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

David W. Butz
2705 Marlboro Place
Modesto, CA 95355

ck # 21396
607 -
Aug 31, 2009
E. Rosa



August 31, 2009

Stanislaus County Board of Supervisors
C/O Stanislaus County Planning & Community Development Department
Attn: Mr. Javier Camarena
1010 10th Street Suite 3400
Modesto, CA 95354

BOARD OF SUPERVISORS
2009 AUG 31 P 1:30

Subject: Eastlake Baseball Complex (Use Permit Application 2008-26)

Dear Mr. Camarena:

We are writing to formally appeal the decision of the Stanislaus County Planning Commission on August 20, 2009 regarding the above mentioned application. The basis for the appeal is as follows:

- The project will not have a negative impact on agricultural operations or the surrounding community as was stated by members of the commission in the decision making process. These statements were contrary to the findings of staff which recommended approval of the project and the Agricultural Commission which previously approved and endorsed the agricultural buffer portion of the project.
- The project is not a "great project in the wrong location" as was stated by members of the commission in its decision making process. The applicant feels the complex is a great project in a great location. This support was echoed by the many letters of support received by staff as well as the positive testimony and expressed need for such a facility at the public hearing.
- The financial viability of the project should not be a reason for denying the project. The applicant does not feel that concerns for the financial viability of the project as expressed by a commissioner in his decision making process should be grounds for denial. The applicant feels that the economic benefits, employment opportunities, benefits to the youth of Stanislaus County, as well as the benefits to the community in general that the complex will provide were greatly understated.
- The project will not have a significant effect on "Biological Resources" as was stated by a commissioner during the decision making process. During the course of the environmental review performed by staff no significant impacts to Biological Resources were revealed.

Stanislaus County Board of Supervisors

August 31, 2009

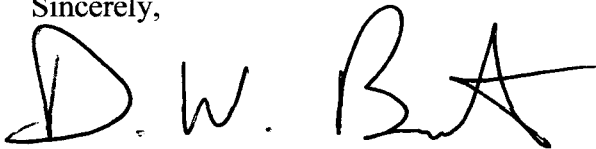
Page 2

- The project will not create significant traffic impacts as was stated by staff during the decision making portion of the project but seemingly ignored by the commission who continually referenced traffic concerns of the neighbors in their decision to deny the project.

In conclusion the applicant feels that the Planning Commission voted 5-2 to deny Use Permit Application No. 2008-26 based on the emotional and exaggerated statements of the ranchette owners in the area. The applicant feels that the facts stated in the staff report were overlooked in the decision making process, and the negative statements regarding the project were based upon the ranchette owners' perception of the project and other similar projects but not necessarily the proposed project. The applicant felt that the majority of the testimony against the project was contrary to the project description, staff report, and Mitigated Negative Declaration which clearly states "there is no substantial evidence the project will have a significant effect on the environment".

Attached please find a check in the amount of \$607 for the appeal filing fee. If you have any questions or need additional information please contact us. We look forward to discussing the entire project at a future public hearing.

Sincerely,



David W. Butz
Project Manager Eastlake Baseball Complex



Chris Oar
Applicant



CLERK OF THE BOARD OF SUPERVISORS

STANISLAUS COUNTY

1010 10th Street, Suite 6700, Modesto, CA 95354
Phone: 209.525.4494 Fax: 209.525.4420

September 2, 2009

David W. Butz
2705 Marlboro Place
Modesto CA 95355

RE: Appeal of Planning Commission's Denial of Use Permit No. 2008-26 – Eastlake
Baseball Complex

Dear Mr. Butz:

We received your Letter of Appeal regarding the Planning Commission's denial of Use Permit No. 2008-26 – Eastlake Baseball Complex. An item requesting the Board of Supervisors schedule a public hearing on Tuesday, **October 6, 2009 at 9:15 a.m.**, to consider this appeal, will be on the Board of Supervisors' September 15, 2009, agenda.

For further information, please call the Planning and Community Development Department at 525-6330 or the Board of Supervisors at 525-6415.

Sincerely,

Elizabeth A. King
Assistant Clerk of the
Board of Supervisors

cc: Chris Oar
Fred and Loraine Amadin
Walid and Maria Tabet
Supervisor O'Brien, District 1
Planning & Community Development Department

NOTICE OF PUBLIC HEARING
APPEAL OF THE PLANNING COMMISSION'S DENIAL OF USE PERMIT
APPLICATION NO. 2008-26 - EASTLAKE BASEBALL COMPLEX

NOTICE IS HEREBY GIVEN that on October 6, 2009 at the hour of 9:15 a.m., the Stanislaus County Board of Supervisors will meet in the Basement Chambers, Tenth Street Place, 1010 10th St., Modesto, CA, to consider an appeal of the Planning Commission's denial of Use Permit Application No. 2008-26 - Eastlake Baseball Complex, a request to convert an existing golf driving range into a three (3) field baseball complex to include a 6,000 square foot training center and a 2,500 square foot concession and restroom facility, on a 15.7± acre parcel in the A-2-40 (General Agriculture) zoning district. The site is located at 4925 Parker Road in the east Modesto area. A CEQA Mitigated Negative Declaration on this project will be considered. APN: 014-026-037.

NOTICE IS FURTHER GIVEN that at the said time and place, interested persons will be given the opportunity to be heard. Material submitted to the Board for consideration (i.e. photos, petitions, etc.) will be retained by the County. If a challenge to the above application is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board. For further information call (209) 525-6330.

BY ORDER OF THE BOARD OF SUPERVISORS

DATED: September 15, 2009

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk of
the Board of Supervisors
of the County of Stanislaus,
State of California.



BY:

Elizabeth A. King, Assistant Clerk

**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of **THE MODESTO BEE**, printed in the City of **MODESTO**, County of **STANISLAUS**, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of **STANISLAUS**, State of California, Under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed is a printed copy, has been published in each issue there of on the following dates, to wit:

Sep 25, 2009

NOTICE OF PUBLIC HEARING
APPEAL OF THE PLANNING COMMISSION'S DENIAL OF USE PERMIT APPLICATION NO. 2008-26 - EASTLAKE BASEBALL COMPLEX
NOTICE IS HEREBY GIVEN that on October 6, 2009 at the hour of 9:15 a.m., the Stanislaus County Board of Supervisors will meet in the Basement Chambers, Tenth Street Place, 1010 10th St., Modesto, CA, to consider an appeal of the Planning Commission's denial of Use Permit Application No. 2008-26 - Eastlake Baseball Complex, a request to convert an existing golf driving range into a three (3) field baseball complex to include a 6,000 square foot training center and a 2,500 square foot concession and restroom facility, on a 15.7± acre parcel in the A-2-40 (General Agriculture) zoning district. The site is located at 4925 Parker Road in the east Modesto area. A CEQA Mitigated Negative Declaration on this project will be considered. APN: 014-026-037. NOTICE IS FURTHER GIVEN that at the said time and place, interested persons will be given the opportunity to be heard. Material submitted to the Board for consideration (i.e. photos, petitions, etc.) will be retained by the County. If a challenge to the above application is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board. For further information call (209) 525-6330. BY ORDER OF THE BOARD OF SUPERVISORS. DATED: September 15, 2009. ATTEST: CHRISTINE FERRARO TALLMAN, Clerk of the Board of Supervisors of the County of Stanislaus, State of California. BY: Elizabeth A. King, Assistant Clerk.
Pub Dates Sept 25, 2009

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at

MODESTO, California on

September 25th, 2009

(Signature)





BOARD OF SUPERVISORS

2009 SEP 21 P 12: 34

September 25, 2009

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Stanislaus County Board of Supervisors will hold a public hearing on **Tuesday, October 6, 2009**, starting at **9:15 A.M.** in the Joint Chambers, 1010 10th Street, Basement Level, Modesto, California, to consider the following:

APPEAL OF PLANNING COMMISSION DENIAL OF USE PERMIT APPLICATION NO. 2008-26 - EASTLAKE BASEBALL COMPLEX - This is a request to convert an existing golf driving range into a three (3) field baseball complex to include a 6,000 square foot training center and a 2,500 square foot concession and restroom facility, on a 15.7± acre parcel in the A-2-40 (General Agriculture) zoning district. The site is located at 4925 Parker Road in the east Modesto area.

The property is further identified as Assessor's Parcel No. 014-026-037

The Board of Supervisors will also consider approval of a Mitigated Negative Declaration for this item.

At the above noticed time and place, all interested persons will be given an opportunity to speak.

Materials submitted to the Board of Supervisors for consideration (i.e., photos, slides, petitions, letters, etc.) will be retained by the County and cannot be returned.

If you challenge the above item in court, you may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors, at or prior to, the public hearing.

For further information, please call (209) 525-6330, or email:planning@mail.co.stanislaus.ca.us.

PROOF OF SERVICE BY MAIL - CCP 1013a, 2015.5

I declare that: I am employed in the County of Stanislaus, California.

I am over the age of eighteen years and not a party to the within entitled cause; my business address is:

Stanislaus County Administration Building
Department of Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354


On September 18, 2009, I served the attached Notice of Public Hearing
(Date)

USE PERMIT APPLICATION NO. 2008-26 - EASTLAKE BASEBALL COMPLEX on the parties listed below in said cause, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Modesto, California, addressed as follows:

SEE ATTACHED LIST

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on September 18, 2009, at Modesto, California.
(Date)

Crystal D Rein
(Type or print name)


Signature

USE PERMIT APPLICATION NO. 2008-26 - EASTLAKE BASEBALL COMPLEX

Attachment A

Distribution List

X	AGRICULTURE COMMISSIONER		NATURAL RESOURCES CONSERVATION
X	AIRPORT LAND USE COMMISSION	X	PACIFIC GAS & ELECTRIC
	ALLIANCE	X	PARKS & FACILITIES
	ANIMAL SERVICES		POSTMASTER:
X	BUILDING PERMITS DIVISION - STEVE TREAT	X	PUBLIC WORKS - ANGIE HALVERSON JUDY LINDSAY - DRAINAGE BILL CARDOZA - MORGAN RD TRAFFIC
X	CAL TRANS DISTRICT 10	X	PUBLIC WORKS - TRANSPORTATION
	CEMETERY DISTRICT	X	RAILROAD: BNSF
	CENTRAL VALLEY FLOOD PROTECTION		REDEVELOPMENT
X	CHIEF EXECUTIVE OFFICE	X	REGIONAL WATER QUALITY CONTROL
X	CITY OF: MODESTO		RISK MANAGEMENT
	COMMUNITY SERVICES AGENCY (CSA)	X	SAN JOAQUIN VALLEY APCD
	COMMUNITY SERVICES / SANITARY DIST	X	SCHOOL DIST 1: SYLVAN
X	COOPERATIVE EXTENSION	X	SCHOOL DIST 2: MODESTO
X	CORPS OF ENGINEERS	X	SHERIFF
X	COUNTY COUNSEL	X	StanCOG
	COUNTY OF:	X	STAN CO ERC
	DEPARTMENT OF CONSERVATION Land Resources / Mine Reclamation	X	STAN CO FARM BUREAU
	DEPT OF FORESTRY	X	STANISLAUS FIRE PREVENTION BUREAU
X	ENVIRONMENTAL RESOURCES		STATE CLEARINGHOUSE
X	FIRE PROTECTION DIST: STANISLAUS CONSOLIDATED		STATE LANDS COMMISSION
X	FISH & GAME	X	SUPERVISOR DIST 1: O'BRIEN
X	HAZARDOUS MATERIALS	X	SURROUNDING LAND OWNERS (on file w/the Clerk to the Board of Supervisors)
	HOSPITAL DIST:	X	TELEPHONE COMPANY: AT&T
X	IRRIGATION DIST: MODESTO		TRIBAL CONTACTS
X	LAFCO		TUOLUMNE RIVER TRUST
X	MOSQUITO DIST: EASTSIDE	X	UNITED STATES MILITARY AGENCIES (SB 1462) (5 agencies)
X	MOUNTAIN VALLEY EMERGENCY MEDICAL SERVICES	X	US FISH & WILDLIFE
	MUNICIPAL ADVISORY COUNCIL:		WATER DIST: