

**COUNTY OF PLACER**  
**Community Development Resource Agency**

John Marin, Agency Director

**PLANNING**

Michael J. Johnson, AICP  
Director of Planning

**MEMORANDUM**

**DATE:** November 6, 2007  
**TO:** Honorable Board of Supervisors  
**FROM:** Michael Johnson, Director of Planning  
**SUBJECT:** **Resolution to Set Aside Certain Aspects of the Board of Supervisors Prior Approval of the Lakeview Farms Hunting and Fishing Preserve Project**

**REQUESTED ACTION**

Based upon an action by the Placer County Superior Court, the Board of Supervisors is being asked to adopt a Resolution to set aside certain aspects of the Board's prior approval for the Lakeview Farms Hunting and Fishing Preserve project.

**BACKGROUND**

Lakeview Farms is a Pheasant Hunting and Fishing Preserve located northwest of the City of Lincoln in West Placer County. The Lakeview Farms Project consisted of the relocation of a residence, clubhouse, and bird growing facilities, and the addition of clay and trap shooting stations. A form of the Lakeview Farms project was approved by the Zoning Administrator. That decision was appealed to the Planning Commission. Prior to the appeal being heard, the applicant scaled down the proposed project. In February 2003, the Planning Commission held a hearing to review the project and, after taking public testimony, the hearing was continued to an open date. In the interim, the proposed project was revised to mitigate impacts identified by the Zoning Administrator and a revised Mitigated Negative Declaration was published. In July 2003, the Planning Commission approved the revised project, and rejected the appeals. The Planning Commission decision was then appealed to the Board of Supervisors. After hearings on November 14, 2003, and December 16, 2003, the Board upheld the Planning Commission decision on a 3-2 vote, thereby denying the appeal.

Two lawsuits were filed in the Placer County Superior Court challenging the Board of Supervisor's approval of the Mitigated Negative Declaration and the Minor Use Permit. The approval was challenged on a number of CEQA grounds. The trial court ruled that while an EIR was not necessary, the potential impacts of lead harvesting from the shooting course were not adequately considered. The trial court also held that staff's determination that the provisions for a "chicken/turkey ranch", as defined in the County Zoning Code, did not apply in the context of the

proposed project and was incorrect, such that the proposed project should have proceeded via a Conditional Use Permit instead of a Minor Use Permit. The project was sent back to be processed as a Conditional Use Permit and to obtain further evidence on the lead shot issue.

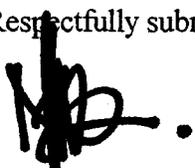
The Court of Appeal reversed the trial court's decision. The Appellate Court found that there was a fair argument that noise thresholds of significance had been exceeded, thus necessitating the preparation of an Environmental Impact Report (the Court cited to the Board's split vote on this issue as additional grounds in support of the existence of a fair argument that an EIR was necessary). The Court also found that the spent lead shot may have a significant adverse effect on the environment, thereby establishing a second basis for an EIR. Lastly, the Court agreed with the trial court that the bird-raising component of the project was a "chicken/turkey ranch" which required a Conditional Use Permit.

At this time, there is currently no application on file for re-approval of this or a modified version of this project as was directed by the Court of Appeal.

#### **RECOMMENDED ACTION**

When a Board approval is overturned by the Court, the Court directs the Board to set aside all or aspects of its prior approval. That has occurred in this case, and staff recommends that the Board adopt the resolution setting aside certain aspects of the prior approval for the Lakeview Farms Hunting and Fishing Preserve project.

Respectfully submitted,



MICHAEL J. JOHNSON, AICP  
Director of Planning

cc: Tom Miller, County Executive Officer  
Anthony LaBouff, County Counsel  
Scott Finley, Supervising Deputy County Counsel  
Val Flood, Supervising Deputy County Counsel  
John Marin, Community Development Resource Agency Director

#### **Attachments:**

Exhibit A: Resolution to Set Aside Certain Aspects of the Board of Supervisors Prior Approval of the Lakeview Farms Hunting and Fishing Preserve Project

**Before the Board of Supervisors  
County of Placer, State of California**

In the matter of:

Resol. No: \_\_\_\_\_

Related to Ord. No: \_\_\_\_\_

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held on \_\_\_\_\_.

by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

\_\_\_\_\_  
Chairman, Board of Supervisors

Attest:  
Clerk of said Board

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**A RESOLUTION SETTING ASIDE CERTAIN PRIOR PROJECT APPROVALS  
MADE WITH RESPECT TO THE LAKEVIEW FARMS PROJECT**

**WHEREAS**, this Resolution is adopted in response to and in order to comply with a Writ of Mandate issued by the Superior Court of the County of Placer (the "Writ") in two cases consolidated for purposes of trial as follows:

Fickewirth, Walter and Robyn Fickewirth vs. County of Placer, Board of Supervisors of the County of Placer; and Does 1 to 20, Lakeview Farms, Inc., Donald E. Norris and Does 21 to 40, Placer County Superior Court Case No.: SCV-16643, and Scilacci, Kirk & Michelle vs. The Board of Supervisors of the County of Placer, And Does 1-20, Lakeview Farms, Inc., And Does 21-40, Placer County Superior Court Case No.: SCV-16646 (collectively the "Litigation").

**WHEREAS**, the Peremptory Writ of Mandate issued by the Court on May 16, 2007, provides as relevant:

“You are hereby commanded to set aside and vacate that portion of your decisions dated December 16, 2004 [sic], adopting a Mitigated Negative Declaration and approving the sporting shooting range portion of the project proposed by the Real Parties in Interest, Lakeview Farms, Inc., and Donald E. Norris.”

**WHEREAS**, the Placer County Board of Supervisors intends to comply with the peremptory writ of mandate and the decision of the court of appeals.

**NOW THEREFORE BE IT RESOLVED THAT**, in compliance with the peremptory writ of mandate, the Placer County Board of Supervisors hereby sets aside the following:

- (i) Adoption of the certified Mitigated Negative Declaration identified as EIAQ - 3662;
- (ii) Approval of that portion of the Minor Use Permit identified as MUP - 2842 approving the sporting shooting range and the game-bird raising facility.