

**MINUTES OF MEETING**  
**EAST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**JANUARY 13, 2011**  
**(APPROVED FEBRUARY 22, 2011)**

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

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

**MEMBERS PRESENT:** Members Jon Harvey; Larry Gosselin, Chair; and Jim Goff

**OTHERS PRESENT:** Andrew Young, Planner

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

1. **MAX RIOS/SPRINT PCS/MORIN, PLN2009-00162** ~ Application to allow continued operation of a telecommunications facility, in an "A" (Agricultural) District, located at 6500 Tesla Road, north side, approximately 0.2 miles east of South Vasco Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 99A-2935-002-00. **Staff Planner: Jeff Bonekemper**
  
2. **BANK OF THE WEST/McNICHOLS/CINGULAR WIRELESS, LLC, PLN2010-00182** ~ Application to allow continued operation of a existing telecommunications facility, in an 'A' (Agricultural) District, located at 38000 Palomares Road, east side, at the intersection with Niles Canyon Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 085A-5500-001-17. **Staff Planner: Jeff Bonekemper**
  
3. **GREENVOLTS, INC./KUHN, PLN2010-00126** ~ To consider adoption of a Subsequent Mitigated Negative Declaration (SMND) for, and approval of a 3-megawatt (MW) Utility-Scale Solar Field project, in an 'A' (Agricultural) District, located at 16091 Kelso Road, south side, approximately one third mile west of Mountain House Road, in the Mountain House area of unincorporated Alameda County, bearing Assessor's Parcel Number 099B-7200-001-00 and with a street address of 4378 Mountain House Road, Tracy, California. **Staff Planner: Andrew Young**

**REGULAR MEETING: 1:30 p.m.**

**MEMBERS PRESENT:** Members Jon Harvey; Larry Gosselin, Chair and Jim Goff.

**OTHERS PRESENT:** Jana Beatty, Senior Planner; Andrew Young, Planner; and Nilma Singh, Recording Secretary

*There were five people in the audience.*

**CALL TO ORDER:** The meeting was called to order by the Chair at 1:30 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.*

**NEIGHBORHOOD PRESERVATION AND ZONING ORDINANCE ABATEMENT:** *None*

**ANNOUNCEMENTS BY THE CHAIR:** *None*

**CONSENT CALENDAR:**

3. **MAX RIOS/SPRINT PCS/MORIN, PLN2009-00162** ~ Application to allow continued operation of a telecommunications facility, in an "A" (Agricultural) District, located at 6500 Tesla Road, north side, approximately 0.2 miles east of South Vasco Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 99A-2935-002-00. **Staff Planner: Jeff Bonekemper**
  
4. **BANK OF THE WEST/McNICHOLS/CINGULAR WIRELESS, LLC, PLN2010-00182** ~ Application to allow continued operation of a existing telecommunications facility, in an 'A' (Agricultural) District, located at 38000 Palomares Road, east side, at the intersection with Niles Canyon Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 085A-5500-001-17. **Staff Planner: Jeff Bonekemper**

*Regular Calendar items 3 and 4 were moved from the Regular Calendar –Item #3 to be approved without discussion per staff recommendation and Item #4 to be continued without discussion. Member Harvey made the motion to approve the Consent Calendar and Member Goff seconded. Motion carried unanimously, 3/0.*

**REGULAR CALENDAR:**

1. **CROWN CASTLE/OSBORNE, CONDITIONAL USE PERMIT, PLN2010-00037** ~ Application to allow continued operation of a cell site consisting of a 50-foot monopole and equipment area, in an "A" (Agricultural) District, located at 1901 Isabel Avenue, west side, south of Vineyard Avenue, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 904-0008-001-02. *(Continued from November 18 and December 9, 2010).* **Staff Planner: Jeff Bonekemper**

Ms. Beatty noted that this item was continued from the December 9<sup>th</sup> hearing to allow time for staff to obtain information regarding mitigation for visual impacts. In response to several other questions the Board had in conjunction with Item #2, she indicated that the County does not currently have funds for visual impacts; in reference to possible screening of the site from the trail across the street, the entire quarry site will be completely dug out in ten years with a new frontage County road along Isabel Avenue, hence, vegetation screening will not be possible. The applicant has provided a letter from the property owner (currently out of the State), allowing planting beyond the leased area.

Member Harvey recused himself from Item 1 and 2.

The Chair noted that the Board has questions regarding off-site planting along the east side of Isabel Avenue, between the trail and road, and the cost of pole replacement options. Staff replied that the applicant will discuss the cost issue and staff further explained the location of trail, private driveway, property lines, and Isabel Avenue.

Public testimony was called for. Rosemary Byrne representing Crown Castle, requested a decision. The best area for screening would be immediately around the site and an approval has been obtained from the

property letter. The landscape architect's proposal includes additional chain-link fencing (existing is a 4-foot fence), 12-14 feet if allowed, with 7-10 shrubs and 4-5 trees. A selection of drought resistant trees has been identified for this time of the year for an immediate remedy. Since the concern is primarily from across the street, these 18-foot high trees will shield the view. In response to the Chair, she further explained that location of tree planting will depend on root growth. Staff pointed out that a 14-foot high fence will require a variance. Ms. Byrne replied that a fence is advisable for security purposes, a variance will be applied for, if necessary, and stated a willingness to work with staff regarding options/details.

Lana Shearer, representing Verizon Wireless, clarified that there is an existing 6-foot high chain link fence with a 15-inch barbed wire.

Public testimony was closed. In response to the Chair, staff explained that a standard landscape condition requiring a landscaping plan to be approved by the Planning Director would be appropriate or the Board could agendaize to review the plan at a future hearing. The Chair also requested that contact be made with the LAPRD. Member Goff re-iterated his previous request for a cost estimate for pole replacement options.

Public testimony was re-opened. Ms. Shearer stated that per the construction manager, a pine pole would cost approximately \$235,000 along with additional costs (foundation...etc); a 72-foot monopole is about \$65,000; removal of existing pole would be about \$20,000; and to replace each carrier could cost \$75,000 each. However, she did not have an estimate for an extension from 50 to 66 feet.

Public testimony was closed. The Chair stated that his concerns regarding visual impacts from the trails would be eliminated if LAPRD had no concerns. Staff noted that if there is any park land within 500 feet, the District would have been referred and notified of this hearing. *The Chair made the motion to approve the application with a condition that roadside intermittent landscaping mitigation be included in the landscaping plan recognizing that the fence around the project area need not be increased in height and landscape requirements around the project area at the discretion of staff. Member Goff seconded and the motion carried unanimously, 2/0, with Member Harvey recused.*

2. **VERIZON WIRELESS/SHEARER, PLN2010-00113** ~ Application to allow co-location of a Verizon cell site facility and to increase the monopole height from 50 to 66 feet to allow additional nine new panel antennas, in an "A" (Agricultural) District, located at 1901 Isabel Avenue, west side, south of Vineyard Avenue, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 904-0008-001-02. *(Continued from November 18 and December 9, 2010).* **Staff Planner: Jeff Bonekemper**

Public testimony was called for. Lana Shearer indicated that City of Livermore had been notified but the City had no concerns with this site. This has been a three year process.

Public testimony was closed. *Member Goff made the motion for an approval per staff recommendation and the Chair seconded. Motion carried 2/0 with Member Harvey recused.*

3. **MAX RIOS/SPRINT PCS/MORIN, PLN2009-00162** ~ Application to allow continued operation of a telecommunications facility, in an "A" (Agricultural) District, located at 6500 Tesla Road, north side, approximately 0.2 miles east of South Vasco Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 99A-2935-002-00. **Staff Planner: Jeff Bonekemper**

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

4. **BANK OF THE WEST/McNICHOLS/CINGULAR WIRELESS, LLC, PLN2010-00182**  
~ Application to allow continued operation of a existing telecommunications facility, in an 'A' (Agricultural) District, located at 38000 Palomares Road, east side, at the intersection with Niles Canyon Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 085A-5500-001-17. **Staff Planner: Jeff Bonekemper**

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

5. **GREENVOLTS, INC./KUHN, PLN2010-00126** ~ To consider adoption of a Subsequent Mitigated Negative Declaration (SMND) for, and approval of a 3-megawatt (MW) Utility-Scale Solar Field project, in an 'A' (Agricultural) District, located at 16091 Kelso Road, south side, approximately one third mile west of Mountain House Road, in the Mountain House area of unincorporated Alameda County, bearing Assessor's Parcel Number 099B-7200-001-00 and with a street address of 4378 Mountain House Road, Tracy, California. **Staff Planner: Andrew Young**

Mr. Andrew Young, project planner, presented the staff report. In response to the Board, he further explained the need for SMND, the prior permit is still in effect, and any discrepancies regarding the project acreage. Member Harvey indicated that he would like a certain percentage or number of acres to be cultivated within three years of the construction completion.

Public testimony was called for. Hoss Christensen, representative, further clarified the acreage and different heights of arrays noting the slope, and discussed/described the following: although there is no guarantee for growth/results, their intention is to have agriculture, either vegetables (neighbors do not like big trees and is not possible as lack of clearance between arrays for farm equipment) or more confidently grazing calves or lambs; water is available from the slew; working with OSCHA regarding operational security; possible to provide six acres around perimeter to put into permanent pasture and 50% of the array area can be used for pasture also; and, although originally a landscaping plan was submitted, he noted the lack of landscaping around other alternative energy source sites, the windfarm and also stated a willingness for another neighborhood poll for their input.

Dick Schneider, representing Sierra Club, urged the Board to deny certification of the SMND and the proposal as it is not in compliance with Measure D. Although Sierra Club generally supports solar energy, this use should not be allowed to expand as it is a nonconforming use, does not conform to the land use designation, is precedent setting, is not similar to the windfarms, consumes land, is an industrial-scale facility and grazing is not possible. There are other appropriate locations. In response to Member Harvey regarding a partial agricultural use, Mr. Schneider noted the representative's response of 'speculative on the type of agricultural use'.

A discussion followed regarding the Planning Commission determination. Member Harvey stated that, if approved, he would like to see viable agricultural use.

Mr. Christensen, in rebuttal, pointed out that there is no ground covering with minimum ground penetration and environmental impact to support this use. There could be grass for perhaps small animals but there is doubt for vegetables.

Mr. Schneider, in rebuttal, stated his agreed for 4H animals but noted that there can be only fire protection grazing and expressed precedent setting concerns.

Public testimony was closed. A discussion followed regarding a referral to Agricultural Advisory Commission, description of use (same/new project/same use with changes); off-site mitigation; implication of ECAP, South Livermore Area Plan and Measure D; cultivated agriculture vs. agricultural use; agricultural easement; and appropriate agricultural uses. Due to the lack of response from neighbors, Member Harvey suggested perhaps eliminating the landscaping plan and he would like to see some active agricultural use in 2-3 years.

Member Goff felt that 'high value' agriculture would not possible under the arrays but perhaps only grass, he was not supportive of leasing or purchasing additional acreage for mitigation and recommended acreage percentage vs. specific number of acres. The Chair felt that there were too many 'unknowns' for the Board to condition and agreed with Mr. Schneider that there are other alternative sites (for such greater industrial use) and that the windfarms are different. A discussion ensued regarding acreage percentages for active agriculture; landscaping (open-ended) with low native trees or 'pollinator' attracting varieties, fence height and consistency with the General Plan. The Chair suggested a condition that neighbors be contacted regarding types of landscaping plants and staff confirmed that a 12 feet high fence could be approved as a condition.

Mr. Christensen provided an approximate project time line adding that grazing for small livestock is viable (10-15 acres), similar to the adjacent properties with a commitment to explore within two years upon completion of construction.

Member Harvey, in response to Mr. Schneider, stated his concerns regarding Measure D definition of what is allowed on agricultural land and recognizing that there is tension regarding this application. However, he felt that the site is appropriately located, next to a PG&E substation, and the Board of Supervisors can address the General Plan compliance issue. *He made the motion to approve the application with modification to Condition #4 Landscaping Plan to include exclusively local, Mediterranean or pollinator plants, to be approved by the Planning Director; and Mitigation Measure 18-4-E Ag Resources Plan, to require 20 acres, instead of a 1:1 ratio, of prime farm land, a minimum of seven acres of which be included under the physical footprint of the solar array portion of the site, cultivated with plant and/or animal crops, with a time period of three years of project completion. Member Goff seconded the motion which carried 2/1 with the Chair dissenting.*

**APPROVAL OF MINUTES:** *Member Goff made the motion to approve the December 9<sup>th</sup> Minutes as submitted and Member Harvey seconded. Motion carried.*

**STAFF COMMENTS & CORRESPONDENCE:** *Staff reminded the Board re Ethics Training.*

**CHAIR'S REPORT:** *None*

**BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS:** *None*

**ADJOURNMENT:** There being no further business, the hearing was adjourned at 3:50 p.m.

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**ALBERT LOPEZ - SECRETARY**  
**EAST COUNTY BOARD OF ZONING ADJUSTMENTS**