

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
FEBRUARY 24, 2005
(APPROVED MARCH 24, 2005)

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

FIELD TRIP: No scheduled Field Trip.

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Members Jon Harvey, Chair; Larry Gosselin.

MEMBERS EXCUSED: Donna Flavetta

OTHERS PRESENT: L. Darryl Gray, Assistant Planning Director, Nilma Singh, Recording Secretary

There were approximately 30 people in the audience.

CALL TO ORDER: The meeting was called to order by the Chair at 1:40 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.

ANNOUNCEMENTS BY THE CHAIR: The Chair announced that Consent Calendar #1 will be moved to the Regular Calendar. And Regular Calendar item #2 to be moved to the end of the agenda to allow time for Member Flavetta to be available to have a quorum.

CONSENT CALENDAR:

1. **AT&T WIRELESS SERVICES, INC., CONDITIONAL USE PERMIT, C-8343** – Application to allow continued operation of a wireless communication facility, in an “A” (Agricultural) District, located at 38000 Palomares Road, east side, northeast corner of Niles Canyon Road, Fremont area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 085A-5500-001-16 (Continued from January 27, 2005; to be continued without discussion to March 24, 2005). (**Moved to the Regular Calendar**).
2. **WINDWORKS, INC., CONDITIONAL USE PERMIT, C-8216** – Application to allow continued operation of an existing wind generation facility, in an “A-B-E” (Agricultural, 160 acres Minimum Building Site Area) District, located at 12251 North Flynn Road, east side of South Flynn Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099A-1810-001-00. (Continued from November 13, December 11, 2003; January 29, February 19, March 25, April 29, July 29, August 12, September 23, October 28 and November 18, 2004, January 27, February 10, 2005; to be continued without discussion to March 24, 2005).
3. **ALTAMONT INFRASTRUCTURE COMPANY/ALAMEDA COUNTY**

WASTE MANAGEMENT AUTHORITY, CONDITIONAL USE PERMIT, C-8243 – Application to allow continued operation of an existing wind generation facility consisting of 404 turbines, in an “A-B-E” (Agricultural, 160 acre Minimum Building Site Area) District, located at 11700 and 11701 North Flynn Road, east corner, southwest of South Flynn Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Numbers: 099A-1770-002-01, 099A-1770-002-02, 099A-1770-002-03, 099A-1780-001-04, 099A-1790-003-00 and 099A-1810-001-00. (Continued from August 12, September 23, October 28, November 18, 2004, January 27, February 10, 2005; to be continued without discussion to March 24, 2005).

Member Gosselin made the motion to approve the Consent Calendar with the above modification. The Chair seconded and the motion carried 2/0/1. Member Flavetta was excused.

REGULAR CALENDAR:

1. **AT&T WIRELESS SERVICES, INC., CONDITIONAL USE PERMIT, C-8343** – Application to allow continued operation of a wireless communication facility, in an “A” (Agricultural) District, located at 38000 Palomares Road, east side, northeast corner of Niles Canyon Road, Fremont area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 085A-5500-001-16 (Continued from January 27, 2005; to be continued without discussion to March 24, 2005).

This item was moved from the Consent Calendar. Mr. Gary announced that a representative is available and has asked to withdraw the application. The matter was withdrawn.

1. **MARK and SHELLY SKINNER/ROBERT DEFILLO, CONDITIONAL USE PERMIT, C-8273** – Application to allow a horse boarding facility for 45 horses with riding arena and round pen, in an “A” (Agricultural) District, located at 41798 Vargas Road, north side, approximately 0.4 mile north of Mission Boulevard, Fremont area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 0096-0056-013-00. (Continued from February 19, March 25, April 29, May 27, July 29, September 23, October 28, November 18, 2004, and January 27, 2005).

Mr. Gray read the Addendum.

Public testimony was called for. Shelly Skinner, co-applicant, indicated that she had contacted RCD and in response, they provided suggestions and fliers but were not very interested.

Marc Fournier, Clean Water, stated that he had visited the site after the rains and erosion control measures were adequate. He had no other concerns and he will be making an annual site visit.

Public testimony was closed. Member Gosselin complimented Planning and Clean Water staff for effectively working on this application. He made the motion to approve per staff recommendation and the Chair seconded. Motion carried 2/0/1. Member Flavetta was excused.

2. **CLIFTON MATHEWS, CONDITIONAL USE PERMIT, C-8352 -**
Application to allow operation of an outdoor recreational facility (Paintball Park) in an "A" (Agricultural) District located at 3726 May School Road, north side, 0.35 miles west of the intersection with Dagnino Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 0902-0004-007-00. (Continued from January 27, 2005). **This item was moved to the end of the agenda.**
3. **CINGULAR WIRELESS/STEVE CHRISTENSEN, CONDITIONAL USE PERMIT, C-8365 –** Application to allow installation and operation of a wireless communications facility on an existing PG&E transmission tower, in an "A" (Agriculture) District, located at 25030 Palomares Road, east side, approximately 0.4 miles south of Paloverde Road, Castro Valley area of unincorporated Alameda County, bearing Assessor's Parcel Number: 085A-2700-013-00.

Mr. Gray summarized the staff report noting that the facility has been moved further away from the road which was a better alternative, subject to Exhibit B.

Public testimony was called for. Steve Christensen, representative, further explained that the facility was less intrusive now and, in response to Member Gosselin, indicated that it would provide coverage for I-580 followed by Palomares customers.

Public testimony was closed. Member Gosselin made the motion to approve the application subject to the eighteen recommended conditions and Exhibit B. The Chair seconded the motion, which carried 2/0/1. Member Flavetta was excused.

4. **NEXTEL COMMUNICATIONS, CONDITIONAL USE PERMIT, C-8366 –**
Application to allow continued operation of an unmanned wireless communications facility, in an "A" (Agricultural) District, located at 11600 Pleasanton-Sunol Road, east side, corner of Paloma Way, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 0096-0376-007-02.

Mr. Gray summarized the staff report noting staff's recommendation for a continuance. Due to the concern regarding cell sites on Grant Line Road, staff is working with the Applicant on the flag pole design. No public testimony was submitted. Member Gosselin made the motion to continue the matter to March 24, 2005 and the Chair seconded. Motion carried 2/0/1 with Member Flavetta excused.

5. **DELWYN LOUNSBURY, VARIANCE, V-11895 –** Application to approve as a building site one parcel reduced in size from 100 acres to 40.82 acres without frontage on an approved county road, in an A-CA (Cultivated Agriculture) District, located on Mines Road, west side, approximately 686 feet west of Del Valle Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 099A-2420-006-03. (Continued from February 10, 2005).

Mr. Gray noted staff's recommendation for a continuance to March 24, 2005. A complete staff report was not available. Findings have not been made in the affirmative, neighbors have concerns regarding

legal access, property line alignment and Measure D. He suggested a longer continuance period to allow staff to work on the above issues. Member Gosselin made the motion for a continuance to April 28, 2005 and the Chair seconded. Motion carried 2/0/1 with Member Flavetta excused.

6. **RICK RINETTI, VARIANCE, V-11900** – Application to allow construction of an attached addition so as to provide a 12 foot-nine inch front yard where 20 feet is required, in a P-D (Planned Development) District, located at 10 Castlewood Drive, west side, approximately 420 feet south of Hacienda Road, Pleasanton area of unincorporated Alameda County, bearing Assessor's Parcel Number: 0946-4405-035-00.

Mr. Gray summarized the staff report.

Public testimony was called for. Mr. Rinetti, Applicant, stated that he has been in close contact with the home association, the neighbors and Planning staff and no concerns have been raised.

Public testimony was closed. Member Gosselin made the motion to approve the variance subject to the four recommended conditions and the Chair seconded. Motion carried 2/0/1 with Member Flavetta excused.

2. **CLIFTON MATHEWS, CONDITIONAL USE PERMIT, C-8352** - Application to allow operation of an outdoor recreational facility (Paintball Park) in an "A" (Agricultural) District located at 3726 May School Road, north side, 0.35 miles west of the intersection with Dagnino Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 0902-0004-007-00. (Continued from January 27, 2005).

The Chair pointed out that due to the lack of a quorum, no decision will be made today but public testimony could be submitted. Member Gosselin recused himself.

Public testimony was called for. Gail Vardanega, property owner at 4681 Bel Roma Road, expressed her concerns which included animal safety, inappropriate location, lack of liability report and bond in the event of any legal issues, the use was not agricultural, lack of fencing on the north and west side and invasion of privacy and peace. She felt that the Applicant should be responsible for any negative impacts and re-stated that although he had a right to have a business, this was not an appropriate location. Animals and guns did not go together.

Cameron Newton, 4742 Bel Roma Road, said he has been going to paintball facilities for three years. Similar existing facilities do use a sound system and 12-foot nets. He confirmed that guns do make noise and occasionally make contact with something, and sound would travel at this location. Although the Applicant indicates using a net, the height is not disclosed. He also agreed that this was not an appropriate location.

Bill Fields, 4733 Bel Roma Road, also spoke in opposition. His property was about ¼ mile away and his main concern was liability and not only on the field but outside the facility. Some of his other concerns were noise, lack of liability insurance, animal safety and contamination of well water. The Chair requested clarification on liability insurance. Mr. Gray provided examples of other applications with similar situations and which had cash bond requirement as a condition of approval. Staff could do further research.

Public testimony was called for. Mr. Mathews, Applicant, was available but opted to provide testimony at the next public hearing.

Larry B., another Bel Roma Road resident, said his concern was a stampede as guns make a lot of noise. If it is the grazing season, there will be a lot of cows. Other concerns included noise, especially in the week-ends; paintballs passing through mesh fences; and well water contamination. He asked how long the paintballs would lay on the ground before it will look ugly and penetrate the ground.

Mr. Newton added that the guns the Applicant will be using will be loud. A discussion followed regarding different types of guns, manufacture's specifications and compressed air tanks. Mr. Fields pointed out that there were environmental issue concerns also.

Ms. Vardanega further addressed her concerns. Since the information submitted by the Applicant were not all correct, she had submitted additional information to the referred agencies but has not received any response to-date. She felt that the facility should not be approved just because it is an allowed use (recreational use) under Measure D. Impacts should also be taken into consideration. Her other concerns which needs to be addressed were paint splattering, end result of the casings, whether it will blow on neighboring properties, rot and/or digested by animals.

Darlene Bettencourt, property owner at 4760 Bel Roma Road, pointed out that there were already many similar parks. The affects of this park will go beyond the five acre boundary, affecting both people and animals. She felt that an approval will totally change the agricultural character of the area. Liability was another of her concern.

Jackie Bowles said she lives on the west side. To support the noise concern, she indicated that on non-windy days, she can hear bicyclists talking.

Robert Alviar said he works for a similar facility and was speaking neither for nor against the Applicant. He agreed with the neighbors' concerns. In response to the Chair, he further explained the different types of guns noting that the more expensive guns tend to be less noisy. With many guns firing simultaneously, it will make noise. Although netting fence will help, the paintballs could fly over the fence. He does use mega phones at his work site as there is a need and did not think that the paintballs could cause a stampede. Mr. Alviar further described an incident involving a cow which had occurred at his work site. As a result, an agreement had been reached to remove cattle during the operation hours of the facility. In response to Mr. Gray, Mr. Alviar explained that the casings eventually disintegrate or could be picked up, volume of noise is loud as a lot of yelling occurs, the paintballs cannot be not travel 150-200 yards and most the existing facilities were located in remote areas, away from residences.

Lona McCallister, 4700 Bel Roma Road, requested clarification on the removal of cattle. Mr. Alviar described the incident in detail. Cattle were now being removed for their safety as well as being harmful to players. He was willing to discuss concerns/issues with the neighbors. Most facilities were very responsible.

Mr. Fields requested security information and pointed out that there was a difference between distance of how far a paintball will travel and shooting a paintball. Mr. Gray suggested site security or perhaps a buffer zone.

Public testimony was closed. The Chair announced that due to the lack of a quorum, the matter is being continued to March 24, 2005.

Member Gosselin returned for the remainder of the hearing.

Approval of Minutes – February 10, 2005. The Chair made a minor correction to Items 1 and 2, the Windfarm applications. Member Gosselin made the motion to approve the February 10th Minutes with the above modification and the Chair seconded. Member Flavetta was excused.

STAFF COMMENTS & CORRESPONDENCE: None.

CHAIR’S REPORT: The Chair announced that the last Working Group meeting was very productive, both in attendance and willingness on both parties. A discussion followed. Mr. Gray added that the next Working Group Meeting is scheduled for March 18th at 9:00 a.m.

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: None.

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

CHRIS BAZAR - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS