

**MINUTES OF MEETING**  
**EAST COUNTY BOARD OF ZONING ADJUSTMENTS**  
**MAY 25, 2006**  
**(APPROVED AUGUST 24, 2006)**

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: 9:00 a.m.**

**MEMBERS PRESENT:** Members Jon Harvey, Chair; Larry Gosselin and Sblend Sblendorio

**OTHERS PRESENT:** L. Darryl Gray, Assistant Planning Director.

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

1. **CROWN CASTLE USA, INC., CONDITIONAL USE PERMIT, C- 8496** – Application to allow continued operation of a telecommunication facility, in an “A” (Agricultural) District, located at 10633 Dublin Canyon Road, south side, approximately 1.6 miles west of San Ramon Road, unincorporated Pleasanton area of Alameda County, bearing Assessor’s Parcel Number: 0941-2750-001-07.

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

**MEMBERS PRESENT:** Members Jon Harvey, Chair; Larry Gosselin and Sblend Sblendorio.

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

There were approximately fourteen 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:** None.

**CONSENT CALENDAR:**

1. **NICA METALS, CONDITIONAL USE PERMIT, C-8398** ~ Application to allow continued operation of a metal recycling facility, in a M-2 (Heavy Industrial) District, located at 101 N. Greenville Road, east side, approximately 712 feet south of Front Road, Livermore area of unincorporated Alameda County, bearing County Assessor’s Parcel Number: 099B-5100-001-33. (Continued from March 30 and April 27, 2006, to be continued without discussion to June 29, 2006).

2. **RICHLAND TOWERS, LLC., CONDITIONAL USE PERMIT, C-8459** ~ Application to allow the construction and operation of a new television antenna and tower (450 feet in height) on Mt. Allison, west side terminus Mill Creek Road, Sunol area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 096-0090-005-07. (Continued from March 30 and April 27, 2006; to be continued without discussion to June 29, 2006).

Member Sblendorio made the motion to approve the Consent Calendar as recommended by staff.  
Member Gosselin seconded which carried unanimously.

**REGULAR CALENDAR:**

1. **GARCIA EVENTS CENTER/AUGUSTINE and JUDI GARCIA, CONDITIONAL USE PERMIT, C-8450** ~ Application to allow an events center, in an A-CA (Agricultural, Cultivated Agricultural) District, located at 3721 Mines Road, west side, approximately 560 feet southeast of Tesla Road, Livermore area of unincorporated Alameda County, bearing County Assessor's Parcel Number: 099A-2340-012-00. (Continued from April 27, 2006).

Mr. Gray explained that staff is awaiting a detailed modified project description and, as such, is recommending a continuance to June 29<sup>th</sup>. Member Gosselin asked if the Creekside Moratorium will have an impact on this application. Mr. Gray said he was not sure of the details of the moratorium. The Applicants were available but did not offer any testimony. Member Sblendorio made the motion to continue the application to June 29<sup>th</sup> and Member Gosselin seconded. Motion carried 3/0.

2. **ALTAMONT MOTORSPORTS PARK LLC., CONDITIONAL USE PERMIT, C-8471** ~ Application to continue operation of an existing outdoor recreation facility (motor vehicle raceway), and to allow: a) construction of required safety and general facility upgrades; b) construction of a 50,000 square foot previously approved grandstand cover; c) construction of the previously approved facility identification sign; and d) reconfiguration of the track to accommodate general racing operations in an 'A' (Agricultural) District, located at 101 Midway Road, east side, approximately 0.5 mile south of I-580, Tracy area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099B-7675-005-07. (Continued from March 30 and April 27, 2006).

Mr. Gray presented the staff report noting that the matter is recommended for a continuance to June 29<sup>th</sup>. The Chair asked if additional written comments have been received. Mr. Gray replied that written comments have been received from the applicant's attorney. A community meeting was hosted by the applicant on Tuesday and the neighbors also met as a group last Friday. Planning staff is being invited to the future meetings as well. Copies of the prior permit will be made available in the future. The Chair noted receipt of a fact sheet from Mr. Rivard and Member Sblendorio pointed out that he had previously requested a matrix of all uses that have been approved, what is being proposed and all the differences. Mr. Gray indicated that all information will be provided to the Board before the next meeting.

Public testimony was called for. Barbara Hand, 19835 West Patterson Pass Road, Tracy, said her main concern was noise. Since the prior operator did not limit operation to 10 pm as required, she was concerned with the current 11 pm request. Her other concern was Patterson Pass Road. This is a carriage road with no banks and there will be too many cars during the big events. There were already about

4,000 cars traveling daily on the road. She also had fire safety concerns. In response to Member Gosselin, she confirmed that about 4,000 cars travel on Patterson Pass Road. Some cars run down the fences and, as a result, the cattle get out. Her wire fence has been broken down twice a month and a commuter-traffic accident occurs once a month. And in response to Member Sblendorio, she indicated that her property was approximately three miles from the facility entrance and about 1¼ mile from the freeway. In comparison with the prior use, the last few events have created the same level of noise and traffic.

Mr. Cohen, representing Mark Rivard, said that he had submitted a letter to staff, to be forwarded to this Board, requesting a continuance. This matter should not have been scheduled for this meeting. This project is not simple and he will be presenting an extensive document which details major problems and inconsistencies. It is not consistent with the ECAP, Measure D and the General Plan as it is neither a permitted nor a conditional use in the "A" District. The last staff report did not contain a sufficient discussion on this issue. There are significant noise issues. The EIR issue cannot be 'passed over' without some deliberation as this use is much more intense than the prior use. Measure D prohibits greater intensive developments in some areas. Other concerns include the applicability of the EIR; traffic and pollution issues, and an expansion of the operational hours. Since this is an expired permit, it cannot be renewed. Mr. Cohen requested phone numbers and addresses of the board members for future correspondence. He was in the process of preparing a comparison plan between the 1996 use and the proposed use. Member Gosselin asked if the reference to Measure D was based on the adopted version or as approved by the voters. Mr. Cohen replied that it would be the adopted version but he was willing to use either. The Board, though willing to provide communication information, preferred all communication through staff and Member Gosselin requested that Mr. Cohen be provided with a copy of Measure D.

Mark Rivard pointed out that his property, 17011 Midway Road, is less than 150 feet from the facility. In his opinion a racetrack that creates noise needs a buffer zone. The applicant did not approach the neighbors prior to buying the property or before construction. Instead, he had initiated the first contact and the applicant had not been responsive. The permit has no provisions for his side of the track. Consideration of concerts is unreasonable as it would draw a different crowd. There is no code enforcement and/or any number available to call for complaints.

Scott Mallory, property owner at 410 Midway Road, said his main concern was the types of racing, namely drifting and drag strip racing. These types of racing will draw a different party-type of crowd and will result in abandoned cars. Two similar races held last year brought problems to this area. The response from the Sheriff Department from San Leandro is about an hour for this area and only the Fire Department had responded to his call last year. Member Sblendorio asked if similar racings have been held lately. Mr. Malox said that there was one scheduled last week but had been cancelled.

Jaime McNeely, 499 N. Midway Road, discussed and compared the other existing business in the area, the golf course. The golf course came into existence with the right attitude, has worked with the neighbors with their concerns, added value to the area and donated \$20,000 for the Mountain House School improvements. The roads, lacking stop signs and shoulders, cannot support the increased number of cars. She felt that the owners have not had good communication with the neighbors. She was in the process of creating a web-site where comments/communication can be posted. Member Sblendorio requested a DVD copy for the Board. Ms. McNeely further added that she had organized the community meeting.

Mark Rivard spoke on behalf of Sam Corona, the westerly neighbor who did not understand why a buffer zone is not needed on his side (west) as stated in the previous staff report. Mr. Corona is against the proposal and the illuminated sign, has attended all meetings and is concerned that he cannot ride his

horses on Friday, Saturday and Sundays.

Marie Frates read her written letter. She has lived at 485 Midway Road since 1967 and is one of the three original owners remaining. There are signs announcing the direction and distance to the racetrack. She was in support adding that this is the only sport that alcohol and drug abuse is not connected to. Although she agreed with all the above complaints, Ms. Frates said that they were not always the result of events held at the racetrack. In response to Member Gosselin, she said that the properties on Midway Road were subdivided in 1965 and some have had numerous owners. Her property was located on the north side of the freeway, near the aqueduct and she could hear the track noise.

Robert Valencio, 16777 Midway Road, said he was in the process of building his house on Midway Road and had attended the community meeting last week. His concern was the proposed activities three times weekly and he urged the Board to deny the request for the sake of the neighbors who choose to live in this area, away from the city.

Jim Butler said he moved to this area in 1974. Cars speed down Midway Road and trash is thrown from cars. His other concerns included noise, the sign and the increased hours of operation.

Mark Rivard submitted written testimony on behalf of the easterly property owner who was out of town.

Mr. Cohen requested that the Board direct staff not to do hold events on Fridays. This was in violation of the prior permit. Mr. Gray indicated that he would refer this to Code Enforcement and County Counsel.

Public testimony was closed. Member Gosselin said there were two main issues, interest of vested rights and intent of Measure D and its interpretation. He felt that a review of Measure D and its specific language would be a help. The Chair thought that the ECAP could be used as a guideline noting that a raceway was not included as Member Sblendorio said that advice from County Counsel and a comparison chart would be helpful. The Chair requested that County Counsel be available at the next meeting. He made the motion for a continuance to June 29<sup>th</sup> and Member Sblendorio seconded. Motion carried.

3. **CROWN CASTLE USA, INC., CONDITIONAL USE PERMIT, C-8496 ~**  
Application to allow continued operation of a telecommunication facility, in an "A" (Agricultural) District, located at 10633 Dublin Canyon Road, south side, approximately 1.6 miles west of San Ramon Road, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 0941-2750-001-07.

Mr. Gray presented the staff report.

Public testimony was called for. Mathew Yergovich, representative, thanked staff for their work and input. In reference to Condition #9, he point out that the site was not temporary and, as such, requested that this condition be deleted and requested a 20 year permit under Condition 19 on Page 10 as it was costly to have short term permits. He agreed with future co-location. There are two carriers, Verizon and Metro PCS on this pole and two other carriers on neighboring monopole. Although stealth techniques are rather expensive, Mr. Yergovich said he was willing to try. Regarding the request for a 20-year permit, Mr. Gray suggested January 29, 2014, to coincide with expiration of the other two permits on the neighboring pole to perhaps allow further co-location and facility improvement. Mr. Yergovich re-stated the cost involved.

Public testimony was closed. Member Gosselin said he support co-location and Member Sblendorio said

he would like both expiration dates to be the same or as close as possible. Mr. Gray recommended deletion of Condition #10, an expiration date of October 15, 2015 to facilitate co-location on this parcel and that a copy of the minutes should be included in the file of the permit that expires the earliest. Member Sblendorio made the motion for an approval with the above modifications and Member Gosselin seconded. Motion carried unanimously.

**APPROVAL OF MINUTES:** In reference to March 30<sup>th</sup> Minutes, Member Sblendorio made a correction on Page 1. Item #1 under Field Trip was withdrawn. The Chair made a correction to replace the word 'walls' with 'levels' in line 3, Page 5 under Altamont Raceway and the vote had carried 2/1 as he had voted no, on Page 9 under Item #6. Member Sblendorio made the motion to approve with March 30<sup>th</sup> with the above modifications and April 27<sup>th</sup> Minutes as submitted. Member Gosselin seconded and the motion carried.

**STAFF COMMENTS & CORRESPONDENCE:** Mr. Gray announced that the adjacent neighbor of Mr. Powell has presented him with new information and photographs of grading work that has occurred on site. To-date, there has been no progress obtaining building permits but is continuing to advertise his facility. Member Gosselin requested copies to be included in the next package.

**CHAIR'S REPORT:** No report.

**BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS:** Member Sblendorio announced his resignation from the Board as he has been appointed to LAFCO.

**ADJOURNMENT:** There being no further business, the hearing was adjourned at 3:40 p.m.

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**CHRIS BAZAR - SECRETARY**  
**EAST COUNTY BOARD OF ZONING ADJUSTMENTS**