

MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
MAY 27, 2010
(APPROVED JULY 8, 2010)

The meeting was held at the hour of 1:30 p.m. in the City of Livermore Council Chambers, 3575 Pacific Avenue, Livermore.

FIELD TRIP: 9:00 a.m.

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

FIELD TRIP: The Board visited the following properties on their own:

1. **CLEARWIRE LEGACY/CASTLEWOOD COUNTRY CLUB, CONDITIONAL USE PERMIT, PLN2009-00163** ~ Application to allow construction and operation of a telecommunication facility, in an 'A' (Agricultural) District, located at 707 Country Club Circle, south side, 75 feet east of Castlewood Drive, Pleasanton area of unincorporated Alameda County, bearing Assessor's Parcel Number: 946-4386-001-20.
Staff Planner: Damien Curry
2. **AMERICAN PAINTBALL PARK/MATHEWS, CONDITIONAL USE PERMIT, PLN2010-00013** ~ Application to allow an outdoor recreation (paintball) facility consisting of eight playing fields and a gravel parking area, in a PD (Planned Development) District, located at 1224 Greenville Road, east side, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99B-5600-004-13.
Staff Planner: Jeff Bonekemper
3. **COMMUNICATIONS CONTROL, INC./CLEARWIRE LEGACY – BELLARD, CONDITIONAL USE PERMIT, PLN2010-00021** ~ Application to allow installation and operation of a wireless telecommunication facility including nine microwave dishes on an existing 83 feet-3 inch tall tower, in an "A" (Agricultural) District, located at 9528 Weller Road, north side, approximately 1.5 miles north of Mt. Allison, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0090-005-07.
Staff Planner: Christine Greene
4. **CHENG, CONDITIONAL USE PERMIT, PLN2010-00034** ~ Application to allow operation of a day care facility for up to 70 children on a former school site (pre-school for up to 40 students ages 2-5 and an after-school program for 35 students ages 5 and up), in a R-1-L-B-E (Single Family Residence, Limited Agriculture, 20 acres Minimum Building Site Area) District, located at 2828 Marina Avenue, north side, east side of Edwards Lane, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 099-0880-006-01. **Staff Planner: Jeff Bonekemper**
5. **T-MOBILE/ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY, CONDITIONAL USE PERMIT, PLN2010-00038** ~ Application to allow continued operation of a telecommunication facility consisting of two ground-mounted antennas with a height of 13-6 feet and one ground-mounted microwave dish with a height of 11 feet, in an A-BE (Agricultural, 160 acre Minimum Building Site Area) District, located at 11700 North Flynn Road, east side, approximately 700 feet south of I-580, Livermore area of unincorporated Alameda County. **Staff Planner: Christine Greene**

REGULAR MEETING: 1:30 p.m.

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

OTHERS PRESENT: Jana Beatty, Senior Planner and Nilma Singh, Recording Secretary

There were approximately twenty people in the audience.

CALL TO ORDER: *The meeting was called to order by the Chair at 1:35 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 The Chair announced the per staff recommendation, Regular Calendar items 3 (PLN2010-00021) and #5 (PLN2010-00038) be moved to the Consent Calendar to be acted on without discussion.*

NEIGHBORHOOD PRESERVATION AND ZONING ORDINANCE ABATEMENT: *NONE*

CONSENT CALENDAR:

1. **VERIZON WIRELESS/CHARNEL JAMES, CONDITIONAL USE PERMIT, PLN2009-00117** ~ Application to allow installation of a telecommunications facility in a 'A' (Agricultural) District, located at 5770 Mission Road, west side, approximately one mile north of Vargas Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0056-008-12. (Continued from April 22, 2010; *to be continued to a date yet to be determined*). **Staff Planner: Jeff Bonekemper**
2. **SPRINT PCS/MORIN, CONDITIONAL USE PERMIT, PLN2009-00162** ~ Application to allow continued operation of a cell site consisting of six panel antennas, located at the rear of a storage building, in a PD (Planned Development) District, located at 6500 Tesla Road, approximately 400 feet east of Vasco Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99A-2935-002-00. (Continued from January 28th, February 25th, March 26 and April 22, 2010; *to be continued to a date yet to be determined*). **Staff Planner: Jeff Bonekemper**
3. **CROWN CASTLE/OSBORNE, CONDITIONAL USE PERMIT, PLN2010-00037** ~ Application to allow continued operation of a telecommunication facility consisting of a 50 feet monopole and equipment area on a 66 acre parcel, 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 to a date yet to be determined). **Staff Planner: Jeff Bonekemper**
4. **COMMUNICATIONS CONTROL, INC./CLEARWIRE LEGACY – BELLARD, CONDITIONAL USE PERMIT, PLN2010-21** ~ Application to allow installation and

operation of a wireless telecommunication facility including nine microwave dishes on an existing 83 feet-3 inch tall tower, in an "A" (Agricultural) District, located at 9528 Weller Road, north side, approximately 1.5 miles north of Mt. Allison, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0090-005-07.

Staff Planner: Christine Greene

Moved from the Regular Calendar

5. **T-MOBILE/ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY, CONDITIONAL USE PERMIT, PLN2010-00038** ~ Application to allow continued operation of a telecommunication facility consisting of two ground-mounted antennas with a height of 13-6 feet and one ground-mounted microwave dish with a height of 11 feet, in an A-BE (Agricultural, 160 acre Minimum Building Site Area) District, located at 11700 North Flynn Road, east side, approximately 700 feet south of I-580, Livermore area of unincorporated Alameda County. **Staff Planner: Christine Greene**
Moved from the Regular Calendar

The Chair made the motion to move Regular Calendar items 3 and 5 to the Consent Calendar and approve the Consent Calendar as amended. Member Goff seconded and the motion carried 2/0 with Member Harvey recused.

REGULAR CALENDAR:

1. **CLEARWIRE LEGACY/CASTLEWOOD COUNTRY CLUB, CONDITIONAL USE PERMIT, PLN2009-00163** ~ Application to allow construction and operation of a telecommunication facility, in an 'A' (Agricultural) District, located at 707 Country Club Circle, south side, approximately 75 feet east of Castlewood Drive, Pleasanton area of unincorporated Alameda County, bearing Assessor's Parcel Number: 946-4386-001-20.
Staff Planner: Damien Curry

Ms. Beatty presented the staff report. A discussion ensued regarding the term of the permit, tying the expiration dates with other co-locating cell sites (page 2 of the staff report). Staff recommended the same expiration date is C-8546, January 2017 and having C-8508 on hold until 2017. *Member Goff made the motion to approve the application for 7 years, expiration date of January 25, 2017 and Member Harvey seconded. Motion carried 3/0.*

2. **AMERICAN PAINTBALL PARK/MATHEWS, CONDITIONAL USE PERMIT, PLN2010-00013** ~ Application to allow an outdoor recreation (paintball) facility consisting of eight playing fields and a gravel parking area, in a PD (Planned Development) District, located at 1224 Greenville Road, east side, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Number: 99B-5600-004-13.
Staff Planner: Jeff Bonekemper

Ms. Beatty presented the staff report adding that any future asphalt plans would require Clean Water approval. Member Harvey noted the omission of any condition of approval relating to bathroom facilities and bio-gradable paint balls and asked if there was any feedback on the toxicity of the paintballs. Staff explained that the matter was referred to Environmental Health who did not have any concerns/issues.

Public testimony was called for. Clifton Mathews, Applicant, submitted paperwork (paint pallet sheet) regarding the toxicity of the paintballs which indicate that they are nontoxic with no impact on the

environment.

Public testimony was closed. *Member Harvey made the motion for an approval with an additional condition that the paint pallet specification sheet be reviewed by Environmental Health and if any mitigating issues, this matter be brought back to this Board, and that this is relative to all types of pallets. Member Goff seconded and the motion carried unanimously, 3/0.*

3. **COMMUNICATIONS CONTROL, INC./CLEARWIRE LEGACY – BELLARD, CONDITIONAL USE PERMIT, PLN2010-21** ~ Application to allow installation and operation of a wireless telecommunication facility including nine microwave dishes on an existing 83 feet-3 inch tall tower, in an “A” (Agricultural) District, located at 9528 Weller Road, north side, approximately 1.5 miles north of Mt. Allison, Sunol area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 096-0090-005-07.
Staff Planner: Christine Greene

This item was moved to the Consent Calendar

4. **CHENG, CONDITIONAL USE PERMIT, PLN2010-00034** ~ Application to allow operation of a day care facility for up to 70 children on a former school site (pre-school for up to 40 students ages 2-5 and an after-school program for 35 students ages 5 and up), in a R-1-L-B-E (Single Family Residence, Limited Agriculture, 20 acres Minimum Building Site Area) District, located at 2828 Marina Avenue, north side, east side of Edwards Lane, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 099-0880-006-01. **Staff Planner: Jeff Bonekemper**

Ms. Beatty presented the staff report.

Public testimony was called for. Michael Orth said that he is the adjacent neighbor at 2750 Marina Avenue. His two concerns were compatibility and traffic. Although this is a former school site, a day care does not fit the neighborhood as it is residential and agricultural. Speeding traffic is a concern in this neighborhood and, as such, speed bumps have been installed. Additional cars will greatly increase this problem. Noise is another concern, especially with 70 students and Mr. Orth asked if a fence will be installed to contain sound. Other issues included objects thrown in private yards; operational hours and scheduled recess staggered or not; although 75 sq. ft required outside and 35 sq.ft. indoor play area per student is required by State Licensing, the existing school has only 3,300 sq.ft. outdoor play area which equates to 45 students; indoor classroom area is 1,600 sq.ft. which equates to 45 students; the CUP should match the State Licensing requirements; is eye sore - existing facility is run down with an abandoned trailer, weeds in driveway and roof; any maintenance/improvement plans; septic system capacity; no Fire Department inspection; safety concern; and if there is a need for another day care facility especially in this economy.

Herman Johnson, 2645 Marina Avenue, stated that his main concern is traffic. There is no stop sign on Reed Avenue leading into Marina and the existence of the trail from Marina to the park. Overgrown trees add to the vision problem. He suggested a stop sign on Rita Avenue and signs on Marina.

Amy Chen, Applicant, explained the mobile home will not be used by students but as an office; basic renovations will be installed such as painting; there will be scheduled play times so that all children are not outside at the same time; property is 5 acres and discussions with Licensing is on-going regarding fencing and playground ratio; and there will be three vans for transportation to minimize traffic. Member

Harvey asked if she is the property owner and the lack of a renovation and/or landscape plan. Ms. Chen said that the present owner is Seventh Day Adventist but she was in the process of the purchase. The Church will clean up the property and the students will work on the flower and vegetable garden. It will be a non-profit.

Sarah Roberts, 2720 Marina Avenue, said her house is two doors down. Her main concern is the septic system and asked if a survey has been done. Ms. Roberts felt that the impact of a septic system on well water needs to be addressed. She further expressed concerns that an approval has been recommended without addressing the issue initially and the plan for a non-profit project. Another concern is traffic – speeding and the increase of 70 additional cars. The Chair explained the process of a CUP and Board hearing.

Karen Dynek, 3150 Marina Avenue, stated that her main concern is traffic on Marina which is rural and quiet with wineries and a lot of walking and biking. Additional cars twice a day would be a ‘mistake’. She also expressed concern with the condition of the building, asbestos, to be used by children and the status of a non-profit establishment; the lack of a construction plan when much improvement is needed; and asked if there is any plans for weekend use. In response to the Chair, Ms. Dynek said she has lived on Marina for three years.

Carla Wong, 2601 Reed Avenue, said that she had been living at this address when the school was in operation. She felt that this neighborhood has mostly senior residents with an assisted living care facility and, as such, would welcome the day care and the children. She also hoped that the bike trail would be extended along Marina for pedestrians and more biking facilities for both adults and children.

Webb Schoefer, 7817 Knoll Brook Drive, Pleasanton, stated that he is working with Ms. Cheng on this project. This process is to check whether the project can move forward or not and in order to obtain a State license, all requirements will have to be complied with. There has been a school at this site since 1964 and the previously installed speed bumps and school signs still exist. He thought that traffic has decreased on Marina due to the opening of Concannon Winery. The Chair requested clarification regarding transportation alternatives.

Ms. Cheng replied that there will be three vans for transportation and approximately 1/3 of the children will be transported by this method. In reference to the asbestos issues, the environmental phase I inspection has been completed and in response to the concerns raised, Ms. Cheng pointed out that a school has previously existed at this site; there is no intention to disturb the community and will ensure that all requirements will be complied with and licenses obtained. Mr. Schoefer clarified that the vans will pick up older kids for the after-school programs until picked up by parents and further explained the over-lapping and grouping of students -- approximately 40 preschool and 35 after-school students.

Public testimony was closed. Member Harvey felt that the staff report was inadequate as it does not address the South Livermore Area Plan, General Plan and zoning. In response, staff explained the following: the property is just outside the boundary but the Board, as a decision making body, could refer to the Plan; there is no current CUP as the prior permit was abandoned; since the R-1-L-B-E is an overlaying district, a school is one of the many uses allowed;; the site is also outside the urban boundary and as such, is under the Resource Management District. Member Harvey said that he would like a detailed written analysis regarding conformity to the General Plan, ECAP and SLAP and also implications of permitting a use that requires the upgrading/expansion of infrastructure (septic, water...etc) not necessarily to deny the application but make it more compatible to the Plan. Ms. Beatty explained that a septic analysis would be performed by the Environmental Health and the Chair noted that under Resource Management designation, Measure D addresses infrastructure in terms of square footage.

Member Harvey made the motion for a continuance to allow time for staff to prepare a formal analysis and the Chair seconded. Motion carried unanimously, 3/0. The Chair requested copies of the three letters received by the Board today (from Steven B., MaryAnn Keller and Peter Keller) be included in the next Board package.

5. **T-MOBILE/ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY, CONDITIONAL USE PERMIT, PLN2010-00038** ~ Application to allow continued operation of a telecommunication facility consisting of two ground-mounted antennas with a height of 13-6 feet and one ground-mounted microwave dish with a height of 11 feet, in an A-BE (Agricultural, 160 acre Minimum Building Site Area) District, located at 11700 North Flynn Road, east side, approximately 700 feet south of I-580, Livermore area of unincorporated Alameda County. **Staff Planner: Christine Greene**

This item was moved to the Consent Calendar.

APPROVAL OF MINUTES ~ *Member Harvey made the motion to approve the April 22nd Minutes as submitted and Member Goff seconded. Motion carried unanimously, 3/0.*

STAFF COMMENTS & CORRESPONDENCE: *Ms. Beatty announced that a minor windfarm item together with the Buena Vista nursery application will be on the next agenda. There will be no June meeting and the next meeting will be on July 8th.*

CHAIR'S REPORT: *None*

BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS: *None*

ADJOURNMENT: There being no further business, the hearing was adjourned at 2:45 p.m.

ALBERT LOPEZ - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS