



**MINUTES
BOARD OF SUPERVISORS, COUNTY OF MONO
STATE OF CALIFORNIA**

Special Meeting **Crowley Lake
Community Center,
Crowley Lake, CA
93546**

July 19, 2011

5:30 PM Meeting Called to Order by Chairman Hazard.

**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD
No One spoke.**

REGULAR AGENDA

COMMUNITY DEVELOPMENT - PLANNING DIVISION

- 1a) APPEAL 11-002 USE PERMIT 10-008/Incline Partners LLC Project Site Visit (Heather deBethizy, Scott Burns) - SITE VISIT. The Board of Supervisors will meet on site at 4052 Crowley Lake Drive in the community of Crowley Lake for a field trip. No action will be taken; the field trip is for informational purposes only and is open to the public. (get notes from Jim Arkens)

Tour began at 5:30 p.m.; ended at 5:55 p.m. – all board members were present.

Action: None.

CLERK OF THE BOARD

- 2a) Crowley Lake Community Center - Reconvene Special Meeting at the Crowley Lake Community Center at Crowley Lake, CA.

Reconvene: 6:09 p.m.
Break: 7:32 p.m.
Reconvene: 7:43 p.m.
Adjourn: 10:12 p.m.

Pledge of Allegiance led by Supervisor Hansen.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD
No one spoke.

COMMUNITY DEVELOPMENT – PLANNING DIVISION

Additional Departments: County Counsel

- 3a) Appeal of Planning Commission denial of Use Permit 10-008 / Incline Partners, LLC Telecommunications Facility (Heather deBethizy, Scott Burns) - Public hearing regarding appeal filed by Incline Partners, LLC, project applicant, of the Mono County Planning Commission's denial of Conditional Use Permit 10-008 for the development, operation and maintenance of a wireless telecommunications facility in the community of Crowley Lake.

M11-176 **Action:** Reverse the Planning Commission decision, thereby approving the project.

- a. Find that the Board has considered the Negative Declaration adopted by the Planning Commission and the comments received during the public review process; and affirm and adopt the Planning Commission's findings that: on the basis of the whole record there is no substantial evidence that the project will have a significant effect on the environment; and the Negative Declaration reflects the lead agency's independent judgment and analysis. Adopt the Negative Declaration, specifying that the record of proceedings will be retained on file with the Planning Commission Secretary, Suite P, Minaret Village Mall, 437 Old Mammoth Road, Mammoth Lakes, California; and
- b. Make the required findings for issuance of Use Permit 10-008:
- All applicable provisions of the Land Use Designations and Land Development Regulations are complied with, and the site of the proposed use is adequate in size and shape to accommodate the use and to accommodate all yards, walls and fences, parking, loading, landscaping and other required features.
 - The site for the proposed use relates to streets and highways adequate in width and type to carry the quantity and kind of traffic generated by the proposed use.
 - The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located.

- The proposed use is consistent with the map and text of this General Plan and any applicable area plan.

and reverse the Planning Commission's denial of Use Permit 10-008; and

c. Direct staff to prepare a written decision for adoption by the Board reversing the Planning Commission's denial of Use Permit 10-008; and

d. Direct the Clerk to schedule a special meeting of the Board of Supervisors on July 21, 2011, or some other date as directed by the Board, for consideration and adoption of the written decision.

Bauer moved; Hazard seconded

Vote: 2 yes: Hazard and Bauer; 3 No: Johnston, Hunt and Hansen
MOTION FAILS 3-2

M11-177 ACTION: Affirm the Planning Commission's decision, thereby denying the project:

a. Find, based on substantial evidence in the record, that the following three of the four required findings for approval of Use Permit 10-008 **cannot** be made:

- All applicable provisions of the Land Use Designations and Land Development Regulations are complied with, and the site of the proposed use is adequate in size and shape to accommodate the use and to accommodate all yards, walls and fences, parking, loading, landscaping and other required features.
- The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located.
- The proposed use is consistent with the map and text of this General Plan and any applicable area plan.

b. Direct staff to prepare a written decision for adoption by the Board affirming the Planning Commission's denial of Use Permit 10-008 and setting forth the basis for the Board's determination; and

c. Direct the Clerk to schedule a special meeting of the Board of Supervisors on July 21, 2011, for consideration and adoption of the written decision.

Hunt moved; Johnston seconded

Vote: 3 yes: Hunt, Johnston, and Hansen; 2 no: Bauer and Hazard

Supervisor Hazard:

- Had everyone go around and introduce themselves.
- Incline Partners: Mike Flynn and John Peterson.
- Explained the logistics of the meeting, including order of events and process and time restraints for speakers.
- This is a final appeal; where the rubber meets the road.

Stacey Simon, Asst. County Counsel:

- Went over legal framework that we're operating under with the Telecommunications Act.
- RF Emissions – the Board cannot consider the impacts on health and environment, etc.
- Local agencies can't prohibit or effectively prohibit the provision of wireless services – If there is a proposal to put up cell towers and it's denied there must be an alternative location that is less intrusive?
- Board can't unreasonably discriminate against providers offering same service.
- If there is a denial of a cell tower facility, that denial must be based on provisions of local law/rules/requirements. Denials must be in writing and supported by substantial evidence in the record. Imposes time limits on actions by local agencies.

Heather deBethizy, Project Manager (powerpoint presentation, copy kept in folder):

- Overview of appeal dates, etc.
- Planning Commission denial details.
- Project review.
- Project description.
- Project location.
- Location maps.
- Site plan.
- Elevations/height.
- Use permit requirement.
- Land use compatibility.
- Existing uses.
- Project planning.
- Aesthetics.
- Visual analysis.
- Photo points.
- General Plan requirements.
- Design guidelines.
- Policy and project conditions.
- Alternative locations.
- Map of recent cell tower development.
- Previously approved cell tower sites.
- CEQA process: negative declaration was prepared.
- Planning Commission Denial – three of four findings could not be met.

Board Questions:

Supervisor Hunt:

- Beneficial to have as many providers as possible on one tower?

Supervisor Johnston:

- Elevation question?
- Multiple carriers on same tree examples.

Supervisor Hazard:

- There are three commercial sites in Mono County.

Robert MacLachlan from Vista Towers:

- You can put many carriers on one tower.

INCLINE PARTNERS PRESENTATION:

Mike Flynn (powerpoint):

- Site candidate requirements (zoning, willing landlord, site access and utilities, importance of fiber).
- There is a newly proposed "Vista/Verizon tower site". Went over coverage, etc.
- Photo analysis of Incline Partners site.

John Peterson:

Defenses to reasons why Planning Commission denied permit:

- FCC rules regarding EMF.
- Design guidelines.
- Aesthetic impact.
- Property values.
- Alternate sites.

Board Questions:

Supervisor Bauer:

- Height of commercial? (35 feet)

Supervisor Hunt:

- Would like more of a guarantee as to what it's going to look like (answer: would work with Planning staff on design, etc.).
- Public policy on co-location issue? How many providers can go on Incline's tower? (answer: would have to be designed like that, provider would have to be ok with moving down the tower – it's a coverage issue)

Supervisor Hazard:

- Alternate site near the gateway to community (answer: they didn't think it would be a good site)
- When would construction begin? (answer: 60 – 90 days, but it would have to be after September 15th)
- Construction time? (answer: 30 – 40 days)
- Design the tower for 120/mph winds? (answer: can be done – more money, etc.)

Ground rules for public comment:

- Sign in on pad of paper.
- Give your name to the clerk.
- Time limit: 3 minutes.
- Everyone has the right to comment. Speak to the Board/staff only.
- Try not to repeat things previously said.
- This is the final appeal for this project.
- Board can ask questions at any time.
- Limitation is competition.

PUBLIC COMMENTS STARTED: 7:51 p.m.

- Rick Phelps: speaking in favor of cell tower; also submitted his words in writing. Pointed out importance of public safety in relation to having cell service.
- Karen Calhoun: in favor of the project mostly due to public safety. She feels that very thoughtful work has gone into this project.
- Joe Green: proponent for the cell tower. Spoke how cell service would help his

- business. Also his accident on a bike, etc. He needed a cell phone.
- Stan Messinger: supporter of the cell tower; believes it's necessary.
 - Bill Cox: proponent, in favor of cell tower. Makes no sense for him to have a cell phone right now. It would be nice to step into the 21st century.
 - Robert Mueller: in support of cell tower. Thinks it's unreasonable to deny this.
 - Abigail Don: in support of cell tower; needs it for her job. She gets a lot of complaints from visiting tourists at the Crowley Lake Store that they can't use their cell phones. She thought the Planning commission meeting was handled inappropriately.
 - Pam Bold : she is against the cell tower; thinks the Planning Commission decision should be upheld. Brought up Radioactive effects.
 - Donnette Husselton: in support of cell tower, mostly a safety issue for her. (Supervisor Johnston: are you in favor or the proposed site? Answer: yes)
 - Barry Hutten: Tommy's neighbor; he is interested in cell service in Crowley.
 - Victoria Rawson: her house is close to the project; she asks that Planning Commission decision be upheld. There is evidence of an alternative site, we don't have to rush into this one. Visual impact and blight is her concern. She's against it being in the center of town, not cell service itself. (Supervisor Johnston: asked about photos.)
 - George Gomez: visitor from June to October. He feels cell service is a safety issue and is needed. It's also progress.
 - John Hart: It's not about pro or con with cell service; issue is whether this is an appropriate location. Your design guidelines matter – if you blow past it, you set precedence. The tower is within 10 feet of a property line. If it passes, you can't go back, that will be new standard. Adhering to the Planning Commission's decision keeps county out of trouble.(He had a device and the board asked him what it was. Answer: individual cell service device that he said works good for him.)
 - Robert MacLachlan, Vista Towers: Agrees that leaseability is important; coverage was not the reason that other sites were not looked at. LADWP is still a viable process. Do it on the facts only, the merits. He understands that his company is behind Incline Partners in project progress.
 - Ron Day: he's for the tower. Goes with creating better services in Crowley.
 - Gordon Madison: encourages the board to deny this. He has found out that you can turn your house into a internet hot spot very cheaply with a small device; this amplifier will boost signal and you can add an antennae; this tower will carry a radioactive placard; an alternative would be better. This location is wrong.
 - Debbie Hildebrand: she is in favor of tower and the location. She thanked Incline for assimilated pictures. Public safety issue with her kids. There is no site better than this.
 - Bill and Eileen Ludvik: his views from upstairs could get obstructed; there are no other pines in the area to mitigate the view.
 - Michelle McMillian: thinks cell service is needed but not at this location. Concerned about safety, etc. Other site would be superior. She will be significantly affected by these towers in this location. You need to respect decision of Planning Commission. You can get a microcell.
 - Alan and Kathy Faris: in favor of cell phone coverage, worried about generators required with the high winds. He's ok with the site. Why so close? (Brief discussion ensued regarding generator use, type of gas, etc. It was determined that propane could be used.)
 - Jim Bold: He is on call with Mammoth Hospital. Uses other people's micro cells. Asked how many towers Incline has built? He is against cell service at that site. Asked question about sound ordinance. Provision speaks to emergencies.
 - Kim McCarthy: She's opposed to this project at this location. It shouldn't be in a

residential community, even though it's located on commercial property. This will set precedence for other towers; you should uphold Planning Commission decision.

- Alex Millan: finds it interesting that this is like a court case; he thinks it's wrong to just jump into a tower with Incline. Need to check facts first. He is against this tower at this site.
- Billy Czeschin: he's here speaking on behalf of road crew with Mono County; everyone he works with would love cell service. He personally would like cell service. This is a viable location.
- John Rawson: Incline's pictures of the towers are not realistic. The setbacks aren't being taken very seriously. Aesthetics are a problem. He has letters here from well known realtors to hand out.
- Ray McMillian: He's for cell service, against the location of this tower. Community effects important – what happens if tower doesn't really get used once digital 395 comes along? With micro cell you have good coverage – cell and internet. (Supervisor Hazard: What happens if tower is abandoned? Answer by Scott Buns: it would have to be reclaimed to its original state.)
- Tommy Czeschin: owner of property where cell tower is being proposed. The site is a good site for the tower. His booster doesn't work that well.
- Michael Lofthus: Main reason he's in favor is for health and safety.
- Daylight ???? (couldn't hear her and can't read her writing on the sign in sheet): she is opposed to the location.
- Greg Newbry: He believes in the most amount of good for the most amount of people. It's about whether it meets code or not. He's concerned about how far our county is falling behind on bandwidth.
- Steve Kalish: There are real issues with the county mingling with the ordinance and county plan – putting the county into a difficult position. A zoning law is needed. (Supervisor Hazard: many of you have read about a compromise with Verizon Wire? Steve is the one that's taken on Verizon.)

END OF PUBLIC COMMENTS: 9:05 p.m.

Robert MacLachlan, Vista Towers:

- He believes that everyone wants coverage in this area. He feels that this is about the location only. Board should make their decision on the merits only.
- He doesn't think the site in town is going to have as much coverage as his site.
- He stepped away from project initially because he didn't want to interfere with Incline. When they got denied, he stepped back in.
- Timing of his project is based on Planning and their deadlines.
- He has not talked to folks living within sight of the site; question is: what will the community support as a whole?
- He says it is a viable option.
- He's got LADWP and Verizon support.

Supervisor Hazard:

- What is a realistic timeframe? (within 3 months could have an agreement with LADWP)
- Have you looked at Mountain Meadows? (No.)
- At the time the Planning Commission met, the vista site wasn't considered.
- He's hearing concerns about Environmental work on the road.
- A bird in the hand and two in the bush. A lot of questions have not been flushed out on Vista tower due to it coming up so close to this.
- Any tower built on that ridgeline is going to be visually impacted?

- Is this viable? Not sure at this point.

Incline Partners(rebuttal):

- Robert from Vista Towers and LADWP seems to think his site is good.
- There are other that don't think so; his site might not be a multi-carrier site.
- Robert's project is back where Incline was in October. He thinks Robert's timelines are a bit aggressive.
- They were under the impression that a minimal number of sites were desired for Crowley.
- They could do first tower with a design for three towers.
- Supervisor Bauer: Do you have promises of contracts from providers? (Answer: yes, fully executed from AT&T and pending from TMobile.)
- If you have the choice of doing multi-carrier site, choose theirs, not Vistas.

Board Discussion:

Supervisor Larry Johnston:

- He thanked everyone for coming; knows that a lot of people have a hard time getting up and saying what they think.
- He thanked applicants for persevering in appeal process.
- He doesn't think anybody is opposed to cell service in Crowley; he believes it will happen at some point.
- Doesn't think that NIMBYs always have public interest at heart.
- He typically doesn't trust what developers have to say, especially when they have visual cues going on. He doesn't think Incline has gone far enough with their assimilations.
- Problem he sees is that this is a commercial site surrounded immediately by residential. In every instance, cell towers he has seen are not in residential areas and they have not been controversial.
- There is not a consensus here.
- He is not in favor of this site. We can do better. It may not necessarily be the Vista Tower site. He supports the Planning Commission's decision.

Supervisor Bauer:

- Hopes public appreciates the difficult position that the Board is in.
- She has a question about viability of another site and the fact that there is not another project ready to go.
- She feels cell service is extremely important. She thinks that aesthetics are a small price to pay for service.
- Property owners: you can't interfere with the rights of the neighboring houses.
- She's in favor of this project; we owe it to the citizen's under the existing federal law to support it.

Supervisor Hunt:

- Thanked everyone for coming out. Cell service is needed here, the issue is location.
- He feels there is a viable alternative out there – even if we don't know all the specifics yet.
- Community needs to decide what is going to give them the best service.
- Timeline needs to be taken into account.
- He relies heavily on the decision of the Planning Commission. The setbacks go against guidelines.
- He tends to lean towards the Planning Commission decision.

Supervisor Hansen:

- He was approached at one time to have cell tower built where he lives and it fell through. He has a micro cell and router.
- He doesn't have problem going against the Planning Commission's decision but feels it might be a problem that Vista Towers was brought into the equation at this time. We need to decide on the merits of Incline only.
- He has to vote against this. No matter what the setback, the outcome is the same.

Supervisor Hazard:

- He's been approached by hundreds of citizens about cell service in his district.
- We have been working for years to get cell service in Crowley.
- Went over proposed sites on map. Went over 16 sites that were not viable; issue is that all of these have fallen apart. The Vista Towers site that's been put on the table tonight might have road issues, wetlands issues. On this alternate sight, there is nothing to camouflage the tower. What will the community do with this?
- So, what to do with this proposed site? He was hoping that there would be a majority vote in the community.
- Guidelines/setbacks discussion.
- Tourists/homeowners need cell service in Crowley.
- Believes Hilton is a good site as it has overall less conflict. But it could lead to the loss of Incline Partners and maybe no cell service in the future.
- He agrees project should stand on its own merits. The Board is going to be divided.
- Asks that 120 mph gust be taken into account and that propane be taken into account for generators.

Incline Partners (closing comments):

- Thanked the board for the opportunity to bring project

ADJOURNMENT 10:12

ATTEST:

DUANE "HAP" HAZARD, CHAIR

SHANNON KENDALL
SR. DEPUTY CLERK OF THE BOARD

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