



# COUNTY OF EL DORADO PLANNING COMMISSION

Building C Hearing Room  
2850 Fairlane Court, Placerville, CA 95667  
<http://www.edcgov.us/planning>  
Phone: (530) 621-5355 Fax: (530) 642-0508

Rich Stewart, Chair, District 1  
Dave Pratt, First Vice-Chair, District 4  
Brian Shinault, Second Vice-Chair, District 5  
Gary Miller, District 2  
Tom Heflin, District 3

Char Tim ..... Clerk of the Planning Commission

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## MINUTES

**Regular Meeting**  
**February 26, 2015 – 8:30 A.M.**

### CALL TO ORDER AND RECESS INTO CLOSED SESSION

Meeting was called to order at 8:33 a.m. Present: Commissioners Stewart, Miller, Heflin, Pratt, and Shinault; David Livingston-County Counsel; and Char Tim-Clerk of the Planning Commission.

### ADOPTION OF AGENDA

Chair Stewart welcomed back Commissioners Pratt and Shinault to the Commission.

**Motion: Commissioner Heflin moved, seconded by Commissioner Shinault, and carried (5-0), to approve the agenda as presented.**

**AYES: Miller, Pratt, Shinault, Heflin, Stewart**  
**NOES: None**

### PLEDGE OF ALLEGIANCE

**CONSENT CALENDAR** (All items on the Consent Calendar are to be approved by one motion unless a Commission member requests separate action on a specific item.)

1. **15-0039** Clerk of the Planning Commission recommending the Commission approve the MINUTES of the regular meeting of December 11, 2014 (Cont. 01-22-15, Item 1) and the regular meeting of January 22, 2015.

**Motion #1**

**Motion: Commissioner Heflin moved, seconded by Commissioner Shinault, and carried (3-0), to approve the meeting minutes of December 11, 2014.**

**AYES: Heflin, Shinault, Stewart**

**NOES: None**

**ABSTAIN: Miller, Pratt**

**Motion #2**

**Motion: Commissioner Heflin moved, seconded by Commissioner Miller, and carried (3-0), to approve the meeting minutes of January 22, 2015.**

**AYES: Miller, Heflin, Stewart**

**NOES: None**

**ABSTAIN: Pratt, Shinault**

**END OF CONSENT CALENDAR**

**DEPARTMENTAL REPORTS AND COMMUNICATIONS**  
**(Development Services, Transportation, County Counsel)**

Roger Trout, Development Services Division, introduced Jennifer Franich who was recently hired by Planning as an Associate Planner.

Dave Defanti, Long Range Planning Division, distributed the Long Range Planning Calendar for February –July 2015 and spoke on the items scheduled to come before the Commission this year.

**COMMISSIONERS' REPORTS**

Commissioner Pratt stated that during the last several months he had attended some meetings, toured the Dixon Ranch site and participated in a visit to the proposed tribal gun range site. He also thanked the Transportation Division on recent work that was done on Fair Play Road.

Chair Stewart recently attended a meeting with the Rescue School District regarding their acquisition of the Bass Lake Road property.

**PUBLIC FORUM/PUBLIC COMMENT**

Mark Charlton distributed a handout and spoke on concerns on an upcoming item at the next meeting as he doesn't believe the Special Use Permit is legal or valid and, therefore, the Commission should not be considering a revision to it.

**AGENDA ITEMS**

**2. 15-0046** Clerk of the Planning Commission recommending the Commission elect a Chair, First Vice-Chair, and Second Vice-Chair for 2015, with those selections becoming effective at the next regular meeting. (Cont. 01-22-15, Item 8)

**Motion #1**

**Motion: Commissioner Shinault moved, seconded by Commissioner Miller, and carried (5-0), to elect Commissioner Stewart as Chair for 2015.**

**AYES: Heflin, Pratt, Miller, Shinault, Stewart**

**NOES: None**

**Motion #2**

**Motion: Commissioner Shinault moved, seconded by Commissioner Miller, and carried (5-0), to elect Commissioner Pratt as First Vice-Chair for 2015.**

**AYES: Heflin, Pratt, Miller, Shinault, Stewart**

**NOES: None**

**Motion #3**

**Motion: Commissioner Pratt moved, seconded by Commissioner Stewart, and carried (5-0), to elect Commissioner Shinault as Second Vice-Chair for 2015.**

**AYES: Miller, Heflin, Shinault, Stewart, Pratt**

**NOES: None**

**3. 14-1588** Hearing to consider a request to allow the construction of a wireless telecommunication facility [Special Use Permit S14-0009/AT&T Cell Tower Skyline Drive]\* on property identified by Assessor's Parcel Number 081-102-01, consisting of 0.32 acre, in the South Lake Tahoe area, submitted by New Cingular Wireless, LLC/AT&T; and staff recommending the Planning Commission take the following actions:

- 1) Adopt the Negative Declaration based on the Initial Study prepared by staff; and
- 2) Approve Special Use Permit S14-0009 based on the Findings and subject to the Conditions of Approval as presented. (Supervisory District 5) (Cont. 01-22-15, Item 2)

Commissioner Pratt announced that although this is his first Planning Commission hearing in this term, he was on the Commission for 5 ½ years up until the end of September 2014 and he is confident that he can make a ruling on this and stated that he has read all of the documents and minutes on this item.

Joe Prutch summarized past hearings on this item and presented the new request to the Commission with a recommendation of approval. He provided a summary on the Telecommunications Act.

Roger Trout identified himself as not only the Development Services Division Director but also the Executive Secretary to the Planning Commission. He spoke on a public comment from the last hearing where there was concern that this could be a never-ending project. Mr. Trout stated that if the Commission chose not to accept staff's recommendation of approval, then he recommended they direct staff to draft an alternate conclusion and return later in the meeting.

In response to Commissioner Pratt's inquiries on National Forest lands and co-location of Crown Castle cell tower, Mr. Prutch stated that he had spoken to representatives for National Forest land regarding their future plans and that he is currently working on a 5-year review for the Crown Castle cell tower.

Chris Hatch, applicant's agent, made the following comments:

- They have been working diligently on the project to address issues;
- Trying to provide a project that the Commission can approve which is why they are proposing a stealth tree and a stealth shelter;
- This is a safe project and blends in with area as best as possible;
- FAA has approved of the proposed stealth tree;
- No HVAC unit;
- There will be construction traffic the first 2 months and they will follow the County rules;
- Maintenance will be 1-2 times a month and stressed that this project should not be compared to what is occurring at the adjacent antiquated cell tower site as this one will be state-of-the-art;
- Intent is for this project to encourage the carriers on the existing cell tower to move over to their cell tower;
- This is the least intrusive option;
- Analyzed many locations, which included the National Forest;
- This will fill a significant gap in area;
- RF tool was used to analyze coverage over tops of trees in that area and when they were in the southern part of the area, it dropped 60 feet in elevation and access would be an issue due to no existing road;
- Coverage was tested in the area of the water tank and it was not considered viable;
- Spoke on TRPA's impervious restrictions which include roads and the water tank in the formula;
- RF tool identified that all 4 sites needed approximately the same tower height due to the trees; and

- Spoke on coverage vs. capacity and the 80% coverage match in response to Chair Stewart's inquiries.

Lori London made the following comments:

- Identified herself as an attorney in South Lake Tahoe, providing services to the County and State;
- Spoke on the Telecom Act;
- Spoke on defining "significant gap of coverage", which is AT&T's claim;
- Spoke on analysis provided by consultant hired by AT&T;
- No information on the number of houses, number of customers, rural/urban area, expert testimony and field studies supporting the significant gap coverage area claim;
- New plan moves the site closer to her property;
- Alternative Site #1 is deemed incapable of filling significant gaps;
- Was informed by both Nancy Kerry, South Lake Tahoe City Manager, and the lessor of the project site, that AT&T owns the existing Crown Castle cell tower and that information has not been supplied to the Commission;
- This is a profit-making enterprise and is not done for providing services;
- The applicant's agents are salesmen and you can't believe them as they lied as to who owns the Crown Castle cell tower;
- TRPA approved an increase in the tower height for the Crown Castle cell tower; and
- Distributed Findings for Denial.

Lou Parrino made the following comments:

- Distributed photos of site;
- Spoke on the history of towers in the neighborhood;
- Spoke on TRPA's coverage rules;
- Challenged the CEQA findings and felt the project requires an Environmental Impact Report;
- The proposed tower would be 8 feet from his kitchen window;
- Spoke on the applicant's responses to testimony, which now can't be believed;
- Noise and aesthetics will impact the community;
- Existing and proposed cell tower locations have run-down homes located on the sites;
- There is no significant gap in coverage;
- These are salesmen; and
- Existing cell tower site is the least intrusive site when compared with the proposed site and the water tank.

Bruce Eisner made the following comments:

- Written documents state Forest Service is doing a Master Plan so time needs to be allowed for that to happen, which will occur in 3-5 years;
- News to everyone that AT&T owns the existing tower, so what is the hurry for the new tower;
- Inquired on Alternative Site #4; and
- There is a combination of alternate sites.

Jennifer Hamburg made the following comments:

- Even AT&T has admitted that no one wants a cell tower in their back yard;
- Cell tower can't be placed 1,000 feet from a school and doesn't see the difference in a residential neighborhood;
- Although Courts don't support the argument that property values decrease with this type of project, she can find evidence that supports otherwise; and
- Understands that a cell tower can't be denied for health reasons, but reminded Commission that society used to think it was fine to be around asbestos, lead paint, and to use radiation for acne treatment.

Mark Royer made the following comments:

- Has been a broker and resident of area for over 30 years and this project would affect home values;
- Not one neighbor is in favor of this project;
- His property abuts the water tank and the lot adjacent to it and disagreed with the significant gap argument;
- This appears to be a "big guy vs. little guy"; and
- Asked the Commission to do the right thing.

Richard Ganske made the following comments:

- Distributed petition and photos;
- Disagreed with AT&T's comment that there is a 60 foot elevation drop on the south side of the water tank;
- This is a congested area of homes;
- Activity on property indicates that they already have approval (i.e., fiber optic activity);
- Alternative Site #3 is a good choice;
- More antennas generate more heat;
- Cell towers have to be tested 1-2 times a month but why are they being compared to microwaves in relation to safety when microwaves don't need to be tested;
- With this proposed cell tower, there will be 7 commercial entities in the area;
- Owner of the proposed project site has stated that they will be renting out the house;
- Home values will decrease by 20% and AT&T should cover everyone's loss;
- Request that the next hearing be scheduled when school is out so parents can attend; and
- When he moved into the area, he was already concerned about the existing cell tower and now there are going to be two.

Chair Stewart closed public comment.

Mr. Hatch provided the following rebuttal comments:

- They are service providers, not salesmen, and they are trying to fill a gap in the coverage;
- Spoke on spotty coverage in area;
- Spoke on the ownership history of the Crown Castle cell tower and stated the AT&T doesn't and never has owned the cell tower and neither does any of its subsidiaries;

- They have been trying to fill the gap for the last 10 years;
- The statement on having to be 1,000 feet from a school is incorrect and, in fact, they are encouraged to locate at school sites since technology is used there frequently;
- They chose not to install 4-6 cell towers in area because each tower would have to be submitted under its own application, requiring multiple agencies' approvals, and if even one didn't get approved, it would affect the whole project;
- Spoke on population coverage;
- National Forest insists on co-location and requires that you identify a minimum of 3-4 carriers per application and the leases are very low since the National Forest is more interested in having infrastructure in place for emergency services;
- TRPA's oversight has been diverse and scattered and AT&T is working with them on a strategy;
- Explained that engineering staff showed the areas which had no service during peak times when 911 calls couldn't be placed and that determined the significant gap area;
- Other carriers are on a different frequency for 911 calls;
- Spoke on information regarding gap coverage, which is proprietary information but a federal obligation;
- They don't have the capacity for the users in the area and are currently at the maximum;
- AT&T provides telephone service through SBC Global, which uses AT&T badging on their trucks, and the existing cell tower site is upgrading telephone services (fiber optic cables);
- Spoke on microwave frequencies and radio frequencies; and
- Did approach existing cell tower, but there are significant challenges with the landowner.

Commissioner Pratt made the following comments:

- Doesn't like having 2 cell towers side by side;
- Not offended by the added height for just one tower;
- Still questions the argument that there is a gap;
- Telecom Act is clear;
- Difficult to believe TRPA and National Forest to create a plan;
- We are all part of the problem since most have cell phones and tablets;
- Plan is needed for the neighbors that would bring the two cell towers together, legally, and at whatever height would be needed; and
- Over-riding consideration needs to be reviewed as this is a unique area.

Commissioner Shinault made the following comments:

- Doesn't like a cell tower on a private property and would like them to explore other sites (i.e., fire station);
- Inquired how much of the 30% coverage that would be lost was National Forest land; and
- Can't support proposed location.

Commissioner Heflin made the following comments:

- Hasn't changed his opinion that this impacts the character of the neighborhood;
- This is creating a cell tower farm in the area;

- Questioned what was a significant gap; and
- Not in favor of the proposed location.

Commissioner Miller made the following comments:

- If the data is believable, then there is no other viable location; and
- Best alternative is to remove the existing cell tower and replace it with this one.

Chair Stewart made the following comments:

- Noise is no longer an issue;
- Structure would fit in even if it was brick;
- There will be a shield on the light;
- Applicant has done everything they could regarding the aesthetics;
- Can't dispute the coverage maps as he doesn't have the expertise;
- The two towers are his issue; and
- Leaning towards approving the project as-is.

There was no further discussion.

**Motion #1**

**Motion: Commissioner Miller moved, seconded by Commissioner Stewart, and FAILED (2-3), to take the following actions: 1) Adopt the Negative Declaration based on the Initial Study prepared by staff; and 2) Approve Special Use Permit S14-0009 based on the Findings and subject to the Conditions of Approval as presented.**

**AYES: Stewart, Miller**  
**NOES: Heflin, Pratt, Shinault**

Commissioner Pratt made the following comments:

- Fine with one pole in one spot;
- Spoke on their options;
- Inclination was to continue this off-calendar so everyone could get their act together; and
- TRPA needs to weigh in on this too and it would be a safer route to have TRPA go first in the review process.

County Counsel David Livingston informed the Commission that there was a timeline for new cell towers and AT&T has agreed to extend the "shot clock" to April 14, 2015. If this item is continued, then AT&T would have to agree to another extension, otherwise they would have the right to go to Court against the County.

There was no further discussion.



**Motion #2**

**Motion: Commissioner Pratt moved, seconded by Commissioner Heflin, and FAILED (2-3), to deny the project based on two side-by-side cell towers, gap analysis, and important to know TRPA's determination of project.**

**AYES: Heflin, Pratt**  
**NOES: Miller, Shinault, Stewart**

County Counsel Livingston summarized Commissioner Shinault's concerns and suggested expanded language to Commissioner Pratt's motion for the Commission's consideration. Commissioner Pratt concurred.

**Motion #3**

**Motion: Commissioner Pratt moved, seconded by Commissioner Heflin, and carried (3-2), to deny the project based on issues with the land use compatibility in large part to the residential character of the neighborhood and the adjacent existing tower, there are feasible alternatives particularly Alternative Site #2, and important to know TRPA's determination of project, and to trail item to the end of the meeting to allow staff to prepare Findings for Denial for consideration.**

**AYES: Shinault, Heflin, Pratt**  
**NOES: Miller, Stewart**

Mr. Trout announced that it was 5:45 p.m. and they were presenting the Findings for Denial to the Commission for their consideration. He spoke on the various Findings listed.

The Commission reviewed the Findings and discussed the removal of the last sentence of the last paragraph in Finding 2.2.

**Motion #4**

**Motion: Commissioner Pratt moved, seconded by Commissioner Miller, and carried (5-0), to approve the Findings for Denial with the following amendment: (a) Delete the last sentence of the last paragraph in Finding 2.2.**

**AYES: Heflin, Shinault, Miller, Pratt**  
**NOES: Stewart**

This action can be appealed to the Board of Supervisors within 10 working days.

**Findings for Denial**

**1.0 CEQA Findings**

- 1.1 The Planning Commission finds that there was substantial evidence presented at the hearing on this application to support a fair argument that the cellular tower facility as proposed would cause significant impacts to the environment as a result of impacts relating to aesthetics and land use/planning. Therefore, a mitigated negative declaration

or environmental impact report would be required before the project could appropriately be considered as proposed. The factual basis for this conclusion is set forth in Findings 1 through 6 below.

- 1.2 The Planning Commission finds that the project as proposed cannot be approved for the reasons set forth in the Findings below. Section 15270 of the CEQA Guidelines state that CEQA does not apply to a project that the agency rejects or disapproves. This action denying the project is hereby found to be statutorily exempt from CEQA pursuant to Section 15270(a).

## **2.0 Land Use Compatibility Findings**

- 2.1 Policy 2.2.5.21 (compatibility with surroundings) of the General Plan requires that development projects shall be located and designed in a manner that avoids incompatibility with adjoining land uses that are permitted by the polices in effect at the time the development project is proposed. Development projects that are potentially incompatible with existing adjoining uses shall be designed in a manner that avoids any incompatibility or shall be located on a different site.

Finding 1: The Commission finds that there is substantial evidence that installation of a cellular tower facility would not be compatible with existing development because:

- a. The project site is located on a relatively small residential lot (0.32 acre) within an established residential neighborhood. Surrounding lots are similar in size and adjacent residents are in close proximity to one another. Neighboring residents are approximately 39 feet to the west, 94 feet to the east and 149 feet to the south of the proposed cellular tower. Another surrounding structure includes a 55 foot tall, 320,000 gallon water tank, located approximately 119 feet to the southwest of the proposed cellular tower.
- b. A 99 foot monopole with two carrier's antennas, candy striping, and a beacon light is located just 97 feet southwest of the proposed cellular tower. The Planning Commission finds that two towers in such close proximity to one another is incompatible with the residential character of the neighborhood and would prefer only one pole that could accommodate all carriers' antennas.
- c. There is opposition from adjacent and neighboring property owners in the vicinity of the project site presented at the December 11, 2014 and February 26, 2015 Planning Commission meetings. The testifiers were strongly opposed to the cellular tower facility and provided written evidence and oral testimony concerning the project's impacts. Their concerns included the closeness to surrounding homes, another cellular tower facility and water tank already on adjacent property, traffic associated with ongoing maintenance of the water tank and existing and proposed cellular towers, all utilizing the same access easement, and the commercial/industrial appearance of the cellular tower within a residential neighborhood, resulting in the decline of property values.

- 2.2 Policy 2.10.1.1 states that the County shall apply the standards of the Regional Plan for the Tahoe Basin and the Code of Ordinances and other land use regulations adopted by the Tahoe Regional Planning Agency in acting on applications for proposed land uses in the Tahoe Basin.

Finding 2: The Commission finds that there is substantial evidence that installation of a cellular tower facility would not be compatible with various standards of the Regional Plan for the Tahoe Basin and the Code of Ordinances because:

- a. According to the Plan Area Statement 120, Tahoe Paradise Meadowvale, a transmission and receiving facility is a permitted use under the provisions for a special use. Under Chapter 21.2.2 Special Uses of the Code of Ordinances, a special use may be determined to be an appropriate use of the specified area if the following findings can be made:
  1. The project to which the use pertains is of such a nature, scale, density, intensity, and type to be an appropriate use of the parcel and surrounding area in which it will be located;
  2. The project to which the use pertains will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water, and air resources of both the applicant's property and that of surrounding property owners; and
  3. The project to which the use pertains will not change the character of the neighborhood, or detrimentally affect or alter the purpose of the applicable planning area statement, community plan, and specific or master plan, as the case may be.
- b. According to Chapter 36.6.1, Screening Elements, of the Code of Ordinances, the architectural design of a project shall include elements that screen from public view all external mechanical equipment, including communication equipment and utility hardware on roofs, buildings, or on the ground.
- c. According to Chapter 37.6.2, Additional Height for Certain Structures, of the Code of Ordinances, the maximum height specified in subsection 37.6.1 (26 feet) may be increased for communication towers and other similar projects up to the minimum height necessary to feasibly implement such projects. This additional height may be approved if the following findings can be made:
  1. The function of the structure requires a greater maximum height that otherwise provided for in Chapter 37; and

2. The additional building height is the minimum necessary to feasibly implement the project and there are no feasible alternatives requiring less additional height.

The Planning Commission concludes that the cellular tower facility is inconsistent with the above standards of the Regional Plan for the Tahoe Basin and the Code of Ordinances. ~~The Planning Commission wanted the TRPA to review and approve the cellular tower permits prior to the project coming to the Planning Commission.~~

### **3.0 Zoning Findings**

- 3.1 The County's Wireless Communication Facilities Ordinance (Section 130.14.210) sets forth the standards for development of wireless communication facilities within the County. As set forth below, the proposed project does not satisfy the visual requirements and development standards, nor meet the intent of the Wireless Communication Facilities Ordinance as determined by the Planning Commission. Therefore this Special Use Permit cannot be approved.

- 3.1.1 Section 130.14.210.B (Statement of Intent) of the County Code states "that it is in the interest of the public health, safety and welfare of the citizens of El Dorado County...(to) place facilities in areas where the adverse impact is minimal, thereby reducing the visual and potential visual intrusion of such facilities on the surrounding area."

Finding 3. Although the applicant verbally represented that the existing monopole on the adjacent property was not adequate for additional carrier antennas, the Planning Commission finds that another tower with an FAA-required light on top adjacent to an existing tower also with an FAA-required light on top would be excessive for an established residential area and would not meet the character of the neighborhood. Thus, the proposed project does not meet the intent of the County's Wireless Communications Ordinance.

### **4.0 Additional Findings**

- 4.1 Finding 4. The record provides no basis to suggest that the Commission's decision to deny the proposed project has unreasonably discriminated against the applicant in favor of providers of functionally equivalent services.
- 4.2 Finding 5. The record provides insufficient evidence to suggest that the Commission's decision to deny the proposed project has prohibited access to wireless communication services in the geographic area of the proposed project site, or prevents the filling of a significant gap in the wireless service provided by AT&T. The applicant represented that there is a need for improved cellular service in the area and identified four purported gap locations. Area residents, however, presented evidence challenging the significance of those gaps. Additionally, though the applicant represented that the proposed location is its preferred site for the project, the alternative site analysis provided does show that some of

the alternative sites or combinations of the sites could provide coverage to those identified gap areas. Accordingly, the applicant failed to make a prima facie showing that denial would have the effect of prohibiting the provision of wireless services.

- 4.3 Finding 6: The Planning Commission reviewed the information regarding purported coverage gaps and the alternative sites, including two multi-tower alternatives, and finds that there are potentially available and technically feasible alternatives. The information presented by the applicant was determined to be lacking in specificity and clarity in a number of areas. The alternative sites and gap analysis only considered areas of land and not populations served. The South Lake Tahoe area is very unique with significant topographical variations, significant forest vegetation, and significant snow in winter. The land use development patterns are dis-contiguous, and separated by significant open space and other features due to historical development activities and current development limitations by the TRPA. These factors necessitate additional alternative sites and gap analysis specific to the area. The information available to the Planning Commission did not demonstrate that the proposed site is the only alternative for service coverage.

The Planning Commission preference is to locate cellular tower facilities in less densely populated areas, such as the multi-site alternative 1 that provided a 70 percent geographic coverage match to the proposed project. The Planning Commission finds that some variation of that alternative should logically be able to provide the necessary coverage that the proposed project would otherwise provide while minimizing the computability issues previously discussed. Similarly, alternatives located on Federal lands, such as those owned by the USFS, which are very numerous in the South Lake Tahoe area, should be explored. The land in the South Lake Tahoe area is predominantly owned by state, federal, or conservancy organizations and should provide less impactful options for location of necessary cellular facilities. The Planning Commission does not intend to specify any particular alternative, only that the information provided for this project was not conclusive to demonstrate that it is the only site that would provide significant gap coverage. The Planning Commission's findings regarding land use compatibility demonstrate that location of the proposed cellular tower in a residential neighborhood is a significant concern and would be mitigated by the location of a tower (or a multi-tower alternative) in another location that would not be in close proximity to existing residences.

The Planning Commission finds that consideration of what constitutes a "significant gap" is an extremely fact-specific inquiry and that the proposed location is only one of many sites that could be developed with a cellular facility to provide service coverage. The Planning Commission also finds that the technical studies presented by the applicant to the Commission are inconclusive. The Commission desires that a comprehensive plan for cellular coverage for this region of South Lake Tahoe would be appropriate prior to approval of this project. The Planning Commission would prefer that the TRPA, in conjunction with federal agencies such as the USFS, resolve a plan for cellular facilities in the South Lake Tahoe area, since the federal laws on telecommunications facilities have burdened local jurisdictions with limited discretionary authority for new cellular towers.

**5.0 Summary of Findings and Conclusions**

Pursuant to County Ordinance Code Section 130.22.540, denial of a special use permit requires the approving authority to specify the grounds for the denial. As set forth more fully herein, S14-0009 has been found by the Planning Commission to be inconsistent with the General Plan and required zoning standards and detrimental to the public welfare and injurious to the neighborhood, requiring denial in accordance with Ordinance Code Section 130.22.540. The Planning Commission additionally finds that denial does not discriminate against the applicant, prohibit access to wireless service in the area, or prevent the filling of a significant gap in coverage.

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department - Planning Services at 2850 Fairlane Court, Placerville, CA 95667.

**6.0 Appeal Procedure**

In accordance with County Ordinance Code Section 130.22.220, the Planning Commission's decision can be appealed to the Board of Supervisors within ten working days from the date of this decision. Contact Planning Services at (530) 621-5355 for required application form and fees.

**7.0 Final Statement**

An amended County Code became effective on December 17, 2014. The purpose of the amendment was to arrange the County Code in an order indicative of the subject matter to which it pertains. Essentially, Chapter 17, known as the Zoning Ordinance, has now become Chapter 130, known as the Planned Development Ordinance. The context of the Chapter has not changed, only the name and numbering of the Chapter has changed.

**4. 15-0044** Hearing to consider a request to allow nine events with up to 150 attendees and wine tasting at an existing winery [Special Use Permit Revision S08-0012-R/Rancho Olivo Vineyards]\*\* on property identified by Assessor's Parcel Number 109-090-07, consisting of 21 acres, in the Cameron Park area, submitted by Nello and Danica Olivo; and staff recommending the Planning Commission take the following actions:

- 1) Find that the project is Categorically Exempt pursuant to CEQA Sections 15301 and 15303; and
  - 2) Approve Special Use Permit Revision S08-0012-R based on the Findings and subject to the Conditions of Approval as presented.
- (Supervisory District 2) (Cont. 01-22-15, Item 5)

Commissioner Miller recused himself due to the location of his personal property to the project and left the room.

Aaron Mount presented the item to the Commission with a recommendation for approval. He referenced the Staff Memo dated February 23, 2015 regarding a correction to the Staff Report on the project's location regarding the Cameron Estates CSD. Mr. Mount also recommended the deletion of Condition 9 as it was not enforceable by the County.

Danica Olivo, applicant, made the following comments:

- Love the area and the neighbors;
- Opposition is imagining a huge impact, but feels that no one will even notice what they are doing;
- In 2013, they allowed some friends to be married at their site and they were taken advantage of and regret it;
- The only event they had in 2014 was a BBQ;
- Love to do things for the community;
- People have stated they moved to the area because they were there;
- Read and submitted for the record a Fact Sheet; and
- Operated the Sequoia Restaurant in Placerville for 10 years under a Special Use Permit and they never violated it.

Nello Olivo made the following comments:

- Moved there in 1999;
- Those opposed to this are the same ones that attended their events;
- In 2013, they started events innocently, but stopped them when notified by Planning that they were in violation of their Special Use Permit;
- Admitted that because the events were weddings and invitations had already been sent out, he was unable to stop the events until July;
- The 3 Temporary Use Permits received in 2013 were for Wine Club events;
- Land has always been commercial;
- Events were started to bring the community together;
- Doesn't want the neighbors to be angry but not sure what else they can do;
- Still keeping other tasting room;
- This is primarily a vineyard;
- Although commercial property, it is by invitation only;
- There is no signage in the neighborhood for their establishment; and
- Authors of letters are against them and are trying to find a way to remove them.

Doug Noble made the following comments:

- Formerly an El Dorado County Planner and Planning Commissioner;
- Has known applicants for many years;
- Events are well-planned and attendees are reminded to be courteous to their neighbors; and
- Recommended approval.

Hope Leja made the following comments:

- Former General Manager for the Cameron Estates CSD;

- Spoke on original Special Use Permit in which the applicants had violated by having more events than what was allowed;
- County was notified of violations, but the public was told that they wouldn't be pursuing any action due to staffing shortage;
- Winery access roads are gated and privately maintained;
- No economic advantage for the County to approve this;
- Petition opposing this project was signed by 174 people;
- Since there were repeated violations of the original Special Use Permit, a revision should not be approved;
- Incompatible use with neighborhood;
- Submitted written statement and petition for Commission's review; and
- Subdivision's roads are privately maintained but publicly funded.

Eva Robertson made the following comments:

- Cameron Estates CSD Board President;
- Real estate attorney and broker;
- This project would be a disclosure item for anyone selling their property;
- Referenced the Staff Memo dated February 23, 2015; and
- Cameron Estates CSD is unable to charge applicants for increased usage of roads.

Paul Stanfel made the following comments:

- In 1980, moved to Cameron Estates;
- Previously, was a member of the Cameron Estates CSD Board;
- Many know that the roads are not up to standard;
- Requested the Commission consider the consequences of approving the project;
- Questioned if the tasting room would be moved to the site;
- Inquired if ABC was aware that alcohol was being served for monetary gain at the applicant's home site;
- Either deny project or direct County staff to bring roads up to standard and maintain them;
- Staff's research originally stated the parcel was not within the CSD, but now is stating that the information was incorrect;
- Definition of a winery is making significant amount of product on-site;
- This is a commercial enterprise;
- Barn is an event center and stating that it is safe would be an exaggeration; and
- Wants to ensure that the Commission is getting correct information.

Barbara Peters made the following comments:

- Bought property 28 years ago because of the rural area;
- Impacted by noise as she is adjacent to the applicants; and
- Didn't move there to have a commercial operation in the neighborhood.

Nancy Overman made the following comments:

- Been there for 35 years;



- Upscale community and can't understand how a commercial operation can be there;
- Neighbors never asked for this;
- In 2013, the applicants advertised weddings at their site; and
- This will affect property values.

Kathie Evans made the following comments:

- In January, submitted written comments;
- In 1998, moved there for the fabulous rural community;
- Applicants fought very hard against a Special Use Permit for a ballpark using the same reasons that the neighbors are using now for this project;
- Weekends should be for relaxation, family time, and homes should be people's sanctuary; and
- This is RE-5 zoning and should not be commercial use.

Karen Guthrie made the following comments:

- 40 years ago moved to the area when there were only 25 residences, now there are 297 residences and 300 lots;
- This is a rural residential area and it is a major decision to bring in commercial property;
- If approved, it will be a major change to all of the residents;
- Those who support and oppose the project all agree that the applicants are nice people and they give good parties;
- Original Special Use Permit and this revision are incompatible with neighborhood and violates the polices the Commission needs to make findings on;
- Existing Special Use Permit was violated, yet they are now asking for a revision;
- This revision is wiping out what couldn't be done in the original Special Use Permit and asking to do more;
- Spoke on findings needed to approve the project;
- Some of the conditions can't be enforced and it requires the residents to be monitors;
- Asked the Commission to exercise their common sense; and
- Requested denial of project and consider revoking the current Special Use Permit for violations.

Dick Pine made the following comments:

- This is a close knit community;
- Project has lots of opposition;
- This is a business venture and it has ramifications;
- Wine tasting is not different from wine drinking; and
- Questioned why the applicants are moving forward with their request when all of their neighbors are against it.

Linda Stanfel made the following comments:

- Has been a resident since 1980;
- Lives approximately one mile away;

- Knows the applicants very well and admires their hard work but is opposed to this request;
- Requested denial and revoke the original Special Use Permit based on repeated actions as they were a hazard and nuisance to the community and the permit sets a precedent;
- Since each owner owns to the middle of the road, if there is an accident in front of one of their homes, they would probably be dragged into litigation and this is a concern if there will be inebriated drivers on the roads;
- A previous guest of the applicants ran off the road and caused property damage;
- This is not compatible with the neighborhood;
- After the Agricultural Commission's meeting, Roger Trout suggested the applicants and neighbors meet, which they did and it was very emotional;
- Applicants are not trust-worthy in staying within the limits with their current Special Use Permit;
- Questioned why the Special Use Permit wasn't revoked due to violations in 2013;
- Inquired why this would be in the best interest of the County;
- Inquired why the benefit to one was going in front of the safety of many; and
- There are still some CC&Rs that have not yet expired but they are sprinkled throughout the neighborhood.

In response to Commissioner Pratt's questions, Ms. Guthrie responded with the following:

- Cameron Estates CSD objected to the original Special Use Permit but had no authority;
- There are three different CC&Rs within the subdivision, they are poorly written, and have expiration dates; and
- Development was created over 50 years ago.

Doug Bonetti made the following comments:

- Moved there 11 years ago for the rural setting;
- In the letters submitted, over 27 residents and 174 petitioners are against this project, with only 4 in support;
- Neighbors feel threatened by this project;
- Special Use Permit was approved for three events, but they did 20 in 2013, which the applicant said was done in accident and that is unacceptable;
- Approving request would jeopardize safety and quality of life for residents;
- Deny request and revoke Special Use Permit;
- At community meeting, they tried to reach a compromise; and
- Although public contacted the County regarding the violations in 2013, nothing was done.

Alan Baracco made the following comments:

- Lives in the direct line of traffic to the applicant's site; and
- Summarized number of events from 2009 to 2014.

Chair Stewart closed public comment.

County Counsel David Livingston made the following comments:

- The roads in question are very unique;
- Spoke on when a CSD is allowed to limit road access;
- Spoke on the Winery Ordinance in regards to roads;
- Spoke on the applicant's ability to contribute more to the CSD;
- Road maintenance is best left to the private agreement between parties;
- Read into the record LAFCO's comments on the road;
- Commission needs to look at this as a land use action; and
- Spoke on revocation process and although it was outside of today's item to take that type of action, the Commission could direct staff to return in order to initiate the revocation process.

Ms. Olivo provided the following rebuttal comments:

- Overwhelmed by the inaccurate comments stated today;
- Provided a summary of events that occurred;
- In 2013, had already exhausted the three Temporary Use Permits allowed per year and moved all events that had not yet sent out invitations to another winery;
- There are a lot of neighbors that are in support of the project and submitted a large aerial map indicating those in support vs. those in opposition;
- Distributed a petition; and
- Accident was actually a relative that had problems with the car's brakes.

Commissioner Shinault made the following comments:

- Everything would need to be brought up to code;
- Perhaps 150 people is too much and 9 events are too high; and
- Maybe more exploration and compromise is needed.

Commissioner Pratt made the following comments:

- For his formula, he uses 3.2 people per vehicle for events;
- Wine tasting is a social event;
- What is affected by the Special Use Permit has tremendous limitations vs. what is allowed by right with the Winery Ordinance and with the RE-5 zoning element, there are other items that need to be addressed;
- 2013 problems were as advertised;
- Was on the Agricultural Commission when it was originally proposed and on the Planning Commission when it came forward;
- Need to prove what's in place before expanding;
- Perhaps baby steps are needed;
- Recommended only 4 events total as community/charity events are more of a challenge and difficult to regulate;
- Four events would give a quarterly event for the wine club;
- Need to make it crystal clear when there are private events;
- Suggest having them return in a year for a review with the community; and
- Everyone had good points on both sides.

Commissioner Heflin made the following comments:

- Very concerned the applicants haven't shown compliance with the original Special Use Permit;
- Wouldn't consider more than 3 events after hearing today's testimony;
- Wants people to do these kind of things but not sure if this is the perfect place for that; and
- Not convinced on the request for expansion at this time.

Chair Stewart made the following comments:

- Clarified the application of the Winery Ordinance on this property;
- Clarified the reason why some Conditions of Approval were shown in strikeout format;
- Inquired on Agricultural Commission's meeting;
- More concerned about this being a RE-5 zoned lot in a community than the road element;
- Referred to the Zoning Ordinance regarding the purpose of RE-5 zoning;
- Doesn't fit with the area and isn't even comfortable with 3 events; and
- Considered it a stretch to even call this a full-fledged winery.

There was no further discussion.

**Motion #1**

**Motion: Commissioner Pratt moved, seconded by Commissioner Shinault, and FAILED (2-2), to take the following actions: 1) Find that the project is Categorically Exempt pursuant to CEQA Sections 15301 and 15303; and 2) Approve Special Use Permit Revision S08-0012-R based on the Findings and subject to the Conditions of Approval as amended: (a) Modify Condition 1 to show four events per year, with no public tasting room; (b) Delete Condition 9; and (c) Add new Condition requiring applicants return one year after first event.**

**AYES: Shinault, Pratt**  
**NOES: Heflin, Stewart**  
**RECUSED: Miller**

Discussion ensued on wine tasting appointments, amplified music, and the Temporary Use Permit process.

County Counsel Livingston informed the Commission that pursuant to the Commission's bylaws, it required a majority vote of the Commission to take action. If the Commission chose not to take action, then it would be considered a denial and would leave the existing Special Use Permit in effect.

**Motion #2**

**Motion: Commissioner Stewart moved, and FAILED for lack of a second, to keep the existing Special Use Permit with the addition of the paragraph in Condition 1 allowing for**

**wine tasting and the appropriate correction to Condition 2 that is struck out to be adjusted to allow for the wine tasting if it is considered a public event.**

County Counsel Livingston confirmed that the lack of action by the Commission would be considered a denial.

Chair Stewart announced that this could be appealed to the Board of Supervisors within 10 working days.

**2:00 P.M.**

**5. 14-1617** Community Development Agency, Development Services Division providing an information-only workshop on the Dixon Ranch Residential project (General Plan Amendment A11-0006/Rezone Z11-0008/Planned Development PD11-0006/Tentative Map TM11-1505) to discuss the project description with the Planning Commission prior to public hearing on the applications and Final Environmental Impact Report (FEIR). Any public comments are welcome and will be received and filed. No action by the Planning Commission will be taken. (Supervisory District 1)

Chair Stewart left his seat on the Commission and didn't participate in the workshop.

**No action taken.**

**CLOSED SESSION**

**6. 15-0047 Pursuant to Government Code Section 54956.9(d)(2), Significant Exposure to Litigation:** Title: Special Use Permit S14-0009/AT&T Cell Tower Skyline Drive: One (1) potential case. (Est. Time: 15 Min.)

**No action reported.**

**ADJOURNMENT**

Meeting adjourned at 5:55 p.m.

APPROVED BY THE COMMISSION

Authenticated and Certified:

 3/26/15

Rich Stewart, Chair