

MONO COUNTY PLANNING COMMISSION

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MINUTES FEBRUARY 9, 2006 (Adopted March 9, 2006)

Commissioners present: Ron Black, Scott Bush, Rick Kattelman, Sally Miller. **Absent:** Steve Shipley.

Staff present: Scott Burns, CDD director; Keith Hartstrom, principal planner; Gerry Le Francois, senior planner; Nick Criss, compliance specialist; Evan Nikirk, Public Works; Stacey Simon, deputy county counsel; C.D. Ritter, commission secretary.

1. **CALL TO ORDER:** Chair Rick Kattelman called the meeting to order at 10:11 a.m.

2. **PUBLIC COMMENT:** No items.

3. **MEETING MINUTES:** Review and adopt minutes of January 12, 2006.

MOTION: Adopt minutes of Jan. 12, 2006. (Miller/Bush. Ayes: 4. Absent: Shipley.)

4. **CONSENT AGENDA:** No items

5. **PUBLIC HEARINGS:**

A. VARIANCE 05-02/Barnes & Hoover. This project proposes reductions in the required 20' front yard, 10' rear and side yard and 30' streamside setbacks in order to construct a single-family home on a 7,500-square foot lot in the Petersen Tract of June Lake. The lot is constrained by topography and Reversed Creek runs through the southwest corner of the subject parcel, APN 16-203-07. A categorical exemption under CEQA is proposed. *Staff: Gerry Le Francois*

Gerry Le Francois described building constraints – a steep embankment and the creek. Plenty of trees and water exist on site. He has received a fair number of calls and comment letters in opposition. Commissioner Bush asked whether the parcel was intended for a house when originally subdivided. Le Francois said lots in June Lake looked good in two dimensions, but didn't consider topography. Commissioner Bush asked whether the property would be condemned if the project were denied. Stacey Simon indicated that the legal standard is whether it is deprived of all economic use. It's a balancing test: the land might be unbuildable, but still would have economic use (e.g., a neighbor might buy it for open space). Owners should have been advised of constraints.

DISCUSSION: Commissioner Black supported the project, but suggested care in removing trees and dealing with the flood plain. Commissioner Miller concurred, and thought the project met requirements for granting a variance. Commissioner Bush objected to reduced setbacks. He preferred a scaled-down project another 8' away from Reversed Creek. In conciliation to opponents, the home is not a permanent residence. Commissioner Kattelman thought the two-story structure should have a 30' setback from the creek, not June Lake CAC's recommended 20'. [*Secretary's note:* The 20' setback is part of the June Lake Area Plan.] June Lake has cramped, elongated parcels. Commissioner Miller thought lots were made too small. "They wouldn't fly today," Le Francois said.

OPEN PUBLIC HEARING: Dena Barnes, applicant, said the Barnes bought the property from the closest neighbor in hopes of building a dream cabin. They have spent a year and a half changing it to

DISTRICT #1
COMMISSIONER
Rick Kattelman

DISTRICT #2
COMMISSIONER
Steve Shipley

DISTRICT #3
COMMISSIONER
Ron Black

DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Sally Miller

become a reality. She said they do not want to encroach on anyone else's property and are willing to put the work into it. The property was represented to them as a buildable lot.

Commissioner Bush thought that 2,400 square feet is not a "cabin." **CLOSE PUBLIC HEARING.**

MOTION: Adopt and instruct staff to file a Categorical Exemption, adopt the findings in the staff report with two additional conditions, and adopt Variance 05-02 to allow construction of a home and garage within the reduced setbacks: 10.5' front yard, 5.5' side and rear yard, and not < 22' from Reversed Creek. (Black/Miller. Ayes: 3. Nay: Bush, due to reduced creek setback. Absent: Shipley.)

What can be done to avoid such future variance requests? Possibilities included denying this project, revisiting the 20' stream setback issue, or requiring a maximum structure size (e.g., 1,000 square feet). Scott Burns suggested that the Design Guidelines preparation process include the wording "substandard lots should fit within setbacks," or include in the General Plan a policy on developing constrained lots.

B. CONDITIONAL USE PERMIT 31-05-05/Nextel. The proposed Nextel wireless telecommunications facility will be located at 112775 U.S. 395, north of Coleville (APN 01-100-50). The facility will consist of a 40' monopole with an equipment shelter approximately 12' wide and 20' long located near the base of the monopole. The purpose of this site is to provide coverage in the Antelope Valley from Topaz Lake south to the community of Walker. The General Plan designation for the site is Resource Management (RM). *Staff: Keith Hartstrom & Gwen Plummer*

Keith Hartstrom described the proposed project and presented a PowerPoint.

OPEN PUBLIC HEARING: Tim Miller, proponent, already installed a 45' pole at a Topaz Lodge site. Transmission is affected when U.S. 395 dips into the hills heading south, so a new site would serve the area well. American Tower came in four to five years ago with a few sites that could have been multi-user sites. As soon as a tower is up, other carriers will come along. He mentioned an approved cell site on federal land near the Bridgeport water tank, where Nextel will be the first network. Federal viewshed guidelines have been met. In an effort to cover June Lake to Topaz Miller will be back requesting sites in June Lake, Bridgeport and Lee Vining.

John Nygard, property owner, suggested that the Planning Commission could give a tentative OK for other towers.

Rose Murray of Walker said blank spots exist along U.S. 395, and a new tower would fill gaps.

CLOSE PUBLIC HEARING.

DISCUSSION: There was discussion on preapproving future carriers. Having at least two carriers per site would limit the number of poles. Miller said carriers could share poles but not shelter space.

MOTION: Find that the project qualifies as a Class 3 Categorical Exemption, make the required findings as contained in the project staff report, and approve Use Permit 31-05-05/Nextel with modification to Condition#1: "Without the approval of the Planning Commission a **Director Review**." (Bush/Miller. Ayes: 4. Absent: Shipley.)

6. INFORMATION: INDIAN ALLOTMENT PARCELS IN MONO COUNTY

Staff: Nick Criss, compliance specialist

Nick Criss found that the parcels mentioned are treated like a reservation, held in trust by the federal Bureau of Indian Affairs. Mono County has no regulatory jurisdiction over these parcels. The Antelope Valley parcels, held in trust for individuals, are private. Stacey Simon indicated that Camp Antelope is called "Indian country or Indian lands." Reservations or allotments are Indian lands. Commissioner Bush asked whether Indian lands could be sold to non-Indians. Simon explained that Indian allotments were federal government directive on how the country should treat Native Americans. Instead of the paternalistic care of a reservation, the government gives them pieces of land. Commissioner Bush suggested that it's Mono County's responsibility to notify

adjacent property owners that there is no County control over that land. Simon indicated it's a "buyer-beware situation."

7. WORKSHOP: AGRICULTURAL POLICY REVIEW: *George Milovich, agricultural commissioner*

Scott Burns described agricultural preservation as a new, evolving issue in Mono County. He showed a PowerPoint recently presented at the Antelope Valley RPAC.

George Milovich indicated that Mono County has twice the agricultural production of Inyo, with potatoes, garlic, carrots and alfalfa. Agriculture provides economic benefit to counties and keeps options open as markets change. According to Stacey Simon, the Inyo-Mono Farm Bureau is drafting a right-to-farm ordinance.

The Williamson Act is a stop-gap measure when urban uses encroach on farm land, but conservation easements are permanent. Easements, however, potentially can pull property out of the county tax base.

On clustering, Commissioner Miller commented that people do not want their house next to someone else's. According to Commissioner Bush, the conception in Antelope is that one house on 10 acres is open space. Antelope does not want houses close together. To them, clustering looks like a tract. The RPAC wants open space, but not necessarily agriculture. Horses are not considered agriculture.

Milovich noted 20 ranches in Antelope Valley, with 18,000 acres of agricultural land. Most people do not want to subdivide now, but that could change when ranchers have no kids to run their ranch in the future. One rancher is putting his land into a conservation easement.

There was discussion on adjusting private vs. public land. Milovich suggested federal land exchanges to provide more options. Burns wants to encourage the RPACs to buy into community-based planning. Mono County is working on a subdivision ordinance and taking responsibility on how to allocate available land. Mono has some choices. Milovich wants to protect agriculture, but hesitates telling people what to do with their land.

8. REPORTS:

A. DIRECTOR: 1) The Mono Supervisors did not grant the Dockum & Hefner appeal. 2) The Mize project has three more hearings: a Board workshop Feb. 21, a Planning Commission hearing March 9, and a Board hearing March 21 in Chalfant. The project has been revised, and the new map needs review. 3) White Mountain Estates SP/EIR has 42 lots. Alquist-Priolo concerns exist. Mono County wants an existing private mutual water company to service both projects. The developer thinks he's being held hostage by the water company. 4) Water studies are under way at Rodeo Grounds in June Lake and Rock Creek Estates in Paradise.

B. PLANNING COMMISSIONERS: Miller attended a land trust party that attracted lots of folks. Kattelman announced the ALIMAR economics conference June 23-24 in Mammoth Lakes.

9. INFORMATION: No items.

10. ADJOURN: 1:11 p.m.

Respectfully submitted,
C.D. Ritter, commission secretary