



WASHOE COUNTY BOARD OF ADJUSTMENT DRAFT Meeting Minutes

Board of Adjustment Members

Clay Thomas, Chair
Kristina Hill, Vice Chair
Lee Lawrence
Brad Stanley
Kim Toulouse
Trevor Lloyd, Secretary

Thursday, April 4, 2019
1:30 p.m.

Washoe County Administration Complex
Commission Chambers
1001 East Ninth Street
Reno, NV

The Washoe County Board of Adjustment met in regular session on Thursday, April 4, 2019, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

Chair Thomas called the meeting to order at 1:31 p.m. The following members and staff were present:

Members present:	Clay Thomas, Chair Kristina Hill, Vice-Chair Lee Lawrence
Members absent:	Brad Stanley Kim Toulouse
Staff present:	Roger Pelham, Senior Planner, Planning and Building Division Julee Olander, Planner, Planning and Building Division Jacob Parker, Planner, Planning and Building Division Michael Large, Deputy District Attorney, District Attorney's Office Trevor Lloyd, Planning Manager, Planning and Building Division Donna Fagan, Recording Secretary, Planning and Building Division

2. *Pledge of Allegiance

Chair Thomas led the pledge to the flag.

3. *Ethics Law Announcement

Deputy District Attorney Michael Large recited the Ethics Law standards.

4. *Appeal Procedure

Trevor Lloyd recited the appeal procedure for items heard before the Board of Adjustment.

5. *General Public Comment and Discussion Thereof

As there was no response to the call for public comment, Chair Thomas closed the public comment period.

6. Approval of Agenda

Chair Thomas stated that Item 8D would be moved to the May 2 2019 meeting per Appellant's request. In accordance with the Open Meeting Law, Member Lawrence moved to approve the agenda of April 4, 2019 as amended. The motion, seconded by Member Hill, passed three in favor and none opposed.

7. Possible action to approve March 7, 2019 Draft Minutes

Chair Thomas said on page 6 of the minutes, there was no "member" name stated in the second of the motion. Member Lawrence moved to approve the minutes of March 7, 2019 with the noted addition. The motion, seconded by Member Hill, passed three in favor and none opposed.

8. Public Hearings

The Board of Adjustment may take action to approve (with or without conditions), modify and approve (with or without conditions), or deny a request. The Board of Adjustment may also take action to continue an item to a future agenda.

C. Special Use Permit Case Number WSUP19-0001 (Incline Village Monopole) - For possible action, hearing, and discussion:

1. To approve a special use permit for the construction of a new wireless cellular facility consisting of a 117-foot high stealth monopole structure (aka cell phone tower disguised to resemble a pine tree) designed as a collocation facility; and
2. To approve a minor deviation to vary the height standard and increase the monopole by 5 feet, to a total height of 117 feet.

The monopole is proposed to be located on a vacant parcel, approximately 100 feet south of the intersection of Incline Way and Village Blvd. on the west side of Village Blvd. approximately 30 feet west of the easterly parcel line bordering Village Blvd.

• Applicant:	Incline Partners, LLC
• Property Owner:	KBS Ltd.
• Location:	Approximately 100 feet south of the intersection of Incline Way and Village Blvd. on the west side of the Village Blvd.
• APN:	132-221-11
• Parcel Size:	8,078 sq. ft.
• Master Plan:	Commercial (C)
• Regulatory Zone:	General Commercial (GC)
• Area Plan:	Tahoe
• Citizen Advisory Board:	Incline Village/Crystal Bay
• Development Code:	Authorized in Article 324 Communication Facilities; and Article 810, Special Use Permits
• Commission District:	1 – Commissioner Berkbigler
• Staff:	Julee Olander, Planner
• Phone:	775.328.3627
• E-mail:	jolander@washoecounty.us

Chair Thomas opened the public hearing.

Chair Thomas called for member disclosures. Member Hill said she has attended community meetings where this topic was discussed. DDA Large said if her deliberation on the matter isn't impacted, he doesn't see any reason for a recusal.

Julee Olander, Washoe County Planner, provided a staff report presentation.

Member Hill said she is confused that TRPA requested for the additional height with additional branches of the tree. She asked about a cap at the top. Ms. Olander said the cap will give it a top without branches. She doesn't believe it will be visible.

Member Lawrence asked about the significant gap in coverage. Ms. Olander said that section is vague. She said she will refer to Mr. Lloyd. There is significant gap in coverage identified. Mr. Lloyd read from Article 324.55 significant gap coverage.

Member Hill asked if the parcels are owned by the same person and if TRPA considers it the same area. Ms. Olander said that was one of the criteria they had to address with TRPA. The applicant can provide more information. Member Hill explained how parcels and land coverage works. Ms. Olander said it wouldn't be allowed as a separate parcel for parking. It doesn't meet code; it would be grandfathered in. Member Hill said she doesn't understand why it's not showed as one parcel. Ms. Olander said they are legally two parcels. The parking lot doesn't meet code currently.

Chair Thomas said TRPA requested additional height in order to include a cap on top to make it look more like a tree.

Ms. Olander added that TRPA didn't have an issue with landscaping; they wanted it as natural as possible.

Mike Flynn introduced himself and partner, John Peterson, of Incline Partners LLC. Mr. Flynn provided background about Incline Partners, LLC. He said he is a resident in Incline Village. He spoke about partnerships and projects in other states.

Mr. Flynn addressed the questions about the coverage needed – it's considered underserved in Incline Village and Crystal Bay. He said the area near downtown and down to the lake is underserved, including: post office, shopping market, and Ponderosa subdivision. They don't have service inside the buildings. Small portions in the Mill Creek area are underserved. There is a dead zone in Crystal Bay up to Stateline. The proposed site will cover all these underserved areas. He said no one is using land lines anymore. People require in-building cell service and they don't currently get it. This will increase capacity; speed for data on internet service will be improved. The system is overloaded and evident during peak tourist season. 70-80% of emergency calls are made from cell phones and that will increase over the years as people get rid of their land lines. First Net will give priority of cell service to first responders. Network providers looking to co-located are AT&T, Verizon; and Sprint. T-Mobile is looking into it as well. TRPA code for cellular is permissible use with a special use permit. This met all the criteria imposed on us. Site mitigations include branches; the tower vendor is to supply green and brown needles to present a more realistic tree. There will be a simulated bark. The top half will have additional branches to cover the antennas – that is the additional 5-feet requested. He spoke about the wood slating fencing to cover the back-up generator.

Mr. Flynn said he had a company conduct a study for the standby generator. Cedars have been recommended by an arborist for additional screening landscaping.

Mr. Flynn spoke about community outreach and notices: He said he attended the former Bonanza meeting. He said there were 25-30 residents with Q&A. The Citizen Advisory Board heard this project in March. There were notices that went out to the community. TRPA expanded the notices to include two notices – initial notice to solicit comments, and then an expanded notice to a 1/4 mile which include 650 residents prior to hearing meetings.

Major objections expressed by the public included: Heath and safety with radio frequency concerns. Mr. Flynn noted FCC sets the standards. We are in full compliance with only 6% of standards levels. Visual mitigation will be integrated into the final design. Location issues – the location optimizes the coverage. It's general commercial zoning. The public also voiced noise and safety concerns - he said the other issue is that it's too close to schools which are not the case. Mr. Flynn said the public said it's not the highest and

best use for the property – he said it's prohibited to develop any new commercial. There was also community support who spoke in favor of the tower. He said they complied with concerns and regulation.

Member Hill stated properties have been combined with deed restriction on the property. Member Hill asked if coverage will be transferred. Mr. Flynn said yes. TRPA approved this in November, and they are waiting on Washoe County to issue permit. Member Hill asked if the coverage being transferred is commercial – Mr. Flynn said coverage doesn't have categories. It will be appropriate land capability. It doesn't require CFA because it's a utility use.

Member Hill spoke about a case in California near a school where kids had cancer. Mr. Flynn said to prevent public outcry, they moved the tower. It was done voluntarily.

Chair Thomas referenced the LTE coverage map. He spoke about the before and after coverage, if the cell tower is installed. It would cover a significant area. This is an identified land use. He spoke about coverage out into the bay. Mr. Flynn said Ponderosa will get coverage. He spoke about how the engineers adjust the antennas which won't necessarily point towards the water. He said radio frequency is good on the lake because there isn't anything to stop it. Chair Thomas asked about emergency calls from boats.

Public Comment:

James Beres requested denial. He said he lives 500 feet from proposed site. He provided a detailed letter for the record. It's inappropriate use of the parcel with negative impact to residents. He said the images show a 117 foot tower, but it's misleading to show it without scale to height. The trees will be removed. The tower will stand out as an eye sore. The mechanical yard will not hide equipment. He said the tank for generator is a fire hazard. That land is better served as residential. The County maintenance yard wasn't even considered as a location. The coverage map is not adequate and misleading. The tower will change the character of the neighborhood. Property owners will be negatively impacted. It will cause property values to go down.

Wayne Ford said he lives in one of the coverage white zones and he said he has had coverage. He said he works in architecture. He said he is most concerned about, other than maps not being correct, impacts on the scenic area. He said the fence will be 32 feet from the walking path that people use as a main corridor in the summer. TRPA didn't realize the site plan was 15 years old. He said he is a designer who did an addition on Incline Dental. One of the trees is 24.5 inches and is considered old growth. TRPA needs to revisit the quality of site plan. It's not with the character of the area. There are other ways to solve the coverage issue. There will be more commercial area in the community plan which is part of growth.

Michael Abel said he lives 300-400 feet from the proposed tower. The commissioners have responsibility to protect the environment and residents. He said TRPA's focus is to protect and ensure health and safety for the future. There are concerns with increased health risks, safety, and noise impacts. He said it will negatively impact property values. We will subsidize the property. Cell tower was moved off of a school property in Ripon, California after 4 students and teachers contracted cancer. He said there may be a language barrier to those being impacted. The internet has research about the risks of cell tower. Europe standards are 1/10 of what the US standards are. He asked why this location; why can't the tower be located remote from population center.

Pete Todoroff, Chair of CAB, moderator of community forum, said there were two notices to CAB members on this issue. It was a mistake. There were only two members who received it; that is why there wasn't more opposition. He asked this Board to decline the project. He gave six reasons for denial outlined in a letter to the Board. The map that shows the gap in coverage is inaccurate. New smaller towers can fill that coverage. First Net provides coverage for first responders. This is not needed. Negatively impacts surrounding residents. It's not appropriate for the parcel. It will change the character of the area. There will be health and fire risks. Property values will be impacted.

Carol Black said she lives near the proposed site. She handed out slides. She spoke about public safety of the tower – potential for falling debris, ice, and risk of a worker falling during installing and maintaining. It's a small site. She asked what if it catches on fire and causes a wild fire. There is a fall zone concept – if tower collapse, where would it fall. It could hit the adjacent dental office, highway, office building, or people walking on Incline Way. She said the noise from generator was excluded from analysis. What if someone

climbs the tower. She spoke about recent incidences of fire, ice, and wind, wind collapsing a tower. There are wind speeds recorded at high levels. It's industry driven by profit. Catastrophic events are possible. Consider other alternatives with less risk.

William Black spoke about the health effects. The FCC is not on our side. They only address the heating affects for 30 minute exposure. The residents in the area will be exposed 24/7. There is ample data at the cellular level on DNA and hormones such as reproduction. There is scientific data available in publications reviewed by biologists and doctors. Cellular radiations can cause issues. We have no proof it can kill anyone after 10 years. He said asbestos, cigarettes, and radium took many years to show they caused cancer. There is no doubt the cellular can cause damage. The FCC doesn't consider it adequate. The law doesn't allow you to disapprove of the application, but find reasons to disapprove it.

Carl Thoms, 23 year resident, said the cell service in the area near the Hyatt is poor. He is a real estate agent and relies on his phone for business. He said the service is highly inadequate. He asked the Board to approve it for standard levels for cell service.

John Eppolito, 20 year resident, said the coverage map is not accurate. He said he has coverage. The tower is out of scale with the surrounding area. Community Master plan is in the process of being updated. We should wait for that to be updated. He said a tower was proposed at Incline Fire Station, and they fought that. He said it was denied when proposed at the high school. He said the middle school parents haven't been notified. Infants and children will be within that area for many years. Please reject the proposal.

Alec Flores said he lived in Incline his whole life. It won't guarantee more cell service. He spoke about the net neutrality guidelines. Architectural Digest named Incline Village the prettiest town in Nevada for the past few years. He is opposed to the proposed cell tower.

Lynette Cardinale, resident since 1992, said she gets wonderful service in Mill Creek. She said she is concerned that it's continuous encroachment on our community and natural treasure. It was declined being proposed on our high school, so why not decline it in the middle of our town. She said TRPA had issues with kayak racks at Ski Beach, but will allow this in the middle of our town. She cannot imagine something so obtrusive. This cannot be permitted. People move there for health reasons. It impacts the beauty of Incline Village and Lake Tahoe.

Harlan Rodriguez, 27 year resident, said he lives on Enterprise, 300 feet from the tower. He said there are 29 apartments, 70 people living there. He said there are health risks. He believes in Murphy's Law. He said he owns and manages those properties and it will impact the residents and our beautiful town. Please deny this tower.

Robert Holman said he lives 75 feet from Village. He builds to TRPA standards and tries to update the community. He said he has been on several planning boards. He said the Board needs to consider the 'for or to' propositions. Who do you work 'for.' 'To' whom are you accountable. He said you should be accountable to residents of Incline. They are the most important. This is a bad thing. The map is flawed. You are making a decision based on information that isn't accurate. If you don't do anything today, at least ask for an updated map of cell coverage. Ask why the tower wasn't proposed at the Sheriff station. You should table the approval until you get real information. Without real information, it's a flawed decision. It will be a wrong decision.

Jack Dalton said he opposes the proposal by Incline Partners. He said there was a deficit with notifying the people in the immediate area who weren't informed by Incline Partners. Please postpone this indefinitely or at least until everyone can be notified. He said the kids at the school need to be notified.

Mr. Lloyd provided some reminders: he said there has been discussion of health impacts, but this Board is excluded from exploring that in their deliberation. The discussion regarding the significant gap is not justification for approval or denial. It comes into play when the zoning is residential. It's not part of discussion for general commercial per code.

Chair Thomas asked Mr. Flynn of the map origination. Mr. Flynn said his consultant provided it using topographical mapping. Chair Thomas asked about the criteria they use. Mr. Flynn said current 4G LTE power level configuration for 4 carriers. He spoke about radio waves continue until they hit something and decrease in power. He said Incline is sloped and heavily forested. He said if the coverage and need for a

new cell tower wasn't there, why would all 4 carriers want to go on it. It's a huge cost to them. They aren't doing it for no reason. He said data transmission on networks need coverage for them to work. In a weak coverage area, you cannot connect to internet and get email. He said you may be able to get a call, but might not be good quality. Each carrier has different sites; most of them are at the Mountain Golf Course. AT&T and Sprint is on the Hyatt. He said the site on Diamond Peak cannot get down to the Village; it's for Highway 28. He said there was a lot of misinformation shared in public comment tonight.

Member Lawrence asked for the rendering of the tree with tops. He asked about the bottom branches height. Mr. Flynn said bottom branches are at 30 feet. Member Lawrence said we don't see representation of the tree line. He said he would like to see different views with other trees around them. The volume of the tree will be above the existing canopy. Mr. Flynn said the survey was done in September of 2018. All the trees are marked as true and correct. Only one tree is to be removed. There is no cell site at Tahoe Blvd.

Member Lawrence asked if Mr. Flynn has any documentation that states the height of trees are 80 feet. Mr. Flynn said just a site visit with TRPA.

Member Hill thanked everyone who came to speak. She said it was a big representation of who is against the cell tower. She said she has never had an issue with cell service. She spoke with others who don't have issues with cell service. She said she doesn't believe its appropriate use for that parcel. The community plan is being updated. She said something is more appropriate in the commercial lot in the middle of Incline. She said this is not appropriate use for this property in our little town.

Member Lawrence said it's difficult to hear these cases, especially residential. He said 117 feet is really tall. He said commercial zoning allows for this. He commends Mr. Flynn for the green and brown needles for simulation. He said he doesn't feel this project was accurately represented today. He said there was no comparative analysis. The trees of 24 inch diameter are not old growth. There isn't enough disguising in this natural setting. He said he doesn't feel comfortable with residents having to view this without opportunity to make a comparison in report. He said he is on the fence about this project. He said he understands the need for this and it's in commercial area.

Chair Thomas echoed what Member Lawrence stated. Chair Thomas said he has no reasons to doubt the coverage maps; why would it be made up. He said Mr. Lloyd addressed the fact that health concerns aren't to be taken into account; not our purview. He said he conducted some research to educate himself, he searched cell towers through American Cancer Society and found nothing to connect cell phone towers to cancer. He said we don't have that information now; there may be findings in the future. He agreed with Member Lawrence regarding the height. He said he struggles with a monopole 30-40 taller than the tree line. He said we consider site suitability which is allowable, consistency with TRPA plan and community plan. TRPA tends to have issues with these things and they are in favor of this project. He said this is difficult. Cell phone coverage is important. He said not only do we need coverage in car, but inside houses as we age, we need coverage in our homes in case there is an emergency.

Member Lawrence said there are a significant number of letters that are in support with one gentleman who attended to show support. Those who wrote letters of support indicated the coverage is spotty.

Member Hill said it was a signed form letter. There are a huge amount of people who attended to provide public comment. It's gross negligence of this Board to go against what the people in Incline want. She said the people in support signed a form letter and didn't take time out of their busy day to come down here. We heard from the people who live in this area. People have AT&T. It's misinformation reported as fact. She said there are health factors. Roundup is still being sold. The government hasn't done anything about it. She said she is a mother who lost her child to cancer.

Chair Thomas said everyone on AT&T has coverage, but not everyone has AT&T. The tourists that come to town don't necessarily have AT&T. If you put all carriers on the pole, you will have better coverage.

Member Hill said it's not safe for our community, not appropriate, not suitable, changes character, could pose environmental and health risks to neighborhood. They don't want it. How can we approve it if all these people don't want it. One person said they want it. Chair Thomas said we are supposed to be neutral with facts set before us. He said it's not fair to public or applicant to interject our personal opinions. We need to look at facts, public comment, letters, reports, and presentations that have been presented for us to make a decision predicated on the Washoe County Code we are bound by, to see if it meets the standards.

Member Lawrence moved to adopt all of the eight findings listed in the staff report and based on those findings approve Special Use Permit Case Number WSUP19-0001 for Incline Partners, LLC, subject to the conditions contained in Exhibit A to the staff report. The findings are adopted based on individual consideration of information contained in the staff report (including, but not limited to the staff comments regarding the findings) and all exhibits as well as testimony and exhibits presented at the public hearing. Counsel for the Board and the Board Secretary are hereby directed to prepare a written Action Order consistent with this motion. Chair Thomas seconded the motion which carried, two for and one against. Member Hill denied approval.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Tahoe Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable a for a telecommunications facility (monopole) for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area.
5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

12. Adjournment

Meeting adjourned at 4:06 p.m.

Respectfully submitted by Misty Moga, Independent Contractor

Approved by Board in session on May 2, 2019

Trevor Lloyd
Secretary to the Board of Adjustment