Washoe County Appeal of Decision to Board of County Commissioners

Your entire application is a public record. If you have a concern about releasing personal information please contact Planning and Building staff at 775.328.6100.

Appeal of Decision by (Check one)

Note: Appeals to the Washoe County Board of County Commissioners are governed by WCC Section 110.912.20.

☐ Planning Commission	☒ Board of Adjustment
☐ Hearing Examiner	☐ Other Deciding Body (specify) _____

Appeal Date Information

Note: This appeal must be delivered in writing to the offices of the Planning and Building Division (address is on the cover sheet) within 10 calendar days from the date that the decision being appealed is filed with the Commission or Board Secretary (or Director) and mailed to the original applicant.

Note: The appeal must be accompanied by the appropriate appeal fee (see attached Master Fee Schedule).

Date of this appeal: April 17, 2019

Date of action by County: April 4, 2019

Date Decision filed with Secretary: April 8, 2019

Appellant Information

Name: Robert Holman (see Exhibit 1, List of Appellants)	Phone: (775) 853-0883
Address: James M. Walsh, Esq., Walsh, Baker & Rosevear	Fax: (775) 853-0860
9468 Double R Blvd, Ste A.	Email: jmwalsh@wbrl.net
City: Reno State: NV Zip: 89521	Cell: (775)762-5818

Describe your basis as a person aggrieved by the decision:

Appellant Robert Holman is a property owner within 500' of applicant's tower and appeared at the hearing on 4/4/2019. Additional appellants listed on Exhibit 1 all are Incline Village property owners and/or appeared at the hearing on 4/4/2019.

Appealed Decision Information

Application Number: WSUP19-0001

Project Name: Incline Village Monopole

State the specific action(s) and related finding(s) you are appealing:

Washoe County Board of Adjustment approval with conditions of Special Use Permit Case WSUP19-0001.

See Exhibit 2, List of Findings Appealed.

Appealed Decision Information (continued)	
Describe why the decision should or should not have been made: See Exhibit 3 for why the decision should not have been made.	
Cite the specific outcome you are requesting with this appeal: Denial of WSUP19-0001	
Did you speak at the public hearing when this item was considered?	☒ Yes ☐ No
Did you submit written comments prior to the action on the item being appealed?	☒ Yes ☐ No
Appellant Signature	
Printed Name: Robert Holman, by his attorney James M. Walsh, Esq.	
Signature:	
Date: 12 April 2019	

MEMO: Ms. Bridget K. Cornell, Associate Planner, Current Planning, bcornell@trpa.org

From: Robert and Robin Holman, 214 Village Bl., Parcel 132-232-13

FORMAL NOTICE OF OPPOSITION

Proposed Project: Construction of 117' Cell Tower, Generator Building, and 220 Gallon Diesel Fuel Tank, 231 Village Bl. in the Commercial and Residential visual corridor of Incline Village. Robert and Robin Holman, residing at 214 Village Blvd., approximately 75 yards across the Village Blvd. visual corridor from the proposed project **object to the location, construction, operation, and inevitable expansion of a visual, noise, and EMF radiation polluting tower and generator.**

To paraphrase TRPA's stated responsibility: *"to preserve and enhance the unique natural and human environment, while improving local communities and peoples' interactions with our irreplaceable environment, and ensuring community health and safety for future generations"* leads to the unequivocal basis for a decision to **deny TRPA project approval.** The entire scope of this project has predominately negative environmental, economic, health, and safety consequences and is absolutely contrary to TRPA's stated mission.

There is no compelling topographic or geographic logic to demonstrate placing the tower in the population center will result in coverage superior to locating the tower on property already approved proximate to the Washoe County Sheriff's substation near the 28/431 traffic circle. TRPA has a responsibility to its constituents in Incline Village to improve the environment, not denigrate it with unsightly and polluting projects. Stop this project now.

The economic impact unbalanced. Modest revenue to the developer from installation of a cellular tower next to homes and businesses benefits only one entity. Meanwhile, the negative impact on proximate property values, demonstrated by numerous studies, is far more serious. If the value of neighboring homes and business falls from 4% to 20% and salability or rent ability becomes difficult or impossible because potential buyers, residents, and tenants do not wish to live or work near a cellular tower, significant negative economic consequences, harming many citizens, will be caused by TRPA approving this proposed permit.

Cellular companies tout benefits: faster data, better service, more coverage. Like the tobacco and drug companies, proponents overlook the ever increasing body of research on the human health effects and safety of the tower emitting radiation and electro-pollution. Should Incline residents become part of the 'great experiment' resulting from oversaturation of electromagnetic and wireless radiation exposure? TRPA should and must eliminate that risk to our population by denying this permit.

The noise pollution resulting from running the generator and day and night trucks performing maintenance is a demonstrable public nuisance. A back up diesel generator, run weekly for maintenance/performance tests, will add to both noise and air pollution in the neighborhood, which is unnecessary especially since there is a much better, and much safer location on available to serve the developer's need.

The tower will grow from the proposed four antennae to more attachments; they all expand. As more radiation emitting facilities are added, the tower will become even a bigger eyesore. Property values will be harmed, additional backup generators will be a potential, more diesel pollution, more noise pollution, and more visual pollution all along what is arguably one of Incline Village's most important visual corridors. It's TRPA's mandate to carefully monitor and protect visual corridors. This is a prime example of where TRPA can and should protect by denying the permit.

cc: jmarchetta@trpa.org

EXHIBIT 1

APPELLANTS

Counsel for Appellants:

James M. Walsh, Esq.
Walsh, Baker & Rosevear
9468 Double R Blvd., Ste. A
Reno, Nevada 89521
Tel: (775) 853-0883
Fax: (775) 853-0860
Email: jmwalsh@wbrl.net

Appellants:

Robert Holman
214 Village, Unit 1
Incline Village, Nevada 89451
APN: 132-232-13
rhmessage@gmail.com

Wayne Ford
731 Lynda Court
Incline Village, Nevada 89451
APN: 124-043-42
waynefordresidentialdesigner@yahoo.com

Peter Todoroff
120 Country Club Drive, Unit 18
Incline Village, NV 89451
(775) 831-7526
ptodoroff1@sbcglobal.net

Ronda Tycer
814 Toni Court
Incline Village, NV 89451
APN: 125-142-03
rondatycer@aol.com

Jack Dalton
980 Cart Court
Incline Village, NV 89451
APN: 131-012-15
jack.f.dalton44@gmail.com

Appellants (continued):

Amanda Bloomer
731 Lynda Court
Incline Village, NV. 89451
APN: 124-043-42

Michael and Helen Abel
900 Southwood Blvd. #4
Incline Village, NV 89451
APN: 132-591-05

Additional Residents Opposing Tower

Ben Dosseff
915 Incline Way, Unit 103
Incline Village, NV 89451
APN: 132-621-03
bensbd1@gmail.com

Jim and Robin Beres
899 Southwood Blvd.
Incline Village, NV 89451
APN: 127-470-02
jberes@comcast.net
robin.beres@icloud.com

Carole Black
144 Village Blvd, #33
Incline Village, NV 89451
APN: 127-071-34
cbwillb@vharter.net

Tom & Lynette Cardinale
1056 Sawmill Road
Incline Village, NV 89451
APN: 130-163-13
tomcat1944@icloud.com
tomlyn.14@gmail.com

Harlan Rodriguez
214 E. Enterprise Street
Incline Village, NV 89451
Pinebrook Apartments
har_249@icloud.com

Svata Trossen
1461 Glarus Court
Incline Village, NV 89451
APN: 126-550-17

Appealed Decision Information (continued)	
Describe why the decision should or should not have been made: See Exhibit 3 for why the decision should not have been made.	
Cite the specific outcome you are requesting with this appeal: Denial of WSUP19-0001	
Did you speak at the public hearing when this item was considered?	☒ Yes ☐ No
Did you submit written comments prior to the action on the item being appealed?	☒ Yes ☐ No
Appellant Signature	
Printed Name: Robert Holman, by his attorney James M. Walsh, Esq.	
Signature: Wayne Ford 731 Lynde Court Arcadia	
Date: 4/13/19. Valley MN 89451	

Wayne Ford for appeal of action by BOA on 4/4/19 I was at the hearing, spoke and submitter written comments prior to the action.

From: Wayne Ford (waynefordresidentialdesigner@yahoo.com)

To: dvollmer@wbrl.net; ptodoroff1@sbcglobal.net; rondatycer@aol.com; jmwalsh@wbrl.net

Date: Friday, April 12, 2019, 3:31 PM PDT

WSUP19-0001

As a resident of Incline Village I submitted statements and evidence to the BOA. Those statements and evidence was the basis for denial of the application for the Incline Village Monopole. I also spoke on the record my reasons for not supporting the application to this project . The impact as a property owner in Incline is the placement devalues the community, where proposed. The case for the added service was not made. I find my service level great. Yet my home was shown on maps by the applicant to not have any service at all. I also object to the County of Washoe being responsible for the removal of the tower if the use is suspended for one year of more. As a tax payer I do not believe it should be up to us to have to take care of a failed company.

I also find it not reasonable to take away from the scenic aspect for the area proposed. The area of Village Blvd is one of our most walked areas with a class one path. This main area of access to the beaches and Lake Tahoe should not be impacted by a commercial yard / a generator and noise levels that are not in keeping to the scenic quality of Lake Tahoe. I also believe that the design of the tree like structure is not a problem in outer areas of our region. Yet having such a man made structure trying to look like a tree in the small area of a parcel ,in the center of a mixed use area ,
is not in keeping with a good use of the property.

The notice of people and families impacted by this tower was flawed . Many families were never
given proper notice to the development of it. Most , if not all of these families, are in opposition to the tower being place where it is proposed. They never had a voice in the process.

Wayne Ford 731 Yaneh Ct Incline Village NV 89451

Denise Vollmer

From: Pete Todoroff <ptodoroff1@sbcglobal.net>
Sent: Sunday, April 14, 2019 5:51 AM
To: Denise Vollmer
Cc: Pete Todoroff
Subject: 5 G

Good Morning Denise:

The reason I sent you the U Tube Video was because the 117 Foot Cell Tower is old 4 G Technology and the New 5G is devoid of putting towers in places where the better use of the land would be housing since the Area is Zoned Residential and Commercial. The other thing I wanted to point out is if this 4G tower doesn't work Washoe County is obligated to remove it and not the Applicant. If you would like to talk to me about this please feel free to contact me at 775 831 7526. Pete Todoroff Chairman of the CAB. I mentioned that the 4G Tower was old Technology when the Applicant came to my IV?CB Community Forum but the Applicant said it was still not proven but below this proves the Applicant is mistaken according to President Trump, and the Tower Experts. Thank You for your Consideration.
Pete Todoroff

https://www.youtube.com/watch?v=hrdMnxjg1WE

iMac 3.06
Pete Todoroff
ptodoroff1@sbcglobal.net

Denise Vollmer

From: rondatycer@aol.com
Sent: Tuesday, April 16, 2019 6:35 PM
To: Denise Vollmer; waynefordresidentialdesigner@yahoo.com; ptodoroff1@sbcglobal.net; rhmessage@gmail.com
Subject: Additions to Appeal Letter
Attachments: TahoeProsperityCenter.docx

Dear Denise,

To be included:

6. That the communications facility meets all standards of Sections 110.324.40 through 110.324.60.

Incline Partners has not complied with Article 110.324.55.

Incline Partners claims they are allowed 10 feet of height on the tower because they have proved a significant gap in coverage. Trevor Lloyd said their need to prove a significant gap in coverage doesn't exist because the parcel is a commercially zoned parcel and 110.324.55 only pertains to residential parcels. If 110.324.55 does not pertain to commercially zoned parcels, why do they say they have proved a significant coverage gap that allows them 10' of height on the pole?

WCC Article 110.324.55 Significant gap coverage.
"A significant gap for purposes of this article shall include a white area where no cellular service from any carrier is available. A wireless facility shall be permitted at any location if the applicant can demonstrate by technical studies that (a) the facility is for personal wireless service as defined by applicable Federal statutes and regulations (b) that the facility at the site proposed is necessary to close an existing significant gap or gaps in the availability of personal wireless service and (c) the facility in the location proposed is therefore eligible for the following increase in allowable height of the monopole. The height of the antenna shall be limited to the building standard height for an allowed structure plus up to 10 feet above the height in any residential regulatory zone or... and there's a list of height standards based on pole height and distance from residential properties... (*See Table 110.324.50.*1) which comply with these standards."

WCC Article 110.324.50
"Monopole mounted antennas are restricted from being located in the following locations unless a "significant gap" (see Section 110.324.55) can be demonstrated with a technical review:

"Public trails as exist are proposed on the adopted Regional Open Space Plan and as exist or are proposed on an adopted Washoe County Park District Master Plan and within one thousand (1000) feet of a public trail as described in this section."

The proposed tower will be less than 50 feet away from a public paved right of way (Walking Path/Village Blvd) and less than 500 feet away from an adjacent residential/commercial development (214 Village Unit 1). Even if not zoned "residential," TRPA is treating the adjacent parcel at 214 Village #1 as mixed residential/commercial.

Table 110.324.50.1 (not entire table)
"Permitted Height of Pole relative to Distance from Residential Zoned Property or Public Paved Right of Way (closest adjacent use will be applied)

At 50 ft away, permitted height is 45 ft - this will pertain.
At 200 ft away, permitted height is 50 ft
At 400 ft away, permitted height is 60 ft
At 600 ft away, permitted height is 70 ft.
At 1000 ft away, permitted height is 80 ft.

By extrapolation, at 500 ft away, permitted height is 65 ft, not the 80 ft Incline Partners is using as a starting point in their calculations of permissible cell tower height.

Other points:

I want to mention the obvious Conflict of Interest of Washoe County Commissioner Marsha Berkbigler who is on the board of the Tahoe Prosperity Center, and is the representative on the Commission for Incline Village. (See attached.) Marsha found reasons not to attend the Community Advisory Board meeting on 3/4/19 or the IV Community Forum for the past several months. She's well aware that the majority of Incline Village is against the tower. Also, not all the Board of Adjustment members were present to vote at the 4/4/19 meeting. Why? Who was absent? Was that absence intentional?

Another point is that we think public input against the tower was purposely suppressed by the planner Julee Olander. No letters against the tower were included in the Board of Adjustment Members packets; five letters in favor were included, and supposedly there were another 50 letters in favor of the tower included. But when we asked for copies of those 50 letters we did not get them. Instead, Julee Olander emailed Wayne Ford 57 letters of which 43 were against the tower. Where are the 50 letters in support? Why were no letters against the tower included in the packets? Do they even exist?

Thanks,
Ronda Tycer

-----Original Message-----
From: Denise Vollmer <dvollmer@wbrl.net>
To: Wayne Ford <waynefordresidentialdesigner@yahoo.com>; Pete Todoroff <ptodoroff1@sbcglobal.net>; rhmessage@gmail.com <rhmessage@gmail.com>; rondatycer@aol.com <rondatycer@aol.com>
Sent: Mon, Apr 15, 2019 6:48 pm
Subject: Appeal

All:

Attached is my very rough draft. I am sending to you at this time to inquire if I have missed some points. Some of these are duplicative and some are in the wrong place so I will be working through those issues as you are reviewing. I will attach comments/emails of the other individuals named herein.

I will add in the others named by Wayne and move around the information.

Appealed Decision Information (continued)	
Describe why the decision should or should not have been made: See Exhibit 3 for why the decision should not have been made.	
Cite the specific outcome you are requesting with this appeal: Denial of WSUP19-0001	
Did you speak at the public hearing when this item was considered?	■ Yes ☐ No
Did you submit written comments prior to the action on the item being appealed?	■ Yes ☐ No
Appellant Signature	
Printed Name: Robert Holman, by his attorney James M. Walsh, Esq.	
Signature:	
Date:	

980 Cant Court
Incline Village, NV
89451

Bad location inappropriate for Incline at this location.

Thanks,

Denise Vollmer

From: Pete Todoroff <ptodoroff1@sbcglobal.net>
Sent: Friday, April 12, 2019 5:43 PM
To: Denise Vollmer
Cc: Pete Todoroff
Subject: Fwd: IV/CB COMMUNITY FORUM AND CELL TOWER APPEAL

iMac 3.06
Pete Todoroff
ptodoroff1@sbcglobal.net

Begin forwarded message:

From: Jack Dalton <jack.f.dalton44@gmail.com>
Subject: Re: IV/CB COMMUNITY FORUM AND CELL TOWER APPEAL
Date: April 12, 2019 at 3:32:44 PM PDT
To: Pete Todoroff <ptodoroff1@sbcglobal.net>

Pete, I am opposed to the cell tower. It is in the wrong location being inappropriate for the site despite being zoned "commercial" as it is mostly a residential neighborhood. thanks Jack Dalton 980 Cart Court Incline Village, NV 89451

On Thu, Apr 11, 2019 at 6:05 AM Pete Todoroff <ptodoroff1@sbcglobal.net> wrote:

> Just a Friendly reminder the IV/CB Community Forum Meeting is April 12, 2019 from 9AM to 10AM Located at the Incline Village Library located at 845 Alder Ave. Incline Village 89451. Tell a Friend.
>
> Hello everyone Please send me an email to send to the Appeal Board to let me know if you are for or against the Special Use Permit WSUP 19-0001 117 Foot Cell Tower located next to the Dentist Office 231 Village Blvd. in Incline Village Nevada. Please include your Address along with your comments. Thank You Pete Todoroff Moderator of the IV/CB Community Forum.
>
> iMac 3.06
> Pete Todoroff
> ptodoroff1@sbcglobal.net

Appealed Decision Information (continued)

Describe why the decision should or should not have been made:

See Exhibit 3 for why the decision should not have been made.

Cite the specific outcome you are requesting with this appeal:

Denial of WSUP19-0001

Did you speak at the public hearing when this item was considered?	☒ Yes ☐ No
Did you submit written comments prior to the action on the item being appealed?	☒ Yes ☐ No

Appellant Signature

Printed Name: Robert Holman, by his attorney James M. Walsh, Esq.

Signature: Amanda Bloomer 731 Lynda Court Incline Village NV. 89450

Date: 4/14/19

Been + Raised In Incline Village.

• I was at the Hearing on 4/4/19

Appealed Decision Information (continued)	
Describe why the decision should or should not have been made: See Exhibit 3 for why the decision should not have been made.	
Cite the specific outcome you are requesting with this appeal: Denial of WSUP19-0001	
Did you speak at the public hearing when this item was considered?	☒ Yes ☐ No
Did you submit written comments prior to the action on the item being appealed?	~~☒ Yes~~ ☒ No
Appellant Signature	
Printed Name: Robert Holman, by his attorney James M. Walsh, Esq.	
Signature: Michael Abel	
Date: April 14, 2019	

resident 900 Southwood Blvd #4
Incline Village, NV

This tower will be a giant eyesore.
It will generate noise in a very quiet area.
Proximate neighbors were not notified of this possible tower installation by county.
Applicant stated that the areas of poor service were the areas in West Incline Village and Crystal Bay as well as in East Mill Creek.
Why put this oversized tower so far from where the service is "needed".
Not revealed that Tahoe Prosperity Center that advocated for the tower was contributed to by Washoe County.

OVER

Appealed Decision Information (continued)	
Describe why the decision should or should not have been made: See Exhibit 3 for why the decision should not have been made.	
Cite the specific outcome you are requesting with this appeal: Denial of WSUP19-0001	
Did you speak at the public hearing when this item was considered?	☐ ~~Yes~~ ☒ No
Did you submit written comments prior to the action on the item being appealed?	☐ ~~Yes~~ ☒ No
Appellant Signature	
Printed Name: Robert Holman, by his attorney James M. Walsh, Esq.	
Signature: Helen Abel (attended hearing with my husband)	
Date: April 14, 2019	

Resident Full Time - 900 Southwood #4
Incline Village, NV
89451

This is a mixed meighborhood - TRPA approved low income housing and houses in the "Commercial" area. Not an appropriate place for a tower! It is a very busy street & walkway!

Denise Vollmer

From: Pete Todoroff <ptodoroff1@sbcglobal.net>
Sent: Friday, April 12, 2019 5:41 PM
To: Denise Vollmer
Cc: Pete Todoroff
Subject: Fwd: Cell tower

iMac 3.06
Pete Todoroff
ptodoroff1@sbcglobal.net

Begin forwarded message:

From: Ben Dosseff <bensbd1@gmail.com>
Subject: Cell tower
Date: April 11, 2019 at 6:48:13 AM PDT
To: ptodoroff1@sbcglobal.net

Ben Dosseff
915 Incline Way unit 103 Incline Village, NV 89451
I'm voting against the approval. The location is a location where it would be unsightly for the community and myself. I live within a half a block of the location and do not want mega radio waves passing through me. Again I vote against the Cell tower approval.
Thank you
Ben Dosseff

Denise Vollmer

From: Pete Todoroff <ptodoroff1@sbcglobal.net>
Sent: Friday, April 12, 2019 5:41 PM
To: Denise Vollmer
Cc: Pete Todoroff
Subject: Fwd: IV/CB COMMUNITY FORUM AND CELL TOWER APPEAL

iMac 3.06
Pete Todoroff
ptodoroff1@sbcglobal.net

Begin forwarded message:

From: <jimberes@comcast.net>
Subject: RE: IV/CB COMMUNITY FORUM AND CELL TOWER APPEAL
Date: April 11, 2019 at 12:00:51 PM PDT
To: "'Pete Todoroff'" <ptodoroff1@sbcglobal.net>
Cc: "Robin Beres" <robin.beres@icloud.com>

Pete,

My wife and I hereby request that Washoe County **deny the application** for the proposed Incline Village Monopole. We are full time residents of Incline Village whose house is approximately 500 ft from the proposed site. We have already provided detailed explanations of our objections which are in the record. We would like to highlight our three main concerns:

1. **A cell tower is an inappropriate use of the parcel in the heart of Incline Village and will have a negative impact on the surrounding businesses and residences nearby such as ours.**
   - The images of the 117 ft tall tower provided are misleading as they do not show to scale the tower height, which is nearly 30 ft taller than the adjacent trees, nor do they accurately show the unattractive maintenance yard at ground level. The combination of these two features will make the tower stand out as an eyesore.
   - A 210-gallon diesel fuel tank for the backup generator poses a potential environmental and fire hazard if it leaks.
   - The generator noise heard during power outages will be a disturbance to the surrounding area and residents such as ours.
   - This parcel is better served for a commercial or residential buildout, not a cell tower.
   - Public lands that could potentially better serve the purpose, such as the County Maintenance Yard, were not even considered for the project.
2. **The improved cell coverage map provided is inaccurate and misleading**
   - New smaller towers can fill coverage gaps such as those planned at 885 Tahoe Blvd

- Enhanced Voice over IP Service is offered free of charge by carriers such as AT&T and Verizon and greatly enhance indoor coverage.

3. **The tower will detrimentally change the character of the neighborhood and be potentially injurious to residents.**

   - Property owners nearby will be negatively affected by the perceived health risks of High Frequency Radiation, increased risk of property damage due to tower collapse or fire damage, and will suffer negative impact on property values due to these perceived hazards.

Given these reasons, my wife and I do not support the tower at the proposed location and respectfully ask you to deny the applicant's request.

Regards,

Jim and Robin Beres
899 Southwood Blvd
Incline Village, NV 89450

Denise Vollmer

From: Pete Todoroff <ptodoroff1@sbcglobal.net>
Sent: Friday, April 12, 2019 5:42 PM
To: Denise Vollmer
Cc: Pete Todoroff
Subject: Fwd: ? re requested email

iMac 3.06
Pete Todoroff
ptodoroff1@sbcglobal.net

Begin forwarded message:

From: cbwillb@charter.net
Subject: ? re requested email
Date: April 11, 2019 at 5:07:05 PM PDT
To: '"ptodoroff1@sbcglobal.net"' <ptodoroff1@sbcglobal.net>

Pete, I have drafted an email which includes the tower height issue and also has attached my prior opposition letter which I had sent before the prior meeting directly to the County BOA.
I am writing for your opinion - Is this too much at this point? ie do you simply want a brief opposition statement? would you prefer that we omit the height discussion?
Thanks, Carole Black

Denise Vollmer

From: Pete Todoroff <ptodoroff1@sbcglobal.net>
Sent: Friday, April 12, 2019 5:43 PM
To: Denise Vollmer
Cc: Pete Todoroff
Subject: Fwd: Cell Tower

iMac 3.06
Pete Todoroff
ptodoroff1@sbcglobal.net

Begin forwarded message:

From: Lynette Cardinale <tomlyn.14@gmail.com>
Subject: Re: Cell Tower
Date: April 12, 2019 at 4:40:28 PM PDT
To: Pete Todoroff <ptodoroff1@sbcglobal.net>

My name is Lynette Cardinale, 1056 Sawmill Rd, Incline Village

I am AGAINST the cell tower being placed on Village Ave
The questionable health risks, destruction of scenic paths and traffic use, the undesirable usage of this property close to homes/families, businesses, schools. This location does not keep the integrity of our forested environment and pristine beauty of the lake so close.

Lynette Cardinale

On Fri, Apr 12, 2019 at 4:28 PM Pete Todoroff <ptodoroff1@sbcglobal.net> wrote:

Hello everyone Please send me an email to send to the Appeal Board to let me know if you are for or against the Special Use Permit WSUP 19-0001 117 Foot Cell Tower located next to the Dentist Office 231 Village Blvd. in Incline Village Nevada. Please include your Address along with your comments. Thank You Pete Todoroff Moderator of the IV/CB Community Forum.

iMac 3.06

Pete Todoroff
ptodoroff1@sbcglobal.net

Denise Vollmer

From: Pete Todoroff <ptodoroff1@sbcglobal.net>
Sent: Friday, April 12, 2019 5:42 PM
To: Denise Vollmer
Cc: Pete Todoroff
Subject: Fwd: IV/CB COMMUNITY FORUM AND CELL TOWER APPEAL

iMac 3.06
Pete Todoroff
ptodoroff1@sbcglobal.net

Begin forwarded message:

From: Thomas Cardinale <tomcat1944@icloud.com>
Subject: Re: IV/CB COMMUNITY FORUM AND CELL TOWER APPEAL
Date: April 12, 2019 at 12:24:57 PM PDT
To: Pete Todoroff <ptodoroff1@sbcglobal.net>

My name is Tom Cardinale, resident of Incline Village and I am against the cell tower location proposed on Village

Sent from my iPhone

On Apr 11, 2019, at 6:10 AM, Pete Todoroff <ptodoroff1@sbcglobal.net> wrote:

> Just a Friendly reminder the IV/CB Community Forum Meeting is April 12, 2019 from 9AM to 10AM Located at the Incline Village Library located at 845 Alder Ave. Incline Village 89451. Tell a Friend.
>
> Hello everyone Please send me an email to send to the Appeal Board to let me know if you are for or against the Special Use Permit WSUP 19-0001 117 Foot Cell Tower located next to the Dentist Office 231 Village Blvd. in Incline Village Nevada. Please include your Address along with your comments. Thank You Pete Todoroff Moderator of the IV/CB Community Forum.
>
> iMac 3.06
> Pete Todoroff
> ptodoroff1@sbcglobal.net

Denise Vollmer

From: Pete Todoroff <ptodoroff1@sbcglobal.net>
Sent: Friday, April 12, 2019 7:24 PM
To: Denise Vollmer
Cc: Pete Todoroff
Subject: Fwd: Against WSUP 19-0001

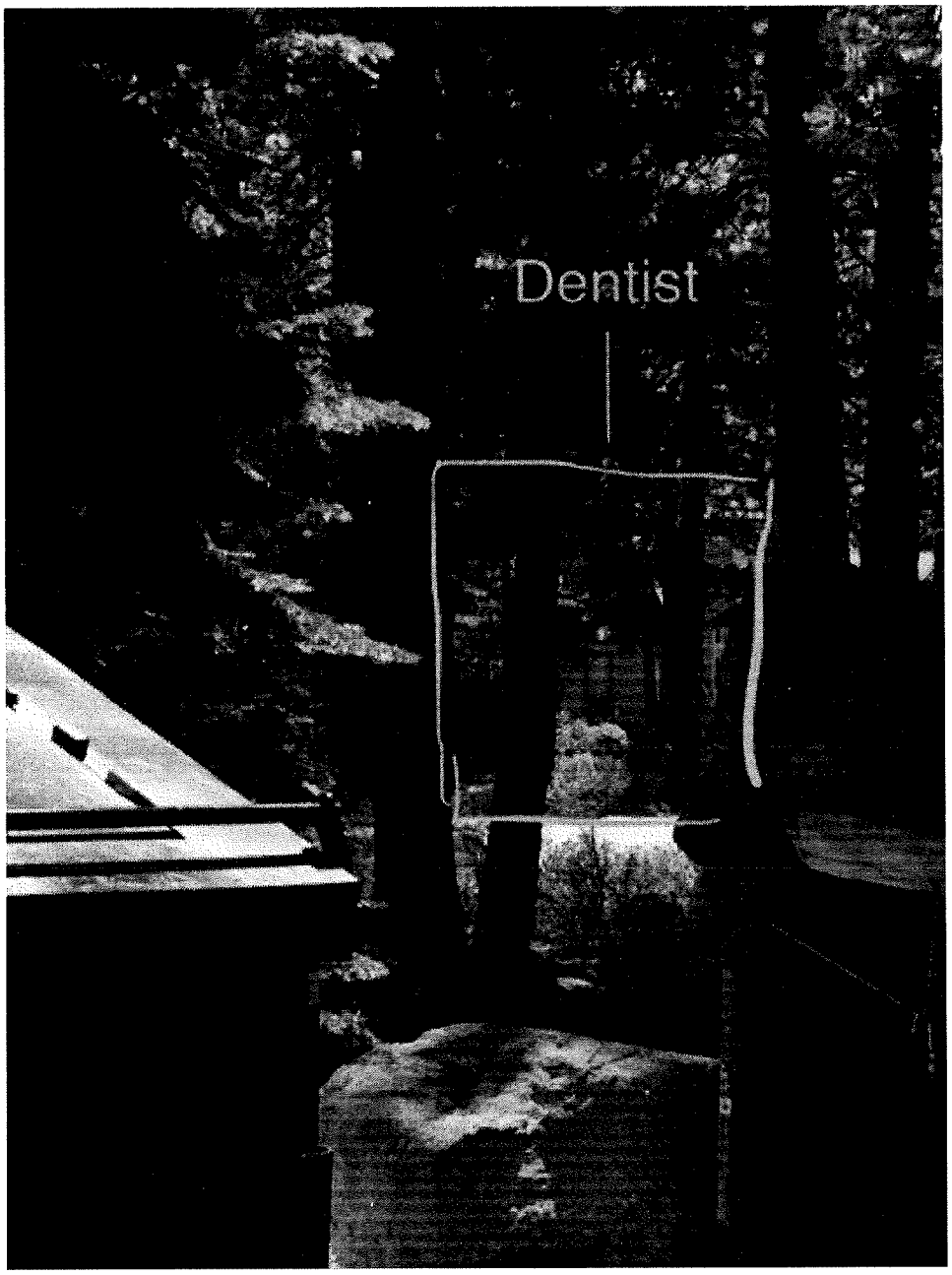
iMac 3.06
Pete Todoroff
ptodoroff1@sbcglobal.net

Begin forwarded message:

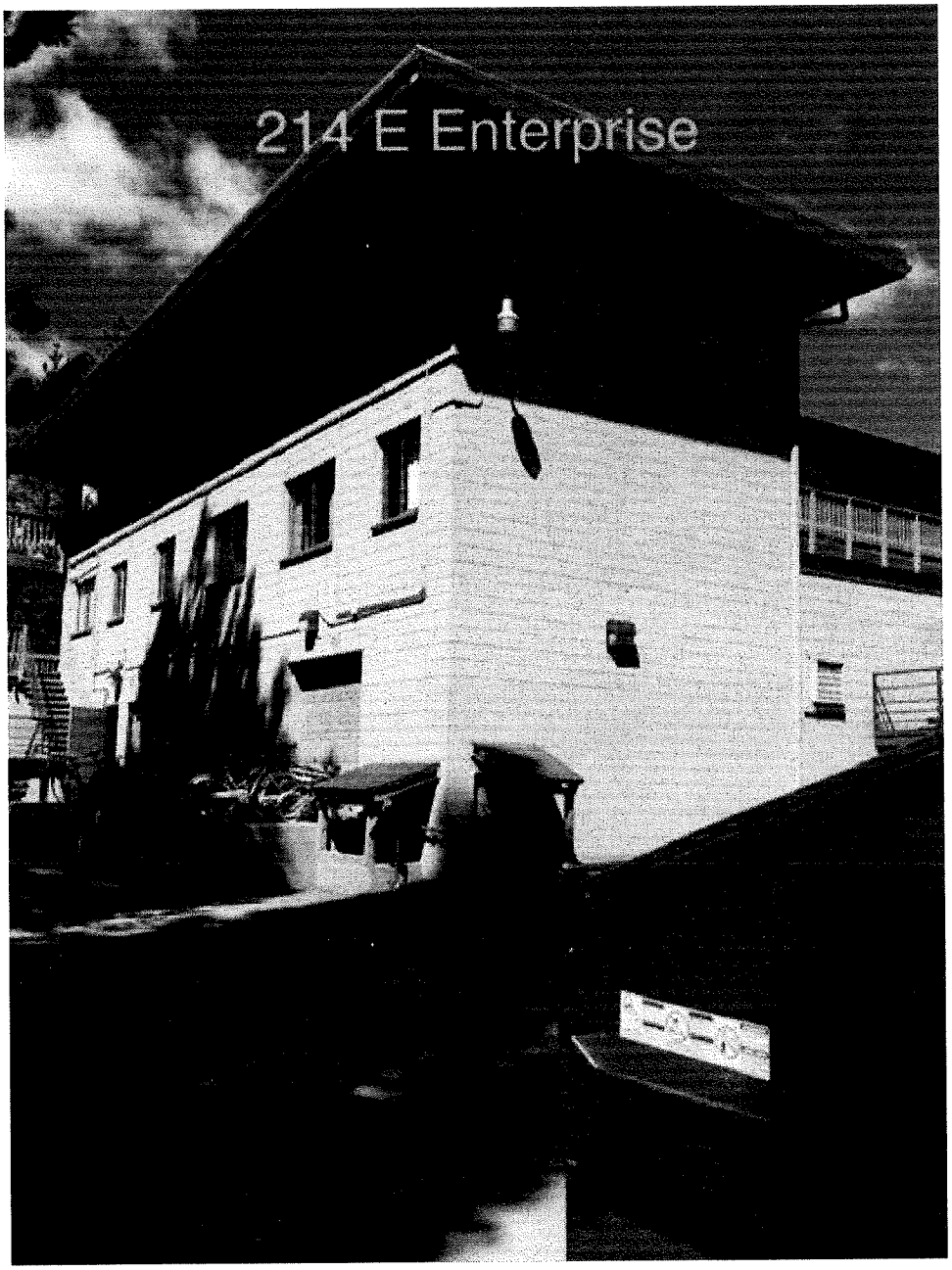
From: Harlan Rodriguez <har_249@icloud.com>
Subject: Against WSUP 19-0001
Date: April 12, 2019 at 6:16:45 PM PDT
To: ptodoroff1@sbcglobal.net

My name is Harlan Rodriguez and I am against the Special Use Permit WSUP 19-0001 for the 117 foot cell tower that would be located at 231 village blvd in Incline Village. I reside at 214 E Enterprise St, Incline Village Nevada. I also happen to manage this apartment complex where 29 of my tenants, along with their families, reside. The cell tower would be located about 330 feet from where we reside, and it will be clearly visible to us. Not only am I against the cell tower because it will be clearly visible from where I reside, but because it is not necessary. I believe it's not necessary because I don't have issues with cellular service. Whether it's in the west, east, north, or south of Incline Village, I do not have issues with cellular service. Nor, do I have issues with WiFi at home. I'm sure the majority of the actual Incline village residence can agree that there is no need for the tower. There are also the health risks of living so close to a cellular tower. To my knowledge, It is not clear what are the actual health consequences for living close to a cellular tower but I still don't want to put my health, and that of my tenants, at risk. Thank you.

In this picture you can see how close the dentist property is to our residence.



This second picture shows where I took the first picture. That building right there is where I reside/work.



Sent from my iPhone

Denise Vollmer

From: Pete Todoroff <ptodoroff1@sbcglobal.net>
Sent: Friday, April 12, 2019 7:47 PM
To: Denise Vollmer
Cc: Pete Todoroff
Subject: Fwd: CELL TOWER

iMac 3.06
Pete Todoroff
ptodoroff1@sbcglobal.net

Begin forwarded message:

From: Svata <sk8rs@charter.net>
Subject: Re: CELL TOWER
Date: April 12, 2019 at 7:34:23 PM PDT
To: Pete Todoroff <ptodoroff1@sbcglobal.net>

To the Board of Adjustment,

I, Svata Trossen, residing at 1461 Glarus Court in Tyrolian Village, Incline Village am against allowing the cell tower to be built at this location. Our elevation is 7200' and we have a view of the lake and lower Village. My understanding is that the tower, as proposed, will rise approximately 30 feet above the existing natural tree line and will stand out like an eyesore in spite of the "brown needles" they promise will be interspersed with the artificial green needles.

Also the proposed fence to hide all the equipment necessary for the tower to work as designed will probably not be solid and will not adequately camouflage it from pedestrians, cyclists and drivers. I also have reservations about its safety and stability during some of our high windstorms. In my opinion because of its height of 117' it could fall over on the dental office, sidewalk or even onto Village Boulevard causing damage and possible injury.

We love our Village and do not want its beauty spoiled by this tower and its accompanying equipment, traffic and maintenance requirements. Please do not permit it to be built on this parcel!

Thank you.

(Mrs.) Svata Trossen

Pete Todoroff wrote:

Hello everyone

EXHIBIT 2

SPECIFIC ACTIONS AND RELATED FINDINGS YOU ARE APPEALING

Findings per WCC Section 110.810.30

1. Consistency. That the proposed use is consistent with the action programs, policies, standard 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 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.

Findings per WCC Section 110.324.75

6. That the communications facility meets all standards of Sections 110.324.40 through 110.324.60.

7. That public input was considered during the public hearing review process.

8. That the monopole or lattice tower will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County.

EXHIBIT 3

WHY DECISION SHOULD NOT HAVE BEEN MADE

Applicant did not meet the following requirements and/or the facts presented did not support the finding required and standard set forth in WCC 110.324.40-60.

1. **Consistency. That the proposed use must be consistent with the action programs, policies, standard and maps of the Master Plan and the Tahoe Area Plan.**

   The project is not consistent with the action programs, policies, standards and maps of the Master Plan and the Tahoe Area Plan.

   The applicant presented no maps, technical data or carrier certifications to show gaps in coverage as required by WCC 110.324.45 and 110.324.55. No carrier propagation maps or technical data were presented only an unauthenticated map of unknown origin showing areas of no coverage. Evidence presented by many people at the meeting confirmed that they have good and full coverage cell service in the area.

   The site plan was not correct. The site plan used was from 2002. No new site plan was ever presented to the board or the public at the meeting. The area was identified by applicant as being commercial, however, there are apartments and residential homes shown on the maps provided by applicant, evidencing the area is clearly not just a commercial area but also a residential area.

   The applicant stated that there will be no more commercial floor area for Incline. This is not accurate; a new community plan and incentives are in progress.

   The project area was represented for only commercial use. It is now both commercial and also residential with some commercial mixed. Future use under the new community plan will be mixed.

   The Incline Village Community Plan is being drafted. One possible use of the area is for mixed commercial and residential. That possibility would be precluded if the tower were built. The lot is one of the few in the middle of incline village that could help create a central point in the village. It is too valuable to devote to a cell tower. No new use of the area should be considered until the Community Plan is finalized.

   The adjacent dental office is 87 feet from the proposed tower. The dental building could not expand, nor add future parking because the coverage for the lot would be usurped by the tower. The dental office traffic is considerable, and during peak hours patients often need to park on Village Boulevard.

At least six (6) home owner associations are in the affected area. High density residential is within a few blocks of the proposed tower site. The 250-unit McCloud Condominiums are one block from the proposed location, Condominium complexes are within 250 feet of the site and multi-family units, housing 12 or more families, are 330 feet from proposed tower location.

TRPA Chapter 21, Permissible Uses, 21.2.2(C) states:

> 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.

A cell tower on the property will significantly and negatively change the character of the neighborhood. Property values of nearby residences will be affected because potential buyers will not want to live close to a cell tower.

A sound report was prepared, however it was never discussed nor presented at the meeting and its adverse findings ignored.

Applicant's plans are in violation of Nevada law, Section 1, Chapter 623 of the Nevada Administrative Code, NRS 633.023 and NRS 623.025, requiring a stamp by the licensed professional preparing the plans. The plans were not stamped, nor was the survey used for the plan. The firm listed on the plans does not have a Nevada license. The person listed, Larry Kent Houghtby, held a California General Engineering Contractor's license No. 775482, which is now listed as "inactive".

2. **<u>Improvements</u>. It is required 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.**

Adequate utilities and roadway improvements have not been provided. The proposed improvements are not properly related to existing and proposed roadways, and adequate public facilities.

Utilities : NV Energy was not contacted. The size of Generator is a concern for the ability to supply the site from existing service poles. May require transformer upgrades for area.

Failure to notify the communications division of Washoe County of the new tower. Not presented in findings of no interference not made.

Many people who rent apartments who live very near the tower were never notified, and one spoke at the hearing in opposition.

3. **<u>Site Suitability</u>. That the site must be physically suitable for a telecommunications facility (monopole) for the intensity of such a development.**

The size is not physically suitable for a 117' telecommunications monopole. The proposed height violates the standards of WCC 110.324.50 table 110.324.50.1, in that it is located approximately 500 feet from residential structures, which would allow for a 65' pole. The tower will be nearly 80' taller than any buildings. If the surrounding trees are 85' tall, the monopole will be another 30+ feet above those trees as well. The visual impact will be significant. There are no trees of similar height close to the proposed tower.

The platforms, tower and equipment will negatively affect the scenic quality in the immediate area and will be visible to all pedestrians on Village Boulevard public biking/walking path adjacent to the property, which is classified by the TRPA as a Class I bike path with code restrictions. The application was not complete as it provided only four (4) photographs depicting views which were not representative of the significant height differences between the proposed tower and existing trees and did not include any view from the bike path. Pursuant to WCC 110.324.60(a)(15), a minimum of eight (8) panoramic, true color photographs displaying the north, south, east and west views of the site and views of the adjacent properties is required before the issuance of any permit for a wireless communications facility. By not showing the full area as required, the applicant mislead the board to the negative impacts on the surrounding area.

No alternative sites were considered outside of the commercial area inside Northwood/Southwood Loop Road in Incline Village.

Incline Partners Tower will be an inappropriate use of the parcel per TRPA. The cell tower equipment will have a negative visual impact and the nature and scale of the equipment is not an appropriate use of the parcel.

The cell tower, if built would negate the possible mixed-use potential of this parcel in the new Community Area Plan. This is a very valuable parcel in the middle of Incline Village which can be put to much better use.

The proposed site is not the only possible site for the tower. It is the only site whose owner is willing to allow construction. A better site would be the county maintenance yard or a site located more towards the west near Crystal Bay. Other sites need to be researched.

4. **<u>Issuance Not Detrimental</u>. That issuance of the permit must 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.**

Issuance of the permit is detrimental to public health, safety and welfare and improvements of adjacent properties. The visual impact will be significant. The construction will include 1818 square feet, much of it covered by cement.

The four (4) cement equipment shelter pads are 8' x 12'. The equipment cabinets are about 4' x 3' and the generator is 8' x 3' x 8' tall. The size of the fuel tank is at least 250 gallons. There are all large pieces of equipment that will be somewhat hidden behind a fence but visible to anyone looking down on the property from surrounding buildings. Without a scaled drawing of the proposed equipment layout, it is impossible to know how well the fence will screen the equipment.

There was a sound study conducted, however the report was not part of the planner's packet for public review. The applicant, by leaving out the sound study, mislead the public and the board of information that supports a detrimental finding.

The scenic images did not show the impact from the walk path which is a Class 1 path used by thousands of people in the summer and hundreds in the winter. The applicant and board did not consider the true impacts even with evidence presented at the meeting, it was never brought forward for discussion.

The Applicant said there are no health risks, yet evidence presented at the meeting showed studies where there are proven health risks.

The chair of the board was told by staff that health risks cannot be considered; in the findings code for special use permits it says it can. The chair stated he did research that there were no health risks associated with the tower and used that to vote for the tower. The chair relied on evidence not in the record.

The applicant misrepresented the size of the trees under TRPA Code two trees are heritage trees. One is proposed to be removed which is not allowed by the TRPA without special findings.

The applicant stated the TRPA has approved the project, however it has not. The project has not even been noticed, nor gone through the hearings officer review.

Board members, both who voted for the project stated they had real issues with the height of the tower/tree as represented and felt it was too short in the renderings, then voted to approve the project, ignoring the inaccurate evidence presented.

The planner stated the current dental building was not to county development code referencing parking some on the parcel site for the tower. The dental building remodel was done in 2002 under the current code that has not changed. The planner indicated that the current approved design is not conforming, however, it was signed off by the county in

2002 as conforming. The planner provided the board with inaccurate information; the two parcels are one development area by the TRPA and County Code (Deed Restricted).

The planner did not know the coverage code or how this approval will impact any future need for parking that is underserved now for the dental building. This project impacts the parking needs for the dental office.

The board ignored direct testimony by many local residents living in the areas indicated in white on applicant's map refuting applicant's assertion that there was no coverage in those areas. In fact, coverage area maps for AT&T and T-Mobile showing coverage in those areas are readily available online.

There were no showings of alternatives per WCC 110.324.45, even though TRPA has recently approved much smaller utility pole top antennas as recently as August of 2018.

The applicant failed to apply the more restrictive TRPA standard of permissible uses as required by WCC 110.220.05.

Applicant failed to notify local agencies and residents of its application and meeting whose opposition may be affected by transmission from the tower.

The Tower will not enhance emergency service communication as applicant suggests. Firstnet.gov provides adequate coverage for first responders in Incline Village.

6. Facility meets all standards of Sections 110.324.40 through 110.324.60.

Incline Partners has not complied with Article 110.324.55. Incline Partners claims they are allowed 10 feet of height on the tower because they have proved a significant gap in coverage. Trevor Lloyd said their need to prove a significant gap in coverage doesn't exist because the parcel is a commercially zoned parcel and 110.324.55 only pertains to residential parcels. If 110.324.55 does not pertain to commercially zoned parcels, why do they say they have proved a significant coverage gap that allows them 10' of height on the pole?

WCC Article 110.324.55 Significant gap coverage.
"A significant gap for purposes of this article shall include a white area where no cellular service from any carrier is available. A wireless facility shall be permitted at any location if the applicant can demonstrate by technical studies that (a) the facility is for personal wireless service as defined by applicable Federal statutes and regulations (b) that the facility at the site proposed is necessary to close an existing significant gap or gaps in the availability of personal wireless service and (c) the facility in the location proposed is therefore eligible for the following increase in allowable height of the monopole. The height of the antenna shall be limited to the building standard height for an allowed structure plus up to 10 feet above the height in any <u>residential regulatory zone</u> or... and

there's a list of height standards based on pole height and distance from residential properties... (*See Table 110.324.50*.1) which comply with these standards."

WCC Article 110.324.50
"Monopole mounted antennas are restricted from being located in the following locations unless a "significant gap" (see Section 110.324.55) can be demonstrated with a technical review:

"Public trails as exist are proposed on the adopted Regional Open Space Plan and as exist or are proposed on an adopted Washoe County Park District Master Plan and within one thousand (1000) feet of a public trail as described in this section."

The proposed tower will be less than 50 feet away from a public paved right of way (Walking Path/Village Blvd) and less than 500 feet away from an adjacent residential/commercial development (214 Village Unit 1). Even if not zoned "residential," TRPA is treating the adjacent parcel at 214 Village #1 as mixed residential/commercial.

Table 110.324.50.1 (not entire table)
"Permitted Height of Pole relative to Distance from Residential Zoned Property or Public Paved Right of Way (closest adjacent use will be applied)

At 50 ft away, permitted height is 45 ft - this will pertain.
At 200 ft away, permitted height is 50 ft
At 400 ft away, permitted height is 60 ft
At 600 ft away, permitted height is 70 ft.
At 1000 ft away, permitted height is 80 ft.

By extrapolation, at 500 ft away, permitted height is 65 ft, not the 80 ft Incline Partners is using as a starting point in their calculations of permissible cell tower height.

7. **Public input was considered during the public hearing review process**

Many people who rent apartments who live very near the tower were never notified, and one spoke at the hearing in opposition. The public was not fully made aware of the hearing. Property owners received notification, the actual tenants at many of the residences did not receive notification and their opinion never sought.

Instead, it appears that public input against the tower was purposely suppressed by the planner Julee Olander. No letters opposing the tower were included in the Board of Adjustment Members packets, however, five letters in favor were, and a purported 50 additional letters in favor existed. However, contrary to that assertion, upon request after to the hearing, we were given a cover letter from the prosperity center with 24 letters attached in favor of the tower. Emails in opposition to the tower were withheld from the public record. Thus, it appears that Olander misrepresented the public's input on the

construction of the tower leading the board to believe that the majority public vote was in favor of the tower not in opposition as evidenced by the suppressed emails.

8. **That the monopole tower will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County**

A cell tower on the property will significantly and negatively change the character of the neighborhood. Property values of nearby residences will be affected because potential buyers will not want to live close to a cell tower.

A sound report was prepared, however it was never discussed nor presented at the meeting and its adverse findings ignored.

The cell tower, if built would negate the possible mixed-use potential of this parcel in the new Community Area Plan. This is a very valuable parcel in the middle of Incline Village which can be put to much better use.

Emails in opposition to the proposed project were withheld from the public record, and therefore, it is unknown if these were considered by the board.