

Public Hearing on January 22, 2015

Ray Allard [Chairman and Commissioner]: All right, we're ready for staff presentation for item seven.

Jim Morrissey [Staff]: Jim Morrissey, Land Use Services. This is a conditional use permit for an unmanned communication facility. It's located in the Mt. Baldy area.

Ray Allard [Chairman and Commissioner]: Go ahead.

Jim Morrissey [Staff]: It's generally north of the village, we have another graphic coming up. So the subject parcel is in green, that's a seventeen and a half acre parcel, approximately. The village is, well, generally in this area. And the site on... The location of the telecommunication facility is in the northerly part of the parcel. Approximately there.

You can go to the next one.

The height of the facility is approximately forty five feet. It is designed as a monopine. The work that would need to be undertaken as part of the project would be an extension of a dirt roadway which I'll show you in just a moment. Up to the site, there's no trees that currently encompass the project site.

Let's go to that one.

So, it's a little difficult in this photo to get your bearings. Essentially, the left photo shows the project site, where you see the electrical power pole. Below that is Mt. Baldy Road. Then it drops down in San Antonio Creek, and then it goes up the other side, for the hillside that you see in the background of the photo. When you turn yourself around and look back down, you see kind of the balance of the property and you'll notice in this general area there are no trees.

As you go to the next slide, when you look to the right one first, this is looking up towards the site. So this portion will be graded to look somewhat like the left photo, that is in existence, and essentially travels from near the trout pools at the bottom of the site, winding around, and then in the aerial photo, you saw remnants of a trail. And it links to that, and that is what you have on the right.

The project was distributed for review, there's project notice sent out, numerous comments were received, those were provided in your packet. An initial study was undertaken, the applicant utilized consultant who prepared a document that was reviewed by county staff. It was corrected and ultimately distributed for review to the state clearinghouse. That initial study included two technical studies, a biological study, and a archaeological study. The review period through the clearinghouse is noted, it was 30 days, and we received comments as part of that, and have some responses to that in the staff report.

The project is consistent with the development code based upon it's allowed in the resource conservation district, which is the land use and zoning district. The facility height and distance from surrounding residences meet the development code requirements. The initial study and technical studies were prepared and mitigation measures were incorporated. A number of them were incorporated as standard measures, even though they were identified as mitigation measures. By that, I mean that the initial study did not identify that there would be significant dust, or noise, but as a standard practice of telecommunications facilities, these types of measures are incorporated.

Next.

The recommendation before the commission is to adopt a mitigated negative declaration, approve a conditional use permit to establish an unmanned telecommunication facility on the seventeen point five six acre parcel, with the recommended conditions of approval, adopt the findings for the conditional use permit and to file a notice of determination. That concludes the staff report.

Ray Allard [Chairman and Commissioner]: Thank you very much. Any questions of staff right now?

Paul Smith [Commissioner]: No.

Ray Allard [Chairman and Commissioner]: Okay.

Jim Morrissey [Staff]: I would like to make mention that at the time that you received comment, an email was received yesterday by me from someone, so I'd like to read that into the record at the appropriate time.

Ray Allard [Chairman and Commissioner]: Okay.

Ray Allard [Chairman and Commissioner]: At this point I'll open up the public hearing and ask that the applicant come forward if they desire and speak to the project.

Randi Newton [Applicant]: Hi, my name is Randi Newton, I'm here on behalf of Verizon Wireless. I'd like to thank Jim for his staff report and just answer any questions that you might have.

Ray Allard [Chairman and Commissioner]: Any questions of the applicant at this time?

Paul Smith [Commissioner]: No.

Ray Allard [Chairman and Commissioner]: Thank you very much.

Randi Newton [Applicant]: Thank you.

Ray Allard [Chairman and Commissioner]: We have quite a few speaker slips here. And it's important that we get through all of the speakers. In a timely fashion. That we have an option, with the...that the commission can agree to shorten the time frame, from five minutes, in an effort to get through everybody, but it takes a majority vote of the commission.

Paul Smith [Commissioner]: I so move.

Unknown Speaker: [inaudible].

Ray Allard [Chairman and Commissioner]: What's the number, how much time do you want to give them, three minutes?

Paul Smith [Commissioner]: Three minutes.

Ray Allard [Chairman and Commissioner]: Moved and in second, to limit speaker time to three minutes a piece. All in favour?

Ray Allard [Chairman and Commissioner]: Aye.

Paul Smith [Commissioner]: Aye.

Audrey Mathews [Commissioner]: Aye.

Nan Rider [Commissioner]: Aye.

Ray Allard [Chairman and Commissioner]: Opposed?

Ray Allard [Chairman and Commissioner]: Okay, we'd like you to limit your comments to three minutes. There'll be a light on the podium. It'll turn to yellow when you have 30 seconds. And so please, at that point, wrap up your items. If you simply agree with what other people have said, and want to stand up and acknowledge that, you're certainly welcome to do that also.

Nan Rider [Commissioner]: They need to state their name and address.

Ray Allard [Chairman and Commissioner]: And state your name and address for the record into the microphone. Thank you. The first speaker would be Evan Chapman.

Evan Chapman: Hello. Thank you very much for your time, I appreciate it. My name is Evan Chapman. We own the adjacent property to the proposed development. And we just have one concern. After reading the conditional use permit, for a wireless communication facility, we at Chapman Ranch have concerns that a portion of the access road for this project will be located on our property, and therefore we must insist that the property line be surveyed prior to the start of the project. So, we would like that to be taken care of before construction starts.

Nan Rider [Commissioner]: Which piece of property is yours?

Evan Chapman: To the right. That straight green line, that goes north and south. And that's right on the borderline of where the new road's going to be placed, so if we could have that surveyed by a licensed surveyor, that would be very helpful, avoid any complications.

Ray Allard [Chairman and Commissioner]: Yeah, I saw that in the staff report myself. So, thank you.

Evan Chapman: Okay, thank you very much, I appreciate it.

Nan Rider [Commissioner]: Ray, this is his property right here?

Ray Allard [Chairman and Commissioner]: Yeah.

Audrey Mathews [Commissioner]: There?

Ray Allard [Chairman and Commissioner]: It's that one right there.

Audrey Mathews [Commissioner]: Okay.

Ray Allard [Chairman and Commissioner]: All right, the next speaker will be Nicola Devereaux.

Nicola Devereaux: All right. My name is Nicola Devereaux, I live in Mt. Baldy, California, at [ADDRESS REDACTED]. Today I'll be reading a letter on behalf of [NAME REDACTED], who is a clinical psychologist, and she's caring for patients, so she's unable to be here. So I'll read her letter now.

Dear San Bernardino County Planning Commission,

I am writing this letter to argue against installation of the proposed cell tower on the trout pond property near Mt. Baldy Village, California. I live in a house on a hill above the proposed site, at [ADDRESS REDACTED], up the hill and adjacent to the Chapman Ranch. And it appears that the tower will be at the same elevation as my house, and in full view of it. I am alarmed at the proximity of this cell tower to my house in Mt. Baldy. As best I can tell from the proposal, it looks like the cell tower will rise up in front and center, and ruin my view of nature. One of the reasons I chose to live in Mt. Baldy is for the beauty of the nature. Currently, when I step out front to meditate, I have a 360 degree view of nature, with a view of only one man-made structure across the valley.

I have noticed in urban areas down the hill, that even when cell phone towers are disguised as trees, they fairly quickly get shaken up by the wind, and begin to look very shabby and decrepit. Verizon is well known for not going back in and repairing their appearance.

I believe that the value of my house will be diminished if the cell tower is installed in its proposed location. Due to this visual impact on the view as well as the strong belief that most people have that cell towers emit radiation, I am worried that my property value will diminish. The alternative site proposed by the Keep Baldy Wild organization will have a less adverse effect on my property.

Thank you, signed [NAME REDACTED].

And also, I would like to add here that the commission under the San Bernardino code, under the conditions, conditional use requirement, one of the things that's required to be considered is an adverse impact on abutting, nearby, and adjacent properties. Because this project could have an adverse effect on the property value. Thank you.

Ray Allard [Chairman and Commissioner]: Thank you. I fell asleep here. The next speaker will be Stephen Sacks, and followed by Catherine Hertel.

Nan Rider [Commissioner]: This is the picture [inaudible].

Stephen Sacks: My name is Stephen Sacks, I live at [ADDRESS REDACTED]. I'd like to request a transcript of the hearing be sent to me.

Ladies and gentlemen, I would like to draw your attention to the flip chart provided by Spectrum Communications. If you would lift the plastic overlay, to see the existing cell coverage in Mt. Baldy on May 11th, 2012. The date of this map. It shows no coverage in the village. Currently, due to extenders at the fire department, village business and private homes, coverage now exists for 83 percent of the homes in the village. Anyone else who wanted cell coverage could have it by buying extenders. I'd like you to notice that the roads are not covered either.

Now if you will put the plastic overlay back on the... back on the map, see the proposed coverage in green. The tower...if the tower goes in, at the trout pools. It covers the village. This tower, if it were installed, would solely provide coverage to the village, where it already exists.

We need a tower that maximizes the range of coverage. We need a tower that is properly placed, that maximizes a range of coverage and minimizes the need for more and more towers. We have an entire mountain and roads that lead to it that have little coverage. We have extended areas that can need rapid emergency response, and this community is supposed to accept this proposed tower that only gives redundant coverage to the village?

This makes no sense. There appears to be no foresight in putting a new tower at this proposed location. Your San Bernardino codes, adopted through the county 2007 general plan, are meant to provide for an overall scheme for smart planning. This does not sound like smart community planning. The improved safety expected by the Mt. Baldy volunteer fire department and the citizens of Mt. Baldy will not be accomplished by the placement of a tower at the trout pools. Thank you. Any questions?

Ray Allard [Chairman and Commissioner]: I have one question. The first slide that showed existing coverage?

Stephen Sacks: Yes?

Ray Allard [Chairman and Commissioner]: The village is not in green.

Stephen Sacks: Right.

Ray Allard [Chairman and Commissioner]: But you mentioned it should be green?

Stephen Sacks: The exist...yeah...well, what's happened...this is the coverage as of the date of this map in 2012. But what's happened, is people put in extenders. You know, Mt. Baldy Lodge has an extender, the fire department has an extender, so you can go through the village, and I did it, and made telephone calls, and connect. And 83 percent of the homes have that capability, at least, I went in front of the homes, because I went down the road and made a bunch of calls, and I have them all logged.

Ray Allard [Chairman and Commissioner]: Thank you very much, that clarified it for me.

Stephen Sacks: Sure.

Ray Allard [Chairman and Commissioner]: Catherine Hertel followed by Alan Riggle.

Catherine Hertel: Hi. Can you hear me okay?

Ray Allard [Chairman and Commissioner]: Yes, thank you.

Catherine Hertel: My name is Catherine Hertel, and my residence at [ADDRESS REDACTED] is about 500 feet from the site of the proposed Verizon cell tower. In order for our local emergency response system to be viable, smart planning is essential, as you know. However, the currently proposed cell tower location does not reflect smart planning for the following reasons.

It is a little-known fact that after a cell tower is built, that if the owner wants to increase power output, add antennas, co-locate, and/or increase the height of the tower, state and local governments, quote, 'may not deny and shall approve these changes', thanks to section 6409a of the Middle Class Tax Relief and Job Creation Act of 2012.

This means that if a 45 foot cell tower is installed, Verizon could increase the height to over 65 feet, exempt from any county requirements. Such an increase in height would ruin the scenic beauty of the area that the county

has pledged to protect, and is the reason most of us visit or live in Mt. Baldy. It could also endanger our community, when there are heavy winds, if the tower were to fall and/or catch fire.

In addition, Verizon would be able to increase power output without any county or FCC input, or oversight. Even if the engineering report claims that the tower is within FCC's limits at the time of installation, what's to stop Verizon from exceeding the FCC's radiation limits after the tower is completed? The answer is nothing, because the FCC doesn't test the towers, nor does it require the owner to test them. In addition, any cell tower under 200 feet is not required to be registered with the FCC. Thus, the FCC may not even be aware of this tower, much less whether it remains FCC compliant.

The cell tower is proposed to be located in a residential area where I live, and this is inconsistent with the San Bernardino county development code, chapter 84.27, which instructs the county to encourage the location of cell towers and other wireless facilities in non-residential areas. As planning commissioners, you bear an important responsibility to uphold the San Bernardino county code, and to demonstrate smart planning. Your highest standard of integrity is greatly appreciated, when you decide on this proposal. Thank you.

Ray Allard [Chairman and Commissioner]: Thank you. All right. Is it, is it, Alan, or Avan Riggle?

Alan Riggle: Alan Riggle.

Ray Allard [Chairman and Commissioner]: I apologize for not being able to read that. And then on that would be Ava Caposella?

Ava Caposella: Yes.

Ray Allard [Chairman and Commissioner]: Thanks. You'll be next.

Alan Riggle: My name is Alan Riggle, I am a homeowner who has lived in this private tract of homes in Mt. Baldy Village for over 22 years. These homes are serviced by a water company called San Antonio Canyon Mutual Service Company, which is owned by the landowners in this private tract, and on LA county map it shows the number as 68 63. Each home or lot has a water share right to a spring which is located on this Bescoby property. This Bescoby property is the site for the proposed cell tower. There are 57 households, 62 shares held by the property owners of this private tract. Mt.

Baldy School is about 130 kindergardeners through eighth grade students and faculty is also serviced by, and holds shares of this water company.

The site for the proposed cell tower is on the ridge above this spring. An access to this ridge above the spring is a great concern. A dirt trail cut in the side of the mountain is located within plus or minus forty feet of the spring box, and continues above the spring area and until it reaches the top of this ridge.

As of last August, we had a severe rainstorm that washed dirt and rocks from the ridge above and off the access road trail over the edge towards the spring area. Point is, any service water off this slope and access trail... does flow to the natural spring area. Any new construction of this area of our spring could be devastating to the natural aquifers, which supplies our community's water.

The quality of this water is very pure. It contains no chemicals, or bacteria. It is well below allowable contaminants level and it's tested and meets state regulations. This spring has provided a big percentage of if not all the water to San Antonio Mutual Service Company for many years. Maybe from day one. The biggest concern is water purity for the future usage. No amount of contamination of this spring water can be justified or tolerated for these shareholders and school children. Good clean water is hard to come by. This water source cannot be relocated. My question is, what is most important to this community?

Ray Allard [Chairman and Commissioner]: Next time try to keep the applause down, please. Ava Caposella, followed by Isabel. Isabella.

Ava Caposella: Hello. My name is Ava Caposella. It's an honor to be addressing you here, in San Bernardino County, city of my birth. I'm a fourth generation native. My address is [ADDRESS REDACTED]. My Ice House Canyon cabin is [ADDRESS REDACTED].

My great grandfather first came to San Bernardino before the settlers, over the mountains with a scouting party. I love my mountains. I am very proud of them. Whenever I feel down, or weak, I lift mine eyes up to the hills whence cometh my strength, and that's what people do. They come up to the moutains for inspiration, recreation, for renewal. For escape from their stressful everyday lives.

With my family and the rest of the cabin owners, we take our role as good stewards of the forest very seriously. We pick up the trash left by families and hikers. We... some of us efface, or erase the graffiti, however they do it, it's very difficult, yes, we have graffiti up there. And that intrudes upon the peace and the beauty of the mountains.

A few years ago, cabin owner number five, Laurie Chamberlain, received a citation for growing a tomato plant outside her cabin. It had to go. It was an invasive non-native plant, and it was yanked out. And we get that. We can't be good stewards if we aren't vigilant about keeping the forest pristine. We paint our cabins a colour that blends in with the native incense cedars. We would be ready to pluck out a tomato plant at any time to preserve the forest.

And we wonder how it is that a cell tower, which is a fake spiky metal tree on a pole, can be allowed to sit up above the ridgeline. When you come up to the mountains, you just naturally look to the ridgeline, whence cometh our strength. Around every corner, you look up to the treeline for strength, and inspiration, and you don't expect to see something you'd see along the number ten freeway. That's what people come up to the mountains for. To get away from. Thank you.

Ray Allard [Chairman and Commissioner]: Thank you. So the next speaker is Isabella followed by Gary Stickel.

Isabella Leeman: Can I get a stool, someone to help me with the mike.

Unknown Speaker: Pull it down, just pull it down.

Ray Allard [Chairman and Commissioner]: It'll work just fine. Yeah, we heard you great.

Isabella Leeman: My name is Isabella Suzanna Fried Leeman, and I live in downtown LA. My cousin Alison Denning has a house in Mt. Baldy, in Mt. Baldy Village. She is a good friend of mine and I like to visit her.

The cell phone tower shouldn't be placed in Mt. Baldy because they are dangerous for the wildlife living there. Cell phone towers might kill off the wildlife faster and then the whole life cycle in Mt. Baldy would be ruined. The cell phone tower also messes with the birds' migrational patterns, and then they're not going to be able to escape the winter any more, and then they would freeze to death.

So please don't place the cell phone tower near the wildlife, streams, and migrating birds. Just think what it would be like to be in those animals' shoes. Or even my shoes. Because I live here in this giant city, and when I get up to Mt. Baldy and I can be as free as a bird. Thank you.

Ray Allard [Chairman and Commissioner]: Thank you. Gary Stickel, followed by Violet Luxton.

Dr. Gary Stickel: Good afternoon county commissioners. My name is Dr. Gary Stickel. My PhD is from UCLA in anthropology, where I also taught. I have the honor of being the tribal archaeologist of the original people of this area, the Indians called the Gabrieleno Band of Mission Indians, Kizh Nation.

These people have lived here for at least eight thousand years. And I'm pleased to see that the outline of your county logo is an arrowhead to honor the Indians, this is great. I would also like you to honor the Indians' great request here. I'm speaking today at the request of tribal chairman Andrew Salas, who wrote you a letter on this issue in June. Unfortunately, I don't think it was conveyed to you, but I brought the copies of the letter today which are in front of you.

And what the letter asserts, is that this area is sacred to the Gabrieleno Indians. It's been sacred for thousands of years. The mountain that rises above it, which we call Mt. Baldy, is called *Joat*, which interestingly means snow mountain. The sacred animals, which still survive on it, remarkably, the big horn sheep, were called *Pah-aht*. The vernal pools, and pools in question here, that would be affected by the development, are sacred to the Gabrieleno because water is associated with *Paavavut*, water woman, who is instrumental in their origins.

So this area is extremely sacred to them, we are going to be nominating it for a sacred lands area to the Native American Heritage Commission, which I hope you will support. As the young lady just said so effectively, her concern for the animals, the Gabrieleno Indians have a great regard of animals, and hold them sacred as well. So the big horn sheep are very important to them. They would be adversely affected by this development. So the tribe hopes you'll do the right thing, and relocate this development, and I understand there's several viable alternatives, where it could be, excuse me, relocated to. Thank you.

Ray Allard [Chairman and Commissioner]: Thank you. Violet Luxton, followed by Christy Catalano.

Violet Luxton: Hello. Hi. So my name is Violet Luxton, and I'm a resident at [ADDRESS REDACTED]. And I'd just like to say what a pleasure it is to be here today. And I'm going to be reading on behalf of Julia Bogany, who is a local tribal elder and cultural chair of cultural affairs at the Gabrieleno Tongva Band of Mission Indians. And this is a letter prepared by her.

Dear Planning Commissioners,

I am writing to express my concern about the proposed location of a cell tower in the village of Mt. Baldy, California. The area comprising the current village, was historically a village of native peoples named *Joat*. The proposed tower location is at the top of a hill overlooking San Antonio Creek which runs through the village. Just beyond the stream is a cliff face criss-crossed with trails that have long been used by bands of Nelson big horn sheep, who seasonally feed on mountain mahogany there, and who water at San Antonio Creek. The hill of the proposed tower slopes down to a grass meadow and a vernal pool that enlarges to the size of a small lake during years of heavy rains. Beyond the meadow, chaparral transitions to oak woodland and mixed coniferous forest, forming a blended habitat for a multitude of plant and animal communities. The hillside and neighbouring property would have been used by native peoples as seasonal camping.

To date, no archaeological study has been completed as required by law, examining the area for possible native artifacts. I encourage the commissioners to obtain this study before making a decision on the tower location. Because of the historical significance of the area, and because there are alternative properties available for a tower installation in the area, placing a tower in Mt. Baldy Village is inappropriate.

Respectfully, Julia Bogany, Chair of Cultural Affairs, Gabrieleno, Tongva.

Ray Allard [Chairman and Commissioner]: Thank you.

Violet Luxton: Thank you. And after reading the letter, I'd just like to also submit some comment. I'd also like to mention that we are in agreement with representatives of emergency services, fire department, and search and rescue, that one of our key objectives must be good coverage for hiking areas, and Glendora Ridge Road, where numerous accidents occur. Just in 2014 alone

there were 70 emergency calls to Cal Fire about accidents and emergencies on Glendora Ridge Road. The alternative sites that we are proposing would provide cell service to this dangerous corridor. The currently proposed site in the village would not. Thank you for keeping our safety in mind. I urge you to reject Verizon's permit application for the current site. Thank you.

Ray Allard [Chairman and Commissioner]: Thank you. Christy Catalano please, followed by Tamara Hanson.

Christy Catalano: I just want to say thank you for your time today. My name is Christy Catalano, and I live at [ADDRESS REDACTED]. I am concerned that a letter from the San Bernardino Valley Audubon Society, dated October 31st 2012 and signed by Drew Feldman, the conservation chair, was eliminated from the original record. He requested that he be contacted by the county and never was. I am re-submitting his concerns, I have a copy for each one of you.

Thank you. I have another one as well.

And I also want to introduce into the record a document which you will see in this envelope coming to you. This document is being submitted on behalf of the 100 residents of Mt. Baldy listed. We would like this document to be carefully considered before a determination on this project is made. Again, we would like this to be entered into the record, please.

Unknown Speaker: Thank you.

Christy Catalano: Thank you for your time, and if you have any other questions?

Ray Allard [Chairman and Commissioner]: No, thank you very much.

Christy Catalano: Thank you.

Tamara Hanson: My name is Tamara Hanson, [ADDRESS REDACTED]. San Bernardino County recognizes that irresponsible sitings of cell towers can have adverse impacts upon neighbouring properties, and can be incompatible with the best interests of the county. Therefore, the county enacted chapter 84.27, to impose siting restrictions, to ensure that cell towers are strategically sited, so as to minimize their adverse aesthetic, health, safety, and economic impacts. Chapter 84.17¹ was also enacted to encourage tower placements

¹Ms. Hanson mis-spoke, and intended to refer to Chapter 84.27 rather than Chapter

away from residences, and out of view of scenic view sheds, and routes such as Mt. Baldy Road.

Additionally, the county imposed a conditional use permit requirement for tower installations, to ensure that facilities would not adversely affect abutting or nearby properties, and that tower locations would be consistent with the goals of the county's general plan.

Yet, Verizon has chosen to site the proposed tower at the trout ponds, less than 300 feet from Mt. Baldy Road, a county-designated scenic route, which was specifically sited. . . slated for protection under the open space provisions of the county's 2007 general plan.

Verizon also intends to construct its installation on that portion of the property which is at the top of the ridgeline. This choice of siting is not merely in direct violation of 84.27, but it would virtually guarantee that Verizon's four and one half story cell tower will be clearly visible from Mt. Baldy Road. The siting of a telecommunications facility in close proximity to a highly-traveled scenic route, and at the top of a ridgeline is the antithesis of compliance with 84.27, which mandates that these facilities be located and designed so as to minimize their visibility. 84.27 explicitly states that tower facilities shall be sited below the ridgeline, as viewed from a distance, and designed to minimize their profile.

To put this tower in this scenic corridor is inconsistent with your own stated goals. The goals you are responsible to protect. Goal OS5 also states that developments along scenic corridors will be required to demonstrate through a visual analysis that proposed improvements are compatible with the scenic quality of the area. Where is this visual analysis that demonstrates that? There appears not to be one. The fact of the matter is, is that it will impact views, it impacts the views of homeowners nearby, it impacts the view of people on and around the road. As such, Verizon's application must be denied. Thank you for your time.

Ray Allard [Chairman and Commissioner]: Thank you. Sally, Sally Thomas, and Sally will be followed by Patricia Grill.

Dr. Sally Thomas: Thank you. I'm Sally Thomas, I live at [ADDRESS REDACTED]. Verizon's application should be denied also because it will ad-

84.17.

versely affect the aesthetics and character of the adjacent and nearby properties. Therefore, violating the very purposes for which the county enacted chapter development code 84.27, just referred to. Verizon proposes to construct a cell tower in close proximity to several homes which are currently characterized by near-pristine surroundings and scenic views. 84.27 was enacted to ensure that wireless installations were sited at locations that would minimize their adverse aesthetic and economic impacts and to encourage the location of towers and other facilities in non-residential areas.

Submitted in the document are letters and photographs from the homeowners whose homes are in the closest proximity to the site. Within those letters, each of the homeowners personally details the adverse impacts that the proposed installation would inflict. As detailed within each of those letters and their accompanying photographs, Verizon's proposed installation would destroy the homeowners' views, from virtually all areas of their property.

You've already had read to you [NAME REDACTED]'s letter, where she details how the proposed tower would be front and center when she steps out of her front door. One of the photographs depicts her current view in the direction of the tower. It is simply beyond argument that placing a commercial cell tower compound, including a four and a half story cell tower, in front of her home, would have an extreme adverse aesthetic impact, not only upon her home, but upon the views which she currently enjoys.

Also in the document is a letter from [NAME REDACTED], whose home of more than 50 years is located in close proximity to the proposed site. Faced with a specter of having a cell tower now placed directly within that view, [NAME REDACTED]states her objection as follows: 'I am 77 years old, and I would have to spend the remaining years looking at a cell tower.'

Adding insult to injury, the detrimental impact which would be inflicted upon each of these homeowners would be even worse if the tower height increases, which we learned earlier, can happen without any approval. All of this would be wholly unnecessary because there are alternative locations where a tower could be situated, without adversely impacting any of the residences. Thank you.

Ray Allard [Chairman and Commissioner]: Thank you. Patricia Grill please, followed by Maria Garcia.

Patricia Grill: Good afternoon, my name is Patricia Grill, I live at [AD-

DRESS REDACTED]. I have been a homeowner and resident in Mt. Baldy since 2003. Verizon's application should be denied, because it will have an adverse effect . . . impact upon the actual values of the homes which would be situated in close proximity to the tower. When cell towers are installed close to residential homes, such homes suffer material losses in value, which typically range anywhere from 5 percent to 20 percent.

In the document are professional opinions from three licensed realtors with over 30 years experience in San Bernardino and Los Angeles counties. These licensed realtors include Don Snawder, Linda Snawder, and Doris Morales. Within their joint professional opinions, these licensed professionals state that the installation of the proposed tower will substantially impair the value of the nearby homes, by reducing the sales values of such homes by 10 percent to 15 percent, with those in closest proximity to the tower suffering even greater losses.

Licensed real estate broker Yolanda Padilla, who is not only familiar with the Mt. Baldy real estate market, but who actually resided within Mt. Baldy for 3 years, confirms the professional opinions of the first three real estate brokers. She says, in her opinion, that the installation of a cell tower at the proposed site will reduce the value of nearby homes anywhere from 5 percent to 15 percent. She goes further by addressing the actual impact that will be suffered specifically to the [NAME REDACTED]home, which, in her professional opinion, will lose 10 percent to 18 percent of its value due to its unusual view.

In yet another letter from a fifth professional in the real estate industry, Tom Johnson, he states that because cell towers in close proximity to homes reduces their values, it is his professional recommendation that the proposed tower be re-located so that it would be situated further than 2500 feet from any residence. Thank you.

Ray Allard [Chairman and Commissioner]: Thank you. Maria Garcia, who will be followed by Will Wright.

Maria Garcia: Good afternoon commissioners. My name is Maria Garcia, I reside at [ADDRESS REDACTED]. As previously presented, if Verizon is given permission to construct this proposed facility, at the site it has chosen, such installation would adversely impact not only several nearby residents, but also a county-designated scenic route and its viewshed.

But Verizon could easily build its desired facility at any of a number of alternative locations at which it would not be closely situated to residential homes and would have no adverse impacts upon any scenic route or viewshed. By way of example, Verizon could build such a facility at alternative locations such as Cow Canyon Saddle, Johnston Peak, Sunset Peak, Stoddard Flat, or the Mt. Baldy Ski Lift, or even at a combination of such locations to remedy any alleged gaps in wireless services which it claims to exist.

Absent from Verizon's application is any evidence that Verizon had been... has given meaningful consideration to any of these, or any other potential alternative locations at all. Verizon has not, and can not, satisfy Verizon's burden of establishing that in reality, there are no possible alternative less-intrusive sites available as Verizon should be required to establish.

Meaningless quotes, phrases such as 'found not to meet zoning requirements' or 'where unfavourable zoning exists' or 'development standards cannot be met' does not satisfy Verizon's burden of establishing that particular sites don't work.

What does it mean to say that unfavourable zoning exists? Does that mean that another location might require Verizon to apply for a variance, or perhaps to install some type of buffering to screen an installation at an alternative location? The most likely answer is, that the other locations do not meet some standard which has been arbitrarily chosen by Verizon, which may consist of nothing more than a practice of building each facility at the cheapest location possible. Finally, the fact remains that there are less-intrusive alternative locations available for the installation being proposed by Verizon. Thank you.

Ray Allard [Chairman and Commissioner]: Thank you. Will Wright Junior followed by Karen May.

Will Wright: Good afternoon commission, my name is Will Wright. I have a dual residency. I am a Rancho full time resident, but I am also... I grew up in Mt. Baldy as a resident, in 1969 lost our home to the floods, and was relocated. But was fortunate to be able to come back up and buy an old friend's house, and now I'm... I'm now a resident again of Mt. Baldy within 1000 feet of the proposed cell tower.

Being sort of at the end of the discussion, I've had a lot of... and summarize a lot of my questions, and therefore to read this again would be sort of

repetitious, but I want to share a couple of thoughts as a long time... as a sixty year old contractor man and a Baldy resident.

When I grew up in Mt. Baldy, we had a ten party line and it was serviced by General Telephone and the only way... if you went down below, you were able to... your homes were equipped with a single line and not a party line. It took many many years and now Mt. Baldy has a single line. And I can see... I only assume that that was... we didn't get that because we're a very small little village, and we didn't represent a whole lot of income, but we did have telephone service, that we shared with our neighbours and friends.

Now that I'm about ready to see a new generation of communication as in a cellular tower being erected in Mt. Baldy, that's kind of exciting. But it brings up a question, and that is, how did this come about. Aren't these expensive? As a contractor, I know there's a lot of construction involved. What I'm trying to understand, the advantages of this, it was brought to your attention with some overlays that we have some coverage within the village, and we now have private lines, that we can communicate for law enforcement, and also public safety.

What I'm trying to hear, is why are we not talking about a cellular coverage that will give the road that every resident and visitor of Mt. Baldy has to travel, and as it is right now, you can not get cellular service.

I have been a good samaritan and rescued a bicyclist who traveled this road quite frequently, rode up, not preparing for the weather change, and was freezing to the point where they could not ride their bicycle, and they were shivering, and I stopped, put them in my van, and warmed them up, and took them back down the hill, to the flat lands, where he was able to ride home.

My mom, an eighty year old woman, grew up and living in Mt. Baldy, was stuck because of weather conditions at Hogsback which is just prior to Mt. Baldy. She back then owned one of those... and put in out of her pocket... one of those old built-in cell phones for purposes of safety. It wouldn't work. It was only available down stairs, or down below.

So my question I'd like to propose to the commission is that I haven't heard much opposition that we don't need a cell tower, or want one, it's the location, and for emergency responders, and the public's best interest, would it not make sense for Verizon to step up and provide a service that will allow the

Mt. Baldy Road to be covered. Thank you.

Ray Allard [Chairman and Commissioner]: Thank you. Karen May, followed by Philip Leeman.

Karen May: Good afternoon. My name is Karen May, and my address is [ADDRESS REDACTED], about 20 minutes from the proposed cell phone tower location. I'm here today as an avid hiker, who loves Mt. Baldy for its beautiful views, its wildlife, and the clean natural environment. In fact I love it so much, I'm there all the time, that I considered renting a cabin that happens to be extremely close to the proposed cell tower location.

I love the mountain and the community of people who have chosen this very special place to escape the pollution in all of its forms that we find down the hill. We need these clean places, we need them for residents, for sensitive plants and animals, and for all of us who enjoy the mountain recreationally.

Clearly there are many reasons beyond the technical ones to oppose Verizon's current permit application. We wish that we could appeal to the compelling moral and ethical reasons why this tower as currently proposed is a bad idea. Nobody's saying that we don't want coverage in the emergency areas.

But perhaps the best argument to deny Verizon's current permit application comes from our very own county codes and general plan. As our group has shown, Verizon's proposed installation is inconsistent with existing codes, plans, and laws. It is *not* at the least-intrusive location, it does *not* minimize adverse impact, and it does *not* abide by county and federal guidelines to locate towers outside residential areas.

As residents and voters of San Bernardino County, we count on our government representatives not only to listen to our concerns, but to *act* in accordance with the guidelines and codes established to protect the public interest. Verizon has the resources to find a better less-intrusive location that would provide better coverage for search and rescue and emergency services. We ask you now, to follow your own codes. To act on behalf of the residents that you represent. And not just for private corporate interests. We ask you to simply do your job. Do the right thing by denying Verizon's permit application. Thanks so much for your time.

Ray Allard [Chairman and Commissioner]: Thank you. Philip Leeman please.

Karen May: The last... sorry, just to clarify, the last speaker card that was filled out checked the box that he just wanted to register his opposition to the proposal and didn't wish to speak.

Ray Allard [Chairman and Commissioner]: Perfect, thank you very much. Karen May, you also submitted this letter?

Karen May: I'm sorry?

Ray Allard [Chairman and Commissioner]: Did you also submit this letter that had your name on the top of it?

Karen May: I probably did, I'm not sure, I don't remember, I... can I see it?

Ray Allard [Chairman and Commissioner]: It was behind Philip's speaker slip.

Karen May: Oh, I'm... you're welcome to keep this if you like. It's just my... it just must have been an extra copy. I'll submit it for the record.

Ray Allard [Chairman and Commissioner]: Okay. Thank you very much. All right. Graham Hendrickson.

Graham Hendrickson: Good afternoon commissioners, my name is Graham Hendrickson, I live at [ADDRESS REDACTED]. I've been a resident of Mt. Baldy for 38 years. I am here representing the Mt. Baldy Fire Department which is a private corporation that has served on a volunteer basis in Mt. Baldy for... since 1953.

We're obviously here in support of the project, for public safety. We feel that increased cellular coverage would improve 9-1-1 access to all residents and visitors of our community. We get probably thousands if not hundreds of thousands of visitors a year into our community to visit. Anywhere from recreators along the roadway to people doing strenuous hikes up in the mountains.

We have almost on a weekly basis lost hikers in our mountains that often result in extensive search and rescue efforts. Our contention is that improved cellular coverage would minimize the length of time involved in these search and rescue efforts, and also save probably quite a bit of tax payer money on top of that.

Having a wireless 9-1-1 would provide phase two data to 9-1-1 telecommunicators, and if you're not familiar with what that is, it gives a latitude and longitude off of the caller's cell phone to the dispatch center that receives that call and therefore they have a pretty ...often a very close location as where the caller is calling from. We feel that response times will be greatly reduced.

Case in point yesterday we had a resident that was hit by a vehicle about one mile south of Mt. Baldy Village. The first people on scene were unable to call 9-1-1 and had to drive back up the mountain to find a phone to call. You know, it, it's potentially a life or death situation if you don't have access to 9-1-1 call.

In regards to Mr. Sacks' comment about the network extenders that we do have in the village, it's true, many residents, including myself, have a network extender. They provide about 200 feet of circumference around that unit, but the unit is reliant on power, and during a natural disaster, as you know, we get our fair share of them, and often the power goes out. Without a backup generator or battery source, those network extenders will not work. I think that's all I have, do you have any questions of myself?

Ray Allard [Chairman and Commissioner]: Not at this time, thank you very much.

Graham Hendrickson: Thank you.

Paul Smith [Commissioner]: I have one question.

Ray Allard [Chairman and Commissioner]: Sorry.

Paul Smith [Commissioner]: Are you aware of any better sites to locate this?

Graham Hendrickson: There are other sites that I think were considered initially. I'm not an engineer so I can't really say if it's a better site or not. I suspect that Verizon chose it for a specific reason. I really can't answer. Are there other sites available? Yes, I'm sure there are. Whether they're better or not, I don't know.

Paul Smith [Commissioner]: Okay, thank you.

Ray Allard [Chairman and Commissioner]: David Mix.

David Mix: Good afternoon. Thank you for your time. My name is David Mix, I'm a resident at [ADDRESS REDACTED]. I've called Mt. Baldy my home since 1978. I've also been the professional ski patrol director at Mt. Baldy Ski Lifts for three years. I was the assistant ski patrol director for eight years prior to that, and I've been a member of the ski patrol since about 1990.

So, we deal with folks coming through the ski area as a gateway, as a portal to our back country on a daily basis, and I tell you there's nothing as dangerous as thinking one of these (*holds up a cell phone*) is going to save your life, when you don't get coverage.

As Steve Sacks submitted, with the overlays that you saw, the coverage will not be extended significantly in the Mt. Baldy area. In other words, if you're thinking this is going to save your life, and you're up anywhere near the ski lifts, or in Ice House Canyon, then, it's not going to work.

What we're doing, in trade, for this supposed safety measure, is we are in fact submitting ourself to a lot of potential negative effects. Not only the real estate effects, but as you may have noticed in a recent study, by Alfonso Balmori, Section 2.1.3 — *Effects on Bird Community in an Urban Park*:

Microwaves may be affecting bird populations in places with high electromagnetic pollution. Since several antennas were installed on proximities of Campo Grande Urban Park, in Spain, the bird population has decreased and a reduction of species and breeding couples has occurred. Between 1997 and 2007, of fourteen species, three have disappeared, and four in decline, and seven have remained stable.

As someone who is part of the Lipan Nation, American Indian, I consider myself to be part of the web of life, and what happens to these birds affects me, it affects my safety, it affects my well-being. So, to counter Graham Hendrickson's submission that this will increase safety in Mt. Baldy, I would submit that it will not.

Ray Allard [Chairman and Commissioner]: Thank you. The last speaker slip is Holly Wood.

Holly Wood: If you're fine I'll speak on this side because I'd like to address the whole room. Let me just see. Hi, I'm Holly Wood, I reside in San Antonio Heights as a primary home. However, I'm also a homeowner at [ADDRESS

REDACTED], up at the top of the ridge area.

And I'd like to tell you right now that I've also been the PTA president at Mt. Baldy School for four of the five years that my children attended there. And at that time we had in the upwards of 87 to 90 kids at any given time. And also the last 15 years, although I'm not here to represent the San Antonio Heights Board at all, I happen to have been for the last 15 years the fire safety and paramedic representative for that board.

I have volunteered with the fire department ever since 9/11, it was 9/11 that got me involved with the fire department as a volunteer. And so, I regularly work with the fire department on resolving issues that maybe they see in the community as a need.

So, I'd like to tell you that many times over the last 15 years I have seen in Mt. Baldy... and I love Mt. Baldy... I love the residents of Mt. Baldy, the people that are here are the people that I would call my friends and I would also call for help if I needed anything.

But I would also like to say that Mt. Baldy is away from the cell phone area and it has created many dangers that I've personally seen and/or personally heard about. I have witnessed incidences myself, and my husband has, in front of our cabin, that could have been an outcome differently, had we have had cell phone reception.

I can say that I understand where some of the people are coming from, as far as environmental reasons, but at the same time, I look at the safety of the children, when I was the president of Mt. Baldy School for four years, we had situations where kids were on hikes, we had no cell reception, and I think I would agree completely with what Graham has to say, and what the fire department has to say.

And I would also request that you consider putting a rider onto a contract, for a receiver from the San Bernardino County Fire Department to be able to put a receiver on that signal, so that they can get better reception in the canyons. I have seen people go off the canyon, we all have seen these guys get up in the middle of the night to hike down those canyons, but what they have found is that once they got down there, they had no reception. How many times at three in the morning have they looked for a person that has gone over the top? And, in the canyon, and they can't find that person. You know, had we have had a signal, those people could have been found much

faster, and the outcome would have been differently.

So I would concur with Graham, I would support him a thousand percent, I would support the entire fire department, for any needs that they have, and I'm here too as a homeowner, for Mt. Baldy, as well as a homeowner for San Antonio Heights to support that. Thank you very much.

Ray Allard [Chairman and Commissioner]: Thank you. That's all of the speaker slips that we had. If anyone's here that wants to speak on this item that has not filled out a slip, please do so now. I would like to invite the applicant down.

Roberto de la Cruz: Can I just say a few words? I didn't put a slip.

Ray Allard [Chairman and Commissioner]: Certainly, you'll fill one out when you're done talking. If you can state your name and address for the record.

Roberto de la Cruz: Yeah. My name is Roberto de la Cruz, and I live at [ADDRESS REDACTED]. I'm also an avid hiker up in Mt. Baldy and go a lot. But I don't think anybody's saying, and I want to emphasize that we're not saying we don't want a tower. We just want a better location. And I think everybody would concur on that. I think the fire department person that was here kind of said it, that he doesn't know, but I'm sure Verizon has plenty of engineers that could find a better place, so that's all we're asking, thank you.

Ray Allard [Chairman and Commissioner]: Thank you. At this time we normally give the applicant time to come down and rebut or discuss on any of the points that they've seen.

Randi Newton [Applicant]: Only if you have any questions.

Audrey Mathews [Commissioner]: I...

Paul Smith [Commissioner]: I have one question. Who owns...

Ray Allard [Chairman and Commissioner]: I have a question. You want to come down for a moment?

Paul Smith [Commissioner]: Does Verizon or a Verizon entity own this property?

Randi Newton [Applicant]: No.

Paul Smith [Commissioner]: So it's on a lease of some sort?

Randi Newton [Applicant]: Yes.

Paul Smith [Commissioner]: Has Verizon explored other alternative sites?

Randi Newton [Applicant]: Our original site location was actually at the fire department, in Mt. Baldy. But we relocated it outside of the village. Up on the Bescoby property.

Ray Allard [Chairman and Commissioner]: Was the typical analysis done showing the area of coverage?

Randi Newton [Applicant]: Yes.

Ray Allard [Chairman and Commissioner]: And it...is that...was that your analysis that we were presented with?

Randi Newton [Applicant]: I believe so.

Nan Rider [Commissioner]: Yeah, it says Verizon down at the...in the chart.

Ray Allard [Chairman and Commissioner]: Oh, okay. Great.

Ray Allard [Chairman and Commissioner]: And did you...you took a look at other potential sites, besides this one, after you decided not to put it at the fire station?

Randi Newton [Applicant]: This site was the one that worked best, because we could go up on that ridge and cover not just the village, but also parts of Mt. Baldy Road. You know...Verizon works off of a network of wireless facilities. No one tower is going to cover an entire area. So, I mean, there may be other towers that come in the future. Right now, there's none that are planned. But right now this is the area that needed to be covered.

Audrey Mathews [Commissioner]: What consideration did Verizon give to the Indian population, the history, and the people whose history is based in that particular area? What was given, consideration was given to them?

Randi Newton [Applicant]: I mean, that would go back to planning, we did a number of...the...all of the initial study. We did biological reports, and nothing that I know of came up on those reports.

Audrey Mathews [Commissioner]: [inaudible]aren't the Indian villages independent nations?

Ray Allard [Chairman and Commissioner]: I think so.

Nan Rider [Commissioner]: I find it interesting that your site is a site where there are no other trees.

Randi Newton [Applicant]: If we had the site near where other trees were, it would have to be much taller. We have to shoot over those trees. And being on that...the ridge there allows it to shoot up and down Mt. Baldy Road as well as covering the village there.

Nan Rider [Commissioner]: So there's just going to be the one artificial...the cell tower that looks like a tree in the middle of this low brush?

Randi Newton [Applicant]: It'll be up on a ridge, it'll... I mean, it's 200 feet up the side of a hill, 100 feet up the side of a hill.

Audrey Mathews [Commissioner]: Bart, what's the ruling on Indian villages, whether they're... whether it's a nation, or village, or what? As far as the federal government is concerned. Aren't they independent nations?

Bart Brizzee [County Counsel]: Yes, they are. But I think there's determinations made as to the validity of each particular Indian tribe and its boundaries, and that's all under the... determined by the Bureau of Indian Affairs. Out of the federal government.

Audrey Mathews [Commissioner]: Do you know what the determination is, and I apologize to everyone, I do not know how to pronounce this... as to this Indian tribe.

Ray Allard [Chairman and Commissioner]: Gabrieleno?

Audrey Mathews [Commissioner]: Yeah.

Bart Brizzee [County Counsel]: I don't know.

Audrey Mathews [Commissioner]: Huh?

Bart Brizzee [County Counsel]: I don't know.

Paul Smith [Commissioner]: I think it's the Gabrielenos?

Audrey Mathews [Commissioner]: Yeah.

Paul Smith [Commissioner]: Who occupy those mountain regions and. . .

Audrey Mathews [Commissioner]: Right.

Paul Smith [Commissioner]: All the way down in the San Gabriel area, that's why San Gabriel is named that.

Audrey Mathews [Commissioner]: Right, I understood that. What I want to know is, what's their status. What rights do they have?

Paul Smith [Commissioner]: I don't know whether they're recognized or not.

Audrey Mathews [Commissioner]: Can I ask him?

Ray Allard [Chairman and Commissioner]: Who?

Nan Rider [Commissioner]: The professor.

Audrey Mathews [Commissioner]: Yeah.

Ray Allard [Chairman and Commissioner]: I think we're done with the applicant at this time.

Randi Newton [Applicant]: Thank you.

Ray Allard [Chairman and Commissioner]: You want to ask a question of the. . .

Audrey Mathews [Commissioner]: I would like to ask him to answer my question, if he can.

Ray Allard [Chairman and Commissioner]: Okay.

Dr. Gary Stichel: Thank you.

Audrey Mathews [Commissioner]: You're welcome.

Dr. Gary Stichel: I appreciate your question. The Gabrieleno people, Gabrieleno Band of Mission Indians, is the official tribe of this area that we're talking about, in Mt. Baldy. It's recognized by the state of California. The only such group that is. But they do not have federal recognition.

However, that is in process right now. They will soon be applying for federal recognition and have the support of many cities in the San Gabriel Valley, all

these mayors and so on are going to be... actually, some of them are going with us to Washington, D.C. to do that.

I'd also like to address the fact that the applicant never contacted the tribe to get their input on the cultural value of the area. And that's a major failing. I actually reviewed the report and wrote a critique of it, the archaeological report which is a failure on many levels.

Ray Allard [Chairman and Commissioner]: Thank you.

Audrey Mathews [Commissioner]: Thank you very much.

Ray Allard [Chairman and Commissioner]: So at this time I will close the public hearing and bring it back to the commission. I have one or two questions of staff.

The first gentleman from Chapman Ranch, spoke about the need for, a maybe licensed land surveyor to make sure nothing went onto his property. The staff report mentioned that some work was done by overlaying something over Google and it appeared as if. I would... We need to make sure that that...

Jim Morrissey [Staff]: Right.

Ray Allard [Chairman and Commissioner]: The applicant needs to make sure that if this goes through that they prove without a doubt that that road's not on someone else's property.

Jim Morrissey [Staff]: My discussion yesterday, I believe it was, with Mrs. Newton, indicated that they would be willing to do that. The overlay that's referred to is the one that's on the screen. And you can see here, just below the dot, that's part of the road that's swinging up on the property.

Ray Allard [Chairman and Commissioner]: And then the concern for drainage and the potential for mud flows or such to get into a spring side or whatever. A lot of engineers do not know how to prevent drainage problems off of hiking trails and mountain roads if we've... if you've ever hiked, you can see that sometimes it's quite a disaster, what a traditional engineering approach to drainage would be. I would... I'd like to see that beefed up a bit in here so that if not the design, at least the review is... pays special attention to drainage off of... in mountainous areas, so that when the erosion control is in place, or whatever, that we eliminate any threat of mud getting down into

a downstream spring site. So I'd just like to... I don't know exactly Terri how you'd do that, maybe...

Terri Rahhal [Director]: Well we have, if you look in the conditions of approval, we have rather standard conditions from our land development team, conditions 32 through 34, that have to do with making provisions for appropriate...

Ray Allard [Chairman and Commissioner]: It refers to special drainage.

Terri Rahhal [Director]: Precautions for drainage, yes. And that additional information may be required. You might want to specify there mud flow, some kind of mud flow prevention. I don't know if that's what you're getting at.

Ray Allard [Chairman and Commissioner]: I think if we input the ... under the additional drainage requirements number 34, we should maybe just insert something that says special attention to mountain drainage. It needs to be applied, or something like that.

Audrey Mathews [Commissioner]: I think you have to be more specific than that. Because right now we don't know what mountain drainage is, or anything else for that matter, with the kind of weather we've been having.

Ray Allard [Chairman and Commissioner]: Well I'm referring to, when you cut a road, and it stops all the water coming off the mountain, which is coming off in a nice fashion, and then it goes alongside the road, tears everything up, and then pops over the road wherever it wants to, the national forest service and everything has very nice ways of treating drainage off the trails and in fact the fire road to the... up to the ski lift which I probably walk 25 times a year, there's some good parts and some bad parts and there's wash-outs where there don't need to be wash-outs, so I just need someone with some expertise that would look at that. I'm not saying I could design it, I just know it works when I'm hiking, but it's a... it's a little bit of an expertise required.

Audrey Mathews [Commissioner]: Now I'm not saying that it isn't, I actually, I'm saying exactly what you're saying, except that I don't think those words say that.

Ray Allard [Chairman and Commissioner]: Yeah, it's all I can think of at the spur of the moment.

Paul Smith [Commissioner]: Because it would be. . . I like your idea, there would be a way to. . . for staff to include in the conditions that the applicant follow best practices to control flooding and channeling from the flood and construction activities.

Ray Allard [Chairman and Commissioner]: Yeah, those terms work.

And what's this. . . I don't have an. . . I don't understand how there's a right or. . . someone said it, and I'm not saying I believe everything I hear, unless my wife speaks it, the fact that. . . if they approve something that's 45 feet, there's a body that can increase the height without coming back to the county? And if that's. . . if that can be done, can something be put in here that says if they ever want to change it, we would like to see it?

Catherine Hertel: Well this is a federal law. This is a federal law.

Terri Rahhal [Director]: We do have counsel here, ma'am.

Bart Brizzee [County Counsel]: The speaker was talking about the Middle Class Tax Relief and Job Creation Act of 2012. (*End of official county recording. The remainder of the hearing was transcribed from a resident's audio recording.*) This is to update the federal pre-emption. And it's not a complete pre-emption of the Telecommunications Act of 1996.

Just for some background, that act states, among other things, that you can't. . . that local governments are precluded from certain regulations, including regulations based on emissions, as long as the towers meet FCC guidelines. There are provisions that talk about acting quickly, they're called the shot clock, local governments have to act within a certain period of time.

Denials require a written record based on substantial evidence, and interestingly enough, there was a U.S. Supreme Court case that came out just last week that interpreted that provision, and local governments are precluded from unreasonably discriminating among providers, and local governments are also prohibited from putting in effect regulations which would preclude or have the effect of precluding telecommunications facilities. . . wireless telecommunications facilities within their jurisdiction.

Then in 2012, this middle class tax relief act came out, and what it states, is that. . . it imposes on the local government the obligation to approve. . . it uses the terms 'shall approve any eligible request to modify an existing wireless tower or base station that does not', the magic words are, 'substantially

change the tower or base station.’ And what ‘substantially changes’ mean is still under consideration.

But my understanding is, they can. . . it does include increasing the height by no more than 10 percent, you can add one shelter or four cabinets, and. . . that there’s no excavation. So, I believe that the. . .if there were alterations to be made to the site, they would still have to come back to the county, but what we can’t do. . .we’re now restricted by this new law, what we can and cannot approve or disapprove based on changes to the site. If they’re not substantial, then we basically have to approve.

Ray Allard [Chairman and Commissioner]: So then when I raise it by five feet, which I doubt anyone would want to do that, that probably falls within something that’s reasonable and would be out of our purview to modify, but a 25 foot height restriction, I guess that would just be. . .that’d be up to whoever to determine if that was substantial. . .

Bart Brizzee [County Counsel]: Yeah, and a body couldn’t reach a conclusion that’s not substantial either based on facts and circumstances.

Ray Allard [Chairman and Commissioner]: Okay. The last thing anyone would want was that if this gets approved, to all of a sudden see a 65 foot tree there or something. And I don’t think we’re heading down there. The conditions right now are specific to the height and that’s what will get constructed.

Audrey Mathews [Commissioner]: Yeah and I want to ask him a question before he answers your question, which is, if, with this new law, does that only encompass physical changes, or does that encompass religious, philosophical, and so forth, what does the law say?

Bart Brizzee [County Counsel]: It’s specifically directed to the words ‘the existing wireless tower or base station’.

Ray Allard [Chairman and Commissioner]: This will be short. . .

Audrey Mathews [Commissioner]: Yeah.

Ray Allard [Chairman and Commissioner]: If it ever [inaudible].

Audrey Mathews [Commissioner]: Yeah, but it ain’t clear [inaudible].

Ray Allard [Chairman and Commissioner]: Um, a question on one

of the photographs in the staff report. There's a telephone pole next to a roadway, and it says 'Project site looking north. Mt. Baldy Road is located beyond the power line.' So are you standing on the project site?

Jim Morrissey [Staff]: This one here?

Ray Allard [Chairman and Commissioner]: Yeah.

Jim Morrissey [Staff]: Yes.

Ray Allard [Chairman and Commissioner]: And that pole is not a simulation of what this would look like, that's an actual pole?

Jim Morrissey [Staff]: No, that exists. Everything in the photo exists.

Ray Allard [Chairman and Commissioner]: Okay. This being a designated scenic highway, and the county looked at this, I would have to assume, for its . . . the implications of it being a scenic highway and this thing located within a scenic highway?

Terri Rahhal [Director]: With regard to the scenic highway, if I can interject, there are special protections to provide for telecommunications, and so our scenic highway regulations, and this is consistent with Caltrans regulations as well, acknowledge that there's a need for telecommunications, and so, the requirement is that it be stealthed in some way, for instance as a monopine or some other disguised feature.

Ray Allard [Chairman and Commissioner]: And now I would like to receive that question that you have.

Todd Fisher [Applicant]: Yeah. Just for the commission's clarification, that pole, when you're looking at it, the road's actually about twenty, twenty-five feet below that pole. It's down in the canyon, it's not right next to that pole.

Ray Allard [Chairman and Commissioner]: Okay, thank you.

Todd Fisher [Applicant]: It paints a better picture for you?

Ray Allard [Chairman and Commissioner]: Yes, absolutely does.

Jim Morrissey [Staff]: And Mr. Chairman, there was a comment letter that I had referred to, right after the staff presentation. It was similar to the comments made by one of the speakers. It was from Karen Sked, President,

San Antonio Canyon Mutual Service Company. So other than the...some differences in the numbers, the information that she relayed was pretty similar. So I'd have to add it, if the commission would like, I can provide it, or I can read it, or you can just make note of it.

Ray Allard [Chairman and Commissioner]: I'm satisfied with your summary of it.

Jim Morrissey [Staff]: Well then, I think it's best summarized by what the applicant had provided relative to the concern about the spring, the amount of traffic, which might use the dirt roadway, because the concern is that the activities on the road may compress the spring. And I think that's what they're concerned about. So I take it as a weight issue.

Ray Allard [Chairman and Commissioner]: That's something that staff can take a look at. Any questions?

Paul Smith [Commissioner]: I have a comment. My comment would be, I'm impressed by the number of people who came here, who thoroughly appreciate the beauty of the place that they live in, and my own sense is that this is 300 feet away and serves a really serious public health purpose. So I'm going to be inclined to approve it, particularly subject to the change of best practices used for erosion control.

Terri Rahhal [Director]: Before you get to a recommendation may I propose some wording to add to condition number 34?

Ray Allard [Chairman and Commissioner]: Oh, thank you.

Terri Rahhal [Director]: And there's maybe a comment about its context or if it would be understood, and I would like to put it in context by saying these conditions are placed by a land development team of professional engineers who would be reviewing the drainage for this site. So to add at the end of condition number 34 additional drainage requirements. If I'm hearing your concern correctly, I propose this language: 'special attention shall be given to observe best practices for erosion control on unimproved mountain trails'.

Paul Smith [Commissioner]: I accept that and [inaudible]motion. Oh, I haven't made a motion.

Ray Allard [Chairman and Commissioner]: This is very complicated

so if you can bear with me for just a second, excuse me.

(inaudible whispers between commissioners)

Ray Allard [Chairman and Commissioner]: I've asked my questions, and I think staff's adequately addressed my concerns.

Paul Smith [Commissioner]: Okay, I move that we adopt the proposed findings, approve the conditional use permit, subject to the attached conditions of approval, as well as the additional condition that Terri suggested. And file a notice of determination.

Ray Allard [Chairman and Commissioner]: Motion on the floor. I'll second the motion. Motion in a second. All in favour?

Ray Allard [Chairman and Commissioner]: Aye.

Paul Smith [Commissioner]: Aye.

Ray Allard [Chairman and Commissioner]: Opposed?

Audrey Mathews [Commissioner]: Aye.

Nan Rider [Commissioner]: Aye.

Ray Allard [Chairman and Commissioner]: Who is the applicant on this?

Nan Rider [Commissioner]: It's Verizon.

Ray Allard [Chairman and Commissioner]: All right, so this means that it's a . . .

Bart Brizzee [County Counsel]: The project is denied since it failed to get a majority vote.

(clapping and cheering)

Bart Brizzee [County Counsel]: This does create a problem, though, because denials require, as I alluded earlier, there is this U.S. Supreme Court case that says . . . it has clarified what is required when a project is denied . . . a telecommunications project is denied. It requires written findings, it requires a writing that is contemporaneous with your decision, and what you have . . . the commission has in front of it is findings for approval. There are no findings for denial.

Ray Allard [Chairman and Commissioner]: Correct. It needs to come back to us then?

Bart Brizzee [County Counsel]: Yes.

Ray Allard [Chairman and Commissioner]: And how long does staff need to prepare that?

Terri Rahhal [Director]: Well of course we'll have to confirm with counsel on the specific things that have to be addressed in these findings. It would be helpful to us, if the commissioners could voice some of the reasonings that they would like to see addressed in the findings.

Ray Allard [Chairman and Commissioner]: Yeah, that's a good point.

Nan Rider [Commissioner]: I would just like to see maybe an alternative location. No one presented an alternative location.

(clapping)

Nan Rider [Commissioner]: I realize that it's always going to be 'not in my back yard' for somebody. But I can't believe there's not a better location somewhere out there on that mountain, that would give the citizens the coverage that they need.

Ray Allard [Chairman and Commissioner]: Anything you want to add to that?

Audrey Mathews [Commissioner]: There's two issues here, as far as I'm concerned. It's the citizens themselves and the business which is Verizon. Verizon has multi-million dollars that they can use to look for some other piece of land up there that is...

(clapping)

Audrey Mathews [Commissioner]: The citizens do not. I don't think that they are being unreasonable to ask for us to look for a different location. Between now and when we come up with a negative declaration, hopefully, we won't have to do that, because hopefully, somebody up there who has the authority will get together with these people down here and figure out a new location. And then we can move on. Because the real issue here is location, location,...

(clapping)

Audrey Mathews [Commissioner]: The fire department needs the phone, Verizon needs the phone, because they need to do the coverage, because they're accused of letting people die because they don't have the coverage. And so forth. So until you all get together and figure out how to work this out.

Ray Allard [Chairman and Commissioner]: Is that enough, Terri?

Tamara Hanson: Oh my gosh, we tried to talk to Verizon!

Bart Brizzee [County Counsel]: Actually, I'm going to make another suggestion to the commission because we have this 2-2 vote thing. The... our rules of order allow for a subsequent motion when we don't have a majority vote. I think it's been designed for this purpose. It does allow for a subsequent motion when any proposal or a prior motion is not approved by a majority vote by all members. Obviously there is wisdom in having five commissioners to break a tie like this. I do not know the timeline on the fifth commissioner being appointed.

But my suggestion would be, both the opponents to the project, and the applicant, are entitled to a clear up or down on this, and that's going to require a fifth commissioner. So my suggestion to the commission would be to continue this matter... it may be to insert, and in fairness to the community, we don't want to bring them back here just to do this all over again. But I think it would be beneficial to continue this matter.

Terri Rahhal [Director]: It would have to be at least 30 days and I would recommend more.

Ray Allard [Chairman and Commissioner]: Yeah, there's some issues here related to federal legislation and stuff.

Bart Brizzee [County Counsel]: So it would be a motion to continue the matter to a date certain, probably 60 days out. And it would then not require giving notice all over again, and perhaps by then the fifth commissioner will be seated. And the citizens, this applicant, could then get a clear indication of this commission's recommendation for decision, and then if appeals come following that, that's going to give a clear vision to the board.

Ray Allard [Chairman and Commissioner]: I will close the public hearing, I'm anticipating there could be, based on the comments from the commissioners, there could be a variable, or something else coming our way,

or do we just simply waiting for the up or down, and we're going to act on this project.

Bart Brizzee [County Counsel]: That creates an interesting issue too, and that is how you anticipate, given the prospect that there is the likelihood of a no vote upon this... clear no vote by three votes. That staff will then work with the recommendations that have been given by Commissioner Ryder and Commissioner Mathews, as to developing an alternative set of findings. And so it may be that you'd have two sets of findings. You can make a decision based on that.

Ray Allard [Chairman and Commissioner]: Oh, that'd be interesting.

Paul Smith [Commissioner]: So am I correct in understanding what you're saying is that the vote we took should be treated as a preliminary because we really don't have a set of findings that is legally... can support that motion?

Bart Brizzee [County Counsel]: Correct. It is an effective final vote. But you're entitled to make a subsequent vote because you don't have a majority vote here. Three votes. And that's my suggestion as a means. Because if the commission decides that this is a project that they do not want to approve, we've got to comply with federal law and that's going to take a little bit more work than we can do just here on the floor.

Ray Allard [Chairman and Commissioner]: Okay. Do I need to... do we need to re-open the public hearing or anything like that? Or we just... we just simply continue to a date certain 45 days, Terri, or?

Bart Brizzee [County Counsel]: It's a subsequent vote on this item.

Audrey Mathews [Commissioner]: Is that what it's called, a subsequent vote? [inaudible].

Bart Brizzee [County Counsel]: A subsequent motion on this proposal.

Audrey Mathews [Commissioner]: Call for a subsequent motion on this proposal.

Ray Allard [Chairman and Commissioner]: I'll call for a subsequent motion on this proposal.

Audrey Mathews [Commissioner]: And I [inaudible]and the motion I

make is to the recommendations made by attorney Brizzee [inaudible].

Terri Rahhal [Director]: I would recommend if the commission pleases if we go 60 days, that would be the second meeting in March, which is March 19th.

Audrey Mathews [Commissioner]: Can we do it the next one, I won't be here.

Nan Rider [Commissioner]: I'm glad you know your calendar.

Terri Rahhal [Director]: That would be April [inaudible]The first meeting in April is the 9th of April.

Audrey Mathews [Commissioner]: I'll be here then.

Ray Allard [Chairman and Commissioner]: You'll be here on the 9th?

Paul Smith [Commissioner]: Yeah.

Paul Smith [Commissioner]: So meanwhile, we would hope that as Chairman Allard suggested that Verizon and these citizens who passionately love their area can explore [inaudible]some different proposals.

Ray Allard [Chairman and Commissioner]: At that meeting can we... can we entertain a different proposal?

Paul Smith [Commissioner]: I don't think we know.

Terri Rahhal [Director]: Makes it difficult... if... depending on what the other site is. It may require additional studies to be done.

Ray Allard [Chairman and Commissioner]: That's true. So it'll be an up-down vote, if a commissioner is seated by then, they've had a chance to review the tape, and look at it, we will just bring them back from planning commission discussion at the next hearing?

Bart Brizzee [County Counsel]: Yes.

Ray Allard [Chairman and Commissioner]: Okay. All right, well.

Audrey Mathews [Commissioner]: Let me ask you this. Wouldn't it be in the best interest of everybody if we could postpone things? If we could kindly agree? I'm not asking. I'm not asking for clarification. During this time while we're waiting for the fifth commissioner, and for you to write

whatever you have to write, if Verizon and the community can come together with a proposal that does not alter what is being recommended in here to any extreme extent where it would cause a whole bunch of re-writing and so forth. Could they go ahead and do that?

Terri Rahhal [Director]: I am assuming that you're speaking in finding an alternative site.

Audrey Mathews [Commissioner]: Yes.

Terri Rahhal [Director]: If there were an alternative site that did not generate controversy amongst the community, in other words we were not aware of any major objections to the site, it would still require a new application, but it would not have to come to the planning commission, it could be approved at a zoning administrative level, which would be...

Audrey Mathews [Commissioner]: Withdraw the whole thing.

Terri Rahhal [Director]: It would require withdrawal of this application, and then you can proceed accordingly. It would still be a new application.

Ray Allard [Chairman and Commissioner]: It ought to process a lot quicker and stuff at the zoning administrator.

Audrey Mathews [Commissioner]: Right.

Ray Allard [Chairman and Commissioner]: But you still need to do the environmental work, the site work, viewshed.

Audrey Mathews [Commissioner]: Why can't we carry over what we already got, if it's not that old?

Terri Rahhal [Director]: Everything that's been considered for this application is for this specific site.

Audrey Mathews [Commissioner]: Okay. I'd like to try... well I'd like to try. What do you want? What do you want? I'm asking all of them.

Will Wright: Are you talking to the public?

Audrey Mathews [Commissioner]: Yeah.

Will Wright: Other site. I would like to have Verizon, as I mentioned here, my concern, and I heard countless it wasn't the opposite of a cell site, 9-1-1

site, we don't have opposition to that, but we have no coverage down that daily road that services the Mt. Baldy Village. Sightseers, the residents.

Audrey Mathews [Commissioner]: Wait a minute. Can the two of you get together and sit down?

Will Wright: I would volunteer my time to talk with Verizon.

Ray Allard [Chairman and Commissioner]: Maybe you can talk outside the chambers here? We've got a little bit of a procedural dilemma here.

Karen May: Can I make one comment? Is that possible?

Ray Allard [Chairman and Commissioner]: I'd rather you just speak up outside the chambers.

Karen May: Well it's actually for your staff, we'd really like to emphasize that we entered into the written record the document that's in the envelope, would provide many of the legal bases for rejecting this particular application. So it will reduce your staff work. The legal arguments are in that document that we gave you.

Ray Allard [Chairman and Commissioner]: Okay, we got it, thanks. Then I guess we should have a motion to a date certain April, first meeting, April 9th? So there will be no renoting, because it's...

Bart Brizzee [County Counsel]: A continuation.

Ray Allard [Chairman and Commissioner]: It's a continuation.

Audrey Mathews [Commissioner]: I move that we continue this particular meeting to a date certain April 9th.

Nan Rider [Commissioner]: I second.

Ray Allard [Chairman and Commissioner]: Motion in second, all in favour?

Ray Allard [Chairman and Commissioner]: Aye.

Paul Smith [Commissioner]: Aye.

Nan Rider [Commissioner]: Aye.

Audrey Mathews [Commissioner]: Aye.

Ray Allard [Chairman and Commissioner]: Motion passes. Five minute break.