



Los Angeles County Department of Regional Planning



Richard J. Bruckner
Director

Planning for the Challenges Ahead

May 20, 2010

TO: Wayne Rew, Chair
Pat Modugno, Vice-Chair
Esther L. Valadez, Commissioner
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner

FROM: Mark Child *For Memo Child*
Zoning Permits 1 Section

SUBJECT: **PROJECT NUMBER- R2008-01980**
CONDITIONAL USE PERMIT – RCUP200800165
3418 Shoreheights Dr.
Regional Planning meeting June 2, 2010 memorandum
Item #5x

BACKGROUND

The Hearing Officer's approval of the above referred project was appealed to the Regional Planning Commission by the neighbors. On February 16, 2010, a conditional use permit was granted to authorize the applicant Omnipoint Communications to install a new wireless telecommunications facility in the public right-of-way (ROW). On April 21, 2010, a public hearing on the appeal was conducted. At that time Department of Public Works (DPW) requested the item be continued to allow time for the applicant to submit geology reports to DPW and give DPW's staff time to review those reports. The applicant and the appellant agreed to continue the hearing. The Regional Planning Commission heard presentations and testimony from the public prior to continuing the hearing to June 2, 2010. Furthermore, it was also agreed by the Commission that at the June 2, 2010 Hearing both T-Mobile and the appellant will have 10 minutes for their presentations.

REQUIRED ENTITLEMENTS

The CUP authorizes the construction, maintenance and installation of a new wireless telecommunications facility consisting of three (3) panel antennas, to be mounted on a 22'6" concrete textured octagonal pole within the public road right-of-way (ROW). The antennas will be enclosed by a 30" x 66" radom placed on the top of the pole. The overall height of the pole is 28' and the associated equipment will be placed in a vault across the street.

LOCATION

3418 Shoreheights Dr., in the community of Malibu in the Malibu Zoned District.

DISCUSSION

Since the April 21, 2010 hearing, Regional Planning has received three letters from Dundas I. Flaherty opposing the request (letters are attached for your review). The letters dated April 27, 2010 and April 29, 2010 both discussed the issue with "cracks on the roadway on Shoreheights Drive suggesting earth movement beneath the roadway". Mr. Flaherty's letter dated May 11, 2010 makes accusations that T-Mobile and the County have acted inappropriately in this case.

At the hearing an issue of errors with T-Mobiles application was raised which Regional Planning has been aware off since it received the application. It must be noted that Regional Planning staff use the application as a reference in analyzing and processing the project. Staff uses in house data to ultimately make the decision to recommend approval or denial. Therefore errors pointed out by the appellant have no effect in Regional Planning analysis.

On May 19, 2010 the Department of Public Works (DPW) informed T-Mobile and Regional Planning that there are still outstanding issues that need to be resolved relative to the stability of the site before Public Works can report that the site is suitable for the proposed use.

On May 19 T-mobile requested that the item to be continued to allow time to provide DPW the required additional information. Attached you will find DPW comments.

MOTIONS

SUGGESTED CONTINUATION MOTION

<p>I MOVE THAT THE REGIONAL PLANNING COMMISSION CONTINUE CONDITIONAL USE PERMIT NO. RCUP200800165 UNTIL _____.</p>

Should you have any additional questions or comments prior to the hearing contact Daniel Fierros at (213) 974-6443, or by e-mail at DFierros@planning.lacounty.gov.

Attachments:

Dundas I. Flaherty Letters

DPW Comments

MC:DF

6/2/2010

Dundas I. Flaherty
3749 Malibu Vista Drive
Malibu, California 90265
Telephone (310) 454-0041 Fax (310) 454-5113
Nonsolum@earthlink.net

27 April 2010

Harold Helsley, Commissioner
Los Angeles County Department Of Regional Planning
320 West Temple Street, 13th Floor
Los Angeles, CA 90012

Dear Mr. Helsley:

At the meeting of the Regional Planning Commission last week where the cell tower proposed for Shoreheights Drive was considered, I believe it was you who asked a question about cracks in the roadway. The sense of the question was: If there is land movement affecting Shoreheights, why aren't there cracks in the roadway? You referred to a photo in the proposal showing no apparent cracks in the roadway.

In fact, there are cracks in the roadway that suggest land movement beneath the pavement. They are not huge fissures, but they are long cracks, running in a pattern suggesting the roadway was placed in tension laterally and shear lengthwise and failed under stress from movement underneath. The cracks are located in the roadway in front of the proposed tower site and the three houses immediately downhill.

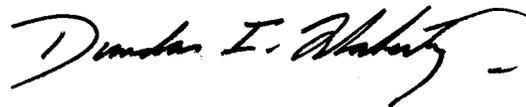
The cracks are not wide, perhaps .5 to 1" in width, but they are long, and patterned in a way unlike other cracks in the roadways in our community (I looked at three miles worth of local roadway on foot while walking the dog). The cracks have been marked with something like black repair goo for asphalt driveways.

I don't know why the cracks didn't show in the photo. The likeliest explanation is that the photo was taken before the cracks happened. Some of the cracks do show on Google Maps satellite imagery of Shoreheights. You can see them at <http://maps.google.com/>. Find Shoreheights, turn on the sat imagery, zoom all the way in, and you'll see some of the cracks. Others don't show very well, and the resolution is not great to begin with. If helpful, I could shoot the cracks and send you high-res photos.

As we said at the hearing, there's an active landslide affecting the cell tower site and the two or three houses just downhill from it. The landslide itself shows in the Google sat shot. The landslide has occurred because that area is all loose dirt, not rock, and the slides will recur. The cracks suggest recent recurrence. There's a real risk of failure of structures in the area affected. That risk is not adequately dealt with the tower proposal, and there may not be a good way to build the tower safely on the site proposed.

Thanks for listening

Yours truly,



MAY 3 - 2010

Dundas I. Flaherty
3749 Malibu Vista Drive
Malibu, California 90265
Telephone (310) 454-0041 Fax (310) 454-5113
nonsolum@earthlink.net

~~20~~ April 2010

Daniel Fierros, Contact Person
Project No. R2008-01980-(3)
Los Angeles County Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Re: Project No. R2008-01980-(3)

Dear Mr. Fierros:

Attached is a copy of a letter I wrote to Mr. Helsley earlier this week dealing with his question at the 21 April hearing on the referenced project. His question concerned cracks in the roadway on Shoreheights Drive suggesting earth movement beneath the roadway. My letter presented observations about the cracks. Please include the letter on the record.

Also, the California Geological Survey published an important new map this week. The Survey notes:

Informed land-use decisions require information about California's geologic and seismic hazards. Most local governments and many state agencies lack expertise or information about such hazards and, therefore, must rely on the California Geological Survey to provide such information

The new map is at: <http://www.quake.ca.gov/gmaps/FAM/faultactivitymap.html>

If you go to the new map, find Shoreheights Drive and zoom in, you'll see a fault mapped right at the proposed tower site legended "Low angle fault (barbs on upper plate). Fault surface generally dips less than 45° but locally may have been subsequently steepened."

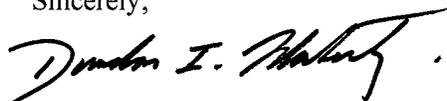
That observation squares with Mr. Michael's geological report and its conclusion that the conditions of the site demand a stability analysis based on strength data for the Sespe section that does not yet exist. Mr. Michael also cites risks of the kind in the California Geological Survey's new map. Ms. Sarn furnished the report by Mr. Michael, a registered geologist familiar with the Shoreheights area proposed for the tower site, at her own expense. Mr. Michael's report is now on the Regional Planning Website.

The T-Mobile Geotechnical Report by AESCO Technologies is also on your website. In Section 5.1, AESCO has defined its scope so narrowly as to ignore the genuine risks identified in Mr. Michael's study. AESCO said in 5.1 "It must be recognized that conclusions reached in this report are based on conditions, which exist at the boring location and are assumed to exist over the entire site."

That's a crippling assumption. If you have any doubts, read both Mr. Michael's and AESCO's reports on your website.

Accordingly, please require T-Mobile to submit a geotechnical report of adequate scope that deals with actual conditions over the entire site.

Sincerely,



Dundas I. Flaherty
3749 Malibu Vista Drive
Malibu, California 90265
Telephone (310) 454-0041 Fax (310) 454-5113
nonsolum@earthlink.net

11 May 2010

Project No. R2008-01980-(3)
Los Angeles County Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Re: Project No. R2008-01980-(3)

Dear Mr. Fierros:

We have reason to believe that T-Mobile or someone acting on its behalf has entered into agreements with certain homeowners in our community not to oppose the proposed cell tower referenced above. Please ask T-Mobile to certify that neither it nor anyone acting on its behalf has entered into any kind of agreement with homeowners here not to oppose the proposed cell tower in return for any kind of consideration, including money or the promise thereof. If T-Mobile has entered into such agreements, please ask T-Mobile to describe the essentials of such agreements. We do not ask T-Mobile to name names if it has promised confidentiality.

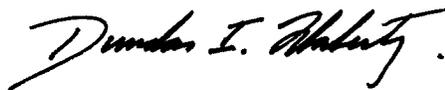
Please ask T-Mobile to respond to this request not later than 21 May 2010, and please 1) email T-Mobile's response promptly to me and Ms. Sarn, and 2) include it in the material you prepare for the Commissioners before the hearing on 2 June.

Also, in my letter to the Hearing officer dated 2 April 2010, I requested certain disclosure and certification regarding payments between TM and the County and others and regarding compliance with the Foreign Corrupt Practices Act. My request has been ignored so far, and there was no response in the case record on your website, nor in your report to the Commissioners before the last hearing. Please meet the request now.

These are not trivial or nuisance requests. They are at the heart of good government and ethical business practices. Regional Planning has a history of corruption, cited in the aforementioned letter. Regional Planning staffers have dealt with homeowners who oppose the referenced project dismissively and with intimidation; they may have done the same thing with the homeowners whom we believe T-Mobile has bought off. Certain homeowners that would discuss the cell tower proposal openly before the "meetings" Mr. McCarthy pushed have become uncommunicative since those meetings.

We and the Commissioners have a right to certification from T-Mobile that it has done nothing unlawful and a description of anything T-Mobile has done, such as buying off certain homeowners but not others, in the interest of solid ethics and fair dealing. Please do your best to meet my reasonable requests.

Sincerely,



MAY 12 2010

Dist. Office 9.1

Sheet 1 of 1

County of Los Angeles Department of Public Works
GEOTECHNICAL AND MATERIALS ENGINEERING DIVISION
GEOLOGIC AND SOILS ENGINEERING REVIEW SHEET
 900 So. Fremont Ave., Alhambra, CA 91803
 TEL. (626) 458-4925

DISTRIBUTION
 1 Dist. Office
 1 Geologist
 1 Soils Engineer
 1 GMED File
 1 LDD
 Eng / Arch

Tract / Parcel Map 27152 Lot(s) Adjacent to lot 5
 Parent Tract _____ Location Malibu
 Site Address Adjacent to 3417 Shoreheights Drive
 Geologist _____ Developer/Owner Omnipoint Communications, Inc. (T-Mobile)
 Soils Engineer AESCO Technologies, Inc. Engineer/Arch. Unknown

Review of:

CUP No. RCUP200800165 For: Wireless communications facility
 Geologic Report(s) Dated _____
 Soils Engineering Report(s) Dated 7/31/08 (20080885-A3309)
 Geology and Soils Engineering Report(s) Dated _____
 Additional Reports Reviewed Kovacs-Byer: 4/04/78, 3/30/78, 3/30/78, 3/16/78; Lockwood & Associates: 4/28/65; Stone Geological Services: 1/28/65, 11/17/64, 6/01/64

Remarks/Conditions:

1. A consulting engineering geology report is required to evaluate the specific plan and make recommendations. The consultant must review and reference (in full) all reports on file in this office that are relevant to the subject project.
2. Slope stability must be provided for the proposed development. The report must comply with the provisions of "Manual for Preparation of Geotechnical Reports" prepared by County of Los Angeles, Department of Public Works. The Manual is available on the Internet at the following address: <http://adpw.org/gmed/manual.pdf>
3. The engineering geologist must make a finding in accordance with Section 111 of the County of Los Angeles Building Code. The Statement must be substantiated by appropriate data and analyses.
4. All recommendations of the consulting geologist and soils engineer must be incorporated into the design or shown as notes on the plans.
5. Add the following note on the building plans:

 Pile excavations must be inspected and approved by the consulting geologist and soils engineer prior to the placing of steel or concrete. A final geology report verifying total depth, approved embedment material, and embedment depth must be provided.
6. Show all recommended corrective measures on the plan.
7. The plan must be specifically approved by the consultant geologist and soils engineer by manual, original signatures and dates on each sheet.
8. Submit two sets of building plans for verification of compliance with County codes and policies.
9. Include a copy of this review sheet with your response.

Reviewed by



Karin Burger
 Karin Burger, PG 7922 CEG 2507
 Geology Section

Date May 3, 2010