

August 25, 2020

The Honorable Stephanie E. Hulse
Judge, Superior Court of California, County of Monterey
240 Church Street
Salinas, CA 93901

SUBJECT: 2019-2020 Monterey County Civil Grand Jury Final Report- "Monument to a Failed Process: South County Use Permit PLN 180317"

Dear Honorable Judge Hulse:

My name is Edward C. Buntz and I am a resident of Monterey County, living in the Bryson-Hesperia community in South County, and currently serve as secretary for the South County LUAC. This is the invited response to subject report by the South County LUAC.

Findings

F2: The difference between the Board of Supervisors' Resolution 15-043 No.7 April 28, 2015 use of the name "Bradley-Parkfield LUAC" and the Monterey County official Website use of the name "South County LUAC" for the same LUAC, created confusion that contributed to an RMA planner's misunderstanding about the South County LUAC.

LUAC Response: This illustrates how little attention and professional diligence RMA has toward South County issues and projects.

F3. The RMA Planning draft resolution and briefing for the Application both inaccurately asserted that (1) South County had no LUAC, and (2) that the Application did not need to be sent to the LUAC for review. These errors denied a required hearing and stifled public voice on design and local considerations for a large, visible project.

LUAC Response: This also illustrated the lack of professional diligence by RMA in processing this application and there was no effective supervision to catch and correct this error prior to the tower's mistaken approval. Even the most cursory review of the "Monterey County Land Use Advisory Committee Procedures" would have exposed the need to conduct a South County LUAC public review. In addition, the Principal Office Assistant in the very Planning Department that claimed there is no South County LUAC is the individual that communicates directly with the South County LUAC regarding the scheduled meetings each month. The implausible circumvention of the basic truth, plus the complete lack of sincere contact with the community suggests to us that the approval of this cell tower on Hesperia Road was a coordinated effort to avoid public knowledge of the project in direct conflict with the procedures dictated by the Board of Supervisors.

F4: The Application's one-sentence dismissal of the alternative site, *"Unfortunately, due to the mountainous terrain access and road constraints the proposed site was not physically feasible for the construction of the proposed tower"* was incorrect. As a result, a constrained and inappropriate site selection was approved.

LUAC Response: LUAC agrees that the description of the alternative site was incorrect. No one checked and no one asked any locals about the alternative location. Again, this application was approved with a serious lack of professional diligence by RMA in processing this application and there was no effective supervision to catch and correct this error prior to the tower's mistaken approval.

F5: The RMA Planning public hearing notices for this project complied with State and County code, but were structurally ineffective in providing the local community with reasonable awareness of the significant project being proposed for their South County community.

LUAC Response: On behalf of the South County community the South County LUAC agrees that the public hearing notice code as written will not be effective for our rural and spread out communities. Moreover, just increasing the minimum notification distance is not an effective fix.

F6: The approved cell tower failed to meet multiple site and design conditions of MCC 21.64.310 including: E.2 (has local citizen input on impact and alternative sites), H.1a (preserve visual character, aesthetic value of parcel and surrounding land), H.1c (not sited to create clutter & negatively affect specific views), H.1d (designed to minimize visual impact), H.1e (screened from any public viewing areas), H.2d (designed to mitigate potentially significant adverse visual impacts), and J.3 (complies with all applicable requirements of 21.64.310). As a result of these multiple failures, this application did not meet a required finding for Use Permits as listed in MCC 21.74.050.B.1 (will not be...detrimental or injurious to property and improvement in the neighborhood.) and should not have been approved.

LUAC Response: The South County LUAC agrees that this tower should never have been approved. Every condition mentioned in Finding 6 shows how uncaring and unconcerned RMA was in processing this application. The one adjoining property owner that attended the Zoning Administrator Hearing pointed out these problems, but was dismissed. After the tower was built, the community presented a thorough description of the errors, but the County ignored these facts. The tower should have been removed and placed in a better location after coordinating with the community and doing the staff work correctly.

Recommendations

R2: The Director of RMA should investigate whether the erroneous description of PLN 180317 alternative site's conditions, as provided to RMA Planning in support of that application, constituted "false material information," as the term is used in Monterey County Code 21.70.070 (Revocation). Director RMA should then determine if action in accordance with that code is appropriate or necessary for PLN 180317. **(F4) This investigation and determination should be completed no later than 90 days after the publication of this report.**

LUAC Response: The LUAC supports this recommendation and is willing to assist in the investigation. It is the LUAC's belief that the investigation will show that the description of the alternative site was false material information. As clearly depicted in this report, the original site analysis was fraudulent, so the approval of this flawed permit without any substantial alternate site analysis compounds the gross professional negligence associated with this project. The LUAC strongly supports revoking the use permit for this cell tower and starting again to do it in a correct and community supportive manner.

R3: The Board of Supervisors should revise the Resolution that establishes and provides guidance to the County Land Use Advisory Committees (LUAC), the "LUAC Guidelines," to update Exhibit B. Stop using the "Bradley-Parkfield" LUAC name and start using the "South County" LUAC name. This will accurately reflect the change that was made to that LUAC in August 2008 and implemented in January 2009. (F2, F3) **This revision should be completed no later than six months after the publication of this report.**

LUAC Response: The LUAC supports this recommendation and states that this change is long overdue.

R5: The RMA Services Manager should develop explicit guidance to ensure public hearing noticing for significant projects in Monterey County's rural environments include other means in addition to those listed in Monterey County Code 21.70.040.A (Public Notice Required). This guidance should identify the appropriate social media and local micro-resources that are active in the rural community where a significant project is planned. **This guidance should be completed and operational no later than 90 days after the publication of this report.**

LUAC Response: The LUAC supports this recommendation. There are many local social media and community resources that could have gotten the word out and helped RMA understand what our community is like. LUAC thinks this recommendation should be part of a larger effort by the RMA to improve noticing and communications about projects within South County Communities.

R6: The Board of Supervisors should revise Monterey County Code 21.70.040.A (Public Notice Required) to include the following provision from California Government Code Section 65091(A)(5)(c): "In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable." (F5) **This revision should be completed no later than 24 months after the publication of this report.**

LUAC Response: The LUAC supports this recommendation. It must be applied in a way to ensure planners consider many efficient ways to let the community know about proposed projects. The current approach clearly does not work for our rural South County communities.

R7: The RMA Services Manager should develop explicit guidance to encourage and support applicant-sponsored town halls or orientations for rural communities where significant projects are planned. These events should be in advance of, or early into the application process. (F5) **This guidance should be completed and operational no later than 60 days after the publication of this report.**

LUAC Response: The LUAC also supports this recommendation. It is a common-sense approach to making sure the project fits the community, and that the community can know about the project. It will take several different approaches to establish reliable outreach from the County RMA to our South County community, and the applicant should be an active part of that process. Again, the current approach does not work for our rural South County communities.

In addition, the South County LUAC would like to express our appreciation to the members of the Civil Grand Jury for their dedication in conducting a thorough investigation and publishing a comprehensive report with Findings and Recommendations that have the potential to correct this particular cell tower travesty as well as force the Monterey County Government to improve their ability to serve the needs of the public, particularly in rural communities.

Sincerely,

The South County Land Use Advisory Committee

Bill Bartosh

Edward C. Buntz, (Secretary)

Carol Kenyon

Debbie Roberson, (Chairperson)

Greg Traynor

A handwritten signature in dark ink, appearing to read "Edward C. Buntz", with a stylized flourish at the end.

Edward C. Buntz

Secretary

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