

# COUNTY OF INYO PLANNING COMMISSION

## MINUTES OF DECEMBER 3, 2008 MEETING

### COMMISSIONERS:

WILLIAM STOLL	FIRST DISTRICT (VICE-CHAIR)	Inyo County Planning Commission
CYNTHIA LITTLE	SECOND DISTRICT	Post Office Drawer L
SAM WASSON	THIRD DISTRICT	Independence, CA 93526
RICHARD WHITE	FOURTH DISTRICT (CHAIR)	(760) 878-0263 / (760) 872-2706
PAUL PAYNE	FIFTH DISTRICT	(760) 872-0382 FAX

### STAFF:

MIKE CONKLIN	ACTING-INTERIM PLANNING DIRECTOR
DOUG WILSON	PUBLIC WORKS DIRECTOR
KEVIN CARUNCHIO	COUNTY ADMINISTRATOR
SHARON BIRMINGHAM	PLANNING COMMISSION SECRETARY
TANDA GRETZ	SENIOR PLANNER
JOSHUA HART	SENIOR PLANNER
ADENA FANSLER	ASSOCIATE PLANNER

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The Inyo County Planning Commission met in regular session on Wednesday, December 3, 2008, in the Board of Supervisor's Room, Administrative Center in Independence, California. Chair White opened the meeting at 10:00 a.m.  
These minutes are to be considered for approval by the Planning Commission at their next regularly scheduled meeting.

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**ITEM 1: ROLL CALL** - Commissioners: William Stoll, Paul Payne, Sam Wasson, Cynthia Little, and Richard White.

Also present were: Mike Conklin, Acting-Interim Planning Director; Randy Keller, Assistant County Counsel; Suzane Rizo, Deputy County Counsel; Josh Hart, Senior Planner; Tanda Gretz, Senior Planner; Adena Fansler, Associate Planner; and Secretary, Sharon Birmingham.

Absent: Doug Wilson, Public Works Director.  
Kevin Carunchio, County Administrator.

**ITEM 2: APPROVAL OF MINUTES (Action Item)** – Approval of Minutes from October 22, 2008.

**MOTION:** Moved by Commissioner Wasson and seconded by Commissioner Payne to approve the Minutes from October 22, 2008.

The Motion carried. (5-0).

**ITEM 3: ADDITIONS/DELETIONS TO THE AGENDA** – Opportunity for the Commission to add or delete an item on the Agenda.

There were none.

**ITEM 4:** PUBLIC COMMENT PERIOD – Opportunity to address the Planning Commission on any planning subject that is not scheduled on the Agenda.

There were none.

**ITEM 5:** TENTATIVE PARCEL MAP #384/HINDS which includes GENERAL PLAN AMENDMENT #2008-01 and ZONE RECLASSIFICATION #2008-02 (Public Hearing & Action Item) – An application to subdivide into four lots-a 70-acre site located eight miles west of Big pine, and adjacent to Glacier Lodge Road. The site is currently designated and zoned for commercial recreation on the western half, and rural residential use on the eastern half. These existing designation and zonings will remain, the applicant requested to alter the acreage configurations dedicated to each.

Senior Planner, Tanda Gretz, presented the Staff Report to the Commission. Some corrections were noted on page 3 of the Resolution to be signed by Chair Richard A. White. Corrections were also noted as follows:

Pg 14, No. 2-should be 10 feet

No.3-should be 18 feet

No.4-should be: paved-treated and prepped

Pg 1-on the chart, should delete the 2.5-acre minimum lot size... under Proposed Designations & Zoning to read .5-acre minimum lot size....

Chair White opened the public hearing at 10:10 a.m.

Andy Holmes, representative for the applicant, spoke in support of the proposed project and noted the changes within the staff report given by Ms. Gretz.

Chair White inquired as to the existing road being too steep.

Mr. Holmes assured that the road is not too steep and maintains fire department requirements.

Commissioner Little questioned the limit on the housing units.

Mr. Holmes answered that eight homes would be the build-out limit.

Discussion was held as to the potential future subdividing and the difficulties due to the Snow Avalanche Hazard Overlay.

Mr. Steven Hinds, applicant, addressed the Commission in support of the proposed project.

Chair White closed the public hearing at 10:19 a.m.

**MOTION:** Moved by Commissioner Wasson and seconded by Commissioner Payne to adopt the Resolution, recommending 1) Adopt the Mitigated negative Declaration of Environmental Impact and certify that the provisions of the California Environmental Quality Act have been met. 2) Make certain Findings with respect to, and recommend the Board of Supervisors approve:

- a) General Plan Amendment#2008-01/Hinds
- b) Zone Reclassification #2008-02/Hinds
- c) Tentative Parcel Map #384/Hinds subject to the Conditions of Approval as recommended in this Staff Report.

The Motion carried. (5-0).

Commissioner Stoll excused himself from the Commission for a conflict on Item 6 and sat in the audience.

Acting-Interim Planning Director, Mike Conklin, excused himself from the Commission to be a party within the audience.

Assistant County Counsel, Randy Keller, excused himself from the Commission to advise the Acting-Interim Planning Director.

Deputy County Counsel, Suzane Rizo, sat with the Commission to advise.

**ITEM 6: CONTINUED APPEAL HEARING ON PLANNING DIRECTOR DECISION REGARDING PINE CREEK MINE-NOTICE OF VIOLATION (Continued Public Hearing & Action Item)** – An appeal was filed based on Planning Director’s Decision of June 13, 2007 relating to violations of SMARA and the approved Reclamation Plan. On December 5, 2007, the appeal hearing was continued to February 27, 2008 to allow the appellant to submit an amendment to the Reclamation Plan satisfactory to the Planning Department. The matter was heard on February 27, 2008 and continued to June 25, 2008. The matter was heard on June 25, 2008 and continued to September 23, 2008. Another continuance to this date was granted for an adequate, satisfactory submission of an amendment to the Reclamation Plan

Interim Acting Planning Director, Mike Conklin, presented the Revised/Supplemental Staff Report to the Commission. The Planning Department did receive an Amended Reclamation Plan on August 1, 2008, and is in the process of reviewing that plan. Additional time was requested to review the revised Application, as indicated by correspondence from the State. The Planning Department has not received additional information as requested. Mr. Conklin advised the Commission of an Agreement in Concept and the terms of that agreement. Also, additional requirements required by the County were proposed. These additional requirements will be included in the proposed Reclamation Plan. The County will commence on the CEQA documents based on scenario described. The Planning Department will complete CEQA and return to the Commission in two months with a proposed final plan that is acceptable to the Planning Department. The Planning Commission will be asked to approve the plan with all conditions included and the applicants will have the choice of accepting the plan as approved by the Planning Commission or performing under the existing reclamation plan.

Mr. Conklin requested that the Planning Commission provide an indication that the proposal is acceptable in principal and direct staff to conduct a CEQA analysis and return the amended reclamation plan for approval at the March, 2009 Planning Commission hearing.

Chair White opened the public hearing at 10:29 a.m.

Doug Hicks, General Manager for Pine Creek Mine and Vice-President of Avocet Tungsten, Inc. addressed the Commission and provided information that the concepts were reasonable. Mr. Hicks indicated that he would recommend to his counsel to approve.

Contentions to still be resolved by the Planning Commission are: 1. Mining on the site; 2. Conditional Use Permit required for mining; 3. Vested uses still in place.

Mr. Hicks requested to address the Commission on the contentions later in the meeting. Two separate issues: A reclamation plan which is before the Commission and the use permit.

Chair White closed the public hearing at 10:31 a.m.

The Commission addressed County Counsel as to the issues before them.

Acting-Interim Planning Director, Mike Conklin, referred to his Staff Report on page three for the Requested Action of the Planning Commission.

Chair White re-opened the public hearing at 10:32 a.m.

Doug Hicks, General Manager for Pine Creek Mine and Vice-President of Avocet Tungsten, inc. informed the Commission of the things that were still to be resolved which included the non-abandonment of the mine, and mining currently on the site which Mr. Hicks had witnesses to testify to the Commission.

Chair White closed the public hearing at 10:35 a.m.

**MOTION:** Moved by Commissioner Payne and seconded by Commissioner Little to accept the Amended Reclamation Plan in principle and direct Staff to conduct a CEQA analysis and return the Amended Reclamation Plan for approval at the March, 2009 Planning Commission meeting.

The motion carried (4-0).

Chair White re-opened the public hearing at 10:39 a.m to allow Mr. Hicks to address the Commission regarding the contentions of current mining on site and the requirement of a conditional use permit.

Doug Hicks, General Manger for Pine Creek Mine and Vice-President of Avocet Tungsten, Inc. addressed the Commission. Mr. Hicks addressed the Contention No. 1 which was included in the Revised/Supplemental Staff Report: Is there currently mining? There is no blasting, there is no new surface distrubance due to the current issues with the reclamation plan. Are there mining operations? This contention still needed to be resolved. The mine's use had been grandfathered and was before the zoning laws. The mining was allowed to continue as long as it was not abandoned. Mr. Hicks would like to address the contention of the abandonment of the Pine Creek Mine today. The Pine Creek Mine has never abandoned its mining use.

Dave Tanksley, resident in Aspendell. Sworn in by Suzane Rizo, Deputy County Counsel.

Mr. Hicks asked Mr. Tanksley about consulting the mine operations, and his familiarity with the BLM Website that shows active mining. Mr. Tanksley said he was familiar with the website. Mr. Hicks submitted a list of the active operations to the Commission-marked as Exhibit A. The false information within the order regarding the abandonment of the Pine Creek Mine has initiated a document from the Forest Service indicating the there was no active plan of operation.

Ken Wilder, one of the original employees; chief chemist and environmental coordinator of the Pine Creek Mine, sworn in by Suzane Rizo, Deputy County Counsel. Mr. Wilder informed the Commission of the reclamation plan process and in 1991 the historical purposes of the revision of the reclamation plan. He also informed the Commission of the two operations that occurred at the site; one being the mining and one being the milling operation. The mining had ceased and the milling continued til 2000. The 1991 Reclamation Plan was never intended to close the mine; only to mothball it. Mr. Hicks asked Mr. Wilder if it was in fact the 1991 plan or the 2002 plan. Mr. Wilder indicated that the safety of the 1500 closure would have been in the 2002 plan. Once the closure of the milling operation, Mr. Wilder became a private contractor.

Commissioner Payne inquired as to where the water went?

Mr. Wilder indicated that the water was discharged in Morgan Creek, then the Reservoir, which in turn goes to Los Angeles.

Commissioner Payne also inquired as to the discharge being a result of mining?

Mr. Wilder indicated that the discharge was a result of mining.

Pete Belec, was sworn in by Suzane Rizo, Deputy County Counsel. Mr. Belec has been going to the mine for over 42 years, he started as a miner, make shift foreman, mill shift foreman and was present at the closing of the mill. March 2000 was the run of the last batch. Mr. Hicks asked Mr. Belec if he knew of anyone residing at the mine that was not affiliated with the mine. Mr. Belec responded no. Mr. Hicks asked Mr. Belec what was the date the mine was last in production. Mr. Belec told the Commission it was in the spring of 1990.

Mr. Hicks requested that the document Summary of Operations be marked as Exhibit B. The document was from the Book, *The Mine in the Sky*. The document references when the mill and mine were closed and opened.

Kenneth Lloyd, was sworn in by Suzane Rizo, Deputy County Counsel. Mr. Hicks asked Mr. Lloyd as to the length of time Mr. Lloyd's family had been delivering oil to the Pine Creek Mine. Mr. Lloyd indicated the time to be since 1965. Mr. Lloyd testified that he could not recollect a time when he did not deliver fuel to the mine or the mill. Mr. Lloyd testified that he services other mines as well.

Mr. Hicks requested that the issue of the abandonment of the mine be addressed, as it will directly affect whether a Conditional Use Permit is required.

Chair White closed the public hearing at 11:03 a.m.

Acting Interim Planning Director, Mike Conklin returned to the Commission.

Commissioner Stoll returned to the Commission.

Assistant County Counsel, Randy Keller, returned to the Commission.

**ITEM 7:**     **COMMISSIONERS' REPORT/COMMENTS** – Commissioner Payne expressed concern regarding dilapidated buildings in the Olancho area. Commissioner Stoll expressed concern regarding the water resolution to the property behind Value Sports in Bishop.

**ITEM 8:**     **PLANNING DIRECTOR'S REPORT** – Acting Interim Planning Director, Mike Conklin deferred to Staff for an update on various projects. Senior Planner, Josh Hart, informed the Commission on the status of the update to the Housing Element, and General Plan. Senior Planner, Tanda Gretz, updated the Commission on the Walters recirculation of the Environmental Impact Report. Associate Planner, Adena Fansler, updated the Commission on her mining projects to include Briggs and Darwin.

**ITEM 9:**     **CORRESPONDENCE-INFORMATIONAL** – There were none.

**ADJOURNMENT** - There being no further business, Chair White adjourned the meeting at 11:38 a.m. to reconvene in regular session on Wednesday, January 28, 2009 at 10:00 a.m. in the Board of Supervisors Room, Administrative Center, Independence, California.

Prepared by:

Approved: January 28, 2009

*Sharon M. Birmingham*

Sharon M. Birmingham,  
Secretary To  
Inyo County Planning Commission