



Community Development Agency

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NEVADA COUNTY BOARD OF SUPERVISORS

Board Agenda Memorandum

MEETING DATE: August 11, 2026

TO: Board of Supervisors

FROM: **Aleena Church, Assistant Planner**
Brian Foss, Director of Planning

SUBJECT: Public Hearing to consider the appeal filed by Nels Atkinson regarding the decision to approve a Conditional Use Permit (CUP25-0009) and a resolution to deny the appeal and to uphold the decision of the Zoning Administrator to approve a Conditional Use Permit for the construction and operation of a new unmanned wireless communication tower located at 22044 Purdon Road, Nevada City, APN 062-180-081.

APN: 062-180-081 (changed from 062-180-080 for cell tower use)

RECOMMENDATION:

- I. Project Action: Adopt the Resolution to deny the appeal and uphold the decision of the Zoning Administrator to approve Conditional Use Permit application (CUP25-0009) proposing the construction and operation of a new 150-foot-tall monopine wireless communication tower within a 2,500 square foot fenced lease area located at 22044 Purdon Road, Nevada City, in southeast Nevada County.

FUNDING:

No budget amendments are required.

ATTACHMENTS:

1. Resolution to Deny the Appeal
2. Appeal to the Board of Supervisors
3. Zoning Administrator Staff Report with attachments
4. 5-13-2026 Zoning Administrator meeting minutes
5. Public comments

This Staff Report provides a discussion and a brief background of the project, and the relevant issues identified in the appeal, and staff's responses to the relevant issues raised in the appeal to support the decision on the project.

PROJECT DESCRIPTION:

The project is a Conditional Use Permit (CUP26-0009) proposing the construction and operation of a new unmanned wireless communication facility located at 22044 Purdon Road, Nevada City. The proposed facility will be designed as a one-hundred fifty-foot-(150) tall faux pine tree (monopine). All brackets, antennas, and remote radio units will be painted green to match the faux pine tree. The proposal includes the following components:

- (1) 600A switchgear with 200A Verizon Wireless Meter
- (1) Shade Cover
- (3) Equipment Cabinets
- (1) Telecommunications Cabinet
- (1) Intelligent Lighting Control Panel
- (1) GPS antenna
- (6) service lights
- (1) 30 KW Diesel Generator with a 147-gallon tank
- (3) C-Band Panel Antennas
- (3) 8' LTE Panel Antennas
- (3) 4' LTE Panel Antennas
- (3) LTE Remote Radio Units
- (1) 4' microwave antennas
- (2) surge suppressors

The facility will be contained within a 50' x 50' (2,500 square feet) Verizon lease area that will be surrounded with eight-foot tall chain-link fencing with a gate and a Knox Box entry system. The equipment enclosure would include three (3) equipment cabinets, one (1) GPS antenna, a fiber telecommunications box, a transformer, two (2) surge suppressors, and six (6) service lights. The lease area would be designed to accommodate up to three (3) future co-locations. A 30-kilowatt diesel backup generator with a 147-gallon fuel tank would be installed within the enclosure and would be used only during emergency power outages. Electrical service would be provided by Pacific Gas and Electric via a proposed PG&E Transformer. Access to the facility would be provided via an existing driveway from Purdon Road, with a designated parking space for maintenance vehicles near the equipment enclosure. The facility would be unmanned and accessed periodically for routine maintenance. Figure 1, below, shows the site plan showing the location of the proposed lease area on the subject parcel, the existing dirt access driveway, and the existing single-family residence on the parcel. (see attached staff report for more details)

PROJECT SITE & SURROUNDING LAND USES:

The proposed communication facility would be located in a 2,500-square-foot lease area northeast on an approximately 11.32-acre parcel. The parcel is located approximately 0.3 miles north of the South Yuba River State Park, Purdon Crossing and 4.9 miles from California State Highway 49 located at 22044 Purdon Road, Nevada City, CA 95959. The subject parcel (APN: 062-180-081) is zoned Forest (FR-40) with a General Plan designation of Forest (FOR). The subject parcel is developed with a single-family residence, a well, and septic system.

The adjacent parcels are zoned Forest with a minimum parcel size of 40-acres (FR-40) and General Agricultural with a minimum parcel size of 40 (AG-40) and all have General Plan designations of Forest (FOR). Adjacent parcels and several parcels in the area range in size from approximately 3.97 acres to approximately 20.69 acres. Figure 1 shows the project parcel, surrounding properties, and the zoning of the area. Figure 2, below shows an aerial photo of the project parcel.

The project parcel is surrounded by dispersed rural-residential development and agricultural uses. The proposed communication facility lease area would be located approximately 600 feet from the nearest offsite residence on

the adjacent parcel to the north. The proposed communication facility would be surrounded by relatively open foothill oak-pine-madrone woodlands and would be situated in a flat field of land that has already been disturbed.

THE APPEAL:

The appeal letter of the decision to approve a Conditional Use Permit was submitted to the Clerk of the Board on May 21, 2026. The appeal letter includes six (6) specific grounds on which the project is being appealed and specific concerns regarding the appellants' observation of the planning process. The appellants request the Board of Supervisors deny the project approval and not allow the construction and operation of an unmanned wireless communication tower.

Each of the specific provisions noted in this Appeal are provided below in summary (for the complete text please see the Appeal in Attachment #2) shown in **bold text** followed by staff responses to each of appeal points.

1. California Law Requires the County To Provide Documents to Anyone Who Requests Public Records, As Well Requires All Local Meetings to be Open and Ensure Public Participation

The administrative record for the project, including the application materials, technical reports, and other documents considered during project review, was made available to the public through the Nevada County Accela Citizen Access Portal. The staff report, meeting agenda, and initial study were posted for review of the public on the Nevada County website. These materials were available for public review in advance of the public hearing.

The appellant states that, "The Nevada County Zoning Administrator's failure to provide the documents relied upon in approving the Conditional Use Permit constitutes a direct violation of California's strong constitutional and statutory mandates favoring governmental transparency and public participation, thereby necessitating revocation of the permit or, at minimum, a new public hearing with full disclosure of all materials considered. Here, the documents introduced and relied upon at the May 13, 2026 hearing were plainly public records within the meaning of the California Public Records Act and Cal. Gov't Code § 54957.5 because they related directly to an open-session agenda item and were used in the governmental decision-making process. By refusing to allow the Appellant to inspect the records during the hearing, denying copies of the materials, and conditioning post-hearing disclosure upon the applicant's consent, the Zoning Administrator deprived the Appellant and the public of their constitutional right to meaningful participation in the hearing process and prevented any fair opportunity to review, analyze, or rebut the evidence relied upon in approving the project."

During the May 13, 2026 hearing, County staff utilized a presentation to summarize the project, applicable findings, and staff's recommendation. The presentation served as a visual aid and summarized information already contained within the publicly available administrative record.

During the hearing, the applicant also presented informational materials regarding radio frequency (RF) exposure and potential property value impacts in response to questions and concerns raised by members of the public. The applicant's presentation regarding RF exposure summarized the findings of the Radio Frequency – Electromagnetic Fields Exposure Report prepared by Dtech Communications, which concluded that predicted RF exposure levels in publicly accessible areas surrounding the proposed facility would remain below the Federal Communications Commission's (FCC) Maximum Permissible Exposure (MPE) limits. The presentation also included visual depictions of the modeled exposure areas. The applicant's presentation regarding property values summarized case law and other information presented in response to public comments expressing concern about potential impacts to residential property values.

Although the visual presentations were not distributed prior to the public hearing, the majority of the information presented summarized material already contained within the publicly available administrative record and project application materials. The only information not previously included in the administrative record consisted of general informational material regarding potential property value impacts, which was presented by the applicant in response to concerns raised by members of the public during the review process. Property values are not among the approval criteria for a Conditional Use Permit for a Wireless Communication Facility under the Nevada County Code.

Following the hearing, the appellant requested copies of the presentation materials on Friday, May 15, 2026. Staff provided the requested presentations to the appellant later that same day.

California Government Code § 54957.5 requires that any writing constituting a public record and relating to an open-session agenda item that is distributed to all or a majority of legislative body members less than 72 hours before a meeting must be made available to the public at the same time it is distributed to officials [Cal Gov Code § 54957.5](#). Writings distributed during a public meeting must be made available for public inspection at the meeting if prepared by the agency or members of the legislative body, or after the meeting if prepared by outside parties [Cal Gov Code § 54957.5](#).

In this matter, the staff presentation summarized information already contained in the administrative record and did not introduce new substantive evidence. However, the applicant's presentation included some general informational material regarding property values that was not previously included in the administrative record. While property values are not a required finding under the Nevada County Code for approval of a wireless communication facility, the County acknowledges that making all presentation materials available at the time of the hearing would have been consistent with best practices and the spirit of the Brown Act.

2. Granting Vertical Bridge's Application for Its Proposed Wireless Telecommunication Facility Would Violate Applicable Laws and the Legislative Intent Upon Which They Were Enacted.

The proposed cell tower is consistent with the Nevada County Code and the requirements of Section 12.03.080 that governs communication towers. As stated in the Zoning Administrator Staff report, the acre parcel with a Forest (FR-40) zoning designation and a Forest-40 (FOR-40) General Plan designation. The FR zoning district provides areas for a range of forest uses and support services and facilities. This district allows for more intensive uses, as long as they are not determined to be incompatible with the forest zoning uses. The 2,500 square foot lease area, including the driveway improvements are not anticipated to create incompatibility with agriculture because there is still adequate space on the 11.32-acre parcel for forest uses. Pursuant to Nevada County Code section 12.02.030, communication towers are allowed in Forest zoning districts with a Use Permit. Nevada County Code section 12.03.080 establishes design requirements for communication facilities to promote availability of public services while ensuring compatibility with adjacent land uses. The Conditions of Approval that ensure that the construction and operation of the proposed communication tower would not conflict with or detract from the surrounding uses. With the approval of the proposed Use Permit, (CUP25-0009) and implementation of the proposed Conditions of Approval, the proposed project would comply with the Nevada County Rural Zoning District Development Standards (12.02.030), the Nevada County Communication Tower and Facility Standards (12.03.080), and the Nevada County Noise and Resource Standards (Section 12, Title 4, Division 3).

To note; the Board of Supervisors approved an amendment to the Wireless Communication Facility Ordinance on April 16, 2026. Since this project was deemed complete prior to the ordinance update, this project was reviewed based on the previous ordinance approved prior to April 26, 2026.

3. The Proposed Tower Will Have a Severe Detrimental Impact on the Aesthetics and Character of the Area, As Well As Cause a Significant Decrease in Property Value.

The project does not include, nor has the applicant requested, any variances. The proposed communication tower was reviewed pursuant to the communication facility standards contained in Nevada County Code Section 12.03.080. That section expressly permits communication towers located less than one hundred percent (100%) of their height from a property line, habitable structure, or other tower, provided the applicant submits a structural certification prepared by a California licensed professional engineer demonstrating that the tower is designed to withstand the maximum anticipated wind, seismic, ice, and other loading conditions without failure.

As documented in the Zoning Administrator Staff Report attached, the applicant submitted a Fall Zone Certification Letter prepared by a California licensed professional engineer certifying that the proposed tower satisfies the structural requirements of Nevada County Code Section 12.03.080. The proposed communication facility was reviewed for compliance with the applicable setback and structural safety standards and was determined to comply with the requirements of the Nevada County Code. The proposed tower is setback 192' from the front yard, along Purdon Road and is screened with seven (7) trees between the tower and the road, see Figure 1 & 2 below. Furthermore, the Visual Impact Assessment does show a photo simulation that the proposed monopine viewpoints do blend in with the existing treetops as you can see on this black line below in Figure 3.

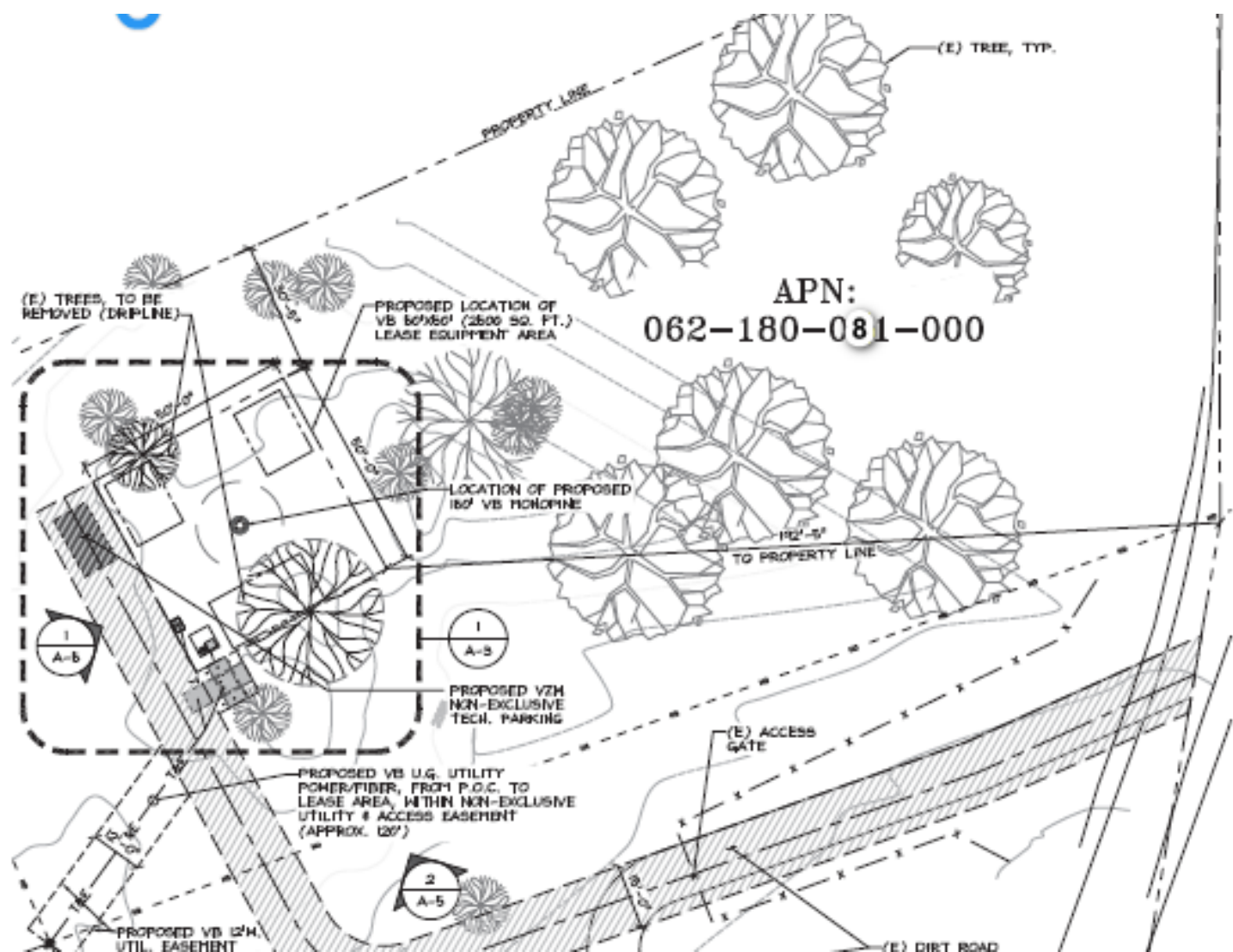
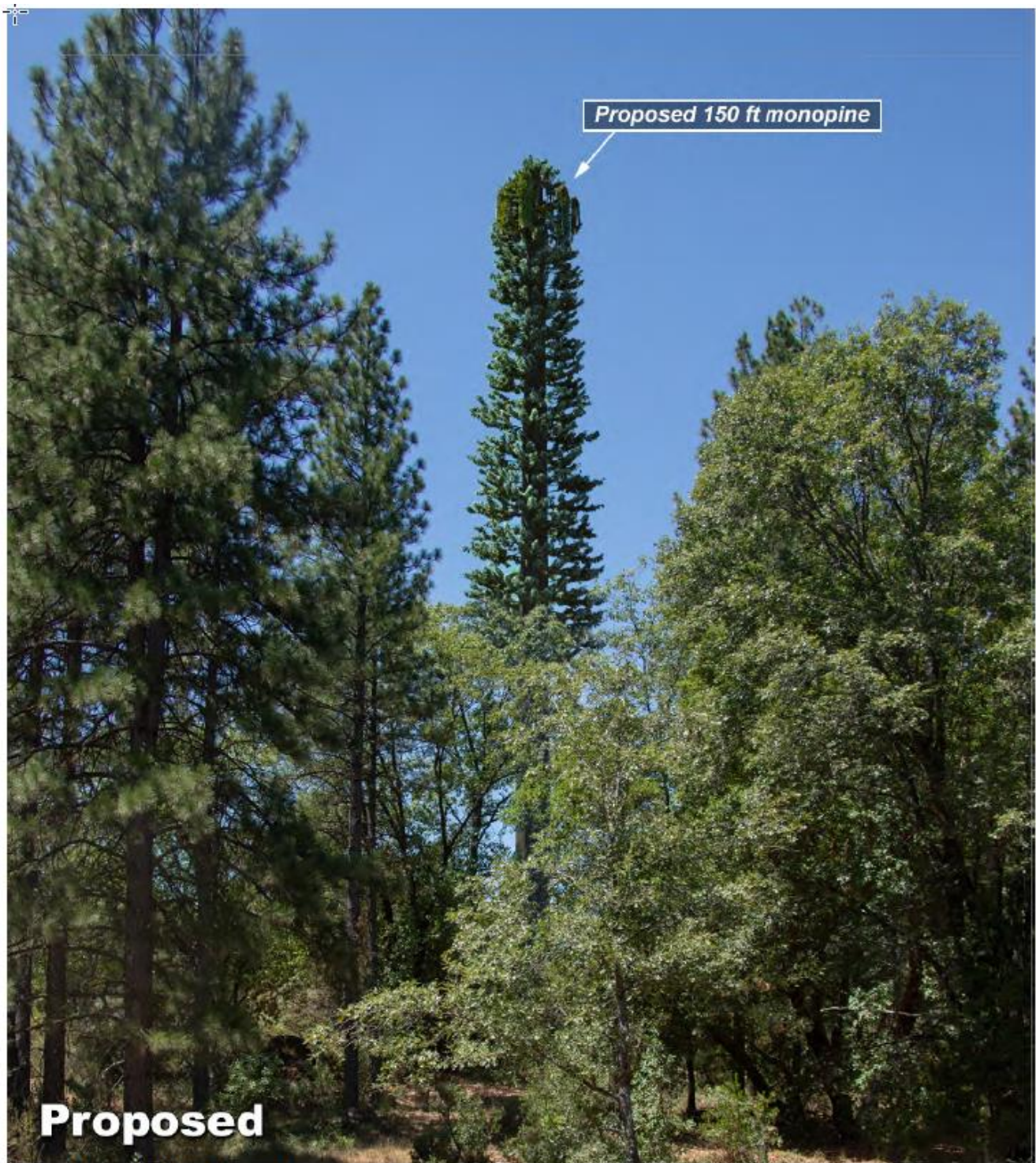


Figure 1 – Close-Up Site Plan



Simulation VP1 (Close Range)

Figure 2 – Photo Simulation from Purdon Road



Comparison: Monopine Height vs Tree Heights

Figure 3 – Photo Simulation of Tree Line

The appellant's comments regarding aesthetics, rural character, and property values were previously considered and addressed in Zoning Administrator Staff Report and the Initial Study/Mitigated Negative Declaration, which are incorporated herein by reference. Staff reviewed all public comments submitted during the environmental review process; however, none identified information demonstrating that the project is inconsistent with the Nevada County General Plan, Nevada County Code, or the conclusions of the environmental analysis. The project was evaluated for compliance with the applicable siting, design, screening, and compatibility standards of Nevada County Code Section 12.03.080, which is intended to preserve the rural character of the community, and was determined to comply with those requirements.

The appellant's comments regarding potential impacts to property values were previously addressed in the Zoning Administrator Staff Report, which is incorporated herein by reference. As discussed in the Staff Report, property

values are not a required finding for approval or denial of a Use Permit under Nevada County Code Section 12.05.052 and are not evaluated under CEQA. The project was reviewed for compliance with the applicable siting, design, screening, and compatibility standards of the Nevada County Code, which are intended to minimize impacts to surrounding properties.

4. § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012 Would Allow Vertical Bridge to Increase the Height of the Proposed Facility Without Further Zoning Approval.

The appellant's comments regarding potential future increases in tower height are speculative and do not relate to the application currently under consideration. The proposed project has been reviewed based on the plans submitted by the applicant and the applicable provisions of the Nevada County Code. While federal law provides a process for certain modifications to existing wireless facilities, any future request to increase the height of the tower would be limited by the applicable provisions of federal law and would be reviewed for compliance with all applicable federal, state, and local requirements in effect at the time of the request. Accordingly, the possibility of a future modification is not a basis for denying the proposed Use Permit.

5. Vertical Bridge Has Failed to Proffer Probative Evidence Sufficient to Establish a Need for the Proposed Wireless Facility at the Location Proposed, or That the Granting of Its Application Would Be Consistent With the Smart Planning Requirements of the City's Code.

The appellant contends that Verizon Wireless failed to demonstrate a significant gap in service coverage or establish that the proposed facility is the most appropriate location to address that gap. These comments were previously addressed in the Zoning Administrator Staff Report and the materials submitted by the applicant, which are incorporated herein by reference.

As documented in the Staff Report, Verizon Wireless identified a gap in its LTE wireless service west of Nevada City and evaluated nine alternative locations within the search area. Based on radio frequency propagation, topography, elevation, available utilities, access, site availability, and the presence of a willing property owner, Verizon Wireless determined that 22044 Purdon Road was the most feasible location to address the identified service gap. As seen in Figure 4 below, the gap that was identified is within the red circle. The left photo is of the current service area and the right being the proposed coverage. Additionally, the proposed tower increased coverage within the South Yuba River Canyon near the Purdon Crossing Area that would be beneficial for emergency services.

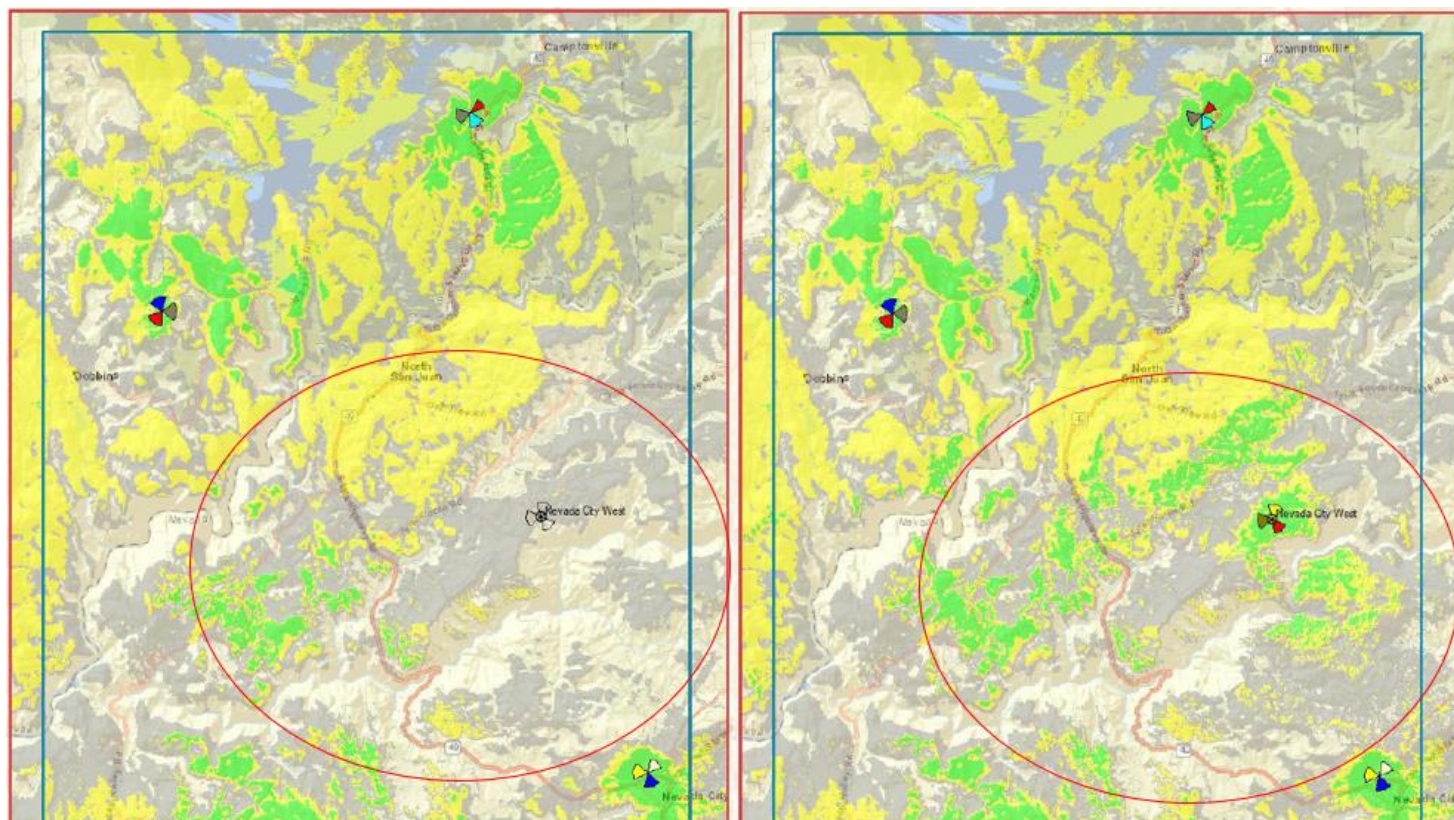


Figure 4 – Coverage Gap

Nevada County Code Section 12.03.080 does not require an applicant to submit the specific forms of data identified by the appellant, including dropped-call records or drive-test data. The County reviewed the evidence submitted with the application and determined that the proposed facility complies with the applicable siting, design, and location requirements of the Nevada County Code.

6. To Comply With the TCA, Vertical Bridge's Application Should Be Denied in a Written Decision Which Cites the Evidence Provided Herewith.

This section discusses the legal requirements applicable to a denial under the Telecommunications Act of 1996 but does not present information that changes staff's analysis or the findings supporting approval of the project. Staff reviewed the project for compliance with the applicable provisions of the Nevada County Code and determined that the project satisfies the required findings for approval of a Conditional Use Permit. Accordingly, the Zoning Administrator approved the project consistent with staff's recommendation.

SUMMARY:

Staff reviewed the evidence submitted by the applicant and determined that it was sufficient to support the required findings. Staff finds that all of the issues raised in the appeal have been considered and were adequately addressed by project conditions of approval and mitigation measures. The proposed project as conditioned meets all the requirements to obtain a Conditional Use Permit and is consistent with the County's Zoning Ordinance governing communication towers. The project has been mitigated to ensure less than significant impacts to all environmental issues (see attached Mitigated Negative Declaration).

RECOMMENDATION:

Staff recommends the Board of Supervisors take the following action:

- I. Project Action: Adopt the attached Resolution to deny the appeal and to uphold the decision of the Zoning Administrator to approve Conditional Use Permit application (CUP25-0009) proposing the construction and operation of a new 150-foot tall monopine wireless communication tower within a 2,500 square foot fenced lease area located at 22044 Purdon Road, Nevada City in southeast Nevada County.

Item Initiated by: Aleena Church, Assistant Planner

Approved by: Brian Foss, Planning Director