

March 6, 2018

Nevada County Board of Supervisors

950 Maidu Avenue

Nevada City, CA 95959

Re: Burning Bush Cell Tower placement continuance

Dear Supervisors:

We came before you a month ago, just before the continuance was granted. We cannot be with you on March 13 due to previous travel plans. Don Rivenes is an appellant, as are my grandson Alec Giron and daughter-in-law Emily Rivenes. The parcel that Alec and Emily own is located about 450' from the proposed cell tower placement. Alec lives in a home at that location, 19556 Burning Bush Road.

This has been a very disturbing process with very little time at the outset to understand why this was happening in their off-the grid neighborhood and why the notice was sent over a four-day holiday with no time to prepare. And then why wasn't there some recourse from such a bold intrusion in the neighbors' peace and quiet?

The permitting process, and the regulations enforced by regulatory agencies, like the County Planning Department, are intended to create a sense of protection and **objective** oversight. By working through the regulatory agencies, such as CEQA in this case and state agencies, we're told we can protect our community – in this case - a neighborhood. We can challenge permit applications (if we are informed in a timely manner) and speak out with new information when the application is being decided. We can also challenge the decision later at our expense.

Regulatory agencies regulate, by their definition, the amount of harm that takes place. When they issue permits, they give cover to the applicant against liability to the community for the legalized harm.

I repeat, in this case, how was the harm evaluated for the small rural off the grid neighborhood and how are they protected? This particular cell tower placement will forever harm the neighborhood in which it has been placed. There is very little benefit to the neighbors in exchange for this intrusion into their quiet space – 24/7 lighting, HVAC noise and maintenance trips by the cell tower owner personnel.

Fortunately, the neighbors are resourceful and managed to rally and speak to the meaning of this cell tower placement in their neighborhood. As it turns out the neighborhood concerns are more serious than the Planning Department understood.

We raised issues that should have been addressed by them in the early stages of this proposal's vetting process.

The role of regulations is to protect citizens and the environment from harm and to find the best possible solution to situations that can't be mitigated. In our appeal an EIR was requested and in hindsight it should have been considered. It would have explored other alternatives to the project location – better information about the nature of radio frequencies, cable length, interference and placement. It might have found that there is already a licensed radio tower in the preferred vicinity, that direction and height of the proposed cell tower makes a big difference in its desired operation.

In beginning to understand ourselves how radio frequencies work, we believe that it should have been necessary to have an expert in these matters review and brief staff on the intricacies of the project. The project proponent, AT&T and Shore2Shore, did not do their due diligence in informing the staff and the public how it all works and what was the best solution. They should pay our fees for finding their errors. I hope you or staff will check the other two tower placement materials for factual errors.

This whole broadband, cell tower discussion should have taken place in public workshops and information sessions on what is needed in the county for all of our devices, what trade-offs will be needed, what each device we're trying to power needs. It's very complicated and with all due respect, we don't think the way this has been handled is in the best interests of the overall needs of the county and certainly the affected neighborhood. It's too big for one department without expertise in the area. Whether our various devices (3G,4G,5G and beyond) actually need more power is arguable. But the market is determined to give it to us, so the escalation of cell towers and the like will continue. **We would like to propose that the county embark on a new cell tower ordinance to protect its citizens from the inadequacy of the current one.**

We were distressed at the Zoning Administrative hearing to see a map of the large number of relatively small lots in the Burning Bush neighborhood zoned FR 40. The other two permitted tower placement areas are also zoned FR 40, but have not been subdivided in the same way. There was no opposition to those placements as there are almost no neighbors! The number of neighboring property owners in the proposed Burning Bush cell tower neighborhood should have raised a red flag for the applicant. Shore2Shore and AT&T were not diligent in finding a less intrusive site and even pursuing their preferred sites. They instead chose a property-owner anxious to obtain a PG&E hook-up as part of the bargain.

While we do not yet know the substance of the Planning staff's corrected report to the Board, we do sincerely hope that acknowledgement of inappropriate placement of the tower and fair treatment to the neighborhood is the outcome. Relying on the outdated 1996 FCC regulations in these matters is insufficient as is your own ordinance as we move into the future.

We strongly urge that you as the final decision-makers in this matter find that the Conditional Use Permit for the Burning Bush Cell Tower is withdrawn.

Further, should the current placement of the cell tower along the property line of Cynthia Pierce's property remain, the county should consider a course of action relating to eminent domain for that parcel. It appears to be "taking" of her property rights and she should be compensated.

In sum, this has been a flawed process for the county and for the particularly stressed neighbors and we hope you will begin again with fresh eyes and clearer information.

Sincerely,

Barbara L. Rivenes

Donald I Rivenes

Barbara and Don Rivenes

