



COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT
950 MAIDU AVENUE, SUITE 170, PO BOX 599002, NEVADA CITY,
CA 95959-7902 (530) 265-1222 <http://nevadacountyca.gov>

Trisha Tillotson
Community Development Agency Director

Brian Foss
Planning Director

NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memorandum

MEETING DATE: August 20, 2024

TO: Board of Supervisors

FROM: **Brian Foss, Director of Planning**

SUBJECT: Continuance of Hearing to adopt the Resolution to deny the appeal and uphold the decision of the Zoning Administrator to approve the Conditional Use Permit (CUP23-0015) for the construction and operation of a new unmanned wireless communication facility located at 20896 Dog Bar Road, Grass Valley, APN: 027-010-018.

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 (CUP23-0015) proposing the construction and operation of a new 129-foot tall monopine wireless communication tower within a 900 square foot fenced lease area located at 20896 Dog Bar Road, Grass Valley, in southeast Nevada County.

FUNDING:

No budget amendments are required.

ATTACHMENTS:

1. Resolution to Deny the Appeal
2. June 12, 2024 Zoning Administrator Staff Report with attachments
3. July 9, 2024 Board of Supervisors Appeal Staff Report with attachments
4. Verizon Statement in Support of Verizon Wireless's Proposed Facility at 20896 Dog Bar Road
5. July 19, 2024 Photo Simulations

6. Wireless Facilities Impact on Property Values
 7. Alternative Candidate Analysis
 8. 7/31/2024 Site Plan
 9. 4/22/2024 Site Plan
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BACKGROUND:

The Conditional Use Permit for the construction and operation of a new unmanned wireless communication facility located at 20896 Dog Bar Road, Grass Valley, in southeast Nevada County was approved at the June 12, 2024 Zoning Administrator hearing. On June 24, 2024 Jeff and Kristin Phalen filed an appeal to the Zoning Administrator's approval of the Conditional Use Permit for the communication facility. On July 9, 2024 the Board of Supervisors considered oral and written evidence regarding the appeal at a public hearing. Members of the public and the appellants discussed concerns about property values, aesthetics, and whether there is a need for the cell tower.

Supervisors Swarthout, Hoek, Bullock, and Hall determined that more photo simulations showing the tower from adjacent properties and not just publicly accessible areas are required. Additionally, the Supervisors requested more information about the coverage gap the tower is meant to resolve.

Planning Department staff contacted the applicant, Sequoia Deployment Services and requested the additional information to resolve the request of the Supervisors. Discussion about the additional information provided is discussed below.

COVERAGE MAPS:

The County Land Use Code requires applicants to provide evidence to justify the need for the proposed communication facility. The Code does not set a specific standard for what a "need" is. Typically, a lack of co-location opportunities and a coverage map showing a gap in coverage is a sufficient need. Some deference is given to the judgement of the network engineers designing the cellular networks because they have the data and knowledge about where cell towers for the networks they develop need to be placed. Verizon Wireless/Sequoia Deployment provided coverage maps showing the gap in LTE coverage the proposed communication facility is designed to resolve. At the public hearing, additional information justifying the placement of a new communication facility at 20896 Dog Bar Road and the benefit it will create was requested. Accordingly, Ehab Elaidy, an RF design engineer at Verizon, provided a statement providing the requested information which is attached to this report.

The report states that due to the distance from the existing facilities and substantial intervening terrain, there is a gap in reliable Verizon Wireless voice and data service coverage and a lack of a dominant signal in the area. Additionally, the existing Verizon

Wireless facilities that primarily serve the gap area are experiencing capacity exhaustion, affecting distant users in particular. Network users in the gap area experience poor service levels and low data throughput, resulting in slow data speeds and poor voice call quality.

Verizon has midband and low band frequencies. The mid-band frequencies provide much greater data capacity than the low-band frequencies. However, the mid-band frequencies do not travel as far as low-band frequencies, requiring wireless facilities to be closer together and closer to end users to provide reliable service. Verizon Wireless designs its networks to ensure that mid-band frequencies can provide adequate capacity as well as coverage.

As shown in the report, reliable low-band in-building coverage is almost entirely lacking in the area, including residential and agricultural areas west and east of Dog Bar Road. There is also a lack of low-band in-vehicle coverage along a 0.75 mile stretch of Dog Bar Road between Owl Hill Court and Leitner Drive, with average daily traffic of 1,564 vehicles per *Nevada County 2022 Traffic Counts*, as well as other local roads such as eastern Lodestar Drive near its intersection with Dog Bar Road.

Figure 5 of the report is a map showing the low-band coverage of only the Proposed Facility, not including the existing facilities. This map reflects how the Proposed Facility will provide low-band outdoor coverage to a total area of 21.7 square miles, with a population of 6,990. This will include new reliable low-band in-building coverage to an area of 1.4 square miles which are currently lacking.

Figure 8 of the report is a map showing the mid-band coverage of only the Proposed Facility. The Proposed Facility will provide mid-band outdoor coverage to a total area of 3.6 square miles, with a population of 1,009. This will include new, reliable mid-band outdoor coverage to an area of 1 square mile which is currently lacking.

ALTERNATIVE CANDIDATE ANALYSIS:

The initial application to the Planning Department included an Alternative Candidate Analysis which evaluated alternative sites in the vicinity of the coverage gap Verizon is looking to resolve. In a letter dated October 24, 2023, it is stated that Verizon Wireless has sought to identify and lease a suitable location for its new wireless facility to serve the Grass Valley community. As collocation of facilities is generally required where available, Verizon Wireless sought collocation sites which could provide radio frequency propagation to address the Coverage/Capacity Gap. There were no viable candidates available within the search area already existing or feasible for collocation. No other non-residential buildings with substantial height exist within the search ring. As such, the Verizon Wireless search moved to candidates within the ring where a freestanding design might be feasible. Four other candidates were identified: 21055 Dog Bar Road, 20714 Dog Bar Road, 20648 Dog Bar Road, and Dog Dip 2079 located at Lats/Long: 39.09015803 - 120.9999478. Each of these properties was closely evaluated and none of these properties

were viable. The stated reasons for the other sites not being chosen is that the Radio Frequency could not meet Verizon's objectives.

ADDITIONAL PHOTO SIMULATIONS:

The County Land Use Code requires applicants to provide a visual study from surrounding areas that includes a computerized photo simulation of the tower on site. The applicant originally provided photo simulations from public right of ways which was deemed appropriate for project evaluation. The County evaluates aesthetic impacts in a way which is consistent with the California Environmental Quality Act (CEQA). CEQA requires lead agencies to evaluate impacts to scenic vistas, state scenic highways, and public views. According to the Association of Environmental Professionals, a scenic vista "may be generally described as panoramic views of a large geographic area for which the field of view can be wide and extend into the distance. Under CEQA, scenic vistas are those that are experienced from publicly accessible locations and include urban skylines, valleys, mountain ranges, or large bodies of water."

Therefore, only photo simulations from publicly accessible locations are required to evaluate impacts required by CEQA and the County Code. There is no standard that requires applicants to provide photo simulations from a specific number of surrounding private properties to evaluate impacts on private views. However, Verizon Wireless contacted surrounding private property owners, asked for their permission to take photos from their property, and provided additional photo simulations showing the impact of the tower on their private view.

As a result, 12 photo simulations were provided showing the view of the proposed monopine from neighboring private properties. To demonstrate the height of the tower, a GPS-locked drone was set to hover at exactly 129 feet in the location of the proposed monopine. The photo simulations show the top of the monopine at the same height the drone is hovering. Based on the photo simulations, staff concludes that the surrounding vegetation and monopine camouflage make the tower effectively unnoticeable from many of the surrounding properties and all publicly accessible viewpoints. The most noticeable view is taken from location 3, the neighboring parcel to the south at 20962 Dog Bar Road. Mitigation Measure 1A requires the installation of privacy slats in the fence surrounding the lease area. The photo simulation does not show the privacy slats installed, but the privacy slats would be required to be installed prior to finalization of the building permit which would further help with screening. Although the communication facility is not completely invisible from 20962 Dog Bar, steps have been taken to minimize the visibility and the monopine tower is adequately camouflaged to a level that is effectively unnoticeable.

FINANCIAL IMPACTS:

Financial impacts are not evaluated under the California Environmental Quality Act or County Land Use Permitting process. The siting and design requirements of the County Code are designed to protect characteristics of areas which indirectly protects property values. As discussed in the original Zoning Administrator Staff report, the findings required to approve the Use Permit in County Code section 12.05.052.C can be made. However, financial impacts on neighboring properties are not a finding that needs to be made or is considered for the approval of a Use Permit, pursuant to Section 12.05.052 of the Nevada County Code. 12.05.052.C requires that the tower be compatible with the surrounding area. Communication towers are allowed in General Agricultural Zoning Districts, the tower meets all required setbacks, and the tower is camouflaged and screened. Further detail on compatibility is discussed in the Zoning Administrator staff report.

Although financial analysis is not required, Verizon Wireless provided a report, which is attached to this document for reference. The report concludes that “the distance from a wireless facility has no apparent impact on the value or sale price of a home.”

CHANGE IN SITE PLAN:

After the appeal on July 9, 2024, Verizon Wireless and Sequoia Deployment began to gather more information to resolve the concerns of the public and the Board of Supervisors. Although the original site plans that were presented were drafted and stamped by a licensed land surveyor, an error was discovered. Sequoia Deployment revised the plans which now shows the communication facility lease area closer to the southern property line. The revised plans still show the communication facility substantially outside of the required 30-foot setbacks of the AG zoning district. The mono pine tower itself is now 129 feet away from the southern property line instead of 190 feet. The monopine tower is closer to the southern property line, but it is still setback 100% of its height which is in alignment with the County Communication Towers and Facilities code. A Nevada County pre-qualified biological consultant, Edward Beedy Ph.D, reviewed the revised site plans and confirmed that he analyzed the entire area during his field survey, including the corrected location of the tower, and determined his biological conclusions about the project are unchanged.

UPDATED NOISE IMPACTS:

Due to the proposed communication facility being closer to the southern property line, the noise impacts were reevaluated to ensure the County noise standards would not be exceeded at the nearest property line. The generator was previously 187 feet from the nearest property line, but now it is shown as 141.5 feet from the nearest property line. This results in an increase in dB(A) of 3.4 (43.8 to 47.2). Even with the increase in dB(A), the generator of the communication facility will not exceed the County noise standard for an AG zoning district of 55 dB(A) during the hours where the generator is permitted to operate for normal testing and maintenance. Any emergency use of the generator to provide power

to the communication facility would be exempt from the noise ordinance pursuant to Section 12.04.07.D.8

SUMMARY:

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 (CUP23-0015) proposing the construction and operation of a new 129-foot tall monopine wireless communication tower within a 900 square foot fenced lease area located at 20896 Dog Bar Road, Grass Valley, in southeast Nevada County.

Item Initiated and Approved by: Brian Foss, Planning Director