

**COUNTY OF NEVADA**

(Attach pages if needed)

NEVADA COUNTY  
BOARD OF SUPERVISORS  
*cc: Coco, Planning*

**APPEAL TO BOARD OF SUPERVISORS**  
(Per Nevada County Code section 12.05.120)

Any applicant or interested party may file an appeal with the Board of Supervisors requesting review of any final action taken by Various County Agencies. Such appeal shall be filed with the Clerk of the Board of Supervisors within **ten (10) calendar days** from the date of the Agency's Action, except amendments to the General Plan or Zoning Ordinance, which shall be filed within **five (5) calendar days**. (If the final calendar day falls on a weekend or holiday, then the deadline is extended to the next working day.) Filing shall include all information requested herein and shall be accompanied by the appropriate filing fee. The statements (required below) must contain sufficient explanation of the reasons for and matters being appealed in order to facilitate the Board of Supervisors initial determination as to the propriety and merit of the appeal. Any appeal which fails to provide an adequate statement may be summarily denied. The filing of such an appeal within the above stated time limit shall stay the effective date of the action until the Board of Supervisors has acted upon the appeal.

I. APPEAL: I/We, the undersigned, hereby appeal the decision/recommendation of the Zoning Administrator

Agency Name	
PLN25-0133; CUP25-0009; EI25-0001	05/13/2026
Agency File No.	Date of Decision

PLANNING AGENCY DECISIONS:

- Environmental Impact Report  
19.01.200 California Environmental Quality Act; County CEQA Guidelines and Procedures; Appeals of the Adequacy of the EIR
- Floodplain Management Regulations (Floodplain Administrator)  
18.01.040 Floodplain Management Regulations; Administration
- Historic Preservation Combining District  
12.02.072 Zoning Regulations; Zoning Districts; HP Combining District
- Inoperable Vehicles  
12.05.200 Zoning Regulations; Administration and Enforcement; Abatement and Removal of Inoperable Vehicles
- Land Use Applications  
12.05.000 Zoning Regulations; Administration and Enforcement
- Negative Declaration  
19.01.120 California Environmental Quality Act; County CEQA Guidelines and Procedures; Negative Declaration
- Rules of Interpretation  
12.01.040 Zoning Regulations; General Provisions; Rules of Interpretation

**PUBLIC WORKS DECISIONS:**

\_\_\_\_\_ Roadway Encroachment Permit  
16.05.160 General Regulations; Regulating Roadway Encroachments;  
Appeals

**CDA DECISIONS:**

\_\_\_\_\_ Outdoor Events  
10.16.080 Public Lands, Waterways, and Watercraft; Special and  
Outdoor Events; Processing Application; Bonds; Appeals.

**FIRE AGENCY DECISIONS:**

\_\_\_\_\_ Fee Assessments (Fire Protection District)  
17.02.060 Mitigation and Development Fees; Fire Protection  
Development Fees; Appeal from Fee Assessment

\_\_\_\_\_ Fire Safety Regulations; General Requirements (Fire Safety Reg. Hearing Body)  
4.02.070 Fire Safety Regulations; General Requirements; Appeals

\_\_\_\_\_ Hazardous Vegetation Abatement (Local Fire Official)  
4.01.090 Fire Safety Regulations; Hazardous Vegetation and  
Combustible Materials Abatement; Appeals Process (No Fee to File  
Appeal)

**ENVIRONMENTAL HEALTH DECISIONS:**

\_\_\_\_\_ Sewage Disposal (Sewage Disposal Technical Advisory Group)  
15.01.180 Sanitation; Sewage; Appeals

\_\_\_\_\_ Water Supply and Resources (Health Officer)  
15.05.180 Sanitation; Water Supply and Resources, General  
provisions; Appeal Procedures

List All Agency Action(s) Taken That Are Being Appealed: \_\_\_\_\_

Approving a Conditional Use Permit for a 150 foot tall unmanned monopine at

22044 Purdon Road, Nevada City, CA 95959.

**II. STATEMENT OF THE REASONS FOR THE APPEAL:**

See attached Addendum "A"

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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III. STATEMENT OF THE SPECIFIC PROVISIONS WHICH ARE BEING APPEALED:  
See attached Addendum "A"

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IV. STATEMENT OF THE CHANGES OR ACTION REQUESTED OF THE BOARD OF SUPERVISORS: The Appellant would like the Conditional Use Permit to be revoked  
or in the alternative, a new hearing be scheduled, where prior to said hearing, the applicant  
and municipality provide the opposition with all document submissions as required by law.

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V. SUMMATION OF THE ARGUMENTS TO BE RAISED BY THE APPELLANT(S):  
See attached Addendum "A"

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VI. IDENTIFICATION OF THE APPELLANT(S):

Nels Atkinson	21983 Purdon Road, Nevada City, CA 95959	(530) 913-0399
(Name)	(Mailing Address)	(Telephone)

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## **Appeal Addendum "A"**

The Appeal is two-pronged. First, the appeal is based upon fundamental procedural defects that occurred during the public hearing held on May 13, 2026. At that hearing, the applicant introduced new documents and materials for the first time, which were thereafter relied upon by the Zoning Administrator in rendering his decision. Despite the clear significance of those materials, Appellant was denied any meaningful opportunity to inspect or review the documents during the hearing, was not provided copies, and was subsequently refused copies following the hearing absent the applicant's permission. The Zoning Administrator also refused to allow for an adjournment of the hearing to allow for time to inspect such documents. Such conduct deprived Appellant of a fair opportunity to examine and respond to the evidence being considered and violated basic principles of due process, transparency, and the legal requirements governing public hearings and administrative proceedings.

Second, the appeal is based upon the substantive deficiencies of the approval itself, as granting Vertical Bridge's Conditional Use Permit for the proposed wireless telecommunication facility is inconsistent with and contrary to applicable provisions of the County's General Plan and Land Use Ordinance, as well as the legislative intent underlying those enactments. The proposed facility fails to satisfy the standards and policies adopted to preserve the character, environmental integrity, and orderly development of the community, and the approval disregards the County's carefully established zoning framework governing such uses.



# COUNTY OF NEVADA COMMUNITY DEVELOPMENT AGENCY

NEVADA COUNTY  
BOARD OF SUPERVISORS

950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617  
(530) 265-1222 FAX (530) 265-9854 <http://www.mynevadacounty.com>

Agricultural Commissioner

Building Department

Environmental Health

Planning Department

Dept. of Public Works

## AGREEMENT TO PAY

Nevada County Community Development Agency fees are based on Board of Supervisor approved fee schedules. Hourly fees and fees for services in excess of a minimum fee collected, including re-inspections, are billed to the applicant based on the Board approved fee schedule in effect at the time the work is performed by staff. This *Agreement To Pay* form must be signed and original signatures submitted to the NCCDA along with the completed permit forms and the initial payment of fees. Copies of current fee schedules are available from our Customer Service Staff or on the web at <http://www.mynevadacounty.com>

I/We understand that the NCCDA will bill as services are rendered, and I/We agree to pay such billing within thirty (30) days of the mailing of such billing for the project/permit. If payments on outstanding invoices are not made within thirty (30) days after the date of the invoice, County staff may cease work on the project until the required payment is made, subject to any other provisions of the law. All fees must be paid prior to the granting of any permits, approvals, or any land use entitlement for which services are required. The collection of fees, however, does not guarantee the granting of any permits, approvals, or land use entitlements for which I/We are applying.

### Site Information:

### Invoices and/or notices to be mailed to:

APN: 062-180-031	Name: Nels Atkinson
Property Owner/Business Name (if applicable): Daniel Jarboe	Address: [REDACTED]
Address: 22044 Purden Road	[REDACTED]
Nevada City CA	Telephone: [REDACTED]
Email:	Email: [REDACTED]

I would like to opt out of receiving County emails related to this project.

NCCDA Staff is authorized to consult with necessary governmental agencies and the following individuals concerning this project: Karri Knowles

*I certify under proof of perjury that I am the property owner or that I am authorized to enter into this fee agreement on his/her behalf. I have read the conditions concerning Nevada County Community Development Agency Fees and I understand that in the event that the billing party I have indicated does not pay required fees, I will be responsible for payment. I further agree to advise the department in writing should I no longer be associated with the above referenced project/property, rendering this agreement invalid as of the change of the date that the letter is received by the Nevada County Community Development Agency.*

Nels Atkinson Signature  
Dated: May 21st 2026 CDL# \_\_\_\_\_  
Nels Atkinson Printed Name Tel #: [REDACTED]

### THIS SECTION FOR OFFICE USE ONLY

Service: _____	Program: _____	Job No: _____
DPW #: _____	Project File #: _____	Billing Code: _____
Amount Collected: \$ _____	Receipt #: _____	Date of Receipt: _____
Service: _____	Program: _____	Job No: _____
DPW #: _____	Project File #: _____	Billing Code: _____
Amount Collected: \$ _____	Receipt #: _____	Date of Receipt: _____

OFFICIAL RECEIPT  
COUNTY of NEVADA

687893

RECEIVED FROM Nels Ad<sup>BI</sup> Atkinson DATE May 21 20 26

ADDRESS [REDACTED]

DOLLARS \$ 1,975.80

FOR PLN 25-0133, CUP 25-0009, E125-0001

HOW PAID	
CASH	1,975.80
CHECK	

COUNTY DEPARTMENT COB

RECEIVED BY [Signature]

COUNTY OF NEVADA  
STATE OF CALIFORNIA

-----X  
In the Matter of the Appeal of:

**VERTICAL BRIDGE and VERIZON**

For A Conditional Use Permit

Premises: 22044 Purdon Road  
Nevada City, CA 95959

Zoning: Forest- 40

Assessors Parcel #: 062-180-031  
-----X

**MEMORANDUM IN OPPOSITION**

Respectfully submitted,

Nels Atkinson,  
Karri Knowles,  
Natalie Atkinson  
Tina Tesene,  
Paul Steege,  
Echeri Hughes,  
Juan Hughes,  
Iururi Hughes  
Tracy Hughes  
Ana Hughes,  
Wendy Boes,  
Tod Huebsch  
Karouna Thompson,

Table of Contents

Preliminary Statement..... 1

**POINT I** California Public Records 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.....2

**POINT II** Granting Vertical Bridge’s Application for Its Proposed Wireless  
Telecommunication Facility Would Violate Applicable  
Laws and the Legislative Intent Upon Which They Were Enacted .....5

A. Local Municipalities Are Authorized by the TCA to Regulate  
Telecommunications Facilities.....5

B. Applicable Local Law.....7

(i) Nevada County Ordinance and General Plan.....7

**POINT III** 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.....13

A. Granting Vertical Bridge Permission to Deviate From  
the Mandatory Height Requirements Will Subject the Nearby  
Home and Surrounding Properties to The Precise Safety Hazards  
Which the Requirements Were Intended to Guard Against.....13

(i) Structural Failures.....14

(ii) Fires..... 15

(iii) Ice Fall.....16

B. Vertical Bridge’s Irresponsible Placement of Its Proposed Wireless  
Facility Will Inflict Substantial Adverse Impacts Upon the Aesthetics and  
Character of the Area.....17

	C. <u>Evidence of the Actual Adverse Aesthetic Impacts Which the Proposed Facility Would Inflict Upon the Nearby Homes</u> .....	19
	D. <u>The Proposed Installation Will Inflict Substantial and Wholly Unnecessary Losses in the Values of Adjacent and Nearby Residential Properties</u> .....	21
<b>POINT IV</b>	§6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012 Would Allow AT&T to Increase the Height of the Proposed Facility Without Further Zoning Approval.....	23
<b>POINT V</b>	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.....	25
	A. <u>The Applicable Evidentiary Standard</u> .....	26
	B. <u>Vertical Bridge Failed to Submit Any Probative Evidence to Establish the Need For the Proposed Facility at the Height and Location Proposed</u> .....	29
	(i) <u>FCC and California Public Utilities Commission</u> .....	30
	(ii) <u>Hard Data and Lack Thereof</u> .....	32
	C. <u>Vertical Bridge’s Analysis Regarding Verizon’s Wireless Coverage Is Contradicted By Verizon’s Own Actual Coverage Data</u> .....	35
	D. <u>ExteNet Systems, Inc. v. Village of Flower Hill and Flower Hill Board of Trustees</u> .....	36
<b>POINT VI</b>	To Comply With the TCA, Verizon’s Application Should Be Denied in a Written Decision Which Cites the Evidence Provided Herewith.....	37
	A. <u>The Written Decision Requirement</u> .....	37
	B. <u>The Substantial Evidence Requirement</u> .....	38

C. The Non-Risks of Litigation.....39

Conclusion .....39

### Preliminary Statement

This appellate memorandum is submitted in opposition to the application of Vertical Bridge and Verizon for a Conditional Use Permit to erect a 150-foot (15+ stories) faux pine tree cell tower at 22044 Purdon Road, Nevada City, CA. It is submitted on behalf of multiple homeowners whose homes are situated adjacent to or in close proximity to the proposed cell tower site.

The tower would literally “tower” over nearby homes and trees. Nothing will hide this eyesore. It will loom over the nearby homes, standing out “like a sore thumb,” and will forever alter the community's unique character. The proposed tower will *not* be compatible or harmonious with the community, resulting in a severe negative aesthetic impact and a substantial decrease in property values.

As set forth below, Vertical Bridge’s application should have been denied because:

- (a) Vertical Bridge and Nevada County failed to produce all records to the public as required by law and hindered the public’s ability to participate in the public hearing;
- (b) Vertical Bridge has failed to establish that granting the application would be consistent with applicable provisions of the Nevada County Code of Ordinances, the Nevada County General Plan, and federal law, including the Telecommunications Act.
- (c) granting the application would violate not only these applicable provisions, but the legislative intent upon which they are based;
- (c) the applicant has failed to establish that the proposed facility:
  - (i) is actually necessary for the provision of personal wireless services within the area, or
  - (ii) that it is necessary that the facility be built at the proposed site;
- (d) the irresponsible placement of the proposed facility would inflict upon the nearby homes and community the precise types of adverse impacts that the applicable

provisions of County Ordinances were enacted to prevent.

It is respectfully submitted that Vertical Bridge's application should have been denied, and that the denial be written in compliance with the Telecommunications Act of 1996.

### **POINT I**

**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**

California law strongly favors public access to municipal records, particularly in connection with public hearings, and a municipality may not refuse to disclose records absent a specific statutory exemption. Both the California Public Records Act ("CPRA") and the Ralph M. Brown Act establish a presumption of maximum public disclosure, with the burden placed squarely on the municipality to justify any withholding. Although limited exceptions exist for materials such as attorney-client privileged communications, records protected by mandatory confidentiality statutes, or properly exempt closed-session materials, those exemptions are narrowly construed against the agency and do not override the general rule favoring disclosure.

The public's right of access is grounded in the California Constitution, which provides that "the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny." Cal. Const., art. I, § 3(b)(1). This constitutional mandate is implemented through the CPRA, Cal. Gov't Code §§ 7920.000 et seq., and the

Ralph M. Brown Act, Cal. Gov't Code §§ 54950 et seq., both of which apply directly to municipalities as local agencies. The CPRA further declares that access to information concerning the conduct of public business is a “fundamental and necessary right” of every person in California. Cal. Gov't Code § 7921.000. Public records are broadly defined to include any writing relating to the conduct of the public's business that is prepared, owned, used, or retained by a state or local agency, regardless of form. Cal. Gov't Code §§ 7920.530, 7922.525(a). California courts have recognized that this definition was intended to encompass “every conceivable kind of record” involved in the governmental process. See Community Youth Athletic Center v. City of National City, 220 Cal.App.4th 1385 (2013).

The Ralph M. Brown Act imposes affirmative obligations on municipalities to ensure public access to records connected with public hearings and meetings. The Act mandates that all meetings of the legislative body of a local agency “shall be open and public,” and that all persons must be permitted to attend unless a specific statutory exception applies. Cal. Gov't Code § 54953(a). The Brown Act further reflects California's strong policy against governmental secrecy by declaring that, in delegating authority, “the people do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.” Cal. Gov't Code § 54950.

Consistent with that policy, Cal. Gov't Code § 54957.5 requires municipalities to make records relating to public meetings available for public inspection. Meeting agendas are expressly deemed disclosable public records and must be produced without delay. 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 likewise be

made available to the public at the same time it is distributed to officials, either at a designated location or through immediate online posting with physical copies available within 24 hours.

The statute further requires that writings distributed during a public meeting 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. Importantly, § 54957.5 expressly provides that it may not be construed to limit or delay the public's rights under the California Public Records Act.

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. Such conduct is irreconcilable with the Brown Act's mandate that public

business be conducted openly and that the public, not government officials or private applicants, determine what information may be withheld.

Accordingly, the permit should be revoked, or alternatively, the matter should be remanded for a new duly noticed public hearing at which all documents and materials considered by the County are fully disclosed and made available to the public in advance of any further decision.

## POINT II

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

As set forth below, Vertical Bridge's application should have denied because granting the application would violate the requirements of the County's Ordinances, and the County's General Plan.

#### A. Local Municipalities Are Authorized by the TCA to Regulate Telecommunications Facilities

The proliferation of wireless communications facilities has resulted in the need for municipalities to pass legislation to regulate their construction. Although many site developers and cellular service providers will argue that the Telecommunications Act of 1996 (TCA) prohibits local governments from regulating telecommunications facilities, this is simply untrue. The TCA, 47 U.S.C. §332(c)(7), specifically *preserves local zoning authority*. Subsection (A) provides for general authority as follows:

(7) Preservation of local zoning authority

(A) General authority

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

While subsection (B) forbids a municipality from “unreasonably discriminat[ing] among providers” and from completely “prohibiting the provision of personal wireless services,” the fact remains that a municipality may restrict the placement, location, construction, and modification of wireless facilities in its community through zoning regulations. *See, T-Mobile South, LLC v. Roswell*, 135 S.Ct. 808 (2015); *GTE Mobilnet of California Ltd. P’ship v City of Berkley*, 2023 WL 2648197 (D. N.D. CA 2023); *Colfaxnet LLC v City of Colfax*, 2020 WL 6544494 (D. E.D. CA 2020).

“The TCA seeks to strike a balance between its goal of ‘encourage[ing] the rapid deployment of new telecommunications technologies’ without unduly encroaching on traditional local zoning authority.” *New Cingular Wireless PCS LLC d/b/a Vertical Bridge Mobility v. Zoning Board of Adjustment of the Borough of North Haledon*, 469 F.Supp.3d 262 (D. N.J. 2020) *citing T-Mobile Ne. LLC v. City of Wilmington, Del.*, 913 F.3d 311 (3d Cir. 2019). “To this end, it ‘expressly preserves the traditional authority enjoyed by state and local government to regulate land use ....’” *Id.*, *citing APT Pittsburgh Ltd. P’ship v. Penn Twp. Butler Cty. of Pa.*, 196 F.3d 469 (3d Cir. 1999); *Extenet Systems, Inc. v. Township of North Bergen, New Jersey*, 2022 WL 1591398 (D.N.J. 2022).

Simply stated, the TCA provides that an application to erect a cell tower can – and should – be treated as a land use issue, to be decided by a municipality in its ordinary course of

business, using the same considerations normally employed in a land use case.

Consistent with the intent of this federal law, informed local governments have enacted “Smart Planning Provisions,” which are local land use regulations designed to:

- (a) prevent an *unnecessary proliferation* of wireless facilities while
- (b) preventing, to the greatest extent possible, unnecessary adverse impacts upon residential homes and communities due to the irresponsible placement of wireless facilities.

As set forth below, Vertical Bridge’s application should be denied because granting it would violate not only the requirements of applicable County laws and regulations but also the legislative intent underlying them.

#### B. Applicable Local Law

Generally, the overarching principle of legislation is to benefit and protect the municipality’s citizens. This protection includes preserving citizens’ property rights and property values, as well as protecting the community’s character and quality of life.

##### (i) Nevada County Ordinance and General Plan

The County’s General Plan “is the long-term policy guide for the physical development of the County.” The County, in response to key issues affecting the County’s quality of life, has established four central themes which articulate the vision for the development of the County: (1) Fostering a rural quality of life; (2) Sustaining a quality environment; (3) Development of a strong, diversified, sustainable local economy; and (4) Planned land use patterns that will determine the level of public services appropriate to the character, economy, and environment of each region.

Further stated goals of the General Plan are to preserve the character of rural areas, to prevent the “partial suburbanization” of rural and natural areas, and to preserve the natural environment of the County. This includes the preservation of natural habitats, water resources, forests, mineral resources, and the scenic qualities of Nevada County, as well as the protection of the health and welfare of the County's residents.

The safety of the citizens of Nevada County is another vital purpose of the County’s General Plan. “The purpose of the Safety Element is to reduce short and long-term loss of life, injuries, and damage to property resulting from natural and human-caused public safety hazards, including flooding, geologic and seismic hazards, fire hazards, severe weather, and the additional consequences of climate change.”

A final objective to be discussed in the General Plan is the impact of scenic values. “The scenic values and aggregate appearance of all the cities, towns, and suburban areas define the aesthetic quality of Nevada County. Achieving a desirable aesthetic character involves attention to both urban design and scenic preservation. The goal is to promote and provide for aesthetic design in new developments that reflect the existing character of the area.

The Zoning Ordinance is the regulatory tool that implements the Goals and Policies of the General Plan. The Zoning Ordinance includes the zoning map; land use regulations and development standards for each zoning district; general regulations regarding parking, signs, landscaping, density bonuses, and nonconforming uses, structures and parcels; standards for unique land uses that require more specific regulation; land use and development approval procedures; and procedures for public noticing and conduct of public hearings, appeals,

amendments and enforcement.

Chapter 3 of the Nevada County Zoning Regulations sets forth specific land uses. The purpose of this section is to establish special standards for land uses that may affect adjacent properties, the neighborhood, or the environment. This Chapter establishes standards for the design, location, and operation of specific land uses to avoid problems and hazards and to ensure their consistency with the General Plan. (Section 12.03.010)

The Nevada County Zoning Regulation provides for the use in rural districts which encompass districts zoned as Forest (FR). The FR District provides areas for the protection, production and management of timber, timber support uses, including but not limited to equipment storage and temporary offices low intensity recreational uses, and open space. The Code states that in order to build a communications tower in a rural zoning district, a use permit is required.

Furthermore, Chapter 3 of the Nevada County Zoning Regulations discusses Communication Towers and Facilities. The purpose of this section is to establish standards for the siting and design of communication facilities that promote the availability of adequate public services while ensuring compatibility with adjacent land uses. (12.03.080). As stated in Section 12.03.080(C)(2), all new communication towers and additions that increase tower height shall be subject to a Use Permit.

Section 12.03.080(E) states the following criteria for the implementation of new towers:

1. Communication towers shall be located to minimize their visibility and the number of distinct facilities present, as follows:

a. No new tower shall be placed on an exposed ridgeline or silhouette against the sky unless the site is developed with existing communication facilities.

b. No new tower shall be installed in a location that is not developed with communication facilities or other public or quasi-public uses unless it blends with the surrounding, existing, natural and man-made environment so as to be effectively unnoticeable.

c. No tower shall be placed in a location readily visible from a public trail, public park, or other developed outdoor recreation area unless it blends with the surrounding existing natural and man-made environment so as to be effectively unnoticeable.

d. No tower shall be installed closer than two (2) miles from another readily visible, uncamouflaged, or unscreened facility unless it is a co-located facility, is on a multiple-user site, or is designed to blend with the surrounding existing natural and man-made environment so as to be effectively unnoticeable.

2. Communication towers shall be set back from property lines as follows:

a. Where adjacent property is zoned within residential districts, a tower shall be setback from the property line no less than one hundred percent (100%) of its height.

b. Towers shall be located so as to minimize visual impacts from any public trail, park, or developed outdoor recreation area. A minimum fifty (50')-foot setback from any such active area shall be required.

Section 12.03.080(E) states the following criteria for the design of new towers:

1. Wall-mounted antennas shall not extend more than four (4') feet from the face of the wall nor consume more than fifty (50) square feet per building face, excluding mountings.
2. Communication towers are not subject to the maximum building height established within each zoning district. No tower shall exceed one hundred fifty (150') feet in a residential district.
3. Communication towers and supporting equipment shall be finished and maintained in non-glare colors that minimize their visibility to the greatest extent possible. Equipment attached to the tower shall match

the color of the tower. Colors that blend with background landscapes or structures will be required.

4. The visible exterior surface of communication support facilities, i.e., vaults, equipment rooms, and equipment enclosures, shall be designed to be visually compatible with structures typically found in the vicinity of the project site.
5. Fencing and screening of towers.
  - a. All areas disturbed during project construction shall be replanted with vegetation compatible with vegetation in the surrounding area unless the County Fire Marshal requires fuel modification. Native trees are the preferred vegetation.
  - b. Existing trees and other screening vegetation in the vicinity of the facility and along the access or utility easements shall be protected from damage during construction.
6. Lighting for communication facilities shall be limited as follows:
  - a. All approved lighting shall be shielded or directed on site to minimize off-site light spill except for lighting required by the Federal Aviation Administration.
  - b. In residential zones, lighting shall be limited to Security lighting that is manually operated or motion-detector controlled.
7. Signage shall be limited to required address and facility identification signs, emergency, and safety hazard signage.
8. All co-located and multiple-user facilities shall be designed to promote facility and site sharing where feasible, including parking areas, access roads, utilities, and equipment.
9. Towers designed as an integral part of the structure are strongly encouraged within all commercial and industrial districts.

The proposed Purdon Road communication tower does not comply with the Nevada County Zoning Regulations, which are intended to implement the General Plan by ensuring that development is compatible with surrounding land uses and does not create adverse impacts on neighboring properties, the community, or the environment. Chapter 3 of the Zoning Regulations establishes heightened standards for land uses, including communication towers,

that require special regulation due to their potential visual, environmental, and neighborhood impacts. Despite these requirements, the Purdon Road tower fails to meet the standards mandated by Section 12.03.080.

First, the project does not satisfy the fundamental purpose of Section 12.03.080, which is to minimize visibility and ensure compatibility with adjacent land uses. The Purdon Road site is not developed with existing communication facilities or other public or quasi-public uses. Yet, the proposed tower does not blend into the surrounding natural or man-made environment in a manner that would render it effectively unnoticeable, in violation of Section 12.03.080(E)(1)(b). Instead, the tower would introduce a visually dominant, industrial structure into an area characterized by residential and natural uses, undermining neighborhood character and scenic values. A faux pine tree will fool no one, and remain an industrial intrusion.

Finally, the proposed Purdon Road cell tower fails to comply with multiple design requirements of Section 12.03.080(E) of the Nevada County Zoning Regulations, which are intended to minimize visual impacts and ensure compatibility with surrounding residential and rural uses. Rather than a low-profile or integrated facility, the project introduces a freestanding, industrial-scale tower into a residential area, contrary to the ordinance's clear preference for visually modest designs in non-residential districts.

To install a new cell tower, the County Ordinance requires a use permit pursuant to Section 12.05.060. Its purpose is to prevent hazards or adverse impacts on neighboring properties, ensure compatibility with surrounding areas, and maintain consistency with the General Plan. For all the reasons stated above, the proposed cell tower at 22044 Purdon Road is

not compatible with the General Plan or the Zoning Regulations; therefore, a use permit should not have been issued.

### POINT III

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

- A. Granting Vertical Bridge Permission to Deviate From the Mandatory Height Requirements Will Subject the Nearby Home and Surrounding Properties to The Precise Safety Hazards Which the Requirements Were Intended to Guard Against

Among the purposes for such height maximums is to require cell towers to be sited so as to afford a sufficient safe zone around the tower, to protect nearby properties against the three (3) well-known dangers associated with the irresponsible placement of monopole cell towers, which include: (a) structural failures, (b) fires, and (c) ice fall.

However, as depicted in its application, Vertical Bridge seeks to construct its massive fifteen-story, 150-foot tower on a plot of land surrounded by residential homes and forest land, with a codified height limit of 35 feet in the Agricultural Forestry zoning district, to protect those homes and forests.

Vertical Bridge's application for variances from these requirements should be denied in its entirety because granting such variances would expose the nearby properties and residential homes to the precise types of dangers that the County enacted the height requirement to prevent.

(i) Structural Failures

The proposed design for Vertical Bridge's 15-story tower is a standard monopole. In seeking to place this tower, the nearby homes and forestry may be situated well within the tower's fall zone.

As has been proven time and time again, the most common point of structural failure for this type of monopole *is the base* of the tower. More often than not, when they fail, they tend to "lay over" and crush and destroy anyone and anything within a distance equal to *at least* the height of the tower.

Such was the case in the notorious Oswego Firehouse case, where a virtually brand-new 165-foot monopole collapsed, going from being 165 feet tall to 165 long in a matter of seconds, crushing the Fire Chief's vehicle in the process.

Annexed hereto as Exhibit "B" are actual photographs of the collapsed monopole, the damage it caused, and an article detailing the incident.

The Oswego case was far from an isolated incident of a monopole's failure from its base, wherein the tower collapsed to a distance equal to the full length of the tower or more. *See* the additional sampling of images of monopole baseplate and/or base failures annexed hereto as Exhibit "C."

These images clearly demonstrate the County's rationale for its height requirements for cell towers and the basis for denying Vertical Bridge's application to deviate from those requirements.

(ii) Fires

The second well-documented danger associated with cell towers, which mandate the maintenance of height requirements, is fire.

Once per month, a monopole cell tower will burst into flames somewhere in the United States, with some towers collapsing in a flaming heap and igniting anything within their reach.

Perhaps the most notorious flaming collapse of a monopole cell tower was the one in Wellesley, Massachusetts, in clear view of hundreds of moving vehicles, as the fire department stood by and was unable to stop the collapse. Cases of such fires and collapses of monopole cell towers are amply documented.<sup>1</sup>

Annexed hereto, respectively as Exhibits “D” and “E”, are an image of the Wellesley monopole cell tower just before it collapsed in a flaming heap, and a sampling of stories of other documented cases of monopole cell towers having erupted in flames.

Once again, it is these types of known dangers that compel local governments to maintain sufficient height and setback requirements for monopole cell towers, affording necessary protection to nearby structures and properties, and are an additional reason why Vertical Bridge’s request to deviate from the height requirements required under the County’s Zoning Ordinance should be denied.

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<sup>1</sup> The full video of the Wellesley tower collapsing can be located and viewed on *YouTube* by performing a search for “cell tower burns to the ground.”

(iii) Ice Fall

The third principal danger for which local governments maintain height requirements for monopole cell towers is ice fall.

As is well documented, during freezing temperatures, ice often forms and accumulates on both the transmitters atop monopole cell towers and, even more so, on the cross supports that attach the transmitters to the main pole.

When a thaw thereafter occurs, chunks of ice (which can be rather large and heavy) are known to fall from the tops of the towers without noise or warning to anyone in close proximity to the towers. If any wind is present, such falling chunks of ice can travel fair distances from the tower as they hurtle toward the ground.

As detailed in a physicist's report annexed hereto as Exhibit "F," when a chunk of ice falls free from even a 150-foot monopole, by the time it falls to the height at which a person's head would be, if they were standing near the tower, the ice chunk would be traveling at a speed of sixty-seven (67) miles per hour.

This speed is more than ample velocity to make such falling chunks of ice capable of seriously injuring, if not killing, anyone who might be struck by same.<sup>2</sup>

The dangers of ice falls are yet another reason why Vertical Bridge's application to deviate from the maximum height requirements should be denied.

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<sup>2</sup> To watch a video of ice chunks hurtling down from a cell tower, go to the YouTube link: <https://www.youtube.com/watch?v=48UyQtYYuUM>.

B. Vertical Bridge's Irresponsible Placement of Its Proposed Wireless Facility Will Inflict Substantial Adverse Impacts Upon the Aesthetics and Character of the Area

The proposed wireless facility will inflict dramatic and wholly unnecessary adverse impacts upon the area's aesthetics and character. As noted above, the applicable provisions of the Codes not only recognize the importance of the visual "feel" of a neighborhood, but they also codify its significance, requiring wireless facilities to be compatible with the community. In this instance, Vertical Bridge's proposed tower at 22044 Purdon Road will have a clear negative impact on the surrounding area. Despite the weak attempt to camouflage the tower as a faux tree, it will be easily recognizable and highly visible throughout the neighborhood, creating an extremely displeasing aesthetic.

Moreover, Vertical Bridge has not presented any relevant data demonstrating that the proposed facility is even necessary, let alone that the proposed location is the best possible location to remedy any purported significant gap in coverage Vertical Bridge claims exists.

Federal courts around the country, including the United States Court of Appeals for the Ninth Circuit, have held that significant or unnecessary adverse aesthetic impacts are proper legal grounds for a local government to deny a zoning application seeking approval for the construction of a wireless telecommunication facility. For example, the United States Court of Appeals for the Ninth Circuit determined that there is nothing to "prohibit local governments from taking into account aesthetic considerations in deciding whether to permit the development of wireless telecommunications facilities (WCFs) within their jurisdictions." *Sprint PCS Assets, L.L.C. v. City of Palos Verdes Ests.*, 583 F.3d 716 (9th Cir. 2009), *see also GTE Mobilnet of Calif. Ltd. P'ship v. City of Berkley*, *supra* ("Even under a substantial evidence review, zoning

decisions based on aesthetic concerns can be valid,” and “under the TCA, [a zoning board] is entitled to make an aesthetic judgment as long as the judgment is ‘grounded in the specifics of the case,’ and does not evince merely an aesthetic opposition to cell-phone towers in general.” *citations omitted*); and *New Cingular Wireless PCS, LLC v. County of Marin, Calif.*, 2021 WL 5407509, (N.D. Calif. 2021).

“[T]he City may consider a number of factors, including the height of the proposed tower, the proximity of the tower to residential structures, the nature of uses on adjacent and nearby properties, the surrounding topography, and the surrounding tree coverage and foliage. We, and other courts, have held that these are legitimate concerns for a locality.” *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987, 994 (9th Cir. 2009). *See also, Sprint Telephony PCS, L.P. v. City of San Diego*, 543 F.3d 571, 580 (9th Cir. 2008) (stating that the zoning board may consider “other valid public goals such as safety and aesthetics”); *T-Mobile Cent., LLC v. Unified Gov’t of Wyandotte County, Kan.*, 546 F.3d 1299, 1312 (10th Cir.2008) (noting that “aesthetics can be a valid ground for local zoning decisions”); and *Cellular Tel. Co. v. Town of Oyster Bay*, 166 F.3d 490, 494 (2d Cir.1999) (recognizing that “aesthetic concerns can be a valid basis for zoning decisions”).

Additionally, as set forth below, Vertical Bridge has failed to provide any probative evidence that the wireless communications facility is not injurious to the neighborhood and is *necessary* to provide personal wireless coverage in the area.

C. Evidence of the Actual Adverse Aesthetic Impacts Which  
the Proposed Facility Would Inflict Upon the Nearby Homes

As logic would dictate, the people best suited to assess the nature and extent of the adverse aesthetic impacts that an irresponsibly placed wireless telecommunication facility would inflict upon homes in close proximity to the proposed facility are the homeowners themselves.

Consistent with this logic, the United States Court of Appeals for the Second Circuit has recognized that when a local government is considering a wireless facility application, it should accept, as direct evidence of the adverse aesthetic impacts that a proposed facility would inflict upon nearby homes, statements and letters from the actual homeowners, since they are in the best position to know and understand the actual extent of the impact they stand to suffer. *See, e.g., Omnipoint Communications Inc. v. The City of White Plains*, 430 F.3d 529 (2d Cir. 2005).

Annexed collectively hereto as **Exhibit "A"** are letters from homeowners whose homes are situated adjacent to, or in close proximity to, the site upon which Vertical Bridge seeks to install its proposed wireless telecommunications facility.

Each of these letters contains specific, personal details from the homeowners regarding the adverse aesthetic impacts that the proposed facility would inflict upon their homes. They have provided detailed and compelling descriptions of the dramatic adverse impacts their properties would suffer if the proposed installation of a wireless telecommunication facility were permitted to proceed. They describe the reasons the homeowners came to Nevada County, including the beautiful scenery, the natural setting, the views from their windows and backyards, and the unique character of their community.

Many of these homeowners have also expressed their concerns about the decrease in property value their homes will suffer as a result of the proposed wireless facility. Having made substantial investments in their homes and labored to maintain and beautify them, they are concerned about the decrease in the value of their properties.

These letters convey all the ways in which the proposed tower will adversely affect nearby residents, their views, their enjoyment of their homes, and property values.

Significantly, as set forth above, all of the adverse aesthetic impacts the proposed wireless facilities would inflict upon these homes are entirely unnecessary because Vertical Bridge has not demonstrated a significant gap that needs to be filled within the County.

The specific and detailed impacts described by the adjacent and nearby property owners constitute “*substantial evidence*” of the adverse aesthetic impacts they stand to suffer because they are not limited to “generalized concerns.” These letters contain specific, detailed descriptions of how the proposed facility would dominate the views from their bedroom windows, living rooms, kitchens, front yards, and backyards. *See GTE Mobilnet, supra; Voice Stream PCS I, LLC v. City of Hillsboro, 301 F.Supp. 2d 1251 (D. Or. 2004).*

The severe adverse aesthetic impacts that would be caused by the proposed wireless facility’s irresponsible placement, as detailed in these letters, are the precise type of damaging impacts that the Planning Code and Wireless Facilities Siting Guidelines were specifically enacted to prevent. Accordingly, Vertical Bridge’s application should be denied.

D. The Proposed Installation Will Inflict Substantial  
and Wholly Unnecessary Losses in the Values  
of Adjacent and Nearby Residential Properties

In addition to adversely affecting the neighborhood's aesthetics and residential character, such an irresponsibly placed wireless facility would inflict upon nearby homes a severe adverse impact on the property values of those residences.

As established by the evidence submitted herein, if Vertical Bridge is permitted to install the proposed wireless facility in such close proximity to nearby homes, it would inflict upon those homes dramatic losses in property value, to the extent that the homeowners would suffer significant losses in the values of their residential properties.

It is a common misconception that a municipality, such as Nevada County, may not consider property values when making its determination on wireless telecommunications facility applications. This is not true and is contrary to established precedent in the federal courts. *See Omnipoint, supra*. In addition, it would directly contradict the purpose and intent of the County's Code, including the Telecommunication Facilities provisions, which surely contemplate preventing material detriment to property value.

Across the entire United States, both real estate appraisers<sup>3</sup> and real estate brokers have rendered professional opinions that simply support what common sense dictates. When wireless facilities are installed unnecessarily close to residential homes, such homes suffer material losses in value, typically ranging from 15% to 20%, but up to 30% in some cases.<sup>4</sup> In

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<sup>3</sup> See e.g. a February 22, 2012 article discussing a NJ appraiser's analysis wherein he concluded that the installation of a Wireless Facility in close proximity to a home had reduced the value of the home by more than 10%, go to <http://bridgewater.patch.com/articles/appraiser-t-mobile-cell-tower-will-affect-property-values>

<sup>4</sup> In a series of three professional studies conducted between 1984 and 2004, one set of experts determined that

the worst cases, facilities built near existing homes have rendered those homes wholly unsaleable.<sup>5</sup>

Federal courts recognize that it is perfectly proper for a local zoning authority to consider, as direct evidence of the reduction in property values that an irresponsibly placed wireless facility would inflict upon nearby homes, the professional opinions of licensed real estate brokers and appraisers who provide their professional opinions as to the adverse impact upon property values that would be caused by the installation of the proposed wireless facility. *See Omnipoint supra*. This is especially true when they possess years of real estate sales experience within the community and the specific geographic area at issue.

As evidence of the adverse impact that the proposed facility would have on the property values of homes that would be adjacent to or in close proximity to it, annexed hereto as Exhibit

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the installation of a Wireless Facility in close proximity to a residential home reduced the value of the home by anywhere from 1% to 20%. These studies were as follows:

The Bond and Hue - *Proximate Impact Study* - The Bond and Hue study conducted in 2004 involved the analysis of 9,514 residential home sales in 10 suburbs. The study reflected that close proximity to a Wireless Facility reduced price by 15% on average.

The Bond and Wang - *Transaction-Based Market Study*

The Bond and Wang study involved the analysis of 4,283 residential home sales in 4 suburbs between 1984 and 2002. The study reflected that close proximity to a Wireless Facility reduced the price between 20.7% and 21%.

The Bond and Beamish - *Opinion Survey Study*

The Bond and Beamish study involved surveying whether people who lived within 100' of a Wireless Facility would have to reduce the sales price of their home. 38% said they would reduce the price by more than 20%, 38% said they would reduce the price by only 1%-9%, and 24% said they would reduce their sale price by 10%-19%.

<sup>5</sup> Under FHA regulations, no FHA (federally guaranteed) loan can be approved for the purchase of any home that is situated within the fall zone of a Wireless Facility. *See HUD FHA HOC Reference Guide Chapter 1 - hazards and nuisances*. As a result, there are cases across the country within which: (a) a homeowner purchased a home, (b) a Wireless Facility was thereafter built in close proximity to it, and (c) as a result of same, the homeowners could not sell their home, because any buyer who sought to buy it could not obtain an FHA guaranteed loan. *See, e.g.,* October 2, 2012 Article “. . .Cell Tower is Real Estate Roadblock” at <http://www.wfaa.com/news/consumer/Ellis-County-Couple--Cell-tower-making-it-impossible-to-sell-home--172366931.html>.

“G” is a letter setting forth the professional opinions of a licensed real estate professional who is familiar with the specific real estate market at issue and who submits his professional opinion regarding specific residences that the installation of the proposed facility would reduce the property values of the affected homes by up to 10%–20% and make those homes more difficult to sell, even at reduced purchase prices.

This devaluation of property is one of the very things the local laws specifically seek to prevent. As noted above, a use permit may only be granted if all of the conditions listed in Section 12 are met, including not being materially injurious to properties or improvements in the vicinity. Given the significant reductions in property values that the proposed installation would inflict upon the nearby homes, Vertical Bridge’s application should have been denied.

#### POINT IV

§ 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

As severe as the adverse impacts upon the nearby homes and community would be if the 150-foot facility were constructed as proposed by Vertical Bridge, if such a facility were to be built, Vertical Bridge could unilaterally choose to increase the height of the facility by as much as twenty (20) feet. The County would be legally prohibited from preventing them from doing so under the constraints of the Middle-Class Tax Relief and Job Creation Act of 2012.

§6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012 provides that notwithstanding Section 704 of the Telecommunications Act of 1996 or any other provision of

law, a State or local government *may not deny, and shall approve*, any eligible request for a modification of an existing wireless facility or base station that does not substantially change the physical dimensions of such facility or base station. *See* 47 U.S.C. §1455(a).

Under the FCC's reading and interpretation of §6409(a) of the Act, local governments are prohibited from denying modifications to wireless facilities unless the modifications will "substantially change" the physical dimensions of the facility, pole, or tower.

The FCC defines "substantial change" to include any modification that would increase the height of the facility by more than ten (10%) percent or by more than "the height of one additional antenna with separation from the nearest existing antenna not to exceed 20 feet, *whichever is greater.*" (Emphasis added.) This increase in height could not be challenged or prevented by the County.

Simply stated, under the FCC's regulation, if this facility were to be built, Vertical Bridge, at any time thereafter, could unilaterally increase the height of any such facility by as much as an additional twenty (20) feet, and there would be no way for the County to prevent such an occurrence, regardless of how many zoning regulations it would violate.

Considering the even more extreme adverse impacts that an increase in the height of the facility would inflict upon the homes and community nearby, Vertical Bridge's application should have been denied, especially since, as set forth below, Vertical Bridge doesn't actually *need* the proposed facility.

## POINT V

### 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 intent behind the provisions of the County's Code, including the provisions regulating wireless telecommunications facilities, is to promote "smart planning" of wireless infrastructure within the City.

Smart planning involves the adoption and enforcement of zoning provisions that require wireless telecommunication facilities be *strategically placed* so that they minimize the number of facilities needed while saturating the County with complete wireless coverage (*i.e.*, they leave no gaps in wireless service) and avoiding any unnecessary adverse aesthetic or other impacts upon homes and communities situated in close proximity to such facilities.

To determine if a proposed wireless telecommunications facility would be consistent with smart planning requirements, sophisticated planning boards require wireless carriers and/or site developers to provide direct evidentiary proof of:

- (a) the *precise locations, size, and extent of any geographic gaps in personal wireless services* that are being provided by a specifically identified wireless carrier, which provides personal wireless services within the respective jurisdiction, *and*
- (b) the *precise locations, size, and extent of any geographic areas* within which that identified wireless carrier suffers from a capacity deficiency in its coverage.

The reason that local zoning boards invariably require such information is that without it, the boards are incapable of knowing:

- (a) if, and to what extent, a proposed facility will remedy any actual gaps or deficiencies that may exist, and
- (b) if the proposed placement is in such a poor location that it would all but require that more facilities be built because the proposed facility did not actually cover the gaps in service that actually existed, thereby causing an unnecessary redundancy in wireless facilities within the County.

In the present case, Vertical Bridge has wholly failed to provide any hard data to establish that the proposed placement of its facility would, in any way, be consistent with the smart planning provisions. Thus, it has failed to provide actual probative evidence to establish:

- (a) the *actual location of gaps* (or deficient capacity locations) in personal wireless services within the County, and
- (b) why or how their proposed facility would be the best and/or least intrusive means of remedying those gaps.

Moreover, as will be further discussed below, Vertical Bridge failed to present any hard data and has failed to present any useful data at all.

#### A. The Applicable Evidentiary Standard

Within the context of zoning applications, such as the current one filed by Vertical Bridge, an applicant is required to prove that there are *significant* gaps<sup>6</sup> in its wireless service,

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<sup>6</sup> It should be noted that establishing a gap in wireless services is *not* enough to prove the need for a wireless facility; rather, the applicant must prove that “a significant gap” in wireless service coverage exists at the proposed location. *See, e.g., Omnipoint Holdings, Inc. v. City of Cranston*, 586 F.3d 38, 50 (1st Cir. 2009); *MetroPCS, Inc. v. City and County of San Francisco*, 400 F.3d 715, 731 (9th Cir.2005). Here, Vertical Bridge failed to proffer substantial evidence that a gap in wireless services exists—let alone that this purported gap is “significant” within the meaning of the TCA and established federal jurisprudence.

that the location of the proposed facility will remedy those gaps, and that the facility is the least intrusive means of remedying those gaps.

The Ninth Circuit has set forth the following requirements that all applicants seeking to install wireless facilities must satisfy. The test articulated by the Ninth Circuit requires Vertical Bridge to demonstrate that:

- (1) the proposed facility is required in order to close a significant gap in service coverage;
- (2) that the proposed facility is the least intrusive means of remedying the significant gap in service coverage, and
- (3) a meaningful inquiry has been made as to why the proposed facility is the only feasible alternative.

*See Am. Tower Corp. v. City of San Diego*, 763 F.3d 1035 (9th Cir. 2014); *GTE Mobilnet, supra*; *T-Mobile USA, Inc. v. City of Anacortes, supra* 572 F.3d 987 (9th Cir. 2009).

“The TCA does not assure every wireless carrier a right to seamless coverage in every area it serves, and the relevant service gap must be truly ‘significant’ and ‘not merely individual ‘dead spots’ within a greater service area.” *Los Angeles SMSA Limited Partnership v. City of Los Angeles*, 2021 WL 4706999 (C.D. Calif. 2021), quoting *MetroPCS, Inc. v. City and County of San Francisco*, 400 F.3d 715 (9th Cir. 2005).

With respect to a “gap in service,” “where the holes in coverage are very limited in number or size... the lack of coverage likely will be *de minimis* so that denying applications to construct towers necessary to fill these holes will not amount to a prohibition of service.”

*Sprint Spectrum L.P. v. Willoth*, 176 F.3d 630 (2d Cir. 1999); *T-Mobile v Town of Islip, supra*.

Further, the *T-Mobile* Court, citing *Willoth*, held that “the fact that T-Mobile may have a need for the Proposed Facility does not ‘trump all other important considerations, including the preservation of the autonomy of states and municipalities.’”

More specifically, the United States Court of Appeals for the Ninth Circuit stated in *Am. Tower Corp. v. City of San Diego, supra*, “[w]hen determining whether a locality has effectively prevented a wireless services provider from closing a significant gap in service coverage, as would violate the federal Telecommunications Act (TCA), some inquiry is required regarding the feasibility of alternative facilities or site locations, and a least intrusive means standard is applied, which requires that the provider show that the manner in which it proposes to fill the significant gap in services is the least intrusive on the values that the denial sought to serve.” *Id. See also Anacortes, supra*. That is, is the proposed tower the least intrusive means in light of the municipality’s zoning regulations and the legislative intent behind them?

There does not even appear to be any good-faith effort by Vertical Bridge to place the facility in a location that would minimize the adverse aesthetic impact on the community.

Moreover, a local government may reject an application to construct a wireless service facility in an underserved area without thereby prohibiting wireless services if the service gap can be closed by less intrusive means. *Sprint Spectrum L.P. v. Willoth*, 176 F.3d 630 (2d Cir. 1999), citing *Town of Amherst v Omnipoint Communications*, 173 F.3d 9 (1<sup>st</sup> Cir 2 1999). And a denial is merited where the applicant has identified other potential sites but stated, in conclusory fashion, that they were unfeasible and stated...that it was unable to build a less

intrusive structure.... *Omnipoint, supra*.

B. Vertical Bridge Failed To Submit Any Probative Evidence to Establish the Need For the Proposed Facility at the Height and Location Proposed

Vertical Bridge failed to meet its burden of proving that: (1) a significant gap in service exists; (2) its facility would remedy that gap; (3) the proposed tower is compatible with the surrounding community; (4) its proposed placement would minimize the aesthetic impact within the meaning of the applicable sections of the Code; and (5) a denial of its application would constitute a “prohibition of personal wireless services” within the meaning of 47 U.S.C.A. §332(7)(B)(i)(II).

Glaringly absent from Vertical Bridge’s application is any “*hard data*,” which could easily be submitted by the applicant, as *probative evidence* to establish that: (a) there is an actual gap in service which (b) necessitates the construction of a *new* facility, (c) and which requires it to be built at the specifically proposed location, and (d) on the specifically chosen site (as opposed to being built upon any alternative, less-intrusive locations).

Vertical Bridge has failed to prove that the proposed location is the best possible location to remedy a significant gap in personal wireless service because no significant gap in service even exists.

Without any meaningful data whatsoever, it is impossible for the County to comply with the smart planning requirements set forth in its own Code. Furthermore, in the absence of data, the County cannot ascertain whether the proposed location is the least intrusive means of providing personal wireless service to the community, as it has no information regarding where any significant gaps may or may not exist. It would be entirely irresponsible and

illogical for the County to grant applications for the installation of wireless telecommunications facilities without even knowing where such facilities are actually needed.

(i) FCC and California Public Utilities Commission

Recently, both the FCC and the California Public Utilities Commission have recognized the *absolute need* for hard data rather than the commonly submitted propagation maps, which can be easily manipulated to exaggerate need and significant gaps.

As is discussed within the FCC's July 17, 2020, proposed order, FCC-20-94, "[i]n this section, we propose requiring mobile providers to submit a statistically valid sample of on-the-ground data (*i.e.*, both mobile and stationary drive-test data) as an additional method to verify mobile providers' coverage maps."<sup>7</sup> The FCC defines drive tests as "tests analyzing network coverage for mobile services in a given area, *i.e.*, measurements taken from vehicles traveling on roads in the area."<sup>8</sup> Further, within the FCC's proposed order, several commenting entities also agree that drive test data is the best way to ascertain the most reliable data. For example:

(i) "City of New York, California PUC, and Connected Nation have asserted that on-the-ground data, such as drive-test data, are critical to verifying services providers' coverage data...;"<sup>9</sup> (ii) California PUC asserted that 'drive tests [are] the most effective measure of actual mobile broadband service speeds';<sup>10</sup> and (iii) "CTIA, which opposed the mandatory submission of on-the-ground data, nonetheless acknowledged that their data 'may be a useful

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<sup>7</sup> See page 44 paragraph 180 of proposed order FCC-20-94.

<sup>8</sup> See page 44 fn. 298 of proposed order FCC-20-94.

<sup>9</sup> See page 45 fn. 306 of proposed order FCC-20-94.

<sup>10</sup> *Id.*

resource to help validate propagation data...”<sup>11</sup>

California PUC has additionally stated that “the data and mapping outputs of propagation-based models will not result in accurate representation of actual wireless coverage” and that, based on its experience, “drive tests are required to capture fully accurate data for mobile wireless service areas.”<sup>12</sup>

Moreover, proposed order FCC-20-94, on page 45, paragraph 105, discusses provider data. Specifically, the FCC states:

*“The Mobility Fund Phase II Investigation Staff Report, however, found that drive testing can play an important role in auditing, verifying, and investigating the accuracy of mobile broadband coverage maps submitted to the Commission. The Mobility Fund Phase II Investigation Staff Report recommended that the Commission require providers to “submit sufficient actual speed test data sampling that verifies the accuracy of the propagation model used to generate the coverage maps. Actual speed test data is critical to validating the models used to generate the maps.”*

(Emphasis added)

Most importantly, on August 18, 2020, the FCC issued a final rule finding that requiring providers to submit detailed data on their propagation models will help the FCC verify the models' accuracy. Specifically, 47 CFR §1.7004(c)(2)(i)(D) requires “[a]ffirmation that the coverage model has been validated and calibrated at least one time using on-the-ground testing and/or other real-world measurements completed by the provider or its vendor.”

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<sup>11</sup> *Id.*

<sup>12</sup> <https://arstechnica.com/tech-policy/2020/08/att-t-mobile-fight-fcc-plan-to-test-whether-they-lie-about-cell-coverage/>

Congress has set forth the mandate requiring more accurate coverage maps. “As a result, the U.S. in March passed a new version of a bill designed to improve the accuracy of broadband coverage maps.”<sup>13</sup> “The Broadband Deployment Accuracy and Technological Availability (DATA) Act requires the FCC to collect more detailed information on where coverage is provided and to ‘establish a process to verify the accuracy of such data, and more.’”<sup>14</sup>

However, despite Congress’s clear intent to “improve the quality of the data,”<sup>15</sup> several wireless carriers have opposed the drive test/real-world data requirement as too costly.

“The project – required by Congress under the Broadband DATA Act – is an effort to improve the FCC’s current broadband maps. Those maps, supplied by the operators themselves, have been widely criticized as inaccurate.”<sup>16</sup>

If the FCC requires further validation and more accurate coverage models, there is no reason this County should not do the same. For the foregoing reasons, dropped-call records and drive-test data are both relevant and necessary.

(ii) Hard Data and the Lack Thereof

Across the entire United States, applicants seeking approvals to install wireless facilities provide local governments with *hard data*, as both: (a) actual evidence that the facility they seek to build is necessary and (b) actual evidence that granting their application

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<sup>13</sup> <https://www.cnet.com/news/t-mobile-and-at-t-dont-want-to-drive-test-their-coverage-claims/>

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> <https://www.lightreading.com/test-and-measurement/verizon-t-mobile-atandt-balk-at-drive-testing-their-networks/d/d-id/763329>

would be consistent with smart planning requirements.

The most accurate and least expensive evidence used to establish the location, size, and extent of both *significant gaps* in personal wireless services and areas suffering from capacity deficiencies are two specific forms of *hard data*, which consist of: (a) dropped call records and (b) actual drive test data. Both local governments and federal courts in California consider hard data to determine whether a significant gap in wireless coverage exists at that location.

It must be remembered that a propagation study is only a predictive model of signal strength and coverage. The programs that generate the studies utilize thousands, if not millions, of calculations, and are dependent on the program used and the input parameters defined by the person running the program. Accordingly, the result is only as good as the data input into the program. Additionally, as here, propagation maps usually do not represent *all* frequencies available to the carrier. The absence of one frequency does not mean there is a lack of service on one or more other frequencies.

In fact, unlike “expert” reports, RF modeling, and propagation maps – all of which may be manipulated to reflect whatever the preparer wants them to show – *hard data* is straightforward and less likely to be subject to manipulation, unintentional error, or inaccuracy.

Dropped call records are generated by a carrier’s computer systems. They are typically extremely accurate because they are generated by a computer that already possesses all of the data pertaining to dropped calls, including the number, date, time, and location of all dropped calls suffered by a wireless carrier at any geographic location and for any chronological period.

With the ease of a few keystrokes, each carrier's system can print out a precise record of all dropped calls for any period of time, at any geographic location. It is highly unlikely that someone could enter false data into a carrier's computer system to materially alter that information.

In a similar vein, actual drive test data does not typically lend itself to the type of manipulation that is almost uniformly found in "computer modeling," the creation of hypothetical propagation maps, or "expert interpretations" of actual data, all of which are so subjective and easily manipulated that they are essentially rendered worthless as a form of probative evidence. Actual raw drive test data consists of actual records of a carrier's wireless signal's actual recorded strengths at precise geographic locations.

As reflected in the records, Vertical Bridge has not provided any type of *hard data* as probative evidence, nor has it presented any form of data whatsoever, despite being in possession of such data. For example, Vertical Bridge could – and should – provide documentation regarding the number of residents who would benefit from the proposed tower, or information regarding the number and kinds of customer service complaints. "The substantial evidence analysis requires the Court to look for 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion' that a significant gap in service exists. *New Cingular Wireless PCS v. City of West Covina*, 2023 WL 4422835 (C.D. Calif. 2023), *quoting* Metro PCS, *supra*. Clearly, the actual number of people who would benefit from the proposed tower, as well as information regarding actual service complaints and/or dropped calls, would be the best indicators of a significant gap in service.

C. Vertical Bridge's Analysis Regarding Verizon's Wireless Coverage  
Is Contradicted By Verizon's Own Actual Coverage Data

As is a matter of public record, Verizon maintains an internet website at <https://www.verizon.com>. In connection with its ownership and operation of that website, Verizon maintains a database containing geographic data points that collectively constitute a geographic inventory of its current wireless service coverage.

As maintained and operated by Verizon, that database is linked to Verizon's website, and is the data source for an interactive function, which enables users to access Verizon's own data to ascertain both: (a) the existence of Verizon's wireless coverage at any specific geographic location, and (b) the level, or quality of such coverage.

Verizon's interactive website translates its *actual coverage data* to provide imagery whereby areas that are covered by Verizon service are depicted in various shades of red, and areas where Verizon has a lack (or gap) in coverage are depicted in white. The website further converts data from Verizon's database to determine the actual service level at a specific geographic location.

A copy of Verizon's coverage map for the area around 22044 Purdon Road, Nevada City, CA, is available on Verizon's website and is attached as **Exhibit "H."** This Exhibit was obtained and printed on May 11, 2026, from Verizon's website.

On its website, the coverage map, based on Verizon's *own* data, shows that there is no significant coverage gap in Verizon's service at 22044 Purdon Road, Nevada City, CA, or anywhere around or in close proximity to it. The coverage map indicates solid levels of service.

This obvious contrast between the claims made on Verizon's website to sell its services to the public and the claims made by Vertical Bridge to sell its proposed tower to this Board is striking. If nothing else, these differences demonstrate the ease with which data can be manipulated to suit a particular purpose.

**Exhibit "H"** is based on Verizon's own data and, as such, at the very least should be treated as a statement against interest.

D. *ExteNet Systems, Inc. v. Village of Flower Hill and Flower Hill Board of Trustees*

On July 29, 2022, the Federal District Court for the Eastern District of New York issued an informative and instructive decision that reiterates the holding in another authoritative and widely cited case, *Willoth, supra*. Although not binding on Courts in the state of California, the case is nonetheless persuasive. The Judge noted that while "improved capacity and speed are desirable (and, no doubt, profitable) goals in the age of smartphones, ... they are not protected by the [TCA]." *ExteNet Systems, Inc. v. Village of Flower Hill*, No. 19-CV-5588-FB-VMS (E.D.N.Y. July 29, 2022). In the *Flower Hill* case, the Board found significant adverse aesthetic and property-value impacts and, most importantly, no gap in wireless coverage and, therefore, no need to even justify the significant adverse impacts. Quoting *Omnipoint, supra*, the Court found that the lack of "public necessity" can justify a denial under New York law. "In the context of wireless facilities, public necessity requires the provider 'to demonstrate that there was a gap in cell service, and that building the proposed [facility] was more feasible than other options.'" *Id.* Further, the Judge held that "as with the effective prohibition issue, the lack of a gap in coverage is relevant here and can constitute *substantial evidence* justifying denial...And,

since one reason given by the Board for its decision was supported by substantial evidence, the Court need not evaluate its other reasons.” *Id.*, (*emphasis supplied*).

The applicant bears the burden of proof and must show that there is a significant gap in service – not just a lack of a *particular frequency* of service, *i.e.*, 5G service. A cell phone is able to “downshift” – that is, from 5G to 4G or from 4G to 3G, etc. – if necessary to maintain a call throughout coverage areas. Unless there is an actual gap, the call will continue uninterrupted. Therefore, there is a significant gap only when there is *no service at all*. *Id.*

Similarly, in this instance, in addition to the clear adverse impact on the neighboring properties, Vertical Bridge has failed to produce any evidence of a truly significant gap in wireless service. Showing a gap in a particular frequency is not sufficient. *All* frequencies must be absent for a significant gap to exist. Vertical Bridge has failed to meet this burden; accordingly, its application should have been denied.

## POINT VI

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

The Telecommunications Act of 1996 requires that any decision denying an application to install a wireless facility: (a) be made in writing, and (b) be made based upon substantial evidence, which is discussed in the written decision. *See* 47 U.S.C.A. §332(c)(7)(B)(iii).

#### A. The Written Decision Requirement

To satisfy the requirement that the decision be in writing, a board must issue a written denial that is separate from the written record of the proceeding, and that contains a sufficient

explanation of the reasons for the denial to allow a reviewing court to evaluate the evidence in the record supporting those reasons. *See, e.g., MetroPCS v. City and County of San Francisco*, 400 F.3d 715 (2005).

B. The Substantial Evidence Requirement

To satisfy the requirement that the decision be based upon substantial evidence, the decision must be based upon such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

The most authoritative and widely quoted explanation of the TCA's "substantial evidence" requirement comes from *Cellular Tel. Co. v. Town of Oyster Bay*: "substantial evidence implies 'less than a preponderance, but more than a scintilla of evidence'." 166 F.3d 490 (2d Cir. 1999). *See also, GTE Mobilnet, supra*. Substantial evidence "means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Id., quoting MetroPCS, Inc. v. City and Cty. of San Francisco*, 400 F.3d 715 (9<sup>th</sup> Cir. 2005). Thus, these interested homeowners have met their burden of proving that Vertical Bridge failed to present sufficient evidence to warrant granting their application, and the application should be denied.

To ensure that the County's decision to deny this application cannot be challenged under the Telecommunications Act of 1996, it is respectfully requested that the Board deny Vertical Bridge's application in a written decision wherein the Board cites the substantial evidence upon which it based its determination.

### C. The Non-Risks of Litigation

All too often, representatives of wireless carriers and/or site developers try to intimidate local zoning officials with either open or veiled threats of litigation. These threats of litigation under the TCA are, for the most part, entirely hollow.

This is because, even if they file a federal action against the County and win, the Telecommunications Act of 1996 does not entitle them to recover compensatory damages or attorneys' fees, even if they get creative and try to characterize their cases as claims under 42 U.S.C. §1983.<sup>17</sup>

This means that if they were to sue the County and prevail, the County would not be liable to pay them any damages or attorneys' fees under the TCA.

Typically, the only expense incurred by the local government is its own attorneys' fees. Since federal law mandates that TCA cases proceed on an "expedited" basis, such cases typically last a comparatively short time. As a result of the brevity and relative simplicity of such cases, the attorneys' fees incurred by a local government are typically quite small, compared to virtually any other type of litigation.

### **Conclusion**

Vertical Bridge has not proven that a need exists in the area where it proposes to install its cell tower. No significant gap has been demonstrated. Nor has Vertical Bridge proven that the proposed facility is the least intrusive means of remedying the purported significant gap in service coverage, nor has it shown that a meaningful, good-faith inquiry was made into

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<sup>17</sup> See *City of Rancho Palos Verdes v. Abrams*, 125 S.Ct 1453 (2005), *Network Towers LLC v. Town of Hagerstown*, 2002 WL 1364156 (2002), *Kay v. City of Rancho Palos Verdes*, 504 F.3d 803 (9<sup>th</sup> Cir 2007), *Nextel Partners Inc. v. Kingston Township*, 286 F.3d 687 (3<sup>rd</sup> Cir 2002).

whether the proposed facility is the least intrusive alternative.

These facts, together with the clear adverse impacts – both aesthetic and financial – that will befall the nearby residents and affect the character of the entire community, can result in only one thoughtful, considered decision. It is respectfully submitted that the decision must be to deny Vertical Bridge’s application.

For the foregoing reasons, we respectfully request that Vertical Bridge’s application be denied in its entirety.

Dated: Nevada City, CA  
May 23, 2026

Respectfully Submitted,

Nels Atkinson, et. al.

COUNTY OF NEVADA  
STATE OF CALIFORNIA

-----X  
In the Matter of the Appeal of:

**VERTICAL BRIDGE and VERIZON**

For A Conditional Use Permit

Premises: 22044 Purdon Road  
Nevada City, CA 95959

Zoning: Forest- 40

Assessors Parcel #: 062-180-031  
-----X

**EXHIBITS IN OPPOSITION**

Respectfully submitted,

Nels Atkinson, [REDACTED]  
Karri Knowles, [REDACTED]  
Natalie Atkinson, [REDACTED]  
Tina Tesene, [REDACTED]  
Paul Steege, [REDACTED]  
Echeri Hughes, [REDACTED]  
Juan Hughes, [REDACTED]  
Iururi Hughes, [REDACTED]  
Ana Hughes, [REDACTED]  
Tracy Hughes, [REDACTED]  
Wendy Boes, [REDACTED]  
Tod Huebsch, [REDACTED]  
Karouna Thompson, [REDACTED]

## **Exhibit List**

- A** Adverse Aesthetic Impact Letters
- B** Oswego Cell Tower Collapse
- C** Photographs of Structural Failures
- D** Wellesley, MA Cell Tower Fire
- E** Additional Cell Tower Fires
- F** Physicist Ice Fall Report
- G** Appraiser Professional Opinion Letter re: Adverse Impact on Property Values
- H** Verizon Website Wireless Coverage Map

**EXHIBIT A**

Nels Atkinson and Karri Knowles



Regarding: Opposition to the proposed cell tower at 22044 Purdon Rd Nevada City

Dear Administrator/Planning Commission,

This land has been home and livelihood for my family since I was 3 years old. My grandparents retired here in the 1960's after purchasing the parcels that my uncle and mother now own. I am 50 years old and will inherit this property with my two sisters. We all including my sons who will inherit from us view our family land as a sanctuary we can always come home to. Growing up we had a dairy farm here. Over the last 5 decades the management of our family's home land has been of import to our family's livelihood and has been a beneficial part of the local community and neighborhood. All of this land was once a part of a thriving culture of Native Americans, the Maidu, who left behind on this land granite outcroppings with grinding holes for making acorn flour, arrowheads from hunting, and years of fire based management of the forests and meadows. When white settlers came for gold Purdon road was a stage coach route and our lands were the site of an inn where horses and people could rest at the top of the canyon. That canyon is now the Yuba River State Park, one of the state's longest stretches of wild and scenic designated river. The old Miller ranch before being subdivided was once 160 acres and included the surrounding properties including the proposed cell tower site. That ranch once managed the water on these lands through a system of canals and ponds that distributed irrigation to the meadows across many of these properties. The history of this land is important because before the road was paved, before electricity, before telephone landlines, before the crowded roads and traffic my family was here taking over the long tradition of managing the aesthetic beauty, natural integrity, and rural character that provides livelihood and home to those that care for the land. The neighboring land owners to the proposed cell tower are part of a community that has attempted to carry on management of our private lands within the context of a larger responsibility and rural culture. This includes management of the Yuba River watershed for water quality, management of invasive species of plants, management of fire safety through "Firewise" communities, and being in the middle of a CalFire firebreak project. We all contribute to the land taxes the county collects and we all contribute to the health and well being of our neighbors.

The aesthetic impact of the cell tower holds not just the visual encroachment on my family's day to day lives but also the impact to our long efforts to preserve the rural nature of our land and its character. Our every day activities will be negatively impacted by the tower's presence and will absolutely create a mental strain with an ever-present undercurrent of visual stress. When daily caring for the animals that graze our land for fire control, managing property with burn piles and brush clearing, maintaining roads, managing water run off for ground water recharging, daily walks with our dogs checking the mail box at the end of Miller Road, when working in the gardens, sitting in the meadow at the end of the day to enjoy the sunset view the northern portion of the western skyline will have the towering antennae disrupting our peaceful and historic view.

I am concerned not just for the 150 ft height which projects into the sky taller than surrounding trees but for the proposed allowance of "co-location" which may increase the height of the tower or add antennae structures.

The visual impact photos in the proposal are inaccurate for multiple reasons. First, the proposal states that some oak and madrone trees will be removed from the site for the construction of the tower base and facility. That would make the 2500 sq ft fenced base of the tower highly visible from Purdon Road, Miller Road, and specifically from our property. Further the chosen view point of the photo in the proposal is chosen to show the tower from a view point that hides much of the lower half of the tower and the tower base. A mere 100ft away from that view point and continuing for hundreds of feet along Purdon Rd and from our property the entire tower and its entire base will be visible every day.

We have included photos of these alternate viewpoints. Whether it is purposeful or simply neglectful the proposal has misrepresented the visual impact of the tower for my family and for the entire local community.

We are also concerned for the property value diminution that is common for properties surrounding tower locations while we continue to pay land taxes for previously higher value property.

Furthermore, as the cellular technologies continue to develop towers may become obsolete. We request that if this tower were ever decommissioned that the cellular companies would be responsible for complete removal of the above and below ground infrastructure of the entire facility.

We request that the county administrator take into account the aesthetic and quality of life impact to our family for this generation and many to come and deny this location for the tower.

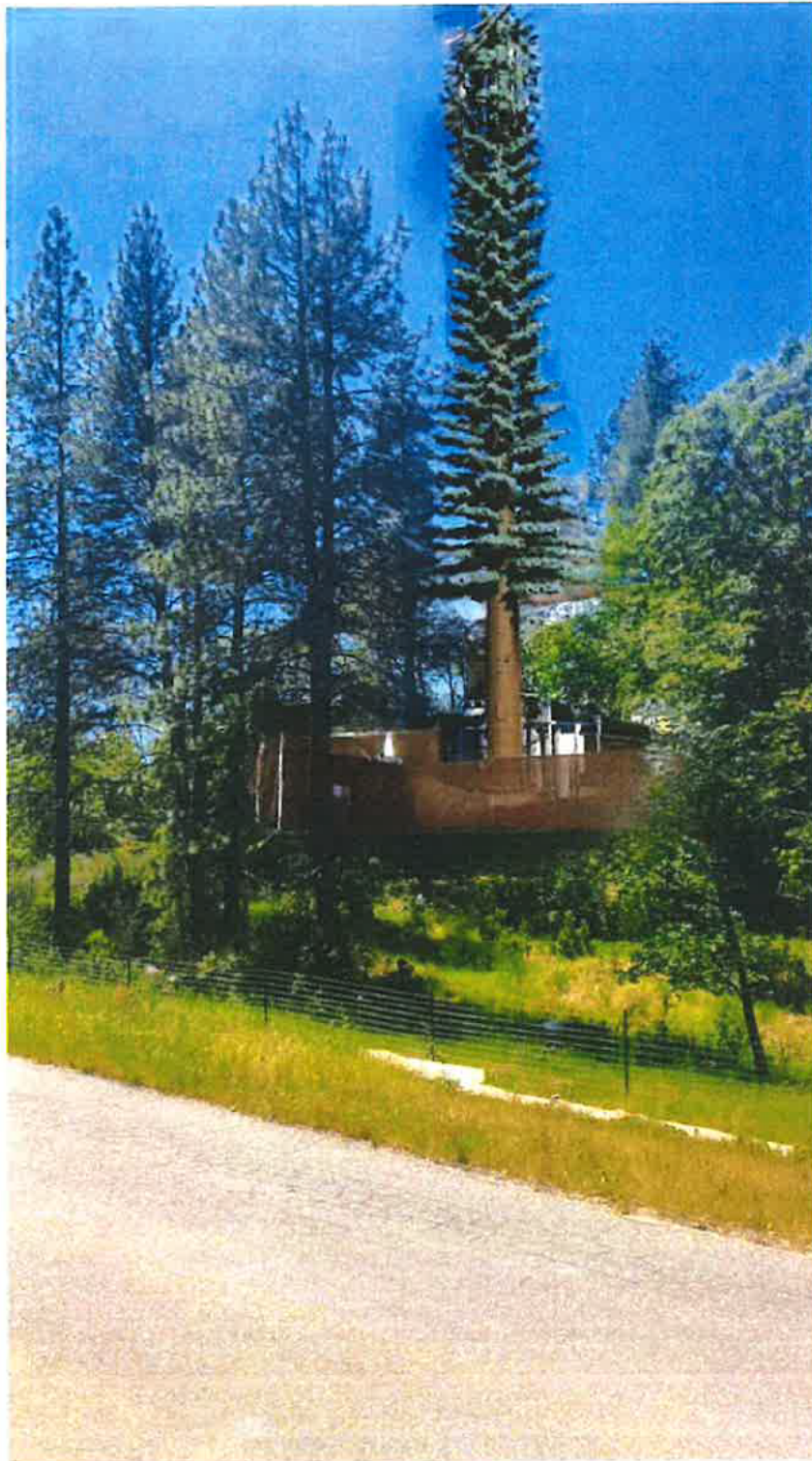
Thank You, Nels Atkinson and Karri Knowles



Cell Tower with base as seen from Miller Rd



Cell Tower as seen from our property [REDACTED] 100 ft from the image of aesthetic impact provided by the proposal from Sequoia Development



Cell Tower with base visible after proposed tree removal. Same view point as provided in the tower proposal with much greater aesthetic impact than photo in proposal suggests.

Natalie Atkinson

[REDACTED]  
Nevada City CA

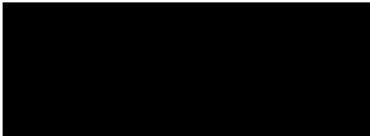
May 5<sup>th</sup> 2026

I own the property at [REDACTED] adjacent to the proposed cell tower property 22044 Purdon Rd. I am 81 years old this year. My parents bought this land in 1960 to retire to. For almost 7 decades and through 4 generations my family has cared for this land's livestock, forests, meadows, and seasonal wetlands to preserve its natural beauty and rural character. The land has been carefully stewarded to be firesafe and now plays a vital role as part of a 6000 acre firebreak running through the area. My children and grandchildren will inherit this property and they have all taken up the tradition of its management. It is a common and beautiful site to watch migrant birds such as Canada geese, Great Blue Herons, and Ducks fly into the meadows and wetlands from the northwest end of the property as they travel between the many ponds on surrounding properties. The pristine beauty of our 16 acres of wetland meadow and forest and the view from everywhere on the property to the northwest would be dominated completely by the proposed cell tower. Every day I work in my gardens enjoying my retirement years and the view from my gardens faces directly northwest into the placement of the cell tower. The tower will be located just a couple hundred feet from our property and directly in front of the private Miller Road entrance which is the only evacuation route for multiple properties including mine and multiple homes on the road. The value of this property, as originally intended with its purchase and its future value is in its natural beauty and in the family history and future of its stewardship, and protection of its rural character. The proposed tower contributes to the encroachment and intrusion onto the land by an urban aesthetic. I am further concerned for the fire safety of this tower and its placement within a firebreak and evacuation route. Also there are frequent power outages in our area during winter conditions and the very special quiet of this landscape covered in snow would be completely destroyed by the sound of a generator and maintenance lights for the tower. Sound travels around this particular landscape in a way that makes our meadow feel like a natural amphitheater. The voices of neighbors and the sound of an occasional vehicle can be clearly heard from up to 40 acres away. The proposed tower, its emergency operation noise, its construction and its maintenance traffic, its destruction of the view and arsthetic rural character would be a major detriment to the enjoyment and lifestyle of this property.

Thank You, Natalie Atkinson



Natalie Atkinson



View from my garden



Tiina Tesene & Paul Steege



May 5, 2026

Dear Nevada County Planning Commission,

We are writing to ask you to deny the Conditional Use Permit application for the 150 ft. tall faux pine tree located at 22044 Purdon Rd. on Assessor's Parcel Number: 062-180-031 on the San Juan Ridge.

I am fortunate to have spent the last 47 years of my life on the San Juan Ridge. We bought our current property on Miller Road 26 years ago. Our land is a beautiful serene piece of paradise that we intend to spend the rest of our lives living on. We will hand it down to our son & granddaughters when we die. We also built a small rental on our land for retirement income. We share our land with madrone, pine, and oak trees and they definitely grace our life with their majestic beauty. My husband and I are both self employed and work from home. Land stewardship is an integral part of our life while living in harmony with the land and surrounding nature. We are deeply rooted here.

We could never have imagined in our wildest dreams that a 150 ft Cell Tower would be erected in our rural pristine neighborhood. The proposed location is also only 0.3 miles to the Wild & Scenic Yuba River. The tower is proposed to be located right at the very top of the ridge top of the river canyon which blows up a nice hot breeze every afternoon in the summer. Lithium batteries, a large gas storage tank and the cell tower itself potentially can all cause a fire which could easily burn towards town or stay on the ridge and that would be catastrophic.

This tower will be looming over our neighborhood. It will dominate our view from our kitchen, deck, garden and workshop. Every day of our lives we will have to see this giant out of place monstrosity of a fake mono tree in what once was a natural landscape. It will not only be out of place but will also decrease our property value. According to real estate experts, properties near cell towers typically experience at least 10-20% decrease in property value.

There are better suited higher elevation unpopulated areas on this ridge that could house this proposed Cell Tower. It would be unconscionable to allow this tower in the middle of a rural residential neighborhood.

Thank you for your most careful consideration on this most pressing matter. Please listen and stand by us the opposing residents that reside as your neighbors in this community.

Sincerely yours,

TINA TESENE

A handwritten signature in blue ink, appearing to read 'Paul Steege', written in a cursive style.

Tina Tesene & Paul Steege

P.S. - attached is a photo from our deck looking toward where the tower will sit.



May 8, 2026

To: Nevada County Planning Department  
950 Maidu Ave. Nevada City

Re: Proposed Verizon Communications Tower site at  
22044 Purdon Rd, Nevada City.

My name is Paola Echeri Hughes Castillo, I have resided at [REDACTED]  
[REDACTED] for the past 12 years on my family's land.  
Our property is directly next to the proposed Verizon Communications Tower site  
located at 22044 Purdon Rd, Nevada City.

I am writing to express my opposition to the construction of this tower at the proposed location. The structure would be built directly within the sunrise view of the site where I am planning to build my home & would ruin my pristine view. Such an industrial structure would be a significant eyesore and contradicts the reasons I chose to live in a remote, rural area in the first place.

Furthermore, allowing this tower to be built on the proposed location would only open the door to future expansion & installation of more towers, ruining the pristine rural character of this beautiful area for the community & future generations.

I am also deeply concerned about the fire risk associated with this project. The installation of a large fuel tank for the backup generator poses a direct threat to surrounding properties and would interfere with the planned fire break along Purdon Rd. As part of a Firewise Community, we have invested significant time and resources into wildfire safety, and this tower would compromise those efforts.

I respectfully request that the Planning Department consider alternative locations for this tower. There are more suitable options in the surrounding area with better coverage without negatively impacting the neighborhood safety & aesthetics.

Best regards,

Paola Echeri Hughes Castillo

*Echeri Hughes* ♥



May 8, 2026

To the Nevada County Planning Department,

I am Juan Hughes & have lived with my family at [REDACTED] for the past 12 years. Our property is adjacent to the proposed Verizon Communications Tower site at 22044 Purdon Rd. (APN: 062-180-031). As immediate neighbors, we would be directly affected by this installation.

I am writing to formally oppose the current proposed site for this tower for the following reasons:

- **Aesthetic and Environmental Impact:** We purchased our home for its proximity to the Yuba River and the pristine eastern sunrise views. This 15-story industrial structure would be positioned directly within our view, significantly degrading the rural character of the landscape & ruining our perfect scenic view.
- **Property Value:** Research indicates that proximity to such towers can reduce property values by over 20%. This depreciation would negatively impact our financial security and our ability to utilize home equity in the future.
- **Business Interference:** We are currently planning to develop retreat cabins on our property. The visibility of the tower would undermine the quiet, rural experience we intend to provide guests, jeopardizing the viability of this project.
- **Fire Safety:** I am concerned about the fire safety risks associated with the large fuel tank and battery backup system for the generator. This installation undermines our efforts as a Firewise community and increases the risk to our neighborhood.

Approving this tower would be a complete disregard to the well-being of our neighborhood and lead to further expansion & installation of more towers on this site, ruining the rural character of this beautiful area next to the South Yuba River Purdon Crossing State Park.

I request that an alternative location be identified. There are lots of sites in the area that could provide necessary coverage without negatively impacting the property rights and quality of life of local residents. It appears the current site was selected for convenience rather than from a lack of more suitable options.

Thank you for your time and for considering the impact this project has on our community.

Sincerely,

Juan Hughes

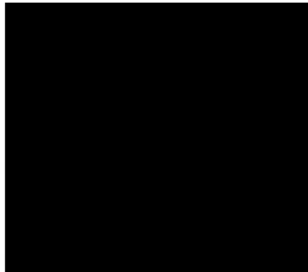
A handwritten signature in black ink, appearing to read "Juan Hughes", with a stylized flourish at the end.



**Mail body: Tower**

May 8, 2026

Iururi Hughes



RE: Opposition to Proposed Verizon Cell Tower at 22044 Purdon Road, Nevada City, CA 95959

Dear Planning Board,

I am writing to express my strong opposition to the proposed 144-foot Verizon cell tower planned for 22044 Purdon Road, adjacent to our property.

My family and I purchased our home 13 years ago because of the quiet, rural, scenic, and peaceful character of this area. The proposed tower would dramatically alter the natural landscape and directly impact the enjoyment of our property. Due to its height and close proximity to our home, the tower would be highly visible and would significantly diminish the aesthetic beauty of the neighborhood by dominating the eastern view that is currently open and natural.

Our home is our sanctuary. The placement of such a large industrial structure in this residential rural setting would be extremely disruptive and could negatively affect property values throughout the surrounding community.

In addition, we are deeply concerned about the increased fire risk associated with placing this infrastructure in a rural, wildfire-prone area. Given the history of wildfire danger in Nevada County, these concerns should be taken very seriously.

I am convinced that alternative locations exist that would allow Verizon to meet its service objectives while placing the tower farther from residential properties and minimizing impacts on nearby residents and the surrounding environment.

I respectfully urge the appropriate authorities to reconsider approval of this cell tower at this location. Alternative sites further from homes and residential neighborhoods should be explored to reduce the negative impact on our community.

Thank you for your time and consideration. I trust that the voices and concerns of local residents will be taken seriously in this matter, and I respectfully request that you reject this proposal as currently planned.

Sincerely,  
Iururi Hughes

A handwritten signature in black ink, appearing to read "Iururi Hughes".

Sent from my iPhone



To: Nevada County Planning Department

From: Wendy Boes, [REDACTED]

Re: PLN25-0133, CUP25-0009, E125-0001

7 May, 2026

I am writing to express my concerns and strong opposition to the erection of a cell phone tower at 22044 Purdon Road, Nevada City CA 95959. My property is just under 1,500 feet from where the proposed cell phone tower would be erected and have numerous concerns about the impacts it would have on the visual and aural aesthetics of my home, wildfire potential from the fuel stored on site, and the impacts to myself economically from reduced property value. I have outlined these below and have provided a map that demonstrates that there are numerous locations AWAY from my home and neighborhood that would be far more suitable for such a tower. I am not anti-cell phone tower, but they belong away from neighborhoods where the impacts to the following

#### Aesthetics Impact

I moved to the San Juan Ridge 21 years ago, and love the area for the natural beauty, vast and local views, and peace. I have owned this home for twelve years and have put so much time and money into making it my home forever. The erection of a 150 foot cell phone tower would dominate the view I currently have from my bedroom, as the location that has been proposed is less than 1,600 feet from my home to the ENE (see photos below). As the tower is proposed to be it would also loom over my yard where I enjoy entertaining, relaxing, and gardening. The tower would be totally inconsistent with the natural landscape I purchased this place for (and pay taxes to the county on). I currently enjoy dark vast night skies, and an unobstructed view of the local pines and the rising sun, and the sounds that come with nighttime, owls, frogs, crickets. This is why I chose to live here. The proposed tower would loom in the viewshed, and create light pollution, noise pollution, and all but ruin the view. Regardless of how Verizon has tried to mimic the pine with their tower, it is an obvious sore thumb on all the landscapes I have viewed it from. The property where the tower is proposed was a squatting tweaker stronghold for many years, and the county was little help in our pleas for help in mitigating the noise, the obvious drug use, the garbage, the fire season "cook" fires they had, etc. (please see the sheriffs log for the numerous times I reported them). It feels like a kick in the gut, that now that we have some peace, and the area has been cleaned up that the county would allow an eyesore, light and noise polluting tower to be erected.



View from bedroom off deck where cell tower would be easily visible and an eyesore.



View from yard with areas circled where the tower would look unsightly and unnatural, not to mention the light pollution.

#### Property values-Economic Impact

I bought my property partially because I knew that property values in Nevada County were likely to continue to grow, given the desirability of location for its natural beauty, and proximity to both outdoor and urban centers. I have read that property values are estimated to go down by up to 20% when this near a cell tower (Cell Phone Towers <https://share.google/xZpE2L173QuE434Zk>

Property Values Declining Near Cell Towers | EMF Analysis  
<https://share.google/35wMEIf7Rg7qO0Ybs>

How Cell Towers Impact Property Value <https://share.google/W5JosRDnLWUISjWOV>).

Does the county plan to offset our property values if they approve the tower? The primary beneficiary of this tower is NOONE in the neighborhood, definitely not me, I would suffer this bad decision economically, which is terrifying as I am relying on my property value to sustain

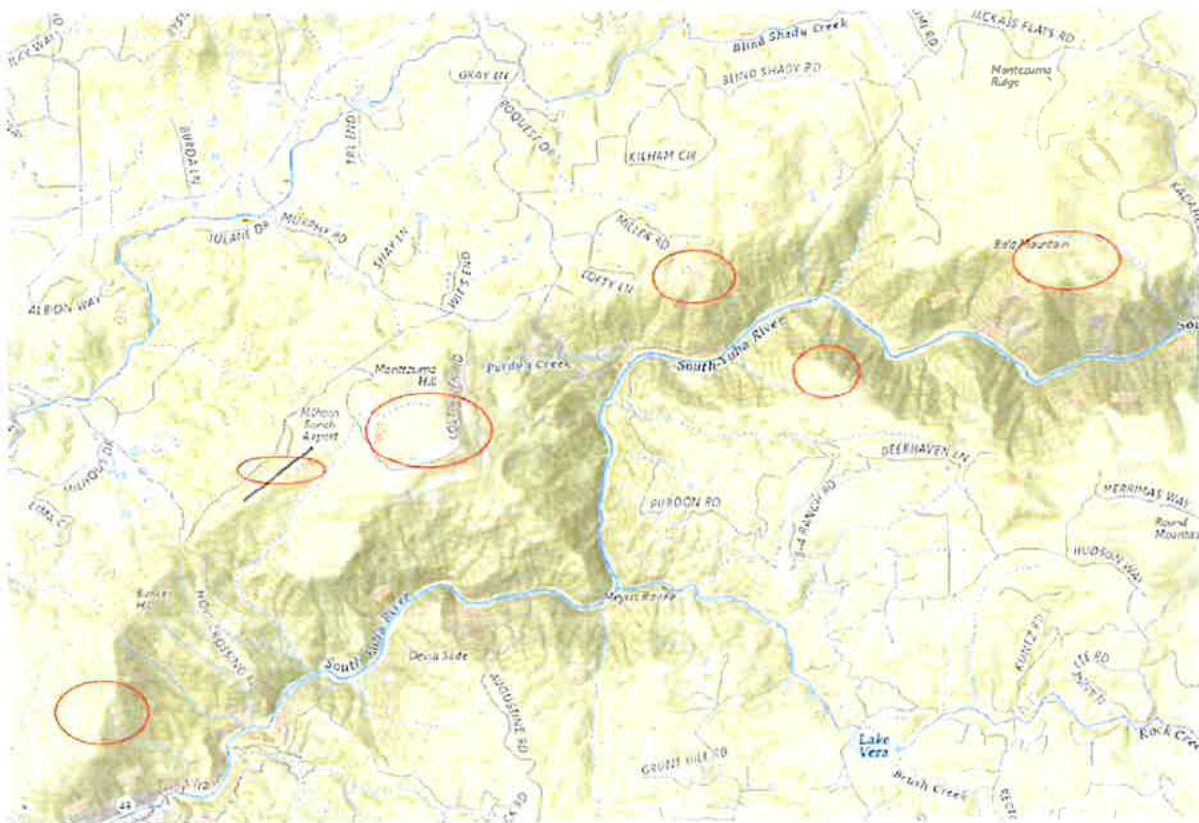
me into my retirement years. This also is inconsistent with the land use I moved to the area for with the designations of open space, agricultural use and forest.

### Fire Danger.

The storage of large quantities of fuel, the potential for electrical shorts starting fires, the batteries stored there-in all have the potential to put me directly at risk for wildfire. I personally, and we as a community have put much time, effort and financial resources into mitigating the impacts of fire, reducing fire risk, and maintaining best practices at home for reducing the chance of fire.

### Optional Locations AWAY from population centers

I cannot understand why the county would approve of something directly near my home ESPECIALLY since there are numerous locations where the tower could be erected AWAY from a population center (eg. Montezuma Hill, Governor's Hill, BLM lands, State park lands). This is obviously a location of convenience, with little regard for those of us that pay high property taxes to Nevada County. See map below with areas identified that I know are away from population centers and are higher locations with the potential for better coverage for both customers and the river canyon.



I strongly encourage the dismissal of this use permit and that you stand by the residents that live in your County, and whom you are supposed to represent.

Thank you,

Wendy L. Boes

Wendy Boes



Tod Huebsch



Dear Administrator/Planning Commission

Regarding the Proposed Cell Tower on 22044 Purdon Rd Nevada City CA

I own two homes located on 22 acres of property adjacent to the proposed cell tower property. I moved here in the 1970s and helped my parents build their retirement home on this land and subsequently built my own home here as well. I have lived here for nearly 50 years now contributing to the community and providing for family with land that is managed for fire safety and the health of its forests and meadows. I have spent a lifetime caring for the rural beauty this property. The property is unique in its views across the adjoining Yuba River State Park. The proposed cell tower threatens to loom over the trees of the north western skyline. It will be seen as I drive to and from my home down Purdon Rd, when I park in my garage and walk to my house, as I drive out my driveway, as I care for my animals and make daily rounds to tend to the property, through its wooded hills and meadows and pond. The proposed cell tower would become a predominating part of my day to day life and blight the natural beauty of the land for myself and future generations.

Sound echoes through the meadows funneling between hills directly from the proposed site towards my home. Neighboring property noises often sound as though they are on my front doorstep. I am severely concerned for the noise pollution of generators during emergency operation as we are often without power here in the winter. Light pollution from tower lights, maintenance lights, traffic and machinery will all be highly visible from my home.

Furthermore, after spending so many years keeping this property firesafe the hazard that the tower presents to myself, my property, and my evacuation route in the event of a fire is troubling. Just a few hundred feet from the proposed tower we keep a mowed portion of meadow flat and clear as it is used during emergency response and fire response to land helicopters because it is the only flat place close enough to the frequently used junction of Purdon and Murphy Rd where fire crews stage their equipment and refill tanks from the two 10,000 gal tanks the local fire department installed on my property.

I oppose the building of this tower and do not feel that the county's recommendation to approve its construction as low impact has taken into consideration the extent of its impact to the aesthetic value of my homes.

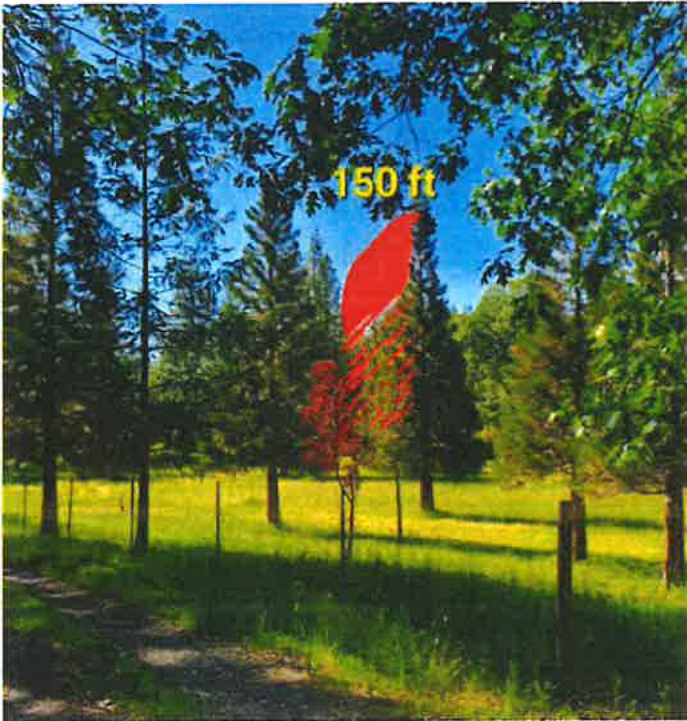
Sincerely,

Tod Huebsch

*William Tod Huebsch* MAY 7, 2026



Tod Huebsch View from my garage



Tod Huebsch View from my driveway

May 11, 2026

To the Nevada County Planning Department:

To whom it may concern,

My name is Ana Hughes, I have lived at [REDACTED] for the past 12 years with my husband Juan Hughes. We originally moved to this property for it's close proximity to the South Yuba River & the surrounding natural rural landscape.

Our home is directly next to the site where the Verizon Communications tower is proposed to be installed at 22044 Purdon Rd. Nevada City.

This is very distressing to me as it will ruin our otherwise pristine sunrise view & would be right in the middle of the beautiful easterly view of our planned house that we will be building.

I am writing to oppose the current proposed site at 22044 Purdon Rd. Nevada City & ask that an alternate location be found for this tower that would not be so close to peoples houses, we are surrounded by countless possible locations that would offer better coverage & would not infringe on homeowners property rights.

Please consider finding a more suitable location for this tower that is convenient for everyone in the neighborhood, not just because of Verizons convenience.

Sincerely,

Ana Hughes

A handwritten signature in black ink, appearing to read "Ana Hughes", with a stylized flourish at the end.

Nevada County Planning Department 950 Maidu Ave, Nevada  
City 95959.

To whom it may  
concern

My name is Tracy Hughes and I have resided at [REDACTED]  
with my family for the past 13 years. I am writing to express my  
vehement opposition to the proposal by Verizon to place a 5G cell  
tower at 22044 Purdon Rd, Nevada City. I reside with my family on  
the property adjoining the proposed site. My family and I cherish our  
home and our surroundings. We value our freedom from  
contamination and our wonderful vista. The proposed tower would be  
squattening in the dead center of our magnificent view of the  
surrounding hills and valleys. The property values would be  
substantially degraded, by up to 20% I'm told, if this project moves  
forward. I must insist, along with all of my neighbors, that a permit for  
this project be rejected outright and an alternative site, of which there  
are many that would be more appropriate, be found. Please let us  
follow a course of common sense and mutual approval and not the  
exigencies of corporate greed. I urge you to reject the application for  
construction of a 5G cell tower at the proposed site. With all due  
respect, Sincerely, Tracy Hughes



Karouna Thompson



I'm writing to share some concerns regarding the proposed installation of a 5G tower near my property and how it may affect the surrounding area, including my home and family.

One of the primary concerns is safety, particularly the potential fire risk. Our area has very dry conditions, and any possible risk of a devastating fire added should be considered carefully.

As a parent of two young children, I try to be cautious about environmental factors that could affect their health and development, particularly with such a close proximity to where my children live and play every day.

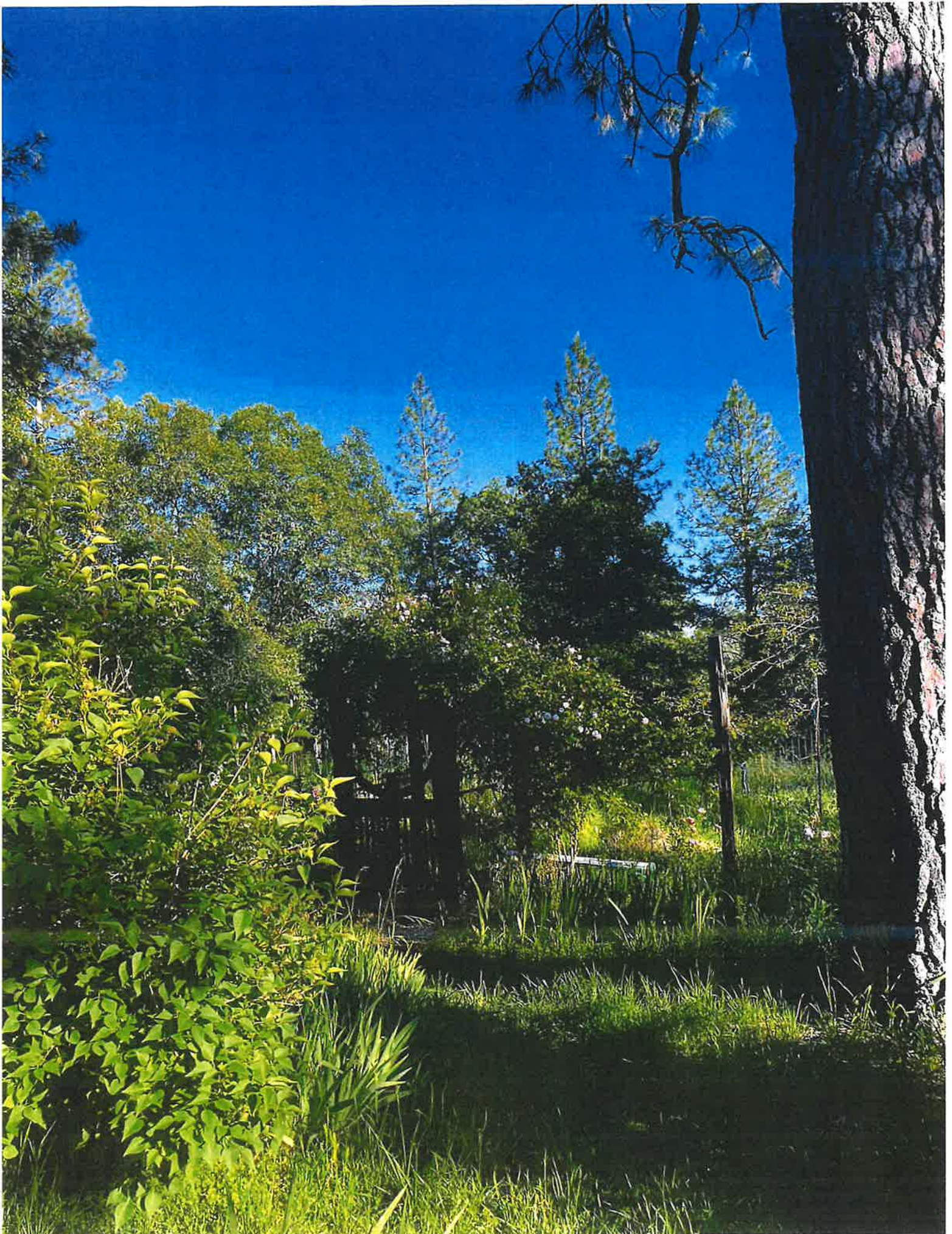
Additionally, the presence of a tower would affect the character of our neighborhood, including aesthetics and property values.

I have included a few photos taken from my backyard in the direction of where the tower would be located.

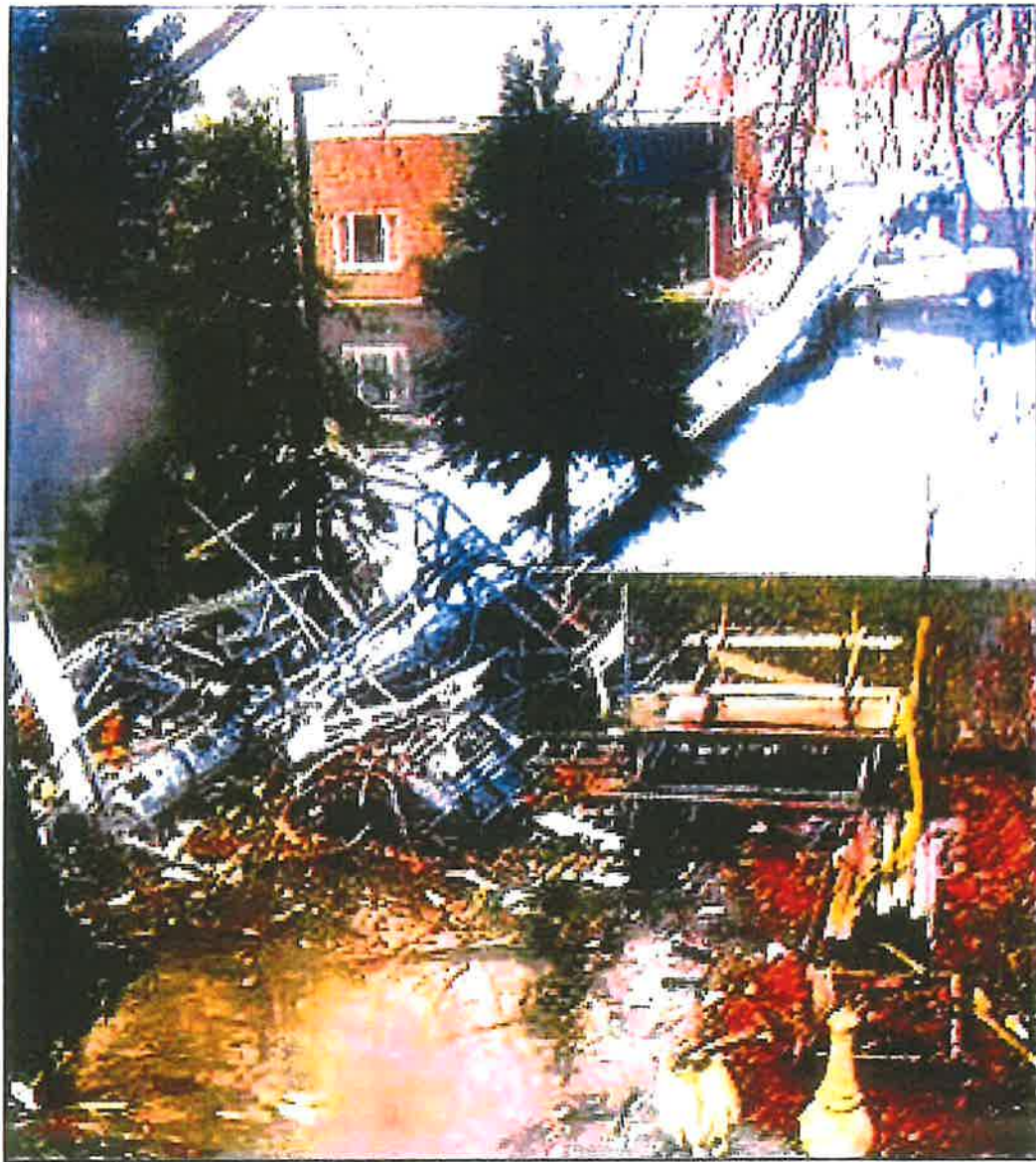
I appreciate you taking time to address these concerns.

Sincerely,

Karouna Thompson



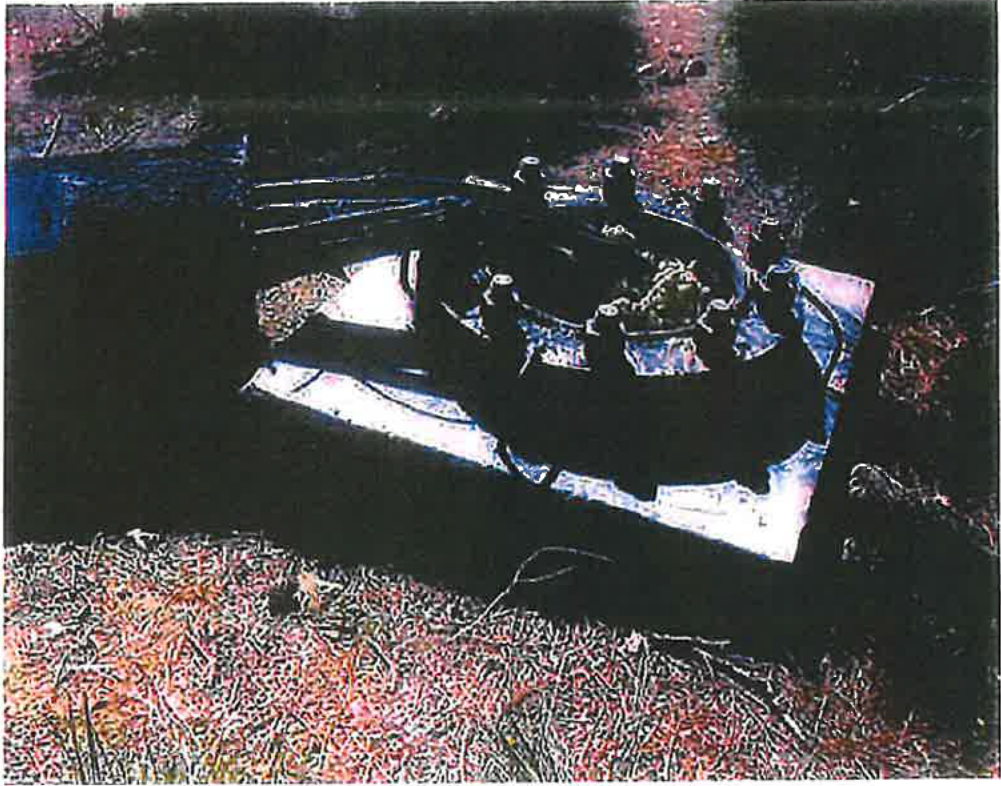
# **EXHIBIT B**





## **EXHIBIT C**







# EXHIBIT D



Wellesley, MA January 2009

**EXHIBIT E**



Philadelphia, PA June 2013



Newport, VA June 2015



Lilburn, GA December 2011



Greenville TN November 2014



Montgomery MD June 2015

# **EXHIBIT F**

## An Analysis of Cell Tower Ice Falls ([www.syndesign.us/icefall](http://www.syndesign.us/icefall))

Dr. Dennis L. Rogers

April 16, 2013

**Abstract:** The following is an estimate of the effects of ice falling from cell towers. The velocity of impact and distance of impact from the tower are calculated for the type of ice fragments expected due to freezing rain on the flat surfaces of the tower and antenna structures. These calculations are not intended to be comprehensive but do show the magnitude of effects to be expected.

**Introduction:** Freezing rain can cause ice to build up on on the flat surfaces of the antenna elements arrayed around a cell phone tower and also on the tower itself. The photo to the right shows such an antenna array. Since these surfaces are oriented vertically one would expect the ice to form primarily in almost flat sheets oriented vertically to the ground. The thickness of these sheets could be up to 6 cm thick due to freezing rain. In what follows I will consider the fate of such a sheet of ice that has detached from the cell tower surface. This could be due to heat from the antenna currents melting a thin layer next to the tower or antenna element. Indeed such ice falls have been observed.



Cell Phone Tower Antenna array in Kani NY.

**The Physics:** The sheet of ice will be subject to two forces: the downward force of gravity and the force exerted by wind resistance. The force of gravity is constant and equal to:

$$\text{Eq 1 } F_{\text{grav}} = Mg$$

where  $g = 9.8 \text{ m/s}^2$  is the acceleration of gravity, and  $M$  is the mass of the ice sheet in kg. In what follows I will assume the use of MKS units in the calculations.

The force due to wind resistance depends on the actual geometry of the piece of ice but is roughly proportional to the area exposed to the wind,  $A$ , the square of the velocity,  $v$ , at which it falls and the drag coefficient,  $C_d$ , which depends on the exact shape of the ice fragment. Using the EIA-222-C standard for calculating wind forces on antenna structures, the wind force can be written:

$$\text{Eq. 2 } F_{\text{wind}} = F_0 A v^2 C_d$$

$$\text{where } F_0 = 0.26 \frac{\text{nt} \cdot \text{s}^2}{\text{m}^4}$$

**No Wind:** The simplest case is where there is no wind blowing. The wind resistance is then only due to the velocity at which the object is falling. The downward acceleration,  $a$ , is then given by:

$$\text{Eq. 3} \quad a = \frac{dv}{dt} = \frac{F_{total}}{M} = \frac{-Mg + F_0 A v^2 C_d}{M} = -g + \frac{F_0 A v^2 C_d}{M}$$

For the thin sheets oriented vertically, the second term, the wind resistance force, will be negligible and the ice will fall primarily due to the force of gravity. The cases in which the ice sheet is not oriented vertically will not be considered. Assuming a tower height of 50 meters (about 150 ft) and only gravitational forces, the ice sheet would reach a velocity of 31 m/s or about 67 mph before hitting the ground. Assuming the flat surfaces of the antenna structures are 1 meter sq in size and that the ice is 6 cm thick this would result in a piece of ice weighing approximately 54 kg (119 lbs) striking into the ground with a speed of 67 miles per hour. Since the wind resistance is negligible for vertically oriented sheets, this speed will be independent of the size of the ice sheet.

**With Wind:** With wind, of course, the ice can move in the direction of the wind before reaching the ground. A sheet of ice can experience considerable force from the wind, especially if the flat side of the sheet is perpendicular to the wind. In this case there is an equation of motion for both the vertical direction and the direction in which the wind is blowing. Vertically the equation is the same as in the no wind case:

$$\text{Eq. 4} \quad a_x = \frac{dv_x}{dt} = -g + \frac{F_0 A v_x^2 C_d}{M}$$

while in the direction of the wind:

$$\text{Eq. 5} \quad a_x = \frac{dv_x}{dt} = \frac{F_0 A (v_w - v_x)^2 C_d}{M} - \frac{F_0 A v_x^2 C_d}{M}$$

where  $a_x$  is the acceleration in the direction of the wind,  $v_w$  is the velocity of the wind and  $v_x$  is the velocity of the ice in the direction of the wind. The first term is the force on the windward side of the sheet and the second term is the force on the opposite side of the sheet due to normal wind resistance. The amount the ice travels in the direction of the wind depends on the thickness of the sheet, with thinner sheets traveling further. These equations have been solved to determine the amount of travel in the direction of the wind that the ice sheet would travel before impacting the ground. Again assuming a 1 meter-sq sheet, the figure below shows the distance from the tower the ice sheet would fall for four different thicknesses and weights:

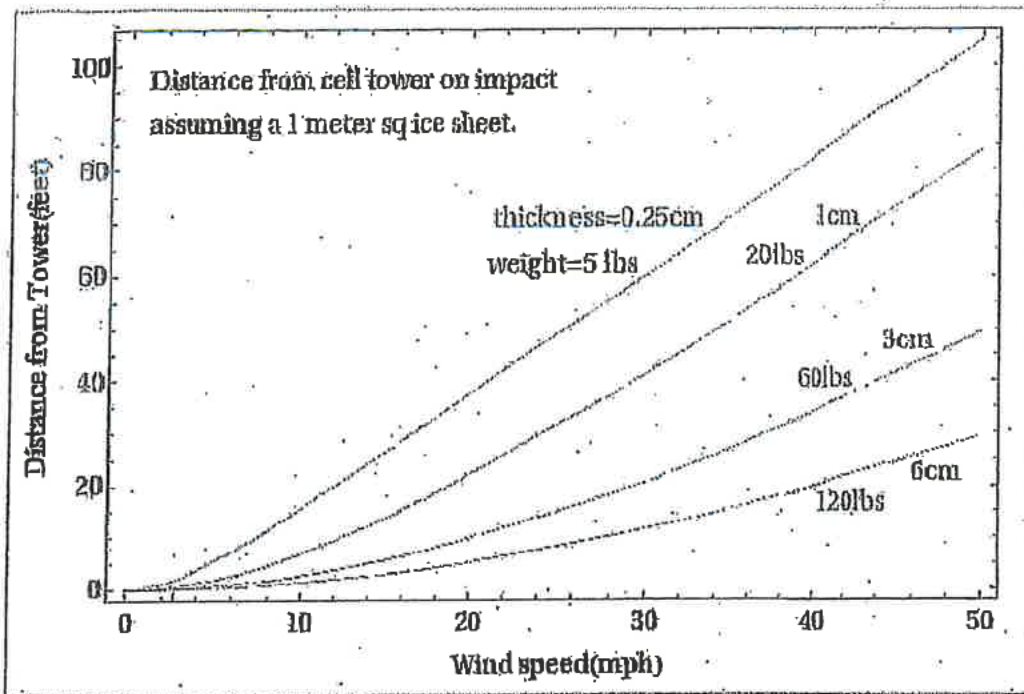
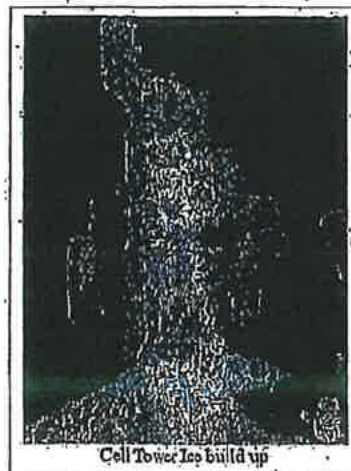


Figure 1. Distance of ice fall from tower vs wind-speed for four different sheet thicknesses

As in the no wind case, the ice sheet would be traveling at approximately 67 mph on impact. Obviously, thinner sheets can travel further from the tower. Note also that, since the weight of the sheet is proportional to its area, the distance it falls from the tower will be approximately independent of its cross sectional area.

**Summary:** This analysis has shown that for one case, that of thin sheets of ice falling from the vertical part of the antenna structures, the ice fall can be a dangerous problem with the ice fragments weighing over a hundred of pounds impacting the ground at almost 70 mph. It also shows that wind conditions can cause these fragments to fall as much as 100 feet from a 150 foot tower with smaller, thinner sheets falling the furthest distances. Of course, as the photo to the right illustrates, in reality the problem can be more complex with the ice fragments being composed of a combination of both snow and ice and the ice build up being more extensive than envisioned in this analysis with possibly even more severe consequences. Therefore care must be taken in positioning these towers to place them sufficiently distant from other structures and places where people may live and work.



Cell Tower Ice build up

\*Dr. Rogers received his PhD in theoretical solid stated physics from the University of California at Davis in 1977. Since then he has worked at IBM Research in Yorktown Heights NY for 27 until 2005. Since then he has formed the company Symbiotic Designs and is developing cell phone applications and energy saving devices.

# EXHIBIT G



PO. Box 1365  
 Nevada City, CA 95959  
 (530) 632-3428 Phone

Board of Supervisors  
 Nevada County, CA  
 950 Maidu Ave  
 Nevada City, CA 95959

Dear Board of Supervisors,

I am a local real estate appraiser with 22 years' experience appraising residential properties. I have serviced the local Nevada County market for the previous 15 years. I was asked to share my expertise on the impact of cell phone towers on surrounding residential real estate values. I recently appraised a residential property where a residence was located approximately 105 feet from a 70-foot-tall cell phone tower. I completed an extensive analysis on the diminution in value to properties with improvements near cell phone towers. There was no data available for Nevada County, so the search had to be expanded within the region. Below is a table with other sales of properties with improvements in close proximity to cell phone towers.

Address	Sale Price	Sale Date	Gross Living Area (GLA)	Price Per Sq.Ft.	Diminution
1603 Sisley Rd, Penryn	\$785,000	5/30/2018	2,022	\$388	7.1%
666 Courageous Ct, Greenwood	\$580,000	12/31/2020	1,898	\$306	0.9%
2660 Louis Ave, Oroville	\$500,000	1/24/2022	1,526	\$328	9.4%
5001 Oak Meadow Ct, Lone	\$1,020,000	4/10/2023	5,453	\$187	19.0%
4000 Fairplay Ct, Somerset	\$320,000	4/28/2023	1,696	\$189	21.0%
<b>Average</b>	<b>\$641,000</b>		<b>2,519</b>	<b>\$279</b>	<b>11.5%</b>
<b>Median</b>	<b>\$580,000</b>		<b>1,898</b>	<b>\$306</b>	<b>9.4%</b>

An analysis of sales within the region and typical similar sales resulted in an average diminution of 11% and a median diminution of 9% for properties with improvements near cell phone towers.

During my research, several other national studies were found noting the impact of cell phone towers on residential real estate.

**Wireless Towers and Home Values: An Alternative Valuation Approach Using a Spatial Econometric Analysis**

A study, published in The Journal of Real Estate Finance and Economics in 2018, by Ermanno Affuso, J Cummings, and Huubinh Le, examined the impact of wireless communication towers on the sale prices of residential properties. Their study indicated an up to 9.78% for homes within tower visibility range compared to homes outside the visibility range.

**The Disamenity Value of Cellular Phone Towers on Home Prices in Savannah, Georgia**

A study, completed at Georgia Southern University in 2019, found that homes closer to cell towers generally sell at a larger discount. The amount peaked at 7.6% for homes closest to towers but was still negative and statistically significant for homes up to 1500 feet away from the tower.

**Realtor Magazine: Cell towers, Antennas Problematic for Buyers**

A July 2014 article in Realtor magazine published an article which stated 94% of home buyers and renters surveyed by the National Institute for Science, Law & Public Policy (NISLAPP) say they are less interested and would pay less for a property located near a cell tower or antenna. Of the 1,000 survey respondents, 79% said that under no circumstances would they ever purchase or rent a property within a few blocks of a cell tower or antennas, and almost 90% said they were concerned about the increasing number of cell towers and antennas in their residential neighborhood.

In conclusion, I completed a review of sales within the region with improvements near cell phone towers and compared those sales to similar sales to determine an approximate diminution in value. Several national studies and surveys were also reviewed and supplemented local findings. An approximate 10% diminution in value was found for properties where improvements were located in close proximity to cell phone towers.

Sincerely,

A handwritten signature in black ink, appearing to read "BIAAR" with a stylized flourish at the end.

Brian Melsheimer, SRA  
Certified Residential Real Estate Appraiser  
CA State Certification#: AR036505

**EXHIBIT H**

Get our best deals on phones, tablets, home internet and more. | Shop

## Coverage In Your Area

Explore all Verizon has to offer on internet (including Fios and 5G Home) and cell phone coverage (5G Ultra Wideband, 5G, 4G LTE, Satellite SMS, and more)

Personal Business

22044 PURDON RD, NEVADA CITY, CA, 95959, USA

5G Ultra Wideband 5G 4G LTE Satellite SMS International No coverage

Mobile Home Internet  
4G LTE  
Learn more about Mobile plans

Copyright © 2026 Verizon & Mapbox & OpenStreetMap. Improve this map & More

Dated: May 11, 2026

Source: <https://www.verizon.com/coverage-map/>