



RESOLUTION NO. _____

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

A RESOLUTION TO DENY THE APPEAL AND TO UPHOLD THE DECISION OF THE ZONING ADMINISTRATOR TO APPROVE A CONDITIONAL USE PERMIT (CUP23-0015) FOR THE CONSTRUCTION AND OPERATION OF A NEW UNMANNED WIRELESS COMMUNICATION TOWER LOCATED AT 20896 DOG BAR ROAD, GRASS VALLEY, APN 027-010-018

WHEREAS, on November 8, 2023, Sequoia Development on behalf of Verizon Wireless (“Verizon” or “Applicant”) submitted an application for a Conditional Use Permit to construct a new unmanned wireless communication tower (“Project”) at 20896 Dog Bar Road, Grass Valley; and

WHEREAS, on June 12, 2024, the Zoning Administrator approved a Conditional Use Permit and Mitigated Negative Declaration for the construction of the wireless communication tower; and

WHEREAS, approval of the project was conditioned and mitigated to comply with the County’s Zoning Ordinance and to ensure less than significant impacts to all environmental issues; and

WHEREAS, pursuant to Section 112.05.120.D of the Nevada County Land Use and Development Code (“LUDC”), any decision of the Zoning Administrator may be appealed within 10 days after the date of the decision; and

WHEREAS, on June 24, 2024, Jeff and Kristin Phalen (“Appellant”) filed a timely appeal of the Zoning Administrator’s June 12, 2024 conditional approval of the Use Permit; and

WHEREAS, on July 9th, the Board of Supervisors accepted the appeal filed by Jeff and Kristin Phalen and heard the appeal; and

WHEREAS, on July 9, 2024, the Board of Supervisors held a duly noticed public hearing at which the Board considered all evidence both oral and written regarding the appeal and continued the hearing until the regularly scheduled hearing on August 20, 2024; and

WHEREAS, the project was found consistent for approval under Conditional Use Permit for wireless communication towers pursuant to LUDC Section 12.03.080 and Section 12.05.060 Use Permits; and

WHEREAS, Verizon has shown by substantial evidence that a significant gap in wireless communication service exists; and

WHEREAS, Verizon has made a prima facie case that the manner in which Verizon proposes to fill the significant gap in service is the least intrusive option as shown by Verizon’s alternative site analysis; and

WHEREAS, Appellant has failed to show that there exists some potentially available and technologically feasible alternative to the proposed Project; and

WHEREAS, on August 20, 2024, the Board of Supervisors held a duly noticed public hearing at which the Board considered all evidence both oral and written regarding the appeal and denied the appeal, upholding that the decision of the Zoning Administrator to approve a Conditional Use Permit to construct and operate an unmanned wireless communication tower; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the County of Nevada hereby finds and determines:

1. The facts set forth above are true and correct.
2. The proposed project is consistent with the intent of the goals, standards, and elements of Chapter II of the Land Use and Development Code.
3. There is no substantial evidence in the record supporting a fair argument that the proposed project, as mitigated and conditioned, might have any significant adverse impact on the environment.
4. Adequate facilities and services exist within the project area which will be available to serve the project without decreasing service levels to other areas to ensure that the proposed use is not detrimental to the public welfare, including utility service and fire protection.
5. The conditions provided in the Project Conditions of Approval dated June 13, 2024, are deemed necessary to protect the public health, safety, and general welfare.
6. Applicant has shown by substantial evidence that a significant gap in wireless communication service exists.
7. Applicant has made a prima facie case that the manner in which Applicant proposes to fill the significant gap in service is the least intrusive option as shown by Applicant's alternative site analysis.
8. Appellant has failed to show that there exists some potentially available and technologically feasible alternative to the proposed Project.
9. The location and custodian of the documents which constitute the record of these proceedings is the Nevada County Planning Department, 950 Maidu Avenue, Nevada City, California.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby denies the appeal filed by Jeff and Kristin Phalen and upholds the decision of the Zoning Administrator to approve the Conditional Use Permit (CUP23-0015) to construct and operate a new unmanned wireless communication tower and facility based on the findings as set forth herein and adoption of the Conditions of Approval set forth in the Project Conditions of Approval dated June 13, 2024.