



RESOLUTION No. 18-107

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

A RESOLUTION DENYING THE APPEAL FILED BY JOHANNA FINNEY, CYNTHIA PIERCE, ALEX GIRON, LISA REINHARDT, SHAWN BLUE, RYAN MCVAY, KRSNA BRYANT, GOVIDA BRYANT, MATT KING, DOROTHY SULLIVAN AND DON RIVENES REGARDING THE ZONING ADMINISTRATOR'S NOVEMBER 29, 2017 ADOPTION OF MITIGATED NEGATIVE DECLARATION (EIS17-0022) AND APPROVAL OF CONDITIONAL USE PERMIT (CUP17-0015) FOR AT&T MOBILITY DBA AT&T WIRELESS (PLN17-0073) LOCATED AT 19406 BURNING BUSH ROAD, NEVADA CITY, ASSESSOR'S PARCEL NUMBER 34-090-03, AND SUSTAINING THE ZONING ADMINISTRATOR'S ADOPTION OF THE MITIGATED NEGATIVE DECLARATION (EIS17-0022) AND APPROVAL OF THE CONDITIONAL USE PERMIT (CUP17-0015) FOR AT&T MOBILITY DBA AT&T WIRELESS

WHEREAS, on June 30, 2017, AT&T Wireless applied for a Conditional Use Permit to allow the construction and operation of a communication tower and facility public use on a 10.76-acre privately-owned and developed parcel located at 19406 Burning Bush Road, Nevada City (APN 34-090-03); and

WHEREAS, on November 29, 2017, the Nevada County Zoning Administrator conducted a public hearing, considered and approved an application by AT&T Wireless for a Conditional Use Permit (CUP17-0015) supported by a Mitigated Negative Declaration (EIS17-0022) to allow the construction and operation of an unmanned telecommunication facility, including a 130-foot tall mono-pine cell tower with nine (9) panel antennas and 18 remote radio head/units installed on the mono-pine, and 80" by 80" walk-in utility cabinet, 15kW emergency backup generator with 54-gallon diesel tank located within an acoustical cabinet, two manually operated outdoor light fixtures with cut-off shields and the entire lease site (30-feet by 30-feet) will be enclosed by a six-foot high redwood fence on a 10.76-acre lot located at 19406 Burning Bush Road, Nevada City (APN 34-090-03); and

WHEREAS, the project as conditioned and mitigated is consistent with California Environmental Quality Act requirements, the General Plan goals, objectives, and policies, and with the FOREST land use map designation applicable to this project site; and

WHEREAS, the project was found consistent for approval under Use Permit pursuant to Nevada County Land Use and Development Code Sec. L-II 5.5.2.C findings; and

WHEREAS, pursuant to Section L-II 5.12.D of the Nevada County Land Use and Development Code, the Zoning Administrator's approval of the Application is appealable to the Board of Supervisors within 10 days after the date of the decision; and

WHEREAS, on December 11, 2017, Appellants Johanna Finney, Cynthia Pierce, Alex Giron, Lisa Reinhardt, Shawn Blue, Ryan McVay, Krsna Bryant, Govida Bryant, Matt King, Dorothy Sullivan and Don Rivenes (collectively "Appellants") filed a timely appeal of the Zoning Administrator's decision; and

WHEREAS, on December 29, 2017, the Appellants submitted additional details and arguments to support their appeal to the Board of Supervisors to reverse the decision of the Zoning Administrator; and

WHEREAS, on January 9, 2018, the Board of Supervisors adopted Resolution 18-021 to accept the appeal as to the Zoning Administrator's actions on the Project and scheduled the appeal for hearing on February 13, 2018; and

WHEREAS, on February 13, 2018, the Board of Supervisors continued the public hearing to March 13, 2018 to allow staff and the applicant time to respond to new information received on February 2, 2018; and

WHEREAS, on March 13, 2018, 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.

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

1. The facts set forth above are true and correct.
2. That this project as conditioned and mitigated is consistent with the Nevada County General Plan's goals, objectives, policies, and with the purpose and intent of the FOREST land use designation.
3. The approved use is allowed within and is consistent with the purpose of the FR-40 zoning district within which the project is located, which allows public uses such as communication towers with an approved conditional use permit.
4. That the approved use meets all applicable provisions of the Land Use and Development Code, or the same practical effect of those provisions, including design and siting to meet the intent of the Site Development Standards set forth in the Zoning Ordinance, and mitigating the impact of this development on environmentally sensitive resources.
5. These findings are supported by substantial evidence in the record, as detailed in this Resolution, in the staff reports for the February 13 and March 13, 2018, appeal hearing before the Board, and as discussed at the hearing. That evidence includes but is not limited to the professional expert advice of staff of the County's Planning Department, County Counsel, as well as the judgment of the Board of Supervisors.
6. 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 of the Appellants and upholds the decision of the Zoning Administrator to approve Mitigated Negative Declaration (EIS17-0022) and the Conditional Use Permit (CUP17-0015) located at 19406 Burning Bush Road in unincorporated Nevada County, based on the findings as set forth herein.

The Planning Director is directed to file the Notice of Determination for this project action within 5 days after the adoption of this Resolution.

The Clerk of the Board shall mail the Appellant a copy of this Resolution, and any appeal of this decision shall be governed by California Code of Civil Procedure section 1094.6.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 13th day of March, 2018, by the following vote of said Board:

Ayes: Supervisors Edward Scofield, Dan Miller, and Hank Weston

Noes: Supervisor Richard Anderson

Absent: Supervisor Heidi Hall

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: _____



Edward Scofield, Chair

3/13/2018 cc: Planning*
AC*
JFinney