



RESOLUTION No. _____

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION DENYING THE APPEAL FILED BY JENS LARSON, ROD CORVINGTON, KURT ANDERSON, CHARLES MCCOLLOUGH, GEORGE BASSO, AND SCOTT KASTNING, REGARDING THE ZONING ADMINISTRATOR'S MARCH 27, 2019 APPROVAL OF THE CONDITIONAL USE PERMIT (CUP17-0016) AND THE PETITION FOR EXCEPTIONS TO DRIVEWAY STANDARDS (MIS18-0012); AND THE ADOPTION OF THE MITIGATED NEGATIVE DECLARATION (EIS17-0023), FOR THE CONSTRUCTION AND OPERATION OF A 110-FOOT-TALL TELECOMMUNICATIONS TOWER AND 1,500-SQUARE-FOOT EQUIPMENT FACILITY AT 13083 WILD LIFE LANE IN GRASS VALLEY (APN 012-720-045)

WHEREAS, on June 30, 2017, Sara King as the agent for AT&T Mobility dba AT&T Wireless, applied for a Conditional Use Permit to allow the construction and operation of a 110-foot-tall unmanned telecommunications tower and 1,500-square-foot equipment facility with up to four carriers, on a 2.32-acre privately-owned parcel at 13083 Wild Life Lane in unincorporated Nevada County (APN 012-720-045); and

WHEREAS, on May 31, 2018, the application for the Petition for Exceptions to Driveway Standards was added to the project to allow a driveway grade of up to twenty-five percent (25%), and to allow a reduced driveway width of twelve (12) feet along the existing section of driveway that would be paved, instead of the standard width of twelve (12) feet with one-foot shoulders, for grades that exceed sixteen percent (16%); and

WHEREAS, on February 27, 2019, the Nevada County Zoning Administrator conducted a public hearing and continued the project indefinitely, due to the property owner withdrawing his consent for the project; and

WHEREAS, on March 13, 2019, the property owner, Michael Stapleton, gave consent for the project to be rescheduled for public hearing to seek approval; and

WHEREAS, on March 27, 2019, the Nevada County Zoning Administrator conducted a public hearing, considered and adopted the Mitigated Negative Declaration, and considered and approved the applications by AT&T Mobility dba AT&T Wireless for a Conditional Use Permit and a Petition for Exceptions to Driveway Standards. The applications are to allow the construction and operation of a 110-foot-tall unmanned telecommunications tower and 1,500-square-foot equipment facility with up to four carriers, with individual equipment cabinets and backup generators. The project includes 230 feet of driveway improvements along an existing driveway, and additional grading to construct a new 225-foot long driveway to the telecommunications facility, and a new hammerhead turnaround; 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 Applications are appealable to the Board of Supervisors within 10 days after the date of the decision; and

WHEREAS, on April 4, 2019, Appellants Jens Larson, Rod Corvington, Kurt Anderson, Charles McCollough, George Basso, and Scott Kastning filed a timely appeal of the Zoning Administrator's decision, and requested that the applications for the Conditional Use Permit and Petition for Exceptions to Driveway Standards are denied, and to overturn the Zoning Administrator's decision to adopt the Mitigated Negative Declaration; and

WHEREAS, on April 23, 2019, the Board of Supervisors adopted Resolution 19-168 to accept the appeal as to the Zoning Administrator's actions on the project and scheduled the appeal for hearing on May 28, 2019; 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 the project was found consistent for approval under Petition for Exceptions to Driveway Standards pursuant to Nevada County Land Use and Development Code Section L-XVI 3.4 findings; and

WHEREAS, on May 28, 2019, 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. The telecommunication tower and equipment facility are an allowed use, subject to approval of a Use Permit, and is consistent with the purposes of the General Agricultural zoning district, which the project site is located.
3. That this project as conditioned and mitigated, and with the revision to include Mulberry Lane and the private bridge in the road analysis for Condition of Approval A.14, is consistent with the Nevada County General Plan's goals, objectives, policies, and with the purpose and intent of the RURAL land use designation.
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. That the potential environmental impacts of the project have been adequately reviewed, disclosed and mitigated, pursuant to the project specific Mitigated Negative Declaration (17-0023) as required by the California Environmental Quality Act Guidelines, Section 15074.
6. These findings are supported by substantial evidence in the record, as detailed in this Resolution, in the staff report for the May 28, 2019, 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.
7. 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 Appellant and upholds the decision of the Zoning Administrator to adopt the Mitigated Negative Declaration (EIS17-0023); and approve the Conditional Use Permit (CUP17-0016) and the Petition for Exceptions to Driveway Standards (MIS18-0012), for the telecommunication tower and equipment facility, and driveway improvements at 13083 Wild Life Lane in unincorporated Nevada County, based on the findings as set forth herein.

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.