

From: Sheila McDaniel

Sent: Thursday, February 6, 2025 9:35 AM

To: Julie Cahill <summitdr2020@gmail.com>

Cc: Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>

Subject: RE: CEQA comments - 221049, and format questions for 2/12 hearing

Julie,

Below is the notice card to you that went out for the public hearing. Please note that CEQA does not require notification to neighbors. Thus, you would not have been noticed. However, your CEQA comments will be considered by the Planning Commission.

Thank you,

Sheila



County of Santa Cruz
 Planning Department
 701 Ocean St. 4th Floor
 Santa Cruz, CA 95060

NOTICE OF PUBLIC HEARING

All interested persons are invited to provide comments to the Planning Commission either at the public hearing, or in writing. Written comments may be sent to the Planning Commission at the County Government Center, 701 Ocean Street, 4th Floor, Santa Cruz CA 95060. Staff reports on permit applications are available for review or purchase one week before the hearing by calling 454-5317 or free on the internet at <http://cdi.santacruzcountyca.gov> under the Agendas link. The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Board of Supervisors Chambers is located in an accessible facility. If you wish to attend this meeting and you require special assistance in order to participate, please contact the ADA Coordinator at 454-3137 (TDD call 711), at least 72 hours in advance of the meeting, to make arrangements. Persons with disabilities may request a copy of the agenda in an alternative format. As a courtesy to those persons affected, please attend the meeting smoke and scent free. *Si desea asistir, le rogamos participar en los comentarios públicos y servicios tradicionales, comuníquese con Micaela Lopez al (831) 454-2336 al menos 72 horas antes de la reunión para hacer los arreglos.*

Para español escanea aqui:



08006208 00

CAHILL RODNEY TREVOR & JULIE
 120 SUMMIT DR
 SANTA CRUZ, CA 95060

Notice of Public Hearing

Notice is hereby given that the County of Santa Cruz Planning Commission will hold a public hearing on the following item:

Item #8. 221049 **186 Summit Drive, Santa Cruz 95060**
APN(s): 080-062-02

Continuance of appeal of the Zoning Administrator's approval on January 19, 2024 to the Planning Commission (from the March 27, 2024 Planning Commission public hearing agenda).

Proposal to modify an existing wireless communication facility to include removal of the existing 70 foot six inch tall guyed lattice tower and related equipment, satellite dish, shed, 12 foot six inch tall lattice tower, and chain link fencing; replacement with a six foot chain link fence with green slats and barbed wire above, construction of an approximately 151.1-foot tall wireless communication facility camouflaged as a monopine with nine panel antennas and associated wireless equipment, generator within the existing equipment building, outdoor propane tank, repainting of the equipment building, landscape screening, and other miscellaneous improvements. Requires a Commercial Development Permit, Exception to Height, and a determination that the project is exempt from further review under the California Environmental Quality Act (CEQA). Requires a Commercial Development Permit, Exception to Height, and a determination that the project is exempt from further review under the California Environmental Quality Act (CEQA).

Property is located on the east side of Summit Drive (186 Summit Drive), approximately 700 feet northeast of Empire Grade, approximately three miles north of the intersection of Felton Empire Road and Empire Grade Road.

APPLICANT: Delta Group Engineering c/o Tom Derkas
 OWNER: CTI Towers
 SUPERVISORAL DISTRICT: 3
 PROJECT PLANNER: Sheila McDaniel, (831) 454-2255
 EMAIL: Sheila.McDaniel@santacruzcounty.gov

DATE: Wednesday, February 12, 2025
TIME: Meeting beginning at 9:30 AM
PLACE: Board of Supervisors Chamber
 County Government Center
 701 Ocean Street, Room 525
 Santa Cruz CA 95060

Any persons whose interests are adversely affected by any act or determination by the Planning Commission may appeal such act of determination to the Board of Supervisors. Appeals from any action of the Planning Commission shall be taken by filing a written notice of appeal with the Board of Supervisors and paying the appeal fee, not later than the 14th calendar day after the day on which the act or determination appealed was made. If any person challenges an action taken on the foregoing matter(s) in court, they may be limited to raising only those issues which were raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors at or prior to the public hearing.

For more information, call the project planner noted in the above project description.

From: Julie Cahill <summitdr2020@gmail.com>
 Sent: Wednesday, February 5, 2025 11:47 PM
 To: Tim Richards <tim@philosopherfoods.com>
 Cc: Sheila McDaniel <Sheila.McDaniel@santacruzcountyca.gov>; Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>
 Subject: Re: CEQA comments - 221049, and format questions for 2/12 hearing

****CAUTION: This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hello Sheila

I have not received notice by mail for either the CEQA or the upcoming meeting.

After briefly skimming over the staff report and CEQA this evening, I do have some initial concerns and questions.

Plastic Study of monopine near Lake Tahoe

This study falls short of any comparison is not applicable to our site or scenario for the following reasons:

1- The staff report falsely claims the study determined PVC needles do not result in the release of hazardous materials when it clearly states:

...designed to be relatively durable in the environment, although the materials can “shed” from the structure over time.

2- Additionally, it states the only reason for the findings of no evidence that PVC fragments are a significant contributor of micropastics to the bodies of water is only because they are not found in high abundance RELATIVE TO OTHER TYPES OF PLASTIC. So they exist, just not as much in comparison. Those other types of plastics such as food wrappers, cigarettes buds, etc are found in busy/dirty city, not our pristine mountain top.

3- It sites the Tahoe area as partially “sterile” during the year due to snow covering. However, we are not covered in snow. In fact just last week, we had 70+ mph winds during the storm with 4” of rain dropping within 24 hours. Totally different weather elements at play.

4- The Tahoe site proposed is on concrete with multiple mitigations in place to capture any plastics and litter unlike our exposed soil and ground water.

Questions

1. Are there any mitigations in place to “capture” these needles that will shed over time into our soil and waters?
2. Has there been any study on high speed winds & rain in relation to the littering of the needles that shed over time?

3. Where can I find the biologist name, dates of site visits, hours observed and field notes who confirmed the absence of protected birds over the course of three years?
4. How is it I just received the staff report today, February 5th which states no public comments have been provided in regards to the CEQA, yet the Staff Report is dated January 31, 2024?
5. When are these notices suppose to be received or sent out for the next meeting and CEQA?

Thank you for the help with these concerns.

Julie Cahill

408 718 7108

On Feb 5, 2025, at 11:11 PM, Tim Richards <tim@philosopherfoods.com> wrote:

Hi Sheila,

I noticed in the staff report that you said no public comments were received on the CEQA report.

However, you stated to me that:

"It was discovered that the CEQA noticing was not completed properly due to staff (in training) excluding the agency reviewers in review and comment notification list. Thus, the

Negative Declaration is being recirculated to Feb 5th, as you have noted in the attachment here.

Properties within 500 feet will get noticing per the code for the February 12th meeting. It is important to note that required noticing was expanded from 300 feet to 500 feet by the adopted code in March of 2024."

However, 2/5 isn't over yet. Attached are my comments related to the MND.

No one at all was notified - not just the 300 ft radius, but also a 500 ft radius from the tower. I as the appellant was the only one notified about the CEQA review period, and I was only notified about the second review period, not the first.

For the hearing itself, can you confirm that we will get our 10 minutes to present as the appellant? As well as our five minute rebuttal? Seeking confirmation that the format will be the same as last time.

Thanks,

Tim

Tim Richards

Chief Philosopher

Cell: (831) 515-8041

Find us at ECRM Winter Snack Session with Good Now Foods - Shannon Peffley is presenting our Gut Nuts fermented almonds and cashews

Find us at Expo West in booth F89 in the Fresh Ideas Tent on Tuesday 3/4 from 12-5 pm and during the main show with our broker Good Now Foods - Booth #8011 (Hot Product Level 3) – Anaheim, CA – March 4-7, 2025

Watch our Naturally Network National Pitch Slam video.

<CEQA Concerns by Appellant to 221049 on 2_5_25.pdf>

From: Sheila McDaniel

Sent: Thursday, February 6, 2025 9:18 AM

To: Tim Richards <tim@philosopherfoods.com>

Cc: Travis Brooks <travis.brooks@msrlegal.com>; Allyson Violante <Allyson.Violante@santacruzcountyca.gov>; jul9cahill@gmail.com; Natalie Kirkish <Natalie.Kirkish@santacruzcountyca.gov>; Justin Graham <Justin.Graham@santacruzcountyca.gov>; Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>

Subject: RE: CEQA comments - 221049, and format questions for 2/12 hearing

Tim,

Thank you for your input. Environmental Review comments may be provided during the CEQA review period and after the review period for consideration by the Planning Commission as noted in the staff report. It is common for CEQA comments to come in after the end of the comment period because property notification is not required for CEQA review and

comment. Thus, the staff report typically notes no comments because none have been submitted by then. However, during the staff presentation any CEQA comments submitted are noted for the record. To that point, CEQA comments provided will be forwarded to the Planning Commission for consideration.

Regarding hearing procedures, the procedure the PC has followed regarding appeals has been:

1. Staff Presentation
2. Open Public Hearing, beginning with the Appellant. Appellant gets 10 minutes to speak.
3. Project Applicant is then given 10 minutes to speak.
4. Appellant has an opportunity to rebut (5 minutes).
5. Public speaks (2 to 3 minutes each as determined by the Chair prior to public testimony).
6. Back to the PC for deliberation and decision.

Lastly, the Chair can change the amount of time to the speakers prior to public testimony.

Thank you,

Sheila

From: Tim Richards <tim@philosopherfoods.com>

Sent: Wednesday, February 5, 2025 11:11 PM

To: Sheila McDaniel <Sheila.McDaniel@santacruzcountyca.gov>; Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>

Subject: CEQA comments - 221049, and format questions for 2/12 hearing

******CAUTION:** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Hi Sheila,

I noticed in the staff report that you said no public comments were received on the CEQA report.

However, you stated to me that:

"It was discovered that the CEQA noticing was not completed properly due to staff (in training) excluding the agency reviewers in review and comment notification list. Thus, the Negative Declaration is being recirculated to Feb 5th, as you have noted in the attachment here.

Properties within 500 feet will get noticing per the code for the February 12th meeting. It is important to note that required noticing was expanded from 300 feet to 500 feet by the adopted code in March of 2024."

However, 2/5 isn't over yet. Attached are my comments related to the MND.

No one at all was notified - not just the 300 ft radius, but also a 500 ft radius from the tower. I as the appellant was the only one notified about the CEQA review period, and I was only notified about the second review period, not the first.

For the hearing itself, can you confirm that we will get our 10 minutes to present as the appellant? As well as our five minute rebuttal? Seeking confirmation that the format will be the same as last time.

Thanks,

Tim

The Initial Study/Mitigated Negative Declaration does not Analyze the Impacts of CTI's ability to Increase the Height of the Proposed Tower Without Further or Prior Zoning Approval according to § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012.

As substantial as the adverse impacts upon the nearby homes and communities would be if the proposed facility were constructed as currently proposed at 151.1 feet, CTI could later unilaterally choose to increase the height of the facility by as much as twenty (20) feet to 171.1 ft. without further environmental review. The County and the residents of the Summit Drive neighborhood would be legally prohibited from stopping them from doing so due to the constraints of the Middle-Class Tax Relief and Job Creation Act of 2012. The Initial Study/Mitigated Negative Declaration ("MND") does not consider the foreseeable impacts of a height increase to an abominable height of 171.1 feet in a residential neighborhood. Considering the even more extreme adverse impacts which an increase in the height of the facilities would inflict that has not yet been presented in either the project plans or as a proper demonstration of it at this maximum height, this project should be denied. Because the Negative Declaration failed to consider these impacts, it is fatally flawed. Appellants here need only make a fair argument of a significant impact.

This project requires an EIR because a fair argument exists that the project may have a significant effect on the environment, specifically aesthetic impacts. *See League for Protection of Oakland's Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75. "There is 'a low threshold requirement for preparation of an EIR', and a 'preference for resolving doubts in favor of environmental review.'" *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332. Courts have repeatedly affirmed that the fair argument standard is a "low threshold test." *The Pocket Protectors v. City of Sacramento* ("*Pocket Protectors*") (2004) 124 Cal.App.4th 903, 928; *No Oil Inc. v. City of Los Angeles, supra*, 13 Cal.3d at 86; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123-1126. "[I]f a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect." *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1113. A "negative declaration is inappropriate where the agency has failed either to provide an accurate project description or to gather information and undertake an adequate environmental analysis." *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.

An MND is proper "only if project revisions would avoid or mitigate the potentially significant effects identified in an initial study 'to a point where clearly no significant effect on the environment would occur, and ... there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.'" *Mejia v. City of Los Angeles, supra*, 130 Cal.App.4th at p. 331 (emphasis added). Whether the administrative record contains "substantial evidence" in support of a "fair argument" sufficient to trigger a mandatory EIR is a question of law, not a question of fact. *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 905; *Architectural Heritage Association v. County of Monterey*

(2004) 122 Cal.App.4th 1095, 1122 (overruled in part on other grounds in *Friends of Willow Glen Trestle v. City of San Jose* (2016) 2 Cal.App.5th 457, 460). Therefore, under the fair argument standard, “deference to the agency’s determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.” *Sierra Club v. County of Sonoma* (1992) 6 Cal App 4th 1307, 1318; see also, *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597 (rejecting an approval of a Negative Declaration prepared for a golf course holding that “[a]pplication of [the fair argument] standard is a question of law and deference to the agency’s determination is not appropriate.”) Evidence supporting a fair argument need not be overwhelming, overpowering or uncontradicted. *Friends of the Old Trees v. Department of Forestry and Fire Protection* (1997) 52 Cal.App.4th 1383, 1402. Instead, substantial evidence to support a fair argument simply means “information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” 14 Cal. Code Regs. § 15384; *Pocket Protectors, supra* 124 Cal.App.4th at 927-928; *League for Protection of Oakland’s Architectural and Historic Resources v. City of Oakland, supra*, 52 Cal.App.4th at 905. Here, the MND is not an adequate environmental document because it fails to provide adequate analysis of and mitigation for environmental impacts “to a point where clearly no significant effect on the environment would occur.”

“The CEQA process demands that mitigation measures timely be set forth, that environmental information be complete and relevant, and that environmental decisions be made in an accountable arena.” *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1341. Additionally, the MND fails to provide adequate mitigation measures for significant environmental impacts of the Project and thus the conclusion that significant environmental impacts have been properly mitigated is incorrect as a matter of law: “[I]mpermissible deferral of mitigation measures occurs when [the agency] puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described....” *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 280-281. Crucially, the MND here does not even try to analyze the impacts of the additional height that CTI will be able to add once the tower is constructed. An “agency should not be allowed to hide behind its own failure to gather relevant data.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 408. An “agency should not be allowed to hide behind its own failure to gather relevant data.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 408. Here, a foreseeable consequence of project approval is a 171.1 foot high tower that was not analyzed in the MND.

For these reasons, the MND fails to provide the requisite environmental data for the Project and substantial evidence supports a fair argument that the Project may have a significant environmental impact. Thus, an EIR must be prepared. *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 503.



Tim Richards

Chief Philosopher

Cell: (831) 515-8041



Find us at ECRM Winter Snack Session with Good Now Foods - [Shannon Peffley](#) is presenting our Gut Nuts fermented almonds and cashews

Find us at Expo West in booth F89 in the Fresh Ideas Tent on Tuesday 3/4 from 12-5 pm and during the main show with our broker Good Now Foods - Booth #8011 (Hot Product Level 3) – Anaheim, CA – March 4-7, 2025

Watch our Naturally Network National Pitch Slam [video](#).

From: Sheila McDaniel

Sent: Thursday, February 6, 2025 10:15 AM

To: tim@philosopherfoods.com

Cc: Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>

Subject: CEQA Public Review and Comment Notice and Public Hearing Public Notice

Tim,

Please note that the CEQA notice of public review and comment was provided to you as you requested in prior email communication, attached as public correspondence, dated January 13, 2025 at 10:49, on Page 1050- 1052 to the February 12, 2025 Staff Report, Exhibit 4I (public comments and correspondence). In that email you were informed that the public hearing for this item was and is now scheduled for February 12, 2025.

The Initial Study/Mitigated Negative Declaration does not Analyze the Impacts of CTI's ability to Increase the Height of the Proposed Tower Without Further or Prior Zoning Approval according to § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012.

As substantial as the adverse impacts upon the nearby homes and communities would be if the proposed facility were constructed as currently proposed at 151.1 feet, CTI could later unilaterally choose to increase the height of the facility by as much as twenty (20) feet to 171.1 ft. without further environmental review. The County and the residents of the Summit Drive neighborhood would be legally prohibited from stopping them from doing so due to the constraints of the Middle-Class Tax Relief and Job Creation Act of 2012. The Initial Study/Mitigated Negative Declaration ("MND") does not consider the foreseeable impacts of a height increase to an abominable height of 171.1 feet in a residential neighborhood. Considering the even more extreme adverse impacts which an increase in the height of the facilities would inflict that has not yet been presented in either the project plans or as a proper demonstration of it at this maximum height, this project should be denied. Because the Negative Declaration failed to consider these impacts, it is fatally flawed. Appellants here need only make a fair argument of a significant impact.

This project requires an EIR because a fair argument exists that the project may have a significant effect on the environment, specifically aesthetic impacts. *See League for Protection of Oakland's Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75. "There is 'a low threshold requirement for preparation of an EIR', and a 'preference for resolving doubts in favor of environmental review.'" *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332. Courts have repeatedly affirmed that the fair argument standard is a "low threshold test." *The Pocket Protectors v. City of Sacramento* ("Pocket Protectors") (2004) 124 Cal.App.4th 903, 928; *No Oil Inc. v. City of Los Angeles, supra*, 13 Cal.3d at 86; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123-1126. "[I]f a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect." *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1113. A "negative declaration is inappropriate where the agency has failed either to provide an accurate project description or to gather information and undertake an adequate environmental analysis." *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.

An MND is proper "only if project revisions would avoid or mitigate the potentially significant effects identified in an initial study 'to a point where clearly no significant effect on the environment would occur, and ... there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.'" *Mejia v. City of Los Angeles, supra*, 130 Cal.App.4th at p. 331 (emphasis added). Whether the administrative record contains "substantial evidence" in support of a "fair argument" sufficient to trigger a mandatory EIR is a question of law, not a question of fact. *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 905; *Architectural Heritage Association v. County of Monterey*

(2004) 122 Cal.App.4th 1095, 1122 (overruled in part on other grounds in *Friends of Willow Glen Trestle v. City of San Jose* (2016) 2 Cal.App.5th 457, 460). Therefore, under the fair argument standard, “deference to the agency’s determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.” *Sierra Club v. County of Sonoma* (1992) 6 Cal App 4th 1307, 1318; see also, *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597 (rejecting an approval of a Negative Declaration prepared for a golf course holding that “[a]pplication of [the fair argument] standard is a question of law and deference to the agency’s determination is not appropriate.”) Evidence supporting a fair argument need not be overwhelming, overpowering or uncontradicted. *Friends of the Old Trees v. Department of Forestry and Fire Protection* (1997) 52 Cal.App.4th 1383, 1402. Instead, substantial evidence to support a fair argument simply means “information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” 14 Cal. Code Regs. § 15384; *Pocket Protectors, supra* 124 Cal.App.4th at 927-928; *League for Protection of Oakland’s Architectural and Historic Resources v. City of Oakland, supra*, 52 Cal.App.4th at 905. Here, the MND is not an adequate environmental document because it fails to provide adequate analysis of and mitigation for environmental impacts “to a point where clearly no significant effect on the environment would occur.”

“The CEQA process demands that mitigation measures timely be set forth, that environmental information be complete and relevant, and that environmental decisions be made in an accountable arena.” *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1341. Additionally, the MND fails to provide adequate mitigation measures for significant environmental impacts of the Project and thus the conclusion that significant environmental impacts have been properly mitigated is incorrect as a matter of law: “[I]mpermissible deferral of mitigation measures occurs when [the agency] puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described...” *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 280-281. Crucially, the MND here does not even try to analyze the impacts of the additional height that CTI will be able to add once the tower is constructed. An “agency should not be allowed to hide behind its own failure to gather relevant data.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 408. An “agency should not be allowed to hide behind its own failure to gather relevant data.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 408. Here, a foreseeable consequence of project approval is a 171.1 foot high tower that was not analyzed in the MND.

For these reasons, the MND fails to provide the requisite environmental data for the Project and substantial evidence supports a fair argument that the Project may have a significant environmental impact. Thus, an EIR must be prepared. *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 503.

Julie Cahill
120 Summit Dr.
Santa Cruz CA 95060
summitdr2020@gmail.com

February 6, 2025

Planning Commission
701 Ocean Street
Santa Cruz, CA 95060

Subject: Application #: 221049

Dear County Board Members,

Given the track record of the applicant's disregard for honoring previously issued permits—including maintaining screening, clearing fuel loads, and removing obsolete equipment—in combination with CTI's own admission of failing to maintain the property on a promised six-month maintenance schedule at the last board meeting, the applicant stands in violation of current permits. According to SCCC 13.661 D1(c):

That the subject property upon which the wireless communication facility is to be located is free of violations or compliant with all rules and regulations pertaining to zoning uses, subdivisions, and any other applicable provisions of this chapter, as determined by the County, and that all zoning violation abatement costs, if any, have been paid.

Violations & Grounds for Denial

1. Failure to Maintain Original Permit Requirements for Screening

- Liz Jeffs in the Consultation Letter (2020) noted the project site lacked proper screening: *“The project site is currently developed with an existing television booster station that, in street level views, is poorly screened from the surrounding roads due to a lack of shrubby vegetation. The existing buildings, lower portion of the lattice towers and some of the other associated equipment, all of which are surrounded by a chain-link fence, are clearly visible beneath the canopies of the surrounding trees. The only screen is a brown-toned cyclone fence which partially obscures some of the ground level equipment, that includes a satellite dish. Screening vegetation that was required by earlier Permit approvals appears largely to have not survived and/or has been removed.”*
- Site visits by County Board Members confirm the facility remains unscreened, violating prior permit conditions.
- CTI has failed to maintain screening since acquiring the property in 2016.

2. Negligence in Property Maintenance

- No proactive removal of obsolete equipment.

- Gutters remain clogged with pine needles and debris, posing a fire hazard.
- Cyclone fence slats melted in the 2020 CZU fire remain unreplaced.
- The wooden screening fence destroyed by a Douglas Fir in Jan 2024 was never rebuilt.
- Brian Smith regularly cleans out their drainage ditch to prevent street flooding—something CTI has failed to address.
- We, the Cahill’s maintain a mowed buffer along our property line as they do nothing to reduce the fuel load unless requested or in preparation for another board meeting

3. Unreasonable Delays in Property Maintenance

- Took 6 years to remove obsolete satellite dish
- Left fallen oak tree on neighbors property for over 6+ months
- Took additional 2 months to clear, delaying neighbor 2 months in their rebuilding process
- 10+ months to clear the Doug Fir & debris pile

4. Broken Promises

During the March 2024 meeting (timestamp 1:31:50), Scott from CTI publicly stated:

“We have put it on a regular maintenance plan. When this was brought up, comments were made it was a poorly maintained site. Since those comments were made, we have gone out and cleaned up the area and it is on a regularly scheduled maintenance plan.... The surrounding area, we did clear out all the brush that would be consumable for a fire and it is on a regularly scheduled plan.”

BEFORE PHOTOS



Despite these statements CTI failed to clear the fallen trees or replace any fencing that was destroyed in Jan 2024 within 6 months. Nobody came out until December 17, 2024.

- Only tree debris & weeds within 5 feet of fence was cleared
- 20+ foot trunks and branches remain.
- Weeds exceeding 6 feet, ladder fuels, and saplings remain unaddressed despite multiple red flag warning over the summer.

AFTER PHOTO



Request for Action: Deny the Application

- Approving this permit would violate Santa Cruz County Code, which requires compliance with prior permits before issuing new approvals.
- The owner's history of non-compliance raises concerns about future commitments.
- The proposed facility is at risk of becoming obsolete within five years, leaving an environmental and aesthetic burden on the community.
- Potential disasters include collapse due to fire, earthquakes, or high winds, blocking evacuation routes.

Proposal to Reduce Tower Height

If the county proceeds with approval despite violations, I request the following modifications:

- Reduce the height to 110 feet (which can increase to 130 under FCC allowances) to keep the structure within the footprint of its own lot & to keep it's max height just above the neighboring trees but not 12+ feet above them.
- Prohibit tree removals.
- Enforce a quarterly maintenance plan with a local point of contact.
- Lower Summit Dr. must be paved and engineered for proper drainage.
- Require studies on PVC needle shedding rates in high-wind conditions (70+ mph winds & heavy rain). Tahoe study FAILED to account for any similar weather conditions, ground conditions or measures of mitigation
- Establish mitigation measures for synthetic material contamination in soil & watershed.
- Confirm the number of generators & conduct that noise study before the install of tower.

Final Argument: Why 110 Feet Is the Appropriate Height

- The county's proposal of 140 feet with a centerline at 130 feet places 12+ feet of the tower above the tree line, creating a significant visual impact, especially from the southeast side and lower Summit.
- This height does not align with surrounding structures or character of the neighborhood.
- Being at the summit and a ridgeline, it should remain in scale with the surrounding trees, capped at 120 feet.
- Given FCC rules allowing an additional 20 feet without further county review, the county should approve a max height of 100 feet, ensuring any automatic extension remains within reason.

Conclusion

With the rise of satellite-based connectivity (AT&T, T-Mobile, Starlink) and widespread generator-powered Comcast connections, this tower will likely be antiquated in less than five years. In addition to the negligence, concerns of towers height and noise from generators running non-stop in our neighborhood when all neighbors turn them off at 9pm are majors concerns in our residential area. Given these concerns and the applicant's poor track record of compliance, I urge the Board to deny this application and uphold its duty to protect the residents of Santa Cruz County.

Nicholas Brown

From: Julie Cahill <summitdr2020@gmail.com>
Sent: Thursday, February 6, 2025 11:36 PM
To: Sheila McDaniel
Cc: Allyson Violante; Natalie Kirkish; Justin Graham; Nicholas Brown; Tim Richards
Subject: Public Comment: Application 221049
Attachments: Application 221049 Public Comment_FEB 2025-compressed.pdf

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hello

In preparation for the upcoming meeting Feb. 12th regarding the proposed 150' cell tower, Application 221049, I would appreciate you take the time to review the applicant violations of the current permits they hold before approving additional permit.

I am the neighbor directly south of the property where I can view the current lattice tower from my master bed despite Scott from CTI admitting at the last meeting they do not host anyone on it because it is antiquated.

Thank you for your considerations.

Kindly,

Julie Cahill

Ann McKenzie and Don Roberts
665 Summit Drive Bonny Doon, CA. 95060-9697
831-227-0631
annmack263@comcast.net

February 7, 2025

Santa Cruz County Planning Commissioners and Alternates.

I am contacting you in OPPOSITION to the proposed cell tower at 186 Summit Drive in Bonny Doon.

We have lived at 665 Summit Drive for 38 years.

A cell tower is outdated technology. The sensible solution is already available, the satellites circling the earth. Satellites do not require line of sight, satellites are open-sky technology, with no significant gap in coverage.

A cell tower is an unnecessary metal and plastic eyesore, devastating the natural aesthetics of our neighborhood, a rural residential community.

There is no need for construction of a tower, disrupting the soil with heavy equipment, killing natural vegetation and damaging the roots of the existing 70-foot tall fir trees. The equipment will leach toxic oils, gasoline, diesel, concrete, metal and micro-plastics into the ground, adversely affecting our individual water wells and the watershed from the top of the mountain to the San Lorenzo Valley, the river and into the Monterey Bay Marine Sanctuary. It would clearly have significant and severe adverse environmental impact.

According to the International Journal of Environmental Research and Public Health, "the alchemy of the forest, all the different smells and sounds and tastes, natural forest substances, serve as natural anti-depressants." All over the world countries are advocating the benefits of being outdoors, surrounded by nature. For me, nothing is more beneficial, grounding and relaxing than being outdoors, walking in our forest.

CTI and AT&T have an enormous amount of money, we're doing our best as David fights Goliath.

I don't feel my voice and our voices are being heard.

A tower is not acceptable. We don't want a cell tower on Summit Drive.

I am asking the Planning Commissioners to DENY the CTI tower in its entirety.

Sincerely,
Ann McKenzie

Nicholas Brown

From: Sara Taylor-Blackstorm <zencatdream@yahoo.com>
Sent: Monday, February 10, 2025 10:31 PM
To: Nicholas Brown
Subject: Urgent read before Planning Commission hearing 2/12/2025

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Dear Nicholas,

Hello, we are the Blackstorm Atton Family, we own and reside at 305 Summit Drive, almost directly across from the proposed cell tower. We are members of the Bonny Doon Residents for Responsible Cell Coverage, working to create sensible solutions for cell coverage in Bonny Doon that meet our region's needs without adversely impacting property owners and taxpayers in our community.

We are pro responsible cell coverage in Bonny Doon, and we are against the construction of the unnecessary tower proposed at 186 Summit drive. If you look closely, CTI is gaslighting the fact that the proposed cell service provided at 186 Summit Drive will make a dent in what service local residents will receive. The section the fake tree covers has multiple negative attributes that outweigh the few homes that will actually receive coverage.

Who really benefits from this?

It happens to be a large corporation masquerading as a savior for a rural population with low cell coverage. Look closer at their documentation, this tower is outdated and does not serve enough people to warrant its hazardous placement. There are our other better and viable options and we have presented them in previous documentation at length. At present Starlink satellite provides everyone in the mountains cell service, making the cell tower a moot point!

Northern California municipalities have recently taken action through ordinances to stop cell tower installation because of better and safer options, these include Fairfax, Petaluma, Mill Valley, San Rafael, Ross, San Anselmo. We need to be listed among those.

Studies show homes that are located next to or near cell towers decrease in property value. Local and area real estate professionals and appraisers have stood up at the county meetings and given testimony for us confirming this to be true. In addition, a proposed cell tower must be disclosed for properties surrounding the proposed location. Would you want to buy a home across the street from a cell tower? For many of us who devastatingly lost everything after the CZU fire, and put our hearts into rebuilding our homes, moving is no longer an option. We have no way to escape having a cell tower in our backyard, and if for some reason we were able to move after being saddled with debt from rebuilding, our property values would diminish. This is unfair punishment from a county that we love and support. We are requesting that you please prioritize a loyal resident over an out of town corporation with money to burn. This is bad business - for residential property owners, real estate business, and Santa Cruz County (in decreased property revenues).

The California Public Utilities Commission is concerned about cell towers as fire hazards and is currently in the process of proposing new rules and regulations for them. Cell towers are also accompanied with back up generators that are often powered with batteries (think Moss Landing fire) composed of hazardous materials. There is documented evidence of cell towers having caught fire during routine maintenance. Fire is another enormous reason we do not need a cell tower at 186 Summit Dr. The last thing we need is another fire in California wiping out thousands of homes. There simply is not enough manpower or water to take this risk. We

as residents are doing everything we can to fireproof our neighborhood. A cell tower is unacceptable, think of it as a preventive measure.

It is illegal and unethical to build a cell tower near endangered animals, plants and parks. Just 5 miles away from the proposed tower lies the Bonny Doon Ecological Reserve. It is home to many animals, including birds, mammals and amphibians. In fact, some of the mammals that reside on this mountain are on the endangered species list and need the surrounding area to be protected before they become extinct.

Henry Cowell Redwoods State Park Fall Creek Unit trails run up to Summit Rd. Fall Creek protected property also continues behind Summit Road to Alba Road. Fall Creek is a place of peace and quiet for those who visit and a place of refuge for the animals and plants that live there. Please help protect and preserve the area surrounding a park and mountain so full of rich history, plants, animals and a valuable watershed.

Fall Creek's Pine Flat trail has an entrance that goes right up to Summit Drive. In fact most of the trails follow old wagon and logging roads. One of these old roads, Old Alba Road, even runs right behind where the cell tower is to be placed. Why cheapen this rich history with ugly, outdated technology? Many people can be seen walking the street to enjoy the beauty of the surrounding area, and to be clear, a monstrous monopine is not beautiful and looks nothing like a real tree.

What a shame to destroy part of what the Cowell's and others have worked so hard to protect. The land, animals and the future preservation of the Santa Cruz mountains is at stake, and we have come so far in conserving the land around us. The decision to disrupt an ecosystem and neighborhood rests in your hands, and we request that you uphold the dignity, beauty and unity that the Santa Cruz Mountains and its residents stand for. We have faith in the goodness and fairness of our community.

Thank you for your consideration in this heartbreaking matter,

Dr. Sara Blackstorm Atton

Dr. Robert Atton

Winter Blackstorm

Solar Blackstorm

Nicholas Brown

From: Deborah Teixeira <59doonblooms@gmail.com>
Sent: Monday, February 10, 2025 1:24 PM
To: Nicholas Brown
Cc: Deborah Teixeira
Subject: AGAINSt cell tower on 186 Summit Drive

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

To: Nicholas Brown
From: Deborah Teixeira
185 Summit Drive, Santa Cruz, CA 96050
Email address: 59doonblooms@gmail.com

Dear Mr. Brown,

I am a renter at 185 Summit drive, directly across the street from the site of the proposed cell tower on 186 Summit. Have lived here since 2009, and have lived in this neighborhood on summit Drive for 24 years. My landlord, Tony Molino has owned and lived on this property for over 40 years. Tony and I are both **opposed** to installing a cell phone tower in our neighborhood. For these following reasons:

+Neither my landlord nor myself have received THE CEQA notifications. There are questions our neighborhood has brought to the commissioners about CITI's data

+The corporation CTI has **not** followed up on getting an **INDEPENDENT environmental review** as mandated by the commissioners several months ago, based on questions regarding plastics harming the water supply, and potential harm to local species.

*CITI has **not** acquired an independent assessment of their claims about the specifications of the structures, but use professionals employed/hired by CITI. *Question: Has the County independently reviewed and assessed the veracity/accuracy of CITI-employed expert claims, regarding proposed heights of the towers, and height ordinances?

+There is already an existing 150' working cell tower site on 125 Patrick Road, situated only 1000 feet away from the proposed site on 186 Summit Drive. This working cell tower site could be used alternatively to set up more extensively for cell coverage, which the County deemed worthy of research. **No independent review has been submitted!**

+Our neighborhood per se does not require a cell tower, as we all have generators during storms that enable our continued cell reception.

+This proposed cell tower is **invasive outdated technology** and will **not** meet the cell phone coverage needs of the harder-to-reach areas in the mountainous Bonny Doon community.

***PLEASE NOTE, There are newer more efficient modes of coverage, for instance, the **T-Mobile StarLink satellite device "Direct to Cell" that give direct non-intrusive satellite contact ("if you can see the sky, you are connected")**.

*Another option are **picocells** that provide coverage and capacity in areas difficult or expensive to reach using the more traditional macrocell/cell tower approach. Picocells are already installed on telephone wires in some local areas, and can be installed right within those areas that are harder-to-reach. These two alternatives are highly efficient, and non-invasive in our communities and much more effective technology!

Please seriously consider our points and recommendations that CITI's cell phone tower NOT be installed at 186 Summit Drive.

Sincerely,

Deborah Teixeira
Tony Molino

Nicholas Brown

From: Deborah Teixeira <59doonblooms@gmail.com>
Sent: Monday, February 10, 2025 2:44 PM
To: Nicholas Brown
Cc: Deborah Teixeira
Subject: AGAINST

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

To: Nicholas Brown
From: Deborah Teixeira
185 Summit Drive, Santa Cruz, CA 96050
Email address: 59doonblooms@gmail.com

Dear Mr. Brown,

I am a renter at 185 Summit drive, directly across the street from the site of the proposed cell tower on 186 Summit. Have lived here since 2009, and have lived in this neighborhood on summit Drive for 24 years. My landlord, Tony Molino has owned and lived on this property for over 40 years.

We want to create sensible solutions for cell coverage in Bonny Doon that meet our region's needs without adversely impacting property owners and taxpayers in our community. We're for cell coverage in Bonny Doon, and we're against the construction of the unnecessary tower proposed at 186 Summit Drive in the middle of the Summit Drive rural residential neighborhood, which if approved would be the second 150 ft tower in the Summit Drive neighborhood.

Our Summit Drive Wireless appeal first came to the Planning Commission in March 2024. There were unfortunately several key details that the Zoning Administration overlooked in approving this project, which caused our group to appeal their decision to the Planning Commission.

+Neither my landlord nor myself have received THE CEQA notifications. We were not notified of public hearings for this year! There are questions our neighborhood has brought to the commissioners about CITI's data, and we have not been allowed to publicly comment, until this coming Wednesday. We are both **opposed** to installing a cell phone tower in our neighborhood. For these following reasons:

1. There is insufficient justification for a waiver of the height ordinance for building a 150 feet tall structure in the center of our neighborhood, where normally 75 feet tall is the maximum. **We want findings of denial based on the lack of analysis of the tower foreseeably being increased to 160 feet in height, and that the propagation maps are not consistent with the carriers own coverage maps provided.**

2. Our neighborhood per se does not require a cell tower, as we all have generators during storms that enable our continued cell reception.

3. This proposed cell tower is **invasive outdated technology** and will **not** meet the cell phone coverage needs of the harder-to-reach areas in the mountainous Bonny Doon community.

***PLEASE NOTE, There are newer more efficient modes of coverage, for instance, the **T-Mobile StarLink satellite device “Direct to Cell” that give direct non-intrusive satellite contact (“if you can see the sky, you are connected”)**.

*Another option are **picocells** that provide coverage and capacity in areas difficult or expensive to reach using the more traditional macrocell/cell tower approach. **Picocells** are already installed on telephone wires in some local areas, and can be installed right within those areas that are harder-to-reach. These two alternatives are highly efficient, and non-invasive in our communities and much more effective technology!

Please seriously consider our points and recommendations that CITI’s cell phone tower NOT be installed at 186 Summit Drive.

Sincerely,

Deborah Teixeira
Tony Molino

Preliminary Statement

This Supplemental Memorandum is submitted in further opposition to the application of Delta Group Engineering/CTI Towers (hereinafter “*CTI*” or the “Applicant”) for a Special Use Permit to install a one hundred forty foot (14 story high) wireless communication facility to be located on the property known as 186 Summit Drive, Santa Cruz, CA. In addition, *CTI* seeks an exception for height requirements in order to accommodate its proposed one hundred forty foot wireless communications tower.

The undersigned residents of Summit Drive have suggested that co-location on an existing tower at an alternative location on Patrick Road would be a viable option, being only 1,000 feet away from the proposed location on Summit Drive, and would avoid the substantial adverse impacts the proposed tower would inflict on the community. As requested, *CTI* has submitted “apples to apples” propagation maps purporting to show coverage in the proposed location as opposed to the 125 Patrick Road location. Despite the inherent unreliability of propagation maps like those submitted here, the propagation maps submitted by *CTI* show a negligible difference between coverage at the Summit Drive location and at the Patrick Road location. The alternative site 1,000 ft away would provide apples to apples coverage.

Naturally, *CTI* has no interest in co-locating on the existing tower on Patrick Road. This is because, as set forth in the Memorandum in Opposition submitted on October 13, 2023 for a public hearing held on October 20, 2023 (the “October 13, 2023 Memo”), *CTI* is not a provider of wireless services. Rather, it is a site developer that supplies and installs *towers* on which to lease space to wireless service providers. Co-location would deprive *CTI* of a financial opportunity.

On its website, *CTI* describes itself as “one of the largest private tower companies in the U.S.” and states that it “operates over 1,800 wireless communications towers across 48 states in the continental US and leases tower space to major wireless carriers, which include AT&T, DISH, T-Mobile, and Verizon as well as broadcasters, utility companies, internet service providers, and government entities.” *See* Exhibit E, hereto.

So, while it is in the best interest of the community for a wireless service provider to co-locate on the existing Patrick Road tower, it is decidedly not in the interest of *CTI*. This is because *CTI* does not own the Patrick Road tower and as such, cannot lease space on it to wireless service providers. What is good for *CTI* is directly at odds with what is good for Santa Cruz County.

As set forth in the October 13, 2023 Memo, *CTI's* application should be denied because *CTI's* proposed tower would violate the County Code, as well as its legislative intent.

Accordingly, it is respectfully submitted that *CTI's* application be denied, and that such denial conform to the requirements of the Telecommunications Act of 1996.

POINT I

GRANTING *CTI* PERMISSION TO CONSTRUCT A WIRELESS FACILITY AT THE LOCATION IT PROPOSES WOULD VIOLATE THE CODE AND THE LEGISLATIVE INTENT UPON WHICH IT IS BASED

As set forth in the October 13, 2023 Memo, granting *CTI's* application would violate the *requirements* of the Code as well as the *legislative intent* behind those requirements. The reasons for denying *CTI's* application are set forth in the October 13, 2023 Memo. Specifically, the irresponsible placement of a wireless facility at the location proposed would inflict upon the residential community the precise types of adverse impacts which Chapter 13.10.660 *et seq.* of

the Code was specifically enacted to prevent.

A. *CTI's Failure to Meet the Requirements of Chapter 13.10 of the Municipal Code*

CTI has failed to establish compliance with the requirements and limitations of Chapter 13.10 of the Code regarding wireless telecommunication facilities.

Pursuant to the Code, applicants must prove, among other things, that the proposed wireless facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier's network. Again, *CTI* is not a carrier with a network. Rather, *CTI* proffers data purporting to relate to AT&T, *CTI's* proposed "tenant." Nevertheless, *CTI* has failed to present any reliable evidence at all to support its claim that there is a significant gap at all in AT&T's wireless service, and that the one-hundred fifty foot (150') tower, as it is proposed, is the least intrusive location and is the minimum height necessary to remedy that gap.

In addition, *CTI* has failed to prove, as it is required to do under the Code, that there are no viable, technically feasible, and environmentally (*e.g.* visually) equivalent or superior potential alternatives (*i.e.*, sites and/or facility types and/or designs) outside the prohibited and restricted areas ... that could eliminate or substantially reduce said significant gaps.¹ Indeed, *CTI* has not provided a coherent explanation as to why the already existing tower on Patrick Road, only one thousand feet away from *CTI's* proposed site, is not a feasible alternative on which wireless service providers, like AT&T, may co-locate in order to eliminate any purported service gaps. The propagation maps submitted by *CTI*, inherently unreliable as they are,² do not show any appreciable difference between the coverage that would be provided by *CTI's* proposed tower and coverage provided by having AT&T co-locate on the existing tower on Patrick Road.

¹ See § 13.10.660(C)(4)(a)

² See October 13, 2023 Memo, Point III, subpoint B.

As we discuss below, AT&T's own coverage maps show coverage not only at the tower site, but also throughout the region in which the propagation maps show the opposite: no coverage for the same carrier. No drive test data or other standard-bearing data was provided to confirm this. The experience of the residents in this region is that there is reliable coverage, which accords with AT&T's coverage maps available to the public.

CTI has failed to provide any probative evidence to establish that the proposed wireless facility is actually necessary in order to provide personal wireless service in the community or that the facility is not injurious to the community, such that a denial of its application would constitute an "effective prohibition" of personal wireless services.

B. Co-location on the Patrick Road Tower Would Obviate the Substantial Adverse Impacts *CTI*'s Proposed Tower Would Inflict Upon the Aesthetics and Character of the Area

As discussed in detail in the October 13, 2023 Memo, the proposed wireless facility will inflict dramatic and wholly unnecessary adverse impacts upon the area's aesthetics and character. It is clear from §§13.10.661(F) and (G) that the County's intent was to minimize, if not wholly avoid, any negative adverse aesthetic impacts on neighboring properties.³ Again, as set forth in the October 13, 2023 Memo, *CTI* has failed to provide a shred of probative evidence to establish that the wireless communications facility is not injurious to the neighborhood and is actually necessary to provide personal wireless coverage in the area.

C. *CTI*'s Visual Assessment Remains Inherently Defective and Should be Disregarded Entirely

Although *CTI* makes the demonstrably absurd claim that the installation of the proposed

³ See October 13, 2023 Memo, Point I, subpoint A(i).

one hundred-fifty foot wireless facility *would not* inflict a severe adverse aesthetic impact upon the adjacent homes, *CTI* has still failed to submit any meaningful or accurate visual impact analysis.⁴ There are still no photographic images taken by *CTI* from any of the homes belonging to the homeowners whose adverse aesthetic impact letters are collectively annexed to the October 13, 2023 Memo as Exhibit “A.”⁵

POINT II

IF APPROVED, *CTI* COULD UNILATERALLY INCREASE THE HEIGHT OF THE PROPOSED FACILITY WITHOUT FURTHER OR PRIOR ZONING APPROVAL

CTI clearly has an interest in renting out as much space on its proposed tower as possible, allowing as many wireless carriers as it can to add antennas to the tower. As discussed in Point II of the October 13, 2023 Memo, once approved, *CTI* could, at any time, unilaterally increase the height of the facility by as much as twenty (20) feet and the County would be legally prohibited from stopping it.⁶

CTI's application should be denied, especially since, as set forth above, *CTI* doesn't actually *need* the proposed facility in the first place and there is a viable alternative location for providers of personal wireless services, like AT&T, to co-locate their antennas. Also, we know from public record testimony during multiple hearings by *CTI* that they prefer a tower 150 ft or taller, so it's not a question of whether, but when they would increase the height. Finally, as we detail below, the increased height was not addressed in the CEQA review, which was an oversight that requires an EIR.

⁴ See October 13, 2023 Memo, Point I, subpoint A(iii).

⁵ *Id.*

⁶ § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012

POINT III

CTI'S CLAIM THAT AT&T NEEDS TO LOCATE AT THE PROPOSED SITE IS CONTRADICTED BY AT&T'S OWN ACTUAL COVERAGE DATA

CTI claims that a coverage gap exists in AT&T's service in the Bonny Doon area, and that the alternative site for co-location at 125 Patrick Road is not viable. As set forth in the October 13, 2023 Memo, this is patently untrue.⁷

AT&T maintains and operates a database, which is linked to AT&T website at <https://www.att.com/maps/wireless-coverage.html>. It serves as the data-source for an interactive function, which enables users to access AT&T's own data to ascertain both: (a) the existence of AT&T's wireless coverage at any specific geographic location, and (b) the level, or quality of such coverage.

AT&T's interactive website translates AT&T's *actual coverage data* to provide imagery whereby areas that are covered by AT&T's service are depicted in various shades of blue, including 5G+, 5G and 4G.

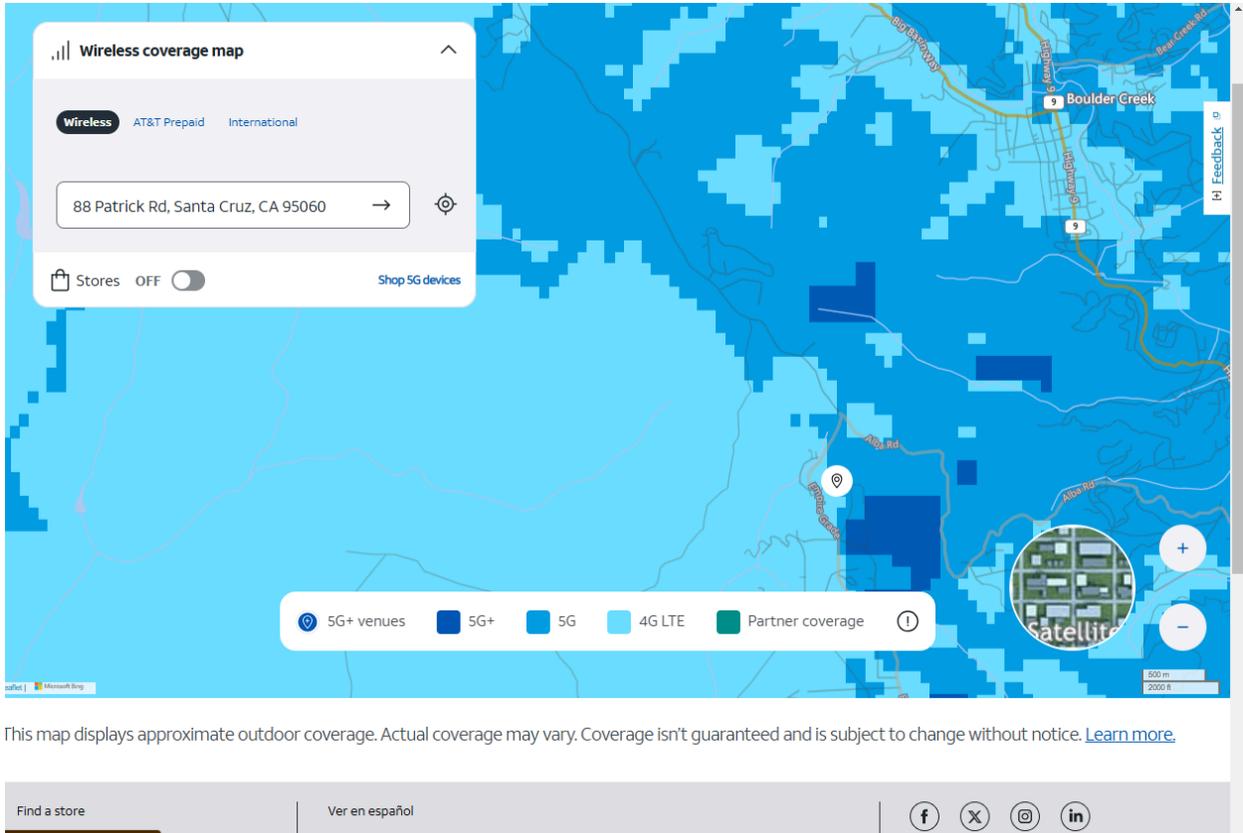
The website further translates the data from AT&T's database to specify the *actual* coverage at any specific geographic location.

(The remainder of this page is intentionally left blank.)

⁷ See the October 13, 2023 Memo, Point III, subpoint B(iii).

Below are true copies of screen shots of AT&T's coverage maps for the 125 Patrick Road
and 186 Summit Drive locations:

125 Patrick Road



This map displays approximate outdoor coverage. Actual coverage may vary. Coverage isn't guaranteed and is subject to change without notice. [Learn more](#).

(The remainder of this page is intentionally left blank.)

186 Summit Drive

Wireless coverage map

Wireless AT&T Prepaid International

186 Summit Dr, Santa Cruz, CA 95060 →

Stores OFF Shop 5G devices

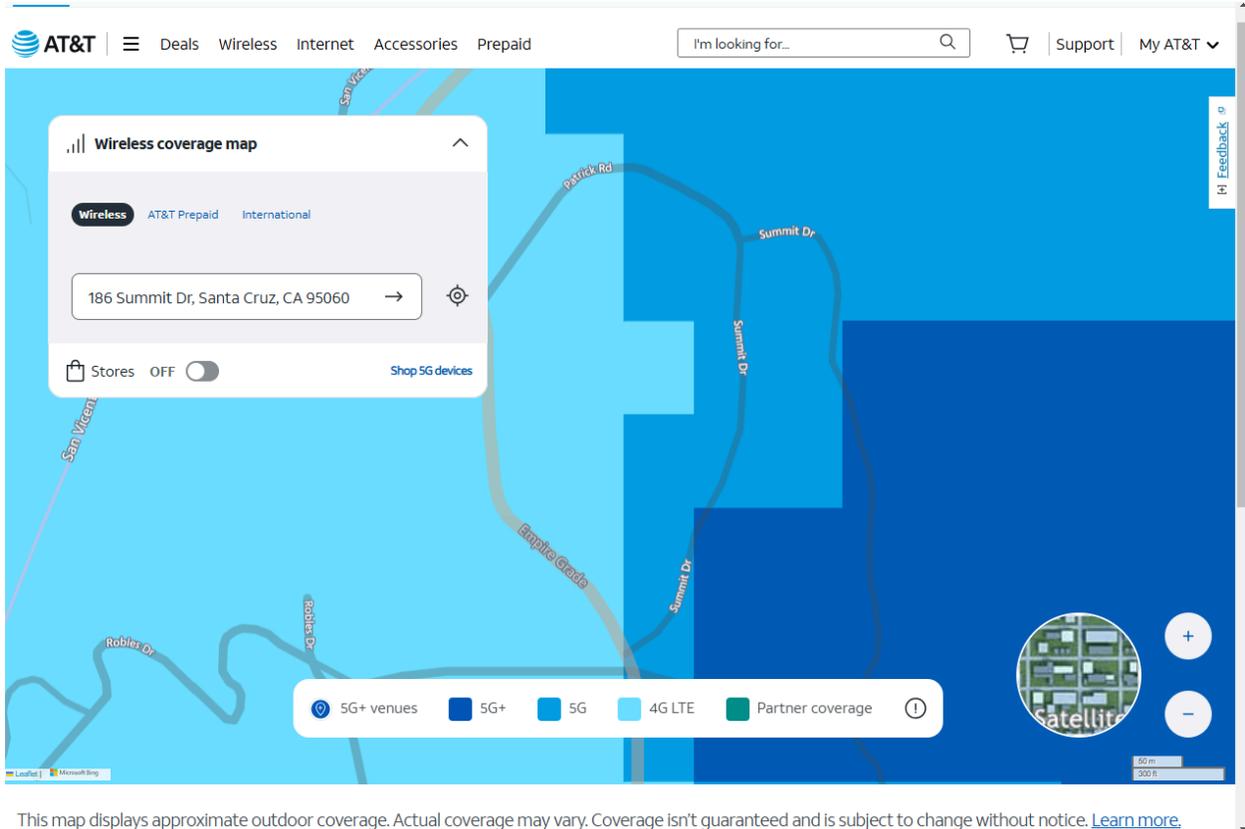
5G+ venues 5G+ 5G 4G LTE Partner coverage

Find a store Ver en español

f X @ in

This map displays approximate outdoor coverage. Actual coverage may vary. Coverage isn't guaranteed and is subject to change without notice. [Learn more.](#)

(The remainder of this page is left blank intentionally)



This map displays approximate outdoor coverage. Actual coverage may vary. Coverage isn't guaranteed and is subject to change without notice. [Learn more.](#)
A closeup of the same area.

Obviously, AT&T's own data reflects that there is no coverage gap *at all* in AT&T's service at that precise location or anywhere around or in close proximity to it. In addition, it demonstrates that there is no appreciable difference in coverage between the two locations.

Any claim by *CTI* or AT&T that the data available on AT&T's website is not accurate just demonstrates how easily data can be manipulated to suit a particular purpose – when selling its service to the consuming public, the coverage is excellent, but when selling a proposed tower to a municipality, the coverage is almost non-existent. Only the hard data on which the representations are based can resolve the discrepancy. But there is no such hard data in *CTI's* application.

Given the inherent unreliability of propagation maps without hard data, like the ones submitted by the Applicant, there is no substantial evidence to support an approval of the proposed tower at the proposed location. This is especially true where, as here, there is an existing tower, with room to co-locate, only 1,000 feet away on Patrick Road. The Applicant has not provided any coherent, non-self-serving explanation, supported by actual evidence, as to why the Patrick Road location would not be a suitable place for AT&T to install its antennas.

Point IV

The Initial Study/Mitigated Negative Declaration does not Analyze the Impacts of CTI's ability to Increase the Height of the Proposed Tower Without Further or Prior Zoning Approval according to § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012.

As substantial as the adverse impacts upon the nearby homes and communities would be if the proposed facility were constructed as currently proposed at 151.1 feet, CTI could later unilaterally choose to increase the height of the facility by as much as twenty (20) feet to 171.1 ft. without further environmental review. The County and the residents of the Summit Drive neighborhood would be legally prohibited from stopping them from doing so due to the constraints of the Middle-Class Tax Relief and Job Creation Act of 2012. The Initial Study/Mitigated Negative Declaration ("MND") does not consider the foreseeable impacts of a height increase to an abominable height of 171.1 feet in a residential neighborhood. Considering the even more extreme adverse impacts which an increase in the height of the facilities would inflict that has not yet been presented in either the project plans or as a proper demonstration of it at this maximum height, this project should be denied. Because the Negative Declaration failed to consider these impacts, it is fatally flawed. Appellants here need only make a fair argument of a significant impact.

This project requires an EIR because a fair argument exists that the project may have a significant effect on the environment, specifically aesthetic impacts. *See League for Protection of Oakland's Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75. “There is ‘a low threshold requirement for preparation of an EIR’, and a ‘preference for resolving doubts in favor of environmental review.’” *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332. Courts have repeatedly affirmed that the fair argument standard is a “low threshold test.” *The Pocket Protectors v. City of Sacramento* (“*Pocket Protectors*”) (2004) 124 Cal.App.4th 903, 928; *No Oil Inc. v. City of Los Angeles, supra*, 13 Cal.3d at 86; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123-1126. “[I]f a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect.” *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1113. A “negative declaration is inappropriate where the agency has failed either to provide an accurate project description or to gather information and undertake an adequate environmental analysis.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.

An MND is proper “only if project revisions would avoid or mitigate the potentially significant effects identified in an initial study ‘to a point where clearly no significant effect on the environment would occur, and ... there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.’” *Mejia v. City of Los Angeles, supra*, 130 Cal.App.4th at p. 331 (emphasis

added). Whether the administrative record contains “substantial evidence” in support of a “fair argument” sufficient to trigger a mandatory EIR is a question of law, not a question of fact. *League for Protection of Oakland’s Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 905; *Architectural Heritage Association v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1122 (overruled in part on other grounds in *Friends of Willow Glen Trestle v. City of San Jose* (2016) 2 Cal.App.5th 457, 460). Therefore, under the fair argument standard, “deference to the agency’s determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.” *Sierra Club v. County of Sonoma* (1992) 6 Cal App 4th 1307, 1318; see also, *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597 (rejecting an approval of a Negative Declaration prepared for a golf course holding that “[a]pplication of [the fair argument] standard is a question of law and deference to the agency’s determination is not appropriate.”) Evidence supporting a fair argument need not be overwhelming, overpowering or uncontradicted. *Friends of the Old Trees v. Department of Forestry and Fire Protection* (1997) 52 Cal.App.4th 1383, 1402. Instead, substantial evidence to support a fair argument simply means “information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” 14 Cal. Code Regs. § 15384; *Pocket Protectors, supra* 124 Cal.App.4th at 927-928; *League for Protection of Oakland’s Architectural and Historic Resources v. City of Oakland, supra*, 52 Cal.App.4th at 905. Here, the MND is not an adequate environmental document because it fails to provide adequate analysis of and mitigation for environmental impacts “to a point where clearly no

significant effect on the environment would occur.”

“The CEQA process demands that mitigation measures timely be set forth, that environmental information be complete and relevant, and that environmental decisions be made in an accountable arena.” *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1341. Additionally, the MND fails to provide adequate mitigation measures for significant environmental impacts of the Project and thus the conclusion that significant environmental impacts have been properly mitigated is incorrect as a matter of law: “[I]mpermissible deferral of mitigation measures occurs when [the agency] puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described....” *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 280-281. Crucially, the MND here does not even try to analyze the impacts of the additional height that CTI will be able to add once the tower is constructed. An “agency should not be allowed to hide behind its own failure to gather relevant data.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 408. An “agency should not be allowed to hide behind its own failure to gather relevant data.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 408. Here, a foreseeable consequence of project approval is a 171.1 foot high tower that was not analyzed in the MND.

For these reasons, the MND fails to provide the requisite environmental data for the Project and substantial evidence supports a fair argument that the Project may have a significant environmental impact. Thus, an EIR must be prepared. *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 503.

Point V

The Findings for the Proposed Height Exception Cannot be Made

In accordance with the County Code, “All towers shall be designed to be the shortest height technically feasible to minimize visual impacts....” (County Code § 13.10.660(G)(1).) The maximum facility/antenna heights allowed in the Residential and Timber Production Zone District is 75 feet high for free-standing structures. (Id.) Exceptions to these height limitations are permitted but have limitations. “Any applications for facilities of a height more than the allowed height for facilities in each zone district per subsection (G)(1) of this section must include a written justification proving the need for a facility of that height and comply with subsections (C)(4)(a) and (b) of this section.” (County Code § 13.10.660(G)(2).)

Subsections (C)(4)(a) and (b) state as follows:

- (a) The proposed facility eliminates or substantially reduces one or more significant gaps in the applicant carrier’s network; and
- (b) The proposed facility is located on the least visually obtrusive site and least visually obtrusive portion of the site, where the applicant provides substantial evidence that it chose the best solution for the community after a meaningful comparison of alternative sites and designs, including but not limited to considering less sensitive sites, alternative system designs, alternative tower designs, placement of antennas on existing structures, and other viable, technically feasible, and environmentally (i.e., visually) equivalent or superior potential alternatives.

The Planning Commission needs to make both of these findings.

Notably, the County must review the evidence and make its own independent judgment about the accuracy of the evidence. It cannot defer its responsibilities to the applicant. We asked the

Planning Commission for an independent alternative site analysis at the March 27th 2024 hearing, and this request has not been granted.

As to subsection (a), as noted the proposed facility fails to eliminate or substantially reduce the coverage gap for two reasons:

- 1) There is no coverage gap, according to AT&T's own publicly available data on their website, which shows 4G and 5G coverage in the entire area, including the purported gaps it would fill in the propagation maps. This is easy to verify in real life by making phone calls from the site and the region around the site, which the Summit Drive neighborhood residents do all the time.
- 2) The applicant CTI is not a carrier with a network. Rather, CTI proffers data purporting to relate to AT&T, CTI's proposed "tenant." Nevertheless, CTI has failed to present any probative evidence to support its claim that there is a significant gap at all in AT&T's wireless service, and that the one-hundred fifty foot (150') tower, as it is proposed, is the least intrusive location and is the minimum height necessary to remedy that gap. In fact, there is a less obtrusive alternative site at 125 Patrick Road, which the Summit Drive neighborhood unanimously supports for collocation.

As to subsection (b), the applicant's comparison of alternative sites and designs showed that the existing 150 ft tower in the neighborhood located at 125 Patrick Rd provides equal coverage to the proposed tower at 186 Summit Drive, meaning that the least obtrusive option for the neighborhood.

Notably, the proposed facility at 186 Summit Drive is twice the applicable height limit for the zone district, and could be extended an additional 20 feet in height which the County cannot deny. Given these findings, the height exemption cannot be granted.

The findings proposed before the Zoning Administrator include finding number 2:

The proposed facility is located on the least visually obtrusive site and least visually obtrusive portion of the site, where the applicant provides substantial evidence that it chose the best solution for the community after a meaningful comparison of alternative sites and designs, including but not limited to considering less sensitive sites, alternative system designs, alternative tower designs, placement of antennas on existing structures, and other viable, technically feasible, and environmentally (i.e., visually) equivalent or superior potential alternatives.

The applicant provided an alternative analysis noting that no other alternative site is available to fill the identified gap, including microcell sites, which are incapable of filling the gap due to a line-of-sight requirement to fill the gap in coverage. The existing WCF co-location sites, including Patrick Road, identified in the area are not capable of filling the gap due to the significant distance from the service area. The subject property contains an existing communication facility on site since 1969 that is located in the dense forest and provides the least obtrusive means of providing the applicant's coverage by largely screening the proposed replacement colocation facility within the forest canopy, camouflaging the monopine as a pine tree, and otherwise providing landscape screening for understory views from adjacent residences and additional a trees to screen the top of

the tree canopy from ground level. A maximum height of 140 feet (with 130-foot antenna centerline) is the lowest height capable of substantially filling the wireless coverage gap as determined by the alternative analysis; and therefore, the least obtrusive height.

This finding does not cover all the issues raised in the code. Crucially, the findings must be viewed in the context of the overarching requirement that “All towers shall be designed to be the shortest height technically feasible to minimize visual impacts....” (County Code § 13.10.660(G)(1).) Again, the proposed tower is twice the height of what is normally permitted in the zone district. The proposal is not so much an exception than it is a complete abrogation of the height limitation.

Importantly, the exceptions are a form of variance from the normal standards. Courts can only review matters if findings are complete. The California Supreme Court in *Topanga Assn. For a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 520, held:

courts must meaningfully review grants of variances in order to protect the interests of those who hold rights in property nearby the parcel for which a variance is sought. A zoning scheme, after all, is similar in some respects to a contract; each party foregoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare. [Citations]. If the interest of these parties in preventing unjustified variance awards for neighboring land is not sufficiently protected, the consequence will be subversion of the critical reciprocity upon which zoning regulation rests. (*Id.* at 517-518; see also, *Stolman v. City of Los Angeles* (2003) 114 Cal.App.4th 916, 923-924 (“Abdication by the judiciary of its responsibility to examine

variance board decision-making when called upon to do so could very well lead to such subversion...”).)

Conclusion

In view of the foregoing, it is respectfully submitted that *CTT's* application for a Special Use Permit be denied in its entirety.

Dated: Santa Cruz, California
February 6, 2025

Respectfully Submitted,

Tim Richards – 531 Summit Drive
Chelsea Brady – 531 Summit Drive
Deborah Richards – 531 Summit Drive
Mark Richards – 531 Summit Drive
Runa Richards – 531 Summit Drive
Gavin Richards – 531 Summit Drive
Rodney Cahill – 120 Summit Drive
Julie Cahill – 120 Summit Drive
Brian Smith – 125 Summit Drive
Naomi Murphy – 125 Summit Drive
JoAnn Pullen – 405 Summit Drive
William Pullen – 405 Summit Drive
Allison Pullen – 405 Summit Drive
Alexis Jenkins – 219 Summit Drive
Jerry Jenkins – 219 Summit Drive
Mary Coyle – 250 Upper Summit Drive
Andy Fox – 250 Upper Summit Drive
Andy Fox – 88 Patrick Road
Bob Atton – 305 Summit Drive
Sara Blackstorm Atton – 305 Summit Drive
Richard Jay Moller, Attorney – 714 Summit Drive
Leif Moller – 714 Summit Drive
Rachel Moller – 714 Summit Drive
Milly Moller – 714 Summit Drive
Deborah Teixeira – 185 Summit Drive
Tony Molino – 185 Summit Drive
Genevieve Herbranson – 529 Summit Drive
James Terrill – 529 Summit Drive

Ann McKenzie – 665 Summit Drive
Don Roberts – 665 Summit Drive
Meg Roberts – 663 Summit Drive
Will Roberts – 663 Summit Drive
Shanna Kuempel – 98 Summit Drive
Pat Sutliff – 265 Summit Drive
Maureen Huber – 265 Summit Drive
Paul (Daniel) Gutierrez – 511 Summit Drive
Judith Howser – 426 Summit Drive
Tom Howser – 426 Summit Drive
Scott Martin – 343 Summit Drive
Scott Martin – 347 Summit Drive
Christian Harris – 93 Summit Drive
Denby Adamson – 10629 Empire Grade



**MILLER STARR
REGALIA**

1964-2024

Vision. Strategy. Results. 60 Years and Counting.

1331 N. California Blvd.
Suite 600
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrllegal.com

Travis Brooks
travis.brooks@msrllegal.com

February 11, 2025

VIA EMAIL

Honorable Planning Commissioners
County of Santa Cruz
701 Ocean Street
Suite 400
Santa Cruz, CA 95060
c/o Nicholas Brown
Email: Nicholas.brown@santacruzcounty.us

Re: Application Number 221049
Opposition to Appeal of Zoning Administrator Approval of Wireless
Communications Facility at 186 Summit Drive (APN 080-062-02)

Dear Honorable Commissioners:

We submit this letter on behalf of CTI Towers, Inc. (“CTI” or the “Applicant”) in further support of its application to replace an existing approximately 50-year-old unscreened steel telecommunications tower with a modern camouflaged wireless facility at 186 Summit Drive in the County (the “Project”). On January 19, 2024, the Zoning Administrator (“ZA”) approved the Project, finding that it was categorically exempt from review under the California Environmental Quality Act (“CEQA”). On March 27, 2024, after a public hearing, the Commission requested additional information to confirm that the site of a recently approved HAM radio tower on Patrick Road is not a less intrusive, technically feasible alternative to close AT&T’s identified service coverage gap. The Commission also directed staff to prepare an initial study / mitigated negative declaration (“IS/MND”) to determine whether Project would have a significant effect on the on the environment. These materials have been provided and confirm the Project proposes the least intrusive means of closing AT&T’s service coverage gap and the record *does not* include substantial evidence in the record that would give rise to a fair argument that the Project would result in significant environmental impacts. As a result, federal law – especially the Federal Telecommunications Act of 1996 (the “Act”) –, state law, and the County Code direct the Commission to reject the instant appeal, uphold the Zoning Administrator’s approval of the Project, and adopt the IS/MND.

Since the last Planning Commission hearing, the Applicant has provided an “apples-to-apples” comparison of the Project and a prospective facility on Patrick Road at the tower heights required to close AT&T’s identified service coverage gap at each

CTIT-59382\3042550.1

location. As demonstrated by the attached supplement (**Exhibit A**) to AT&T's Radio Frequency Statement (**Exhibit B**), AT&T would require construction of an entirely new wireless tower at Patrick Road with a centerline of 210 feet to provide the coverage necessary to close AT&T's significant gap in service coverage.¹ This is obviously far higher than the 130-foot centerline needed to achieve AT&T's coverage goals at the Summit Drive location and such a facility would be significantly more visually intrusive than the Applicant is proposing.

I. The Project Is Consistent With The County's Zoning and Wireless Facilities Regulations, Which Mirror Federal Law

As detailed in the staff report, the Project is consistent with the Project site's applicable Rural Residential ("RR") zoning, which allows for the Project at its proposed height with a Height Exception. The Applicant has demonstrated that a Height Exception is appropriate under County Code section 13.10.660(G) because the Project is necessary to close AT&T's identified significant gap in wireless service and it proposes the least obtrusive location and design available to close the significant coverage gap. Consistent with the County Code, the Project proposes the best solution to close AT&T's coverage gap after a comprehensive comparison of alternative sites (including a detailed analysis confirming the infeasibility of installing an alternative facility at the Patrick Road location and four other sites), designs, and technologies. (County Code § 13.10.660(C)(4).)²

The Project is also designed to comply with the siting, aesthetic, and construction requirements set out in County Code section 13.10.660 by: (1) incorporating as much visual screening and new landscaping as possible, (2) utilizing existing foliage and natural features to conceal and integrate the Project into its surroundings, (3) camouflaging its materials, colors, and foliage to mimic the surrounding grove of trees, (4) incorporating a self-supporting monopole that will be narrower and less visually intrusive than the existing un-screened and dated existing steel tower, and (5) by minimizing the visibility of its supporting and adjacent equipment with landscaping and screening.

¹ The newly provided submitted information is in addition to the information and testimony submitted by the Applicant in advance of and during and the three prior hearings in this matter, all of which support the County's denial of the appeal and upholding of the Zoning Administrator's approval of the Project with the adoption of the IS/MND. Our January 18, 2024 letter to the Zoning Administrator is attached hereto as **Exhibit C**. Our March 26, 2024 letter to the Planning Commission is attached hereto as **Exhibit D**.

² Conversely, we note that if AT&T were to apply to develop a wireless facility at Patrick Road at the 210-foot height required to close AT&T's significant gap in wireless coverage, these findings *could not likely* be made because a less-intrusive and technically feasible alternative exists at the Project site.

In sum, substantial evidence in the record supports the Zoning Administrator's approval of the Project as consistent with the County's zoning and wireless facilities regulations.

II. **AT&T Does Not Need To Be The Applicant For The Facility To Benefit From The Protections Of Federal Wireless Laws Nor Qualify For Approval Under the County Code**

As an initial matter, we note that although AT&T is not formally the entitlement applicant for this Project, AT&T *will be* CTI's primary tenant of the facility pursuant to an already executed lease agreement with CTI. AT&T has partnered with CTI on the Project precisely because it has analyzed potential alternative sites in the vicinity and determined that a tower at the Project site, owned by CTI, proposes the least intrusive means at closing their identified significant gap in coverage. Therefore, if the County were to deny the Project, such denial would *indeed* amount to the effective prohibition of wireless services under the Act. Under the Act, *either* CTI or AT&T could then file suit as a result of such prohibition. (See 47 USC § 332 (v) [*"any person adversely affected by any final action or failure to act by a...local government...that is inconsistent with [the Act] may commence an action in any court of competent jurisdiction..."*])

Federal courts routinely allow tower companies to proceed with effective prohibition claims under the Act, even when the wireless coverage at issue is that of a tenant, like AT&T.³ Accordingly, Appellants' claims that somehow CTI is incapable of availing itself of the relevant provisions of the County Code and federal law that direct the County to approve the Project to close gaps in AT&T's service coverage are without merit.

³ See, e.g. *Crown Castle NG W., LLC v. Town of Hillsborough*, 2018 U.S. Dist. LEXIS 134790, *10-11 (N.D. Cal. Aug. 9, 2018) [*"[t]here is no hint in the statute's language that the 'person adversely affected' by the local government's final action also be a person who has been prohibited from providing personal wireless services. That is no doubt why the case law uniformly holds the opposite and why Defendants were unable to cite a single case to support their interpretation of the statute."*]; and *Sun State Towers, LLC v. Cty. Of Coconino*, 2017 U.S. Dist. LEXIS 108474 (D. Ariz. July 13, 2017) (*Quoting 47 USC 332(c)(7)(B)(v)*), held "Nor does the statute distinguish between the providers of wireless services and the providers of infrastructure on which the wireless service providers may rely in providing such services. The statutory reach, thus, in no way is limited to prevent a claim by Sun State.")

III. Because The Project Proposes The “Least Intrusive Means” Of Closing AT&T’s Significant Gap In Service Coverage, The Federal Telecommunications Act Of 1996 (the “Act”) Prohibits The County From Denying The Project

The County’s consideration of the Project is governed by the binding provisions of the Federal Telecommunications Act of 1996 (the “Act”). Recognizing the vital importance of wireless towers for safety, commercial, and personal communications, the Act seeks to improve the quality of telecommunications services to members of the community specifically through the “reduction of the impediments imposed by local governments upon the installation of wireless communications facilities.” (*City of Rancho Palos Verdes v. Abrams* (2005) 544 U.S. 113, 115-16.)

Though local agencies retain their local land use approval authority, the Act provides that the exercise of this authority “shall not prohibit or have the effect of prohibiting the provision of personal wireless services.” (47 U.S.C. § 332 (c)(7)(B).) A local agency can violate the Act causing the “effective of prohibition” of wireless services where it denies a wireless facility after (1) a service provider identifies a significant gap in service coverage, and (2) that the manner in which it proposes to fill the significant gap in services is the least intrusive in relation to the local land use values set out in local regulations. (*T. Mobile USA, Inc. v. City of Anacortes* (2009, 9th Circuit) 572 F.3d 987,996.) In the Ninth Circuit where the County is located, a significant gap exists “wherever a provider is prevented from filling a significant gap in *its own* service coverage”. (*Metro PCS, Inc. v. City of San Francisco*, 400 F.3d 715, 733 (9th Cir. 2005.).

A. AT&T Has Identified a Significant Gap In Service Coverage.

AT&T’s Radio Frequency Statement (“RF Statement” **Exhibit B**), establishes that a significant service gap in 4G LTE exists in the service area “roughly bordered by .7 miles north of Empire Grade and Alba Road to the north, Alba Road to the East, Empire Grade and Pine Flat Road to the south, and ½ mile west of Empire Grade Road to the west.”

Here, the existence of AT&T’s significant gap in service coverage is confirmed by AT&T’s RF Statement, propagation maps, and drive test maps. Federal courts agree that proof of a significant service coverage gap is properly shown via coverage maps prepared using sophisticated engineering tools which AT&T uses to design its wireless network and which – unlike the less accurate online coverage map cited by Appellants – are included in AT&T’s RF Statement.⁴

⁴ See, e.g., *L.A. SMSA Ltd. P’ship v. City of L.A.*, No. 2:16-cv-04954-FLA, 2021 U.S. Dist. LEXIS 160046, *32-33 (C.D. Cal. Aug. 24, 2021); *T-Mobile W. Corp. v. City of Huntington Beach*, Case No. CV 10-2835 CAS, 2012 U.S. Dist. LEXIS 148170, *26 (C.D. Cal. Oct. 10, 2012) (“Coverage Maps and Drive Test Maps provide a reliable method to evaluate whether

As demonstrated in the RF statement, the Project would close AT&T's significant coverage gap, providing critically important wireless infrastructure and reliable service to customers in the underserved area identified by AT&T. The Project would also provide critically important public safety communications infrastructure in the area as AT&T would partner with FirstNet – an independent, federal government entity – which would provide a high-quality spectrum for public safety communications to the area from the Project facility.⁵

IV. A Comprehensive Alternatives Analysis Confirms There Are No Suitable Technically Feasible Alternative Locations That Would Close AT&T's Significant Coverage Gap

The application materials demonstrate that AT&T selected the Project to establish a clear line-of-sight for signals and to provide adequate service coverage in the area. This included a review of five potential alternative locations, none of which offered the technical feasibility, location, or other site conditions necessary to close the service gap.⁶

A. The Patrick Road Site Is Not A Technologically Feasible Alternative And Unlike The CTI Site Would Cause Potential Public View Impacts

The comprehensive alternatives analysis of the Patrick Road site submitted as part of the record confirms the same conclusion that AT&T already made independently in 2020 – the site *is not a feasible location to close its significant gap in service coverage*. Even assuming that AT&T could construct a new facility in this location it would need to construct a facility providing for a wireless centerline height of 210 feet in order to close AT&T's significant gap in wireless coverage.

As discussed on the attached supplemental alternatives analysis prepared by AT&T (**Exhibit A**), as a result of the 30-foot lower elevation, less central location in the

there is a significant gap in coverage [and are] commonly used by radiofrequency engineers and the wireless industry”).

⁵ We note that Appellants' February 6, 2025 correspondence claims that AT&T's online coverage viewer demonstrates that no coverage gap exists. However, as the RF Statement explains, the “Coverage Viewer” only displays approximate coverage, from which actual coverage may vary (which is noted on the website itself). The propagation and drive test maps included as exhibits to the RF Statement - which are more accurate – clearly demonstrate a significant gap in service coverage.

⁶ These include (1) an existing 79' pole operated by Crown Castle GT Company at the Crest Ranch Christmas Tree Farm, (2) a proposed 150-foot tall facility at the Ben Lamond Conservation Camp at 13575 Empire Grade Road, (3) a proposed new 150-foot tower at the Bonny Doon Fire and Rescue Station at 7276 Empire Grade Road; and (4) a 150-foot tower at the same site as a recently approved ham radio tower at Patrick Road. AT&T also inquired about the possibility of locating a facility at a PG&E substation at 333 Robles Drive, however PG&E responded that it would not allow a wireless facility at this property.

coverage gap area, and problematic topography and trees in the vicinity of the Patrick Road site:

a facility with a center line from 130' – 200' does not provide the necessary coverage south along Empire Grade Road to close AT&T's significant service coverage gap.

Therefore:

[a] center line of 210 would be necessary for the Patrick Road candidate to close AT&T's significant service coverage gap and provide comparable coverage to the CTI Tower at a 130' center line. But even then, the CTI Tower with 130' center line would provide better coverage south on Empire Grade.

(AT&T, Further Alternatives Analysis of Patrick Road Candidate Site).

Also, as the supplemental visual simulations prepared by AT&T make clear, a 210-foot facility at Patrick Road would be far more visually intrusive to neighboring properties as it would be highly visible from Empire Grade, a public and scenic roadway.

If that were not enough, from a pure feasibility standpoint, the existing HAM Radio tower on Patrick Road cannot structurally support wireless facilities like that proposed by AT&T. This means that an entirely new tower would need to be constructed at Patrick Road, and it is unclear whether a 210-foot wireless tower could physically be built at the Project site based on underlying soil stability and other physical constraints.⁷

V. Federal Law Prohibits The County From Denying The Project Based On Evidence In The Record

As part of CTI's application, AT&T has clearly demonstrated that the Project proposes the best available and least intrusive means by which AT&T can close its significant service coverage gap. The Project application materials provide a meaningful comparison of alternatives and explain why four other sites in the vicinity, as well as the recently approved HAM radio tower on Patrick Road, are either unavailable or unfeasible. Having established a significant service coverage gap and that the application proposes to close that gap by the least intrusive means, the Applicant has established a *prima facie* showing that denial of its application will amount to an unlawful effective prohibition under the Act. By law, once the application has made

⁷ The Patrick Road site has the same Rural Residential zoning as the Project site. As such we understand that approval of a new wireless tower at Patrick Road would require approval of the same discretionary Commercial Development Permit and Exception to Height as required by the instant project. This approval process would likely be at least as controversial as the existing Project, which is less aesthetically intrusive.

that showing, the County must either accept it or offer an available and feasible alternative that is less intrusive than AT&T's proposed facility. In *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987 (9th Cir. 2009), the United States Court of Appeals for the Ninth Circuit explained the Applicant's and the County's respective burdens of proof for an effective prohibition claim:

As we have previously indicated, the provider has the burden of showing that the denial of its proposal will effectively prohibit the provision of services. *Sprint [Telephony PCS, L.P. v. County of San Diego]*, 543 F.3d 571, 579 (9th Cir. 2008) (en banc). A provider makes a prima facie showing of effective prohibition by submitting a comprehensive application, which includes consideration of alternatives, showing that the proposed WCF is the least intrusive means of filling a significant gap. A locality is not compelled to accept the provider's representations. **However, when a locality rejects a prima facie showing, it must show that there are some potentially available and technologically feasible alternatives.** The provider should then have an opportunity to dispute the availability and feasibility of the alternatives favored by the locality.

City of Anacortes, 572 F.3d at 997-98 (Emphasis added).

Because the Project application has made the showing required by *City of Anacortes*, as the Ninth Circuit explained, if the county does not accept CTI and AT&T's analysis, then the County "must show that there are some potentially available and technologically feasible alternatives." (*Id.* at 998.) To meet its burden under *City of Anacortes*, the County needs to identify an alternative that (1) is less intrusive under the County Code, (2) is available, and (3) is technologically feasible. The County has not identified such an alternative, especially with respect to the Patrick Road location which the Applicant reconfirmed is neither feasible to close the gap in coverage nor a less intrusive alternative.

VI. **The IS/MND Confirms That The Record Does Not Contain Substantial Evidence Giving Rise To A Fair Argument That The Project May Result In Significant Environmental Impacts**

The County fully satisfied its obligations to review the Project's potential environmental impacts pursuant to CEQA by preparing the IS/MND, which comprehensively analyzed each potential impact category and determined that with inclusion of a single mitigation measure, the Project would not result in significant environmental impacts.

Courts apply the "fair argument" test when reviewing an agency's decision to adopt a mitigated negative declaration. (See *Brentwood Ass'n for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 503.) Under this test, a public agency must prepare an EIR, rather than a mitigated negative declaration, if substantial evidence

in the record supports a fair argument that a project may have a significant impact on the environment. (*Citizens' Committee to Save our Village v. City of Claremont* (1995) 37 Cal.App.4th 1157, 1168 ("Citizens' Committee").) CEQA is "to be interpreted in such a manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Ca1.3d 376, 390, quoting *Friends of Mammoth v. Board of Supervisors* (1972) 8 Ca1.3d 247, 259.) However, "[I]ike all laws, CEQA should be given a reasonable and practical construction." (*Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 592.)

A project opponent bears the burden of proof to demonstrate that substantial evidence exists in the administrative record supporting a fair argument that a project may result in a significant environmental impact. (*Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768, 778 ("Parker").) Whether evidence in the record is sufficient to support a fair argument is a question of law. (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1318.) The lead agency is entitled to the benefit of the doubt on any legitimate, disputed issues of credibility, and has discretion to determine whether "evidence offered by members of the public meets CEQA's definition of substantial evidence." (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928 ("Pocket Protectors").) The law is clear, further, that mere claims that a project will result in certain impacts, or that a mitigation measure is inadequate, do not constitute substantial evidence. This is of course also true with respect to claims that a project will result in impacts, such as private view impacts or otherwise, which are not recognized as potentially significant environmental impacts under the CEQA Guidelines. (*Inyo Citizens* (2009) 180 Cal.App.4th 1, 14; see also *Newtown Preservation Society v. County of El Dorado* (2021) 65 Cal.App.5th 771, 788-91, and *Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 119 Cal.App.4th 477, 492.)

Here, the IS/MND appropriately found that with the incorporation of a single mitigation measure, the Project will not result in a significant impact on the environment. This is not surprising: the Project site is already disturbed and developed, not characterized by sensitive environmental characteristics, would not involve any hazardous substances, and would not result in any recognizable increase in greenhouse gasses, or traffic. The Project would also comply with all applicable County noise standards to ensure it would not result in any significant noise impacts and would *not* be visible from any scenic vistas, scenic corridors, public viewshed areas, or scenic resource areas.

As is very often the case with proposed wireless facilities in California, the record includes several public comments raising concerns regarding the Project's purported aesthetic, economic (i.e. property values), health and safety, and noise impacts.

However, none of these generalized concerns give rise to a fair argument that the Project would result in a significant environmental impact.⁸

A. The Record Lacks The Substantial Evidence Necessary To Support A Fair Argument That the Project Would Have Potentially Significant Aesthetic Impacts

While CEQA requires a local agency to analyze a Project's potential "aesthetic impacts," CEQA is *only* concerned with aesthetic impacts to the *public* scenic vistas, state scenic highways, and *public* vantage points. (CEQA Guidelines Appendix G, Section I; see also *Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 157 Cal.App.4th 885, 900 ["Under CEQA, the question is whether the project will affect the environment of persons in general, not whether a project will affect particular persons".].) Moreover, "the mere possibility of adverse impact on a few people, as opposed to the environment in general," is not sufficient to constitute substantial evidence of an adverse effect. (*Id.* at 900-901.) Potential aesthetic impacts, even in the context of scenic vistas or public views, are often matters of subjective opinion and are heavily context dependent. (*Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, at 599.) Moreover, where a Project is within an area subject to development standards, aesthetic impacts are ordinarily the province of the local design review process, not CEQA. (*Bowman, supra* 122 Cal.App.4th 593.) This local review process can be found to mitigate purely aesthetic impacts to insignificance, "even if some people are dissatisfied with the outcome."

A review of the public comments in the record reveal that those comments regarding the Project's aesthetic impacts are from nearby residents and all allege potential impacts on *private* views from nearby residences or privately owned Summit Drive. As has been made clear by numerous courts and 2019 amendments to the CEQA Guidelines, these private view impacts are *not recognized* by CEQA as potentially significant environmental impacts.⁹ As reflected in the record and visual simulations prepared by the Applicant, the Project would not be visible from scenic vistas or public roadways because of natural camouflage provided by existing hillsides, trees, and foliage. We also note that with respect to any impacts to private views, the Project would in many ways improve the aesthetics of the existing Project site by removing unscreened metal equipment and towers and replacing them with landscaping and a

⁸ As discussed in our prior January 18 and March 26, 2024 correspondence, none of the comments submitted with regard to purported health and safety concerns or noise impacts constitute substantial evidence sufficient to deny the Project under the Act, these general comments also do not give rise to a fair argument of that the Project may result in significant environmental impacts.

⁹ Similarly we note that generalized expressions of concern regarding aesthetics or the effect of on property values fail to meet the substantial evidence threshold necessary to support findings of denial of a wireless facility under the Federal Wireless Telecommunications Act (See, e.g. *California RSA No. 4. V. Madera County*, 332 F.Supp.2d 1291, 1308-09 (E.D. Cal. 2003) (citing *Omnipoint Corp. v. Zoning Hearing Bd.*, 181 F.3d 403, 409 (3d Cir. 1999); *Cellular Telephone Co. v. Town of Oyster Bay*, 166 F.3d 490 (2nd Cir. 1999).)

monopine tower designed to blend in with its surroundings. Unlike the existing facility at the Project site, the Project would include conditions of approval requiring the Applicant to maintain Project landscaping, plants, and screening.

Finally, we note that comments in the record claiming that the Project would have a negative impact on surrounding property values do not relate to any potentially significant impact as recognized by CEQA. (CEQA Guidelines, 14 CCR § 15131 [“economic or social effects of a project shall not be treated as significant effects on the environment...]; *Porterville, supra*, 157 Cal.App.4th 885, at 903 [claimed impact of new homes on existing home values is an economic impact, not a potentially significant environmental impact.])

B. The IS/MND Is Not Required To Account For A Speculative Future Increase In Height Under Section 6409, Which Is Not Part Of The Project Approval Being Sought, And Which Would Be Subject To Its Own Discretionary Approval Process

Appellants’ claims that the IS/MND is defective because it fails to take into account the possibility that the Applicant could at some point in the future request an increase in height pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 also lack merit. The Applicant filed an application seeking approval of a tower at a height of approximately 151 feet to allow for both the AT&T wireless facility and future collocation opportunities. The project approval subject to this appeal is a facility conditioned at 140 feet in height. The IS/MND appropriately analyzed the whole of the Project proposed by the Applicant for approval, which was a wireless facility proposed at 151 feet.

The IS/MND is not required to include in its project description a height increase to 160-170 feet that the Applicant is not seeking, does not presently foresee, and which would require later discretionary approvals subject to CEQA clearance if the Applicant did request them. (See 14 CCR § 15378(a); *Bozung v. LAFCO* (1975) 1975 13 Cal.3d 263, 283 [when examining an activity to determine whether it could affect the physical environment, an agency must consider the entire activity *that is the subject of its approval*.])

If the Applicant were to later decide to apply for an Eligible Facilities Request pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, the Applicant would need to submit a separate eligible facilities request application under Section 13.10.663 of the County Code to do so. Review of this application will require the County to exercise its discretion to determine that such modification would not result in a “substantial change” to the existing facility. Such a review would require an analysis to confirm among other things (1) that the modification would not defeat existing concealment elements of the tower or base station, (2) and would not violate the conditions of the prior approval of the tower or base station designed to hide the facility. This process would confirm that any design elements needed to ensure that

a heightened tower maintain all necessary concealment elements to ensure the facility remains hidden are maintained, included, or added as part of the new proposal. (See *League of California Cities v. Federal Communications Commission* (2024) 118 F.4th 995, 1024-28.) To our understanding, the County uniformly treats approvals of Eligible Facilities Requests as a discretionary approval requiring their own appropriate CEQA clearance.

To the extent Appellants decry their inability under CEQA - either in the instant Application or some speculative future eligible facilities request - to force the County to require the Project or other facilities to be approved at a lower height than required to close a significant gap in service coverage, the Act (and the Middle Class Jobs Relief Act of 2012) would prohibit such measures and they do not need to be considered. "Where a lead agency's discretion already is limited by legal obligations... the scope of environmental review adjusts in relation to the amount of discretion." (*Tiburon Open Space v. County of Marin* (2022) 78 Cal.App.5th 700, 732.) A consequence of this is that where potential mitigation measures or alternatives are in conflict with a local agency's legal obligations outside of CEQA, they are legally infeasible and thus need not be proposed or analyzed. (*Id.* [internal citations omitted].) Therefore, while the County may consider necessary design changes to ensure a future facilities request maintains the concealment elements and camouflaging necessary to minimize the facility's aesthetic impacts, the County would not be able to consider any mitigation measures or alternatives requiring the Project to be built at a height lower than federal law requires the County to Approve. This same reasoning extends to the instant application, which has established that pursuant to the Act, the County is obligated to approve a facility with a 130-foot centerline (140 feet total) to close AT&Ts service coverage gap.

Finally, we note that even if the County were obligated to analyze the potential impacts of a speculative future eligible facilities request – which it is not – the resulting height increase would still not be visible from any public roadways, scenic vistas, or other public vantage points. In other words even at a height 160-165 feet, the visual simulations provided by the Applicant indicate that such a heightened facility would *still not be visible* from Empire Grade Road or other public vistas. This is due largely to the existence of tall trees and hillsides which significantly obstruct the view of any facility at the Summit Drive location from the roadways below.

To conclude, the Appellants have failed to point to substantial evidence in the record giving rise to a fair argument that the Project may have significant impacts. The Appeal must be denied and the County should adopt the IS/MND.

VII. Conclusion

We appreciate County staff's time and attention to this matter and look forward to working to bring this important wireless and emergency communications facility to the community. As the staff report sets out in detail, the Appeal should be denied in its entirety. We look forward to attending and participating in the hearing on Wednesday.

Very truly yours,

MILLER STARR REGALIA

Travis Brooks

Travis Brooks

TZB:kli

Attachments: Exhibits A-D

cc: Sheila McDaniel, Santa Cruz County Planning Department, Sheila.McDaniel@Santacruzcountyca.gov
Justin Graham, Esq. Assistant County Counsel, Justin.Graham@santacruzcountyca.gov,
Natalie Kirkish, Esq., Assistant County Counsel, Natalie.Kirkish@santacruzcountyca.gov

EXHIBIT A



Young Suh
5005 Executive Pkwy
San Ramon CA 94583

Further Alternatives Analysis of Patrick Road Candidate site

Analysis of Obstructions at Patrick Road Candidate Site Impeding Service Coverage

- At 140' center line, trees start to block 0.1 mi away and terrain starts to block 0.35 mi away from Patrick Road tower, along south of Empire Grade.
- At 180' center line, trees start to block 0.3 mi away and terrain starts to block 1.45 mi away from Patrick Road tower, along south of Empire Grade.
- At 200' center line, trees start to block 0.9 mi away and terrain starts to block 1.46 mi away from Patrick Road tower, along south of Empire Grade.

A facility at the Patrick Road candidate site with a center line from 130' – 200' does not provide the necessary coverage along south of Empire Grade Road to close AT&T's significant service coverage gap.

With regard to the Patrick Road candidate site, a facility with a 210' center line, trees start to block 0.92 mile away and terrain starts to block 1.55 mi. away from Patrick Road tower, along Empire Grade to the south. Facility at Patrick Road candidate site with a 210' center line provides good coverage comparable to CTI Tower, but CTI Tower at 130' center line provides better coverage along south of Empire Grade.

At the CTI Tower with a 130' center line, path is cleared until 1.30 mile. Trees start to block 1.10 mile away (1.10 mile from CTI tower + 0.2 mile to Patrick Road tower), and terrain starts to block at 1.46 mi (1.26 from CTI tower + 0.2 mile to Patrick Road tower), along south of Empire Grade. CTI tower at 130' center line provides better coverage along south of Empire Grade and thus provides the necessary coverage to close AT&T's significant coverage gap.

Therefore, a center line of 210' would be necessary for the Patrick Road candidate to close AT&T's significant service coverage gap and provide comparable coverage to the CTI Tower at 130' center line. But even then, the CTI Tower with 130' center line would provide better coverage south of Empire Grade.

EXHIBIT B

AT&T Mobility Radio Frequency Statement
186 Summit Dr., Santa Cruz, CA 95060

AT&T has experienced an unprecedented increase in mobile data use on its network since the release of the iPhone in 2007. AT&T estimates that since introduction of the iPhone in 2007, mobile data usage has increased 470,000% on its network. AT&T forecasts its customers' growing demand for mobile data services to continue. In 2022, wireless data traffic increased to 73.7 trillion megabytes, a 38% increase from 2021, and is expected to increase 58 gigabytes per smartphone per month on average (4x current usage) by 2028. The increased volume of data travels to and from customers' wireless devices and AT&T's wireless infrastructure over limited airwaves — radio frequency spectrum that AT&T licenses from the Federal Communications Commission.

Spectrum is a finite resource and there are a limited number of airwaves capable and available for commercial use. Wireless carriers license those airwaves from the FCC. To ensure quality service, AT&T must knit together its spectrum assets to address customers' existing usage and forecasted demand for wireless services, and it must use its limited spectrum in an efficient manner.

AT&T uses high-band (i.e., 6 GHz and higher), mid-band (i.e., C-band, 2300 MHz, 2100 MHz, and 1900 MHz) and low-band (i.e., 850 MHz and 700 MHz) spectrum to provide wireless service. Each spectrum band has different propagation characteristics and signal quality may vary due to noise or interference based on network characteristics at a given location. To address this dynamic environment, AT&T deploys multiple layers of its licensed spectrum and strives to bring its facilities closer to the customer. The proposed wireless communications facility at 186 Summit Dr., Santa Cruz (the "Property") is needed to close a coverage gap in 4G LTE service in an area roughly bordered by 0.7 miles north of Empire Grade and Alba Road to the north, Alba Road to the east, Empire Grade and Pine Flat Road to the south, and ½ mile west of Empire Grade Road to the west. This portion of Santa Cruz sits along the Empire Grade to the north of Bonny Doon. Within the coverage gap that would be closed, cell and data service is unavailable along Empire Grade, which sees significant travel of vehicles between the community of Bonny Doon and population centers to the North and East. Cell and data service is also unavailable to several commercial and institutional facilities and dozens of residences.

The service coverage gap is caused by inadequate infrastructure in the area. AT&T currently has existing sites in the broader geographical area surrounding the Property but, as Exhibit 1 illustrates, these existing sites do not provide sufficient 4G LTE service in the gap area. To meet its coverage objectives, AT&T needs a new wireless communications facility in the immediate area of the service coverage gap. Wireless telecommunications is a line-of-sight technology, and AT&T's antennas need to be high enough propagate an effective signal throughout the gap area. To meet its coverage objectives for this gap area, AT&T intends to place its equipment on CTI Towers, Inc.'s replacement stealth wireless telecommunications facility disguised as a 150-foot tall pine tree. Denial of this proposed facility or a reduction in height would materially inhibit AT&T's ability to provide and improve wireless services in this area.

It is important to understand that service problems can and do occur for customers even in locations where the coverage maps on AT&T's "Coverage Viewer" website appear to indicate that coverage is available. As the legend to the Coverage Viewer maps indicates, these maps display approximate coverage. Actual coverage in an area may differ from the website map graphics, and it may be affected by such things as terrain, weather, network changes, foliage, buildings, construction, high-usage periods, customer equipment, and other factors.

It is also important to note that the signal losses, slow data rates, and other service problems can and do occur for customers even at times when certain other customers in the same vicinity may not experience any problems on AT&T's network. These problems can and do occur even when certain customers' wireless phones indicate coverage bars of signal strength on the handset. The bars of signal strength that individual customers can see on their wireless phones are an imprecise and slow-to-update estimate of service quality. In other words, a customer's wireless phone can show coverage bars of signal strength, but that customer will still, at times, be unable to initiate voice calls, complete calls, or download data reliably and without service interruptions due to service quality issues.

To determine where equipment needs to be located for the provisioning of reliable service in any area, AT&T's radio frequency engineers rely on far more complex tools and data sources than just signal strength from individual phones. AT&T uses industry standard propagation tools to identify the areas in its network where signal strength is too weak to provide reliable service quality. This information is developed from many sources including terrain and clutter databases,

which simulate the environment, and propagation models that simulate signal propagation in the presence of terrain and clutter variation. AT&T designs and builds its wireless network to ensure customers receive reliable in-building service quality. This level of service is critical as customers increasingly use their mobile phones as their primary communication devices. According to the Center for Disease Control and Prevention (CDC), more than 83% of California adults, and more than 98% of Californians under age 18, rely exclusively or primarily on wireless communications in their homes. And California households rely on their mobile phones to do more (E911, video streaming, GPS, web access, text, etc.). In fact, California reported to the FCC that there were more than 23.2 million wireless calls and 95,539 texts to 911 in 2021 (the most recent year for state level data).

The proposed facility at the Property is also a part of AT&T's commitment to supporting public safety through its partnership with FirstNet, the federal First Responder Network Authority. Conceived by the *9/11 Commission Report* as necessary for first responder communications, Congress created the federal First Responder Network Authority, which selected AT&T to build and manage FirstNet, the first-ever nationwide first-responder wireless network. The proposed facility will provide new service on Band 14, which is the nationwide high-quality spectrum set aside by the U.S. government for public safety. Deployment of FirstNet in the subject area will improve public safety by putting advanced wireless technologies into the hands of public safety agencies and first responders.

Exhibit 1 to this Statement is a map of the existing 4G LTE service coverage (without the proposed installation at the Property) in the area at issue. It includes 4G LTE service coverage provided by other existing AT&T sites. The green shaded areas of the map depict acceptable in-building coverage. In-building coverage means customers are able to place or receive a call on the ground floor of a building. The yellow shaded areas depict areas within a signal strength range that provide acceptable in-vehicle service coverage. In these areas, an AT&T customer should be able to successfully place or receive a call within a vehicle. The blue and white shading depicts areas within a signal strength range in which a customer might have difficulty receiving a consistently acceptable level of service. The quality of service experienced by any individual customer can differ greatly depending on whether that customer is indoors, outdoors, stationary, or in transit. Any area in the yellow, blue, or white category is considered inadequate service coverage and constitutes a service coverage gap.

AT&T conducted a drive test to measure actual signal strength in the area. Exhibit 2 provides the drive test results, which validate the significant service coverage gap depicted in Exhibit 1.

Exhibit 3 is a map that predicts 4G LTE service coverage based on signal strength in the vicinity of the Property if the proposed facility is constructed as proposed in the application. As shown by this map, constructing the proposed facility at 150 feet with a 140 foot center line (CL) closes this significant service coverage gap. Exhibit 4 shows the predicted coverage with a slightly lower CL of 130 feet instead of 140 feet. We are expecting to be able to cover Conifer Lane to the south with at least the Outdoor-Coverage service level. The 130 foot CL would be the lowest we would accept for a suitable design at this location.

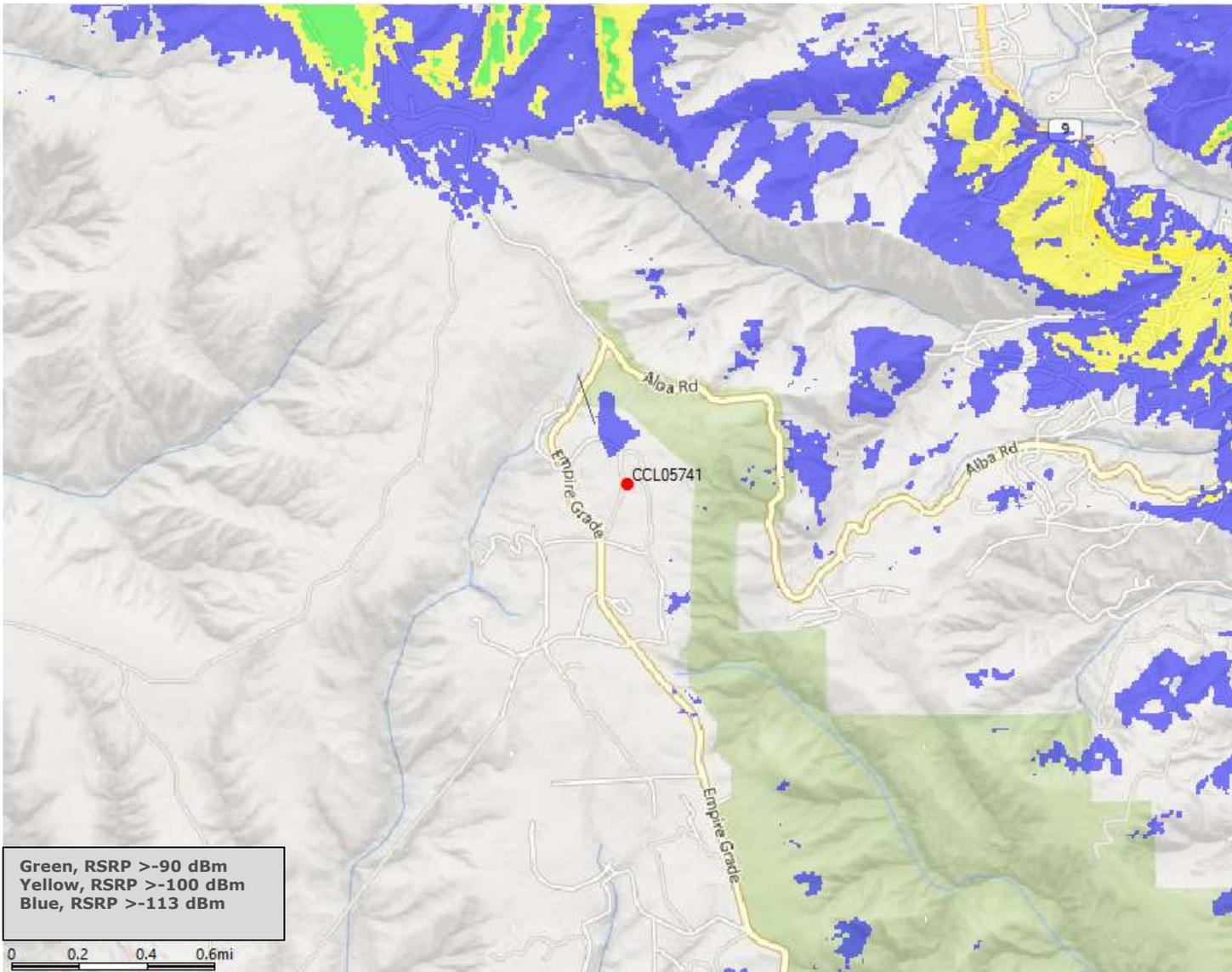
Exhibits 5 (120 feet) and 6 (110 feet) show that those respective lower tower heights at the proposed location would not close AT&T's significant service coverage gap. And Exhibit 7 demonstrates that a replacement tower at the Patrick Road location (the existing HAM radio tower would likely not support collocation) also would not close AT&T's significant service coverage gap. Exhibit 8 illustrates the comparison between the proposed tower and the Patrick Road location.

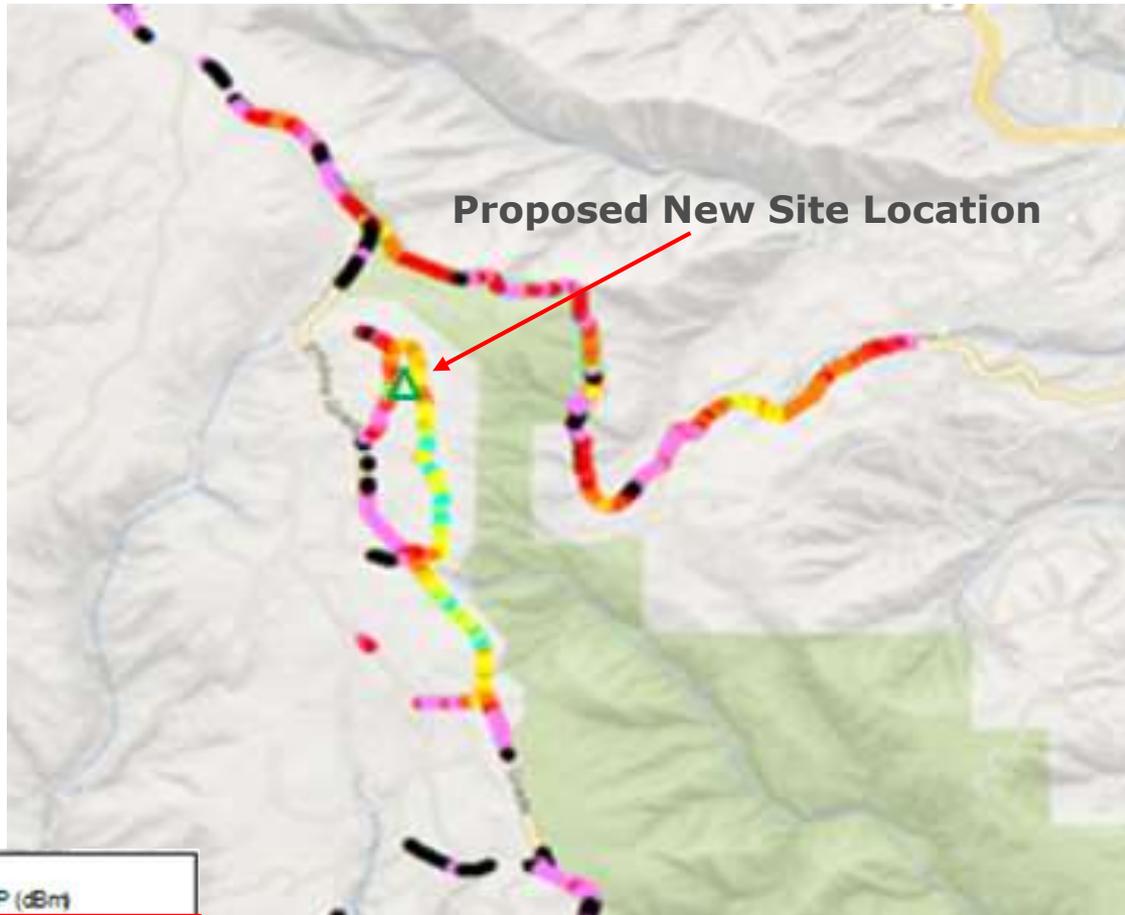
My conclusions are based on my knowledge of the Property and with AT&T's wireless network, as well as my review of AT&T's records with respect to the Property and its wireless telecommunications facilities in the surrounding area. I have a Bachelor of Science Degree in Electrical and Electronic Engineering from California State University Sacramento and have worked as an engineering expert in the wireless communications industry for more than 23 years.

/s/ James Temple
James Temple
AT&T Mobility Services LLC
Network, Planning & Engineering
RAN Design & RF Engineering
November 2023

Existing LTE 700 Coverage

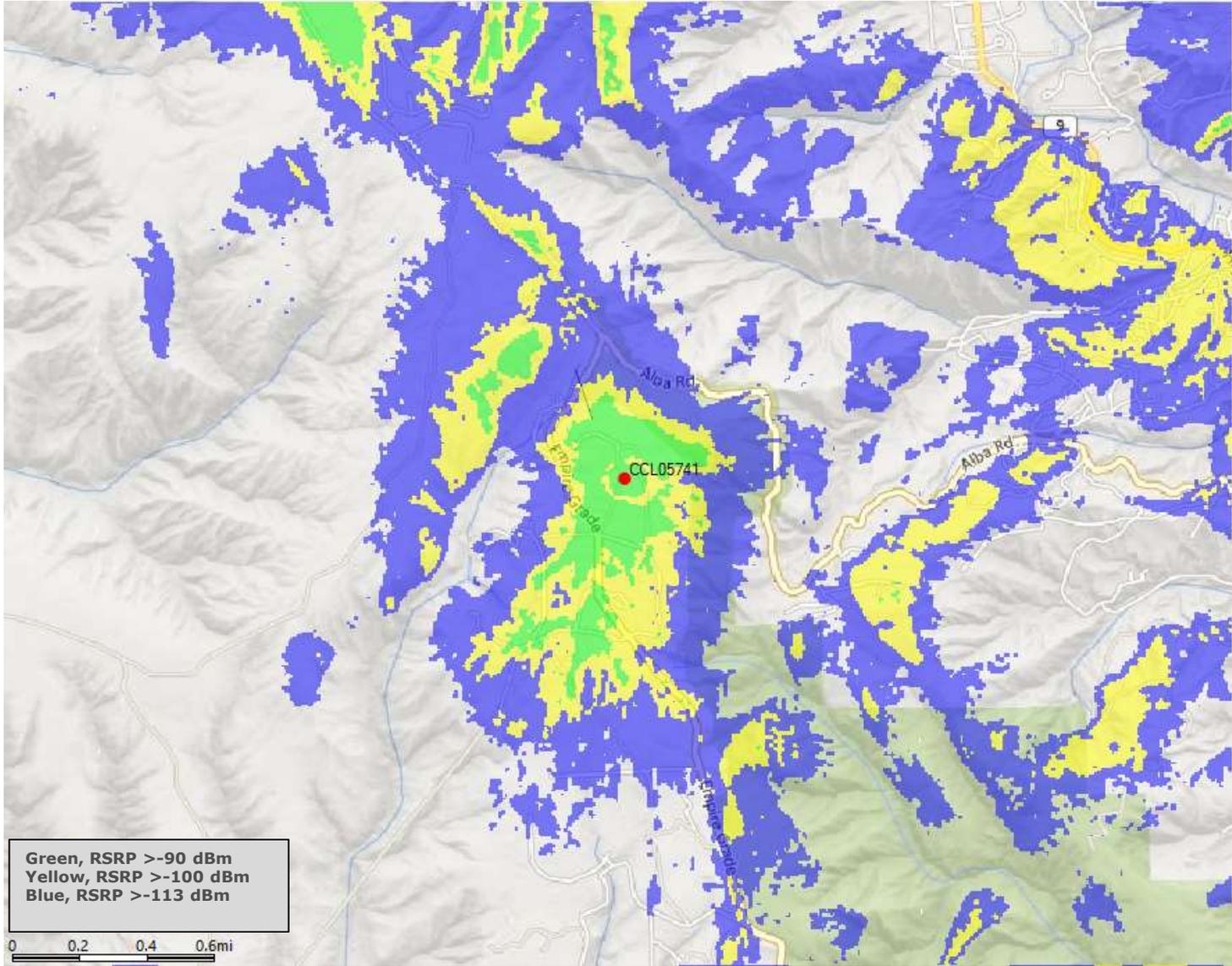
Exhibit 1





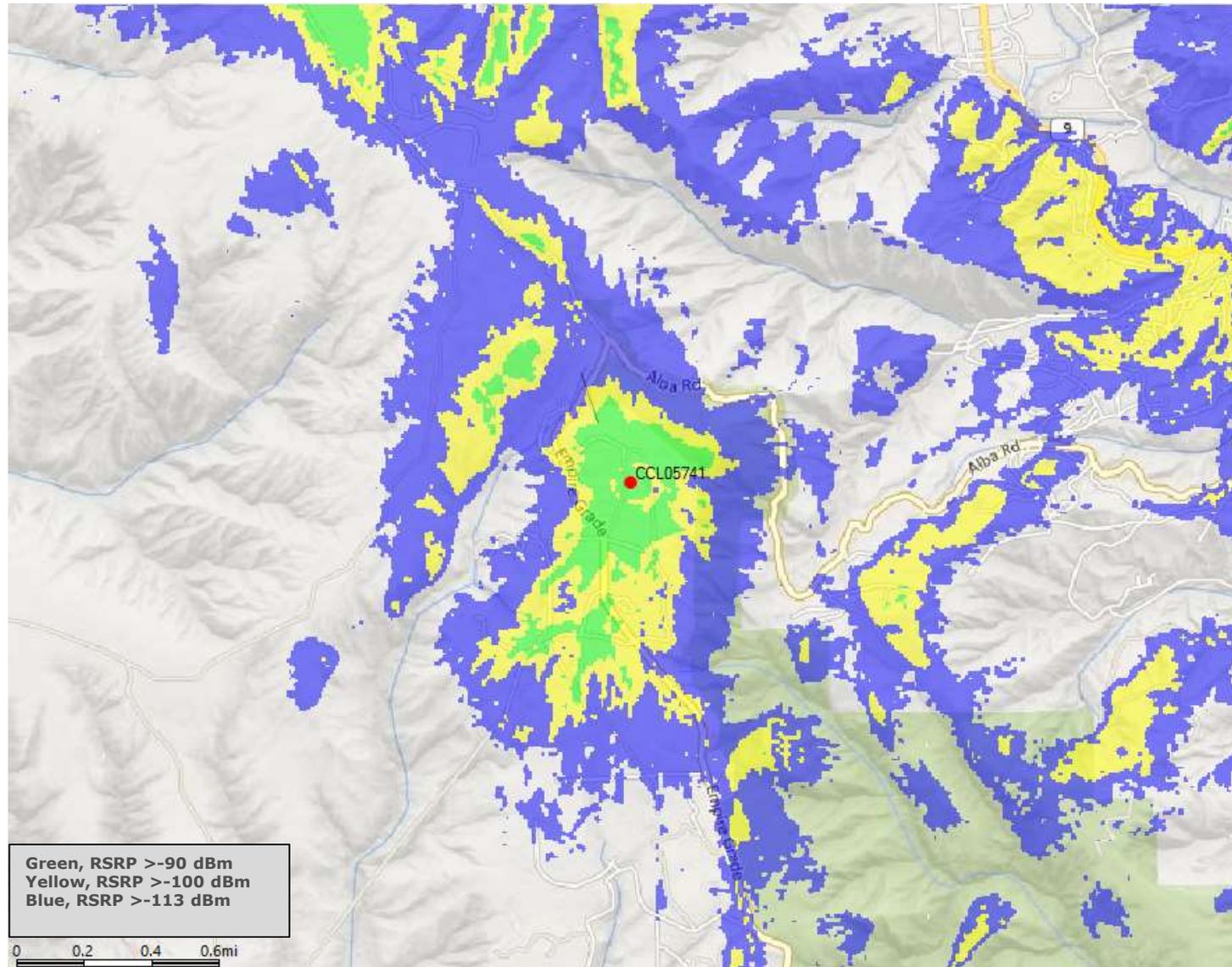
UE1-LTE_UE_RSRP (dBm)	
● Below -124.00 (376) 13.6%	
● ≥ -124.00 to < -118.00 (588) 21.3%	
● ≥ -118.00 to < -115.00 (301) 10.9%	
● ≥ -115.00 to < -110.00 (415) 15.0%	
● ≥ -110.00 to < -105.00 (513) 18.5%	
● ≥ -105.00 to < -95.00 (250) 9.0%	
● ≥ -95.00 to < -85.00 (33) 1.2%	
● Above -85.00 (291) 10.5%	

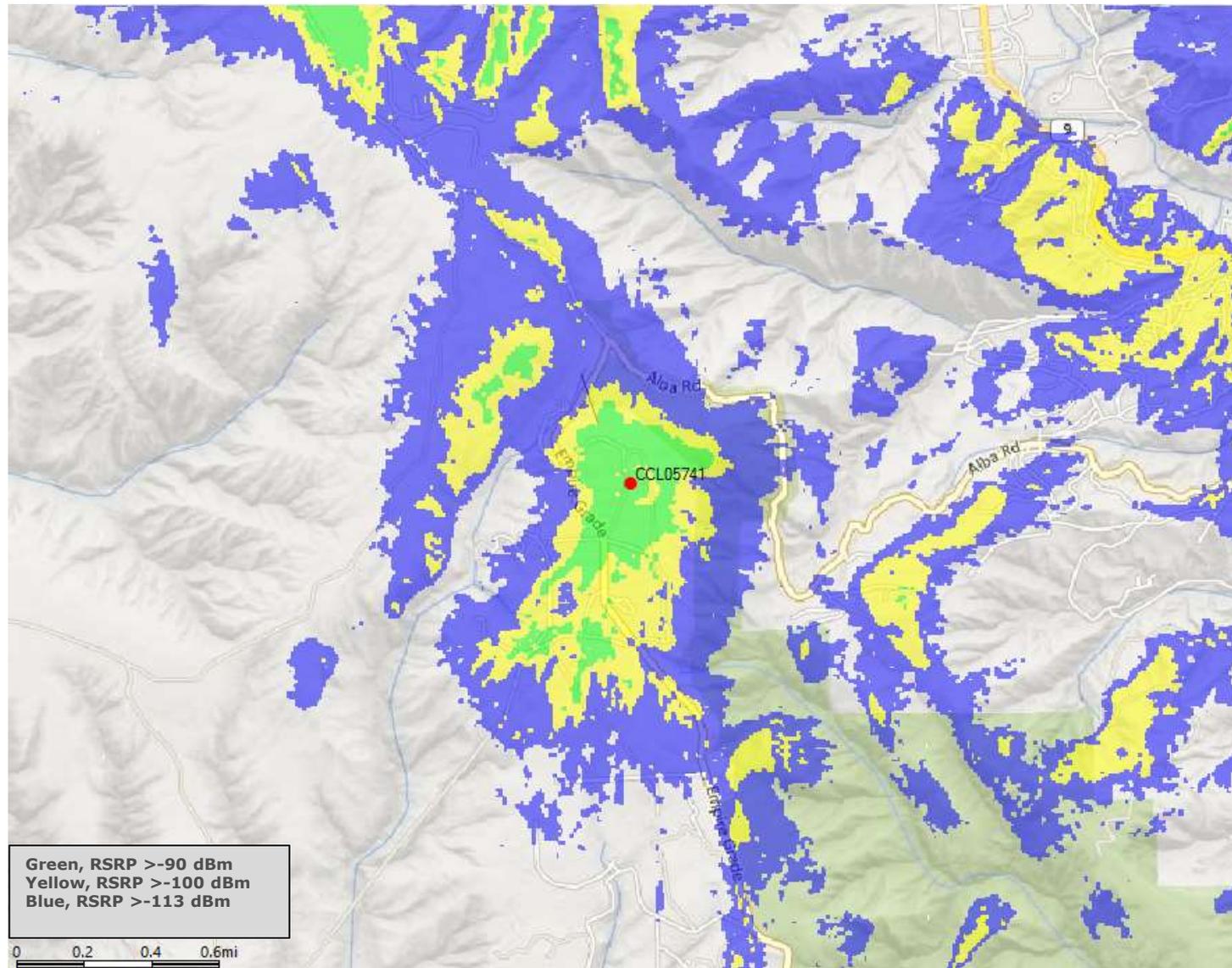
Signal levels inside red box considered to be very weak and constitute an indoor-service coverage gap

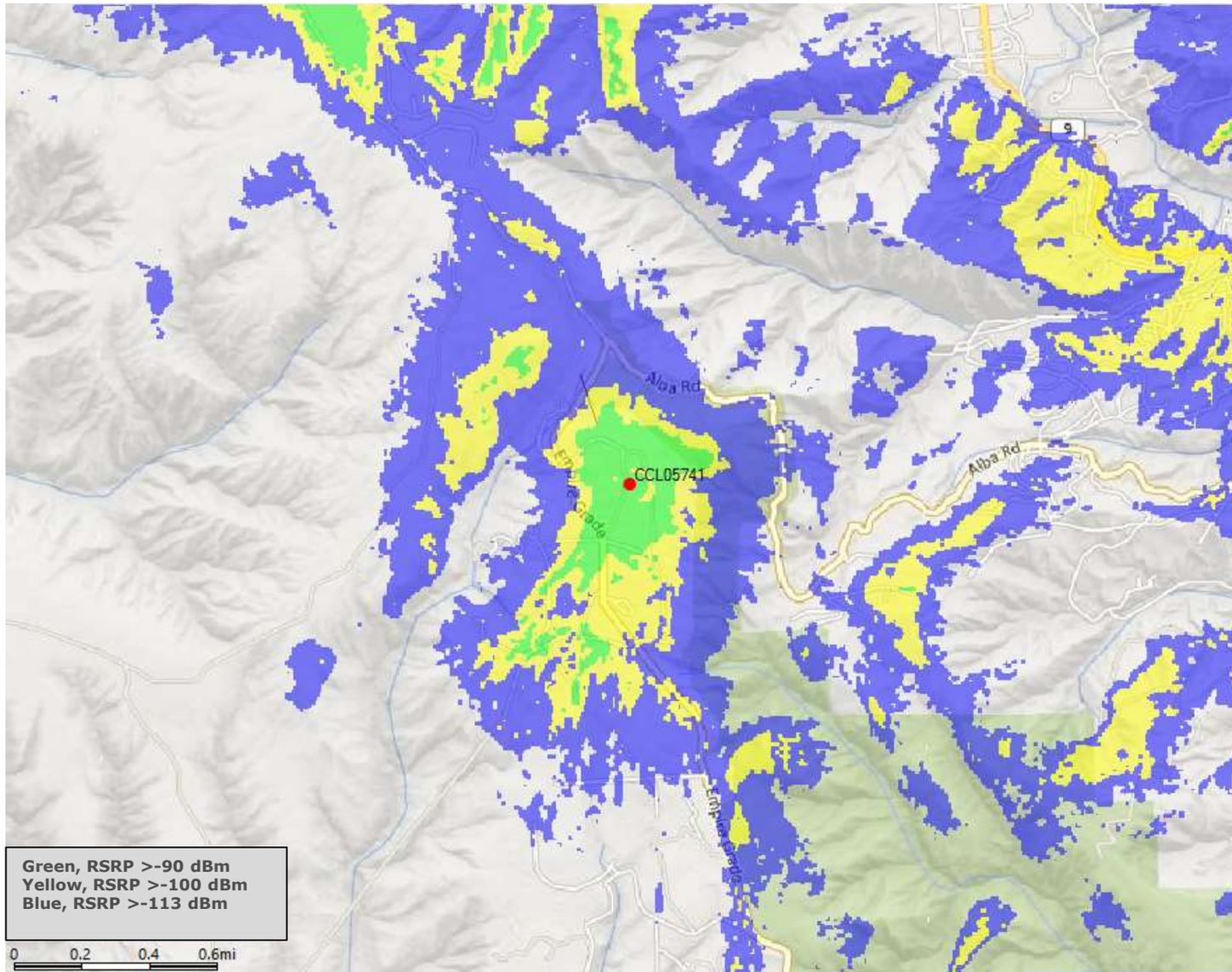


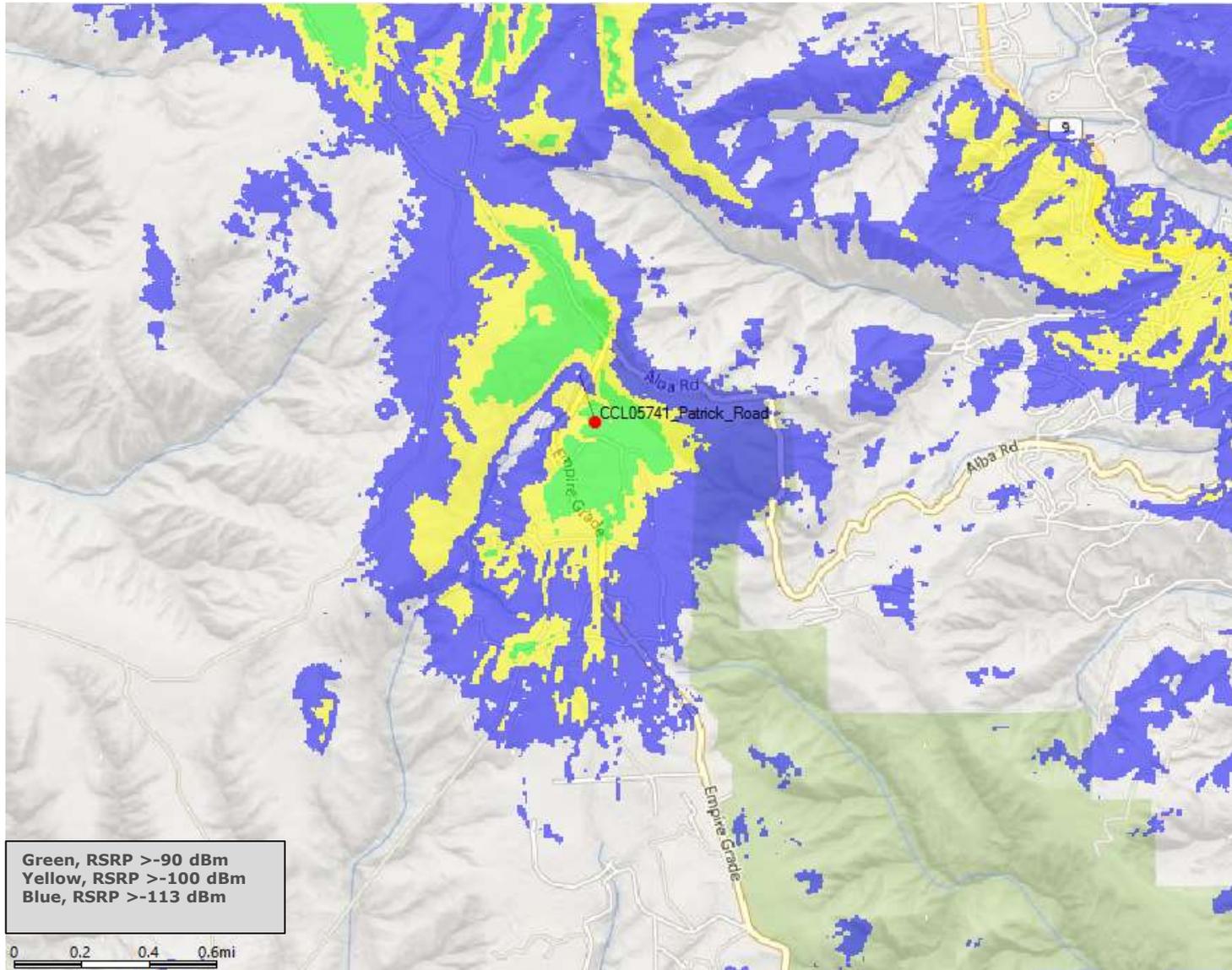
Legend

- Reliable Service Indoors/Outdoors
- Reliable Coverage in Transit, Reliable Coverage Less Reliable
- Reliable Coverage Outdoors Only, Indoor Coverage Less Reliable
- Existing site
- Proposed site



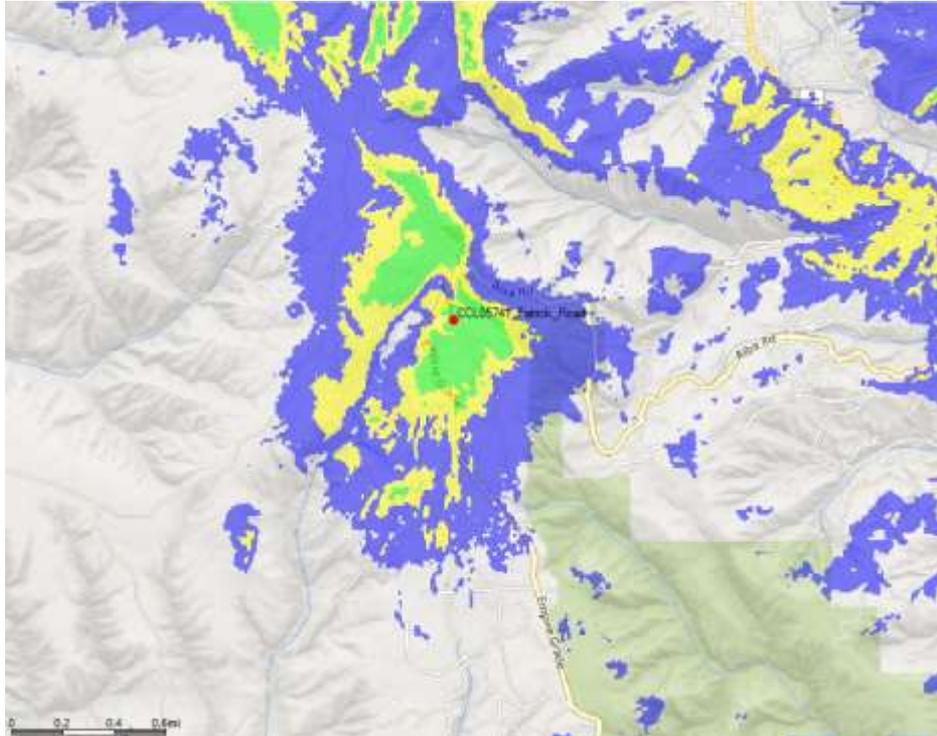
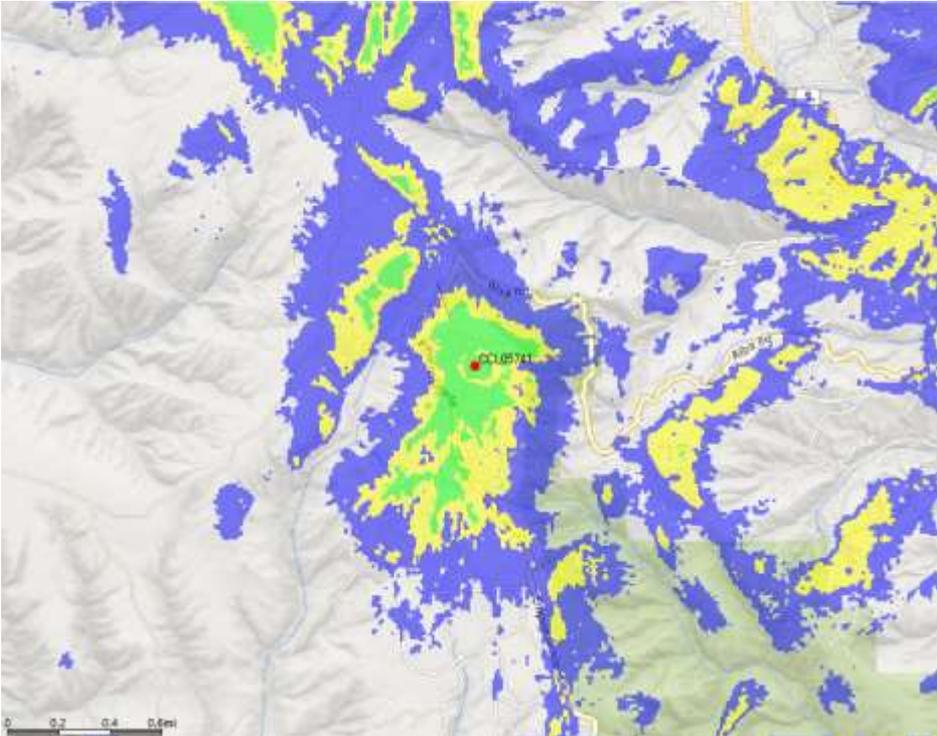






CTI Tower CL @ 140' vs. Patrick Road CL 140' LTE 700 Coverage

Exhibit 8



Green, RSRP >-90 dBm
Yellow, RSRP >-100 dBm
Blue, RSRP >-113 dBm

Legend

- █ Reliable Service Indoors/Outdoors
- █ Reliable Coverage in Transit Indoors Coverage Less Reliable
- █ Reliable Coverage Outdoors Only Indoors Coverage Less Reliable
- Existing site
- Proposed site

EXHIBIT C



**MILLER STARR
REGALIA**

1331 N. California Blvd.
Suite 600
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrlgal.com

Travis Brooks
travis.brooks@msrlgal.com

January 18, 2024

VIA EMAIL

Jocelyn Drake
Zoning Administrator
County of Santa Cruz
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060
c/o Fernanda Dias Pini
Fernanda.DiasPini@santacruzcountyca.gov

Re: Wireless Communication Facility, 186 Summit Drive, Santa Cruz, CA 95060
Application No. 221049 (APN 080-62-02); Agenda Item 4

Honorable Zoning Administrator Drake:

We write on behalf of CTI Towers, Inc. ("CTI" or the "Applicant") in advance of the continued hearing on its application to construct a wireless communication facility at 186 Summit Drive in the County (the "Project"). The Project would replace an aged guyed tower with a monopine tower constructed and operated in compliance with modern building and safety standards. Unlike the existing tower, the Project is designed to blend in as much as possible with its surroundings and it incorporates design components tailored to respond to feedback from the County and community members.

As detailed below, the proposed Facility is needed to close a significant gap in wireless coverage identified by AT&T Wireless, CTI's primary tenant at the Project. As the now supplemented administrative record reflects, the Project proposes the least intrusive means of closing this gap in coverage. This conclusion is supported by detailed analyses of alternative tower locations (including the site of a recently approved HAM radio tower on Patrick Road), alternative tower heights, and alternative wireless technologies and other information included in the administrative record. Substantial evidence in the record supports staff's proposed findings of approval and the federal Telecommunications Act of 1996 requires County approval of the Project.

Again, we appreciate staff's hard work in preparing the staff report and supporting materials. We respectfully request that the Zoning Administrator accept staff's recommendation and approve the Project, but at a height of 150 feet as requested,

which would allow for future collocation opportunities and provide AT&T with better wireless coverage to close its coverage gap.

I. The Project

CTI proposes to replace an approximately 50-year-old wireless tower and satellite dish with a 150-foot monopine tower that meets modern building and safety standards. After feedback from the public and the Zoning Administrator, the Applicant spent the last several weeks modifying Project designs to remove branching from the lower 85-foot portion of the tower and added bark coloration that more closely resembles surrounding trees. The Project would replace a dated, unscreened, uncamouflaged metal tower and accessory structures with a tree-like structure with new tree plantings, a landscaping plan, and screening to minimize visual impacts. Conditions of approval would require the Applicant to maintain Project landscaping and screening to minimize the Project's aesthetic impacts for years to come.

The Project is consistent with applicable Rural Residential ("RR") zoning, which allows for construction of wireless communication facilities with a Commercial Development Permit. Because the proposed facility will exceed 75 feet in height, the Applicant is also requesting a Height Exception pursuant to County code section 13.10.660(G)(1). The findings for a height exception can be made because the Project is necessary to close AT&T's significant gap in coverage and proposes the least visually obtrusive and best means for the community (i.e. least intrusive) to do so. The Project would also comply with the siting requirements in County Code section 13.10.660(E) by incorporating as much visual screening as possible, utilizing existing foliage and natural features to conceal and integrate the Project into its surroundings, and by camouflaging its appearance to mimic existing trees.

II. Federal Law Constrains The County's Ability To Deny The Project

In addition to meeting applicable local requirements, approval of the Project is required by key federal laws that govern local agency regulation of wireless facilities. The federal Telecommunications Act of 1996 (the "Act") is intended to "promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers...." The Act furthers these goals in part through the "reduction of the impediments imposed by local governments upon the installation of wireless communications facilities." (See *City of Rancho Palos Verdes v. Abrams* (2005) 544 U.S. 113, 115-16.)¹

¹ U.S. Supreme Court notes, "Congress enacted the Telecommunications Act of 1996 (TCA), 110 Stat. 56, to promote competition and higher quality in American telecommunications services and to encourage the rapid deployment of new telecommunications technologies....One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers."

The Act provides that a local agency can only “deny a request to place, construct, or modify personal wireless facilities” if such denial is supported by “substantial evidence contained in a written record.” (47 U.S.C., § 332(c)(7)(B)(iii).) This means that a local agency’s decision must be “authorized by applicable local regulations and supported by a reasonable amount of evidence.” (*T-Mobile USA Inc. v. City of Anacortes*, 572 F.3d 987, 995 (9th Cir. 2009).)

While the Act preserves local government authority over the placement and construction of wireless facilities, exercise of such local authority “shall not prohibit or have the effect of prohibiting the provision of personal wireless services.” (47 U.S.C., § 332(c)(7)(B).) Courts have found that an “effective prohibition” on the provision of wireless services occurs where a local agency denies approval of a wireless facility after a provider demonstrates (1) a significant gap in service coverage and (2) that the manner in which it proposes to fill the significant gap in services is the least intrusive in relation to the land use values set out in local regulations. (*City of Anacortes, supra* at 572 F.3d 997-8.)² Under *Metro PCS, Inc. v. City of San Francisco*, 400 F.3d 715, 733 (9th Cir. 2005), the significant gap prong is satisfied “whenever a provider is prevented from filling a significant gap in *its own* service coverage.” (Emphasis in original).³

As discussed below and reflected in the administrative record, AT&T has provided more than substantial evidence that it has a significant coverage gap in the coverage gap area. Substantial evidence also demonstrates that no less intrusive locations or means are available to close the identified coverage gap.

III. A Significant Gap In Wireless Coverage Exists

As discussed in detail on AT&T’s Radio Frequency Statement (“RF Statement”, attached hereto as **Exhibit A**), AT&T identified a significant service gap in 4G LTE service in an area “roughly bordered by .7 miles north of Empire Grade and Alba Road to the north, Alba Road to the East, Empire Grade and Pine Flat Road to the

² The County essentially codified these standards in County Code sections 13.10.660(C)(4) and (G) with respect to the requirements for approval of height exceptions.

³ In addition to the above, in 2018 the FCC ruled that an effective prohibition occurs whenever the decision of a local agency materially inhibits wireless services. The FCC explained that the “effective prohibition analysis focuses on the service the provider wishes to provide, incorporating the capabilities and performance characteristics it wishes to employ, including facilities deployment to provide existing services more robustly, or at a better level of quality, all to offer a more robust and competitive wireless service for the benefit of the public.” (See *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order*, FCC 18-133 (September 27, 2018) (“*Infrastructure Order*”) at ¶¶ 34-42) Thus, a local government “could materially inhibit service in numerous ways – not only by rendering a service provider unable to provide existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services.” (*Id.* at ¶ 37.)

south, and ½ mile west of Empire Grade Road to the west.” This area includes large portions of Empire Grade, a well-traveled roadway for vehicles travelling between the Bonny Doon community and population centers to the North and East. The coverage gap area also includes several dozen residences and many commercial and institutional facilities.⁴

The Project would close AT&T’s significant coverage gap by adding critically important wireless infrastructure that would provide customers reliable service, in a large area where there is currently no service. The Project would also allow AT&T to support public safety in the area by partnering with FirstNet to provide emergency communication service. This is the nationwide accepted high-quality spectrum for public safety communications.

IV. The Project Is The Least Intrusive Means Of Closing The Significant Gap In Coverage

Substantial evidence in the record demonstrates that: (1) the Project site is the least intrusive means to close AT&T’s significant coverage gap; (2) that the Project’s proposed 150-foot height is necessary to close the coverage gap and allow for colocation opportunities; and (3) that alternative technologies like small cells are not the appropriate alternative to close AT&T’s coverage gap.

A. AT&T Confirmed That No Suitable Alternative Locations Would Close Their Significant Coverage Gap

Recently supplemented application materials demonstrate that AT&T worked hard to carefully select the Project to maintain a sufficient clear line-of-sight for signals to provide adequate service coverage to the gap area. As indicated in the alternatives analysis included in CTI’s application, AT&T analyzed three sites in the vicinity and determined that neither would close the identified coverage gap: (1) an existing 79’ pole operated by Crown Castle GT Company, LLC at the Crest Ranch Christmas Tree Farm; (2) a proposed new 150-foot pole facility at the Ben Lamond Conservation Camp at 13575 Empire Grade Road; and (3) a proposed new 150-foot tower at the Bonny Doon Fire and Rescue Station at 7276 Empire Grade Road. None of these locations offered the centralized location or site conditions necessary to close the coverage gap.

The record also now includes a detailed analysis by AT&T confirming the infeasibility of locating its wireless facilities on the site of a recently approved HAM radio tower on Patrick Road. As indicated on Exhibits 7 and 8 to the RF Statement, locating the Project at a 140-foot height centerline at Patrick Road would still leave

⁴ Some opposition comments rely on AT&T’s “Coverage Viewer” on its website to argue that no coverage gap exists. However, as the RF Statement explains, the “Coverage Viewer” only displays approximate coverage, from which actual coverage may vary. On the other hand, the propagation and drive test maps included as exhibits to the RF Statement provide a more accurate depiction of actual coverage gaps in the vicinity of the Project.

a significant gap in coverage south on Empire Grade and in the southeastern portion of the coverage gap area.⁵

B. A Height Of 150 Feet Is Necessary To Close AT&T's Coverage Gap And Allow For Future Collocation Opportunities

As demonstrated in the RF Statement and Exhibits 5 and 6 thereto, AT&T requires a center line height of no less than 130 feet, though 140 feet is its preferable center line height to close its significant coverage gap; a 140-foot centerline height would provide a significant improvement in closing the coverage gap for a meaningfully larger population, which would better attain AT&T's objectives. When accounting for the additional, approximately 10 feet of pole structure to the canopy of the monopine needed, this requires a total facility height of 140 to 150 feet to account for a 130- or 140-foot centerline height. A lower centerline height of 110 or 120 feet would fail to provide coverage in the concentrated residential areas in the southern part of the service gap and along Conifer Lane and would not attain AT&T's coverage objectives.

A tower height of 150 feet (allowing for 140 feet centerline height at the top of the monopole) is necessary to allow for collocation of future carriers at the Project and provide optimal coverage to AT&T. Like AT&T, other carriers are likely to require a centerline height of at least 130 feet to provide wireless service to the area. Accordingly, for the County to implement its policy of requiring collocation of carriers at existing facilities, the County should approve the Project's proposed 150-foot height to allow space for collocation of additional carriers. (See County Code, §§ 13.10.660(E)(1) [requiring new wireless communication facilities to be co-located onto existing facilities]; and 13.10.661(D)(3) [requiring all alternatives analyses to explain why co-location is not proposed at existing wireless facilities].)

C. Small Cell And Satellite Systems Would Not Close AT&T's Coverage Gap

Public comments suggest that AT&T should close the identified coverage gap by utilizing small cell or low orbit satellite technology. As the record reflects, none of these alternatives are functionally or technologically feasible.

Regarding small cells, this technology is primarily used in dense urban environments where building density is an issue or where small gaps in coverage exist. In other

⁵ We note that the HAM radio tower approved at Patrick Road likely lacks the design components necessary to support collocation of wireless facilities. (See RF Statement, at 4.) Before construction of the HAM radio tower, AT&T independently assessed the suitability of the Patrick Road site for a similar facility to the Project in 2020. It decided not to move forward with a facility at Patrick Road because of the lack of ability to close coverage gaps.

words, small cell technology is designed to improve wireless coverage capacity, not coverage -small cells are not a replacement for macro sites like the Project, which are the fundamental building blocks needed to provide coverage where large gaps exist as in the coverage gap area. (See “Strengthening Connections Today, While Building for Tomorrow,” AT&T, at p. 4., attached hereto as **Exhibit B**). In addition, small cells are characterized by limited lines of sight with lower power signals that quickly dissipate to weak levels, This is especially true hilly areas and areas with dense foliage, like the identified gap area. Reflecting this, AT&T has found that the use of small cells would provide wireless coverage to a significantly smaller population than would be served by the Project.⁶ Finally, small cells also lack generator backup, meaning they lack functionality in emergencies with power outage. To conclude, for *several* reasons, small cells are not a feasible alternative for AT&T to close its significant gap in coverage.

A comment also suggested the use of low orbit satellite technology to close the significant coverage gap. AT&T does not offer satellite wireless service, thus, satellite wireless service is not a feasible alternative for AT&T to close its significant gap in coverage.

As an independent basis to rule out these purported technological alternatives, a local government may not require deployment of a specific technology – such as small cell or satellite technology - because the Federal Communications Commission has exclusive authority over technical aspects of wireless communications. *N.Y. SMSA Ltd. P’ship v. Town of Clarkstown*, 612 F.3d 97, 105 (2d Cir. 2010) (local government preempted from dictating alternative technology for providing wireless services); *Bennett v. T-Mobile U.S. Inc.*, 597 F.Supp. 2d 1050, 1053 (C.D. Cal. 2008) (FCC has regulated “every technical aspect of radio communication”); *Public Utility Comm’n of Texas Petition for Declaratory ruling and/or Preemption of Certain Provisions of the Texas Public Utility Regulatory Act of 1995*, Opinion and Order, 13 FCC Rcd 3460, ¶¶ 13, 74 (FCC rel. Oct. 1, 1997) (FCC ruled it is unlawful for a state or locality to specify the “means and facilities” through which a service provider must offer services).

V. Generalized Comments Regarding Purported Facility Impacts Are Not A Basis For Denial

As is often the case with proposed wireless facilities, several public comments were provided that raise concerns regarding the Project’s purported aesthetic, property value, safety, and noise impacts. None of these comments provide a lawful basis for the County to deny the Project.

⁶ It should also be noted that the installation of un-screened small cell facilities along area roadways is arguably more visually intrusive than the heavily screened and camouflaged Project, which is set back from public roadways. (See photo simulations included in pages 42-47, and 64-65 of the staff report.)

A. Purported Aesthetic And Property Value Impacts

Some comments raise concerns regarding the Project's purported aesthetic impacts and impacts on property values in the vicinity of the Project. It is important to note that none of these comments account for the fact that the Project would replace an existing unsightly steel tower, satellite dish, and other unscreened objects. Unlike the existing tower, the Project would incorporate foliage, a bark-like monopole, new tree plantings, and landscaping which would screen the Project from view as much as possible.

Comments regarding the Project's supposed impact on surrounding property values fail to take into account the landscaping and increased screening it proposes versus the existing tower. Also, contrary to comments provided regarding property values, California realtor groups have conducted studies that show residential property values are not negatively impacted by proximity to wireless communications towers.⁷

Finally, we note that general concerns about aesthetics are insufficient as a matter of law to support denial of the Project. Courts within the Ninth Circuit and elsewhere have long agreed that general concerns about aesthetics and property values do not constitute substantial evidence to support denial of a permit to install a wireless telecommunications facility.⁸

B. Purported Health And Safety Concerns

Some comments suggest that the Project would pose a fire hazard and others suggest that the Project would pose health risks associated with radio frequency emissions. These claims lack merit and are not a lawful basis to deny the Project.

With regard to fire hazards, no project specific evidence is provided to support claims that the Project poses a fire risk – all that is offered is anecdotal evidence of fires at wireless facilities owned by other operators, in other states, and several years ago. Contrary to such baseless claims, the Project would be constructed of fire resistant materials in strict compliance with modern building and fire standards. Far from posing an increased fire risk, the Project would improve emergency communications in the area allowing for FirstNet service supported by safe and efficient backup generators that would keep the Project operational during power

⁷ See Joint Venture Silicon Valley Network, *Wireless Communications Initiative Study: Wireless Facilities Impact on Property Values* (Nov. 2012)(analyzed property values for over 1,600 single-family homes; concluded "It is quite clear from the data that the distance from a wireless facility has no apparent impact on the value or sale price").

⁸ See, e.g., *California RSA No. 4 v. Madera County*, 332 F.Supp.2d 1291, 1308-09 (E.D. Cal. 2003) (generalized expressions of concern regarding aesthetics or the effect on property values fail to meet the substantial evidence threshold under the Act) (citing *Omnipoint Corp. v. Zoning Hearing Bd.*, 181 F.3d 403, 409 (3d Cir.1999); *Cellular Telephone Co. v. Town of Oyster Bay*, 166 F.3d 490 (2nd Cir. 1999)).

outages. (See November 20, 2023 letter from Kevin R. Nida, Senior Public Safety Advisor with FirstNet to Fernanda Dias Pini, [discussing support for the Project and need for FirstNet communication in the area, which is lacking].)

Concerns regarding health impacts from RF emissions are also unfounded. As detailed in the Hammett & Edison report included in the application materials, the Project would comply with prevailing standards for limiting public exposure to radio frequency. The report concludes that “the highest calculated [RF frequency] levels in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration.” (Hammond & Edison July 6, 2021 RF Exposure Study, at p. 3.) Because the Project will comply with the FCC’s RF exposure standards, the application cannot be denied due to purported environmental effects of radio frequency emissions. (47 U.S.C., § 332(c)(7)(B)(iv).) Moreover, criticisms of the Project that are merely a pretext for health concerns – arguing that property values will be reduced because of proximity to a cell site – are barred by federal law. (See *i.d.*)

C. Purported Noise Impacts

Comments also raise generalized concerns regarding noise created by the Project’s backup generators. Project generators would only be operated during emergencies and power outages and during periodic no load daytime testing. The noise study prepared by Hammett & Edison concludes that operation of the Project’s generators will comply with all applicable County noise standards at the nearest edge of the subject property and at the property line of the nearest receiving property.

VI. Conclusion

We appreciate County’s staff’s time and attention to this matter and look forward to working with the County to bring this important wireless and emergency communications facility to the community. As the staff report and proposed findings of approval lay out in detail, substantial evidence exists to support each of the

findings necessary under the County Code for approval of a Commercial Development Permit and Height Exception for a 150-foot facility. Approval of the Project is also required pursuant to the federal Telecommunications Act of 1996. We look forward to attending and participating in the hearing on Friday.

Very truly yours,

MILLER STARR REGALIA

A handwritten signature in blue ink, appearing to read 'T. Brooks', with a horizontal line extending to the right.

Travis Brooks

Attachments

cc: Sheila McDaniel, Santa Cruz County Planning Department, Sheila.McDaniel@santacruzcountyca.gov
Client

TZB:tzb

EXHIBIT A

AT&T Mobility Radio Frequency Statement
186 Summit Dr., Santa Cruz, CA 95060

AT&T has experienced an unprecedented increase in mobile data use on its network since the release of the iPhone in 2007. AT&T estimates that since introduction of the iPhone in 2007, mobile data usage has increased 470,000% on its network. AT&T forecasts its customers' growing demand for mobile data services to continue. In 2022, wireless data traffic increased to 73.7 trillion megabytes, a 38% increase from 2021, and is expected to increase 58 gigabytes per smartphone per month on average (4x current usage) by 2028. The increased volume of data travels to and from customers' wireless devices and AT&T's wireless infrastructure over limited airwaves — radio frequency spectrum that AT&T licenses from the Federal Communications Commission.

Spectrum is a finite resource and there are a limited number of airwaves capable and available for commercial use. Wireless carriers license those airwaves from the FCC. To ensure quality service, AT&T must knit together its spectrum assets to address customers' existing usage and forecasted demand for wireless services, and it must use its limited spectrum in an efficient manner.

AT&T uses high-band (i.e., 6 GHz and higher), mid-band (i.e., C-band, 2300 MHz, 2100 MHz, and 1900 MHz) and low-band (i.e., 850 MHz and 700 MHz) spectrum to provide wireless service. Each spectrum band has different propagation characteristics and signal quality may vary due to noise or interference based on network characteristics at a given location. To address this dynamic environment, AT&T deploys multiple layers of its licensed spectrum and strives to bring its facilities closer to the customer. The proposed wireless communications facility at 186 Summit Dr., Santa Cruz (the "Property") is needed to close a coverage gap in 4G LTE service in an area roughly bordered by 0.7 miles north of Empire Grade and Alba Road to the north, Alba Road to the east, Empire Grade and Pine Flat Road to the south, and ½ mile west of Empire Grade Road to the west. This portion of Santa Cruz sits along the Empire Grade to the north of Bonny Doon. Within the coverage gap that would be closed, cell and data service is unavailable along Empire Grade, which sees significant travel of vehicles between the community of Bonny Doon and population centers to the North and East. Cell and data service is also unavailable to several commercial and institutional facilities and dozens of residences.

The service coverage gap is caused by inadequate infrastructure in the area. AT&T currently has existing sites in the broader geographical area surrounding the Property but, as Exhibit 1 illustrates, these existing sites do not provide sufficient 4G LTE service in the gap area. To meet its coverage objectives, AT&T needs a new wireless communications facility in the immediate area of the service coverage gap. Wireless telecommunications is a line-of-sight technology, and AT&T's antennas need to be high enough propagate an effective signal throughout the gap area. To meet its coverage objectives for this gap area, AT&T intends to place its equipment on CTI Towers, Inc.'s replacement stealth wireless telecommunications facility disguised as a 150-foot tall pine tree. Denial of this proposed facility or a reduction in height would materially inhibit AT&T's ability to provide and improve wireless services in this area.

It is important to understand that service problems can and do occur for customers even in locations where the coverage maps on AT&T's "Coverage Viewer" website appear to indicate that coverage is available. As the legend to the Coverage Viewer maps indicates, these maps display approximate coverage. Actual coverage in an area may differ from the website map graphics, and it may be affected by such things as terrain, weather, network changes, foliage, buildings, construction, high-usage periods, customer equipment, and other factors.

It is also important to note that the signal losses, slow data rates, and other service problems can and do occur for customers even at times when certain other customers in the same vicinity may not experience any problems on AT&T's network. These problems can and do occur even when certain customers' wireless phones indicate coverage bars of signal strength on the handset. The bars of signal strength that individual customers can see on their wireless phones are an imprecise and slow-to-update estimate of service quality. In other words, a customer's wireless phone can show coverage bars of signal strength, but that customer will still, at times, be unable to initiate voice calls, complete calls, or download data reliably and without service interruptions due to service quality issues.

To determine where equipment needs to be located for the provisioning of reliable service in any area, AT&T's radio frequency engineers rely on far more complex tools and data sources than just signal strength from individual phones. AT&T uses industry standard propagation tools to identify the areas in its network where signal strength is too weak to provide reliable service quality. This information is developed from many sources including terrain and clutter databases,

which simulate the environment, and propagation models that simulate signal propagation in the presence of terrain and clutter variation. AT&T designs and builds its wireless network to ensure customers receive reliable in-building service quality. This level of service is critical as customers increasingly use their mobile phones as their primary communication devices. According to the Center for Disease Control and Prevention (CDC), more than 83% of California adults, and more than 98% of Californians under age 18, rely exclusively or primarily on wireless communications in their homes. And California households rely on their mobile phones to do more (E911, video streaming, GPS, web access, text, etc.). In fact, California reported to the FCC that there were more than 23.2 million wireless calls and 95,539 texts to 911 in 2021 (the most recent year for state level data).

The proposed facility at the Property is also a part of AT&T's commitment to supporting public safety through its partnership with FirstNet, the federal First Responder Network Authority. Conceived by the *9/11 Commission Report* as necessary for first responder communications, Congress created the federal First Responder Network Authority, which selected AT&T to build and manage FirstNet, the first-ever nationwide first-responder wireless network. The proposed facility will provide new service on Band 14, which is the nationwide high-quality spectrum set aside by the U.S. government for public safety. Deployment of FirstNet in the subject area will improve public safety by putting advanced wireless technologies into the hands of public safety agencies and first responders.

Exhibit 1 to this Statement is a map of the existing 4G LTE service coverage (without the proposed installation at the Property) in the area at issue. It includes 4G LTE service coverage provided by other existing AT&T sites. The green shaded areas of the map depict acceptable in-building coverage. In-building coverage means customers are able to place or receive a call on the ground floor of a building. The yellow shaded areas depict areas within a signal strength range that provide acceptable in-vehicle service coverage. In these areas, an AT&T customer should be able to successfully place or receive a call within a vehicle. The blue and white shading depicts areas within a signal strength range in which a customer might have difficulty receiving a consistently acceptable level of service. The quality of service experienced by any individual customer can differ greatly depending on whether that customer is indoors, outdoors, stationary, or in transit. Any area in the yellow, blue, or white category is considered inadequate service coverage and constitutes a service coverage gap.

AT&T conducted a drive test to measure actual signal strength in the area. Exhibit 2 provides the drive test results, which validate the significant service coverage gap depicted in Exhibit 1.

Exhibit 3 is a map that predicts 4G LTE service coverage based on signal strength in the vicinity of the Property if the proposed facility is constructed as proposed in the application. As shown by this map, constructing the proposed facility at 150 feet with a 140 foot center line (CL) closes this significant service coverage gap. Exhibit 4 shows the predicted coverage with a slightly lower CL of 130 feet instead of 140 feet. We are expecting to be able to cover Conifer Lane to the south with at least the Outdoor-Coverage service level. The 130 foot CL would be the lowest we would accept for a suitable design at this location.

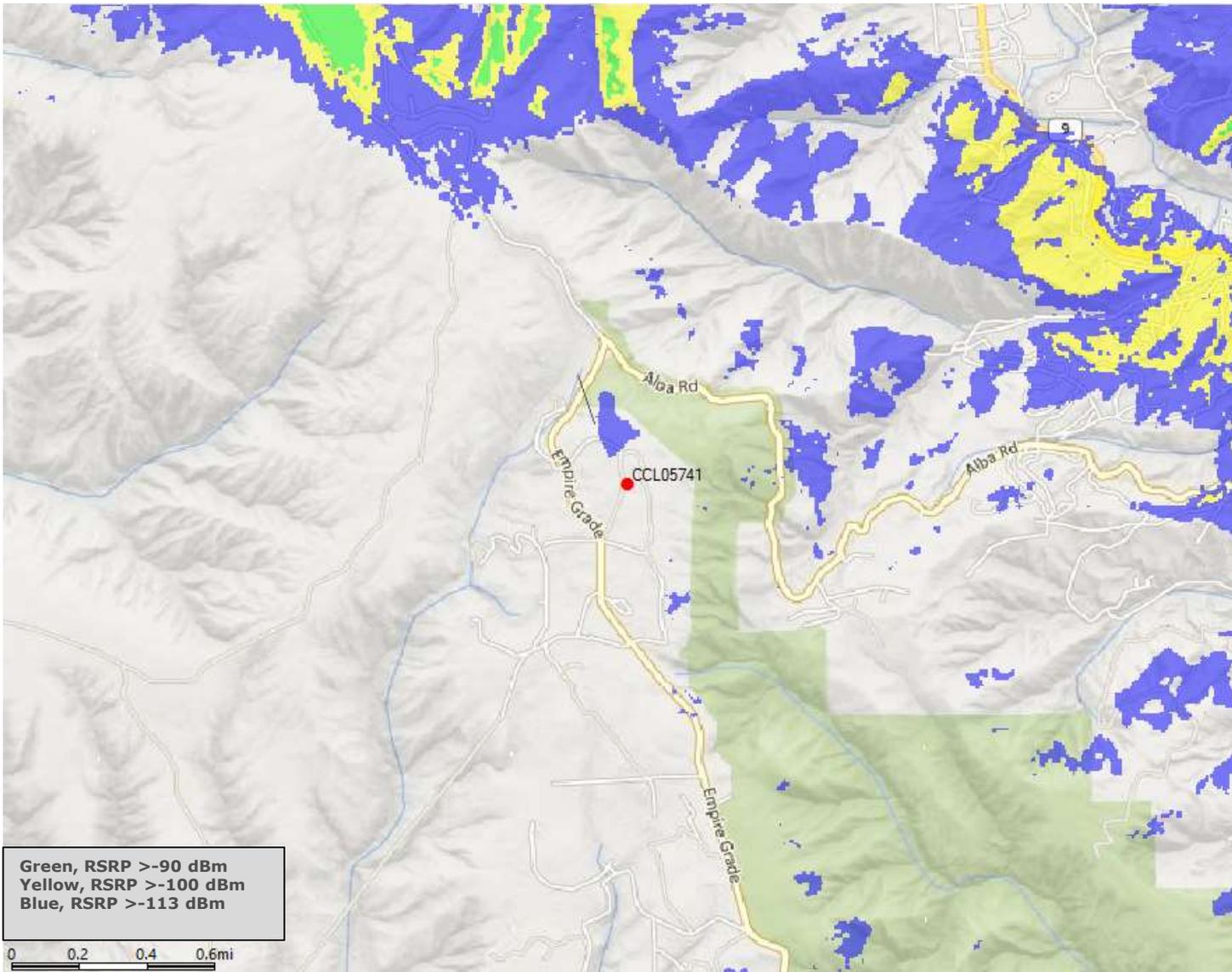
Exhibits 5 (120 feet) and 6 (110 feet) show that those respective lower tower heights at the proposed location would not close AT&T's significant service coverage gap. And Exhibit 7 demonstrates that a replacement tower at the Patrick Road location (the existing HAM radio tower would likely not support collocation) also would not close AT&T's significant service coverage gap. Exhibit 8 illustrates the comparison between the proposed tower and the Patrick Road location.

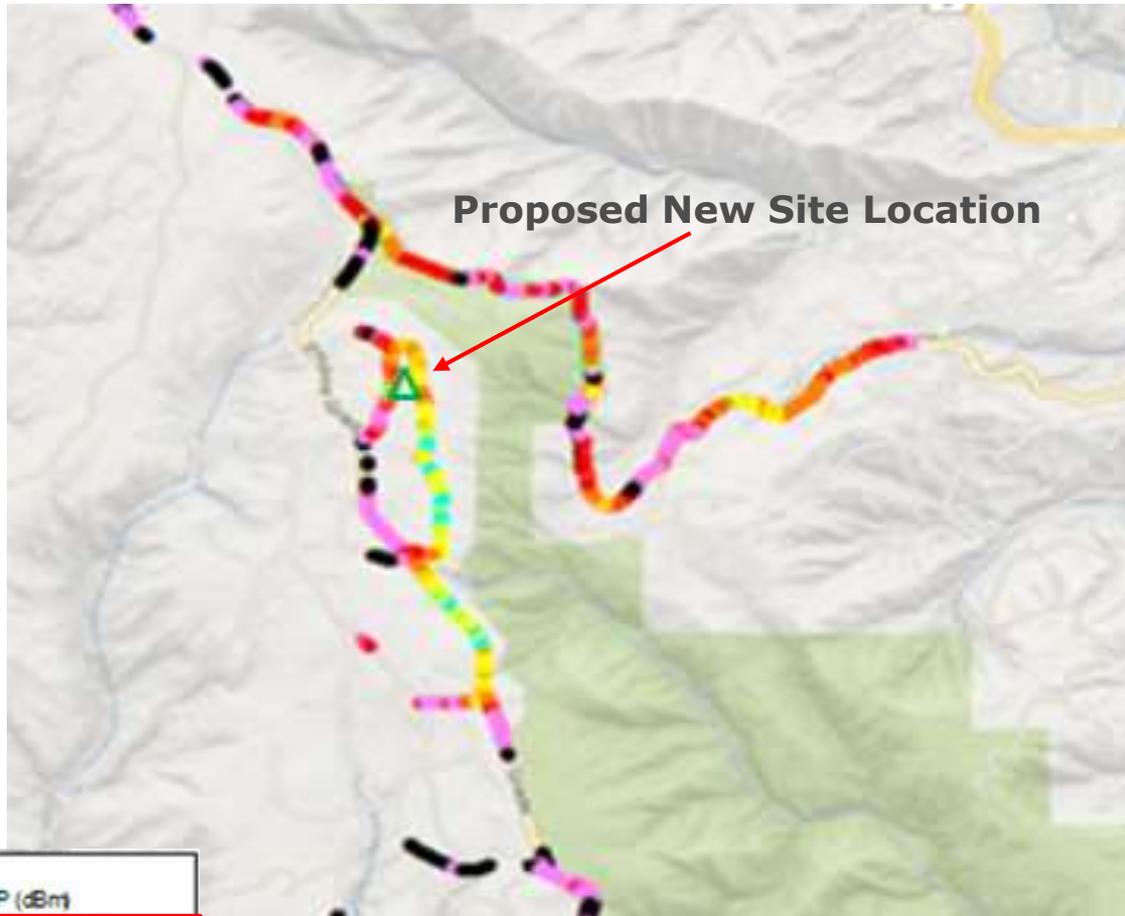
My conclusions are based on my knowledge of the Property and with AT&T's wireless network, as well as my review of AT&T's records with respect to the Property and its wireless telecommunications facilities in the surrounding area. I have a Bachelor of Science Degree in Electrical and Electronic Engineering from California State University Sacramento and have worked as an engineering expert in the wireless communications industry for more than 23 years.

/s/ James Temple
James Temple
AT&T Mobility Services LLC
Network, Planning & Engineering
RAN Design & RF Engineering
November 2023

Existing LTE 700 Coverage

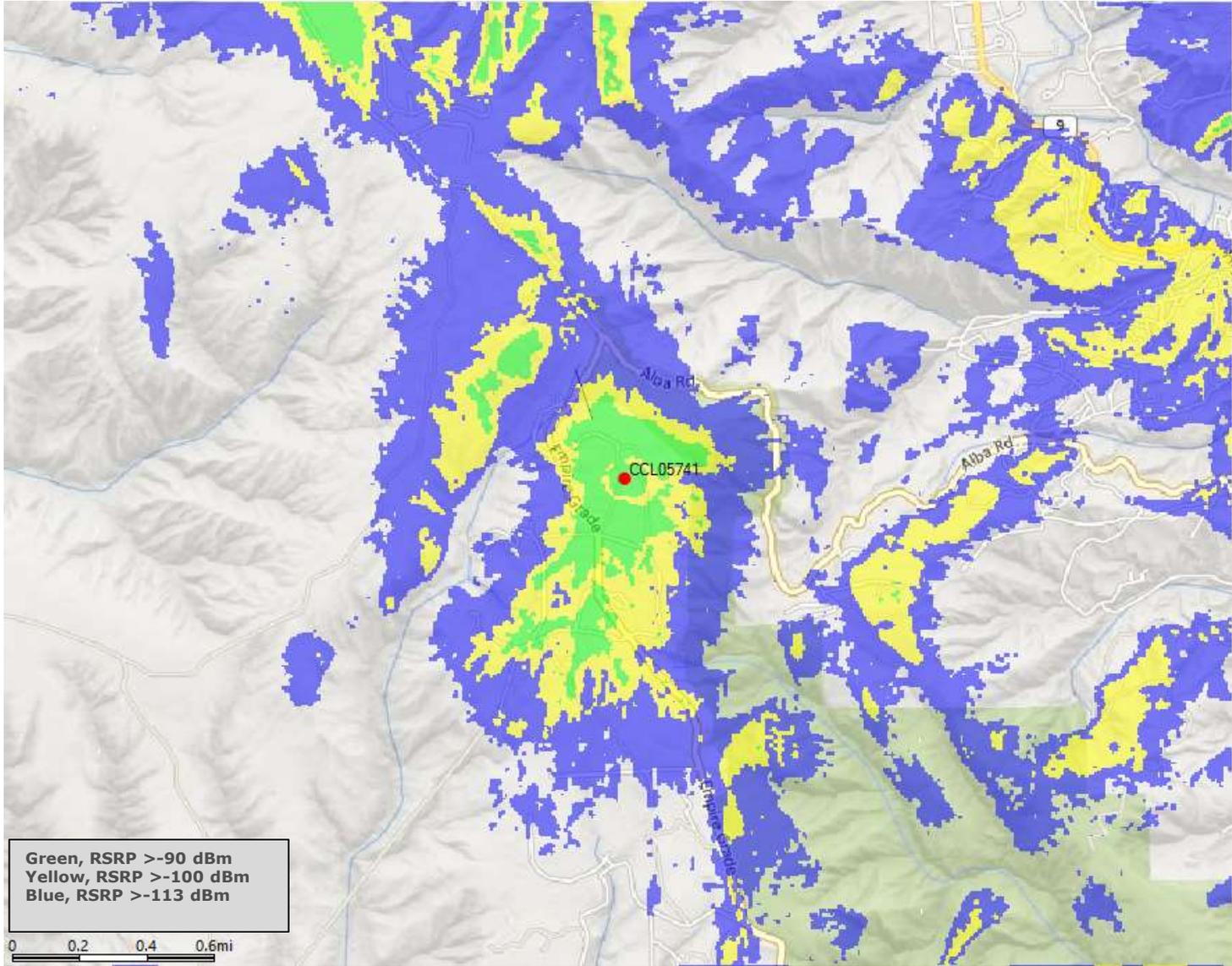
Exhibit 1





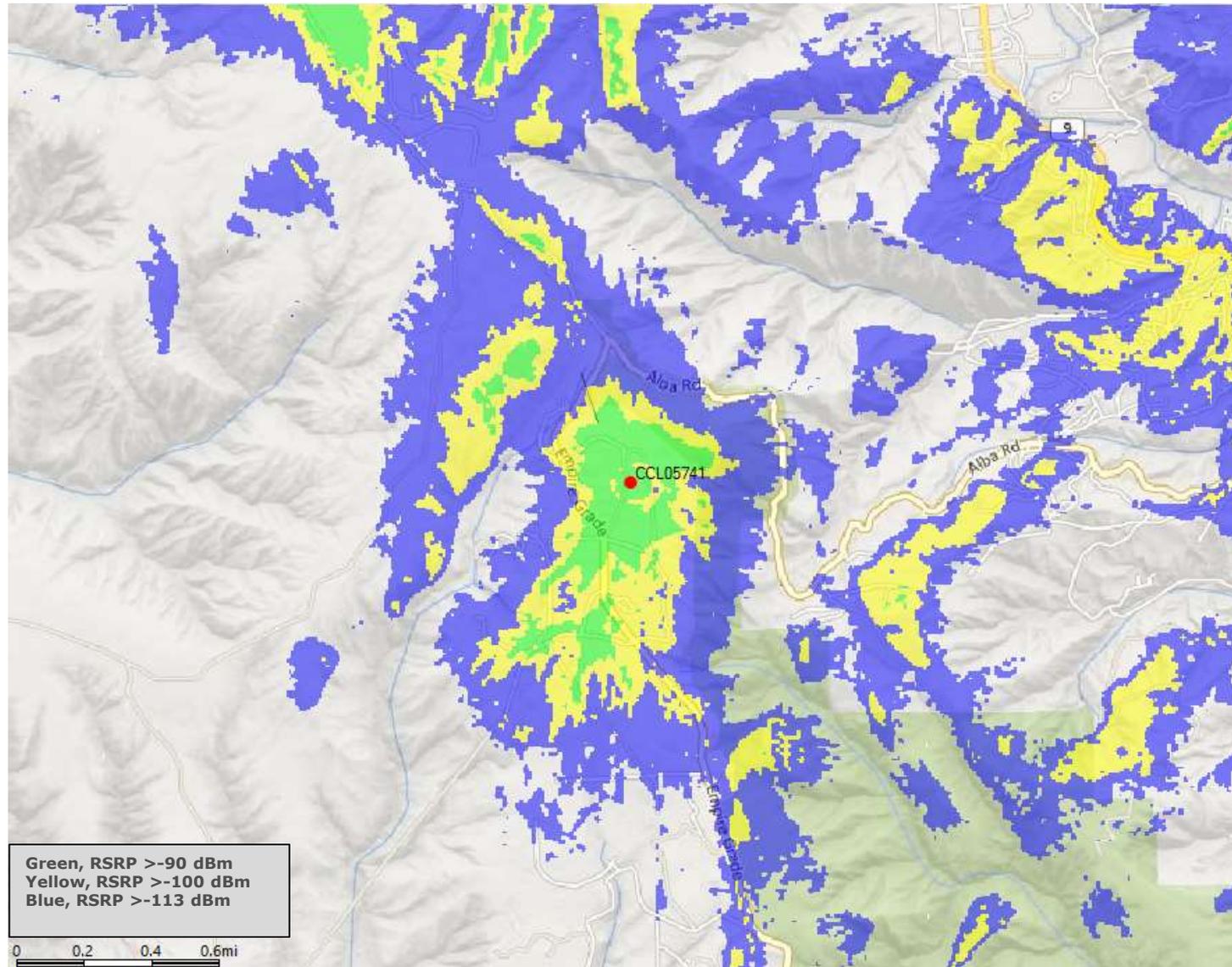
UE1-LTE_UE_RSRP (dBm)	
● Below -124.00 (376) 13.6%	
● ≥ -124.00 to < -118.00 (588) 21.3%	
● ≥ -118.00 to < -115.00 (301) 10.9%	
● ≥ -115.00 to < -110.00 (415) 15.0%	
● ≥ -110.00 to < -105.00 (513) 18.5%	
● ≥ -105.00 to < -95.00 (250) 9.0%	
● ≥ -95.00 to < -85.00 (33) 1.2%	
● Above -85.00 (291) 10.5%	

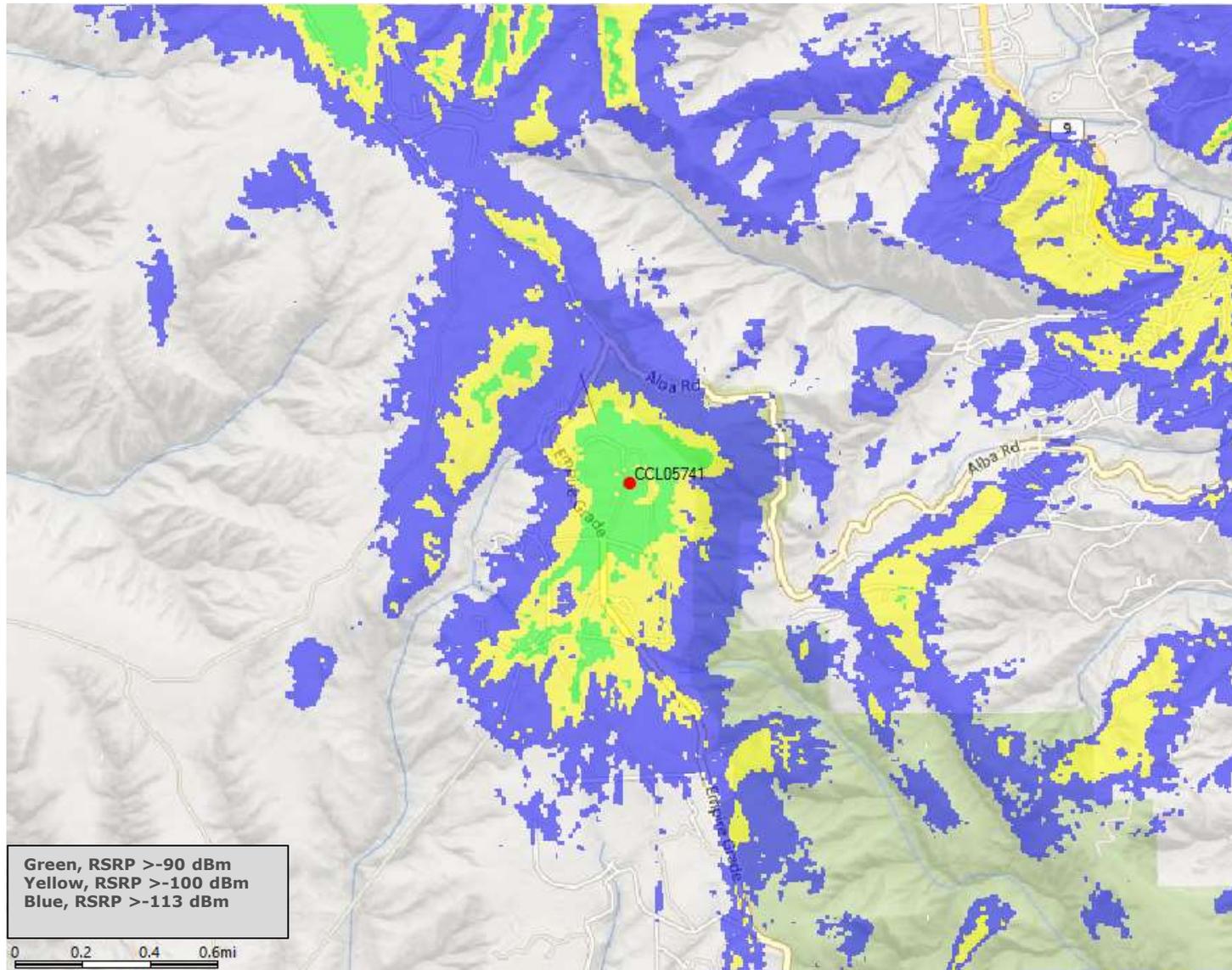
Signal levels inside red box considered to be very weak and constitute an indoor-service coverage gap

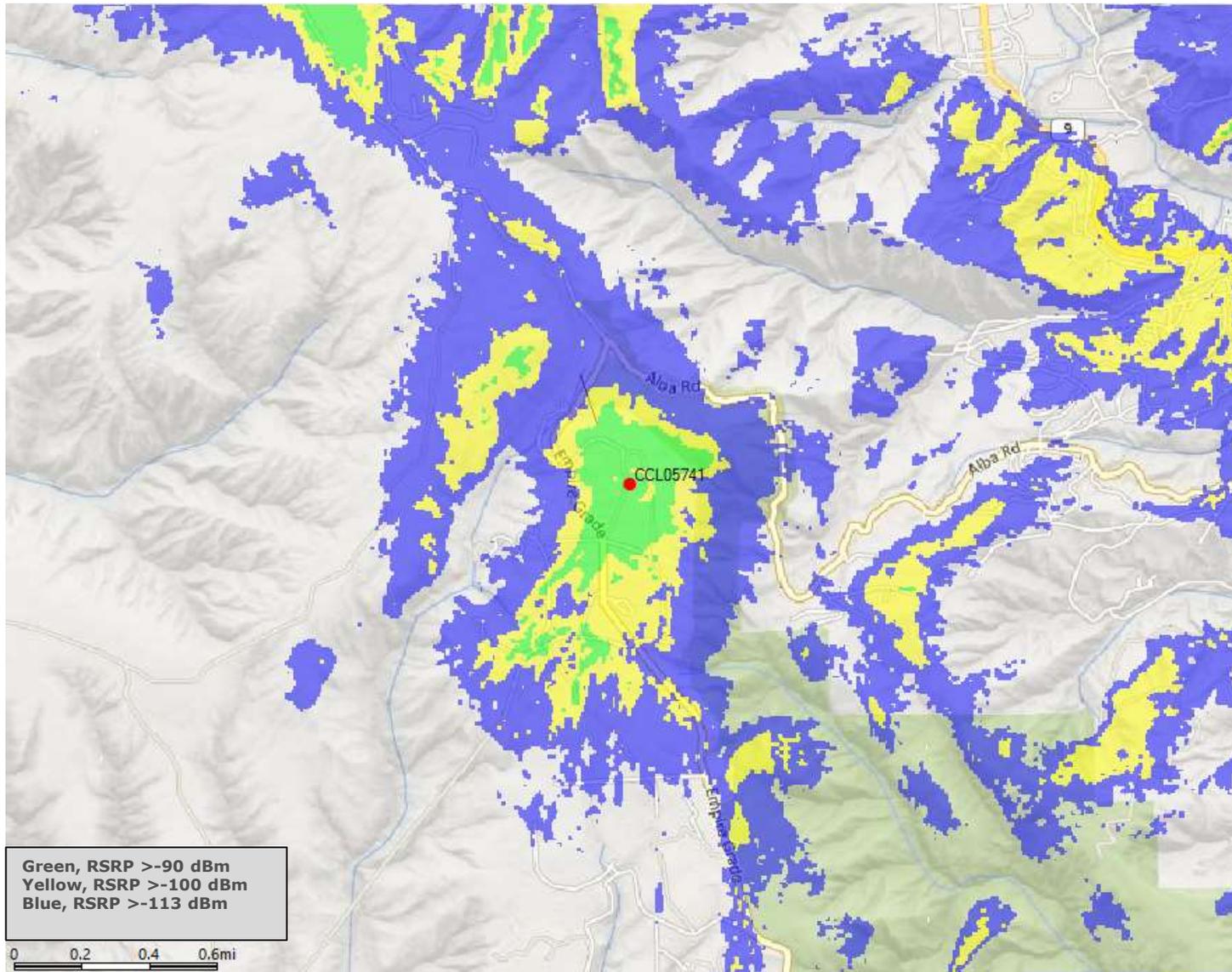


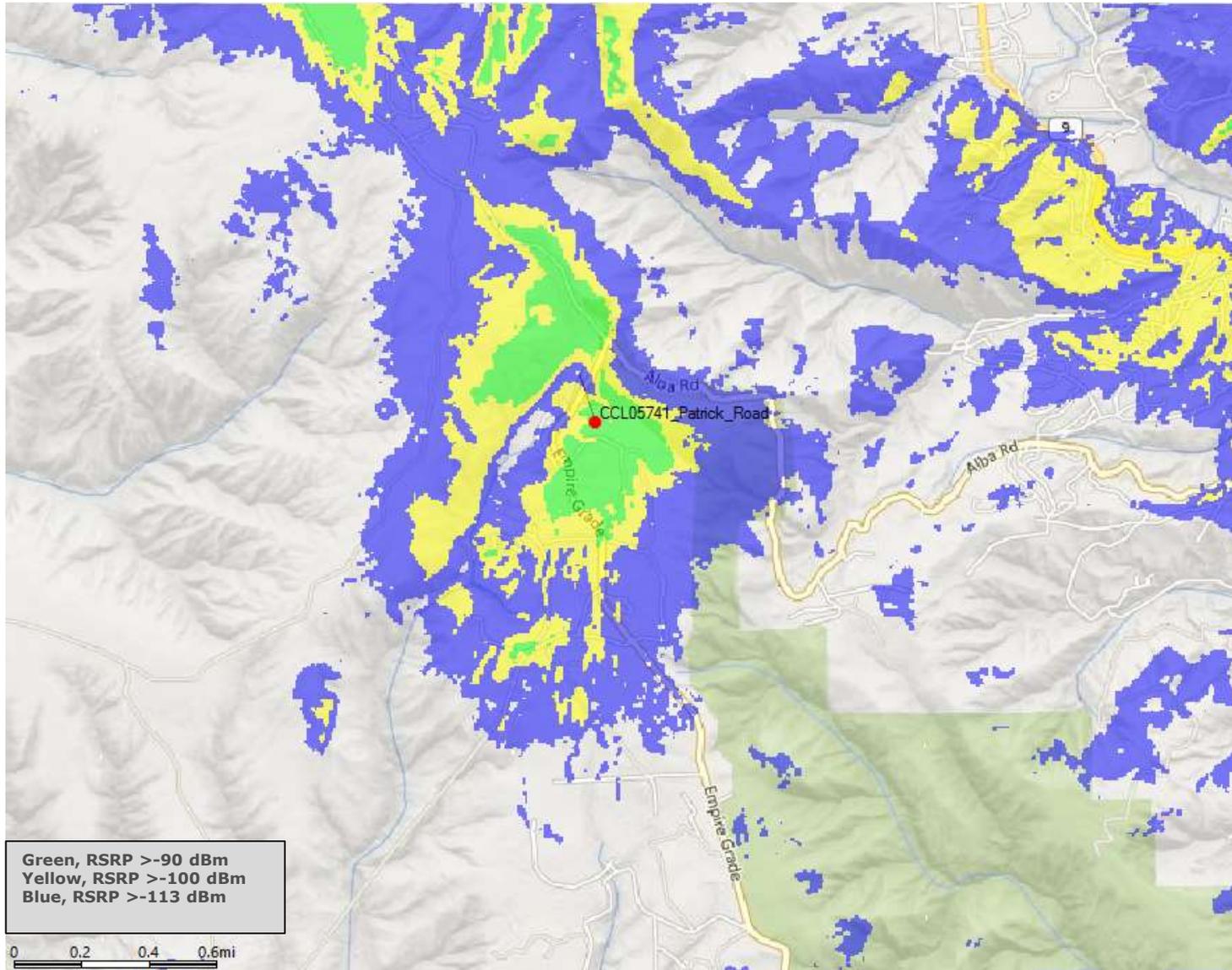
Legend

- Reliable Service Indoors/Outdoors
- Reliable Coverage in Transit, Reliable Coverage Less Reliable
- Reliable Coverage Outdoors Only, Indoor Coverage Less Reliable
- Existing site
- Proposed site



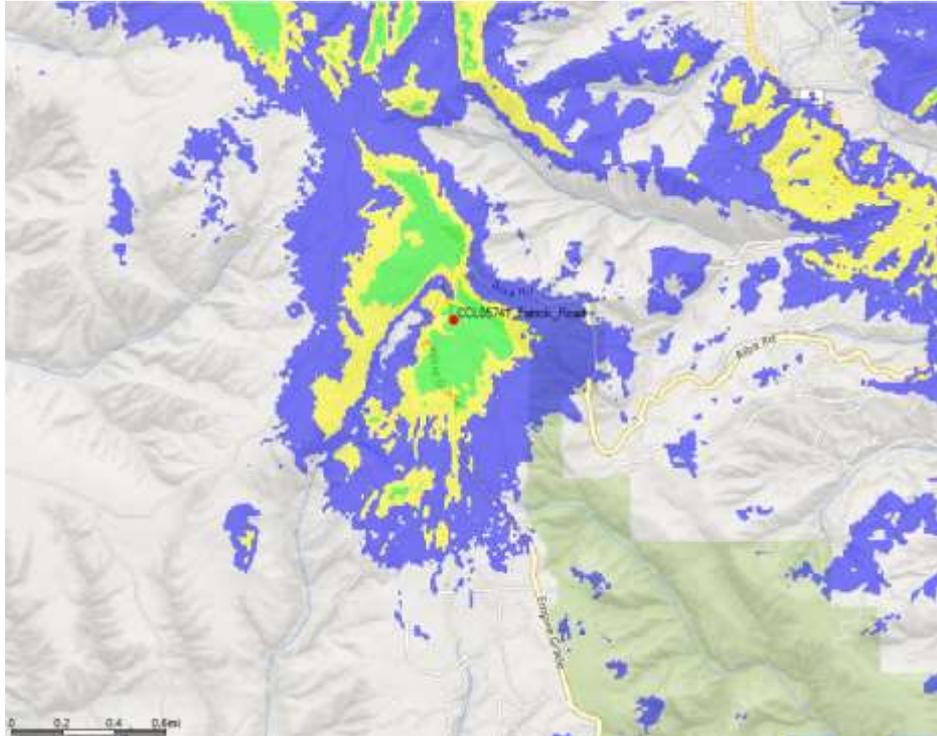
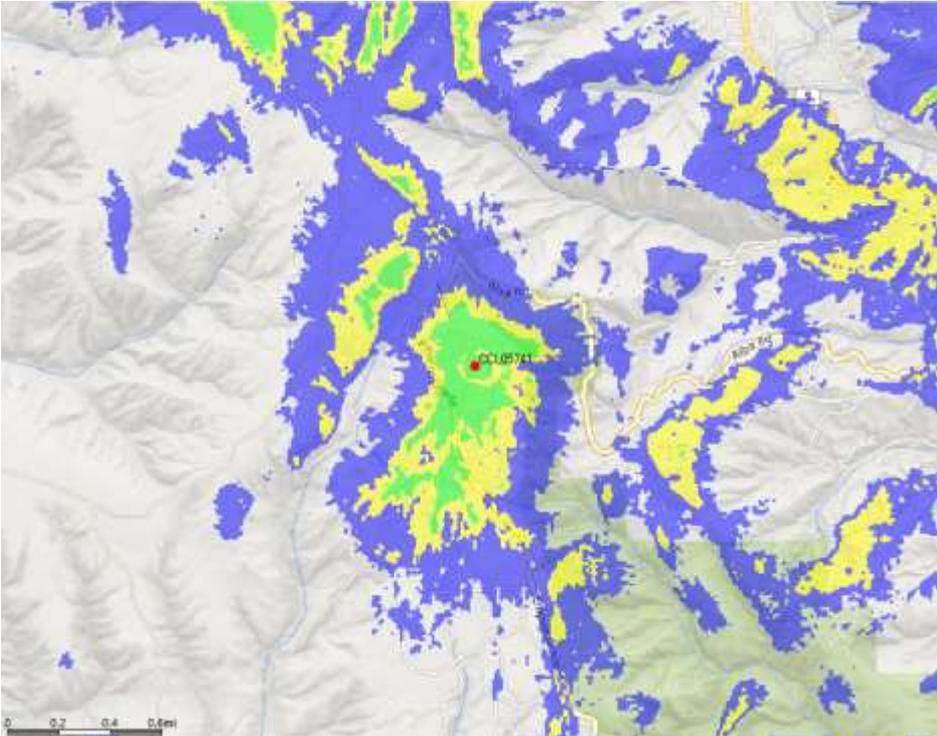






CTI Tower CL @ 140' vs. Patrick Road CL 140' LTE 700 Coverage

Exhibit 8

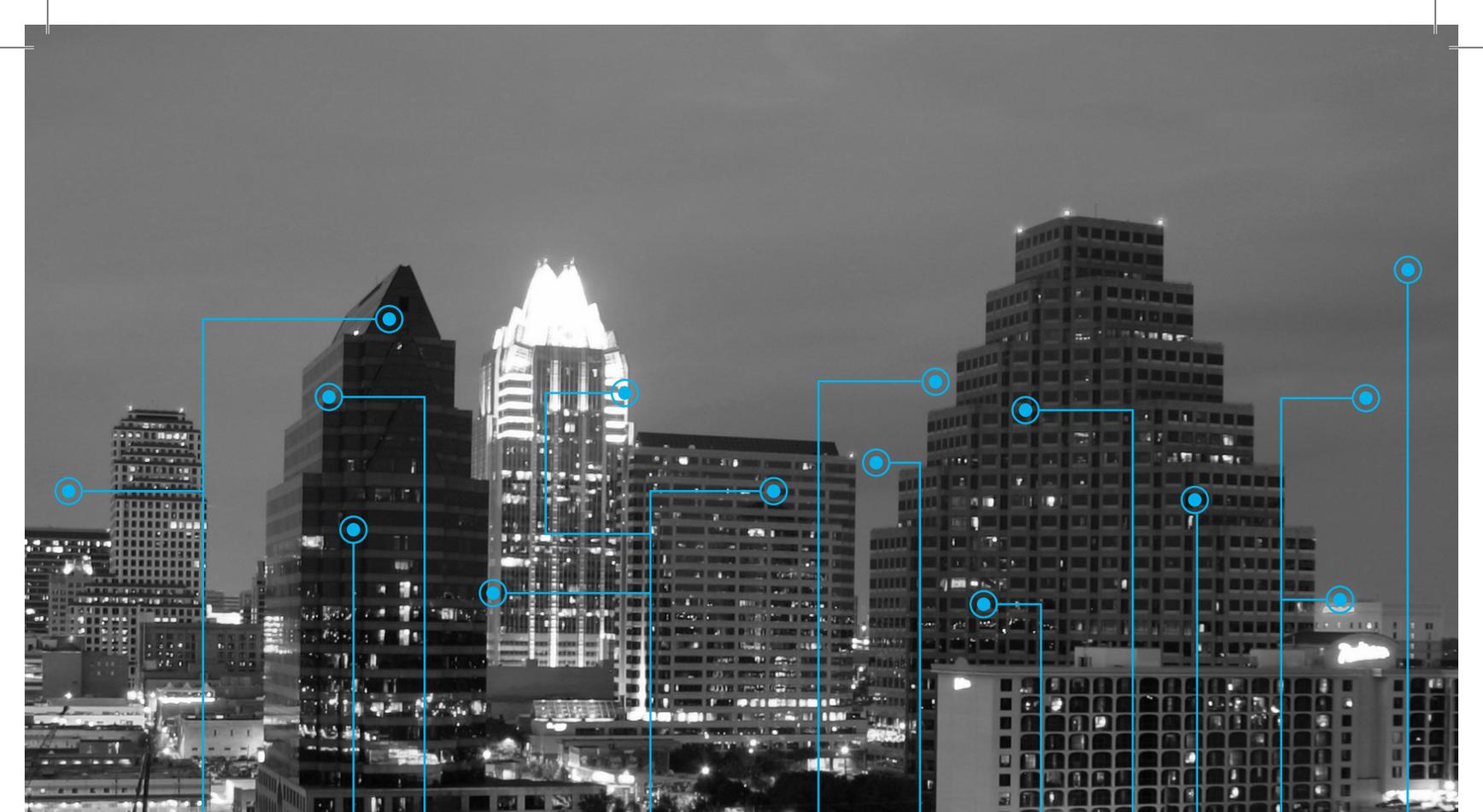


Green, RSRP > -90 dBm
Yellow, RSRP > -100 dBm
Blue, RSRP > -113 dBm

Legend

- █ Reliable Service Indoors/Outdoors
- █ Reliable Coverage in Transit Indoors Coverage Less Reliable
- █ Reliable Coverage Outdoors Only Indoors Coverage Less Reliable
- Existing site
- Proposed site

EXHIBIT B

A nighttime photograph of a city skyline with several illuminated skyscrapers. A blue network diagram is overlaid on the image, consisting of lines connecting various points, some of which are marked with small blue circles. The background is dark, and the city lights are bright.

Strengthening
connections today, while
building for tomorrow.





Bringing you the connectivity you want, when you want it.



People everywhere are using connected devices for nearly everything.

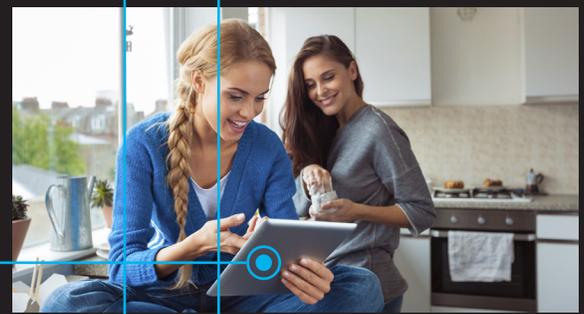
- By 2022, **nearly 80%** of the U.S. population will have a smartphone.^{1,2}
- Consumers are expected to spend over **\$122B** in app stores in 2019 – **double** the size of the global box office market. This level of growth is **5x as fast as the overall global economy**.³
- The number of connected devices is expected to reach 25 billion by 2021 – each of which will be managed and accessed through an application.⁴

Businesses are taking advantage of mobile technology to knock down barriers and more effectively compete in our global economy.

- As of early 2018, in-app and mobile purchases accounted for **67% of sales** in the U.S., with the total app economy generating **\$334B** in revenue from in-app sales and advertising.^{4,5}
- The wireless industry has a direct impact on the U.S. economy: creating nearly **5M jobs**, **contributing \$475B to GDP**, and **generating \$1T in economic output**.⁶

All of these apps and resources use a lot of data. To accommodate this surge in data without driving prices sky-high for our customers, we must operate our network more efficiently. And, small cells can help us do just that.

Small cells can be readily deployed and deliver increased data capacity. They help enable higher connection speeds and bring an overall better wireless experience to customers today. Small cells also help lay a foundation for our **network to handle the technologies of the future—such as 5G, smart cities, autonomous cars and the Internet of Things**.



Homeowners are rapidly abandoning landlines in favor of mobile phones making reliable wireless connectivity at home an important factor consideration for home buyers and renters.

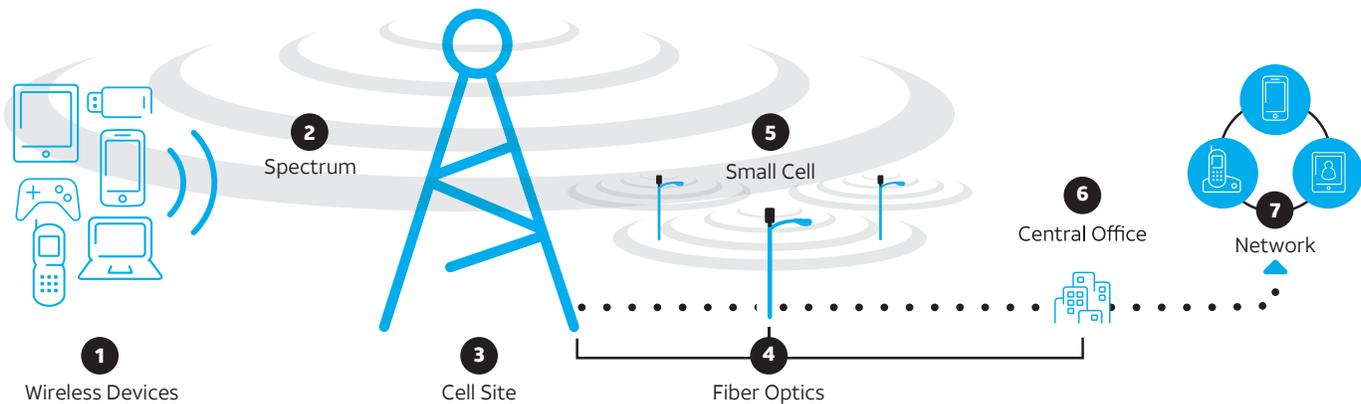
- Across nearly 400M connections, one in five Americans access home internet exclusively through their smartphone.⁷
- Americans depend more on wireless service for communication in addition to internet access: as of 2017, more than half of American homes (52.5%) only had wireless telephones.⁸
- When moving, Americans value reliable wireless service (67%) more than affordable housing (60%), good schools (65%), and good commute time (41%).⁹

Cities are turning to wireless networks and mobile technology to operate smarter and more efficiently.

- In 2018, mobile phones will be surpassed in numbers by IoT devices, which are expected to reach 1.5B globally by 2022.¹⁰
- Smart City solutions applied to vehicles and electric grids could produce \$160B in benefits and savings through reductions in energy usage, traffic congestion and fuel costs.¹¹

How Wireless Networks Work

Modern communication networks help drive innovation and improve the way consumers connect with each other, with their entertainment and with their communities.



1. Wireless Devices

Wireless devices need a network to operate. The network is part radio-based (wireless) and part wired.

2. Spectrum

Spectrum is the airwaves over which wireless communications (calls, texts, email, internet traffic, etc.) travel to and from wireless devices via cell sites.

3. Cell Site

Cell sites connect wireless devices to the network using copper and fiber optic wires. Once transmitted from the cell tower to the network, the data of a “wireless” call is virtually indistinguishable from the other data traveling across the network – e.g. traditional landline calls, texts, emails and the internet data. Cell sites are connected in a pattern of overlapping cells that allow users to remain connected while on the move.

4. Fiber Optics

Fiber optic lines are the modern equivalent of copper wire, but instead of using electricity to transmit information, fiber uses pulses of light to transport internet-based data. This technology can support much more data and transmit it faster than traditional copper lines. For example, on a typical fiber cable, a 1 gigabit per second signal can travel over 35 miles without being degraded as compared to only 300 feet over a copper line.¹²

5. Small Cells

Small cells play a key role in meeting the increased demand by delivering the network flexibility and reliability our customers depend on. Small cells “densify” AT&T’s network and to bring the network “closer” to its users. This allows us to provide a better LTE experience today while also allowing us to prepare for future developments in technologies such as smart cities and new developments in the Internet of Things (IoT).

6. Central Office (Wireless Switch Building)

At the central office, home and business lines connect to the network. The central office has equipment that routes calls locally or to long-distance carrier facilities.

7. Network

The network consists of all the facilities (wires, antennas, equipment, etc.) and spectrum that we use to deliver data and content (voice, internet and video) that allow customers to use their devices (phones, computers, tablets, SmartGrid, etc.) to communicate better and faster.

Cell Sites Come in Many Forms

Traditional Macro Sites

Standard antenna facilities that often provide optimal coverage and capacity. Traditional macro cell sites are typically installed atop free-standing towers, roof tops and other taller structures. Macro cells are the fundamental building blocks needed to enable high-speed mobile internet. Along with playing a key role in connecting a large number of devices to the network at the same time, macro cells have the ability to provide service over a broad area as their coverage radius is measured in miles.

Small Cells

Small cells are light weight, low power, precisely targeted solutions that can cover a radius up to 1,500 feet. They can be readily deployed to specific locations, including those where customers are prone to experience connectivity issues, heavily populated areas that need more network capacity—like a downtown area—or in areas that can’t effectively be served by a traditional macro cell due to topography, high concentrations of buildings, or other man-made obstacles.

The public right-of-way—where sidewalks, electric and light utilities are located—is an ideal place for this small wireless infrastructure.

Distributed Antenna Systems (DAS)

Distributed Antenna Systems are flexible solutions that help connect customers to our wireless services in areas that have high concentrations of users. DAS is effective in large venues—like arenas, convention centers or stadiums—that already have service but need added capacity as large numbers of customers access AT&T’s network at the same time.

DAS uses a group of antennas that divide data traffic into smaller, more manageable sections, which enhances capacity and connectivity speeds.

Wireless Cell Site Selection

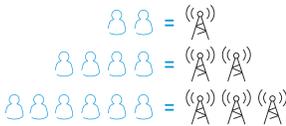
We are always analyzing our network to deliver the best, most reliable service to our customers, no matter where they are, and to help prevent capacity and coverage gaps. In addition to the strengths and challenges of each cell site type, AT&T must consider the following factors as well:



Topography: Wireless networks depend on radio waves that travel through the air. If an area is very hilly, more sites are needed to cover the area since there is shadowing from the terrain. Consider how a hill blocks the sun's rays at sunset.



Signal Handoff: For wireless calls to maintain connectivity as a customer drives or walks down a street, the signals from one cell site must overlap with the signals of the next cell site.



Distribution of demand: In more dense traffic and population areas, we need to have more sites in order to provide the needed capacity.



Regulations: AT&T must meet strict regulations set by the Federal Communications Commission—as well as applicable local, state and federal regulatory agencies and laws.



Property Availability: In addition to all the science and planning that goes into properly locating a cell site, AT&T must also comply with state and local laws governing use of the ROW or find a property owner that's willing to have an antenna facility placed on their property.

Small Cells & Safety

In our modern world, radio frequency is everywhere.

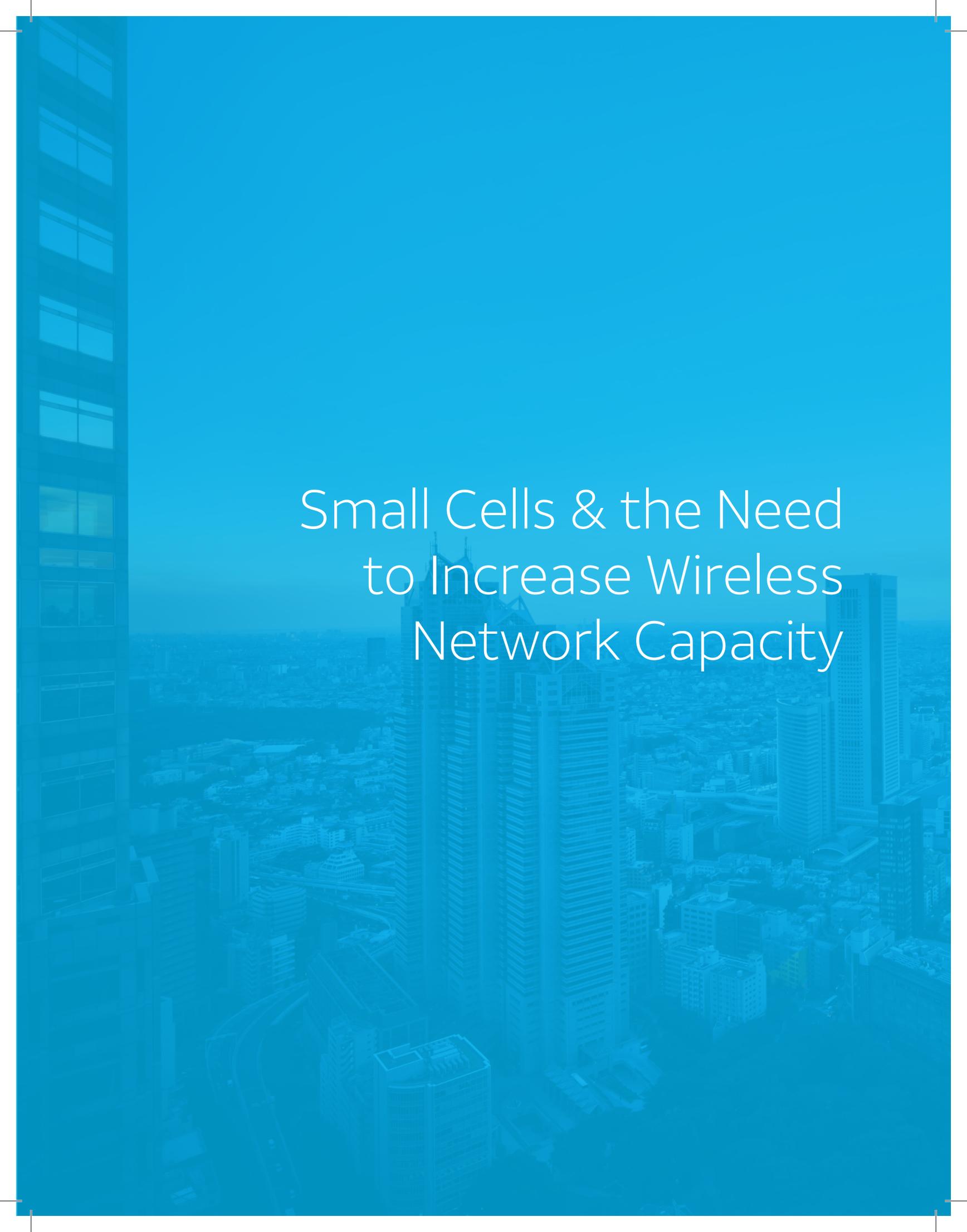
Radio Frequency (RF) energy and wireless technologies have been used for more than a century. Mobile phones and wireless antennas use RF energy to send voice and text messages, as well as photos and videos. RF enables things like home electronics in kitchens, living rooms and bedrooms.

Wireless antennas operate at low power levels to minimize interference with other antennas.

Expert scientists and government agencies from organizations like the American Cancer Society, World Health Organization and FCC have stated repeatedly that wireless antennas operating in compliance with FCC regulations do not pose health concerns.

Our wireless facilities, including small cell antennas, are designed and operated to comply with FCC regulations.



An aerial photograph of a city skyline, featuring numerous skyscrapers and buildings. The image is overlaid with a semi-transparent blue filter. The text is centered in the upper half of the image.

Small Cells & the Need to Increase Wireless Network Capacity

As consumers and businesses are using mobile devices more often to connect with their world, their work and their entertainment, our network capacity must be upgraded to keep pace with surging demands for data.

Ways to Increase Wireless Network Capacity

- ① *Deploy more spectrum*
- Spectrum is **not readily available**



- ② *Improve spectrum efficiency*
- Repurposing existing spectrum
 - e.g., reassigns 3G spectrum to 4G LTE



- ③ *Add more macro (cell sites) cells*
- Optimal for low density areas



- ④ *Add more small cells*
- Offloads surrounding macro sites to reduce the need for new cell towers



Why Small Cells?

Consumer demand for data is growing exponentially and will continue to grow as mobile video streaming becomes even more prominent. This increase in data use requires an increase in wireless network capacity—otherwise, service quality could be disrupted or decline.

However, wireless providers' ability to provide additional capacity and faster connectivity speeds to support the data heavy technologies and apps consumers are using in their everyday lives has become constrained by spectrum availability.

So, to keep up with these surging demands, operators must change their network architectures to more efficiently use spectrum, and the best path forward is network densification—which means small cells, and plenty of them.

This is why we are investing in and deploying small cells in states across the country. Small cells help us bolster network capacity, better meet surging consumer and business demand for more data and faster connectivity while preparing our network for the next generation of technologies and services—like 5G, the Internet of Things and smart cities.



Sources

- 1 Statista, Number of smartphone users in the United States from 2010 to 2022; available at: <https://www.statista.com/statistics/201182/forecast-of-smartphone-users-in-the-us/>
- 2 Statista, Total population in the United States from 2012 to 2023; available at: <https://www.statista.com/statistics/263762/total-population-of-the-united-states/>
- 3 App Annie, 2019 in Mobile: 5 Things You Need to Know, December 2018; available at: <https://www.appannie.com/en/insights/market-data/2019-in-mobile-5-things-to-know/>
- 4 Deloitte, The App Economy in the United States, August 2018; available at: <http://actonline.org/wp-content/uploads/Deloitte-The-App-Economy-in-US.pdf>
- 5 Criteo, Mobile Commerce Growth 2017, February 2018; available at: <https://www.criteo.com/insights/mobile-commerce-q4-2017/>
- 6 Accenture Strategy, How The Wireless Industry Powers The U.S. Economy, 2018; available at: https://www.accenture.com/t20180404T0252452_w_/us-en/_acnmedia/PDF-74/Accenture-Strategy-Wireless-Industry-Powers-US-Economy-2018-POV.pdf#zoom=50
- 7 CTIA, The State of Wireless, 2018; available at: https://api.ctia.org/wp-content/uploads/2018/07/CTIA_State-of-Wireless-2018_0710.pdf
- 8 NCHS, Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, June 2017; available at: <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201712.pdf>
- 9 CTIA, The Wireless Industry - Industry Data; available at: <https://www.ctia.org/the-wireless-industry/infographics-library?topic=35>
- 10 Ericsson, Internet of Things Forecast; available at: <https://www.ericsson.com/en/mobility-report/internet-of-things-forecast>
- 11 Accenture Strategy, Smart Cities - How 5G Can Help Municipalities Become Vibrant Smart Cities, 2017; available at: https://www.accenture.com/t20170222T202102_w_/us-en/_acnmedia/PDF-43/Accenture-5G-Municipalities-Become-Smart-Cities.pdf
- 12 Broadband Communities, What Fiber Can Do For Your Community, page 4, http://www.bbcmag.com/Primers/BBC_Nov15_Primer.pdf

EXHIBIT D

Travis Brooks
travis.brooks@msrlgal.com

March 26, 2024

VIA E-MAIL

Honorable Planning Commissioners
County of Santa Cruz
701 Ocean Street
Suite 400
Santa Cruz, CA 95060
c/o Nicholas Brown
E-Mail: Nicholas.Brown@santacruzcountyca.gov

Re: Application Number 221049
Opposition to Appeal of Zoning Administrator Approval of Wireless
Communications Facility at 186 Summit Drive (APN 080-062-02) ("Appeal")

Dear Honorable Commissioners:

This firm represents CTI Towers, Inc. ("CTI" or the "Applicant") in its application to replace an existing telecommunications facility with a modern, camouflaged wireless communications tower at 186 Summit Drive in the County (the "Project"). At a public hearing on January 19, 2024, the Zoning Administrator ("ZA") considered the same arguments raised in the Appeal and approved the Project, finding appropriately that the Project is exempt from review under the California Environmental Quality Act. We respectfully request that the Commission do what is appropriate under the County's Planning and Zoning Regulations, applicable state law, and the federal Telecommunications Act of 1996 - deny the Appeal in its entirety.

As we explained in prior correspondence to the County and at two public hearings – the Project is needed to close a significant gap in wireless service identified by AT&T Wireless, CTI's primary anticipated tenant at the Project. (See January 18 Letter from Travis Brooks to Jocelyn Drake, attached and reasserted hereto as **Exhibit A**). The administrative record demonstrates that the Project proposes the least intrusive means of closing this gap in service coverage as reflected in a detailed alternatives analysis of five nearby sites and AT&T's RF Statement.¹

¹ In other words, the appellants failed to provide substantial evidence demonstrating that any alternative facility location – including those on Patrick or Robles Roads - poses a technologically feasible or less intrusive means of closing AT&T's coverage gap, or that the

Accordingly, substantial evidence in the record supports the findings of approval and the federal Telecommunications Act of 1996 requires County approval of the Project.

As noted by the County staff and as discussed in more detail below, the Project qualifies for both Class 2 (replacement or reconstruction of existing structures, 14 CCR § 15302) and Class 3 (new construction or conversion of small structures, 14 CCR § 15302) categorical exemptions to the California Environmental Quality Act (“CEQA”). Substantial evidence in the record supports the ZA’s application of these exemptions, and appellants have failed to provide any evidence – let alone substantial evidence - that the Project could have significant environmental impacts or that any of the exceptions to CEQA’s categorical exemptions are applicable.

I. The Project

CTI proposes to replace an approximately 50-year-old steel guyed tower, an adjacent lattice tower, a metal shed, and satellite dish assembly with a modern 140-foot monopine tower that meets modern building and safety standards. The Project has been carefully designed to blend in with the trees that surround it. It will replace dated, unscreened, uncamouflaged metal tower and accessory structures with a tree-like structure and new tree plantings, a landscaping plan, and screening to minimize visual impacts to nearby residents. The Project would only be approximately 13 feet higher than nearby trees and – as visual simulations included in the record clearly demonstrate – the Project would be fully screened and not visible from nearby roadways, highways, commercial areas, and intersections. It would also not be visible from public parks or scenic vistas. The Project will significantly improve views of the Project at the ground level by removing dated and unscreened metal appurtenant structures. Conditions of approval would require the Applicant to maintain Project landscaping and screening to help the Project blend in with its surroundings for years to come.

In addition to closing AT&T’s gap in service coverage, the Project would provide critically needed FirstNet emergency communications service supported by safe and efficient backup generators which would keep the Project operational during power outages. (See November 20, 2023 letter from Kevin R. Nida, Senior Public Safety Advisor with FirstNet to Fernandina Dias Pini [discussing support for the Project and need for FirstNet communication in the area, which is lacking]).

ZA failed to comply with applicable local regulations or state or federal law when she approved the Project.

II. Consistency With The County's Wireless Facilities Regulations

The Project is consistent with the applicable Rural Residential ("RR") zoning, which expressly allows the Project at its proposed height, with a Height Exception pursuant to County Code section 13.10.660(G). A Height Exception is appropriate because the Project is necessary to close AT&T's identified significant gap in wireless service and it proposes the least obtrusive location and design to close the coverage gap. In other words, the Project is the best solution to close AT&T's coverage gap after a meaningful comparison of alternative sites, designs and technologies. (See Id. at 13.10.660(C)(4).)

The Project would also comply with the siting, aesthetic, and construction requirements set out in section 13.10.660 subparts (E), (F), and (G) by: (1) incorporating as much visual screening and new landscaping as possible, (2) utilizing existing foliage and natural features to conceal and integrate the Project into its surroundings, (3) camouflaging its materials, colors, and foliage to mimic the surrounding grove of trees, (4) incorporating a self-supporting monopole that will be narrower and less visually intrusive than the existing steel tower, and (5) minimizing the visibility of its supporting and adjacent equipment with landscaping and screening. The Project is also compliant with the safety requirements set out in subpart (H) of section 13.10.660 because it will incorporate fire resistant surfaces and require continuous maintenance of surrounding landscaping and the site to ensure maximum fire prevention. Finally, the Project has been designed to minimize the amount of disruption caused to nearby properties.

III. The Project Is Exempt From CEQA

As has been the case for similar wireless facilities throughout the County and the state, the Project qualifies for multiple exemptions to CEQA. In particular, the Project is exempt pursuant to the Class 2 categorical exemption for replacement or reconstruction of existing facilities (14 CCR § 15302) and Class 3 categorical exemption for new construction or conversion of small structures. (14 CCR § 15303.) The Project is also covered by the common sense exemption because it can be seen with certainty that there is no possibility that the Project may have a significant effect on the environment. (14 CCR § 15061(b)(3).)

A. The Project Is Subject To Categorical CEQA Exemptions²

The Secretary of the California Resources Agency has determined that certain classes of projects meeting listed criteria and not subject to an exception, do not

² That it is entirely appropriate to apply a categorical CEQA exemption to the Project is evidenced by the fact that when the Board of Supervisors adopted its current wireless communication facilities ordinances in May of 2022, it acknowledged that:

have a significant effect on the environment, and therefore are categorically exempt from CEQA. (See generally, 14 CCR § 15354.) Public agencies are prohibited from requiring preparation of an environmental impact report or negative declaration for a project that qualifies for a categorical exemption unless it falls within one of the exceptions to the categorical exemptions. (14 CCR § 15300.2, Pub. Res. Code § 21080(b).)

If a project is subject to a categorical exemption, no formal environmental evaluation is required and the CEQA process “need not proceed further.” (*City of Pasadena v. State* (1993) 14 Cal.App. 4th 810, 819-20.) The local agency need not consider alternatives or mitigation measures for a project determined to be categorically exempt. (*Hines v. California Coastal Comm’n* (2010) 186 Cal.App.4th 830,858.) A project that is categorically exempt may be implemented without any CEQA review. (*Ass’n for Protection of Env’tl Values v. City of Ukiah* (1991) 2 Cal.App.4th 720, 726.) Moreover, “although categorical exemptions are construed narrowly, [a court’s] review of a local agency’s decision that a project falls within a categorical exemption is deferential, and [they] determine only whether [a decision that a project is exempt] is supported by substantial evidence.” (*Aptos Valley Residents Association v. County of Santa Cruz* 20 Cal.App.5th 1039, 1046.) While an interpretation of the language of the CEQA guidelines with respect to the scope of CEQA exemption is a question of law, a local agency’s factual determination whether a project is covered by an exemption, is governed by the deferential substantial evidence test. A reviewing court does not conduct an independent review of the record, it must affirm a local agency’s factual determination that a project fits within an exemption so long as the determination is based on substantial evidence in the record.³ A court must affirm a local agency’s factual determination that a project fits within an exemption so long as this determination is based on substantial evidence in the record. (See e.g., *Holden v. City of San Diego* (2019) 43 Cal.App.5th 404, 410.)

Where a project properly falls within a categorical exemption, to defeat a local agency’s reliance on that categorical exemption(s), more than just a “fair argument”

future wireless facility projects resulting from the adoption of [the current wireless ordinance] are likely exempt from CEQA review in accordance with CEQA Guidelines Section 15301 (existing facilities), Section 15302 (replacement or reconstruction), Section 15303 (new construction or conversion of small structures) and/or Section 15304 (minor alterations to land).

(See County of Santa Cruz Planning Department, Notice of Exemption, Exhibit A to Ordinance No. 133-22)

³ Substantial evidence is defined by CEQA to include “fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.” It does not include “argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.” (Public Resources Code §§ 21080(e)(1), 21082.2(c).)

that the project may have a significant environmental impact must be shown by an appellant; rather, it must be demonstrated, based on substantial evidence in the record that an “exception” to the exemption applies. When facts relating to the applicability of an exemption are in dispute and the local agency makes written findings on these issues, a reviewing court will uphold the local agency’s determinations so long as they are supported by substantial evidence in the record. In this review, “all conflicts in the evidence are resolved in favor of the prevailing party and all legitimate and reasonable inferences are made to support the agency’s decision.” (*Holden v. City of San Diego* (2019) 43 Cal.App.5th 404, 410.)

1. The Zoning Administrator Appropriately Determined That A Class 2 Exemption Applies

As noted in the staff report, Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

....

(b) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.

(c) Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.

....

(14 CCR § 15302.)

There is no limitation on the total size of a project that may be subject to the above exemption. Moreover, replacement structures within the category in subpart (b) above are not required to be precisely the same size as the old structure, they only need to be located on the same site substantially the same size as what is being replaced. (*Dehne v. County of Santa Clara* (1981) 115 Cal.App.3d 827, 837.)

The Project clearly falls within the Class 2 exemption category. As discussed in detail in the staff report, the Project proposes removing multiple aged pieces of communications equipment: a 70’ 6” guyed steel tower, a 12’ 6” lattice tower, a satellite dish assembly, a steel lattice structure, and an additional metal structure. These structures would be replaced with a single camouflaged 140’ mono-pole tower, which would have approximately half the footprint of the existing 70’ 6” tower. The replacement tower would be entirely contained on the same, approximately 10,000 square foot fenced site as the facilities it will replace, and will retain the existing equipment building. The replacement tower would also be similar in height to the trees surrounding it and is designed to mimic them in color, massing, and materials.

The Project would have substantially the same purpose and capacity as the facility it is replacing. It will replace existing communications improvements that provided wireless broadcast, satellite, and police/emergency communications to the surrounding community - because these technologies no longer meet modern requirements, consumer, or safety needs - the Project will replace them with modern FirstNet emergency telecommunications equipment and 4G LTE wireless service. In other words, the Project would serve the same telecommunications purpose to the community as the existing facilities did, however it will modernize the method in which it provides this utility to meet modern technological, consumer, and communication needs.

2. The Zoning Administrator Appropriately Determined That A Class 3 Exemption Applies

As noted in the staff report, the Class 3 exemption consists of construction and location of limited numbers of new, small facilities or structures and installation of small new equipment and facilities in small structures. Examples of this exemption “include but are not limited to”:

- (a) One single family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.
- (b) A duplex or similar multi-family residential structure, totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes and similar structures designed for not more than six dwelling units.
- (c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use....
- (d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.
- (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

(14 CCR § 15303.)

Whether a project proposes a small facility or structure(s) that qualify for the above exemption depends on the context of the project and Class 3 exemptions have frequently been upheld for much larger structures and facilities than proposed by the Project. For example, Class 3 exemptions have been upheld for a 4,800 square foot full service car wash and attached coffee shop on a 25,000-square foot lot (*Walters v. City of Redondo Beach* (2016) 1 Cal.App.5th 809, 817), a 5,800-square-foot retail and office building (*Fairbank v. City of Mill Valley* (1999) 75 Cal.App.4th 1243), and 726 new utility cabinets throughout the City of San Francisco (*San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012).

In 2018, the Fourth District Court of Appeal found the application of the Class 3 exemption was appropriate for a faux monopine cell tower and adjacent structures proposed in a public park with more likelihood for impacts to public views or scenic resources than present here. In *Don't Cell Our Parks v. City of San Diego* (2018) 21 Cal.App.5th 338, the Fourth District Court of Appeal upheld the City's use of the Class 3 exemption, noting that although none of the examples in CEQA Guideline 15303 were "directly applicable", the monopine tower, which involved an approximately 534 square foot footprint (thus smaller than the 2,500-10,000 square foot limitation for commercial structures in Class 3) would be surrounded by similarly sized trees, was smaller than a residence, store, motel, office or restaurant – as a matter of law the Class 3 exemption applied. Here, like the tower involved in *Don't Cell Our Parks*, the Project proposes approximately 976 square feet of new development – far smaller than the 2,500-10,000 square feet of commercial development contemplated in Class 3. Moreover, although the proposed Project tower is taller than the tower involved in *Don't Cell Our Parks*, it is similar in size to the grove of trees surrounding it, which was a key factor the court relied on in *Don't Cell Our Parks*. The Project is also shorter than the 155-foot ham radio tower located nearby on Patrick Road further supporting the factual determination that the Project is a small facility in its context. Finally, the Project is designed to mimic the size and massing of surrounding trees, and unlike the *Don't Cell Our Parks* decision, the Project would not be visible from public parks or vista points. In other words, a court has already determined that cell towers, like those proposed by the Project, appropriately fall into the Class 3 exemption. Substantial evidence supports the County's conclusion that a Class 3 exemption is appropriate here.

3. None Of The Exceptions To Categorical Exemptions Apply

As made clear in the staff report, none of the exceptions to a categorical exemption set out in CEQA Guideline 15300.2 are present here because: (a) the Project would not have any impact on a sensitive environmental resource of hazardous or critical concern; (b) the Project would not result in cumulative impacts that would be significant over time; (c) there is no reasonable possibility that the Project would have a significant effect on the environment due to unusual circumstances; (d) the Project would not result in any damage to scenic resources; (e) the Project would

not be located on an identified hazardous waste site; and (f) the Project would not cause a substantial adverse change to the significance of a historical resource.

Here, the site is not characterized by any sensitive environmental characteristics and would not involve hazardous substances. Moreover, as demonstrated by the photo simulations included in the administrative record, the Project would not be visible from area public roadways, commercial areas, parks and scenic vistas. Although portions of the Project may be partially visible to nearby residents, these “private view” impacts not recognized as potentially significant impacts under CEQA. (See *Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 157 Cal.App.4th 885, 902-904; and *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 492 [“Under CEQA, the question is whether a project will affect the environment of persons in general, not whether a project will affect particular persons”].)⁴

Appellants failed to produce substantial evidence or even allege any potentially significant environmental impacts (including any impacts due to unusual circumstances),⁵ that the Project would result in damage to any scenic resources, or any other basis to claim that an exception to the Class 2 and Class 3 exemptions applies.

B. The Project Is Subject To The “Commonsense Exemption”

The common sense exemption to CEQA applies:

[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.... (14 CCR 15061(b)(3).)

As one court noted:

[a] discussion accompanying [the Guideline setting out the common sense exemption] explains its purpose as follows: Subsection (b)(3) provides a short way for agencies to deal with discretionary activities which could arguably be subject to the CEQA process but which common sense provides should not be subject to the Act. This section is based on the idea that CEQA applies jurisdictionally to activities which have the potential for causing environmental effects. Where an activity has no possibility of causing significant effect, the activity will not be subject to CEQA.

⁴ Moreover, the Project would in many ways improve the aesthetics of the Project site by removing unscreened metal equipment and towers and replace them with landscaping and a monopine tower designed to blend in with its surroundings.

⁵ There is nothing unusual about this Project, which is similar to cell towers that have been approved in the County and throughout the state subject to the same categorical exemptions applicable here.

(*Creed-21 v. City of San Diego* (2015) 234 Cal.App.4th 488, 510 (internal citations omitted.))

Here, as the staff report lays out in detail, the Project would be located on an already disturbed site, would replace existing telecommunications facilities, is designed to mimic its forest surroundings and is surrounded by a grove of similarly sized trees, and would include landscape screening to screen nearby private understory views. There are no sensitive biological resources, or historical or archeological resources, or scenic resources at the Project site or vicinity. The impacts alleged by appellants can only be characterized as potential private view impacts from private property. As reiterated by multiple courts, state law does not protect private views from private lands, and impacts to private views are not potentially significant impacts under CEQA. (See *Porterville Citizens* supra at 902-904; and *Mira Mar Mobile Community* supra at 492-94.)⁶

The record demonstrates that the Project has no possibility of causing a significant effect on the environment, and substantial evidence in the record supports a finding that the Project is subject to the “common sense” exemption.⁷

IV. The Project Is The Least Intrusive / Obtrusive Means Of Closing Its Identified Significant Gap In Service

As CTI already demonstrated in detail in its January 18 letter (See **Exhibit A** at pp. 2-6), and RF Statement (first attachment to **Exhibit A**), AT&T identified a significant service gap in 4G LTE service in the vicinity of the Project Site. The Project would close AT&T’s service gap by adding critically important wireless infrastructure that would provide customers reliable service, in a large area where there currently is none.

Substantial evidence in the record also makes clear that the Project proposes the least intrusive means to close AT&T’s significant wireless service gap. This includes a comprehensive alternatives analysis that analyzed whether AT&T could close its significant coverage gap with a facility at: (1) an existing 79’ pole operated by Crown Castle GT Company at the Crest Ranch Christmas Tree Farm; (2) a proposed 150-foot tall facility at the Ben Lamond Conservation Camp at 13575 Empire Grade Road, (3) a proposed new 150-foot tower at the Bonny Doon Fire and Rescue Station at 7276 Empire Grade Road; and (4) a 150-foot tower at the same site as the recently approved ham radio tower on Patrick Road. As noted in detail in

⁶ If that were not enough, appellants do not take into account the significant ground level aesthetic improvements to screening and the monopine tower itself, which would arguably improve private views and aesthetics in the areas surrounding the Project site.

⁷ We note that while the Project qualifies for multiple CEQA exemptions, the scope of any environmental review under CEQA is furthered constrained by the limits on the County’s discretion to deny or condition the Project pursuant to the federal Telecommunications Act of 1996. (Public Resources Code § 21004; 14 CCR § 15040.)

AT&T's RF Statement, none of these alternative locations offered the location or other site conditions necessary to close AT&T's identified service gap. In response to the Appeal, the applicant team also inquired with PG&E regarding the possibility of locating a wireless facility at the substation located near 333 Robles Drive. PG&E responded that it would *not* allow a wireless facility at this property, meaning it is not a feasible alternative facility location.

A. The Patrick Road Site Is Not A Technologically Feasible Alternative

As already demonstrated in detail in our January 18 letter, RF Statement, and the staff report, locating a wireless facility at a 140 foot centerline (with a total height of 150-feet, 10 feet higher than the Project) at Patrick Road *would not* close AT&T's significant gap in coverage. A facility at the Patrick Road location would still leave a significant gap in coverage south on Empire Grade and in the southeastern portion of the coverage gap area. Likely for this reason, AT&T already independently assessed the feasibility of closing its service gap at Patrick Road in 2020 and determined that the location was not a feasible location to close its significant gap in service coverage. Accordingly, the Patrick Road site is not a technically feasible alternative to close its significant service coverage gap. (See *T-Mobile USA, Inc. v. City of Anacortes* (2009, 9th Circuit) 572 F.3d 987, 996; see also **Exhibit A** at pp. 4-5)⁸

B. PG&E Substation On Robles Road Is Not A Technologically Feasible Alternative

As noted above, PG&E has indicated it is unwilling to allow a wireless facility to be constructed at its substation on Robles Road. This, in addition to the fact that AT&T already independently determined that locating a wireless facility at this location *would not* close its significant gap in coverage, demonstrates that the PG&E substation does not provide a technically feasible alternative for AT&T to close its identified significant gap in coverage.

V. CTI Fully Complied With Its Obligation To Erect A Mock-Up

Section 13.10.661(D) provides that, unless waived by County staff, "on-site visual demonstration structures (i.e., mock-ups) shall be required for all proposed wireless

⁸ As also noted in the record, AT&T and the Applicant do not believe that the existing ham radio tower would support a wireless facility installation. This means an entirely new facility would need to be constructed at Patrick Road and there is no indication that an entirely new and taller cell tower there would be any less visually intrusive than the Project.

Honorable Planning Commissioners
County of Santa Cruz
March 26, 2024
Page 11

communication facilities in time, place, and manner as determined by [County staff].”

As the staff report notes, CTI met this requirement by placing a mock-up at the site before the October 20, 2023 hearing on the Project. Contrary to the unsubstantiated claims in the Appeal, at no point during the October 20, 2023 hearing, or otherwise did the ZA or County staff require an additional mock-up to be placed at the Project site. CTI fully complied with the requirement set forth in County Code section 13.10.661(D).

VI. Conclusion

We appreciate County staff’s time and attention to this matter and look forward to working with the County to bring this important wireless and emergency communications facility to the community. As the staff report sets out in detail, the Appeal should be denied in its entirety. We look forward to attending and participating in the hearing on Wednesday.

Very truly yours,

MILLER STARR REGALIA

Travis Brooks

Travis Brooks

cc: Sheila McDaniel, Santa Cruz County Planning Department,
Sheila.McDaniel@santacruzcountyca.gov
Justin Graham, Santa Cruz County counsel,
Justin.Graham@santacruzcountyca.gov
Client

Attachments

TZB:tzb

EXHIBIT A



**MILLER STARR
REGALIA**

1331 N. California Blvd.
Suite 600
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrlgal.com

Travis Brooks
travis.brooks@msrlgal.com

January 18, 2024

VIA EMAIL

Jocelyn Drake
Zoning Administrator
County of Santa Cruz
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060
c/o Fernanda Dias Pini
Fernanda.DiasPini@santacruzcountyca.gov

Re: Wireless Communication Facility, 186 Summit Drive, Santa Cruz, CA 95060
Application No. 221049 (APN 080-62-02); Agenda Item 4

Honorable Zoning Administrator Drake:

We write on behalf of CTI Towers, Inc. (“CTI” or the “Applicant”) in advance of the continued hearing on its application to construct a wireless communication facility at 186 Summit Drive in the County (the “Project”). The Project would replace an aged guyed tower with a monopine tower constructed and operated in compliance with modern building and safety standards. Unlike the existing tower, the Project is designed to blend in as much as possible with its surroundings and it incorporates design components tailored to respond to feedback from the County and community members.

As detailed below, the proposed Facility is needed to close a significant gap in wireless coverage identified by AT&T Wireless, CTI’s primary tenant at the Project. As the now supplemented administrative record reflects, the Project proposes the least intrusive means of closing this gap in coverage. This conclusion is supported by detailed analyses of alternative tower locations (including the site of a recently approved HAM radio tower on Patrick Road), alternative tower heights, and alternative wireless technologies and other information included in the administrative record. Substantial evidence in the record supports staff’s proposed findings of approval and the federal Telecommunications Act of 1996 requires County approval of the Project.

Again, we appreciate staff’s hard work in preparing the staff report and supporting materials. We respectfully request that the Zoning Administrator accept staff’s recommendation and approve the Project, but at a height of 150 feet as requested,

which would allow for future collocation opportunities and provide AT&T with better wireless coverage to close its coverage gap.

I. The Project

CTI proposes to replace an approximately 50-year-old wireless tower and satellite dish with a 150-foot monopine tower that meets modern building and safety standards. After feedback from the public and the Zoning Administrator, the Applicant spent the last several weeks modifying Project designs to remove branching from the lower 85-foot portion of the tower and added bark coloration that more closely resembles surrounding trees. The Project would replace a dated, unscreened, uncamouflaged metal tower and accessory structures with a tree-like structure with new tree plantings, a landscaping plan, and screening to minimize visual impacts. Conditions of approval would require the Applicant to maintain Project landscaping and screening to minimize the Project's aesthetic impacts for years to come.

The Project is consistent with applicable Rural Residential ("RR") zoning, which allows for construction of wireless communication facilities with a Commercial Development Permit. Because the proposed facility will exceed 75 feet in height, the Applicant is also requesting a Height Exception pursuant to County code section 13.10.660(G)(1). The findings for a height exception can be made because the Project is necessary to close AT&T's significant gap in coverage and proposes the least visually obtrusive and best means for the community (i.e. least intrusive) to do so. The Project would also comply with the siting requirements in County Code section 13.10.660(E) by incorporating as much visual screening as possible, utilizing existing foliage and natural features to conceal and integrate the Project into its surroundings, and by camouflaging its appearance to mimic existing trees.

II. Federal Law Constrains The County's Ability To Deny The Project

In addition to meeting applicable local requirements, approval of the Project is required by key federal laws that govern local agency regulation of wireless facilities. The federal Telecommunications Act of 1996 (the "Act") is intended to "promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers...." The Act furthers these goals in part through the "reduction of the impediments imposed by local governments upon the installation of wireless communications facilities." (See *City of Rancho Palos Verdes v. Abrams* (2005) 544 U.S. 113, 115-16.)¹

¹ U.S. Supreme Court notes, "Congress enacted the Telecommunications Act of 1996 (TCA), 110 Stat. 56, to promote competition and higher quality in American telecommunications services and to encourage the rapid deployment of new telecommunications technologies....One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers."

The Act provides that a local agency can only “deny a request to place, construct, or modify personal wireless facilities” if such denial is supported by “substantial evidence contained in a written record.” (47 U.S.C., § 332(c)(7)(B)(iii).) This means that a local agency’s decision must be “authorized by applicable local regulations and supported by a reasonable amount of evidence.” (*T-Mobile USA Inc. v. City of Anacortes*, 572 F.3d 987, 995 (9th Cir. 2009).)

While the Act preserves local government authority over the placement and construction of wireless facilities, exercise of such local authority “shall not prohibit or have the effect of prohibiting the provision of personal wireless services.” (47 U.S.C., § 332(c)(7)(B).) Courts have found that an “effective prohibition” on the provision of wireless services occurs where a local agency denies approval of a wireless facility after a provider demonstrates (1) a significant gap in service coverage and (2) that the manner in which it proposes to fill the significant gap in services is the least intrusive in relation to the land use values set out in local regulations. (*City of Anacortes, supra* at 572 F.3d 997-8.)² Under *Metro PCS, Inc. v. City of San Francisco*, 400 F.3d 715, 733 (9th Cir. 2005), the significant gap prong is satisfied “whenever a provider is prevented from filling a significant gap in *its own* service coverage.” (Emphasis in original).³

As discussed below and reflected in the administrative record, AT&T has provided more than substantial evidence that it has a significant coverage gap in the coverage gap area. Substantial evidence also demonstrates that no less intrusive locations or means are available to close the identified coverage gap.

III. A Significant Gap In Wireless Coverage Exists

As discussed in detail on AT&T’s Radio Frequency Statement (“RF Statement”, attached hereto as **Exhibit A**), AT&T identified a significant service gap in 4G LTE service in an area “roughly bordered by .7 miles north of Empire Grade and Alba Road to the north, Alba Road to the East, Empire Grade and Pine Flat Road to the

² The County essentially codified these standards in County Code sections 13.10.660(C)(4) and (G) with respect to the requirements for approval of height exceptions.

³ In addition to the above, in 2018 the FCC ruled that an effective prohibition occurs whenever the decision of a local agency materially inhibits wireless services. The FCC explained that the “effective prohibition analysis focuses on the service the provider wishes to provide, incorporating the capabilities and performance characteristics it wishes to employ, including facilities deployment to provide existing services more robustly, or at a better level of quality, all to offer a more robust and competitive wireless service for the benefit of the public.” (See *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order*, FCC 18-133 (September 27, 2018) (“*Infrastructure Order*”) at ¶¶ 34-42) Thus, a local government “could materially inhibit service in numerous ways – not only by rendering a service provider unable to provide existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services.” (*Id.* at ¶ 37.)

south, and ½ mile west of Empire Grade Road to the west.” This area includes large portions of Empire Grade, a well-traveled roadway for vehicles travelling between the Bonny Doon community and population centers to the North and East. The coverage gap area also includes several dozen residences and many commercial and institutional facilities.⁴

The Project would close AT&T’s significant coverage gap by adding critically important wireless infrastructure that would provide customers reliable service, in a large area where there is currently no service. The Project would also allow AT&T to support public safety in the area by partnering with FirstNet to provide emergency communication service. This is the nationwide accepted high-quality spectrum for public safety communications.

IV. The Project Is The Least Intrusive Means Of Closing The Significant Gap In Coverage

Substantial evidence in the record demonstrates that: (1) the Project site is the least intrusive means to close AT&T’s significant coverage gap; (2) that the Project’s proposed 150-foot height is necessary to close the coverage gap and allow for colocation opportunities; and (3) that alternative technologies like small cells are not the appropriate alternative to close AT&T’s coverage gap.

A. AT&T Confirmed That No Suitable Alternative Locations Would Close Their Significant Coverage Gap

Recently supplemented application materials demonstrate that AT&T worked hard to carefully select the Project to maintain a sufficient clear line-of-sight for signals to provide adequate service coverage to the gap area. As indicated in the alternatives analysis included in CTI’s application, AT&T analyzed three sites in the vicinity and determined that neither would close the identified coverage gap: (1) an existing 79’ pole operated by Crown Castle GT Company, LLC at the Crest Ranch Christmas Tree Farm; (2) a proposed new 150-foot pole facility at the Ben Lamond Conservation Camp at 13575 Empire Grade Road; and (3) a proposed new 150-foot tower at the Bonny Doon Fire and Rescue Station at 7276 Empire Grade Road. None of these locations offered the centralized location or site conditions necessary to close the coverage gap.

The record also now includes a detailed analysis by AT&T confirming the infeasibility of locating its wireless facilities on the site of a recently approved HAM radio tower on Patrick Road. As indicated on Exhibits 7 and 8 to the RF Statement, locating the Project at a 140-foot height centerline at Patrick Road would still leave

⁴ Some opposition comments rely on AT&T’s “Coverage Viewer” on its website to argue that no coverage gap exists. However, as the RF Statement explains, the “Coverage Viewer” only displays approximate coverage, from which actual coverage may vary. On the other hand, the propagation and drive test maps included as exhibits to the RF Statement provide a more accurate depiction of actual coverage gaps in the vicinity of the Project.

a significant gap in coverage south on Empire Grade and in the southeastern portion of the coverage gap area.⁵

B. A Height Of 150 Feet Is Necessary To Close AT&T's Coverage Gap And Allow For Future Collocation Opportunities

As demonstrated in the RF Statement and Exhibits 5 and 6 thereto, AT&T requires a center line height of no less than 130 feet, though 140 feet is its preferable center line height to close its significant coverage gap; a 140-foot centerline height would provide a significant improvement in closing the coverage gap for a meaningfully larger population, which would better attain AT&T's objectives. When accounting for the additional, approximately 10 feet of pole structure to the canopy of the monopine needed, this requires a total facility height of 140 to 150 feet to account for a 130- or 140-foot centerline height. A lower centerline height of 110 or 120 feet would fail to provide coverage in the concentrated residential areas in the southern part of the service gap and along Conifer Lane and would not attain AT&T's coverage objectives.

A tower height of 150 feet (allowing for 140 feet centerline height at the top of the monopole) is necessary to allow for collocation of future carriers at the Project and provide optimal coverage to AT&T. Like AT&T, other carriers are likely to require a centerline height of at least 130 feet to provide wireless service to the area. Accordingly, for the County to implement its policy of requiring collocation of carriers at existing facilities, the County should approve the Project's proposed 150-foot height to allow space for collocation of additional carriers. (See County Code, §§ 13.10.660(E)(1) [requiring new wireless communication facilities to be co-located onto existing facilities]; and 13.10.661(D)(3) [requiring all alternatives analyses to explain why co-location is not proposed at existing wireless facilities].)

C. Small Cell And Satellite Systems Would Not Close AT&T's Coverage Gap

Public comments suggest that AT&T should close the identified coverage gap by utilizing small cell or low orbit satellite technology. As the record reflects, none of these alternatives are functionally or technologically feasible.

Regarding small cells, this technology is primarily used in dense urban environments where building density is an issue or where small gaps in coverage exist. In other

⁵ We note that the HAM radio tower approved at Patrick Road likely lacks the design components necessary to support collocation of wireless facilities. (See RF Statement, at 4.) Before construction of the HAM radio tower, AT&T independently assessed the suitability of the Patrick Road site for a similar facility to the Project in 2020. It decided not to move forward with a facility at Patrick Road because of the lack of ability to close coverage gaps.

words, small cell technology is designed to improve wireless coverage capacity, not coverage -small cells are not a replacement for macro sites like the Project, which are the fundamental building blocks needed to provide coverage where large gaps exist as in the coverage gap area. (See “Strengthening Connections Today, While Building for Tomorrow,” AT&T, at p. 4., attached hereto as **Exhibit B**). In addition, small cells are characterized by limited lines of sight with lower power signals that quickly dissipate to weak levels, This is especially true hilly areas and areas with dense foliage, like the identified gap area. Reflecting this, AT&T has found that the use of small cells would provide wireless coverage to a significantly smaller population than would be served by the Project.⁶ Finally, small cells also lack generator backup, meaning they lack functionality in emergencies with power outage. To conclude, for *several* reasons, small cells are not a feasible alternative for AT&T to close its significant gap in coverage.

A comment also suggested the use of low orbit satellite technology to close the significant coverage gap. AT&T does not offer satellite wireless service, thus, satellite wireless service is not a feasible alternative for AT&T to close its significant gap in coverage.

As an independent basis to rule out these purported technological alternatives, a local government may not require deployment of a specific technology – such as small cell or satellite technology - because the Federal Communications Commission has exclusive authority over technical aspects of wireless communications. *N.Y. SMSA Ltd. P’ship v. Town of Clarkstown*, 612 F.3d 97, 105 (2d Cir. 2010) (local government preempted from dictating alternative technology for providing wireless services); *Bennett v. T-Mobile U.S. Inc.*, 597 F.Supp. 2d 1050, 1053 (C.D. Cal. 2008) (FCC has regulated “every technical aspect of radio communication”); *Public Utility Comm’n of Texas Petition for Declaratory ruling and/or Preemption of Certain Provisions of the Texas Public Utility Regulatory Act of 1995*, Opinion and Order, 13 FCC Rcd 3460, ¶¶ 13, 74 (FCC rel. Oct. 1, 1997) (FCC ruled it is unlawful for a state or locality to specify the “means and facilities” through which a service provider must offer services).

V. Generalized Comments Regarding Purported Facility Impacts Are Not A Basis For Denial

As is often the case with proposed wireless facilities, several public comments were provided that raise concerns regarding the Project’s purported aesthetic, property value, safety, and noise impacts. None of these comments provide a lawful basis for the County to deny the Project.

⁶ It should also be noted that the installation of un-screened small cell facilities along area roadways is arguably more visually intrusive than the heavily screened and camouflaged Project, which is set back from public roadways. (See photo simulations included in pages 42-47, and 64-65 of the staff report.)

A. Purported Aesthetic And Property Value Impacts

Some comments raise concerns regarding the Project's purported aesthetic impacts and impacts on property values in the vicinity of the Project. It is important to note that none of these comments account for the fact that the Project would replace an existing unsightly steel tower, satellite dish, and other unscreened objects. Unlike the existing tower, the Project would incorporate foliage, a bark-like monopole, new tree plantings, and landscaping which would screen the Project from view as much as possible.

Comments regarding the Project's supposed impact on surrounding property values fail to take into account the landscaping and increased screening it proposes versus the existing tower. Also, contrary to comments provided regarding property values, California realtor groups have conducted studies that show residential property values are not negatively impacted by proximity to wireless communications towers.⁷

Finally, we note that general concerns about aesthetics are insufficient as a matter of law to support denial of the Project. Courts within the Ninth Circuit and elsewhere have long agreed that general concerns about aesthetics and property values do not constitute substantial evidence to support denial of a permit to install a wireless telecommunications facility.⁸

B. Purported Health And Safety Concerns

Some comments suggest that the Project would pose a fire hazard and others suggest that the Project would pose health risks associated with radio frequency emissions. These claims lack merit and are not a lawful basis to deny the Project.

With regard to fire hazards, no project specific evidence is provided to support claims that the Project poses a fire risk – all that is offered is anecdotal evidence of fires at wireless facilities owned by other operators, in other states, and several years ago. Contrary to such baseless claims, the Project would be constructed of fire resistant materials in strict compliance with modern building and fire standards. Far from posing an increased fire risk, the Project would improve emergency communications in the area allowing for FirstNet service supported by safe and efficient backup generators that would keep the Project operational during power

⁷ See Joint Venture Silicon Valley Network, *Wireless Communications Initiative Study: Wireless Facilities Impact on Property Values* (Nov. 2012)(analyzed property values for over 1,600 single-family homes; concluded "It is quite clear from the data that the distance from a wireless facility has no apparent impact on the value or sale price").

⁸ See, e.g., *California RSA No. 4 v. Madera County*, 332 F.Supp.2d 1291, 1308-09 (E.D. Cal. 2003) (generalized expressions of concern regarding aesthetics or the effect on property values fail to meet the substantial evidence threshold under the Act) (citing *Omnipoint Corp. v. Zoning Hearing Bd.*, 181 F.3d 403, 409 (3d Cir.1999); *Cellular Telephone Co. v. Town of Oyster Bay*, 166 F.3d 490 (2nd Cir. 1999)).

outages. (See November 20, 2023 letter from Kevin R. Nida, Senior Public Safety Advisor with FirstNet to Fernanda Dias Pini, [discussing support for the Project and need for FirstNet communication in the area, which is lacking].)

Concerns regarding health impacts from RF emissions are also unfounded. As detailed in the Hammett & Edison report included in the application materials, the Project would comply with prevailing standards for limiting public exposure to radio frequency. The report concludes that “the highest calculated [RF frequency] levels in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration.” (Hammond & Edison July 6, 2021 RF Exposure Study, at p. 3.) Because the Project will comply with the FCC’s RF exposure standards, the application cannot be denied due to purported environmental effects of radio frequency emissions. (47 U.S.C., § 332(c)(7)(B)(iv).) Moreover, criticisms of the Project that are merely a pretext for health concerns – arguing that property values will be reduced because of proximity to a cell site – are barred by federal law. (See *i.d.*)

C. Purported Noise Impacts

Comments also raise generalized concerns regarding noise created by the Project’s backup generators. Project generators would only be operated during emergencies and power outages and during periodic no load daytime testing. The noise study prepared by Hammett & Edison concludes that operation of the Project’s generators will comply with all applicable County noise standards at the nearest edge of the subject property and at the property line of the nearest receiving property.

VI. Conclusion

We appreciate County’s staff’s time and attention to this matter and look forward to working with the County to bring this important wireless and emergency communications facility to the community. As the staff report and proposed findings of approval lay out in detail, substantial evidence exists to support each of the

findings necessary under the County Code for approval of a Commercial Development Permit and Height Exception for a 150-foot facility. Approval of the Project is also required pursuant to the federal Telecommunications Act of 1996. We look forward to attending and participating in the hearing on Friday.

Very truly yours,

MILLER STARR REGALIA

A handwritten signature in blue ink, appearing to read "T. Brooks", with a horizontal line extending to the right.

Travis Brooks

Attachments

cc: Sheila McDaniel, Santa Cruz County Planning Department, Sheila.McDaniel@santacruzcountyca.gov
Client

TZB:tzb

EXHIBIT A

AT&T Mobility Radio Frequency Statement
186 Summit Dr., Santa Cruz, CA 95060

AT&T has experienced an unprecedented increase in mobile data use on its network since the release of the iPhone in 2007. AT&T estimates that since introduction of the iPhone in 2007, mobile data usage has increased 470,000% on its network. AT&T forecasts its customers' growing demand for mobile data services to continue. In 2022, wireless data traffic increased to 73.7 trillion megabytes, a 38% increase from 2021, and is expected to increase 58 gigabytes per smartphone per month on average (4x current usage) by 2028. The increased volume of data travels to and from customers' wireless devices and AT&T's wireless infrastructure over limited airwaves — radio frequency spectrum that AT&T licenses from the Federal Communications Commission.

Spectrum is a finite resource and there are a limited number of airwaves capable and available for commercial use. Wireless carriers license those airwaves from the FCC. To ensure quality service, AT&T must knit together its spectrum assets to address customers' existing usage and forecasted demand for wireless services, and it must use its limited spectrum in an efficient manner.

AT&T uses high-band (i.e., 6 GHz and higher), mid-band (i.e., C-band, 2300 MHz, 2100 MHz, and 1900 MHz) and low-band (i.e., 850 MHz and 700 MHz) spectrum to provide wireless service. Each spectrum band has different propagation characteristics and signal quality may vary due to noise or interference based on network characteristics at a given location. To address this dynamic environment, AT&T deploys multiple layers of its licensed spectrum and strives to bring its facilities closer to the customer. The proposed wireless communications facility at 186 Summit Dr., Santa Cruz (the "Property") is needed to close a coverage gap in 4G LTE service in an area roughly bordered by 0.7 miles north of Empire Grade and Alba Road to the north, Alba Road to the east, Empire Grade and Pine Flat Road to the south, and ½ mile west of Empire Grade Road to the west. This portion of Santa Cruz sits along the Empire Grade to the north of Bonny Doon. Within the coverage gap that would be closed, cell and data service is unavailable along Empire Grade, which sees significant travel of vehicles between the community of Bonny Doon and population centers to the North and East. Cell and data service is also unavailable to several commercial and institutional facilities and dozens of residences.

The service coverage gap is caused by inadequate infrastructure in the area. AT&T currently has existing sites in the broader geographical area surrounding the Property but, as Exhibit 1 illustrates, these existing sites do not provide sufficient 4G LTE service in the gap area. To meet its coverage objectives, AT&T needs a new wireless communications facility in the immediate area of the service coverage gap. Wireless telecommunications is a line-of-sight technology, and AT&T's antennas need to be high enough propagate an effective signal throughout the gap area. To meet its coverage objectives for this gap area, AT&T intends to place its equipment on CTI Towers, Inc.'s replacement stealth wireless telecommunications facility disguised as a 150-foot tall pine tree. Denial of this proposed facility or a reduction in height would materially inhibit AT&T's ability to provide and improve wireless services in this area.

It is important to understand that service problems can and do occur for customers even in locations where the coverage maps on AT&T's "Coverage Viewer" website appear to indicate that coverage is available. As the legend to the Coverage Viewer maps indicates, these maps display approximate coverage. Actual coverage in an area may differ from the website map graphics, and it may be affected by such things as terrain, weather, network changes, foliage, buildings, construction, high-usage periods, customer equipment, and other factors.

It is also important to note that the signal losses, slow data rates, and other service problems can and do occur for customers even at times when certain other customers in the same vicinity may not experience any problems on AT&T's network. These problems can and do occur even when certain customers' wireless phones indicate coverage bars of signal strength on the handset. The bars of signal strength that individual customers can see on their wireless phones are an imprecise and slow-to-update estimate of service quality. In other words, a customer's wireless phone can show coverage bars of signal strength, but that customer will still, at times, be unable to initiate voice calls, complete calls, or download data reliably and without service interruptions due to service quality issues.

To determine where equipment needs to be located for the provisioning of reliable service in any area, AT&T's radio frequency engineers rely on far more complex tools and data sources than just signal strength from individual phones. AT&T uses industry standard propagation tools to identify the areas in its network where signal strength is too weak to provide reliable service quality. This information is developed from many sources including terrain and clutter databases,

which simulate the environment, and propagation models that simulate signal propagation in the presence of terrain and clutter variation. AT&T designs and builds its wireless network to ensure customers receive reliable in-building service quality. This level of service is critical as customers increasingly use their mobile phones as their primary communication devices. According to the Center for Disease Control and Prevention (CDC), more than 83% of California adults, and more than 98% of Californians under age 18, rely exclusively or primarily on wireless communications in their homes. And California households rely on their mobile phones to do more (E911, video streaming, GPS, web access, text, etc.). In fact, California reported to the FCC that there were more than 23.2 million wireless calls and 95,539 texts to 911 in 2021 (the most recent year for state level data).

The proposed facility at the Property is also a part of AT&T's commitment to supporting public safety through its partnership with FirstNet, the federal First Responder Network Authority. Conceived by the *9/11 Commission Report* as necessary for first responder communications, Congress created the federal First Responder Network Authority, which selected AT&T to build and manage FirstNet, the first-ever nationwide first-responder wireless network. The proposed facility will provide new service on Band 14, which is the nationwide high-quality spectrum set aside by the U.S. government for public safety. Deployment of FirstNet in the subject area will improve public safety by putting advanced wireless technologies into the hands of public safety agencies and first responders.

Exhibit 1 to this Statement is a map of the existing 4G LTE service coverage (without the proposed installation at the Property) in the area at issue. It includes 4G LTE service coverage provided by other existing AT&T sites. The green shaded areas of the map depict acceptable in-building coverage. In-building coverage means customers are able to place or receive a call on the ground floor of a building. The yellow shaded areas depict areas within a signal strength range that provide acceptable in-vehicle service coverage. In these areas, an AT&T customer should be able to successfully place or receive a call within a vehicle. The blue and white shading depicts areas within a signal strength range in which a customer might have difficulty receiving a consistently acceptable level of service. The quality of service experienced by any individual customer can differ greatly depending on whether that customer is indoors, outdoors, stationary, or in transit. Any area in the yellow, blue, or white category is considered inadequate service coverage and constitutes a service coverage gap.

AT&T conducted a drive test to measure actual signal strength in the area. Exhibit 2 provides the drive test results, which validate the significant service coverage gap depicted in Exhibit 1.

Exhibit 3 is a map that predicts 4G LTE service coverage based on signal strength in the vicinity of the Property if the proposed facility is constructed as proposed in the application. As shown by this map, constructing the proposed facility at 150 feet with a 140 foot center line (CL) closes this significant service coverage gap. Exhibit 4 shows the predicted coverage with a slightly lower CL of 130 feet instead of 140 feet. We are expecting to be able to cover Conifer Lane to the south with at least the Outdoor-Coverage service level. The 130 foot CL would be the lowest we would accept for a suitable design at this location.

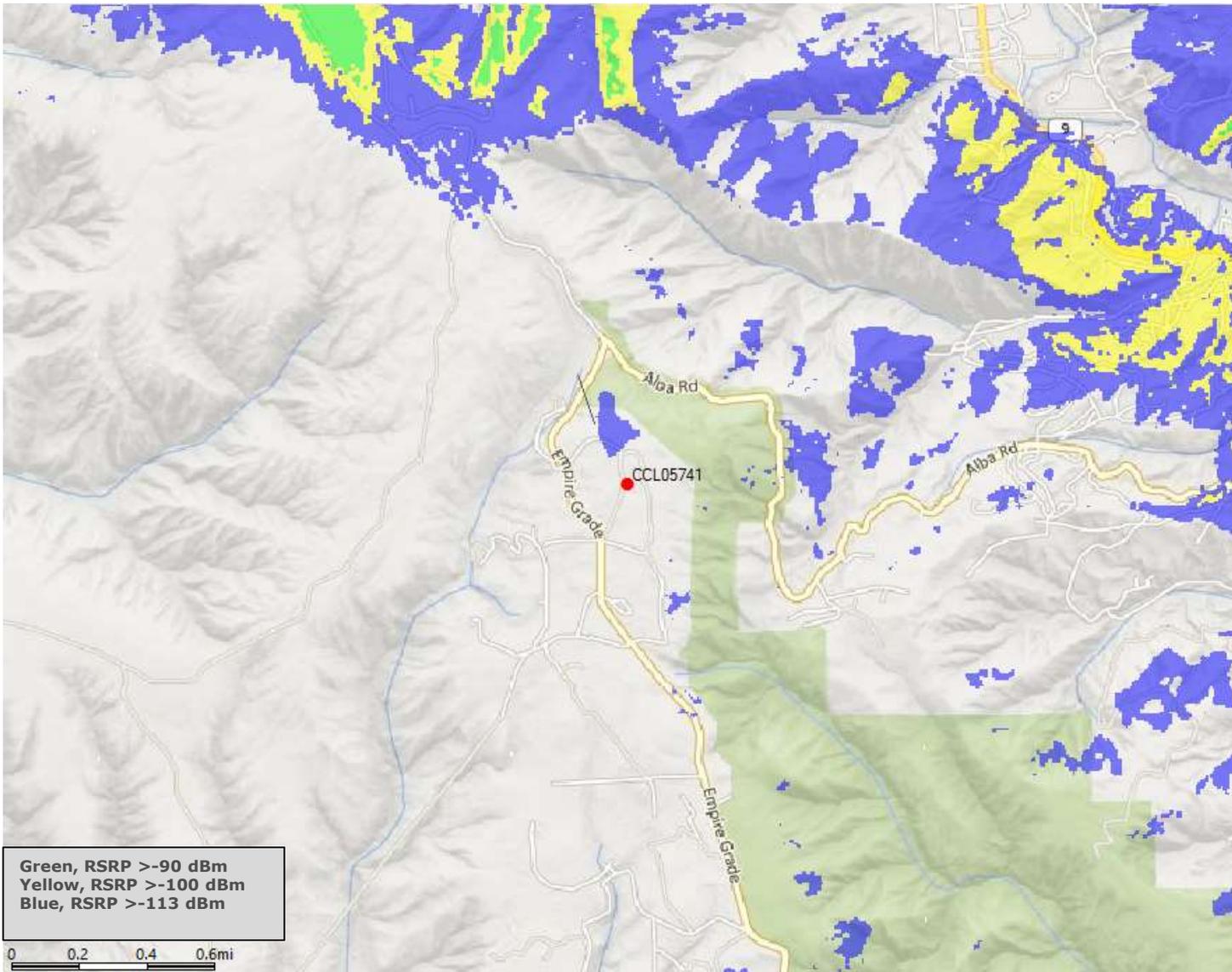
Exhibits 5 (120 feet) and 6 (110 feet) show that those respective lower tower heights at the proposed location would not close AT&T's significant service coverage gap. And Exhibit 7 demonstrates that a replacement tower at the Patrick Road location (the existing HAM radio tower would likely not support collocation) also would not close AT&T's significant service coverage gap. Exhibit 8 illustrates the comparison between the proposed tower and the Patrick Road location.

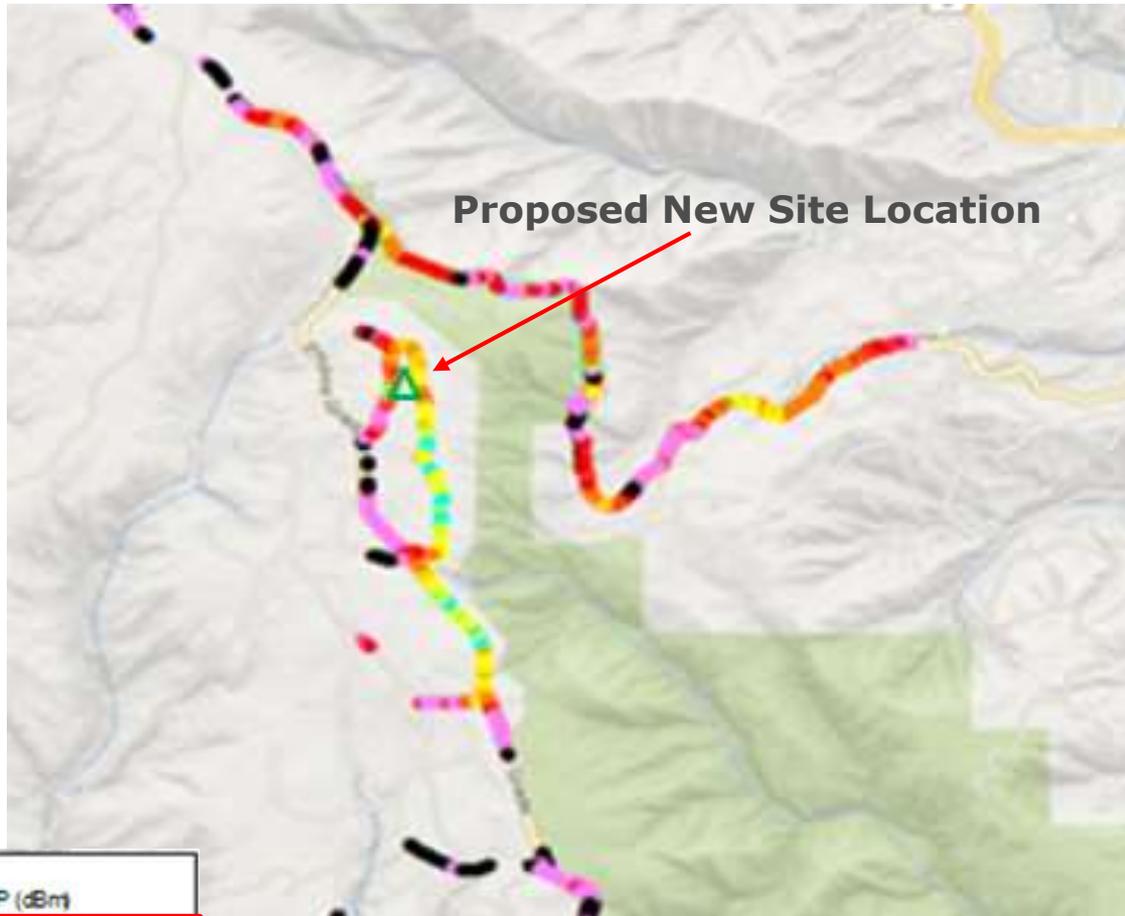
My conclusions are based on my knowledge of the Property and with AT&T's wireless network, as well as my review of AT&T's records with respect to the Property and its wireless telecommunications facilities in the surrounding area. I have a Bachelor of Science Degree in Electrical and Electronic Engineering from California State University Sacramento and have worked as an engineering expert in the wireless communications industry for more than 23 years.

/s/ James Temple
James Temple
AT&T Mobility Services LLC
Network, Planning & Engineering
RAN Design & RF Engineering
November 2023

Existing LTE 700 Coverage

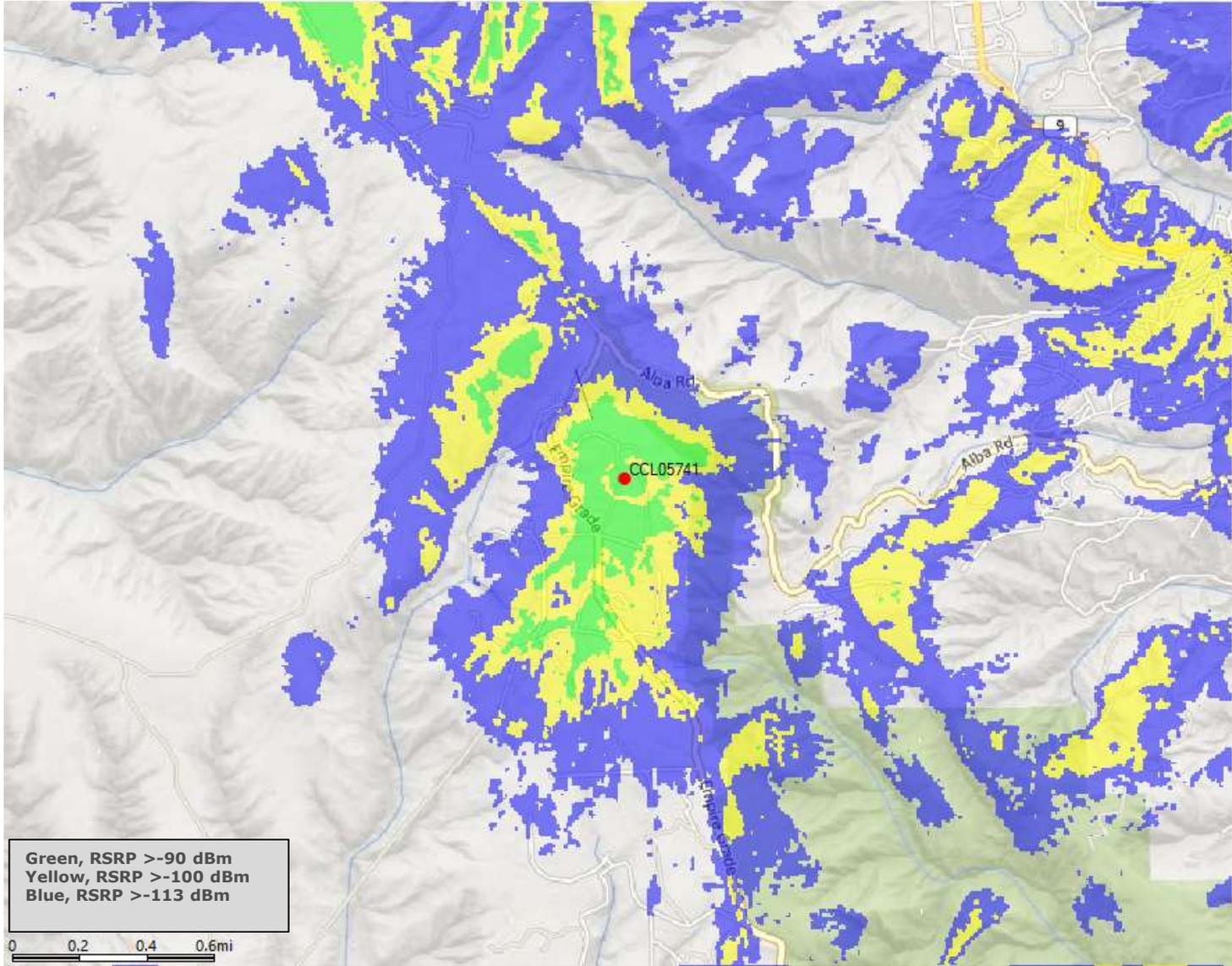
Exhibit 1





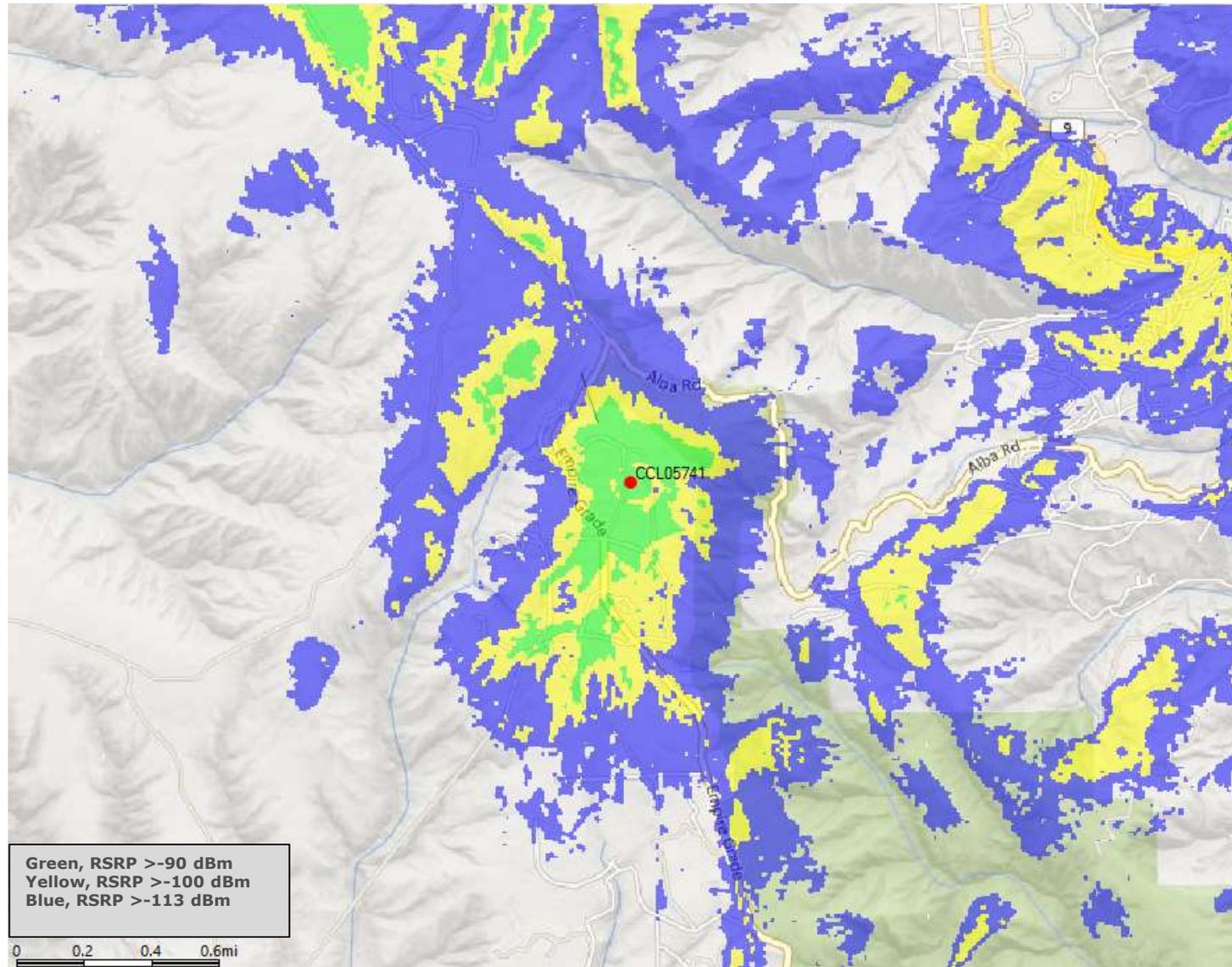
UE1-LTE_UE_RSRP (dBm)	
● Below -124.00 (376) 13.6%	
● ≥ -124.00 to < -118.00 (588) 21.3%	
● ≥ -118.00 to < -115.00 (301) 10.9%	
● ≥ -115.00 to < -110.00 (415) 15.0%	
● ≥ -110.00 to < -105.00 (513) 18.5%	
● ≥ -105.00 to < -95.00 (250) 9.0%	
● ≥ -95.00 to < -85.00 (33) 1.2%	
● Above -85.00 (291) 10.5%	

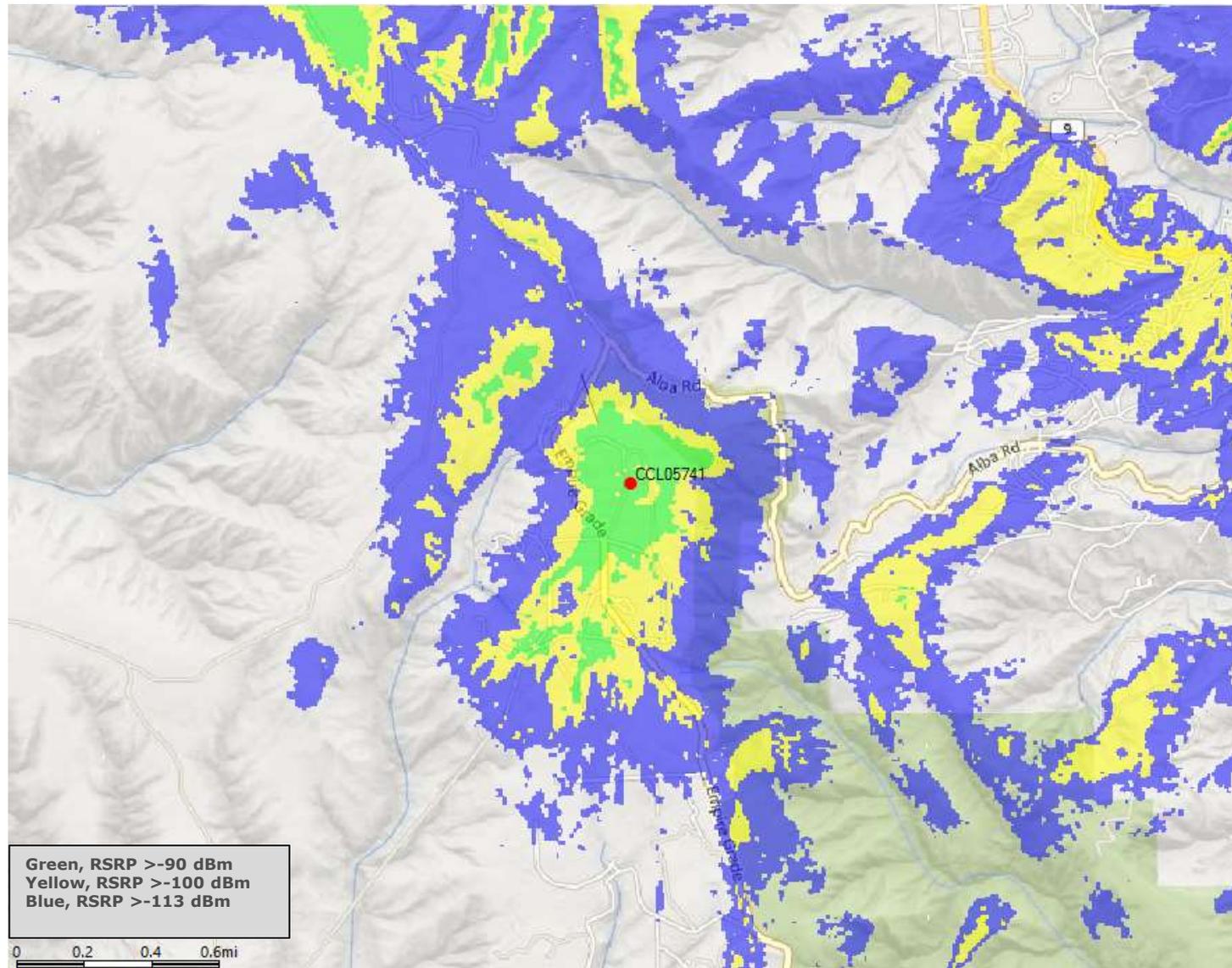
Signal levels inside red box considered to be very weak and constitute an indoor-service coverage gap

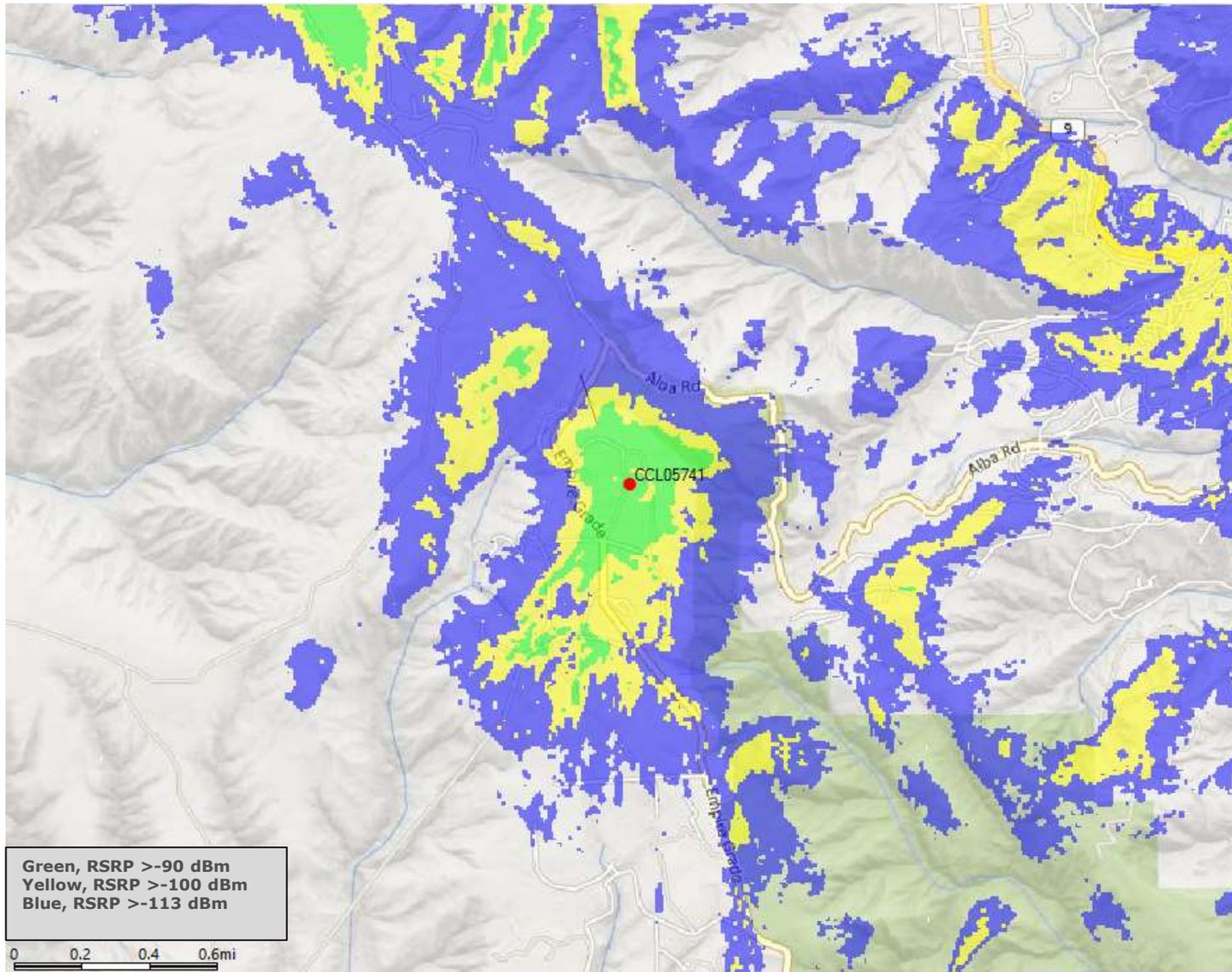


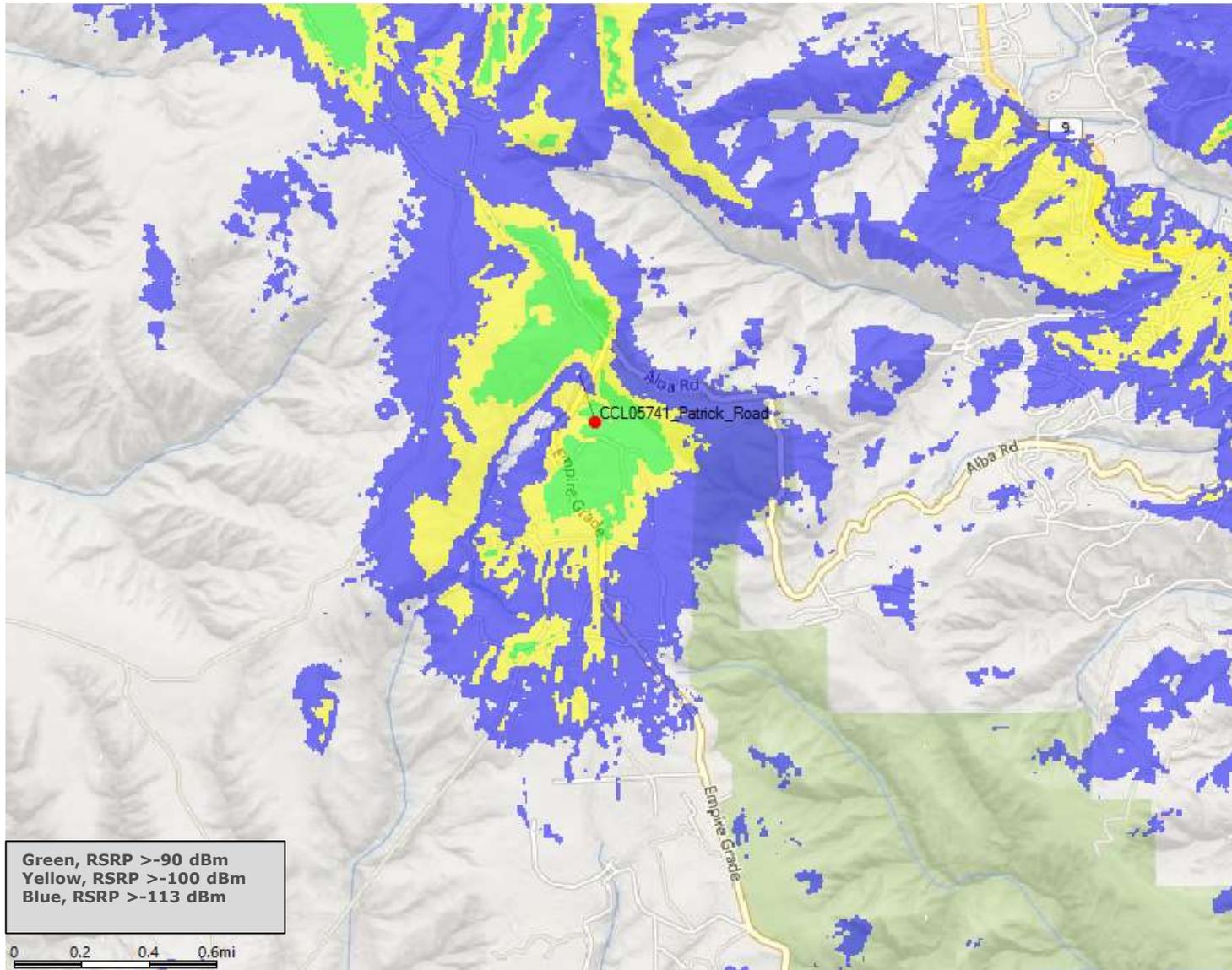
Legend

- Reliable Service Indoors/Outdoors
- Reliable Coverage in Transit, Reliable Coverage Less Reliable
- Reliable Coverage Outdoors Only, Indoor Coverage Less Reliable
- Existing site
- Proposed site



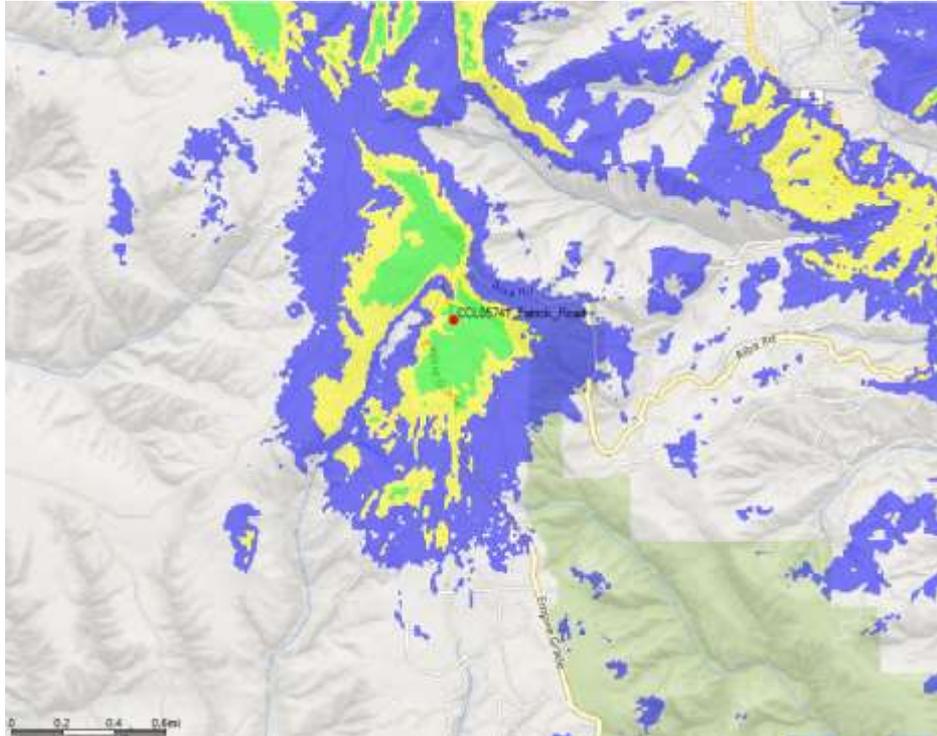
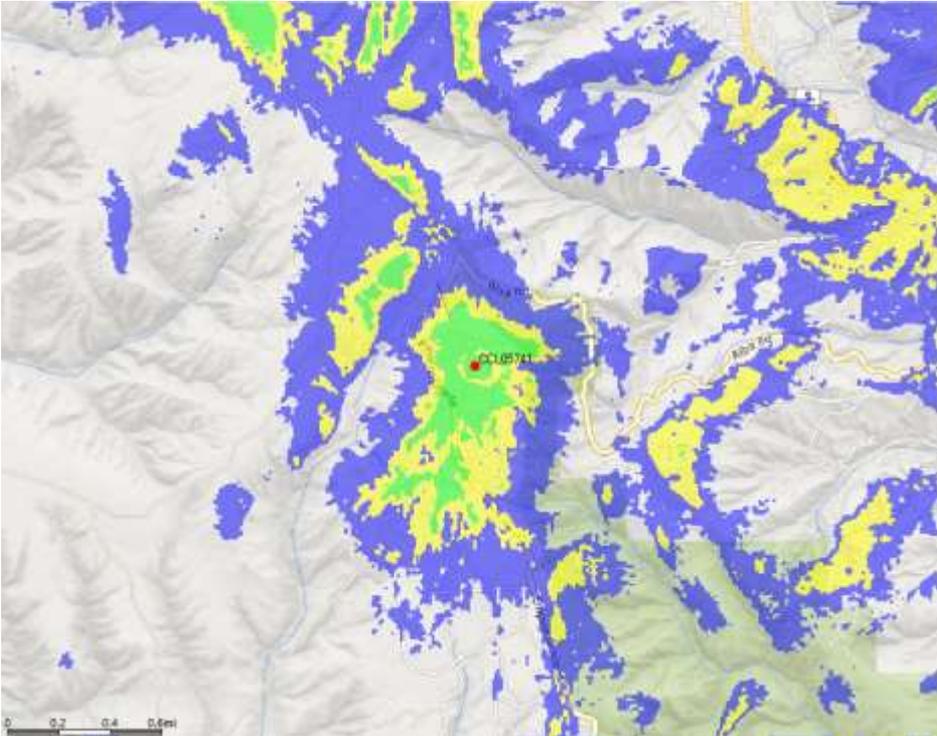






CTI Tower CL @ 140' vs. Patrick Road CL 140' LTE 700 Coverage

Exhibit 8

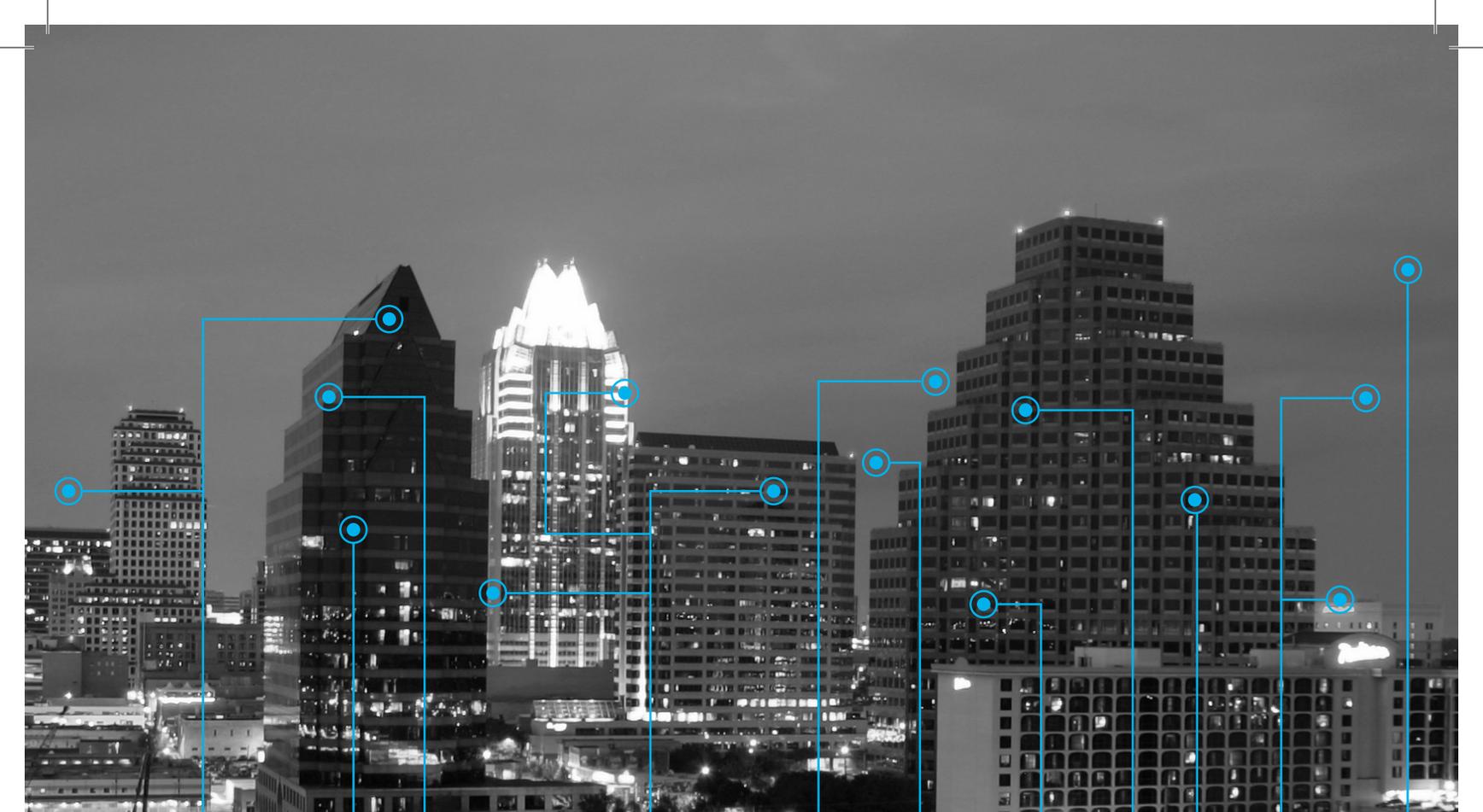


Green, RSRP > -90 dBm
Yellow, RSRP > -100 dBm
Blue, RSRP > -113 dBm

Legend

- █ Reliable Service Indoor/Outdoors
- █ Reliable Coverage in Transit
Indoor Coverage Less Reliable
- █ Reliable Coverage Outdoors
Only
Indoor Coverage Less Reliable
- Existing site
- Proposed site

EXHIBIT B

A nighttime photograph of a city skyline with several illuminated skyscrapers. A blue network diagram is overlaid on the image, consisting of circular nodes connected by thin lines, suggesting a digital or communication network.

Strengthening
connections today, while
building for tomorrow.





Bringing you the connectivity you want, when you want it.



People everywhere are using connected devices for nearly everything.

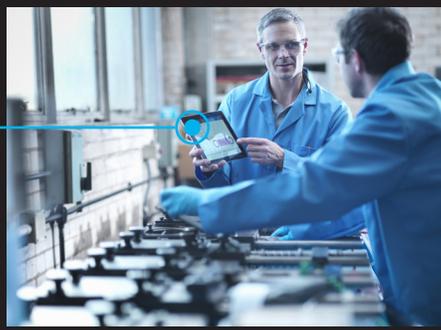
- By 2022, **nearly 80%** of the U.S. population will have a smartphone.^{1,2}
- Consumers are expected to spend over **\$122B** in app stores in 2019 – **double** the size of the global box office market. This level of growth is **5x as fast as the overall global economy**.³
- The number of connected devices is expected to reach 25 billion by 2021 – each of which will be managed and accessed through an application.⁴

Businesses are taking advantage of mobile technology to knock down barriers and more effectively compete in our global economy.

- As of early 2018, in-app and mobile purchases accounted for **67% of sales** in the U.S., with the total app economy generating **\$334B** in revenue from in-app sales and advertising.^{4,5}
- The wireless industry has a direct impact on the U.S. economy: creating nearly **5M jobs**, **contributing \$475B to GDP**, and **generating \$1T in economic output**.⁶

All of these apps and resources use a lot of data. To accommodate this surge in data without driving prices sky-high for our customers, we must operate our network more efficiently. And, small cells can help us do just that.

Small cells can be readily deployed and deliver increased data capacity. They help enable higher connection speeds and bring an overall better wireless experience to customers today. Small cells also help lay a foundation for our **network to handle the technologies of the future—such as 5G, smart cities, autonomous cars and the Internet of Things**.



Homeowners are rapidly abandoning landlines in favor of mobile phones making reliable wireless connectivity at home an important factor consideration for home buyers and renters.

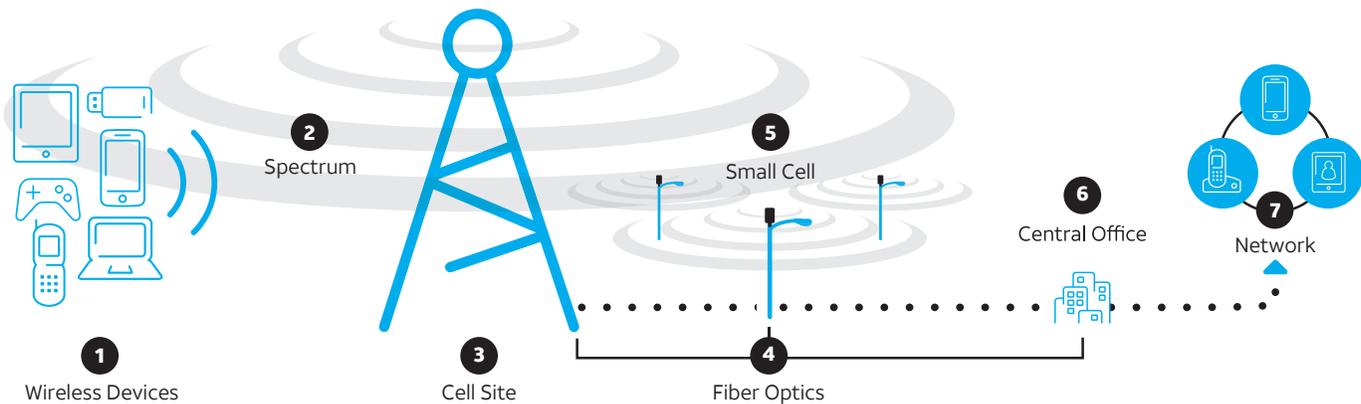
- Across nearly 400M connections, one in five Americans access home internet exclusively through their smartphone.⁷
- Americans depend more on wireless service for communication in addition to internet access: as of 2017, more than half of American homes (52.5%) only had wireless telephones.⁸
- When moving, Americans value reliable wireless service (67%) more than affordable housing (60%), good schools (65%), and good commute time (41%).⁹

Cities are turning to wireless networks and mobile technology to operate smarter and more efficiently.

- In 2018, mobile phones will be surpassed in numbers by IoT devices, which are expected to reach 1.5B globally by 2022.¹⁰
- Smart City solutions applied to vehicles and electric grids could produce \$160B in benefits and savings through reductions in energy usage, traffic congestion and fuel costs.¹¹

How Wireless Networks Work

Modern communication networks help drive innovation and improve the way consumers connect with each other, with their entertainment and with their communities.



1. Wireless Devices

Wireless devices need a network to operate. The network is part radio-based (wireless) and part wired.

2. Spectrum

Spectrum is the airwaves over which wireless communications (calls, texts, email, internet traffic, etc.) travel to and from wireless devices via cell sites.

3. Cell Site

Cell sites connect wireless devices to the network using copper and fiber optic wires. Once transmitted from the cell tower to the network, the data of a “wireless” call is virtually indistinguishable from the other data traveling across the network – e.g. traditional landline calls, texts, emails and the internet data. Cell sites are connected in a pattern of overlapping cells that allow users to remain connected while on the move.

4. Fiber Optics

Fiber optic lines are the modern equivalent of copper wire, but instead of using electricity to transmit information, fiber uses pulses of light to transport internet-based data. This technology can support much more data and transmit it faster than traditional copper lines. For example, on a typical fiber cable, a 1 gigabit per second signal can travel over 35 miles without being degraded as compared to only 300 feet over a copper line.¹²

5. Small Cells

Small cells play a key role in meeting the increased demand by delivering the network flexibility and reliability our customers depend on. Small cells “densify” AT&T’s network and to bring the network “closer” to its users. This allows us to provide a better LTE experience today while also allowing us to prepare for future developments in technologies such as smart cities and new developments in the Internet of Things (IoT).

6. Central Office (Wireless Switch Building)

At the central office, home and business lines connect to the network. The central office has equipment that routes calls locally or to long-distance carrier facilities.

7. Network

The network consists of all the facilities (wires, antennas, equipment, etc.) and spectrum that we use to deliver data and content (voice, internet and video) that allow customers to use their devices (phones, computers, tablets, SmartGrid, etc.) to communicate better and faster.

Cell Sites Come in Many Forms

Traditional Macro Sites

Standard antenna facilities that often provide optimal coverage and capacity. Traditional macro cell sites are typically installed atop free-standing towers, roof tops and other taller structures. Macro cells are the fundamental building blocks needed to enable high-speed mobile internet. Along with playing a key role in connecting a large number of devices to the network at the same time, macro cells have the ability to provide service over a broad area as their coverage radius is measured in miles.

Small Cells

Small cells are light weight, low power, precisely targeted solutions that can cover a radius up to 1,500 feet. They can be readily deployed to specific locations, including those where customers are prone to experience connectivity issues, heavily populated areas that need more network capacity—like a downtown area—or in areas that can’t effectively be served by a traditional macro cell due to topography, high concentrations of buildings, or other man-made obstacles.

The public right-of-way—where sidewalks, electric and light utilities are located—is an ideal place for this small wireless infrastructure.

Distributed Antenna Systems (DAS)

Distributed Antenna Systems are flexible solutions that help connect customers to our wireless services in areas that have high concentrations of users. DAS is effective in large venues—like arenas, convention centers or stadiums—that already have service but need added capacity as large numbers of customers access AT&T’s network at the same time.

DAS uses a group of antennas that divide data traffic into smaller, more manageable sections, which enhances capacity and connectivity speeds.

Wireless Cell Site Selection

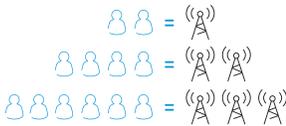
We are always analyzing our network to deliver the best, most reliable service to our customers, no matter where they are, and to help prevent capacity and coverage gaps. In addition to the strengths and challenges of each cell site type, AT&T must consider the following factors as well:



Topography: Wireless networks depend on radio waves that travel through the air. If an area is very hilly, more sites are needed to cover the area since there is shadowing from the terrain. Consider how a hill blocks the sun's rays at sunset.



Signal Handoff: For wireless calls to maintain connectivity as a customer drives or walks down a street, the signals from one cell site must overlap with the signals of the next cell site.



Distribution of demand: In more dense traffic and population areas, we need to have more sites in order to provide the needed capacity.



Regulations: AT&T must meet strict regulations set by the Federal Communications Commission—as well as applicable local, state and federal regulatory agencies and laws.



Property Availability: In addition to all the science and planning that goes into properly locating a cell site, AT&T must also comply with state and local laws governing use of the ROW or find a property owner that's willing to have an antenna facility placed on their property.

Small Cells & Safety

In our modern world, radio frequency is everywhere.

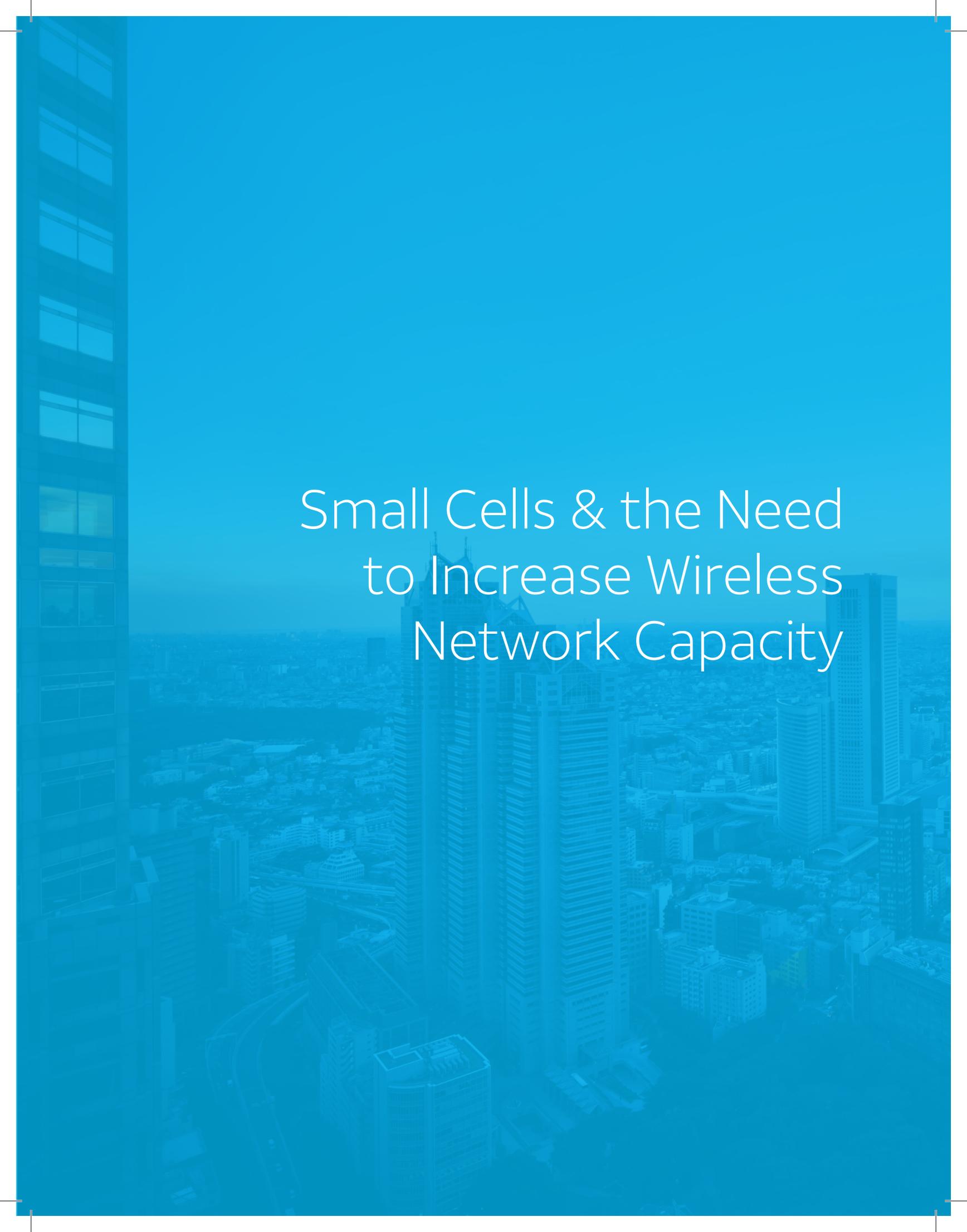
Radio Frequency (RF) energy and wireless technologies have been used for more than a century. Mobile phones and wireless antennas use RF energy to send voice and text messages, as well as photos and videos. RF enables things like home electronics in kitchens, living rooms and bedrooms.

Wireless antennas operate at low power levels to minimize interference with other antennas.

Expert scientists and government agencies from organizations like the American Cancer Society, World Health Organization and FCC have stated repeatedly that wireless antennas operating in compliance with FCC regulations do not pose health concerns.

Our wireless facilities, including small cell antennas, are designed and operated to comply with FCC regulations.



An aerial photograph of a city skyline, featuring numerous skyscrapers and buildings. The image is overlaid with a semi-transparent blue filter. The text is centered in the upper half of the image.

Small Cells & the Need to Increase Wireless Network Capacity

As consumers and businesses are using mobile devices more often to connect with their world, their work and their entertainment, our network capacity must be upgraded to keep pace with surging demands for data.

Ways to Increase Wireless Network Capacity

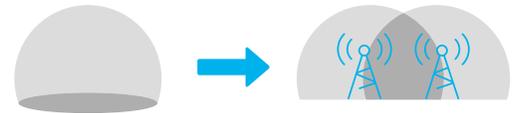
- ① *Deploy more spectrum*
- Spectrum is **not readily available**



- ② *Improve spectrum efficiency*
- Repurposing existing spectrum
 - e.g., reassigns 3G spectrum to 4G LTE



- ③ *Add more macro (cell sites) cells*
- Optimal for low density areas



- ④ *Add more small cells*
- Offloads surrounding macro sites to reduce the need for new cell towers



Why Small Cells?

Consumer demand for data is growing exponentially and will continue to grow as mobile video streaming becomes even more prominent. This increase in data use requires an increase in wireless network capacity—otherwise, service quality could be disrupted or decline.

However, wireless providers' ability to provide additional capacity and faster connectivity speeds to support the data heavy technologies and apps consumers are using in their everyday lives has become constrained by spectrum availability.

So, to keep up with these surging demands, operators must change their network architectures to more efficiently use spectrum, and the best path forward is network densification—which means small cells, and plenty of them.

This is why we are investing in and deploying small cells in states across the country. Small cells help us bolster network capacity, better meet surging consumer and business demand for more data and faster connectivity while preparing our network for the next generation of technologies and services—like 5G, the Internet of Things and smart cities.



Sources

- 1 Statista, Number of smartphone users in the United States from 2010 to 2022; available at: <https://www.statista.com/statistics/201182/forecast-of-smartphone-users-in-the-us/>
- 2 Statista, Total population in the United States from 2012 to 2023; available at: <https://www.statista.com/statistics/263762/total-population-of-the-united-states/>
- 3 App Annie, 2019 in Mobile: 5 Things You Need to Know, December 2018; available at: <https://www.appannie.com/en/insights/market-data/2019-in-mobile-5-things-to-know/>
- 4 Deloitte, The App Economy in the United States, August 2018; available at: <http://actonline.org/wp-content/uploads/Deloitte-The-App-Economy-in-US.pdf>
- 5 Criteo, Mobile Commerce Growth 2017, February 2018; available at: <https://www.criteo.com/insights/mobile-commerce-q4-2017/>
- 6 Accenture Strategy, How The Wireless Industry Powers The U.S. Economy, 2018; available at: https://www.accenture.com/t20180404T0252452_w_/us-en/_acnmedia/PDF-74/Accenture-Strategy-Wireless-Industry-Powers-US-Economy-2018-POV.pdf#zoom=50
- 7 CTIA, The State of Wireless, 2018; available at: https://api.ctia.org/wp-content/uploads/2018/07/CTIA_State-of-Wireless-2018_0710.pdf
- 8 NCHS, Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, June 2017; available at: <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201712.pdf>
- 9 CTIA, The Wireless Industry - Industry Data; available at: <https://www.ctia.org/the-wireless-industry/infographics-library?topic=35>
- 10 Ericsson, Internet of Things Forecast; available at: <https://www.ericsson.com/en/mobility-report/internet-of-things-forecast>
- 11 Accenture Strategy, Smart Cities - How 5G Can Help Municipalities Become Vibrant Smart Cities, 2017; available at: https://www.accenture.com/t20170222T202102_w_/us-en/_acnmedia/PDF-43/Accenture-5G-Municipalities-Become-Smart-Cities.pdf
- 12 Broadband Communities, What Fiber Can Do For Your Community, page 4, http://www.bbcmag.com/Primers/BBC_Nov15_Primer.pdf

From: Sheila McDaniel

Sent: Thursday, February 6, 2025 9:35 AM

To: Julie Cahill <summitdr2020@gmail.com>

Cc: Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>

Subject: RE: CEQA comments - 221049, and format questions for 2/12 hearing

Julie,

Below is the notice card to you that went out for the public hearing. Please note that CEQA does not require notification to neighbors. Thus, you would not have been noticed. However, your CEQA comments will be considered by the Planning Commission.

Thank you,

Sheila



County of Santa Cruz
 Planning Department
 701 Ocean St, 4th Floor
 Santa Cruz, CA 95060

NOTICE OF PUBLIC HEARING

All interested persons are invited to provide comments to the Planning Commission either at the public hearing, or in writing. Written comments may be sent to the Planning Commission at the County Government Center, 701 Ocean Street, 4th Floor, Santa Cruz CA 95060. Staff reports on permit applications are available for review or purchase one week before the hearing by calling 454-5317 or free on the internet at <http://cdi.santacruzcountyca.gov> under the Agendas link. The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Board of Supervisors Chambers is located in an accessible facility. If you wish to attend this meeting and you require special assistance in order to participate, please contact the ADA Coordinator at 454-3137 (TDD call 711), at least 72 hours in advance of the meeting, to make arrangements. Persons with disabilities may request a copy of the agenda in an alternative format. As a courtesy to those persons affected, please attend the meeting smoke and scent free. *Si desea asistir, le rogamos participar en los comentarios públicos y accesible. Traducción: comunicarse con Micaela Lopez at (831) 454-2336 al menos 72 horas antes de la reunión para hacer los arreglos.*

Para español escanea aqui:



08006208 00

CAHILL RODNEY TREVOR & JULIE
 120 SUMMIT DR
 SANTA CRUZ, CA 95060

Notice of Public Hearing

Notice is hereby given that the County of Santa Cruz Planning Commission will hold a public hearing on the following item:

Item #8. 221049 **186 Summit Drive, Santa Cruz 95060**
APN(s): 080-062-02

Continuance of appeal of the Zoning Administrator's approval on January 19, 2024 to the Planning Commission (from the March 27, 2024 Planning Commission public hearing agenda).

Proposal to modify an existing wireless communication facility to include removal of the existing 70 foot six inch tall guyed lattice tower and related equipment, satellite dish, shed, 12 foot six inch tall lattice tower, and chain link fencing; replacement with a six foot chain link fence with green slats and barbed wire above, construction of an approximately 151.1-foot tall wireless communication facility camouflaged as a monopine with nine panel antennas and associated wireless equipment, generator within the existing equipment building, outdoor propane tank, repainting of the equipment building, landscape screening, and other miscellaneous improvements. Requires a Commercial Development Permit, Exception to Height, and a determination that the project is exempt from further review under the California Environmental Quality Act (CEQA). Requires a Commercial Development Permit, Exception to Height, and a determination that the project is exempt from further review under the California Environmental Quality Act (CEQA).

Property is located on the east side of Summit Drive (186 Summit Drive), approximately 700 feet northeast of Empire Grade, approximately three miles north of the intersection of Felton Empire Road and Empire Grade Road.

APPLICANT: Delta Group Engineering c/o Tom Derkas
 OWNER: CTI Towers
 SUPERVISORAL DISTRICT: 3
 PROJECT PLANNER: Sheila McDaniel, (831) 454-2255
 EMAIL: Sheila.McDaniel@santacruzcounty.gov

DATE: Wednesday, February 12, 2025
TIME: Meeting beginning at 9:30 AM
PLACE: Board of Supervisors Chamber
 County Government Center
 701 Ocean Street, Room 525
 Santa Cruz CA 95060

Any persons whose interests are adversely affected by any act or determination by the Planning Commission may appeal such act of determination to the Board of Supervisors. Appeals from any action of the Planning Commission shall be taken by filing a written notice of appeal with the Board of Supervisors and paying the appeal fee, not later than the 14th calendar day after the day on which the act or determination appealed was made. If any person challenges an action taken on the foregoing matter(s) in court, they may be limited to raising only those issues which were raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors at or prior to the public hearing.

For more information, call the project planner noted in the above project description.

From: Julie Cahill <summitdr2020@gmail.com>

Sent: Wednesday, February 5, 2025 11:47 PM

To: Tim Richards <tim@philosopherfoods.com>

Cc: Sheila McDaniel <Sheila.McDaniel@santacruzcountyca.gov>; Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>

Subject: Re: CEQA comments - 221049, and format questions for 2/12 hearing

****CAUTION: This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hello Sheila

I have not received notice by mail for either the CEQA or the upcoming meeting.

After briefly skimming over the staff report and CEQA this evening, I do have some initial concerns and questions.

Plastic Study of monopine near Lake Tahoe

This study falls short of any comparison is not applicable to our site or scenario for the following reasons:

1- The staff report falsely claims the study determined PVC needles do not result in the release of hazardous materials when it clearly states:

...designed to be relatively durable in the environment, although the materials can “shed” from the structure over time.

2- Additionally, it states the only reason for the findings of no evidence that PVC fragments are a significant contributor of mircoplastics to the bodies of water is only because they are not found in high abundance RELATIVE TO OTHER TYPES OF PLASTIC. So they exist, just not as much in comparison. Those other types of plastics such as food wrappers, cigarettes buds, etc are found in busy/dirty city, not our pristine mountain top.

3- It sites the Tahoe area as partially “sterile” during the year due to snow covering. However, we are not covered in snow. In fact just last week, we had 70+ mph winds during the storm with 4” of rain dropping within 24 hours. Totally different weather elements at play.

4- The Tahoe site proposed is on concrete with multiple mitigations in place to capture any plastics and litter unlike our exposed soil and ground water.

Questions

1. Are there any mitigations in place to “capture” these needles that will shed over time into our soil and waters?
2. Has there been any study on high speed winds & rain in relation to the littering of the needles that shed over time?

3. Where can I find the biologist name, dates of site visits, hours observed and field notes who confirmed the absence of protected birds over the course of three years?
4. How is it I just received the staff report today, February 5th which states no public comments have been provided in regards to the CEQA, yet the Staff Report is dated January 31, 2024?
5. When are these notices suppose to be received or sent out for the next meeting and CEQA?

Thank you for the help with these concerns.

Julie Cahill

408 718 7108

On Feb 5, 2025, at 11:11 PM, Tim Richards <tim@philosopherfoods.com> wrote:

Hi Sheila,

I noticed in the staff report that you said no public comments were received on the CEQA report.

However, you stated to me that:

"It was discovered that the CEQA noticing was not completed properly due to staff (in training) excluding the agency reviewers in review and comment notification list. Thus, the

Negative Declaration is being recirculated to Feb 5th, as you have noted in the attachment here.

Properties within 500 feet will get noticing per the code for the February 12th meeting. It is important to note that required noticing was expanded from 300 feet to 500 feet by the adopted code in March of 2024."

However, 2/5 isn't over yet. Attached are my comments related to the MND.

No one at all was notified - not just the 300 ft radius, but also a 500 ft radius from the tower. I as the appellant was the only one notified about the CEQA review period, and I was only notified about the second review period, not the first.

For the hearing itself, can you confirm that we will get our 10 minutes to present as the appellant? As well as our five minute rebuttal? Seeking confirmation that the format will be the same as last time.

Thanks,

Tim

Tim Richards

Chief Philosopher

Cell: (831) 515-8041

Find us at ECRM Winter Snack Session with Good Now Foods - Shannon Peffley is presenting our Gut Nuts fermented almonds and cashews

Find us at Expo West in booth F89 in the Fresh Ideas Tent on Tuesday 3/4 from 12-5 pm and during the main show with our broker Good Now Foods - Booth #8011 (Hot Product Level 3) – Anaheim, CA – March 4-7, 2025

Watch our Naturally Network National Pitch Slam video.

<CEQA Concerns by Appellant to 221049 on 2_5_25.pdf>

From: Sheila McDaniel

Sent: Thursday, February 6, 2025 9:18 AM

To: Tim Richards <tim@philosopherfoods.com>

Cc: Travis Brooks <travis.brooks@msrlegal.com>; Allyson Violante <Allyson.Violante@santacruzcountyca.gov>; jul9cahill@gmail.com; Natalie Kirkish <Natalie.Kirkish@santacruzcountyca.gov>; Justin Graham <Justin.Graham@santacruzcountyca.gov>; Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>

Subject: RE: CEQA comments - 221049, and format questions for 2/12 hearing

Tim,

Thank you for your input. Environmental Review comments may be provided during the CEQA review period and after the review period for consideration by the Planning Commission as noted in the staff report. It is common for CEQA comments to come in after the end of the comment period because property notification is not required for CEQA review and

comment. Thus, the staff report typically notes no comments because none have been submitted by then. However, during the staff presentation any CEQA comments submitted are noted for the record. To that point, CEQA comments provided will be forwarded to the Planning Commission for consideration.

Regarding hearing procedures, the procedure the PC has followed regarding appeals has been:

1. Staff Presentation
2. Open Public Hearing, beginning with the Appellant. Appellant gets 10 minutes to speak.
3. Project Applicant is then given 10 minutes to speak.
4. Appellant has an opportunity to rebut (5 minutes).
5. Public speaks (2 to 3 minutes each as determined by the Chair prior to public testimony).
6. Back to the PC for deliberation and decision.

Lastly, the Chair can change the amount of time to the speakers prior to public testimony.

Thank you,

Sheila

From: Tim Richards <tim@philosopherfoods.com>

Sent: Wednesday, February 5, 2025 11:11 PM

To: Sheila McDaniel <Sheila.McDaniel@santacruzcountyca.gov>; Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>

Subject: CEQA comments - 221049, and format questions for 2/12 hearing

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hi Sheila,

I noticed in the staff report that you said no public comments were received on the CEQA report.

However, you stated to me that:

"It was discovered that the CEQA noticing was not completed properly due to staff (in training) excluding the agency reviewers in review and comment notification list. Thus, the Negative Declaration is being recirculated to Feb 5th, as you have noted in the attachment here.

Properties within 500 feet will get noticing per the code for the February 12th meeting. It is important to note that required noticing was expanded from 300 feet to 500 feet by the adopted code in March of 2024."

However, 2/5 isn't over yet. Attached are my comments related to the MND.

No one at all was notified - not just the 300 ft radius, but also a 500 ft radius from the tower. I as the appellant was the only one notified about the CEQA review period, and I was only notified about the second review period, not the first.

For the hearing itself, can you confirm that we will get our 10 minutes to present as the appellant? As well as our five minute rebuttal? Seeking confirmation that the format will be the same as last time.

Thanks,

Tim

The Initial Study/Mitigated Negative Declaration does not Analyze the Impacts of CTI's ability to Increase the Height of the Proposed Tower Without Further or Prior Zoning Approval according to § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012.

As substantial as the adverse impacts upon the nearby homes and communities would be if the proposed facility were constructed as currently proposed at 151.1 feet, CTI could later unilaterally choose to increase the height of the facility by as much as twenty (20) feet to 171.1 ft. without further environmental review. The County and the residents of the Summit Drive neighborhood would be legally prohibited from stopping them from doing so due to the constraints of the Middle-Class Tax Relief and Job Creation Act of 2012. The Initial Study/Mitigated Negative Declaration ("MND") does not consider the foreseeable impacts of a height increase to an abominable height of 171.1 feet in a residential neighborhood. Considering the even more extreme adverse impacts which an increase in the height of the facilities would inflict that has not yet been presented in either the project plans or as a proper demonstration of it at this maximum height, this project should be denied. Because the Negative Declaration failed to consider these impacts, it is fatally flawed. Appellants here need only make a fair argument of a significant impact.

This project requires an EIR because a fair argument exists that the project may have a significant effect on the environment, specifically aesthetic impacts. *See League for Protection of Oakland's Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75. "There is 'a low threshold requirement for preparation of an EIR', and a 'preference for resolving doubts in favor of environmental review.'" *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332. Courts have repeatedly affirmed that the fair argument standard is a "low threshold test." *The Pocket Protectors v. City of Sacramento* ("*Pocket Protectors*") (2004) 124 Cal.App.4th 903, 928; *No Oil Inc. v. City of Los Angeles, supra*, 13 Cal.3d at 86; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123-1126. "[I]f a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect." *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1113. A "negative declaration is inappropriate where the agency has failed either to provide an accurate project description or to gather information and undertake an adequate environmental analysis." *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.

An MND is proper "only if project revisions would avoid or mitigate the potentially significant effects identified in an initial study 'to a point where clearly no significant effect on the environment would occur, and ... there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.'" *Mejia v. City of Los Angeles, supra*, 130 Cal.App.4th at p. 331 (emphasis added). Whether the administrative record contains "substantial evidence" in support of a "fair argument" sufficient to trigger a mandatory EIR is a question of law, not a question of fact. *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 905; *Architectural Heritage Association v. County of Monterey*

(2004) 122 Cal.App.4th 1095, 1122 (overruled in part on other grounds in *Friends of Willow Glen Trestle v. City of San Jose* (2016) 2 Cal.App.5th 457, 460). Therefore, under the fair argument standard, “deference to the agency’s determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.” *Sierra Club v. County of Sonoma* (1992) 6 Cal App 4th 1307, 1318; see also, *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597 (rejecting an approval of a Negative Declaration prepared for a golf course holding that “[a]pplication of [the fair argument] standard is a question of law and deference to the agency’s determination is not appropriate.”) Evidence supporting a fair argument need not be overwhelming, overpowering or uncontradicted. *Friends of the Old Trees v. Department of Forestry and Fire Protection* (1997) 52 Cal.App.4th 1383, 1402. Instead, substantial evidence to support a fair argument simply means “information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” 14 Cal. Code Regs. § 15384; *Pocket Protectors, supra* 124 Cal.App.4th at 927-928; *League for Protection of Oakland’s Architectural and Historic Resources v. City of Oakland, supra*, 52 Cal.App.4th at 905. Here, the MND is not an adequate environmental document because it fails to provide adequate analysis of and mitigation for environmental impacts “to a point where clearly no significant effect on the environment would occur.”

“The CEQA process demands that mitigation measures timely be set forth, that environmental information be complete and relevant, and that environmental decisions be made in an accountable arena.” *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1341. Additionally, the MND fails to provide adequate mitigation measures for significant environmental impacts of the Project and thus the conclusion that significant environmental impacts have been properly mitigated is incorrect as a matter of law: “[I]mpermissible deferral of mitigation measures occurs when [the agency] puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described....” *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 280-281. Crucially, the MND here does not even try to analyze the impacts of the additional height that CTI will be able to add once the tower is constructed. An “agency should not be allowed to hide behind its own failure to gather relevant data.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 408. An “agency should not be allowed to hide behind its own failure to gather relevant data.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 408. Here, a foreseeable consequence of project approval is a 171.1 foot high tower that was not analyzed in the MND.

For these reasons, the MND fails to provide the requisite environmental data for the Project and substantial evidence supports a fair argument that the Project may have a significant environmental impact. Thus, an EIR must be prepared. *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 503.



Tim Richards

Chief Philosopher

Cell: (831) 515-8041



Find us at ECRM Winter Snack Session with Good Now Foods - [Shannon Peffley](#) is presenting our Gut Nuts fermented almonds and cashews

Find us at Expo West in booth F89 in the Fresh Ideas Tent on Tuesday 3/4 from 12-5 pm and during the main show with our broker Good Now Foods - Booth #8011 (Hot Product Level 3) – Anaheim, CA – March 4-7, 2025

Watch our Naturally Network National Pitch Slam [video](#).

From: Sheila McDaniel

Sent: Thursday, February 6, 2025 10:15 AM

To: tim@philosopherfoods.com

Cc: Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>

Subject: CEQA Public Review and Comment Notice and Public Hearing Public Notice

Tim,

Please note that the CEQA notice of public review and comment was provided to you as you requested in prior email communication, attached as public correspondence, dated January 13, 2025 at 10:49, on Page 1050- 1052 to the February 12, 2025 Staff Report, Exhibit 4I (public comments and correspondence). In that email you were informed that the public hearing for this item was and is now scheduled for February 12, 2025.

Below is the public notice sent out to you regarding the public hearing on February 12, 2024.

Notice of Public Hearing

Notice is hereby given that the County of Santa Cruz Planning Commission will hold a public hearing on the following item:

Item #8. 221049 **186 Summit Drive, Santa Cruz 95060**
APN(s): 080-062-02

Continuance of appeal of the Zoning Administrator's approval on January 19, 2024 to the Planning Commission (from the March 27, 2024 Planning Commission public hearing agenda).

Proposal to modify an existing wireless communication facility to include removal of the existing 70 foot six inch tall guyed lattice tower and related equipment, satellite dish, shed, 12 foot six inch tall lattice tower, and chain link fencing; replacement with a six foot chain link fence with green slats and barbed wire above, construction of an approximately 151.1-foot tall wireless communication facility camouflaged as a **popoona**, with nine panel antennas and associated wireless equipment, generator within the existing equipment building, outdoor propane tank, repainting of the equipment building, landscape screening, and other miscellaneous improvements. Requires a Commercial Development Permit, Exception to Height, and a determination that the project is exempt from further review under the California Environmental Quality Act (CEQA). Requires a Commercial Development Permit, Exception to Height, and a determination that the project is exempt from further review under the California Environmental Quality Act (CEQA).

Property is located on the east side of Summit Drive (186 Summit Drive), approximately 700 feet northeast of Empire Grade, approximately three miles north of the intersection of Felton Empire Road and Empire Grade Road.

APPLICANT: Delta Group Engineering c/o Tom Derkas
OWNER: CTI Towers
SUPERVISORAL DISTRICT: 3
PROJECT PLANNER: Sheila McDaniel, (831) 454-2255
EMAIL: Sheila.McDaniel@santacruzcounty.gov

DATE: **Wednesday, February 12, 2025**
TIME: **Meeting beginning at 9:30 AM**
PLACE: **Board of Supervisors Chamber**
County Government Center
701 Ocean Street, Room 525
Santa Cruz CA 95060

Any **persons** whose interests are adversely affected by any act or determination by the Planning Commission may appeal such act of determination to the Board of Supervisors. Appeals from any action of the Planning Commission shall be taken by filing a written notice of appeal with the Board of Supervisors and paying the appeal fee, not later than the 14th calendar day after the day on which the act or determination appealed was made. If any person challenges an action taken on the foregoing matter(s) in court, they may be limited to raising only those issues which were raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors at or prior to the public hearing.

For more information, call the project planner noted in the above project description.

Para español escanea aquí:



Philosopher Foods - Appellant c/o Bonny
Residents for Responsible Coverage
531 Summit Drive
Santa Cruz, CA 95060

County of Santa Cruz
Planning Department
701 Ocean St. 4th Floor
Santa Cruz, CA 95060



NOTICE OF PUBLIC HEARING

All interested persons are invited to provide comments to the Planning Commission either at the public hearing, or in writing. Written comments may be sent to the Planning Commission at the County Government Center, 701 Ocean Street, 4th Floor, Santa Cruz CA 95060. Staff reports on permit applications are available for review or purchase one week before the hearing by calling 454-5317 or free on the internet at <http://cdi.santacruzcountyca.gov> under the **Agendas** link. The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Board of Supervisors Chambers is located in an accessible facility. If you wish to attend this meeting and you require special assistance in order to participate, please contact the ADA Coordinator at 454-3137 (TDD call 711), at least 72 hours in advance of the meeting, to make arrangements. Persons with disabilities may request a copy of the agenda in an alternative format. As a courtesy to those persons affected, please attend the meeting smoke and scent free. **Si desea asistir a la reunión y participar en los comentarios públicos y recibir asistencia, comuníquese con Micaela López al (831) 454-3338 al menos 72 horas antes de la reunión, o llame al 711.**

Sincerely,

Sheila

From: Julie Cahill <summitdr2020@gmail.com>

Sent: Thursday, February 6, 2025 11:36 PM

To: Sheila McDaniel <Sheila.McDaniel@santacruzcountyca.gov>

Cc: Allyson Violante <Allyson.Violante@santacruzcountyca.gov>; Natalie Kirkish <Natalie.Kirkish@santacruzcountyca.gov>; Justin Graham <Justin.Graham@santacruzcountyca.gov>; Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>; Tim Richards <tim@philosopherfoods.com>

Subject: Public Comment: Application 221049

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Hello

In preparation for the upcoming meeting Feb. 12th regarding the proposed 150' cell tower, Application 221049, I would appreciate you take the time to review the applicant violations of the current permits they hold before approving additional permit.

I am the neighbor directly south of the property where I can view the current lattice tower from my master bed despite Scott from CTI admitting at the last meeting they do not host anyone on it because it is antiquated.

Thank you for your considerations.

Kindly,

Julie Cahill

Julie Cahill
120 Summit Dr.
Santa Cruz CA 95060
summitdr2020@gmail.com

February 6, 2025

Planning Commission
701 Ocean Street
Santa Cruz, CA 95060

Subject: Application #: 221049

Dear County Board Members,

Given the track record of the applicant's disregard for honoring previously issued permits—including maintaining screening, clearing fuel loads, and removing obsolete equipment—in combination with CTI's own admission of failing to maintain the property on a promised six-month maintenance schedule at the last board meeting, the applicant stands in violation of current permits. According to SCCC 13.661 D1(c):

That the subject property upon which the wireless communication facility is to be located is free of violations or compliant with all rules and regulations pertaining to zoning uses, subdivisions, and any other applicable provisions of this chapter, as determined by the County, and that all zoning violation abatement costs, if any, have been paid.

Violations & Grounds for Denial

1. Failure to Maintain Original Permit Requirements for Screening

- Liz Jeffs in the Consultation Letter (2020) noted the project site lacked proper screening: *"The project site is currently developed with an existing television booster station that, in street level views, is poorly screened from the surrounding roads due to a lack of shrubby vegetation. The existing buildings, lower portion of the lattice towers and some of the other associated equipment, all of which are surrounded by a chain-link fence, are clearly visible beneath the canopies of the surrounding trees. The only screen is a brown-toned cyclone fence which partially obscures some of the ground level equipment, that includes a satellite dish. Screening vegetation that was required by earlier Permit approvals appears largely to have not survived and/or has been removed."*
- Site visits by County Board Members confirm the facility remains unscreened, violating prior permit conditions.
- CTI has failed to maintain screening since acquiring the property in 2016.

2. Negligence in Property Maintenance

- No proactive removal of obsolete equipment.

- Gutters remain clogged with pine needles and debris, posing a fire hazard.
- Cyclone fence slats melted in the 2020 CZU fire remain unreplaced.
- The wooden screening fence destroyed by a Douglas Fir in Jan 2024 was never rebuilt.
- Brian Smith regularly cleans out their drainage ditch to prevent street flooding — something CTI has failed to address.
- We, the Cahill's maintain a mowed buffer along our property line as they do nothing to reduce the fuel load unless requested or in preparation for another board meeting

3. Unreasonable Delays in Property Maintenance

- Took 6 years to remove obsolete satellite dish
- Left fallen oak tree on neighbors property for over 6+ months
- Took additional 2 months to clear, delaying neighbor 2 months in their rebuilding process
- 10+ months to clear the Doug Fir & debris pile

4. Broken Promises

During the March 2024 meeting (timestamp 1:31:50), Scott from CTI publicly stated:

“We have put it on a regular maintenance plan. When this was brought up, comments were made it was a poorly maintained site. Since those comments were made, we have gone out and cleaned up the area and it is on a regularly scheduled maintenance plan.... The surrounding area, we did clear out all the brush that would be consumable for a fire and it is on a regularly scheduled plan.”

BEFORE PHOTOS



Despite these statements CTI failed to clear the fallen trees or replace any fencing that was destroyed in Jan 2024 within 6 months. Nobody came out until December 17, 2024.

- Only tree debris & weeds within 5 feet of fence was cleared
- 20+ foot trunks and branches remain.
- Weeds exceeding 6 feet, ladder fuels, and saplings remain unaddressed despite multiple red flag warning over the summer.

AFTER PHOTO



Request for Action: Deny the Application

- Approving this permit would violate Santa Cruz County Code, which requires compliance with prior permits before issuing new approvals.
- The owner's history of non-compliance raises concerns about future commitments.
- The proposed facility is at risk of becoming obsolete within five years, leaving an environmental and aesthetic burden on the community.
- Potential disasters include collapse due to fire, earthquakes, or high winds, blocking evacuation routes.

Proposal to Reduce Tower Height

If the county proceeds with approval despite violations, I request the following modifications:

- Reduce the height to 110 feet (which can increase to 130 under FCC allowances) to keep the structure within the footprint of its own lot & to keep it's max height just above the neighboring trees but not 12+ feet above them.
- Prohibit tree removals.
- Enforce a quarterly maintenance plan with a local point of contact.
- Lower Summit Dr. must be paved and engineered for proper drainage.
- Require studies on PVC needle shedding rates in high-wind conditions (70+ mph winds & heavy rain). Tahoe study FAILED to account for any similar weather conditions, ground conditions or measures of mitigation
- Establish mitigation measures for synthetic material contamination in soil & watershed.
- Confirm the number of generators & conduct that noise study before the install of tower.

Final Argument: Why 110 Feet Is the Appropriate Height

- The county's proposal of 140 feet with a centerline at 130 feet places 12+ feet of the tower above the tree line, creating a significant visual impact, especially from the southeast side and lower Summit.
- This height does not align with surrounding structures or character of the neighborhood.
- Being at the summit and a ridgeline, it should remain in scale with the surrounding trees, capped at 120 feet.
- Given FCC rules allowing an additional 20 feet without further county review, the county should approve a max height of 100 feet, ensuring any automatic extension remains within reason.

Conclusion

With the rise of satellite-based connectivity (AT&T, T-Mobile, Starlink) and widespread generator-powered Comcast connections, this tower will likely be antiquated in less than five years. In addition to the negligence, concerns of towers height and noise from generators running non-stop in our neighborhood when all neighbors turn them off at 9pm are majors concerns in our residential area. Given these concerns and the applicant's poor track record of compliance, I urge the Board to deny this application and uphold its duty to protect the residents of Santa Cruz County.

From: Tim Richards <tim@philosopherfoods.com>

Sent: Thursday, February 6, 2025 4:36 PM

To: Sheila McDaniel <Sheila.McDaniel@santacruzcountyca.gov>

Cc: Allyson Violante <Allyson.Violante@santacruzcountyca.gov>; jul9cahill@gmail.com; Natalie Kirkish <Natalie.Kirkish@santacruzcountyca.gov>; Justin Graham <Justin.Graham@santacruzcountyca.gov>; Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>

Subject: RE: CEQA comments - 221049, and format questions for 2/12 hearing

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Thank you Sheila.

Further to my CEQA related email, please find attached our new Supplemental Memorandum in Opposition in regard to the hearing for 221049 next Wednesday.

We may have more findings on Monday after reviewing the staff report, which came out late yesterday.

Thanks,

Tim



Tim Richards

Chief Philosopher

Cell: (831) 515-8041



Find us at ECRM Winter Snack Session with Good Now Foods - [Shannon Peffley](#) is presenting our Gut Nuts fermented almonds and cashews

Find us at Expo West in booth F89 in the Fresh Ideas Tent on Tuesday 3/4 from 12-5 pm and during the main show with our broker Good Now Foods - Booth #8011 (Hot Product Level 3) – Anaheim, CA – March 4-7, 2025

Watch our Naturally Network National Pitch Slam [video](#).

Preliminary Statement

This Supplemental Memorandum is submitted in further opposition to the application of Delta Group Engineering/CTI Towers (hereinafter “*CTI*” or the “Applicant”) for a Special Use Permit to install a one hundred forty foot (14 story high) wireless communication facility to be located on the property known as 186 Summit Drive, Santa Cruz, CA. In addition, *CTI* seeks an exception for height requirements in order to accommodate its proposed one hundred forty foot wireless communications tower.

The undersigned residents of Summit Drive have suggested that co-location on an existing tower at an alternative location on Patrick Road would be a viable option, being only 1,000 feet away from the proposed location on Summit Drive, and would avoid the substantial adverse impacts the proposed tower would inflict on the community. As requested, *CTI* has submitted “apples to apples” propagation maps purporting to show coverage in the proposed location as opposed to the 125 Patrick Road location. Despite the inherent unreliability of propagation maps like those submitted here, the propagation maps submitted by *CTI* show a negligible difference between coverage at the Summit Drive location and at the Patrick Road location. The alternative site 1,000 ft away would provide apples to apples coverage.

Naturally, *CTI* has no interest in co-locating on the existing tower on Patrick Road. This is because, as set forth in the Memorandum in Opposition submitted on October 13, 2023 for a public hearing held on October 20, 2023 (the “October 13, 2023 Memo”), *CTI* is not a provider of wireless services. Rather, it is a site developer that supplies and installs *towers* on which to lease space to wireless service providers. Co-location would deprive *CTI* of a financial opportunity.

On its website, *CTI* describes itself as “one of the largest private tower companies in the U.S.” and states that it “operates over 1,800 wireless communications towers across 48 states in the continental US and leases tower space to major wireless carriers, which include AT&T, DISH, T-Mobile, and Verizon as well as broadcasters, utility companies, internet service providers, and government entities.” *See* Exhibit E, hereto.

So, while it is in the best interest of the community for a wireless service provider to co-locate on the existing Patrick Road tower, it is decidedly not in the interest of *CTI*. This is because *CTI* does not own the Patrick Road tower and as such, cannot lease space on it to wireless service providers. What is good for *CTI* is directly at odds with what is good for Santa Cruz County.

As set forth in the October 13, 2023 Memo, *CTI*'s application should be denied because *CTI*'s proposed tower would violate the County Code, as well as its legislative intent.

Accordingly, it is respectfully submitted that *CTI*'s application be denied, and that such denial conform to the requirements of the Telecommunications Act of 1996.

POINT I

GRANTING *CTI* PERMISSION TO CONSTRUCT A WIRELESS FACILITY AT THE LOCATION IT PROPOSES WOULD VIOLATE THE CODE AND THE LEGISLATIVE INTENT UPON WHICH IT IS BASED

As set forth in the October 13, 2023 Memo, granting *CTI*'s application would violate the *requirements* of the Code as well as the *legislative intent* behind those requirements. The reasons for denying *CTI*'s application are set forth in the October 13, 2023 Memo. Specifically, the irresponsible placement of a wireless facility at the location proposed would inflict upon the residential community the precise types of adverse impacts which Chapter 13.10.660 *et seq.* of

the Code was specifically enacted to prevent.

A. CTT's Failure to Meet the Requirements of Chapter 13.10 of the Municipal Code

CTI has failed to establish compliance with the requirements and limitations of Chapter 13.10 of the Code regarding wireless telecommunication facilities.

Pursuant to the Code, applicants must prove, among other things, that the proposed wireless facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier's network. Again, *CTI* is not a carrier with a network. Rather, *CTI* proffers data purporting to relate to AT&T, *CTI*'s proposed "tenant." Nevertheless, *CTI* has failed to present any reliable evidence at all to support its claim that there is a significant gap at all in AT&T's wireless service, and that the one-hundred fifty foot (150') tower, as it is proposed, is the least intrusive location and is the minimum height necessary to remedy that gap.

In addition, *CTI* has failed to prove, as it is required to do under the Code, that there are no viable, technically feasible, and environmentally (*e.g.* visually) equivalent or superior potential alternatives (*i.e.*, sites and/or facility types and/or designs) outside the prohibited and restricted areas ... that could eliminate or substantially reduce said significant gaps.¹ Indeed, *CTI* has not provided a coherent explanation as to why the already existing tower on Patrick Road, only one thousand feet away from *CTI*'s proposed site, is not a feasible alternative on which wireless service providers, like AT&T, may co-locate in order to eliminate any purported service gaps. The propagation maps submitted by *CTI*, inherently unreliable as they are,² do not show any appreciable difference between the coverage that would be provided by *CTI*'s proposed tower and coverage provided by having AT&T co-locate on the existing tower on Patrick Road.

¹ See § 13.10.660(C)(4)(a)

² See October 13, 2023 Memo, Point III, subpoint B.

As we discuss below, AT&T's own coverage maps show coverage not only at the tower site, but also throughout the region in which the propagation maps show the opposite: no coverage for the same carrier. No drive test data or other standard-bearing data was provided to confirm this. The experience of the residents in this region is that there is reliable coverage, which accords with AT&T's coverage maps available to the public.

CTI has failed to provide any probative evidence to establish that the proposed wireless facility is actually necessary in order to provide personal wireless service in the community or that the facility is not injurious to the community, such that a denial of its application would constitute an "effective prohibition" of personal wireless services.

B. Co-location on the Patrick Road Tower Would Obviate the Substantial Adverse Impacts *CTI's* Proposed Tower Would Inflict Upon the Aesthetics and Character of the Area

As discussed in detail in the October 13, 2023 Memo, the proposed wireless facility will inflict dramatic and wholly unnecessary adverse impacts upon the area's aesthetics and character. It is clear from §§13.10.661(F) and (G) that the County's intent was to minimize, if not wholly avoid, any negative adverse aesthetic impacts on neighboring properties.³ Again, as set forth in the October 13, 2023 Memo, *CTI* has failed to provide a shred of probative evidence to establish that the wireless communications facility is not injurious to the neighborhood and is actually necessary to provide personal wireless coverage in the area.

C. *CTI's* Visual Assessment Remains Inherently Defective and Should be Disregarded Entirely

Although *CTI* makes the demonstrably absurd claim that the installation of the proposed

³ See October 13, 2023 Memo, Point I, subpoint A(i).

one hundred-fifty foot wireless facility *would not* inflict a severe adverse aesthetic impact upon the adjacent homes, *CTI* has still failed to submit any meaningful or accurate visual impact analysis.⁴ There are still no photographic images taken by *CTI* from any of the homes belonging to the homeowners whose adverse aesthetic impact letters are collectively annexed to the October 13, 2023 Memo as Exhibit “A.”⁵

POINT II

IF APPROVED, *CTI* COULD UNILATERALLY INCREASE THE HEIGHT OF THE PROPOSED FACILITY WITHOUT FURTHER OR PRIOR ZONING APPROVAL

CTI clearly has an interest in renting out as much space on its proposed tower as possible, allowing as many wireless carriers as it can to add antennas to the tower. As discussed in Point II of the October 13, 2023 Memo, once approved, *CTI* could, at any time, unilaterally increase the height of the facility by as much as twenty (20) feet and the County would be legally prohibited from stopping it.⁶

CTI's application should be denied, especially since, as set forth above, *CTI* doesn't actually *need* the proposed facility in the first place and there is a viable alternative location for providers of personal wireless services, like AT&T, to co-locate their antennas. Also, we know from public record testimony during multiple hearings by *CTI* that they prefer a tower 150 ft or taller, so it's not a question of whether, but when they would increase the height. Finally, as we detail below, the increased height was not addressed in the CEQA review, which was an oversight that requires an EIR.

⁴ See October 13, 2023 Memo, Point I, subpoint A(iii).

⁵ *Id.*

⁶ § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012

POINT III

CTI'S CLAIM THAT AT&T NEEDS TO LOCATE AT THE PROPOSED SITE IS CONTRADICTED BY AT&T'S OWN ACTUAL COVERAGE DATA

CTI claims that a coverage gap exists in AT&T's service in the Bonny Doon area, and that the alternative site for co-location at 125 Patrick Road is not viable. As set forth in the October 13, 2023 Memo, this is patently untrue.⁷

AT&T maintains and operates a database, which is linked to AT&T website at <https://www.att.com/maps/wireless-coverage.html>. It serves as the data-source for an interactive function, which enables users to access AT&T's own data to ascertain both: (a) the existence of AT&T's wireless coverage at any specific geographic location, and (b) the level, or quality of such coverage.

AT&T's interactive website translates AT&T's *actual coverage data* to provide imagery whereby areas that are covered by AT&T's service are depicted in various shades of blue, including 5G+, 5G and 4G.

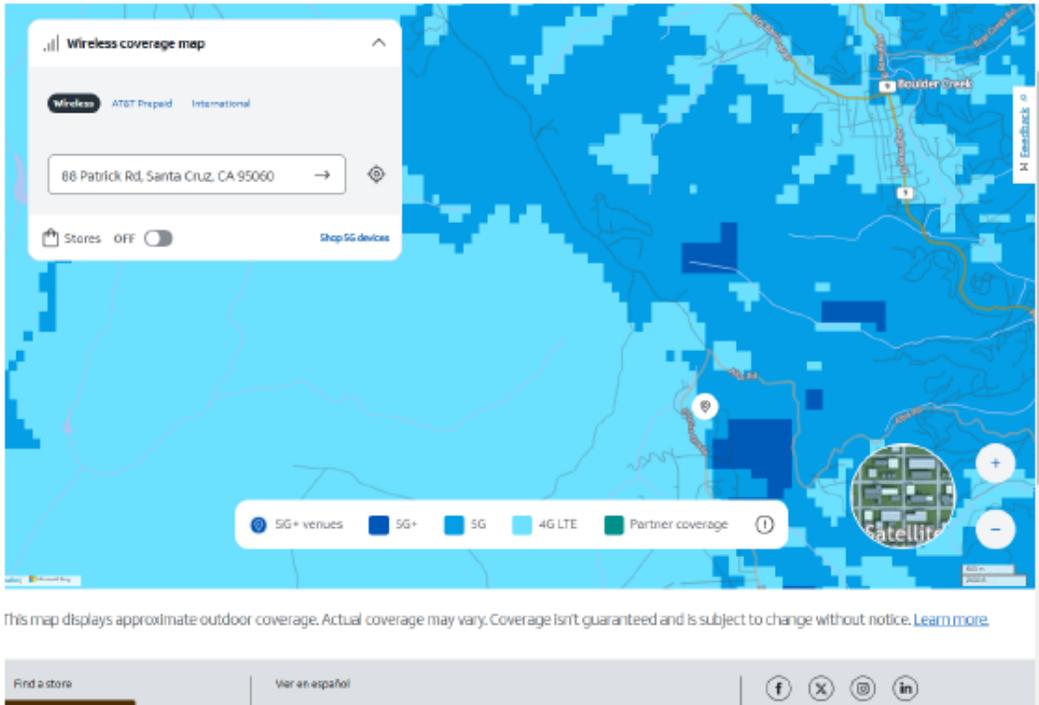
The website further translates the data from AT&T's database to specify the *actual* coverage at any specific geographic location.

(The remainder of this page is intentionally left blank.)

⁷ See the October 13, 2023 Memo, Point III, subpoint B(iii).

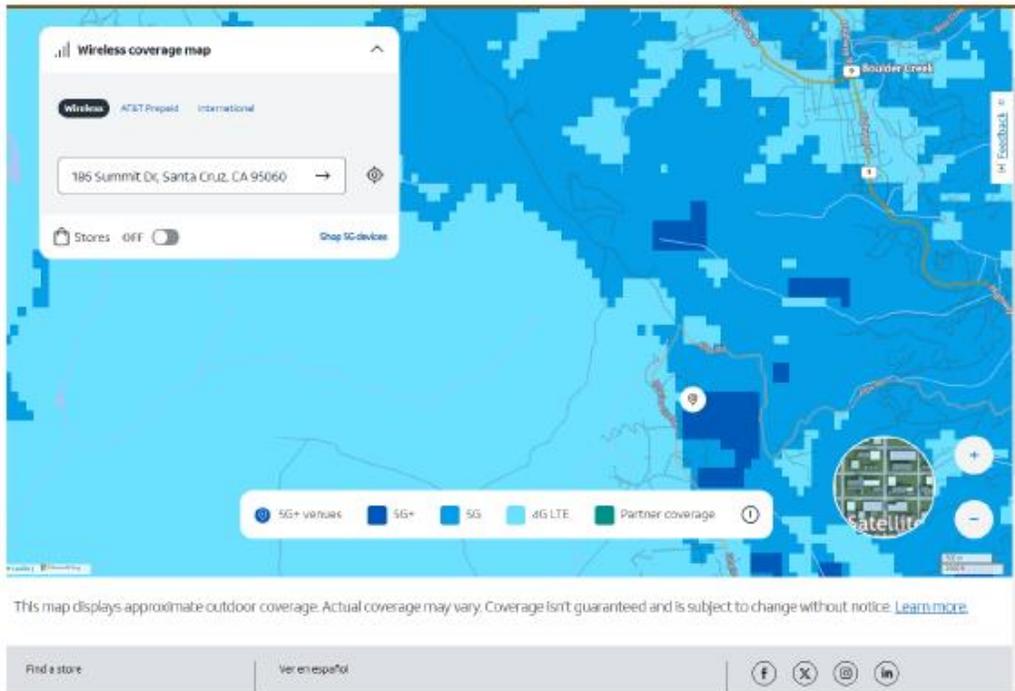
Below are true copies of screen shots of AT&T's coverage maps for the 125 Patrick Road
and 186 Summit Drive locations:

125 Patrick Road

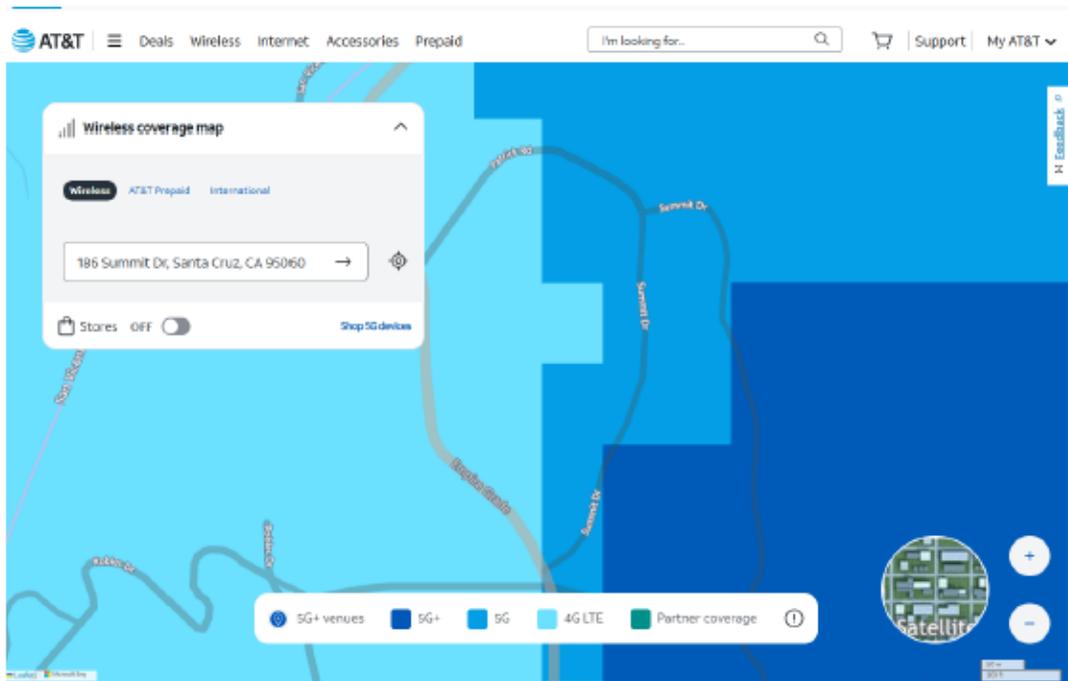


(The remainder of this page is intentionally left blank.)

186 Summit Drive



(The remainder of this page is left blank intentionally)



This map displays approximate outdoor coverage. Actual coverage may vary. Coverage isn't guaranteed and is subject to change without notice. [Learn more.](#)
A closeup of the same area.

Obviously, AT&T's own data reflects that there is no coverage gap *at all* in AT&T's service at that precise location or anywhere around or in close proximity to it. In addition, it demonstrates that there is no appreciable difference in coverage between the two locations.

Any claim by *CTI* or AT&T that the data available on AT&T's website is not accurate just demonstrates how easily data can be manipulated to suit a particular purpose – when selling its service to the consuming public, the coverage is excellent, but when selling a proposed tower to a municipality, the coverage is almost non-existent. Only the hard data on which the representations are based can resolve the discrepancy. But there is no such hard data in *CTI's* application.

Given the inherent unreliability of propagation maps without hard data, like the ones submitted by the Applicant, there is no substantial evidence to support an approval of the proposed tower at the proposed location. This is especially true where, as here, there is an existing tower, with room to co-locate, only 1,000 feet away on Patrick Road. The Applicant has not provided any coherent, non-self-serving explanation, supported by actual evidence, as to why the Patrick Road location would not be a suitable place for AT&T to install its antennas.

Point IV

The Initial Study/Mitigated Negative Declaration does not Analyze the Impacts of CTI's ability to Increase the Height of the Proposed Tower Without Further or Prior Zoning Approval according to § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012.

As substantial as the adverse impacts upon the nearby homes and communities would be if the proposed facility were constructed as currently proposed at 151.1 feet, CTI could later unilaterally choose to increase the height of the facility by as much as twenty (20) feet to 171.1 ft. without further environmental review. The County and the residents of the Summit Drive neighborhood would be legally prohibited from stopping them from doing so due to the constraints of the Middle-Class Tax Relief and Job Creation Act of 2012. The Initial Study/Mitigated Negative Declaration ("MND") does not consider the foreseeable impacts of a height increase to an abominable height of 171.1 feet in a residential neighborhood. Considering the even more extreme adverse impacts which an increase in the height of the facilities would inflict that has not yet been presented in either the project plans or as a proper demonstration of it at this maximum height, this project should be denied. Because the Negative Declaration failed to consider these impacts, it is fatally flawed. Appellants here need only make a fair argument of a significant impact.

This project requires an EIR because a fair argument exists that the project may have a significant effect on the environment, specifically aesthetic impacts. *See League for Protection of Oakland's Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75. "There is 'a low threshold requirement for preparation of an EIR', and a 'preference for resolving doubts in favor of environmental review.'" *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332. Courts have repeatedly affirmed that the fair argument standard is a "low threshold test." *The Pocket Protectors v. City of Sacramento* ("Pocket Protectors") (2004) 124 Cal.App.4th 903, 928; *No Oil Inc. v. City of Los Angeles, supra*, 13 Cal.3d at 86; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123-1126. "[I]f a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect." *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1113. A "negative declaration is inappropriate where the agency has failed either to provide an accurate project description or to gather information and undertake an adequate environmental analysis." *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.

An MND is proper "only if project revisions would avoid or mitigate the potentially significant effects identified in an initial study 'to a point where clearly no significant effect on the environment would occur, and ... there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.'" *Mejia v. City of Los Angeles, supra*, 130 Cal.App.4th at p. 331 (emphasis

added). Whether the administrative record contains “substantial evidence” in support of a “fair argument” sufficient to trigger a mandatory EIR is a question of law, not a question of fact. *League for Protection of Oakland’s Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 905; *Architectural Heritage Association v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1122 (overruled in part on other grounds in *Friends of Willow Glen Trestle v. City of San Jose* (2016) 2 Cal.App.5th 457, 460). Therefore, under the fair argument standard, “deference to the agency’s determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.” *Sierra Club v. County of Sonoma* (1992) 6 Cal App 4th 1307, 1318; see also, *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597 (rejecting an approval of a Negative Declaration prepared for a golf course holding that “[a]pplication of [the fair argument] standard is a question of law and deference to the agency’s determination is not appropriate.”) Evidence supporting a fair argument need not be overwhelming, overpowering or uncontradicted. *Friends of the Old Trees v. Department of Forestry and Fire Protection* (1997) 52 Cal.App.4th 1383, 1402. Instead, substantial evidence to support a fair argument simply means “information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” 14 Cal. Code Regs. § 15384; *Pocket Protectors, supra* 124 Cal.App.4th at 927-928; *League for Protection of Oakland’s Architectural and Historic Resources v. City of Oakland, supra*, 52 Cal.App.4th at 905. Here, the MND is not an adequate environmental document because it fails to provide adequate analysis of and mitigation for environmental impacts “to a point where clearly no

significant effect on the environment would occur.”

“The CEQA process demands that mitigation measures timely be set forth, that environmental information be complete and relevant, and that environmental decisions be made in an accountable arena.” *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1341. Additionally, the MND fails to provide adequate mitigation measures for significant environmental impacts of the Project and thus the conclusion that significant environmental impacts have been properly mitigated is incorrect as a matter of law: “[I]mpermissible deferral of mitigation measures occurs when [the agency] puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described....” *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 280-281. Crucially, the MND here does not even try to analyze the impacts of the additional height that CTI will be able to add once the tower is constructed. An “agency should not be allowed to hide behind its own failure to gather relevant data.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 408. An “agency should not be allowed to hide behind its own failure to gather relevant data.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 408. Here, a foreseeable consequence of project approval is a 171.1 foot high tower that was not analyzed in the MND.

For these reasons, the MND fails to provide the requisite environmental data for the Project and substantial evidence supports a fair argument that the Project may have a significant environmental impact. Thus, an EIR must be prepared. *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 503.

Point V

The Findings for the Proposed Height Exception Cannot be Made

In accordance with the County Code, “All towers shall be designed to be the shortest height technically feasible to minimize visual impacts....” (County Code § 13.10.660(G)(1).) The maximum facility/antenna heights allowed in the Residential and Timber Production Zone District is 75 feet high for free-standing structures. (Id.) Exceptions to these height limitations are permitted but have limitations. “Any applications for facilities of a height more than the allowed height for facilities in each zone district per subsection (G)(1) of this section must include a written justification proving the need for a facility of that height and comply with subsections (C)(4)(a) and (b) of this section.” (County Code § 13.10.660(G)(2).)

Subsections (C)(4)(a) and (b) state as follows:

- (a) The proposed facility eliminates or substantially reduces one or more significant gaps in the applicant carrier’s network; and
- (b) The proposed facility is located on the least visually obtrusive site and least visually obtrusive portion of the site, where the applicant provides substantial evidence that it chose the best solution for the community after a meaningful comparison of alternative sites and designs, including but not limited to considering less sensitive sites, alternative system designs, alternative tower designs, placement of antennas on existing structures, and other viable, technically feasible, and environmentally (i.e., visually) equivalent or superior potential alternatives.

The Planning Commission needs to make both of these findings.

Notably, the County must review the evidence and make its own independent judgment about the accuracy of the evidence. It cannot defer its responsibilities to the applicant. We asked the

Planning Commission for an independent alternative site analysis at the March 27th 2024 hearing, and this request has not been granted.

As to subsection (a), as noted the proposed facility fails to eliminate or substantially reduce the coverage gap for two reasons:

- 1) There is no coverage gap, according to AT&T's own publicly available data on their website, which shows 4G and 5G coverage in the entire area, including the purported gaps it would fill in the propagation maps. This is easy to verify in real life by making phone calls from the site and the region around the site, which the Summit Drive neighborhood residents do all the time.
- 2) The applicant CTI is not a carrier with a network. Rather, CTI proffers data purporting to relate to AT&T, CTI's proposed "tenant." Nevertheless, CTI has failed to present any probative evidence to support its claim that there is a significant gap at all in AT&T's wireless service, and that the one-hundred fifty foot (150') tower, as it is proposed, is the least intrusive location and is the minimum height necessary to remedy that gap. In fact, there is a less obtrusive alternative site at 125 Patrick Road, which the Summit Drive neighborhood unanimously supports for collocation.

As to subsection (b), the applicant's comparison of alternative sites and designs showed that the existing 150 ft tower in the neighborhood located at 125 Patrick Rd provides equal coverage to the proposed tower at 186 Summit Drive, meaning that the least obtrusive option for the neighborhood.

Notably, the proposed facility at 186 Summit Drive is twice the applicable height limit for the zone district, and could be extended an additional 20 feet in height which the County cannot deny. Given these findings, the height exemption cannot be granted.

The findings proposed before the Zoning Administrator include finding number 2:

The proposed facility is located on the least visually obtrusive site and least visually obtrusive portion of the site, where the applicant provides substantial evidence that it chose the best solution for the community after a meaningful comparison of alternative sites and designs, including but not limited to considering less sensitive sites, alternative system designs, alternative tower designs, placement of antennas on existing structures, and other viable, technically feasible, and environmentally (i.e., visually) equivalent or superior potential alternatives.

The applicant provided an alternative analysis noting that no other alternative site is available to fill the identified gap, including microcell sites, which are incapable of filling the gap due to a line-of-sight requirement to fill the gap in coverage. The existing WCF co-location sites, including Patrick Road, identified in the area are not capable of filling the gap due to the significant distance from the service area. The subject property contains an existing communication facility on site since 1969 that is located in the dense forest and provides the least obtrusive means of providing the applicant's coverage by largely screening the proposed replacement colocation facility within the forest canopy, camouflaging the monopine as a pine tree, and otherwise providing landscape screening for understory views from adjacent residences and additional a trees to screen the top of

the tree canopy from ground level. A maximum height of 140 feet (with 130-foot antenna centerline) is the lowest height capable of substantially filling the wireless coverage gap as determined by the alternative analysis; and therefore, the least obtrusive height.

This finding does not cover all the issues raised in the code. Crucially, the findings must be viewed in the context of the overarching requirement that “All towers shall be designed to be the shortest height technically feasible to minimize visual impacts....” (County Code § 13.10.660(G)(1).) Again, the proposed tower is twice the height of what is normally permitted in the zone district. The proposal is not so much an exception than it is a complete abrogation of the height limitation.

Importantly, the exceptions are a form of variance from the normal standards. Courts can only review matters if findings are complete. The California Supreme Court in *Topanga Assn. For a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 520, held:

courts must meaningfully review grants of variances in order to protect the interests of those who hold rights in property nearby the parcel for which a variance is sought. A zoning scheme, after all, is similar in some respects to a contract; each party foregoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare. [Citations]. If the interest of these parties in preventing unjustified variance awards for neighboring land is not sufficiently protected, the consequence will be subversion of the critical reciprocity upon which zoning regulation rests. (*Id.* at 517-518; see also, *Stolman v. City of Los Angeles* (2003) 114 Cal.App.4th 916, 923-924 (“Abdication by the judiciary of its responsibility to examine

variance board decision-making when called upon to do so could very well lead to such subversion...”).)

Conclusion

In view of the foregoing, it is respectfully submitted that *CTT's* application for a Special Use Permit be denied in its entirety.

Dated: Santa Cruz, California
February 6, 2025

Respectfully Submitted,

Tim Richards – 531 Summit Drive
Chelsea Brady – 531 Summit Drive
Deborah Richards – 531 Summit Drive
Mark Richards – 531 Summit Drive
Runa Richards – 531 Summit Drive
Gavin Richards – 531 Summit Drive
Rodney Cahill – 120 Summit Drive
Julie Cahill – 120 Summit Drive
Brian Smith – 125 Summit Drive
Naomi Murphy – 125 Summit Drive
JoAnn Pullen – 405 Summit Drive
William Pullen – 405 Summit Drive
Allison Pullen – 405 Summit Drive
Alexis Jenkins – 219 Summit Drive
Jerry Jenkins – 219 Summit Drive
Mary Coyle – 250 Upper Summit Drive
Andy Fox – 250 Upper Summit Drive
Andy Fox – 88 Patrick Road
Bob Atton – 305 Summit Drive
Sara Blackstorm Atton – 305 Summit Drive
Richard Jay Moller, Attorney – 714 Summit Drive
Leif Moller – 714 Summit Drive
Rachel Moller – 714 Summit Drive
Milly Moller – 714 Summit Drive
Deborah Teixeira – 185 Summit Drive
Tony Molino – 185 Summit Drive
Gennevie Herbranson – 529 Summit Drive
James Terrill – 529 Summit Drive

Ann McKenzie – 665 Summit Drive
Don Roberts – 665 Summit Drive
Meg Roberts – 663 Summit Drive
Will Roberts – 663 Summit Drive
Shanna Kuempel – 98 Summit Drive
Pat Sutliff – 265 Summit Drive
Maureen Huber – 265 Summit Drive
Paul (Daniel) Gutierrez – 511 Summit Drive
Judith Howser – 426 Summit Drive
Tom Howser – 426 Summit Drive
Scott Martin – 343 Summit Drive
Scott Martin – 347 Summit Drive
Christian Harris – 93 Summit Drive
Denby Adamson – 10629 Empire Grade

From: Joe Mathieu <Joe.Mathieu@santacruzcountyca.gov>
Sent: Thursday, February 6, 2025 4:23 PM
To: Julie Cahill <summitdr2020@gmail.com>
Cc: Sheila McDaniel <Sheila.McDaniel@santacruzcountyca.gov>; Julie Newbold <Julie.Newbold@santacruzcountyca.gov>
Subject: RE: CEQA comments - 221049, and format questions for 2/12 hearing

Application 221049, under APN 080-062-02, is located in the Records Room.

You may schedule an appointment to view this file.

Appointment times are Monday through Thursday at 8:30, 9:30, and 10:30 am.

Let me know what works best for you and I will set up an appointment for you.

Application 84-1302-CD, is located in archives storage. You would need to send us a check for \$14.56 before we order this file to be sent to Santa Cruz.

I have attached an archive order form to this email. After we receive the check, it may take up to 5 business days before we receive the file.



Joe Mathieu

Phone: 831-454-3198

Records Clerk

recordsroominquiries@santacruzcountyca.gov

Community Development & Infrastructure

701 Ocean Street, Room 400

Santa Cruz, CA 95060

Hello,

The file(s) that you are requesting, are located in our Archives storage facility.

Cost to retrieve this file, under APN _____ - _____ - _____ is \$ _____

Please make out a check to County of Santa Cruz for this amount and include the Parcel # (APN) on the check, and state that this is for an archives request. Also include all your contact information when you send in your check.

Please mail the check to this address:
ATTN: Cashier
County of Santa Cruz Planning Dept.
701 Ocean St., 4th Floor
Santa Cruz, CA 95060

When we receive the check, the order will be placed. When the file or files arrive from our offsite storage facility, we will notify you about setting up an appointment to view the file.
If you have any questions about this ordering process, please contact me.

Joe Mathieu
Records Clerk
County of Santa Cruz Planning Dept.
701 Ocean St., 4th Floor
Santa Cruz, CA 95060
(831) 454-3198

Joe.Mathieu@santacruzcounty.us
recordsroominquiries@santacruzcounty.us

From: Sheila McDaniel
Sent: Thursday, February 6, 2025 3:36 PM
To: Julie Cahill <summitdr2020@gmail.com>
Cc: Joe Mathieu <Joe.Mathieu@santacruzcountyca.gov>
Subject: RE: CEQA comments - 221049, and format questions for 2/12 hearing

Julie,

Joe Mathieu, our records clerk, will assist in viewing prior applications. I have Ccd him here.

Thank you,

Sheila

From: Julie Cahill <summitdr2020@gmail.com>
Sent: Thursday, February 6, 2025 2:25 PM
To: Sheila McDaniel <Sheila.McDaniel@santacruzcountyca.gov>
Subject: Re: CEQA comments - 221049, and format questions for 2/12 hearing

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Thank you. I don't check our mail daily so perhaps it's in there now.

Q— How do I get information on the original permit issued that is sited in the consolation letter? Is this available online (I don't see it on the GIS website) or do I need to go in person, setting up a meeting or FOIA request it?

April 5, 1985 – Commercial Development Permit 84-1302-CD was approved to construct a

176 square foot addition and a service ramp at an existing building, to extend the height of an existing 30-foot tower to 65 feet and to remove four other antenna towers (one of 65 feet and three of 40 feet).

Thank you!

Julie Cahill

408. 718. 7108

From: Andrew Fox <andy@rushc.com>

Sent: Sunday, February 9, 2025 2:11 PM

To: Sheila McDaniel <Sheila.McDaniel@santacruzcountyca.gov>

Cc: SCPCD2@outlook.com; triciawynne1@gmail.com; Trina Barton

<Trina.Barton@santacruzcountyca.gov>; yeseniajdurán@gmail.com; adanna@baileyproperties.com; renee@reneesgarden.com; coastcounties@sbcglobal.net; nicholas.brown@sbcglobal.net

Subject: Continuance of Appeal of Zoning Administrator's approval of Application 221049

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Dear Sheila,

I am writing with my formal objection letter regarding the proposed cell tower for 186 Summit Bonny Doon Santa Cruz (application 221049 due for review by the planning commission on Feb 12th). The letter is attached along with supporting images referenced for inclusion in your records.

My objection is based on aesthetics (the proposed tower will blight the view for the neighbouring homes, two of which have recently been rebuilt following the CZU fires) and technology (there is a superior alternative more suited to Bonny Doon that uses low earth orbit satellites).

Everyone wants great communications up here but the undulating topology of Bonny Doon precludes old fashioned line of site cell tower systems. Existing operational alternative technologies (eg Starlink low earth satellite) which offer the promise of better coverage should be evaluated before the cell tower system is approved.

Thank you for your consideration.

with kindest regards,

Andy Fox. (88 Patrick Road, Santa Cruz, CA 95060).

88, Patrick Road,
Santa Cruz,
CA 95060.

250 Summit Drive,
Santa Cruz,
CA 95060

Feb 9th 2025

Dear Sir/Madam,

I am writing to object to the proposed cell tower installation at 186 Summit because of an aesthetic issue and because there are technically superior alternatives.

Aesthetics:

The proposed radio tower will have a large negative visual impact on the aesthetics of five neighbouring properties (Hauser, Jenkins, Molino, Cahill and Coyle) all of which are clearly visibly today from the proposed tower. Figures 1,2,3 show the views to these properties from the base of proposed tower site.

Alternative technologies:

Low earth orbit satellite technologies now provide internet (and hence voice over ip phone) connections wherever there is a clear view of the sky. Measurements from a portable Starlink system taken from Nichols Drive and the junction of empire grade and pine flat (the primary area claimed to be deficient in coverage) are shown in figures 4,5. These evidence ample bandwidth for communications with download speeds measured in excess of 180Mbps and upload speeds in excess of 7Mbps. It is noted that "cell towers in the sky" is a viable technical alternative as outline in your statement:

"There are no other environmentally equivalent and/or superior and technically feasible alternatives to the proposed wireless communications facility as conditioned (including alternative locations and/or designs) with less visual and/or other resource impacts and the proposed facility has been modified by condition and/or project design to minimize and mitigate its visual and other resource impacts. "

Everyone wants good communications in Bonny Doon, which has an undulating topology rendering line of site cell tower communication useless. The alternative technologies (eg distributed antenna arrays and low earth orbit satellite) combined with the existing infrastructure seem the best way forward to achieve the goal of ubiquitous coverage.

Thank you for your consideration of the above points.

yours faithfully,

Andrew Fox.
attached:
Figures 1-5







11:50



Internet speed test



181.4
Mbps download

7.44
Mbps upload

Latency: 20 ms

Server: San Francisco Bay Area

Your Internet connection is very fast.

Your Internet connection should be able to handle multiple devices streaming HD videos, video conferencing, and gaming at the same time.

[LEARN MORE](#)

[TEST AGAIN](#)

[Feedback](#)



Q internet speed test



12:20 ⋮ 📶 🔋

Internet speed test ✕

171.4 Mbps download	11.9 Mbps upload
-------------------------------	----------------------------

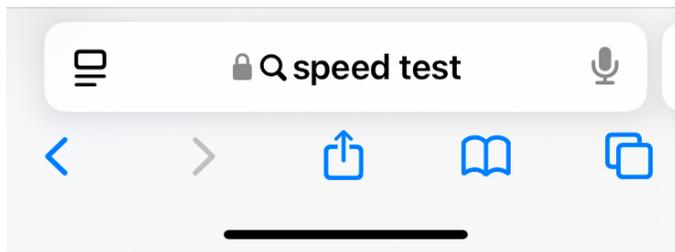
Latency: 26 ms
Server: San Francisco Bay Area

Your Internet connection is very fast.

Your Internet connection should be able to handle multiple devices streaming HD videos, video conferencing, and gaming at the same time.

[LEARN MORE](#) [TEST AGAIN](#)

[Feedback](#)



From: Mary Coyle <coyle.mary1@gmail.com>

Sent: Sunday, February 9, 2025 8:58 PM

To: Sheila McDaniel <Sheila.McDaniel@santacruzcountyca.gov>; Cc: "SCPCD2@outlook.com"

<SCPCD2@outlook.com>; triciawynne1@gmail.com; Trina Barton
<Trina.Barton@santacruzcountyca.gov>; yeseniajduan@gmail.com; adanna@baileyproperties.com;
renee@reneesgarden.com; coastcounties@sbcglobal.net; nicholas.brown@sbcglobal.net

Subject: The appeal of cellphone tower approval located at 186 Summit drive

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Dear members of the Santa Cruz Board of Supervisors,

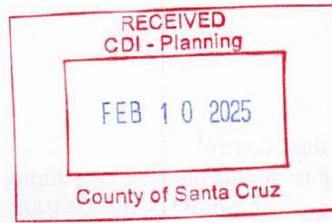
I have lived at 250 Summit Drive since 1998. When I bought my property the large satellite dishes next door were present but because of the trees and the fact that they were not in use because they were not noticeable except if you were walking by the property on the road or if the power went out and their large generator came on. Since then and with the CZU fire things have changed greatly. Not only were several surrounding houses burned down but also many trees are gone. A 150 foot tower next to my property, visible from my living room window or from my yard is really difficult to accept. We are just barely returning to some sort of normality in our neighborhood and having to try and stop the construction of a cell tower in our small neighborhood which has suffered so much is hard to fathom and seems unnecessarily cruel, particularly when there are other places for the placement. Additionally, there is a lot of controversy as to whether it will really be beneficial for an increase in cell phone coverage. A number of us are seniors and speaking for myself, my property is a large part of my retirement. Our neighbors know that people have moved and pulled out of purchasing a home on Summit Drive because of the proposal for the tower.

Finally, many of us appreciate the quietness of this area and when the weather is warm, we want to be outside with friends. How would you like to have a gathering outside when part of your view is a cell tower.

In summary, many of us also have experienced a major trauma with the CZU fire. We are a small neighborhood but stand united in requesting that another site away from so many houses, particularly a neighborhood that is still recovering from a wildfire be chosen.

Sincerely,

Mary



Richard A. Stedman
Air Pollution Control Officer

February 5, 2025

Santa Cruz County
Department of Community Development and Infrastructure
Attention: Sheila McDaniel, Project Planner
701 Ocean Street, Fourth Floor
Santa Cruz, CA 95060
Submitted as hard copy to physical address and via email:
Sheila.mcdaniel@santacruzcounty.gov

Re: Summit Drive Wireless Mitigated Negative Declaration

Dear Ms. McDaniel,

Thank you for providing the Monterey Bay Air Resources District (MBARD) with the opportunity to comment on the Summit Drive Wireless Mitigated Negative Declaration (MND). MBARD has reviewed the MND and has the following comments:

Hazardous Materials

Portions of the project's 2.2-acre site will be excavated and graded, cement pads installed, buildings will be renovated and/or demolished, along with minor trenching activities, MBARD rules may apply. These include Rule 424, National Emissions Standards for Hazardous Air Pollutants, and Rule 439, Building Removals. Rule 424 contains the investigation and reporting requirements for asbestos which includes surveys and advanced notification on structures being renovated or demolished. Notification to MBARD is required at least ten days prior to renovation or demolition activities. Rule 424 could also apply when encountering any active or abandoned Asbestos Cement Pipe (ACP) or other asbestos-containing subsurface infrastructure. Grading and trenching activities in particular can disturb ACP and release fibrous material, exposing sensitive receptors. If building materials, ACP, or other sub-surface asbestos containing materials are encountered and need to be removed, please follow proper procedures including notification, handling and removal, and proper disposal of regulated asbestos containing materials per MBARD Rule 424. Rules 424 and 439 can be found online at <https://ww2.arb.ca.gov/current-air-district-rules>. Please contact Bronwyn Nielson, Air Quality Compliance Inspector, at 831-718-8024 for more information regarding these rules.

Air Quality

- **Fugitive Dust Control**

Fugitive dust should be mitigated during the construction phase of the project. Compliance with MBARD Rule 402 (Nuisance) and CEQA Guidelines, Section 8.2 can be maintained by implementing the following Best Management Practices as applicable:

- Water all active construction areas at least twice daily. Frequency should be based on the type of operation, soil, and wind exposure.
- Prohibit all grading activities during periods of high wind (over 15 mph).
- Cover all trucks hauling dirt, sand, or loose materials.
- Cover inactive storage piles.
- Maintain at least 2'0" of freeboard in haul trucks.
- Apply chemical soil stabilizers on inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days).

Construction Equipment

To further reduce construction emissions, MBARD recommends using cleaner than required equipment that conforms to the California Air Resources Board's (CARB) Tier 3 or Tier 4 emission standards. We further recommend that, whenever feasible, construction equipment use alternative fuels such as compressed natural gas (CNG), propane, electricity, or biodiesel. This would have the added benefit of reducing diesel exhaust emissions.

Portable or Stationary Engines

The fixed generator to be installed will likely require a permit to operate. In addition, if a generator, boiler, or another stationary source of air pollutants is needed to support the construction process or will be installed for use in the operation of the project, a permit may be required. Per MBARD Rule 201, any stationary piston-type internal combustion engine of greater than or equal to 50 brake horsepower (bhp) requires an MBARD Permit to Operate. Please contact MBARD's Engineering Division if there are any questions regarding the permitting process.

Portable Equipment Registration Program

If project construction uses portable equipment registered with the California Air Resources Board (CARB) in the Portable Equipment Registration Program (PERP), MBARD must be notified within two working days of commencing operations when a registered unit will be at a location for more than five days. Portable equipment not registered with CARB may be subject to MBARD permit requirements.

Transportation Emissions

- **Electrical Vehicle Charging Stations**

- MBARD supports incorporating electric vehicle infrastructure goals in the project plan.

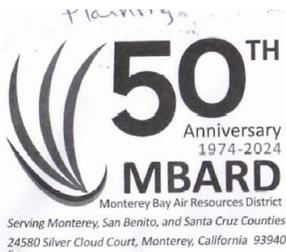
We appreciate the opportunity to comment on the Summit Drive Wireless Mitigated Negative Declaration. Please let me know if you have any questions. You can reach me at 831-718-8021.

Best regards,

Irene Miranda

Irene Miranda, Ph.D.
Air Quality Planner I

cc: Rich Stedman, Air Pollution Control Officer
David Frisbey, Planning and Air Monitoring Manager
Shawn Boyle, Planning and Air Monitoring Supervisor



Attn: Sheila McDaniel

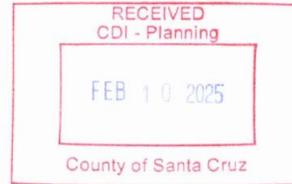
SAN JOSE CA 950
6 FEB 2025 PM 4 L



quadient
FIRST-CLASS MAIL
IMI
\$000.69
02/06/2025 ZIP 93940
043M31299526

US POSTAGE

*Santa Cruz County
Department of Community Development + Infrastructure
701 Ocean Street, Fourth Floor
Santa Cruz CA 95060*



95060\$4011

