



## **County of Santa Cruz Board of Supervisors**

### **Agenda Item Submittal**

**From:** Community Development and Infrastructure

**Subject:** Public hearing to consider appeal of Application 221049, a proposed Wireless Communication Facility

**Meeting Date:** May 6, 2025

**Formal Title:** Hold a jurisdictional hearing to consider whether to take jurisdiction of appeal of Development Permit Application 221049, regarding a proposed wireless communication facility located at 186 Summit Drive (Assessor's Parcel Number 080-062-02), and take related actions

### **Recommended Actions**

1. Hold a jurisdictional hearing to consider whether to take jurisdiction of the appeal of Application Number 221049, a proposed wireless communication facility;
2. Take jurisdiction of the appeal of Application Number 221049;
3. Schedule a "de novo" public hearing for June 10, 2025;
4. Direct the Clerk of the Board to provide written notice as required by County Code Section 18.10.340(E)(1) and publish the Notice of Public Hearing in a newspaper of general circulation at least 21 days in advance of the public hearing; and
5. Direct Community Development and Infrastructure staff to provide additional notice as required by 18.10.117 (A) at least 10 calendar days prior to the hearing.

### **Executive Summary**

This item is an appeal of the Planning Commission's February 12, 2025 decision to deny the project on appeal from the Zoning Administrator's approval of Application 221049, a proposal to remove an existing 70.6-foot-tall wireless communication facility and related equipment and to construct a 151.1 tall Wireless Communications Facility ("WCF") camouflaged as a monopine tree, including 9 panel antennas and associated equipment, landscape screening and miscellaneous improvements on RR-zoned land, APN 080-062-02.

The Planning Commission's action was appealed to the Board of Supervisors and filed by Travis Brooks (the "Brooks Appeal"), Miller, Starr, Regalia, representative for CTI Towers (Applicant), attached as Attachment a. Pursuant to Santa Cruz County Code (SCCC) Section 18.10.340, the Board must determine whether to accept jurisdiction and schedule a public hearing of the appeal or allow the Planning Commission denial determination to stand. The Board also has the option of remanding the project back to the Planning Commission without taking jurisdiction.

The Board may take jurisdiction if at least one of the grounds given in SCCC 18.10.340(C) is met. Staff concludes that the Appellants have shown that there are grounds to support accepting jurisdiction of the appeal and setting of an appeal hearing by the Board of Supervisors.

### **Discussion**

### Project Background

On February 23, 2022, CTI submitted application (221049) consisting of a request to replace an existing telecommunications facility and to construct a replacement WCF located on the east side of Summit Drive (186 Summit Drive), approximately 700 feet northeast of Empire Grade and three miles north of the intersection of Felton Empire Road and Empire Grade Road. The proposal includes modification of an existing wireless communication facility to include removal of the existing 70 foot 6 inch tall guyed lattice tower and related equipment, satellite dish, shed, 12 foot 6 inch tall lattice tower, and chain link fencing, and replacement with an approximately 151.1-foot tall wireless communication facility camouflaged as a monopine, with nine panel antennas and associated wireless equipment, generator within an existing equipment building, outdoor propane tank, repainted equipment building, landscape screening, and other miscellaneous improvements located within the existing building and site enclosure, surrounded by a new six- foot chain link fence with green slats and barbed wire above. The request required approval of 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).

On October 20, 2023, the project was considered by the Zoning Administrator and continued to provide additional information including an updated alternative analysis to evaluate Patrick Road, wireless propagation mapping at various facilities heights to establish the minimum height required to fill the gap in coverage, and revisions to the design of the facility branching pattern to further minimize visual impacts to the Summit Drive private neighborhood.

On January 19, 2024, the Zoning Administrator considered revised project plans and updated alternative analysis, excluding Patrick Road as an alternative site, landscape screening plan and recommended facility fence plan, revised CEQA exemption, findings, and conditions of approval. The project was approved with conditions reducing the height of the WCF from a maximum of 150 feet to 140 feet, the minimum required to substantially fill the gap in coverage as determined by the applicant's radio frequency engineer while also minimizing private visual impacts to the Summit Drive neighborhood to the maximum extent feasible. The project was further conditioned to incorporate darker faux foliage and a taller faux tree trunk to match the color and massing of the surrounding tree foliage more closely, wood fence enclosure, post construction noise and radio frequency reports to reconfirm compliance with technical thresholds, and maintenance of existing vegetation and trees to ensure private views of the proposed facility would be minimized to Summit Drive neighbors for the duration of the use.

On January 31, 2024, an appeal of the Zoning Administrator approval was filed by Bonny Doon Residents for Responsible Cell Coverage. The issues raised in the appeal letter consisted of asserted erroneous CEQA exemptions, an unenforceable road improvement condition of approval, potential for increased future height allowed on the site, failure to erect a mock-up, insufficient alternative analysis to disqualify Patrick Road as a facility site, and failure to evaluate 333 Robles Drive.

On March 27, 2024, the Planning Commission considered the project appeal and put most of the appeal issues to rest with exception of concerns regarding potential environmental impacts of the proposed project and evaluation of Patrick Road as a potential alternative site to the proposed project. Thus, the Commission continued the

project for preparation of an Initial Study to evaluate environmental impacts. The Commission also requested that the applicant provide a detailed comparison between Patrick Road and Summit Drive to thoroughly exclude Patrick Road as an alternative site. The comparison was directed to include wireless propagation maps, facility heights necessary to address the coverage gap, public visual impact simulations, and private neighborhood visual impact assessments to ensure a balanced evaluation of these factors.

On February 12, 2025, the Planning Commission considered the updated alternative analysis materials and the Initial Study/Mitigated Negative Declaration determination by the Environmental Coordinator. Following the public hearing, the Commission denied the project based on: a determination that there was no gap in coverage per AT&T's wireless service coverage maps located on their website; that Patrick Road – at 150 feet in height – is capable of providing wireless coverage equal to the proposed facility and therefore is an available alternative to the proposed project location on Summit Drive; and lastly, that the proposed facility would not result in the least visually obtrusive site feasible due to visual impacts to the Summit Drive neighborhood. The attached Planning Commission findings for denial reflect the attached meeting minutes.

#### Analysis

Pursuant to County Code Section 18.10.340(C), in deciding whether to take jurisdiction of an appeal and grant further review, the Board must evaluate the information provided by the appellant and be convinced that there is a basis for a jurisdictional hearing such as:

1. There was an error or abuse of discretion on the part of the Planning Commission, Zoning Administrator, or other officer; and/or
2. There was a lack of a fair and impartial hearing; and/or
3. The decision appealed from is not supported by the facts presented and considered at the time the decision appealed from was made; and/or
4. There is significant new evidence relevant to the decision which could not have been presented at the time the decision appealed from was made; and/or
5. There is either error, abuse of discretion, or some other factor which renders the act done or determination made unjustified or inappropriate to the extent that a further hearing before the Board is necessary.

At the conclusion of this jurisdictional hearing, if the Board of Supervisors finds that the appellant has established sufficient grounds for the Board to take jurisdiction, the Board may grant a public hearing limited to the record of the entire proceedings or decide to conduct the proceedings as if no other hearing had been held (as a 'de novo' public hearing). If the Board does not find sufficient grounds to take jurisdiction (based on the above listed findings), the Board should decline to schedule a hearing and the Planning Commission action to deny Application 221049 will become final.

In deciding whether to take jurisdiction of an appeal and grant further review, the Board of Supervisors must consider whether any of the criteria set forth in County Code section

18.10.340(C) have been met. Staff believe that there is adequate cause to accept jurisdiction of the appeal for the following reasons, including but not limited to:

1. There was an error or abuse of discretion on the part of the Planning Commission, Zoning Administrator, or other officer. In particular:
  - a) The Planning Commission made an error in determining that no gap in coverage exists by relying on AT&T's less accurate public website wireless service coverage maps, rather than the more sophisticated and widely accepted radio frequency propagation analysis provided by the project's radio frequency engineer. According to County Code Section 13.10.660(B), a 'significant gap' in wireless coverage is defined as a gap in a provider's own services, as certified by the carrier; and
  - b) The Planning Commission erred in finding that there is a co-location alternative to the proposed project located at Patrick Road based on an improper determination that equal wireless coverage would be provided at 150 feet in height by both the Summit Drive and Patrick Road sites. However, the propagation coverage maps provided to the Commission demonstrate that the proposed facility at Summit Drive would substantially fill the gap in coverage at 150 feet in height, whereas the alternative site located at Patrick Road would only achieve similar or equal coverage at approximately 210 feet in height. Thus, equal coverage would not be provided by the Patrick Road site at 150 feet in height; and
  - c) Lastly, in denying the project based on generalized aesthetic impacts to a private neighborhood (Summit Drive) rather than on identified significant impacts to designated visual resources mapped in the General Plan, as required by wireless findings enumerated in Santa Cruz County Code 13.10.661(D)(1), the Planning Commission made an error finding that the proposed facility was not located on the least visually obtrusive site. In particular, the visual impact analysis of the proposed facility demonstrates that there are no visual impacts to mapped protected public visual resources, such as Empire Grade Road or other mapped public roads identified by the General Plan. Moreover, a detailed comparison of impacts to public visual resource impacts between the proposed project and the Patrick Road alternative site—evaluated at the request of the Planning Commission—clearly indicates that the Patrick Road alternative site would be visible to Empire Grade Road, resulting in visual impacts to a mapped designated public visual resource in conflict the required wireless findings. Lastly, both the Patrick Road alternative site and the proposed project site would have generalized visual impacts to private neighborhoods, albeit to different private neighborhoods. However, given the 210-foot height required for the Patrick Road alternative site to substantially fill the gap in wireless coverage, a wireless facility located on Patrick Road would also result in more significant visual impacts to the private neighborhood. Thus, the proposed Summit Drive site would be the superior, technically feasible alternative location with less visual and/or other resource impacts.

### Conclusion

The jurisdictional process places the burden of proof on the appellant to convince the Board of Supervisors that jurisdiction should be taken with respect to one or more of the jurisdictional criteria enumerated in Chapter 18.10.340(C) of the County Code. The

Planning Commission considered the evidentiary testimony. However, based on the Appellants' letter and administrative record for Application 221049 at duly noticed public hearings, staff believe the appellant has shown that there are grounds to support an appeal hearing before the Board. Therefore, staff recommends that the Board take jurisdiction of Application 221049 and consider the matter as a de novo public hearing and take related actions.

**Financial Impact**

There are no financial or budgetary impacts of this item.

**Strategic Initiatives**

N/A

**Submitted By:**

Matt Machado, Deputy CEO / Director of Community Development and Infrastructure

**Recommended By:**

Carlos J. Palacios, County Executive Officer

**Artificial Intelligence Acknowledgment:**

Artificial Intelligence (AI) did not significantly contribute to the development of this agenda item.