

**VIA EMAIL**

Supervisor Lynda Hopkins, [district5@sonoma-county.org](mailto:district5@sonoma-county.org)  
Supervisor James Gore [district4@sonoma-county.org](mailto:district4@sonoma-county.org)  
Supervisor Chris Coursey [district3@sonoma-county.org](mailto:district3@sonoma-county.org)  
Supervisor David Rabbitt [David.Rabbitt@sonoma-county.org](mailto:David.Rabbitt@sonoma-county.org)  
Supervisor Susan Gorin [Susan.Gorin@sonoma-county.org](mailto:Susan.Gorin@sonoma-county.org)  
Peter Kaljian [Peter.Kaljian@sonoma-county.org](mailto:Peter.Kaljian@sonoma-county.org)

RE: Appeal of the denial by the BZA of T-Mobile's proposed cell tower 9300 Mill Station Rd,  
Sebastopol - UPE22-0051

We urge you to support the BZA's unanimous denial of Vertical Bridge/T-Mobile's application. The installation of another T-Mobile cell tower is precedent setting. If approved, it would lead to the widespread proliferation of cell towers in the Diverse Agriculture (DA) Zoning District in much of western Sonoma County without an independent assessment of their impacts.

There has been an outpouring of community opposition to this application which included a petition with over 100 signatures, a brief by Erin Carlstrom, Attorney, letters from the *Mill Station Neighborhood Coalition* ("MSNC"), *Russian Riverkeeper* organization and concerned individuals.

These documents can be found on the County website at:

<https://share.sonoma-county.org/link/uBOdCCkGsHE/Item%20%20UPE22-0051/Additional%20Public%20Comment/ UPE22-0051%20PubCom%20Packet%2007.26.2023.pdf>

Fortunately it is not necessary to take a deep dive into complexities of wireless telecommunications technology to deny this project. Denial of Vertical Bridge/T-Mobile's application was supported by the BZA's written findings: namely, the visual impacts of their proposed cell tower are wholly inconsistent with the Sonoma County General Plan and Zoning Ordinance § 26-88-130. – Telecommunications; and there exists no significant gap in service. Moreover, as has been held by federal courts, including the United States Court of appeals for the Ninth Circuit, significant and or unnecessary adverse aesthetic impacts are proper legal grounds upon which a local government may deny a zoning application for the construction of cell tower.<sup>1</sup>

An underlying issue is that Sonoma County's Telecommunications Ordinance is outdated. It does not give the County's decisionmakers the full extent of discretion already provided to local jurisdictions by federal legislation, the TCA and the FCC to deal with the placement, location and appearance of wireless

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telecommunications facilities. There are many examples of telecommunications ordinances approved by California jurisdictions such as Petaluma, San Diego County, Malibu, Mill Valley, Fairfax, Palo Alto, and Santa Barbara which have successfully regulated this rapidly evolving technology while ensuring their communities experience quality broadband connectivity. Revising Sonoma County's Telecommunications Ordinance should be a high priority.

The attached brief describes the misinformation, factual errors and misstatements made by the applicant. These include the absence of any probative evidence of a gap in service; erroneous and misleading interpretation of FCC regulations and the Telecommunications Act of 1996 (TCA); and no independent assessment of whether the proposed cell tower would exceed the FCC's maximum microwave exposure limits.

We urge you to support the BZA's denial of this project.

Cordially,  
Paul-André Schabracq  
Co-Director EMF Safety Network  
2175 Blucher Valley Road  
Sebastopol, CA 95472

## **Brief in Support of BZA's Denial of T-Mobile's Proposed Cell Tower at 9300 Mill Station Road**

### **1. Visual Impacts**

The proposed cell tower would be 70 ft in height, whereas all of the surrounding properties are one-and two-story homes. The photo simulation from the *EMF Safety Network* submittal to the BZA show that the proposed cell tower would rise above the surrounding trees and obscure scenic views of the Mayacama Mountain and Mount St. Helena.

Analyzing the Sonoma County General Plan and related Zoning Code provisions, it is clear that T Mobile's application does not comply with either the *letter* of the law, nor the *intent* behind these provisions and should be denied.

*Goal Open Space OSRC-6: Preserve the unique rural and natural character of Sonoma County for residents, businesses, visitors and future generations.*

*Policy OSRC-6a: Develop design guidelines for discretionary projects in rural areas, but not including administrative design review for single family homes on existing lots, that protect and reflect the rural character of Sonoma County. Use the following general design principles until these Design Guidelines are adopted, while assuring that Design Guidelines for agricultural support uses on agricultural lands are consistent with Policy AR-9h of the Agricultural Resources Element.*

***(1) New structures blend into the surrounding landscape, rather than stand out.***

*Policy OSRC-1e: Apply the Scenic Resources combining district consistent with this Element to all lands located within a Community Separator. \*Policy OSRC-1f: Unless there are existing design guidelines that have been adopted for the affected area, require that new structures within Community Separators meet the following criteria:*

***(5) Design structures to use building materials and color schemes that blend with the natural landscape and vegetation.***

1.B. The proposed cell tower is inconsistent with §26.88.130 Telecommunications Facilities, Sonoma County Zoning Ordinance, notably:

*(iii) Antennas shall be located, designed, and screened to blend with the existing natural or built surroundings so as to minimize visual impacts and to achieve compatibility with neighboring residences and the character of the community to the extent feasible considering the technological requirements of the proposed telecommunication service.*  
*(v) Approval of all commercial facilities is subject to the decision-making body finding that the proposed site results in fewer or less severe environmental impacts than any feasible alternative site. An alternatives analysis (required for major freestanding facilities in all districts and for intermediate freestanding facilities in the AR, RR, R1, R2, R3, and PC districts with a UR or RR land use designation) shall include the following content:*

*(C) Identification of the following on the local topographic map:*

- 1. All other existing telecommunication facilities, including those owned or operated by the applicant for the same type of service, and those which provide other wireless services which could potentially support the proposed facility. Not provided.*
- 2. All other existing structures which might provide an opportunity for attached facilities. Not provided.*

*(D) Identification of any existing service gaps in the proposed local service area as well as any service gaps which may remain in the event that the proposed facility is approved and constructed.*

*(E) Identification of at least two (2) alternative service plans which could provide comparable service to the intended service area. An explanation must be included if there are not at least two (2) alternative plans. Alternatives which do not produce a minimum quality signal, or which would substantially interfere with another service do not need to be included. (D & E) Not provided. See comment re: service gaps.*

*(F) The alternatives should include a mix of service strategies which incorporate existing, attached, and/or other freestanding facilities. The alternatives analysis for a facility proposed within a designated scenic resource area and/or a residential zone (AR, RR, R1, R2, R3, or PC with a UR or RR general plan land use designation) shall include any*

*feasible alternatives outside these respective areas. They should also be designed to offer clear tradeoffs involving:*

- 1. The level of service provided;*
- 2. The number of towers;*
- 3. Variety in tower heights and silhouettes;*
- 4. Potential visual impacts;*
- 5. Residential proximity and compatibility;*
- 6. Proximity to service area;*
- 7. Other applicable potential environmental impacts.*

In addition to the goals of maintaining the unique character of the surrounding community and preserving the environment with its magnificent views, the Sonoma County through its General Plan and zoning laws, seeks to safeguard and “promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents.”

“[T]he concept of the public welfare is broad and inclusive.” *Voice Stream PCS v. City of Hillsboro*, 301 F.Supp.2d 1271 (D. Ore. 2004), (quoting *Berman v. Parker*, 348 U.S. 26, (1954)). *Vertical Bridge Development, LLD v. Brawley City Council*, 2023 WL 3568069 (S.D. Calif. 2023). “A municipality is within its authority to weigh the benefit of merely improving the existing coverage against the negative aesthetic impact the cell tower would cause. *Id.* The values represented by the concept of the “public welfare” are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy ....” *Voice Stream, supra*. No comprehensive alternative site analysis was completed.

The applicant disingenuously minimizes the visual impact of the proposed cell tower by generating photo simulations taken at a considerable distance from the site, thereby reducing the apparent comparative height of the proposed tower in relation to surrounding landscape and eliminating consideration by the BZA of the most severe aesthetic impacts imposed on property owners. Note that the proposed tower could be allowed another 20 ft of height.

It is beyond argument that the irresponsible placement of the proposed massive 70 ft. cell tower— whether disguised as a water tower or a large windmill— in a residential neighborhood where no other structures stand no more than two (2) stories in height, would cause this massive facility to stand out like a sore thumb. It will dominate the skyline, inflicting substantial adverse aesthetic impacts upon nearby homes, resulting in a reduction in property values.

Moreover, as has been held by federal courts, including the United States Court of Appeals for the Ninth Circuit, significant and or unnecessary adverse aesthetic impacts are proper legal grounds upon which a local government may deny a zoning application for the construction of cell tower.<sup>1</sup>

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## No Probative Evidence of a Gap In Service

The FCC has a ruling that a gap within a particular provider's service is a "significant gap" under the law. When a provider has made good faith efforts to fill a significant gap, including undertaking assessments of technology and reasonable negotiations with owners of preferred alternative sites, denial of special use permits and variances for the only feasible site to fill the gap constitutes an impermissible effective ban. A local government may require that service gaps be closed in the least intrusive means available. Propagation Maps demonstrating the purported need for their cell tower typically used by T-Mobile and other carriers routinely tout the software they use to create these "predictive" coverage maps. *However, as recently as 2020, the FCC determined that such "predictive" coverage maps are wholly unreliable without the hard data on which they are allegedly based.*

An FCC Staff Report entitled "Mobility Fund Phase II Coverage Maps Investigation," the FCC details the unreliability of coverage maps. The methodology used by the FCC was having the staff do its own drive tests and compare the results to the coverage maps provided by wireless carriers. The result demonstrated that wireless carriers' coverage maps did not match the drive test data obtained by the FCC. (<https://docs.fcc.gov/public/attachments/DOC-361165A1.pdf>).

Within the context of zoning applications such as the current application, the applicant is required to prove [1] that there are gaps in a specific wireless carrier's service, [2] that the location of the proposed facility will remedy those gaps, and [3] that the facility presents a "minimal intrusion on the community." *Id.*

The most accurate and least expensive evidence used to establish the location, size, and extent of both *gaps* in personal wireless services and areas suffering from *capacity deficiencies* are two specific forms of *hard data*, which consist of: (a) dropped call records and (b) actual drive test data. Unlike RF modeling and "predictive" propagation maps, all of which are easily manipulated to reflect whatever the preparer wants them to show, *hard data* is straightforward and less likely to be subject to manipulation, unintentional error, or inaccuracy.

***Drive Test Data:*** Actual drive test data does typically lend itself to the type of manipulation that is almost uniformly found in "computer modeling," the creation of hypothetical propagation maps, or "expert interpretations" of actual data, all of which are so easily manipulated, that they are essentially rendered worthless as a form of probative evidence.

To obtain drive test data, all that is required is the performance of a drive test. This involves attaching a recording device to a cell phone and driving through any given area to test for wireless service gaps. The device records wireless signal strength every few milliseconds so that in a two-hour drive test, the device records several hundred thousand recorded signal strengths, which collectively depict a complete and accurate record of the existence, or lack, of any significant gap in wireless service.

Hard drive test data consists of the actual records of a carrier's wireless signal's actual recorded strengths at precise geographic locations.

***Dropped Call Record:*** Dropped call records are generated by a carrier's computer systems. They are typically extremely accurate because they are generated by a computer that already possesses all of the data pertaining to dropped calls, including the number, date, time, and location of all dropped calls suffered by a wireless carrier at any geographic location, and for any chronological period.

With the ease of a few keystrokes, each carrier's system can printout a precise record of all dropped calls for any period of time, at any geographic location, and the likelihood that someone would enter false data into a carrier's computer system to materially alter that information is highly unlikely.

As is reflected in Vertical Bridge/T-Mobile's application, they have not provided either of these forms of *hard data* as probative evidence. Instead, T-Mobile has provided only its own vague coverage maps depicting the alleged existing and potential coverage. A simple review of the map submissions reflects that they contain no hard data whatsoever.

The maps presented by Vertical Bridge/T-Mobile were not actually based on any hard data recorded from any actual drive test, simply because no such drive test was conducted. Concomitantly, the maps do not possess any probative value in establishing: (a) the existence of any significant gap in personal wireless service, or any capacity deficiency, much less (b) the location and geographic size of any actual gap in service or area suffering from a capacity deficiency.

Without providing a shred of hard data to support the same, and after potentially manipulating the actual data, Vertical Bridge/T-Mobile arrived at what was undoubtedly their pre-determined conclusion that Vertical Bridge/T-Mobile "needs" to have this 70 ft tower to provide reliable wireless services.

### **Property Values will be Adversely Affected**

Vertical Bridge/T-Mobile's project narrative disputes the extensive documentation provided in previously submitted written comments that property values would not be adversely affected and even increased due to the proximity to wireless transmission facilities.

As established by the evidence submitted herewith, if Vertical Bridge/T-Mobile is permitted to install the wireless facility it proposes, it will inflict upon nearby homes dramatic losses in property value, to the extent that the homeowners would suffer significant losses in the values of their residential properties.

Across the United States, both real estate appraisers and real estate brokers have rendered professional opinions that simply support what common sense dictates. When large cell towers are installed within direct view of residential homes, such homes suffer material losses in value, typically ranging from 5% to 20% or more. In the worst cases, cell towers built near existing homes have caused the homes to be rendered wholly unsaleable.

As has been recognized by federal courts, it is perfectly proper for a local zoning authority to consider as direct evidence of the reduction in property values that an irresponsibly-placed wireless facility would inflict upon nearby homes, the professional opinions of licensed real estate brokers, who provide their professional opinions as to the adverse impact upon values that would be caused by the installation of the proposed cell tower. *See Omnipoint Communications Inc. v. The City of White Plains*, 430 F.3d 529 (2nd Cir. 2005). This is especially true when they possess years of real estate sales experience within the community and the specific geographic area at issue.

Further, a District Court within the Ninth Circuit was challenged with determining whether the argument from residents that the "facility would be an eyesore that could adversely affect their views and property values" was a valid argument, "[t]he Court accepts the proposition that Defendants retain local control over land use issues generally, including aesthetics." *See California RSA No. 4 v. Madera Cty.*, 332 F. Supp. 2d 1291, 1306 (E.D. Cal. 2003).

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**From:** [tony.casadidio](#)  
**To:** [Peter Kaljian](#)  
**Date:** Thursday, October 3, 2024 2:25:45 PM

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**EXTERNAL**

Peter

I am concerned that you are opposing The BZA's denial of the cell tower at 9300 Mill Station . Your opposition seems to be missing many of the most important problems the proposed cell tower causes. By omitting the complete and factual information provided that created the denial is somewhat puzzling. Could you please explain your reasoning for not providing a more complete analysis of the facts.

T- Mobile and Vertical Bridge on every occasion provided misleading and inaccurate information in addition to omitting many facts in order to promote their agenda .

I am hoping that you will provide all of the information needed, not just what seems to be T-Mobile's side of the proposal. I want you to know that you are responsible for being unbiased in your reasoning .

I would like to remind you that we are prepared to take whatever legal action is necessary to protect our community and our property values.

I find it odd that we were not notified sooner of the Board of Supervisors meeting . You seemed to have delayed notifying us until the last minute, also very concerning.

Seriously concerned Tony Casadidio

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**From:** [Peter Kaljian](#)  
**To:** [tony.casadidio](#)  
**Cc:** [Hannah Spencer](#); [Cecily Condon](#); [permitsonoma-reply](#); [Ivan Jimenez](#)  
**Subject:** RE: 9300 Mill Station Rd  
**Date:** Friday, October 4, 2024 2:00:00 PM  
**Attachments:** [UPE22-0051 Legal Notice BOS Public Hearing.pdf](#)

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Hi Tony,

I'm confirming that your public comments have been received and will be provided to the Board of Supervisors prior to the hearing. Staff's analysis is provided in the Board Summary Report prepared for the hearing which is available to the public on the Board of Supervisors' website. To my knowledge, there is no new information on file for this project. However, I will submit your records request to our Department's Public Records Act specialist to process your request. You are welcome to continue submitting additional public comments and participate in the upcoming hearing. See the attached notice for instructions on public comment.

Aside from the email that was sent out on September 13<sup>th</sup>, 2024 notifying you, and all other interested parties, of the October 8<sup>th</sup>, 2024 date (tentative at that time), public noticing was carried out in accordance with Sonoma County Code [Sec. 26-30-120\(E\).1](#)

If you would like to speak with planning management; I can see if my supervisor or manager are available for phone call.

Thank you



**Peter Kaljian**  
**Planner I**  
2550 Ventura Avenue, Santa Rosa, CA 95403  
[www.PermitSonoma.org](http://www.PermitSonoma.org)  
**o:** (707) 565-1900  
**d:** (707) 565-1735  
[Peter.Kaljjan@sonoma-county.org](mailto:Peter.Kaljjan@sonoma-county.org)



Lobby hours: Monday, Tuesday, Thursday, Friday 8:00 AM to 4:00 PM. Wednesday 10:30 AM to 4:00 PM.

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**From:** tony casadidio <t58dadeo@gmail.com>  
**Sent:** Friday, October 4, 2024 10:44 AM  
**To:** Peter Kaljian <Peter.Kaljjan@sonoma-county.org>  
**Subject:** 9300 Mill Station Rd

## EXTERNAL

Peter

The reason for my call today was to remind you the entire community wants an explanation for your decision to ignore the BZA denial,

and all the facts that provided evidence of the almost two years of the BZA providing T-Mobile and Vertical Bridge with multiple alternate modifications of the tower and more appropriate locations. All of the BZA recommendations have been ignored.

Once again you have not been responding in a timely manner. We were only given a few days' notice of the October 8th meeting which is quite concerning.

I would like to remind you that we think it is improper and legally questionable that you consider the profit of T-Mobile and Vertical Bridge while ignoring the BZA recommendations and the welfare of the community.

I was quite upset when you laughed at me and my concerns on the phone this morning, I feel strongly that you owe the community an apology for your disregard for the over 100 residents who signed a petition that stated there is no need for this cell tower and that it will negatively affect them.

I am furious at the disrespect, the lack of informing the community in timely manner and the unfair omission of all the facts.

Seriously Tony Casadidio

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Within the context of zoning applications such as the current application, the applicant is required to prove [1] that there are gaps in a specific wireless carrier's service, [2] that the location of the proposed facility will remedy those gaps, and [3] that the facility presents a "minimal intrusion on the community." *Id.*

The most accurate and least expensive evidence used to establish the location, size, and extent of both *gaps* in personal wireless services and areas suffering from *capacity deficiencies* are two specific forms of *hard data*, which consist of: (a) dropped call records and (b) actual drive test data. Unlike RF modeling and "predictive" propagation maps, all of which are easily manipulated to reflect whatever the preparer wants them to show, *hard data* is straightforward and less likely to be subject to manipulation, unintentional error, or inaccuracy.

***Drive Test Data:*** Actual drive test data does typically lend itself to the type of manipulation that is almost uniformly found in "computer modeling," the creation of hypothetical propagation maps, or "expert interpretations" of actual data, all of which are so easily manipulated, that they are essentially rendered worthless as a form of probative evidence.

To obtain drive test data, all that is required is the performance of a drive test. This involves attaching a recording device to a cell phone and driving through any given area to test for wireless service gaps. The device records wireless signal strength every few milliseconds so that in a two-hour drive test, the device records several hundred thousand recorded signal strengths, which collectively depict a complete and accurate record of the existence, or lack, of any significant gap in wireless service.

Hard drive test data consists of the actual records of a carrier's wireless signal's actual recorded strengths at precise geographic locations.

***Dropped Call Record:*** Dropped call records are generated by a carrier's computer systems. They are typically extremely accurate because they are generated by a computer that already possesses all of the data pertaining to dropped calls, including the number, date, time, and location of all dropped calls suffered by a wireless carrier at any geographic location, and for any chronological period.

With the ease of a few keystrokes, each carrier's system can printout a precise record of all dropped calls for any period of time, at any geographic location, and the likelihood that someone would enter false data into a carrier's computer system to materially alter that information is highly unlikely.

As is reflected in Vertical Bridge/T-Mobile's application, they have not provided either of these forms of *hard data* as probative evidence. Instead, T-Mobile has provided only its own vague coverage maps depicting the alleged existing and potential coverage. A simple review of the map submissions reflects that they contain no hard data whatsoever.

The maps presented by Vertical Bridge/T-Mobile were not actually based on any hard data recorded from any actual drive test, simply because no such drive test was conducted. Concomitantly, the maps do not possess any probative value in establishing: (a) the existence of any significant gap in personal wireless service, or any capacity deficiency, much less (b) the location and geographic size of any actual gap in service or area suffering from a capacity deficiency.

Without providing a shred of hard data to support the same, and after potentially manipulating the actual data, Vertical Bridge/T-Mobile arrived at what was undoubtedly their pre-determined conclusion that Vertical Bridge/T-Mobile "needs" to have this 70 ft tower to provide reliable wireless services.

### **Property Values will be Adversely Affected**

Vertical Bridge/T-Mobile's project narrative disputes the extensive documentation provided in previously submitted written comments that property values would not be adversely affected and even increased due to the proximity to wireless transmission facilities.

As established by the evidence submitted herewith, if Vertical Bridge/T-Mobile is permitted to install the wireless facility it proposes, it will inflict upon nearby homes dramatic losses in property value, to the extent that the homeowners would suffer significant losses in the values of their residential properties.

Across the United States, both real estate appraisers and real estate brokers have rendered professional opinions that simply support what common sense dictates. When large cell towers are installed within direct view of residential homes, such homes suffer material losses in value, typically ranging from 5% to 20% or more. In the worst cases, cell towers built near existing homes have caused the homes to be rendered wholly unsaleable.



As has been recognized by federal courts, it is perfectly proper for a local zoning authority to consider as direct evidence of the reduction in property values that an irresponsibly-placed wireless facility would inflict upon nearby homes, the professional opinions of licensed real estate brokers, who provide their professional opinions as to the adverse impact upon values that would be caused by the installation of the proposed cell tower. *See Omnipoint Communications Inc. v. The City of White Plains*, 430 F.3d 529 (2nd Cir. 2005). This is especially true when they possess years of real estate sales experience within the community and the specific geographic area at issue.

Further, a District Court within the Ninth Circuit was challenged with determining whether the argument from residents that the "facility would be an eyesore that could adversely affect their views and property values" was a valid argument, "[t]he Court accepts the proposition that Defendants retain local control over land use issues generally, including aesthetics." *See California RSA No. 4 v. Madera Cty.*, 332 F. Supp. 2d 1291, 1306 (E.D. Cal. 2003).

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**From:** [tony.casadidio](#)  
**To:** [Peter Kaljian](#)  
**Date:** Thursday, October 3, 2024 2:25:45 PM

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**EXTERNAL**

Peter

I am concerned that you are opposing The BZA's denial of the cell tower at 9300 Mill Station . Your opposition seems to be missing many of the most important problems the proposed cell tower causes. By omitting the complete and factual information provided that created the denial is somewhat puzzling. Could you please explain your reasoning for not providing a more complete analysis of the facts.

T- Mobile and Vertical Bridge on every occasion provided misleading and inaccurate information in addition to omitting many facts in order to promote their agenda .

I am hoping that you will provide all of the information needed, not just what seems to be T-Mobile's side of the proposal. I want you to know that you are responsible for being unbiased in your reasoning .

I would like to remind you that we are prepared to take whatever legal action is necessary to protect our community and our property values.

I find it odd that we were not notified sooner of the Board of Supervisors meeting . You seemed to have delayed notifying us until the last minute, also very concerning.

Seriously concerned Tony Casadidio

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LAW OFFICES OF  
CLEMENT, FITZPATRICK & KENWORTHY

INCORPORATED  
3333 MENDOCINO AVENUE, SUITE 200  
SANTA ROSA, CALIFORNIA 95403  
FAX: 707 546-1360

TELEPHONE: (707) 523-1181

ERIN B. CARLSTROM, CHAIR  
STEPHEN K. BUTLER  
LAND USE DEPARTMENT

STEPHEN K. BUTLER  
(1952-2023)

October 4, 2024

VIA EMAIL

Re: *Board of Supervisors Hearing – October 8, 2024*  
*Agenda Item No. 26*  
*UPE22-0051- Freestanding Monopine Telecom Facility*

Chair Rabbitt and Supervisors Hopkins, Gore, Gorin, and Coursey,

Our office represents neighbors immediately surrounding the proposed Project which is before you for consideration under Item 26<sup>1</sup>. For nearly two years, these neighbors have stood unanimously opposed to the Project. After four separate public hearings, your appointed Board of Zoning Adjustments (“BZA”) denied the project, finding that denial was appropriate given the unique characteristics of the views destroyed by the Project, combined with total neighborhood opposition. We ask that you uphold the decision of the BZA and deny the appeal and the project.

**The Applicant’s Position is Untenable.**

In its meager defense of the Project, the applicant’s attorney has previously written: “The Applicant has worked in good faith to address all concerns raised by the BZA and community members to the maximum extent technically feasible and available. Not a single alternative that is available, technically feasible, and less intrusive than the Applicant's proposed facility to address T-Mobile's coverage gap *has been provided by the County*” (emphasis added).

The burden is not on the County to provide design specifications to the Applicant. Four separate hearings have previously been held in order to provide the Applicant with ample opportunity to understand and meet the needs of the community. They have failed and refused to do so. The applicant and the property owner have refused to relocate the tower on the property to a location that would largely if not entirely mitigate the view destruction posed by the Project. They have failed to adequately consider alternative properties despite at least one property, the

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<sup>1</sup> Prior correspondence represented the Bullock family along with the Mill Station Neighborhood Coalition in opposition to the Project. Warren Bullock has since passed away, but the MSNC remains in total opposition to this Project.

Project's preferred site, changing ownership during the pendency of this two year discussion. And their final proposal, a faux eucalyptus tree, remains entirely out of character in the neighborhood.

Secondly, there is no gap in coverage. The applicant's own imagery shows merely a slight improvement in T-Mobile coverage in the area. The existing coverage is provided by T-Mobile's existing tower at Andy's Market, less than a mile away. Thus, the review of the Project is not limited to available, technically feasible alternatives. Rather, the review falls under a lower threshold of sufficient evidence to form the basis for findings.

### **Denial of the Project Comports with the Telecommunications Act and County Standards.**

The applicant and staff's recommendation suggest the County is essentially prohibited from imposing constraints on any cell tower project. This is untrue.

The County's ability to interpret its own zoning and land use code has consistently been recognized by California and federal courts. The decision of the Commission and the Supervisors is fairly categorized as a judicial one, which must pass the test of due process. Due process in the land use context is broadly construed to require notice and an opportunity to be heard, which hearing must be conducted pursuant to the jurisdiction and discretion of the hearing board. Findings must be based on substantial evidence in the record. *Topanga Ass'n for a Scenic Community v County of Los Angeles* (1974) 11 Cal.3d 506, 513-517.

The Telecommunications Act places limitations on local governments when deciding whether to approve or deny the building of a cell tower. 47 USCS § 332(c)(7)(B). The Board cannot discriminate between cell providers. 47 USCS § 332(c)(7)(B)(i)(I). The Board is obviously not making the decision to approve or deny this project based on which cellular provider is proposing the project. Rather, the BZA denied the project because it was not compatible with the neighborhood and blocked protected views.

The Board cannot prohibit or have the effect of prohibiting the provision of personal wireless services. 47 USCS § 332(c)(7)(B)(i)(II). Meaning, where there is a substantial gap in coverage, the Board is more limited in how it can deny the project. See *Cellco P'ship v. White Deer Twp. Zoning Hearing Bd.* (3d Cir. 2023) 74 F.4th 96 (Board could not prevent a cell tower where there was a four-mile gap in coverage). This limitation was expressed by County Counsel at the Board of Supervisors September 24, 2024 meeting, where the Board considered the approval of a faux water tower. County Counsel stated that if there is not a significant gap in service, then the Board could deny the project based on zoning, aesthetics, incompatibility with the neighborhood, etc. If there is a significant gap in service, then the Board could deny only if there are feasible and technologically available alternative sites. If the Board finds there is a gap in service and no alternative sites, then the Board cannot deny the project.

There is no gap in coverage here. T-Mobile's existing cell towers sufficiently provide coverage to the area. Thus, the Board can and should deny the appeal due to the aesthetic, view, and community concerns that have been established by the neighbors of the proposed project site.

Even if there was a gap in coverage, Appellant has failed to show that there is no feasible and technologically available alternative site. Initially, Appellant wanted to place the cell tower on a different property; however, the property owner was not interested. That property has since changed hands. Appellant has failed to show that they have investigated whether the new property owner would allow the project on the preferred property.

**The Board Should Adopt the Decision Made by the BZA.**

The burden of proof to deny a cell tower project is articulated very clearly in the Telecommunications Act: "Any decision by a State or local government... to deny a request to place, construct, or modify personal wireless services facilities shall be in writing and supported by substantial evidence contained in a written record." 47 U.S.C. 332(c)(7)(B)(iii). The Ninth Circuit has determined that "although the term 'substantial evidence' was not defined in the TCA... this language is meant to trigger the traditional standard used for judicial review of agency decisions." *T-Mobile USA Inc., v City of Anacortes* (2009) 572 F.3d 987 at 992-993 (citing *MetroPCS Inc., v City of San Francisco* (2005) 400 F.3d 715). Substantial evidence exists if there is less than a preponderance, but more than a scintilla of evidence. "It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *MetroPCS at 723* (quoting *Cellular Tel. Co. v. Town of Oyster Bay, 166 F.3d 490, 494 (9th Cir. 1999)*).

Opinions of neighbors may constitute evidence, and sufficient evidence can be found in presentations by neighbors opposing a project. *Harris v. City of Costa Mesa*, (1994) 25 Cal.App.4<sup>th</sup> 963, 973. Neighborhood opposition specifically relating to aesthetic impacts of the project has consistently been recognized as sufficient evidence in the case of denying wireless cellular facilities. See *New Cingular PCS, LLC v. Bd of Supervisors*, (2011) 2011 U.S. Dist. LEXIS 1430, *Anacortes, 572 F.3d at 994* (citing *Sprint Telephony PCS, L.P. v County of San Diego* (2008), 543 F.3d 571, at 580, and see also, *T-Mobile Cent., LLC v. Unified Gov't of Wyandotte County, Kan.*, (2008) 546 F.3d 1299, 1312; *Town of Oyster Bay, 166 F.3d at 494* (recognizing that "aesthetic concerns can be a valid basis for zoning decisions"); *Voice Stream PCS I, LLC v. City of Hillsboro*, 301 F.Supp.2d 1251, 1255 (D.Or.2004)(same)).

In *New Cingular*, the applicant proposed a mono-pine tower that would have been largely screened by other existing palm trees and vertical elements. *New Cingular*, at \*8. The Hearing Administrator recommended approval, but the Planning Commission voted to deny the tower based in large part due to neighborhood opposition and aesthetics. *Id.*, at \*10. On appeal, the Board of Supervisors found significant aesthetic issues... due to the unique scenic features in the area...[the] tower will adversely affect the view of neighboring property owners and views of the Tucson Mountains. *Id.*, at \*2.

Just as in *New Cingular*, the public comments (more than 200 of them) have universally opposed the Project and specifically the adverse visual impact at the particular location. This level of community opposition has repeatedly been recognized as sufficient evidence to make findings in a denial. See e.g., *Anacortes*, 572 F.3d at 994 (finding substantial evidence existed where number of residents claimed that a monopole would interfere with scenic view of Cascade Mountains); *Voice Stream*, 301 F. Supp. 2d at 1258 (finding that when evidence specifically focuses on adverse visual impact at particular location at issue more than a mere scintilla of evidence generally exists).

The following passage from the Opinion in *New Cingular*, where the County's decision to deny a cell tower application because it blocked views of the Tucson Mountains, could have been crafted following the hearings on the Project at hand:

“The comments at the public hearings reflected concerns that the design is obviously metallic, it is markedly higher than the existing palm trees and does not blend with them; it does not fit in at all with the other natural desert trees in the surrounding area; the mono-palm would have an adverse visual impact of the rolling hills and protected peaks and ridges in the area, including the Tucson Mountains; it would be a visual blight on the designated scenic route, and it would negatively change the view shed of the area. The community and the Board questioned whether the applicant could use multiple shorter poles, with a design more conducive to the natural vegetation in the area. (TR at 128-129: Decision.)” *New Cingular*, at \*15.

The Federal constitution does not prohibit a decision-maker from delegating the collection of evidence to others; it allows that evidence to be sifted and analyzed by subordinates before being presented to the decision-maker, and it allows those who take the evidence to present preliminary, proposed decisions to the decision-maker. See e.g. *KFC National Management Corp. v. National Labor Relations Board* (1974) 497 F.2d 298, 303-305. Thus, authority was properly delegated to the BZA to collect and review the evidence presented to it, to request more information and evidence, and ultimately to make a recommendation. They diligently performed all these tasks and made the findings required to deny the Project.

Specifically, the BZA found that substantial evidence existed of neighborhood opposition, and complete incompatibility with the surrounding neighborhood, as well as destruction of a protected view. The staff report asserts the Project site itself is not a protected/scenic corridor and therefore the Project poses only limited visual disruption. This is the wrong lens through which to view this impact. The view from the neighboring properties, which is destroyed by the planned cell tower, is of protected and unique views of the Mayacamas mountains and Mt. St. Helena. This is exactly analogous to the facts of *New Cingular*. Unlike *New Cingular*, however, the Project in question is entirely unscreened and incompatible with the surrounding areas. The proposed 70-foot tower is proposed to be cited in the middle of an otherwise very low density apple orchard. The largest apple trees in the vicinity top out at roughly 15 feet, leaving the proposed faux tree to tower an unchecked 55 feet overhead.

Additionally, the proposed tower is to be disguised as a faux eucalyptus tree, a structure equally as unsightly and awkward as a mono-pine. However, there are no eucalyptus trees in the area surrounding the proposed project site. Just like a mono-pine, a faux-eucalyptus will not fool anyone into thinking it is actually a tree. It will attract attention, rather than blend in with the apple orchards, wooded areas, and rolling hills of Ferguson Road and environs.

The goal of the Board must be that the constituents' needs are heard, and that the project fits into the community in a way that supports access to technology and protects local interest as described and protected in *New Cingular* and related decisions. The BZA took great pains to offer the applicant the opportunity to amend their project. Ultimately, it was neither the Board nor the staff that foreclosed on the interests of the public- it was the applicant and the property owner. The BZA requested that the project move uphill so as to limit visual impacts on the neighbors. The property owner refused to allow this because they don't want to look at the cell tower. Neither do the neighbors. So, the applicant would foist the burden of this project onto the public.

Neither the public nor the County benefit financially from this project. But the public and the County are being asked directly to bear the burden of this project by way of the destruction of protected viewsheds and disruption of a unique community. The Board has ample evidence before it to deny the appeal and deny the project, and we respectfully ask that you do so. If the Board is inclined to further consider the Project, we urge the Board to find the project does not fit the Class 3 CEQA exemption, and additional environmental review is undertaken prior to approval of the Project.

Thank you for your consideration and service to our beautiful community.

Sincerely,



ERIN B. CARLSTROM

c: Jennifer Klein, Chief Deputy County Counsel  
Scott Orr, Deputy Director, Permit Sonoma  
Peter Kaljian, Project Planner, Permit Sonoma  
Tasha Levitt, Administrative Assistant, Permit Sonoma  
clients

**From:** [Peter Kaljian](#)  
**To:** [tony.casadidio](#)  
**Cc:** [Hannah Spencer](#); [Cecily Condon](#); [permitsonoma-reply](#); [Ivan Jimenez](#)  
**Subject:** RE: 9300 Mill Station Rd  
**Date:** Friday, October 4, 2024 2:00:00 PM  
**Attachments:** [UPE22-0051 Legal Notice BOS Public Hearing.pdf](#)

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Hi Tony,

I'm confirming that your public comments have been received and will be provided to the Board of Supervisors prior to the hearing. Staff's analysis is provided in the Board Summary Report prepared for the hearing which is available to the public on the Board of Supervisors' website. To my knowledge, there is no new information on file for this project. However, I will submit your records request to our Department's Public Records Act specialist to process your request. You are welcome to continue submitting additional public comments and participate in the upcoming hearing. See the attached notice for instructions on public comment.


Aside from the email that was sent out on September 13<sup>th</sup>, 2024 notifying you, and all other interested parties, of the October 8<sup>th</sup>, 2024 date (tentative at that time), public noticing was carried out in accordance with Sonoma County Code [Sec. 26-30-120\(E\).1](#)

If you would like to speak with planning management; I can see if my supervisor or manager are available for phone call.

Thank you



**Peter Kaljian**  
**Planner I**  
2550 Ventura Avenue, Santa Rosa, CA 95403  
[www.PermitSonoma.org](http://www.PermitSonoma.org)  
**o:** (707) 565-1900  
**d:** (707) 565-1735  
[Peter.Kaljjan@sonoma-county.org](mailto:Peter.Kaljjan@sonoma-county.org)



Lobby hours: Monday, Tuesday, Thursday, Friday 8:00 AM to 4:00 PM. Wednesday 10:30 AM to 4:00 PM.

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**From:** tony.casadidio <t58dadeo@gmail.com>  
**Sent:** Friday, October 4, 2024 10:44 AM  
**To:** Peter Kaljian <Peter.Kaljjan@sonoma-county.org>  
**Subject:** 9300 Mill Station Rd



## EXTERNAL

Peter

The reason for my call today was to remind you the entire community wants an explanation for your decision to ignore the BZA denial,

and all the facts that provided evidence of the almost two years of the BZA providing T-Mobile and Vertical Bridge with multiple alternate modifications of the tower and more appropriate locations. All of the BZA recommendations have been ignored.

Once again you have not been responding in a timely manner. We were only given a few days' notice of the October 8th meeting which is quite concerning.

I would like to remind you that we think it is improper and legally questionable that you consider the profit of T-Mobile and Vertical Bridge while ignoring the BZA recommendations and the welfare of the community.

I was quite upset when you laughed at me and my concerns on the phone this morning, I feel strongly that you owe the community an apology for your disregard for the over 100 residents who signed a petition that stated there is no need for this cell tower and that it will negatively affect them.

I am furious at the disrespect, the lack of informing the community in timely manner and the unfair omission of all the facts.

Seriously Tony Casadidio

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**From:** [Jennifer LaPorta](#)  
**To:** [district5](#); [Peter Kaljian](#); [David Rabbitt](#); [Susan Gorin](#); [district3](#); [district4](#)  
**Subject:** 9300 Mill Station Rd, Sebastopol - UPE22-0051  
**Date:** Monday, October 7, 2024 1:27:12 PM  
**Attachments:** [UPE22-0051 BZA Final Resolution of Denial 06 13 2024-1.pdf](#)

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## EXTERNAL

Dear Sonoma County Bd of Supervisors,

I strongly urge you to support the 6/13/24 Sonoma County Board of Zoning's unanimous denial of Vertical Bridge/T-Mobile's application. If this cell tower were approved, it would lead to the widespread proliferation of cell towers in the Diverse Agriculture (DA) and Rural Residential (RR) Zoning Districts in much of western Sonoma County.

This tower would impact Ragle Ranch Regional Park, which is used by hundreds if not thousands, on a weekly basis, including large sporting events like soccer. Parks like these are refuges from modern life. The tower would blast Ragle Park with EMFs, which would negate the park as a refuge for many of us electro sensitive people. Take a stand for the people, for wildlife, for pets, for farm animals, for plants and pollinators! Uphold the courageous BZA's 6/13/24 decision!

Keep in mind that nobody is monitoring the EMFs coming out of these towers! So there's no way to know if the emissions are within FCC standards. FCC standards are not even based on safety, and the US has some of the highest standards in the world. The FCC was successfully sued in 8/21 to update these standards, and has refused to do so as of today. Their standards are based on faulty science, or rather lack of science. They only use thermal (heating) effects (and only for 30 min a day) and not biological effects (much less the 24/7 bombardment from towers and other devices).

In 2023, it appears the BZA "requested guidance from counsel on the parameters of your authority regarding approval or denial of telecommunication towers under the Federal Telecommunications Act (TCA)." A memo was prepared to provide this "high level guidance." With regard to aesthetics, the July 27, 2023 memo from County counsel states:

- Local agency can regulate setbacks, height, etc.
- Local agency can regulate aesthetics.
- Local agency can require screening, camouflage, and visual impact studies.
- Impacts to visual resources such as scenic views can be considered.
- Aesthetics can be a ground for a decision on the application, if there's substantial evidence. Source: Sprint Telephony PCS, L.P. v. County of San Diego (9th Cir. 2008) 543F.3d 571; see also 580 T-Mobile Cent., LLC v. Unified Gov't of Wyandotte County, Kan.(10th Cir. 2008) 546 F.3d 1299.
- Local agency can require compliance with community character.

Attached is the BZA's denial resolution. Please uphold what your fellow county regulators already denied!

Sincerely,  
Jennifer LaPorta  
BS Environmental Health  
Board Member, EMF Safety Network

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