

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. 4<sup>th</sup> 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, 4<sup>th</sup> 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 la reunión y participar en los comentarios públicos y necesita traducción, 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 OO

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@santacruzcountyca.gov](mailto:Sheila.McDaniel@santacruzcountyca.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 14<sup>th</sup> 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](mailto:summitdr2020@gmail.com)>

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

To: Tim Richards <[tim@philosopherfoods.com](mailto:tim@philosopherfoods.com)>

Cc: Sheila McDaniel <[Sheila.McDaniel@santacruzcountyca.gov](mailto:Sheila.McDaniel@santacruzcountyca.gov)>; Nicholas Brown <[Nicholas.Brown@santacruzcountyca.gov](mailto:Nicholas.Brown@santacruzcountyca.gov)>

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

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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 microplastics 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](mailto:tim@philosopherfoods.com)>

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

**To:** Sheila McDaniel <[Sheila.McDaniel@santacruzcountyca.gov](mailto:Sheila.McDaniel@santacruzcountyca.gov)>; Nicholas Brown  
<[Nicholas.Brown@santacruzcountyca.gov](mailto:Nicholas.Brown@santacruzcountyca.gov)>

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

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"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 5<sup>th</sup>, as you have noted in the attachment here.

Properties within 500 feet will get noticing per the code for the February 12<sup>th</sup> 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.

<div><div>Notice of Public Hearing</div><div>Notice is hereby given that the County of Santa Cruz Planning Commission will hold a public hearing on the following item:</div><div><div>Item #8. 221049</div><div>186 Summit Drive, Santa Cruz 95060</div><div>APN(s): 080-062-02</div></div><div>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).</div><div>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 <del>propose</del> <u>proposed</u> 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).</div><div>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.</div><div>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</div><div><div>DATE: Wednesday, February 12, 2025</div><div>TIME: Meeting beginning at 9:30 AM</div><div>PLACE: Board of Supervisors Chamber County Government Center 701 Ocean Street, Room 525 Santa Cruz CA 95060</div></div><div><div>Any <u>persons</u> 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 14<sup>th</sup> calendar day after the day on which the act or determination appealed was made.</div><div>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.</div></div><div>For more information, call the project planner noted in the above project description.</div></div>	<div><div>1</div><div>Para español escanea aquí:</div><div></div><div>Philosopher Foods - Appellant c/o Bonny Residents for Responsible Coverage 531 Summit Drive Santa Cruz, CA 95060</div></div> <div><div><div>County of Santa Cruz Planning Department 701 Ocean St. 4<sup>th</sup> Floor Santa Cruz, CA 95060</div></div><div><div>NOTICE OF PUBLIC HEARING</div><div>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, 4<sup>th</sup> 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 <a href="http://cdi.santacruzcountyca.gov">http://cdi.santacruzcountyca.gov</a> under the <u>Agendas</u> 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. <u>Si desea asistir en español y participar en las conferencias públicas y recibir asistencia, comuníquese con Marcela López al (831) 454-3336 al menos 72 horas antes de la reunión para hacer los arreglos.</u></div></div></div>
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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.<sup>1</sup> 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,<sup>2</sup> 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.

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<sup>1</sup> See § 13.10.660(C)(4)(a)

<sup>2</sup> 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.<sup>3</sup> 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

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<sup>3</sup> 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.<sup>4</sup> 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.”<sup>5</sup>

## 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.<sup>6</sup>

*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.

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<sup>4</sup> See October 13, 2023 Memo, Point I, subpoint A(iii).

<sup>5</sup> *Id.*

<sup>6</sup> § 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.<sup>7</sup>

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.

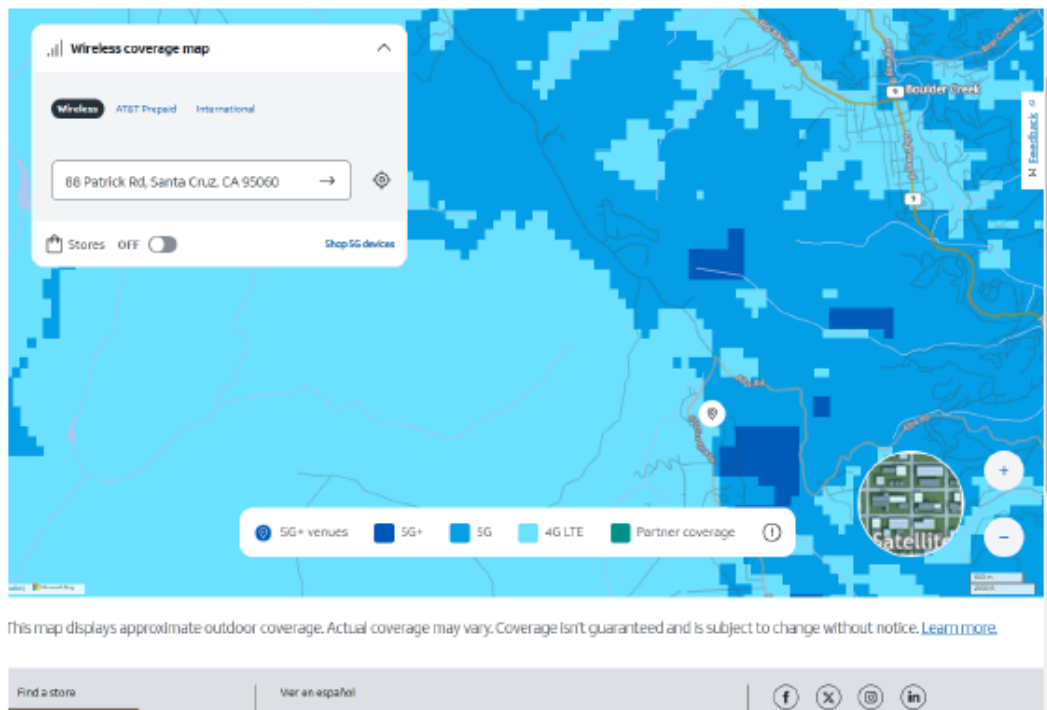
(The remainder of this page is intentionally left blank.)

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

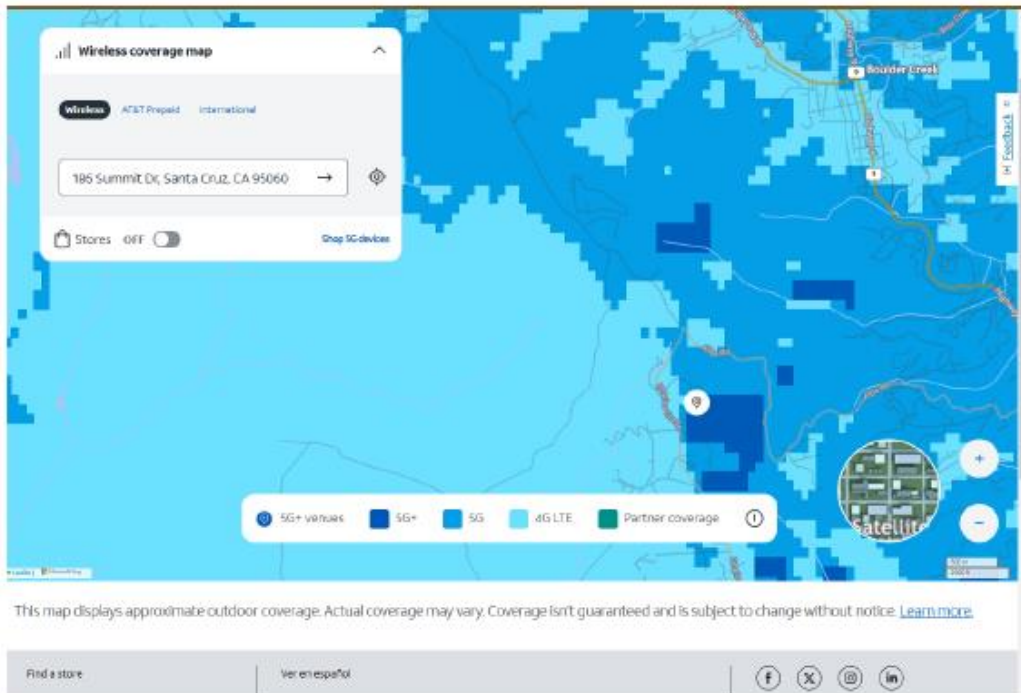
Below are true copies of screen shots of AT&T's coverage maps for the 125 Patrick Road  
and 186 Summit Drive locations:

125 Patrick Road

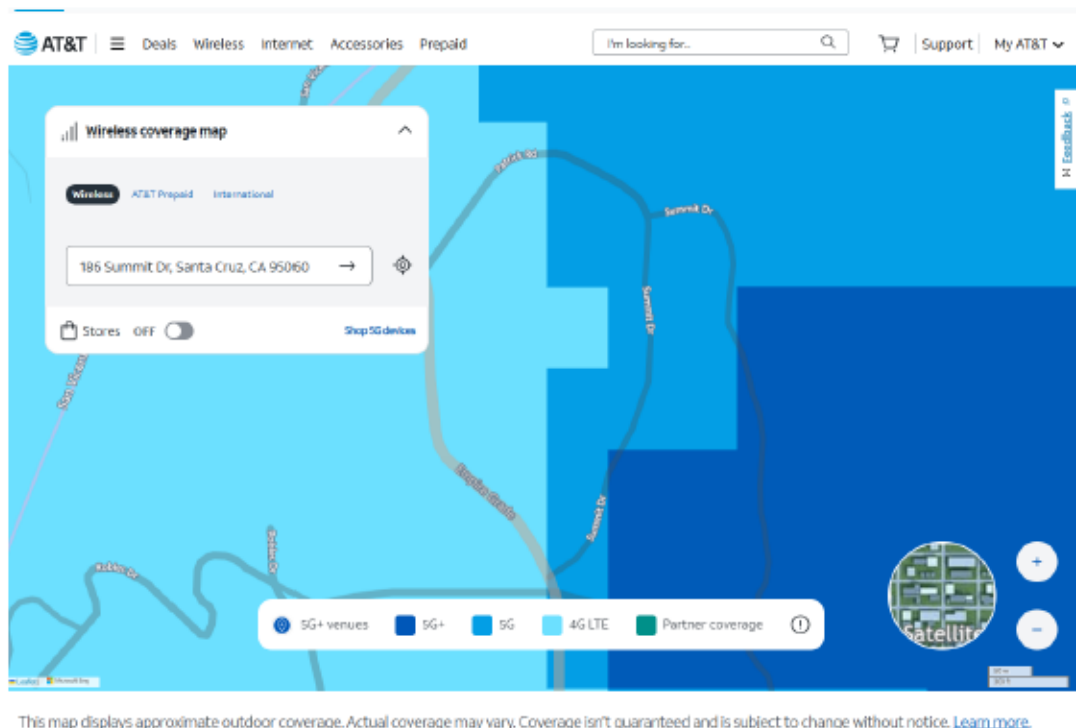


(The remainder of this page is intentionally left blank.)

186 Summit Drive



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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](mailto:recordsroominquiries@santacruzcountyca.gov)

Community Development & Infrastructure

701 Ocean Street, Room 400



Santa Cruz, CA 95060

Hello,

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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., 4<sup>th</sup> 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.

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**From:** Sheila McDaniel  
**Sent:** Thursday, February 6, 2025 3:36 PM  
**To:** Julie Cahill <[summitdr2020@gmail.com](mailto:summitdr2020@gmail.com)>  
**Cc:** Joe Mathieu <[Joe.Mathieu@santacruzcountyca.gov](mailto: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](mailto:summitdr2020@gmail.com)>  
**Sent:** Thursday, February 6, 2025 2:25 PM  
**To:** Sheila McDaniel <[Sheila.McDaniel@santacruzcountyca.gov](mailto:Sheila.McDaniel@santacruzcountyca.gov)>  
**Subject:** Re: CEQA comments - 221049, and format questions for 2/12 hearing

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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>; yeseniajduran@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 sight 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

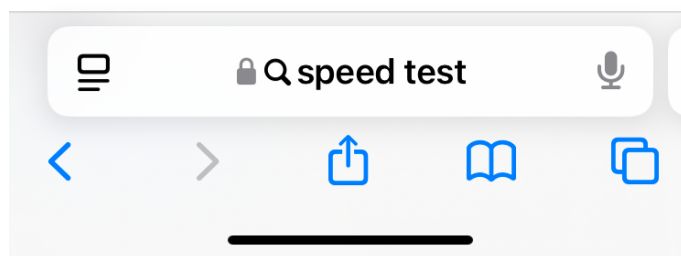
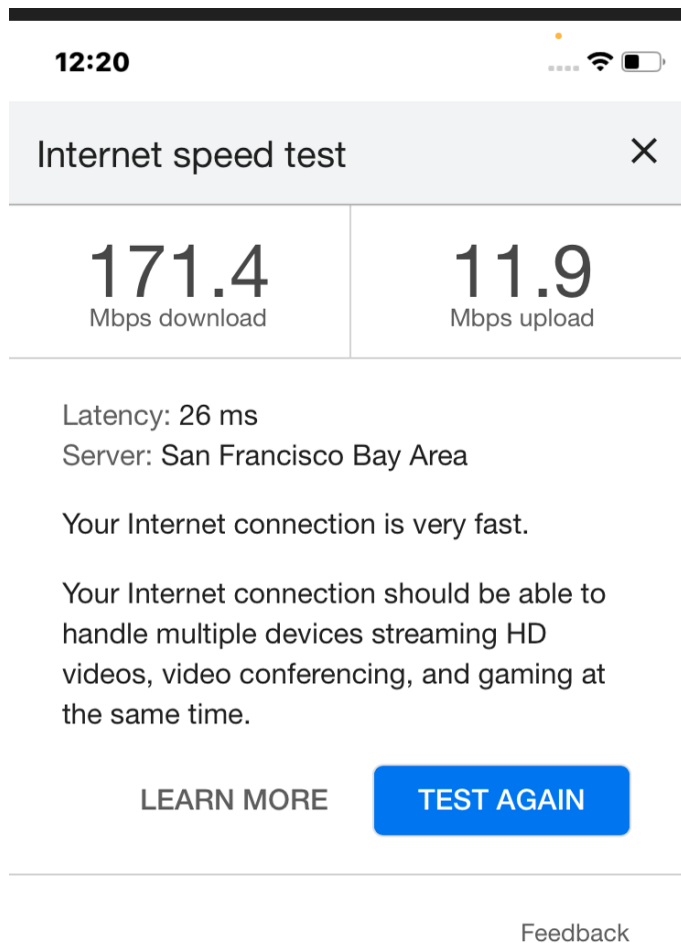
TEST AGAIN

Feedback

Q internet speed test

<

>



**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>; yeseniajduran@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,

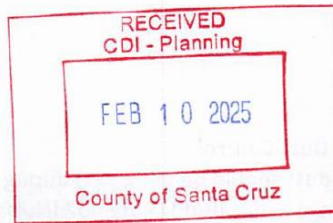
I have lived at 250 Summit Drive since 1998. When I bought my property the large satellite dishes next door were present but because of the trees and the fact that they were not in use because they were not noticeable except if you were walking by the property on the road or if the power went out and 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](mailto: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.

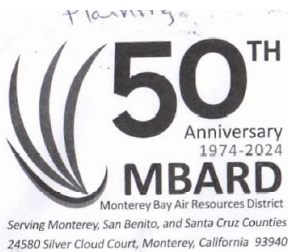
We appreciate the opportunity to comment on the Summit Drive Wireless Mitigated Negative Declaration. Please let me know if you have any questions. You can reach me at 831-718-8021.

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

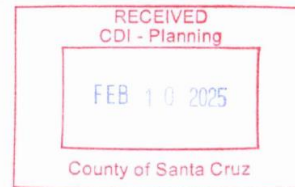
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Department of Community Development + Infrastructure  
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Santa Cruz CA 95060



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