

File Number: CUP-A21-0001
Date Received: 3/14/2021

Receipt No.: R21993
Amount: \$239.⁰⁰

APPEAL FORM

(For more information, see Section 130.52.090 of the Zoning Ordinance)

Appeals must be submitted to the Planning Department with appropriate appeal fee. Please see fee schedule or contact the Planning Department for appeal fee information.

APPELLANT Verizon Wireless

ADDRESS 1141 Locust Street, Walnut Creek, CA 94596

DAYTIME TELEPHONE Contact Agent

A letter from the Appellant authorizing the Agent to act in his/her behalf must be submitted with this appeal.

AGENT Epic Wireless Group LLC

ADDRESS 605 Coolidge Drive, #100, Folsom, CA 95630

DAYTIME TELEPHONE 916-296-2011

APPEAL BEING MADE TO: Board of Supervisors Planning Commission

ACTION BEING APPEALED (Please specify the action being appealed, i.e., approval of an application, denial of an application, conditions of approval, etc., and specific reasons for appeal. If appealing conditions of approval, please attach copy of conditions and specify appeal.)

Verizon Wireless appeals the Planning Commission denial of Application CUP20-0006

for the reasons stated on the attached.

2021 MAR 19 PM 12:51
RECEIVED
PLANNING DEPARTMENT

DATE OF ACTION BEING APPEALED 3/17/21

Signature [Signature]

Date 3/17/21

**Verizon Wireless Appeal of Planning Commission Denial
Application CUP20-0006
Oak Ridge High School, El Dorado County
Reasons for Appeal**

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PLANNING DEPARTMENT

Verizon Wireless appeals the Planning Commission's decision on the grounds that denial would violate the Telecommunications Act of 1996. Specifically, the decision was not supported by substantial evidence, in violation of 47 U.S.C. Section 332(c)(7)(B)(iii). The findings of denial did not present substantial evidence that Verizon Wireless's proposed wireless facility would not comply with the El Dorado County Code of Ordinances or General Plan. The findings were based on indefinite conclusions unsupported by facts and generalized concerns, which do not amount to substantial evidence. Because there is a significant gap in Verizon Wireless service in the vicinity, and there is no less intrusive alternative to address that gap, denial would constitute a prohibition of service in violation of 47 U.S.C. Section 332(c)(7)(B)(i)(II). Further, because the County previously approved a use permit for a different carrier's similarly-situated wireless facility at the same site, denial would constitute unreasonable discrimination against Verizon Wireless in violation of 47 U.S.C. § 332(c)(7)(B)(i)(I).

The Planning Commission also erred in finding that the project requires a mitigated negative declaration or environmental impact report under the California Environmental Quality Act, because the project involves new construction or conversion of small structures, and so is categorically exempt from CEQA according to 14 Cal. Code Regs. § 15303.

Verizon Wireless requests that the Board of Supervisors reverse the Planning Commission's denial and approve the proposed facility. Verizon Wireless reserves the right to supplement these grounds for appeal.

Sec. 130.52.090 - Appeals.

Any decision by the review authority of original jurisdiction may be appealed by the applicant or any other affected party, as follows:

- A. An appeal must be filed within 10 working days from the decision by the review authority by completing the appeal form and submitting said form together with the applicable fee, as established by resolution of the Board, to the Department. The appellant shall clearly identify on the appeal form the specific reasons for the appeal and the relief requested.
- B. The hearing body for the appeal shall consider all issues raised by the appellant and may consider other relevant issues related to the project being appealed. The hearing body for the appeal shall be as follows:
 1. All decisions of the Director are appealable to the Commission and then to the Board.
 2. All decisions of the Zoning Administrator and the Commission are appealable to the Board.
 3. All decisions of the Board are final.
- C. The hearing on an appeal shall be set no more than 30 days from receipt of a completed appeal form and fee. If the Board meeting is canceled for any reason on the date on which the appeal would normally be heard, the appeal shall be heard on the first available regularly-scheduled meeting following the canceled meeting date. The 30-day time limitation may be extended by mutual consent of the appellant(s), the applicant, if different from the appellant, and the appeals body. Once the date and time for the hearing is established the hearing may be continued only by such mutual consent.
- D. In any appeal action brought in compliance with this Section, the appellant(s) may withdraw the appeal, with prejudice, at any time prior to the commencement of the public hearing. For the purposes of this Section, the public hearing shall be deemed commenced upon the taking of any evidence, including reports from staff.
- E. Upon the filing of an appeal, the Commission or the Board shall render its decision on the appeal within 60 days.
- F. No person shall seek judicial review of a County decision on a planning permit or other matter in compliance with this Title until all appeals to the Commission and Board have been first exhausted in compliance with this Section.



Cash Register Receipt
County of El Dorado

Receipt Number
R29993

DESCRIPTION	ACCOUNT	QTY	PAID
ProjectTRAK			\$239.00
CUP-A21-0001 Address: 1120 HARVARD WAY APN: 121190022			\$239.00
APPEALS FEES			\$239.00
ALL APPEALS	3720200 0240	0	\$239.00
TOTAL FEES PAID BY RECEIPT:R29993			\$239.00

Date Paid: Friday, March 19, 2021

Paid By: Verizon Wireless c/o Epic Wireless Group (Sara King)

Cashier: MAA2

Pay Method: CHK-PLACERVILLE 22538