



## Legislation Details (With Text)

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**Title:** HEARING - To consider a request submitted by Bradley Nicholson appealing the Planning Commission's July 26, 2018, approval of Site 5-Latrobe of Conditional Use Permit S17-0016/AT&T CAF 4 to allow the construction and operation of a new 120-foot tall stealth monobroadleaf tower on property identified by Assessor's Parcel Number 087-181-10 consisting of 20 acres, in the Latrobe area; and staff is recommending the Board take the following actions:  
1) Approve the project thereby denying the appeal by Bradley Nicholson based on the Findings (Attachment C) and subject to the Conditions of Approval (Attachment D); and  
2) Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff (Attachment E). (Supervisory District 2)

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. A - Appeal Form-Site 5, 2. B - Site 5-Latrobe Planning Commission Minute Order 07-26-18, 3. C - Findings (Sites 2-7)-Planning Commission 07-26-18, 4. D - Conditions of Approval (Sites 2-7)-Planning Commission 07-26-18, 5. E - Staff Report Exhibit K-Proposed Mitigated Negative Declaration and Initial Study, 6. F - Site 5-Staff Report Exhibit K-Attachments 1-6, 7. G - Site 5-Photo Sims, 8. H - Communication Act Excerpt, 9. I - Site 5-Latrobe Notification Map, 10. J - Site 5-Proof of Publication-Mountain Democrat, 11. K - Site 5-Proof of Publication-Georgetown Gazette, 12. Public Comment Rcvd 9-10-18 BOS 9-11-18, 13. Public Comment Rcvd 9-6-18 BOS 9-11-18, 14. Public Comment Rcvd 08-28-18, 15. FINAL Findings, 16. FINAL Conditions of Approval, 17. APPROVED STAMPED Exhibits-Site 5 Latrobe, 18. ADOPTED Mitigated Negative Declaration-Sites 2-7, 19. RECEIPT Notice of Determination-Sites 2-7, 20. FILED Notice of Determination-Sites 2-7

Date	Ver.	Action By	Action	Result
9/11/2018	1	Board of Supervisors	Approved	Pass

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### DISCUSSION / BACKGROUND

This is a request submitted by Bradley Nicholson appealing the Planning Commission's July 26, 2018 approval of Site 5-Latrobe of Conditional Use Permit S17-0016/AT&T CAF4 ("Project") to allow the construction and operation of a new 120-foot tall stealth monobroadleaf tower. The property, identified by Assessor's Parcel Number 087-181-10, consisting of 20 acres, is located on the west side of Dragon Point Road, approximately 0.3 mile southwest of the intersection with Latrobe Road, in the Latrobe area, Supervisory District 2. (County Planner: Evan Mattes) (Mitigated Negative

Declaration prepared)

The Project is proposed as a new 120-foot tall stealth monobroadleaf tower, with one 15KW DC Diesel Generator with a 54 gallon Belly Tank, one 1-ton HVAC unit, and one equipment shelter, located upon a 1,600 square foot leased space of a 20 acre parcel in the Latrobe area. The site is zoned Rural Lands 20-Acres (RL-20) with a General Plan Land Use Designation of Rural Residential (RR). In order to construct and operate a new communication tower or monopole within a residential zone a Conditional Use Permit is required by the Zoning Ordinance. The Conditional Use Permit (S17-0016 Site 5-Latrobe) is required to comply with the California Environmental Quality Act (CEQA) and all other adopted rules, regulations, and ordinances.

The Planning Commission held a public hearing on July 26, 2018, and approved the Project. Pursuant to the County Zoning Ordinance, there is an appeal period of 10 working days after approval. Bradley Nicholson filed an appeal on August 9, 2018 (and \$239 appeal fee), within the 10 working days. The Zoning Ordinance provides that the appeal of a Planning Commission decision be decided at a public hearing with the Board of Supervisors.

### Appeal

The appeal (Attachment A) asserts that the Project would significantly impact aesthetic resources, have a negative impact on surrounding property values and would negatively impact private roads and easements. The appeal items are listed in verbatim below in bold with County staff responses immediately following in italics.

#### **1) Aesthetics**

**A) "Pictures used to show the aesthetics impact were on [sic] poor resolution projector in the meeting and in no way reflects the impact the tower will have on the views of the community".**

*County Response: The visual simulations are posted online and were made available to the general public for review. The use of the projector was to help provide access to exhibits at the Planning Commission meeting.*

**B) "No members of the commission walked the property to see the impact and therefore have to way [sic] the access the impact".**

*County Response: There is no requirement for the Planning Commission members to walk the proposed project property. Planning Staff conducted a site visit on October 16, 2017, and has provided the Planning Commission with materials such as staff reports and applicant-submitted visual simulations to make an informed decision on the Project.*

**C) "We have Oak Trees and a few Digger Pines but they would be dwarfed by the size and vertical structure of 120-135 ft. tower that would increasingly have additional satellites and antenna's attached to it. It would definitely destroy the unique views we all moved to this area to enjoy and in no way blends into the natural aesthetics of the areas".**

*County Response: Per Zoning Ordinance Section 130.40.130.D.1, "where screening is not feasible the tower is required to blend with the surrounding area through paint or construction with stealth technology". As proposed, the tower would utilize stealth technology in the form of a stealth*

*monobroadleaf tower (Attachment G). The broadleaf tower would be similar in size, albeit taller, to the surrounding trees. This vegetation is expected to substantially reduce the facility's visibility from public right of ways and surrounding properties. The proposed location is not anticipated to substantially degrade the existing visual character of the site and is not expected to result in a significant impact to scenic vistas and to the area's visual aesthetics.*

## **2) Negative for surrounding property values**

**D) "It is a well-known fact amongst realtors and property owners that buyers do not want to buy houses under or near a visible cell phone tower. In a study by the National Institute for Science, Law & Public Policy published in June 2014 titled 'Neighborhood Cell Towers & Antennas - Do They Impact a Property's Desirability?' found that 94% of buyers and renters are less interested and would pay less for a property located near a cell tower or antenna. Of the respondents 79% said that under no circumstances would they every purchase or rent a property within a few blocks of a cell tower or antennas - I think this is even an understatement given the type of buyer that wants to move to our rural community. Most of our properties are zoned for 20-40 acre minimums currently so promotion of future economic vitality is achieved by protecting our property values as future development will be minimal".**

*County Response: Under CEQA, direct social and economic effects, such as Project effects on property values, are not considered significant impacts. CEQA only analyzes direct physical environmental impacts from projects. The Federal Telecommunications Act of 1996 does not allow local governments to make general prohibitions on cellular towers nor may they defend a denial with vague concerns of diminished property values.*

## **3) Impact on private road and easements**

**E) "Dragon Point Road is a private road that was paid for and maintained by individual community members. Additional heavy equipment and traffic on that road not only comes at the expense of the other neighbors but also without permission to the 3 lot owners with easement rights to the road. All three are opposed to the cell tower and did not give approval when approached by Epic Wireless. We do not believe the general use easement applies to individual land owners profiting on utilities or commercial use at the expense and cost of the others".**

*County Response: The Project has been analyzed by Long Range Planning and the Transportation Department, which determined that the Project would not significantly lead to an increase in traffic. The Project has been conditioned (Attachment D) to provide evidence of the condition of Dragon Point Road prior to and after construction activities, and to repair any damage to Dragon Point Road caused be construction activities.*

**Conclusion:** It is the Planning Director's recommendation that the appeal should be denied and the decision of the Planning Commission on July 26, 2018 be upheld because the Project is consistent with the Zoning Ordinance, General Plan, and CEQA as determined by the Planning Commission. Should the Board choose to approve the appeal, thus denying Site 5-Latrobe of Condition Use Permit S17-0016, Planning Staff would be required to make Findings in writing under Section 332(c)(7) of the Communications Act (Attachment H) based on substantial evidence.

## **ALTERNATIVES**

The Board may elect to approve the appeal and reverse the action taken by the Planning Commission on July 26, 2018, resulting in the denial of Site 5-Latrobe of Conditional Use Permit S17-0016 AT&T CAF 4. A Denial of the application should be continued to a date certain so that staff can prepare Findings of Denial.

**CONTACT**

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