



Appeal of U_2024-0004 (Cellco Partnership dba Verizon Wireless)

Mendocino County Board of Supervisors – September 9, 2025



Proposed Project

U_2024-0004 proposes the construction of a 65-foot tall cellular antenna tower in a monopine design and associated ground equipment within a 1,600 square-foot lease area.

Located at 28401 Timberline Road, Willits; APN 037-700-14.

Appeal Submitted June 30, 2025

- *“This decision is being appealed in order to amend Condition of Approval #29, which was issued by the Planning Commission at their regular meeting on June 19, 2025. As it stands, the Condition is overly broad as there is no nexus or rough proportionality between the project that was approved and the condition being attached, and as such, it is requested that the Condition be removed. Please see attached letter from Mackenzie & Albritton LLP for further details.”*
- The letter from Mackenzie and Albritton LLP states the reasons why they believe that Condition #29 exceeds the Planning Commission’s authority to impose conditions of approval on a use permit, including:
 - that the County may interpret Condition #29 to apply to any code violations alleged in the future that could delay issuance of a building permit and that any delay such as this could be considered an unreasonable delay in the issuance of the permit necessary to construct the wireless facility and would be in violation of the federal Telecommunications Act and Federal Communications Commission rules.
 - that Condition #29 violates the United States Constitution, which requires that a local government establish both an “essential nexus” between a permit condition and project impacts (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825) and “rough proportionality” between the magnitude of the exaction and the effect of the proposed development (*Dolan v. City of Tigard* (1994) 512 U.S. 374).

Staff Comments

- Code Enforcement:
 - Referral made to Code Enforcement.
 - Code Enforcement inspection completed.
 - Inspection Report IR_2025-0077 identified several violations.
- Concerns with Condition #29:
 - Compliance with “essential nexus” and “rough proportionality” standards.
 - Compliance with FCC statutes and regulations.

Potential Board Actions

If the Board wishes to delete Condition #29, Staff prepared a draft resolution for consideration, including:

- Deleting Condition #29
- Renumbering conditions as there were two conditions numbered 34
- Modifying the expiration date in Condition #37 to provide 10-year permit term from Board action.

If the Board wishes to retain but modify Condition #29, options include:

- Modify the condition to solely be applicable to 1,600 square-foot lease area; or
- Modify the condition to revise the time frame in which violations may be cleared.

If the Board wishes to retain Condition #29 in its entirety, Staff would request a continuance of the item.

Recommended Action

Adopt a resolution upholding the appeal and modifying the Planning Commission approval of Use Permit U_2024-0004 to construct a new cell tower; located at 28401 Timberline Road, Willits; APN 037-700-14; and authorize Chair to sign same.