

MACKENZIE & ALBRITTON LLP

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September 5, 2025

VIA EMAIL

Chair John Haschak
Vice-Chair Bernie Norvell
Supervisors Maureen Mulheren,
Ted Williams, and Madeline Cline
Board of Supervisors
County of Mendocino
501 Low Gap Road
Ukiah, California 95482

Re: Verizon Wireless Appeal of Condition 29, Application U 2024-0004
Wireless Telecommunications Facility, 28401 Timberline Road
Board of Supervisors Agenda Item 4(g), September 9, 2025

Dear Chair Haschak, Vice-Chair Norvell, and Supervisors:

We write on behalf of Verizon Wireless to ask that you delete Condition 29 of this use permit for a new wireless facility camouflaged as a 65-foot pine tree, which was approved by the Planning Commission on June 19, 2025. Added at the last minute during the Commission hearing, Condition 29 would require that existing code violations on the property be remediated prior to issuance of a building permit. On June 30, 2025, Verizon Wireless appealed Condition 29 because it contradicts federal law, as described in the appeal statement attached as Exhibit A. The County cannot hold Verizon Wireless responsible for any alleged violations beyond its 1,600-square foot lease area, which will occupy less than one percent of the 22-acre parcel.

Since the County issued an inspection report on July 23, 2025, Verizon Wireless and property owner Kathleen Rosenberg have worked together to address the six alleged violations identified by the Planning & Building Department. Verizon Wireless has already identified a private contractor to assist with removal of the hoop structures, unused RVs, non-operational vehicles, and disposable refuse specified in the inspection report. Ms. Rosenberg has engaged attorney Brian Momsen to research potential legal non-conforming status of the on-site residence, and to assure compliance with County code requirements, obtaining permits for the residence, barn, and caretaker's RV as needed. A letter from Mr. Momsen describing the progress in remediating alleged violations is attached as Exhibit B.

Verizon Wireless's proposed facility will not be visible from Sherwood Road, as demonstrated by the photosimulations attached as Exhibit C, and it will be almost entirely

screened by substantial tree cover along Timberline Road, which is a private road that traverses the property. The proposed facility will bring new, reliable Verizon Wireless service to benefit residents, visitors, and emergency response personnel in the area.

We urge you to grant Verizon Wireless's appeal, and approve the proposed facility without Condition 29.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul Albritton", with a stylized flourish at the end.

Paul B. Albritton

cc: Charlotte E. Scott, Esq.
Matthew Kiedrowski, Esq.
Keith Gronendyke, Planner III

Schedule of Exhibits

- Exhibit A:** Verizon Wireless Appeal Statement, June 30, 2025
Exhibit B: Letter from Brian Momsen, Attorney for Property Owner,
September 3, 2025
Exhibit C: Photosimulations

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June 30, 2025

VIA EMAIL

Board of Supervisors
County of Mendocino
c/o Clerk of the Board
501 Low Gap Road, Room 1010
Ukiah, California 95482

Re: Verizon Wireless Appeal of Condition 29 of Planning Commission
Resolution No. PC 2025-0007 to Approve Wireless Telecommunications Facility
Application U 2024-0004, 28401 Timberline Road

Dear Supervisors:

Verizon Wireless appeals the decision of the County of Mendocino Planning Commission on June 19, 2025, to approve the above-referenced resolution and application for a wireless communication facility. Specifically, Verizon Wireless appeals Condition 29: “Prior to the issuance of the building permit, existing code violations on the property will be remediated.”

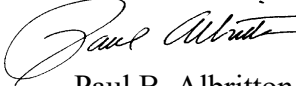
Condition 29 exceeds the Commission’s authority to impose conditions of approval on a use permit, because it is not necessary to secure the purposes of the zoning code nor to allow the findings of approval of the use permit. Mendocino County Zoning Code § 20.196.030. Planning Division staff recommended approval of the use permit. However, Condition 29 was not recommended by Planning Division staff nor the County Counsel’s office, even though the topic of code compliance was raised during public comment at the prior hearing of June 5, 2025. Condition 29 was added to the resolution of approval by motion of Planning Commissioner Marie Jones.

The County has not identified any current code violations on the subject property, which is not the subject of current enforcement actions. With no “existing” code violations, Condition 29 is moot. Verizon Wireless is concerned 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. That would unreasonably delay issuance of a permit necessary to construct the wireless facility, in violation of the federal Telecommunications Act and Federal Communications Commission rules, which require the County to take final action on any permit required for a wireless communications facility within a reasonable period of time. 47 U.S.C. § 332(c)(7)(B)(ii), 47 C.F.R. § 1.6003.

Condition 29 also 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). Verizon Wireless’s proposed equipment lease area will occupy only 1,600 square feet, less than 0.2 percent of the 22.83-acre parcel. As permittee, Verizon Wireless will be responsible for clearing, construction, and maintenance of its equipment lease area and its new access driveway connecting to a nearby road on the property. However, the condition of existing structures elsewhere on the property bears no relation to the impact of Verizon Wireless’s proposed facility, which complies with County standards and permit findings, as confirmed by staff’s recommendation and the Commission’s approval.

The Board should grant Verizon Wireless’s appeal, and remove Condition 29 from the use permit conditions of approval. Per the tolling agreement executed by Verizon Wireless and the County Counsel, the Board of Supervisors must issue a decision on the appeal and take final action on the application by July 31, 2025.

Verizon Wireless reserves the right to supplement these grounds for appeal prior to the Board’s consideration.

Very truly yours,

Paul B. Albritton

cc: Charlotte E. Scott, Esq.
Matthew Kiedrowski, Esq.
Keith Gronendyke, Planner III

VANNUCCI MOMSEN MORROW

Attorneys at Law
An Association of Sole Practitioners

Exhibit B

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September 3, 2025

Mendocino County Board of Supervisors
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RE: 28401 Timberline Rd. Willits, CA/ NOV CASE # IC_2025-0250

Dear Honorable Supervisors:

This law office represents Kathleen Rosenberg who is the property owner who will be leasing the tower site to Verizon upon approval of its proposed project. Originally, Ms. Rosenberg retained me to help negotiate the terms of this lease and more recently, she also asked me to assist her regarding the Notice of Violation served by County Code Enforcement referenced above.

Ms. Rosenberg has owned the subject property for over five decades. She is committed to addressing and remediating the alleged violations. Specifically, she is already addressing, or plans to address the alleged violations as follows:

CV #1 – Residence – Ms. Rosenberg is the original owner/builder of the home and believes that the home is “legal/non-conforming as it was constructed prior to 1974. She is currently looking for documents to evidence this fact. If it turns out that the home is not legal non-conforming, she is committed to bringing the structure up to Code.

CV #2 – Barn- Verizon is in the process of considering bids from third-party contractors to remediate several of the alleged violations including removing the extension of the subject barn. Ms. Rosenberg would like to permit the remainder of the structure as a storage shed. If it can't be brought up to code, she is willing to have it torn down

CV #3 –Hoop houses- All random hoop houses are being removed.

CV #4 –RV- Ms. Rosenberg's caretaker resides in the subject recreational vehicle ("RV") She is currently applying for a permit which would exempt the caretaker's RV from the alleged violation.

CV #5 – Vehicles- All non-operating vehicles will be removed.

CV#6 –Refuse- The items mentioned in the NOV will be removed.

Overall, I am committed to shepherd Ms. Rosenberg through this process and have experience working with County Code Enforcement, County Building and Planning Staff and County Counsel on similar matters.

Very truly yours,

VANNUCCI MOMSEN MORROW

BY:


BRIAN S. MOMSEN

Existing



Proposed



Existing



Proposed



view from Sherwood Road looking south at site

AdvanceSim
Photo Simulation Solutions
Contact (925) 202-8507

verizon

Sherwood RD
28401 Timberline Road, Willits, CA
Photosims Produced on 6-7-2024