



WASHOE COUNTY

Integrity Communication Service

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STAFF REPORT

BOARD MEETING DATE: June 23, 2020

DATE: May 22, 2020

TO: Board of County Commissioners

FROM: Julee Olander, Planner, Planning & Building Division, Community Services Department, 328-3627, jolander@washoecounty.us

THROUGH: Mojra Hauenstein, Arch., Planner, Division Director, Planning & Building, Community Services Department, 328-3619, mhauenstein@washoecounty.us

SUBJECT: Public Hearing: Appeal of the Washoe County Board of Adjustment's denial of Special Use Permit Case Number WSUP19-0006 (Verizon Monopole) to approve a special use permit for the construction of a new wireless cellular facility consisting of a 45-foot high stealth monopine structure (aka cell phone tower disguised to resemble a pine tree) designed as a collocation facility. The proposal also requests varying the landscaping requirements by not requiring any additional landscaping. The project is located on a 3 acre site at 1200 Tunnel Creek Road for Epic Wireless on behalf of Verizon Wireless. (Commission District 1.)

SUMMARY

The appellant, Epic Wireless on behalf of Verizon Wireless, is seeking to overturn the Washoe County Board of Adjustment's (BOA) denial on December 5, 2019. The appellant has appealed the denial providing justification to support of the third finding (site suitability), which was the finding that the Board of Adjustment was unable to make.

Washoe County Strategic Objective supported by this item: Stewardship of our Community

PREVIOUS ACTION

On December 5, 2019, the special use permit (SUP) was considered, in a public hearing, before the BOA. The BOA did not approve the SUP with three members denying the SUP and two members in favor of the SUP. The board was unable to make the third finding (site suitability).

This item was heard by the Incline Village/Crystal Bay Citizen Advisory Board (IVCB CAB) on May 6, 2019, and again on November 4, 2019, after the applicant changed the location of the tower and equipment slightly and updated the application (see Attachment A). At the November 4th meeting the CAB recommended staking the site to show the location of the tower and cabin and then recommended approval of the application.

AGENDA ITEM # _____

BACKGROUND

The Washoe County Board of Adjustment was unable to make one of the findings required by Washoe County Code (WCC) Section 110.810.30; specifically, the third finding for approval of the SUP request [WCC Section 110.810.30(c)], stated below:

3. Site Suitability. That the site is physically suitable for a telecommunications facility (monopole) for the intensity of such a development.

The appellant's application (see Attachment A) addresses the BOA's concerns regarding Finding 3 with the following comments:

- The BOA did not provide specific information justifying the decision.
- The site meets Washoe County code requirements.
- The significant gap coverage discussion was erroneous and contrary to Washoe County code and federal law.
- The application shows that that the monopine will blend with the existing trees and surrounding area.

FISCAL IMPACT

No fiscal impact.

POSSIBLE ACTIONS

It is recommended that the Board of County Commissioners review the record and take one of the following two actions:

1. Affirm the decision of the Board of Adjustment and deny Special Use Case Number WPSUP19-0006 (Verizon Monopole); or
2. Reverse the decision of the Board of Adjustment and approve Special Use Case Number WPSUP19-0006 (Verizon Monopole) as proposed by the applicant and as evaluated by staff in the Board of Adjustment staff report.

POSSIBLE MOTIONS

Should the Board agree with the Board of Adjustment's denial of Special Use Case Number WPSUP19-0006 (Verizon Monopole), staff offers the following motion:

“Move to deny the appeal and affirm the decision of the Board of Adjustment to deny Special Use Case Number WPSUP19-0006 (Verizon Monopole). The denial is based upon the inability to make the findings required by WCC Section 110.810.30, *Findings*.”

or

Should the Board disagree with the Board of Adjustment's denial of Special Use Case Number WPSUP19-0006 (Verizon Monopole), staff offers the following motion:

“Move to approve the appeal and reverse the decision of the Board of Adjustment and approve Special Use Case Number WPSUP19-0006 (Verizon Monopole). The approval is based on the Board's ability to make all the findings required by WCC Section 110.810.30, *Findings*.”

Attachments:

Attachment A: Appeal Application dated 12/18/19

Attachment B: Board of Adjustment Action Order dated 12/10/19

Attachment C: Board of Adjustment Staff Report dated 12/5/19

Attachment D: Board of Adjustment Minutes of 12/5/19

Attachment E: CAB Minutes 11/4/19

Attachment F: Additional applicant information

cc:

Appellant: Epic Wireless on behalf of Verizon Wireless
605 Coolidge, Ste. 100
Folsom, CA 98630
Email: buzz.lynn@epicwireless.net

Owner: Tunnel Creek Properties, LLC
930 Tahoe Blvd., Ste. 802, PMB322
Incline Village, NV 89451

Washoe County Appeal of Decision to Board of County Commissioners

Your entire application is a public record. If you have a concern about releasing personal information please contact Planning and Building staff at 775.328.6100.

Appeal of Decision by (Check one)	
Note: Appeals to the Washoe County Board of County Commissioners are governed by WCC Section 110.912.20.	
<input type="checkbox"/> Planning Commission	<input checked="" type="checkbox"/> Board of Adjustment
<input type="checkbox"/> Hearing Examiner	<input type="checkbox"/> Other Deciding Body (specify) _____
Appeal Date Information	
Note: This appeal must be delivered in writing to the offices of the Planning and Building Division (address is on the cover sheet) within 10 calendar days from the date that the decision being appealed is filed with the Commission or Board Secretary (or Director) and mailed to the original applicant.	
Note: The appeal must be accompanied by the appropriate appeal fee (see attached Master Fee Schedule).	
Date of this appeal: <u>December 18, 2019</u>	
Date of action by County: <u>December 5, 2019</u>	
Date Decision filed with Secretary: <u>December 10, 2019</u>	
Appellant Information	
Name: Epic Wireless for Verizon Wireless/Verizon Wireless	Phone: (775) 785-5440
Address: c/o William E. Peterson, Snell & Wilmer L.L.P.	Fax: (775) 785-5441
50 West Liberty Street, Suite 510	Email: wpeterson@swlaw.com
City: Reno State: NV Zip: 89501	Cell: (775) 233-2640
Describe your basis as a person aggrieved by the decision: Appellant is aggrieved by denial of its application for a Special Use Permit (WSUP 19-0006) for the construction of a new wireless carrier facility to be located on the Southern portion of the 3 acre parcel at 100 Tunnel Creek, Reno.	
Appealed Decision Information	
Application Number: WSUP 19-0006	
Project Name: Special Use Permit Case No. WSUP 19-0006	
State the specific action(s) and related finding(s) you are appealing: Appellant appeals the denial on all grounds relied on by the BOA either formally or informally but specifically BOA based its denial on failure to satisfy the requirements of WCC 110.810.30(c): the site is physically suitable for the type of development and for the intensity of development. Appellant satisfied all other requirements under this ordinance. The review is de novo and Appellant is also prepared to establish any and all findings necessary to obtain the permit. Appellant attached a Supplement to this Appeal which is fully incorporated herein.	

Appealed Decision Information (continued)

Describe why the decision should or should not have been made:

The decision erroneously concluded that the site was not physically suitable for the proposed facility and for the intensity of the development as the facility satisfied all the criteria of WCC 110.324.40-65 and 110.810.30(c) as the Planning Staff expressly found. No specific information was provided or cited by BOA justifying its reason, except for a discussion of (but no finding) of Significant Gap Coverage as it relates to pole height which provision was not cited or relied on, but was sometimes mentioned. The BOA's statements and representations regarding the definition and criteria for gap coverage were erroneous and contrary to the ordinance and federal law. Appellant satisfied all requirements to obtain the permit.

Cite the specific outcome you are requesting with this appeal:

Appeal of WSUP 19-0006

Did you speak at the public hearing when this item was considered?

- Yes
 No

Did you submit written comments prior to the action on the item being appealed?

- Yes
 No

Appellant Signature

Printed Name: William E. Peterson/Buzz Lynn

Signature:

*Buzz Lynn. for Epic Wireless
on behalf of Verizon Wireless*

Date: December 18, 2019

Supplement to Appealed Decision Information

I. Introduction and Statement of Appeal

This is an appeal from the denial of an application by Verizon Wireless (“Verizon”) for a Special Use Permit (“SUP”) for the construction of a new wireless facility consisting of a 45 foot high stealth monopole structure in the vicinity of Tunnel Creek Road near the Ponderosa Ranch Area of Incline Village Nevada, east of State Route 28. Under applicable ordinances Verizon is entitled to the permit if it presents substantial evidence in support of the specific factual findings laid out in the applicable ordinance. As discussed below, Verizon satisfied that burden of proof and is entitled to issuance of the Permit.

II. The Burden of Proof

The applicant’s burden of proof is to establish all the findings identified in WCC 110.810.30 and 110.324.75 by substantial evidence. Substantial evidence is evidence that a reasonable mind might accept as adequate to support a conclusion. *United Exposition Service Co. v. State Indus. Ins. Comm’n*, 109 Nev. 421, 851 P.2d 423 (1993); *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987 (9th Cir. 2009). Staff found that the application for the proposed wireless facility met all requirements, and recommended approval. The BOA agreed that all findings were supported by substantial evidence except one (finding #3 below), but the BOA’s decision on that single finding was mistaken. The BOA’s mistake was principally based on a misunderstanding of applicable law which the District Attorney advised was unclear to him, and as to which he indicated more time was needed to research. As set forth more fully below, the BOA’s denial must itself be supported by substantial evidence, which it was not (largely based on the mistake of law) and must be overturned. Staff determined that Verizon had satisfied its burden of proof with respect to all the findings, as discussed below:

1. *Consistency*. The project is consistent with action programs, policies, standards and maps of the Master Plan and the Tahoe Area Plan;

2. *Improvements*. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, and are adequate under Division seven;

3. *Site Suitability*. That the area is physically suitable for a telecommunications facility for the intensity of such development;

4. *Issuance Not Detrimental*. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare, or injurious to property or improvement of adjacent properties, or detrimental to the surrounding area;

5. *Effect on Military Installation*. That issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation;

6. *That the facility meets the standards* of 110.324.40 through 110.324.60 which deals with specific requirements for issuance of SUPs for wireless communication facilities, including antennae, antenna placement, equipment, stealth design, site plans, alternate site consideration; and other particulars;

7. *That public input was considered* during the public hearing review process; and

8. *That the monopole and lattice tower* will not unduly impact the adjacent neighborhoods or the vistas or ridgelines of the County.

III. The Proof

The applicant filed an application with substantial evidence establishing each and every finding, and Staff also filed a comprehensive report prior to the hearing that also included substantial evidence supporting each and every finding required to be made. The Washoe County Planning Staff concluded that Verizon had satisfied its burden on all the required findings and included a proposed resolution for the BOA to that effect. Despite the evidence and the findings and recommendations of Planning Staff, the Board of Adjustment voted 3 to 2 to Deny the permit on the sole basis of failure to satisfy the requirements of Finding # 3, Site Suitability. No person appeared at the hearing to object to the application. There was one resident that spoke in support of the application, and no evidence was presented by any person or entity traversing or contradicting the evidence presented by the applicant or the Staff, that fully supported and established each and every finding.

In particular staff concluded, and the evidence was undisputed, that:

1. Consistency was established because the project was 100% compliant with the Master Plan, the Tahoe Area Plan, and the Ponderosa Community Plan.

2. Improvements were satisfied because the facility is unmanned, and the facilities proposed were adequate for the project and in full compliance with Division Seven of the Development Code.

3. The Site is physically suitable for the project. The property contains trees and vegetation and the proposed facility will not require significant grading. Additionally the proposed facility is a stealth design (monopole designed to look like a pine tree) and will blend in with the existing local trees. Photosims submitted with the application depict before and after views from various locations around the site and show that the proposed facility will blend with the surrounding area.

4. The permit is not detrimental to public health and safety and based on the requirements of the FCC, the electromagnetic frequency exposure levels are well below the maximum allowable by FCC regulations as established by the report of requested electrical engineer David Kiser from Waterford Consultants, FCC Specialists, whose report was submitted to BOA.

5. The project will have no effect on military installations, as no such installations are nearby.

6. The project satisfied and complied with all the requirements of WCC 110.34.75 in all particulars as to features and construction,

7. Public Comment was received and fully considered at two CAB meetings held on May 6, 2019 and November 4, 2019. As noted above, no one appeared at the BOA hearing except one resident who spoke in favor of the application.

8. The project will not unduly impact adjacent neighborhoods as the monopole blended in with the existing natural landscape on the subject parcel and is at the least intrusive height (45') to blend with the surroundings, that includes a group of trees in which the site will be located.

Staff concluded: ***“After a thorough review and analysis, Special Use Permit WSUP 19-0006 is recommended for approval ...”*** and included a proposed recommendation approving the project with conditions.

IV. Denial Was Not Based on Substantial Evidence and Violated Federal and State Law.

Applications for special use permits for wireless communication facilities before local government bodies are regulated by Federal Law, which is, of course, the Supreme law of the land under Article VI Clause 2 of the United States Constitution and Article 1 Section 2 of the Nevada Constitution. As set forth in this Staff report itself on pp. 3, 18 and 20, Washoe County acknowledges and respects the limitations and requirements imposed by federal and state law when considering applications for the construction of “*personal wireless service facilities*” which are granted protections from local government interference regarding the location and placement of such facilities under 47 U.S.C. § 332 (the “Telecommunications Act”). Those protections and limitations are mirrored in state law limitations at NRS 707.550- 707.920, and these statutes and provisions supersede, in all respects, any inconsistent provisions of local law, or any actions undertaken by local governmental bodies that contravene such laws. These requirements are identified by Staff on page 3 of the Staff report and all were satisfied. Verizon provided substantial evidence demonstrating that the proposed facility complied with all requirements. The BOA concurred that the application met all requirements for approval except one, and with respect to that single finding, simply “concluded” without any evidence or any basis in fact, that the site was not “physically suitable.” BOA provided no elaboration or factual basis to support that finding. Federal courts have determined that such bare, vague conclusions do not amount to substantial evidence as described above, and that once the applicant establishes a “prima facie” case (evidence sufficient to support a finding), the burden shifts to the local governing body to prove otherwise, with substantial evidence. *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987 (9th Cir. 2009). The BOA did not do so.

Among the state and federal special statutory limitations and provisions are that when regulating and considering the location, placement, construction or modification of wireless facilities the local governing body *shall not* prohibit or otherwise regulate in any manner having the practical effect of prohibiting the provision of personal wireless services, nor may such body deny a request to place, construct or modify personal wireless facilities unless in its denial decision it does so “*in a decision set forth in a separate writing supported by substantial evidence setting forth “with specificity” each ground on which the local governmental body denied the application and must describe with particularity the documents relied on by the governmental body in denying the application.* NRS 707.585; see also 47 U.S.C. § 332(c)(B)(iii).

The BOA decision rejecting the application is set forth in a separate document as required by law, but it does not describe or identify any reasons supported by substantial evidence setting forth *with specificity* the grounds, documents or any evidence relied on in support of that denial and the decision is fundamentally defective and fatally flawed in that respect.

V. Approval is Required in Order to Avoid an Unlawful Prohibition of Service

Local Government denial of a permit for a wireless facility violates the “effective prohibition” clause of the federal Telecommunications Act if the wireless provider can show two things, first, a significant gap in coverage, and second, that the proposed facility is the least intrusive location. *Sprint Spectrum v. L.P. v. Willoth*, 176 F.3d 360 (2d Cir. 1999). While not set forth in a “separate writing” the discussion among some of the members of the BOA (as

manifested in the transcript and video of the hearing), did focus on an element of the ordinance dealing with whether there was a “*significant gap in coverage*” with respect to wireless service in the vicinity that would be rectified by the project. The existence of a “*significant gap in coverage*” is relevant because the facility is to be located within 1000 feet of a trail head (moved to that location to accommodate comments at the CAB), which is only permitted if there is a “*significant gap in coverage*.” WCC 110.324.50(e)(10)(i).

Several of the BOA members questioned whether a “*significant gap in coverage*” could be demonstrated if, notwithstanding Verizon’s gap in coverage, the area in question was otherwise adequately covered by other carriers. This question was posed to the District Attorney, who indicated he was unsure and needed more time to research. Notwithstanding the District Attorney’s indication that more time was needed to research this question, a few of the members of the BOA believed that Verizon may not have demonstrated a significant gap in coverage because it did not affirmatively demonstrate that the area was not served by other carriers. As set forth below, under federal law and applicable ordinance, this was not Verizon’s burden of proof in the first place, and second, under federal law, which governs this determination, a significant gap in coverage is *carrier* specific, not global network specific and the local governing body cannot deny a permit from a carrier that demonstrates a significant gap in its coverage, on the basis that it believes the area has adequate coverage from another carrier.

A “*significant gap in coverage*” is a term taken from the Federal Telecommunications Act which has special application in connection with local permitting of wireless facilities governed by that act, which includes this project. Under federal law and statute, as interpreted by the United States Ninth Circuit Court of Appeals (whose pronouncements are binding federal law in Nevada), if an applicant for a wireless facility demonstrates a “*significant gap in coverage*,” the local government must approve the facility even if there is substantial evidence to deny the permit under local land use ordinance (which there is not in this case). This is because the provider has met the requirements for federal preemption, i.e., denial of the permit would have the effect of prohibiting the provision of personal wireless services. *T-Mobile USA, supra*. To avoid such preemption, the local government must show that another alternative is available, technologically feasible, and less intrusive than the proposed facility. That did not occur here.

In addition, the Ninth Circuit has expressly held that under federal law, a “*significant gap in coverage*” occurs in the instance where a **single carrier** experiences a gap, even if the area in question is otherwise adequately covered by other carriers. In other words, under federal law in the federal circuit that includes Nevada, significant gaps in coverage are specific to a carrier network only. *See MetroPCS, Inc. v. The City of San Francisco*, 400 F.3d 7165 (9th Cir. 2005). It is also federal law in the Ninth Circuit that a significant gap in coverage occurs where the coverage is not just absent, but unreliable in terms of quality and number of people affected. *Id.*

VI. Conclusion

The absence of a written decision specifying the grounds for denial citing to specific evidence and documents in support of such grounds renders it somewhat difficult to identify the precise reasons for the BOA’s denial. Nonetheless, the decision cannot stand because there was not a shred of evidence presented by anyone contradicting or traversing Verizon’s evidence, or Staff’s evidence establishing each and every finding required to be made to issue the permit,

including the fact that Verizon diligently worked to identify the ideal location and design to service the area. Under federal and state law, denial of the permit in an area where there is a “significant gap in coverage” constitutes a prohibition or regulatory act having the effect of prohibiting a wireless service and is unlawful, unless the local governing body produces substantial evidence that there is no significant gap in coverage. No such evidence was presented, nor can be presented, and the Commissioner’s questions, expressed from the dais, as to whether there is a significant gap in areas adequately covered by other service providers, is directly answered in the affirmative by governing federal law. Verizon established each and every element required by Washoe County Ordinance for issuance of the permit that the location was, in fact, the least intrusive means to address this significant gap and improves the health, safety and welfare of residents, visitors, and emergency service providers in the surrounding community, and denial of the permit based on such presentation would violate state and federal law. Verizon respectfully requires that the Commission rectify this error and grant Verizon’s appeal and issue the permit.



WASHOE COUNTY
COMMUNITY SERVICES DEPARTMENT
Planning and Building

1001 EAST 9TH STREET
RENO, NEVADA 89512-2845
PHONE (775) 328-6100
FAX (775) 328.6133

Board of Adjustment Action Order
Special Use Permit Case Number WSUP19-0006

Decision: Denial
Decision Date: December 5, 2019
Mailing/Filing Date: December 10, 2019
Property Owner: Tunnel Creek Properties LLC
Assigned Planner: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building Division
775.328.3627
jolander@washoecounty.us

Special Use Permit Case Number WSUP19-0006– For possible action, hearing, and discussion to approve a special use permit for the construction of a new wireless cellular facility consisting of a 45-foot-high stealth monopine structure (aka cell phone tower disguised to resemble a pine tree) designed as a collocation facility and a small cabin structure to house the wireless equipment. The monopole is proposed to be located on the southern portion of the 3-acre parcel at 1200 Tunnel Creek Road.

- Applicant: Epic Wireless for Verizon Wireless
- Property Owner: Tunnel Creek Properties, LLC
- Location: 1200 Tunnel Creek Road
- Assessor’s Parcel Number: 130-311-17
- Parcel Size: 3 acres
- Master Plan Categories: Commercial (C) & Suburban Residential (SR)
- Regulatory Zones: Tourist Commercial (TC) & Low Density Suburban (LDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 324, Communication Facilities; and Article 810, Special Use Permits
- Commission District: 1 – Commissioner Berkbigler

Notice is hereby given that the Washoe County Board of Adjustment denied the above referenced case number based on the inability to make all findings required by Washoe County Code (WCC) Sections 110.810.30 and 110.324.75, the Board was unable to make findings #3 (Site Suitability) see below.

Required Special Use Permit Findings (WCC Section 110.810.30 & 110.324.75)

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Tahoe Area Plan;



INTEGRITY



EFFECTIVE COMMUNICATION



QUALITY PUBLIC SERVICE

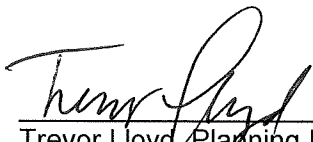
Memo to: Epic Wireless for Verizon Wireless
Subject: Special Use Permit WSUP19-0006
Date: December 10, 2019
Page: 2

2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is **not** physically suitable a for a telecommunications facility (monopole) for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area;
5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

Findings from WCC Section 110.324.75:

- a. That the communications facility meets all the standards of Sections 110.324.40 through 110.324.60 as determined by the Director of Community Development and/or his/her authorized representative;
- b. That public input was considered during the public hearing review process; and
- c. That the monopole or lattice tower will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County.

Anyone wishing to appeal this decision to the Washoe County Board of County Commissioners may do so within 10 calendar days from the Mailing/Filing Date shown on this Action Order. To be informed of the appeal procedure, call the Planning staff at **775.328.6100**. Appeals must be filed in accordance with Section 110.912.20 of the Washoe County Development Code.



Trevor Lloyd, Planning Manager
Secretary to the Board of Adjustment
Planning and Building Division
Washoe County Community Services Department

Applicant: Epic Wireless for Verizon Wireless
605 Coolidge, Ste. 100
Folsom, CA 98630
Email: buzz.lynn@epicwireless.net

Owner: Tunnel Creek Properties, LLC
930 Tahoe Blvd., Ste. 802, PMB322
Incline Village, NV 89451

Action Order xc: Michael Large, District Attorney's Office; Keirsten Beck, Assessor's Office; Cori Burke, Assessor's Office; Mojra Hauenstein, Planning and Building



Board of Adjustment Staff Report

Meeting Date: December 5, 2019

Agenda Item: 8A

SPECIAL USE PERMIT CASE NUMBER: WSUP19-0006 (Verizon Monopole)

BRIEF SUMMARY OF REQUEST: To approve a special use permit for the construction of a new wireless cellular facility consisting of a 45-foot high stealth monopine structure.

STAFF PLANNER: Planner's Name: Julee Olander
Phone Number: 775.328.3627
E-mail: jolander@washoecounty.us

CASE DESCRIPTION

For possible action, hearing, and discussion to approve a special use permit for the construction of a new wireless cellular facility consisting of a 45-foot high stealth monopine structure (aka cell phone tower disguised to resemble a pine tree) designed as a collocation facility. The proposal also requests varying the landscaping requirements by not requiring any additional landscaping.

Applicant: Epic Wireless for Verizon Wireless

Property Owner: Tunnel Creek Properties LLC

Location: 1200 Tunnel Creek Rd.

APN: 130-311-17

Parcel Size: 3 acres

Master Plan: Commercial (C) & Suburban Residential (SR)

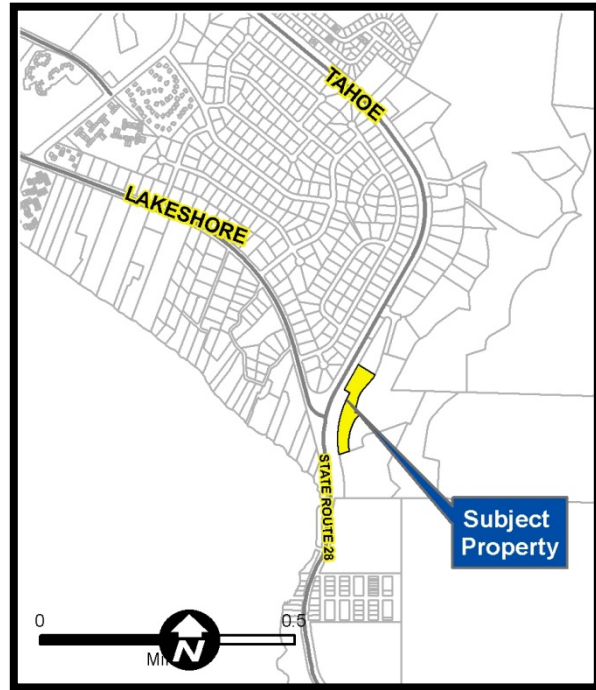
Regulatory Zone: Tourist Commercial (TC) & Low Density Suburban (LDS)

Area Plan: Tahoe

Citizen Advisory Board: Incline Village/Crystal Bay

Development Code: Authorized in Article 324, Communication Facilities; and Article 810, Special Use Permits

Commission District: 1 – Commissioner Berkgigler



STAFF RECOMMENDATION

APPROVE

APPROVE WITH CONDITIONS

DENY

POSSIBLE MOTION

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve, with conditions, Special Use Permit Case Number WSUP19-0006 for Verizon Wireless, having made all five findings in accordance with Washoe County Code Section 110.810.30.

(Motion with Findings on Page 19)

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CAB and Public CommentsExhibit C

May 6, 2019 CAB Minutes.....Exhibit D

Public Notice MapExhibit E

Project Application.....Exhibit F

Special Use Permit

The purpose of a special use permit is to allow a method of review to identify any potential harmful impacts on adjacent properties or surrounding areas for uses that may be appropriate within a regulatory zone; and to provide for a procedure whereby such uses might be permitted by further restricting or conditioning them so as to mitigate or eliminate possible adverse impacts. The Board of Adjustment is authorized to issue special use permits under NRS 278.315 and Washoe County Code (WCC) Article 810. Certain notice requirements must be met, which are discussed in this report. In approving the special use permit, the Board must consider and make five findings of fact, which are discussed below. [WCC Section 110.810.30] The notice requirements and findings are discussed in this report. The Board of Adjustment is allowed to grant an approval of the special use permit that is subject to conditions of approval. Conditions of approval are requirements that need to be completed during different stages of the proposed project, including conditions prior to permit issuance, prior to obtaining a final inspection and/or certificate of occupancy, prior to issuance of a business license, or ongoing “operational conditions” which must be continually complied with for the life of the project.

Conditions of Approval. The conditions of approval for this case are attached to this staff report as Exhibit A and will be included with the Action Order, if approved.

Variances. As a part of approval of a special use permit, the Board of Adjustment may also vary standards of the Development Code as they would apply to the Project. [See WCC Section 110.810.20 (e).] In so doing, the Board must make the five findings required for variances as set out in WCC Section 110.804.25.

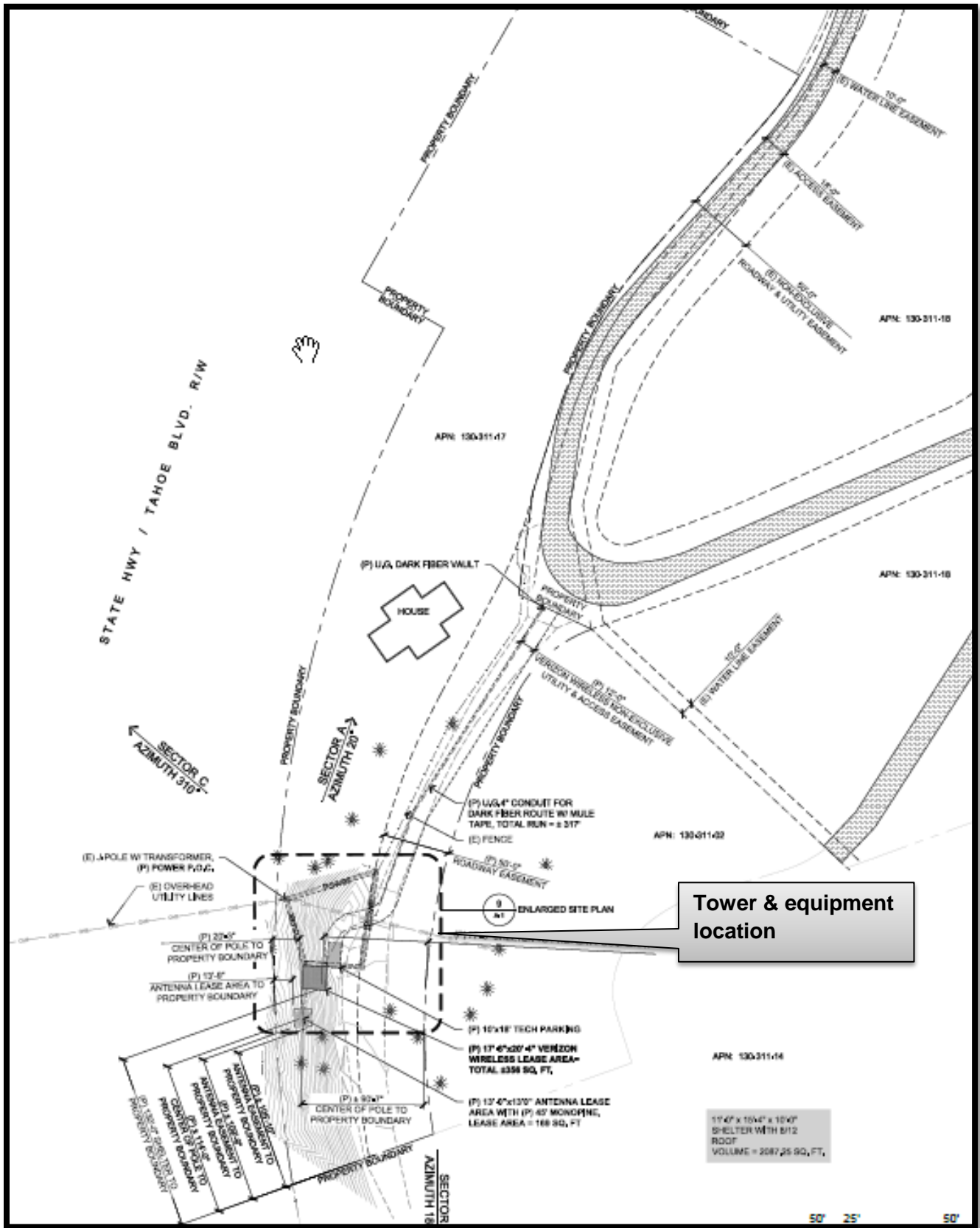
Special Communications Facility requirements. The proposed facility is a “communications facility” under Article 324 of the County Development Code which imposes specialized requirements and provides that when approving a special use permit, the Board must adopt the three additional findings listed in WCC Section 110.324.75 which are discussed in this staff report.

Special Federal and State Rules: The proposed facility is a “personal wireless service facility” protected by federal law (Telecommunications Act of 1996, 47 U.S.C. Section 332 (c) (7)) and state law (NRS 707.550 – 707. 920). Generally, federal and state laws provide that when regulating the placement, construction or modification of wireless facilities:

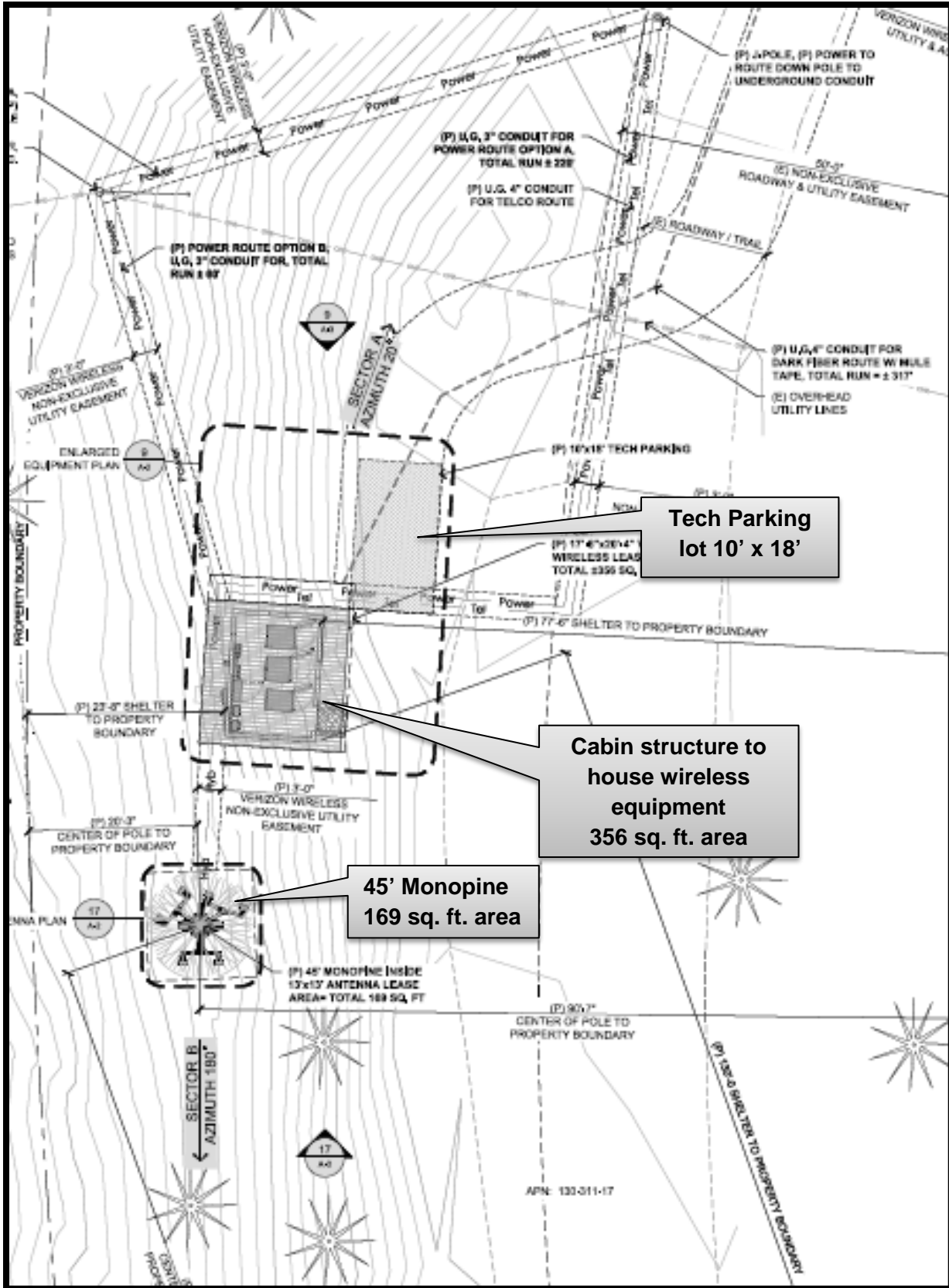
- We shall not unreasonably discriminate among providers of functionally equivalent services;
- We shall not prohibit or have the effect of prohibiting the provision of personal wireless services;
- We must act within a reasonable time on applications for permits (presumed to be 150 days under FCC “shot clock” rules);
- If we deny a request to place, construct, or modify personal wireless service facilities, we must do so in a separate writing, and the decision must be supported by substantial evidence (evidence that a reasonable mind might accept as adequate to support a conclusion) contained in a written record. State law (NRS 707.585) requires that a decision denying an application must set forth with specificity each ground on which the authority denied the approval of the application, and must describe the documents relied on by the Board in making its decision.
- We may not regulate the placement, construction and modification of personal wireless facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with FCC regulations concerning such emissions.

The subject property has regulatory zone of Tourist Commercial (TC) & Low Density Suburban (LDS). The proposed monopole antenna requires a special use permit (SUP) per Washoe County Code (WCC) 110.324.50(e) and the Ponderosa Ranch Community Plan. Therefore, the applicant is seeking approval of this SUP from the Board of Adjustment.

Additionally, the SUP regulations allow variances to be granted in conjunction with the approval process per WCC Section 110.810.20(e). The applicant is seeking to vary the landscaping requirements. The Board of Adjustment will also be ruling on this request.



Overall Site Plan



Site Plan

Existing



Proposed



View from Tunnel Creek Road- looking southwest

Photo Simulations

Existing



Proposed

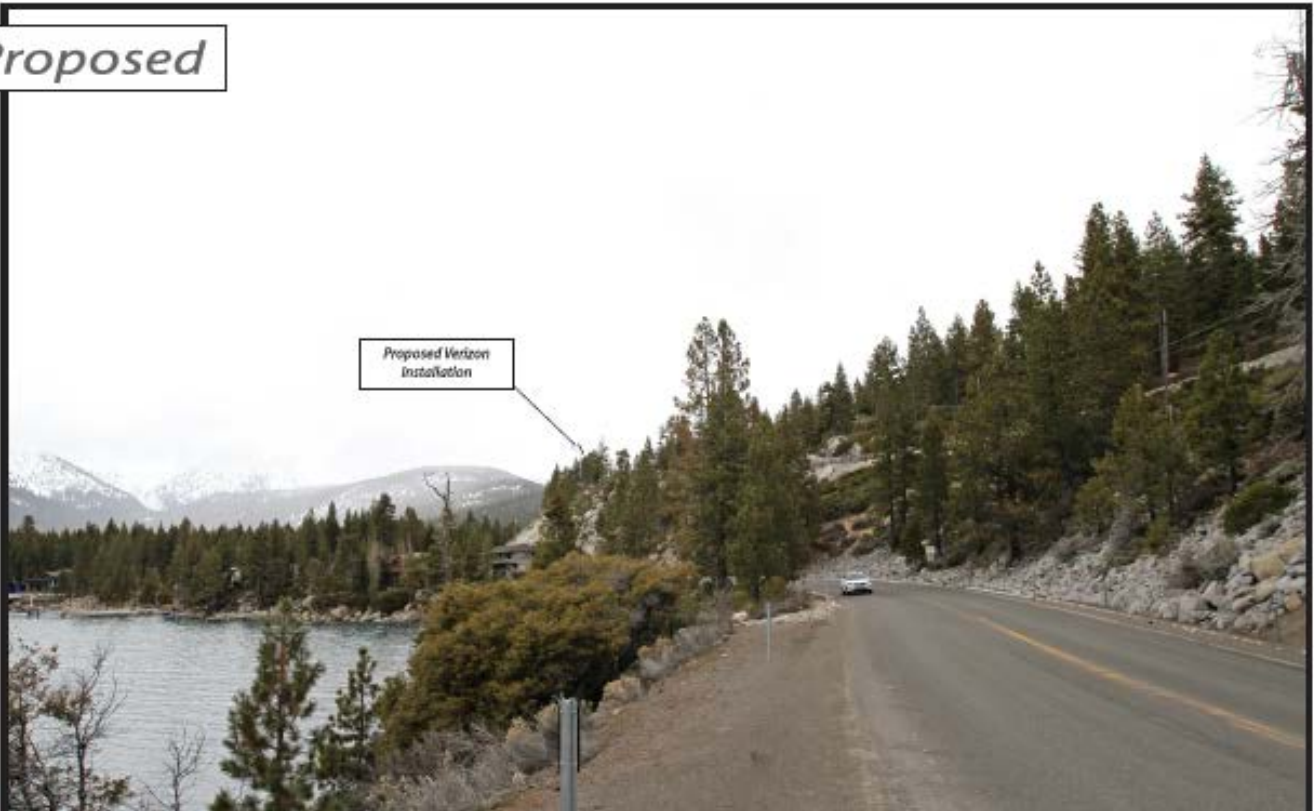


View from Lakeshore Blvd. - looking southeast

Existing



Proposed



View from Tahoe Blvd. - looking northeast



View from Tahoe Blvd. - looking northeast

Existing



Proposed



View from Tunnel Creek Rd. - looking southwest

Existing



Proposed



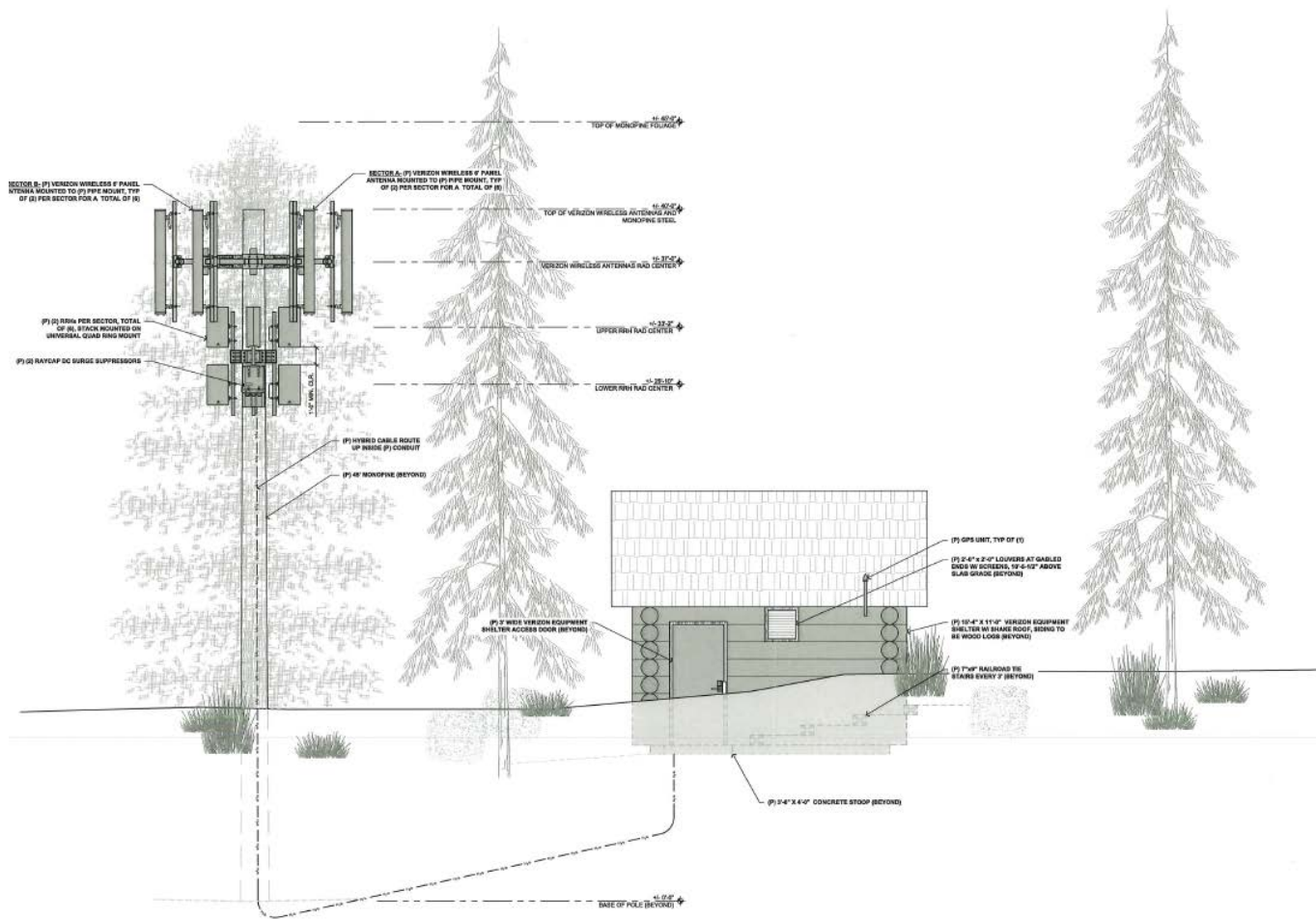
View from Tunnel Creek Rd. - looking north at site



View from Tunnel Creek Rd. - looking southwest



View from Tunnel Creek Rd. - looking southwest



Site Plan Elevation

Project Evaluation

Epic Wireless for Verizon Wireless has requested a special use permit in order to place an unmanned wireless telecommunications monopole with all necessary appurtenances upon the subject property at 1200 Tunnel Creek Road. The site is in the Tahoe Area Plan and within the Ponderosa Ranch Community Plan. The 40-foot tall monopole is topped with a 5 foot crown, with a total height of 45 feet. The monopole will be equipped with 6 antennas, which will be used only by Verizon. A building that is designed as a log cabin will house the wireless equipment. The area for the monopine is 169 sq. ft. and the cabin area is 356 sq. ft. with a total square footage of the facility is 525 sq. ft.

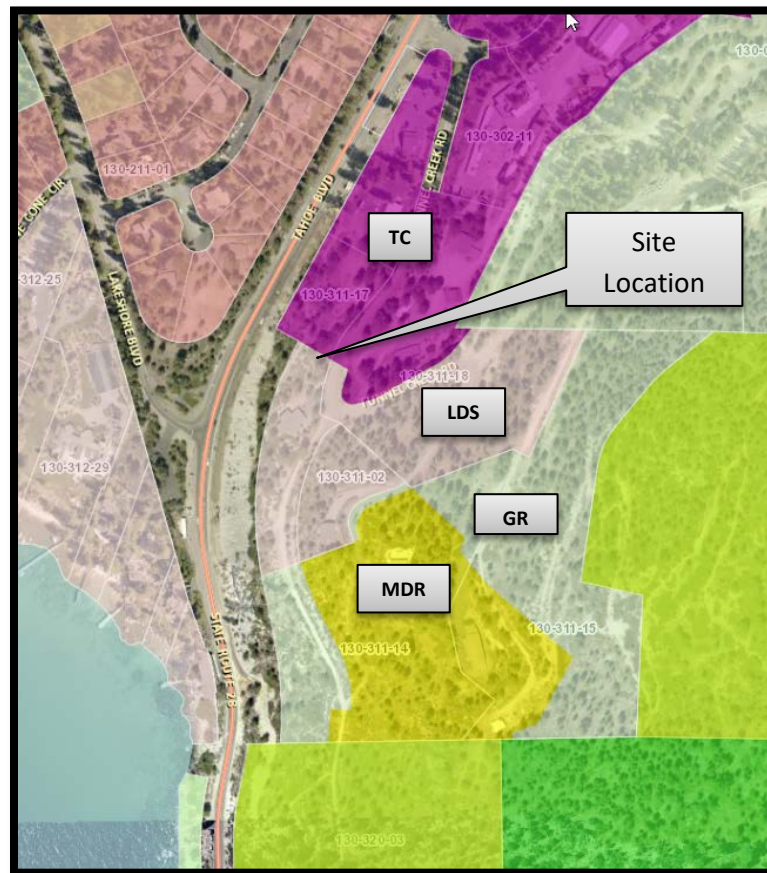
The applicant states that, "While Washoe County favors collocation, in deference to the uniqueness of Incline Village, Lake Tahoe, and the unparalleled view shed, Verizon proposes the lowest height required and the best match of its surroundings by using a monopine pole and faux cabin shelter. All antennas to be covered in monopine "socks" to better blend in."

Existing Conditions

The proposed project site is approximately 3 acres and a 4,214 sq. ft. residence is located on the northern portion of the property. The wireless facility will be located south of the residence.

The subject site is 59% Low Density Suburban (LDS) regulatory zone on the southern portion of the parcel where the tower and equipment will be located and 41% Tourist Commercial (TC) regulatory zoning on the northern portion where the residence is located. The parcels to the southeast have a regulatory zoning of General Rural (GR) and Medium Density Rural (MDR). To the east the parcel is LDS and the parcels to the north are TC. The parcel fronts the public right-

of-way of Tahoe Blvd. to the west. The tower is proposed to be located on a steep embankment adjacent to and above Tahoe Blvd.

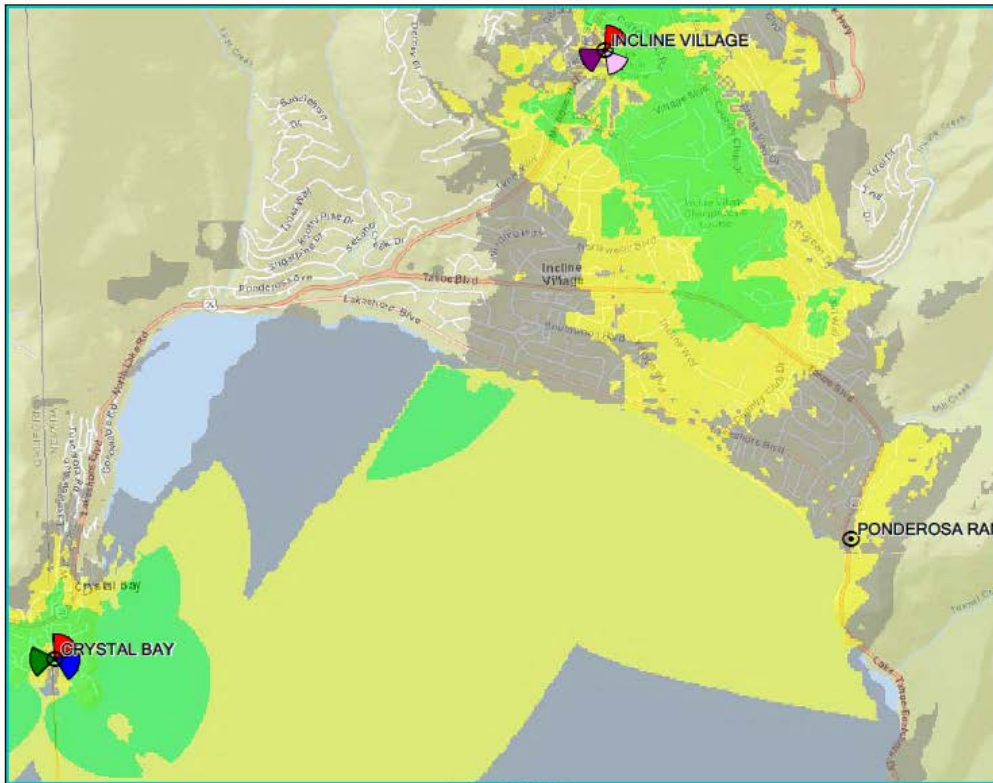


Analysis

The applicant has indicated the reason for the new telecommunications tower is to offer additional coverage and capacity to the area. The increase in services will range from all types of wireless cell service, especially 911 calls, GPS services, and in-building calling and data services. The applicant states that the services are beneficial due to the fact landline usage has declined in recent years as more of the population is using cell phones for voice and data telecommunications rather than traditional landline communication. The increase in wireless cellular service could be beneficial in emergency situations where landlines are not available. As more and more roads do not contain call boxes, mobile services often can be the only form of communication in an emergency situation, especially in areas outside of city limits.

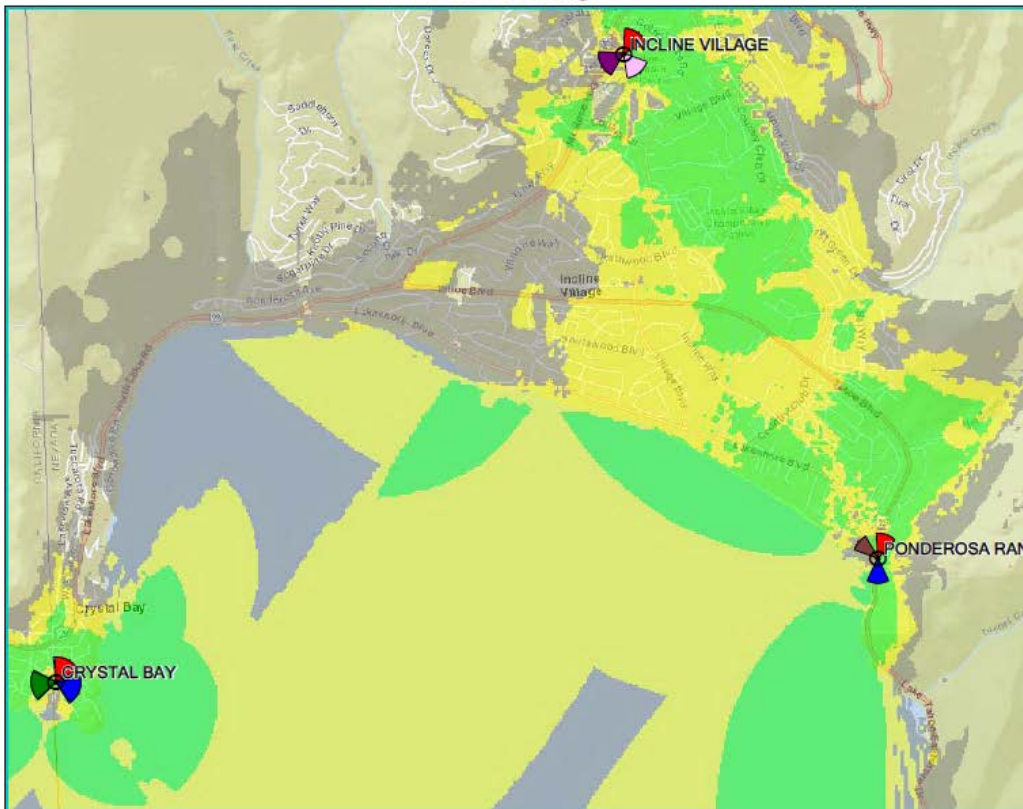
The parcel is in the Tahoe Area Plan and within the Ponderosa Ranch Community Plan, where transmission and receiving facilities are allowed with a special use permit. Washoe County Code (WCC) Section 110.324.50(e)(1) states, "Antennas may be allowed with approval of a special use permit in the Low Density Urban (LDU), Medium Density Urban (MDU), High Density Urban (HDU), Low Density Suburban (LDS), Medium Density Suburban (MDS), and High Density Suburban (HDS) regulatory zones when the antenna is proven by a technical review to be required to fill a "Significant Gap Coverage" as defined in Section 110.324.55. The applicant indicates that there is a significant gap in the southeast section of Incline Village. The applicant has provided the following coverage maps, showing the gap areas.

Before Coverage



LTE: AWS: RSRP - Existing Coverage
 ■ Best Signal Level (dBm) >=-85
 ■ Best Signal Level (dBm) >=-95
 ■ Best Signal Level (dBm) >=-105

After Coverage



LTE: AWS: RSRP - After Coverage
 ■ Best Signal Level (dBm) >=-85
 ■ Best Signal Level (dBm) >=-95
 ■ Best Signal Level (dBm) >=-105

Washoe County Code 110.324.55 states that significant gap shall include “white area” where no cellular service “from any carrier is available.” The applicant states that “federal law holds that

limiting coverage to just one carrier to the exclusion of other carriers (because coverage then exists) constitutes an effective Denial of Service. While Verizon does provide some service in the area, coverage and capacity will be significantly improved with additions to the site.” The applicant provided coverage maps that they say demonstrate the need in the area for Verizon (see above map).

Access/Parking:

Verizon anticipates using the existing access road leading to the property, which is unpaved. Only one (1) 10'x17' parking space will be necessary for the monthly maintenance employee parking, as the facility is an unmanned facility.

Signage/Lighting:

Signage will be as required by FAA/FCC or other jurisdictional entities. There will be no “advertisement signage.”

Landscaping:

The applicant has requested to remove the landscaping requirement because the facility is located in an undeveloped, rocky, sloped site and there is a lack of water for irrigation. There are some trees and native vegetation on the site and the tower will be constructed next to existing evergreen trees to blend into the landscaping. The faux log cabin is also intended to blend with the surrounding area.

Visual Impacts:

The request by Verizon Wireless to add a telecommunications monopole is consistent with the standards of *Article 324, Telecommunications* of the Washoe County Development Code. The proposed telecommunications tower with a monopine and the wireless equipment will be housed in a log cabin designed structure.

Radio Frequency and Environmental Impacts:

Under federal law (47 U.S.C. 332 (c) (7) (B) (iv), if the proposed telecommunications facility complies with FCC regulations, this Board cannot regulate its placement, construction, and modification based on the potential environmental effects of radio frequency emissions. Under state law (NRS 707.575 (4) the Board “shall not consider the environmental effects of radio frequency emissions” in rendering a decision of approving or denying this special use permit.

Incline Village/Crystal Citizen Advisory Board (IV/CB CAB)

This item was heard twice by the CAB on May 6, 2019 and again November 4, 2019, after the applicant changed the location of the tower and equipment slightly and updated the application. At the May 6th meeting the CAB made no recommendation and requested that the minutes and all the comments from the CAB members and the public be forwarded. At the November 4th meeting the CAB recommended staking the site to show the location of the tower and cabin and approved the application. The minutes from May 6th are included in Exhibit C and the November 4th meeting minutes were not available to be included in the staff report. The concerns and comments voiced at the meetings were similar and included:

- The location and blocking views
- The material use for the branches
- Health issues and the genitor use
- Need more cell service in the area

Reviewing Agencies

The following agencies/individuals received a copy of the project application for review and evaluate.

- Washoe County Community Services Department
 - Planning and Building Division
 - Engineering and Capital Projects Division
- Washoe County Health District
 - Environmental Health Services Division
- North Lake Tahoe Fire Protection District
- Incline Village General Improvement District (IVGID)
- Regional Transportation Commission (RTC)
- Washoe-Storey Conservation District
- Nevada State Lands Office
- State of Nevada Department of Environmental Protection
- State of Nevada Department of Forestry
- State of Nevada Department of Parks
- State of Nevada Department of Wildlife
- State of Nevada Department of Transportation

The following agencies/departments provided comments and/or recommended conditions of approval in response to their evaluation of the project application (see Exhibit A and B):

- Washoe County Planning and Building Division addressed establishing the use on the site.
Contact: Julee Olander, 775.328.3627, jolander@washoecounty.us
- Washoe County Engineering and Capital Projects Division addressed requirements for possible grading and obtaining permits.
Contact: Leo Vesely, 775.328.2313, lvesely@washoecounty.us
- Washoe County Engineering and Capital Projects Division Traffic and Roadways had no comments.
Contact: Mitch Fink, 775.328.2050, mfink@washoecounty.us
- Washoe County Engineering and Capital Projects Division – Utilities had no comment.
Contact: Tim Simpson, P.E. 775.954.4648, tsimpson@washoecounty.us
- North Lake Tahoe Fire District addresses requirements for fire permits.
Contact: Jennifer Donohue, 775.831.0351 x8127, jdonohue@nltfd.net
- Washoe-Storey Conservation District had no comments
Contact: Tyler Shaffer, kevinjr_51@att.net
- Incline Village General Improvement District (IVGID) had no comments.
Contact: Tim Buxton, 775.832.1246, tim_buxton@ivgid.org
- Washoe Health District did not reply.
- Regional Transportation Commission did not reply
- Nevada State Lands Office did not reply
- State of Nevada Department of Environmental Protection did not reply
- State of Nevada Department of Forestry did not reply

- State of Nevada Department of Parks did not reply
- State of Nevada Department of Wildlife did not reply
- State of Nevada Department of Transportation did not reply

Required Findings

Findings required by WCC Section 110. 810.30 for a Special Use Permit:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Tahoe Area Plan;
Staff Comment: Staff has reviewed the Master Plan, the Tahoe Area Plan and the Ponderosa Ranch Community Plan and the project is consistent with these plans.
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
Staff Comment: This is an unmanned facility; the facilities that are need are adequate for the proposed project and is in compliance with Division Seven.
3. Site Suitability. That the site is physically suitable a for a telecommunications facility (monopole) for the intensity of such a development;
Staff Comment: There are trees and vegetation on the property. The location of the tower and equipment is south of the residence. The site is on a hillside, however the applicant does not believe developing the site will meet the major grading thresholds, if it does a special use permit will be required to construct the tower and associated equipment.
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area.
Staff Comment: Based on the requirements of the FCC, the "Electromagnetic Frequency (RF) exposure level due to the proposed site is well below the maximum allowable by FCC Regulations. The site fully complies with FCC rules and regulations.
5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.
Staff Comment: There is no military installation nearby.

Findings required by Section 110.324.75, for a telecommunications facility:

6. That the communications facility meets all the standards of Sections 110.324.40 through 110.324.60 as determined by the Director of Community Development and/or his/her authorized representative;
Staff Comment: Staff has reviewed all of the standards and conclude that the standards have been met.
7. That public input was considered during the public hearing review process; and
Staff Comment: The public comment was heard at the two CAB meetings and during the Board of Adjustment public hearing. Under federal law (47 U.S.C. 332 (c) (7) (B) (iv), if the proposed telecommunications facility complies with FCC regulations, this Board cannot regulate its placement, construction, and modification based on the potential environmental effects of radio frequency emissions. Under state law (NRS 707.575 (4) the Board "shall not consider the environmental effects of radio frequency emissions" in rendering a decision of approving of denying this special use permit.

- 8. That the monopole or lattice tower will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County.

Staff Comment: Based on review of the photographs and drawings in the staff report and application the proposed monopole will blend with existing natural, landscape of the subject parcel.

Recommendation

After a thorough analysis and review, Special Use Permit Case Number WSUP19-0006 is being recommended for approval with conditions. Staff offers the following motion for the Board's consideration.

Motion

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve, with conditions, Special Use Permit Case Number WSUP19-0006 for Verizon Wireless, having made all five findings in accordance with Washoe County Code Section 110.810.30.

Appeal Process

Board of Adjustment action will be effective 10 calendar days after the written decision is filed with the Secretary to the Board of Adjustment and mailed to the applicant, unless the action is appealed to the Washoe County Board of County Commissioners, in which case the outcome of the appeal shall be determined by the Washoe County Board of County Commissioners. Any appeal must be filed in writing with the Planning and Building Division within 10 calendar days from the date the written decision is filed with the Secretary to the Board of Adjustment and mailed to the applicant.

Applicant: Epic Wireless for Verizon Wireless
605 Coolidge, Ste. 100
Folsom, CA 98630

Email: buzz.lynn@epicwireless.net

Owner: Tunnel Creek Properties, LLC
930 Tahoe Blvd., Ste. 802, PMB322
Incline Village, NV 89451



Attachment C Conditions of Approval

Special Use Permit Case Number WSUP19-0006

The project approved under Special Use Permit Case Number WSUP19-0006 shall be carried out in accordance with the conditions of approval granted by the Board of Adjustment on December 5, 2019. Conditions of approval are requirements placed on a permit or development by each reviewing agency. These conditions of approval may require submittal of documents, applications, fees, inspections, amendments to plans, and more. These conditions do not relieve the applicant of the obligation to obtain any other approvals and licenses from relevant authorities required under any other act or to abide by all other generally applicable codes.

Unless otherwise specified, all conditions related to the approval of this special use permit shall be met or financial assurance must be provided to satisfy the conditions of approval prior to issuance of a grading or building permit. The agency responsible for determining compliance with a specific condition shall determine whether the condition must be fully completed or whether the applicant shall be offered the option of providing financial assurance. All agreements, easements, or other documentation required by these conditions shall have a copy filed with the County Engineer and the Planning and Building Division of the Washoe County Community Services Department.

Compliance with the conditions of approval related to this special use permit is the responsibility of the applicant, his/her successor in interest, and all owners, assignees, and occupants of the property and their successors in interest. Failure to comply with any of the conditions imposed in the approval of the special use permit may result in the initiation of revocation procedures.

Washoe County reserves the right to review and revise the conditions of approval related to this special use permit should it be determined that a subsequent license or permit issued by Washoe County violates the intent of this approval.

For the purpose of conditions imposed by Washoe County, “may” is permissive and “shall” or “must” is mandatory.

Conditions of approval are usually complied with at different stages of the proposed project. Those stages are typically:

- Prior to permit issuance (i.e., grading permits, building permits, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy.
- Prior to the issuance of a business license or other permits/licenses.
- Some “conditions of approval” are referred to as “operational conditions.”

These conditions must be continually complied with for the life of the project or business.

FOLLOWING ARE CONDITIONS OF APPROVAL REQUIRED BY THE REVIEWING AGENCIES. EACH CONDITION MUST BE MET TO THE SATISFACTION OF THE ISSUING AGENCY.

Washoe County Planning and Building Division

1. The following conditions are requirements of the Planning and Building Division of the Washoe County Community Services Department, which shall be responsible for determining compliance with these conditions.

Contact Name – Julee Olander, 775.328-3627, jolander@wahoecounty.us

- a. The applicant shall attach a copy of the action order approving this project to all permits and applications (including building permits) applied for as part of this special use permit.
- b. The applicant shall demonstrate substantial conformance to the plans approved as part of this special use permit. The Planning and Building Division shall determine compliance with this condition.
- c. The applicant shall submit complete construction plans and building permits shall be issued within two years from the date of approval by Washoe County and the Tahoe Regional Planning Agency. The applicant shall complete construction within the time specified by the building permits. Compliance with this condition shall be determined by the Planning and Building Division.
- d. A note shall be placed on all construction drawings and grading plans stating:

NOTE

Should any cairn or grave of a Native American be discovered during site development, work shall temporarily be halted at the specific site and the Sheriff's Office as well as the State Historic Preservation Office of the Department of Conservation and Natural Resources shall be immediately notified per NRS 383.170.

- e. Prior to the issuance of a building permit, the applicant shall provide a certification by a professional that the facility complies with Federal Communications Commission (FCC) regulations for Radio Frequency Emissions (RFE).
- f. Prior to the issuance of a building permit the applicant shall record a statement of assurance that the wireless communications facility shall be removed if the use of the facility is discontinued for a period of twelve (12) consecutive months.
- g. The area will be fenced and the fencing will include slats and provide at least 75% visual screening. Slats shall be of a color to match the surrounding area. Fencing materials shall be non-reflective.
- h. The monopine pole tower shall not exceed 45 feet in maximum height, as approved under this special use permit WSUP19-0006.
- i. The telecommunications tower owner shall be responsible for maintenance of the tower structure, all branches, and related appurtenances and equipment for said site. If branches break, fade, or blow away, or are damaged in any other manner, whether due to natural, Act of God, or manmade causes, those said branches or other equipment shall be replaced within three (3) months per each occurrence.
- j. The following **Operational Conditions** shall be required for the life of the project:
 - i. This special use permit shall remain in effect until or unless it is revoked or is inactive for one year.
 - ii. Failure to comply with the conditions of approval shall render this approval null and void. Compliance with this condition shall be determined by the Planning and Building Division.

- iii. The applicant and any successors shall direct any potential purchaser/operator of the site and/or the special use permit to meet with the Planning and Building Division staff to review conditions of approval prior to the final sale of the site and/or the special use permit. Any subsequent purchaser/operator of the site and/or the special use permit shall notify the Planning and Building Division of the name, address, telephone number, and contact person of the new purchaser/operator within 30 days of the final sale.

Washoe County Engineering and Capital Projects Division

2. The following conditions are requirements of the Engineering and Capital Projects Division, which shall be responsible for determining compliance with these conditions.

Contact: Leo Vesely, P.E., 775.328.2041, lvesely@washoecounty.us

- a. A complete set of construction improvement drawings, including an on-site grading plan, shall be submitted when applying for a building/grading permit. Grading shall comply with best management practices (BMP's) and shall include detailed plans for grading, site drainage, erosion control (including BMP locations and installation details), slope stabilization, and mosquito abatement. Placement or removal of any excavated materials shall be indicated on the grading plan. Silts shall be controlled on-site and not allowed onto adjacent property.
- b. The applicant shall provide documentation of easements for the lease area, access and utilities. A copy of the easements shall be submitted to the Engineering Division prior to the approval of a building permit.
- c. All existing and proposed easements shall be shown on the site and/or grading plan. The County Engineer shall determine compliance with this condition.
- d. Tunnel Creek Road is a presumed public road based on NRS 405.191 and NRS 405.195. All proposed improvements must be located outside of the existing road traveled way, ditches, slopes, etc., or the existing road traveled way, ditches, slopes, etc. must be relocated into an appropriate easement. The relocated roadway section shall be equivalent, in width, surface, etc. to the existing road.

North Lake Tahoe Fire District

3. The following conditions are requirements of the North Lake Tahoe Fire District, which shall be responsible for determining compliance with these conditions.

Contact: Jennifer Donohue, 775.831.0351 x8127, jdonohue@nlafd.net

- a. Provide and maintain access is in accordance with 2018 IFC Chapter 5.
- b. Provide and maintain defensible space in accordance with 2018 IWUIC, Chapter 6.
- c. Faux cabin construction shall meet construction requirements of IR1, noncombustible construction, pursuant to 2018 IWUIC, Chapter 5 and also see Section 602 (fire sprinkler requirement)

*** End of Conditions ***



Attachment C
Page 25

WASHOE COUNTY

COMMUNITY SERVICES DEPARTMENT

Engineering and Capital Projects

1001 EAST 9TH STREET
RENO, NEVADA 89512
PHONE (775) 328-3600
FAX (775) 328.3699

Date: May 8, 2019

To: Julee Olander, Senior Planner

From: Leo Vesely, P.E., Licensed Engineer

Re: Special Use Permit Case **WSUP19-0006 – Verizon Monopole**
APN 130-311-17

GENERAL PROJECT DISCUSSION

Washoe County Engineering staff has reviewed the above referenced application. The Special Use Permit is for the construction of a 45 foot high monopine on the site. The Engineering and Capital Projects Division recommends approval with the following comments and conditions of approval which supplement applicable County Code and are based upon our review of the site and the application prepared by Epic Wireless. The County Engineer shall determine compliance with the following conditions of approval.

For questions related to sections below, please see the contact name provided.

GENERAL CONDITIONS

Contact Information: Leo Vesely, P.E. (775) 328-2041

1. A complete set of construction improvement drawings, including an on-site grading plan, shall be submitted when applying for a building/grading permit. Grading shall comply with best management practices (BMP's) and shall include detailed plans for grading, site drainage, erosion control (including BMP locations and installation details), slope stabilization, and mosquito abatement. Placement or removal of any excavated materials shall be indicated on the grading plan. Silts shall be controlled on-site and not allowed onto adjacent property.
2. The applicant shall provide documentation of easements for the lease area, access and utilities. A copy of the easements shall be submitted to the Engineering Division prior to the approval of a building permit.
3. All existing and proposed easements shall be shown on the site and/or grading plan. The County Engineer shall determine compliance with this condition.
4. Tunnel Creek Road is a presumed public road based on NRS 405.191 and NRS 405.195. All proposed improvements must be located outside of the existing road traveled way, ditches, slopes, etc, or the existing road traveled way, ditches, slopes, etc must be relocated into an appropriate easement. The relocated roadway section shall be equivalent, in width, surface, etc. to the existing road.



INTEGRITY



EFFECTIVE
COMMUNICATION



QUALITY
PUBLIC SERVICE

Subject: **WSUP19-0006 – Verizon Monopole**
Date: May 8, 2019
Page: 2

DRAINAGE (COUNTY CODE 110.416, 110.420, and 110.421)

Contact Information: Walt West, P.E. (775) 328-2310

1. No comments.

TRAFFIC AND ROADWAY (COUNTY CODE 110.436)

Contact Information: Mitch Fink, (775) 328-2050

1. No comments.

UTILITIES (County Code 422 & Sewer Ordinance)

Contact Information: Tim Simpson, P.E. (775) 954-4648

1. No comments

From: [Jennifer Donohue](#)
To: [Olander, Julee](#)
Subject: WSUP19-0006
Date: Monday, November 04, 2019 7:49:14 AM
Attachments: [image011.jpg](#)
[image012.jpg](#)
[image013.jpg](#)
[image014.jpg](#)
[image015.jpg](#)

[**NOTICE:** This message originated outside of Washoe County -- **DO NOT CLICK** on **links** or open **attachments** unless you are sure the content is safe.]

Greetings.

NLTFPD comments for WSUP19-0006 are:

1. Provide & maintain access is in accordance with 2018 IFC Chapter 5
2. Provide & maintain defensible space in accordance with 2018 IWUIC, Chapter 6
3. Faux cabin construction shall meet construction requirements of IR1, noncombustible construction, pursuant to 2018 IWUIC, Chapter 5 and also see Section 602 (fire sprinkler requirement)

Regards,
Jen



Jennifer Donohue
Interim Fire Marshal

Office: [775.831.0351](tel:775.831.0351) x8127 | Cell: [775.434.4555](tel:775.434.4555)

Email: jdonohue@nltpd.net

[866 Oriole Way | Incline Village | NV 89451](#)



Date	10-22-19
Attention	Julee Olander
Re	Special Use Permit Case #WSUP19-0006
APN	130-311-17
Service Address	1200 Tunnel Creek Rpad
Owner	Tunnel Creek Properties LLC

Special Use Permit Case Number WSUP19-0006 (Verizon Monopole) – For possible action, hearing, and discussion to approve a special use permit for the construction of a new wireless cellular facility consisting of a 45-foot-high stealth monopine structure (aka cell phone tower disguised to resemble a pine tree) designed as a collocation facility and a small cabin structure to house the wireless equipment. The monopole is proposed to be located on the southern portion of the 3 acre parcel at 1200 Tunnel Creek Road.

- Applicant: Epic Wireless for Verizon Wireless
- Property Owner: Tunnel Creek Properties, LLC
- Location: 1200 Tunnel Creek Road
- Assessor's Parcel Number: 130-311-17
- Parcel Size: 3 acres
- Master Plan Categories: Commercial (C) & Suburban Residential (SR)
- Regulatory Zones: Tourist Commercial (TC) & Low Density Suburban (LDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 324, Communication Facilities; and Article 810, Special Use Permits
- Commission District: 1 – Commissioner Berkgigler
- Staff: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building Division
- Phone: 775-328-3627
- E-mail: jolander@washoecounty.us

IVGID Comments: No Impact to the Incline Village General Improvement District.



Washoe-Storey Conservation District

Bret Tyler Chairman
Jim Shaffer Treasurer
Cathy Canfield Storey app
Jean Herman Washoe app

1365 Corporate Blvd.
Reno NV 89502
775 857-8500 ext. 131
nevadaconservation.com

October 31, 2019

Washoe County Community Services Department

C/O Julee Olander, Planner

1001 E Ninth Street, Bldg A

Reno, NV 89512

Re: WSUP19-0006 Verizon Monopole

Dear Julee,

In reviewing the construction of a wireless cellular facility, the Conservation District has no comments.

Thank you for providing us the opportunity to review the project that may have impacts on our natural resources.

Sincerely,

Tyler-Shaffer



WASHOE COUNTY
COMMUNITY SERVICES
INTEGRITY COMMUNICATION SERVICE

P.O. Box 11130
Reno, Nevada 89520-0027
Phone: (775) 328-3600
Fax: (775) 328-3699

April 26, 2019

TO: Julee Olander, Planner, CSD, Planning & Development Division
FROM: Vahid Behmaram, Water Management Planner Coordinator, CSD
SUBJECT: Special Use Permit Case Number WSUP19-0006 (Verizon Monopole)

Project description:

The applicant is proposing to approve a special use permit for the construction of a new wireless cellular facility consisting of a 45-foot-high stealth monopine structure (aka cell phone tower disguised to resemble a pine tree) designed as a collocation facility and a small cabin structure to house the wireless equipment. The monopole is proposed to be located on the southern portion of the 3 acre parcel at 1200 Tunnel Creek Road.

The Community Services Department (CSD) recommends approval of this project with the following Water Rights conditions:

There are no conditions of approval. If landscaping associated with this proposed project will be required, then a will serve letter or an acknowledgment letter from IVGID will be required.

**Washoe County Citizen Advisory Boards
CAB Member Worksheet**



Citizen Advisory Board: IV/CB COMMUNITY FORUM _____

Meeting Date (if applicable): 05/06/ 2019 _____

Topic or Project Name (include Case No. if applicable): _____
WSUP19-0006

Please check the appropriate box:

My comments were (or) were not discussed during the meeting.

Identified issues and concerns:

First concern is the Architect is not licensed in the State of Nevada.

No Photos of how or where the Pole is being installed. I believe there are 8 Photos required for this Special Use Permit.

I am unable to approve this Cell Tower because the Maps are not Clear to the location of the Cell Tower in relation to Highway 28 which is a Scenic Highway.

Suggested alternatives and/or recommendations:

Must comply with Nevada State Laws and have Photos to show Where the Cell Tower is going to be installed and must know from Maps how far it is from Scenic Highway and if it will be seen from Scenic Highway.

Name Pete Todoroff **Date:** 04/22/2019
Pete
(Please Print)

Signature: Pete Todoroff

This worksheet may be used as a tool to help you take notes during the public testimony and discussion on this topic/project. Your comments during the meeting will become part of the public record through the minutes and the CAB action memorandum. Your comments, and comments from other CAB members, will and shall not collectively constitute a position of the CAB as a whole.

If you would like this worksheet forwarded to your Commissioner, please include his/her name.

Commissioner's Name: Marsha Berkbigler

Use additional pages, if necessary.

Please mail, fax or email completed worksheets to: Washoe County
Manager's Office

Coordinator

89520-0027

Attention: CAB Program

Post Office Box 11130, Reno, NV

Fax: 775.328.2491

Email: stone@washoecounty.us

**Washoe County Development Code
(Chapter 110 of the Washoe County Code)
Definition of Applications**

Type of Application	Definition	Chapter/Article
Parcel Maps; and Second or Subsequent Parcel Maps	A parcel map is required for all minor subdivisions of four or fewer lots or common-interest units. If the application is subdividing a lot or lots created within five years from the creation of the original lot, a public notice card shall be sent to advisory boards indicating the review criteria and date and time of meeting.	110.606
Tentative Subdivisions	A tentative subdivision application is required for all proposed subdivisions of five or more lots and all common-interest units consisting of five or more units.	110.608
Variances	Standards within the Development Code may be varied (e.g. such as building height, setback requirements, landscape modifiers, etc.). Different standards apply in different land use designations. Typical requests are for lots with unique physical conditions that create a hardship (i.e. shape, topography, wetlands, public easements, etc.).	110.804
Use Permits	Civic, residential, commercial and industrial uses on a property may require a use permit. The type of use permit, if required, is noted on the <i>Table of Uses</i> in the <i>Development Code (110.302.05)</i> . Administrative Permits are approved by the Hearing Examiner and usually involve relatively small impacts from a use. A Special	110.808 and 110.810

	Use Permit may be required for a proposed project when the intensity or size of the project, traffic generation, noise, impact on public facilities or compatibility with surrounding uses or other impacts must be evaluated.	
Development Agreements	Allows for any person having a legal or equitable interest in land to enter into an agreement with Washoe County concerning the development of that land.	110.814
Development Code Amendment	Provides a method for amending the Development Code.	110.818
Master Plan Amendment	Provides a method for amending the Master Plan (e.g. changes of land use).	110.820
Regulatory Zone Amendment	Provides a method for amending regulatory zone boundaries (i.e. zone changes).	110.821



Washoe County Citizen Advisory Boards CAB Member Worksheet

Citizen Advisory Board: **IVCB**

Meeting Date (if applicable): **May 6, 2019**

Topic or Project Name (include Case No. if applicable): **Special Use Permit WSUP19-0006**

Washoe County Planner Julie Olander

Please check the appropriate box:

My comments were (or) were not discussed during the meeting.

Identified issues and concerns:

The CAB did not vote on this permit as a whole, rather we designated each to make their own comments given the diversity of public opinion. It is very clear and well known that Incline Village and Crystal Bay need more cell service capacity. However there are at least three proposed solutions in various stages of progress. This permit being one of them. It seems like a good part of the solution. Unfortunately the administrative flaws in the application package reduce the acceptance of the permit. I hope that before they are denied proper consideration, the applicant be are allowed to complete missing items. The proposal has sufficient merit that it deserves to be approved for meeting requirements and needs, and not lost due to an oversight in its assembly.

Suggested alternatives and/or recommendations: See above.

Name **Gerald W. Eick, CAB Member** _____ Date: **5/7/2019**
(Please Print)

Signature: 

This worksheet may be used as a tool to help you take notes during the public testimony and discussion on this topic/project. Your comments during the meeting will become part of the public record through the minutes and the CAB action memorandum. Your comments, and comments from other CAB members, will and shall not collectively constitute a position of the CAB as a whole. ****Due to Nevada Open Meeting Law considerations, please do not communicate with your fellow CAB members on items outside of the agendized discussions held at your regular CAB meetings.****

If you would like this worksheet forwarded to your Commissioner, please include his/her name.

Commissioner's Name: _____

Use additional pages, if necessary.

Please mail, fax or email completed worksheets to: Washoe County Manager's Office
Attention: CAB Program Coordinator
Post Office Box 11130, Reno, NV 89520-0027
Fax: 775.328.2491
Email: cab@washoecounty.us

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Washoe County Citizen Advisory Boards CAB Member Worksheet

Citizen Advisory Board: Incline Village / Crystal Bay _____

Meeting Date (if applicable): 11/04/2019 _____

Topic or Project Name (include Case No. if applicable): WSUP19-0006 _____

Washoe County Planner _____ JULIE OLANDER _____

Please check the appropriate box:

My comments were (or) were not discussed during the meeting.

Identified issues and concerns:

It appears to be OK. I just wonder if the Neighbors have been advised and is it to close To the Trail. I would like to ask the Applicant more questions and hear from the Neighbors.

Suggested alternatives and/or recommendations:

Name Pete Todoroff _____ Date: 10/28/2019 _____

(Please Print)

Signature: _____ Pete Todoroff _____

This worksheet may be used as a tool to help you take notes during the public testimony and discussion on this topic/project. Your comments during the meeting will become part of the public record through the minutes and the CAB action memorandum. Your comments, and comments from other CAB members, will and shall not collectively constitute a position of the CAB as a whole. ****Due to Nevada Open Meeting Law considerations, please do not communicate with your fellow CAB members on items outside of the agendized discussions held at your regular CAB meetings.****

If you would like this worksheet forwarded to your Commissioner, please include his/her name.

Commissioner's Name: Marsha Berkbigler _____

Use additional pages, if necessary.

Revised Feb 2019

Please mail, fax or email completed worksheets to: Washoe County CSD - Planning
1001 East 9th Street, Reno, NV 89512
Email: cab@washoecounty.us

**Washoe County Development Code
(Chapter 110 of the Washoe County Code)
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Washoe County Development Application
Verizon Wireless Cell Site
1200 Tunnel Creek Rd.
Incline Village, NV

Incline Village CAB Meeting
May 6, 2019

1. Applicant has not submitted a complete application. Washoe County Code requires panoramic photos, an alternative sites analysis, and a certification that collocations and building mounted antennas are not available. I also do not see the signature of the parcel owner on the Property Owner Affidavit. Where are these?

Last month the Washoe County Board of Adjustment approved a new tower site in the commercial district of Incline Village. Why is there no mention of this as a possible collocation for Verizon?

Application states 40 foot monopine with centerline of antennas at 33 feet. Waterford Consultants LLC in their RF report submitted by Verizon used 45 foot monopine height and 37 foot centerline. This is inaccurate.

Section 110.324.45 requires applicant to certify that alternatives including Façade Mounted Antenna, Rooftop Antenna, and Collocations are not available.

Section 110.324.60 Wireless Communication /Cellular Facilities Permitting Requirements. Information Required: includes: (a)(2) justification as to why Façade Mounted Antenna, Rooftop Antenna, and Collocations are not available, (a)(3) Map identifying alternate sites that were considered by the applicant with a justification by a competent professional for the requested site (a)(15) minimum of eight (8) panoramic, true color photographs

2. The proposed site is inappropriate for this area. It sits next to a very popular hiking and mountain biking trail traveled by thousands of locals and visitors each summer and which leads directly into Lake Tahoe State Park. The Code requires that monopoles be placed in a manner that either natural features, built features or a combination of both provide a complete background to the antenna and monopole as seen from the nearest roadway or occupied structure. The nearest occupied structure, a residence, is approximately 100 feet from the cell site and directly uphill from the proposed tower. My family's homes are the next closest houses, approximately 300 feet directly uphill from the tower. The proposed tower is directly above Highway 28 atop a massive earth and rock wall, which Tahoe Regional Planning Agency (TRPA) lists as a scenic corridor.

Given this site will be visible from Lake Tahoe and a scenic corridor (Hwy 28), has TRPA reviewed these plans and provided comments on this site?

Section 110.324.50(e)(5) states "To the extent possible, monopole mounted antennas shall be placed in a manner that either natural features, built features or a combination of both provide a complete background to the antenna and monopole as seen from the nearest roadway or occupied structure".

3. Because the portion of the subject parcel with the tower is zoned residential (Low Density Suburban (LDS)) the applicant is required to prove there is a "Significant Gap" in coverage, which is defined as a "white area" where no cellular service from any carrier is available. With existing sites on both the Hyatt Regency and Diamond Peak, how is this possible?

Section 110.324.50(e)(1) states "Antennas may be allowed with approval of a Special Use Permit in the ... Low Density Suburban (LSD) ... regulatory zone when the antenna is proven by a technical review to be required to fill a "significant Gap Coverage" as defined in Section 110.324.55."

Section 110.324.55 Significant Gap Coverage defines a “Significant Gap” as a “white area” where no cellular service from any carrier is available”.

4. The proposed site does not meet the setbacks in the Washoe County Code. The rear and front setbacks for parcels zoned Low Density Suburban are 30 feet front and 30 feet rear. The Code also states that, where an access easement runs through the parcel, the required yard setback is measured from the easement edge closest to the proposed structure. The proposed tower is 20 feet from the property boundary with Highway 28, and the equipment compound is less than one foot from the access easement, Tunnel Creek Road.

The proposed equipment building is shown on the survey to be within the existing road/trail. This the road used by US Forest Service to access public lands south of the subject parcel. Have they commented on the reduced width of the road should this site be built as proposed?

Section 110.324.50(h) Setbacks. States “All wireless communication facilities shall be erected in accordance with the setback requirements of the regulatory zone in which they are located (see Table 110.406.05.1, Standards).

Table 110.406.05.1, Standards Part Three: Yard and Setback Dimensions states setbacks for LDS are 30 feet (front), 12 feet (side) and 30 feet (back).

Section 110.406.05 General. States in part “All required yard setbacks are measured from the property line with the following exception: when an access easement traverses a portion of a property and has a total width of twenty (20) feet or more, or is maintained by the County, the required yard setback is measured from the easement edge closest to the proposed structure.”

5. In summary, this tower is not appropriate for this site. The Applicant states in its application that “this project has been carefully designed to comply with applicable standards for Washoe County”, yet the application is riddled with incorrect or incomplete information and does not comply

with the County Code for the many reasons above stated. I will be looking at this faux tree from my deck, and it will be visible from Lake Tahoe and Highway 28, a scenic corridor. A Special Use Permit requires that a monopole “will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County”. A fake monopine on a hillside with no vegetation will stick out like a sore thumb. I reviewed various trail websites one of which lists Tunnel Creek Trail as the Number 2 trail out of 113 trails in Toiyabe National Forest and most talk about what unbelievable views are offered along this trail, which connects to the Flume Trail. One publication states that the Tunnel Creek to Marlette Lake hike, via the Flume Trail, is the most popular trail on the east shore of Lake Tahoe. These sites should be placed in commercial areas where they belong.

Section 110.324.75 Special Use Permit Required: Findings. (c) That the monopole or lattice tower will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County.

Blogs, Apps and Websites:

www.robinpenning.wordpress.com Tunnel Creek offers unbelievable views as you ascend trails hovering above some of the most spectacular and scenic shores of Lake Tahoe above Highway 28, Hidden Beach and Sand Harbor State Park off in the distance. ... The Tunnel Creek Trail also connects with the world famous Flume Trail, which eventually connects with the [Tahoe Rim Trail](#), making this trail a multipurpose access point to many Lake Tahoe adventures!

www.gotahoenorth.com Lake Tahoe’s beauty is no secret, but many people have no idea where to enjoy it from above. Enter the Tunnel Creek Trail: home to the most beautiful panoramic view of Lake Tahoe, and a cheeky Monkey Rock.

www.alltrails.com Ranked #2 out of 113 trails in Toiyabe National Forest. 295 reviews of Tunnel Creek Trail, average rating 4.5 out of 5 stars.

www.jmpeltier.com The Tunnel Creek to Marlette Lake hike, via the Flume Trail, is the most popular trail on the east shore of Lake Tahoe. The views and terrain are breathtaking. This is one of my favorite Lake Tahoe hikes, mostly because the trailhead is within walking distance of my home, and also because the views are amazing.

www.trailrunproject.com (REI sponsored) From the Marlette Flume Trail, get ready for a nice downhill as the next three miles feature a 1,500-foot descent on the Tunnel Creek Road. This dirt jeep road will still give you great views of Lake Tahoe before ending at Tunnel Creek Station. If you decide to run this trail in the other direction, be ready for a steady climb, but you'll be rewarded with views of Lake Tahoe that make it well worth the effort! #2 ranked trail in Carson City.

www.trailforks.com Great views over Lake Tahoe to be had on Tunnel Creek road. I rode it in June 2016 at large sections of it are very sandy, so slow to descend and a drag to climb. The hardpack sections are fast and fun, if mostly smooth and not at all technical.

David Geddes
Incline Village, NV



Incline Village Crystal Bay Citizens Advisory Board

DRAFT: Approval of these draft minutes, or any changes to the draft minutes, will be reflected in writing in the next meeting minutes and/or in the minutes of any future meeting where changes to these minutes are approved by the CAB.

Minutes of the Incline Village Crystal Bay Citizens Advisory Board meeting held at Incline Village General Improvement District, 893 Southwood Blvd, Incline Village, NV 89451 on May 6, 2019, 5:30 P.M.

1. ***CALL TO ORDER/ PLEDGE OF ALLEGIANCE** – Pete Todoroff called the meeting to order at 5:30 P.M.

6.F. Special Use Permit Case Number WSUP19-0006 (Verizon Monopole) - Request for community feedback, discussion and possible action to forward and Citizen Advisory Board comments to Washoe County staff on a request for the construction of a new wireless cellular facility consisting of a 45-foot-high stealth monopine structure (aka cell phone tower disguised to resemble a pine tree) designed as a collocation facility and a small cabin structure to house the wireless equipment. The monopole is proposed to be located on the southern portion of the 3 acre parcel at 1200 Tunnel Creek Road. **(for Possible Action)**

- **Applicant/Property Owner:** Epic Wireless for Verizon Wireless/ Tunnel Creek Properties, LLC.
- **Location:** 1200 Tunnel Creek Road, Incline Village
- **Assessor's Parcel Number:** 130-311-17
- **Staff:** Julie Olander, Planner; 775-328-3627; jolander@washoecounty.us
- **Reviewing Body:** Tentatively scheduled for the Board of Adjustment on June 6, 2019

Buzz Lynn, representative for Verizon, provided a brief update.

He said there is lack of coverage in the area near the old Ponderosa Ranch. He said they are applying for 45 foot monopine tree on Tunnel Creek. The goal is to make the monopole as stealthy as possible with screening. He said the Olson's requested to make the shelter camouflaged. The objective is to provide better service and better service for first responder.

Judy Miller stated that she noticed it wasn't co-locating with multiple providers. Buzz Lynn said this there will not be any co-locating.

Buzz said photos will be provided from the lake for TRPA. The tree will be in a small grove to serve as camouflage.

Gene Brockman said application excludes a generator. He asked what is the provision for backup. Buzz said it will be battery back-up with 48-72 hours for enough back-up support. Service will not be interrupted.

Pete Todoroff asked why the application wasn't stamped by a state licensed engineer. Buzz said it's for review not for construction. Buzz said he can get a state license engineer to approve it.

Gerry Eick asked about possibility of future providers on this monopole. Julie Olander said the type of tower with height can only support 4-6 antennas. Verizon will take all 4-6 antennas. If another carrier wants to be located on the tower, it would need to go through another SUP for a larger tower. Gerry said proposed height is camouflaged, but if it exceeds that, it would stand out significantly.

David Geddes, neighboring property owner, and representing the neighbor Joyce Boch, said the application isn't complete. Panoramic photos weren't included. No alternative site analysis was included. There has been a monopole approved up the street that would satisfy the coverage. A signature is required which wasn't included. LDS has higher standard for coverage. The antennas at the Hyatt and Diamond Peak satisfy coverage.

It's visual pollution. Tunnel Creek road is highly trafficked trail in our area. 400 people a day use that road. The shared use bike path will be added soon which will increase foot traffic. The first thing they will see is this monopole. He said we spent a lot of time beautifying this area.

Wayne Ford said he agreed with Mr. Geddes. The panoramic photos were not included. He said there are codes on what planning requires in the application. He said there were only 4 pictures, not 8. If the 8 were included, the public would be able to see - keep them visually informed. NRS applies. He said the location is wonderful. Mr. Borges does nice work, but needs to apply for a NV architecture license. It would keep him out of trouble at the board.

Sara Schmitz said the generator is battery powered, but batteries in our forest are a potential fire hazard. She wanted clarification on fire safety for batteries. She said Wayne Ford examined the Mountain Golf Course cell tower, and it was shedding plastic needles. She wants to know how often the tree is maintained.

Jackie Chandler wanted to know who is responsible for the exit strategy for when the tower isn't useful anymore. She wants to know if it's in the contract.

Craig Olson, owner of the property, said he has dealt with cell towers. He wants them hidden and camouflaged. Tunnel Creek is well traveled. The contract includes the responsible party to remove the tower.

MOTION: Gerry Eick moved to submit individual worksheets for CAB Board members. Judy Miller seconded the motion to submit individual cab worksheets. Motion carried unanimously.

7. *WASHOE COUNTY COMMISSIONER UPDATE- Commissioner Berkbigler was not in attendance can be reached at (775) 328-2005 or via email at mberkbigler@washoecounty.us.

8. *CHAIRMAN/BOARD MEMBER ITEMS-

Gerry Eick said he will not attend the June meeting. This is the last meeting of his term. He has been on this CAB since 2008. He said he has seen a lot of changes in processes. The CAB plays a role in the community development, and we can be advocates for the community. He said he appreciated his service on this board. Members thanked Gerry for his service.

ADJOURNMENT – meeting adjourned at 6:31 p.m.

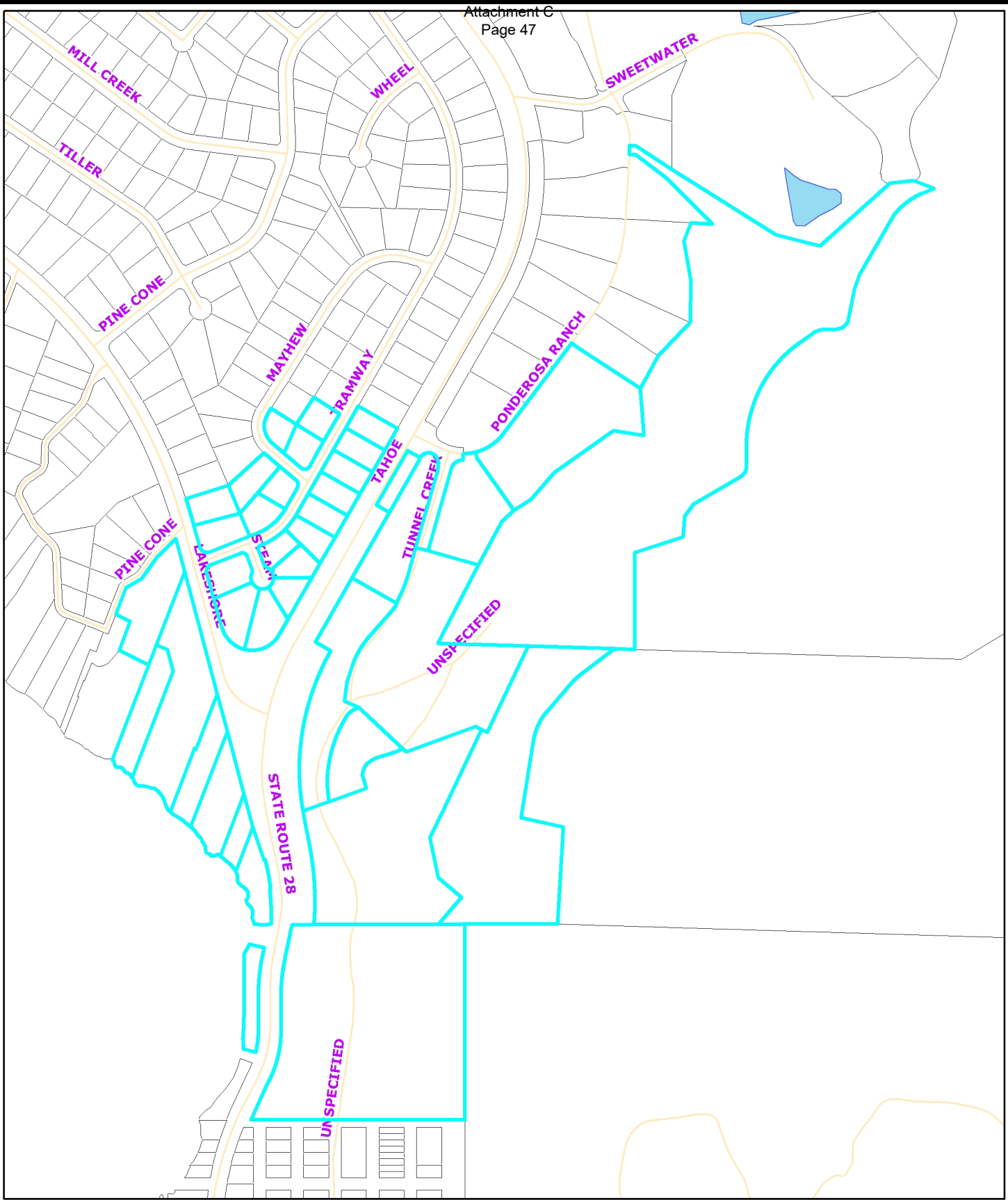
Number of CAB members present: 5

Number of Public Present: 22

Presence of Elected Officials: 0

Number of staff present: 2

Submitted By: Misty Moga



WSUP19-0006 (Verizon Monopole)
Noticing Map- 600 feet from site



Community Services
Department



1001 E Ninth St
Reno, Nevada 89502

Washoe County Development Application

Your entire application is a public record. If you have a concern about releasing personal information, please contact Planning and Building staff at 775.328.6100.

Project Information		Staff Assigned Case No.: _____	
Project Name: 1200 Tunnel Creek Rd. - Verizon			
Project Description: 40' stealth monopine with 37' rad-center using 6 antennas, topped with a 5' crown for a total of 45'. Shelter designed as rustic log cabin in the woods. Total area of antenna and ground space is 525 square feet			
Project Address: 1200 Tunnel Creek Rd., Incline Village, NV 89451			
Project Area (acres or square feet): 525 s.f.			
Project Location (with point of reference to major cross streets AND area locator): Tunnel Creek Rd. bluff above the Hwy 28 and Lakeshore bend.			
Assessor's Parcel No.(s):	Parcel Acreage:	Assessor's Parcel No.(s):	Parcel Acreage:
130-311-17	3.0		
Indicate any previous Washoe County approvals associated with this application: Case No.(s).			
Applicant Information (attach additional sheets if necessary)			
Property Owner:		Professional Consultant:	
Name: Tunnel Creek Properties, LLC		Name: Epic Wireless on behalf of Verizon Wireless	
Address: 930 Tahoe Blvd., Ste 802, PMB 322		Address: 605 Coolidge, Ste. 100	
Incline Village, NV	Zip: 89451	Folsom, CA	Zip: 98630
Phone:	Fax:	Phone: 775-852-5367	Fax:
Email:		Email: buzz.lynn@epicwireless.net	
Cell:	Other:	Cell: 775-852-5367	Other:
Contact Person: Craig Olson		Contact Person: Buzz Lynn	
Applicant/Developer:		Other Persons to be Contacted:	
Name: Epic Wireless on behalf of Verizon Wireless		Name: NA	
Address: 605 Coolidge, Ste. 100		Address:	
Folsom, CA	Zip: 95630		Zip:
Phone: 775-852-5367	Fax:	Phone:	Fax:
Email: buzz.lynn@epicwireless.net		Email:	
Cell: 775-852-5367	Other:	Cell:	Other:
Contact Person: Buzz Lynn		Contact Person:	
For Office Use Only			
Date Received:	Initial:	Planning Area:	
County Commission District:		Master Plan Designation(s):	
CAB(s):		Regulatory Zoning(s):	

Property Owner Affidavit

Applicant Name: Epic Wireless on behalf of Verizon Wireless, Buzz Lynn

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
)
COUNTY OF WASHOE)

I, Buzz Lynn, Epic Wireless
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true, and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Building.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 130-311-17

Printed Name Kayla Shattuck

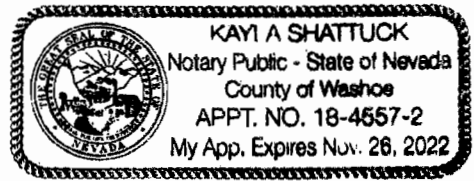
Signed Kayla Shattuck

Address 59 Damon Ave French Park
Ste B Reno, NV 89521

Subscribed and sworn to before me this
15 day of April, 2019.

Washoe County, State of Nevada
Notary Public in and for said county and state

My commission expires: 11/26/2022



*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of record document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Special Use Permit Application Supplemental Information

(All required information may be separately attached)

1. What is the project being requested?

Wireless communications facility consisting of 40' monopine with antennas at 33', and a faux log cabin for housing ground equipment. No generator is requested.

2. Provide a site plan with all existing and proposed structures (e.g. new structures, roadway improvements, utilities, sanitation, water supply, drainage, parking, signs, etc.)

Site plan is provided on the plan set

3. What is the intended phasing schedule for the construction and completion of the project?

Total construction time is 6-8 weeks

4. What physical characteristics of your location and/or premises are especially suited to deal with the impacts and the intensity of your proposed use?

Proposed monopine structure and faux rustic cabin equipment enclosure to blend with existing Ponderosa Ranch surroundings and remain below ridgeline views.

5. What are the anticipated beneficial aspects or affects your project will have on adjacent properties and the community?

Increased cell service coverage and capacity for the community.

6. What are the anticipated negative impacts or affect your project will have on adjacent properties? How will you mitigate these impacts?

No anticipated negative effects.

7. Provide specific information on landscaping, parking, type of signs and lighting, and all other code requirements pertinent to the type of use being purposed. Show and indicate these requirements on submitted drawings with the application.

NA

8. Are there any restrictive covenants, recorded conditions, or deed restrictions (CC&Rs) that apply to the area subject to the special use permit request? (If so, please attach a copy.)

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
------------------------------	--

9. Utilities:

a. Sewer Service	NA
b. Electrical Service	NVE
c. Telephone Service	Verizon
d. LPG or Natural Gas Service	NA
e. Solid Waste Disposal Service	Waste Management
f. Cable Television Service	NA
g. Water Service	NA

For most uses, Washoe County Code, Chapter 110, Article 422, Water and Sewer Resource Requirements, requires the dedication of water rights to Washoe County. Please indicate the type and quantity of water rights you have available should dedication be required.

h. Permit #	NA	acre-feet per year	
i. Certificate #	NA	acre-feet per year	
j. Surface Claim #	NA	acre-feet per year	
k. Other #	NA	acre-feet per year	

Title of those rights (as filed with the State Engineer in the Division of Water Resources of the Department of Conservation and Natural Resources).

NA

10. Community Services (provided and nearest facility):

a. Fire Station	NLTFPD Station 11 - 875 Tanager St., Incline Village, NV89451
b. Health Care Facility	NA
c. Elementary School	NA
d. Middle School	NA
e. High School	NA
f. Parks	NA
g. Library	NA
h. Citifare Bus Stop	NA

PROJECT SUPPORT STATEMENT
DEVELOPMENT APPLICATION FOR VERIZON SITE

APN 130-311-17

1200 TUNNEL CREEK RD, INCLINE VILLAGE, NV89451

INTRODUCTION

Verizon Wireless is seeking to improve communications service in the southeast part of Incline Village in an effort to improve coverage and capacity generally around the Ponderosa Ranch area, as part of Verizon's larger Lake Tahoe Initiative. Additionally, this network development will increase public safety within these areas and bring wireless service to areas that currently have poor capacity service.

This new tower will help alleviate an area of poor coverage within this service area, which causes reoccurring lost calls, ineffective service, and slow data speeds. To remedy these problems, Verizon proposes a new tower to be constructed at 1200 Tunnel Creek Rd. at the top of a steep embankment immediately above State Route 28 and Lakeshore Blvd.

The location of the equipment and antennas is designed to comply with Washoe County wireless design guidelines, and those of TRPA, where application will also be made. While Washoe County favors co-location, in deference to the uniqueness of Incline Village, Lake Tahoe, and the unparalleled view shed, Verizon proposes the lowest height required and the best match of its surroundings by using a monopine pole and faux cabin shelter. All antennas to be covered in monopine "socks" to better blend in.

This unmanned facility will provide service to area travelers, residents and businesses 24 hours a day, 7 days a week. This site will also serve as a back up to the existing landline service in the area and will provide improved mobile communications, essential to modern day commerce and recreation.

SAFETY BENEFITS OF IMPROVED WIRELESS SERVICE

Mobile phone use has become an extremely important system for public safety. Along roads and highways without public call boxes, mobile phones are often the only means for emergency roadside communication. Motorists with disabled vehicles (or worse) can use their phone to call in and request appropriate assistance. With good cellular coverage along important roadways, emergency response is just a phone call away. Furthermore, as a back up system to traditional landline phone service, mobile phones have proven to be extremely important during natural disasters and other catastrophes.

Verizon has taken the responsibility for back-up service very seriously. As such, Verizon has incurred increased expense to install a standby diesel generator at this facility to insure quality communication for the surrounding community regardless of any disaster or catastrophe.

CONVENIENCE BENEFITS OF IMPROVED WIRELESS SERVICE

Modern day life has become increasingly dependent on instant communications. Whether it is a parent calling their child, spouse calling a spouse, or general contractor ordering materials to the jobsite, wireless phone service is no longer just a convenience. It has become a way of life and a way of business.

COMPLIANCE WITH COUNTY DEVELOPMENT STANDARDS

This project has been carefully designed to comply with applicable standards for Washoe County. Verizon Wireless is proposing a new 45' monopine design and faux log cabin shelter that better blends with the existing surroundings.

COMPLIANCE WITH FCC STANDARDS

This project will not interfere with any TV, radio, telephone, satellite, or any other signals. Any interference would be against the Federal Law and would be a violation Verizon Wireless' FCC License. In addition, this project will conform to all FCC standards.

TECHNOLOGY AND CONSUMER SERVICES THE CARRIER WILL PROVIDE ITS CUSTOMERS

Verizon offers its customers multiple services such as, voice calls, text messaging, mobile email, picture/video messaging, mobile web, navigation, broadband access. Wireless service enhances public safety and emergency communications in the community. In rural areas such as the subject location, cellular phone service can cover much larger geographic areas than traditional landline phone service.

LIGHTING

Unless tower lighting is required by the FAA the only lighting on the facility will be a shielded motion sensor light by the door on the equipment shelter for servicing the equipment.

NOISE

The shelter has been specifically designed to eliminate air-condition outside the shelter than can contribute to higher noise levels. The faux log cabin will provide an additional layer of noise suppression surrounding cabinets with built-in AC. Also, Verizon will further reduce noise by eliminating a generator from the project.

HAZARDOUS MATERIAL

A Hazardous Material Business Plan will also be submitted upon project completion, and stored on site after construction

ENVIRONMENTAL SETTING

Verizon Wireless is proposing a new monopine and faux log cabin equipment shelter that blends with the existing surroundings.

CONSTRUCTION SCHEDULE

The construction of the facility will be in compliance with all local rules and regulations. The typical duration is two months. The crew size will range from two to ten individuals.

PROJECT : Ponderosa Ranch

1200 TUNNEL CREEK ROAD
INCLINE VILLAGE, NV 89451

LOCATION NO: 445739



PREPARED FOR
verizon
295 Parkshore Drive
Folsom, California 95630

Vendor:
EPIC
WIRELESS GROUP LLC
Connecting a Wireless World
605 Cambridge Dr, Suite 100
Folsom, CA, 95630

Project Address:
1200 Tunnel Creek Road
Incline Village, NV 89451

Architect:
Borges
ARCHITECTURAL GROUP
borgesarch.com
1478 STONE POINT DRIVE, SUITE 350
ROSEVILLE CA 95661
916 782 7200 TEL
916 782 6067 FAX

PROJECT NO: 14002-103
LOCATION NO: 445739
DRAWN BY: A.P.E.
CHECKED BY: M.I.D.

Ponderosa
Ranch
445739

REV	DATE	DESCRIPTION
E	12/06/18	100% ZD Rev 3
D	11/07/18	100% ZD Rev 2
C	10/01/18	100% ZD Rev 1
B	05/25/18	100% ZD Submittal
A	05/16/18	90% ZD Submittal

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12/06/18
100% ZD Rev 3

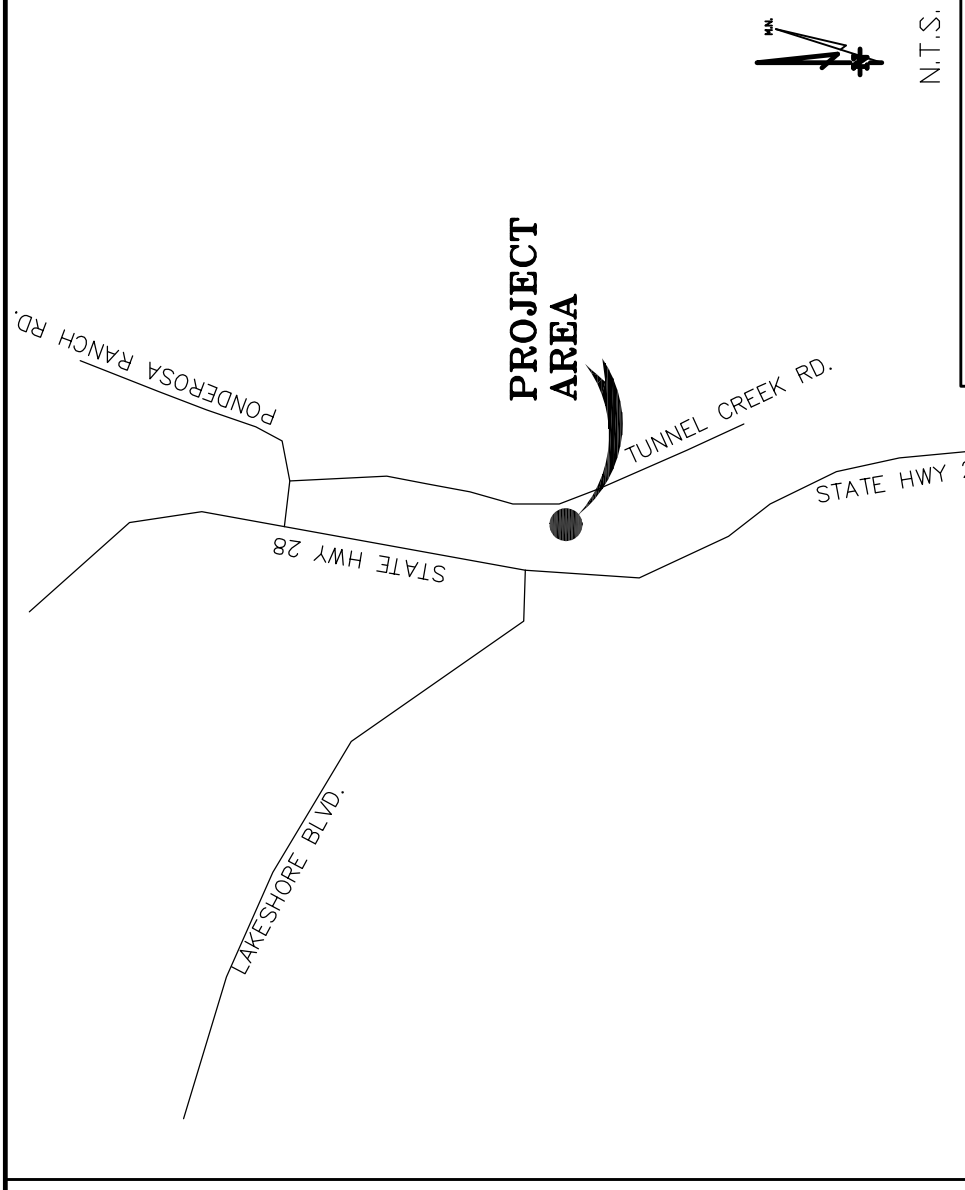
SHEET TITLE:
TITLE SHEET

SHEET NUMBER:
A-0

PROJECT DESCRIPTION	PROJECT INFORMATION	PROJECT TEAM	SHEET INDEX	REV
<p>NEW SITE BUILD UNMANNED TELECOMMUNICATIONS FACILITY.</p> <p>(P) VERIZON WIRELESS 17'-6"X20'-4" SQ. FT. EQUIPMENT LEASE AREA & 13'X13' ANTENNA LEASE AREA FOR A TOTAL OF 525 SQ FT CONTAINING THE FOLLOWING:</p> <ol style="list-style-type: none"> INSTALL POWER / TELCO / FIBER TO SITE LOCATION INSTALL 15-4X11'-0" PRE-MANUFACTURED SHELTER INSTALL 45' MONOPINE INSTALL (4) SURGE SUPPRESSORS MOUNTED (2) AT ANTENNA PLAN (2) EQUIPMENT SHELTER INSTALL (3) PANEL ANTENNAS PER SECTOR, TOTAL OF (6) INSTALL (2) HYBRID TRUNK CABLES INSTALL (1) GPS UNIT INSTALL (2) RRHS PER SECTOR FOR A TOTAL OF (6) INSTALL 200 AMP POWER METER, CIEMA CABINET & SERVICE LIGHT W/ SHUT OFF TIMER ON OUTSIDE OF (P) EQUIPMENT SHELTER 	<p>Property Information: Site Name: PONDEROSA RANCH Site Number: 445739 Site Address: 1200 TUNNEL CREEK ROAD INCLINE VILLAGE, NV 89451</p> <p>Property Owner: TUNNEL CREEK PROPERTIES, LLC. 590 TAHOE BLVD #602 INCLINE VILLAGE, NV 89451 contact: CRAIG OLSON email: craigolson61@gmail.com ph: (775) 750-5520</p> <p>Tower Owner: VERIZON WIRELESS 295 PARKSHORE DRIVE FOLSOM, CA 95630</p> <p>Power Agency: NV ENERGY 295 EDISON WAY RENO, NV 89502 ph: (800) 743-5000</p> <p>A.P.N. Number: 130-311-17 Current Use: ---- Jurisdiction: WASHOE COUNTY</p>	<p>Construction Mgr.: EPIC WIRELESS GROUP, INC. 605 COOLIDGE DRIVE, SUITE 100 FOLSOM, CA 95630 contact: BRETT EWING email: brett.ewing@epicwireless.net ph: (916) 844-9234</p> <p>Agent for Applicant, Planning and Zoning Mgr: BUZZ LYNN email: buzz.lynn@epicwireless.net cell: (775) 652-5367</p> <p>DESIGN PROFESSIONAL: BORGES ARCHITECTURAL GROUP, INC. 1478 STONE POINT DRIVE, SUITE 350 ROSEVILLE, CA 95661 contact: MATHEW DOUGHERTY email: telecomgroup@borgesarch.com ph: (916) 782-7200</p> <p>Structural Engineer: NORM SCHEEL STRUCTURAL ENGINEER 5022 SUNRISE BLVD FAIR OAKS, CA 95628 contact: NORM SCHEEL email: norm@nsse.com ph: (916) 536-9685</p> <p>Survey: Cell Engineering 1226 High Street Auburn, Ca 95603-5015 contact: NEIL ROHDE email: nrohde@cschell.net ph: (530) 885-0426</p> <p>RF Engineer: VERIZON WIRELESS 295 PARKSHORE DRIVE FOLSOM, CA 95630 email: ericson.malana@verizonwireless.com ph: (925) 788-1863</p>	<p>A-0 TITLE SHEET C-1 OVERALL SITE PLAN C-2 OVERALL SITE PLAN A-1 OVERALL & ENLARGED SITE PLANS A-2 ENLARGED EQUIPMENT & ANTENNA PLANS A-3.1 ELEVATIONS A-3.2 ELEVATIONS</p>	E E E E E E E
<p>CODE COMPLIANCE</p> <p>ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADAPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES.</p> <ol style="list-style-type: none"> 2012 INTERNATIONAL BUILDING CODE W/ AMENDMENTS 2012 UNIFORM MECHANICAL CODE W/ AMENDMENTS 2012 UNIFORM PLUMBING CODE W/ AMENDMENTS 2006 ICC ELECTRICAL CODE - ADMIN PROVISIONS 2011 NATIONAL ELECTRICAL CODE 2009 INTERNATIONAL ENERGY CONSERVATION CODE 2012 INTERNATIONAL FIRE CODE W/ AMENDMENTS ANSI/EIA-TIA-222-G 2012 NFPA 101, LIFE SAFETY CODE 2013 NFPA 72, NATIONAL FIRE ALARM CODE 2012 NFPA 70, NATIONAL ELECTRICAL CODE LOCAL BUILDING CODE CITY/COUNTY ORDINANCES ANY APPLICABLE LOCAL AND STATE LAWS AND REGULATIONS 	<p>VICINITY MAP</p>	<p>DIRECTIONS FROM VERIZON WIRELESS</p> <p>DIRECTIONS FROM VERIZON WIRELESS'S OFFICE AT 295 PARKSHORE DRIVE, FOLSOM, CA</p> <p>TO: 1200 TUNNEL CREEK ROAD, INCLINE VILLAGE, NV 89451</p> <ol style="list-style-type: none"> DEPART PARKSHORE DR TOWARD COOLIDGE DR TURN RIGHT ONTO FOLSOM BLVD BEAR RIGHT ONTO FOLSOM AUBURN RD TURN LEFT ONTO OAK AVENUE PKWY ROAD NAME CHANGES TO OAK AVE TURN RIGHT ONTO HAZEL AVE / CRE3 TAKE RAMP RIGHT FOR I-80 EAST TOWARD RENO AT EXIT 188B, TAKE RAMP RIGHT FOR CA-267 / CA-89 TOWARD LAKE TAHOE / SIERRAVILLE TURN RIGHT ONTO CA-267 / GLENN CARLSON MEMORIAL BYP TURN LEFT ONTO CA-28 PASS THROUGH 2 ROUNDABOUTS, REMAINING ON CA-28 E TURN THROUGH 2 ROUNDABOUTS, REMAINING ON CA-28 E ENTER NEVADA AT ROUNDABOUT, TAKE 1ST EXIT ONTO NV-28 / TAHOE BLVD TURN LEFT ONTO PONDEROSA RANCH RD, AND THEN IMMEDIATELY TURN RIGHT ONTO TUNNEL CREEK RD ARRIVE AT TUNNEL CREEK RD 1200 TUNNEL CREEK RD, INCLINE VILLAGE, NV 89451 ON THE RIGHT 	<p>SPECIAL INSPECTIONS</p> <p>POST INSTALLED EXPANSION ANCHORS</p>	
<p>VERIZON SIGNATURE BLOCK</p> <p>DISCIPLINE: SIGNATURE: DATE:</p> <p>SITE ACQUISITION:</p> <p>CONSTRUCTION:</p> <p>RF:</p> <p>MICROWAVE:</p> <p>TELCO:</p> <p>EQUIPMENT:</p> <p>PROJECT ADMINISTRATOR:</p> <p>WO ADMINISTRATOR:</p>			<p>GENERAL CONTRACTOR NOTES</p> <p>DO NOT SCALE DRAWINGS</p> <p>THESE DRAWINGS ARE FORMATTED TO BE FULL SIZE AT 24" x 36". CONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOBSITE AND SHALL IMMEDIATELY NOTIFY THE ARCHITECT/ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR MATERIAL ORDERS OR BE RESPONSIBLE FOR THE SAME.</p>	

DIGI ALERT
800-227-2600
Call 2 Full Working Days In Advance

	1200 TUNNEL CREEK ROAD PONDEROSA RANCH INCLINE VILLAGE, NV 89451 SITE TOPOGRAPHY PLOT PLAN AND	C-1 Sheet	REVISIONS 01-08-18 Drawing Submitted NR 01-15-18 Hatching Added NR 05-17-18 Lease Area Placed NR 05-31-18 Easement Mod. NR 12-12-18 Lease Area Mod. NR
Surveyor GELL ENGINEERING ENGINEERING • SURVEYING • PLANNING 1226 HIGH STREET AUBURN, CALIFORNIA 95603 Phone: (530) 885-0426 Fax: (530) 885-1309	DEPT APPROVED DATE A&C RE RF INT EC\N OPS EE\OUT		



THESE DRAWINGS AND/OR THE ACCOMPANYING SPECIFICATION AS INSTRUMENTS OF SERVICE, ARE THE EXCLUSIVE PROPERTY OF GELL ENGINEERING AND THEIR USE AND PUBLICATION SHALL BE LIMITED TO THE ORIGINAL CLIENT AND ANY OTHER PARTY TO THE AGREEMENT. ANY REPRODUCTION OR PUBLICATION OF THESE DRAWINGS WITHOUT THE WRITTEN PERMISSION OF GELL ENGINEERING IS PROHIBITED EXCEPT BY ANY METHOD, IN WHOLE OR IN PART, IS PROHIBITED EXCEPT BY WRITTEN PERMISSION FROM GELL ENGINEERING. TITLE TO THESE PLANS AND/OR SPECIFICATIONS SHALL REMAIN WITH GELL ENGINEERING WITHOUT PREJUDICE AND VISUAL CONTACT WITH THEM SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF ACCEPTANCE OF THESE RESTRICTIONS.

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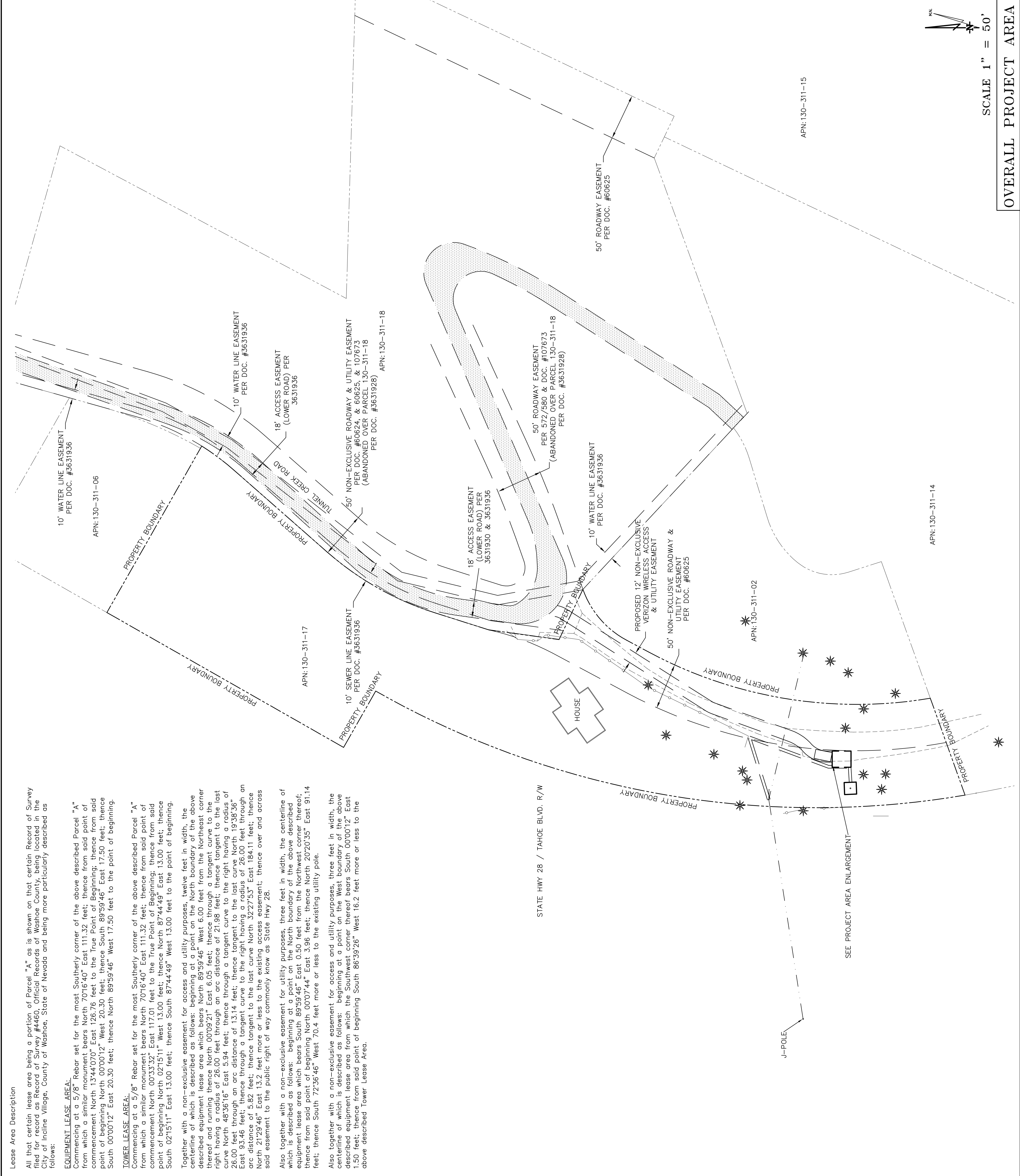
Gell Engineering
 Engineering • Surveying • Planning
 1226 High Street
 Auburn, California 95603-5015
 Phone: (530) 885-0426 • Fax: (530) 823-1309

Verizon Wireless
 Project Name: PONDEROSA RANCH
 Project Site Location: 1200 Tunnel Creek Road
 Incline Village, NV 89451
 Washoe County
 Date of Observation: 01-04-18
 Equipment/Procedure Used to Obtain Coordinates: Trimble Pathfinder Pro XL post processed with Pathfinder Office software.
 Type of Antenna Mount: Proposed Monopole
 Coordinates (Tower)
 Latitude: N 39° 13' 52.88" (NAD83) N 39° 13' 53.21" (NAD27)
 Longitude: W 119° 55' 53.74" (NAD83) W 119° 55' 50.06" (NAD27)
 ELEVATION of Ground at Structure (NAVD88) 6396.5' AMSL

CERTIFICATION: I, the undersigned, do hereby certify elevation listed above is based on a field survey done under my supervision and that the accuracy of those elevations meet or exceed 1-A Standards as defined in the FAA ASAC Information Sheet 91:003, and that they are true and accurate to the best of my knowledge and belief.

Kenneth D. Geil Nevada PLS 13385

DATE OF SURVEY: 01-04-18
 SURVEYED BY OR UNDER DIRECTION OF: KENNETH D. GELL, P.L.S.13385.
 LOCATED IN THE COUNTY OF WASHOE, STATE OF NEVADA
 BEARINGS SHOWN ARE BASED UPON MONUMENTS FOUND AND RECORD INFORMATION. THIS IS NOT A BOUNDARY SURVEY.
 ELEVATIONS SHOWN ON THIS PLAN ARE BASED UPON U.S.G.S. N.A.V.D. 88 DATUM. ABOVE MEAN SEA LEVEL UNLESS OTHERWISE NOTED.
 N.G.V.D. 1929 CORRECTION: SUBTRACT 4.12' FROM ELEVATIONS SHOWN.
 CONTOUR INTERVAL: 1'
 ASSESSOR'S PARCEL NUMBER: 130-311-17
 LANDLORD(S): TUNNEL CREEK PROPERTIES LLC
 833 WASHOE BLVD. #900
 INCLINE VILLAGE, NV 89451



Lease Area Description
 All that certain lease area being a portion of Parcel "A" as is shown on that certain Record of Survey filed for record as Record of Survey #4460, Official Records of Washoe County, being located in the City of Incline Village, County of Washoe, State of Nevada and being more particularly described as follows:

EQUIPMENT LEASE AREA:
 Commencing at a 5/8" rebar set for the most southerly corner of the above described Parcel "A" from which a similar monument bears North 70°16'40" East 111.32 feet; thence from said point of commencement North 13°44'07" East 126.76 feet to the True Point of Beginning; thence from said point of beginning North 00°00'12" West 20.30 feet; thence South 89°59'46" East 17.50 feet; thence South 00°00'12" East 20.30 feet; thence North 89°59'46" West 17.50 feet to the point of beginning.

TOWER LEASE AREA:
 Commencing at a 5/8" rebar set for the most southerly corner of the above described Parcel "A" from which a similar monument bears North 70°16'40" East 111.32 feet; thence from said point of commencement North 00°33'32" East 117.01 feet to the True Point of Beginning; thence from said point of beginning North 02°15'11" West 13.00 feet; thence North 87°44'49" East 13.00 feet; thence South 02°15'11" East 13.00 feet; thence South 87°44'49" West 13.00 feet to the point of beginning.

Together with a non-exclusive easement for access and utility purposes, twelve feet in width, the centerline of which is described as follows: beginning at a point on the North boundary of the above described equipment lease area which bears North 89°59'46" West 6.00 feet from the Northeast corner thereof and running thence North 00°09'21" East 6.05 feet; thence through a tangent curve to the right having a radius of 26.00 feet through an arc distance of 21.98 feet; thence tangent to the last curve North 48°36'16" East 5.94 feet; thence through a tangent curve to the right having a radius of 26.00 feet through an arc distance of 13.14 feet; thence tangent to the last curve North 19°38'36" East 33.46 feet; thence through a tangent curve to the right having a radius of 26.00 feet through an arc distance of 5.82 feet; thence tangent to the last curve North 32°27'53" East 184.11 feet; thence South 13.00 feet more or less to the existing access easement; thence over and across said easement to the public right of way commonly known as State Hwy 28.

Also together with a non-exclusive easement for utility purposes, three feet in width, the centerline of which is described as follows: beginning at a point on the North boundary of the above described equipment lease area which bears South 89°59'46" East 0.50 feet from the Northwest corner thereof; thence from said point of beginning North 00°07'44" East 3.96 feet; thence North 20°20'35" East 91.14 feet; thence South 72°36'46" West 70.4 feet more or less to the existing utility pole.

Also together with a non-exclusive easement for access and utility purposes, three feet in width, the centerline of which is described as follows: beginning at a point on the West boundary of the above described equipment lease area from which the Southwest corner thereof bears South 00°00'12" East 1.50 feet; thence from said point of beginning South 86°39'26" West 16.2 feet more or less to the above described Tower Lease Area.

DEPT	APPROVED	DATE
A&C		
RE		
RF		
INT		
EC\N		
OPS		
EE\OUT		

GEIL ENGINEERING
ENGINEERING • SURVEYING • PLANNING
1222 HIGH STREET
AUBURN, CALIFORNIA 95603
Phone: (530) 888-0428
Fax: (530) 888-1308



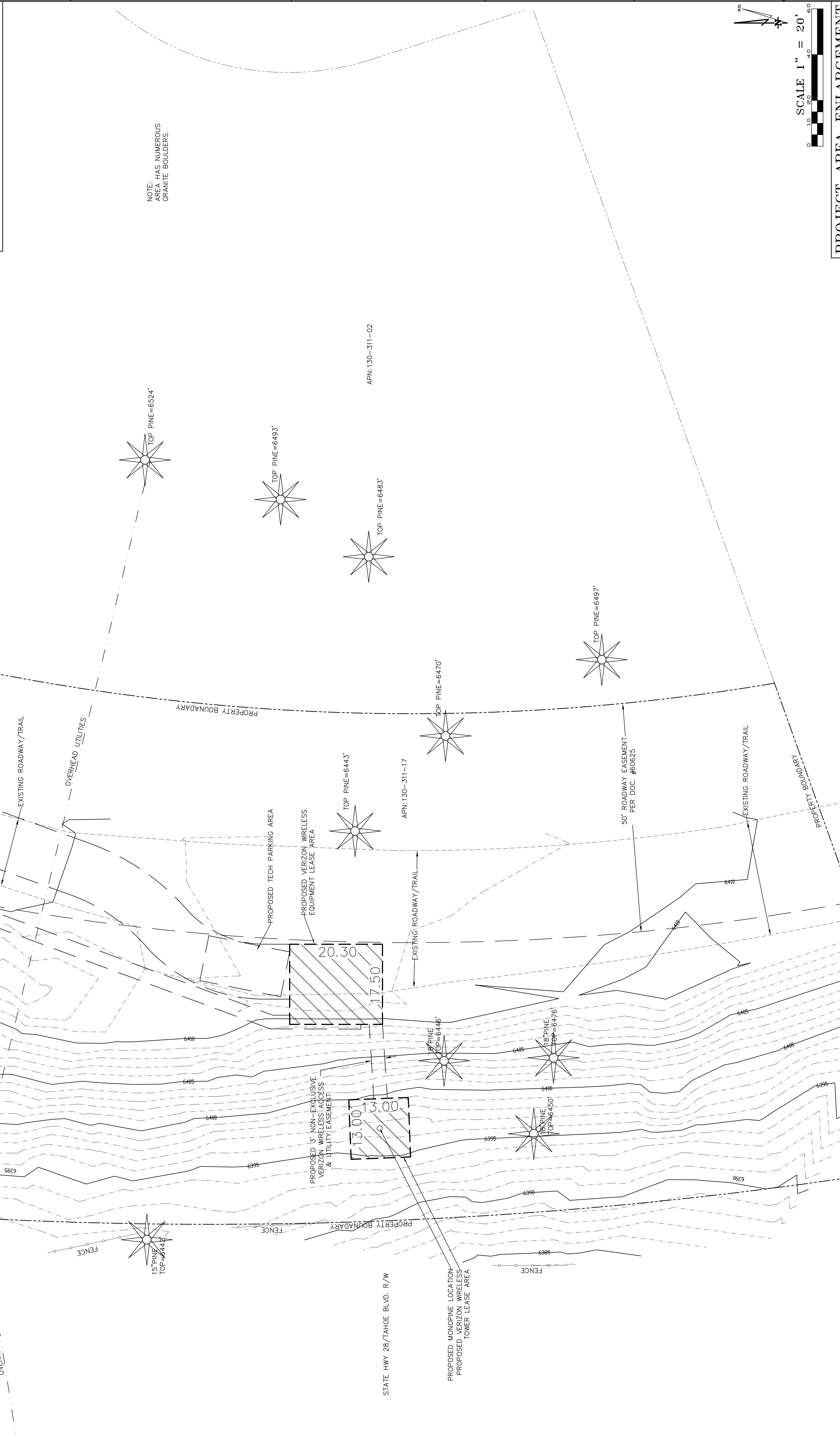
PONDEROSA RANCH
1200 TUNNEL CREEK ROAD
INCLINE VILLAGE, NV 89451
PLOT PLAN AND
SITE TOPOGRAPHY

Sheet

C-2

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NOTE:
AREA HAS NUMEROUS
GRANITE BOULDERS.



PROJECT AREA ENLARGEMENT

PREPARED FOR
verizon
295 Parkshore Drive
Folsom, California 95630

Vendor:
EPIC
WIRELESS GROUP LLC
Connecting a Wireless World
605 Coalinga Dr. Suite 100
Folsom, CA 95630

Project Address:
1200 Tunnel Creek Road
Incline Village, NV 89451

Architect:
Borges
borgesarch.com
1478 STONE POINT DRIVE, SUITE 350
ROSEVILLE CA 95661
916 782 7300 TEL
916 773 8087 FAX

PROJECT NO: 14002-103
LOCATION NO: 445739
DRAWN BY: A.P.E.
CHECKED BY: M.I.D.

Ponderosa
Ranch
445739

REV	DATE	DESCRIPTION
E	12/06/18	100% ZD Rev 3
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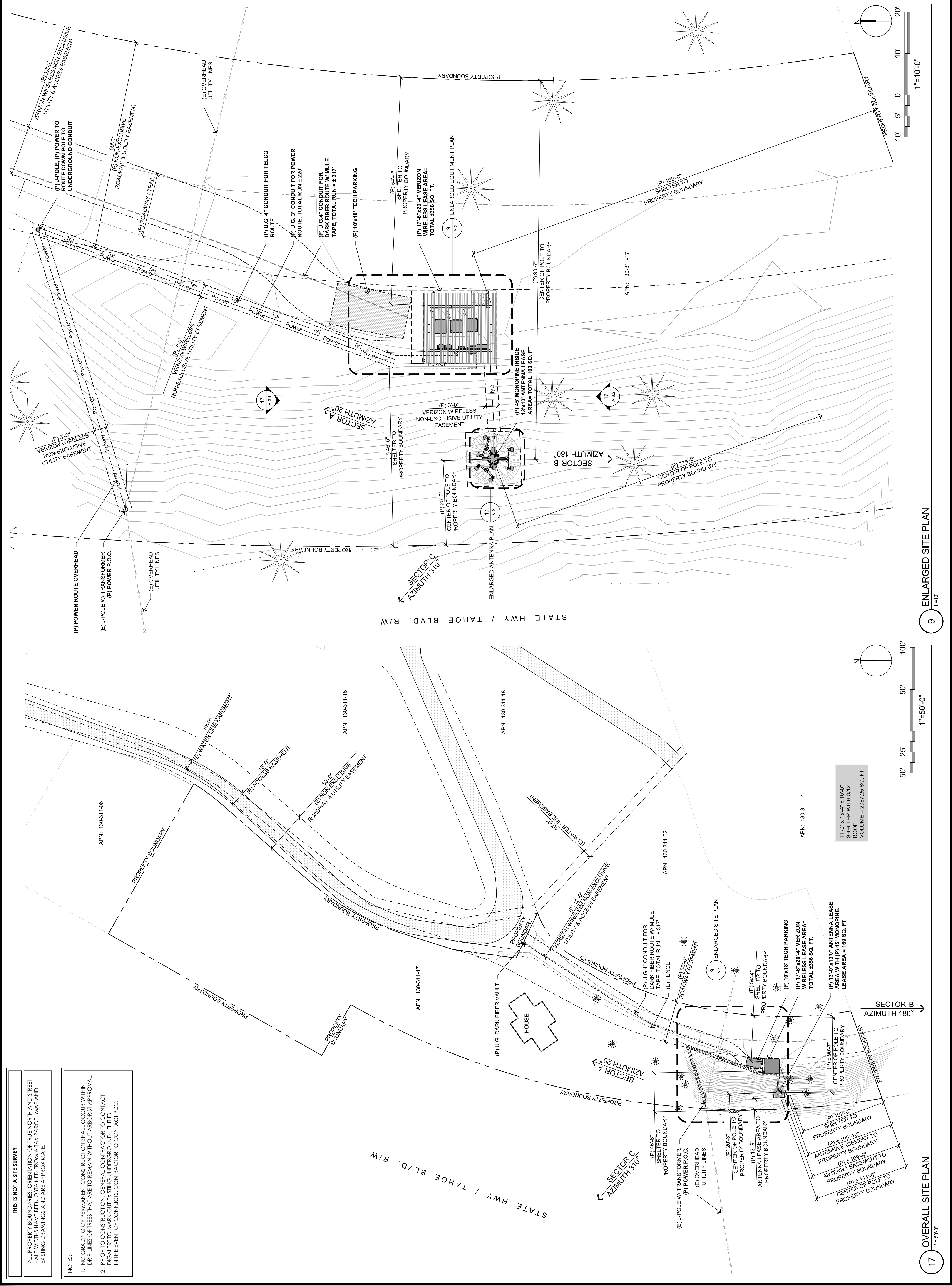
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SHEET TITLE:
**OVERALL & ENLARGED
SITE PLANS**

SHEET NUMBER:
A-1



THIS IS NOT A SITE SURVEY

ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.

NOTES:
 1. NO GRADING OR PERMANENT CONSTRUCTION SHALL OCCUR WITHIN DRIP LINES OF TREES THAT ARE TO REMAIN WITHOUT ARBORIST APPROVAL.
 2. PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIGITALIST TO MARK OUT EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT P.O.C.

9 ENLARGED SITE PLAN
1"=10'-0"

17 OVERALL SITE PLAN
1"=50'-0"

17 OVERALL SITE PLAN
1"=50'-0"

PREPARED FOR
verizon
295 Parkshore Drive
Folsom, California 95630

Vendor:
EPIC
WIRELESS GROUP LLC
Connecting a Wireless World
605 Cowdige Dr. Suite 100
Folsom, CA, 95630

Project Address:
1200 Tunnel Creek Road
Incline Village, NV 89451

Architect:
Borges
ARCHITECTURAL GROUP
borgesarch.com
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DRAWN BY: A.P.E.
CHECKED BY: M.I.D.

**Ponderosa
Ranch**
445739

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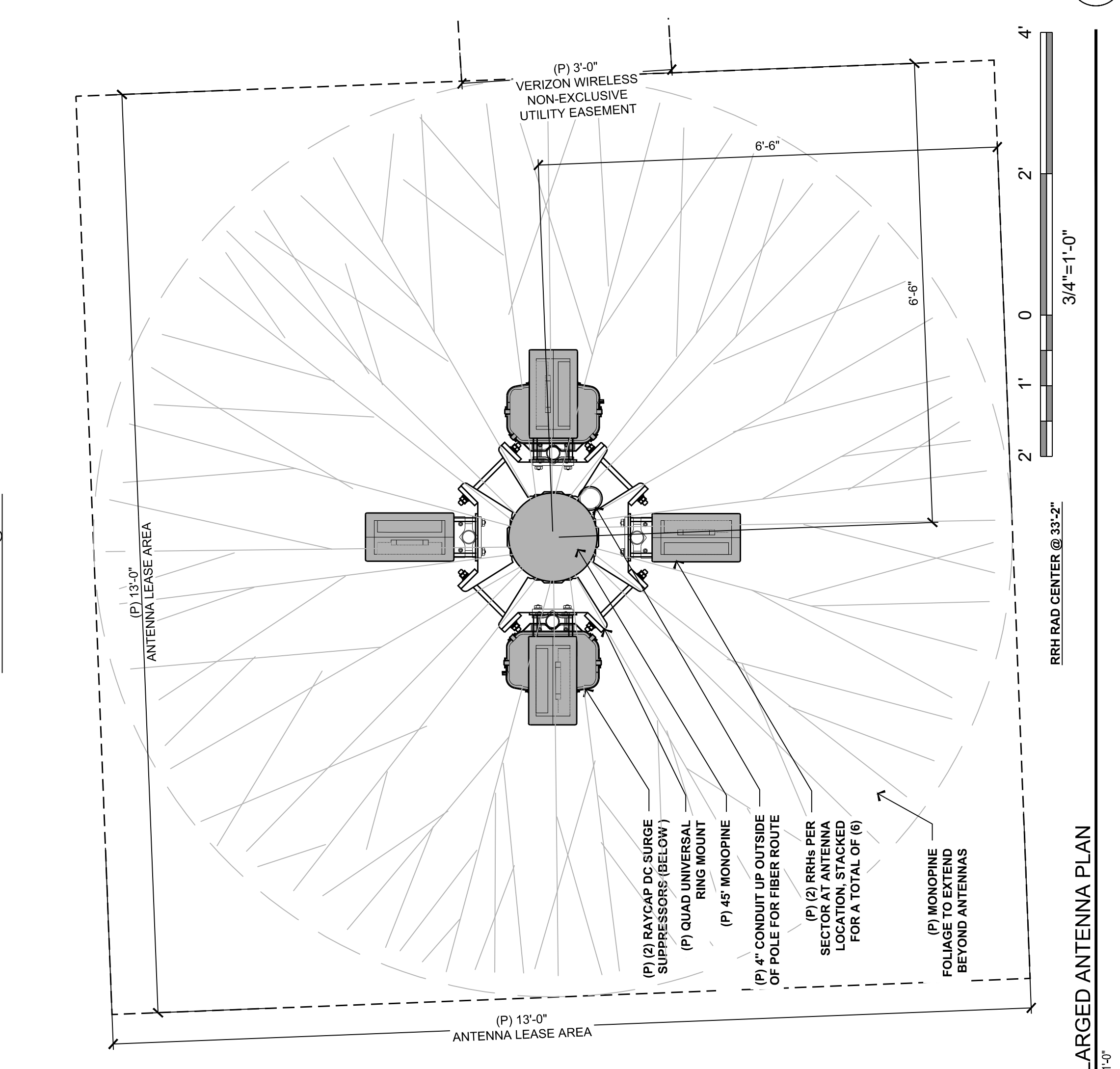
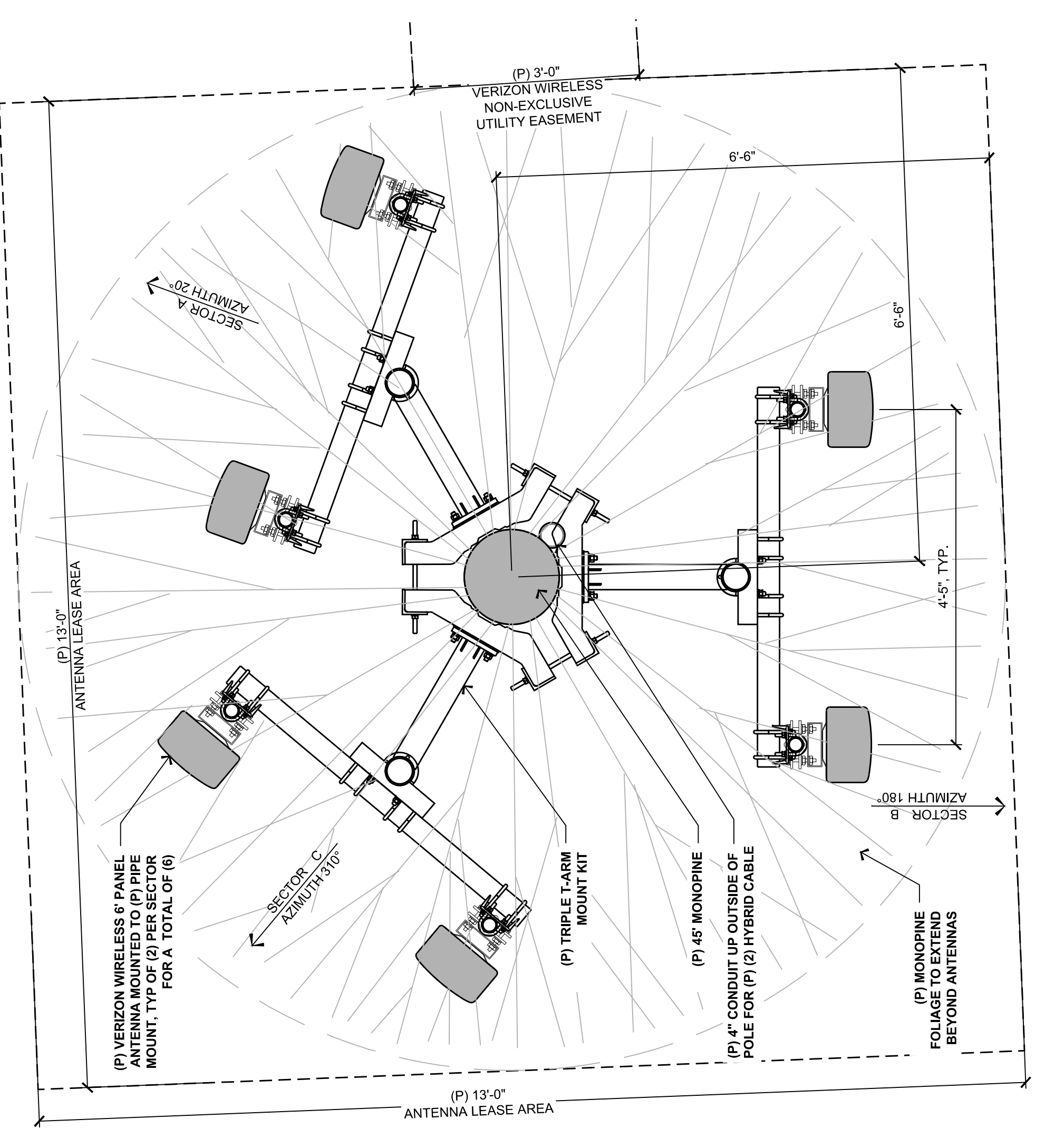
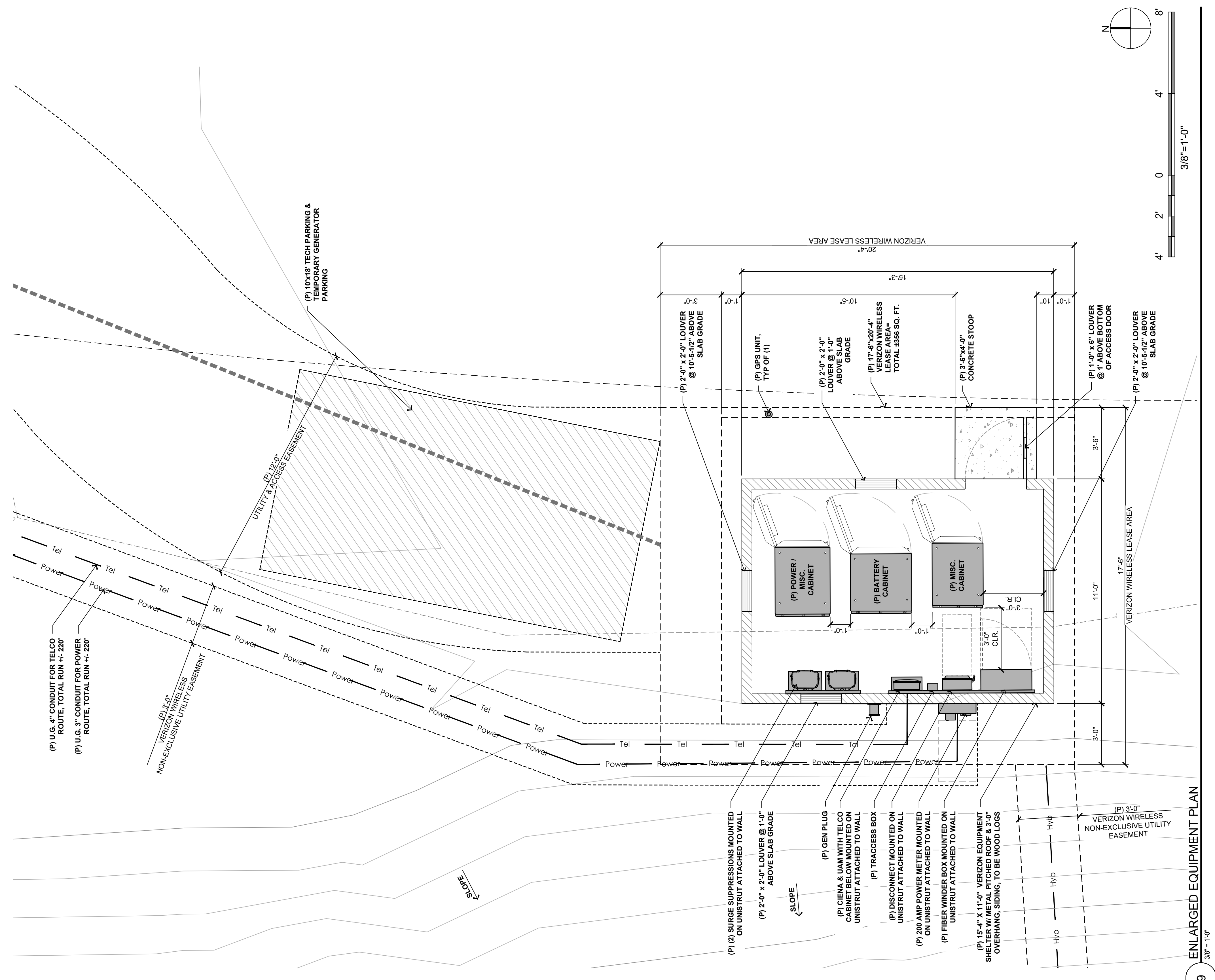
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SHEET TITLE:
ENLARGED EQUIPMENT &
ANTENNA PLANS

SHEET NUMBER:
A-2



9 ENLARGED EQUIPMENT PLAN
3/8" = 1'-0"

17 ENLARGED ANTENNA PLAN
3/4" = 1'-0"

PREPARED FOR
verizon
295 Parkshore Drive
Folsom, California 95630

Vendor:
EPIC
WIRELESS GROUP LLC
Connecting a Wireless World
605 Conditge Dr, Suite 100
Folsom, CA, 95630

Project Address:
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Incline Village, NV 89451

Architect:
Borges
ARCHITECTURAL GROUP
borgesarch.com
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916 773 8261 FAX

PROJECT NO: 14002-103
LOCATION NO: 445739
DRAWN BY: A.P.E.
CHECKED BY: M.I.D.

**Ponderosa
Ranch**
445739

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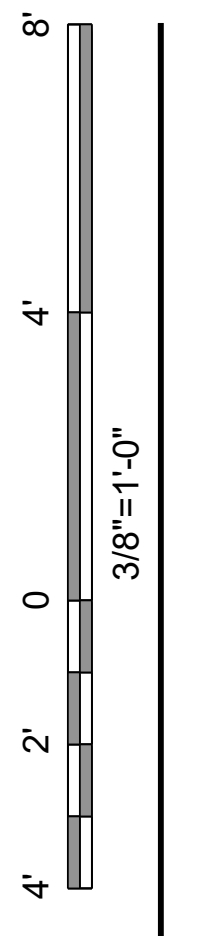
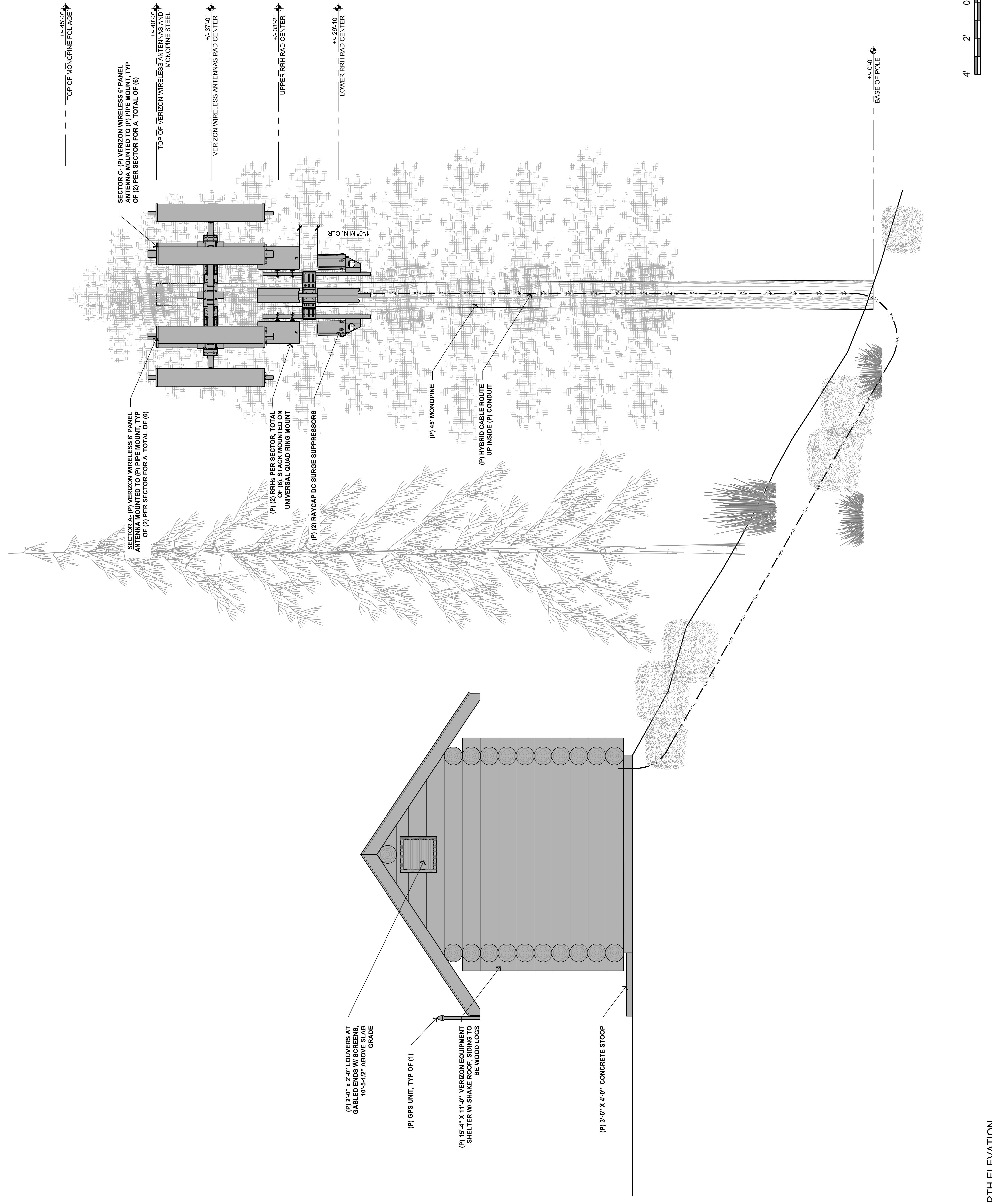
Licensor:

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Issued For:
12/06/18
100% ZD Rev 3

SHEET TITLE:
ELEVATIONS

SHEET NUMBER:
A-3.1



17
PROPOSED NORTH ELEVATION
3/8" = 1'-0"

PREPARED FOR
verizon
285 Parkshore Drive
Folsom, California 95630

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WIRELESS GROUP LLC
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ROSEVILLE CA 95661
916.782.2000 TEL
916.773.3037 FAX

PROJECT NO: 14002-103
LOCATION NO: 445739
DRAWN BY: A.P.E.
CHECKED BY: M.T.D.

Ponderosa
Ranch
445739

REV	DATE	DESCRIPTION
E	12/06/18	100% ZD Rev 3
D	11/07/18	100% ZD Rev 2
C	10/01/18	100% ZD Rev 1
B	05/25/18	100% ZD Submittal
A	05/16/18	90% ZD Submittal

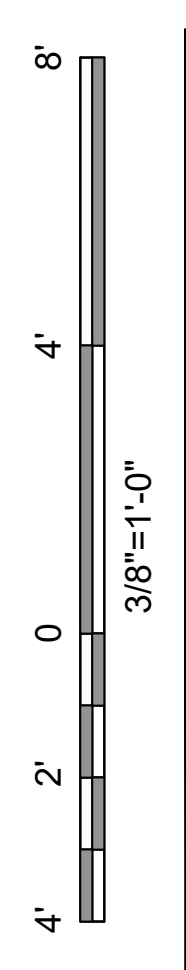
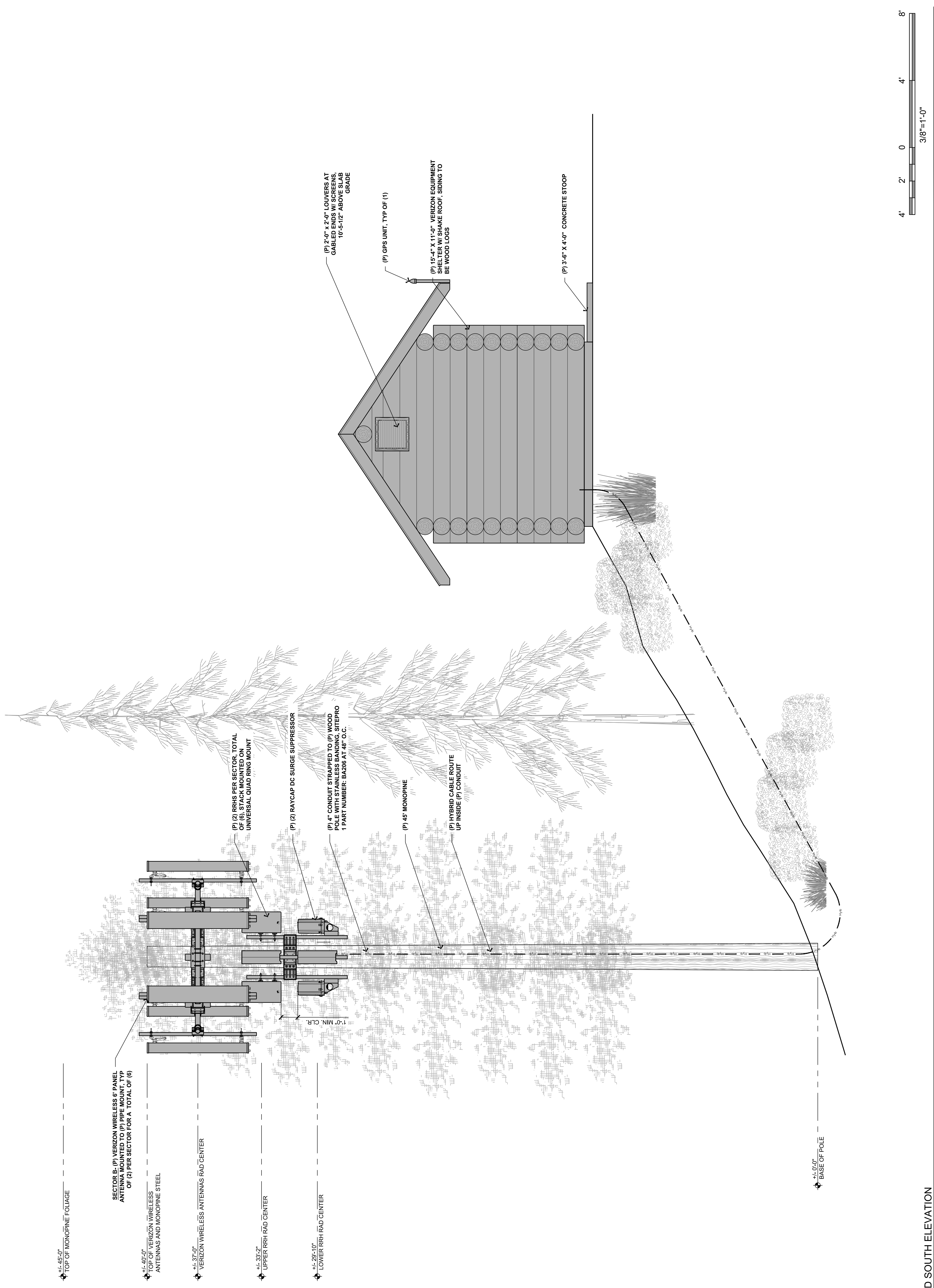
Licenser:

IT IS A VIOLATION OF LAW FOR ANY
PERSON TO REPRODUCE OR TRANSMIT
UNDER THE DIRECTION OF A LICENSED
PROFESSIONAL ENGINEER TO ALTER
THIS DOCUMENT.

Issued For:
12/06/18
100% ZD Rev 3

SHEET TITLE:
ELEVATIONS

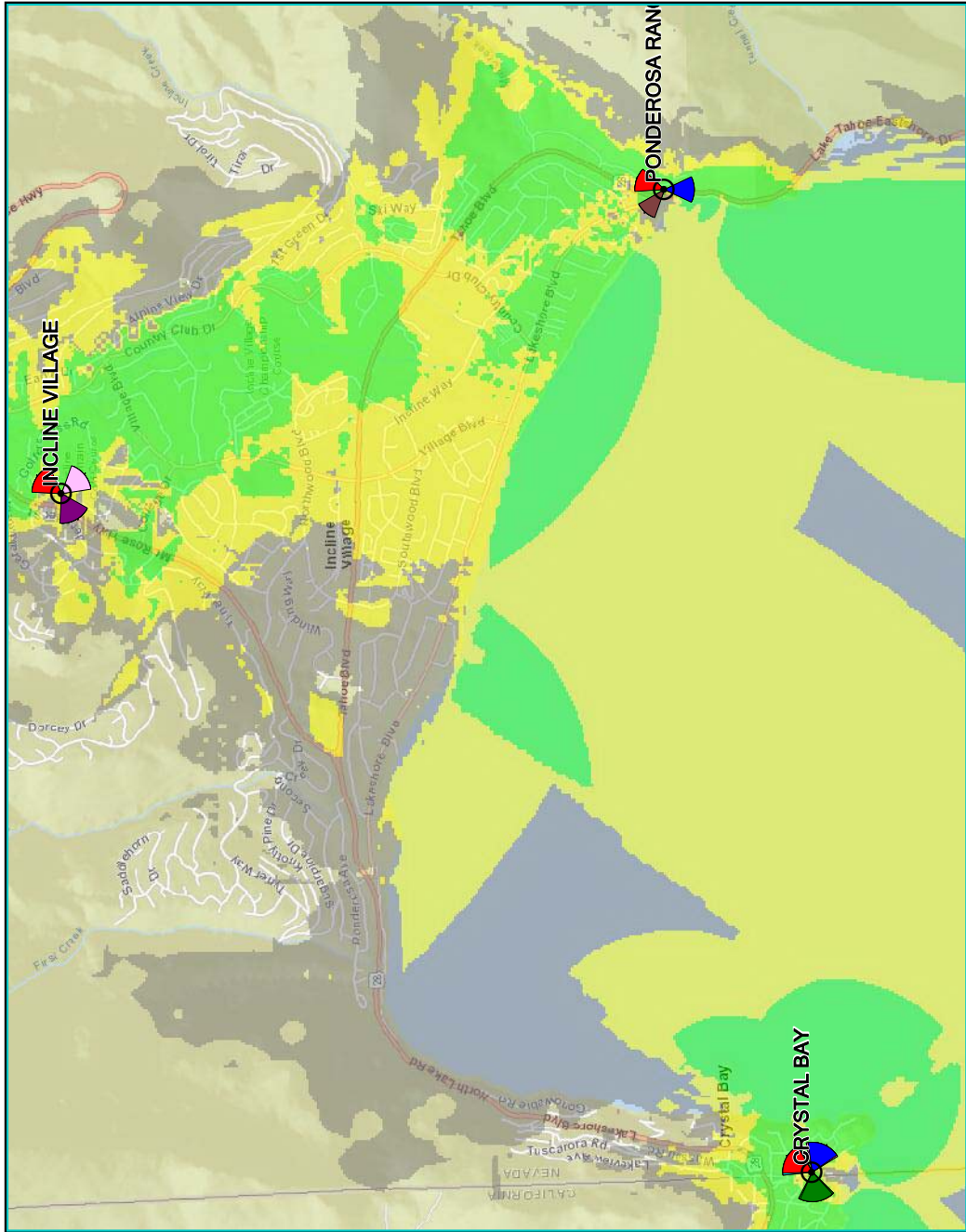
SHEET NUMBER:
A-3.2



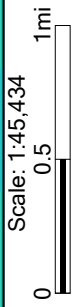
PONDEROSA RANCH COVERAGE MAPS



After Coverage



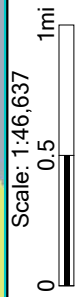
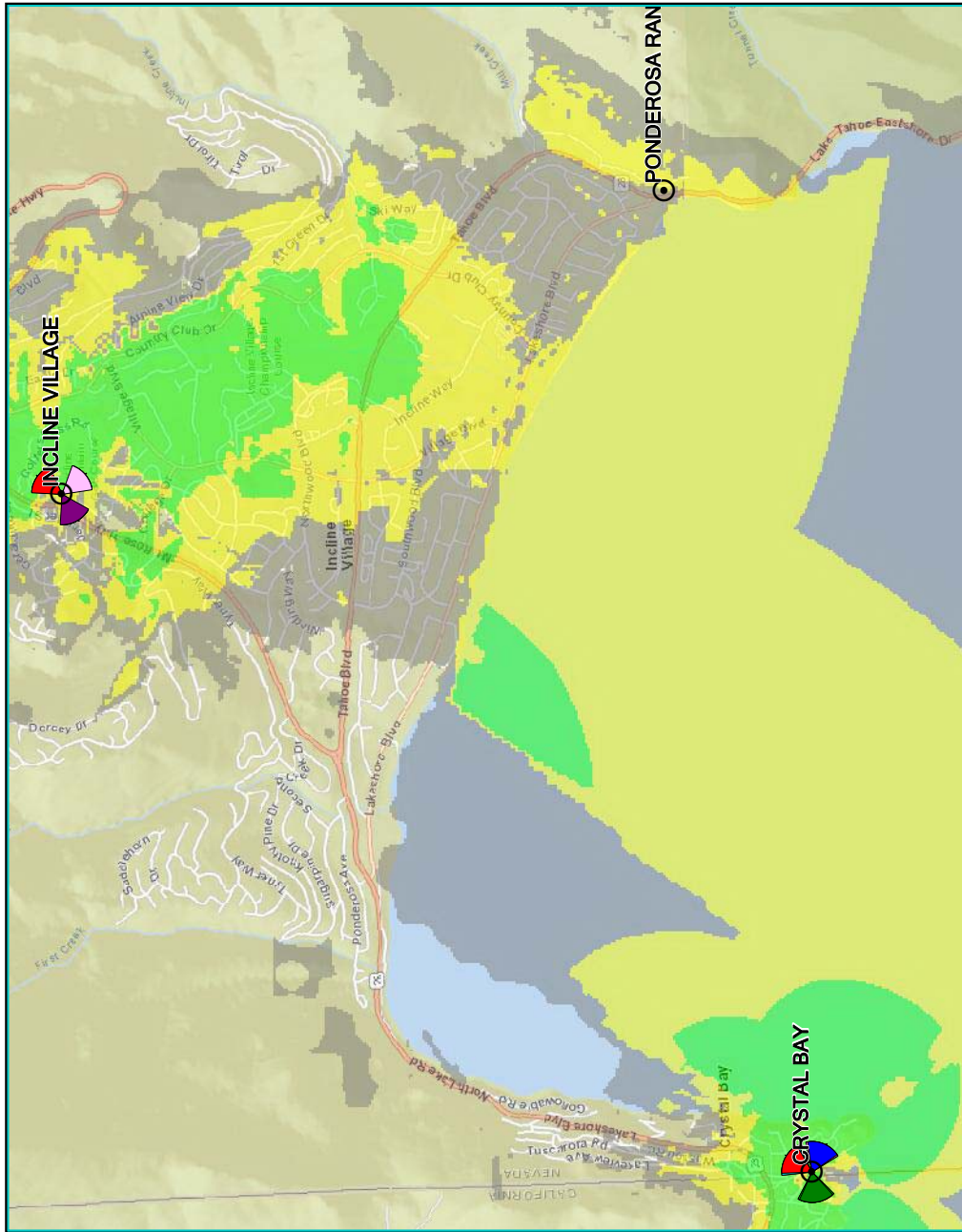
LTE: AWS: RSRP - After Coverage
Best Signal Level (dBm) ≥ -85
Best Signal Level (dBm) ≥ -95
Best Signal Level (dBm) ≥ -105



PONDEROSA RANCH COVERAGE MAPS



Before Coverage



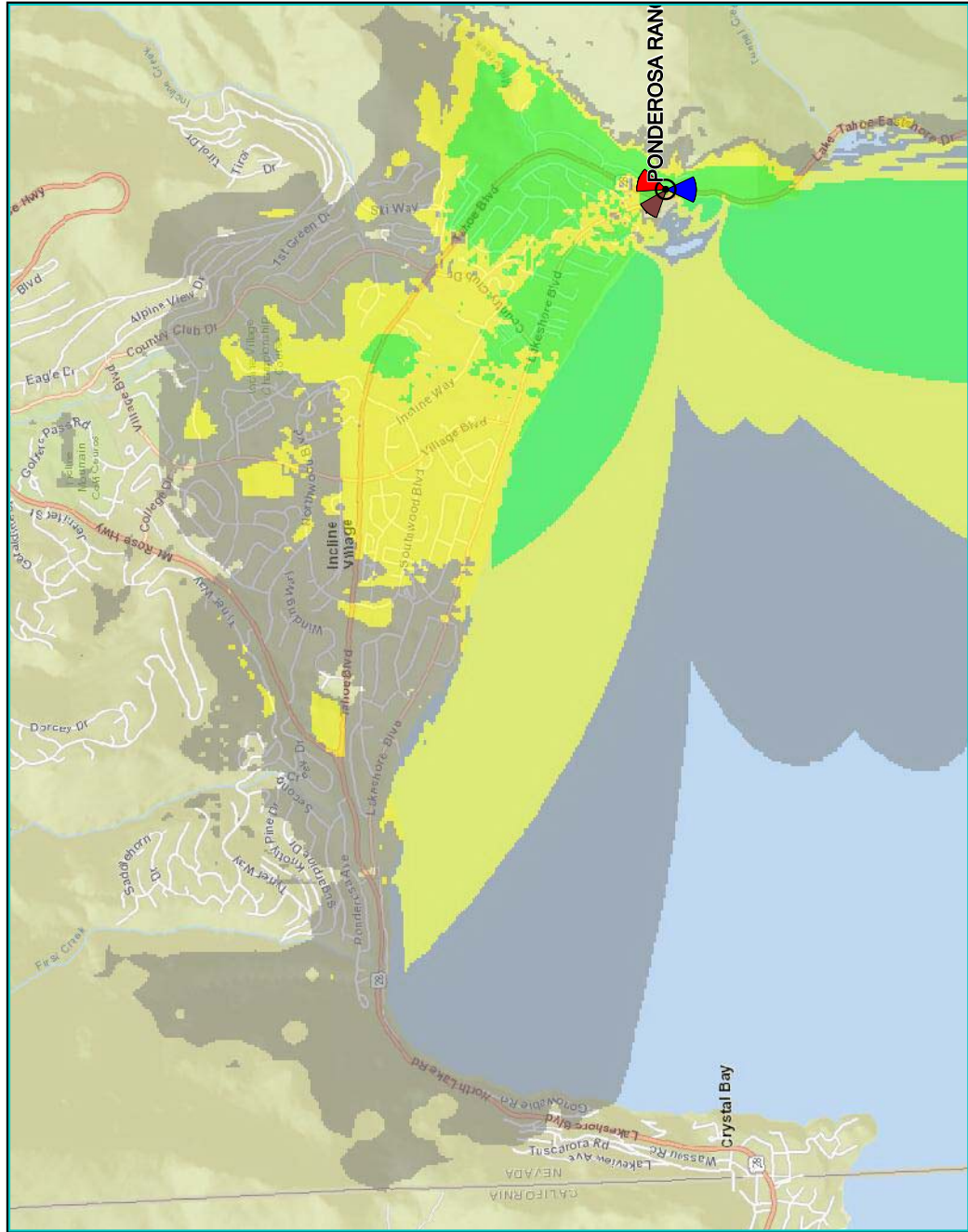
LTE: AWS: RSRP - Existing Coverage

- Best Signal Level (dBm) >=-85
- Best Signal Level (dBm) >=-95
- Best Signal Level (dBm) >=-105

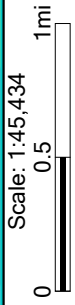
PONDEROSA RANCH COVERAGE MAPS



Site Coverage



- LTE: AWS: RSRP - Site Coverage**
- Best Signal Level (dBm) ≥ -85
 - Best Signal Level (dBm) ≥ -95
 - Best Signal Level (dBm) ≥ -105





WATERFORD
COMPLIANCE...FROM START TO SIGNAL

Radio Frequency Emissions Compliance Report For Verizon Wireless

Site Name:	Ponderosa Ranch	Site Structure Type:	Monopine
Address:	1200 Tunnel Creek Road	Latitude:	39.231328
	Incline Village, Nevada	Longitude:	-119.931611
Report Date:	February 28, 2019	Project:	New Build

Compliance Statement

Based on information provided by Verizon Wireless and predictive modeling, the Ponderosa Ranch installation proposed by Verizon Wireless will be compliant with Radiofrequency Radiation Exposure Limits of 47 C.F.R. §§ 1.1307(b)(3) and 1.1310. The proposed operation will not expose members of the General Public to hazardous levels of RF energy. As predicted RF power densities will not exceed the FCC General Population limits, no mitigation action is needed to achieve or maintain compliance.

Certification

I, David H. Kiser, am the reviewer and approver of this report and am fully aware of and familiar with the Rules and Regulations of both the Federal Communications Commissions (FCC) and the Occupational Safety and Health Administration (OSHA) with regard to Human Exposure to Radio Frequency Radiation, specifically in accordance with FCC's OET Bulletin 65. I have reviewed this Radio Frequency Exposure Assessment report and believe it to be both true and accurate to the best of my knowledge.



General Summary

The compliance framework is derived from the Federal Communications Commission (FCC) Rules and Regulations for preventing human exposure in excess of the applicable Maximum Permissible Exposure ("MPE") limits. At any location at this site, the power density resulting from each transmitter may be expressed as a percentage of the frequency-specific limits and added to determine if 100% of the exposure limit has been exceeded. The FCC Rules define two tiers of permissible exposure differentiated by the situation in which the exposure takes place and/or the status of the individuals who are subject to exposure. General Population / Uncontrolled exposure limits apply to those situations in which persons may not be aware of the presence of electromagnetic energy, where exposure is not employment-related, or where persons cannot exercise control over their exposure. Occupational / Controlled exposure limits apply to situations in which persons are exposed as a consequence of their employment, have been made fully aware of the potential for exposure, and can exercise control over their exposure. Based on the criteria for these classifications, the FCC General Population limit is considered to be a level that is safe for continuous exposure time. The FCC General Population limit is 5 times more restrictive than the Occupational limits.

Table 1: FCC Limits

Frequency (MHz)	Limits for General Population/ Uncontrolled Exposure		Limits for Occupational/ Controlled Exposure	
	Power Density (mW/cm ²)	Averaging Time (minutes)	Power Density (mW/cm ²)	Averaging Time (minutes)
1500-100,000	1.0	30	5.0	6

f=Frequency (MHz)

In situations where the predicted MPE exceeds the General Population threshold in an accessible area as a result of emissions from multiple transmitters, FCC licensees that contribute greater than 5% of the aggregate MPE share responsibility for mitigation.

Based on the computational guidelines set forth in FCC OET Bulletin 65, Waterford Consultants, LLC has developed software to predict the overall Maximum Permissible Exposure possible at any location given the spatial orientation and operating parameters of multiple RF sources. The power density in the Far Field of an RF source is specified by OET-65 Equation 5 as follows:

$$S = \frac{EIRP}{4 \cdot \pi \cdot R^2} \text{ (mW/cm}^2\text{)}$$

where EIRP is the Effective Radiated Power relative to an isotropic antenna and R is the distance between the antenna and point of study. Additionally, consideration is given to the manufacturers' horizontal and vertical antenna patterns as well as radiation reflection. At any location, the predicted power density in the Far Field is the spatial average of points within a 0 to 6-foot vertical profile that a person would occupy. Near field power density is based on OET-65 Equation 20 stated as

$$S = \left(\frac{180}{\theta_{BW}} \right) \cdot \frac{100 \cdot P_{in}}{\pi \cdot R \cdot h} \text{ (mW/cm}^2\text{)}$$

where P_{in} is the power input to the antenna and h is the aperture length.

These theoretical results represent worst-case predictions as emitters are assumed to be operating at 100% duty cycle.

Analysis

Waterford Consultants, LLC field personnel visited the site on February 26, 2019 during business hours and collected data with regard to the RF environment. All accessible areas of the site were inspected. Measurement collection was performed using Narda Radiation meter NBM 550 and broadband probe EA-5091 (300 kHz to 50 GHz) and was consistent with FCC and Narda procedures, regarding the location of the probe to the RF source and making slow sweeping motions over the area that a person would occupy. Power density values were recorded as a percentage of the FCC Occupational limits. In using this broadband instrument, the results represent the cumulative contributions of all RF sources at the measurement locations. The maximum cumulative power density reading was 0.1679% of the FCC Occupational limits (0.8395% of the General Population limits). Verizon Wireless proposes the following installation at this location:

- Install (2) 6' panel antennas per sector, total of (6)
- Install (2) RRHs per sector for a total of (6)

The antennas will be mounted on a 45-foot Monopine with centerlines 37 feet above ground level. The antennas will be oriented toward 20, 180, and 310 degrees. The radio equipment to be operated at this location is capable of a maximum of 80W per 4G channel at 700 MHz, 80W per 4G channel at 850 MHz, 80W per 4G

channel at 1900 MHz, and 80W per 4G channel at 2100 MHz. Other appurtenances such as GPS antennas, RRUs and hybrid cables are not sources of RF emissions. No other antennas are known to be operating in the vicinity of this site.



Figure 1: Antenna Locations

Power density decreases significantly with distance from any antenna. The panel-type antennas to be employed at this site are highly directional by design and the orientation in azimuth and mounting elevation, as documented, serve to reduce the potential to exceed MPE limits at any location other than directly in front of the antennas. For accessible areas at ground level, the maximum predicted power density level resulting from all Verizon Wireless operations is 68.0391% of the FCC General Population limits. Incident at adjacent buildings depicted in Figure 1, the maximum predicted power density level resulting from all Verizon Wireless operations is 2.3015% of the FCC General Population limits. The proposed operation will not expose members of the General Public to hazardous levels of RF energy. As predicted RF power densities will not exceed the FCC General Population limits, no mitigation action is needed to achieve or maintain compliance.

PROJECT : Ponderosa Ranch

1200 TUNNEL CREEK ROAD
INCLINE VILLAGE, NV 89451

LOCATION NO: 445739



PREPARED FOR
verizon
295 Parkshore Drive
Folsom, California 95630

Vendor:
EPIC
WIRELESS GROUP LLC
Connecting a Wireless World
605 Conridge Dr, Suite 100
Folsom, CA, 95630

Project Address:
1200 Tunnel Creek Road
Incline Village, NV 89451

Architect:
Borges
ARCHITECTURAL GROUP
borgesarch.com
1478 STONE POINT DRIVE, SUITE 350
ROSEVILLE CA 95661
916 732 2200 TEL
916 732 6001 FAX

PROJECT NO: 14002-103
LOCATION NO: 445739
DRAWN BY: A.P.E.
CHECKED BY: J.E.S.

Ponderosa Ranch
445739

G	08/02/19	100% ZD Rev 5
F	08/01/19	100% ZD Rev 4
E	12/08/18	100% ZD Rev 3
D	11/07/18	100% ZD Rev 2
C	10/01/18	100% ZD Rev 1
B	05/25/18	100% ZD Submittal
A	05/16/18	90% ZD Submittal
REV	DATE	DESCRIPTION

Licensee:

IT IS THE POLICY OF VERIZON TO EMPLOY ONLY PERSONS WHOSE LICENSES ARE CURRENT AND VALID UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER TO ALTER THIS DOCUMENT.

Issued For:
08/02/19
100% ZD Rev 4

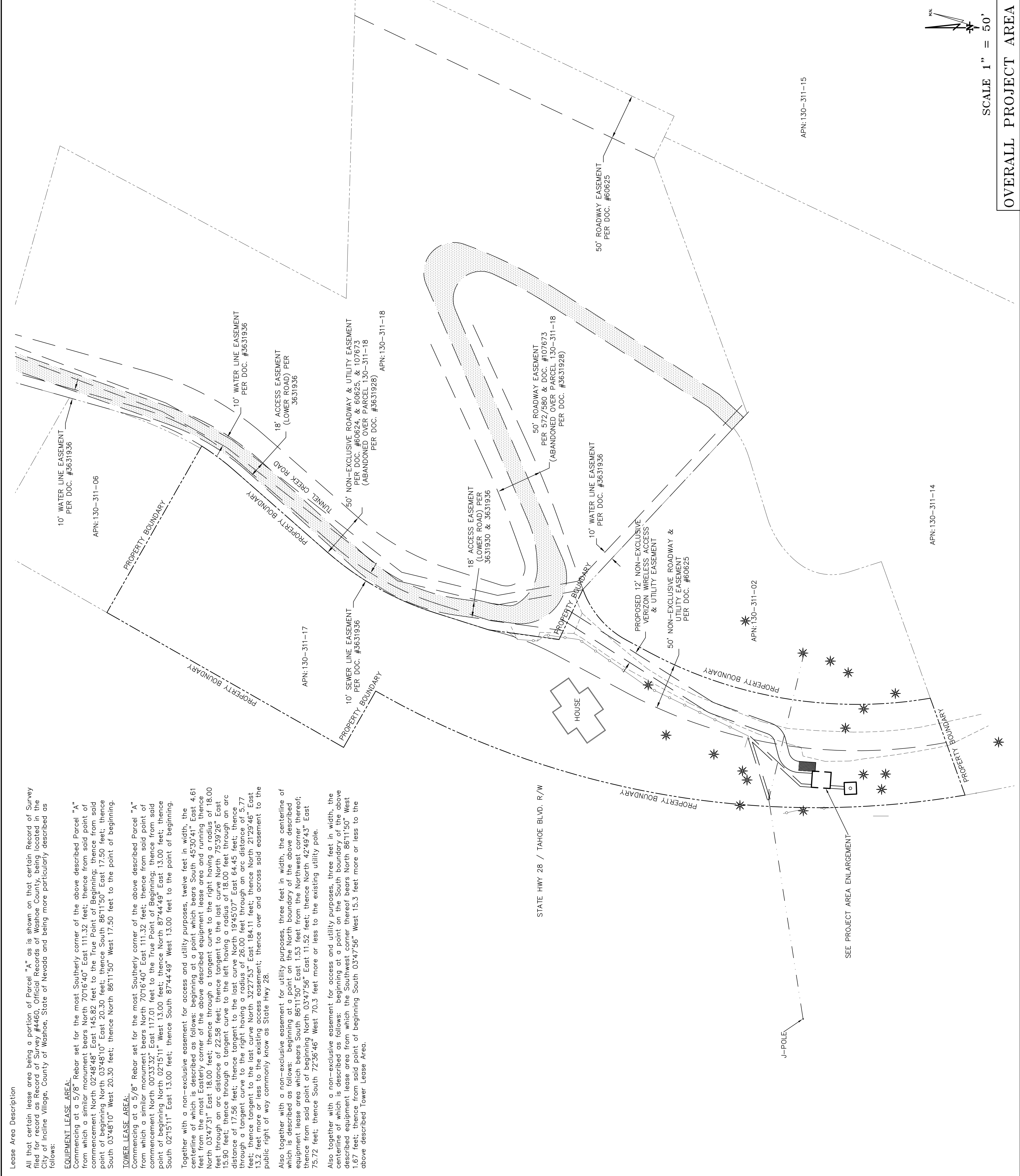
SHEET TITLE:
TITLE SHEET

SHEET NUMBER:
A-0

PROJECT DESCRIPTION	PROJECT INFORMATION	PROJECT TEAM	SHEET INDEX	REV
<p>NEW SITE BUILD UNMANNED TELECOMMUNICATIONS FACILITY.</p> <p>(P) VERIZON WIRELESS 17'-6"X20'-4" SQ. FT. EQUIPMENT LEASE AREA & 13'X13' ANTENNA LEASE AREA FOR A TOTAL OF 525 SQ FT CONTAINING THE FOLLOWING:</p> <ol style="list-style-type: none"> INSTALL POWER / TELCO / FIBER TO SITE LOCATION INSTALL 15-4X11'-0" PRE-MANUFACTURED SHELTER INSTALL 45' MONOPINE INSTALL (4) SURGE SUPPRESSORS MOUNTED (2) AT ANTENNA PLAN (2) EQUIPMENT SHELTER INSTALL (6) PANEL ANTENNAS PER SECTOR, TOTAL OF (6) INSTALL (2) HYBRID TRUNK CABLES INSTALL (1) GPS UNIT INSTALL (2) RRHS PER SECTOR FOR A TOTAL OF (6) INSTALL 200 AMP POWER METER, CIENA CABINET & SERVICE LIGHT W/ SHUT OFF TIMER ON OUTSIDE OF (P) EQUIPMENT SHELTER 	<p>Property Information: Site Name: PONDEROSA RANCH Site Number: 445739 Site Address: 1200 TUNNEL CREEK ROAD INCLINE VILLAGE, NV 89451</p> <p>Property Owner: TUNNEL CREEK PROPERTIES, LLC. 630 TAHOE BLVD #602 INCLINE VILLAGE NV 89451 contact: CRAIG OLSON email: craigolson61@gmail.com ph: (775) 750-5520</p> <p>Tower Owner: VERIZON WIRELESS 295 PARKSHORE DRIVE FOLSOM, CA 95630</p> <p>Power Agency: NV ENERGY 295 EDISON WAY Reno, NV 89502 ph: (800) 743-5000</p>	<p>Construction Mgr.: EPIC WIRELESS GROUP, INC. 605 COOLIDGE DRIVE, SUITE 100 FOLSOM, CA 95630 contact: BRETT EWING email: brett.ewing@epicwireless.net ph: (916) 844-9234</p> <p>Agent for Applicant, Planning and Zoning Mgr: BUZZ LYNN email: buzz.lynn@epicwireless.net cell: (775) 652-5367</p> <p>DESIGN PROFESSIONAL: BORGES ARCHITECTURAL GROUP, INC. 1478 STONE POINT DRIVE, SUITE 350 ROSEVILLE, CA 95661 contact: MATHEW DOUGHERTY email: telecomgroup@borgesarch.com ph: (916) 782-7200</p> <p>Structural Engineer: PZSE STRUCTURAL ENGINEERS 1478 STONE POINT DRIVE, SUITE 190 ROSEVILLE, CA 95661 contact: PAUL ZACHER SE, MLSE email: paul@pzse.com ph: (916) 961-3960</p> <p>Survey: Cell Engineering 1226 High Street Auburn, Ca 95603-5015 contact: NEIL ROHDE email: nrohde@cschell.net ph: (530) 885-0426</p> <p>RF Engineer: VERIZON WIRELESS 295 PARKSHORE DRIVE FOLSOM, CA 95630 email: ericson.malana@verizonwireless.com ph: (925) 788-1863</p>	<p>A-0 TITLE SHEET C-1 OVERALL SITE PLAN C-2 OVERALL SITE PLAN A-1 OVERALL & ENLARGED SITE PLANS A-2 ENLARGED EQUIPMENT & ANTENNA PLANS A-3 ELEVATIONS</p>	<p>G G G G G G G</p>
<p>CODE COMPLIANCE</p> <p>ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES.</p> <ol style="list-style-type: none"> 2012 INTERNATIONAL BUILDING CODE W/ AMENDMENTS 2012 INTERNATIONAL MECHANICAL CODE W/ AMENDMENTS 2006 ICC ELECTRICAL CODE - ADMIN PROVISIONS 2011 NATIONAL ELECTRICAL CODE 2009 INTERNATIONAL ENERGY CONSERVATION CODE 2012 INTERNATIONAL FIRE CODE W/ AMENDMENTS ANSI/EIA-TIA-222-G 2012 NFPA 101, LIFE SAFETY CODE 2013 NFPA 72, NATIONAL FIRE ALARM CODE 2012 NFPA 70, NATIONAL ELECTRICAL CODE LOCAL BUILDING CODE CITY/COUNTY ORDINANCES ANY APPLICABLE LOCAL AND STATE LAWS AND REGULATIONS 	<p>VICINITY MAP</p>	<p>DIRECTIONS FROM VERIZON WIRELESS</p> <p>TO: 1200 TUNNEL CREEK ROAD, INCLINE VILLAGE, NV 89451</p> <ol style="list-style-type: none"> DEPART PARKSHORE DR TOWARD COOLIDGE DR TURN RIGHT ONTO FOLSOM BLVD BEAR RIGHT ONTO FOLSOM AUBURN RD TURN LEFT ONTO OAK AVENUE PKWY ROAD NAME CHANGES TO OAK AVE TURN RIGHT ONTO HAZEL AVE / CRE3 TAKE RAMP RIGHT FOR I-80 EAST TOWARD RENO AT EXIT 188B, TAKE RAMP RIGHT FOR CA-267 / CA-89 TOWARD LAKE TAHOE / SIERRAVILLE TURN RIGHT ONTO CA-267 / GLENN CARLSON MEMORIAL BYP TURN LEFT ONTO CA-28 PASS THROUGH 2 ROUNDABOUTS, REMAINING ON CA-28 E ROAD NAME CHANGES TO NV-28 ENTER NEVADA AT ROUNDABOUT, TAKE 1ST EXIT ONTO NV-28 / TAHOE BLVD TURN LEFT ONTO PONDEROSA RANCH RD, AND THEN IMMEDIATELY TURN RIGHT ONTO TUNNEL CREEK RD ARRIVE AT TUNNEL CREEK RD 1200 TUNNEL CREEK RD, INCLINE VILLAGE, NV 89451 ON THE RIGHT 	<p>SPECIAL INSPECTIONS</p> <p>POST INSTALLED EXPANSION ANCHORS</p>	
<p>GENERAL CONTRACTOR NOTES</p> <p>DO NOT SCALE DRAWINGS</p> <p>THESE DRAWINGS ARE FORMATTED TO BE FULL SIZE AT 24" x 36". CONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOBSITE AND SHALL IMMEDIATELY NOTIFY THE ARCHITECT/ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR MATERIAL ORDERS OR BE RESPONSIBLE FOR THE SAME.</p>	<p>GENERAL CONTRACTOR NOTES</p> <p>DO NOT SCALE DRAWINGS</p> <p>THESE DRAWINGS ARE FORMATTED TO BE FULL SIZE AT 24" x 36". CONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOBSITE AND SHALL IMMEDIATELY NOTIFY THE ARCHITECT/ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR MATERIAL ORDERS OR BE RESPONSIBLE FOR THE SAME.</p>			

1200 TUNNEL CREEK ROAD PONDEROSA RANCH SITE TOPOGRAPHY PLOT PLAN AND INCLINE VILLAGE, NV 89451	REV				
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REVISIONS 01-08-18 Drawing Submitted 01-15-18 Hatching Added 05-17-18 Lease Area Placed 05-31-18 Easement Mod. 12-12-18 Lease Area Mod. 08-02-19 Lease Area Mod.			C-1 Sheet		

INCLINE VILLAGE, NV VICINITY MAP THESE DRAWINGS AND/OR THE ACCOMPANYING SPECIFICATION AS INSTRUMENTS OF SERVICE, ARE THE EXCLUSIVE PROPERTY OF GELL ENGINEERING AND THEIR USE AND PUBLICATION SHALL BE LIMITED TO THE ORIGINAL CLIENT AND ANY REPRODUCTION THEREOF WITHOUT THE WRITTEN PERMISSION OF GELL ENGINEERING. THIS AGREEMENT IS MADE BY ANY METHOD, IN WHOLE OR IN PART, IS PROHIBITED EXCEPT BY WRITTEN PERMISSION FROM GELL ENGINEERING. TITLE TO THESE PLANS AND/OR SPECIFICATIONS SHALL REMAIN WITH GELL ENGINEERING WITHOUT PREJUDICE AND VISUAL CONTACT WITH THEM SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF ACCEPTANCE OF THESE RESTRICTIONS. BOUNDARY SHOWN IS BASED ON MONUMENTATION FOUND AND RECORD INFORMATION. THIS IS NOT A BOUNDARY SURVEY. THIS IS A SPECIALIZED TOPOGRAPHIC MAP WITH PROPERTY LINES AND EASEMENTS BEING A GRAPHIC DEPICTION BASED ON INFORMATION GATHERED FROM VARIOUS SOURCES OF RECORD AND AVAILABLE MONUMENTATION FOUND DURING THE FIELD SURVEY. NO EASEMENTS WERE RESEARCHED OR PLOTTED. PROPERTY LINES AND LINES OF TITLE WERE NOT INVESTIGATED NOR SURVEYED. NO PROPERTY MONUMENTS WERE SET. Gell Engineering Engineering • Surveying • Planning 1226 High Street Auburn, California 95603-5015 Phone: (530) 885-0426 • Fax: (530) 823-1309 Verizon Wireless Project Name: PONDEROSA RANCH Project Site Location: 1200 Tunnel Creek Road Incline Village, NV 89451 Washoe County Date of Observation: 01-04-18 Equipment/Procedure Used to Obtain Coordinates: Trimble Pathfinder Pro XL post processed with Pathfinder Office software. Type of Antenna Mount: Proposed Monopole Coordinates (Tower) Latitude: N 39° 13' 52.88" (NAD83) N 39° 13' 53.21" (NAD27) Longitude: W 119° 55' 53.74" (NAD83) W 119° 55' 50.06" (NAD27) ELEVATION of Ground at Structure (NAVD88) 6,396.5' AMSL CERTIFICATION: I, the undersigned, do hereby certify elevation listed above is based on a field survey done under my supervision and that the accuracy of those elevations meet or exceed 1-A Standards as defined in the FAA ASAC Information Sheet 91:003, and that they are true and accurate to the best of my knowledge and belief. Kenneth D. Geil Nevada PLS 13385	DEPT. APPROVED DATE A&C RE RF INT EC/N OPS EF/OUT	GELL ENGINEERING ENGINEERING • SURVEYING • PLANNING 1226 HIGH STREET AUBURN, CALIFORNIA 95603 Phone: (530) 885-0426 Fax: (530) 823-1309	Surveyor			
				OVERALL PROJECT AREA SCALE 1" = 50' APN: 130-311-15 APN: 130-311-14 APN: 130-311-02 APN: 130-311-17 APN: 130-311-18 APN: 130-311-06		
					LEASE AREA DESCRIPTION EQUIPMENT LEASE AREA: Commencing at 5/8" Rebar set for the most southerly corner of the above described Parcel "A" from which a similar monument bears North 70°16'40" East 111.32 feet; thence from said point of commencement North 02°48'48" East 145.82 feet to the True Point of Beginning; thence from said point of beginning North 03°48'10" East 20.30 feet; thence South 86°11'50" East 17.50 feet; thence South 03°48'10" West 20.30 feet; thence North 86°11'50" West 17.50 feet to the point of beginning. TOWER LEASE AREA: Commencing at a 5/8" Rebar set for the most southerly corner of the above described Parcel "A" from which a similar monument bears North 70°16'40" East 111.32 feet; thence from said point of commencement North 00°33'32" East 117.01 feet to the True Point of Beginning; thence from said point of beginning North 02°15'11" West 13.00 feet; thence North 87°44'49" East 13.00 feet; thence South 02°15'11" East 13.00 feet; thence South 87°44'49" West 13.00 feet to the point of beginning. Together with a non-exclusive easement for access and utility purposes, twelve feet in width, the centerline of which is described as follows: beginning at a point which bears South 45°30'41" East 4.61 feet from the most Easterly corner of the above described equipment lease area and running thence North 03°47'31" East 18.00 feet; thence through a tangent curve to the right having a radius of 18.00 feet through an arc distance of 22.58 feet; thence tangent to the last curve North 75°39'26" East 15.90 feet; thence through a tangent curve to the left having a radius of 18.00 feet through an arc distance of 17.56 feet; thence tangent to the last curve North 19°45'07" East 64.45 feet; thence through a tangent curve to the right having a radius of 28.00 feet through an arc distance of 15.77 feet; thence tangent to the last curve North 32°29'53" East 184.11 feet; thence North 21°29'46" East 1.67 feet; thence from said point of beginning South 03°47'56" West 15.3 feet more or less to the above described Tower Lease Area. Also together with a non-exclusive easement for utility purposes, three feet in width, the centerline of which is described as follows: beginning at a point on the South boundary of the above described equipment lease area which bears South 86°11'50" East 1.53 feet from the Northwest corner thereof; thence from said point of beginning North 03°47'56" East 11.52 feet; thence North 42°49'4.3" East 75.72 feet; thence South 72°36'46" West 70.3 feet more or less to the existing utility pole. Also together with a non-exclusive easement for access and utility purposes, three feet in width, the centerline of which is described as follows: beginning at a point on the South boundary of the above described equipment lease area from which the Southwest corner thereof bears North 86°11'50" West 1.67 feet; thence from said point of beginning South 03°47'56" West 15.3 feet more or less to the above described Tower Lease Area.	
						DATE OF SURVEY: 01-04-18 SURVEYED BY OR UNDER DIRECTION OF: KENNETH D. GEIL, P.L.S. 13385. LOCATED IN THE COUNTY OF WASHOE, STATE OF NEVADA BEARINGS SHOWN ARE BASED UPON MONUMENTS FOUND AND RECORD INFORMATION. THIS IS NOT A BOUNDARY SURVEY. ELEVATIONS SHOWN ON THIS PLAN ARE BASED UPON U.S.G.S. N.A.V.D. 88 DATUM. ABOVE MEAN SEA LEVEL UNLESS OTHERWISE NOTED. N.G.V.D. 1929 CORRECTION: SUBTRACT 4.12' FROM ELEVATIONS SHOWN. CONTOUR INTERVAL: 1' ASSESSOR'S PARCEL NUMBER: 130-311-17 LANDLORD(S): TUNNEL CREEK PROPERTIES LLC 835 SHOE BLVD. INCLINE VILLAGE, NV 89451



Overall Project Area
 SCALE 1" = 50'
 APN: 130-311-15
 APN: 130-311-14
 APN: 130-311-02
 APN: 130-311-17
 APN: 130-311-18
 APN: 130-311-06

C-2

Sheet

PONDEROSA RANCH
1200 TUNNEL CREEK ROAD
INCLINE VILLAGE, NV 89451
PLOT PLAN AND
SITE TOPOGRAPHY

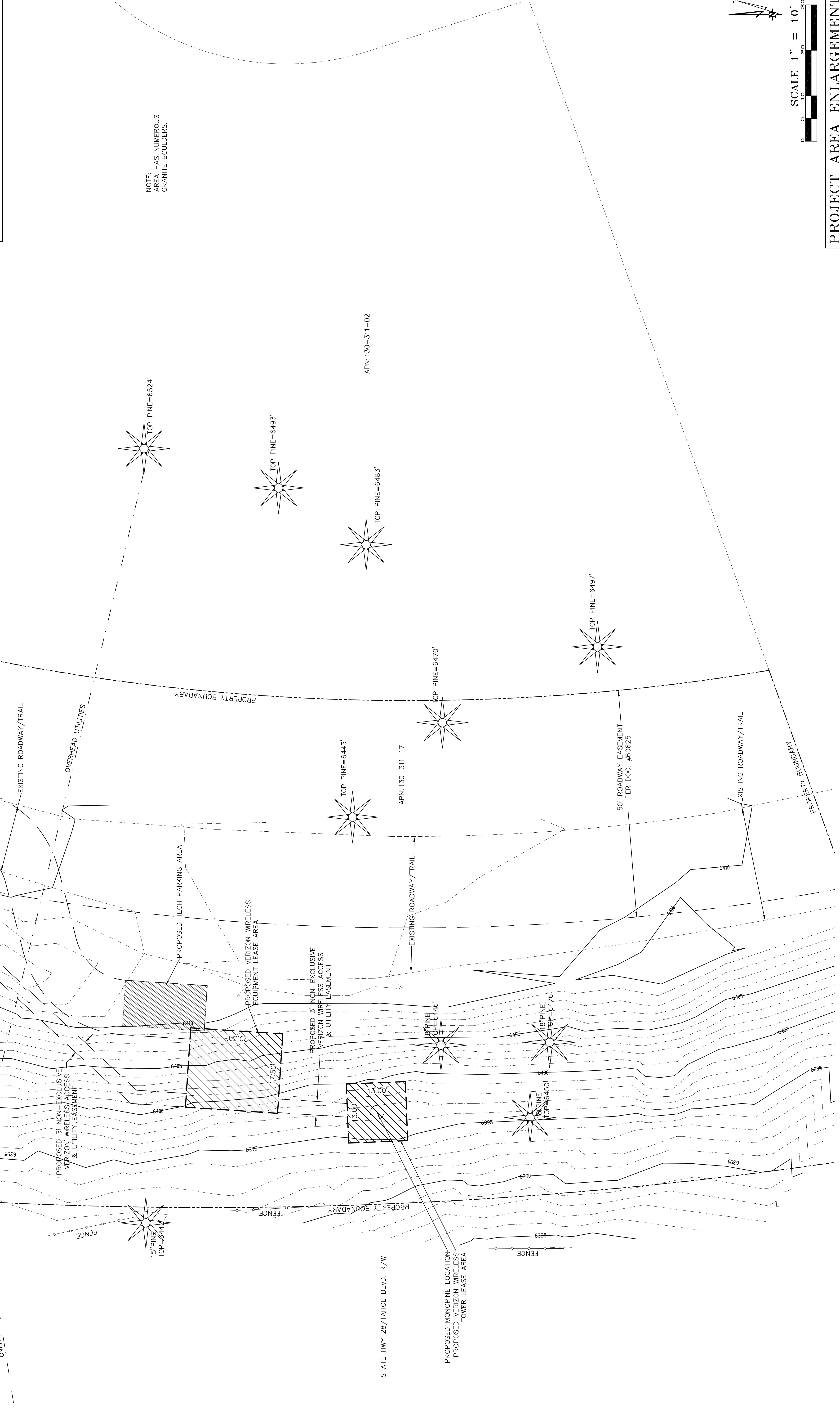


CELL ENGINEERING
1222 HIGH STREET
AUBURN, CALIFORNIA 95603
Phone: (916) 989-0428
Fax: (916) 989-1308

DEPT	APPROVED	DATE
A&C		
RE		
RF		
INT		
EC\N		
OPS		
EE\OUT		

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BOUNDARY SHOWN IS BASED ON MONUMENTATION FOUND AND RECORD INFORMATION. THIS IS NOT A BOUNDARY SURVEY. THIS INFORMATION IS NOT TO BE USED AS EVIDENCE OF TITLE OR EASEMENTS BEING A GRAPHIC DEPICTION BASED ON INFORMATION GATHERED FROM VARIOUS SOURCES OF RECORD AND AVAILABLE MONUMENTATION FOUND DURING THE FIELD SURVEY. NO EASEMENTS WERE RESEARCHED OR PLOTTED. PROPERTY LINES AND LINES OF TITLE WERE NOT INVESTIGATED NOR SURVEYED. NO PROPERTY MONUMENTS WERE SET.



NOTE:
AREA HAS NUMEROUS
GRANITE BOULDERS.

TOP PINE=6522

TOP PINE=6463

TOP PINE=6464

TOP PINE=6524

TOP PINE=6493

TOP PINE=6483

TOP PINE=6443

TOP PINE=6470

TOP PINE=6497

TOP PINE=6445

TOP PINE=6476

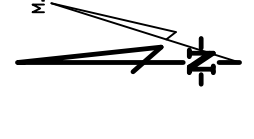
15' PINE
TOP=6444

TOP PINE=6450

J-POLE W/
TRANSFORMER

STATE HWY 28/TAHOE BLVD. R/W

PROPOSED MONOPINE LOCATION-
PROPOSED VERIZON WIRELESS-
TOWER LEASE AREA



SCALE 1" = 10'
0 5 10 20 30

PROJECT AREA ENLARGEMENT

PREPARED FOR
verizon
295 Parkshore Drive
Folsom, California 95630

Vendor:
EPIC
WIRELESS GROUP LLC
Connecting a Wireless World
605 Cowdige Dr. Suite 100
Folsom, CA, 95630

Project Address:
1200 Tunnel Creek Road
Incline Village, NV 89451

Architect:
Borges
ARCHITECTURAL GROUP
borgesarch.com
1478 STONE POINT DRIVE, SUITE 350
ROSEVILLE CA 95661
916 782 7200 TEL
916 773 8201 FAX

PROJECT NO: 14002-103
LOCATION NO: 445739
DRAWN BY: A.P.E.
CHECKED BY: J.E.S.

**Ponderosa
Ranch**
445739

REV	DATE	DESCRIPTION
G	08/02/19	100% ZD Rev 5
F	08/01/19	100% ZD Rev 4
E	12/06/18	100% ZD Rev 3
D	11/07/18	100% ZD Rev 2
C	10/01/18	100% ZD Rev 1
B	05/25/18	100% ZD Submittal
A	05/16/18	90% ZD Submittal

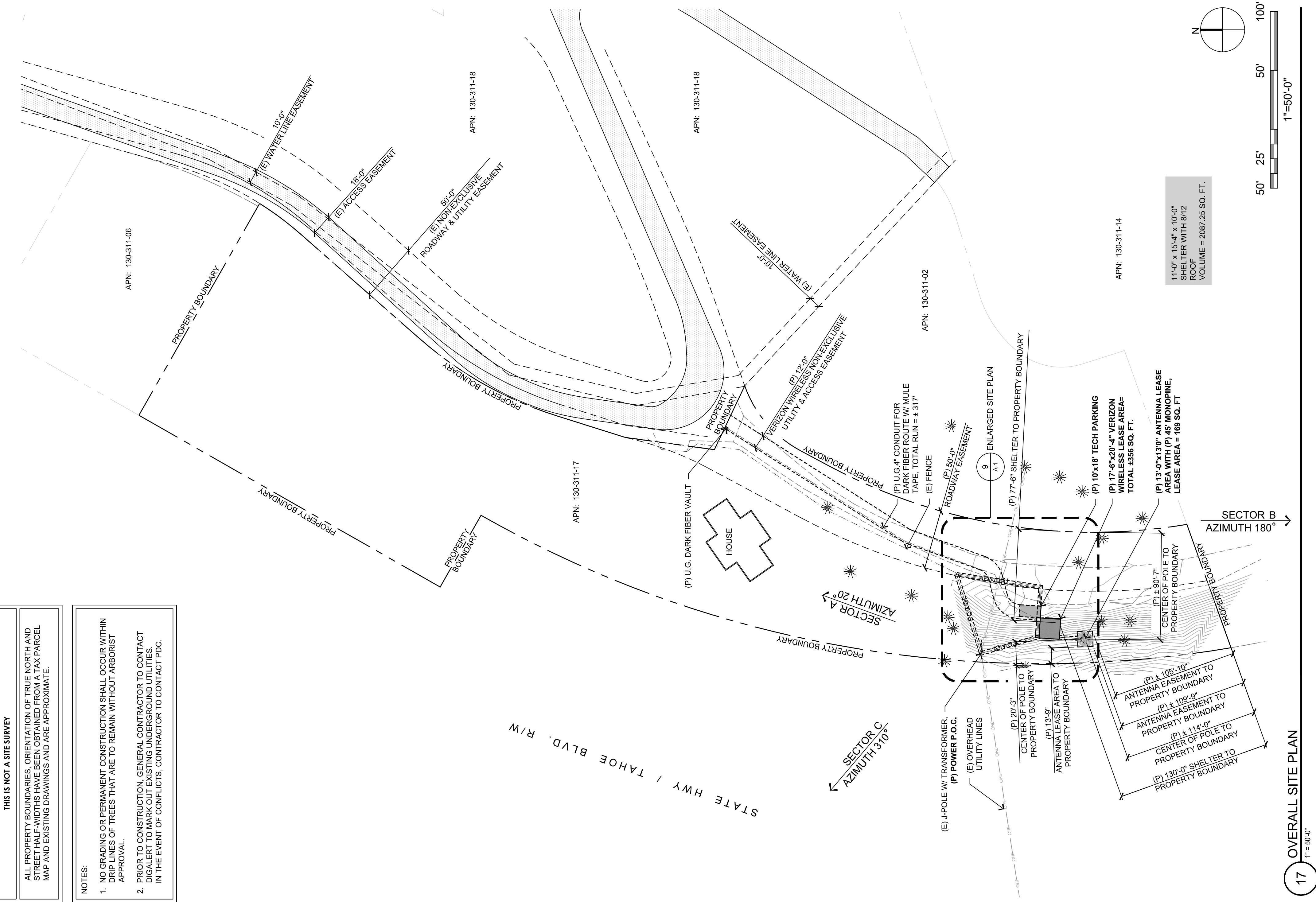
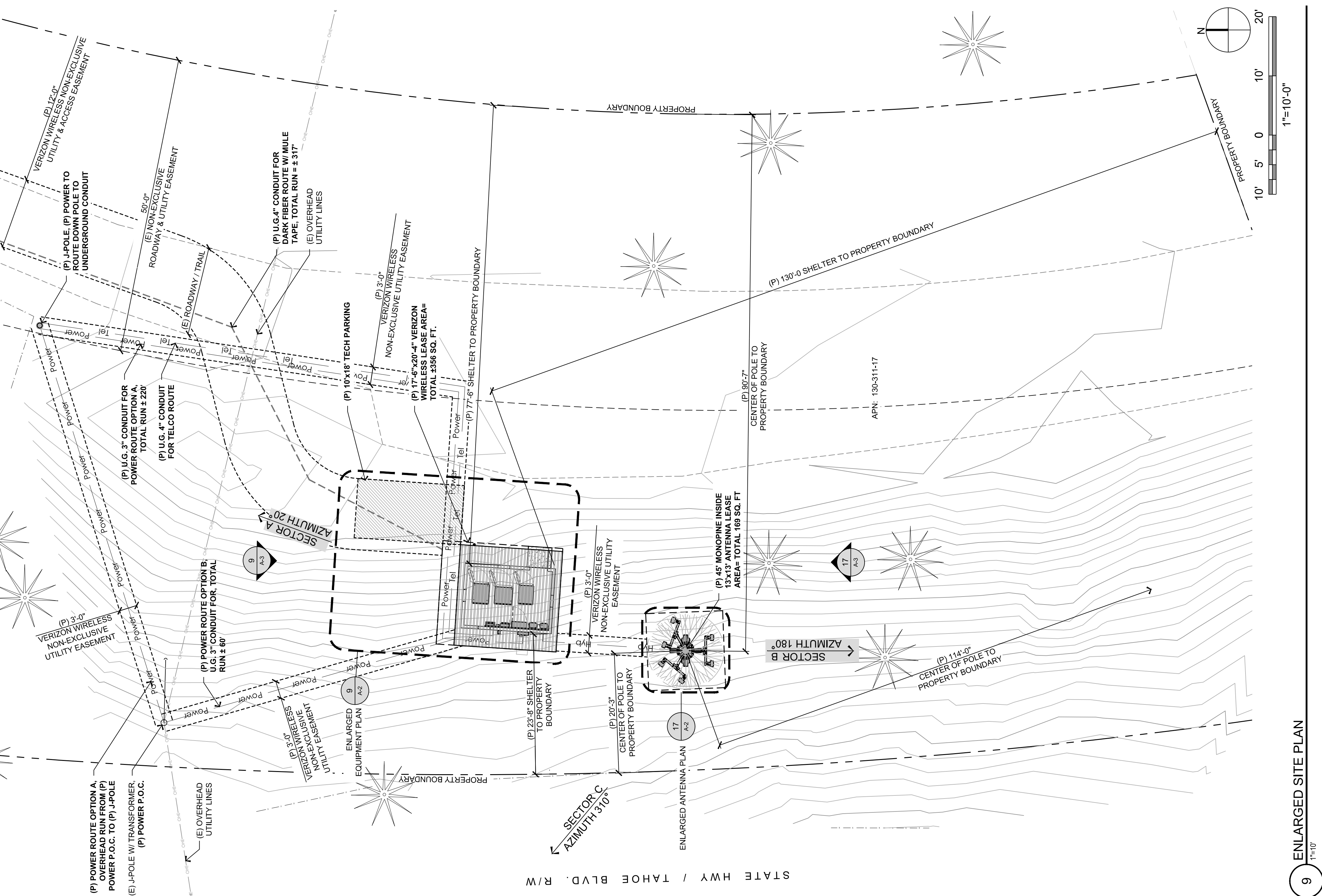
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Issued For:
08/02/19
100% ZD Rev 4

SHEET TITLE:
**OVERALL & ENLARGED
SITE PLANS**

SHEET NUMBER:
A-1



THIS IS NOT A SITE SURVEY

ALL PROPERTY BOUNDARIES, ORIENTATION OF TRUE NORTH AND STREET HALF-WIDTHS HAVE BEEN OBTAINED FROM A TAX PARCEL MAP AND EXISTING DRAWINGS AND ARE APPROXIMATE.

NOTES:

- NO GRADING OR PERMANENT CONSTRUCTION SHALL OCCUR WITHIN DRIP LINES OF TREES THAT ARE TO REMAIN WITHOUT ARBORIST APPROVAL.
- PRIOR TO CONSTRUCTION, GENERAL CONTRACTOR TO CONTACT DIGALET TO MARK EXISTING UNDERGROUND UTILITIES. IN THE EVENT OF CONFLICTS, CONTRACTOR TO CONTACT PDC.

9 ENLARGED SITE PLAN
1"=50'-0"

17 OVERALL SITE PLAN
1"=50'-0"

PREPARED FOR
verizon
295 Parkshore Drive
Folsom, California 95630

Vendor:
EPIC
WIRELESS GROUP LLC
Connecting a Wireless World
605 Cowdige Dr. Suite 100
Folsom, CA 95630

Project Address:
1200 Tunnel Creek Road
Incline Village, NV 89451

Architect:
Borges
ARCHITECTURAL GROUP
borgesarch.com
1478 STONE POINT DRIVE, SUITE 350
ROSEVILLE CA 95661
916 782 2200 TEL
916 773 8001 FAX

PROJECT NO: 14002-103
LOCATION NO: 445739
DRAWN BY: A.P.E.
CHECKED BY: J.E.S.

Ponderosa Ranch
445739

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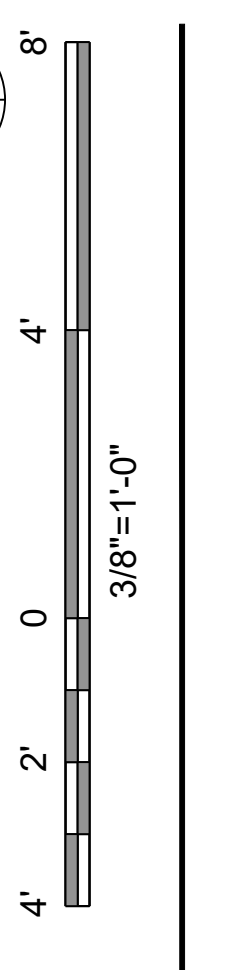
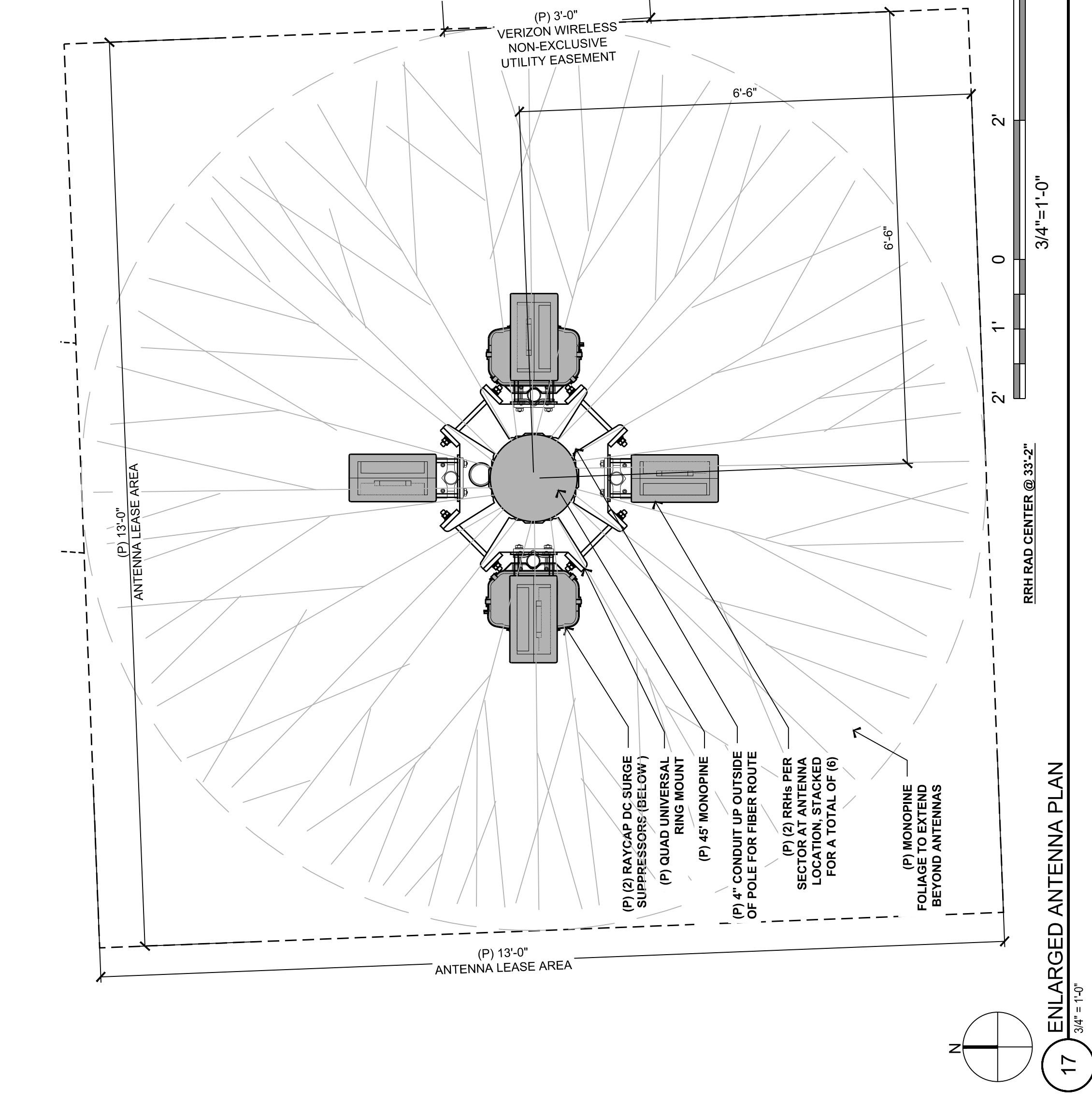
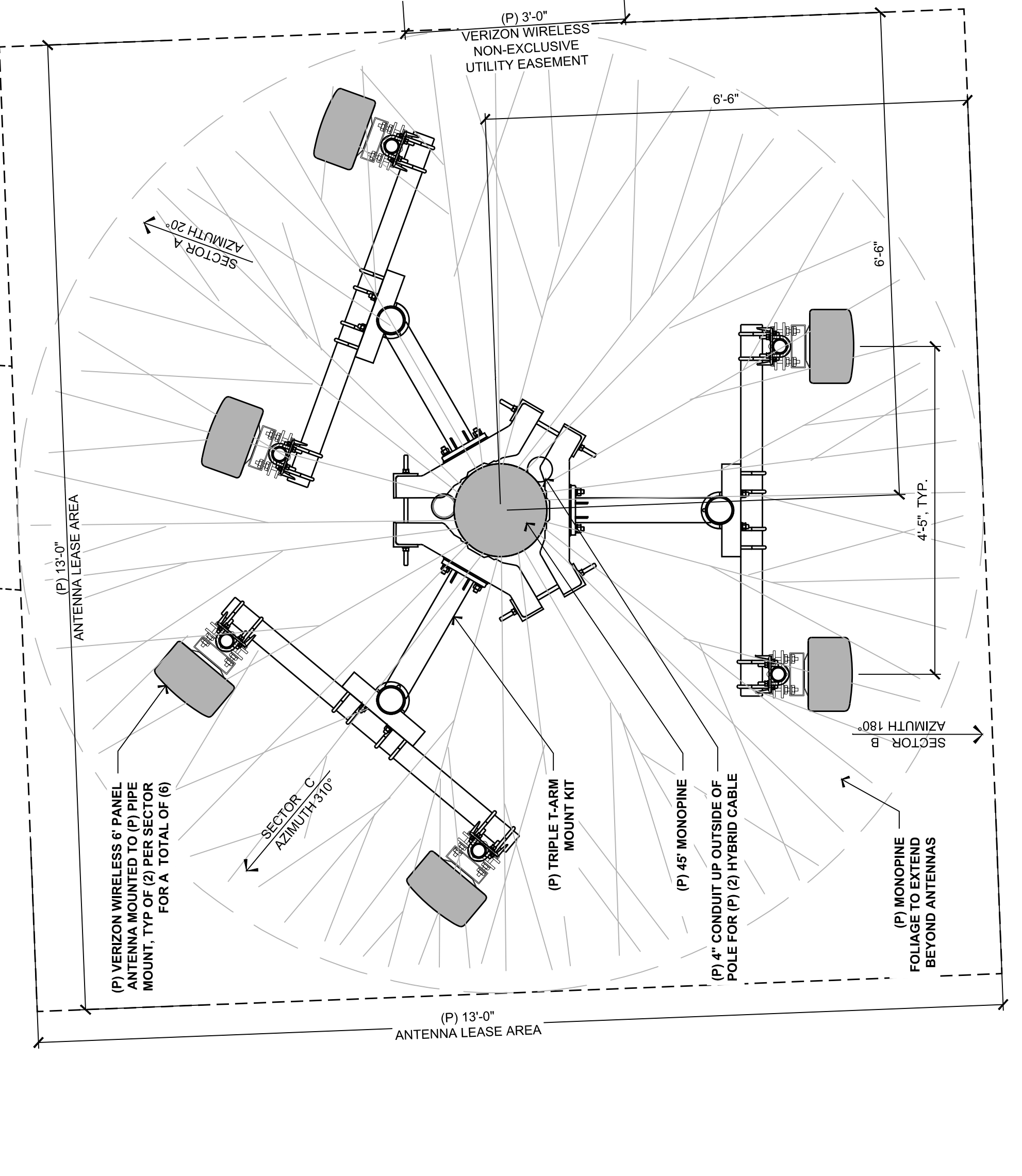
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Issued For:
08/02/19
100% ZD Rev 4

SHEET TITLE:
ENLARGED EQUIPMENT & ANTENNA PLANS

SHEET NUMBER:
A-2



9 ENLARGED EQUIPMENT PLAN
3/8\"/>

17 ENLARGED ANTENNA PLAN
3/4\"/>

PREPARED FOR
verizon
295 Parkshore Drive
Folsom, California 95630

Vendor:
EPIC
WIRELESS GROUP LLC
Connecting a Wireless World
605 Conkling Dr, Suite 100
Folsom, CA, 95630

Project Address:
1200 Tunnel Creek Road
Incline Village, NV 89451

Architect:
Borges
ARCHITECTURAL GROUP
borgesarch.com
1478 STONE POINT DRIVE, SUITE 350
ROSEVILLE CA 95661
916 782 2200 TEL
916 773 8681 FAX

PROJECT NO: 14002-103
LOCATION NO: 445739
DRAWN BY: A.P.E.
CHECKED BY: J.E.S.

Ponderosa Ranch
445739

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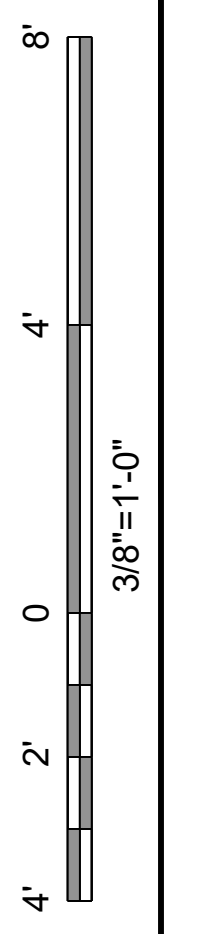
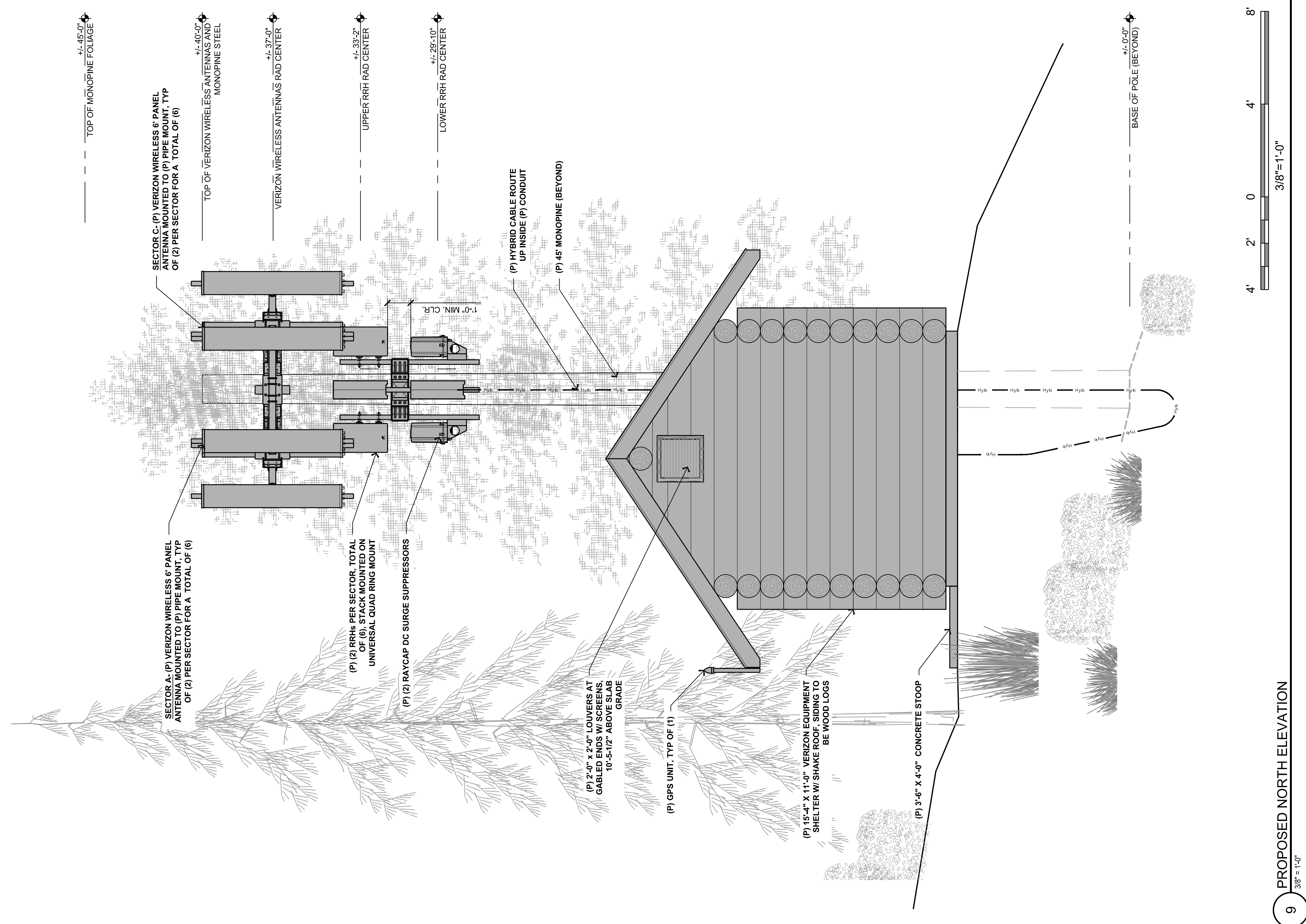
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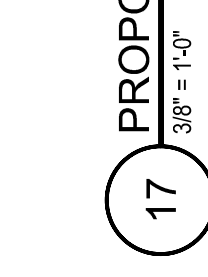
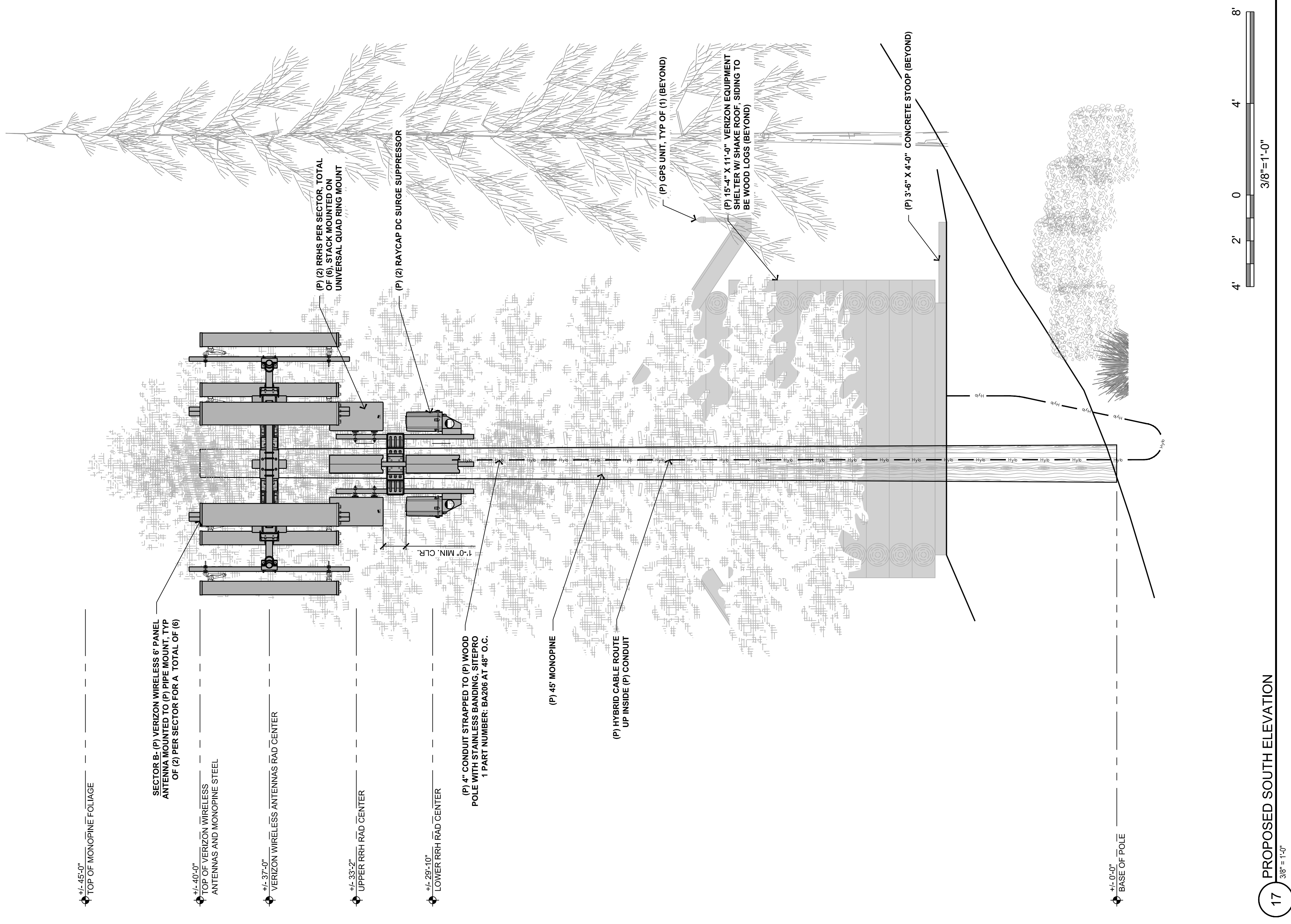
Issued For:
08/02/19
100% ZD Rev 4

SHEET TITLE:
ELEVATIONS

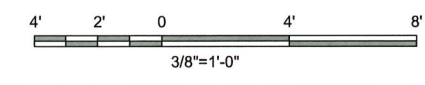
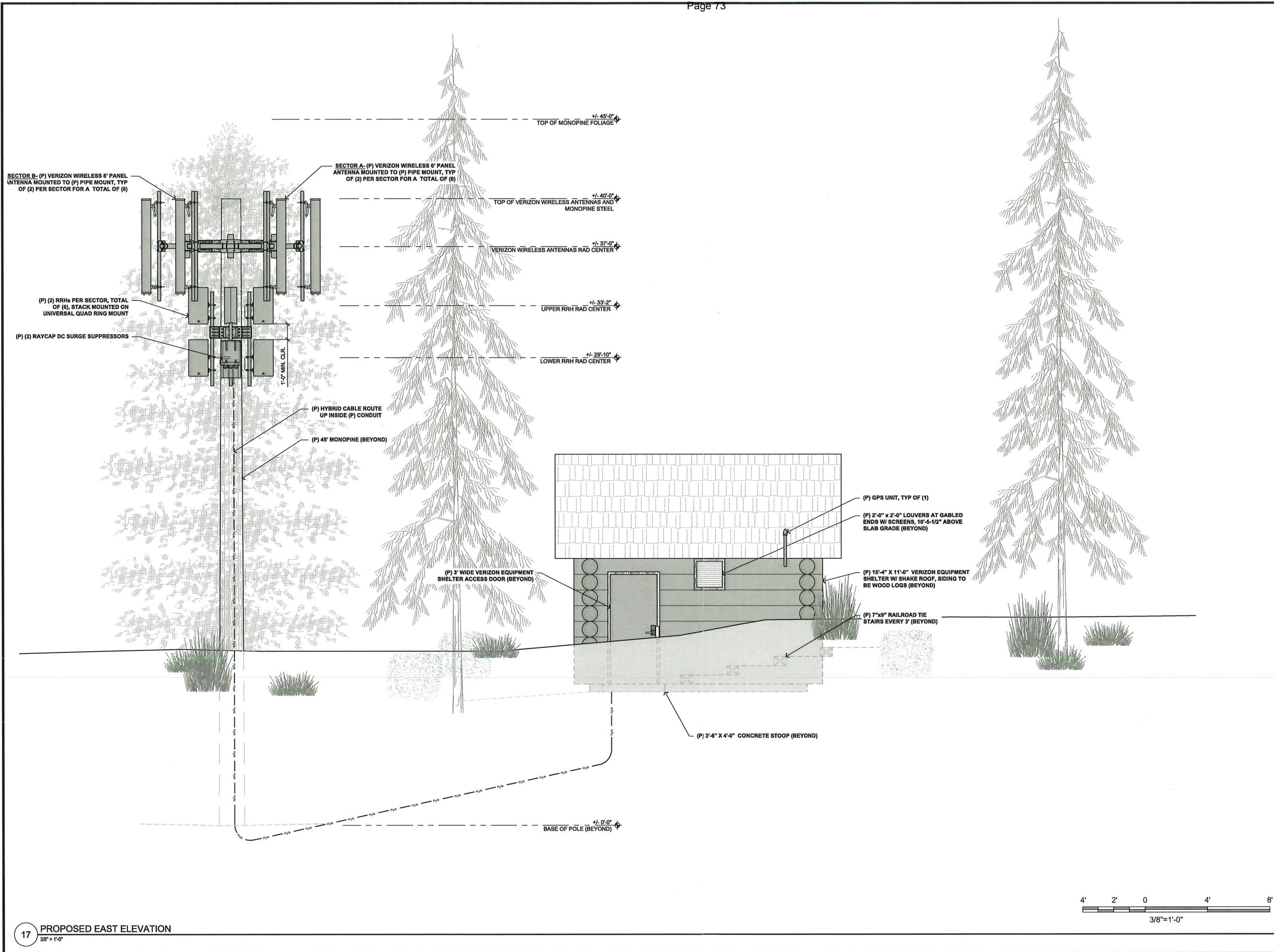
SHEET NUMBER:
A-3



9 PROPOSED NORTH ELEVATION
3/8" = 1'-0"



17 PROPOSED SOUTH ELEVATION
3/8" = 1'-0"



PREPARED FOR
verizon
295 Parkshore Drive
Folsom, California 95630

Vendor:
EPIC
WIRELESS GROUP LLC
Connecting a Wireless World
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Project Address:
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916 773 3037 FAX

PROJECT NO: 14002-103
LOCATION NO: 445739
DRAWN BY: A.P.E.
CHECKED BY: J.E.S.

Ponderosa Ranch
445739

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Issued For:
08/07/19
100% ZD Rev 5

SHEET TITLE:
ELEVATIONS

SHEET NUMBER:
A-3.3

Existing



Proposed



Proposed
Verizon Installation

view from Tunnel Creek Road looking southwest at site



445739 Ponderosa Ranch
1200 Tunnel Creek Road, Incline Village, NV
Photosims Produced on 10-3-2019

Existing



Proposed



view from Lakeshore Boulevard looking southeast at site

Existing



Proposed



view from Tahoe Boulevard looking northeast at site

Existing



Proposed



view from Tahoe Boulevard looking northeast at site

Existing



Proposed



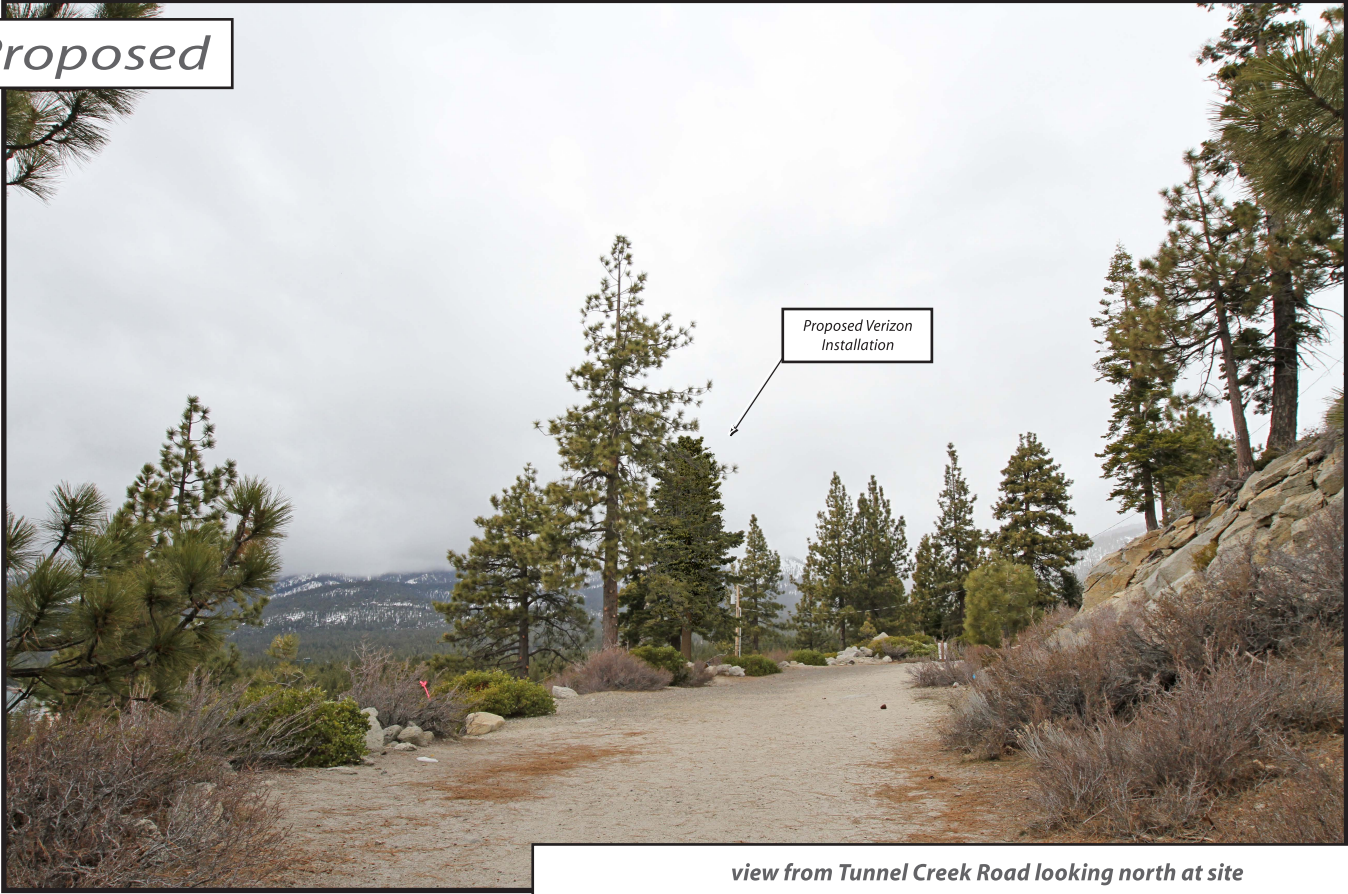
Proposed
Verizon Installation

view from Tunnel Creek Road looking southwest at site

Existing



Proposed



view from Tunnel Creek Road looking north at site

Existing



Proposed



Proposed Verizon
Installation

view from Tunnel Creek Road looking southwest at site

Existing



Proposed



Proposed Verizon
Installation

view from Tunnel Creek Road looking southwest at site

verizon

445739 Ponderosa Ranch
1200 Tunnel Creek Road, Incline Village, NV
Photosims Produced on 10-3-2019

AdvanceSim
Photo Simulation Solutions
Contact (925) 202-8507

**WSUP19-0006
EXHIBIT F**

**Updated: PROJECT SUPPORT STATEMENT
DEVELOPMENT APPLICATION FOR VERIZON SITE**

APN 130-311-17

1200 TUNNEL CREEK RD, INCLINE VILLAGE, NV89451

INTRODUCTION

Verizon Wireless is seeking to improve communications service in the southeast part of Incline Village in an effort to improve a Significant Gap in Coverage and capacity (110.324.55) generally around the Ponderosa Ranch area, as part of Verizon's larger Lake Tahoe Initiative. Additionally, this network development will increase public safety within these areas and bring wireless service to areas that currently have poor capacity service.

This new tower will help alleviate Significant Gap in Coverage within this service area, which causes reoccurring lost calls, ineffective service, and slow data speeds. To remedy these problems, Verizon proposes a new tower to be constructed at 1200 Tunnel Creek Rd. at the top of a steep embankment immediately above State Route 28 and Lakeshore Blvd.

The location of the equipment and antennas is designed to comply with Washoe County wireless design guidelines under 110.324.55, and those of TRPA, where application will also be made. While Washoe County favors co-location, in deference to the uniqueness of Incline Village, Lake Tahoe, and the unparalleled view shed, Verizon proposes the lowest height required and the best match of its surroundings by using a monopine pole and faux cabin shelter. All antennas to be covered in monopine "socks" to better blend in.

This unmanned facility will provide service to area travelers, residents and businesses 24 hours a day, 7 days a week. This site will also serve as a back up to the existing landline service in the area and will provide improved mobile communications, essential to modern day commerce and recreation.

SAFETY BENEFITS OF IMPROVED WIRELESS SERVICE

Mobile phone use has become an extremely important system for public safety. Along roads and highways without public call boxes, mobile phones are often the only means for emergency roadside communication. Motorists with disabled vehicles (or worse) can use their phone to call in and request appropriate assistance. With good cellular coverage along important roadways, emergency response is just a phone call away. Furthermore, as a back up system to traditional landline phone service, mobile phones have proven to be extremely important during natural disasters and other catastrophes.

Power backup is via batteries, not a generator.

CONVENIENCE BENEFITS OF IMPROVED WIRELESS SERVICE

Modern day life has become increasingly dependent on instant communications. Whether it is a parent calling their child, spouse calling a spouse, or general contractor ordering materials to the jobsite, wireless phone service is no longer just a convenience. It has become a way of life and a way of business.

COMPLIANCE WITH COUNTY DEVELOPMENT STANDARDS

This project has been carefully designed to comply with applicable standards for Washoe County, and to fix a Significant Gap in Coverage pursuant to Section 110.324.55. County code states that Significant

Gap *shall include* a “white area” where no cellular service from any carrier is available. It does not state that Significant Gap is *only* a “white area” where no cellular service from any carrier is available.

Federal law holds that limiting coverage to just one carrier to the exclusion of other carriers (because coverage then exists) constitutes an effective Denial of Service. While Verizon can currently generate some signal in the area, capacity and coverage will be significantly improved with the additions of the site. Through the inclusion of coverage maps with our application, Verizon can demonstrate a clear significant gap in coverage that is not a “white area”.

Verizon Wireless is proposing a new 45’ monopine design (well below the allowable height defined in the Antenna Placement Standards in Table 110.324.55) and faux log cabin shelter that better blends with the existing surrounding. We note too that the shelter structure is placed below the trail grade to not interfere with the view from the trail, and that the shelter is not in a presumed (includes both recorded and prescriptive) Right of Way, as defined in NRS code.

COMPLIANCE WITH FCC STANDARDS

This project will not interfere with any TV, radio, telephone, satellite, or any other signals. Any interference would be against the Federal Law and would be a violation Verizon Wireless’ FCC License. In addition, this project will conform to all FCC standards.

TECHNOLOGY AND CONSUMER SERVICES THE CARRIER WILL PROVIDE ITS CUSTOMERS

Verizon offers its customers multiple services such as, voice calls, text messaging, mobile email, picture/video messaging, mobile web, navigation, broadband access. Wireless service enhances public safety and emergency communications in the community. In rural areas such as the subject location, cellular phone service can cover much larger geographic areas than traditional landline phone service.

LIGHTING

Unless tower lighting is required by the FAA the only lighting on the facility will be a shielded motion sensor light by the door on the equipment shelter for servicing the equipment.

NOISE

The shelter has been specifically designed to eliminate air-condition outside the shelter than can contribute to higher noise levels. The faux log cabin will provide an additional layer of noise suppression surrounding cabinets with built-in AC. Also, Verizon will further reduce noise by eliminating a generator from the project, and instead, utilize battery backup.

HAZARDOUS MATERIAL

A Hazardous Material Business Plan will also be submitted upon project completion, and stored on site after construction

ENVIRONMENTAL SETTING

Verizon Wireless is proposing a new monopine and faux log cabin equipment shelter that blends with the existing surroundings.

CONSTRUCTION SCHEDULE

The construction of the facility will be in compliance with all local rules and regulations. The typical duration is two months. The crew size will range from two to ten individuals.



WASHOE COUNTY BOARD OF ADJUSTMENT DRAFT Meeting Minutes

Board of Adjustment Members

Clay Thomas, Chair
Kristina Hill, Vice Chair
Lee Lawrence
Brad Stanley
Kim Toulouse
Trevor Lloyd, Secretary

Thursday, December 5, 2019
1:30 p.m.

Washoe County Administration Complex
Commission Chambers
1001 East Ninth Street
Reno, NV

The Washoe County Board of Adjustment met in regular session on Thursday, December 5, 2019, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

Chair Thomas called the meeting to order at 1:30 p.m. The following members and staff were present:

Members present: Clay Thomas, Chair
Kristina Hill, Vice-Chair
Lee Lawrence
Brad Stanley
Kim Toulouse

Members absent: None

Staff present: Trevor Lloyd, Planning Manager, Planning and Building
Julee Olander, Planner, Planning and Building Division
Chris Bronczyk, Planner, Planning and Building Division
Sophia Kirschenman, Park Planner, Planning and Building Division
Dan Cahalane, Planner, Planning and Building
Donna Fagan, Recording Secretary, Planning and Building Division
Michael Large, Washoe County Deputy District Attorney

2. *Pledge of Allegiance

Clay Thomas led the pledge.

3. *Ethics Law Announcement

Deputy District Attorney Michael Large recited the Ethics Law announcement.

4. *Appeal Procedure

Trevor Lloyd recited the appeal procedure for items heard before the Board of Adjustment.

5. *General Public Comment and Discussion Thereof

As there was no response to the call for public comment, Chair Thomas closed the public comment period.

6. Approval of Agenda

Chair Thomas requested item 8F be heard after item 8A in order to hear both monopole items at the beginning of the meeting. In accordance with the Open Meeting Law, Member Toulouse moved to approve the agenda of December 5, 2019, as amended. The motion, seconded by Member Stanley, passed five in favor and none opposed.

7. Possible action to approve October 3, 2019 Draft Minutes

Member Stanley moved to approve the minutes of October 3, 2019. The motion, seconded by Member Hill, passed five in favor and none opposed.

8. Public Hearings

The Board of Adjustment may take action to approve (with or without conditions), modify and approve (with or without conditions), or deny a request. The Board of Adjustment may also take action to continue an item to a future agenda.

A. Special Use Permit Case Number WSUP19-0006 (Verizon Monopole) – For possible action, hearing, and discussion to approve a special use permit for the construction of a new wireless cellular facility consisting of a 45-foot high stealth monopine structure (aka cell phone tower disguised to resemble a pine tree) designed as a collocation facility. The proposal also requests varying the landscaping requirements by not requiring any additional landscaping.

- Applicant: Epic Wireless for Verizon Wireless
- Property Owner: Tunnel Creek Properties LLC
- Location: 1200 Tunnel Creek Rd.
- APN: 130-311-17
- Parcel Size: 3 acres
- Master Plan: Commercial (C) & Suburban Residential (SR)
- Regulatory Zone: Tourist Commercial (TC) & Low Density Suburban (LDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 324, Communication Facilities; and Article 810, Special Use Permits
- Commission District: 1 – Commissioner Berkbigler
- Staff: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building Division
- Phone: 775-328-3627
- E-mail: jolander@washoecounty.us

Chair Thomas opened the public hearing. Chair Thomas asked for Member disclosures. Member Stanley said he is retired from Verizon. DDA Large asked if he has current interest in the company and Member Stanley said no. DDA Large said there is no reason to recuse himself. There were no other member disclosures.

Julee Olander, Planner, presented her staff report dated November 7, 2019.

Member Stanley asked if there is code regarding setbacks to trailheads. Ms. Olander said it's 1000 feet. She said if there is a significant gap of service that could be waived and but that doesn't apply to this. Member Stanley asked about proximity to scenic roadways. Ms. Olander said she wasn't aware if this is a scenic roadway.

Member Hill asked where the applicant is in the process with Tahoe Regional Planning Agency (TRPA). Ms. Olander said the applicant can address that.

Member Toulouse said another tower has been approved in Incline Village. Ms. Olander said the tower was approved by this Board, appealed by the neighbors, and the Board of County Commissioners denied it and it didn't go forward.

Member Stanley said very few State agencies responded during the agency review. He said he was surprised there was no input from them knowing this is in the forest. Ms. Olander said she wanted the agencies to be aware, but she said it's common some agencies wouldn't have input. Ms. Olander said FCC approves or denies towers.

Member Hill said the property owner is Tunnel Creek, but the owner affidavit is signed by Buzz Lynn. Member Hill said the owner affidavit is a big deal. Ms. Olander said the applicant can address that.

Member Toulouse asked what is a significant gap. He said it's open for interpretation. Mr. Lloyd read from the code. Chair Thomas said one carrier is in that area and no other phone carrier can access that, is that consider insufficient. He asked if that is a qualifier. Mr. Lloyd said one carrier providing service in the area doesn't qualify as a significant gap. Chair Thomas stated federal statute speaks to not restricting another company from being installed in the area.

DDA Large spoke about county code not giving preference over another company. The code addresses significant gap. He said he would need to research if our code is in violation of federal statute.

Member Toulouse said he believes the applicant claims there is significant gap, but according to the maps, he cannot see the delineations from the before and after being a significant gap. Ms. Olander reviewed the application. Ms. Olander referenced FCC federal law, limiting coverage to just one carrier to the exclusion of other carriers constitutes an effective denial of service. Verizon provides service in the area and coverage and capacity will be significantly improved with additions to the site. This section of code is 20 years old. She showed the coverage map. It's not the type of coverage we have grown accustomed to. There is not enough coverage for them even though there is coverage. The applicant can give additional information. Member Toulouse said we are back to interpretation. He said the code says significant gap signified by white on the map. He said perhaps the code needs to be cleaned up.

Member Stanley asked about absence of signal and proximity to the trailhead. Ms. Olander said that is how they are responding to the proximity to the trailhead. Member Stanley asked if there was not total absence of coverage, then there would be an issue with proximity to trailhead. Ms. Olander said this is their legal interpretation to address significant gap requirement.

Buzz Lynn, Epic Wireless representative, said in the code, it specifically says white area and does say 'shall include' but doesn't state it exclusively. We can provide coverage maps. He showed a 'before' coverage map and 'after' coverage area map. The FCC is the governing jurisdiction who said if there is a significant gap in coverage; it can be gap in signal or capacity. It includes making a phone call or loading large amounts of data. He noted the white area reference is 20 years old in the code. We show it as grey area in the map as significant gap. Member Toulouse said we have to rely on the county code. He said he may agree with it, however, there are two interpretations of the law. Buzz Lynn said it's a 'shall' versus a well-defined 'only' definition. Mr. Lloyd said code is outdated and in need of updating, in the meantime, article 810 allows opportunity to vary if this Board sees fit.

Chair Thomas asked about the coverage maps. There is a large grey area above the old Ponderosa Ranch. He asked if that is uncovered. Mr. Lynn said it's a weak signal and may drop a call. He said it's a matter of capacity as well as phone service. Chair Thomas said the 'after' coverage maps indicate there would be no issues with coverage. Mr. Lynn said it would be a significant improvement. He showed on the "after" map that coverage would be increased depending on your location and concrete around the users. Chair Thomas asked if they reviewed any alternative sites. Mr. Lynn said they originally looked at the Ponderosa Ranch. He said we needed to increase coverage and capacity in the same area. He said we looked at Tunnel Creek, storage units adjacent, but there were setback problems. He said we tried IVGID, Waste Management, Thunderbird Lodge warehouse, and Spitzen Lumber but they didn't have extra room. He said we tried several properties. He said then Mr. Olson offered his personal property and was willing to lease to the south of their home. He said it started with expansive research to find a property.

Member Stanley asked about specific coverage. Mr. Lynn said it will be Verizon coverage and capacity only. Member Stanley said will it be a 4G or 5G site. Mr. Lynn said it will be a 4G site. He said 5G is extremely hard to deploy. Mr. Lynn also indicated the tower wasn't designed for any other carriers.

Member Lawrence noted CAB minutes state that sites were also looking to be installed at Diamond Peak or the Hyatt. Mr. Lynn said those sites didn't meet the objectives; the Hyatt was out of space on the roof and they had an exclusive agreement with another carrier or tower company who had the roof top rights. He said Diamond Peak is a brand-new search ring to cover the slopes when it's crowded. He said he didn't have details with that site or build. That is a possible candidate in addition to this site to further enhance the service.

Member Toulouse asked if this request is in addition to another site. Mr. Lynn said yes, it would be supplemental.

Chair Thomas asked how many parking sites would be eliminated with this proposed site. Mr. Lynn said zero, as it's an unmanned facility and don't have staff on-site. Ms. Olander explained the parking for the area and for the trailhead.

Member Hill asked how Mr. Lynn was able to sign the application for the property owner. Mr. Lynn said the owner of the property is Tunnel Creek LLC under ownership is Craig Olson. There should be an email from Mr. Olson to Mr. Lynn authorizing to apply on his behalf. Member Hill said that wasn't included.

Member Toulouse asked how far this site is from the Lake Tahoe. Mr. Lynn showed a map, probably ¼ mile max. Member Toulouse asked about the synthetic needles shedding and getting into the Lake. He asked about their maintenance plan. Mr. Lynn said they have made significant improvements with their materials. He said there has been concerns with the needles falling off the trees. He said he assures the quality of the tree are much better. He said Mr. Olson has put them through the ringer if anything becomes an issue. He said he doesn't anticipate problems, but there is language in the agreement to insure there are no issues in the future.

Member Hill asked about status of TRPA review. Mr. Lynn said TRPA review has not begun. He said preliminary information has been submitted, but wanted to make sure there weren't issues with Washoe County.

Public Comment:

Geno Stohl said he is a permanent resident and lives par-5 to the proposed site. He said coverage has been sparse in the area. He said everyone has phones and during the influx of the population, it makes it hard to make a phone call. He said signal was non-existent during this past holiday. He said he wasn't able to text. Phone calls weren't received. He said he hopes this site gets approved. He said for emergencies, it's important to have this site.

With no further request for public comment, Chair Thomas closed the public comment period.

Chair Thomas referenced code; significant gaps shall include white area. It doesn't exclude grey or yellow. Mr. Lloyd said you could make the interpretation. They have to demonstrate a white area, but not completely white. Chair Thomas said under section 110, the Board of Adjustment may vary standards which gives us latitude to interpret old code. DDA Large and Mr. Lloyd agreed with that.

Member Stanley said it's 10-year-old code and asked about updating the code. Mr. Lloyd said it's a priority and on the list of code amendments needing to be updated. Mr. Lloyd said there are a lot of code amendment priorities. He said they are updating the area plans currently. He said he cannot give a timeframe of updating this code.

Member Hill said she is a representative for Incline Village. She said she isn't a Verizon customer and has great coverage. She said she has a hard time believing this is a great location for a fake tree at this proposed site location with a popular trail and new path. She said it will stand out. She stated she doesn't believe it's an ideal location. It's a scenic location. Thousands of people enjoy this area every day. This is exclusive to Verizon. She asked what about other carriers; will we have to have fake trees everywhere for each carrier. She hasn't heard anyone complain about the cell service. There hasn't been an issue for lack of service except for the gentleman who made public comment.

Member Toulouse said he agrees with Member Hill. He said he has issues with this location. It's an iconic location. He sympathizes with the gentleman who has poor cell service. This location is not the best site.

Member Stanley asked about process. How is it determined who reviews it first – the County or TRPA. Mr. Lloyd said the Regional Plan dictates what Washoe County can or cannot enforce. He said we can be more restrictive than TRPA, but not less restrictive. He said if this gets approved, they will need to submit building plans for the site and those plans need approval by TRPA before the County can issue final approval. Member Stanley asked about building and not site suitability issues. Mr. Lloyd said he didn't know TRPA's process and review, but the applicant needs their approval prior to Washoe County issuing a permit.

Chair Thomas said populations are expanding. He said if someone breaks a leg on the trail if they have Verizon they will need to make an emergency call. He said the community didn't want a tower downtown. He said he disagreed with Member Hill regarding AT&T coverage; it's important for everyone to have coverage regardless of carrier. He said he has hiked the area and it's beautiful. He said he would be in favor of approval of this project.

Member Lawrence said these projects are always difficult. He said he sympathizes with Member Hill. It's a scenic area. He said Mr. Stohl made a point. People want to take a picture of the scenic area and tell their friends about it which enhances their experience. He said the height of this monopole is reasonable with surrounding vegetation. He said it's the larger, taller towers that are objectionable. He said he would be in favor of this project.

Member Stanley said there has been excellent issues raised. He said he has concerns about a single carrier no matter how good they are. Being able to say there is a gap issue for that carrier, other carriers will be able to do the same. He said it's not contained. It guides us to not approve this project.

Ms. Olander provided a proposed motion if the board choose that indicates landscape requirements were waived.

Member Toulouse moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment deny, Special Use Permit Case Number WSUP19-0006 for Verizon Wireless, having been unable to make finding #3, site suitability, in accordance with Washoe County Code Section 110.810.30. Member Stanley seconded the motion. The motion carried, for denial, Member Toulouse, Member Stanley and Member Hill voted for

12. Adjournment

Meeting adjourned at 6:18 p.m.

IVCB CAB NOVEMBER 4, 2019 MINUTES



Incline Village Crystal Bay Citizens Advisory Board

DRAFT: Approval of these draft minutes, or any changes to the draft minutes, will be reflected in writing in the next meeting minutes and/or in the minutes of any future meeting where changes to these minutes are approved by the CAB.

Minutes of the Incline Village Crystal Bay Citizens Advisory Board meeting held at Incline Village General Improvement District, 893 Southwood Blvd, Incline Village, NV 89451 on November 4, 2019, 5:00 P.M.

1. ***CALL TO ORDER/ PLEDGE OF ALLEGIANCE** – Pete Todoroff called the meeting to order at 5:32 P.M.
2. ***ROLL CALL/DETERMINATION OF A QUORUM** - Pete Todoroff, Kevin Lyons, Michael LeFrancois, Mike Sullivan. A quorum was determined.

Absent: Judy Miller(excused)

3. ***PUBLIC COMMENT** –

With no requests for public, Chair Todoroff closed the public comment period.

4. **APPROVAL OF AGENDA FOR THE MEETING OF NOVEMBER 4, 2019** – Kevin Lyons moved to approve the agenda. Mike Sullivan seconded the motion to approve the agenda for **NOVEMBER 4, 2019**. Motion carried unanimously.

5. **APPROVAL OF THE MINUTES FOR THE MEETING OF JUNE 3, 2019** – Mike Sullivan noted he is an alternate and the minutes noted he was absent/not excused, but alternates don't need to be excused. He requested that to be reflected. Kevin Lyons moved to approve the minutes of **JUNE 3, 2019** with correction that Mike Sullivan was absent. Mike Sullivan seconded the motion to approve the minutes as corrected. Motion carried unanimously.

6. **DEVELOPMENT PROJECTS**- The project description is provided below with links to the application or you may visit the Planning and Building Division website and select the Application Submittals page:

www.washoecounty.us/comdev

6.A. **Special Use Permit Case Number WSUP19-0006 (Verizon Monopole)** - Request for community feedback, discussion and possible action to forward community and Citizen Advisory Board comments to Washoe County staff on a request for a special use permit for the construction of a new wireless cellular facility consisting of a 45-foot-high stealth monopine structure (aka cell phone tower disguised to resemble a pine tree) designed as a collocation facility and a small cabin structure to house the wireless equipment. The monopole is proposed to be located on the southern portion of the 3 acre parcel at 1200 Tunnel Creek Road. (for Possible Action)

- Applicant\Property Owner: Epic Wireless for Verizon Wireless\Tunnel Creek Properties, LLC
- Location: 1200 Tunnel Creek Rd.
- Assessor's Parcel Number: 130-311-17
- Staff: Julee Olander, Planner; 775-328-3627; jolander@washoecounty.us
- Reviewing Body: Tentatively scheduled for the Board of Adjustment on December 5, 2019

Buzz Lyn, Applicant representative, provided an update with the changes since the last time it was proposed.

Mike LeFrancois asked if there are any proposed trees in the area that are similar to the proposed tree. Buzz said the monopine is much shorter, and mimics the jeffery pine in the surrounding area.

Kevin asked if there were any other changes to the application

Public comment:

David Geddes said it's important to include the pad elevations for the mechanical room and the tower. He spoke about fill that isn't depicted in the plans. He said the simulation pictures show the roadway. It's not realistic. Realistically, someone can see the entire tree. He said the pine tree tapers naturally, but the tower has a box at the top. It's important to see what it actually looks like. He spoke about the mechanical room on the roadway. It needs to be clarified. The pad elevation is very important. The most important simulation is simulation from the residence. This will obstruct the multimillion-dollar view. The board needs to consider these things. He said it would be helpful to put stakes in the ground to show the location of the pad and depict the height of the tree to show the structure.

Pricilla O'Leary provided a written comment – The cell tower produces a lot of trash in the form of plastic looking blades. We picked up approximately 2,300 pieces of trash produced by the cell tower.

Alec Flores held up a jar with pine needles. He spoke about the materials from the pine tree on the Mountain Golf Course. He asked how this will impact the Lake. If it will be constructed to mimic the monopine, he asked how it will be constructed and with what materials. He said we need cell coverage but not at the expense of the lake.

Hillary asked if there is limit on expansion. She said Scientific American article spoke about impact of cell towers. She asked if the tower can be limited to 4G. She asked that this is not a blanket approval and limit usage. Please research human safety. She said she doesn't care what it looks like but sympathize with the neighbors who have to look at it, and it should be screened with other natural trees. She said it should be designed for one usage. Look at the impact on humans before expanding.

Craig Olson, Tunnel Creek owner, he said he has done cell sites on property before. He said he put Verizon through the ringer about the appearance. He said this is his property. He said if he was concerned about radio waves, he wouldn't put it on the property. He said he wants it to look good. He said he is concerned with the materials falling off as well. He said he spoke with Buzz about the tree shedding. He said there will be strong language in the contract. He said he doesn't want to put trash in the lake either. He wants to reduce waste and protect the lake. He said cell towers are NIMBY. It won't impact Mr. Geddes or his mother-in-law. He said he met with Duffield's representative. He invited everyone to meet and talk to him. He said he doesn't need the lease money, but we need to coverage. He said they are accepting comments about the look and how to protect the environment.

John Finney, neighbor of Craig Olson, spoke about 5G technologies. It will be distributed on smaller posts around town. It's not a larger tower for 5G.

Hillary asked if another company gets added to the same location, does it increase the cell tower power. Mike Sullivan said the other cell tower proposed was 125 feet. This one is 45 feet. Buzz said carriers like to co-locate so they don't have to recreate cell towers, but at 45 feet, there isn't the opportunity. He said if that is to happen, it would come back to the CAB.

Mike LeFrancois asked about the proposed changes. Buzz said it wasn't to the pole or antenna which will remain the same. He said the structure would move downhill to reduce the view shed by 12 feet vertical and horizontal.

Pete Todoroff asked if it was staked out. Buzz said no. Pete said it would be helpful.

Julee Olander said there are 3 distinct trees where it will be located. She would be happy to send pictures.

Craig Olson said equipment shed with air conditioning units didn't go over well with him since it doesn't look like a log cabin. The air conditioning unit will be on the inside. Craig said he is doing everything to make it look like it belongs there..

Kevin Lyons explained wave length and energy between 4G and 5G technology. He said he would live next to this tower.

MOTION: Kevin Lyons moved to recommend approval and recommend it being staked. Mike Sullivan seconded the motion to recommend approval and to forward community and Citizen Advisory Board comments to Washoe County staff on a request for Special Use Permit Case Number WSUP19-0006 (Verizon Monopole). Mike Sullivan noted Craig Olson will be the first person to approve or deny the final project. The motion passed unanimously.

ADJOURNMENT – meeting adjourned at 6:41 p.m.

Number of CAB members present: 4

Number of Public Present: 12

Presence of Elected Officials: 0

Number of staff present: 1

Submitted By: Misty Moga

IVCB CAB MAY 6, 2019 MINUTES



Incline Village Crystal Bay Citizens Advisory Board

DRAFT: Approval of these draft minutes, or any changes to the draft minutes, will be reflected in writing in the next meeting minutes and/or in the minutes of any future meeting where changes to these minutes are approved by the CAB.

Minutes of the Incline Village Crystal Bay Citizens Advisory Board meeting held at Incline Village General Improvement District, 893 Southwood Blvd, Incline Village, NV 89451 on May 6, 2019, 5:30 P.M.

1. *CALL TO ORDER/ PLEDGE OF ALLEGIANCE – Pete Todoroff called the meeting to order at 5:30 P.M.

2. *ROLL CALL/DETERMINATION OF A QUORUM - Pete Todoroff, Tom Cardinale, Gerry Eick, Judy Miller, Gene Brockman. A quorum was determined.

Absent: Kevin Lyons (excused), Mike Sullivan (not excused).

6.F. Special Use Permit Case Number WSUP19-0006 (Verizon Monopole) - Request for community feedback, discussion and possible action to forward and Citizen Advisory Board comments to Washoe County staff on a request for the construction of a new wireless cellular facility consisting of a 45-foot-high stealth monopine structure (aka cell phone tower disguised to resemble a pine tree) designed as a collocation facility and a small cabin structure to house the wireless equipment. The monopole is proposed to be located on the southern portion of the 3 acre parcel at 1200 Tunnel Creek Road. **(for Possible Action)**

- **Applicant/Property Owner:** Epic Wireless for Verizon Wireless/ Tunnel Creek Properties, LLC.
- **Location:** 1200 Tunnel Creek Road, Incline Village
- **Assessor's Parcel Number:** 130-311-17
- **Staff:** Julie Olander, Planner; 775-328-3627; jolander@washoecounty.us
- **Reviewing Body:** Tentatively scheduled for the Board of Adjustment on June 6, 2019

Buzz Lynn, representative for Verizon, provided a brief update.

He said there is lack of coverage in the area near the old Ponderosa Ranch. He said they are applying for 45 foot monopine tree on Tunnel Creek. The goal is to make the monopole as stealthy as possible with screening. He said the Olson's requested to make the shelter camouflaged. The objective is to provide better service and better service for first responder.

Judy Miller stated that she noticed it wasn't co-locating with multiple providers. Buzz Lynn said this there will not be any co-locating.

Buzz said photos will be provided from the lake for TRPA. The tree will be in a small grove to serve as camouflage.

Gene Brockman said application excludes a generator. He asked what is the provision for backup. Buzz said it will be battery back-up with 48-72 hours for enough back-up support. Service will not be interrupted.

Pete Todoroff asked why the application wasn't stamped by a state licensed engineer. Buzz said it's for review not for construction. Buzz said he can get a state license engineer to approve it.

Gerry Eick asked about possibility of future providers on this monopole. Julie Olander said the type of tower with height can only support 4-6 antennas. Verizon will take all 4-6 antennas. If another carrier wants to be located on the tower, it would need to go through another SUP for a larger tower. Gerry said proposed height is camouflaged, but if it exceeds that, it would stand out significantly.

David Geddes, neighboring property owner, and representing the neighbor Joyce Boch, said the application isn't complete. Panoramic photos weren't included. No alternative site analysis was included. There has been a monopole approved up the street that would satisfy the coverage. A signature is required which wasn't included. LDS has higher standard for coverage. The antennas at the Hyatt and Diamond Peak satisfy coverage. It's visual pollution. Tunnel Creek road is highly trafficked trail in our area. 400 people a day use that road. The shared use bike path will be added soon which will increase foot traffic. The first thing they will see is this monopole. He said we spent a lot of time beautifying this area.

Wayne Ford said he agreed with Mr. Geddes. The panoramic photos were not included. He said there are codes on what planning requires in the application. He said there were only 4 pictures, not 8. If the 8 were included, the public would be able to see - keep them visually informed. NRS applies. He said the location is wonderful. Mr. Borges does nice work, but needs to apply for a NV architecture license. It would keep him out of trouble at the board.

Sara Schmitz said the generator is battery powered, but batteries in our forest are a potential fire hazard. She wanted clarification on fire safety for batteries. She said Wayne Ford examined the Mountain Golf Course cell tower, and it was shedding plastic needles. She wants to know how often the tree is maintained.

Jackie Chandler wanted to know who is responsible for the exit strategy for when the tower isn't useful anymore. She wants to know if it's in the contract.

Craig Olson, owner of the property, said he has dealt with cell towers. He wants them hidden and camouflaged. Tunnel Creek is well traveled. The contract includes the responsible party to remove the tower.

MOTION: Gerry Eick moved to submit individual worksheets for CAB Board members. Judy Miller seconded the motion to submit individual cab worksheets. Motion carried unanimously.

ADJOURNMENT – meeting adjourned at 6:31 p.m.

Number of CAB members present: 5

Number of Public Present: 22

Presence of Elected Officials: 0

Number of staff present: 2

Submitted By: Misty Moga



50 West Liberty Street
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775.785.5441 (Fax)
www.swlaw.com

DENVER
LAS VEGAS
LOS ANGELES
LOS CABOS
ORANGE COUNTY
PHOENIX
RENO
SALT LAKE CITY
TUCSON

William E. Peterson
(775) 785-5407
wpeterson@swlaw.com

May 22, 2020

By Email and Regular Mail

David L. Watts-Vial
Deputy District Attorney
Michael Large
Deputy District Attorney
Washoe County District Attorney's Office
One S. Sierra Street
Reno, NV 89501

Re: Special Use Permit Case No. WSUP 19-0006
Hearing Date: June 23, 2020

Dear Messrs. Watts-Vial and Large:

I am local counsel for Verizon Wireless and Epic Wireless in their appeal to the Washoe County Commission from the denial by the Washoe County Board of Adjustment, of their Application for Special Use Permit to construct, operate and maintain a stealth monopole cell tower in the vicinity of Ponderosa Ranch in Incline Village, Washoe County, Nevada. The staff report concluded that the applicants had satisfied all the criteria required by the Washoe County Code to obtain the permit and that the permit should issue. Certain members of the Board of Adjustment, however, were confused about language in the Development Code which prohibits placement of such towers within 1,000 feet of a public trail unless the applicant can demonstrate the existence of a significant gap with a technical review. Washoe County Code 110.324.50. The proposed tower is within such distance. Although Verizon and Epic demonstrated a significant gap under applicable preemptive federal law, certain members of the Board expressed the opinion that under Washoe County Code 110.324.55, the applicant was required to demonstrate that the significant gap is totally devoid of any service by any carrier (i.e. a "white area"). Staff, the applicant and at least one member of the BOA did not agree with this reading, but rather interpreted the code to mean that such a "white area" would definitely be included in the definition of a significant gap, but was not meant to be exclusive, and that total absence of signal from any or all carriers was not required.

Messrs. Watts-Vial and Large
May 22, 2020
Page 2

County staff suggested to the Board that Washoe County ordinances were outdated in this regard, in the process of being updated, and were very likely not in compliance with preemptive federal law on this subject. Washoe County DA advised tabling or continuing the matter until he could conduct adequate research on the issue, but this suggestion was rejected and the Board adopted the more restrictive interpretation of the Code regarding significant gap, and denied the permit for inability to make finding number 3 of Washoe County Code 110.324. Washoe County staff and DA were correct in surmising that Washoe County Code regarding significant gap, at least as interpreted by certain members of the BOA, was outdated and not in compliance with preemptive federal law. Verizon Wireless and Snell & Wilmer have consulted with and associated legal experts, Mackenzie & Albritton LLP, on this topic to assist them, and Washoe County, in understanding the requirements of federal law. Mr. Paul Albritton has represented Verizon Wireless for 20 years on federal telecommunications law, and has appeared in countless numbers of public hearings, as well as educational panels, on the requirements of the Telecommunications Act, and its interface and relationship to local permitting law. The Nevada State Bar approved Mr. Albritton's application to appear in this proceeding pro hac vice and that certificate is attached to this letter along with the opinion that I requested he present and explain to the Board of County Commissioners.

I am providing you with an advance copy of his opinion on the requirements of the Telecommunications Act and more particularly the concept of significant gap and preemption under federal law. I also attach a separate copy of the legal authorities Verizon filed with its application.

Please do not hesitate to contact me if you have questions or concerns about this letter or the attachments. It is my belief that the law on this point is well settled, non-controversial, and that we would be doing a mutual good service to our respective clients by providing them with consistent and accurate advice. Thank you for your continued cooperation in this matter.

Very truly yours,



William E. Peterson

WEP:hwl
Attachments

1 STAT

2
3 **BEFORE THE BOARD OF WASHOE COUNTY COMMISSIONERS**
4 **STATE OF NEVADA**

5 Case No. WSUP-19-0006

6 Epic Wireless for Verizon
7 Wireless

8 vs.

9 Board of County Commssioners
10

11 _____ /
12 **STATE BAR OF NEVADA STATEMENT PURSUANT TO SUPREME COURT RULE**
13 **42 (3) (b)**

14 THE STATE BAR OF NEVADA, in response to the application of
15 Petitioner, submits the following statement pursuant to SCR42(3):

16 SCR42(6)**Discretion.** The granting or denial of a motion to associate
17 counsel pursuant to this rule by the court is discretionary. The
18 court, arbitrator, mediator, or administrative or governmental
19 hearing officer may revoke the authority of the person permitted to
appear under this rule. Absent special circumstances, repeated
appearances by any person or firm of attorneys pursuant to this rule
shall be cause for denial of the motion to associate such person.

20 (a) **Limitation.** It shall be presumed, absent special
21 circumstances, and only upon showing of good cause, that
22 more than 5 appearances by any attorney granted under
this rule in a 3-year period is excessive use of this
rule.

23 (b) **Burden on applicant.** The applicant shall have the
24 burden to establish special circumstances and good cause
25 for an appearance in excess of the limitation set forth
26 in subsection 6(a) of this rule. The applicant shall set
forth the special circumstances and good cause in an
affidavit attached to the original verified application.

27 1. DATE OF APPLICATION: 4/16/2020

28 2. APPLYING ATTORNEY: Paul Bierer Albritton, Esq.

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3. FIRM NAME AND ADDRESS: Mackenzie & Albritton, LLP, 155 Sansome Street, Suite 800, San Francisco, CA 94104
4. NEVADA COUNSEL OF RECORD: William E. Peterson, Esq., Snell & Wilmer, 50 West Liberty Street, Suite 510, Reno, NV 89501
5. There is no record of previous applications for appearance by petitioner within the past three (3) years.

DATED this April 24, 2020


Suzy Moore
Member Services Admin.
Pro Hac Vice Processor
STATE BAR OF NEVADA

WASHOE COUNTY BOARD OF COUNTY COMMISSIONERS

EPIC WIRELESS FOR) No. WSUP-19-0006
VERIZON WIRELESS/)
VERIZON WIRELESS)
APPEAL TO) VERIFIED APPLICATION FOR
WASHOE COUNTY) ASSOCIATION OF COUNSEL UNDER
BOARD OF COUNTY) NEVADA SUPREME COURT RULE 42
COMMISSIONERS)
_____)

Paul Bierer Albritton, Petitioner, respectfully represents:
First Middle Name Last

1. Petitioner resides at 16121 Watson Rd
Street Address
Guerneville, Sonoma, CA
City County State
95446, (415) 527 8650
Zip Code Telephone

2. Petitioner is an attorney at law and a member of the law firm of
Mackenzie & Albritton LLP
with offices at 155 Sansome St. Suite 800
Street Address
San Francisco, San Francisco, CA
City County State
94104, (415) 288 4000, pa@mallp.com
Zip Telephone Email

3. Petitioner has been retained personally or as a member of the above named law firm by _____
Sacramento Valley Limited Partnership d/b/a Verizon Wireless to provide legal representation in
connection with the above-entitled matter now pending before the above referenced County Commission

4. Since December 3 of 1982, petitioner has been, and presently is, a member of good standing
of the bar of the State of California where petitioner regularly practices law.

5. Petitioner was admitted to practice before the following United States District Courts, United
States Circuit Courts of Appeal, the Supreme Court of the United States, and/or courts of other states
on the dates indicated for each, and is presently a member in good standing of the bars of said Courts:

	<u>DATE ADMITTED</u>
<u>United States District Court, Northern District of California</u>	<u>12/03/1982</u>
_____	_____
_____	_____
_____	_____

6. Is Petitioner currently suspended or disbarred in any court? You must answer yes or no. If yes,
give particulars; e.g., court, jurisdiction, date: No

7. Is Petitioner currently subject to any disciplinary proceedings by any organization with authority
at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date,
status: No

8. Has Petitioner ever received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

9. Has Petitioner ever had any certificate or privilege to appear and practice before any regulatory administrative body suspended or revoked? You must answer yes or no. If yes, give particulars, e.g. date, administrative body, date of suspension or reinstatement: No

10. Has Petitioner, either by resignation, withdrawal, or otherwise, ever terminated or attempted to terminate Petitioner's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings? You must answer yes or no. If yes, give particulars: No

11. Petitioner, or any member of petitioner's firm, has/have filed the following application(s) to appear as counsel under Nevada Supreme Court Rule 42 during the past three (3) years in the following matter(s), if none, indicate so: *(do not include Federal Pro Hac)*

<u>Date of Application</u>	<u>Cause</u>	<u>Title of Court Administrative Body or Arbitrator</u>	<u>Was Application Granted or Denied?</u>
None			

(If more space is needed, you may list previous applications on a separate attachment.)

12. Nevada Counsel of Record for Petition in this matter is:

(must be the same as the signature on the Nevada Counsel consent page)

William	Eugene	Peterson	1528
First Name	Middle Name	Last Name	NV Bar #
who has offices at <u>Snell & Wilmer L.L.P.</u>			
Firm Name/Company			
<u>50 West Liberty Street, Suite 510</u>	<u>Reno</u>	<u>Washoe</u>	
Street Address	City	County	
<u>89501</u>	<u>(775) 785-5440</u>		
Zip Code	Phone Number		

13. The following accurately represents the names and addresses of each party in this matter, WHETHER OR NOT REPRESENTED BY COUNSEL, and the names and addresses of each counsel of record who appeared for said parties: (You may attach as an Exhibit if necessary.)

NAME	MAILING ADDRESS
Michael Large for Washoe County	One S. Sierra Street, Reno, NV 89501
_____	_____
_____	_____
_____	_____

14. Petitioner agrees to comply with the provisions of Nevada Supreme Court Rule 42(3) and (13) and Petitioner consents to the jurisdiction of the courts and disciplinary boards of the State of Nevada in accordance with provisions as set forth in SCR 42(3) and (13). Petitioner respectfully requests that Petitioner be admitted to practice in the above-entitled court FOR THE PURPOSES OF THIS MATTER ONLY.

15. Petitioner has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

I, Paul B. Albritton, do hereby swear/affirm under penalty of perjury that the assertions
Print Petitioner Name
of this application and the following statements are true:

1) That I am the Petitioner in the above entitled matter.

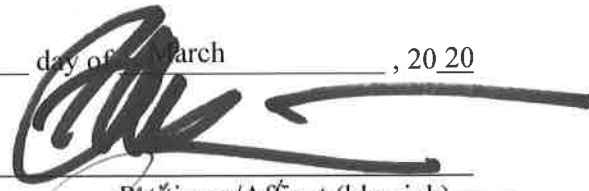
2) That I have read Supreme Court Rule (SCR) 42 and meet all requirements contained therein, including, without limitation, the requirements set forth in SCR 42(2), as follows:

- (A) I am not a member of the State Bar of Nevada;
- (B) I am not a resident of the State of Nevada;
- (C) I am not regularly employed as a lawyer in the State of Nevada;
- (D) I am not engaged in substantial business, professional, or other activities in the State of Nevada;
- (E) I am a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and
- (F) I have associated a lawyer who is an active member in good standing of the State Bar of Nevada as counsel of record in this action or proceeding.

2) That I have read the foregoing application and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to the matter I believe them to be true.

That I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; that I understand and shall comply with the standards of professional conduct required by members of the State Bar of Nevada; and that I am subject to the disciplinary jurisdiction to the State Bar of Nevada with respect to any of my actions occurring in the course of such appearance.

DATED this 10 day of March, 2020



Petitioner/Affiant (blue ink)



STATE OF California
) ss
COUNTY OF Sonoma

Subscribed and sworn to before me
this 22 day of April, 2020
MFM
Notary Public



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California)

County of Sonoma)

On April 2nd, 2020 before me, M.F. Moura, Notary Public
(here insert name and title of the officer)

personally appeared Paul Bieger Albritton

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature M.F. Moura

(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Procedure for Association of Couples Pursuant to SCR 42 containing 9 pages, and dated 04/02/2020.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s) _____ Title(s)
- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
 form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:
Page # 116 Entry # 3

Notary contact: 707-799-0398

Other

Additional Signer(s) Signer(s) Thumbprint(s)



The State Bar
of California

OFFICE OF ATTORNEY REGULATION
& CONSUMER RESOURCES

180 Howard Street, San Francisco, CA 94105

888-800-3400

AttorneyRegulation@calbar.ca.gov

CERTIFICATE OF STANDING

March 12, 2020

TO WHOM IT MAY CONCERN:

This is to certify that according to the records of the State Bar, PAUL BIERER ALBRITTON, #104172 was admitted to the practice of law in this state by the Supreme Court of California on December 3, 1982 and has been since that date, and is at date hereof, an ACTIVE licensee of the State Bar of California; and that no recommendation for discipline for professional or other misconduct has ever been made by the Board of Trustees or a Disciplinary Board to the Supreme Court of the State of California.

THE STATE BAR OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Raquel Hines".

Raquel Hines
Custodian of Records

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415 / 288-4000
FACSIMILE 415 / 288-4010

TO: William E. Peterson, Esq.
Snell & Wilmer L.L.P.

FROM: Paul Albritton

DATE: May 21, 2020

RE: Verizon Wireless's Appeal of Board of Adjustment's Denial
Application WSUP 19-0006
Stealth Wireless Telecommunications Facility, 1200 Tunnel Creek Road

I. Executive Summary

You have asked us whether a denial by Washoe County of the above-referenced Verizon Wireless application would violate the federal Telecommunications Act of 1996. A denial would violate this federal statute in two ways. The answer is “yes,” for two reasons. First, a denial would not be based on substantial evidence, as the County’s Board of Adjustment (the “BOA”) based its written finding of denial on a vague aesthetic ground, which does not constitute substantial evidence according to federal courts. The BOA also relied on a local code requirement that misconstrues “significant gap” to mean a “white area” where there is no service from any carrier. However, that is preempted by federal law confirming that a prohibition of service applies to only one carrier, and any denial on that basis also would lack substantial evidence.

Second, denial would constitute a prohibition of service because there is a significant gap in Verizon Wireless service in the area, and the proposed facility is the least intrusive means to serve that gap. Below, we summarize applicable federal law, including interpretations of the Telecommunications Act by federal courts and the Federal Communications Commission (the “FCC”).

II. Summary of Applicable Federal Law

Under the federal Telecommunications Act, a local government’s denial of a wireless facility application must be based on “substantial evidence.” 47 U.S.C. § 332(c)(7)(B)(iii). As interpreted under controlling federal court decisions, this means that denial of an application must be based on requirements set forth in the local code and supported by evidence in the record. *See Metro PCS, Inc. v. City and County of San Francisco*, 400 F.3d 715, 725 (9th Cir. 2005) (denial of application must be “authorized by applicable local regulations and supported by a reasonable amount of evidence”).

While a local government may regulate the placement of wireless facilities based on aesthetics, mere generalized concerns or opinions about aesthetics or compatibility with a neighborhood do not constitute substantial evidence upon which a local government could deny a permit. See *Primeco Personal Communications, L.P. v. City of Mequon*, 352 F.3d 1147, 1150 (7th Cir. 2003) (“‘generalized’ aesthetic concerns do not justify the denial of a permit”); *City of Rancho Palos Verdes v. Abrams*, 101 Cal. App. 4th 367, 381 (2002).

The Telecommunications Act also requires that local regulations “shall not prohibit or have the effect of prohibiting the provision of personal wireless services.” 47 U.S.C. § 332(c)(7)(B)(i)(II). A wireless provider can establish a prohibition of service and overcome a denial if it shows two things: (1) that it has a “significant gap” in service; and (2) that a proposed facility is the “least intrusive means,” in relation to the land use values embodied in local regulations, to address the gap. See *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987 (9th Cir. 2009).

The Ninth Circuit Court of Appeals has affirmed that “‘significant gap’ determinations are extremely fact-specific inquiries that defy any bright line legal rule.” *Sprint PCS Assets, LLC v. City of Palos Verdes Estates*, 583 F.3d 716, 727 (9th Cir. 2009) (quoting *Metro PCS v. San Francisco*, 400 F.3d at 733). There are no precise definitions or parameters as to what exactly constitutes a “significant” gap. For example, courts have not quantified exactly how many people must be affected, or how large an area must be covered, for a gap to be “significant.” Rather, courts examine “context-specific factors” to make this determination, which may include weak signal coverage, number of users affected, gaps affecting significant highways and commercial districts, and risks to public safety. *Sprint v. Palos Verdes Estates*, 583 F.3d at 727.

A wireless carrier need show only a gap in its own service, not a complete absence of service from any carriers. The Ninth Circuit rejected the Third Circuit’s “one provider” rule and adopted the “multiple provider rule” acknowledging each carrier’s right to fill significant gaps in their own service under federal law. *Metro PCS v. San Francisco*, 400 F.3d at 732-33. Later, the FCC resolved any disagreement between the Circuit Courts, and set the multi-provider rule as a national standard, ruling that:

[A] State or local government that denies an application for personal wireless service facilities siting solely because ‘one or more carriers serve a given geographic market’ has engaged in unlawful regulation that ‘prohibits or ha[s] the effect of prohibiting the provision of personal wireless services,’ within the meaning of Section 332(c)(7)(B)(i)(II).

In Re: Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Etc., FCC 09-99, ¶ 56 (FCC November 18, 2009).

If a provider proves both elements of a prohibition claim, the local government *must* approve the facility, even if there is substantial evidence to deny the permit under local land use provisions. This is because the provider has met the requirements for federal

preemption based on the effective prohibition clause of the Telecommunications Act. *T-Mobile v. Anacortes*, 572 F.3d at 999.

To avoid such preemption, the local government must show that another alternative is available, technologically feasible, and less intrusive than the proposed facility. *T-Mobile v. Anacortes*, 572 F.3d at 998-999. Of note, for wireless carriers to establish a prohibition case, federal law does not require that a proposed facility be the “only” alternative, but rather that no feasible alternative is less intrusive than a proposed facility. *Metro PCS v. San Francisco*, 400 F.3d at 734-35.

III. Denial of the Application Would Violate Federal Law

The BOA’s denial of Verizon Wireless’s proposed facility lacked substantial evidence, and should be reversed by the Board of Commissioners to avoid violating the Telecommunications Act. At the December 5, 2019, hearing, BOA members supporting the motion to deny raised only vague concerns over scenic impacts, resulting in a single finding for denial: “That the site is not physically suitable...for the intensity of such a development.” As explained above, such generalized aesthetic concerns do not amount to substantial evidence that warrants denial. The BOA disregarded the proposed facility’s stealth design as a pine tree, placed alongside established pine trees, and its limited height of only 45 feet.

Members voting to deny also believed that there is not a “significant gap” that warrants the proposed facility at its location near a trail, raising the local code’s vague requirement that a “significant gap” include a “white area” where no carrier has service. As noted above, federal courts have determined that “significant gap” determinations are fact-specific. Further, both the Ninth Circuit and the FCC dismissed the idea that a prohibition of service results only when no carrier has service in an area, and affirmed that the prohibition standard applies to the provider in question. Verizon Wireless has provided detailed information confirming a significant gap in its local service, as explained below.

Denial also would cause a prohibition of service in violation of the Telecommunications Act. Verizon Wireless has identified a significant gap in its service in Incline Village. The significant gap is described in the attached *Statement in Support of Verizon Wireless’s Proposed Facility, 1200 Tunnel Creek Road* prepared by Radio Frequency Design Engineer Jennifer Valencia (the “RF Engineer’s Statement”). As shown in coverage maps included in the RF Engineer’s Statement, there is a lack of reliable in-building and in-vehicle service in the Ponderosa Ranch and Mill Creek areas of Incline Village. Further, the existing Verizon Wireless network infrastructure serving the area experiences seasonal high demand, compromising network accessibility and reliability.

The gap is significant because of several factors that may be weighed by a federal court that are addressed in the RF Engineer’s Statement. The gap encompasses residential and commercial districts, with an area of 5.8 square miles and over 3,200 residents to be served by the proposed facility. This includes a half-mile stretch of Highway 28 south of town with 9,150 vehicle trips per day. The lack of reliable Verizon Wireless service

compromises service for residents, workers and visitors as well as emergency service personnel, posing a risk to public safety. Verizon Wireless must place a new facility to fill the significant gap in its service, and to provide reliable coverage and network capacity.

In an effort to address the significant gap, Verizon Wireless has evaluated 20 specific alternatives, including a location raised by the County planner, as described in the attached comprehensive alternatives analysis (the “Alternatives Analysis”). Verizon Wireless discounted alternatives that cannot serve the significant gap, lack a willing landlord, are infeasible, or are no less intrusive. The Alternatives Analysis confirms that the proposed facility is the least intrusive feasible means to provide wireless service to the significant gap.

In sum, Verizon Wireless has identified a significant gap in coverage and has shown that the proposed facility is the least intrusive means to address it, based on the values expressed in County regulations. Under these circumstances, Verizon Wireless has established that denial of its proposed facility by the County would constitute an unlawful prohibition of service.

IV. Conclusion

The BOA’s denial was based on a generalized aesthetic objection and an erroneous definition of “significant gap” that, alone or in combination, do not constitute the substantial evidence required for denial of a wireless facility under federal law. For this reason alone, the BOA’s denial violated the Telecommunications Act.

Further, the attached RF Engineer’s Statement confirms a significant gap in Verizon Wireless service in the Ponderosa Ranch and Mill Creek areas of Incline Village. The attached Alternatives Analysis confirms that the proposed 45-foot stealth facility designed as a pine tree constitutes the least intrusive means to serve the significant gap based on County regulations. Accordingly, denial of the proposed facility would constitute a prohibition of service in violation of the Telecommunications Act.

To avoid violation of this federal law, the Board of Commissioners must overturn the BOA’s denial of this proposed facility. Otherwise, under federal case law, the burden will shift to the County to identify a less intrusive and feasible alternative to provide service to the identified significant gap.

Attached: RF Engineer’s Statement
Alternatives Analysis



May 21, 2020

To: Washoe County Board of Supervisors

**From: Jennifer Valencia, Radio Frequency Design Engineer
Verizon Wireless Network Engineering Department**

**Subject: Statement in Support of Verizon Wireless's Proposed Facility
1200 Tunnel Creek Road**

Executive Summary

Verizon Wireless has identified a significant gap in its fourth-generation long-term evolution (LTE) service in the Ponderosa Ranch and Mill Creek areas of Incline Village. This area currently receives inadequate LTE service coverage from the existing Verizon Wireless Incline Village facility 2.7 miles northwest of the proposed facility, the Recline facility 1.75 miles west, and the Crystal Bay facility 4 miles southwest near Cal-Neva Lodge.

Due to distance from existing facilities, there remains a gap in LTE in-building and in-vehicle service coverage in the Ponderosa Ranch and Mill Creek areas, and along Highway 28 south of town. Further, accelerated growth in voice and data usage by Verizon Wireless customers has increased the demand on the existing Verizon Wireless network in a manner that compromises network accessibility and reliability. Due to the high number of visitors to the area, the network already experiences spikes in demand during winter ski season and summer holidays that exhaust network resources and degrade service.

To meet this increased local demand, Verizon Wireless is deploying efficient high-speed fourth-generation LTE technology. In the Incline Village area, 50 percent of Verizon Wireless's bandwidth is in the high-band AWS and PCS frequencies. Higher frequencies mean greater data capacity. However, these high-band frequencies do not travel as far as low-band frequencies, and require facilities closer together and closer to the end user to provide reliable LTE service.

We describe below the significant gap in coverage and capacity that Verizon Wireless seeks to remedy (the "Significant Gap"). To provide reliable LTE service and avoid further degradation of Verizon Wireless service in the Ponderosa Ranch and Mill Creek areas and along Highway 28, the Significant Gap must be remedied through construction of a new stealth tower facility at 1200 Tunnel Creek Road (the "Proposed Facility").

Coverage Gap

Verizon Wireless is experiencing a gap in its LTE service coverage in the Ponderosa Ranch and Mill Creek areas of Incline Village. There is a lack of reliable AWS LTE in-building and in-vehicle service north and west of the Proposed Facility in areas along both Highway 28 and Lakeshore Boulevard, extending west to Country Club Drive. Areas lacking in-building service include residential neighborhoods, the vicinity of the Hyatt Regency, and businesses in commercial areas along the highway and Country Club Drive. There is also a general lack of reliable AWS LTE in-building and in-vehicle service along a one-half mile stretch of Highway 28 south of Lakeshore Boulevard, with 9,150 vehicle trips per day,¹ leading to an excessive number of dropped calls. (Collectively, the “Coverage Gap”)

The Proposed Facility will provide new reliable LTE in-building coverage to these areas, as well as new reliable in-vehicle service to a larger area. In total, the Proposed Facility will provide reliable LTE service to an area of 5.84 square miles and a population of 3,230 residents.

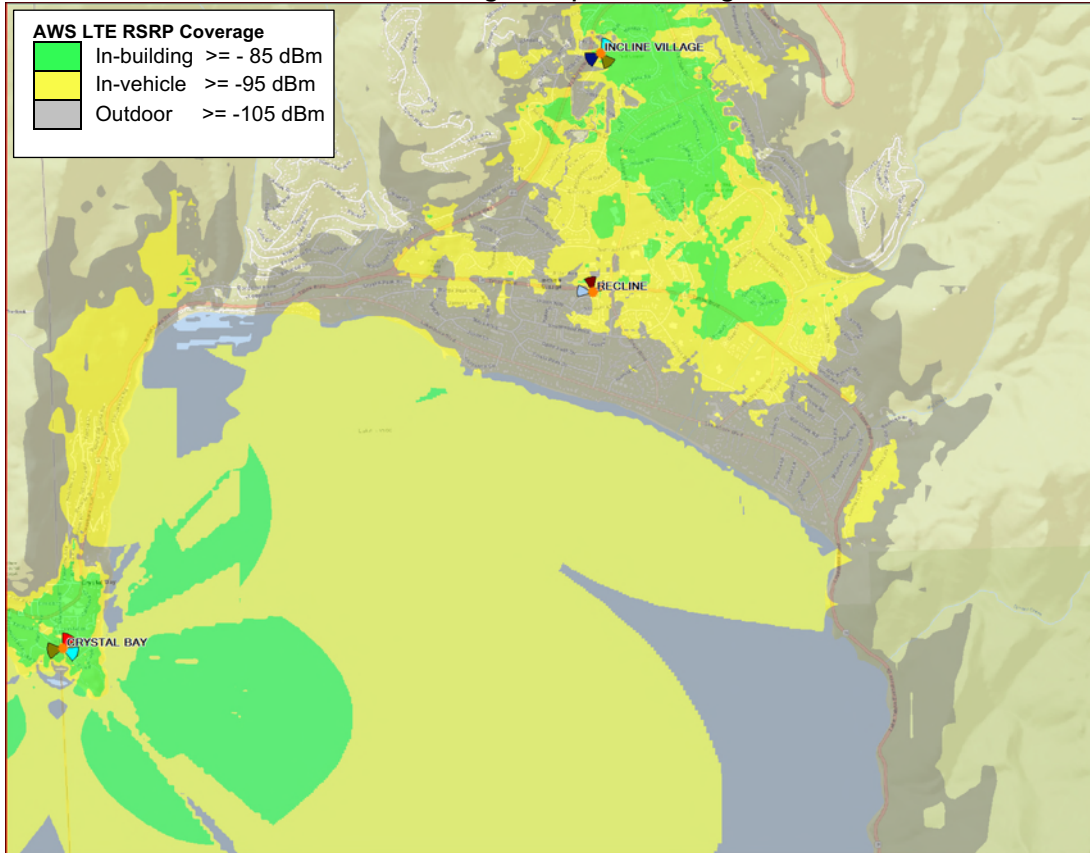
While the network provides service to local residents and workers, it also must serve the many visitors to Incline Village, estimated in the millions annually. Visitor accommodations in particular require in-building service.

A graphic description of the AWS LTE coverage gap is shown on the following coverage map, followed by a map showing the improved coverage to be provided by the Proposed Facility. Coverage maps have been prepared using the AWS band. The AWS and PCS bands use similar frequencies and have similar propagation.

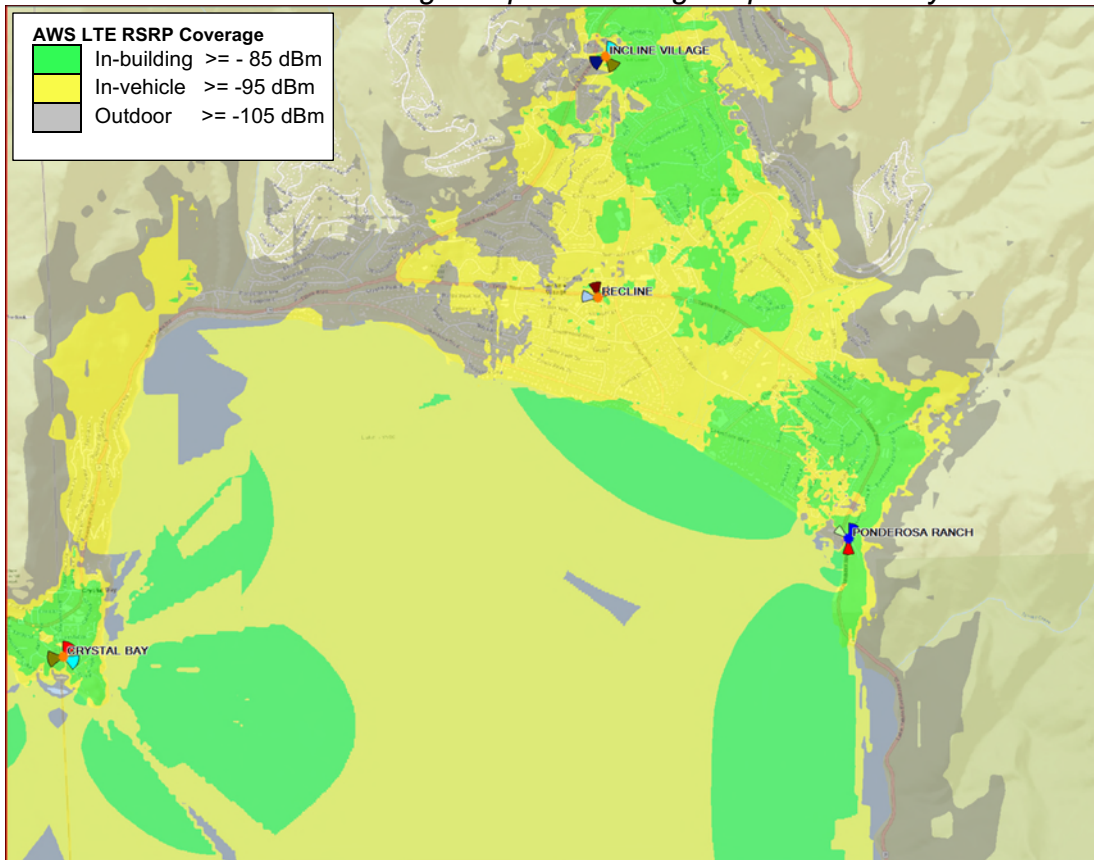
Coverage maps like those below provide a graphical depiction of the anticipated level of signal, and therefore the projected coverage provided by a site at a given location. The areas in green reflect good coverage that is sufficient to provide consistent and reliable network coverage in buildings and in vehicles. The areas in yellow and gray depict decreasing levels of coverage, with yellow areas representing reliable in-vehicle coverage only, and gray areas depicting poor service areas with outdoor coverage unsuitable for in-vehicle use. Unshaded areas do not receive any reliable service.

¹ Nevada DOT 2018 annual average daily traffic count.

AWS LTE Coverage Map – Existing Facilities



AWS LTE Coverage Map – Including Proposed Facility



Capacity Gap

As described above, the identified gap area receives inadequate service from nearby Verizon Wireless facilities. This is apparent in the following best server maps, which depict the area of dominant signal provided by each existing Verizon Wireless facility. Signal from each antenna sector of these facilities is depicted in a different color.

Much of the gap area currently is served by the southeast-facing antenna sector of the distant Incline Village facility, which is at a high elevation. Signal from the southeast-facing antenna sector is shown in light brown on the best server map. Currently, the southeast-facing antenna sector provides dominant signal to a total area of 4.06 square miles, including most of the gap area. Although dominant, the signal is weak in the gap area due to distance from the Incline Village facility, and it is inadequate to provide reliable service. The Incline Village facility experiences spikes in demand that compromise service during summer recreational season and the winter ski season as described below.

The lack of reliable dominant signal compromises system performance for Verizon Wireless customers. The lack of dominant signal also results in unreliable service, particularly during times of high usage such as the summer recreation season. Reliable Verizon Wireless service is important for residents, workers and visitors, and critical to public safety. Nationwide, most 911 calls are placed from mobile phones, and in emergencies, first responder agencies increasingly rely on dependable Verizon Wireless service.

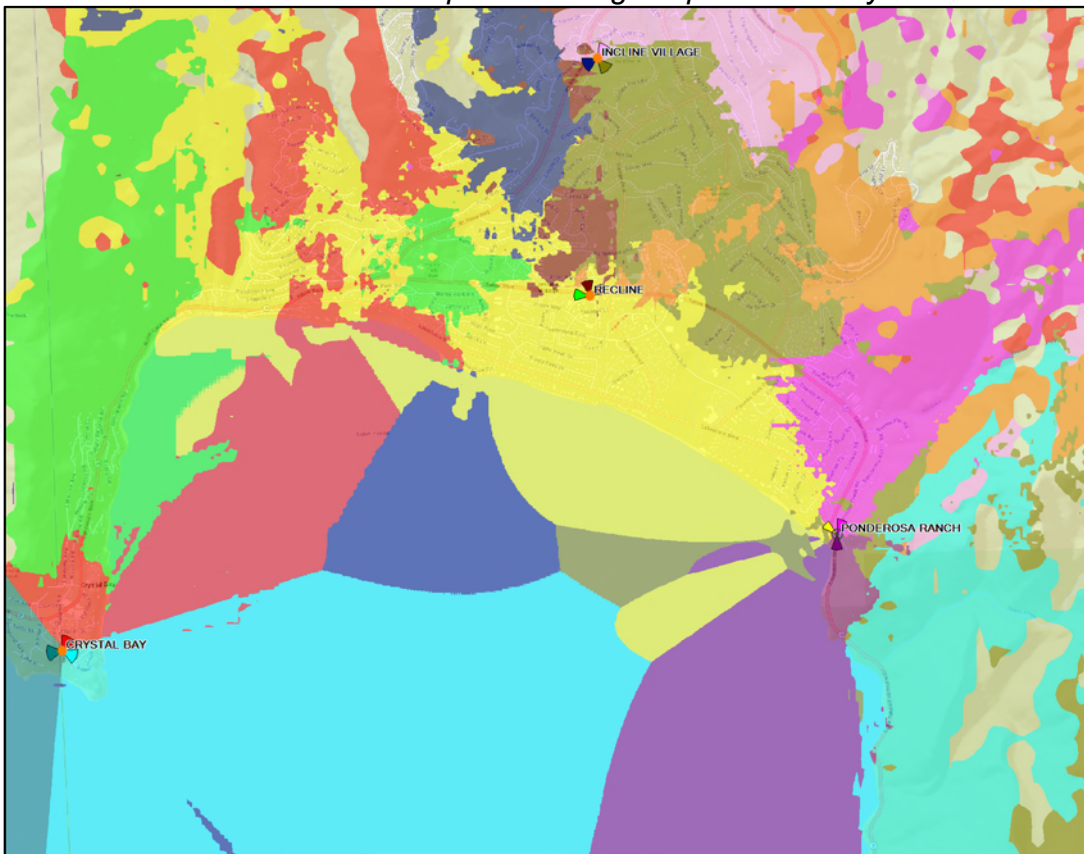
As shown on the second best server plot, the Proposed Facility is strategically located to provide new dominant signal to the gap area, including an area of 2.42 square miles currently served by the Incline Village facility, with a population of 1,920 residents. By relieving the overtaxed Incline Village facility and providing new reliable service in its place, the Proposed Facility will improve overall network performance in the vicinity.

Best Server Map – Existing Facilities



Antenna Sectors	
Incline Village Facility	
	Northeast
	Southeast
	Southwest
Recline Facility	
	North
	East
	West
Crystal Bay Facility	
	Northeast
	Southeast
	West
Ponderosa Ranch (Proposed Facility)	
	North
	South
	Northwest

Best Server Map – Including Proposed Facility



At times of high traffic volume, the coverage area of Verizon Wireless facilities shrinks to accommodate an increasing number of mobile devices closer to each facility. As a result, the Coverage Gap area will expand and be exacerbated during times of high customer usage. The contraction of coverage during times of high usage has become more severe as the volume of voice and data services used by wireless customers has increased rapidly over time. In North America, mobile data traffic increased 44 percent during the year 2016.² In the north Lake Tahoe area, data usage increased 21 percent over the last year, and at that rate doubles every four years.

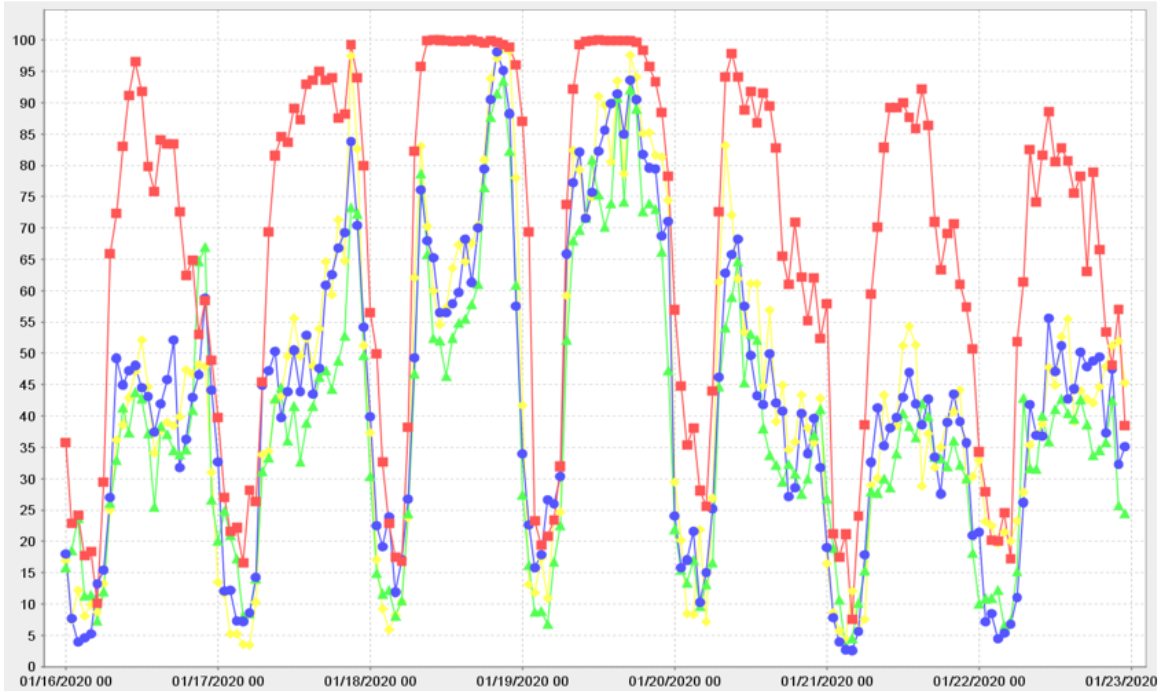
Seasonal high demand exhausts the existing Incline Village facility serving most of the gap area. The following charts show the downlink channel occupancy of the Incline Village facility during such periods. Transmission time interval (TTI) is an indication of the available resources of the facility. The chart illustrates the percentage of the facility's data resource blocks (a measure of service capacity) being used at certain times. When occupancy exceeds 80 percent, the number of data blocks available per customer is reduced, and data throughput is significantly reduced. When occupancy reaches 100 percent, existing connections are severely degraded, and customers attempting new connections to that facility are rejected.

Demand is greatest during the summer recreational season, June through August, as well as during summer and winter holidays. With the Incline Village facility serving a large area, including much of the gap, demand on its limited resources compromises service for residents and visitors as well as emergency service personnel.

The following TTI chart shows the high demand on the Incline Village facility for the AWS frequency band (shown in blue), the PCS band (shown in green) and the 700 MHz band (shown in red). Over 30 percent of Verizon Wireless's LTE bandwidth in the area is in the 700 MHz frequency band, and while 700 MHz frequencies travel a farther distance, network capacity in this band is exhausted at times of high usage. For example, the 700 MHz band reached 100 percent occupancy between approximately 9:00 a.m. and 10:00 p.m. two days in a row around Martin Luther King, Jr., weekend 2020. Customers already connected to the network experienced delays and poor service, while customers attempting new connections were unable to access the network. This evidences the need to provide a new facility closer to the gap area.

² Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2016-2021 White Paper, updated March 28, 2017.

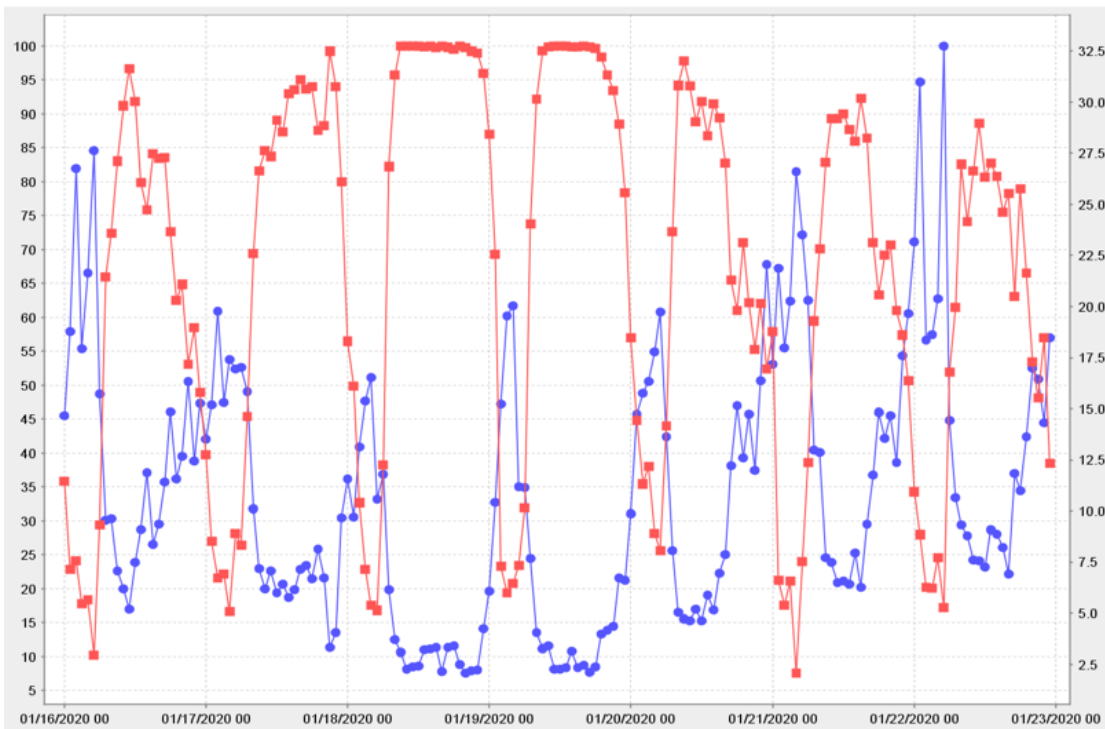
*Downlink Channel TTI Occupancy
Incline Village Facility
January 16 – January 23, 2020 (MLK, Jr. Weekend)*



- 700 MHz DL TTI Occupancy %
- AWS DL TTI Occupancy %
- ▲ PCS DL TTI Occupancy %
- ◆ 850 MHz DL TTI Occupancy %

The following chart illustrates how, with increased channel occupancy, data throughput is severely reduced. When occupancy reached 100 percent around Martin Luther King, Jr. weekend — meaning demand on the network was extremely high — data throughput repeatedly dipped below two megabits per second for hours at a time mid-day. This particularly compromises data-intensive functions including voice calls and streaming data and video. These services can be critical to first responders communicating between ambulances and hospitals and for fire response and real-time criminal identification.

*Downlink Channel Occupancy v. Data Throughput
Incline Village Facility
January 16 – January 23, 2020*

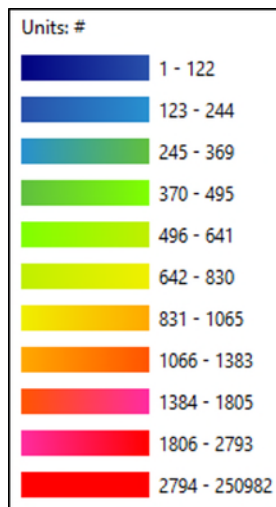
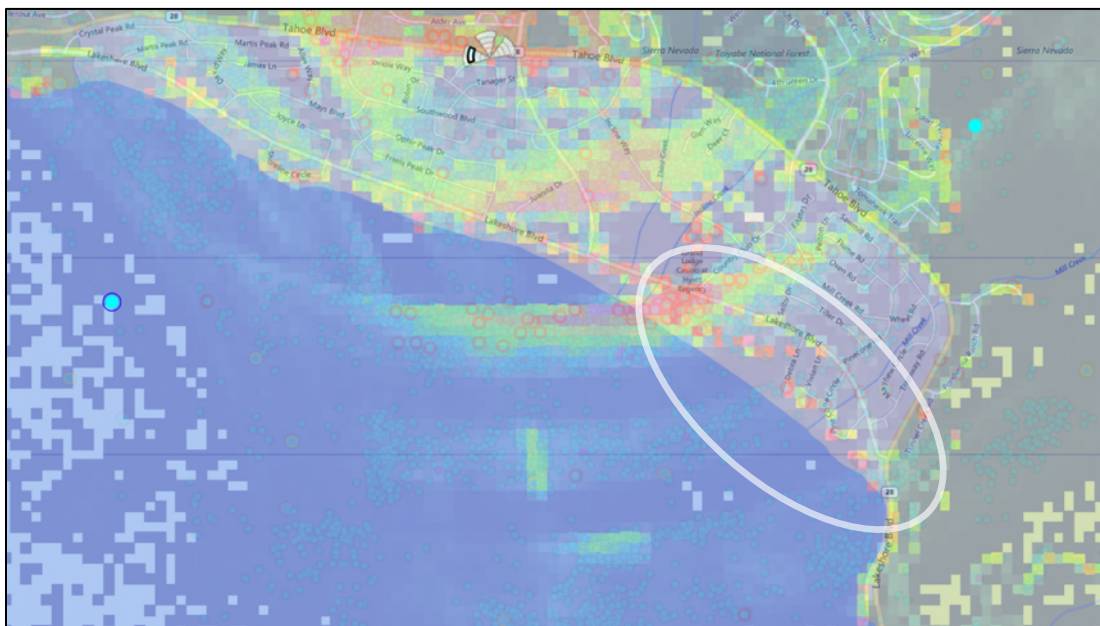


- 700 MHz Downlink TTI Occupancy % (left axis)
- Downlink throughput (Megabits per second, right axis)

The following map shows radio resource control requests (RRC), which are the number of connection requests made by customers between 3:00 p.m. and 9:00 p.m. on January 18-20, 2020. Areas in red squares experience the most requests. As shown by the area indicated by the white circle, this is particularly pronounced in the gap area, where there is a high concentration of connection requests in the Mill Creek area. Customers within red squares experience the most delay for access to network resources, with downlink throughput of less than one megabit per second.

*Radio Resource Control Requests (RRC), North Lake Tahoe Area
3:00 p.m. – 9:00 p.m.*

January 18 – January 20, 2020

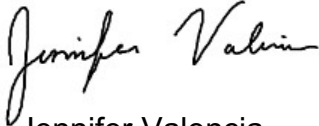


Conclusion

As the Verizon Wireless network matures, the network must be supplemented with more sites closer to customers, in large measure due to the increase in usage of the network. The LTE technology used by Verizon Wireless to provide fourth-generation service requires facilities closer to customers, and this service cannot be provided adequately by the existing facilities that serve the gap area from a significant distance. These coverage and capacity challenges have resulted in the Significant Gap in Verizon Wireless LTE coverage and network capacity in the Ponderosa Ranch and Mill Creek areas of Incline Village, and along Highway 28 to the south. Verizon Wireless must deploy the Proposed Facility to provide reliable LTE service to customers, and to avoid further degradation of its network in the area of the Significant Gap.

Please feel free to contact me with any questions or comments regarding Verizon Wireless's proposed facilities.

Respectfully submitted,



Jennifer Valencia
RF Design Engineer
Network Engineering Department
Verizon Wireless

My responsibilities include design and implementation of improvements to network infrastructure to provide reliable service. I have five years of experience in cellular network design. I received my Bachelor's Degree in Computer Engineering from the University of the Pacific in Stockton, California, and completed a Master's Degree program in Network Communications Management & Services with a concentration of Management of Wireless Networks at Stevens Institute of Technology in Hoboken, New Jersey.



Alternatives Analysis

Ponderosa Ranch
1200 Tunnel Creek Road
Incline Village, Washoe County



May 21, 2020

**Summary of Site Evaluations
Conducted by Verizon Wireless**

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Map of Alternatives

I. Executive Summary

Verizon Wireless must fill a significant gap in service in the southeast Incline Village area. Based on a review of existing structures and 20 specific alternatives described in the following analysis, Verizon Wireless believes that placing antennas on a 45-foot tower camouflaged as a pine tree (the “Proposed Facility”) constitutes the least intrusive feasible alternative to provide service to the significant gap, based on the values expressed in the Washoe County Development Code (the “Code”).

II. Significant Gap

There is a significant gap in Verizon Wireless network service in the Ponderosa Ranch and Mill Creek areas of Incline Village, as well as along Highway 28 to the south. There is no reliable LTE in-building or in-vehicle service along portions of both Highway 28 and Lakeshore Boulevard, extending west to Country Club Drive. Areas lacking in-building service include residential neighborhoods, the vicinity of the Hyatt Regency, and businesses in commercial areas along the highway and Country Club Drive. Additionally, increasing growth in demand for voice and data services compromises network accessibility and reliability in the area, particularly during summer and winter recreation seasons. (Collectively, the “Significant Gap”)

The Significant Gap is described in detail in the *Statement of Verizon Wireless Radio Frequency Design Engineer Jennifer Valencia* (the “RF Engineer’s Statement”). To remedy the Significant Gap and ensure reliable service, Verizon Wireless must build a new macro facility.

III. Methodology

Once it has identified a significant gap, Verizon Wireless seeks to find a location and design that will provide required network service through the “least intrusive means” based upon the values expressed by local regulations.

In addition to seeking the least intrusive alternative, sites proposed by Verizon Wireless must be feasible. In this regard, Verizon Wireless reviews the available height and equipment space, radio signal propagation, proximity to end users, access roads, elevation, slope, terrain and other critical factors such as a willing landlord in completing its site analysis.

Code Location Preferences

The Code sets forth location preferences that apply to all wireless facilities, ranked from most- to least-preferred. These include existing structures, collocations and new poles. The preferences are listed in order below, with respect to the zones in the gap area. Code § 110.324.45.

(Existing Structure/Collocation options)

- Façade-mounted antennas in GC, PSP, TC and PR zones
- Rooftop-mounted antennas in those zones, or placement on utility structures
- Collocation with existing wireless facilities

Applicants must justify why the above three options are not chosen in order to use the following, including the new pole options:

- Existing “specialty poles” for public, utility or non-wireless communications purposes (e.g., flagpole, lamp post, field backstop)
- Façade-mounted antennas outside GC, PSP, TC, and PR zones
- Rooftop-mounted antennas outside those zones
- Other “specialty poles” aside from those described above
- Commercial signage

(New pole options)

- New slimline monopoles
- New monopoles
- New lattice towers

Code Requirements for New Monopoles

New monopoles may not be placed within 1,000 feet of designated public trails, unless proven necessary to fill a significant gap. This setback applies to only certain trails, designated in the adopted Regional Open Space Plan or an adopted Washoe County Park District Master Plan. Code § 110.324.50(e)(10)(i).

New monopoles are allowed in the following zones in the gap area with a special use permit:

- GC, PSP, TC, PR, MDR and HDR zones
- LDS, MDS, HDS and MDU zones, if proven necessary to fill a significant gap
- GR and OS zones, subject to certain placement standards

Code §§ 110.324.50(e)(1), (2).

Monopoles should be designed to replicate structures or natural features/vegetation in the immediate vicinity. Code § 110.324.50(e)(8).

Code Height Standards

Rooftop antennas may not extend over 10 feet above the highest point of the roof. Code § 110.324.50(b)(4). On specialty poles and commercial signs, antennas may not extend above the pole or sign on which located more than one-third the vertical length of the existing pole or sign face. Code §§ 110.324.50(c)(1), 110.324.50(d)(1).

For monopoles in the local residential, commercial, PSP and PR zones, height is limited to primary zone height plus 10 feet. Code § 110.324.50(e)(1). Monopoles of stealth design (e.g., trees) may extend an additional 25 percent over the height otherwise allowed. Code § 110.324.50(e)(3).

Where applicants must prove a monopole is necessary to fill a significant gap, height is limited to either:

- (1) in residential zones, the primary zone height plus 10 feet, or
- (2) outside residential zones, additional height based on distance from residential zones or paved rights-of-way




Code § 110.324.55(c); Table 110.324.55.1.

IV. Analysis

Verizon Wireless first reviewed the area of the Significant Gap for collocation opportunities and existing structures. Finding none of these to be feasible to serve the gap, Verizon Wireless next reviewed placement of a new monopole in areas where no proof of a gap is required (certain zones beyond the 1,000-foot trail setback). As none of those options were feasible, Verizon Wireless next investigated placement of a new monopole within areas requiring proof of a gap, identifying the Proposed Facility location and considering several other options.

Coverage maps are provided to illustrate why certain alternatives cannot serve the Significant Gap. Coverage maps depict the anticipated level of signal, and therefore the projected LTE coverage provided by a wireless facility at a given location. In the Incline Village area, 50 percent of spectrum licensed by the FCC to Verizon Wireless is in the high-frequency AWS and PCS bands. Coverage maps have been prepared using the AWS band. The AWS and PCS bands use similar frequencies and have similar propagation.

Referenced signal receive power (RSRP) is a measurement of signal level in decibels (dBm), which decreases due to distance, terrain and other factors. The RSRP coverage thresholds are as follows. Unshaded areas on maps do not receive reliable outdoor service.

	In-building ≥ -85 dBm. Green depicts good coverage that meets or exceeds thresholds to provide reliable network coverage in homes and in vehicles.
	In-vehicle ≥ -95 dBm. Yellow depicts reliable in-vehicle coverage only.
	Outdoor ≥ 105 dBm. Gray depicts reliable outdoor service only.

Collocation Review

While collocation with existing wireless facilities is the third location preference under the Code described above, Verizon Wireless typically reviews collocation opportunities first because they may allow for consolidation of wireless infrastructure, if feasible. Verizon Wireless evaluated collocation with two existing wireless facilities in the greater area, as described below.

The Code's first two location preferences are facade and rooftop-mounted facilities in certain zones, which, for ease of reference, are addressed and discounted below on Page 9 in the section about existing structures (that do not support wireless facilities).

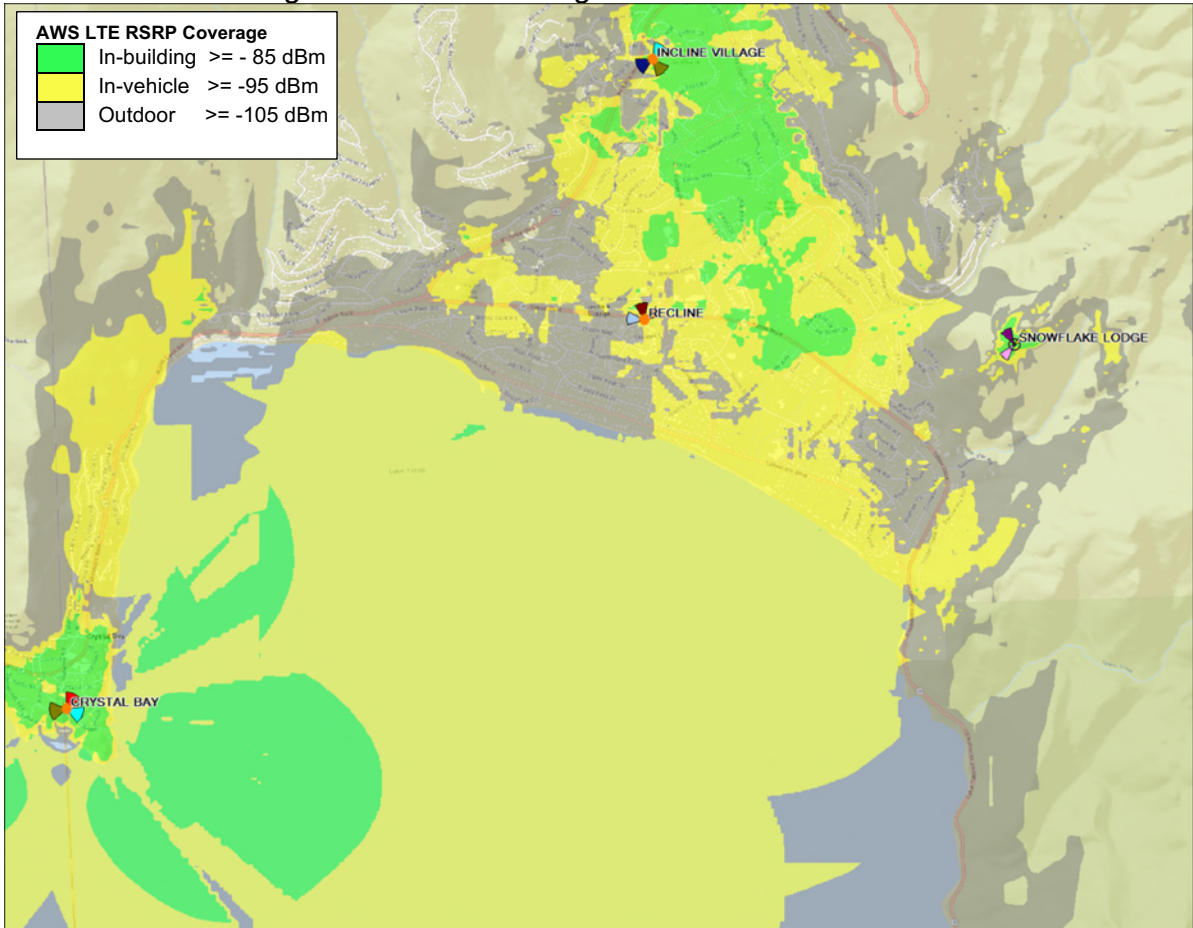
1. Snowflake Lodge Towers

Address: 1210 Ski Way
Zoning: PR (Parks and Recreation)
Elevation: 7,410 feet

Verizon Wireless reviewed collocation on towers next to Snowflake Lodge at the top of Diamond Peak ski resort, 1.2 miles northeast of the Proposed Facility and 1,015 feet greater in elevation. Verizon Wireless engineers determined that a facility on these towers cannot serve the Significant Gap. Due to distance and excessive elevation, signal would overshoot the gap area. As shown in the following coverage map, a broad coverage gap would remain, with little overall improvement. Also, at this high-elevation location, antennas would need to point downward toward the water, which reflects radio waves, and it would very difficult to minimize signal interference with other facilities around Lake Tahoe. This is not a feasible alternative to the Proposed Facility.



AWS LTE Coverage at Snowflake Lodge Towers – 37 Foot Antenna Centerline



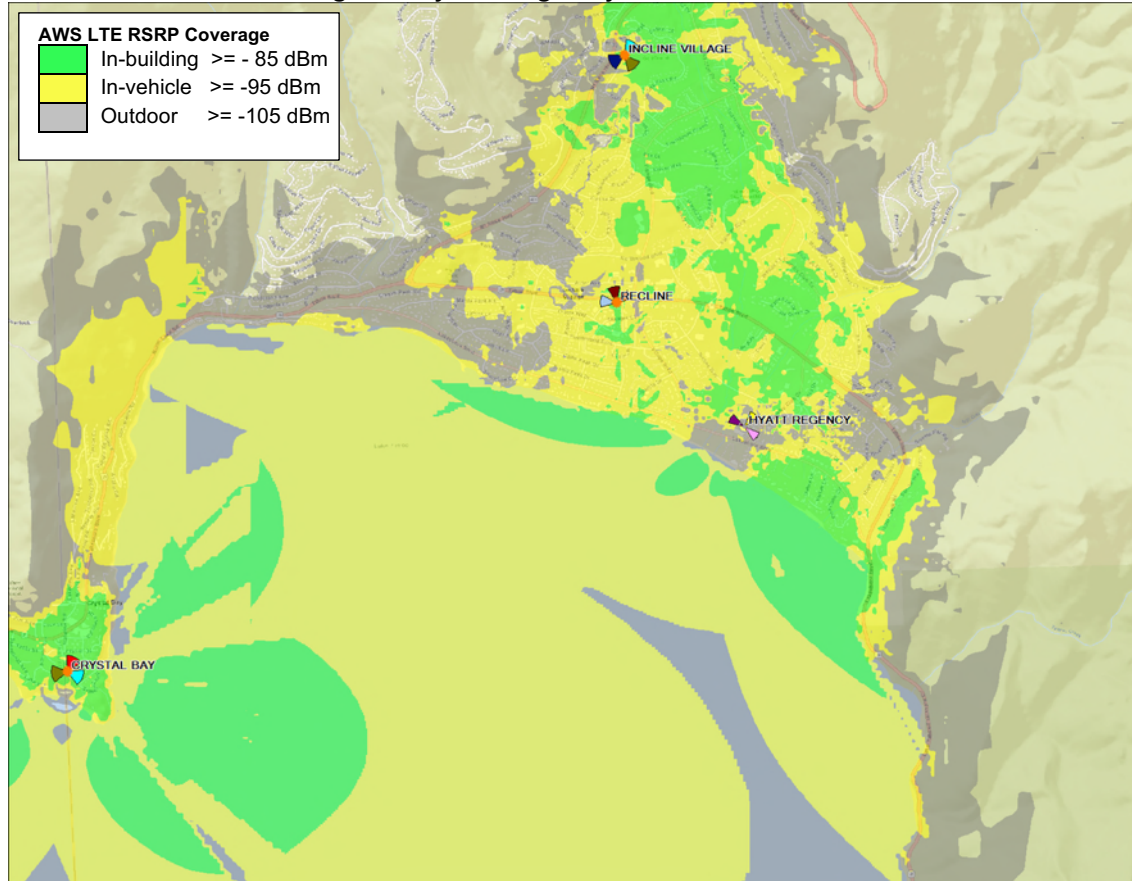
2. Hyatt Regency Lake Tahoe Resort

Address: 111 Country Club Drive
Zoning: TC (Tourist Commercial)
Elevation: 6,280 feet

Verizon Wireless reviewed collocation on the main hotel building of the Hyatt Regency 0.9 miles northwest of the Proposed Facility. While the ground elevation is 115 feet lower than the Proposed Facility, the building is some 10 stories tall, and antennas on the roof would be at an elevation similar to the Proposed Facility antennas. Verizon Wireless engineers determined that a facility collocated on this building cannot serve the Significant Gap due to distance, as it is too far west. As shown in the following coverage map, in-building coverage would be lacking in residential and commercial areas along Highway 28 north of Lakeshore Boulevard, with in-vehicle coverage also lacking along a portion of the highway. Further, signal would overshoot the hotel and its vicinity, leaving a gap in in-building and in-vehicle service nearby. This is not a feasible alternative to the Proposed Facility.



AWS LTE Coverage at Hyatt Regency – 100 Foot Antenna Centerline



Existing Structures

Lacking a feasible collocation option, Verizon Wireless considered placement of a new facility on an existing structure within the gap area. As noted, the Code favors placement on building facades or rooftops, utility structures, “specialty poles” and commercial signage.

The only building of significant height in the gap area is the Hyatt Regency, reviewed above, where a facility could not serve the gap as it is too far west. Similarly, a facility on commercial buildings along Country Club Drive across from the Hyatt Regency could not serve the gap in areas to the east, particularly given their much lower height (one or two stories).

In the GC, PSP and TC zones east of Highway 28 and north of the Proposed Facility, buildings are limited to one or two stories in height. As described below under Alternatives 5 to 11, monopole options in the same area would be infeasible to serve the gap, even with high antenna centerlines of 84 to 103 feet. Antennas confined to the much lower building facades or rooftops would have substantially smaller coverage footprints, even with the 10 additional feet in height allowed, and likewise would be unable to serve the gap.

Verizon Wireless identified one utility structure in the gap area of a type often used to support antennas: the water tank reviewed as Alternative 3 below.

No specialty poles were identified. Poles such as flagpoles or backstops would not work because of limited height, and inability to structurally support the six panel antennas and other network gear required to serve the gap.

The few commercial signs along Highway 28 are no taller than the adjacent buildings, and even with the one-third increase in height allowed, a facility on those signs could not serve the gap due to low height and inability to support six panel antennas.

As described below under Alternative 4, Ponderosa Ranch LLC is not a willing landlord, and Verizon Wireless did not consider any structures on its properties.

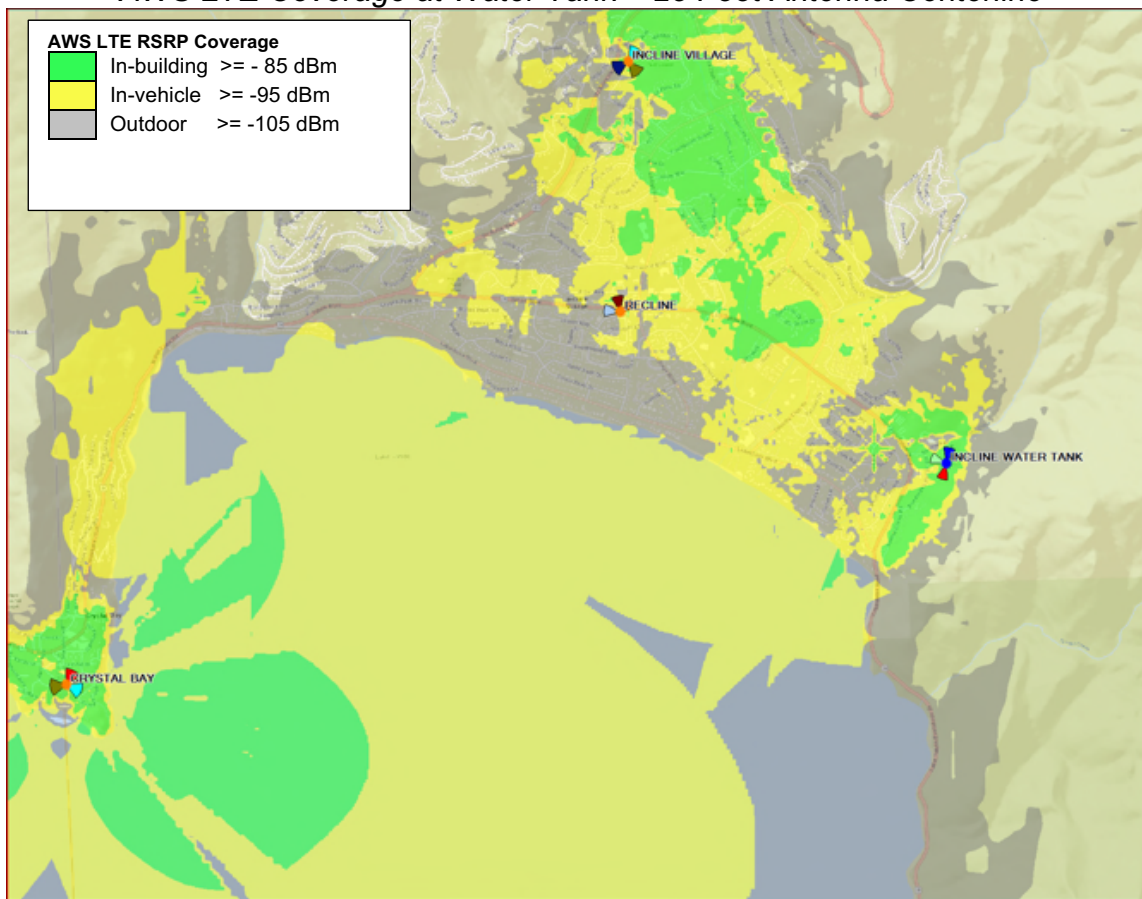
3. Incline Village GID Water Tank

Address: 1250 Sweetwater Drive
Zoning: PSP (Public and Semi-Public Facilities)
Elevation: 6,475 feet

Verizon Wireless reviewed placement of a facility on this water tank 0.6 miles northeast of the Proposed Facility and 80 feet greater in elevation. Verizon Wireless engineers determined that a facility on the water tank cannot serve the Significant Gap due to distance. As shown in the following coverage map, in-building and in-vehicle service would be lacking in the Mill Creek residential area, along Country Club Drive, and along Highway 28 south of town. This is not a feasible alternative to the Proposed Facility.



AWS LTE Coverage at Water Tank – 25 Foot Antenna Centerline



New Monopoles Not Requiring Proof of a Gap

With no feasible existing structure options, Verizon Wireless next reviewed placement of a new pole to support its antennas. A slimline monopole would not be feasible because of limited structural capacity to support six panel antennas and other network gear. Also, panel antennas must protrude from a pole to avoid crowding for successful signal propagation. Verizon Wireless opted to place a new stealth monopole disguised as a pine tree, a design which camouflages protruding antennas.

Under the Code, new monopoles in certain locations require proof of a significant gap, including sites within 1,000 feet of designated trails and within certain zones (locally, the LDS, MDS, HDS and MDU zones). Verizon Wireless first looked at options outside those areas.

Beyond 1,000 Feet from Designated Trails

In the gap area, the only existing/proposed trail designated in the 2019 *Washoe County Regional Parks & Open Space Master Plan* is the East Shore Trail. The Tunnel Creek/Flume Trail is not designated, but it begins near the East Shore Trail trailhead and runs nearly parallel southward for some distance.

On the following map, the white dashed line shows an approximate 1,000-foot radius distance from the East Shore Trail, which is the white solid line. With respect to the trail setback, monopoles within the 1,000-foot radius require proof of a gap, while those beyond do not.

GC, PSP and TC Zones

A new monopole is allowed in these zones with no need to prove a significant gap. In the following map, it is apparent that the GC and PSP zones are over 1,000 feet from the East Shore Trail.

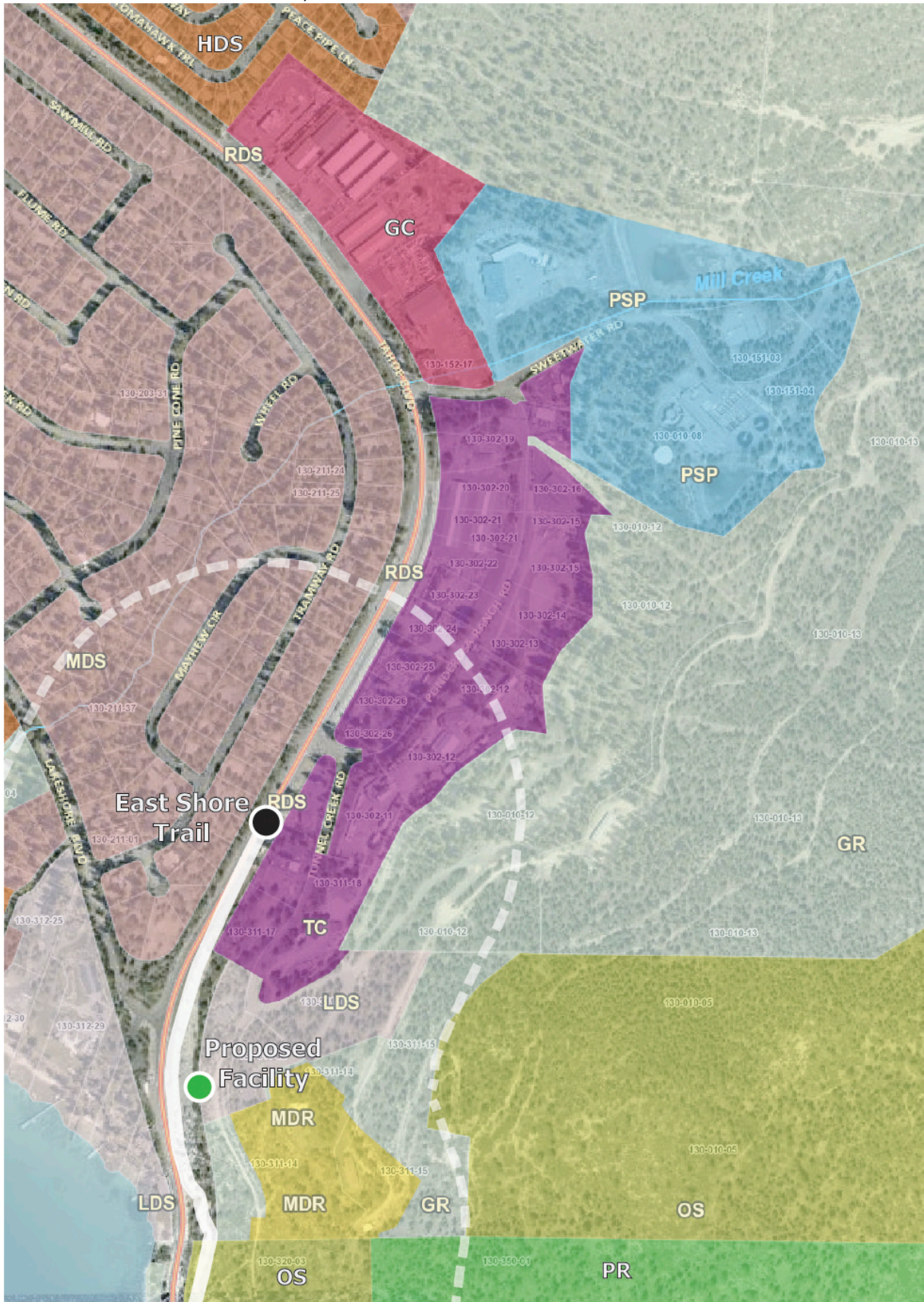
Those TC zone parcels that are over 1,000 feet from the designated trail are owned by Ponderosa Ranch LLC, which is not a willing landlord, as explained under Alternative 4.

Height Limits in GC and PSP Zones

The Code height limits would allow a stealth monopole facility of 112 foot in the GC zone and 93.75 feet in the PSP zone. This is consistent with the County's height calculation for a prior application in a nearby GC zone, WSUP19-0001.

Verizon Wireless would design a stealth treepole facility with the antenna centerline eight to nine feet below the top, allowing faux branches to extend above and beyond antennas for a realistic appearance. Thus, the antenna centerline used to evaluate propagation is 103 feet in the GC zone and 84 feet in the PSP zone.

Local Zones and 1,000 Foot Radius Distance from East Shore Trail



4. Ponderosa Ranch LLC Property

Address: Various Parcels East of Highway 28
Zoning: TC, GR and LDS (Tourist Commercial, General Rural, and
Low-Density Suburban)
Elevation: Various

Verizon Wireless considered the large property owned by Ponderosa Ranch LLC, consisting of 21 contiguous parcels northeast of the Proposed Facility, shown in blue on the map on the following page. These parcels span the TC, GR and LDS zones, totaling over 180 acres in the immediate vicinity, with additional acreage beyond. One small parcel is due east of the Proposed Facility parcel.

Verizon Wireless representative Buzz Lynn of Epic Wireless Group LLP recently contacted Ponderosa Ranch LLC representative Elizabeth Tuoto regarding placement of a wireless facility on the property. In the following email dated April 30, 2020, Elizabeth Tuoto responded that the owners of Ponderosa Ranch are not interested in a wireless facility on the property. Lacking a willing landlord, this is not a feasible alternative to the Proposed Facility.

From: Elizabeth Tuoto <Elizabeth@nevadapacific.com>
Sent: Thursday, April 30, 2020 2:34 PM
To: Buzz Lynn <Buzz.Lynn@epicwireless.net>
Cc: Melissa Vios <Melissa.Vios@epicwireless.net>; Kortick, Bradford <bradford.kortick@verizonwireless.com>; Sean O'Connell <Sean@nevadapacific.com>
Subject: RE: Verizon - Ponderosa Ranch

Hi Buzz:

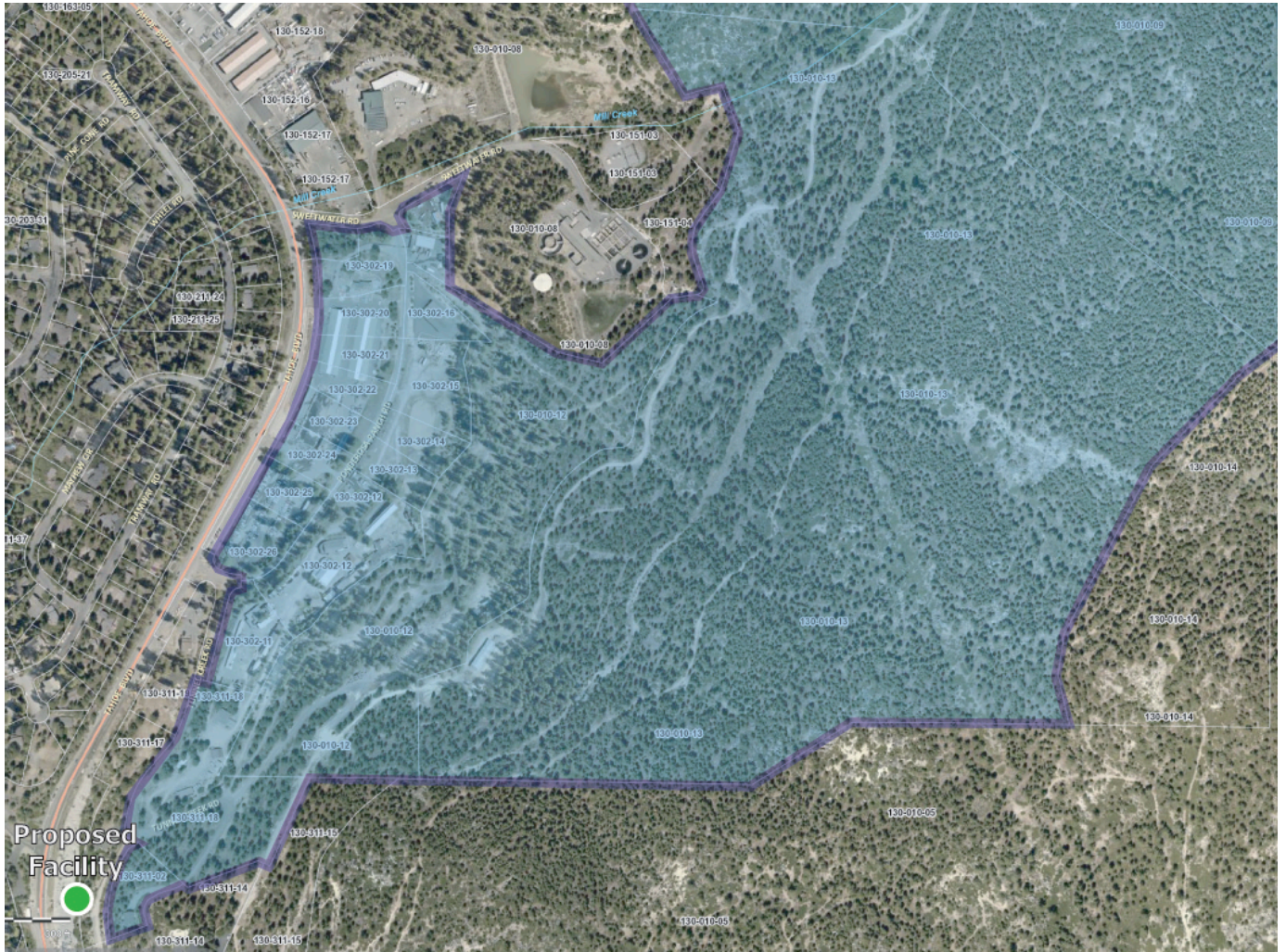
I hope you are doing well and staying healthy. The owners of the Ponderosa Ranch are not interested in locating a cell tower on the ranch property. Thank you for reaching out to us.

If you have any questions, please do not hesitate to contact me.

Kindest regards,

Elizabeth J. Tuoto, Asset Manager
Nevada Pacific Consulting, LLC
926 Incline Way, Suite 100
Incline Village, NV 89451
Direct: 775.298.3057
Cell: 775.762.2070
Email: Elizabeth@Nevadapacific.com

Ponderosa Ranch LLC Parcels



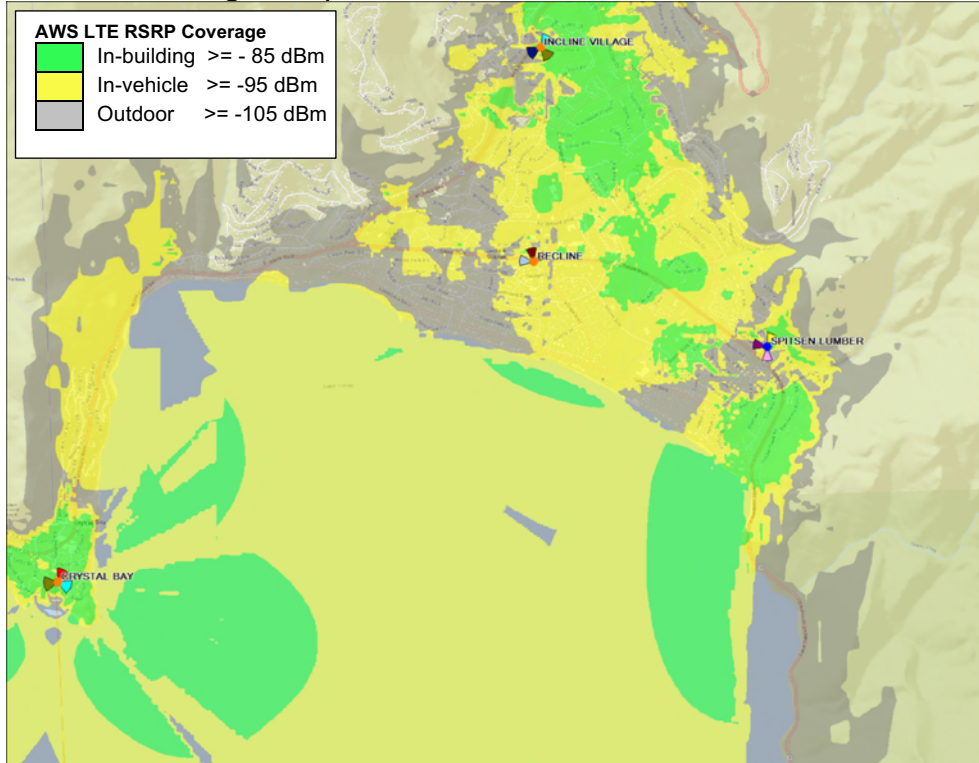
For Alternatives 5-12 below, an antenna sector could not point west or southwest toward Lake Tahoe, because signal propagating across water leads to interference with existing facilities around the lake, as noted above. Without that antenna sector, coverage would be compromised in areas west or southwest along Lakeshore Boulevard, including the Mill Creek residential neighborhood. Also, signal would be blocked from serving Highway 28 south of Lakeshore Boulevard by the intervening ridge on which the Proposed Facility is located. Further, Alternatives 5-12 are at the base of undeveloped steep terrain, where a north- or east-facing antenna sector would be of little use, and of no benefit to serving the gap.

5. Spitsen Lumber Co.
Address: 1054 Tahoe Boulevard
Zoning: GC (General Commercial)
Elevation: 6,400 Feet

Verizon Wireless reviewed this property 0.7 miles north of the Proposed Facility at a similar elevation. Verizon Wireless engineers determined that a 112-foot stealth facility at this location cannot serve the Significant Gap. As shown in the following coverage map, a coverage gap would remain in much of the gap area, notably toward the west along Highway 28 and Lakeshore Boulevard, including commercial areas along the highway and much of the Mill Creek neighborhood. This is not a feasible alternative to the Proposed Facility.



AWS LTE Coverage at Spitsen Lumber Co. – 103 Foot Antenna Centerline



6. T-Bird Warehouse

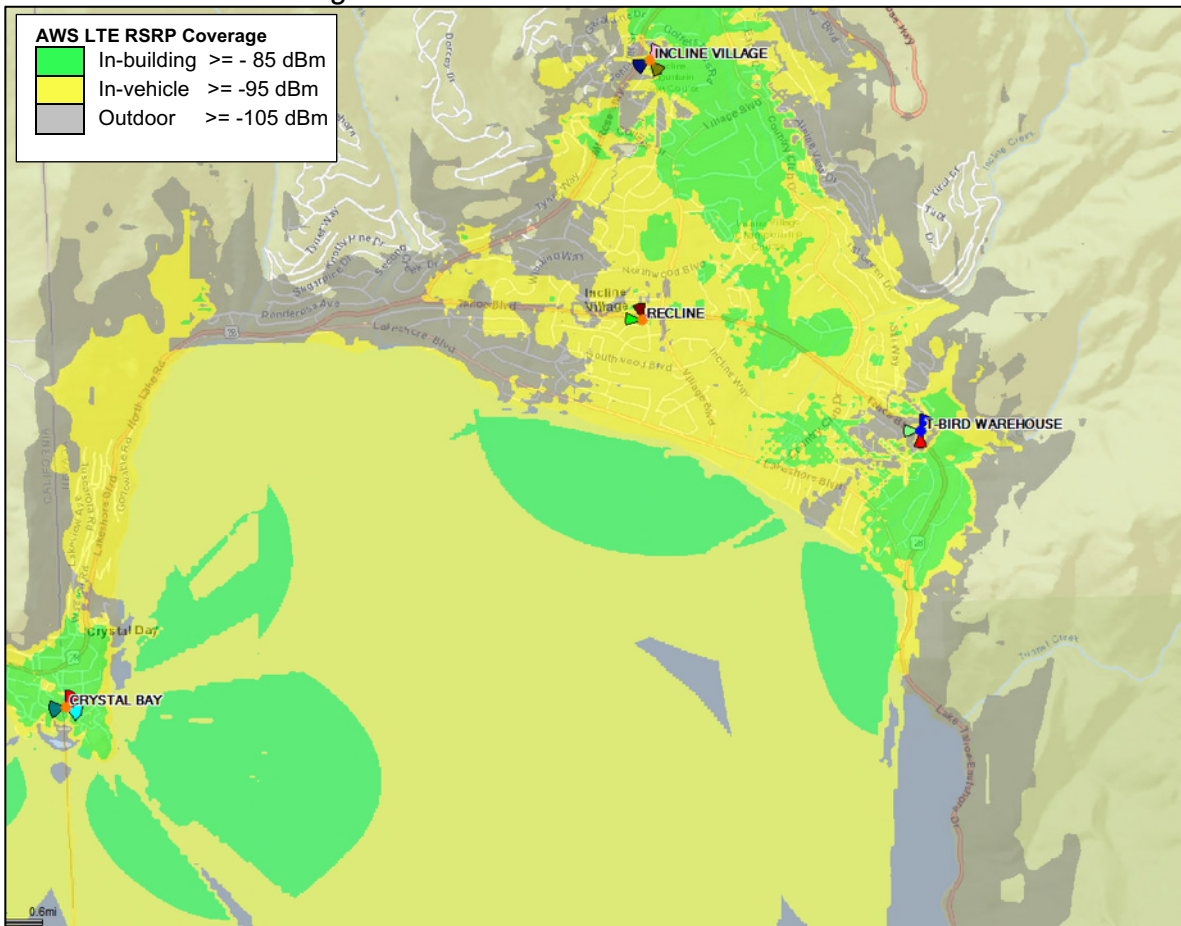
Address: 1056 Tahoe Boulevard
Zoning: GC (General Commercial)
Elevation: 6,375 Feet

Verizon Wireless reviewed this small property 0.7 miles north of the Proposed Facility and 20 feet lower in elevation. The developed area of this narrow property is almost entirely occupied by a warehouse building, with insufficient room to the rear for a wireless facility and no room for access around the building. The undeveloped area in front next to Highway 28 is used for truck loading and parking. Further, Verizon Wireless engineers determined that a 112-foot stealth facility at this location cannot serve the Significant Gap. As shown in the following coverage map, a coverage gap would remain in much of the gap area, notably toward the west along Highway 28 and Lakeshore Boulevard, including commercial areas along the highway and much of the Mill Creek neighborhood. This is not a feasible alternative to the Proposed Facility.



As shown in the following coverage map, a coverage gap would remain in much of the gap area, notably toward the west along Highway 28 and Lakeshore Boulevard, including commercial areas along the highway and much of the Mill Creek neighborhood. This is not a feasible alternative to the Proposed Facility.

AWS LTE Coverage at T-Bird Warehouse – 103 Foot Antenna Centerline



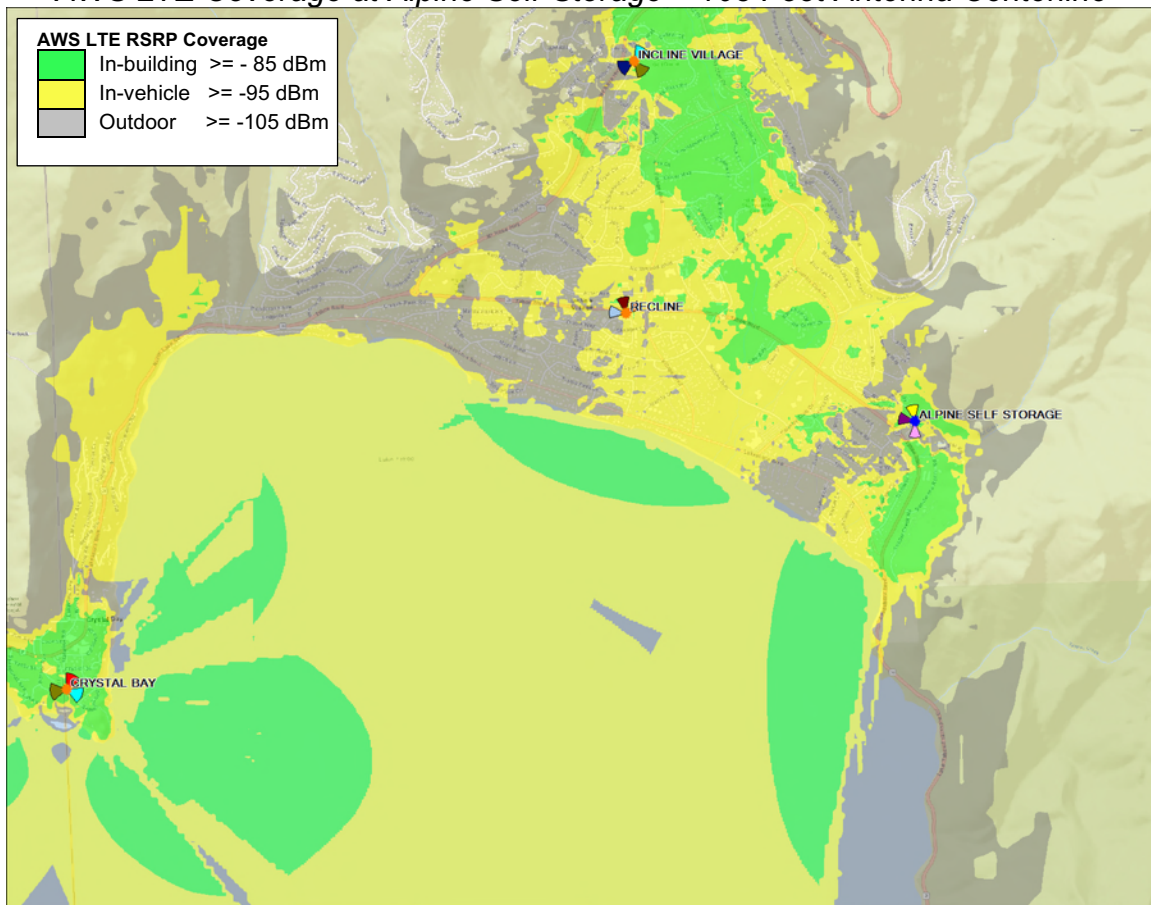
7. Alpine Self-Storage

Address: 1058-60 Tahoe Boulevard
Zoning: GC (General Commercial)
Elevation: 6,375 Feet

Verizon Wireless reviewed this property 0.7 miles north of the Proposed Facility and 20 feet lower in elevation. Verizon Wireless engineers determined that a 112-foot stealth facility at this location cannot serve the Significant Gap. As shown in the following coverage map, a coverage gap would remain in much of the gap area, notably toward the west along Lakeshore Boulevard, including much of the Mill Creek neighborhood, with a stretch of Highway 28 south of town lacking in-vehicle service. This is not a feasible alternative to the Proposed Facility.



AWS LTE Coverage at Alpine Self-Storage – 103 Foot Antenna Centerline



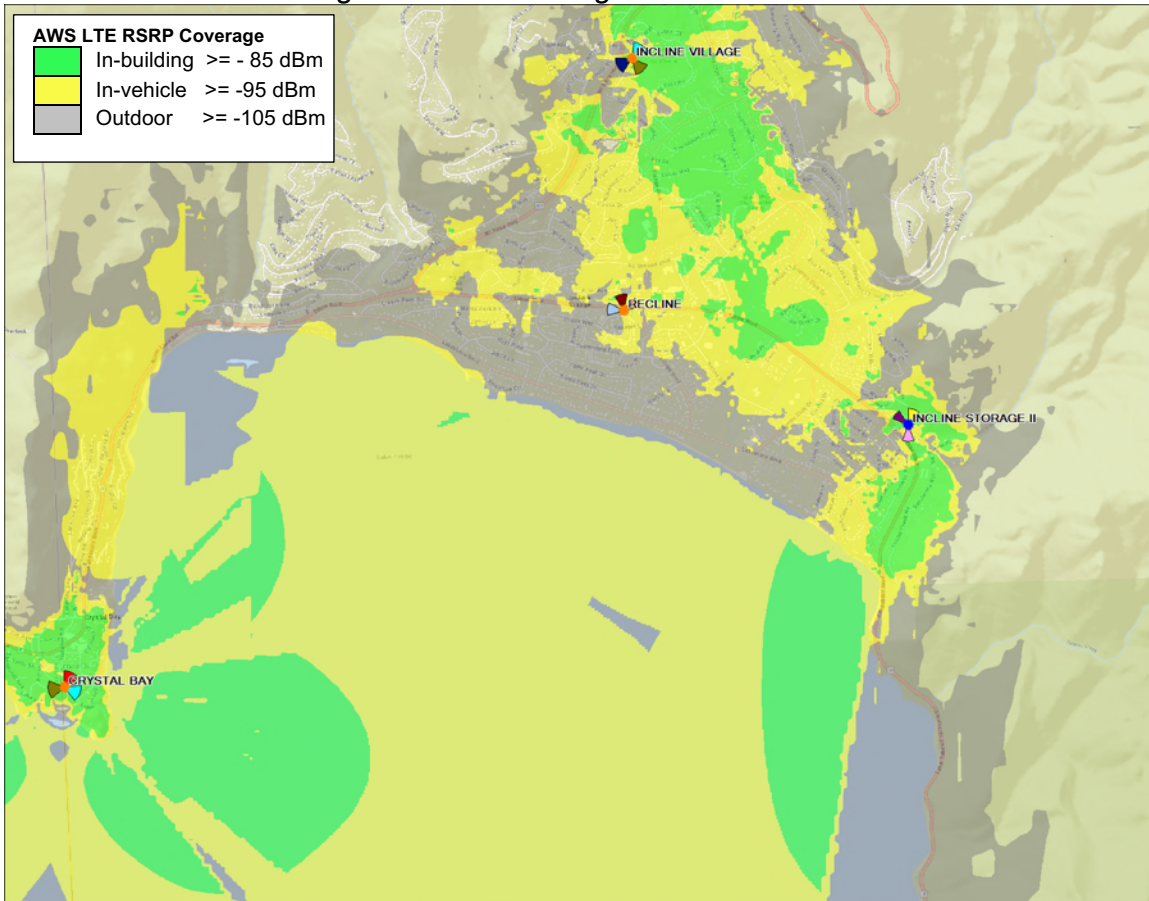
8. Incline Storage

Address: 1062 Tahoe Boulevard
Zoning: GC (General Commercial)
Elevation: 6,360 Feet

Verizon Wireless reviewed this property 0.6 miles north of the Proposed Facility and 35 feet lower in elevation. Verizon Wireless engineers determined that a 112-foot stealth facility at this location cannot serve the Significant Gap. As shown in the following coverage map, a coverage gap would remain in much of the gap area, notably toward the west along Lakeshore Boulevard, including much of the Mill Creek neighborhood, with a stretch of Highway 28 south of town lacking in-vehicle service. This is not a feasible alternative to the Proposed Facility.



AWS LTE Coverage at Incline Storage – 103 Foot Antenna Centerline



9. Boat Yard

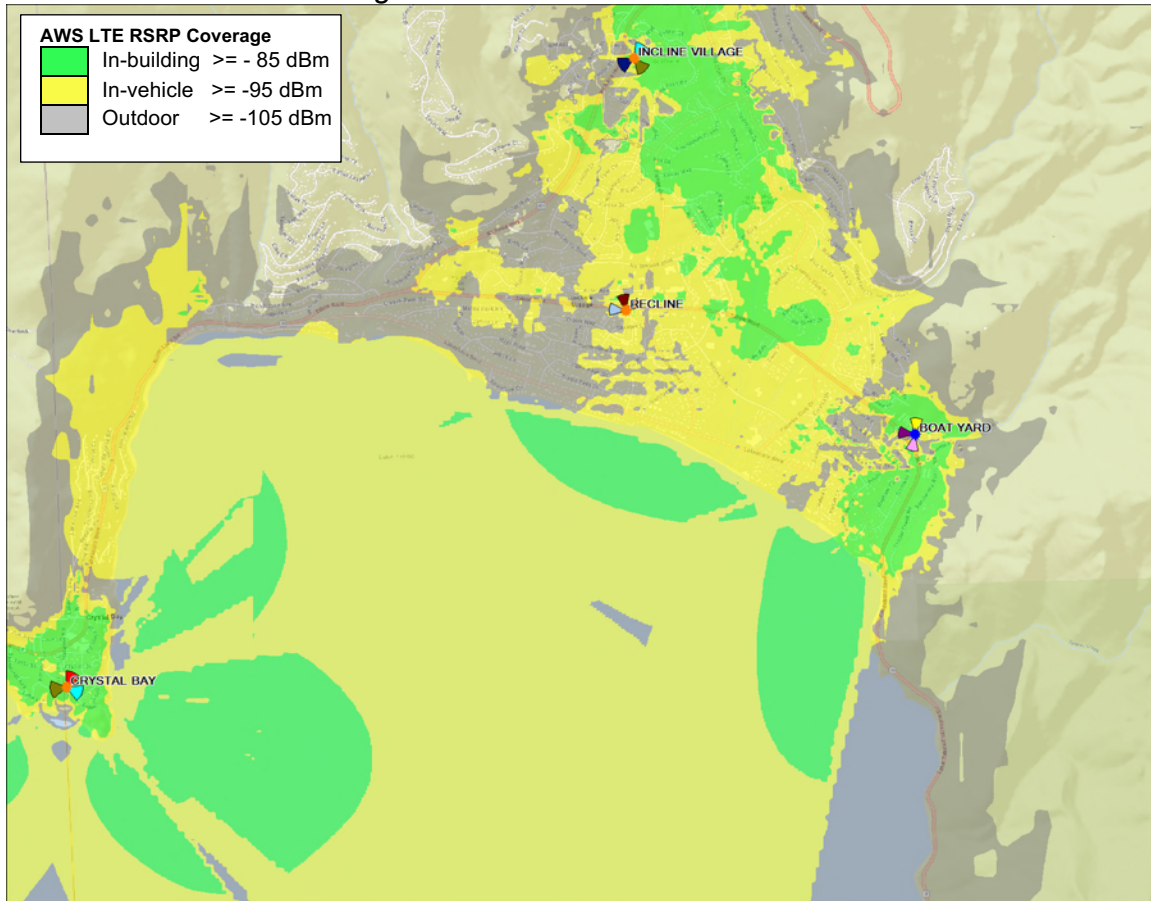
Address: 1068 Tahoe Boulevard
Zoning: GC (General Commercial)
Elevation: 6,350 Feet

Verizon Wireless reviewed this property 0.6 miles north of the Proposed Facility and 45 feet lower in elevation. Verizon Wireless engineers determined that a 112-foot stealth facility at this location cannot serve the Significant Gap. As shown in the following coverage map, a coverage gap would remain in much of the gap area, notably toward the west along



Lakeshore Boulevard, including much of the Mill Creek neighborhood, with a stretch of Highway 28 south of town lacking in-vehicle service. This is not a feasible alternative to the Proposed Facility.

AWS LTE Coverage at Boat Yard – 103 Foot Antenna Centerline



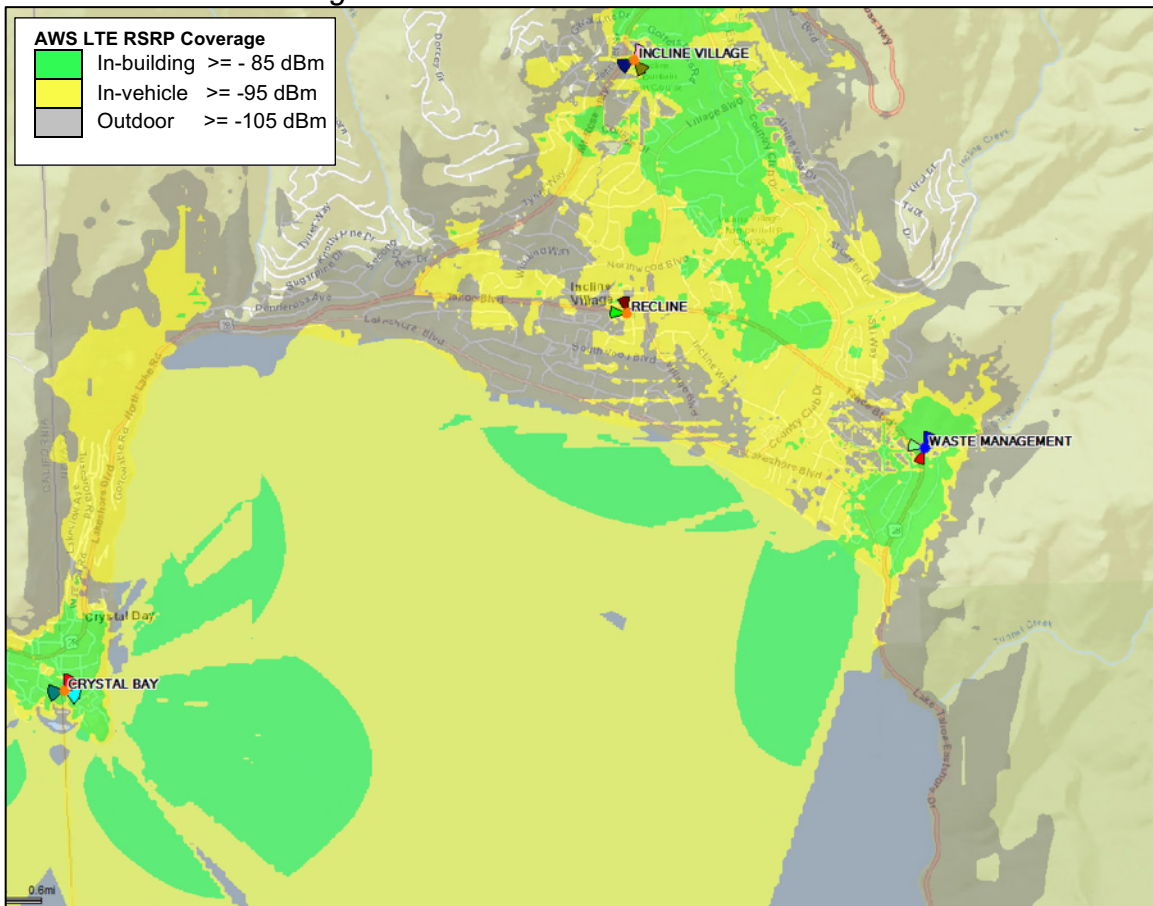
10. Waste Management Incline Village Transfer Station

Address: 1076 Tahoe Boulevard
Zoning: GC (General Commercial)
Elevation: 6,350 Feet

Verizon Wireless reviewed this property 0.6 miles north of the Proposed Facility and 45 feet lower in elevation. Verizon Wireless engineers determined that a 112-foot stealth facility at this location cannot serve the Significant Gap. As shown in the following coverage map, a coverage gap would remain in much of the gap area, notably toward the west along Lakeshore Boulevard, including much of the Mill Creek neighborhood, with a stretch of Highway 28 south of town lacking in-vehicle service. This is not a feasible alternative to the Proposed Facility.



AWS LTE Coverage at Transfer Station – 103 Foot Antenna Centerline



11. Incline Village GID Public Works Facility

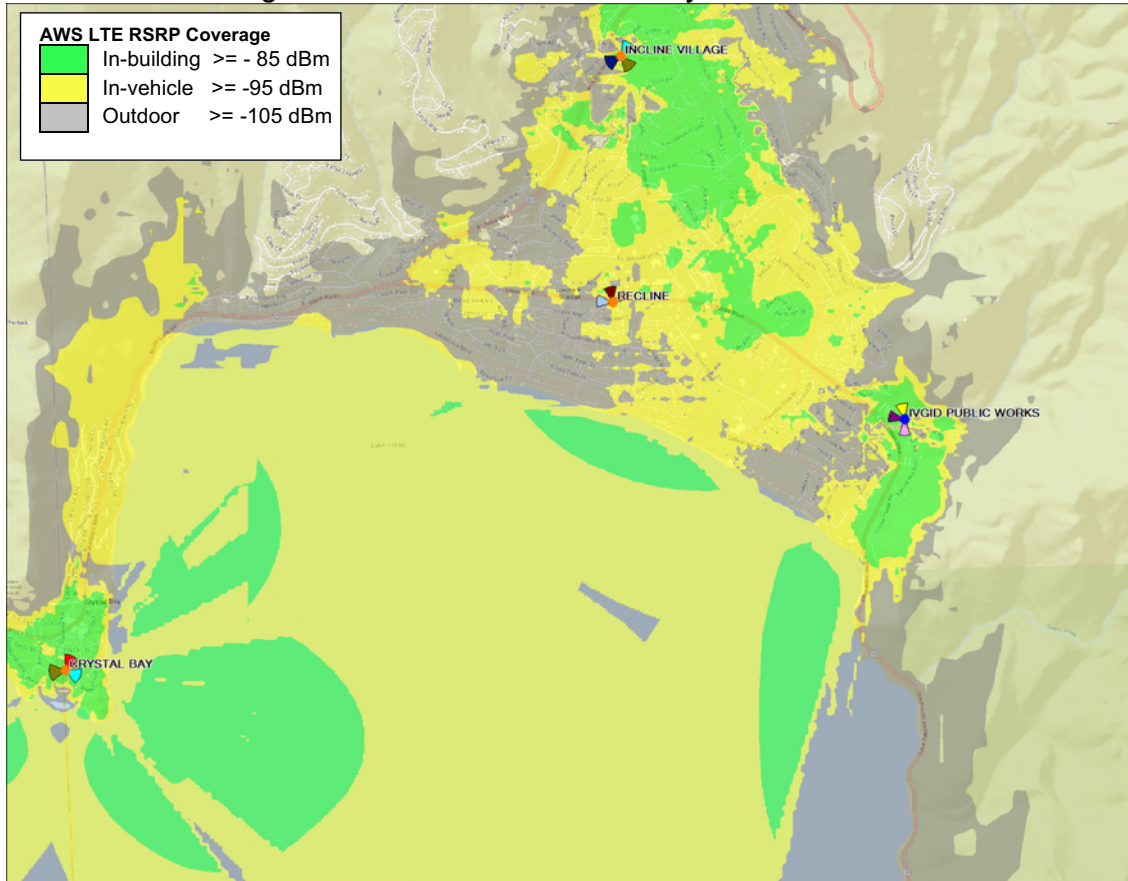
Address: 1220 Sweetwater Road
Zoning: PSP (Public and Semi-Public Facilities)
Elevation: 6,380 Feet

In addition to the water tank reviewed as Alternative 3, Verizon Wireless considered placement of a new tower facility on this 87-acre parcel, first examining a lower-elevation area at the parking lot behind the public works facility, 0.6 miles north of the Proposed Facility and 15 feet lower in elevation. Verizon Wireless engineers determined that a 93.75-foot stealth facility in this area cannot serve the Significant



Gap. As shown in the following coverage map, a coverage gap would remain in much of the gap area, notably toward the west along Lakeshore Boulevard, including the Mill Creek neighborhood, with a stretch of Highway 28 south of town lacking in-vehicle service. This is not a feasible alternative to the Proposed Facility.

AWS LTE Coverage at GID Public Works Facility – 84 Foot Antenna Centerline



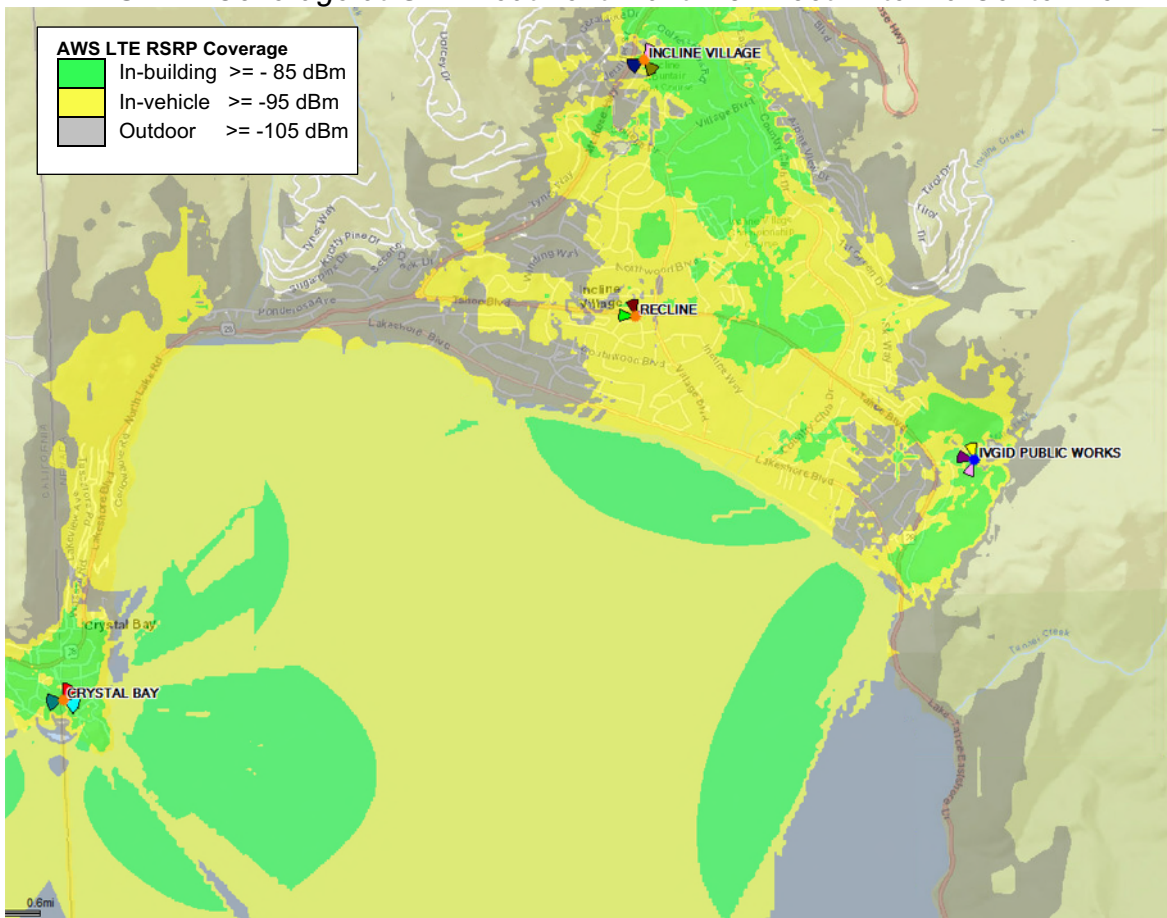
12. Incline Village GID Treatment Plant

Address: 1250 Sweetwater Road
Zoning: PSP (Public and Semi-Public Facilities)
Elevation: 6,490 Feet

Verizon Wireless also considered a new tower facility at a higher-elevation area on the GID property, the parking lot next to the treatment plant, 0.6 miles northeast of the Proposed Facility and 95 feet greater in elevation. Verizon Wireless engineers determined that a 93.75-foot stealth facility near the treatment plant cannot serve the Significant Gap. Because of the high elevation at this location, signal would overshoot the Mill Creek neighborhood, even with antennas adjusted with considerable downtilt. As shown in the following coverage map, a coverage gap would remain in much of the gap area, notably toward the west along Lakeshore Boulevard, including the Mill Creek neighborhood, with a stretch of Highway 28 south of town lacking in-vehicle service. This is not a feasible alternative to the Proposed Facility.



AWS LTE Coverage at GID Treatment Plant – 84 Foot Antenna Centerline



13. Sierra Pacific Electric Substation

Address: 0 Sweetwater Road
Zoning: PSP
Elevation: 6,435 Feet

Verizon Wireless reviewed placement of a new tower on this small, secured electric utility property 0.7 miles northeast of the Proposed Facility and 40 feet greater in elevation. A facility at this location would have even less coverage than neighboring Alternative 12, which is in the same zone, and 55 feet greater in elevation on the hill due southwest of the substation. This is not a feasible alternative to the Proposed Facility.



New Monopoles Requiring Proof of a Gap

Finding no feasible monopole locations over 1,000 feet from the designated trail in the GC, PSP and TC zones, Verizon Wireless next reviewed options within 1,000 feet of the designated trail. This area is within the white dashed line on the map on Page 11.

Many parcels within the 1,000 foot trail setback are zoned suburban residential, where proof of a gap is required per the Code (LDS, MDS and HDS zones), while other zones do not require proof of a gap (TC, MDR, GR, OS and PR zones). However, any location within the 1,000 foot trail setback requires proof of a gap.

The TC-zoned parcels within 1,000 feet of the designated trail are owned by either Ponderosa Ranch LLC or Tunnel Creek Properties LLC. Neither was interested in leasing those areas to Verizon Wireless, as explained under Alternatives 4, 15 and 16.

Verizon Wireless readily identified the following optimal location for its facility.

14. Proposed Facility

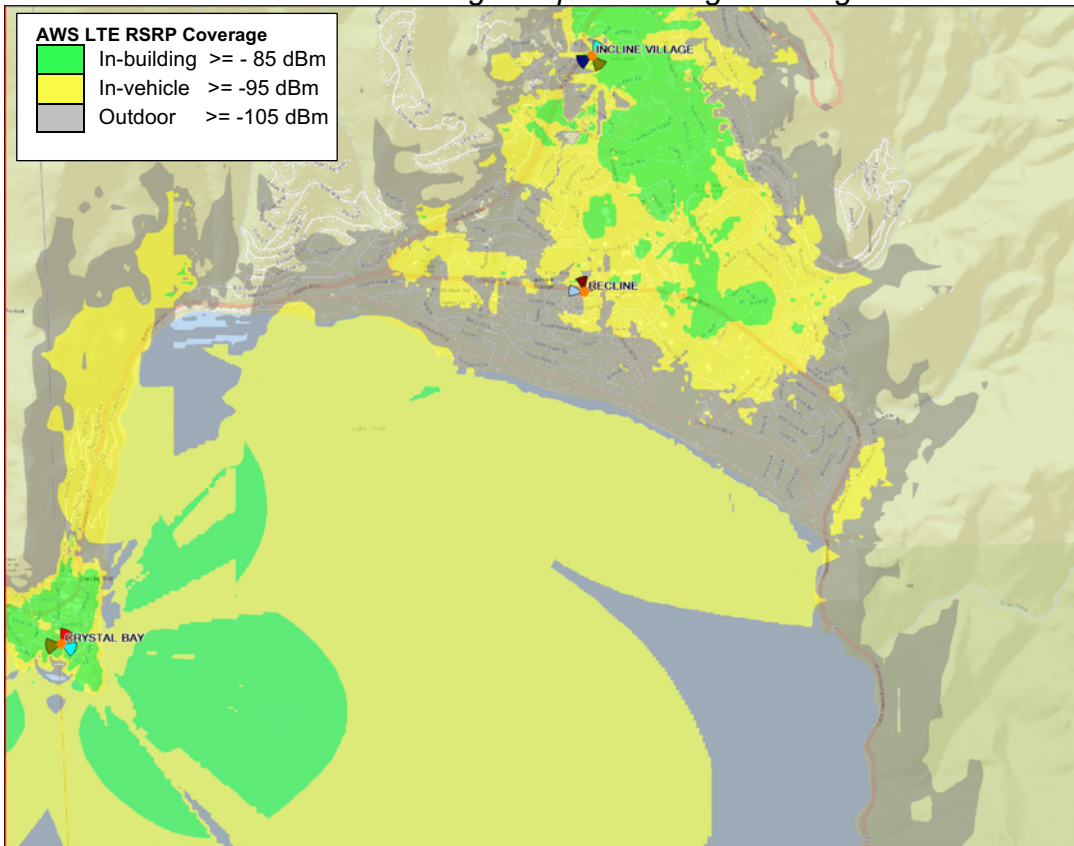
Address: 1200 Tunnel Creek Road
Zoning: LDS (Low-Density Suburban)
Elevation: 6,395 Feet



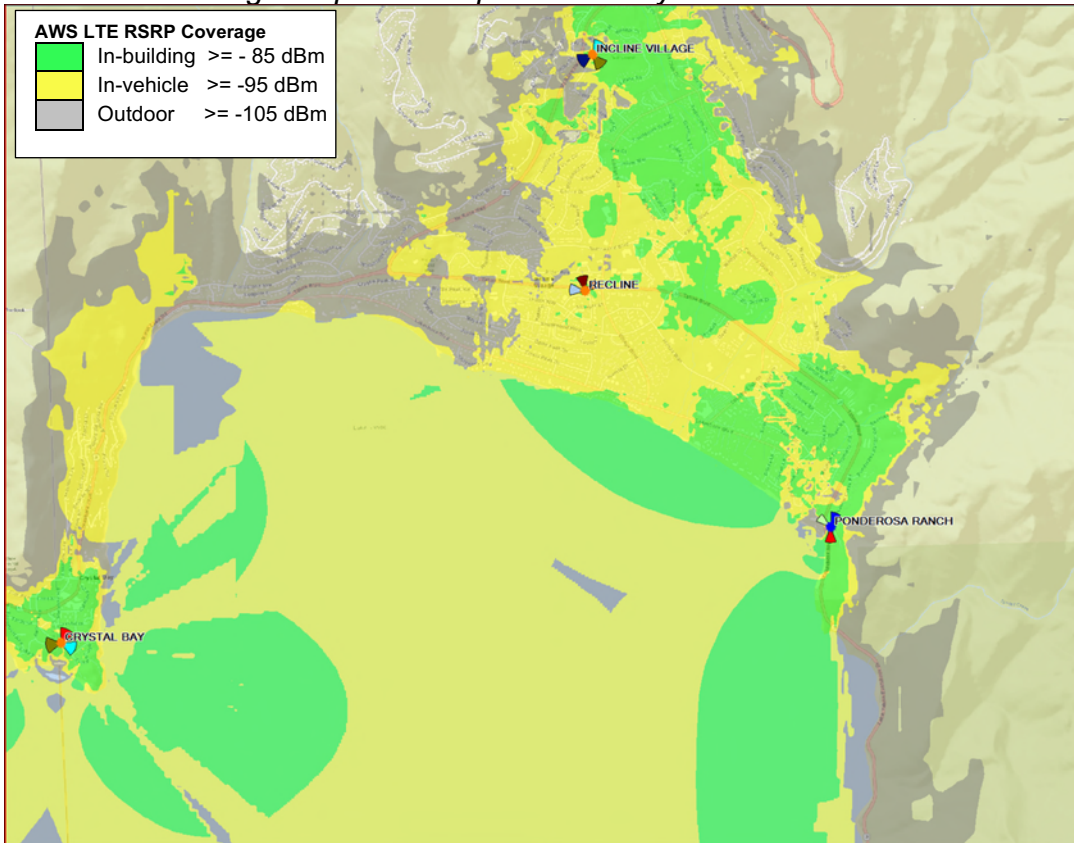
The Proposed Facility has been thoughtfully designed to minimize any impact to the adjacent community. Verizon Wireless proposes to conceal its panel antennas within a 45-foot tower facility camouflaged as a pine tree, placed along a row of established evergreen trees of similar height. Antennas will be concealed within faux foliage and branches, and branches will extend beyond and above the antennas, providing a realistic tapered crown. Antennas will be covered with pine needle socks for further concealment. Due north of the treepole, Verizon Wireless will place an 11' x 15.25' equipment shed designed as a cabin, with wood log siding and a gabled shake roof. The shed will conceal network equipment and a battery cabinet to provide continued service during emergencies.

With antennas placed at a 37-foot centerline at this optimal, elevated location, the Proposed Facility will provide reliable Verizon Wireless LTE service to the Significant Gap. As shown in the following coverage maps, the Proposed Facility will provide new reliable in-building coverage to the Ponderosa Ranch and Mill Creek neighborhoods, the vicinity of Hyatt Regency along Country Club Drive, and along Highway 28 to the south. It also will add new network capacity to relieve the distant network facilities currently providing only weak service to the gap area. An analysis comparing existing and proposed service is found in the RF Engineer's Statement. This is Verizon Wireless's preferred location and design for the Proposed Facility.

AWS LTE Coverage Map – Existing Coverage



AWS LTE Coverage Map with Proposed Facility – 37 Foot Antenna Centerline



15. Tunnel Creek Road Property

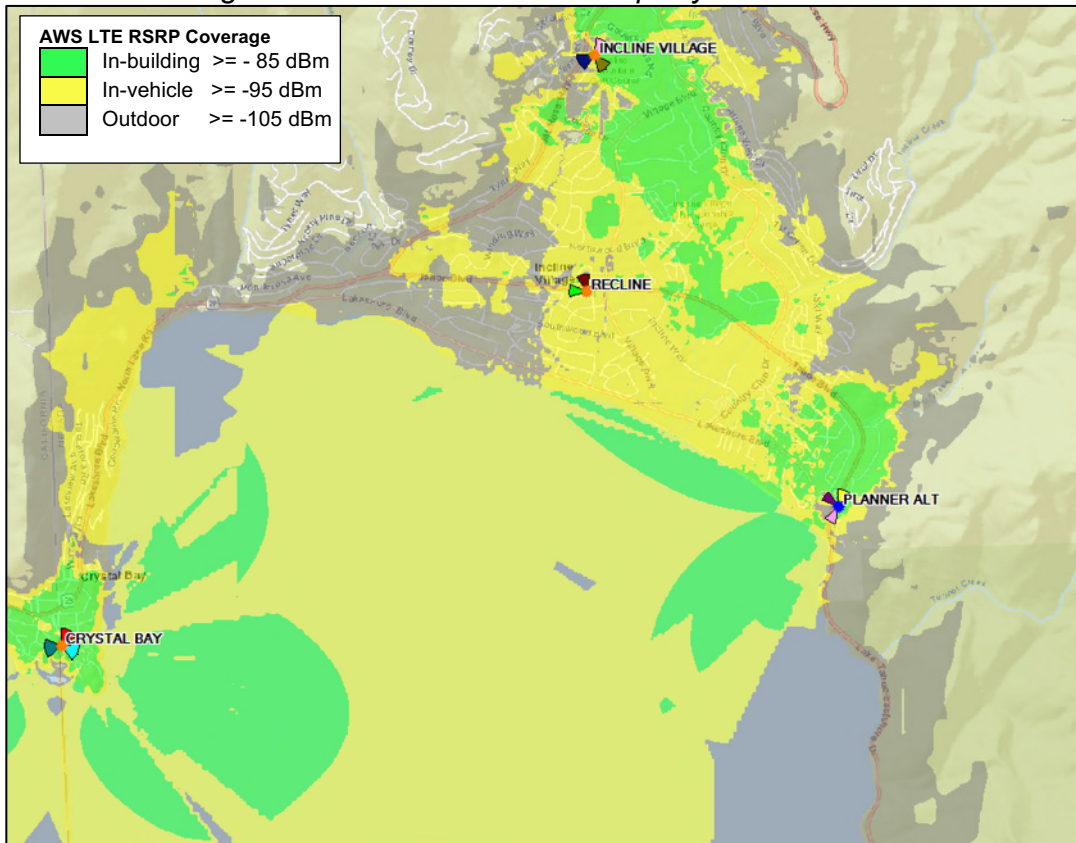
Address: 1200 Tunnel Creek Road
Zoning: TC (Tourist Commercial)
Elevation: 6,350 feet

At the request of the County Planning & Building Division, Verizon Wireless reviewed placement of a facility in a vacant area 580 feet north of Proposed Facility on the same property, 45 feet lower in elevation. The property owner declined to lease this portion of the subject parcel, allowing Verizon Wireless to site only at a specific location to the south. This portion of the property is within the TC zone, where applicable height limits could allow a stealth facility 56.25 in height. Verizon Wireless engineers determined that a 56.25-foot facility cannot serve the Significant Gap.



As shown in the following coverage map, a coverage gap would remain the gap area, notably toward the west along Lakeshore Boulevard near Country Club Drive and portions of the Mill Creek neighborhood, with a stretch of Highway 28 south of town lacking in-vehicle service. This is not a feasible alternative to the Proposed Facility.

AWS LTE Coverage at Tunnel Creek Road Property – 48 Foot Antenna Centerline



16. Tunnel Creek Café Property

Address: 1115 Tunnel Creek Road
Zoning: TC (Tourist Commercial)
Elevation: 6,310 feet

Verizon Wireless reviewed placement of a facility on this parcel due north of the Proposed Facility property and 85 feet lower in elevation. There are several buildings on this parcel, including the Tunnel Creek Café. The property owner is the same as the Proposed Facility, Tunnel Creek Properties LLC, who declined to lease this parcel, allowing Verizon Wireless to site only at a specific location on its parcel to the south. Lacking a willing landlord, this is not a feasible alternative to the Proposed Facility.



Verizon Wireless sought to avoid siting within the dense, residential subdivisions west of Highway 28, but considered the following vacant parcel at the far east edge of the area, next to the highway.

17. Lake Tahoe Trust Property

Address: 106 Steam Circle

Zoning: MDS (Medium-Density Suburban)

Elevation: 6,295 feet

Verizon Wireless reviewed this small vacant parcel 0.1 miles northwest of the Proposed Facility and 100 feet lower in elevation. A facility at this location of similar height to the Proposed Facility could approach a comparable amount of coverage. However, it would pose more visual impact, due to placement between homes on both neighboring parcels at the same elevation. A tower would be within at least 140 feet of one or both neighboring homes, and there are few trees on the property itself to provide screening. In contrast, the Proposed Facility is located away from offsite buildings. This cannot be considered a less intrusive alternative to the Proposed Facility.



18. Tunnel Creek Road MDR Zone

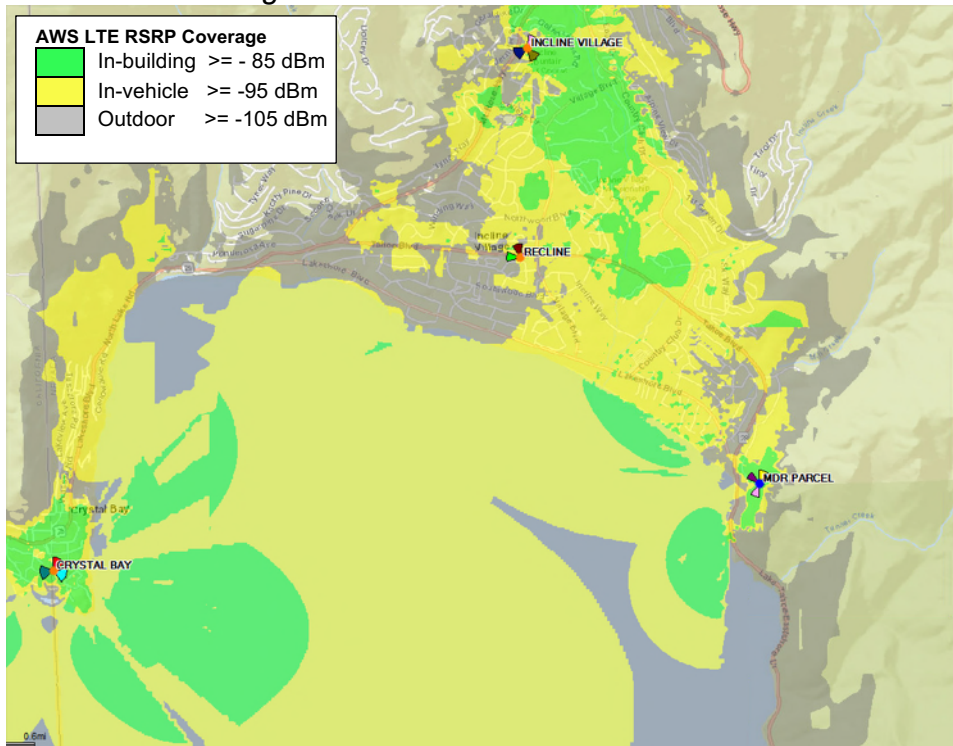
Address: 1500-1600 Tunnel Creek Road
Zoning: MDR (Medium-Density Rural)
Elevation: 6,400-6,550 feet

Verizon Wireless reviewed two parcels east of the Proposed Facility uphill, each with a portion zoned MDR. Though monopoles in the MDR zone do not require proof of a gap, that proof is still required at this location within 1,000 feet of the designated trail. Verizon Wireless engineers reviewed graded areas along existing access roads, and determined that a facility the same height as the Proposed Facility cannot serve the Significant Gap, even at an elevation 140 feet greater. Because of the high elevation, signal would overshoot the Mill Creek neighborhood, even with antennas adjusted with considerable down-tilt. As shown in the following coverage map, a broad coverage gap would remain in the Mill Creek neighborhood and along Highway 28, both in the commercial area and a portion to the south. This is not a feasible alternative to the Proposed Facility.



Further, the owner of 1600 Tunnel Creek Road, David Geddes, cannot be considered a willing landlord. Also representing the owner of 1500 Tunnel Creek Road, Joyce Bock, Mr. Geddes objected to the Proposed Facility alleging “visual pollution,” according to the minutes of the Incline Village Crystal Bay Citizens Advisory Board meeting, May 6, 2019.

AWS LTE Coverage at MDR Parcels – 37 Foot Antenna Centerline



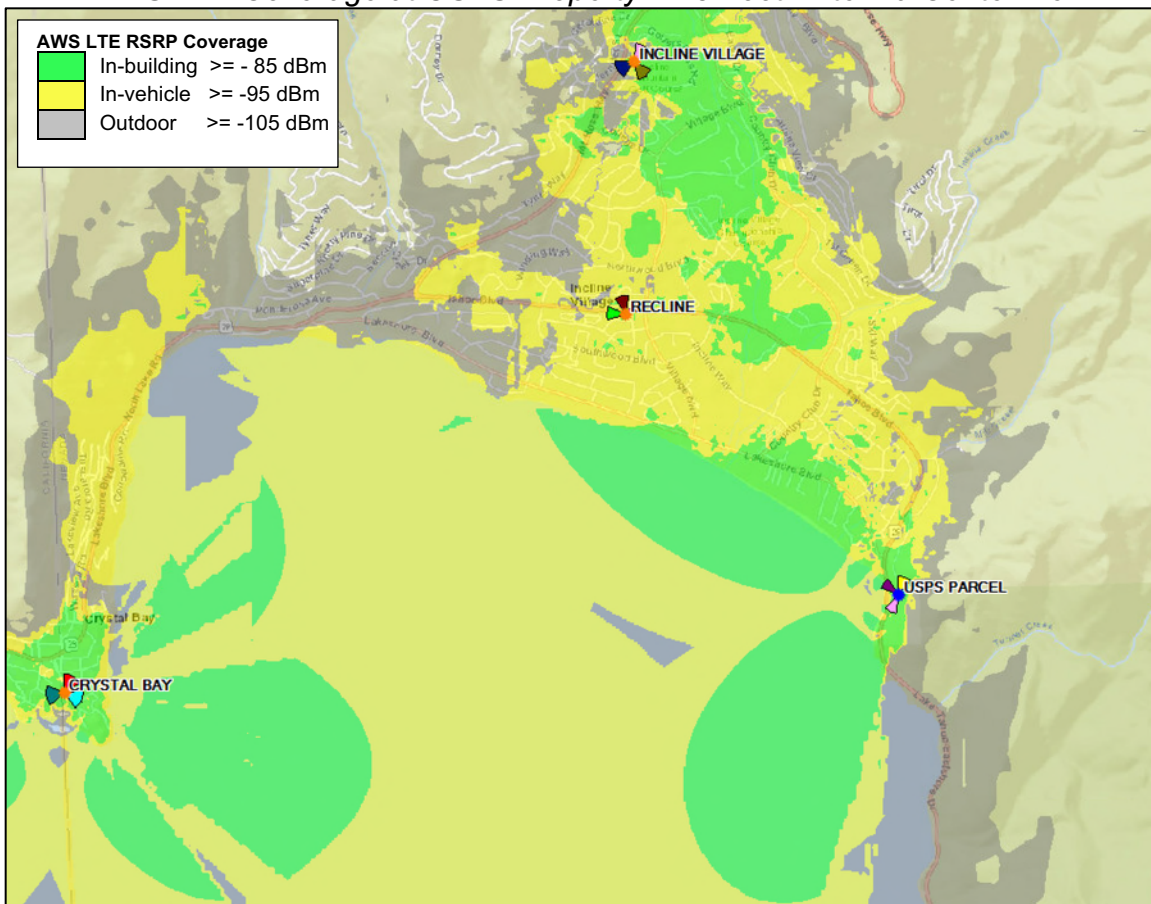
19. United States Forest Service Property

Address: 0 State Route 28
Zoning: OS (Open Space)
Elevation: 6,300-6,650 feet

Verizon Wireless reviewed this large steeply-sloped parcel east of Highway 28, 0.1 miles south of the Proposed Facility with a varying elevation. This is one of two large parcels due south of the developed area of Incline Village. Construction of a tower foundation and wireless equipment area would require extensive grading and pose substantial environmental and visual impact, and may pose insurmountable engineering challenges. Further, Verizon Wireless engineers determined that a 56-foot facility at this location cannot serve the Significant Gap. As shown in the following coverage map, a coverage gap would remain in much of the Mill Creek area, and in the Ponderosa Ranch and commercial areas along Highway 28 north of Lakeshore Boulevard. This is neither a feasible nor less intrusive alternative to the Proposed Facility.



AWS LTE Coverage at USFS Property – 48 Foot Antenna Centerline



20. Lake Tahoe Nevada State Park

Address: State Route 28

Zoning: PR (Parks and Recreation)

Elevation: 6,550-6,890 feet

Verizon Wireless reviewed placement of a facility on the northwest corner of this very large state park, on the other large parcel due south of the developed area of Incline Village. There is no development in this backcountry area of the park. Construction of a tower foundation, wireless equipment area, and access road would require extensive grading and pose substantial environmental and visual impact, and may pose insurmountable engineering challenges. This cannot be considered a less intrusive alternative to the Proposed Facility.



V. Conclusion

Verizon Wireless has reviewed existing structures and 20 specific alternative locations to fill the Significant Gap in service in the southeast Incline Village area. Based upon the values expressed in the Washoe County Development Code, the Proposed Facility clearly constitutes the least intrusive feasible location for Verizon Wireless's facility.



Ponderosa Ranch
Incline Village, Washoe County
Alternative Site Locations



1. Snowflake Lodge Collocation

2. Hyatt Regency Collocation

5. Spitsen Lumber

6. T-Bird Warehouse

7. Alpine Self-Storage

8. Incline Storage

9. Boat Yard

11. GID Public Works

10. Waste Management

13. Substation

12. Treatment Plant

3. Water Tank

4. Ponderosa Ranch LLC

16. Tunnel Creek Cafe

17. Lake Tahoe Trust

15. Tunnel Creek Road Property

14. Proposed Facility

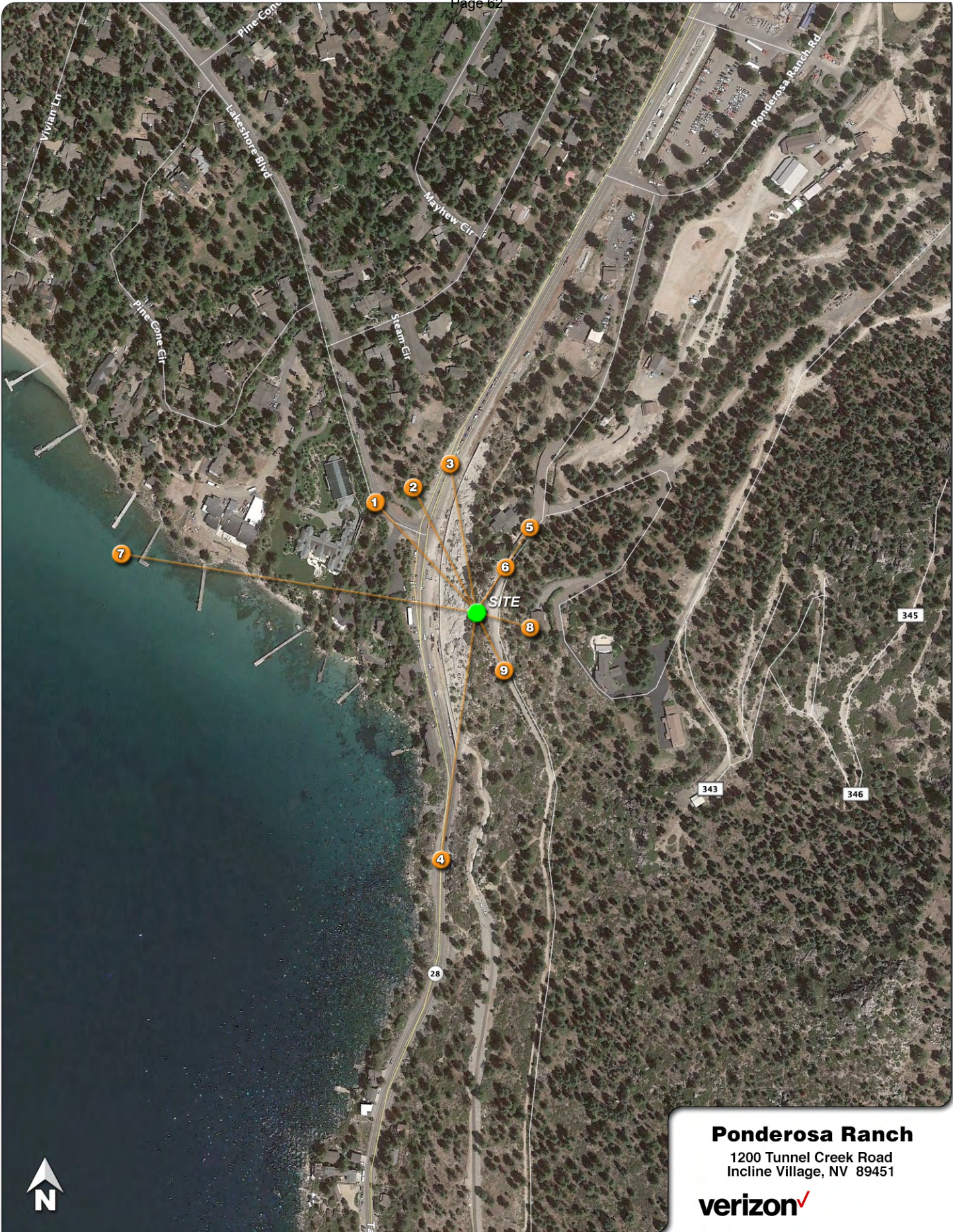
18. Tunnel Creek Road MDR Zone

19. USFS Property

20. Lake Tahoe Nevada State Park

Aerial photograph showing the viewpoints for the photosimulations.

Attachment
Page 62



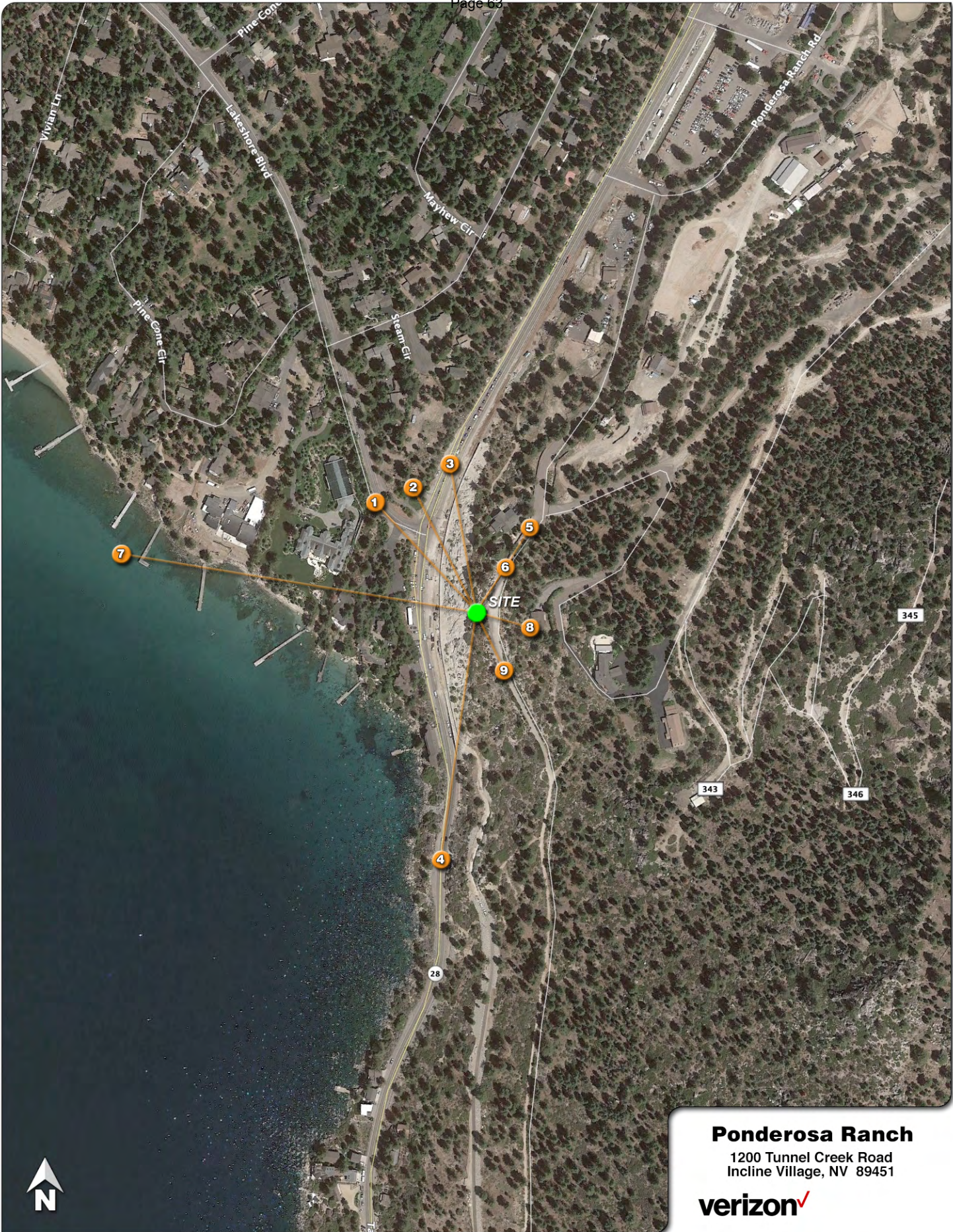
Ponderosa Ranch

1200 Tunnel Creek Road
Incline Village, NV 89451



Aerial photograph showing the viewpoints for the photosimulations.

Attachment
Page 63



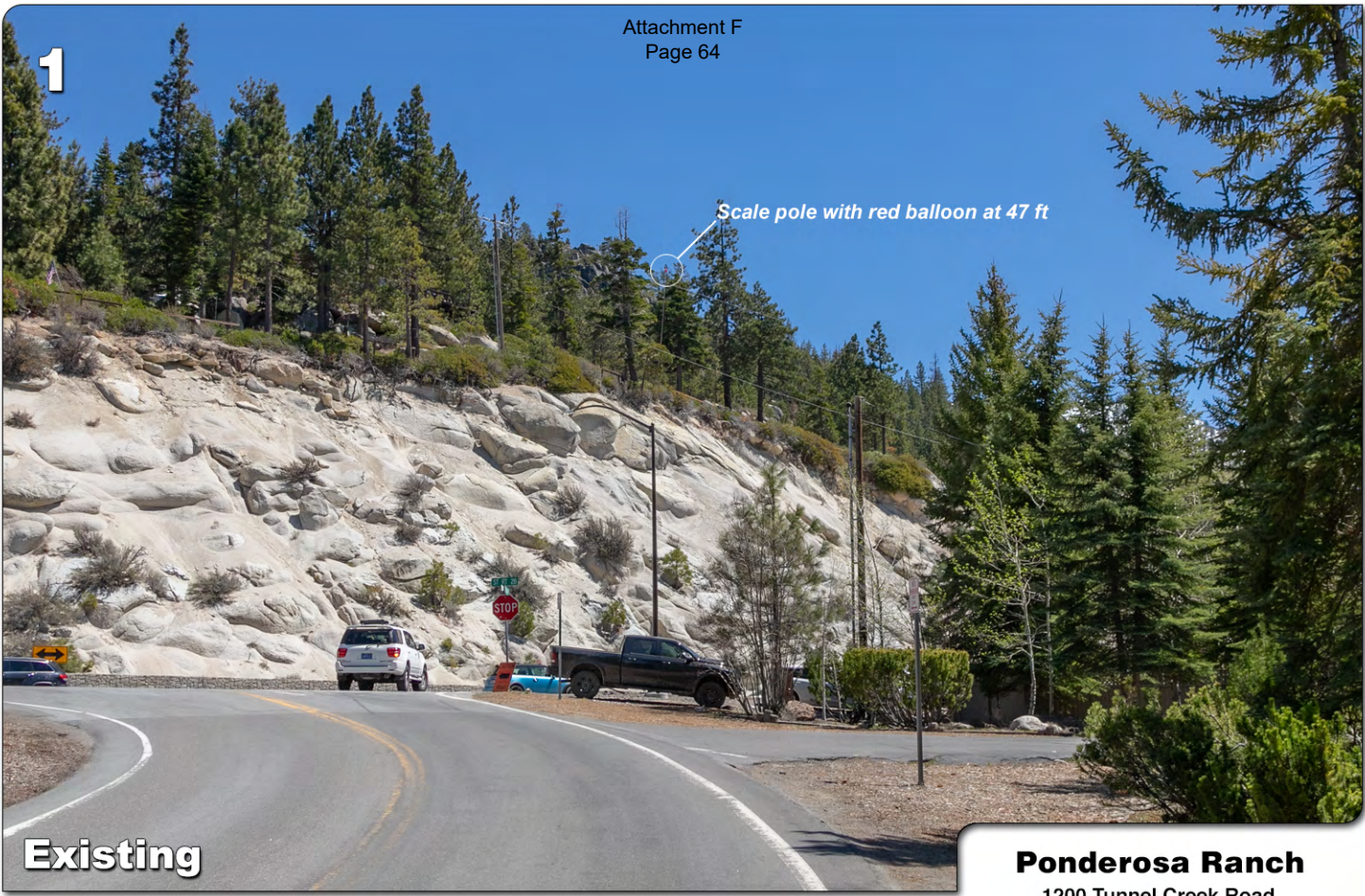
Ponderosa Ranch

1200 Tunnel Creek Road
Incline Village, NV 89451



1

Scale pole with red balloon at 47 ft



Existing

Ponderosa Ranch

1200 Tunnel Creek Road
Incline Village, NV 89451

verizon✓

Photomontage of the view east from Lakeshore approaching Tahoe Blvd.

Proposed 45 ft monopine



Proposed

2



Scale pole with red balloon at 47 ft

Existing

Ponderosa Ranch

1200 Tunnel Creek Road
Incline Village, NV 89451

verizon✓

Photosimulation of the view looking southeast from across the intersection.



Proposed 45 ft monopine

Proposed

3



Scale pole with red balloon at 47 ft

Existing

Photostimulation of the view looking southeast from Tahoe Blvd.

Ponderosa Ranch

1200 Tunnel Creek Road
Incline Village, NV 89451

verizon✓



Proposed 45 ft monopine

Proposed

4



Existing

Photosimulation of the view looking north along State Route 28.

Ponderosa Ranch

1200 Tunnel Creek Road
Incline Village, NV 89451



*Location of proposed 45 ft monopine,
not visible - behind trees*

Proposed

5

Attachment F
Page 68

Scale pole with red balloon at 47 ft



Existing

Ponderosa Ranch

1200 Tunnel Creek Road
Incline Village, NV 89451

verizon✓

Photosimulation of the view south from the trailhead on Tunnel Crk Rd.

Proposed 45 ft monopine



Proposed

6



Existing

Ponderosa Ranch

1200 Tunnel Creek Road
Incline Village, NV 89451

verizon✓

Photosimulation of the view looking south along Tunnel Creek Trail.



Proposed

7

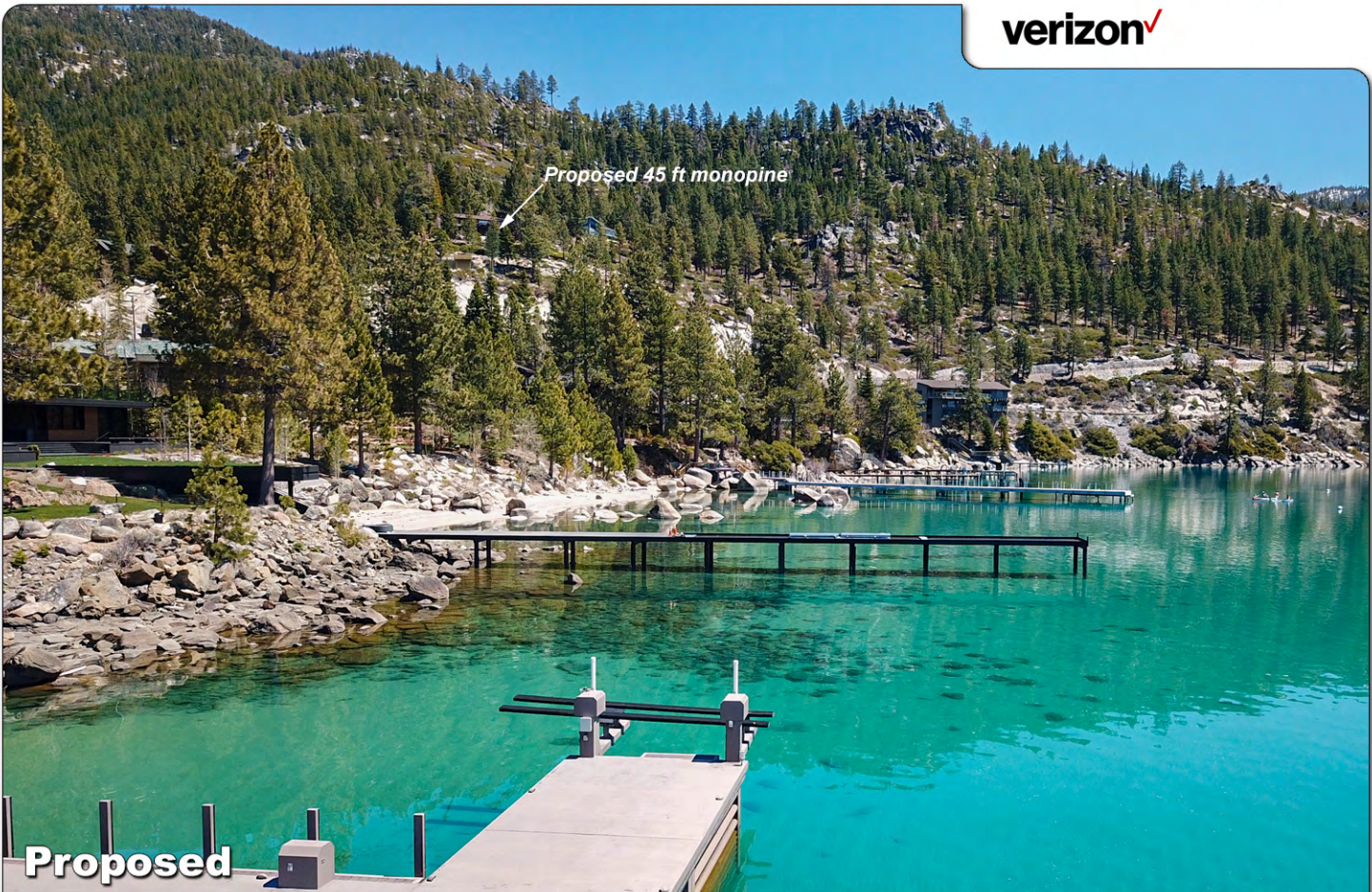


Existing

Photosimulation of the view looking due east from the lake.

Ponderosa Ranch

1200 Tunnel Creek Road
Incline Village, NV 89451



Proposed

8



Existing

Photosimulation of the view looking north from Tunnel Creek Trail.

Ponderosa Ranch
 1200 Tunnel Creek Road
 Incline Village, NV 89451



Proposed

9



Scale pole with red balloon at 47 ft

Existing

Ponderosa Ranch

1200 Tunnel Creek Road
Incline Village, NV 89451

Photosimulation of the view looking west from above the nearest home site.

verizon✓



Proposed 45 ft monopine

Proposed

SUPPLEMENT TO LEGAL AUTHORITIES IN SUPPORT OF VERIZON'S APPEAL

(WSUP 19-0006)

A. Introduction and Statement of Appeal.

As set forth in Verizon's Supplement to Notice of Appeal, this is an appeal from the denial of an application by Verizon Wireless ("Verizon") for a Special Use Permit ("SUP") for the construction of a new wireless facility consisting of a 45-foot-high stealth monopole structure in the vicinity of Tunnel Creek Road near the Ponderosa Ranch Area of Incline Village Nevada, east of State Route 28. As the granting or denial of an application for a SUP is not a discretionary decision of the Board of Adjustment (such as a variance), this proceeding is a *de novo* appeal in which this Commission determines for itself, based on the evidence and material presented at the appeal hearing, and without any deference to the Board of Adjustment, whether Verizon has carried its burden of proof to entitlement to the SUP. In making this determination, the Board can consider the record of proceedings before the Board of Adjustment ("BOA"), any new evidence presented, public comment, and any information or arguments presented by the parties. Washoe County Ordinance 110.910.20.

Under applicable ordinances and preemptive federal law (discussed below), Verizon is entitled to the permit if: (1) it presents substantial evidence in support of the specific factual findings laid out in the applicable ordinance, or (2) that denial of the SUP would have the "*effect of prohibiting the provision of personal wireless services.*" 47 U.S.C. § 332(c)(7)(B)(i)(II). Under preemptive federal law, denial of a SUP has the *effect of prohibiting the provision of personal wireless service* if the applicant demonstrates that: (1) the proposed new service would cure or mitigate a significant gap in its coverage, and (2) the site selected to cure or mitigate that gap is the least intrusive location among other reasonably available alternatives that could effectively accomplish the same purpose. As discussed below, Verizon's application and presentation established before the BOA and will establish in this appeal, substantial evidence in support of all the findings necessary for issuance of the requested SUP, and further, that denial of the SUP would have the effect of prohibiting the provision of personal wireless services, and that

it is entitled to issuance of the SUP under Washoe County Ordinances, and federal law.

B. The Staff Report and Proceedings Before the BOA.

The Staff Report to the BOA found and concluded that Verizon's application met all requirements of the Development Code (110.810.30). Based on Staff's evaluation of the evidence and investigation of the application, Staff recommended approval. Staff Report, p. 20. Those findings and conclusions were as follows:

1. ***Consistency was established*** because the project was 100% compliant with the Master Plan, the Tahoe Area Plan, and the Ponderosa Community Plan.
2. ***Improvements were satisfied*** because the facility is unmanned, and the facilities proposed were adequate for the project and in full compliance with Division Seven of the Development Code.
3. ***The Site is physically suitable*** for the project. The property contains trees and vegetation and the proposed facility will not require significant grading. Additionally, the proposed facility is a stealth design (monopole designed to look like a pine tree) and will blend in with the existing local trees. Photosims submitted with the application depict before and after views from various locations around the site and show that the proposed facility will blend with the surrounding area. In addition, Staff acknowledged that although the site was within 1,000 feet of a Public Trail (800 feet away), Washoe County Code ("WCC") expressly permits locations within 1,000 feet if the applicant demonstrates a significant gap in coverage exists that the proposed service would effectively close. Staff acknowledged that Verizon satisfied this condition. *See* Ordinance 110.324.50(e)(10)(i).
4. ***The permit is not detrimental to public health and safety*** and based on the requirements of the FCC, the electromagnetic frequency exposure levels are well below the maximum allowable by FCC regulations as established by the report of requested electrical engineer David Kiser from Waterford Consultants, FCC Specialists, whose report was submitted to the BOA.
5. ***The project will have no effect on military installations***, as no such installations

are nearby.

6. ***The project satisfied and complied with all the requirements of WCC 110.34.75*** in all particulars as to both features and construction.

7. ***Public Comment was received*** and fully considered at two Community Advisory Board meetings held on May 6, 2019 and November 4, 2019. As noted above, no one appeared at the BOA hearing except one resident who spoke in favor of the application and testified that Verizon's service in the area in question was inadequate and sometimes non-existent.

8. ***The project will not unduly impact adjacent neighborhoods*** as the monopole blended in with the existing natural landscape on the subject parcel and is at the least intrusive height (45') to blend with the surroundings, that includes a group of trees in which the site will be located.

Staff ultimately concluded: ***"After a thorough review and analysis, Special Use Permit WSUP 19-0006 is recommended for approval ..."*** and included a proposed recommendation approving the project with conditions. As mentioned above, there was one resident that spoke in support of the application, and no evidence was presented by any person or entity traversing or contradicting the evidence presented by Verizon or the Staff, or the recommendations of the Staff to approve and issue the SUP.

Despite the evidence, findings, and recommendations of Planning Staff, the BOA voted 3 to 2 to deny the permit on the sole basis of failure to satisfy the requirements of Finding # 3, ***"Site Suitability."*** Although not entirely clear, the BOA appeared to base its determination that the site was not physically suitable on the fact that the proposed tower structure site was 800 feet from a Public Trail (less than the 1,000 feet required by Ordinance 110.324.50 (e)(10)(i)), and that Verizon had not demonstrated the existence of a ***"significant gap"*** in coverage that would except or excuse the proposed facility from such requirement.

The BOA acknowledged confusion on the concept of ***"significant gap"*** and rejected the opinions of both the County Planning Manager and legal counsel that the definition of ***"significant gap"*** under the Federal Communications Act preempted the 20 year old and very

outdated (and illegal) definition of “significant gap” in the Washoe County Development Code. The County Manager suggested that the BOA apply the “catch-all” code provision allowing exceptions from the code under special circumstances and stated that the County was in the process of revising its Code to rectify outdated and superseded provisions such as the definition of significant gap in the County Code that did not comply with current federal law. The District Attorney demurred from offering any legal opinions until he had an opportunity to further review and research the matter.

The BOA rejected all this advice and denied the SUP on the ground that a significant gap was not demonstrated because there was adequate coverage in the area provided by a different carrier (AT&T), and because Washoe County ordinance specified that a significant gap in coverage existed only in areas where there was no coverage at all. This reason is legally insufficient, and denial of the permit on this basis constitutes “*effective prohibition of provision of wireless service*” under preemptive federal law.

C. The Burden of Proof.

Verizon’s burden of proof before the BOA and before this Commission is in the alternative. First, Verizon can establish all the findings identified in WCC 110.810.30 and 110.324.75 by substantial evidence, in which case Verizon is entitled to issuance of the SUP under WCC. Substantial evidence is evidence that a reasonable mind might accept as adequate to support a conclusion. *United Exposition Service Co. v. State Indus. Ins. Comm’n*, 109 Nev. 421, 851 P.2d 423 (1993); *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987 (9th Cir. 2009). Alternatively (and irrespective of whether any of the WCC findings are or can be satisfied with substantial evidence), Verizon can establish that denial of its application would effectively operate as a prohibition of provision of private wireless services, in which event the SUP must issue. Verizon did both before the BOA, and will do so again, before this Commission. Each will be addressed in reverse order

1. ***Verizon Demonstrated a Significant Gap in Coverage under the Telecommunications Act, and that the Selected Site is the Least Intrusive Alternative Available, and that it is Entitled to the SUP Under***

Preemptive Federal Law.

Verizon's application and presentation demonstrated a significant service gap existed in an area that the new tower would substantially mitigate, and in some areas, eliminate. Neither Staff nor any other person disputed that evidence and the only public commentary presented at the hearing supported the finding of inadequate service, especially during times of heavy traffic in the summer and during holiday seasons at Lake Tahoe. In short, the substantial evidence of "significant gap" in Verizon's service presented by Verizon, was not even traversed, let alone refuted by any contrary substantial evidence.

As noted above, however, several of the BOA members concluded that Verizon had not demonstrated a "significant gap in coverage" because regardless of the gap in Verizon's coverage, Verizon did not affirmatively demonstrate that service in the area was not adequately covered by *other carriers* (AT&T), or that the area was not *totally devoid* of service, whether through other carriers or through weak and inadequate Verizon service. As set forth above, this was not Verizon's burden of proof, and the law is precisely otherwise. Under federal law (which governs this determination), a significant gap in coverage is *carrier* specific, not global network specific. *American Tower Corp. v. City of San Diego*, 763 F.3d 1035 (9th Cir. 2014).

A "significant gap in coverage" is a well-defined term taken from the Federal Telecommunications Act, which, as noted above, has preemptive application in connection with local permitting of wireless facilities governed by that Act, including this project. Under federal law and statute, as interpreted by the United States Ninth Circuit Court of Appeals (whose pronouncements are binding federal law in Nevada), if an applicant for a wireless facility demonstrates a "significant gap in coverage," any denial of an application that would mitigate or ameliorate that gap constitutes an effective "*prohibition of wireless service*" in violation of federal law under Section 332(c)(7) of the Telecommunications Act, and shifts the burden of proof to the local governmental body to demonstrate otherwise. *See T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987 (9th Cir. 2009). As noted above, Verizon demonstrated a significant gap in its coverage in the applicable area, and no contrary evidence was presented, or exists.

The Ninth Circuit has also expressly held that under the Telecommunications Act, a “significant gap in coverage” occurs in the instance where a **single carrier** experiences a gap, even if the area in question is otherwise adequately covered by other carriers. In other words, a significant gap in coverage is carrier specific, not universal network specific. *See MetroPCS, Inc. v. The City of San Francisco*, 400 F.3d 7165 (9th Cir. 2005). It is also federal law under the Telecommunications Act that a significant gap in coverage occurs where the coverage is not just absent, but unreliable in terms of quality and/or number of people affected. *Id.* While fact specific, once the provider demonstrates that the service is inadequate and unreliable (as occurred here), the burden shifts to the local governing body to prove otherwise. *Id.* The BOA did not do so, nor can Washoe County, because there is no such evidence. Any denial of Verizon’s application on this basis would violate the Telecommunications Act, which ultimately governs the decision this Commission must make in this proceeding.

A decision by a governing body denying a permit in an area where there is a significant gap” amounts to an effective prohibition of cellular service if the applicant also demonstrates that the proposed location is the least intrusive location reasonably and practically available that would eliminate or mitigate that gap in service. *MetroPCS, supra; American Tower Corp., supra.* The applicant’s burden in this respect is not to demonstrate there is no other possible alternative site. Rather, it requires a review of alternative sites and a comparison among them to the chosen site to determine if it is the least intrusive on the values to be served. The analysis consists more of a balancing exercise than an “all or nothing” determination of whether some other site could have been chosen. *MetroPCS, supra.* This determination is also made on a substantial evidence basis, and once such evidence has been presented by the applicant, the burden of proving otherwise (a less intrusive available site) shifts to the government. *Id.*

The BOA examined Verizon at length regarding all alternative sites considered by it, and Verizon demonstrated that all of them were either legally or practically unavailable, or would not effectively resolve the significant gap in coverage that the selected or preferred location would be able to accomplish. Neither Staff nor any other party contradicted this testimony and

evidence, let alone demonstrated with contrary “substantial evidence” that a less intrusive site was available (as would have been the County’s burden if such a site existed).

2. Verizon Established All the Requirements of WCC 110.810.30 and 110.324.75 with Substantial Evidence and Is Entitled to the SUP under the WCC Irrespective of the Application of Federal Law.

Verizon filed an application with substantial evidence establishing each and every finding required by WCC 110.810.30 and 110.324.75. That evidence is before the Commission. Staff also filed a comprehensive report prior to the hearing before the BOA (and now also part of the record before this Commission), that also includes substantial evidence supporting each and every finding required to be made. As noted above, the Washoe County Planning Staff concluded that Verizon had satisfied its burden of proof on all the required findings and included a proposed resolution to the BOA to that effect. No person presented any evidence traversing or contradicting any of the evidence presented by Staff and Verizon.

D. If an Applicant Satisfies its Burden of Proof, the Burden Shifts to the Government to Justify a Denial with Reasons in Writing which Reasons must be Supported with Substantial Evidence in a Written Record.

Under the Federal Telecommunications Act, if a permit denial is based on a failure to satisfy any findings required by a law or ordinance, the Board must make a written finding to that effect, and that written finding must, itself, be supported by substantial evidence in a written record. In *T-Mobile South, LLC v. Roswell, Georgia*, 574 U.S. 293 (2015), the United States Supreme Court held that if a local government denies a permit to construct a private telecommunications facility (such as a tower as was also involved in that case), the government must specify the *exact reason or reasons* for doing so in a writing, and that reason or reasons must be independently supported by *substantial evidence* in a written record. When regulating and considering the location, placement, construction or modification of wireless facilities the local governing body *shall not* prohibit or otherwise regulate in any manner having the practical effect of prohibiting the provision of personal wireless services, nor may such body deny a request to place, construct or modify personal wireless facilities unless in its denial decision it does so “*in a decision set forth in a separate writing supported by substantial evidence setting*

forth “**with specificity**” each ground on which the local authority denied the approval of the application; [and must] describe the documents relied upon by the governmental body in denying the application.” NRS 707.585; see also 47 U.S.C. § 332(c)(B).

The reasons for these requirements are to promote the purposes of the Telecommunications Act in limiting the authority of local governments to control and regulate interstate telecommunication services by insuring that a reviewing court can examine the propriety of their actions under the requirements of their own ordinances as well as under the federal Act. This requirement is also intended to prevent or preclude local governments from inventing reasons for denial outside the parameters of their local acts or ordinances, and to preclude them from engaging in “*post hoc agency rationalizations*” by providing justifications for denial different from the ones relied on during the hearing on the matter. *Id.*; *GTE Mobile v. Town of Danville*, 2020 WL 210323 (N.D. Cal. 2020). Federal courts have determined that once the applicant establishes a “prima facie” case (evidence sufficient to support a finding), the burden shifts to the local governing body to prove otherwise, with *substantial evidence*. *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987 (9th Cir. 2009). The BOA did not do so and no person or party can do so before this commission because there is no such evidence.

E. The BOA’s Decision was not Supported by Substantial Evidence.

The BOA concurred with Staff that the application met all requirements for approval under the Washoe County Development Code, except one, and with respect to that single finding, BOA simply “concluded” that the site was not “physically suitable.” BOA provided no written elaboration or factual basis to support that finding other than the expression of two members of the BOA that: (1) the “significant gap” exception to the 1000 foot limitation on siting near a Public Trail was not established because other carriers provided service in the service area, and/or (2) that Verizon failed to demonstrate that the area was totally without service.

These two “additional” requirements expressed by two members of the BOA are not part of the applicable ordinance (or any Washoe County ordinance), and cannot be relied on as

reasons for denial under the “*substantial evidence test.*” See, e.g., *T-Mobile Central LLC v. Unified Government of Whandotte County*, 546 F.3d 1299 (10th Cir. 2008) (government reliance on grounds outside the specific criteria laid out in the ordinance violates the Telecommunications Act and cannot satisfy the Governments burden of demonstrating substantial evidence for denial, because evidence supporting grounds *outside* and not part of the ordinance is not substantial evidence supporting denial under the Ordinance at all); *Id. Omnipoint Communications v. City of Huntington Beach*, 2010 WL 11475717 (C.D. Calif 2010).

The County’s ordinance provides an exception to the 1,000 foot distance requirement from a Public Trail, if the applicant demonstrates a “*significant gap*” in coverage (WCC 110.324.50(e)(10)(i). The definition of “*significant gap*” under the ordinance does not require the absence of any and all service, irrespective of whether service is provided by another carrier, or by the same carrier whose service is inadequate or insufficient for whatever reason that might be rectified by the additional proposed service. WCC 110.34.55. This ordinance merely states that a “*significant gap*” shall include a “*white area*” where no cellular service from any carrier is available, but the same section of the ordinance also provides that a facility is permitted ***anywhere*** if the applicant can demonstrate the facility is for personal wireless service ***as defined by federal statutes and regulations*** [and] necessary to close an existing significant gap in the availability of personal wireless service.

A statutory provision that provides that a significant gap shall include a “*white area*” does not, by its plain terms, exclude other areas, any more than language specifying that primates *shall include* homo sapiens, exclude monkeys and gorillas, or that language stating that the North American Continent *shall include* the United States and Canada, exclude Mexico. In short, language stating what is or shall be included in a concept, does not state or define what is excluded. Moreover, because the term may be ambiguous in such respect (a term or provision is ambiguous if it can be reasonably be interpreted in more than one way) it must be interpreted to be consistent with the law, and not in violation of the law, and especially if one interpretation would raise constitutional issues as would occur here under the Supremacy Clause of the

Constitution, which renders federal law as the preemptive supreme law of the land. *See, e.g., Halverson v. Secretary of State*, 124 Nev.484, 186 P.3d 893 (2008).

This is especially true when the ordinance itself expressly incorporates and references “federal law.” While the substantial evidence analysis is focused on state and local standards, the “effective prohibition” analysis under the Telecommunications Act brings in federal standards. *Sun State Towers, LLC v. County of Coconino*, 2017 WL 4805117 (D. Ariz. 2017). WCC 110.324.55(a) itself references federal standards and therefore the ordinance language indicating what is included within the concept of “significant gap” should not be read to exclude federal law and standards on the same topic or subject matter, nor should it be read to actually contradict those standards as such reading or interpretation would render the Ordinance unconstitutional under the Supremacy Clause of the United States Constitution. (Under Article VI clause 2 of the Constitution federal law is the “supreme law of the land” and takes priority over any conflicting state laws.) Although the District Attorney advised the BOA of the supremacy of federal law on the topic of “significant gap” and the Planning Manager advised the BOA that the WCC ordinances on the topic were outdated and likely in violation of federal law, certain members of the BOA felt compelled to construe the language of the “significant gap” in a manner inconsistent with federal law, and then apply that law in a manner that gave the ordinance priority over federal law, rather than the reverse, which is completely wrong. The ordinance should, in fact, have been construed to be consistent with federal law (as it can be), but even if not, the BOA, as is this Commission, is duty bound to uphold the Constitution, and apply the federal law on the topic irrespective of any inconsistent Washoe County Ordinance on the topic.

F. Conclusion.

Verizon is entitled to the SUP if it satisfies each of the required findings of the WCC 110.810.30 or, even if it fails to establish one or all of those findings, that denial of the SUP would effectively prohibit the provision of wireless service under the federal Telecommunications Act. Effective prohibition exists when a local government denies a permit where there is a significant gap in coverage that would be mitigated or eliminated by a proposed

facility which is located in the least intrusive area or location among reasonable or practical alternatives.

If an applicant provides prima facie evidence (evidence sufficient for a reasonable person to make such a finding) that it has satisfied the findings required by the ordinance, the burden shifts to the local government to dispute or refute the finding or findings with substantial evidence of its own. Washoe County Planning Staff concluded and reported that Verizon not only provided prima facie evidence supporting all findings, but that it satisfied those findings with substantial evidence. No person or entity traversed Verizon's or Staff's evidence with any contrary evidence, let alone substantial contrary evidence, and Verizon is therefore entitled to issuance of the SUP under WCC, irrespective of any finding or analysis of "significant gap."

Even assuming the failure of Verizon to satisfy any finding or findings with prima facie evidence or even substantial evidence, Verizon demonstrated with prima facie and substantial evidence that there was a *significant gap* in coverage that the proposed new facility would eliminate or mitigate, and that the proposed location was the least intrusive alternative available to accomplish that objective. This evidence was likewise not traversed by any contrary evidence by any person, and Verizon is therefore entitled to issuance of the SUP under the federal Telecommunications Act irrespective of any failure on its part to establish with prima facie evidence any of the findings required by Washoe County Ordinance.