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DEC 20 2013

COUNTY OF NAPA
EXECUTIVE OFFICE

APPEAL PACKET FORM

(Chapter 2.88.050 of Napa County Code)

Please submit original plus two (2) copies of the entire Appeal Packet, including this form.

TO BE COMPLETED BY APPELLANT
(Please type or print legibly)

Appellant's Name: ELEGANCE PROPERTIES LLC
Telephone #: 707 224-2211 Fax #: 955-811-3911
E-Mail Address: awrelich@1111wines.com
Mailing Address: 620 Trancas Rd. Napa CA 94558
Status of Appellant's Interest in Property: Adjacent Property Owner
Action Being Appealed: AT&T NSB Project CC0394
Permittee Name: AT&T / Mark & Teresa Habberger (Habberger Trust)
Permittee Address: 2046 Big Ranch Rd, Napa, CA 94558
Permit Number: P12-00419 UP Date of Decision: 11/20/13
Nature of Permit or Decision: Conditional Use Permit for telecom facility
Reason for Appeal (Be Specific - If the basis of the appeal will be, in whole or in part, that there was a prejudicial abuse of discretion on the part of the approving authority, that there was a lack of a fair and impartial hearing, or that no facts were presented to the approving authority that support the decision, factual or legal basis for such grounds of appeal must be expressly stated or they are waived. (attach additional sheet if necessary):
See Attached Exhibit A
Project Site Address/Location: 2046 Big Ranch Rd, Napa, CA 94558
Assessor's Parcel No.: 038-190-008

If the decision appealed from involves real property, the Appellant must also submit the original and two copies of 1) Title Insurance Report and 2) Assessor's Map Book Pages pursuant to County Code Section 2.88.050(B).

Signature of Appellant

Date

Print Name

TO BE COMPLETED BY CLERK OF THE BOARD

Appeal Packet Fee

Receipt Nos.

Received by:

Date:

Exhibit A

- 1. Our property is located at 620 Trancas, Napa, CA 94558, recorded by First American Title company as of 10/22/13. On December 5, 2013, we learned of the County's approval of a Conditional Use Permit for a telecommunications facility to be located on an adjacent property (2046 Big Ranch Road, Napa, CA 94558). The County did not send proper mailed notice of the Commissioner's meeting to us.**
- 2. We met with the County (Susie Gamble) several times during our due diligence process in acquiring the property, and were never notified of any applications for a conditional telecommunication Use Permit on the adjacent property, which was filed by AT&T in December 2012.**
- 3. The structure referred to as the "Barn" by the County, at address 610 Trancas Street, Napa CA 94558 was converted, finalized and approved by the County as a Residential dwelling on 10/01/03 (and is still currently used as the residence of the proprietor) but was not treated as such in application process.**
- 4. Applicant failed to comply with section 18.119.180 of the code by failing to submit required calculations specifying NIRE levels in the inhabited areas 400' from the facility.**

18.119.180 Telecommunication facilities—NIRE exposure.

- A. No telecommunication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end no telecommunication facility or combination of facilities shall produce at any time power densities in any inhabited area as this term is defined in Section 18.08.325 that exceed the ANSI C95.1-1992 standard for human exposure or any more restrictive standard subsequently adopted or promulgated by the county, the state of California, or the federal government.**
- B. Initial compliance with this requirement shall be demonstrated for any facility within four hundred feet of an inhabited area and all broadcast radio and television facilities through submission, at the time of application for the necessary permit or entitlement, of NIER calculations specifying NIER levels in the inhabited area where the levels produced are projected to be highest. If these calculated NIER levels exceed eighty percent the NIER standard established by this section, the applicant shall hire a qualified electrical engineer licensed by the state of California to measure NIER levels at said location after the facility is in operation. A report of these measurements and his/her findings with respect to compliance with the established NIER standard shall be submitted to the director. Said facility shall not commence normal operations until it complies with, or has been modified to comply with, this standard. Proof of said compliance shall be a certification provided by the engineer who prepared the original report.**

- C. Every telecommunication facility within four hundred feet of an inhabited area and all broadcast radio and television facilities shall demonstrate continued compliance with the NIER standard established by this section. Every five years a report listing each transmitter and antenna present at the facility and the effective radiated power radiated shall be submitted to the director. If either the equipment or effective radiated power has changed, calculations specifying NIER levels in the inhabited area where said levels are projected to be highest shall be prepared. NIER calculations shall also be prepared every time the adopted NIER standard changes. If calculated levels in either of these cases exceed eighty percent of the standard established by this section, the operator of the facility shall hire a qualified electrical engineer licensed by the state of California to measure the actual NIER levels produced. A report of these calculations, required measurements, if any, and the author's/engineer's findings with respect to compliance with the current NIER standard shall be submitted to the director within five years of facility approval and every five years thereafter. In the case of a change in the standard, the required report shall be submitted within ninety days of the date said change becomes effective.
- D. Failure to supply the required reports or to remain in continued compliance with the NIER standard established by this section shall be grounds for revocation of the use permit or other entitlement for use.
- E. (Ord. 1097 § 50 (part), 1996)

3. Did not comply with the county code 18.119.030, section F.

18.119.030 Telecommunication facilities—Location.

All telecommunications facilities shall be located so as to minimize their visibility and the number of distinct facilities present. To this end all of the following measures shall be implemented:

- A. No telecommunication facility shall be installed within the safety zone of any airport unless the airport operator indicates that it will not adversely affect the operation of the airport;
- B. No telecommunication facility shall be installed at a location where special painting or lighting will be required under FAA regulations unless technical evidence acceptable to the director or the commission, as appropriate, is submitted showing that this is the only technically feasible location for this facility;
- C. No telecommunication facility shall be placed so as to silhouette against the sky above one of the county's major skylines as defined in Section 18.08.355
- D. No telecommunication facility shall be installed on an exposed ridgeline, in or at a location readily visible from a public trail, public park or other outdoor recreation area, or in a scenic area identified in the Napa County Environmental Resource

Mapping System unless it blends with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable;

E. No telecommunication facility that is readily visible from off-site shall be installed closer than two miles from another readily visible uncamouflaged or unscreened telecommunication facility unless it is a co-located facility, situated on a multiple-user site, or blends with the surrounding existing natural and man-made environment in such a manner so as to be effectively unnoticeable; and

F. No telecommunication facility that is readily visible from off-site shall be installed on a site that is not already developed with telecommunication facilities or other public or quasi-public uses unless it blends with the surrounding existing natural and man-made environment in such a manner so as to be effectively unnoticeable or technical evidence acceptable to the director or commission, as appropriate, is submitted showing a clear need for this facility and the infeasibility of co-locating it on one of these former sites.

(Ord. 1097 § 50 (part), 1996)

The proposed telecommunication site is readily visible from our property, and will adversely affect our business and property values.

4. The application submitted to the County contained inaccurate information, including inaccurate setback information. The application does not specify that our dwelling/residence will be located only 185 feet from the telecommunication facility. Further, the setback information regarding the other outdoor areas regularly occupied by people (on our property and the park) is inaccurate and is much closer than 500 feet. Additionally, the information submitted by AT&T justifying the facility on Big Ranch Farms contained inaccurate information as well. Contrary to what AT&T stated, the facility will not be screened by any tall trees, and the tower will not blend in the area at all and will impact our scenic views. Further, AT&T stated that the facility would be located about 600 feet from the nearest residence. That is simply not true. Our residence is only 185 feet from the proposed site. As the neighbors most adversely affected by this facility, we deserve the opportunity to voice opposition, or at least to have accurate facts presented to the Commission. More importantly, the Commission deserves the opportunity to base its decision on accurate facts.

5. Did not comply with code section 18.119.200 A3

18.119.200 Telecommunication facilities—Administrative approvals.

A.

Establishment of a telecommunication facility may, where permitted under the provisions of Chapters 18.16 through 18.100, be authorized by a site plan

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approval pursuant to Chapter 18.140 so long as said facility meets all the following conditions:

1. The facility complies with all the minimum requirements specified in Sections 18.119.020 through 18.119.180
2. The facility is located outside the safety zone of any airport;
3. The facility is located more than four hundred feet from any inhabited area as this term is defined in Section 18.08.325 that is not occupied solely by the owner of the underlying property and his/her family or NIER calculations prepared by a qualified electrical engineer licensed by the state of California have been submitted showing that NIER levels there are less than ten percent of the NIER standard established by Section 18.119.180

The facility will not be located more than 400 feet from an inhabited area, and no calculations specifying the NIER levels were submitted.

7. This project will cause a decrease in our property value, visitor experience and potential lost revenues.