

Attachment No. 1



City of Fontana
Planning Department
8353 Sierra Avenue, Fontana, CA 92335 ~ (909) 350-6718
www.fontanaca.gov ~ Email: planning@fontanaca.gov

APPEAL APPLICATION FORM

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Any action taken by the Planning Commission, or the Director of Planning may be appealed as indicated in Section 30-25 of the Development Code by the applicant or any interested party. An application for appeal shall be filed within fifteen (15) calendar days after the hearing from which the decision is made.

APPELLANT INFORMATION

Name(s):	ROBERT CONSTANT, THE CONSTANT FAMILY TRUST			<u>City Staff Only</u>	
Mailing Address:	28871 BLYTHEWOOD DR.			Project No.:	
City:	RANCHO PALOS VERDES	State:	CA	Zip:	90275
Phone Number:	310-541-1297			Received By:	Date:
Email Address:	bobcon56@cox.net				

SUBJECT OF APPEAL

This application is hereby filed pursuant to the Fontana Development Code Section 30-25 (Appeals), appealing a decision or action of the following authority:

☐ Directors Action

☒ Planning Commission

PROJECT INFORMATION

Project Number:	MCN NO. 22-107; MVP NO. 22-007, ASP 22-028		Date of Action / Decision:	JULY 18, 2023	
Project Name:	UNMANNED WIRELESS FACILITY				
Address / Intersection:	17010 SIERRA LAKES PARKWAY (APN 1119-221-69)				
City:	FONTANA	State:	CA	Zip:	92335
APN(s):	1119-221-69				
Applicant/Appellant:	COASTAL BUSINESS GROUP				

APPLICANT CERTIFICATION

I acknowledge the filing of this application and certify that all the above information is true and correct.

Signature:	Robert Constant	Date:	7-31-23
Full Name:	Robert Constant	Title:	Owner

Robert Constant, The Constant Family Trust
28871 Blythewood Dr.
Rancho Palos Verdes, CA 90275
Bobcon56@cox.net
310-541-1297

July 31, 2023

To Whom It May Concern:

Robert Constant, next door neighbor directly to the North of proposed cell phone tower (located at 17010 Sierra Lakes Pkwy APN 1119-221-69 Project MCN no. 22-10-7; MUP No. 22-007; ASP 22-028) appeals the July 18, 2023, decision by the Fontana Planning Commission to deny Appeal No. 23-015, thereby upholding the decision of the Director of Planning on May 11, 2023. Until the following cybersecurity, safety, land use, and liability issues and demands are addressed, The Constant Family Trust opposes the tower development.

In response to The Constant Family's first appeal, Fontana staff addressed our concerns with a typical boilerplate template that can be summed up with a simple phrase: "complies with the development standards".

However, in their response, staff both admits and omits which proves that the standards have shortcomings. It is those standards shortcomings that this appeal addresses.

1. Setback: If "standards state that the setback requirement is a distance equal to at least 75 percent of the height of the tower from any adjoining lot line, which equates to a minimum of 56 feet setback from adjoining lot line", then Fontana admits that standards facilitate trespass if the tower falls. This facilitation puts Fontana at risk of trespass in addition to developer. Constant asks, minimally, that Fontana protects both Constant property and Fontana's own potential future trespass and negligence by relocating the tower so that in no way can fall on Constant property.

2. Fully negotiated private easements: Nowhere in Fontana's appeal response is the easement issue analyzed. Again, Constant asks that Fontana protects both Constant property and Fontana's own future liability on the easement issue. If not, then a foreseeable future fall of the tower makes all parties to the tower, Fontana, developer, and AT&T liable for negligence and trespass.

3. High winds and liability insurance: Again, nowhere in Fontana's appeal response is there any analysis of liability insurance to protect the Constant property, when Fontana's reply admits that the tower, if it falls, will encroach on Constant property by at minimum, 6 feet. As high winds are always a factor in Fontana, and the bulk of the tower's weight is at the top, then simple math and engineering proves that a tower falling from that height could do major damage on Constant property to both structures and people. Again, foreseeability is the cornerstone of negligence. Negligence that is facilitated by City of Fontana standards.

4. Security, Privacy, and Safety: It is staff's reply to Constant's security concern, that contains the most egregious omission in their reply. Constant's security concern is not limited to RF emissions. By focusing on that aspect only, Fontana has glossed over the major security concern of our times: cybersecurity. What is Fontana doing to protect itself from cybersecurity issues that the development of this tower is directly related? Constant requests that cybersecurity be immediately addressed by City Council in the form of a study and delay of this project.

5. Unlimited Future Usage: The concern over Unlimited Future Usage is directly related to cybersecurity. AT&T or a bad actor, under the guise of Fontana "standards" could add additional spyware, or worse, to the tower not only as it relates to a hostile foreign actor, but even at Fontana's own direction. Spying on citizens is not just something that concerns international security, but the local community as well. Constant asks that Fontana analyze and protect the community from all foreign, domestic, and local cybersecurity threats by immediately ceasing this project and organizing a study of the cybersecurity threats Fontana faces both now and in the future in accordance to city's police power. Threats that are foreseeable considering Fontana's own investment in the international logistics industry, as well as the property's location next to the sensitive energy producing Mid-Valley Landfill further demand immediate action.

6. View impairment: Compliance with a height requirement does not defend view impairment. This is a taking and should be compensated as such. Just because you can do it, doesn't mean it costs nothing to do.

Ten years ago, The Constant Family presented to both the planning department and City Council, its concerns about the health issues surrounding warehouse development. The family's focus was on addressing the shortcomings of the standards and accompanying boilerplate template response. Last week, Fontana finally denied a warehouse application, after a combination of intense community pressure, pressure from the California Attorney General, health studies, and the City Council's own political self-

preservation instincts, as the warehouse health and safety issue has become international news over the last several years.

Constant looks forward to another ten year battle over cybersecurity concerns in Fontana that are directly related to the warehouse issue that Fontana has perpetuated and only now, attempts to mitigate. The Constant Family sees that these battles make the community safer, stronger, and connected to the future health and growth of the Inland Empire.

Do the (reasonable and foreseeable) right thing, and analyze the cybersecurity, trespass, and liability issues that this tower portends so that in another ten years, Fontana is not known as a weak link threat to United States cybersecurity, just as it is now considered a weak link threat to the Inland Empire's health and safety due to city's warehouse support and proliferation.

Considering all issues and demands listed above, and in a neighborly attempt to minimize future litigation, Constant requests that the above reasonable demands be met. This appeal in no way limits any future causes of action that may arise from this project or any other project.

Fees to be waived as Constant is an adjoining property owner.

Sincerely,
Robert Constant
Nicholas Constant, Esq.