



## MENDOCINO COUNTY PLANNING COMMISSION

**MINUTES FOR THE MEETING HELD ON:** December 18, 2014

**LOCATION:** Mendocino County Board of Supervisors Chambers  
501 Low Gap Road, Room 1070  
Ukiah, California

**COMMISSIONERS PRESENT:** Little, Krueger, Nelson, Warner, Holtkamp, Hall, Ogle

**COMMISSIONERS ABSENT:** None

**PLANNING & BLDG SVC STAFF PRESENT:** Steve Dunicliff, Director  
Andy Gustavson, Chief Planner  
John Speka, Acting Senior Planner  
Fred Tarr, Planner II  
Scott Perkins, Planner I  
Adrienne Thompson, Commission Services Supervisor  
Heidi Morrison, Staff Assistant II

**OTHER COUNTY DEPARTMENTS PRESENT:** Matthew Kiedrowski, Deputy County Counsel  
Marlayna Duley, Environmental Health

1. **Roll Call.**

The meeting was called to order at 9:00 a.m. Commissioner Nelson arrived at 9:02 am.

2. **Planning Commission Administration.**

2a. Determination of Legal Notice.

The Clerk advised the Commission that all items had been properly noticed.

3. **Director's Report and Miscellaneous.**

Mr. Dunicliff presented a verbal Director's Report and noted the R-3 rezoning's present on the current agenda and stated that future rezoning's would be on the January and February Planning Commission Agenda. He noted that the Housing Element was in process of being finalized to submit to Housing and Community Development (HCD) and then would be back for the local process. Mr. Dunicliff also noted that the Agricultural Preserve Ordinance would begin review in March and noted the following year would be time to elect a new Chair and Vice Chair.

Commissioner Ogle asked about the Wireless Guidelines Update.

Mr. Dunicliff noted that the update was currently under environmental review and he would have an update on the process at the next meeting.

4. **Matters from Public.**

No one was present from the public who indicated a desire to address the Commission.

**5. Consent Calendar.****5a. Approval of the October 16, 2014 Planning Commission Minutes.**

Commissioner Warner submitted corrections by email.

Upon motion by Commissioner Warner, seconded by Commissioner Holtkamp and followed by a voice vote of (6-0), with Commissioner Ogle abstaining, the October 16, 2014 Planning Commission Minutes are approved.

**6. Regular Calendar.****6a. CASE#: A 4-2013 (Continued from 9-18-14)**

DATE FILED: 8/2/2013

OWNER/APPLICANT: DAVID SCHNEIDER

AGENT: RYAN SCHNEIDER

REQUEST: Placement of 5,660± acres into Williamson Act (Agricultural Preserve).

LOCATION: Approximately 4± miles southeast of Covelo town center, lying 2.25 miles southeast of the intersection of Hill Road (CR 327B) and Dobie Lane (CR 329), and bordering the north bank of the Middle Fork Eel River, located at 71891 Judge Webber Lane, Covelo; APN's 034-141-02, 04, 05, 06, 09, 034-145-02, 03, 04, 05, 034-146-06, 26, 27, 28, 29, 30, 034-147-05, 07, 13, 14, 034-150-10, 035-090-01, 05, 12, 19, 37, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 035-100-02, 13, 14, 035-230-23, 24, 25, 035-240-23, 035-240-24.

PROJECT COORDINATOR: SCOTT PERKINS

RECOMMENDED ACTION: Recommend denial to Board of Supervisors.

Chairman Little noted he had not listened to the tapes from the meeting and recused himself. Vice Chair Warner proceeded as Chair.

Mr. Gustavson noted the new handout, which staff had just prepared in answer to Mr. Schneider's submittal of information.

Scott Perkins, Project Coordinator, reviewed the staff report and noted the project history from the continued meeting to allow the applicant to provide additional evidence to support his application for an Agricultural Preserve. He noted staff was recommending denial as the ranch did not support 142 animal units provide forage for additional animals. Mr. Perkins noted the correspondence received the day before the hearing and commented that he had not been able to submit the new information to the Ag Commissioner or Resource Lands Protection Committee (RLPC). He summarized the letter, which included a lease agreement for 75 animal units; and combined with the existing cattle, would total 150 animals. He also noted that the applicant had submitted a letter from the USDA Farm Service and an aerial photo illustrating the typical topography of the ranch. Mr. Perkins noted that due to the lack of time to explore the information or present it to the Ag Commissioner or RLPC, staff could not alter their recommendation and was still recommending denial.

Chair Warner also noted that the Planning Commission had not been able to review the additional information, which would make any decision difficult to make. She asked the Commission about continuing the item to digest the newly submitted information.

Mr. Gustavson felt a continuance would be appropriate to allow new documents and evidence that may result in a different determination. He asked that the item be continued to a date certain so additional noticing would not be necessary.

Chair Warner noted the Ag Commissioner and RLPC may provide a different recommendation, based on the new information and asked the applicant to speak, understanding the Commission would probably not take action at this time.

**Dave Schneider**, applicant, stated the information he had submitted was not complex and supported his assertion that his property could support 152 animal units. He stated that the letters attached to the packet included 3 licensed range scientist and the guidelines from the USDA. He read a letter from the UC Davis Extension in support of his project and submitted a new packet to the Commission. He felt the licensed range scientist and UC Davis Extension letters in support of his

application should be sufficient to qualify him for an Agricultural Preserve and felt that staff did not have the ability to make a recommendation.

Commissioner Nelson asked staff's input.

Mr. Perkins noted that the Ag Commissioner, RLPC and staff had not had time to discuss the newly submitted information, which was just handed out, but noted that the Assessor's Office had found Mr. Schneider was not in compliance with the necessary reports to support his contract.

Mr. Schneider disagreed with the report from the Assessor's Office and stated he was only in a state of noncompliance for 1 year and should not have been taken out of the Williamson Act. He also was unhappy with the length of time between the submittal of his application in 2013 and the hearing date in 2014.

Chair Warner commented that if no other new information was submitted, the Commission would move along.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Commissioner Hall commented that the burden of proof was on the applicant and he had not provided information in time for the Commission to review and make an informed decision. He felt a continuance was the only logical procession.

Commissioner Krueger agreed and noted that he was supportive of the application. He felt that the new information might allow staff to revise the recommendation for denial and supported a continuance to allow for staff review.

Commissioner Nelson concurred that a continuance was in order. He understood the applicant's frustration with the process and noted part of the issue could be the infrequency of the RLPC meetings.

Chair Warner asked staff the next RLPC meeting date.

Mr. Perkins stated the meeting was scheduled for January 14, 2015. He also noted that in order to allow for staff to review the new information and potentially alter the recommendation to the Planning Commission, the item would need to be continued to February 19<sup>th</sup>.

Chair Warner apologized for the delay in meeting dates, but felt a review of the information was necessary before the meeting could go forward.

Commissioner Nelson commented that with the numerous parcels, it might be possible to include some, if not all, in an Ag Preserve Contract.

The Commission noted they would like a complete response from the RLPC to ensure the application did not drag on in the process.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Hall and carried by the following roll call vote (6-0), IT IS ORDERED to continue A 4-2013 to the February 19, 2015 Planning Commission Meeting.

AYES: Krueger, Nelson, Warner, Holtkamp, Hall, Ogle

NOES: None

ABSENT: None

RECUSED: Little

[Chairman Little returned to his seat]

**6b. CASE#: MS 6-2014**DATE FILED: 2/25/2014OWNER/APPLICANT: JACK SMILEYAGENT: SHN CONSULTING - MATT HERMANREQUEST: Minor Subdivision to create 2 parcels containing 6.8± and 3.7± acres.LOCATION: In Comptche on the southeast side of Flynn Creek Road (CR 135), 300 feet south of intersection with Comptche Ukiah Road (CR 223). Located at 8981 Flynn Creek Road, Comptche; APN 125-080-40.PROJECT COORDINATOR: MATT GILSTERRECOMMENDED ACTION: Continue to date uncertain at Applicants request.

Mr. Speka noted a letter had been received from the applicant requesting a continuance to a date uncertain. He noted the applicant had been informed that he would be subject to a renoticing fee when they requested a new hearing.

The public hearing was declared open, no one was present to address the item, and the public hearing was continued.

Upon motion by Commissioner Warner, seconded by Commissioner Hall and carried by the following roll call vote (7-0), IT IS ORDERED to continue MS 6-2014 to a date uncertain.

AYES: Little, Krueger, Nelson, Warner, Holtkamp, Hall, Ogle

NOES: None

ABSENT: None

Mr. Dusty Duley noted correspondence on a completed project; the Albion cell tower (CDU 10-2012), and stated he was working with the project applicant to alleviate all issues.

**6c. CASE#: UM 3-2009/2012/2013/2014**DATE FILED: 6/10/2014OWNER/AGENT: CROWN CASTLE -TIM PAGEAPPLICANT: AT&T MOBILITY -ELLEN MAGNIEREQUEST: Modification of existing Use Permit to extend the height of a tower from 50 feet to 70 feet. Also, installation of three (3) new antennas per sector for a total of nine (9) new antennas at the 58 foot centerline of the 70 foot monopole, and a 138 square foot equipment shelter to house a standard number of equipment cabinets and a 50 kilowatt diesel generator with a 132 gallon diesel fuel tank.LOCATION: 9± miles north of Laytonville, lying on the north side of Spyrock Road (CR 323), 4.4± miles northeast of its intersection with Highway 101, located at 3750 Spyrock Road, Laytonville; APN 056-310-18.PROJECT COORDINATOR: DUSTY DULEYRECOMMENDED ACTION: Approve as Recommended.

Dusty Duley, Project Coordinator, reviewed the staff report and discussed a power point of the project. He noted the surrounding parcels were mostly 20 acres in size; illustrated the location of the school on the aerial map and noted the tower was located on top of a knoll. He discussed the history of the project and noted correspondence had been received from Marcia Miller, an adjacent owner, who was opposed to the height increase and would prefer a second tower be built in another location. The letter also stated that the existing equipment was noisy and Ms. Miller asked for a quieter replacement along with some landscaping maintenance. Mr. Duley commented that he had reviewed the past permit and had not found a condition related to landscaping, but noted there could be an agreement between the property owner and cell company. He continued and noted that the project agent, Tim Page, had submitted a letter opposed to Condition #8 and Condition #27. Mr. Duley commented that they were standard conditions and discussed the purpose of each condition. He presented a brief overview of the background on the site, which was originally a 20 foot wooden pole. He noted that a request to extended the pole to 75 feet and add antennas was denied by the Planning Commission in 1998. Then in 2002 additional antennas were approved along with the replacement of the wooden pole with a 50 foot tall tower, which had been proposed as 65 feet, but reduced by the Planning Commission. Mr. Duley discussed the current proposal for a monopine and extension to 70 feet with the addition of antennas, fuel tank, and generator. He discussed the increased coverage from the proposal, as submitted by the agent, and noted that staff had requested some additional analysis given the neighborhood concern, which had not been submitted.

Mr. Gustavson commented that Condition #27 was mainly applicable to a new facility and could be deleted for the modification as the condition was not relevant. He noted the condition already applies through the underlying use permit which remains in effect.

Commissioner Warner asked if voice connection service should be assured before approval of the permit.

Mr. Duley commented that staff was concerned with the towers ability to service older phones, but was unsure of the language necessary to condition such an assurance. He deferred to the agent to provide additional assurance that the tower would support older technology.

Commissioner Krueger discussed the diagram on page A-6.

Mr. Duley noted staff was not sure if the tower would match the diagram, as the depiction could be somewhat arbitrary. He noted the objective was that the applicant understood what was required to stealth the antennas.

Commissioner Holtkamp asked if a condition should be added for landscaping since it was not in the previous permit and add something about the generator noise.

Mr. Duley stated a condition to require landscaping or upgrade and maintain the existing landscaping could be added.

Commissioner Holtkamp agreed the tower would have a nicer appearance with some landscaping at the base.

Mr. Gustavson commented that Condition #3 accounts for existing vegetation.

Mr. Duley agreed and noted that if the Commission wished to include maintenance or something like a drip irrigation system, a new condition would need to be added.

**Tim Page**, Agent for Crown Castle, discussed the reasons for the modification; the alternative site analysis and statutes requiring Planning Commission approval.

Chairman Little noted the discussion mandating Commission approval had been presented before.

Mr. Page stated a tolling agreement mandates approval by the County no later than January 31, 2015.

Commissioner Warner discussed the situation with service not being providing to existing cell phones and only new phones being able to connect.

Mr. Page stated the modification would not affect existing phone service, but should improve 4g coverage.

The public hearing was declared open.

**Marcia Miller**, owner of property surrounding the tower, stated the current installation was not stealthed and was an ugly sight. She stated that she had provided the landscaping and planted the trees surrounding the facility; providing maintenance for the past years. Ms. Miller hoped an agreement could be made between herself and Crown Castle to help pay for some of the landscaping and tree removal of the dead trees and she would continue to provide the landscaping and maintenance. She also noted that she had submitted the correspondence to Planning and Building stating she would prefer a second tower to increased height of the current tower. She also asked that the cooling equipment and machinery be quieter since they seemed to run continuously. She asked if collocation on the tower at Iron Peak had been considered.

The public hearing was declared closed.

Commissioner Hall asked for clarification regarding the nature of a stealth device and how far the antennas should stick out. He also clarified that if the County was dissatisfied with the company's ability to stealth the tower, it could be taken down and replaced with another facility.

Mr. Duley noted staff had recognized the neighborhood's concern with raising the height of the tower and felt it was appropriate to look for alternative sites to minimize aesthetic impacts. He stated the applicant would not explore alternative sites, which resulted in the application before the Commission to extend the tower an additional 20 feet. He noted the past issue with the stealth design of antennas protruding out of the branches 4-5 feet and stated his concern that the applicant could not meet the stealth objective due to their opposition of Condition #8.

Commissioner Hall agreed and noted someone might try and avoid compliance without clear standards.

Mr. Duley noted the applicant would be held to their drawings, but asked if the Commission would like alternative language.

Chairman Little suggested something similar to "all antennas shall be concealed to the extent that they are not the dominate feature for that segment of the tower".

Commissioner Ogle was curious about the Iron Peak location Ms. Miller had mentioned.

Mr. Page was not familiar with the location.

**Lois Rollings**, representing Ipitech, stated the Iron Peak facility was more than a mile away from the current site, and would not meet the customer needs for coverage. She stated that only a limited search area had been used to meet specific coverage needs. She also stated that a second pole could not be used as they would interfere with each other.

Chairman Little asked Ms. Rollings about the need for a 70 foot tower.

Ms. Rollings stated that the top 5 feet of the tower was foliage, and the antennas would be placed at the 58 foot mark with the top of the tower being 62 feet.

Chairman Little provided information on the Iron Peak location, noting it was a state owned tower with a CalFire repeater and microwave relay. He believed it was powered by solar array with no connection to phone systems.

Chairman Little continued and asked the applicant to respond to the generator and noise issue.

Mr. Page stated a new 48 kilowatt generator was being installed with noise mitigation that would meet current standards.

Chairman Little commented that past generators have been positioned and shielded away from the closest residence with decibel requirements.

Mr. Page noted the generator did not run that frequently, only for a 30 minute test once per month and a 1 hour test once per year, and felt there was confusion with the cooling units. He stated the noise would be reduced.

Chairman Little noted the previous application which had required installation of a sound wall and the need to redirect exhaust, etc. away from adjacent residents. He asked if there was a reciprocal agreement in place.

Ms. Rollings noted there were some reciprocal agreements where T-Mobile's signal was being used at the site.

Chairman Little commented that many people rely on cell phones for more than phone calls and asked about demand for the site.

Mr. Page felt the site would be more than sufficient and accepted additional noise conditions in compliance with applicable noise standards at the site.

Chairman Little commented that he hoped the applicant would work with the neighbor regarding vegetation removal/maintenance.

Commissioner Ogle asked if County Counsel had any concerns.

**Matt Kiedrowski**, Deputy County Counsel, noted there were Federal laws and guidelines that require local approval of certain projects, however the County had the ability to condition items within their jurisdiction.

The Commission discussed the meaning of "substantial change" and increase in proposed tower height. They noted the language from the FCC was that the County "may not deny"; it did not state that the County shall approve all applications.

Mr. Gustavson addressed CEQA impacts to visual resources and noted the qualitative assessment the monopine shows the applicant has been successful in providing a stealthed project and not altered the preexisting landscape setting.

Chairman Little suggested adding language to the noise condition requiring a sound wall or additional vegetative buffer.

Mr. Duley commented staff would prepare language to add onto Condition #16.

Commissioner Krueger noted that multiple carriers used the site and asked who would be responsible to mitigate the noise.

Chairman Little stated the owner of the facility and land would be responsible.

Commissioner Holtkamp commented about the increased height and was concerned that the tower be adequately stealthed. She asked for a guarantee as to the quality of the project.

Mr. Duley noted similar conditions had been added as previous modifications that would allow a project to be brought back to the Planning Commission for modification, etc. if it was deemed that the stealth design had failed.

The Commission discussed Condition #6 and #9.

Mr. Gustavson suggested adding onto Condition #9, that "if PBS determines the stealth design does not adequately conceal the arrays; the use permit may be brought back before the Planning Commission for modification or revocation."

The Commission agreed that they liked the additional language.

Commissioner Hall made a motion to adopt the Mitigated Negative Declaration and approve the project, UM 3-2009/2014, per the findings and conditions of approval on pages PC 5 through PC 9, modifying Condition #7i from 2.5 to 3.5 branches, deleting Condition #7iii, adding language to Condition #9 as stated by staff.

Commissioner Warner asked about Condition #8.

Mr. Gustavson suggested adding language to modify Condition #8 "...attached except when branches can be shown to conceal the panels and continue to simulate natural tree form"

Mr. Duley stated the noise impacts could be mitigated by adding onto Condition #16, in the last sentence "or any other noise generating equipment..." to cover all mechanical items. He also noted that Condition #27 should be deleted and asked about new Condition #31 for landscaping.

The Commission noted the applicant had stated during the public hearing, that they would work with the adjacent property owner to maintain the landscaping.

Mr. Duley commented that staff would be visiting the site and he anticipated the applicant would supply photos of the completed project.

Mr. Gustavson noted that Condition #9 will require the County to visit the site every 5 years thereafter.

Ms. Miller, as the adjacent owner providing landscaping, asked what would happen if the applicant did not comply.

Chairman Little asked Ms. Miller to report any occurrence to Planning and Building.

Mr. Duley suggested Condition #31 state, "the applicant is encouraged to work with adjacent land owners to provide vegetative screen, as agreed to at the December 18, 2014 Planning Commission Meeting."

Commissioner Ogle provided a second to the motion.

Upon motion by Commissioner Hall, seconded by Commissioner Ogle and carried by the following roll call vote (6-0), IT IS ORDERED to approve UM 3-2009/2014 per the findings and conditions of approval contained in the staff report on page PC 5 through PC 9 and as modified during the public hearing as follows:

**General Plan Consistency Finding:** As discussed under pertinent sections of the staff report and Initial Study, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions of approval.

**Environmental Findings:** The Planning Commission finds that the environmental impacts identified for the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project; therefore, per the CEQA, Title 14, Article 11, Section 15162(a)(1) a Subsequent Mitigated Negative Declaration based on the previously certified Mitigated Negative Declaration for the existing WCF is adopted.

**Project Findings:** The Planning Commission approves Use Permit Modification #UM 3-2009/2014 subject to the conditions of approval recommended by staff further finding:

1. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Crown Castle maintains a 20 foot access and utility easement from Spyrock Road (CR# 323) to the WCF. Regular line power is available to support the project. Condition Number 15 is offered to ensure that adequate drainage facilities will be provided.

2. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.

The nearest residence is approximately 150 feet north of the WCF. The facility will not be accessible by anyone other than company personnel. Upon completing the Initial Study, staff did not find any impacts from the project that would constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county

3. That such use preserves the integrity of the zoning district.

The UR 20 zoning district allows for the construction and operation of a WCF subject to obtaining a major use permit. Based on the small footprint of the project relative to the size of the subject

property, the project is consistent with the intent of and preserves the integrity of the UR 20 zoning district.

### Conditions of Approval:

#### Aesthetics

- \*\*1. Exterior surfaces of structures and equipment of the entire monopine shall have subdued colors and non-reflective materials selected to blend with their surroundings. Color samples shall be submitted to the Department of Planning and Building for approval.
- \*\*2. The total height of facility including antennas will not exceed 70 feet in height above ground level. Upon completion of the installation of the facility and prior to final of the building permit, the applicant shall confirm that the height is no greater than approved, and shall submit a written certification to the County of the actual height. Exceeding this height limitation shall require a modification of this Use Permit.
- \*\*3. Existing trees and other vegetation, which will provide screening for the proposed facility and associated access roads, shall be protected from damage. No trees that provide visual screening of the communications facility shall be removed after project completion except to comply with fire safety regulations or to eliminate safety hazards. Tree trimming shall be limited to the minimum necessary for operation of the facility.
- \*\*4. Prior to issuance of a building permit, the applicant shall provide an irrevocable letter of credit, bond, certificate of deposit, or other reasonable form of security satisfactory to County Counsel, sufficient to fund the removal of the applicant's portion of the facility and restoration of the site in the event that the applicant abandons operations or fails to comply with requirements for removal of its facilities and restoration of the site.
- \*\*5. If use of any portion of the proposed facility is discontinued for more than one year, all parts of the facility not in use, above grade, shall be completely removed from the site, and the site shall be restored to a natural-appearing condition.
- \*\*6. Exterior light fixtures shall be shielded or downcast so that only reflected, non-glaring light is visible from beyond the immediate vicinity of the site, and shall be turned off except when in use by facility personnel. No aircraft warning lighting shall be installed.
- \*\*7. Branches of the entire "monopine" shall extend beyond the antennas and fully conceal the supporting structure and antennas. The branches must:
- (i) Be constructed to a density of ~~2.5~~ **3.5** branches for each one vertical foot of pole, and
  - (ii) Start attachment at no greater than twenty-five (25) feet above finished grade and continue to the top of the pole, and
  - ~~(iii) Be a minimum of eight (8) feet long around the circumference of the lower level and shall taper appropriately as the branches progress upwards.~~
- \*\*8. The antenna array shall not extend more than thirty (30) inches from the structure to which it is attached, **except when branches can be shown by a plan prepared by the applicant and accepted by Planning and Building Services, to conceal arrays that extend beyond thirty (30) inches and continue to simulate a natural tree form.**
- \*\*9. An evaluation of the stealth capability of the entire monopine shall be submitted for review and approval by the Department of Planning and Building Services after the initial construction, one year following construction and every five years thereafter. The report shall assess surrounding vegetation growth, including height and density in the vicinity, and a color assessment to assess fading of material. Replacement or remediation of the wireless facility shall be performed by the applicant if required by the Department of Planning and Building Services. **Failure of the applicant to comply with Conditions 7 through 9 may result in the revocation of this permit.**

Air Quality

10. Prior to the development phase of the project, the applicant shall contact the Mendocino County Air Quality Management District for a determination as to the need for a permit from the District for the proposed generator.
11. Any rock material used for surfacing, including rock from onsite sources, must comply with regulations regarding asbestos content.
12. All grading activities must comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.

Cultural Resources

13. In the event that archaeological resources are encountered on the site, further disturbance in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

Geology and Soils/Hydrology and Water Quality

14. As soon as practical following completion of any earth disturbance, vegetative ground cover or driveway surfacing equal to or better than existing shall be reestablished on all disturbed portions of the site. Project construction activities are limited to the project footprint. Trenches will need to be filled and resurfaced to match the original surface.
15. All grading and site preparation, at a minimum, shall adhere to the following "Best Management Practices": The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.
  - a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
  - b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
  - c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
  - d. Temporary erosion control measures shall be in place at the end of each day's work, and shall be maintained until permanent protection is established.
  - e. Erosion control measures shall include but are not limited to: seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1<sup>st</sup>.
  - f. All earth-moving activities shall be conducted between May 15<sup>th</sup> and October 15<sup>th</sup> of any given calendar year unless an Erosion and Sedimentation Prevention Plan, prepared by a registered civil engineer, has been submitted and approved by the Department of Planning and Building Services which outlines wet weather earthmoving and drainage control protocols. Such plan shall include all appropriate Best Management Practices that shall be installed in accordance with the approved Erosion and Sediment Prevention Plan prior to the start of construction during the rainy season.
  - g. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
    1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1.5 units horizontal (66.7% slope).
    2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m<sup>3</sup>) on any one lot and does not obstruct a drainage.

Noise

16. Any generator, **and any other noise generating mechanisms**, used to support the facility shall be equipped with mufflers and spark arresters, and shall not produce noise levels exceeding 50 dBA at the nearest off-site residence. Routine testing and maintenance shall be limited to weekdays between 8:30 a.m. and 4:30 p.m. Repairs and emergency use are not included in this limitation. If necessary, the generator, **and any other noise generating mechanisms**, shall be enclosed by a noise barrier shelter designed by an acoustical engineer and remain oriented and screened to limit excessive noise to surrounding residences.

Public Services

17. The facility shall provide if requested, space for any public emergency service provider to locate communication equipment on the tower, provided no interference to function will result at a minimum or no fee.

Wireless Guidelines

18. Prior to the final inspection by the Building Division of the Department of Planning and Building Services, an identification sign for each company responsible for operation and maintenance of facilities at the site, no larger than one square foot, shall be mounted on the fence exterior in a location visible when approached from the road, and shall provide the name, address, and emergency telephone number of the responsible companies. The address assigned to the site by the Planning and Building Services Department shall be posted.
19. The antennas and supporting structure shall be inspected every ten years, and following significant storm or seismic events, by a structural engineer licensed in the State of California to assess their structural integrity, and a report of the engineer's findings shall be submitted to the Planning and Building Services Department.
20. Prior to commencement of operations, all surplus construction materials and debris, including cleared vegetation, shall be removed from the site to a proper disposal facility. Thereafter the site shall be kept free of refuse.
21. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site and to require no more than a reasonable charge for collocation.
22. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower.
23. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
24. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless the Planning Commission has approved a modification.
25. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
26. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one or more of the following grounds:
  - a. That the permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which the permit was granted have been violated.

- c. That the use for which the permit was granted is conducted in a manner detrimental to the public health, welfare or safety, or is a nuisance.

Any revocation shall proceed as specified in Title 20 of the Mendocino County Code.

- ~~27. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit boundaries are different than that which is legally required by this permit, this permit shall become null and void.~~
28. This permit is issued for a period of ten years, and shall expire on December 18, 2024. The applicant has the sole responsibility for renewing this permit before the expiration date. The county will not provide a notice prior to the expiration date.
29. This permit shall become effective after all applicable appeal periods have expired or appeal processes have been exhausted. Failure of the applicant to make use of this permit within two years shall result in the automatic expiration of this permit.

#### Fish and Wildlife Filing Fee

30. This entitlement does not become effective or operative, and no work shall be commenced under this entitlement, until the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services, Said fee of \$2,231.25 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to December 29, 2014. Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has "*no effect*" on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**
- 31. The applicant is encouraged to work with the adjacent property owner to maintain landscaping for the purpose of screening the facility as agreed to by the applicant at the December 18, 2014 Planning Commission Meeting.**

AYES: Little, Krueger, Warner, Holtkamp, Hall, Ogle  
NOES: None  
ABSENT: None  
RECUSED: Nelson

[Break 11:11 AM - 11:19 AM]

#### **6h. CASE#: R 6-2014**

DATE FILED: 11/7/2014

OWNER: MARSHA ROBINSON

APPLICANT: PLANNING AND BUILDING SERVICES

REQUEST: Rezoning of 0.75± acres from SR (Suburban Residential) to R-3 (Multi-Family Residential).

LOCATION: Lying on the southeast corner of McDowell Street and Harrison Street in Old Hopland, no address assigned;

APN: 048-250-28

PROJECT COORDINATOR: FRED TARR

RECOMMENDED ACTION: Recommend Approval to the Board of Supervisors.

Mr. Gustavson discussed the request to rezone the parcel from Suburban Residential (SR) to Multi-family Residential (R-3), which would allow for up to 29 units per acre. He noted the project location at the south end of "old" Hopland and stated the request was being sponsored by Planning and Building in an effort to identify multi-family housing sites in compliance with the 24 acre rezoning requirement. He noted the zoning would be consistent with the General Plan designation of SR and stated there was another R-3 parcel across the street.

Chairman Little noted the property owner needed to get back to work and the Commission would take the item out of order.

**Marsha Robinson**, owner, stated she was opposed to the rezoning and knew nothing about the project.

Mr. Gustavson noted that while he had been unable to speak to the owner directly, he did speak with her ex-husband.

Fred Tarr, project coordinator, noted he had spoken to Ms. Robinson at the office and reviewed the process for her. He noted the project was being proposed to meet the General Plan Goal 3.1d, and find additional sites for multifamily housing. He discussed the need to comply with the Housing Settlement Agreement and noted that the Hopland Public Utility District (HPUD) water and sewer lines were within 300 feet of the site. He noted several issues with the proposal, including that the site was surrounded by AG-40, which required a 200 foot buffer for development and would leave little room for housing. He stated that if the Board approved a rezone and if a project was proposed in the future, the buffer could be reduced to 50 feet with additional mitigation such as a solid fence and increased vegetative buffer.

Ms. Robinson commented that she was not interested in rezoning her property.

Chairman Little discussed the County's circumstances.

Commissioner Ogle asked for clarification on the parcel map.

Mr. Tarr noted the lines were slightly off and discussed the boundaries.

Mr. Robinson clarified parcel lines, driveways and adjacent owners.

Chairman Little clarified that the rezoning was not a project for building, and would only change the land use to allow for higher density developments by right. He stated the County was not forcing development.

Ms. Robinson was concerned with eminent domain, changing property taxes, and an increased assessed value, if the parcel was rezoned.

Mr. Gustavson further discussed the restrictions of rezoning and noted, from his understanding, it would not trigger a reassessment of property taxes.

Mr. Robinson was concerned with being forced off her parcel.

Mr. Gustavson further explained that the rezoning only established potential land uses, and any future development would be elective.

Chairman Little noted that if the rezoning was approved by the Board, a use permit would be required for single family residential development.

Ms. Robinson commented that if nothing changed on her parcel, she would be okay with the rezoning.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Chairman Little stated that a land owner should not need to come before the Commission to have questions of rezoning answered.

**Sue Ranochak**, Assessor, stated that a rezoning would not trigger a reappraisal of the property.

Commissioner Nelson asked when a property was reappraised.

Ms. Ranochak stated appraisals did not occur until the sale of a property or when new development occurred.

Commissioner Nelson stated he was concerned with the reduced buffer and proximity to agricultural activities.

**Commissioner Hall made a motion to recommend to the Board of Supervisors approval of R 6-2014, seconded by Commissioner Holtkamp.**

Under discussion, Commissioner Nelson commented that he would like a more complete barrier between agriculture and residential uses.

Mr. Gustavson noted that a rezoning could not be conditioned.

Mr. Tarr commented that the Commission's concern was noted and could be addressed at the time a development was proposed.

Commissioner Warner agreed that she did not like development proposed so close to agriculture.

Commissioner Krueger commented that if the 200 foot buffer was applied, there would be no room for development, but agreed with not compromising.

Staff noted that, not including the proposed rezonings, the County was short approximately 9 acres to comply with the 24 acre rezone.

Commissioner Ogle recalled previous rezonings when she had joined the Commission of taking existing duplexes near the High School and rezoning to multifamily.

Ms. Robinson commented that her neighbor, Mr. Rossetti also objects to the rezoning.

The motion to recommend approval to the Board of Supervisors failed by the following roll call vote (1-6).

AYES: Hall  
NOES: Little, Krueger, Nelson, Warner, Holtkamp, Ogle  
ABSENT: None

**6i. CASE#: R 7-2014**

DATE FILED: 11/7/2014

OWNER: ROGER HOWARD & MARY MACKALL

APPLICANT: PLANNING AND BUILDING SERVICES

REQUEST: Rezoning of 2.30± acres from SR (Suburban Residential) to R-3 (Multi-Family Residential).

LOCATION: Lying on the south side of Old River Road, approximately 1.5 miles east of Hopland near the Old River Road and State Highway 175 intersection, located at 13711 Old River Road, Hopland; APN's 048-170-37 and -38.

PROJECT COORDINATOR: FRED TARR

RECOMMENDED ACTION: Recommend Approval to the Board of Supervisors.

Fred Tarr, Project Coordinator, reviewed the staff report and noted the environmental determination of the project was included in the General Plan EIR. He discussed a correction to the staff report which stated two units were developed on the property; however one unit had been removed. He also noted that the Hopland Public Utility District provided both water and sewer to the site. Mr. Tarr noted the location of a Williamson Act parcel across the street from the proposed rezoning, but felt that the roadway and tree line created an adequate buffer for development. He stated staff was recommending the Planning Commission recommend approval of the rezoning to the Board of Supervisors.

Commissioner Nelson asked the road width.

Mr. Tarr stated it was a 60 foot right of way plus the tree line, which was approximately 20 feet, creating an 80 foot wide area.

Chairman Little noted the lack of single family development on the parcel and commented that if the parcel was rezoned, a use permit would be required for a single family dwelling. He asked if the County would deny the use permit due to the current lawsuit obligations.

Mr. Gustavson noted that part of use permit approval was the ability to make findings. He stated that, while the rezoning would provide future opportunities and was consistent with the General Plan and Housing Element, he did not foresee any condition on the site to deny any type of permitted development on the parcel.

Chairman Little asked if the County did approve a single family residence on the rezoned parcel, would that provide an avenue for the plaintiff to come back and sue the County for violating an agreement to provide multi-family housing.

Mr. Gustavson commented that the County may be obligated to find replacement land.

Mr. Tarr also noted that a single family unit would not preclude multi-family development.

**Roger Howard**, owner, stated he also represented Ms. Mackall who resided in Oregon. He discussed his desire to develop the parcel and stated he would like the property to be rezoned to R-3 to allow for a greater development use. He also commented that he had discussed the proposed rezone with his neighbors and they did not have any complaints.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Commissioner Warner noted the possibility of future development taking place on a parcel was exciting and hoped Mr. Howard could find an investor.

Upon motion by Commissioner Hall, seconded by Commissioner Ogle and carried by the following roll call vote (7-0), IT IS ORDERED to recommend that the Board of Supervisors approve R 7-2014 per the findings contained in the staff report.

**STAFF RECOMMENDATION:** The Planning Commission recommends that the Board of Supervisors make the following findings:

1. That the Final Environmental Impact Report (FEIR) previously adopted for the Mendocino County General Plan adequately addressed all of the environmental issues associated with the proposed land use change, along with associated rezones resulting in consistency between both the General Plan Land Use Classifications and the zoning classification for each of the parcels such that no additional environmental evaluation is required nor necessary pursuant to Section 15162 (a), Title 14 of the California Code of Regulations.
2. That the proposed zone change will create additional opportunities to develop multi-family housing in the County consistent with General Plan Housing Element Action Item 3.1d.
3. That the proposed zone change to Multiple-Family Residential (R-3) is consistent with General Plan Policy DE-13 (Suburban Residential) and allows one (1) multiple family dwelling unit per 1,500 square feet of lot area when the property is within a water and sewer district.
4. That the parcels subject to rezone are vacant or underutilized, consistent with California Government Code Section 65583.2, and will create additional opportunities where multiple family housing may be developed as a right and may be in districts that will be served by existing water and sewer connections.

And therefore recommends the Board of Supervisors approve the proposed Multiple-Family Residential (R-3) zone change, Rezone #R 7-2014, located at 13711 Old River Road; Assessor's Parcel Numbers 048-170-37 and 048-170-38, totaling 2.30± acres.

AYES: Little, Krueger, Nelson, Warner, Holtkamp, Hall, Ogle  
NOES: None  
ABSENT: None

**6e. CASE#: UM 1-2004/2014**

DATE FILED: 10/2/2014

OWNER: BARBARA & ROBERT GARIBALDI

APPLICANT: CA RURAL SERVICE AREA #1

AGENT: FAULK & FOSTER

REQUEST: Use Permit Modification/Renewal to allow for the addition of three (3) new panel antennas and associated equipment at 55 feet on an existing 60 foot tall lattice tower.

LOCATION: In the Manchester area lying outside the Coastal Zone on the east side of Highway 1, approximately ½ mile north of the intersection of Mountain View Road (CR 510) and Highway 1, located at 20001 South Highway 1, Manchester; APN 133-110-27.

PROJECT COORDINATOR: MATT GILSTER

RECOMMENDED ACTION: Approve as Recommended.

Mr. Dusty Duley reviewed the staff report and discussed the request to renew and modify an existing telecommunications tower due to the expiration of the use permit. He noted staff had not received any correspondence on the project and was recommending approval of the application with a 10 year expiration date.

Commissioner Warner asked how the coverage would be improved.

Mr. Duley noted the applicant was only replacing antennas and was not sure if there would be increased coverage.

**Nicole Goi**, Agent, commented that the modification would allow greater internet access/data flow and should not impede older technology. She also asked that Condition #19 be deleted, regarding landscaping.

Commissioner Warner asked the applicant to describe the site and nearest residence, in regards to landscaping.

Ms. Goi stated she believed the closest residence was ½ mile east of the site.

The public hearing was declared open.

**Susan Moon**, a concerned neighbor to the property, felt there was an error in the staff report and stated the tower was visible from both public and private areas. She stated that after researching the previous Use Permit, # U 1-2004, she found that Condition #20 had required landscaping and screening to be planted on 8 foot centers to be maintained in a healthy condition. She felt the violation of conditions provided grounds to deny the request to renew or modify the expired permit. She distributed photos to the Commission, which she felt clearly identify the tower from Hwy 1 and Manchester State Park. She commented that she felt the current use permit conditions were not strong enough or adequate to remedy the violation and would prefer a monopine be installed.

Commissioner Nelson asked if any Ms. Moon had complained to Planning and Building.

Ms. Moon stated she was not aware of the condition until earlier in the week when she reviewed the previous file.

Commissioner Ogle noted the ugliness of the tower and asked about stealthing.

Ms. Moon felt the best thing would be a monopine, including plantings at the base to shield the concrete buildings.

The public hearing was declared closed.

Ms. Goi was not sure the site could be seen from a residence or someone had walked to the site to take pictures.

Commissioner Nelson commented that with the desolate area, some screening was appropriate.

Commissioner Hall noted that Condition #19 was placed on the previous permit, and since the applicant was not in compliance, he asked if the Commission could require a stealth design as a new condition.

Commissioner Warner agreed and felt a monopine should be considered. She felt the applicant should be asked to submit a new application to staff before a decision was made to show commitment on the company's part to fulfill their conditions.

Commissioner Nelson commented that a monopine would not be a perfect match and vegetation would also be needed to make the site look more natural.

Commissioner Hall agreed and stated that was his intention.

Commissioner Krueger commented that the site might be too remote for a monopine, but landscaping should be required.

Commissioner Hall reiterated that the landscaping must be maintained.

Mr. Gustavson commented that the current condition did not have a mechanism or deadline to ensure that the condition will be implemented. He suggested a deadline be established for the installation of landscaping, including the parameters of what is adequate landscaping. He suggested the condition require a plan be approved by Planning and Building that illustrates how appropriate screening will be implemented.

Commissioner Hall also added that the landscaping should be inspected at one year and five years for compliance.

Commissioner Nelson commented that the neighbors might help keep the County informed on future compliance with the condition.

Commissioner Ogle asked if the Commission was leaning towards not considering a stealthed design.

Commissioner Holtkamp felt stealthing should be required, especially since the County was trying to build a tourism infrastructure on the coast.

Commissioner Warner, Commissioner Ogle and Commissioner Holtkamp agreed that stealthing should be required, but were unsure how to make it a condition.

Chairman Little asked at what point a modification becomes significant enough to require a new tower that was not in conflict with Federal regulations.

Mr. Gustavson noted that if the Commission makes findings based on facts, such as the site is too exposed, that it is visible from public lands, etc. and can support the need for additional landscape treatment to the site or stealth design if needed to better integrate the tower into its surrounding, a new application is justified. He did not comment on the conflict with Federal law and noted the discussion could be continued to the next meeting to prepare a proposal for landscaping and a stealth design.

Ms. Goi commented that the Middle Class Tax Relief Section 6409 stated that any State or local jurisdiction must approve a modification and she did not agree that stealthing was appropriate.

Commissioner Nelson noted the applicant had an expired use permit, which was in violation for noncompliance with the conditions of approval.

Chairman Little asked if any other carriers had collocated on the tower.

Mr. Duley noted U.S. Cellular was the only carrier.

Mr. Gustavson discussed the tower as a legal nonconforming use and felt the project could be reestablished with a different tower. He noted the Commission could discuss a monopine and not exceed noticed parameters for the meeting if the height and dimensions of the tower were not changed substantially.

Chairman Little stated it was not a question of if the Commission could discuss changing the project, but if the applicant was obligated to comply under Federal regulations.

Mr. Kiedrowski noted the change in the tower was a minimal issue; however the expired permit had existing problems with noncompliance, which could come into play.

Mr. Gustavson stated the permit could be scheduled for a revocation or modification hearing due to lack of conformity.

Chairman Little noted that some individuals may be dependent on the tower for communications and he preferred to hold off on revocation.

Mr. Duley noted that if revocation was discussed, the tower itself would be affected as a whole, but 6 antennas would be "removed".

Commissioner Nelson was in favor of continuing the discussion to a later date and asking the applicant to provide a stealthed design.

Commissioner Warner agreed that she would be more comfortable continuing the discussion and having the applicant work on compliance.

Commissioner Hall asked if the applicant could be required to work on Condition #19 during the continuance.

Chairman Little commented that if the project was continued, the applicant might want to show good faith and bring the tower into conformance with the previous permit. He noted that it might be better to leave the discussion free and open between staff and the applicant until that future hearing date.

Commissioner Krueger was in support of the Chairman's suggestion and asked if staff could take photos of the tower from Highway 1 and other public areas to show what the tower looks like and what stealthing might accomplish.

Chairman Little suggested, that if the project was continued, the applicant might want to provide evidence in support of their project similar to the visual simulations provided for new towers.

Commissioner Nelson made a motion to continue the project to the February 19, 2015 Planning Commission meeting, seconded by Commissioner Holtkamp.

Ms. Goi asked if they could install the new antennas.

Chairman Little commented that no work could be performed during the continuance, as nothing was approved.

Ms. Goi noted the application had been submitted in September 2014.

Chairman Little noted it was not the applicants fault the permit was in violation and it would have been easier to approve a modification to a tower that was in compliance with the conditions of approval; however a revocation hearing could be scheduled sooner if the applicant wished.

Mr. Duley noted the application had expired prior to submittal of the renewal documents and staff had been working with the applicant to make the project consistent with prior actions.

To clarify, staff noted that before the next hearing, the Commission wished to see a stealth design and full visual analysis to determine approval of the project.

Commissioner Warner commented that the project would be good to site view.

Upon motion by Commissioner Nelson, seconded by Commissioner Holtkamp and carried by the following roll call vote (7-0), IT IS ORDERED to continue UM 1-2004/2014 to the February 19, 2015 Planning Commission Meeting.

AYES: Little, Krueger, Nelson, Warner, Holtkamp, Hall, Ogle  
NOES: None  
ABSENT: None

**6d. CASE#: UM 29-1997/2014**

DATE FILED: 8/27/2014

OWNER: CHARLES & MINNIE NORFOLK TRUST

APPLICANT: US CELLULAR - CRSA #1

AGENT: NICOLE GOI – FAULK & FOSTER

REQUEST: Use Permit Modification/Renewal to allow for the addition of two (2) new panel antennas and associated equipment to the 55 foot center line of an existing 60 foot tall lattice tower.

LOCATION: 7± miles south of Hopland town center, lying east of Highway 101, 0.5± miles north of its intersection with Comminsky Station Road (CR 103), located at 20289 South Highway 101, Hopland; APN 050-280-08.

PROJECT COORDINATOR: MATT GILSTER

RECOMMENDED ACTION: Approve as Recommended.

Dusty Duley, Project Coordinator, reviewed the staff report and commented that staff was recommending approval.

Nicole Goi, Agent, commented that she was amicable to the staff report and conditions of approval.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Commissioner Nelson commented he as familiar with the tower and had no issues.

Upon motion by Commissioner Hall, seconded by Commissioner Nelson and carried by the following roll call vote (7-0), IT IS ORDERED to approve UM 29-97/2014 per the findings and conditions of approval contained in the staff report.

**Environmental Findings:** The Planning Commission finds that the proposed project is Categorically Exempt from the California Environmental Quality Act, Section 15301, Class 1(b).

**General Plan Consistency Findings:** As discussed under pertinent sections of the staff report, the proposed project is consistent with the applicable goals and policies of the General Plan as subject to the conditions being recommended by staff.

**Project Findings:**

1. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Adequate utilities and site improvements will be provided in accordance with the conditions of approval. Proof that these conditions have been met will be submitted to Planning and Building Services before the finalization of any building permits.

2. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, nor will the proposed use be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

Modification of the existing facility will not constitute a nuisance or be detrimental to the surrounding area if the project is conducted as proposed and is in accordance with all conditions of approval. Conditions that will ensure this finding can be made outline county noise standards, downcast lighting and site improvements. Proof that these conditions have been met will be submitted to Planning and Building services before the finalization of any building permits.

3. That such use preserves the integrity of the zoning district.

The subject property is zoned Range Land (RL), which allows major impact services and utilities, subject to a Major Use Permit. The proposed use conforms to all regulations of the zoning districts and preserves the integrity of such districts.

#### CONDITIONS OF APPROVAL:

1. This permit is issued for a period of ten years, and shall expire on December 18, 2024. The applicant has the sole responsibility for renewing this permit before the expiration date. The County will not provide a notice prior to the expiration date. (Expiration dates for previous use permit entitlements governing this site shall be modified to December 18, 2024 as well.)

This permit shall become effective after all applicable appeal periods have expired or appeal processes have been exhausted. Failure of the applicant to make use of this permit within two years shall result in the automatic expiration of this permit.

The project shall remain subject to all conditions approved under all previously issued permits.

2. As soon as practical following completion of any earth disturbance, vegetative ground cover or driveway surfacing equal to or better than existing shall be reestablished on all disturbed portions of the site. Project construction activities are limited to the project footprint. Trenches will need to be filled and resurfaced to match the original surface.
3. All grading and site preparation, at a minimum, shall adhere to the following "Best Management Practices": The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.
  - a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
  - b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
  - c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
  - d. Temporary erosion control measures shall be in place at the end of each day's work, and shall be maintained until permanent protection is established.
  - e. Erosion control measures shall include but are not limited to: seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1<sup>st</sup>.
  - f. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:

1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1.5 units horizontal (66.7% slope).
2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m<sup>3</sup>) on any one lot and does not obstruct a drainage.
4. Exterior light fixtures shall be designed or located so that only reflected, non-glaring light is visible from beyond the immediate vicinity of the site, and lights shall be turned off except when in use by facility personnel. No aircraft warning lighting shall be installed.
5. Prior to any work within the County or State road right-of-way, including the installation of underground utility services, the applicant shall obtain an encroachment permit from the appropriate transportation agency.
6. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower.
7. If use of any portion of the proposed facility is discontinued for more than one year, all parts of the facility not in use, above grade, shall be completely removed from the site, and the site shall be restored to a natural-appearing condition.
8. Prior to issuance of a building permit, the applicant shall provide an irrevocable letter of credit, bond, certificate of deposit, or other reasonable form of security satisfactory to County Counsel, sufficient to fund the removal of the facility and restoration of the site in the event that the applicant abandons operations or fails to comply with requirements for removal of facilities and restoration of the site.
9. In the event that archaeological resources are encountered on the site, further disturbance in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.
10. The facility shall provide if requested, space for any public emergency service provider to locate communication equipment on the tower, provided no interference to function will result at a minimum or no fee.
11. Prior to the final inspection by the Building Division, an identification sign for each company responsible for operation and maintenance of facilities at the site, no larger than one square foot, shall be mounted on an exterior wall in a location visible when approached from the street, and shall provide the name, address, and emergency telephone number of the responsible companies. The address assigned to the site by the Planning and Building Services Department shall be posted.
12. The antennas and supporting structure shall be inspected every ten years, and following significant storm or seismic events, by a structural engineer licensed in the State of California to assess their structural integrity, and a report of the engineer's findings shall be submitted to the Planning and Building Services Department.
13. Prior to commencement of operations, all surplus construction materials and debris, including cleared vegetation, shall be removed from the site to a proper disposal facility. Thereafter, the site shall be kept free of refuse.
14. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
15. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless a modification has been approved by the Planning Commission.

16. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
17. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one or more of the following grounds:
- That the permit was obtained or extended by fraud.
  - That one or more of the conditions upon which the permit was granted have been violated.
  - That the use for which the permit was granted is conducted in a manner detrimental to the public health, welfare or safety, or is a nuisance.

Any revocation shall proceed as specified in Title 20 of the Mendocino County Code.

18. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit boundaries are different than that which is legally required by this permit, this permit shall become null and void.
19. Future modifications shall be considered cumulatively to determine if request constitutes a “substantial change” to the facility under applicable federal law.
20. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site and to require no more than a reasonable charge for collocation.
21. Exterior surfaces of structures and equipment shall have subdued colors and non-reflective materials selected to blend with their surroundings. Color samples shall be submitted to the Department of Planning and Building for approval.
22. The total height of facility including antennas will not exceed 60 feet in height above ground level. Upon completion of the installation of the facility and prior to final of the building permit, the applicant shall confirm that the height is no greater than approved, and shall submit a written certification to the County of the actual height. Exceeding this height limitation shall require a modification of this Use Permit.
23. Existing trees and other vegetation, which will provide screening for the proposed facility and associated access roads, shall be protected from damage. No trees that provide visual screening of the communications facility shall be removed after project completion except to comply with fire safety regulations or to eliminate safety hazards. Tree trimming shall be limited to the minimum necessary for operation of the facility.
24. All grading activities must comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.

AYES: Little, Krueger, Nelson, Warner, Holtkamp, Hall, Ogle  
NOES: None  
ABSENT: None

**6f. CASE#: UM 29-2003/2014**

DATE FILED: 10/6/2014

OWNER: BERMAN R MEADOWS, TRUST

APPLICANT: US CELLULAR

AGENT: NICOLE GOI /FAULK & FOSTER

REQUEST: Use Permit Modification/Renewal to allow for the addition of three (3) new panel antennas and associated equipment at 148 feet on an existing 150 foot tall lattice tower.

LOCATION: 3± miles southwest of Hopland, 1± mile south of Duncan Peak, 2± miles southeast of County Road #110 via a private road. Located at 4655 Road 110, Hopland; APN 049-240-26.

PROJECT COORDINATOR: MATT GILSTER

RECOMMENDED ACTION: Approve as Recommended.

Dusty Duley, Project Coordinator, reviewed the staff report and noted that the modification would add 1 antenna with a renewal for 10 years. He stated no correspondence had been received.

Nicole Goi, agent, agreed to the staff report and conditions of approval.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Commissioner Warner commented that this was a great site for a cell tower.

Upon motion by Commissioner Hall, seconded by Commissioner Ogle and carried by the following roll call vote (7-0), IT IS ORDERED to approve UM 29-2003/2014 per the findings and conditions of approval contained in the staff report.

**Environmental Findings:** The Planning Commission finds that the proposed project is Categorically Exempt from the California Environmental Quality Act, Section 15301, Class 1(b).

**General Plan Consistency Findings:** As discussed under pertinent sections of the staff report, the proposed project is consistent with the applicable goals and policies of the General Plan as subject to the conditions being recommended by staff.

**Project Findings:**

1. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Adequate utilities and site improvements will be provided in accordance with the conditions of approval. Proof that these conditions have been met will be submitted to Planning and Building Services before the finalization of any building permits.

2. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, nor will the proposed use be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

The modification of the existing facility will not constitute a nuisance or be detrimental to the surrounding area if the project is conducted as proposed and is in accordance with all conditions of approval. Conditions that will ensure this finding can be made outline county noise standards, downcast lighting and site improvements. Proof that these conditions have been met will be submitted to Planning and Building Services before the finalization of any building permits.

3. That such use preserves the integrity of the zoning district.

The subject property is zoned RL 160, which allows for Major Impact Services and Utilities subject to a Major Use Permit. The proposed use conforms to all regulations of the zoning districts and preserves the integrity of such districts.

**CONDITIONS OF APPROVAL:**

1. This permit is issued for a period of ten years and shall expire on December 18, 2024. The applicant has the sole responsibility for renewing this permit before the expiration date. The County will not provide a notice prior to the expiration date. All previous Use Permit entitlements governing this site with respect to the subject cell tower shall be modified to December 18, 2024 as well.

This permit shall become effective after all applicable appeal periods have expired or appeal processes have been exhausted. Failure of the applicant to make use of this permit within two years shall result in the automatic expiration of this permit.

The applicant shall be subject to all conditions approved under all previously issued permits.

2. As soon as practical following completion of any earth disturbance, vegetative ground cover or driveway surfacing equal to or better than existing shall be reestablished on all disturbed portions of the site.

Project construction activities are limited to the project footprint. Trenches will need to be filled and resurfaced to match the original surface.

3. All grading and site preparation, at a minimum, shall adhere to the following "Best Management Practices": The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.
  - a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
  - b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
  - c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
  - d. Temporary erosion control measures shall be in place at the end of each day's work, and shall be maintained until permanent protection is established.
  - e. Erosion control measures shall include but are not limited to: seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1<sup>st</sup>.
  - f. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
    1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1.5 units horizontal (66.7% slope).
    3. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m<sup>3</sup>) on any one lot and does not obstruct a drainage.
4. Exterior light fixtures shall be designed or located so that only reflected, non-glaring light is visible from beyond the immediate vicinity of the site, and lights shall be turned off except when in use by facility personnel. No aircraft warning lighting shall be installed.
5. Prior to any work within the County or State road right-of-way, including the installation of underground utility services, the applicant shall obtain an encroachment permit from the appropriate transportation agency.
6. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower.
7. If use of any portion of the proposed facility is discontinued for more than one year, all parts of the facility not in use, above grade, shall be completely removed from the site, and the site shall be restored to a natural-appearing condition.
8. Prior to issuance of a building permit, the applicant shall provide an irrevocable letter of credit, bond, certificate of deposit, or other reasonable form of security satisfactory to County Counsel, sufficient to fund the removal of the facility and restoration of the site in the event that the applicant abandons operations or fails to comply with requirements for removal of facilities and restoration of the site.
9. In the event that archaeological resources are encountered on the site, further disturbance in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.
10. The facility shall provide if requested, space for any public emergency service provider to locate communication equipment on the tower, provided no interference to function will result at a minimum or no fee.

11. Prior to the final inspection by the Building Division, an identification sign for each company responsible for operation and maintenance of facilities at the site, no larger one square foot, shall be mounted on an exterior wall in a location visible when approached from the street, and shall provide the name, address, and emergency telephone number of the responsible companies. The address assigned to the site by the Planning and Building Services Department shall be posted.
12. The antennas and supporting structure shall be inspected every ten years, and following significant storm or seismic events, by a structural engineer licensed in the State of California to assess their structural integrity, and a report of the engineer's findings shall be submitted to the Planning and Building Services Department.
13. Prior to commencement of operations, all surplus construction materials and debris, including cleared vegetation, shall be removed from the site to a proper disposal facility. Thereafter the site shall be kept free of refuse.
14. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
15. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless a modification has been approved by the Planning Commission.
16. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
17. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one or more of the following grounds:
  - a. That the permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which the permit was granted have been violated.
  - c. That the use for which the permit was granted is conducted in a manner detrimental to the public health, welfare or safety, or is a nuisance.

Any revocation shall proceed as specified in Title 20 of the Mendocino County Code.

18. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit boundaries are different than that which is legally required by this permit, this permit shall become null and void.
19. Future modifications shall be considered cumulatively to determine if request constitutes a "substantial change" to the facility under applicable federal law.
20. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site and to require no more than a reasonable charge for collocation.
21. Exterior surfaces of structures and equipment shall have subdued colors and non-reflective materials selected to blend with their surroundings. Color samples shall be submitted to the Department of Planning and Building for approval.
22. The total height of facility including antennas will not exceed 155 feet in height above ground level. Upon completion of the installation of the facility and prior to final of the building permit, the applicant shall confirm that the height is no greater than approved, and shall submit a written certification to the County of the actual height. Exceeding this height limitation shall require a modification of this Use Permit.
23. Existing trees and other vegetation, which will provide screening for the proposed facility and associated access roads, shall be protected from damage. No trees that provide visual screening of the

communications facility shall be removed after project completion except to comply with fire safety regulations or to eliminate safety hazards. Tree trimming shall be limited to the minimum necessary for operation of the facility.

24. All grading activities must comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.

AYES: Little, Krueger, Nelson, Warner, Holtkamp, Hall, Ogle  
NOES: None  
ABSENT: None

**6g. CASE#: R 4-2014**

DATE FILED: 10/23/2014

OWNER: JACK COX, et al AND CVH INVESTMENTS, LLC

APPLICANT: PLANNING AND BUILDING SERVICES

REQUEST: Rezoning of 4.13± acres (APN 002-050-16 and -17) from I-1 (Limited Industrial) to R-3:CR (Multi-Family Residential-Contract Rezone) and rezoning of 20± acres (APN 002-010-10, 002-020-05, 002-040-40, 002-040-41, 002-050-14 and -15) from I-1 (Limited Industrial) to C-2:CR (General Commercial-Contract Rezone).

LOCATION: North of the Ukiah City Limits, lying on the north side of Brush Street (CR 217) approximately 200 feet east of its intersection with Orr Street (CR 216), located at 915 Orr Street, Ukiah; APN's 002-050-14, -15, -16, -17, 002-010-10, 002-020-05, 002-040-40, and -41.

PROJECT COORDINATOR: FRED TARR

RECOMMENDED ACTION: Continue to January 15, 2015 Meeting.

Mr. Gustavson noted the item was requested to be continued to the January meeting and the applicant had been informed of the change.

Upon motion by Commissioner Nelson, seconded by Commissioner Warner and carried by the following roll call vote (7-0), IT IS ORDERED to continue R 4-2014 to the January 15, 2015 Planning Commission Meeting.

AYES: Little, Krueger, Nelson, Warner, Holtkamp, Hall, Ogle  
NOES: None  
ABSENT: None

**7. Matters from Staff.**

Mr. Gustavson noted staff was continuing to work with the Coastal Commission in response to comments on the submitted Mendocino Town Plan Local Coastal Program Amendment and hoped that all minor changes would be completed by the end of January.

**8. Matters from Commission.**

Commissioner Warner asked the Chairman's plans for January.

Chairman Little noted that he had spoken to Supervisor Woodhouse and informed him it was time for change on the Commission. He was not sure of his plans to return to the Commission, but stated that in 16 years, there had not been a single Commissioner that he felt had not been about standing value to the County. He enjoyed working with his fellow Commissioners and commented on their ability to always maintain peace and provide 100% effort to every application. He noted that he was not always on the winning side, but had never been disappointed by a vote; commenting on the Commission's honest deliberations. He felt other hearing bodies should look to the Planning Commission as an example of how public service can be done without ranker and always provide a positive outcome to the community.

**9. Adjournment.**

Upon motion by Commissioner Nelson, seconded by Commissioner Hall, and unanimously carried (7-0), IT IS ORDERED that the Planning Commission hearing adjourn at 1:00 p.m.